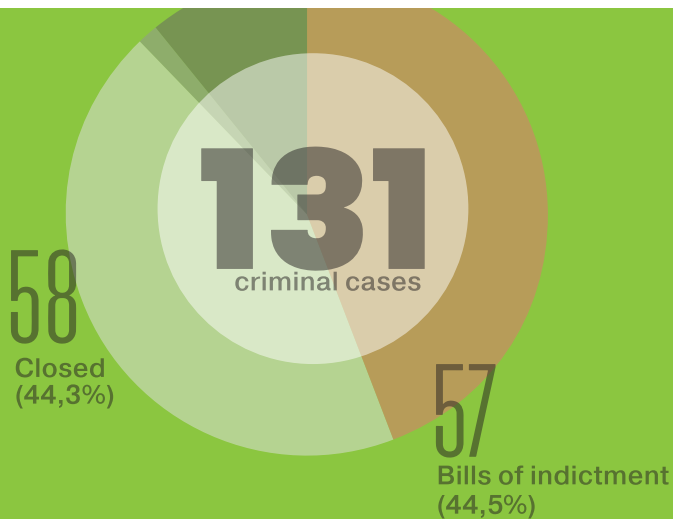


**CRIMES AGAINST BODILY INTEGRITY
AND SEXUAL FREEDOM
CRIMINAL PROCEEDINGS OF SUCH
CRIMES BETWEEN 2015 AND 2016**

YEREVAN 2017



Crimes against Bodily Integrity and Sexual Freedom; Criminal Proceedings of Such Crimes between 2015 and 2016

This analysis is a joint product of the Investigative Committee
of RA and "Sexual Assault Crisis Center" NGO prepared with
the financial assistance of Open Society
Foundations-Armenia.

YEREVAN 2017



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Introduction

Sexual assault is a serious issue in Armenia, as it is all over the world. According to the World Health Organization, one in four woman is sexually assaulted by her partner, while one-third of teenage girls report their first sexual relation being of coercive nature. Sexual assault has a profound influence on the physical and mental health of a person. Sexual assault affects person's sexual and reproductive health. According to the World Health Organization, the number of people who have attempted suicide and are suffering from STDs is particularly high among the sexually assaulted. Any person may fall victim to sexual assault, however this crime is most prevalently committed against women all over the world. Women, often times teenage girls, who are subjected to sexual assault, also fall victim to blaming, which in certain cases is reaffirmed by the employees of the law enforcement.

Sexual assault, especially in Armenia, is perceived as something "shameful", as any other expression related to sexuality. Before they will speak about the crime often times, women and parents of teenagers who have become survivors of sexual assault, worry about "what people will say, when they find out". In the case of girls, parents think about the child's future opportunities for marriage, without taking into consideration that this is an offence that causes serious psychological trauma.

¹ World report on Violence and Health, World Health Organization, 2002, p. 149
http://www.who.int/violence_injury_prevention/violence/global_campaign/en/chap6.pdf

² Ibid.,p. 149

Despite the fact that sexual assaults are prevalent, they are also highly latent. The latency of such crimes is mainly due to the survivor's reluctance to report the crimes to law enforcement. The reasons for such reluctance may include the following:

- Survivors find that the crime is not grave enough to be reported,
- Survivors assume that law enforcement will not be successful due to the lack of evidence,
- A person subjected to sexual assault may be intimidated by the assailant's revenge,
- Citizens' unawareness of rights, distrust towards law enforcement,
- Willingness to punish the perpetrator through some form of a vendetta, etc.

The latency of sexual assaults is also due to the extent to which the law enforcement structures are effective; the more effective the case investigation, the higher is the trust towards these bodies.

The Sexual Assault Crisis Center started its work in Armenia in 2008. At the onset, the aim of the organization was to support only women survivors of sexual assault, however after following a number of sexual assault cases against minors, the Center also started working with juveniles subjected to sexual assault.

Between 2008 and 2016, SACC provided support to more than 500 women and minors of which 100 were survivors of sexual assault. Many of the women who turned to the Crisis Center did not want to report to law enforcement, as they did not have confidence that justice would be achieved. They were also not prepared to speak about what had happened to them to the men working in law enforcement, they

³ Исаев Н.А. Сексуальные преступления как объект криминологии. С. Пб., 2007, с. 402.

⁴ Hereinafter, SACC

also did not want to be forced to relive their experiences several times.

In Armenia sexual assault is in need of more investigation.

The aim of this study is to explore the numbers of sexual assault crimes that are recorded in Armenia, the identity of the survivors and the suspects/defendants, what kind of relationship exists between the survivors and suspects and to address other important questions. The study also explores closed cases in order to understand how the rights of the survivors have been defended and how investigative actions are carried out. This study analyses the cases registered at the Investigative Committee of Armenia as of 2016.

Due to the methodological limitations (desk research), the study could not have addressed all the issues related to sexual assault.

This study is a joint product of the RA Investigative Committee and SACC.

The study is conducted with the financial support of Open Society Foundations – Armenia.

**Data on Sexual
Assault Cases
Investigated by the
Investigative
Committee of RA
between 2015 and 2016**

During 2015, the investigators of the RA investigative Committee investigated a total of 131 criminal cases instigated on the basis of Articles 138-142 of the RA Criminal Code, of which 58 were closed (44.3% of total cases), 57 cases (43.5%) were forwarded to court with a bill of indictment, for 2 cases involuntary commitment was requested (1.5%), 14 cases (10.7%) were suspended.

Of the 131 investigated cases, 44 (33.6% of total cases) were instigated on the basis of Article 138 of the RA Criminal Code, of which

- 17 on the basis of Part 1,
- 6 on the basis of Part 2, Clause 3,
- 1 on the basis of Part 2, Clauses 1 and 3,
- 1 on the basis of Part 3, Clause 1,
- 4 on the basis of Part 3, Clause 2,
- 10 on the basis of Article 34-138, Part 1,
- 1 on the basis of Article 34-138, Part 3,
- 2 on the basis of Articles 138 and 139, Parts 1 (combined),
- 1 on the basis of Article 138, Part 1 and Article 175, Part 1 (combined),
- 1 on the basis of Part 1 Clause 1, Article 142, Part 3, Clause 1 and Article 119, Part 3 (combined).

15 of the investigated criminal cases (11.5% of total cases), were instigated based on Article 139 of the RA Criminal Code, of which:

- 7 based on Part 1,
- 1 based on Part 2, Clause 1,

- 3 based on Part 2, Clause 3, 3
- 1 based on Part 2, Clauses 1 and 3,
- 2 based on Part 3, Clause 2,
- 1 based on Part 1, Part 2 Clause 8, and Article 140, Part 1 (combined).

