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**THE IMPACT OF AMENDMENTS AND SUPPLEMENTS TO THE CRIMINAL PROCEDURE LAW IN DETERMINING, DISCUSSING, AND PROVING THE GENERAL CRIMINALITY OFFENSES\***

**ABSTRACT**

*The latest amendment to the CPA / 08 is one of the most demanding changes that accompanied the transposition of the EU Directive into our national legislation. Although more than one directive is concerned, the most significant is the Directive of the European Parliament and Council Directive 2013/48 / EU on 22 October 2013., on access to the lawyer in criminal proceedings and in proceedings based on a European Arrest Warrant, as well as on the right to third party information in the event of arrest and a right to communication with third parties and consular authorities. In essence, the Directive amended the police's conduct towards the suspect in a way that "forbids" the gathering of information from the suspect, and the police are obliged to conduct the investigation with the full guarantee of the right to defense. Considering the practical aspect of the current legislation, especially when conducting criminal investigations into the domain of general criminality (blood and property delicts), for police officers, the informal testimony of the suspect plays a significant role in further prosecuting and directing criminal investigation. Directing the investigation is important for detecting potential perpetrators of crime, finding objects and traces that have resulted from the perpetration of a criminal offense or from those used to commit a criminal offense, ie information, objects and traces that might be of use to successfully conduct criminal proceedings.*

*With the Amendments to the CPA / 08, police officers will no longer be able to conduct such informal informational conversation with the suspect for a specific criminal offense. The basic aim of the research is to establish which changes do the amendments to the legal provisions have*

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*on the detective and the demonstration activity of the police, and from a practical aspect, the research aims to look at the difficulties as well as the benefits faced daily by the police officers in detecting and proving the perpetration of criminal offenses. This paper presents the results of preliminary research conducted in the area of Zagreb County Police Administration.*

**Key words:** CPA / 08, police officers, suspect, informal informational conversation with the suspect, criminal offense

## 1. INTRODUCTION

In the Republic of Croatia, the tasks and powers of the police in the detection and prosecution of criminal offenses are partially regulated by the Criminal Procedure Act<sup>1</sup> and partly by the Law on Police Affairs and Authorities.<sup>2</sup> The current concept of criminal prosecution was established by the 2008 CPA<sup>3</sup>. Although, it has changed significantly in comparison to its previous legal iteration, it can be said that the fundamental police powers remained within the framework of traditional arrangements. The preliminary procedure consists of police and / or state attorneys inquiries and investigations. Police inquiries that are conducted before the criminal proceedings, according to their goals and the way of planning, have retained the traditional “informal” character in terms of most of the actions undertaken within their framework<sup>4</sup>. The goal of such “informal” actions is to acquire perceivable evidence, an information base for the state attorney, on which he will make further decisions. Collection of information is also among those actions that could be undertaken. It could be conducted in accordance with requirements that were prescribed by the CPA / 08 and the LPAA, so that information was also collected from the suspects. The above mentioned activity was very important for inquiries overall, and was often the central point of the said inquiries, the results of which were significantly dependent on their further course.

Since its adoption, CPA / 08 has been amended seven times, and the latest amendments to the CPA / 08 are consequently linked to the need for harmonisation of Croatian criminal legislation with the *acquis communautaire*. Of the whole series of amendments to the CPA / 08, we state one which we consider to be the most

<sup>1</sup> Zakon o kaznenom postupku, Narodne novine, No. 152/08, 76/09, 80/11, 121/11 pročišćeni tekst, 91/12- Odluka Ustavnog suda Republike Hrvatske, 143/12, 56/13, 143/13, 152/14, 70/17; (in further text: CPA)

<sup>2</sup> Zakon o policijskim poslovima i ovlastima, Narodne novine, No. 76/09, 92/14; (in further text LPAA)

<sup>3</sup> Zakon o kaznenom postupku, Narodne novine, No. 152/08, 76/09, 80/11, 121/11 pročišćeni tekst, 91/12- Odluka Ustavnog suda Republike Hrvatske, 143/12, 56/13, 143/13, 152/14; (in further text: CPA/08)

<sup>4</sup> Gluščić, S., *Izvidi kaznenih djela prema Noveli Zakona o kaznenom postupku*, in: Hrvatski ljetopis za kazneno pravo i praksu, vol. 20, 2/2013., p. 613-630

demanding for police praxis and which is linked to the transposition of Directive 2013/ 48 / EU<sup>5</sup> of the European Parliament and of the Council of 22 October 2013 on access to justice attorney in criminal proceedings and in proceedings based on the European Arrest Warrant and the right to informing of third parties in the event of arrest, as well as the right to communication with third parties and consular authorities.

