

The Vicinity of Subjects of Criminal Processes and the Prevention of Criminal Offenses against Them

How to cite this article [Chicago]: Kolb, Oleksandr, Huzela Mykhailo, Turkot Mykola, and Vasyliuk Igor. "The Vicinity of Subjects of Criminal Processes and the Prevention of Criminal Offenses against Them." *Novum Jus* 17, no. 1 (2023): 13-31. <https://doi.org/10.14718/NovumJus.2023.17.1.1>

Kolb Oleksandr / Huzela Mykhailo
Turkot Mykola / Vasyliuk Igor



The Victimhood of Subjects of Criminal Processes and the Prevention of Criminal Offenses against Them

Kolb Oleksandr*

National University of Law (Kharkiv, Ukraine)

Huzela Mykhailo**

Lviv Polytechnic National University (Lviv, Ukraine)

Turkot Mykola***

Office of General Prosecutor (Kyiv, Ukraine)

Vasyliuk Igor****

Open International University of Human Development (Lutsk, Ukraine)

Received: July 12, 2022 | **Evaluated:** August 15, 2022 | **Accepted:** August 18, 2022

Abstract

The purpose of this article is to enhance the measures to prevent criminal offenses against participants in criminal proceedings by clarifying the determinants of victimhood, highlighting the relevant typical features of victims. It was found that the victimhood of participants in criminal proceedings is characterized by a combination of personal behavioral qualities and special status, which interact with external factors and may be manifested simultaneously in a complex fashion and with different interpretations. Victim-forming factors of participants in criminal proceedings are singled out—a set of socio-psychological and biophysiological properties, behavioral attitudes and personal characteristics, and external conditions. To develop effective prevention measures, the main types of victims—participants in criminal proceedings—are identified: victims involved in criminal proceedings (witness, victim, suspect (accused), defense counsel, legal representative, expert, specialist, etc.) and victims—professional participants in criminal proceedings (investigator, coroner, prosecutor, judge, expert). The essence of professional victimhood is determined, which can be characterized by the absence of provocative manifestations, and the identification of the participants in criminal proceedings by the authorities, which causes in a certain category of persons the desire to come into conflict with them. The factors that cause increased victimization are highlighted.

Keywords: investigation, participants in criminal proceedings, victimization, security, prevention.

* Doctor of Law, Professor, Honored Lawyer of Ukraine, Professor of Criminology and Criminal Enforcement Law at National University of Law Kharkiv (Ukraine). Email: lesya5@meta, ORCID: <https://orcid.org/0000-0003-1792-4739>.

** PhD in Law, Associate Professor of the Department Criminal law and Criminal Procedure at Institute of Law, Psychology and Innovative Education of the Lviv Polytechnic National University, Lviv (Ukraine). E-mail: mhuzela@gmail.com, ORCID: <https://orcid.org/0000-0002-2254-6990>.

*** Candidate of Legal Sciences, Associate Professor, department prosecutor at Office of General Prosecutor, Kyiv (Ukraine). E-mail: justmarisabel2017@gmail.com, ORCID: <https://orcid.org/0000-0001-9457-8871>.

**** Candidate of Law, Associate professor of the Department Law and Finance at Lutsk Institute of Human Development of the Open International University of Human Development "Ukraine", Lutsk (Ukraine). E-mail: ak_241@ukr.net, ORCID: <https://orcid.org/0000-0002-7999-6212>.

La victimidad de los sujetos del proceso penal y la prevención de delitos penales en su contra

Kolb Oleksandr

National University of Law (Kharkiv, Ukraine)

Huzela Mykhailo

Lviv Polytechnic National University (Lviv, Ukraine)

Turkot Mykola

Office of General Prosecutor (Kyiv, Ukraine)

Vasyliuk Igor

Open International University of Human Development (Lutsk, Ukraine)

Recibido: 12 de julio de 2022 | **Evaluado:** 15 de agosto de 2022 | **Aceptado:** 18 de agosto de 2022