9 of the investigated criminal cases (6.9% of total cases) were instigated based on Article 140 of RA Criminal Code, of which:

- 7 based on Part 1,
- 1 based on Part 2,
- 1 based on Part 1 and Article 182, Part 1 (combined).

55 of the investigated cases (42% of total cases) were instigated based on Article 141 of the RA Criminal Code, of which:

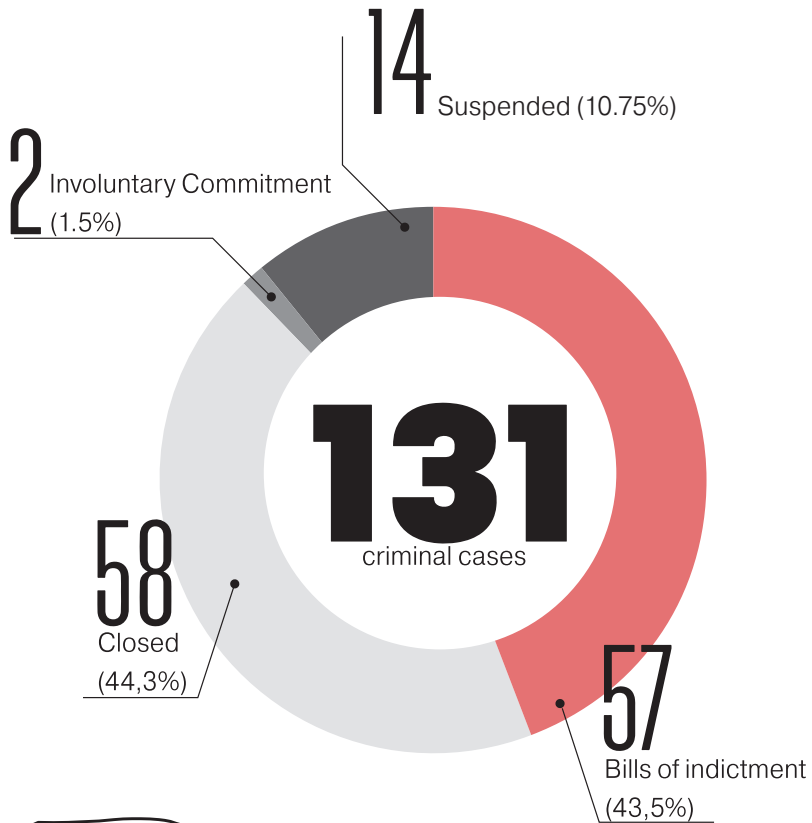
- 7 based on Part 1,
- 12 based on Part 2, Clause 1,
- 9 based on Part 2, Clause 3,
- 19 based on Part 2 Clauses 1 and 3,
- 7 based on Part 3, Clause 2,
- 1 based on Part 3, Clause 2, Article 132 Part 1 and Article 133 Part 1 (combined).

8 of the investigated cases (6% of total cases) were instigated based on Article 142 of the RA Criminal Code, of which:

- 1 based on Part 2, Clauses 2, 3 and 4,
- 1 based on Part 2, Clause 4,
- 1 based on Part 2, Clause 6,
- 1 based on Part 3, Clause 1,
- 2 based on Part 3, Clause 2,
- 1 based on Part 3, Clauses 1 and 3,
- 1 based on Articles 34-1424, Part 3, Clause 2.



Criminal cases instigated on the basis of Articles 138-142 of RA Criminal Code as investigated by the RA Investigative Committee



| |
|-------------------------------|
| Article 138 - 44 cases |
| Article 139 - 15 cases |
| Article 140 - 9 cases |
| Article 141 - 55 cases |
| Article 142 - 8 cases |

In the scope of the above-mentioned 131 cases, 95 persons were charged as suspects/defendants, all of whom were males, of which 82 were of Armenian nationality, 11 of Yezidi nationality, and 2 of Iranian nationality.

91 of the suspects/defendants were citizens of Armenia, 2 of the Islamic Republic of Iran, 1 of Syrian Arab Republic, and 1 of Nagorno Karabakh.

Of the 95 persons charged, restraints were enforced on 89 of them, of which for 59 of them - written pledge not to leave the area of residence, 17 – detention, 7 – bails, and 4 – parental supervision, 2 – military command supervision.

6 of the 95 suspects/defendants were previously convicted, while 89 were not.

The occupations of the defendants include the following: farmer (2 defendants), teacher (2 defendants), taxi driver (2 defendants), pensioner (2 defendants), labourer (2 defendants), school student (1 defendant),DJ (1 defendant),

6 of the suspects/defenders were aged 17 at the moment of committing the crime, 3 were aged 18, 4 were aged 19, 7 were aged 20, 5 were aged 21, 4 aged 22, 5 aged 23, 6 aged 24, 9 aged 25, 4 aged 26, 5 aged 27, 5 aged 28, 1 aged 31, 1 aged 36, 2 aged 37, 3 aged 39, 2 aged 43, 2 aged 45, 1 aged 46, 1 aged 47, 1 aged 50, 1 aged 52, 1 aged 65, 1 aged 76.

delivery person (1 defendant), trader (1 defendant), fireman (1 defendant), locksmith (1 defendant), guard (1 defendant). 68 of the suspects/defendants did not have an occupation.

At the moment of committing the crime, the following relationship existed between the survivors and suspects: 30 were de facto spouses (31.6% of suspects/defenders), 17 were strangers, 14 were friends, 13 were acquaintances, 8 were neighbors, 4 were step-fathers, 1 was the father, 1 was a co-villager, 1 was aunt's husband, 1 was a client for a sex-worker, 1 was an uncle's son, 1 was an ex-fiance, 1 was an ex boyfriend.

142 persons were engaged as survivors in the above-stated 131 criminal cases, of which 11 were males, and 131 were females.

131 of the survivors were of Armenian nationality, 10 of Yezidi, and 1 – Mari.

141 of the survivors were citizens of Armenia, while 1 was a citizen of Nagorno Karabakh.

At the moment of being assaulted, 4 of the survivors were aged 4, 2 were aged 5, 3 were aged 6, 2 were aged 7, 1 was aged 9, 4 were aged 12, 2 were aged 13, 13 were aged 14, 40 were aged 15, 2 were aged 16, 3 were aged 17, 8 were aged 18, 8 were aged 19, 6 were aged 20, 3 were aged 21, 2 were aged 22, 5 were aged 23, 3 were aged 24, 1 was aged 25, 2 were aged 26, 2 were aged 27, 2 were aged 28, 2 were aged 29, 3 were aged 32, 2 were aged 36, 2 were aged 38, 1 was aged 40, 1 was aged 45, 2 were aged 49, 2 were aged 50, 1 was aged 53, 1 was aged 55, 1 was aged 60 and 1 was aged 62.