The question may be asked why the emphasis is put on the above-mentioned amendment. Namely, since Art. 2. para.1. c. 10. The LPAA stipulates that police procedures are conducted through the exercise of police powers, and are regulated by the said law, but also by other legal and subordinate acts, so that one part of very demanding amendments to the CPA / 08 directly reflect on the conduct of police inquiries, moreso, on the conduct of criminal investigations in cases where there are grounds for suspicion of the perpetration of criminal offenses prosecuted *ex officio*.

It is very likely that this amendment to CPA / 08 will have a powerful impact on the discovery work of police officers, clarification and gathering of evidence or collection of facts, objects and traces that may be of use to successfully conduct criminal proceedings, the appearance of unlawful evidence, and what is in a causal link with the rise or fall of the number of criminal charges dismissed by state attorneys, as well as other decisions in further stages of the criminal proceedings.<sup>6</sup>

In order to ascertain whether there is any impact of the transposition of Directive 2013/48 / EU into the CPA / 08 on the work of police officers, i.e. on the detection and resolution of criminal offenses, as well as on the quality of the gathered evidence, it is necessary to conduct an empirical research in such a way as to analyse the state prior to the entry into force of the last amendments to the CPA / 08, as well as the state after the said amendment was implemented.

In this paper, only a small part of the survey sample has been presented, ie the collected data from police files involving murders and attempted murders during 2016 in the Zagreb County Police Administration, respectively, before the entry into force of the latest amendments to the CPA / 08.

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<sup>5</sup> Available at:

[<http://eur-lex.europa.eu/legal-content/HR/TXT/PDF/?uri=CELEX:32013L0048&from=HR>] accessed 8 March 2018 (in further text: Directive 2013/48/EU)

<sup>6</sup> Pavić, K., Gluščić, S., *Odnos policije i državnog odvjetništva prema VII. Noveli Zakona o kaznenom postupku*, in: Hrvatski ljetopis za kazneno pravo i praksu, vol. 24, 2/2017, p. 483–498

## 2. SPECIFIC PROVISIONS OF DIRECTIVE 2013/48 / EU

The provisions of Directive 2013/48 / EU are implemented in Croatian criminal law with the latest amendments to the CPA / 08. CPA / 08 adopted a mixed definition of the suspect, in the formal<sup>7</sup> and material<sup>8</sup> sense. Given that in the Directive 2013/48 / EU, the term is defined only in the material sense in order to properly transpose the provisions of Directive 2013/48 / EU, it was necessary to change the definition of the suspect referred to in Art. 202. para. 2. c. 1. CPA/ 08.<sup>9</sup>

Therefore, the CPA, in the latest amendment from the 2017, defines the suspect as a person in relation to which there are grounds for suspicion of having committed a criminal offense and against whom the police or the State Attorney's Office take action to clarify this suspicion, in Art. 202. para. 2. c. 1.<sup>10</sup>

The most demanding and one of the most significant amendments to the CPA / 08, which is directly related to the conduct of police officers, is related to Art. 2 nd para. 1 of Directive 2013/ 48 / EU. Specifically, the article stipulates that its provisions shall apply to suspects or accused persons in criminal proceedings from the time the competent authorities of the Member States have informed them, by means of an official notice or otherwise, that they are suspected or accused of committing a criminal offense and regardless of whether or not they are deprived of their liberty, and in c. 3 of the same Article, that the Directive 2013/ 48 / EU applies under the same conditions to those persons who are not suspected or accused and who, during examination by the police or other body responsible for the enforcement of the law, become suspects or accused persons.<sup>11</sup>

The meaning and implication of examination is apparent in the introductory provision of Directive 20/ 68 / EU. Thus, examination does not include preliminary

<sup>7</sup> The status of the suspect is tied to filing criminal charges. For doubts about the new definition of the suspect and their interrogation as prescribed by the new CPA, see: Burić, Z., Karas, Ž., *Prilog raspravi o dvojbama vezanim uz novu definiciju osumnjičenika i radnju njegova ispitivanja*, in: Hrvatski ljetopis za kazneno pravo i praksu, vol. 24, 2/2017, p. 443–482

<sup>8</sup> The suspect is a person against whom inquiries or or an urgent taking of evidence, are being conducted

<sup>9</sup> Prijedlog Zakona o izmjenama i dopunama Zakona o kaznenom postupku, Nacrt, Zagreb, 2017, p. 7