Resumen

El propósito de este artículo es contribuir a mejorar la eficacia de las medidas para prevenir delitos contra los participantes en procesos penales. Para ello se requiere aclarar los determinantes de la victimización, destacando las características típicas relevantes de las víctimas como objeto al que se dirigen los esfuerzos de prevención. Se encontró que la victimización de los participantes en el proceso penal se debe a una combinación de cualidades personales de comportamiento y estatus especiales, que interactúan con factores externos en determinadas situaciones, y pueden manifestarse de forma compleja, simultánea y con diferentes interpretaciones. Se identifican los factores que caracterizan a las víctimas como participantes en los procesos penales: un conjunto de propiedades sociopsicológicas, propiedades biofisiológicas, un estado particular, actitudes conductuales y características personales, y condiciones externas. Para desarrollar medidas de prevención efectivas, se identifican los principales tipos de víctimas participantes en el proceso penal: víctimas directamente involucradas en el proceso penal (testigo, víctima, sospechoso (acusado), abogado defensor, representante legal, perito, especialista, etc.) y víctimas participantes profesionales en procesos penales (investigador, médico forense, fiscal, juez, perito). Se determinó la esencia de la victimización profesional, que puede caracterizarse por la ausencia de manifestaciones provocativas, y una disposición del participante que provoca en una determinada categoría de personas el deseo de entrar en conflicto con ellos. Se destacan los factores que provocan el aumento de la victimización.

Palabras clave: investigación, participantes en el proceso penal, victimización, seguridad, prevención.

Introduction

In the modern conditions of the development of criminal procedural legal relations it is necessary to continuously define and study new legal means and ways to protect the rights and interests of the participants in criminal processes, to guarantee a healthy coexistence in a society¹. At the same time, national and international legal systems preach the freedom of the individual and the autonomy of the will in combination with the free development and dignity of the individual².

Techniques and methods of physical and psychological influence are often used against participants in criminal proceedings to change or deny their testimony. Such illegal actions are carried out mainly to prevent the establishment of the circumstances of a criminal offense. However, this is not the only goal. Post-criminal action, as practice shows, can also be carried out to prevent the promotion of justice, to coerce persons to stop assistance, for revenge, and so on. Accordingly, the causes of encroachment are mostly the intention and even the potential ability of the person to promote justice, direct assistance. These factors, and not the presence of a person of a particular criminal procedural status, are the cause of post-criminal influence (endowed with procedural status, a person can take a passive position).

Thus, the intentions and behavior of the participants in the criminal process, in which a person is accused of a criminal offense, are the cause of an illegal influence on them. At the same time, the accomplices of the crime themselves, who have the procedural status of suspects and accused, may also find themselves in potential danger of post-criminal influence. The reason may be their active behavior, contrary to the interests of other accomplices in the crime. For example, giving truthful and consistent testimony, defending one's position during certain investigative actions, assisting the investigating authorities in identifying all episodes of criminal activity, and so on. Leonid Brusnitsyn notes that, in one form or another, assistance to justice determines the possibility of post-criminal influence on all participants in criminal proceedings, including those who have committed illegal acts, their defenders

¹ Astrid Rocío Galán Galindo, "Los derechos humanos fundamentados mediante la legitimación y la moral jurídica," *Novum Jus* 10, no. 1 (2016): 39.

² Yamal Elías Leal, Esper, "Las directivas anticipadas: reflexiones jurídicas en el sistema legal colombiano," *Novum Jus* 14, no. 2 (2020): 307; Óscar Alexis Agudelo Giraldo and Astrid Rocío Galán, "Derecho injusto. Fórmula de universalización y derechos humanos," *Novum Jus* 9, no. 2 (2015): 134.

and legal representatives —when their activities are contrary to the interests of accomplices or others who oppose the pre-trial investigation and the trial³.

It is possible that the objects of criminal encroachment are authorized subjects of criminal proceedings —investigators, prosecutors, courts—, as well as those who are involved in it—defenders, legal representatives, witnesses. It is traditionally believed that threats to the life, health, and property have the most effective psychological impact on a person, because of which he may refuse to seek justice. Also at risk are a person's reputation, career prospects, life, health, property, or those of his close relatives, friends, or acquaintances. One of the best countermeasures to this type of criminal activity is, among others, the timely response of law enforcement agencies⁴.

Until the early 1990s, illegal influences on participants in criminal proceedings were not massive and could be controlled by the state, so “they did not have such a devastating effect on the criminal justice system that we see today.” Extremely dynamic changes in the qualitative characteristics of crime, namely, in its organization, professionalism and in the emergence of new types of crime, have led to an increase in the illegal and post-criminal influence on the applicants, eyewitnesses or victims of a crime (or close relatives). In this regard, organized crime causes a special socio-economic damage⁵. This threat can only be mitigated with the comprehensive protection and the safe participation in criminal proceedings of the victims and other participants. This is an important condition not only for the effective investigation of a criminal offense, but also for the prevention of other crimes against participants in criminal proceedings.

Given the issues under study, the victimological prevention of such crimes is of particular importance. This activity is an integral part of all preventive actions of the state and is aimed at identifying potential victims and conducting appropriate work with them. After all, it's better to prevent a person from being in danger, minimizing the risk of becoming a victim of the relevant agent involved in criminal proceedings. Detection and research of the victimological processes in criminal behavior and during criminal proceedings plays one of the priority roles, which serves to ensure the principles and objectives of the criminal process.