56 of the survivors were school students, 6 were serving in the military, 3 were college students, 2 were sex-workers, 2 worked as cleaners, 1 attended kindergarten, 1 was an accountant, 1 was a computer operator, 1 – dance teacher, 1 – waitress, while 68 of the survivors reported having no occupation.

During 2016, the investigators of the RA Investigative Committee investigated a total of 157 criminal cases instigated based on Articles 138-142, of which 45 were closed (28,7% of total cases), 62 cases were forwarded to court with a bill of indictment (39,5% of total cases), involuntary commitment was requested for 3 cases (1,9%), 17 criminal cases were suspended (10,8%), while 30 cases are still in the process of investigation (19,1%).

43 (26,8% of total cases) of the 157 criminal cases under investigation were instigated based on Article 138 of the RA Criminal Code, of which:

- 17 based on Part 1,
- 7 based on Part 2, Clause 3,
- 2 based on Part 3, Clause 2,
- 1 based on Part 1 of Articles 34-138 and Part 1 of Article 138 (combined),
- 1 based on Articles 34-138 Part 1, Article 124 Part 1 and Article 118 Part 1 (combined),
- 1 based on Article 138 Part 1 and Article 131, Part 1 (combined), 1 based on Article 138, Part 1 and Article 131, Part 1 (combined),
- 1 based on Parts 1 of Articles 138 and 139 (combined),
- 9 based on Article 34-138, Part 1,
- 1 based on Part 2, Clause 6 and Part 2, Clause 3 of Article 34-139 (combined),
- 1 based on Article 34-138, Part 2, Clause 1,
- 1 based on Article 34-138, Part 2, Clause 3,
- 1 based on Article 34-138, Part 2, Clause 2.

⁵ As of April, 2017.

17 of the investigated criminal cases (9,6%) were instigated based on Article 139 of the RA Criminal Code, of which:

- 7 based on Part 1,
- 2 based on Part 1, Clause 1,
- 1 based on Part 2, Clause 3,
- 1 based on Part 2, Clauses 1 and 3,
- 2 based on Part 3, Clause 2,
- 1 based on Part 1, Clauses 3 and 7,
- 1 based on Part 2, Clause 3 and Article 118 (combined),
- 1 based on Part 1, Part 3, Clause 2 and Part 1 of Article 140(combined),
- 1 based on Part 1 of Article 34-139 and Article 175, Part 2, Clause 2 (combined).

6 of the investigated criminal cases (3,8% of total cases) were instigated based on Article 140 of the RA Criminal Code, of which:

- 5 based on Part 1,
- 1 based on Part 2.

77 of the investigated criminal cases (51% of total cases) were instigated based on Article 141 of the RA Criminal Code, of which:

- 11 based on Part 1,
- 16 based on Part 2, Clause 1,
- 9 based on Part 2, Clause 3,
- 33 based on Part 2, Clauses 1 and 3,
- 1 based on Part 3, Clause 1,
- 6 based on Part 3, Clause 2,
- 1 based on Part 2, Clause 3 and Part 3, Clause 2 (combined).

14 of the investigated cases (8,8% of total cases) were instigated based on Article 142 of the RA Criminal Code, of which:

- 2 based on Part 2, Clauses 1 and 3,
- 1 based on Part 2, Clause 3,
- 9 based on Part 3, Clause 2,
- 1 based on Part 3, Clause 2, Article 118 and Article 121, Part 1 (combined),
- 1 based on Part 3, Clauses 1 and 2.

113 individuals, all male, were charged for criminal crime. 99 of them were of Armenian nationality, 12 of Yezidi, 1 of Russian and 1 of Moldovan nationalities.

111 of the suspects/defendants were citizens of Armenia, 1 of the Republic of Moldova, and 1 of the Russian Federation.

Of the 113 defendants, restraint was applied in relation to 100 of them, of which for 76 the restraint implied written pledge not to leave, for 15 – detention, for 5 – bail, for 3 – supervision by their commander, for 1 – supervision by parent.

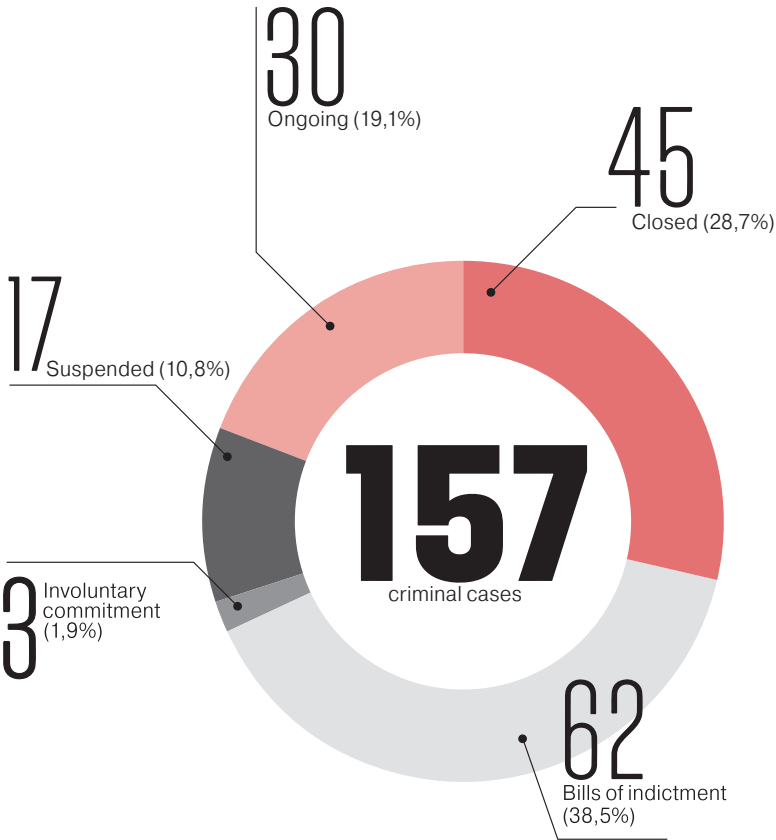
At the moment of the crime, of the suspects/defendants 1 was aged 15, 4 aged 17, 1 aged 19, 5 aged 20, 6 aged 21, 15 aged 22, 9 aged 23, 8 aged 24, 8 aged 25, 8 aged 26, 4 aged 27, 5 aged 28, 5 aged 29, 3 aged 30, 5 aged 31, 3 aged 33, 1 aged 34, 2 aged 35, 2 aged 38, 3 aged 39, 2 aged 41, 1 aged 44, 2 aged 47, 1 aged 48, 2 aged 49, 1 aged 51, 3 aged 52, 1 aged 57, 1 aged 86.

