



Federal Ministry  
of the Interior  
and Community

Federal Ministry  
of Justice

# Third Periodical Report on Crime and Crime Control in Germany



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# List of abbreviations

ALLBUS	<i>Allgemeine Bevölkerungsumfrage der Sozialwissenschaften</i> - German General Social Survey (GGSS)
Art.	Article
AufenthG	<i>Aufenthaltsgesetz (Gesetz über den Aufenthalt, die Erwerbstätigkeit und die Integration von Ausländern im Bundesgebiet)</i> , Residence Act, Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory
BAMAD	<i>Bundesamt für den Militärischen Abschirmdienst</i> - Federal Office for the Military Counterintelligence Service
BaSiD	<i>Barometer Sicherheit in Deutschland</i> - Barometer of Security in Germany
BfJ	<i>Bundesamt für Justiz</i> - Federal Office of Justice
BfV	<i>Bundesamt für Verfassungsschutz</i> - Federal Office for the Protection of the Constitution
BGB	<i>Bürgerliches Gesetzbuch</i> - German Civil Code
BGH	<i>Bundesgerichtshof</i> - Federal Court of Justice
BKA	<i>Bundeskriminalamt</i> - Federal Criminal Police Office
BMBF	<i>Bundesministerium für Bildung und Forschung</i> - Federal Ministry of Education and Research
BMFSFJ	<i>Bundesministerium für Familie, Senioren, Frauen und Jugend</i> - Federal Ministry for Family Affairs, Senior Citizens, Women and Youth
BMI	<i>Bundesministerium des Innern, für Bau und Heimat</i> - Federal Ministry of the Interior, Building and Community
BMJV	<i>Bundesministerium der Justiz und für Verbraucherschutz</i> - Federal Ministry of Justice and Consumer Protection
BpB	<i>Bundeszentrale für politische Bildung</i> - Federal Agency for Civic Education
BtMG	<i>Betäubungsmittelgesetz</i> - Narcotics Act
BVerfGE	<i>Entscheidung des Bundesverfassungsgerichts</i> - Decision of the Federal Constitutional Court
BZRG	<i>Bundeszentralregistergesetz</i> - Federal Central Criminal Register Act
CDU	<i>Christlich Demokratische Union</i> - Christian Democratic Union
CEPOL	Collège Européen de Police
cf.	<i>conferre</i> - compare
CSU	<i>Christlich Soziale Union</i> - Christian Social Union
DARE project	Database and Assessment of Risks of violent Extremists
Destatis	<i>Statistisches Bundesamt</i> - Federal Statistical Office
DFK	<i>Stiftung deutsches Forum für Kriminalprävention</i> - German Forum for Crime Prevention

## List of abbreviations

DGUV	<i>Deutsche Gesetzliche Unfallversicherung</i> - German Statutory Accident Insurance
DHPol	<i>Deutsche Hochschule der Polizei</i> - German Police University
DJI	<i>Deutsches Jugendinstitut</i> - German Youth Institute
DVS	<i>Deutscher Viktimisierungssurvey</i> - German Victimization Survey
ECRI	European Commission against Racism and Intolerance
ECTC	European Counter Terrorism Centre
EJN	European Judicial Network
ENAA	European Network on the Administrative Approach
ESB	European Sourcebook of Crime and Criminal Justice Statistics
ESS	European Social Survey
et al.	<i>et alia</i> - and others
et seq.	<i>et sequentes</i> - and the following section
et seqq.	<i>et sequentes</i> - and the following sections
EU	European Union
Eurostat	Statistical office of the European Union
e.V.	<i>eingetragener Verein</i> - registered association
f.	and the following page
ff.	and the following pages
FRA	European Union Agency for Fundamental Rights
GESIS	<i>Gesellschaft Sozialwissenschaftlicher Infrastruktureinrichtungen</i> - Leibniz Institute for the Social Sciences
GETZ	<i>Gemeinsames Extremismus- und Terrorismusabwehrzentrum</i> - Joint Centre for Countering Extremism and Terrorism
GETZ-R	<i>Gemeinsames Extremismus- und Terrorismusabwehrzentrum zur Bekämpfung des Rechtsextremismus/-terrorismus</i> - Joint Centre for Countering Right-Wing Extremism and Terrorism
GeVoRe	<i>Gewalt gegen Vollstreckungsbeamte und Rettungskräfte</i> - violence against enforcement officers and emergency services
GGSS	German General Social Surveys
HDJR	<i>Häuser des Jugendrechts</i> - Houses of Juvenile Justice
ICCS	International Classification of Crime for Statistical Purposes
ICVS	International Crime Victims Survey
IHRA	International Holocaust Remembrance Alliance
IMK	<i>Ständige Konferenz der Innenminister und -senatoren der Länder</i> - Standing Conference of the Interior Ministers of the <i>Länder</i> in the Federal Republic of Germany
JGG	<i>Jugendgerichtsgesetz</i> - Youth Courts Act
JIM	<i>Jugend, Information, Medien</i> - Study on Youth Information and (Multi-) Media



## List of abbreviations

KFN	<i>Kriminologisches Forschungsinstitut Niedersachsen</i> - Criminological Research Institute of Lower Saxony
KIA-R	<i>Koordinierte Internetauswertung - Rechts</i> - Coordinated Internet Analysis of Right-Wing Extremism
KPMD	<i>Kriminalpolizeilicher Meldedienst</i> - Criminal Police Reporting Service
KPMD-PMK	<i>Kriminalpolizeilicher Meldedienst in Fällen politisch motivierter Kriminalität</i> - Criminal Police Reporting Service in cases of politically motivated crime
KrimZ	<i>Kriminologische Zentralstelle</i> - Centre for Criminology
KSK	<i>Kommando Spezialkräfte</i> - Special Forces Command
KviAPol	<i>Körperverletzung im Amt durch Polizeibeamte</i> - bodily harm caused by police in the course of official duties
LKA/LKÄ	<i>Landeskriminalamt/-ämter</i> - Land Criminal Police Office(s)
MAD	<i>Militärischer Abschirmdienst</i> - Military Counterintelligence Service
MiKADO	<i>Missbrauch von Kindern - Aetiologie, Dunkelfeld, Opfer</i> - Child Abuse: Aetiology, Dark Field, Victims
MOTRA	<i>Monitoringsystem und Transferplattform Radikalisierung</i> - Monitoring system and transfer platform on radicalisation
mpfs	<i>Medienpädagogischer Forschungsverbund Südwest</i> - Media Education Research Association Southwest
n/N	n = number of samples. N = total population
NetzDG	<i>Netzwerkdurchsetzungsgesetz</i> - Act to Improve Enforcement of the Law in Social Networks (Network Enforcement Act)
NRW	<i>Nordrhein-Westfalen</i> - North Rhine-Westphalia
NSU	<i>Nationalsozialistischer Untergrund</i> - National Socialist Underground
NZK	<i>Nationales Zentrum für Kriminalprävention</i> - National Centre for Crime Prevention
OC	organised crime
ODABS	<i>Online Datenbank für Betroffene von (Gewalt-)Straftaten</i> - Online Database for Victims of Violent Crime
OSS	(so-called) Oldschool Society
OWiG	<i>Ordnungswidrigkeitengesetz</i> - Regulatory Offences Act
para.	paragraph
paras.	paragraphs
PCS	Police crime statistics
PfIVG	<i>Gesetz über die Pflichtversicherung für Kraftfahrzeughalter</i> - Act on Compulsory Insurance for Motor Vehicle Owners
PMK	<i>Politisch motivierte Kriminalität</i> - politically motivated crime
PRC	Periodical Report on Crime and Crime Control in Germany
ProPK	<i>Programm Polizeiliche Kriminalprävention der Länder und des Bundes</i> - Police Crime Prevention Programme of the States and the Federation

## List of abbreviations

proVal	<i>Gesellschaft für sozialwissenschaftliche Analyse, Beratung und Evaluation</i> - Association for Social-scientific Analysis, Advice and Evaluation
PSB	<i>Periodischer Sicherheitsbericht</i> - Periodical Report on Crime and Crime Control in Germany (PRC)
RAN	Radicalisation Awareness Network
RatSWD	<i>Rat für Sozial- und Wirtschaftsdaten</i> - German Data Forum
REOC	<i>Russisch-Eurasische Organisierte Kriminalität</i> - Russian-Eurasian Organised Crime
RIAS	<i>Recherche- und Informationsstellen Antisemitismus e. V.</i> - Departments for Research and Information on Antisemitism
SEU model	subjective expected utility model
SKiD	<i>Sicherheit und Kriminalität in Deutschland</i> - survey on Security and Crime in Germany
SOEP	<i>Sozio-oekonomisches Panel</i> - Socio-Economic Panel
SPD	<i>Sozialdemokratische Partei Deutschlands</i> - Social Democratic Party of Germany
StGB	<i>Strafgesetzbuch</i> - Criminal Code
StPO	<i>Strafprozessordnung</i> - Code of Criminal Procedure
StR	<i>Strafsenat</i> - Criminal Senate
StVG	<i>Straßenverkehrsgesetz</i> - Road Traffic Act
THW	<i>Technisches Hilfswerk</i> - Federal Agency for Technical Relief
UBSKM	<i>Unabhängiger Beauftragter für Fragen des sexuellen Kindesmissbrauchs</i> - Independent Commissioner for Child Sexual Abuse Issues
UN-CTS	United Nations Surveys on Crime Trends and the Operations of Criminal Justice Systems
UNECE	United Nations Economic Commission for Europe
UNODC	United Nations Office on Drugs and Crime
VGO	<i>Vollzugsgeschäftsordnung</i> - Rules of Procedure for Prisons
WISIND	<i>Wirtschaftswissenschaftlicher Sicherheitsindikator für Deutschland</i> - Economic indicator system to measure security and security economics in Germany
WStG	<i>Wehrstrafgesetz</i> - Military Criminal Code

# Preface

More than fifteen years after the publication of the Second Periodical Report on Crime and Crime Control in Germany, the Federal Ministry of the Interior, Building and Community (BMI) and the Federal Ministry of Justice and Consumer Protection (BMJV) present an up-to-date picture of the development of crime trends and the security situation in Germany.



This Third Periodical Report on Crime and Crime Control focuses more closely on specific current issues. After a general section with a short overview of the crime situation and trends in Germany, there is a special section devoted to selected issues such as violent phenomena in connection with the COVID-19 pandemic, crime motivated by right-wing ideology, and new forms of grooming, stalking and bullying offences in cyberspace. These phenomenon areas were selected in particular on account of their topicality and their significant impact on the security and sense of security of citizens in Germany.

Although Germany is already one of the safest countries in the world, it remains a central task of the state to continually improve its citizens' security. In order to recognise where there is a need to take action and to be able to develop effective concepts for fighting crime, policymakers require an up-to-date survey of the crime situation that goes beyond a simple analysis of the available crime and judicial statistics. The Third Periodical Report on Crime and Crime Control presents such a survey for selected issues and links the development of crime with scientific studies on the manifestations and causes of crime.

A joint office set up for the report at the Federal Criminal Police Office (BKA) and the Federal Office of Justice (BfJ) obtained contributions from public authorities and affiliated institutions. On this basis and in the context of criminological research, the experts in the joint office compiled the report in close coordination with the Federal Ministry of the Interior, Building and Community and the Federal Ministry of Justice and Consumer Protection.

Like the previous reports, the Third Periodical Report on Crime and Crime Control aims to give impetus to the public discussion on the themes addressed and to promote an informed discussion of the best approaches to successful crime policymaking in dialogue between policymakers, scientists and society.



Horst Seehofer  
Federal Minister of the Interior,  
Building and Community



Christine Lambrecht  
Federal Minister of Justice  
and Consumer Protection

# 1 Introduction

## 1.1 Overview of the genesis of the Third Periodical Report on Crime and Crime Control in Germany

In the coalition agreement concluded in 2018 for the 19th legislative term, the CDU, CSU and SPD agreed to update the Periodical Report on Crime and Crime Control in Germany (PRC).<sup>1</sup> This report is intended to provide research findings for evidence-based crime policy and a basis for drawing up effective concepts for preventing and fighting crime, as well as for legislative and security authority measures to this end. With this in mind, it not only presents the crimes registered by the police and judiciary, including new developments relating to the legislature and the security authorities. To gain a holistic view of developments in the field of crime and its manifestations, these data are also compared and supplemented by findings from research into unrecorded crime and criminological explanatory approaches. Thus, the PRC enables crime policymakers, the judicial and security authorities and interested members of the public and specialists to gain an interdisciplinary and multi-perspective view of the crime situation and crime trends in Germany that is as objective as possible.

The First and Second Periodical Reports on Crime and Crime Control in Germany were jointly prepared by the Federal Ministry of the Interior (now Federal Ministry of the Interior, Building and Community, *BMI*) and the Federal Ministry of Justice (now Federal Ministry of Justice and Consumer Protection, *BMJV*) with the involvement of university researchers, the Federal Criminal Police Office (BKA), the Federal Statistical Office (*Statistisches Bundesamt, Destatis*) and the Centre for Criminology (*KrimZ*). Published in 2001, the 1st PRC was the first comprehensive review of the crime situation in Germany that took into account all the statistical data of the police and judiciary and the results of current scientific research. That report also included evaluations and prognoses on various areas of crime as well as proposals for preventing and combating crime. The Second Periodical Report on Crime and Crime Control on Germany published in 2006 followed on from the first.

Comprehensive restructuring paved the way for preparation of the 3rd PRC. The BMI and the BMJV set up a joint office at the BKA and the Federal Office of Justice (BfJ). They obtained contributions from institutions affiliated with these authorities,<sup>2</sup> and on this basis and against the background of criminological research, compiled a draft report, which was finalised in coordination with the BMI and the BMJV. The authorities' data basis for the 3rd PRC was considerably improved in comparison with that of the 1st and 2nd PRCs.<sup>3</sup> As well as a general part of the report, which provides a survey of the occurrence of crime in Germany, a second part of the report addresses focal areas, with a different focus in each report. The thematic focal areas are decided on the basis of current developments

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<sup>1</sup> Cf. CDU/CSU and SPD 2018, p. 133.

<sup>2</sup> Content was provided by the Federal Criminal Police Office (BKA), the Federal Office of Justice (BfJ), the Federal Ministry of Justice and Consumer Protection (BMJV), the Federal Agency for Civic Education (BpB), the Federal Office for the Protection of the Constitution (BfV), the German Police University (DHPol), the Centre for Criminology (KrimZ), the National Centre for Crime Prevention (NZK), the Federal Statistical Office (Destatis), the German Forum for Crime Prevention (DFK) and the Police Crime Prevention Programme of the Länder and the Federation (ProPK).

<sup>3</sup> Changes relevant here are discussed in the individual chapters.

## 1.1 Overview of the genesis of the Third Periodical Report on Crime and Crime Control in Germany

in crime and phenomena of particular political significance. The focal areas of the 3rd PRC are violent crime, grooming, stalking and bullying in cyberspace, as well as crime motivated by right-wing ideology, including right-wing terrorism.

## 1.2 Overview of relevant developments and reasons for the selection of the focal themes

Since 2020, the *COVID-19 pandemic* has influenced nearly all areas of life of people all around the world. The changes in crime-related developments in Germany in this connection are also a subject of this PRC. The police crime statistics (PCS) for 2020 indicate that the moving of major areas of life to behind closed doors during lockdown was noticeable, and that there was a noticeable change in the opportunities to commit crime. Overall, there was a decline of 2.3% in crimes registered by the police in comparison with 2019.<sup>4</sup> While there were major reductions, for example in the number of domestic burglaries and cases of shoplifting and pickpocketing, there were increases in other areas, such as infringements of the Protection against Infection Act (*Infektionsschutzgesetz*) and cases of subsidy fraud.<sup>5</sup> The findings to date on *developments in violence during the COVID-19 pandemic* are the subject of section 3.1.3 of this report.

Overall, the number of crimes occurring in Germany has been declining for years. Between 2005 and 2019, there was a 15% decline in the number of criminal offences recorded in the PCS.<sup>6</sup> Studies of unrecorded crimes also show that people in Germany become victims of crime comparatively rarely. Judicial data also indicate that there are fewer convictions and prisoners. These developments are also reflected in the population's sense of security. In general, Germans fear crime much less than they fear the effects of political developments, personal emergency situations or natural disasters and climate change.<sup>7</sup> Nevertheless, some areas of crime in Germany have featured in the public sphere and in politics in recent years.