³ Leonid Brusnitsyn, “Theoretical and Legal Bases and World Experience of Safety of the Persons Promoting Criminal Justice,” (PhD diss., Moscow, 2002), 462.

⁴ Brusnitsyn, “Theoretical and Legal Bases,” 462.

⁵ Volodymyr Golina, *UN Congresses on Crime Prevention and Criminal Justice: A Collection of Materials in 3 Books* (Kyiv: Law, Book. 2, 2013), 102-140

Under such conditions, the scientific analysis of the essence of victimhood of the participants in criminal proceedings and the clarification of the typical victim-forming factors of these subjects are of great importance to develop the victimological prevention of criminal offenses against them.

Victimism as a Basis for Modeling the Prevention of Criminal Offenses against the Subjects of Criminal Processes

In modern criminological research, the organization and implementation of crime prevention activities cannot ignore its victimological aspect, because it is characterized by significant specificity and significantly affects the formation and development of both internal and external relations⁶. This is so because crime can be fought not only by reducing the number of potential criminals, but also the number of probable victims.

Victimism can be associated, as proposed in the literature, with a sign of “vulnerability” (predisposition), a potential danger of becoming the victim of crime⁷. And this quality of becoming the victim of a crime is defined in the literature as a state of vulnerability which depends not only on subjective but also on objective factors⁸.

There are two components of victimhood —personal qualities of the individual and environmental factors. To determine the degree of interaction of these components, it should be noted that individual victimhood is the state of vulnerability of an individual due to the presence of crime, which is expressed in the objectively inherent human (but not fatal) ability to become a victim of crime. This vulnerability, which can remain a potential or be realized with a criminal act, depends on subjective and objective tendencies and, as a result, functions as an inability to resist the offender, which is determined by a combination of factors that make it objective (independent of the victim) or leave it at the level of subjective “reluctance or inability”.

At the national level, the main guarantees of personal protection provided by the Constitution of Ukraine are the following: everyone has rights to their life and security, to personal respect and respect for their honor, to have religious beliefs,

⁶ Oleksij Lytvynov, “Socio-legal Mechanism of Crime Prevention in Ukraine (Theoretical and Practical Principles)” (PhD diss., Kharkiv, 2010), 385.

⁷ Aleksandr Mayorov, “Conceptual Bases of Victimological Counteraction to Crime” (Monograph, Chelyabinsk, 2013), 51.

⁸ David Rivman and Vladimir Ustinov, “Victimology” (Monograph, N. Novgorod, 1998), 44.

to have a family, etc., under any circumstances⁹. Simultaneously, each participant in a criminal proceeding is (maybe) subjected to criminal influences in one way or another. On the one hand, this is influenced by their personal qualities (gender, age, psychological characteristics, physical development, etc.). On the other hand, the involvement of these persons in the sphere of criminal proceedings significantly increases the degree of their victimhood, as the possession of specific rights and responsibilities distinguishes participants in criminal proceedings from the circle of ordinary citizens.

The scientific literature defines victimization, first as the non-fulfillment or improper fulfillment by the state of the rights and freedoms of citizens guaranteed by the Constitution in relation to human security; second, as the intentional or negligent violation of personal safety by a person (or community); and third, as the use of the first and second definitions by criminals¹⁰. Victimization is the process of increasing the level of victimization and its realization by criminal encroachments, which leads to an increase in the number of victims of crime and in the total “price” of crime¹¹.

Victimization takes place at different levels of social interaction. At the individual level, it manifests itself in the increasing degree of victimization of individuals, in changes in their socio-legal status from potential victims to real victims of crime, as well as in an increase in the number of persons who have a negative experience of victimization. At the group level, it manifests itself in an increasing vulnerability and caused harm to members of social groups formed based on gender, age, profession, ethnicity, or status, increasing their share in the total number of victims of crime. At the level of society, victimization is manifested in increased vulnerability of certain categories of persons, as well as in a significant increase in the number of victims of crime during some time, large-scale damage and deteriorating security in the country. Such manifestations of victimization are also characteristic of the subjects of criminal proceedings.

The analysis of criminal proceedings in which the participants were influenced, made it possible to identify the following victim-forming factors:

⁹ Mariia Maistrenko, Kira Gorelkina, and Yevdokiia Buzhdynanchuk, “International and National Mechanisms for the Protection of the Rights of Victims of Armed Conflict in Eastern Ukraine,” *Novum Jus* 15, Número especial (2022), 5-6.

¹⁰ Bogdan Golovkin, “Criminological Concept of Victimization,” *Scientific Bulletin of the International Humanities University* 2, no. 15 (2015), 93.