Of the 113 suspects/defendants, 8 were convicted in the past.

The suspects/defendants were of the following occupations: 9 – military servants, 6 – farmers, 5 – animal breeders, 4 – laborers, 3 – construction workers, 1 taxi driver, 1 car-wash worker, 1 guard, 1 student, 79 reported having no occupation.

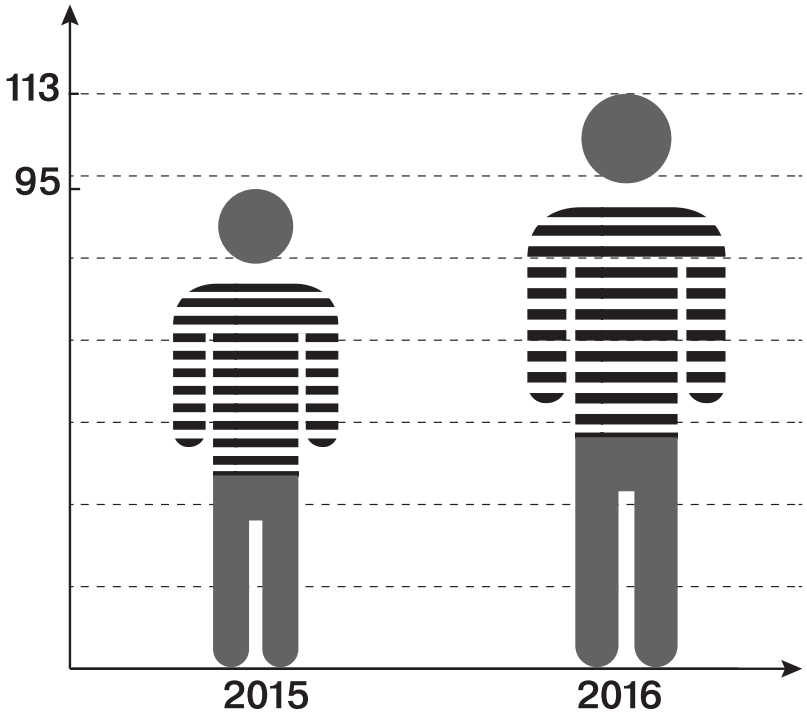


Criminal cases instigated on the basis of Articles 138-142 of RA Criminal Code as investigated by the RA Investigative Committee



| | | |
|--------------------|---|-----------------|
| Article 138 | - | 43 cases |
| Article 139 | - | 17 cases |
| Article 140 | - | 6 cases |
| Article 141 | - | 77 cases |
| Article 142 | - | 14 cases |

Suspects/Defendants



2015 131 criminal cases,
95 suspects/defendants,
all male.

2016 157 criminal cases,
113 suspects/defendants,
all male.

At the moment of the crime, the suspects/defendants had the following relationships with the survivors: 43 were de facto spouses (38,1%), 18 were strangers, 19 were acquaintances, 11 were neighbors, 5 were from the same area, 5 were partners, 2 were employers, 2 – step-fathers, 1 – uncle, 1 – daughter’s husband, 1 – sister’s husband, 1 – father, 1 – son, 1 – cousin, 1 – husband’s relative, 1 – father’s friend.

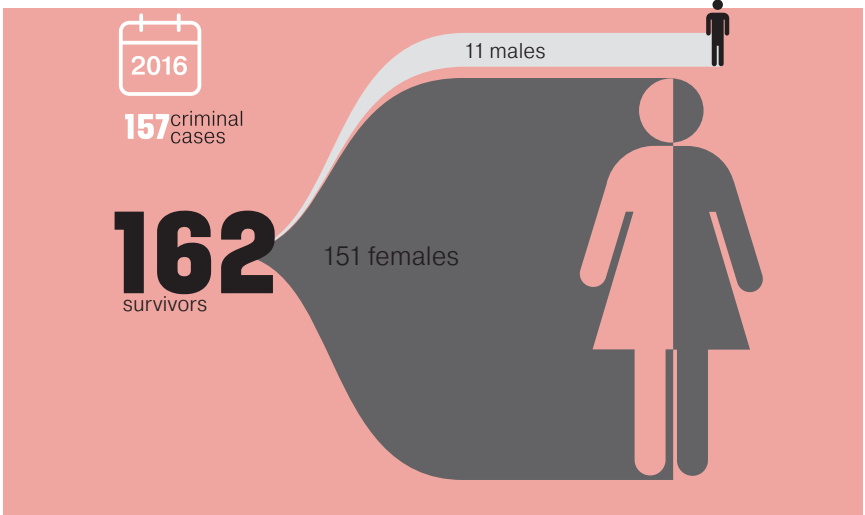
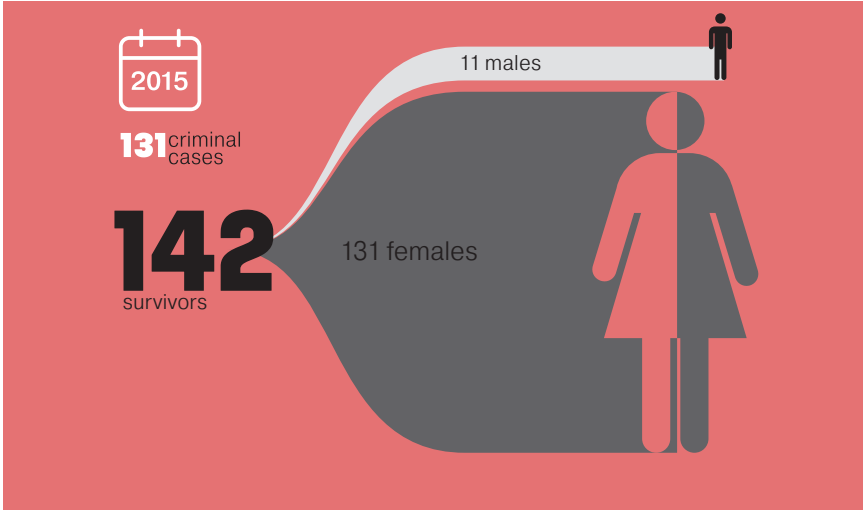
162 survivors were identified as part of the above-mentioned 157 criminal cases, of whom 11 survivors were males, while 151 were females. 147 of the survivors were of Armenian nationality, 14 were of Yezidi nationality, and 1 was of Moldovan nationality.