Attacks in various institutions led to public awareness of the subject of violence, for example. Violence is one of the most distressing violations of norms that people can experience and it can lead to serious (long-term) physical and psychological stress or even traumatisation. Thus, in subchapter 3.1, the first focal area of this report examines *violent crime* in general. Preventing or reducing violence in society is essential for the continuing existence of a democratic society. That is all the more the case if the places where violence takes place are public or even state institutions. Thus, after an overview of violent crime in section 3.1.1, *violence in institutions* is discussed in section 3.1.2, in particular the situation in educational establishments, retirement and care homes, prisons and the Federal Armed Forces (*Bundeswehr*). This subchapter does not examine sexual abuse of children and young people in (church) educational establishments as this subject requires separate discussion. The third section, 3.1.3, discusses the effects of the *COVID-19 pandemic* on violent crime. Finally, the fourth section, 3.1.4, focuses on *unlawful violence against and by the police*. On the one hand, there has been an increase in violent attacks on the police in recent years. On the other hand, 2020 saw the start of a social and political debate on the existence and extent of racist violence by police officers and on the extent of right-wing extremist attitudes in the police force.

The second focal area in subchapter 3.2 is devoted to *grooming, stalking and bullying in cyberspace*. Since the 2nd PRC, the Internet has increasingly become the established means of modern communication, and social media have expanded opportunities not only for social interaction, but also for committing crimes. The Internet also offers new opportunities for committing crimes familiar from

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<sup>4</sup> BKA 2021a, p. 10.

<sup>5</sup> BKA 2021a, pp. 11 and 19 ff.; on this subject, cf. also section 3.1.3.1.

<sup>6</sup> This positive development has continued. The number of crimes occurring between 2005 and 2020 declined by a total of 17%.

<sup>7</sup> R+V Versicherung 2020a.

## 1.2 Overview of relevant developments and reasons for the selection of the focal themes

the analogue world, such as grooming (the targeted initiation of sexual contact with children), stalking and bullying. The growing number of cases of cyber variants of the three phenomena dealt with in this report underlines that online personal attacks are a growing social problem.

The third focal area of this report, addressed in subchapter 3.3, is *crime motivated by right-wing ideology, including right-wing terrorism*. Notwithstanding the phenomenological approach, the field of politically-motivated crime has been characterised by formative events and major changes in recent years. Left-wing politically motivated crime or offences arising from foreign or religious ideologies are not a subject of this PRC. By far the largest number of registered crimes in the category of politically motivated crime are in the area of crime motivated by right-wing ideology, including right-wing terrorism.<sup>8</sup> Against the trend of the generally declining occurrence of crimes, there has been a notable increase in the area of crime motivated by right-wing ideology, including right-wing terrorism. In connection with the increase in immigration since 2015, there has been an increase in the number of criminal offences committed against refugees, people with a migration background and people who supported refugees. The strengthening of right-wing extremism to be observed in recent years is a threat to the free and democratic basic order in Germany and constitutes a growing problem for society as a whole. Increasingly, for example, the right-wing scene has put issues relating to fighting the COVID-19 pandemic on its agenda in an attempt to exploit the situation for its own purposes of agitation. In doing so, an attempt was made to establish connections with democratic sectors of civil society and to open up a public space where its political objectives could resonate. In the area of *right-wing terrorism*, a number of other right-wing terrorist organisations and networks have emerged alongside the so-called National Socialist Underground (NSU) in recent years. Attackers who prepared their crimes largely without direct support have been another increasingly common phenomenon since 2010.<sup>9</sup>

The Internet is also used to disseminate right-wing extremist attitudes, and is a breeding-ground for right-wing radicalisation. In recent years, there has been an increase in the spread of deliberately false information - fake news - in online forums and social networks. Fake news often presents supposed solutions to social problems by laying the blame for these problems on individuals or entire segments of the population. Underpinned by conspiracy narratives that claim the existence of secret networks, seeds of distrust are sown within society, against politics and science. The hatred arising or reinforced as a result manifests itself in online statements that frequently cross the boundaries of legality. On account of these developments, one section of the focal area of crime motivated by right-wing ideology, including right-wing terrorism, addresses hate crimes on the Internet (3.3.2). Section 3.3.3 then addresses *crime motivated by antisemitism* in the field of crime motivated by right-wing ideology, including right-wing terrorism. In this area, too, the number of criminal offences has increased considerably in recent years, during the period covered by the PRC. The overwhelming majority of these are propaganda offences and incitement to hatred. Due to its seriousness, the antisemitically-motivated attack on the Jewish community in Halle (Saale) in 2019 was classified as a terrorist attack.

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<sup>8</sup> On this subject, cf. BMI 2021a.

<sup>9</sup> Cf. the antisemitically motivated attack in Halle (Saale), the xenophobic and racist attack in Hanau or the assassination of Dr. Walter Lübcke, Regional Commissioner in Kassel.

## 1.3 Explanation of the data basis

To gain an overall picture of the situation regarding crime and crime control in Germany and to be able to develop effective approaches to dealing with crime, it is necessary that the survey in question be as broad as possible. It is impossible to judge whether individual events occurring on a given day are “ordinary” or extreme cases. Only an overall picture provides the empirical basis for such a judgment. The different statistics on crime and the criminal justice system relate to different stages of the criminal proceedings and, in addition to criminological research, constitute an empirical basis for appropriately judging the crime situation and crime control.<sup>10</sup> In general, the information presented in this PRC is based on the reference year 2019, as all the crime and criminal justice statistics used in the report were available for that year before the copy deadline. In order to take account of current developments in the context of the COVID-19 pandemic, data from 2020 are discussed in section 3.1.3. Before the police crime statistics and the judicial statistics are presented below, however, attention is given to the offences not reported and not known to the police (the so-called “dark field”). This is because the criminal offences officially registered - the “light field” of crime statistics - represent only some of the crimes actually committed. They do not include the “dark field” of crime statistics, i.e. the criminal offences that do not come to the attention of prosecution authorities. Without additional information from “dark field” research, it remains uncertain whether the statistical evidence reflects the development of “actual crime” or whether it is merely the result of a shift in the boundary between the fields of unrecorded and recorded crime.<sup>11</sup>

### 1.3.1 The “dark field”

The so-called “dark field” in the area of crime statistics refers to situations estimated to be liable to prosecution that do not come to the prosecution authorities’ attention and thus are not included in the crime statistics.<sup>12</sup> In certain areas of crime, the extent of this “dark field” can be gauged by asking population samples whether they have been perpetrators or victims of criminal offences.<sup>13</sup> However, this only sheds light on part of the “dark field” since this method is not suitable for some groups of cases and perpetrators (for example, victimless crimes).<sup>14</sup> Thus, complete or undistorted illumination - even of individual areas of crime - is not possible.<sup>15</sup> A distinction is therefore made between the *relative dark field*, i.e. crimes the existence of which can be established by “dark field” research, and the *absolute dark field*, comprising crimes that can neither be illuminated by PCS nor by “dark field” research.<sup>16</sup> It must also be noted that a comparison of data from the PCS on recorded crime (“light field” data) with the findings of “dark field” research is subject to significant limitations: differences in the populations, reference periods, data collection rules and the calculation of the number of suspects in relation to population are reasons for the limited comparability of PCS and “dark field” studies.<sup>17</sup> Whereas, for example, recording a criminal offence in the PCS is based on

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<sup>10</sup> 2nd PRC 2006, p. 1; for an overview: 1st PRC, p. 15 ff.; Bock 2019, p. 318 ff.

<sup>11</sup> On this subject, cf. subchapter 2.1.

<sup>12</sup> Kreuzer 1994, p. 10; Kunz/Singelstein 2016, p. 199; Schwind 2016, p. 41.

<sup>13</sup> Prätör 2014, p. 41 ff. Ideally, representative population samples are surveyed, not, as the survey’s name suggests, (known) perpetrators or victims. Perpetrator surveys request information from respondents as to whether they themselves committed an offence (within a certain period of time) (self-reported offences). Victim surveys request information from respondents as to whether they were the victims of certain (reported or unreported) offences (within a certain period of time).

<sup>14</sup> For other “dark field” research methods, cf. Prätör 2014, p. 38 ff.; Schwind 2016, p. 42 ff.

<sup>15</sup> For details of the limitations, cf. 1st PRC 2001, p. 14 f.; see also Haverkamp 2019, p. 17 ff.; Heinz 2015; Prätör 2014, p. 48 ff.

<sup>16</sup> BKA 2020a, p. 6; Neubacher 2020, p. 37; Prätör 2014, p. 32.

<sup>17</sup> Cf. Birkel 2014; Eisenberg/Kölbel 2017, p. 183; Heinz 2015, 294. Concerning the reasons why the results of the 2017 German Victimization Survey (*Deutscher Viktimisierungssurvey, DVS*, see section 2.2.4 below) cannot be compared with the PCS data: Birkel et al. 2019, p. 13 f.



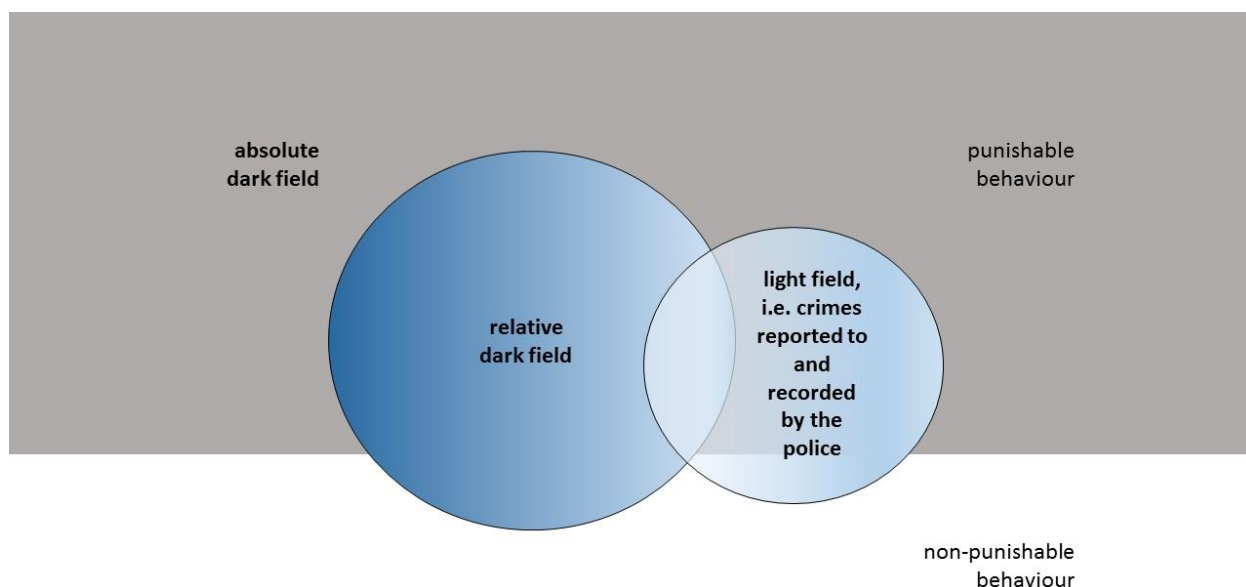
### 1.3 Explanation of the data basis

criminal prosecution criteria, the results of victim and perpetrator surveys are based on answers to questions put in plain language which omit the sometimes complicated statutory norms for the sake of easy understanding.<sup>18</sup>

By establishing reporting behaviour, victim surveys help to identify shifts between the cases reported and known to the police and those not reported and not known. When the proportion of crimes reported remains the same, this is an indication that developments in the police statistics relating to cases reported and known are a result of changes in the actual crime situation and are not to be explained by an increase or decrease in people's willingness to report crimes.<sup>19</sup>

presents the ratios of cases that come to police attention and "dark field" cases, and of punishable and non-punishable circumstances.

**Figure 1: "Light" and "dark fields"**



Source: BfJ, based on figures in *BKA 2020a*, p. 6 and Kunz/Singelnstein 2016, p. 199.

### 1.3.2 Police crime statistics/crimes that come to police attention

The PCS are so-called outgoing statistics providing information on crimes that come to police attention in Germany. That means that the statistics contain those offences which have come to police attention and have been processed by them right to the final stage, and that the offences are only registered when the files are passed to the public prosecution office. The statistics also include punishable attempts to commit an offence and drug offences processed by the customs authorities.<sup>20</sup> The PCS are compiled on the basis of individual PCS datasets at the *Land* Criminal Police Offices and at the BKA.<sup>21</sup> The following are not included:

- state security offences,

<sup>18</sup> Cf. Heinz 2015, p. 281.

<sup>19</sup> Birkel 2014, p. 91; Haverkamp 2019, p. 24; Heinz 2015, p. 295.

<sup>20</sup> The up-to-dateness of PCS is reduced by crimes involving a long investigation period. 22.6% of the investigation proceedings concluded and registered in 2019, for example, related to offences committed in previous years (cf. *BKA 2020a*, pp. 5 and 7).

<sup>21</sup> *BKA 2020a*, p. 9.

### 1.3 Explanation of the data basis

- traffic offences (except infringements of sections 315, 315b of the German Criminal Code (*Strafgesetzbuch*, StGB) and section 22a of the Road Traffic Act (*Straßenverkehrsgesetz*, StVG)),
- offences committed outside the Federal Republic of Germany,
- regulatory offences and
- violations of criminal statutes of the federal states, except the relevant provisions of the federal states' data protection laws.<sup>22</sup>

The PCS also do not include cases directly and conclusively processed by the public prosecution office (particularly economic crimes), tax offices (tax offences) and the customs authorities (except drugs offences), or offences committed by soldiers in the Federal Armed Forces (*Bundeswehr*), which are investigated autonomously by their disciplinary superiors.

The PCS do not contain any information on the course of further proceedings before the judicial authorities.<sup>23</sup> In some offence categories, offences are brought to police attention through reports from the population in an overwhelming number of cases. The offences not recorded remain in the “dark field” of police statistics unless they are discovered by the police in their own investigation activities. Thus, the “light field” of crimes reported to or detected by the police only represents part of criminal activity.<sup>24</sup> Changes in longitudinal PCS data cannot, without qualification, be evaluated as indicating a rise or fall in the number of crimes. One reason for this is that statutory amendments lead to new criminal offences being added or (in rare cases) removed, and existing criminal law provisions being widened or narrowed. As a result, more or fewer behaviours are punishable.<sup>25</sup> Another reason is that in the course of time, the inclination to report a crime and the intensity of prosecution by the police are also subject to social change.<sup>26</sup> Thus, changes in case numbers in the PCS may also represent a shift between the number of crimes that are detected and reported, and the number of crimes that go undetected and unreported.<sup>27</sup>

When considering the PCS data, it is to be noted that in some cases, the police evaluate cases differently to the public prosecution office or the court.<sup>28</sup> Due to the point in time of recording, and recording rules, the PCS tend to overestimate the number of cases and suspects and the seriousness of the offence.<sup>29</sup> If, in the course of further judicial proceedings, offences are re-evaluated or overestimations corrected (redefinition), this is not taken into account in the PCS.<sup>30</sup> The extent and type of amended evaluations cannot be established from the statistics.<sup>31</sup> The PCS also do not take into account whether identified suspects have reached the age of criminal responsibility, are of sound mind<sup>32</sup> or whether they are available for further criminal proceedings.<sup>33</sup>

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<sup>22</sup> BKA 2020a, p. 5.

<sup>23</sup> Meier 2016, p. 123.

<sup>24</sup> Kunz/Singelnstein 2016, p. 199; Neubacher 2020, p. 37.

<sup>25</sup> Eisenberg/Kölbel 2017, p. 177. An example of such an amendment is the revision of section 177 StGB in 2016.

<sup>26</sup> Cf. sections 2.1.1 and 2.2.4; BKA 2020a, p. 6.

<sup>27</sup> BKA 2020a, p. 6; Eisenberg/Kölbel 2017, p. 177; Heinz 2013, p. 745.

<sup>28</sup> BKA 2020a, p. 7.