¹¹ Golovkin, “Criminological Concept,” 94.

- Victimhood as a set of socio-psychological characteristics of the person (temperament, character, etc.).
- Victimhood as a biophysiological characteristic of the person (age, sex, etc.).
- Victimhood "role" of a person (a certain role in criminal proceedings of the victim, witness, investigator, etc.).
- Victimhood as a condition of behavioral attitudes and personal characteristics of the offender (intention and willingness to influence the participant in criminal proceedings).
- Victimhood as a circumstance of external conditions (the severity of the crime, the presence of accomplices, the competence of law enforcement officers, etc.).

The participant in the criminal proceedings simultaneously has a set of victimogenic factors and in a particular situation has several characteristics of victimization from the above classification. Thus, the victimhood of these individuals is defined by a combination of personal and behavioral qualities and special status, that interact with external factors in certain situations.

The individual victimization of participants in criminal proceedings is their realized or potential ability to become victims of crime in connection with their participation in criminal proceedings, or their inability to avoid criminal encroachment where objectively possible. V. Polubinsky defines individual victimhood as "... a property of man due to his social, psychological or biophysical qualities (or their combination), which contributes in a given life situation to the formation of conditions under which there is a possibility of harm to him against legal and actions¹²." Prone to increased vulnerability can be a person's performance of a certain social role - profession, public duties¹³.

Individuals accidentally or intentionally involved (or by virtue of official authority) in the proceedings acquire or increase their risk of victimization. Due to the functioning of the justice system they become more vulnerable to criminals. Thus, a conscientious attitude to both professional activities and the competitive process is often the main component of the victimological characteristics of participants in criminal proceedings.

¹² Vladimir Polubinsky, *Legal Bases of the Doctrine of the Victim of a Crime* (Gorky: USSR Ministry of Internal Affairs, 1972), 32.

¹³ Hans Schneider, *Criminology* (Moscow: Progress), 54.

On the one hand, the protection of victims of crime should be among the main objectives of the judiciary. On the other hand, its participants become victims because they participate in criminal proceedings, the system which is a kind of victimogenic generator.

In addition to the above-mentioned factors of victimhood of participants in criminal proceedings, it is necessary to point out those that increase the victimhood of these persons. These reasons are “hidden” in the financial, resource, and regulatory areas of ensuring the protection of participants in criminal proceedings.

Another problem is the current wording of the rules, which are the basis for the application of measures to protect participants in criminal proceedings, and in particular those referring to the presence of a threat sufficient to initiate protection. Deciding on the application of a security measure involves the availability of enough data to decide. An analysis of the legislation allows us to conclude that the grounds for their application are related to the need to prevent possible encroachments on the participants in criminal proceedings and are formulated using the term “threat”.

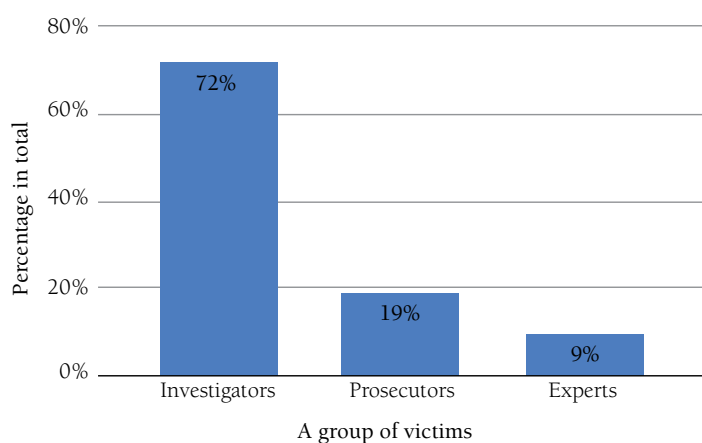
Thus, the degree of victimization of participants in criminal proceedings differs in multi-vector factors, ranging from professional activity (position) to place of residence (location of work), as well as gender indicators (gender, age, social, national, religious and personal characteristics). Due to the existence of different levels of risk of becoming a victim of post-crime, based on the presence of multi-vectors and the above factors, participants in criminal proceedings have an increased degree of victimization.

In addition, the victimhood of participants in criminal proceedings is very significant because they have not yet had a clear idea of the possibilities of state protection, and these protection measures are applied only in case of a threat and to a small number of people. Ensuring the effective protection of the all the victims’ rights is an urgent task and a constitutional duty of the state. An unsatisfactory implementation undermines the very idea of justice, which causes concern and anxiety in civil society.