160 of the survivors were citizens of RA, 1 was a citizen of the Russian Federation and 1 was a citizen of the Republic of Moldova.

At the moment of the crime, 2 of the survivors were aged 5, 2 aged 6, 1 aged 7, 4 aged 8, 3 aged 9, 2 aged 10, 5 aged 11, 1 aged 12, 7 aged 13, 17 aged 14, 48 aged 15, 20 aged 16, 3 aged 17, 2 aged 18, 3 aged 19, 2 aged 20, 1 aged 21, 1 aged 22, 2 aged 25, 4 aged 26, 1 aged 27, 3 aged 28, 2 aged 29, 2 aged 30, 3 aged 31, 3 aged 32, 2 aged 33, 3 aged 35, 1 aged 36, 2 aged 38, 3 aged 39, 1 aged 43, 2 aged 49, 1 aged 53, 1 aged 55, 1 aged 56, 1 aged 74.

53 of the survivors were school students, 2 were wage earners, 2 were pensioners, 2 – students, 2 – military servants, 1 trader, 1 sex-worker, 1 computer operator, 1 private entrepreneur, 1 pharmacist, 1 cook, 1 farmer, 94 reported having no occupation.

Survivors



Number of Criminal Cases

| Yerevan | |
|--------------|---------------------------------------|
| | Yerevan City Investigative Department |
| | Avan and Nor Nork |
| | Arabkir |
| | Kanaker-Zeytun |
| | Malatia-Sebastia |
| | Erebuni and Nubarashen |
| | Center and Nork Marash |
| | Shengavit |
| | Ajapnyak and Davitashen |
| Total | 45 |

| RA Regions | |
|--------------|-------------|
| | Kotayk |
| | Armavir |
| | Aragatsothn |
| | Ararat |
| | Syunik |
| | Vayots Dzor |
| | Gegharkunik |
| | Shirak |
| | Lori |
| | Tavush |
| Total | 73 |

2016

Number of Criminal Cases

| Yerevan | | | | | | | | | | |
|--------------|-------------------|----------|----------------|------------------|------------------------|------------------------|-----------|-------------------------|-----------|--|
| | Avan and Nor Nork | Arabkir | Kanaker-Zeytun | Malatia-Sebastia | Erebuni and Nubarashen | Center and Nork Marash | Shengavit | Ajapnyak and Davitashen | | |
| Total | 9 | 2 | 5 | 8 | 3 | 7 | 6 | 5 | 45 | |

| RA Regions | | | | | | | | | | |
|--------------|----------|-----------|-------------|-----------|----------|-------------|-------------|-----------|-----------|-----------|
| | Kotayk | Armavir | Aragatsothn | Ararat | Syunik | Vayots Dzor | Gegharkunik | Shirak | Lori | Tavush |
| Total | 9 | 26 | 3 | 10 | 7 | 3 | 10 | 10 | 12 | 8 |
| | | | | | | | | | | 98 |

Summary and Conclusions:

Quantitative Analysis

Between 2015 and 2016, the RA Investigative Committee investigated 288 criminal cases instigated on the basis of Articles 138-142 of the RA Criminal Code, of which 157 were instigated in 2016 and 131 cases in 2015. As suggested by the figures, the number of criminal cases has increased by 26. The quantitative data suggest interesting findings, more specifically:

1. In 2016, both the absolute and comparative number of closed criminal cases dropped, while in 2015, 58 cases were closed (44,3% of total cases), in 2016, 45 cases were closed (28,7%).
2. In 2016, the absolute number of criminal cases forwarded to court with a bill of indictment increased, while in 2015, 57 cases (43,5% of total cases) were forwarded to court with a bill of indictment, in 2016, 62 criminal cases (39,5% of total cases).
3. In 2016, both the absolute and comparative number of motions for involuntary commitment increased, while in 2015 involuntary commitment was carried out only for 2 criminal cases (1,5% of total cases), in 2016 it was requested for 3 criminal cases (1,9% of total cases).
4. In 2016, the absolute and comparative number of suspended criminal cases increased, while in 2015, 14 criminal cases were suspended (10,7%), in 2016, 17 cases were suspended (10,8% of total cases).
5. The ratio of certain types of sexual assaults changed significantly. Most notably:

| | 2015 | | 2016 | |
|------------------------------|------|-------|------|-------|
| Article 138 of Criminal Code | 44 | 33.6% | 43 | 26.8% |
| Article 139 of Criminal Code | 15 | 11.5% | 17 | 9.6% |
| Article 140 of Criminal Code | 9 | 6.9% | 6 | 3.8% |
| Article 141 of Criminal Code | 55 | 42% | 77 | 51% |
| Article 142 of Criminal Code | 8 | 6% | 14 | 8.8% |

The table suggests that in comparison to 2015, in 2016 the number of sexual assaults against children increased dramatically based on both Article 141 and Article 142 of the RA Criminal Code.

6. In 2016, 113 individuals were charged for crime, all male, of which 99 were of Armenian nationality, 12 of Yezidi nationality, 1 of Russian nationality, and 1 of Moldovan nationality. In 2015, there were 95 suspects/defendants, of which 82 were of Armenian nationality, 11 of Yezidi nationality, and 2 of Iranian nationality.
7. In 2016, 111 of the suspects/defendants were citizens of Armenia, 1 of the Republic of Moldova, 1 of the Russian Federation, while in 2015, 91 of the suspects/defendants were citizens of Armenia, 2 of the Islamic Republic of Iran, 1 of the Republic of Syria and 1 of Republic of Nagorno Kharabagh. In other words, the majority of the suspects/defendants were citizens of Armenia (97.1%).
8. The following restrains were applied towards suspects/defendants.

| Restraint | 2015 | | 2016 | |
|----------------------------------|------|-------|------|-------|
| Detention | 17 | 7.9% | 15 | 13.3% |
| Written pledge not to leave | 59 | 62.1% | 76 | 67.2% |
| Bail | 7 | 7.4% | 5 | 4.4% |
| Military commander's supervision | 2 | 2.1% | 3 | 2.7% |
| Parental supervision | 4 | 4.2% | 1 | 0.9% |
| Not applied | 6 | 6.3% | 13 | 11.5% |
| Total | 95 | 100% | 113 | 100% |

As suggested by the data in the table, in 2016, the number of written pledges not to leave increased, while incidence of detention and bail-outs decreased.

