Summary

The most common form of sexual violence is the crime of rape, which violates the most intimate and private sphere of human life – the right to sexual freedom and to freely decide about one's sexual life.

In recent years, sexual crime has become a subject of public interest not only in Poland but also worldwide. First of all, in the case of the crime of rape, the cultural context is generally visible, and the attitude to sexual crimes in Poland has its source in traditions as well as cultural and moral norms. In the traditional attitude to the crime of rape, the crucial importance is often given to the victim's resistance as an externalized objection to the perpetrator's actions. It was not until the late 1970s that a very different attitude to rape as a social phenomenon emerged, revealing the so-called marital rapes, date rapes, and rapes using the so-called „rape pill".

The main aim of this work is a comprehensive analysis of the crime of rape taking into account the legal, procedural and forensic aspects of conducting cases for this type of crime.

The research conducted is aimed, among other things, at optimizing the methodology of conducting rape cases. Thanks to the conducted file research, based on rape cases validly closed from 2007 to 2018, it will be possible to indicate the circumstances of the crime, the person of the perpetrator, the victim and her behaviour, the relationship between the victim and the perpetrator or forensic evidence left at the scene of the crime. It was decided to pay special attention to the initial actions undertaken by law enforcement authorities after receiving information about the committed crime, such as inspection of the crime scene, inspection and medical examination of the victim, interviewing the victim and witnesses. Taking into account the modern tools of forensic science and forensic traces left at the scene of the crime, on the victim and the perpetrator, the author focuses on particular expert opinions occurring in this type of case.

The nature of the crime, as well as the fact that Polish literature lacks a comprehensive study relating to the legal, procedural and forensic aspects, justify the author's decision to take up this issue. In Poland, as far as the crime of rape is concerned, studies have so far referred to the legal, criminological and victimological aspects. However, it is necessary to appreciate the analyses by, among others, J. Leszczyński, M. Bieniek, T. Hanausk, Z. Marek and J. Widacki, M. Filar, E. Bieńkowska, S. Górski

and E. Krzyżanowski. Among more recent studies monographs by J. Warylewski and A. Chodorowska should be mentioned.

The structure of the paper includes an introduction, five chapters and a conclusion. Each chapter contains results from the empirical research conducted and examples from the cases analyzed.

The first chapter is entitled “The crime of rape in Polish criminal law”. Using the available literature on the subject, the body of decisions of common courts, the approach of the doctrine and the results of own research, the statutory attributes of the crime and the possible penalty and penal measures are discussed. The chapter also characterizes the crime of rape in sociological, psychological and historical terms. Emphasizing the social significance of the crime of rape, aspects related to the definition of rape are raised, referring to the proposals for statutory changes aimed at adapting the national law to the standards of the Istanbul Convention.

The next chapter, entitled “The crime of rape – legal and procedural aspects”, presents procedural aspects of conducting cases for this type of crime. Particular attention is paid to the issue of the legitimacy of changing the mode of prosecution, the procedural status of the victim, suspect, legal representatives of the victim and guardians.

The third chapter, entitled “Rape – criminological aspects”, begins with – criminological characterization of the crime of rape. The criminological classification of rapes is presented, and the dynamics of the crime is analysed based on data available from the National Police Headquarters and the Ministry of Justice. Using the results of empirical research, individual criminological types of rape are characterized and the circumstances of committing this type of crime are systematized.

Elaborating on one of the central aspects of this thesis – forensic and evidentiary issues - Chapter Four, “Methodology of Rape Cases”, presents a forensic methodology for handling rape cases. The sources of the initial information about the crime are presented first. Subsequently, the author focuses on the examination of the scene, the visual inspection and medical examination of the victim, discuss how to interview the victim, and develops a set of questions to be asked during the court hearing. Finally, based on the results of file research, the characteristics of witnesses appearing in this type of case, as well as forensic, organisational and tactical aspects connected with their interrogation, are presented.

The final chapter – “Expert Opinions in Rape Cases” – focuses on the particular expert opinions found in this type of case. The chapter presents the subject and scope as

well as the methodology of preparing particular types of expert opinions, including a forensic doctor's opinion, a psychologist's opinion, a psychiatrist's opinion, a sexologist's opinion, selected types of forensic scientist's opinion, including expert opinions using computer forensics.

The conclusion includes the conclusions related to the legal and criminal problems concerning the crime of rape and a summary of the research results. Real possibilities for optimizing the forensic methodology of handling this type of criminal case are shown.