The study identified two main types of victims who participate in criminal proceedings: 1) victims involved in the criminal proceedings (witness, victim, suspect (accused), defense counsel, legal representative, specialist, etc.); 2) victims involved as professional participants in the criminal proceedings (investigator, coroner, prosecutor, judge, expert).

Serious difficulties in the investigation are caused by the refusal of witnesses to testify. Of 125 participants in criminal proceedings, 17% said they would try to evade testifying if they witnessed a criminal offense. This is mainly due to the fear of coercion or revenge by criminals. Unfortunately, such fears have real grounds. In particular, 27% of investigators believe that witnesses in the criminal proceedings they investigated were blackmailed; 34% of investigators consider witnesses to be almost defenseless. Also, in the survey it was established who forces witnesses to change their testimonies or to retract them. In 68% of cases, they are the suspects (accused) or their accomplices, in 11% the parents and relatives of witnesses who fear for their lives, in 9% friends and acquaintances (for the same reason), in 8% outsiders, and in 6% police officers who seek to complete the pre-trial investigation for the benefit of others or guided by their own interests.

Figure 1. Persons who force witnesses to change or recant their testimony



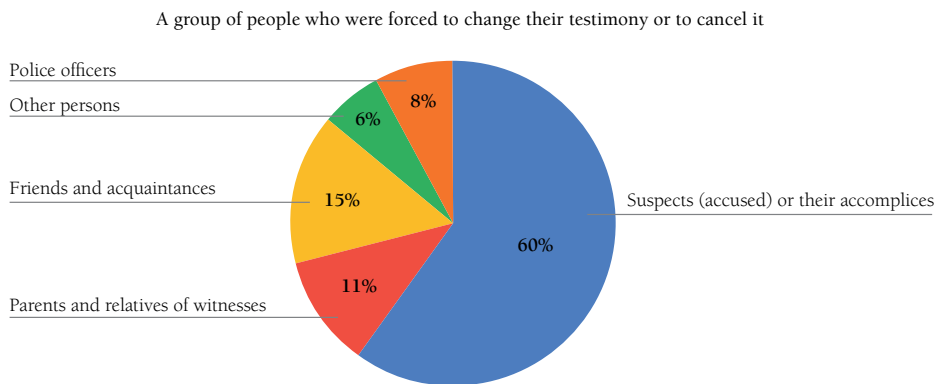
Source: Authors.

Such subjects, in connection with their procedural or professional activities, have a special type of group victimhood —the victimhood of a participant in criminal proceedings. First, this occurs in the investigation of serious and, especially, high-profile crimes committed by organized groups or criminal organizations, driving their opposition to the investigation. Increased victimization of such persons may be associated with the formalization of criminal proceedings; professional deformity or

lack of competence; or the overload of investigators, who must deal simultaneously with 60 to 150 criminal proceedings¹⁴.

Such persons, performing their procedural functions and promoting criminal justice, expose themselves to primary victimization. Violence and threats related to professional activities during the pre-trial investigation were mainly directed to investigators (72%), and less often to prosecutors (19%) and experts (9%).

Figure 2. Authorized persons who were subjected to violence and threats in connection with professional activities during pre-trial investigation in criminal proceedings



Source: Authors.

Professional deformation or job conditioning is often the reason for the increased victimhood of the subjects of criminal proceedings. Vladimir Kikot lists the causes that lead to occupational deformation and includes, in particular, inefficient management, instability, uncertainty, lack of information, professional incapacity, insufficient logistics of law enforcement officers, conflict in the professional process, personal qualities of the employee¹⁵.

In general, we believe that the division of victims of crimes against participants in criminal proceedings into appropriate types will help to determine the victimological characteristics of the respective type of victims. Based on these we can form a theoretical model of a crime prevention system against such persons. For example,

¹⁴ Natalia Goncharuk, "Each Vinnytsia Investigator Investigates an Average of About 100-150 Criminal Proceedings: An Interview with Yuri Pedos," July 3, 2014, <http://mvs.gov.ua/mvs/control/vinnytsia/uk/publish/article/141163> (accessed May 7, 2022).

¹⁵ Vladimir Kikot and Aleksandr Stolyarenko, *Applied Legal Pedagogy in Law Enforcement: A Textbook for Cadets and Students Educated* (Moscow: UNITI-DANA, 2008), 177.

if the victimhood of a witness is usually due to his characteristics and behavior in a particular criminal proceeding, the victimhood of a professional participant in the criminal process such as an investigator may be due to his vulnerability in a particular proceeding and professional (fairness, integrity) and personal corruption, connection with crime, characteristics, etc.