9. In 2016, only 7.1% of the 113 suspects/defendants were previously convicted, while in 2015 - 6.3% of 95 suspects/defendants. The increase in sexual assault cases by ex-convicts is minor.
10. The majority of suspects/defendants have no occupation, in 2016 70% of the suspects/defendants reported having no occupation, while in 2015 this was reported by 71.6%. Others had occupations ranging from farming, driving, animal raising, constructing, military service, guarding, studying, teaching, DJ-ing, working as a locksmith, delivery person, labourer, car-wash worker.

11. In 2016, 43 of the suspects/defendants had de facto marital relationships with the survivors (38,1% of total suspects/defendants), while in 2015 this figure was 30 (31,6% of suspects/defendants). 35 persons were strangers to the survivors, 18 of them registered in 2016 (16% of total suspects/defendants) and 17 registered in 2015 (17.9% of total suspects/defendants). Persons who were not recognized by the survivors accounted for the majority of the suspects/defendants.

The rest of suspects/defendants had the following affiliations with the survivors: neighbours, acquaintances, fellow village residents (town residents), employer, partners, uncle, daughter's husband, sister's husband, stepfather, father, cousin, father's friend, aunt's husband, mother's ex-husband etc.

12. In 2016, the 157 criminal cases involved 162 survivors, of which 11 were male, while 151 were female.

147 of the survivors were of Armenian nationality, 14 of Yezidi nationality, 1 of Moldovan nationality. 160 of the survivors were citizens of Armenia, while 1 was a citizen of the Russian Federation and 1 of the Republic of Moldova.

In 2015, 131 criminal cases involved 142 survivors, of which 11 were male and 131 female. 131 of the survivors were of Armenian nationality, 10 of Yezidi nationality, while 1 was Mari. 141 of the survivors were citizens of Armenia, 1 was a citizen of the Republic of Nagorno Kharabagh.

In summary, the majority of the survivors are women (92.7% of total survivors, and citizens of Armenia (99%).

13. In 2016, the age of the survivors ranged from 5 to 74 years, while in 2015 it ranged from 4 to 62. The majority of the survivors were aged 15 (30% of total survivors), the age group of 14-16 accounts for almost half of the total number of survivors (48%).

14. The majority of the survivors reported having no occupation, in 2016 58% of the survivors reported having no occupation, while in 2015 this figure was 52%. The majority of the survivors were school students, in 2016, 32.7% of the survivors and in 2015, 42.7% reported studying at school. The occupations of the other survivors included sex work, pensioner, university student, computer operator, pharmacist, cook, housekeeper, accountant, dance-teacher, waitress etc.

The analysis of the quantitative data suggests the following conclusions:

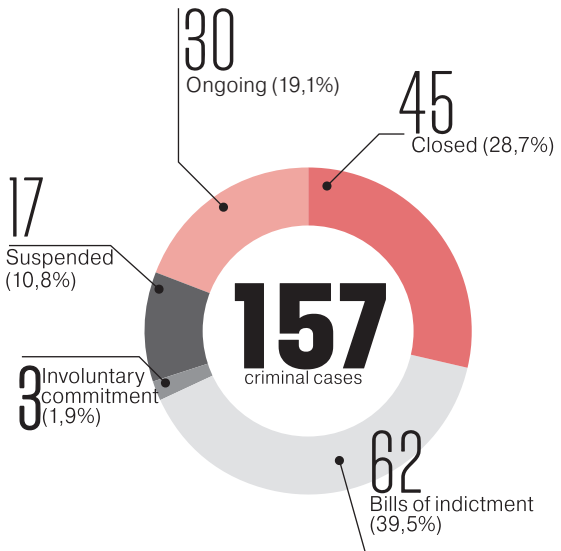
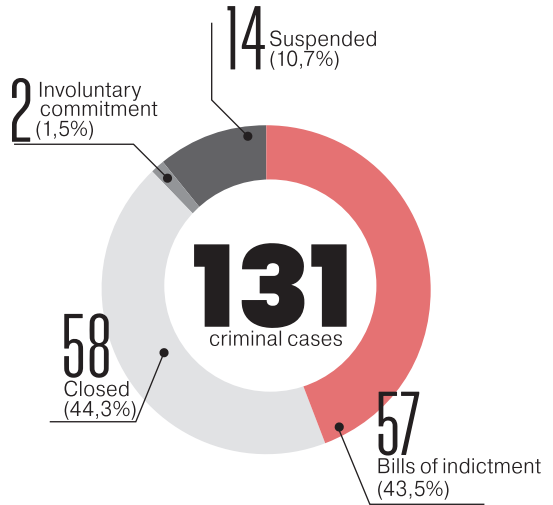
1. The drop in the number of closed criminal cases initially instigated on the basis of Articles 138-142 of the Criminal code indicates a more rigorous approach by investigators.
2. The number of requests for involuntary commitment indicates that the number of acts committed by persons with impaired sanity is insignificantly increasing signalling a need for strengthening preventive activities by engaging relevant specialists.
3. In 2016, the number of sexual assault cases (Articles 141 and 142 of the Criminal Code) against children rose significantly compared to 2015. This indicates an urgent need to carry out more effective means of child protection, including informing children and their parents or custodians about actions and possible methods of prevention and early identification of such cases. Given the fact that the majority of the survivors are children aged between 14 and 16 (48% of total survivors), special preventive and educational trainings need to be organized among children of this age.
4. Analysis of the restraints applied towards the suspects/defendants shows that the most prevalent

means of restraint is the written pledge by the defendant not to leave, while in 2016 the number of detentions decreased by 2. Overall, while detention is applied as an absolute means of restraint and in practice there is a declining trend of detentions, in the event of sexual assaults, especially those committed against children, detention should be considered in the best interests of the survivors, especially for the effective protection of children in order to exclude potential new assaults by the alleged assailants.