<sup>10</sup> On influences that the transposition of the European criminal law had on Croatian criminal procedural law via three Directives that we mentioned, as well as, the influence of the european legal standards on the right to defense in Croatian criminal procedure, one research has been conducted, namely: „Jačanje procesnih prava osumnjičenika i okrivljenika u kaznenom postupku u Hrvatskoj“, see: Ivičević Karas, E., Burić, Z., Bonačić, M., *Unapređenje procesnih prava osumnjičenika i okrivljenika u kaznenom postupku: pogled kroz prizmu europskih pravnih standarda*, in: Hrvatski ljetopis za kazneno pravo i praksu, vol. 23,1/2016, p. 11– 8; Ivičević Karas, E., Burić, Z., Bonačić, M., *Prava obrane u različitim stadijima hrvatskog kaznenog postupka: rezultati istraživanja prakse*, in: Hrvatski ljetopis za kazneno pravo i praksu, vol. 23, 2/2016, p. 509–545

<sup>11</sup> *Ibid.*

investigation by the police or another body responsible for the implementation of the law, whose purpose is to identify the person concerned, check for the possession of weapons or other similar security issues, determine whether there is a need to initiate an investigation, for example during traffic control or during regular random checks if a suspect or accused a person has not yet been identified. From the aforementioned, as well as from the Draft Law on Amendments to the CPA<sup>12</sup> it follows that the questioning should be understood to be any inquiry of the suspect on the circumstances of the criminal offense and in relation to the criminal offense, while the preliminary examination should only be understood as establishing of equivalence, traffic control, weapons possession control and similar.

Furthermore, it is apparent from recital 20 of Directive 2013/ 48 / EU that the examination does not involve a preliminary investigation by a police or other law enforcement body whose purpose is to identify the person concerned, to check for the possession of weapons or other similar security issues, determine whether there is a need to initiate an investigation, for example during traffic control or during regular random checks, if the suspect or accused has not yet been identified. From the aforementioned, as well as from the Draft Law on Amendments to the CPA<sup>12</sup>, it follows that the examination should include any inquiry of the suspect on the circumstances of the criminal offense and in connection with the criminal offense, while the preliminary investigation should only be considered to establish equivalence, traffic control, weapons possession and similar.

### **3. CROATIAN CRIMINAL PROCEDURAL LAW BEFORE AND AFTER THE IMPLEMENTATION OF DIRECTIVE 2013/ 48 / EU**

Before and after the last amendments to the CPA / 08 Art. 207 para. 1 stipulates the objectives of the inquiries or conduct of the necessary measures by the police that concern the traditional measures of discovery of the perpetrator of the criminal offense, preventing him and all other participants from hiding or escaping, to detect and ensure the traces of the criminal offense and objects that can serve to determine the facts in the proceedings and to collect all the information that could be of use for the successful conduct of the criminal proceedings. In addition to the general definition of the police inquiries, the elaboration of individual actions is also regulated by the provisions of the special legislation, which is the referred LPAA and Ordinance on the Procedures of Police Officers<sup>13</sup>, based on the said law.

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<sup>12</sup> *Ibid.*

<sup>13</sup> Pravilnik o načinu postupanja policijskih službenika, Narodne novine, No. 89/10, 76/15

*De lege lata*, informal police proceedings are not legally regulated by the CPA, which in fact means that the police, during such proceedings, establishes facts relevant to criminal proceedings in accordance with the provisions of a special law, the rules of the profession and in accordance with the needs arising from each particular case. Thus, in most cases, the police conducted informal inquiries with suspects about a particular criminal offense.

However, in view of the amendments to the CPA / 08 for transposing Directive 2013/ 48 / EU, it is to be expected that in the work of police officers, especially in dealing with the suspected person for a particular criminal offense, certain difficulties will arise, ie a certain information deficit<sup>14</sup> given that informal inquiries with a suspected person for a particular criminal offense can no longer be performed. CPA in Art. 208a “formalizes” the questioning of the suspect, citing the contents of the summons of the suspect, the content of the instructions to be given prior to the examination, clear warnings about the rights to a defense attorney, the course of questioning and recording of such a questioning, as well as the consequences for violation of the questioning rules as prescribed.

The above-mentioned normative regulation, alongside the need for a theoretical consideration of the transposition of Directive 2013/ 48 / EU, also point to the need to conduct a scientific research in view of the amendments to Art. 208. CPA / 08, and especially in regard to the provision of Art. from paragraphs 5 to 15 of CPA / 08 from 2017.