The Problem of Secondary Victimization of Victims in Criminal Proceedings

In Ukraine, it is not uncommon for victims and witnesses in criminal proceedings, especially for particularly serious crimes, to receive threats to change their testimony or refuse to testify. A significant number of citizens who have become victims or witnesses of crimes do not turn to law enforcement agencies for fear of retaliation from the perpetrator or disbelief in the effectiveness of state protection.

Of great importance, including from the standpoint of forming scientific and methodological foundations for training law enforcement officers and task forces to improve the prevention of victimization of crime victims, are the studies of the possibility of influencing the development or prevention of secondary victimization of victims. As rightly emphasized in the criminological literature, there is a practical interest in the possibility of identifying potential victimhood in the first stage (primary victimhood), as well as the ability to reduce their secondary victimhood by increasing the level of protection (security) by specific measures¹⁶.

This area of research is also of interest, as there is some possibility of influencing the likelihood of a crime against the perpetrator of a conflictive situation by a person who has previously been a victim of his encroachments and has been recognized as a victim in criminal proceedings.

Based on research in the field of victimology, there may be prerequisites for improving the organizational activities of law enforcement agencies to ensure the victimological safety of the individual. In law enforcement, one of the practical measures should be, first, the correct organization of the actions of the pre-trial investigation to identify certain typical conditions indicating the potential victimhood of a participant in criminal proceedings and the further possibility of harming his law enforcement interests. Therefore, one of the factors reducing the possibility of

¹⁶ Mayorov, "Conceptual Bases," 54.

secondary victimization and increasing the protection (safety) of potential victims are the organizational measures taken by law enforcement agencies, whose activities should be based on scientifically sound ideas about the causes and conditions of determining the secondary victimization of victims.

Obviously, this goal may require the creation of a clear typology of situations of encroachment on victims. Of particular interest is also the typology of crimes committed by law enforcement agencies. Based on them, it is possible to identify possible variants of situations in which secondary victimization occurs, predict a certain number of such cases and, most importantly, allow a non-standard approach to studying the results and performance criteria for crime prevention.

This analysis allows to determine the system of legal provisions governing the activities of law enforcement agencies in terms of their specific functions as subjects of special crime prevention. It is possible to determine the nature of these provisions and focus on preventing secondary victimization in specific situations, or to identify imperfections in legislation to prevent the phenomenon under consideration.

This points to the significant potential and practical importance of research in the field of victimology, which can be the basis for a critical analysis of current opportunities to prevent secondary victimization and further justify, specify, and develop the content of certain rights and responsibilities of the police. Such research, of course, can be a theoretical and practical basis for improving legislation.

In Ukraine there is a special legal act that regulates this issue, the Law “On Ensuring the Safety of Persons Participating in Criminal Proceedings.” In this Law, the legislator lists the security measures as follows: personal protection; protection of housing and property by means of fire and burglar alarms; change of apartment telephone numbers and license plates of vehicles; issuance of special means of individual protection and danger notification; use of technical means of control and eavesdropping on telephone and other conversations; visual observation in case of danger to the life and health of the protected persons; visual observation in case of threat of violence or other illegal actions against protected persons; replacement of documents and change of appearance; change of place of work or study; relocation to another place of residence; placement in a preschool educational institution or an institution of the social protection institutions; ensuring the confidentiality

of personal information; closed trial¹⁷. In addition, Part 2 of Art.⁹⁷ of the Law indicates the possibility of applying other security measures, considering the nature and degree of the danger to life, health, housing, and property of the protected persons. That is, the list of such means of protection is open.

In this regard, David Rivman and Vladimir Ustinov stressed the dependence of crime prevention on several circumstances, such as the formal possibility of isolating the actors of the conflict or the availability of public authorities “forces and means to timely stop the criminal development of events”¹⁸. One of the effective options may be to develop a legal basis for the police to remove (isolate) the victim and the perpetrator. This experience of preventing secondary victimization has been implemented in various countries. For example, in Germany, to combat domestic violence, the laws of various federal states allow police measures such as: removal from the apartment (house) of the person from whom the danger comes; ban on access to the apartment (house) and ban on contacting the victim¹⁹.

In view of the above, the following areas of prevention of secondary victimization of participants in criminal proceedings should be strengthened:

- Study of the determinants of crimes related to the secondary victimization of victims.
- Clarification of the mechanism of victimization of victims in connection with unskilled actions of police officers.
- Identification of persons who under certain conditions may become victims of crimes.
- Implementation of specific and well-founded actions by the police to ensure the safety of such persons and minimize the risk of becoming a victim of crime.
- Implementation of professional and ethical standards of conduct for police officers and responsibility for the result of their actions in the performance of official duties.