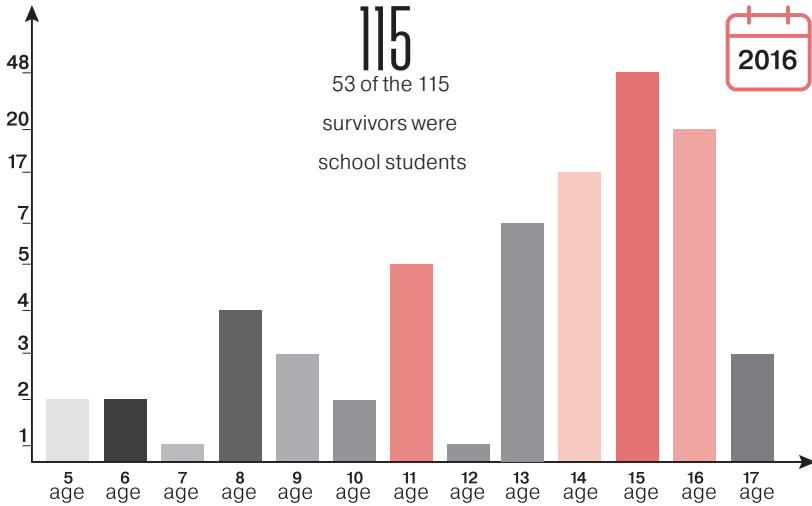
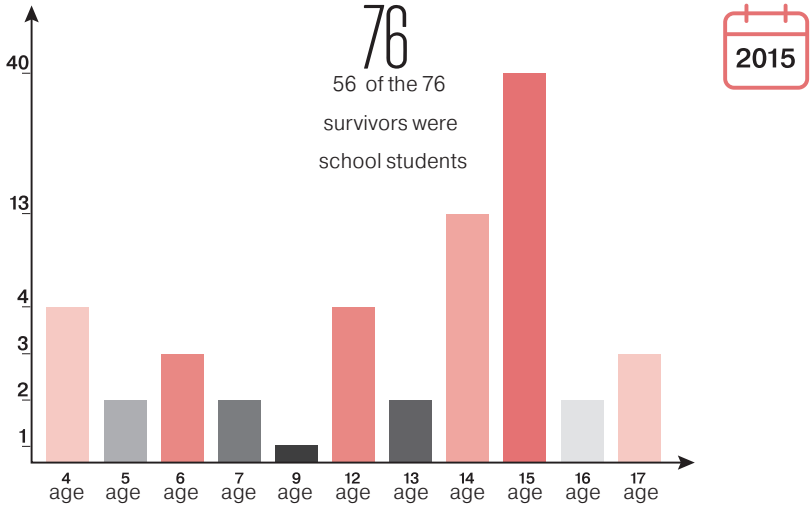
5. The lack of occupation for the suspects/defendants and survivors serve as a favourable condition for committing sexual assaults, which leads to considering their engagement in any occupation a priority, such as employment, education or another publically beneficial activity.
6. Given the rise in the number of cases of de facto marital relationships with children, widespread awareness raising campaigns should be implemented on the marital age of children, pregnancy of minors and other related issues by presenting their parents or custodians with information on the legal, medical, psychological, and moral negative consequences that arise from early marriages.



Criminal Cases investigated by the investigators of the RA Investigative Committee instigated in 2015-2016 based on Articles 138-142



Juvenile Survivors



Qualitative Analysis: Summary and Conclusions

During 2015 and 2016, 103 of the criminal cases investigated by the Investigative Committee based on Articles 138-142 of the Criminal Code were closed, of which 58 were closed in 2015 and 45 in 2016.

The qualitative component of the study analysed 38 of the 45 cases closed in 2016 (84,4%). Subject of the research themes included topics of criminal law, criminal procedure and criminalistics.

Persons who had reported criminal offences were engaged as survivors in the studied closed criminal cases and the majority of the cases included decisions of engaging defendants. In only 4 (10,5%) of the researched 38 cases was the survivors represented by a lawyer. This means that the cases wherein survivors turn for legal assistance and counselling are few, which leads to insufficient opportunity for the survivors to effectively present their case during criminal trial.

Given the fact that the study inspected three thematic areas (criminal law, criminal procedure and criminalistics), these will be discussed in separate chapters.

Criminal Law

The facts of a number of criminal cases (for example, Cases N 17188516, N 40105616 etc.) make it apparent that the defendants de facto married juveniles after which they engaged in sexual relations with them.

The criminal investigation identified that in the above-mentioned cases the defendant was not aware of the age of the survivors, which is not true regarding to the parents and other relatives of the survivors who married off their daughter or female relative with clear knowledge of them not being of marital age and being in an age of bodily sexual integrity. Given that in the criminal cases instigated based on Article 141 of the Criminal Code the juveniles were aged 12-16 and that their consent cannot be considered as complete, well-thought and fully acknowledged, a situation of forced marriage can be discussed, which is considered a situation equal to slavery according to the UN Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956, Section 1, Article 1, Part (c), Clause (i). The convention defines that any institution and practice by which "A woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parents, guardian, family or any other person or group" is similar to slavery.

In addition, the UN Slavery Convention of 1926, Article 1, Clause 1 defines that slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership (including disposal, possession or use) one exercised. Applying any of the three rights against the will of the person or by neglecting the will of the person is considered slavery. In the case of juveniles, normally neglect of the child's will should be considered, as the child cannot express her will due to her age, mentality, dependency from parents and other conditions.

Article 1 of the UN Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956 also defines, that a situation similar to slavery, inter alia, is any institution or practice whereby a child or young person under the age of 18 years, is delivered by either or both of her natural parents or by her guardian to another person, whether for reward or not, with a view to the exploitation of the child or young person or of her labour.⁶

In other words, the Convention differentiates between exploitation of child labor and exploitation of the fact of being a child, in the event of which the child may express no particularly active role. Therefore if the child does not undertake active actions, and her being passive leads in one way or another to benefitting somebody else or being exploited in another way, and this person is aware of the fact of monetary or other privileges or additional income expected by the presence of the child, then this person is exploiting the child manipulating her status of being a child.

Transferring the child to another person by the child's parent/guardian may be done for remuneration or without it, which in itself does not render on the nature of the act.

⁶Armenia has not yet ratified the UN Slavery Convention of 1926 and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956, however it has ratified the ILO 182 Convention of Worst Forms of Child Labour which directly emphasizes slavery and situations similar to slavery as worst forms of child labor. It is noteworthy that Article 4 of the European Convention Human Rights is interpreted by the European Court of Human Rights with reference to the above-mentioned conventions.

In any case, the parent/guardian abuses their powers of child supervision and is using these powers against the interests of the child treating the child as property by temporarily or permanently transferring the child to the possession of others for purposes of exploitation.

According to the ILO 182 Convention on the Worst Forms of Child Labor, Article 3, the worst forms of child labor include

- a) all forms of slavery or practices similar to slavery....,
- b) the use, procuring or offering of a child for illicit activities...

The international norms create a legal foundation for addressing the actions of certain parents during the investigation of cases instigated based on Article 141 of the Criminal Code and for giving a criminal legal assessment to their actions, if they committed any of the above-mentioned activities or were complicit in committing the crimes defined by Article 141 of the Criminal Code as organizers, motivators or supporters.