<sup>29</sup> Cf. 2nd PRC 2006, p. 13. Cf. in this connection also the Guidelines for Maintaining the Police Crime Statistics, according to which, when one act fulfils the conditions of several criminal offences, only the offence carrying the most severe penalty in terms of nature and extent is registered. BKA 2019a, p. 19.

<sup>30</sup> BKA 2019a, p. 18; Eisenberg/Kölbel 2017, p. 171.

<sup>31</sup> Cf. 2nd PRC 2006, p. 13 f.

<sup>32</sup> BKA 2020a, p. 7.

<sup>33</sup> Eisenberg/Kölbel 2017, p. 171.

### 1.3.3 Judicial statistics

Various individual statistics provide information about the judiciary and the administration of justice. These are presented below.<sup>34</sup>

#### 1.3.3.1 Developments relating to the administration of justice at the public prosecution offices and courts

The Ministries of Justice of the *Länder* keep certain *statistics on the administration of justice* within their remits.

These statistics provide information on the number of proceedings dealt with and completed by the public prosecution offices and the courts. For criminal proceedings, there is one set of statistics on administration by the public prosecution offices (*public prosecution business statistics*) and one on administration by the criminal courts. The primary purpose of these statistics is to measure and plan the capacity of judicial bodies.<sup>35</sup> The information in these statistics can be differentiated according to groups of crimes (so-called subject areas).<sup>36</sup> Since these statistics on the administration of justice primarily serve administrative purposes (such as establishing human resource requirements in the judiciary)<sup>37</sup>, they do not contain any information on defendants' demographic characteristics, such as their age or sex.<sup>38</sup>

#### 1.3.3.2 Criminal prosecution by the courts

The *criminal court prosecution statistics* maintained by the Ministries of Justice of the *Länder* provide information about the outcomes of judicial criminal proceedings (case handling and adjudication by the courts).<sup>39</sup> For nearly 140 years, these statistics have provided information on defendants adjudicated or convicted with final and binding effect by the German courts.<sup>40</sup> These statistics on the criminal justice system are used to evaluate crime policy measures and to measure the crimes registered by the courts.<sup>41</sup> Comprehensive data has been available on criminal prosecution by the courts in Germany since 2007. Thus, the relevant time series in this PRC refer to the period from 2007 to 2019.

The statistics on criminal prosecution by the courts record the following as criminal offences: serious (felonies) and less serious (misdemeanour) criminal offences under section 12 German Criminal Code (StGB) or other federal laws, and less serious (misdemeanour) criminal offences under federal state laws, which were committed by persons who have reached the age of criminal responsibility and were the subject of a final and binding court decision. The individual offences are ordered in accordance with the relevant sections of the German Criminal Code (StGB) or the criminal provisions of selected other statutes from the so-called supplementary statutes.<sup>42</sup> These statistics on criminal

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<sup>34</sup> The statistical offices of the *Länder* compile results for the federal states on the basis of administrative orders which are the same throughout Germany. These are then processed by the Federal Statistical Office (*Statistisches Bundesamt*) to produce a nationwide result.

<sup>35</sup> Statistisches Bundesamt 2019, p. 325.

<sup>36</sup> The data in the public prosecution and criminal court business statistics do not allow differentiation according to the category of crime: Staatsanwaltschaftsstatistik 2019, p. 11; RatSWD 2020, p. 26.

<sup>37</sup> RatSWD 2020, p. 27.

<sup>38</sup> For details of the methodology of the business statistics, see, for example, Staatsanwaltschaftsstatistik 2019, p. 5 ff.

<sup>39</sup> See 2nd PRC 2006, p. 2.

<sup>40</sup> Strafverfolgungsstatistik 2019, p. 10. The number of adjudications is compiled from the number of convictions and other court decisions (court dismissal of criminal proceedings, acquittal, dispensing with punishment, ordering measures of reform and prevention [on their own or in addition to acquittal and dismissal] and referral to the family judge [formerly guardianship judge] under section 53 of the Youth Courts Act (*Jugendgerichtsgesetz*, JGG)): cf. Strafverfolgungsstatistik 2019, p. 13.

<sup>41</sup> Statistisches Bundesamt 2019, p. 325.

<sup>42</sup> Strafverfolgungsstatistik 2019, p. 10.

### 1.3 Explanation of the data basis

prosecution by the courts also contain information on demographic characteristics of the defendants adjudicated and the defendants convicted (age, sex, nationality).<sup>43</sup>

When interpreting offence-related evaluations on the basis of the statistics on criminal prosecution, it is also to be taken into account that in the case of adjudication/conviction of defendants who have violated a number of penal provisions in cases where several offences were committed by one act (section 52 StGB) or in joinders of offences (section 53 StGB), only the offence carrying the most severe penalty is registered in the statistics on criminal prosecution.<sup>44</sup>

#### 1.3.3.3 Enforcement and execution

The Ministries of Justice of the *Länder* keep a number of statistics on prisons within their remits in accordance with the Rules of Procedure for Prisons (*Vollzugsgeschäftsordnung*, VGO). As of the reference day 31 March in a reference year, a so-called *reference day survey* is made in accordance with the Rules of Procedure for Prisons, establishing the structure of *prisoners* in prison, youth custody and preventive detention, differentiated according to criteria including age, sex, nationality and type of offence.<sup>45</sup> In addition, a *monthly survey* is made in accordance with the Rules of Procedure for Prisons, recording key figures on the prisoners and persons in preventive detention in all prison facilities. These statistics on the administration of justice provide information on matters such as occupancy capacity and actual occupancy in each calendar month (prison population according to type of detention) and on new arrivals and departures during the month under review (prisoner movements). These statistics also include prisoners in remand detention and detention pending deportation.<sup>46</sup>

The prison statistics specified are kept in all the *Länder*. However, no national information is available on placement in a psychiatric hospital in accordance with section 63 StGB or in an addiction treatment facility in accordance with section 64 StGB. *Data on detention in a secure psychiatric facility* are not supplied by all *Länder*. It is thus not possible to establish national figures on the population and movements of persons detained in secure psychiatric facilities. Since 2010, it has also no longer been possible to determine partial figures relating only to those areas which formerly made up West Germany. Due to this regional incompleteness, publication of data on detention in secure psychiatric facilities ceased as of 2013/2014. Information from the federal states providing data which varies in the period covered nevertheless continues to be compiled annually by the Federal Statistical Office on behalf of the BMJV.<sup>47</sup>

*Probation service statistics* are also not kept in all *Länder*. For this reason, results for the Federal Republic of Germany as a whole have not been published since the reference year 2011. Instead, the data are updated at *Länder* level.<sup>48</sup>

### 1.3.4 Comparability of existing data: possibilities and limitations

In order to measure “crime” in a regional cross-sectional study or a longitudinal study over a period of time and to make comparisons on the basis of sociodemographic characteristics, it is necessary that the data being compared are indeed comparable. The occurrence of crime is to a great extent dependent on age and sex, for example. Thus, fluctuations in birth rates and migration movements influence the occurrence of crime. In order to be able to make comparisons over time in spite of

<sup>43</sup> Details of the methodology are to be found in: Strafverfolgungsstatistik 2019, p. 5 ff.

<sup>44</sup> Neubacher 2020, p. 60; Strafverfolgungsstatistik 2019, p. 13.

<sup>45</sup> Details of the methodology are to be found in: Strafvollzugsstatistik 2019, p. 4 ff.

<sup>46</sup> Details of the methodology are to be found in: Strafvollzugsstatistik über den Bestand der Gefangenen und Verwahrten 2019.

<sup>47</sup> This working document is made available to the BMJV, all Ministries of Justice of the *Länder* and all statistical offices of the *Länder* for their further use: RatSWD 2020, 18; cf. section 2.3.4.3.

<sup>48</sup> RatSWD 2020, pp. 18 and 33.

### 1.3 Explanation of the data basis

these limitations, the numbers are calculated in relation to population (offence rate, victimisation risk, number of suspects, number of defendants convicted). This involves calculating the number of cases, victims, suspects or defendants convicted per 100,000 of the resident population of the same age and/or sex.<sup>49</sup> This requires the number of persons registered as members of the resident population to be known with sufficient precision. That this is not the case occurs particularly often among those non-Germans who are not included in the resident population.<sup>50</sup> It must also be taken into account that the calculation of the number of suspects per 100,000 of the population in a reference year is based on the resident population on 31 December of the previous year. When there are significant migrations of non-Germans during a reference year, such as in 2015, this results in the number of non-German suspects being greatly overestimated, if only because, although all the non-German suspects migrating to Germany and in transit through Germany during a reference year are registered by the police, the total number of non-Germans migrating to Germany and in transit through Germany has not been included in the population numbers of 31 December of the previous year (e.g. 31 December 2014). Thus, a valid number of non-German suspects or defendants convicted per 100,000 of the population cannot be established on the basis of the published data of the official statistics relating to crime and the criminal justice system.<sup>51</sup>

There are major differences between the volume of known or cleared-up crimes and suspects reported in the PCS on the one hand, and the volume of defendants convicted on whom a final and binding conviction has been passed and who are recorded in the statistics on criminal prosecution by the courts on the other. This is due firstly to the fact that not all criminal offences that come to police attention are cleared up. Moreover, charges are not brought against all suspects investigated by the police, and not all criminal proceedings end with a conviction - some proceedings end with a different decision (such as dismissal of proceedings or acquittal).<sup>52</sup> Another reason why PCS and criminal prosecution statistics cannot be directly compared is that their recording methods are different.<sup>53</sup> In the criminal prosecution statistics, a person is only counted once per proceeding. When a number of offences which have been adjudicated in one proceeding are recorded in the PCS, the criminal prosecution statistics record only the offence carrying the most severe penalty. When an offence is committed multiple times, this is also not recorded (for example, a series of burglaries).<sup>54</sup> In particular, flow statistics are not collected in Germany. Although it would be desirable from a criminological point of view to collect such flow statistics, linking data from the PCS with data from judicial statistics, this will not be possible in the near future due to the different collection methods, characteristics and times. As explained above, it is not possible to establish the type and extent of redefinitions that take place in the further course of proceedings.<sup>55</sup> A time-based comparison is also not possible in view of the times the different statistics are recorded: whereas the PCS data are initial statistics reflecting proceedings at the stage when cases are handed over to the public prosecution office, the criminal prosecution statistics record the final and binding decisions of the courts. The recording times may be several years apart, particularly in the case of serious offences.

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<sup>49</sup> BKA 2020a, p. 51 f.

<sup>50</sup> The following people are not required to report: foreign transit passengers and tourists, cross-border commuters, members of the stationed forces and of foreign diplomatic and consular missions and their families, and persons who, while required to report, have not reported, particularly those staying in Germany without a residence permit.

<sup>51</sup> Cf. Sections 2.4.2.2 and 2.4.3.2.

<sup>52</sup> Statistisches Bundesamt 2019, p. 325. For details of this filtering process during criminal proceedings: section 2.1.1.2.

<sup>53</sup> Most recently, RatSWD 2020, p. 20 f.

<sup>54</sup> Neubacher 2020, p. 60; Strafverfolgungsstatistik 2019, p. 13.

<sup>55</sup> On the limited information value of crime and criminal justice statistics: sections 1.3.2 and 1.3.3; 2nd PRC 2006, p. 13; 1st PRC 2001, p. 33 f.

## 2 General section

### 2.1 Crime - a situation that depends on informal social control and social control in the criminal justice system

Crime is generally understood to be the entirety of behaviour of relevance under criminal law which is dealt with by prosecution bodies (police, public prosecution office, criminal court and prison authority) and registered in the crime and criminal justice statistics. Registered, visible crimes (recorded crimes) constitute just part of the actual crime situation, however, as explained in sub-chapter 1.3. In order to be reported, behaviour must first be evaluated as criminal, perceived as such and come to the attention of the prosecution authorities - either through being discovered by the police or another (prosecution) authority or by being reported in some other way, for example by the public. Criminological studies show that only a fraction of crimes committed become known and therefore assume that many crimes go unrecorded.<sup>56</sup>

In the majority of cases, facts come to the attention of the prosecution authorities as a result of reports by members of the public.<sup>57</sup> Whether a report is made is the result of an evaluation and perception process that depends on whether the person who may potentially report an offence decides to deal with what has happened through the criminal justice system or “informally” (through informal social control). Thus, selected offences or suspects change from being unrecorded to being recorded - a so-called filtering process that continues at the level of social control in the criminal justice system.<sup>58</sup> It continues because even if an event comes to the attention of the prosecution authorities, this does not mean that every recorded situation is cleared up or that every suspect is charged and sentenced. The mechanisms of this filtering process, both in the informal area and during the course of criminal proceedings, are presented below.

#### 2.1.1 Filtering in the area of informal social control

Evaluations of behaviour as punishable are not unchangeable, but are subject to social, cultural or technical change. Changes in the social consensus on values or technical developments, for example, can lead to decriminalisation or criminalisation as a result of a re-evaluation of legally protected interests. Until 1994, for example, certain consensual homosexual acts were punishable under section 175 of the old version of the Criminal Code (*Strafgesetzbuch*, StGB, old version).<sup>59</sup> In this case, a shift in society’s moral attitudes led to a behaviour being decriminalised. In contrast, physical punishments, psychological injuries and other degrading measures were criminalised by declaring them

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<sup>56</sup> Eisenberg/Kölbel 2017, p. 812 f. with reference to various studies, according to which, depending on the crime, only between 50% and 10% of offences come to the attention of the prosecution authorities; Prätör 2014, p. 33; on unrecorded crimes, cf. sections 1.3.1 and 2.2.4.

<sup>57</sup> Meier 2016, p. 233 with further references; Schwind 2016, p. 41; on reporting behaviour, cf. sections 2.1.2 and 2.2.4.

<sup>58</sup> Neubacher 2020, p. 54.

<sup>59</sup> Since 2017, persons prosecuted and convicted under section 175 of the old version of the German Criminal Code have been rehabilitated, cf. the Act to criminally rehabilitate persons convicted of performing consensual homosexual acts after 8 May 1945, and to amend the Income Tax Act, Federal Law Gazette (*Bundesgesetzblatt*) Part I 2017, p. 2443, which entered into force on 22 July 2017.

## 2.1 Crime - a situation that depends on informal social control and social control in the criminal justice system

to be henceforth inadmissible methods of bringing up a child (right to non-violent upbringing, section 1631 (2) of the German Civil Code, (*Bürgerliches Gesetzbuch*, BGB)). Thus, since 2000, these acts - previously used as “corporal punishment” - have been punishable as illegal bodily harm within the meaning of section 223 StGB.<sup>60</sup> The emergence of the Internet has led to new means of communication and types of acts in recent years. A lively discussion involving the whole of society is still under way as to how some of these are to be evaluated and treated under criminal law.<sup>61</sup> Similarly, discussions on the issues of assisted suicide, abortion, doping in sport or narcotics legislation show that defining and evaluating which interests are to be legally protected is an ongoing social and political process.

Before a specific act can be evaluated as a criminal offence, an event or behaviour has to be factually perceivable. This often is not possible in the case of so-called victimless offences, such as narcotics offences. In the case of fraud offences, too, the defrauded person often does not notice the deception. Moreover, it is known that there is only a slight risk of economic and environmental offences being discovered.<sup>62</sup> The evaluation of behaviour as criminal and the decision to report it are also made on the basis of a personal attitude.<sup>63</sup> In some social milieus or communities, such as in families or among neighbours or friends, acts are considered normal and acceptable, even though they fulfil the constituent elements of a criminal offence. Frequently, such communities initially exert their own “informal” control, quite possibly whilst bearing “formal” criminal liability in mind, for example in the form of internal clarification within the group.<sup>64</sup>

The likelihood of a crime being reported varies according to the type and seriousness of the offence, the characteristics of the perpetrator and the victim, the perpetrator-victim relationships and the estimation of the likelihood that the police will clear up the crime.<sup>65</sup> The public discussion of statutory amendments also influences reporting behaviour. If certain offences, such as parents hitting their children, are newly classified as punishable bodily injury (see above) and there is increasing awareness on account of media coverage of the subject, this may lead to such forms of violence being reported to the police more frequently. Thus, changed evaluations and perceptions may lead to a shift towards reporting offences that previously went unreported. Society’s increased awareness of sexual assault and the associated statutory amendments<sup>66</sup> are another clear example of this mechanism.