If a practical aspect is considered, according to the regulations that were in effect prior to the entry into force of the last amendments to the CPA / 08, especially when conducting criminal investigations into the domain of general crime (e.g. homicide and property offences), informal statements given by the suspect<sup>15</sup>, especially those found perpetrating a criminal offence, or found shortly after the perpetration of a criminal offence<sup>16</sup>, had a significant role in further prosecution, but also in directing the criminal investigation towards discovery of other potential

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<sup>14</sup> On the importance of the suspect's statement before the beginning of criminal procedure, see: Karas, Ž., *Kriminalistički značaj pribavljanja osumnjičenikovog iskaza prije početka kaznenog postupka*, in: *Policija i sigurnost*, No. 2/2015, p. 101–109

<sup>15</sup> On the ratio of informal confessions of suspects to committing murder and murder with malice towards a family member, see: Kondor-Langer, M., *Obiteljska ubojstva: ranije delinkventno ponašanje i tijekom kaznenog postupka*, in: *Hrvatski ljetopis za kazneno pravo i praksu*, vol. 22., 1/2015, p. 153–183

<sup>16</sup> On perpetrators caught in flagrante, see: Kondor-Langer, M., *Neka obilježja izvršenja ubojstava u obitelji u odnosu na spol počinitelja i srodstvo žrtve i počinitelja*, *Zbornik radova IV. Međunarodne znanstveno-stručne konferencije, “Istraživački dani Visoke policijske škole u Zagrebu”*, Zagreb, 2015, p. 345-363

perpetrators of the criminal offence, discovery of objects and traces resulting from perpetration of the criminal offence or those used to commit the offence.

However, due to the entry into force of the amendments to the CPA / 08, police officers can no longer conduct such informal inquiries with the suspects for a specific criminal offence.

## **4. METHODOLOGY OF RESEARCH**

### **4.1. Research goal**

The aim of the research is to study the success of police officers in the area of Zagreb County Police Administration in detecting and solving certain criminal offenses in the area of general crime (homicide and property offences) before and after the entry into force of the amendments to the CPA / 08. The aim of the research is structured through several specific objectives:

- \* determining the characteristics of the perpetration of a criminal offense prior to the amendments to the CPA / 08
- \* criminal procedure before amendments to the CPA / 08
- \* determining the characteristics of the commission of a criminal offense after the amendments to the CPA / 08
- \* criminal procedure proceedings after amendments to the CPA / 08

The reason for the selection of these specific goals is in the possible practical use of the results of the research in terms of detecting, eliminating and improving the performance of police officers during the survey after the entry into force of the CPA / 08 amendment.

Based on the data collected so far, the aim of the research is to gain insight into certain features of the person suspected of committing the criminal offense of murder and murder in attempt, as well as into some of the actions conducted during police inquiries against the suspect prior to the entry into force of the CPA / 08 Amendments Law. The specific objective of the research is to establish the existence of differences in the mentioned groups of characteristics in relation to the suspect's informal confession during the police interview.

### **4.2. Sample**

The sample of research presented in this paper is part of a sample of research that will be used to analyze the impact of the amendments to the CPA / 08 amend-

menton detection, completion and proving of criminal offenses in the area of general criminality. As a sample for the research in this paper, secondary data sources were used, including collected police files of murders and murders in attempt from the area of the Zagreb County Police Administration in the period from 1 January 2016 to 31 December 2016. For the time being 35 murders and murders in attempt were analyzed, and the research sample encompasses 35 suspects, two of whom were still unknown at the time of conducting the research.

### **4.3. Instrument**

The data necessary for the realization of the overall research are collected with the help of a specially compiled questionnaire that contains several groups of variables and the variables that define the features of the criminal offense prior to the amendment of the CPA / 08, the proceeding of the criminal procedure before amendments to the CPA / 08, the features of the commission of a criminal offense after the amendment of the CPA / 08 and the course of the criminal procedure after the amendment of the CPA / 08.

For this paper, some variables from questionnaires that used to define the characteristics of a criminal offense before the amendments to CPA / 08 and the course of criminal proceedings before the amendments to the CPA / 08, were used.

Given that the specific purpose of this paper is to establish the existence of differences in certain characteristics of persons suspected of committing a criminal offense of murder and murder in attempt, to distinguish between the actions taken against the suspect during conducting police inquiries, prior to the entry into force of the amendments to the CPA / 08 in relation to the informal confession of the suspect during police interview, the following variables were used:

1. the qualification of a criminal offense,
2. ordering an expert's report,
3. knowledge about the perpetrator obtained from expert's report,
4. sex of the perpetrator,
5. the age of the perpetrator,
6. the relationship between the victim and the perpetrator,
7. education of perpetrators,

Along with these 7 variables, a variable that defines the informal confession of a suspect during an interview was used as a criterion variable.