Criminal Procedure

1. None of the survivors in the explored criminal cases was appointed a forensic examination. In one of the cases (criminal case N 09111016), the survivor was receiving support and assistance by an NGO and the motion by the survivor's lawyer to assign forensic examination was rejected by the investigator. The survivor turned to law enforcement 6 months after the offence and was in a severe psychological state, had committed 2 attempts of suicide and was under the supervision of psychologists. The motion suggested that the forensic specialist address the following questions:

- 1) Whether or not the psychological suffering of the survivor commenced as a result of the sexual harassment committed (...)?
- 2) What is the psychological state of the survivor at that moment and to what extent this state can be a consequence of the attempts of rape and rape in 2015 (...)?
- 3) What circumstances have caused attempts of suicide and whether or not they could be a consequence of psychological trauma caused by the attempts of rape and rape?

Given the fact that late reporting of the criminal offence makes identification of the offence difficult, the conclusion of forensic examination and other evidence might help to identify what caused the survivor to attempt suicide. Should the forensic experts give a positive response to the above-mentioned questions, this evidence could be combined with other evidences and could serve valuable in clarifying significant circumstances for the case.

In these situations, the investigators must undertake all possible measures to identify the circumstances of the crime.

2. In one of the explored cases (criminal case N 56200216), sexual assault was committed by the brother towards his sister, wherein the person charged for the alleged crime is a family member – the brother of the juvenile girl, whose mother is recognized as the legal representative of the survivor. In this case, it is important to consider the extent to which recognition of the survivor's mother as her legal representative can be relevant, given the fact that the mother may not objectively represent the interests of the child, as the alleged assailant is also her child. In this case, there is a legislative gap which can be overcome by not engaging the parents of the survivors as legal representatives if this contradicts the best interest of the child or justice.

3. As part of all the criminal cases, the investigative process included interrogations of juveniles with the engagement of pedagogues, however no special examination was conducted nor importance attached to the qualifications and skills of these specialists (the law does not make such a requirement). Engagement of pedagogues by investigators was often a formality in nature and their knowledge, professional skills and experience in dealing with similar cases was not identified.

In accordance with the RA Law on Public Education, Article 26, a person with relevant pedagogic qualification (with a bachelor's, master's, diploma specialist degree) or with higher education and with at least 5 years of teaching (pedagogic) experience may work as a teacher in an educational institution.

However, for sexual assault cases involving children, it is preferable to engage pedagogues who have legal knowledge or who teach law or other subjects related to law or are child psychologist.

Criminalistics

1. When an adult woman reports of sexual assault, one of the first steps undertaken by the investigators is obtaining a morality profile from her district of the police. Questions related to the women's morality profile are also asked during interrogation. The questions addressed to the police and the answers provided by the latter should be viewed from the perspective of merit and in the context of applicability. Police are often asked questions the answers to which they are not able to provide neither ex officio, nor professionally. Therefore the questions should pursue a specific goal and be sensible.

In certain criminal cases the interrogation of the survivor is not properly planned, namely, the full profile and the information of the survivor and the case is not collected, which affects the quality and duration of the interrogation.

In certain criminal cases, the questions posed by the investigator carry a blaming connotation or the question implies assessment of the situation.

For example:

1) Criminal Case N 51104316 : "Don't you find your behaviour strange that on the given date, at the given time, when your neighbour visited your home and asked for food and vodka, instead of asking him out of your home, even by resorting to making noise, attracting other neighbour's attention to come and help you get him out of your home, you actually laid a table for him and he took advantage of the occasion and demanded sexual relations.

If you were ashamed of the neighbors, while turning to the police, didn't you think that the neighbors would in any case find out about this case?

What is the reality?

Were you not predicting that as a result of your behaviour his next step would be to demand sexual relations?"

2) Criminal case N 90956716, whereby the investigator's question to the survivor is: "How come that you were in intimate relations, often used alcohol together, however he had a sexual relation with you against your will?"

"If you did not wish to have a sexual relations, why were you maintaining intimate relations or communicating at all?"

This type of sharp and judgemental assessments should be avoided, instead a survivor-centered approach should be applied towards the survivors.

2. As already mentioned, during the investigation of a number of criminal cases, the defendants, at the time of having had a sexual relation with a person explicitly under 16 years, insisted that they were not aware of the age of the survivor or that the survivor told them of being 16. In a number of cases (criminal cases N 91163816, N 31100316), the survivors mentioned in their written statements, as well as insisted in face-to-face confrontations with the offender that they had informed of being under 16. As in these cases, no additional evidence is present. Because of this the criminal cases are considered closed. In this situation, other additional actions should be carried out in order to obtain additional evidence for validating that the offender was aware of the survivor's age.

To summarize the above-stated, the following conclusions can be made:

1. According to the studied cases persons who are sexually assaulted report when significant time has passed after the occurrence of the assault (for example, criminal case N 09111016). This is due to the psychological trauma inflicted upon the person.

As a consequence of sexual assault, the survivor requires time for figuring out their thoughts and emotions, to take actions in their lives and make independent decisions, to carry responsibility for these actions. When the survivor is finally ready to voice about the offence against her, the forensic

investigation gives no result as the physical evidence has healed or is eliminated; therefore collection of evidence becomes a serious issue. In these cases, it is possible that the persons who have been sexually assaulted are still examined by the forensic examiners, as examination of the psychological consequences of the sexual assault, availability of a post-traumatic stress syndrome may contribute to the evidence base.

2. This study has shown that in certain cases, investigators do not demonstrate a "survivor-centered" attitude towards adult women survivors of sexual assaults. During interrogations, they make judgements and assumptions regarding the behaviour of the survivor which may lead to secondary victimization of the survivor. Discussions of sexual assault investigations and presentations on how to formulate questions and statements from the perspective of the survivor may contribute to changing the attitude of the investigators and will consequently lead to an effective investigation.

3. The study shows that the acts of parents or relatives of girls aged 13-14, who marry their girls off, do not become subject of investigation in view of child exploitation, marriage against the will of the child, violence, negligence or other illicit acts.

4. During interrogation of minors, especially in those cases when the minor is under 16 years and feels uncomfortable to speak about the incident in the presence of their parent, or when the parent and the defendant are partners or relatives or acquaintances, disqualifying the parent to be the legal representative of the child and engaging another representative should be considered based on the best interests of the child and international best practice by seeking legislative changes in the current legislation.

5. Participation of a pedagogue is mandatory during the interrogation of juveniles, and in all the explored criminal

cases pedagogues were present, however in practice, qualified pedagogues should be engaged, such as psychologist-pedagogues. In this case, the engagement of the pedagogue will not be a formality but will support the investigation with the knowledge and skills of a specialist.