¹⁷ Verkhovna Rada of Ukraine, *Law on Ensuring the Security of Persons Participating in Criminal Proceedings* (December 23, 1993), N°3782-XII. <https://zakon.rada.gov.ua/laws/show/3782-12> (accessed May 7, 2022).

¹⁸ Rivman, “Victimology,” 185.

¹⁹ Aleksej Maile, “The Rights of the Police of Russia and Germany: Similarities and Differences,” in *Police - A New Institution of the Modern State Law Enforcement System: Materials of the All-Russian Scientific-Practical Conference (September 15-16, 2011)* (Omsk: Omsk Academy of the Ministry of Internal Affairs of Russia, 2012), 41-43.

It is necessary to study this problem and include the results and conclusions of relevant research in the training of police officers. To this end, it may be necessary to analyze individual situations of secondary victimization of crime victims, to create training tasks that could include positive examples of prevention of victimization of crime victims as a result of police actions. It is also necessary to describe the opposite situations in which the inaction of a police officer, or, more importantly from a practical point of view, omissions in the organization of law enforcement activities, have become conditions for causing harm to victims.

Such research allows us to understand the “price” of proper and careless performance of official duties, the nature and extent of changes in social reality, not only related to the commission of crimes by individuals against victims, but also to the actions of law enforcement officials responding to statements and reports of such events. The results can help to strengthen the prevention of certain types of crimes against justice and influence the improvement of law enforcement, in particular developing criteria for assessing the effectiveness of crime prevention as one of law enforcement activities.

Currently, modeling in criminology is a common tool that allows the development of a scientific basis to manage the fight against crime. As noted by Stanislav Borodin, modeling is one of the main categories of the theory of knowledge. Theoretical modeling is widely used to obtain the most complete idea of the phenomenon or process under study because of the research and construction of the model. It is used as a criterion for testing scientific knowledge, its objectivity, and practical applicability²⁰.

Victimology prevention is an integral part of the general system of preventive activities, as it expands it, complements it, and provides effective crime prevention measures. The main idea of victim prevention is the inclusion of real and potential victims of crime, and in addition to general measures of protection and security, to make extensive use of the protective capabilities of those most at risk; and its main purpose is to use the maximum preventive activities of the inner capabilities of man, directing them to counter the offender.

Thus, in relation to this problem, we can determine that the theoretical model of crime prevention against participants in criminal proceedings is based on a set of specific measures based on scientific knowledge, which are important to prevent criminal encroachment on these persons and are recommended for use in practice.

²⁰ Stanislav Borodin, *Fight Against Crime: A Theoretical Model of a Comprehensive Program* (Moscow, 1990), 21-22.

Conclusions

Summarizing the above, it should be noted that to increase the effectiveness of measures of prevention of criminal offenses against participants in criminal proceedings, it is necessary to ensure the coordination of various actors and the mutual rationalization of their capabilities and efforts to reduce victimization. The effectiveness of such preventive activities depends on identifying the determinants of victimhood and isolating the relevant typical features of the victims.

The victimhood of participants in criminal proceedings is conditioned by a set of personal and behavioral qualities and a special status, all of which interact with external factors in certain situations. In a particular situation, such victimological factors can be manifested in a complex way, simultaneously, and allowing different interpretations. Victim-forming factors of participants in criminal proceedings include: victimhood as a set of socio-psychological characteristics (temperament, character, etc.); victimhood as a biophysiological property (age, sex, etc.); “Role” victimhood (a certain role in criminal proceedings, like victim, witness, investigator, etc.); victimhood as a condition of behavioral attitudes and personal characteristics of the offender (intentions and willingness to influence the participant in criminal proceedings); victimhood as a circumstance of external conditions (the severity of the crime, the presence of accomplices, the competence of law enforcement officers, etc.).

The main types of victims, participants in criminal proceedings, were identified: 1) victims involved in the criminal proceedings (witness, victim, suspect (accused), defense counsel, legal representative, expert, specialist, etc.); 2) victims as the professional participants in criminal proceedings (investigator, coroner, prosecutor, judge, expert).

Victims and certain categories of witnesses and suspects (accused), primarily in crimes committed by organized criminal groups, are persons with increased victimhood, due to both their personal qualities (article, age, psychological characteristics, physical development, etc.) and their procedural status in criminal proceedings.

Professional victimhood is an “impersonal” quality due to its social functions, which may be characterized by the absence of provocative manifestations and the participation of authorized persons in criminal proceedings (investigator, prosecutor, expert, court) with their powers, which causes that some types of persons enter

into conflict with them. Increased victimization of such persons may be associated with the formalization of criminal proceedings, the professional deformation of authorized participants in criminal proceedings or their insufficient qualifications, as well as significant workload in the exercise of their powers.