These variables were selected for the purpose of achieving the objectives of this paper, or for the purpose of gaining insights into certain characteristics of the person suspected of committing the criminal offense of murder and murder in attempt and differences in the particular actions taken against the suspect during conducting police inquiries and establishing the existence of differences in said groups of characteristics given the suspect's informal confessions during the police interview.

#### **4.4. Method of conducting research**

The Ministry of the Interior of the Republic of Croatia in January 2018 gave the consent for the implementation of the research entitled "Influence of Amendments to the Criminal Procedure Act for the Discovery, Completion and Proving of Criminal Offenses in the Area of General Crime". No special consent was required from the Ethics Committee, which is usually sought in research involving people as respondents, given that research was conducted based on the analysis of secondary data. In terms of the general ethical principles in scientific research, the anonymity of perpetrators and victims was respected in the sense that the identification data were not included in the questionnaires. The survey was started in January 2018 and will last until 2020 and is conducted by filling in questionnaires and is based on insight into police files.

#### **4.5. Data processing mode**

After completion of the data collection, the data from the survey questionnaires were entered into the database in the statistical program „SPSS“ (version 16.0), and after the data entry was completed, logical control was performed. Descriptive statistics were used for the purposes of the defined research objectives, and for the determination of statistically significant differences in the analyzed characteristics the Hi - quadrat test was used (significance level -  $p < 0.05$ ).

### **5. RESEARCH RESULTS**

#### **5.1. Actions conducted towards the suspect while conducting inquiries in relation to suspect's informal confession during a police interview**

In order not to obtain too low frequencies in the variable defining the qualification of the criminal offense in the category of "murder" (N = 11), three offenses of aggravated murder were included, while in the category of "murder in attempt" one criminal offense of aggravated murder in attempt, and one concurrence of criminal offense: murder in attempt, endangering life and property by a generally

dangerous act or means and robbery, and one concurrence of criminal offense: aggravated murder in attempt and robbery in attempt.

Also in the criterion variable that defines the suspect's informal confession during the police interview in the "no" category (does not confess), include the cases in which the suspect did not want to answer (N = 4), cases in which the offender has so far remained unknown (N = 2), dead (N = 3), and cases where no interview with the suspect was conducted (N = 3).

If the criterion variable the informal confession of the suspect during a police interview in relation to the criminal offense the suspect had committed or the qualification of the criminal offense overall, it is apparent that the relatively high number of suspects during the interview do not confess the perpetration of the criminal offense (62.9 %).

However, if the suspect's confessions are looked upon separately in cases where the criminal offense is qualified as murder and murder in attempt, it is apparent that 63.6 % of the suspects confessed to committing the murder, while the perpetration of the murder in attempt was informally confessed to by only 1/4 of the suspects. The qualification of a criminal offense relative to the suspect's informal confession during a police interview is statistically significant.

**Table 1.:** Qualification of a criminal offense relative to the suspect's confession during an interview

Qualification of a criminal offense		Suspect confessed to committing the criminal offence during police interview		total	X <sup>2</sup>	significance
		yes	no			
murder	aps.	7	4	11	4,823	<b>,028</b>
	%	63,6	36,4	100		
murder in attempt	aps.	6	18	24		
	%	25,0	75,0	100		
total	aps.	13	22	35		
	%	37,1	62,9	100		

Criterion variable The suspect's informal confession in relation to the variable that defines whether in a particular case the competent State Attorney's Office has ordered an expert's report, has shown, in total, that in the relatively large number of cases of murder and murder in attempt, in a relatively large number of cases an expert's report had been conducted. In cases where expert's report was

conducted, it is apparent that the suspects were relatively equal, ie in 50 % of the cases have informally confessed or did not confess to the perpetrated criminal offense. Whereas, in cases where no expert's report was instructed, it was apparent that none of the suspects confessed the criminal offense they were charged with. It should be noted here that two unknown perpetrators were counted among the suspects who did not confess to the perpetration of the criminal offense. Conducting expert witnessing in relation to the suspect's confession during a police interview shows statistical significance.