What is perceived to be crime and is reported to the police thus depends on evaluations by society and decisions by the legislator. Decisions taken by individuals either not to do anything or to simply react informally to a matter, or to seek intervention from the police or public prosecution office by reporting the matter, determine which crimes and perpetrators or suspects are officially registered.

### 2.1.2 Filtering in the area of social control in the criminal justice system

As shown, most crimes that come to the authorities’ attention are not discovered by police control activities, but are reported, for example by the public. The offence and offender structure of the

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<sup>60</sup> Previously, the parental right to use corporal punishment was a justification for acts constituting bodily harm within the meaning of section 223 of the German Criminal Code, which exempted such punishment from prosecution. The Act Outlawing Violence in the Upbringing of Children and Amending the Law on Child Maintenance (*Gesetz zur Ächtung der Gewalt in der Erziehung und zur Änderung des Kindesunterhaltsrechts*) entered into force on 8 November 2000, Federal Law Gazette (*Bundesgesetzblatt*) Part I 2000, p. 1479. Concerning its development and differentiated classification under penal law, cf. Schönke/Schröder/Sternberg-Lieben, section 223 StGB, recital 16 et seqq.

<sup>61</sup> Cf. subchapter 3.2 on grooming, stalking and bullying in cyberspace and section 3.3.2 on online hate crimes.

<sup>62</sup> Cf. Eisenberg/Kölbel 2017, p. 327.

<sup>63</sup> Cf. Eisenberg/Kölbel 2017, p. 330.

<sup>64</sup> Cf. Birkel 2003, p. 27 ff.; Birkel et al. 2019, pp. 39-44; also Schwind 2016, p. 436.

<sup>65</sup> Cf. Birkel 2003, p. 27 ff.; Meier 2016, p. 258 ff.; also Schwind 2016, p. 432 ff.; cf. also section 2.2.4 on high reporting rates for offences for which a police report is required in order to obtain damages payments from an insurance company.

<sup>66</sup> For example, Federal Law Gazette (*Bundesgesetzblatt*) Part I 2016, p. 2460.

## 2.1 Crime - a situation that depends on informal social control and social control in the criminal justice system

crimes registered is predetermined by the fact that opportunities for committing offences, and thus the likelihood of being discovered and evaluated, vary greatly depending on the specific offence. Thus, youth-specific offences committed in the public domain (violent offences, street crime) tend to be more likely to be discovered than complex offences in professional and economic life or domestic violence, which are primarily committed by adults, and where a large proportion of the crimes committed go unrecorded. Also, the larger number of police controls in so-called hotspots, such as red light or party districts, or of specific groups of people, influence the picture of registered crime.<sup>67</sup> On account of the connection between the type of offence and the likelihood that it will be reported, there has been a shift in the area of crimes registered with the police towards more serious types of offence.<sup>68</sup> The crime and criminal justice statistics provide information on the registration, definition and filtering processes that take place at the different stages of criminal proceedings.<sup>69</sup> The area of reported crimes in the crime statistics is thus characterised by selective and institution-specific interpretative filters.<sup>70</sup> A comparison of PCS data and criminal prosecution statistics enables the approximate scope of the filtering process to be shown. It must be taken into account that the data in the funnel model all refer to the same reference year. As presented in section 1.3.4, however, the PCS data and the criminal prosecution statistics are not always directly comparable, because they are collected under different conditions. In particular, the funnel model is unable to show the distortion arising on account of the different times of data collection. The view shown in the funnel model is based on the simplified assumption that suspects are charged and convicted within the same calendar year. The percentages given in the text and figure below must be seen in this context. The actual percentages cannot be calculated because the course of the proceedings is not shown. To improve the comparability of the data, state security offences and traffic offences were eliminated from the criminal prosecution statistics data in Figure 2 in accordance with PCS requirements. Since comparability with public prosecution office statistics cannot easily be established, this data source was not included in Figure 2.

The diagram shows the filtering that takes place in the course of the prosecution process. In 2019, there were 1 946 321 suspects who had reached the age of criminal capacity compared with 680 795 defendants adjudicated (35%) and 543 094 defendants convicted (28%). Of the suspects who had reached the age of criminal capacity, just 5% were sentenced to imprisonment or juvenile detention; just 2% were sentenced to unconditional imprisonment or unconditional juvenile detention. Thus, changes in registered crime may be due to changes in the “actual crime situation”, in social control or willingness to report crime, in the intensity with which prosecution is pursued, in recording principles for statistics or changes in how the statistics agencies register statistics.<sup>71</sup>

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<sup>67</sup> Cf. Neubacher 2020, p. 51 f.

<sup>68</sup> Meier 2016, p. 258.

<sup>69</sup> Cf. subchapter 1.3; 2nd PRC 2006, p. 13.

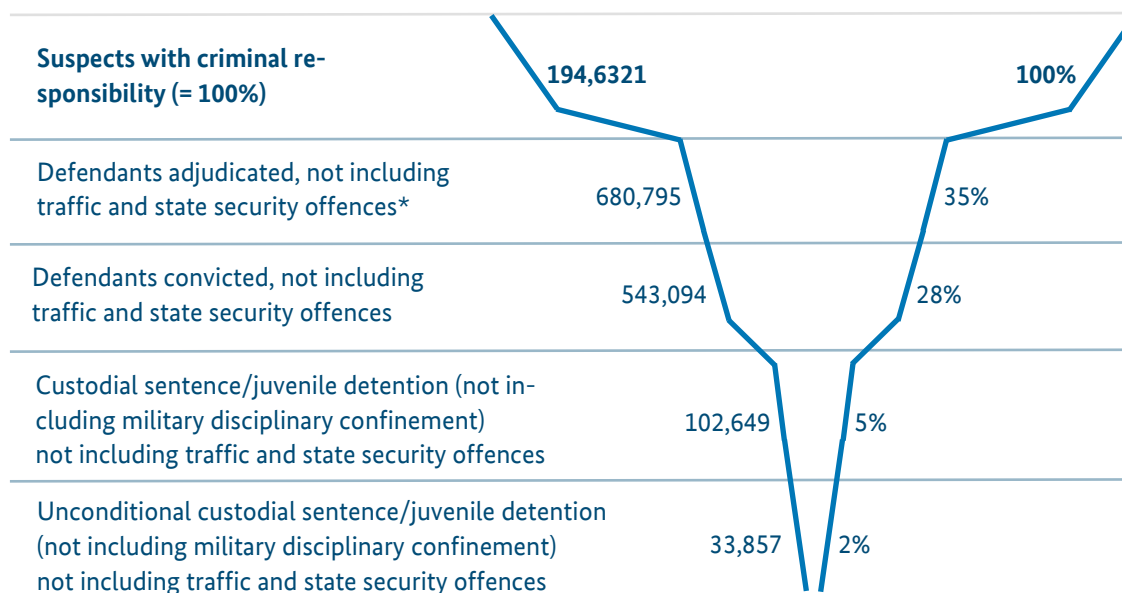
<sup>70</sup> Eisenberg/Kölbel 2017, p. 803 f.

<sup>71</sup> For examples and evidence of these influencing factors, cf. 1st PRC 2001, p. 17 ff.



2.1 Crime - a situation that depends on informal social control and social control in the criminal justice system

**Figure 2: Funnel model of social control in the criminal justice system (persons recorded in the statistics in 2019, not including traffic offences and state security offences)<sup>72</sup>**



Absolute figures and relation to suspects with criminal responsibility registered in 2019.

\* Criminal offences committed in road traffic under the Road Traffic Act (StVG) (except section 22a), Compulsory Insurance Act (PflVG), sections 222 and 229 StGB; criminal offences committed under sections 142, 315c, 315d, 316; 80–83, 84–86a, 87–91, 94–100a, 102–104a, 105–108e, 109–109h, 129a–b, 234a and 241a StGB. This model is not to scale.

Source: The BfJ's own calculations on the basis of BKA 2020b, p. 12 and Strafverfolgungsstatistik (criminal prosecution statistics) 2019, tables 2.1, 3.1 and 4.1.

Studies from Germany and other countries show sometimes considerable differences between the development of crime trends on the basis of data on recorded crime on the one hand and on unrecorded crime on the other.<sup>73</sup> Without additional information from “dark field” studies, it therefore remains uncertain whether the statistical evidence reflects the development of the “actual crime situation” or is merely the result of a shift in the boundary between recorded and unrecorded crime. Thus, to gain a proper picture of the extent, structure and development of crime and its control, data on detected crime must be supplemented by findings from other sources. In particular, studies on unrecorded crime and other data sources (such as data from insurance companies, transport companies, department stores, school medical reports) can provide significant additional information.

<sup>72</sup> For an explanation of the individual “filters” in this funnel model, cf. 1st PRC 2001, p. 8 ff.

<sup>73</sup> See 2nd PRC 2006, p. 15 ff. Discrepancies and correspondences between dark and light field data compared in this PRC are explained where appropriate.

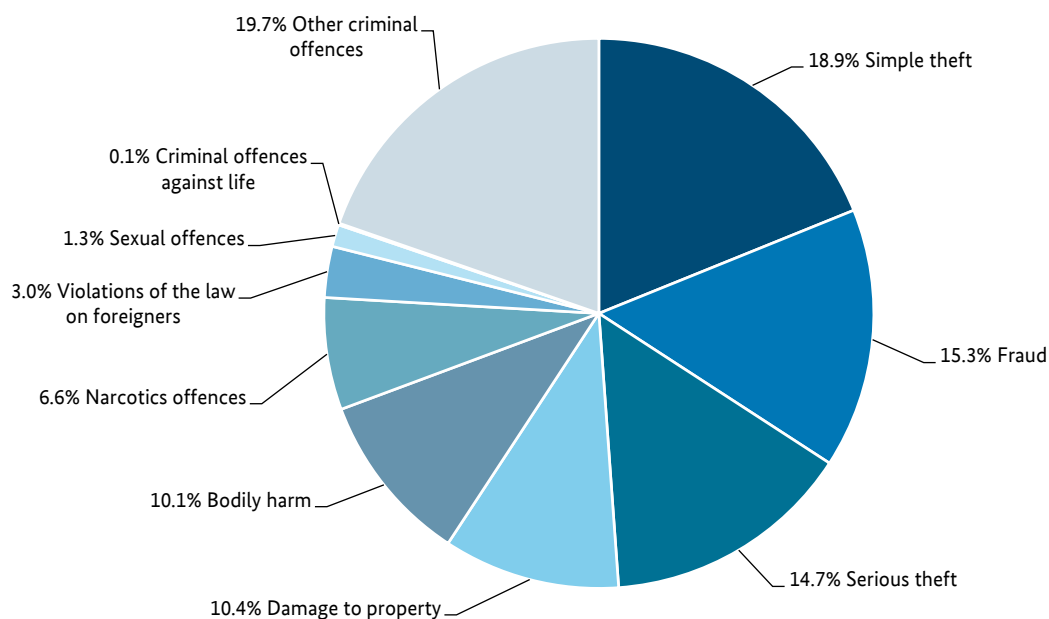
## 2.2 Longitudinal and cross-sectional analysis of recorded and unrecorded crime

The following section discusses the extent and structure, development over time and geographical distribution of crime in Germany. As well as the Police Crime Statistics, which compile all criminal circumstances that have come to police notice, the findings on unrecorded crime from the 2012 and 2017 German Victimisation Surveys are presented. For details of the respective data basis, please refer to subchapter 1.3.

### 2.2.1 Extent and structure of the crimes registered in the PCS

In 2019, 5 436 401 cases were registered by the police in the PCS.<sup>74</sup> The total number of registered criminal offences, including road traffic offences - which are not included in the PCS - is approximately 7.18 million cases.<sup>75</sup>

**Figure 3: The structure of police-registered criminal offences in 2019**



Source: BKA 2020a, p. 17.

More than half of all registered crimes in 2019 were crimes against property and assets<sup>76</sup> (cf. Figure 3). Theft and fraud were particularly frequent. In contrast, violent crime, a focus of public attention,

<sup>74</sup> BKA 2020a, p. 11.

<sup>75</sup> This estimate was made analogously to the 2nd PRC. These figures are based on the number of persons convicted of road traffic offences as a proportion of all persons convicted. In 2018, 653 060 defendants were convicted under general criminal law. The most serious offence for which 158 600 (= 24.3%) of these defendants were convicted was a road traffic misdemeanour, Strafverfolgungsstatistik 2018, table 2.1. Cf. also Heinz 2019, p. 1026.

<sup>76</sup> For a more detailed consideration of crimes against property, see 1st PRC 2001, p. 110 ff.; 2nd PRC 2006, p. 191 ff.

## 2.2 Longitudinal and cross-sectional analysis of recorded and unrecorded crime

accounted for 3.3%.<sup>77</sup> Details concerning this area of crime are provided in subchapter 3.1 of this PRC. Human trafficking offences, which also often hit the headlines,<sup>78</sup> accounted for just 0.016% of registered crime in 2019.<sup>79</sup> Street crime, a matter of concern to many people<sup>80</sup>, including certain crimes against property and violent crimes, accounted for a share of 19.8% in 2019.

Although economic crime accounted for 44.7% of all damage registered in the PCS (approx. 3.0 billion euro), the registered volume of cases of this type of crime is small, comprising a share of 0.7% of total crime.<sup>81</sup> Due to the practice of selective reporting,<sup>82</sup> it is generally the more damaging cases that are reported. However, offences involving damage - in the sense of the monetary value of the goods obtained - of 5,000 euro or more are quite rare.<sup>83</sup> In the area of economic crime especially, damage on such a scale is relatively more frequent.<sup>84</sup>

### 2.2.2 Development of police-registered crime

Overall, the total number of crimes registered has fallen from 6 391 715 cases recorded in the PCS in 2005 to 5 436 401 cases recorded in 2019 (not including state security and road traffic offences). This represents a decline of approximately 15%. Taking into account the change in the population during this period, a decline in the offence rate from 7 747.5 to 6 548.4 (15.5%) per 100,000 inhabitants is to be registered. However, the total numbers, such as the total criminal offence rate, give a rather limited impression of the crime rate and development, since criminal offences are grouped together which are completely different in terms of type, severity and level of unrecorded crime. For these reasons, it appears appropriate to address the development of particular offence categories in a differentiated way.<sup>85</sup>

As shown in Figure 4, three phases of crime development can be distinguished. A decline in the offence rate per 100 000 inhabitants was registered from 2005 to 2012, and from 2013 to 2016, an increase was registered. From 2017 onwards, there was a pronounced decline. However, the increase in the number of cases from 2013 onwards is due in part to the increasing number of violations of the law concerning foreigners that were detected, particularly in 2015/2016.<sup>86</sup> Without these violations, the increase would be somewhat more moderate.

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<sup>77</sup> The 2nd PRC already pointed out that the share would be larger if the aggregate key “violent crime” were to include not only serious violent crimes: 2nd PRC 2006, p. 23.

<sup>78</sup> The aggregate key “human trafficking” includes the following: sexual abuse of juveniles in return for payment; promotion of sexual acts by underage persons by acting as an intermediary or in return for payment; child theft in return for money or with intent to enrichment; trafficking in human beings, forced prostitution, forced labour, exploitation of labour and exploitation on the basis of deprivation of liberty.

<sup>79</sup> For an analysis of registered human trafficking crimes in the field of sexual exploitation, cf. Körner/Völschow 2018, p. 31 f; Vogeler 2018, p. 36 ff. and for general information, the BKA’s annual Trafficking in Human Beings Situation Reports.

<sup>80</sup> The aggregate key “street crime” in the PCS comprises crimes committed in streets, lanes or public places: sexual harassment, offences committed out of groups, exhibitionist acts and creating a public nuisance, robbery, extortion with use of force or threat of force on/against transports of cash and valuables, attacking driver to commit robbery, handbag robbery, other forms of robbery, dangerous and serious bodily injury, abduction for purpose of extortion and hostage taking in connection with robberies of transports of cash and valuables, total number of thefts of/from motor vehicles, total number of pickpocketing offences, simple and serious theft of motor vehicles, mopeds, motorbikes and bicycles including unauthorised use, simple and serious theft of/from cash-operated machines, breach of the peace, damage to motor vehicles, other forms of damage to property; for details, see BKA 2020c, p. 7.