The theoretical model of crime prevention against participants in criminal proceedings is a model based on generalized scientific knowledge of a system of the most important specific measures to prevent criminal encroachment on these persons, and it is recommended for use in practice. Areas of prevention of secondary victimization of such participants in criminal proceedings are: study of the determinants of these crimes; clarification of the mechanism of victimization in connection with unqualified actions of law enforcement agencies; identification of persons who, under certain conditions, may become victims of crime; implementation of specific and well-founded actions to ensure the safety of such persons and minimize the risk of becoming victims of crime; formation of professional and ethical standards of conduct for law enforcement officers.

References

- Agudelo Giraldo, Óscar Alexis, and Astrid Rocío Galán. "Derecho injusto. Fórmula de universalización y derechos humanos." *Novum Jus* 9, No. 2 (2015): 111-136. <https://doi.org/10.14718/NovumJus.2015.9.2.5>.
- Borodin, Stanislav. *Fight Against Crime: A Theoretical Model of a Comprehensive Program*. Moscow, 1990.
- Brusnitsyn, Leonid. "Theoretical and Legal Bases and World Experience of Safety of the Persons Promoting Criminal Justice." PhD diss., Moscow: dissertation of Dr. jurisdiction science. Moscow, 2002.
- Galán Galindo, Astrid Rocío. "Los derechos humanos fundamentados mediante la legitimación y la moral jurídica." *Novum Jus* 10, no. 1 (2016): 31-48. <https://doi.org/10.14718/NovumJus.2016.10.1.2.22222>
- Golina, Volodymyr. *UN Congresses on Crime Prevention and Criminal Justice: A Collection of Materials* in 3 Books. Kyiv, 2013.
- Golovkin, Bogdan. "Criminological Concept of Victimization." *Scientific Bulletin of the International Humanities University* 2, no. 15 (2015).
- Goncharuk, Natalia. Each Vinnytsia Investigator Investigates an Average of About 100-150 Criminal Proceedings: An Interview with Yuri Pedos. July 3, 2014 <http://mvs.gov.ua/mvs/control/vinnytsia/uk/publish/article/141163> (accessed May 7, 2022).

- Kikot, Vladimir and Aleksandr Stolyarenko. *Applied Legal Pedagogy in Law Enforcement: A Textbook for Cadets and Students Educated*. Moscow: UNITI-DANA, 2008.
- Kulakova, Natalia. "Current Issues of Criminological Policy in Ukraine." *On the Occasion of the 35th Anniversary of the Department of Criminology and Criminal Enforcement Law of the National Academy of Internal Affairs Proceedings of the Interuniversity Scientific-Theoretical Conference (April 25, 2012)*. Kyiv: National Academy of Internal Affairs, 2012.
- Leal Esper, Yamal Elías. "Las directivas anticipadas: reflexiones jurídicas en el sistema legal colombiano." *Novum Jus* 14, no. 2 (2020): 307-330. <https://doi.org/10.14718/10.14718/NovumJus.2020.14.2.13>.
- Lytvynov, Oleksij. "Socio-legal Mechanism of Crime Prevention in Ukraine (Theoretical and Practical Principles)". Phd diss., Kharkiv, 2010.
- Maile, Aleksej. "The Rights of the Police of Russia and Germany: Similarities and Differences". In *Police - A New Institution of the Modern State Law Enforcement System: Materials of the All-Russian Scientific-Practical Conference (September 15-16, 2011)*. Omsk: Omsk Academy of the Ministry of Internal Affairs of Russia, 2012.
- Maistrenko, Mariia, Kira Gorelkina, and Yevdokiia Buzhdynanchuk. "International and National Mechanisms for the Protection of the Rights of Victims of Armed Conflict in Eastern Ukraine." *Novum Jus* 15 [Número Especial] (2021): 17-41. <https://doi.org/10.14718/NovumJus.2021.15.E.2>.
- Mayorov, Aleksandr. "Conceptual Bases of Victimological Counteraction to Crime." Monograph, Chelyabinsk, 2013.
- Polubinsky, Vladimir. *Legal Bases of the Doctrine of the Victim of a Crime*. Gorky: USSR Ministry of Internal Affairs, 1972.
- Rivman, David and Vladimir Ustinov. "Victimology." Monograph, N. Novgorod, 1998.
- Schneider, Hans. *Criminology*. Moscow: Progress, 1994.
- Verkhovna Rada of Ukraine. *On Ensuring the Security of Persons Participating in Criminal Proceedings*. Law of Ukraine of December 23, 1993. №3782-XII. <https://zakon.rada.gov.ua/laws/show/3782-12> (accessed May 7, 2022).