**Tabel 2.:** Expert's report in relation to the suspect's confession during an interview

Expert's report		Suspect confessed to committing the criminal offence during police intervju		total	X <sup>2</sup>	significance
		yes	no			
yes	aps.	13	13	26	7,159	<b>,007</b>
	%	50,0	50,0	100		
no	aps.	/	9	9		
	%	/	100	100		
total	aps.	13	22	35		
	%	37,1	62,9	100		

The variable defining whether the expert's report provided information about the perpetrator, showed in total that in a relatively small number of cases the probative act of expert's report resulted in obtaining of information about the perpetrator of the criminal offense. It should be noted here that in three cases from those analyzed, it was not found whether the expert's report provided any information about the perpetrator. In two cases out of the three, the suspect informally confessed to committing the criminal offense during the informal interview.

In analyzed cases in which an expert's report resulted in information about the identity of the perpetrator, it is apparent that in a relatively few more cases, the suspects have formally confessed to the perpetrated criminal offense (58.3 %). In cases where the expert's report did not result in obtaining information about the perpetrator, it is apparent that even the suspects in the relatively large number of cases did not informally confess to the perpetrated criminal offense (80.0 %).

**Table 3.:** Obtained knowledge about the suspects during the expert's assessment in relation to the suspect's informal confession during the interview

Expert's report provided information about the perpetrator		Suspect confessed to committing the criminal offence during police interview		total	X <sup>2</sup>	significance
		yes	no			
no data	aps.	2	1	3	5,946	,051
	%	66,7	33,3	100		
yes	aps.	7	5	12		
	%	58,3	41,7	100		
no	aps.	4	16	20		
	%	20,0	80,0	100		
total	aps.	13	22	35		
	%	37,1	62,9	100		

## 5.2. Characteristics of suspects in relation to the suspect's informal confession during an interview

The criterion variable informally confessions the suspect in relation to the variable defining the relationship between the victim and the suspect, indicate that in total, the relatively large number of suspects was closely related to the victim. For the purposes of this work, a close person is defined on the basis of Art. 87. of the Criminal Code of the Republic of Croatia<sup>17</sup>. When defining close persons including family members<sup>18</sup>, the definition of family members covered by art. Art. 87., para. 8.<sup>19</sup> of the CC. In order not to get low frequencies, for the purpose of this work, close persons were also taken to include persons who were tempore criminis in a love affair (N = 1).

It should be noted here that, in one case, no information on the relationship between the victim and the suspect was found in the analyzed case. In cases where the victim and the suspect had a close relationship, but also in cases where the victim and the suspect were acquaintances<sup>20</sup>, it is apparent that in a relatively large number of cases the suspect during the informal interview did not informally con-

<sup>17</sup> Kazneni zakon Republike Hrvatske, Narodne novine, br. 125/11, 144/12, 56/15, 61/15, 101/17; (in further text: CC)

<sup>18</sup> Family members are married or domestic partner, civil or informal civil partner, their children, children of each person, their lineal relatives, third generation collateral relatives, second degree in-laws, adopter and adoptee

<sup>19</sup> Close persons are family members, ex marital or domestic partner, ex civil or informal civil partner, persons who have a child together and persons who share a household together

<sup>20</sup> Acquaintance include: acquaintances (N=6), friends (N=3) and neighbours (N=1)

fess to the perpetration of the criminal offense (close persons - 62.5 % , victim and suspect are acquainted -70 %). Only in cases where the victim and the suspect did not know each other, it was apparent that the suspects, in the half of the analyzed cases, informally confessed to committing the criminal offense during an informal interview.

**Table 4.:** Relationship between the victim and perpetrator in relation to the suspect's confession during the interview

Relationship between the perpetrator and the victim		Suspect confessed to committing the criminal offence during police interview		total	X <sup>2</sup>	significance
		yes	no			
no data	aps.	/	1	1	1,377	,711
	%	/	100	100		
close persons	aps.	6	10	16		
	%	37,5	62,5	100		
perpetrator and victim are not acquainted	aps.	4	4	8		
	%	50,0	50,0	100		
victim and the perpetrator are acquainted	aps.	3	7	10		
	%	30,0	70,0	100		
total	aps.	13	22	35		
	%	37,1	62,9	100		

Out of a total of 35 suspects for committing a criminal offense of murder and murder in attempt, 26 suspects were male and 7 female. In the two offenses committed, perpetrators are still unknown. Observing the informal confession of the suspect during the police intervju in relation to suspect's genders, it is apparent that 61.5 % informally confessed the perpetration of a criminal offense. Similar data is also found for suspected women, namely that 57.1 % informally confessed the perpetration of a criminal offense.