<sup>81</sup> Concerning the recording of damage in the PCS: BKA 2020a, p. 53. Concerning economic crime, cf. 1st PRC 2001, p. 132 ff.; 2nd PRC 2006, p. 218 ff.; Bussmann 2016, p. 18 ff.

<sup>82</sup> Cf. section 2.2.4.

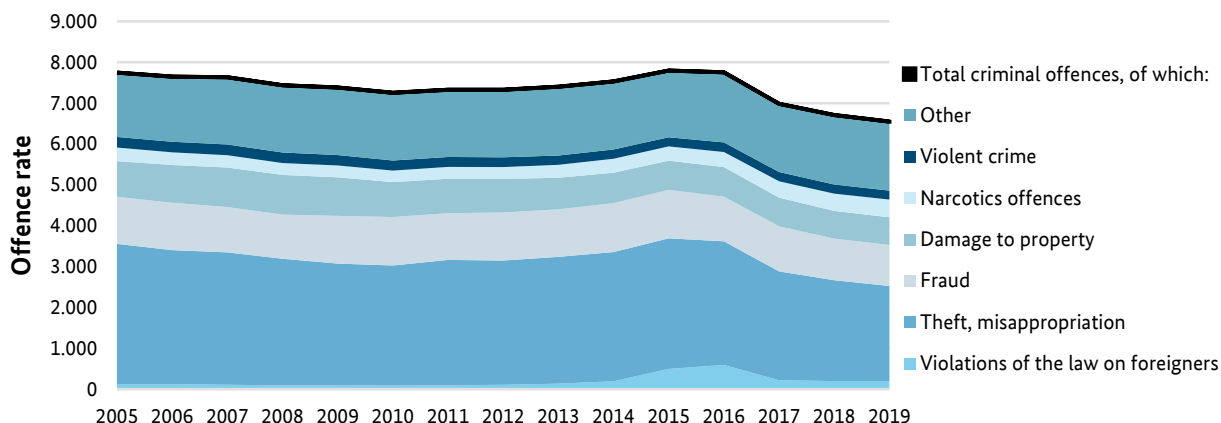
<sup>83</sup> For in-depth information, cf. BKA 2020a, p. 46.

<sup>84</sup> Concerning the broader understanding in criminological research of the consequences of damage in the case of economic crime, cf. Bussmann 2016, p. 28 ff. In 19.8% of all completed crimes against property and assets in the broader sense, the damage was less than 15 euro. In approx. 60% of cases, the damage did not exceed 250 euro.

<sup>85</sup> Cf. 2nd PRC 2006, p. 24 f.

<sup>86</sup> On this subject, cf. Jehle 2019, p. 12; BKA 2020a, p. 15 f. This publication also states that the offence rates are inconsistent due to changes and methodological developments relating to population data (2013, 2017), and that offence rate data are only comparable with those of previous years to a limited extent. Cf. also section 2.3.1.

**Figure 4: Development of the total offence rate in police-registered cases between 2005 and 2019**



Source: PCS, own evaluation.

When considering individual offence categories, it becomes clear that between 2005 and 2019, there was a reduction in particular in the number of crimes against property. In 2019, 2 514 503 cases were recorded, approximately 1 million fewer than in 2005.<sup>87</sup> In the period under review, the crime rate fell from 3506 to 2325.9 cases per 100 000 inhabitants (-33.7%). The registered damage was also less than in 2005: the amount of damage in 2019 was just over 6.6 billion euro; in 2005 it was just under 8.5 billion euro.<sup>88</sup>

Reductions (in the offence rate) are also to be seen in the areas of criminal damage to property (-22.1%), fraud (-12.9%) and violent crime (-15.4%). In contrast, the number of narcotics offences increased by 28.7% in comparison with 2005, from 338.1 to 435.3 cases per 100 000 inhabitants.

The number of burglaries increased from 109 736 in 2005 to 167 136 cases in 2015.<sup>89</sup> This development then saw a reversal, with numbers falling significantly in the years that followed.<sup>90</sup> 87,145 burglaries were registered in 2019. Domestic burglaries are of considerable significance with regard to the public sense of security (see section 2.6.4 below).

In recent decades, these different developments in the individual offence categories have, over time, led to a shift in the proportions of overall crime that they make up. For example, whereas the proportion of fraud offences has shown an upwards trend, there has been a relative decline in the proportion of theft offences. Not least, the increasing importance of the Internet may be behind this development.<sup>91</sup> However, despite a decline in the number of violent crimes in recent years, their share of total registered crimes has remained constant (2005 and 2019: 3.3%).<sup>92</sup> It is not possible to deduce from Police Crime Statistics data themselves the extent to which the structural changes are also due

<sup>87</sup> For the data for 2005, cf. 2nd PRC 2006 p. 22.

<sup>88</sup> BKA 2020a, p. 45.

<sup>89</sup> In response, the *Bundestag* increased the threat of punishment for theft by burglary of dwellings. It is now classified as a serious crime (felony) with a minimum punishment of a one-year prison sentence: 55th Act to Amend the German Criminal Code - theft by burglary of dwellings, (55. *Gesetz zur Änderung des Strafgesetzbuchs - Wohnungseinbruchdiebstahl*), Federal Law Gazette (*Bundesgesetzblatt*) I, 2017, p. 2442 which entered into force on 22 July 2017.

<sup>90</sup> Possible reasons for this fall in numbers could be technical progress in the area of security precautions, strategically adjusted police presence and advisory services and increased awareness-raising among the public (for example *k-einbruch.de*). On preventing burglaries, cf. also Arnd/Kühlwein 2017; Dreißigacker et al. 2015.

<sup>91</sup> Cf. Neubacher 2020, p. 68 f.

<sup>92</sup> Cf. detailed information on the development of violent crime in section 3.1.1.2.

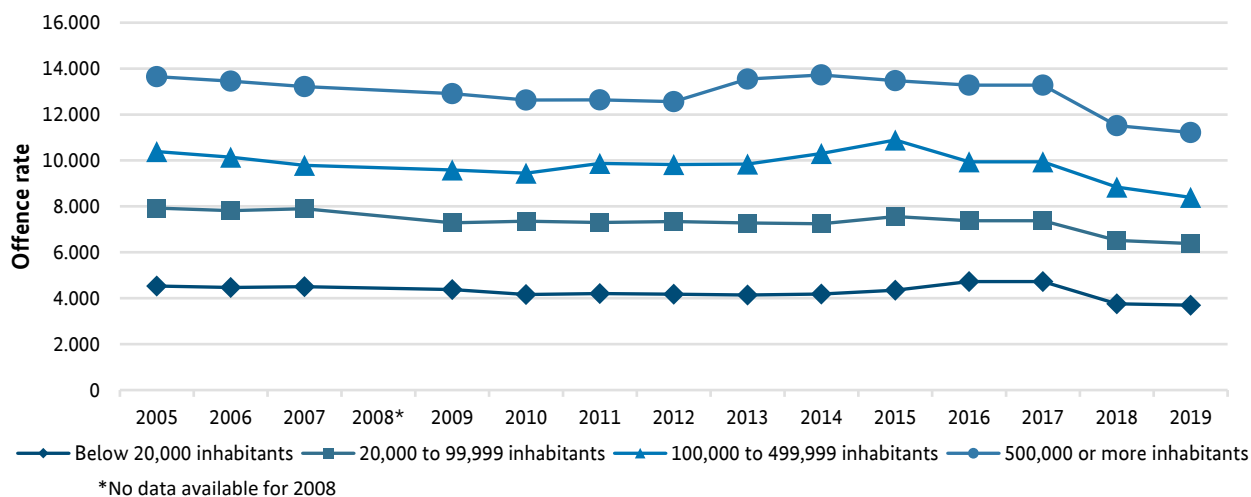
to changes in the perception and evaluation of crimes and reporting behaviour (see section 2.1.1). This requires recourse to other sources of data or information.<sup>93</sup>

### 2.2.3 Geographical distribution of police-registered crime

In principle, the development and structure of the incidence of crime is also affected by changes in environmental conditions, for example, technical and technological progress, and by the socio-demographic composition of the population.<sup>94</sup>

The geographical distribution of police-registered crime distinguishes between four municipality size categories (see Figure 5). Considered over a period of 15 years, the relationship between the offence rates of the municipality size categories has remained largely constant. Cities with more than 500 000 inhabitants have the highest offence rate; municipalities with fewer than 20 000 inhabitants have the lowest offence rate. Thus, there is a relatively close correlation between the incidence of crime (crime rate) and the urbanisation level. The results relating to the categories of municipality size are supplemented by the data compiled by the *Länder* and major cities.<sup>95</sup> The rates in the city states are considerably higher than in the non-city states.<sup>96</sup> An exception to this is North Rhine-Westphalia (6847), presumably due to its high level of urbanisation.

**Figure 5: Offence rates of the four categories of municipality size in the PCS 2005 to 2019**



Source: PCS, own evaluation.

As a rule, PCS publications refer to a number of factors to be taken into account when judging the crime rate of federal states (*Länder*) and cities, when comparing crime rates and when compiling so-called rankings. These include not only possible differences in reporting behaviour,<sup>97</sup> but also the significance of tourism, the number of commuters and different population and opportunity structures.<sup>98</sup> Regional differences with regard to peoples' economic and social situation are also of great

<sup>93</sup> In publications on the police crime statistics, such as the yearbooks, explicit reference is made to other factors that influence the crime rate, such as reporting behaviour, the intensity with which the police carry out checks, changes in the way statistics are collected and amendments to criminal law. Cf. BKA 2020a, p. 7.

<sup>94</sup> Generally, a distinction must be made between effects of age, cohort and periods. The age effect takes the age dependency of delinquent actions into account, the cohort effect registers specific characteristics of a birth cohort (or a generation), and the period effect registers time-conditioned influences. Cf. Walburg/Verneuer 2019; Heinz/ Spiess 2003.

<sup>95</sup> Cf. Police Crime Statistics Yearbooks, for example BKA 2020a, p. 25 ff.

<sup>96</sup> While in 2019, the offence rates per 100 000 of the population were more than 10 000 in Berlin (14 086), Hamburg (11 451) and Bremen (11 454), the rates were significantly lower than 10 000 for the southern German non-city states of Bavaria (4 615) and Baden-Württemberg (5 184).

<sup>97</sup> Cf. Neubacher 2020, p. 43.

<sup>98</sup> Cf. BKA 2020a, p. 26; for a critical assessment of media coverage of crime statistics findings, cf. Heinz 2004.

significance in any consideration and evaluation (for example, unemployment rate, divorce rate, welfare recipient rate).<sup>99</sup> In addition, it is presumed that, despite nationally standardised collection guidelines, different traditions in the federal states (*Länder*) and police stations regarding the collection of statistics contributed to the differences in police-registered crime at regional level.<sup>100</sup>

The change to transmitting individual PCS datasets from *Land* Criminal Police Offices to the *BKA* in 2008/2009, which included the transmission of the municipality code in the individual data sets, extended the *BKA*'s range of PCS geographical data to include district-level data.<sup>101</sup> Our ability to consider crime on the basis of geographical crime statistics is, meanwhile, facing new challenges. The Internet has created framework conditions for criminal acts that can be recorded or shown only inadequately using traditional PCS. This is the case, for example, when criminal offences are successfully committed in Germany from a foreign server but cannot be recorded by domestic statistics as these are based on the territorial and flag principle.<sup>102</sup>

### 2.2.4 Characterisation of and changes in unrecorded crime

In contrast to the statements in the First and Second Periodical Reports on Crime and Crime Control, which expressed regret for the lack of periodical national representative victim surveys based on large samples and indicated a need for them, the research situation in the Federal Republic of Germany has changed considerably in the last 15 years (see also section 2.6.1).<sup>103</sup> For example, funding was provided for research into unrecorded crime in the context of security research funded by the Federal Ministry of Education and Research. As well as other projects<sup>104</sup>, mention should be made here of the nationwide *German Victimisation Survey (Deutsche Viktimisierungssurvey, DVS)*, which was carried out in 2012 and 2017.<sup>105</sup> The federal state surveys carried out in Lower Saxony, North Rhine-Westphalia, Schleswig-Holstein, Mecklenburg-Western Pomerania and studies by LIEBL in Saxony and Hesse also deserve mention.<sup>106</sup> The findings on the extent and structure of unrecorded crime reproduced and described below are based exclusively on the 2017 German Victimisation Survey, however, due to its nationwide representativeness. They represent only a small part of the abundance of data collected and assessed.

The 2017 survey distinguished between and recorded victims' experiences of so-called *household offences* and *personal offences*.<sup>107</sup> In the case of the household offences, respondents were asked whether they or another person in their household had become the victim of such an offence, whereas in the case of personal offences, respondents were asked only about offences they had personally experienced. Respondents were asked if they (or members of their households) had been a victim of one of these offences in the last five years, i.e. the five years before 2017, and in the last 12

<sup>99</sup> For a detailed presentation of regional differences in violent crime, see 1st PRC 2001, p. 43 ff. The findings presented there remain fundamentally unchanged.

<sup>100</sup> 1st PRC 2001, p. 20.

<sup>101</sup> Tables on this subject can be retrieved from the *BKA* homepage ([bka.de/](http://bka.de/)).

<sup>102</sup> Under the territorial principle, a state may subject all offences committed within its territory to its criminal jurisdiction, cf. section 3 StGB. The flag principle states that the state whose flag is flown by a ship or whose national insignia are carried by an aircraft may apply its criminal jurisdiction to all offences committed on the ship or the aircraft, cf. section 4 StGB.

<sup>103</sup> An overview of victim surveys in Germany is to be found in Haverkamp 2019, p. 21 ff. For an overview of perpetrator surveys and longitudinal research in the field of criminology and criminal sociology, see Boers 2019.

<sup>104</sup> Another notable example is the project "Economic indicator system to measure security and security economics in Germany (WISIND)", cf. Bug et al. 2015, p. 259.

<sup>105</sup> The 2012 German Victimisation Survey was conducted in the context of the consortium project "Barometer of Security in Germany (BaSiD)". On this survey, see Haverkamp 2014; 2015a; 2015b; Birkel et al. 2014 and Birkel et al. 2016. On the results and methodology of the 2017 survey, see Birkel et al. 2019.

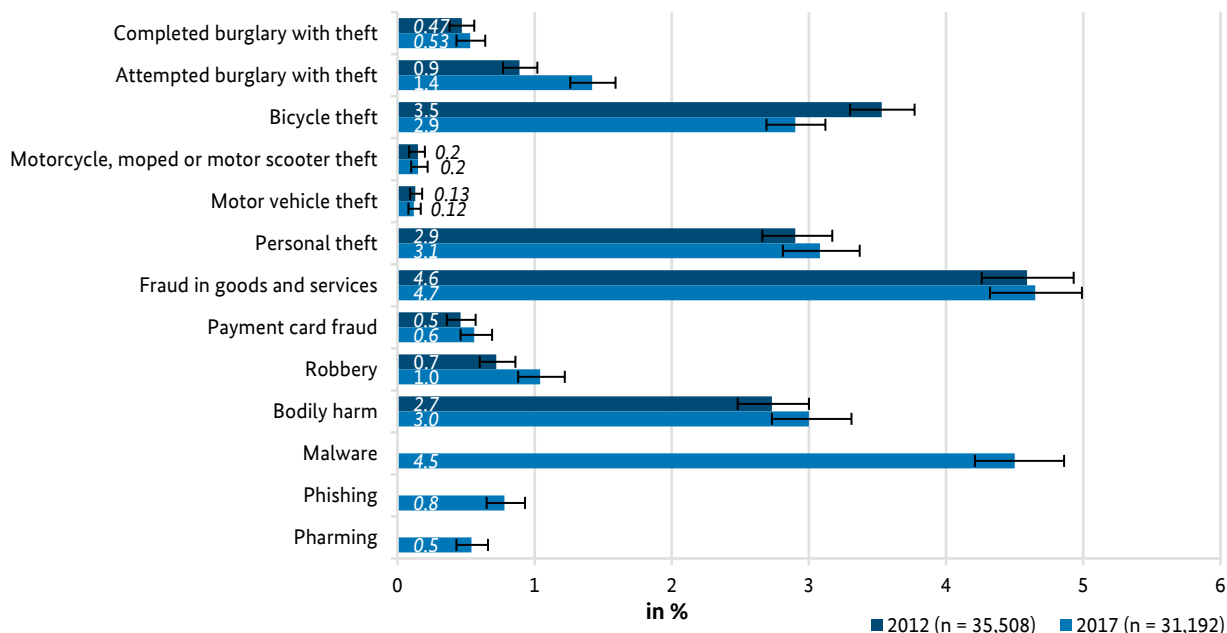
<sup>106</sup> Dreißigacker 2017; 2016; LKA Mecklenburg-Vorpommern et al. 2018a; 2018b; LKA Niedersachsen 2017; 2016; 2013; LKA Nordrhein-Westfalen 2020a; Liebl 2019.

<sup>107</sup> Birkel et al. 2019, p. 12 f. Household offences include the following: bicycle theft, motor vehicle theft, theft of motorbikes, motorised bicycles, mopeds or motor scooters; theft of other personal property, completed and attempted theft by burglary of a dwelling. Personal offences are deemed to be the following: personal theft, fraud in goods and services, payment card misuse, robbery, bodily harm, damage using malware, phishing and pharming.

## 2.2 Longitudinal and cross-sectional analysis of recorded and unrecorded crime

months preceding the interview.<sup>108</sup> The prevalence rate<sup>109</sup> for the 12 months preceding the interview is shown in Figure 6.

**Figure 6: Prevalence rates (percentage) in the last 12 months: Household and personal offences, 2012 and 2017 German Victimization Surveys**



Note: Based on the Chi-Square test, differences to 2012 figures are statistically significant at a probability of error below 5%, except for values in italics.

Source: Birkel et al. 2019, pp. 18 and 23.

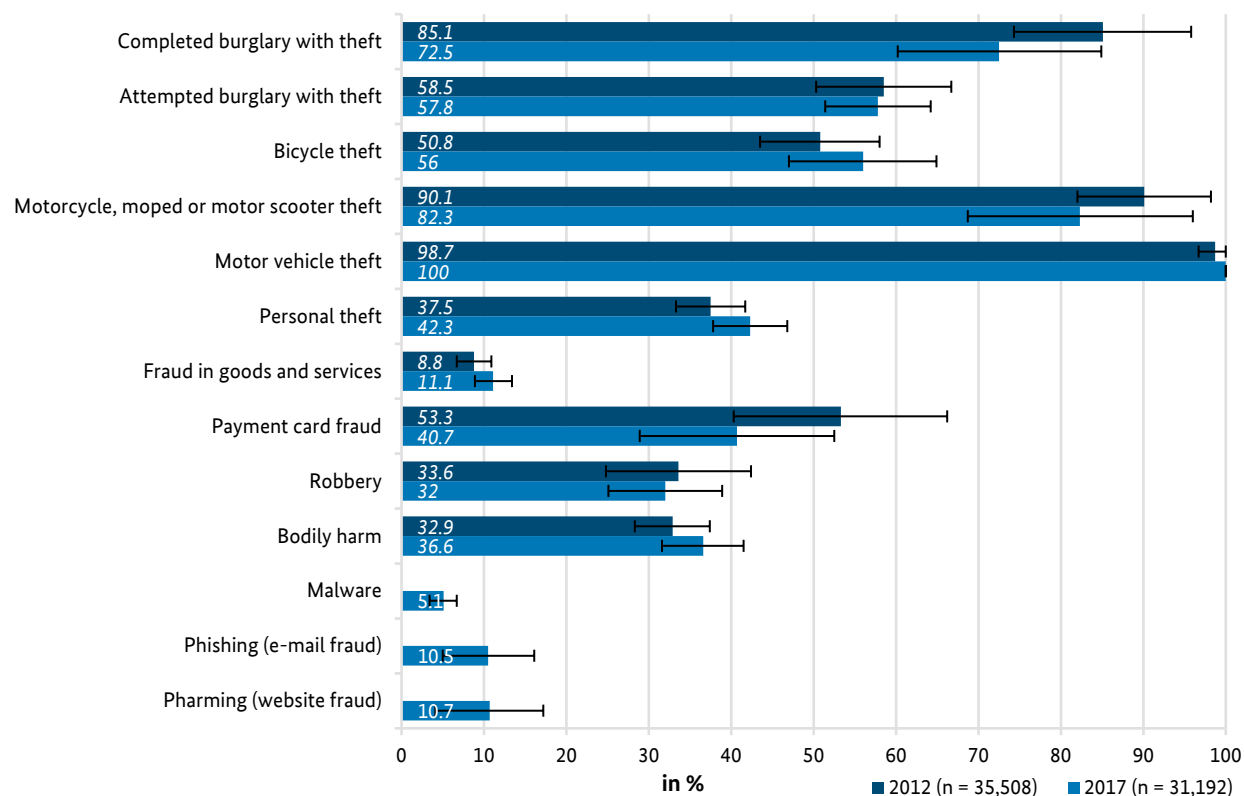
Of the *household offences*, the highest prevalence rate was for bicycle theft (2.9%). Of the *personal offences*, the highest prevalence rates were in the categories of fraud in goods and services (4.7%) and damage caused by malware (4.5%). With regard to the low levels of manifestation of phishing and pharming, it may be assumed that many cases go unnoticed by victims and are therefore not reported in interviews.<sup>110</sup> The prevalence rates thus give only an approximate impression of the scale of occurrence. “The same applies to fraud in goods and services. It must also be taken into account here that respondents may also report experiences of events that are irrelevant under criminal law, as the boundaries between questionable business practices that are still legal and illegal business practices are fluid.”<sup>111</sup>

<sup>108</sup> The 2017 survey interviews were conducted in the second half of 2017.

<sup>109</sup> The “prevalence rate” refers to the proportion of persons in the total population to whom a certain characteristic applies during a defined period. In the survey, the prevalence rates record the percentage of persons 16 and over living in Germany who have been the victim of a specific offence once or more within a given period. In the case of household offences, i.e. criminal offences where the entire household is affected by the victimisation experience, the prevalence rate refers to the relevant percentage of all private households in Germany.

<sup>110</sup> Dornseif 2005, p. 45 ff. Phishing means inducing someone to reveal passwords or similar information by means of fraudulent e-mails, while pharming means inducing someone to reveal passwords or similar information by redirecting them to fake websites.

<sup>111</sup> Birkel et al. 2019, p. 17.

**Figure 7: Reporting rates (percentage) in the last 12 months: Household and personal offences, 2012 and 2017 German Victimisation Surveys**

Note: Based on the Chi-Square test, differences to 2012 figures are statistically significant at a probability of error below 5%, except for values in italics.

Source: Birkel et al. 2019, p. 40 f.

As well as being asked about victimisation, respondents were also asked about their reporting behaviour in order to calculate reporting rates (Figure 7). The reporting rates for *household offences* were higher than those for *personal offences*. This is true for all of the offences surveyed in this category. The reporting rates for car (100%) and motorcycle theft (82.3%) as well as completed burglary (72.5%) were particularly high. Among *personal offences*, personal theft and payment card misuse were the most reported offences, each having a reporting rate of over 40%. In contrast, persons affected by fraud in goods and services and victims of cybercrime (malware, phishing and pharming) only reported the offences very rarely. When respondents were asked about their reasons for reporting a crime, their answers indicated the value-based origins of reporting behaviour. The most frequently mentioned reason for reporting an offence was “You should always report a crime”, while “So that it doesn’t happen again” and “So that the offender(s) is/are punished” were also selected frequently (each in over 80% of responses).<sup>112</sup> The sole exception is with regard to motorcycle theft: here, the respondents’ overriding motivation was the hope of retrieving the stolen item. Reporting an incident for the purpose of claiming damages is frequently given as a response with regard to those offences that are either typically linked to a high financial loss or where it is necessary to report the crime to the police in order to make a claim with an insurer.<sup>113</sup>

With regard to the link between victimisation and sex, the prevalence rate of the personal offences examined was always somewhat higher among men than women.<sup>114</sup> This is significantly noticeable in particular in the case of bodily injury offences (women 2% and men 4%) and malware (women

<sup>112</sup> Birkel et al. 2019, p. 42 f.

<sup>113</sup> Birkel et al. 2019, p. 43; Neubacher 2020, p. 41.

<sup>114</sup> A view differentiated on the basis of age and sex in connection with household offences is not appropriate, since the German Victimisation Surveys did not collect any information on the age and sex of other household members.



## 2.2 Longitudinal and cross-sectional analysis of recorded and unrecorded crime

3.9% and men 5.2%).<sup>115</sup> As well as a person's sex, their age is also relevant to the probability of becoming the victim of a crime. There were significant differences between the different age groups in relation to all criminal offences. The victimisation rate tends to decrease with increasing age.<sup>116</sup> It was also established "that in relation to certain crimes (fraud in goods and services, damage caused by malware), persons with a migrant background, sometimes varying by country of origin, [are] affected more frequently than Germans without a migrant background. Persons with a Turkish migrant background, however, are less frequently victims of payment card abuse than inhabitants without a migrant background."<sup>117</sup>

### Changes between 2012 and 2017

Since their data collection methods are the same, the results of the German Victimisation Survey deriving from the first survey in 2012 are comparable with those of the second survey in 2017. In particular, the following developments were identified:<sup>118</sup>

1. The percentage of persons who were victims of a robbery in the twelve months before the interview increased from 0.7% in 2012 to 1.0% in 2017.
2. The percentage of households in Germany from which at least one bicycle was stolen in the twelve months before the interview decreased from 3.5% in 2012 to 2.9% in 2017.
3. There was a rise in the proportion of households where a break-in attempt was made or where a break-in took place but nothing was stolen (from 0.9% to 1.4%). The proportion of households where theft by burglary of a dwelling was merely attempted is significantly higher than the proportion where the theft by burglary of a dwelling was completed (0.5%). This discrepancy was less pronounced in 2012.<sup>119</sup>

With regard to the other offence categories, no changes are evident when comparing the first and the second German Victimisation Surveys. Nor is there evidence of any changes in the reporting rate between the two survey periods, which suggests that there was no change in the ratio between recorded and unrecorded crimes in the offence categories under consideration.

### Geographic distribution of crime on the basis of the 2017 German Victimisation Survey

According to the 2017 survey data, the risk of becoming the victim of a criminal offence varies significantly, depending on the federal state and the offence. "For all offences, the data show variations across [...] states [...]. However, it must be taken into account that in some federal states only a few people were interviewed, which adversely affects the precision of the estimates. [...] a particularly large number of victims [...] is [...] shown in the city-states of Hamburg, Berlin and - to a slightly lesser extent - Bremen. Furthermore, high prevalence [...] rates can be observed in the heavily urbanised state of North Rhine-Westphalia as well as in the less urbanised state of Rhineland-Palatinate. The lowest rates occur in the eastern federal states and in Schleswig-Holstein."<sup>120</sup> The southern federal states generally have moderately high rates of victim experiences of crime.<sup>121</sup>

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<sup>115</sup> Cf. the tabular presentation in Birkel et al. 2019, p. 20.

<sup>116</sup> Birkel et al. 2019, p. 21; cf. also subchapter 2.6 on fear of crime and the fear of crime paradox.

<sup>117</sup> Birkel et al. 2019, p. 97.

<sup>118</sup> In the case of malware, phishing and pharming, a comparison is not possible, since these offences were not yet part of the 2012 survey.

<sup>119</sup> Birkel et al. 2019, pp. 18 and 23.

<sup>120</sup> Birkel et al. 2019, p. 36. Cf. also the figures in Birkel et al. 2019, pp. 31-36.

<sup>121</sup> Birkel et al. 2019, p. 97.

## 2.3 Longitudinal and cross-sectional development of crime control by public prosecution offices and courts

As described in section 2.1.2 above, there are filtering processes in formal crime control. These are also evident in the reactions of the public prosecution offices and the courts. Public prosecution offices dismiss a considerable proportion of proceedings, for example, and not all criminal proceedings in court end with a conviction.<sup>122</sup>

### 2.3.1 Approach and decisions of public prosecution offices

The results of police investigation registered in the PCS as outgoing statistics are provisional in view of further criminal proceedings.<sup>123</sup> This is because the public prosecution office decides whether it will prefer public charges (section 170 (1) of the Code of Criminal Procedure (*Strafprozessordnung*, StPO)), apply for a summary penalty order (section 407 StPO) or whether the proceedings are to be terminated on account of insufficient grounds for suspicion (section 170 (2) StPO), for discretionary reasons (sections 153, 153a StPO) or, in respect of offences open to private prosecution, if it is not in the public interest (sections 374, 376 StPO). Termination for discretionary reasons takes place, for example, when a less serious criminal offence (*Vergehen* - misdemeanour) is the subject of the proceedings and the offender's guilt is considered to be minor (section 153 StPO) or when non-prosecution is subject to the imposition of conditions and directions (section 153a StPO).

In 2019, approximately 4.9 million investigation proceedings were concluded by public prosecution offices in the Federal Republic of Germany<sup>124</sup> against a total of approximately 5.6 million known suspects.<sup>125</sup> 81.8% of these proceedings by the public prosecution authorities were initiated by police stations, and a further 14.3% were initiated by the public prosecution authorities themselves. Proceedings were only rarely initiated by tax or customs investigation authorities or other administrative authorities, however. In 2019, a total of less than 4% of proceedings were initiated by these authorities. As in previous years,<sup>126</sup> the situation is a little different with regard to economic and tax crimes and money laundering offences: proceedings in these cases were most frequently initiated by the public prosecution office (40.8%). Tax investigation/customs investigation offices also initiated proceedings significantly more frequently than in the case of the other offence categories.

A total of 20.0% of investigation proceedings by the public prosecution office in 2019 were concluded by bringing charges in the wider sense or by an application to issue a penal order. A further 56.7% of proceedings were terminated for a variety of reasons<sup>127</sup> and 23.3% were concluded in some

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<sup>122</sup> For an overview of the judicial statistics, cf. subchapter 1.3.

<sup>123</sup> Cf. section 2.1.2.

<sup>124</sup> The representation of decisions by public prosecution offices relates to the investigation proceedings concluded by public prosecution offices at regional courts and public prosecution offices with a right of audience before the local courts. Investigation proceedings concluded by public prosecution offices at higher regional courts (of which there are few in relation to the above) are not included. On this subject, see: Staatsanwaltschaftsstatistik 2019, tables 5.1–6.2.

<sup>125</sup> Staatsanwaltschaftsstatistik 2019, tables 2.1.2 and 2.4.1. The number of persons affected by investigation proceedings is higher than the number of proceedings since proceedings by the public prosecution office may be directed against several accused persons: Staatsanwaltschaftsstatistik 2019, p. 11.

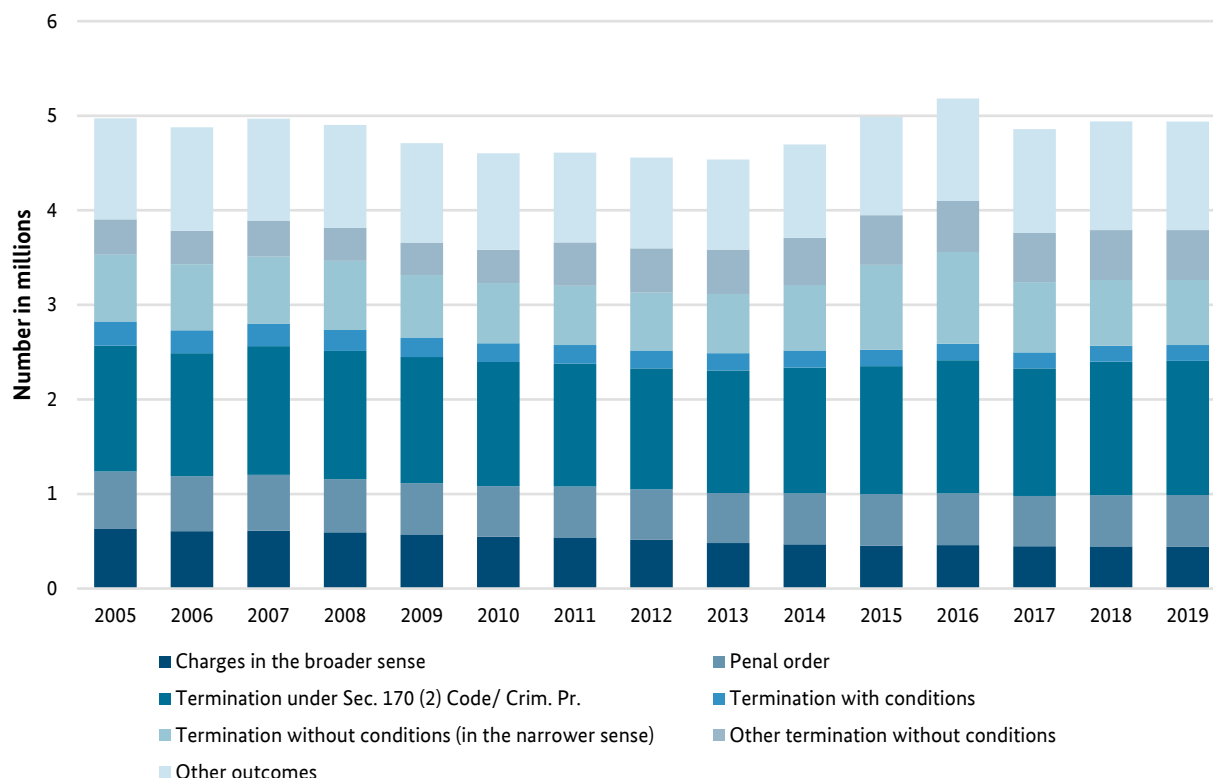
<sup>126</sup> cf. 2nd PRC 2006, p. 537.