**Table 5.:** Gender of the perpetrator in relation to the suspect's confession during the police interview

Gender of the perpetrator		Suspect confessed to committing the criminal offence during police interview		total	X <sup>2</sup>	significance
		yes	no			
no data	aps.	/	2	2	1,299	,522
	%	/	100	100		
male	aps.	10	16	26		
	%	38,5	61,5	100		
female	aps.	3	4	7		
	%	42,9	57,1	100		
total	aps.	13	22	35		
	%	37,1	62,9	100		

The criterion variable of informal confession of the suspects in relation to the age of the suspect at the time of the commission of the criminal offense, indicate that the relatively high number of suspects was 18 to 30 years old, while the least of those were the ages of 61 to 70. If the criterion variable is viewed in relation to each age group, it is apparent that 60 % of the suspects at the age of 18 to 30 during the informal interview informally confessed to the perpetrated criminal offense. And with the oldest ages of the suspects, the results show that all informally confessed to the perpetrated criminal offense. Unlike these two age groups, the suspects of the other age groups in the relatively large number of cases during the police interview most often did not informally confess to the perpetrated criminal offense. Thus, in the case of suspects aged between 31 and 40, it is evident that only 12.5 % of them informally confessed to the perpetrated criminal offense. The suspects aged 41 to 50 in 28.6 % of the cases informally confessed to the perpetration of the criminal offense and those aged between 51 and 60, in 1/3 of cases. It should be noted that at the time of the investigation in two cases, the perpetrators were still unknown and there was no data related to the perpetrator's age.

**Table 6.:** The age of the perpetrator in relation to the suspect's confessions during an interview

Age of the perpetrator		Suspect confessed to committing the criminal offence during police interview		total	X <sup>2</sup>	significance
		yes	no			
unknown perp.	aps.	/	2	2	9,143	,104
	%	/	100	100		
18-30 years	aps.	6	4	10		
	%	60,0	40,0	100		
31-40 years	aps.	1	7	8		
	%	12,5	87,5	100		
41-50 years	aps.	2	5	7		
	%	28,6	71,4	100		
51-60 years	aps.	2	4	6		
	%	33,3	66,7	100		
61-70 years	aps.	2	/	2		
	%	100,0	/	100		
total	aps.	13	22	35		
	%	37,1	62,9	100		

In order not to get too low frequencies in the interpretation of data related to perpetrator's education, it should be noted that in the category "finished high school or gymnasium" were counted those suspects who did not complete college, higher or high school (N = 2), and in the category "completed 8 grades of elementary school" there were also counted those who did not complete high school or gymnasium (N = 2) while in the category "without any school" were also counted those who did not complete 8 grades of elementary school (N = 1).

In most cases of murders and murders in the attempt, as expected, there was evidence that perpetrators finished secondary education during their education period. If the criterion variable of the suspect's confession is placed in relation to the particular defined categories of education, it is apparent that the suspects who had completed high school and college, higher or high school in the relatively large number of cases during the informal interview, did not informally confess to the perpetrated criminal offense (completed high school - 61.9 %, graduate, higher or high school - 100 %). By contrast, suspects who have not gained any education during their lifetime in 66.7 % of cases informally confessed to the perpetration of the criminal offense and those who completed 8 grades of elementary school, confessed in 50 % of cases. When interpreting information regarding the suspect's

education, it should be mentioned that in the four analyzed cases the data relating to the suspect's education was not found.

**Table 7.:** Education of the perpetrator in relation to the suspect's confession during an interview

Education of the perpetrator		Suspect confessed to committing the criminal offence during police interview		total	X <sup>2</sup>	significance
		Yes	No			
no data	aps.	/	4	4	4,508	,342
	%	/	100	100		
without any school	aps.	2	1	3		
	%	66,7	33,3	100		
finished 8 grades of elementary school	aps.	3	3	6		
	%	50,0	50,0	100		
finished high school or gymnasium	aps.	8	13	21		
	%	38,1	61,9	100		
completed college, higher education	aps.	/	1	1		
	%	/	100,0	100		
total	aps.	13	22	35		
	%	37,1	62,9	100		

## 6. SUMMARY OF RESEARCH RESULTS

It should be noted that limitations of this research are related to the lack of specific data in certain analyzed files therefore was formed the category "no data".

From the data obtained during the research it is apparent that 63.6 % of the suspects informally confess the perpetration of the criminal offense of murder during the police interview. In relation to the fact whether an expert's report has been conducted or not, in an analyzed case, it can be seen equal number of suspects informally confessing or not confessing the perpetrated criminal offense. In cases where expert's report did not provide useful insights about the perpetrator of a particular criminal offense, the suspects have informally confessed in 20 % of the cases.