<sup>127</sup> For types of terminations, cf. the legend on Figure 8; for the clear-up structure for offences against property and assets, criminal road traffic offences and other criminal offence categories, see, for example, Baumann 2015, 84 f.; RatSWD 2020, p. 25.

### 2.3 Longitudinal and cross-sectional development of crime control by public prosecution offices and courts

other way, for example by transferring them to another public prosecution office or referring to the possibility of a private prosecution (see Figure 8).<sup>128</sup>

**Figure 8: Investigation proceedings dealt with by public prosecution offices at regional courts and investigation proceedings concluded by public prosecution offices with a right of audience before the local courts, against known suspects, by outcome - Germany 2005 to 2019<sup>129</sup>**



Source: Staatsanwaltschaftsstatistik (public prosecution office statistics) 2005 to 2019, special evaluation by the Federal Statistical Office (Statistisches Bundesamt).

Explanatory notes: **Charges in the broader sense:** Charges before the local or regional court, application to open a procedure for preventive detention, application to carry out an objective procedure, application for a decision to be taken in accelerated proceedings (section 417 StPO), application for the simplified procedure for matters involving juveniles (section 76 JGG). **Penal order:** Application for the issuance of a penal order. **Termination in accordance with section 170 (2) StPO:** Termination in accordance with section 170 (2) StPO and termination due to lack of criminal responsibility. **Termination with conditions:** Termination in accordance with section 153a (1) StPO, section 45 (3) JGG, section 37 (1) of the Narcotics Act (*Betäubungsmittelgesetz*, BtMG) or section 38 (2) in conjunction with section 37 (1) BtMG. **Terminations without conditions (in the narrower sense):** Termination in accordance with sections 153 (1), 153b (1) StPO/section 29 (5) BtMG, section 45 (1) and (2) JGG, section 31a (1) BtMG. **Other terminations without conditions:** Termination in accordance with sections 154b (1) to (3) StPO, 154c StPO, 153c StPO, 154d and 154e StPO, 154f StPO (since 2011),<sup>130</sup> section 154 (1) StPO. **Other outcomes:** Referral to the possibility of a private prosecution, transferral of the case to the administrative authority as a regulatory offence (sections 41 (2), 43 of the Act on Regulatory Offences, *Gesetz über Ordnungswidrigkeiten*, OWiG), transferral to another public prosecution office, temporary discontinuation, joinder with another case, other outcome.

As Figure 8 highlights, how public prosecution offices in Germany dealt with proceedings remained comparatively stable between 2005 and 2013, with a slight fall in the numbers of proceedings from

<sup>128</sup> 2nd PRC 2006, p. 537. The public prosecution office business statistics also record other business, including the number of reports received against unknown perpetrators: see Staatsanwaltschaftsstatistik 2019, table 1.1.; on this subject: Baumann 2015, p. 76.

<sup>129</sup> 2012: data for Berlin from 2011.

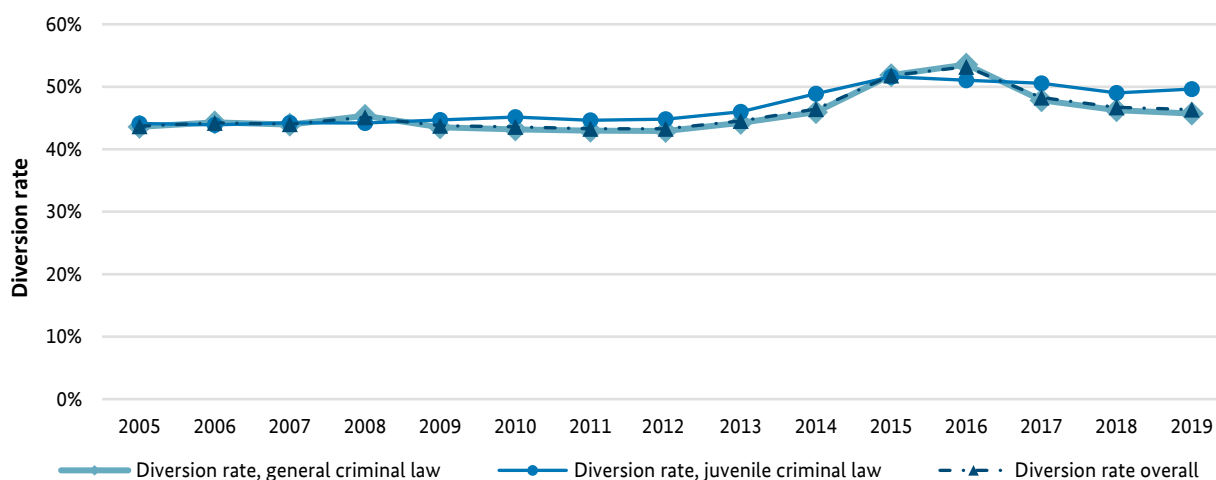
<sup>130</sup> The increase in the category "Other terminations without conditions" between 2010 and 2011 is due to the fact that since 2011, the newly-created section 154f StPO (Termination in case of temporary obstacles) has been classified as a separate outcome and the public prosecution business statistics categorise such terminations as terminations without conditions.

### 2.3 Longitudinal and cross-sectional development of crime control by public prosecution offices and courts

2008.<sup>131</sup> Between 2014 and 2016, however, there was a noticeable increase in the number of proceedings and of terminations without conditions (in the narrower sense). This is analysed in more detail below.

The *diversion rate* shown in Figure 9 measures the proportion of terminations (with and without conditions) of investigation proceedings in which it would have been possible to prefer charges. The investigation proceedings in which it is possible to prefer charges include charges in the wider sense, applications for the issue of a penal order, terminations with conditions and terminations without conditions (in the narrower sense).<sup>132</sup>

**Figure 9: Diversion rates under general criminal law and juvenile criminal law in relation to investigation proceedings in which it would have been possible to prefer charges - Germany 2005 to 2019<sup>133</sup>**



Source: Staatsanwaltschaftsstatistik (public prosecution office statistics) 2005 to 2019, special evaluation by the Federal Statistical Office (Statistisches Bundesamt).<sup>134</sup>

The diversion rate remained fairly constant between 2005 and 2013; between 43% and 45% of the investigation proceedings in which it would have been possible to prefer charges were terminated by the public prosecution office. In recent years, particularly 2015 and 2016, however, higher diversion rates were recorded, both under juvenile criminal law<sup>135</sup> and general criminal law. The termination of criminal proceedings, diversion, is a manifestation of the so-called principle of discretionary prosecution, which limits the principle of mandatory prosecution, the general obligation to prosecute. *Juvenile criminal proceedings* are further limited by the principle of subsidiarity. According to this principle, charges may only be brought if an informal approach by the prosecution office does

<sup>131</sup> See also: Baumann 2015, 80.

<sup>132</sup> The outcome categories “termination in accordance with section 170 (2) StPO”, “other outcomes” and “other terminations without conditions” are not counted as proceedings in which it is possible to prefer charges: 2nd PRC, p. 541.

<sup>133</sup> Public prosecution offices at the regional courts including public prosecution office with a right of audience before the local courts. 2012: data for Berlin from 2011.

<sup>134</sup> Diversion rate youth criminal law: proportion of cases of non-prosecution under section 45 (1), (2) and (3) JGG in investigation proceedings in which it would have been possible to prefer charges under youth criminal law. Diversion rate general criminal law: proportion of cases of termination under sections 153 (1), 153b (1) StPO/section 29 (5) BtMG, section 31a (1) BtMG, section 153a (1) StPO, section 37 (1) BtMG or section 38 (2) in conjunction with section 37 (1) BtMG in investigation proceedings in which it would have been possible to prefer charges under general criminal law. At least the provision of section 37 BtMG is also applicable to juveniles and young adults aged between 18 and 21 who are treated as juveniles under juvenile criminal law (cf. section 38 (2) BtMG). In the case of section 31a BtMG and sections 153, 153a StPO, the applicability in youth criminal law is disputed, see, for example, BeckOK-JGG/Schneider, section 45 recital 12, 17 ff. with further references. Thus, it is possible that the proportion of cases of termination under general criminal law is somewhat overestimated in Figure 9.

<sup>135</sup> Juvenile criminal law is applied to offenders who, at the time of the offence, were juveniles (14 to 17 years of age) and, if the conditions of section 105 JGG are met, also to offenders who, at the time of the offence, were young adults (18 to 20 years of age).

not suffice, and, in the context of court proceedings, formal sanctions should only be used in response if this appears necessary in a particular case (sections 45, 47 JGG). In juvenile criminal proceedings, diversion pursues the idea of reacting as quickly as possible in a non-stigmatising way.<sup>136</sup> Juvenile criminal law is based on the idea of education and prevention, primarily with a view to preventing re-offending. It thus provides a differentiated multi-stage reaction system to react adequately when young people commit a criminal offence.<sup>137</sup>

In 2015 and 2016, more than half of all proceedings in which it would have been possible to prefer charges were terminated. This effect is connected with the increase in the number of residence-related investigation proceedings during this period.<sup>138</sup> From 2014 to 2015, the number of investigation proceedings concluded in connection with criminal offences under the Residence Act (*Aufenthaltsgesetz*, *AufenthG*), Asylum Act (*Asylgesetz*, *AsylG*) and Freedom of Movement Act/EU (*Freizügigkeitsgesetz/EU*, *FreizügG/EU*) more than doubled (increase by 115% to approx. 375 000 proceedings).<sup>139</sup> In 2015, these subject areas accounted for 7.5% of all proceedings concluded, and in 2016 for as many as 8.5%.<sup>140</sup> The increase in residence-related investigation proceedings had an effect on the one hand on the total number of proceedings concluded by the public prosecution offices (see Figure 8), and on the other hand on the frequency of terminations; the police and public prosecution offices have a statutory obligation to investigate on the basis of the principle of mandatory prosecution (section 152 (2) StPO and sections 160, 163 StPO), for example, cases where there is a suspicion that a person does not have the necessary residence title or that their title is invalid (section 95 *AufenthG*). Usually, however, the proceedings are terminated by the public prosecution office: 97.6% of proceedings in which it would have been possible to prefer charges on the basis of residence-related criminal offences were terminated in 2016. The overwhelming majority of these terminations were unconditional terminations in accordance with section 153 (1) StPO (or section 45 (1) JGG in juvenile criminal law).<sup>141</sup> This effect, which increased the number of proceedings, flattened out again after 2016. Thus, in 2019, there were still 194 000 and in 2018 approx. 191 000 residence-related proceedings (3.9% of all proceedings in the respective years) in comparison with approx. 207 000 in 2017 and approx. 439 000 in 2016.

With regard to the diversion rate, there are significant regional differences between the federal states. In 2019, for example, the diversion rate ranged from 33.6% in Saxony to 62.2% in Hamburg.<sup>142</sup> Such differences may be due to the fact that offence and suspect structures vary by region.<sup>143</sup> The fact that differences in the structure of cases concluded have remained largely stable for years may also suggest that regional traditions have developed in the public prosecution offices over a long period of time which are also evident in the structures of cases concluded.<sup>144</sup> A more recent study also provides evidence that diversion rates not only vary between federal states, but that they also show a considerable range at the regional court district level in some non-city states.<sup>145</sup>

## 2.3.2 Remand detention

Remand detention is temporary deprivation of liberty which is intended to ensure that criminal proceedings take place (section 112 et seqq. StPO). In 2019, 29 567 defendants adjudicated and 27 990

<sup>136</sup> Cf., for example, Streng 2020, p. 93 f.

<sup>137</sup> Cf. Statistisches Bundesamt 2015, p. 22; Ostendorf/Drenkhahn 2020, p. 59 ff.

<sup>138</sup> For details: Heinz 2017, p. 75 ff.

<sup>139</sup> Staatsanwaltschaftsstatistik 2014 and 2015, table 2.1.2, own calculations.

<sup>140</sup> Staatsanwaltschaftsstatistik 2015 and 2016, table 2.1.2, own calculations.

<sup>141</sup> Staatsanwaltschaftsstatistik 2016, table 3.8.1, own calculations.

<sup>142</sup> Staatsanwaltschaftsstatistik 2019, table 2.2.1.1, own calculations.

<sup>143</sup> Particularly in 2015 and 2016, regional differences in how cases were dealt with may also have been influenced by an above-average number of residence-related investigation proceedings. See, for example, for Bavaria: Heinz 2017, p. 78.

<sup>144</sup> 2nd PRC 2006, p. 539.

<sup>145</sup> Heinz 2020, p. 788 ff.; Kleinbrahm 2015, p. 209 ff.

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defendants convicted<sup>146</sup> had previously been in *remand detention*.<sup>147</sup> As in previous years, by far the most frequent ground for arrest was that the accused was at large or there was a risk of flight (section 112 (2) nos. 1, 2 StPO).<sup>148</sup> The remand detention rate of defendants convicted rose from 2.9% in 2007 to 4.0% in 2018 and 3.8% in 2019.<sup>149</sup> There was a marked increase in the number of convictions under juvenile criminal law. This has resulted in a higher remand detention rate in the case of these convictions in recent years than for convictions under general criminal law.<sup>150</sup>

### 2.3.3 Court proceedings

If proceedings are brought before a court by the public prosecution office through bringing charges or through an application to issue a penal order, it is highly likely that they will end with a final and binding judgment (or a penal order). Of a total of 891,795 adjudications<sup>151</sup> in 2019, 81.7% were convictions.<sup>152</sup> Courts terminated proceedings in just 15.3% of cases, and in a further 2.8% of cases, there was an acquittal;<sup>153</sup> the other proceedings were concluded in other ways.<sup>154</sup> The proportion of adjudications where the outcome was a conviction (conviction rate) was significantly higher under general criminal law (84.2%) than under juvenile criminal law (61.6%). Thus, in juvenile criminal law, court terminations of proceedings are more significant than in general criminal law. Approximately one third of adjudications under juvenile criminal law in 2019 were discontinuations of proceedings under section 47 JGG.<sup>155</sup>

#### 2.3.3.1 Defendants convicted with main sentence under general criminal law

A *fine* is by far the most frequent sanction imposed under general criminal law. For decades, the proportion of defendants convicted who were sentenced to pay a fine remained large - at least 80%. That is particularly significant since, as shown in the 2nd PRC, there was a considerable increase in the number of proceedings that were terminated.<sup>156</sup> For comparatively minor criminal offences in

<sup>146</sup> Persons adjudicated or convicted more than once in one year are counted more than once: Strafverfolgungsstatistik 2019, p. 13. Thus, this is basically the number of adjudications or convictions.

<sup>147</sup> Strafverfolgungsstatistik 2019, table 6.2.

<sup>148</sup> Strafverfolgungsstatistik 2019, table 6.1.; see also Jehle 2019, p. 23.