Furthermore, it is apparent from the analyzed data that the suspects informally confessed the perpetrated criminal offense in 37.5 % of cases if committed at the expense of close persons, in half of the cases analyzed if the offense was committed to the detriment of persons who they do not know and in 30 % if the victim and



the suspect were tied to an earlier acquaintance. Men informally confessed in 38.5 % of cases and women in 42.9 % of cases.

If we look at the age structure of the suspects, it is clear that the suspects at the age of 18 to 30 informally confessed the perpetration of the criminal offense in 60.0 % of cases, from 31 to 40 years in 12.5 % cases, then at 41 up to 50 years in 28.6 % of cases and between the ages of 51 and 60 in 33.3 % of cases, while those of the eldest age (from 61 to 70 years) all informally admitted the perpetrated criminal offense.

The informal suspect's confession of the perpetrated criminal offense in relation to their educational structure showed that the suspects without formal education informally confessed the criminal offense in 66.7 % of cases and the suspects with completed elementary school in 50 % of cases. Suspects who had completed high school education and informally admitted the perpetrated criminal offense, was 38.1 %, while the only suspect who had completed university, higher or high school was not informally admitted the perpetrated criminal offense.

## 7. CONCLUDING DISCUSSION

Initial research results that include data before the entry into force of the recent amendments to the CPA indicate that police officers in the most serious criminal offenses committed in the domain of general crime, collect information from the suspect and that during those interviews they get a confession. Preliminary results based on the collected information are not surprising since the police officers, in accordance with the legal regulations, have also targeted the gathering of the information from the suspects.

The confession of the suspect, given during the interview, from an probative aspect is an "informal" percieveable evidence, but nevertheless, an extremely important one, because it confirmed the suspicion that the person, from whom the information was collected, was the perpetrator himself, or could have averted the suspicion about the perpetration. The significance of such confessions is also in the possibilities of discovering the new, added, other evidence that resulted from such police inquiries.

It is undisputed that such gathering of the information was a significant police power, based on which police officers conducted a number of cases, and therefore, the amendments to the CPA open up a whole series of questions about the future way of dealing with the suspect. Questions such as when does a person acquire the status of the suspect, how and under which conditions the police can contact potential suspects, under what conditions the suspect can provide evidence that

could be of use for further conduct of the criminal proceedings, statements that result in obtaining of other evidence, what is the delimitation between the registering of a criminal report during which certain questions are asked, the collection of information and inquiries with the possibility of addressing issues such as discovering of objects and traces or even victims of the most serious criminal offenses and of course, the question of illegally obtained evidence, which ultimately reflect on further criminal proceedings.

Given the provisions of Directive 2013/48 / EU and its transposition into the CPA, the question arises as to how this will practically affect the detection and resolution of criminal offenses and the gathering of evidence. Answers to these questions will be obtained by completing an overall research and comparing the obtained data before the amendments to the CPA and after the subsequent changes to the CPA.

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## **EU LAW**

1. Directive 2013/48/EU on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty, OJ L 294,  
[<http://eur-lex.europa.eu/legal-content/HR/TXT/PDF/?uri=CELEX:32013L0048&from=HR.>] Accessed 8 March 2018

## **LIST OF NATIONAL REGULATIONS, ACTS AND COURT DECISIONS**

1. Kazneni zakon Republike Hrvatske, Narodne novine, No. 125/11, 144/12, 56/15, 61/15, 101/17
2. Pravilnik o načinu postupanja policijskih službenika, Narodne novine, No. 89/10, 76/15
3. Prijedlog Zakona o izmjenama i dopunama Zakona o kaznenom postupku, Nacrt, Ministarstvo pravosuđa, Zagreb, 2017
4. Zakon o kaznenom postupku, Narodne novine, No. 152/08, 76/09, 80/11, 121/11 pročišćeni tekst, 91/12- Odluka Ustavnog suda Republike Hrvatske, 143/12, 56/13, 143/13, 152/14
5. Zakon o kaznenom postupku, Narodne novine, No. 152/08, 76/09, 80/11, 121/11 pročišćeni tekst, 91/12- Odluka Ustavnog suda Republike Hrvatske, 143/12, 56/13, 143/13, 152/14, 70/17
6. Zakona o policijskim poslovima i ovlastima, Narodne novine, No. 76/09, 92/14