<sup>149</sup> Concerning developments in remand detention rates in previous years: 2nd PRC 2006, p. 550 ff.; Heinz 2017, p. 151 ff.; concerning the data situation and the duration of remand detention: RatSWD 2020, p. 32 f.; Jehle 2019, p. 24; concerning differentiation according to criminal offence: Heinz 2017, p. 153.

<sup>150</sup> Concerning developments in juvenile criminal law: 2nd PRC 2006, p. 550 f.; for a critical view on the existence of the given grounds for arrest: Ostendorf/Drenkhahn 2020, p. 109. When terminations of proceedings by the public prosecution offices and courts are taken into account, the remand detention rate in juvenile criminal cases is lower than in general criminal cases. Data until 2015 are to be found in Heinz 2017, p. 151 f. However, criminal offences suitable for diversion can hardly warrant ordering remand detention. To this extent, such calculations systematically underestimate the remand detention rate: 2nd PRC 2006, p. 550.

<sup>151</sup> The number of adjudications is compiled from the number of convictions and other court rulings (court termination of criminal proceedings, acquittal, dispensing with punishment, ordering measures of reform and prevention [on their own or in addition to acquittal and dismissal] and referral to the family judge [formerly guardianship judge] under section 53 JGG). On this subject, cf.: Strafverfolgungsstatistik 2019, p. 13 ff. and table 2.2.

<sup>152</sup> In the case of convictions under general criminal law, custodial sentences, military disciplinary confinement or a fine were imposed (in a final and binding judgment or by means of a final and binding penal order). In the case of convictions under juvenile criminal law, the criminal offence was punished by juvenile detention, disciplinary measures or supervisory measures in a final and binding judgment: cf. Strafverfolgungsstatistik 2019, p. 13 ff. The criminal prosecution statistics in 2019 recorded a total of 669 784 convictions under general criminal law and 59 084 convictions under juvenile criminal law: Strafverfolgungsstatistik 2019, table 2.2.

<sup>153</sup> Here, only acquittals without orders of disciplinary measures of reform and prevention are counted.

<sup>154</sup> The conviction rate (i.e. the proportion of adjudications that are convictions) was similar to that in 2009 (80%) and 2012 (81%): Statistisches Bundesamt 2011, p. 12; 2015, p. 14.

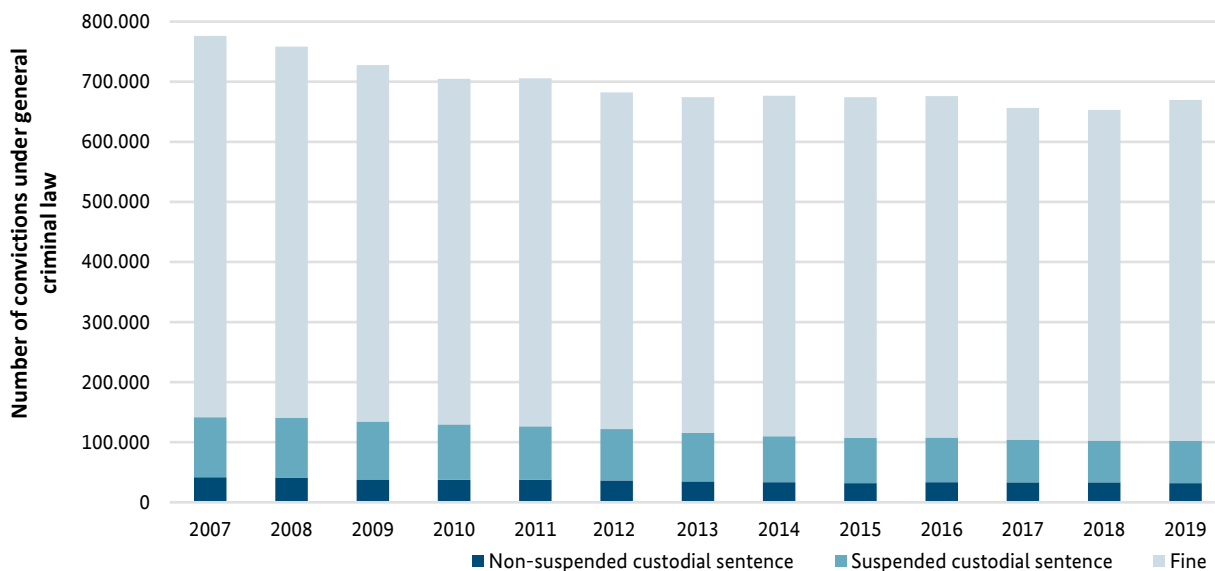
<sup>155</sup> Strafverfolgungsstatistik 2019, table 2.2, own calculations.

<sup>156</sup> 2nd PRC 2006, p. 568.

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particular, both terminations for discretionary reasons and fines are possible.<sup>157</sup> The continuing major importance of fines is also reflected in Figure 10: while the total number of convictions under general criminal law fell by nearly 14% in comparison with 2007, the proportion of fines rose slightly, from 81.7% to 84.7%.<sup>158</sup>

**Figure 10: Development of sanctioning practice relating to convictions under general criminal law - Germany 2007 to 2019**



Source: Strafverfolgungsstatistik (criminal prosecution statistics) 2007 to 2019, special assessment by the Federal Statistical Office (*Statistisches Bundesamt*).<sup>159</sup>

The fine is calculated on the basis of the number and amount of daily rates imposed. The number of daily rates reflects the offender's guilt (cf. section 46 StGB). Although the law provides for a regular sentencing range for fines of between five and 360 daily rates (section 40 (1) sentence 2 StGB), more than 90 daily rates are rarely imposed (8.8% of fines in 2019).<sup>160</sup> The amount of the daily rate (up to 30,000 euro) is based on the offender's personal and financial situation (section 40 (2) StGB). As in previous years, the amount of the daily rates in 2019 was almost always (in 94.4% of cases) between 5 and 50 euro.<sup>161</sup> In practice, daily rates of more than 1,000 euro are only imposed in isolated cases.<sup>162</sup> In total, the fines imposed with final and binding effect in 2019 amounted to approx. 705 million

<sup>157</sup> 2nd PRC 2006, p. 568. In 2019, for example, a fine was imposed in 94.9% of convictions for road traffic offences under general criminal law: Strafverfolgungsstatistik 2019, tables 2.3 and 3.3, own calculations. In this offence category, the imposition of fines by means of a procedure for penal orders (without an oral hearing) plays a considerable role: Statistisches Bundesamt 2015, p. 27. On the subject of the frequency of penal orders in Baden-Württemberg and North Rhine-Westphalia, for example: RatSWD 2020, p. 30.

<sup>158</sup> On regional differences, see, for example, Statistisches Bundesamt 2015, p. 26 f.; Strafverfolgungsstatistik 2007 and 2019, tables 2.3., 3.3., 3.2.1 in each case. An overall view of the development of informal reactions (terminations for discretionary reasons) and formal sanctions (convictions) is to be found, for example, in Heinz 2017, p. 91 f.

<sup>159</sup> Custodial sentence with and without probation, including military disciplinary confinement with and without suspension (individual cases). This military custodial sentence, which may be imposed on members of the Federal Armed Forces (*Bundeswehr*), is of no significance in terms of numbers: Statistisches Bundesamt 2015, p. 26.

<sup>160</sup> Strafverfolgungsstatistik 2019, table 3.3, own calculations. On these developments: 2nd PRC 2006, p. 568; Heinz 2017, p. 113. In accordance with section 32 (2) no. 2 (a) of the Act on the Central Criminal Register and the Educative Measures Register (*Bundeszentralregistergesetz*, BZRG), convictions leading to imposition of a fine of no more than 90 daily rates are not recorded in a certificate of good conduct when no other sentence has been entered in the register. There are exceptions to this provision in section 32 (3) to (5) BZRG.

<sup>161</sup> Not including fines with more than 360 daily rates,  $n = 216$ : Strafverfolgungsstatistik 2019, table 3.3, own calculations. On these developments: Heinz 2017, p. 114.

<sup>162</sup> Special evaluation of Strafverfolgungsstatistik (criminal prosecution statistics) data for 2017, 2018 and 2019.

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euro; the average amount imposed was 900 euro.<sup>163</sup> Short *terms of imprisonment* of less than six months are only imposed instead of a fine as a last resort. They may only be imposed “where special circumstances exist, either in the offence or the offender’s character, which strictly require the imposition of imprisonment either to have an influence on the offender or to defend the legal order” (section 47 (1) StGB). Otherwise, a fine is to be imposed.<sup>164</sup> Nevertheless, the proportion of terms of imprisonment of less than six months in 2019, as shown in Table 1 below, was 24.0%.<sup>165</sup> The imposition of a term of imprisonment is possible - especially in case of serious or repeated criminal offences. The minimum term of a fixed-term period of imprisonment is one month, the maximum term 15 years (section 38 StGB). Life sentences are generally imposed for murder.<sup>166</sup> In the majority of the 102 541 final and binding sentences to a term of imprisonment, the duration of imprisonment imposed was no more than two years.

**Table 1: Length of sentence in the case of defendants sentenced to custodial sentences - Germany 2019.**

Number of defendants sentenced to custodial sentences	of whom the custodial sentence had a duration of ... (in %)					Military disciplinary confinement
	less than 6 months	between 6 months and a year	> 1 year to 2 years	> 2 years to 15 years	life	
102 541	24.0%	45.8%	20.6%	9.5%	0.1%	0.0%

Source: Strafverfolgungsstatistik (criminal prosecution statistics) 2019, table 3.1, own calculations by the BfJ.

Enforcement of a sentence of imprisonment not exceeding two years may be suspended under section 56 StGB if the defendant’s social prognosis is favourable.<sup>167</sup> In general criminal law, a *suspended prison sentence* is the second-most frequent sanction after a fine. In 2019, as in previous years, enforcement of the majority of prison sentences (68.8%) was suspended.<sup>168</sup> In 2019, out of a total of 102 541 convictions including a prison sentence under general criminal law, a total of 70 522 were suspended.<sup>169</sup>

### 2.3.3.2 Defendants convicted with main sentence under juvenile criminal law

In the case of *convictions under juvenile criminal law*, the court has a broad range of criminal-law reactions at its disposal - from supervisory measures<sup>170</sup> and disciplinary measures not administered in

<sup>163</sup> Special evaluation of Strafverfolgungsstatistik (criminal prosecution statistics) data for 2019. The figures relate to the median; the arithmetic mean is 1242.94 euro. Values for 2012 are to be found in: Statistisches Bundesamt 2015, p. 27.

<sup>164</sup> 2nd PRC 2006, p. 572.

<sup>165</sup> See also: Statistisches Bundesamt 2015, p. 27; cf. Streng 2012, p. 81 ff. on approaches to explaining this; for example, the courts imposed short custodial sentences in the case of re-offending, contrary to the provisions of section 47 StGB.

<sup>166</sup> 2nd PRC 2006, p. 613.

<sup>167</sup> For details of the purpose and conditions of suspension: Jehle 2019, p. 34.

<sup>168</sup> Strafverfolgungsstatistik 2019, table 3.1, own calculations (including military disciplinary confinement). Taking only custodial sentences with a term of up to two years (and military disciplinary confinement) into account - since only these sentences may be suspended (section 56 StGB) - the suspension rate is higher, of course (76.1% of all custodial sentences that may be suspended).

<sup>169</sup> Strafverfolgungsstatistik 2019, table 3.1 (including military disciplinary confinement).

<sup>170</sup> Supervisory measures are, in accordance with section 9 et seqq. JGG, instructions and orders to accept supervisory assistance. Section 10 (1) sentence 3 JGG specifies examples of instructions (for example, to accept a place on a social training course). It is also admissible for judges to issue more detailed instructions, however. Cf. Ostendorf/Drenkhahn 2020, p. 145 ff.



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prison (*ambulante Zuchtmittel*)<sup>171</sup> to youth detention (*Jugendarrest*)<sup>172</sup> and juvenile detention (*Jugendstrafe*) (with or without probation).<sup>173</sup> Most supervisory measures and disciplinary measures can be ordered together (section 8 (1) JGG), and the youth courts make frequent use of this possibility.<sup>174</sup> Instructions, conditions and supervision by a social worker may be ordered in combination with juvenile detention (section 8 (2) sentence 1 JGG). If convictions under juvenile criminal law are considered exclusively in terms of the most serious penalty imposed, disciplinary measures (including youth detention) were the most frequent in 2019, at 71.1%. The fact that work duties can be imposed as a disciplinary measure contributes to the frequent imposition of disciplinary measures.<sup>175</sup> In 15.6% of convictions, juvenile detention was imposed, and in a further 13.3%, supervisory measures were the most severe sanction. Supervisory measures are usually instructions under section 10 JGG which regulate how juveniles convicted conduct their life, and which are thus intended to promote and guarantee their being reformed.<sup>176</sup>

Upon fulfilment of the conditions set out in section 16a JGG, it has been possible since 2013<sup>177</sup> to impose youth detention in addition to juvenile detention if the imposition or execution of the youth penalty is suspended (section 8 (2) sentence 2 JGG).<sup>178</sup> This type of youth detention under section 16a JGG, also called “warning shot detention”<sup>179</sup> (frequently, albeit not in accordance with the statutory conditions for ordering it), has been included in criminal prosecution statistics since the statutory amendment came into force (reference year 2013). For 2019, these statistics show 625 convictions which included the imposition of one youth detention under section 16a JGG.<sup>180</sup> Differences to research findings using other data sources<sup>181</sup> are due, firstly, to guilty verdicts under section 27 JGG not being included as adjudications/convictions in the criminal prosecution statistics.<sup>182</sup> Secondly, it also appears possible that cases under section 16a JGG were under-reported in the criminal prosecution statistics. For the reference year 2020, there was a change in the method for recording cases under section 16a JGG in the criminal prosecution statistics, introducing a distinction on the basis of the duration of detention under section 16a JGG and improving documentation of cases under section 16a JGG.

In 2019, a total of 9218 instances of juvenile detention were imposed. The majority were suspended (59.3%). In the case of nearly half of all instances of juvenile detention (suspended and not suspended) a period of between six months (minimum juvenile detention) and a year was imposed (46.2%), and in the case of a further 37.7% a period of more than one year and up to two years was imposed. In 2012, the maximum juvenile detention duration for young adults aged between 18 and 20 was raised from ten to 15 years (section 105 (3) sentence 2 JGG) for murder in cases where their

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<sup>171</sup> Reprimands under section 14 JGG and conditions under section 15 JGG. Conditions include making good for damage, apologising to the aggrieved person, performing certain work tasks, or paying a sum of money to a charitable organisation; for details, cf. Streng 2020, 200 ff.

<sup>172</sup> Section 16 JGG. A distinction is made between short-term detention, detention during leisure time and long-term detention. Further comments are to be found in: Streng 2020, p. 206. Cf. a comprehensive account of youth detention: Ernst 2020.

<sup>173</sup> For an overview, cf. Streng 2020, p. 127 ff.

<sup>174</sup> Taking into account all reactions imposed under juvenile criminal law, on their own or in combination (juvenile detention, supervisory measures and disciplinary measures), 42.5% of defendants convicted under juvenile criminal law in 2019 were sentenced to at least one supervisory measure and 72.3% were (also) sentenced to at least one disciplinary measure, cf. Strafverfolgungsstatistik 2019, tables 2.3 and 4.3, own calculations. Cf. also 2nd PRC 2006, p. 559 f.

<sup>175</sup> For more details on judicial practice in juvenile criminal law, cf. 2nd PRC, p. 559 ff.; Ostendorf/Drenkhahn 2020, p. 170 ff.

<sup>176</sup> On regional differences: Statistisches Bundesamt 2015, p. 22 f.

<sup>177</sup> The provision entered into force on 7 March 2013, cf. Act extending the courses of action available to the youth courts (*Gesetz zur Erweiterung der jugendgerichtlichen Handlungsmöglichkeiten*) of 4 September 2012, Federal Law Gazette (*Bundesgesetzblatt*) I 2012, p. 1854.

<sup>178</sup> The introduction of such a provision has been disputed among criminological experts since the 1980s. For a short summary of the arguments, cf. Klatt et al. 2016, p. 12 ff.

<sup>179</sup> See, for example: Gernbeck et al. 2013.

<sup>180</sup> Strafverfolgungsstatistik 2019, table 4.3.

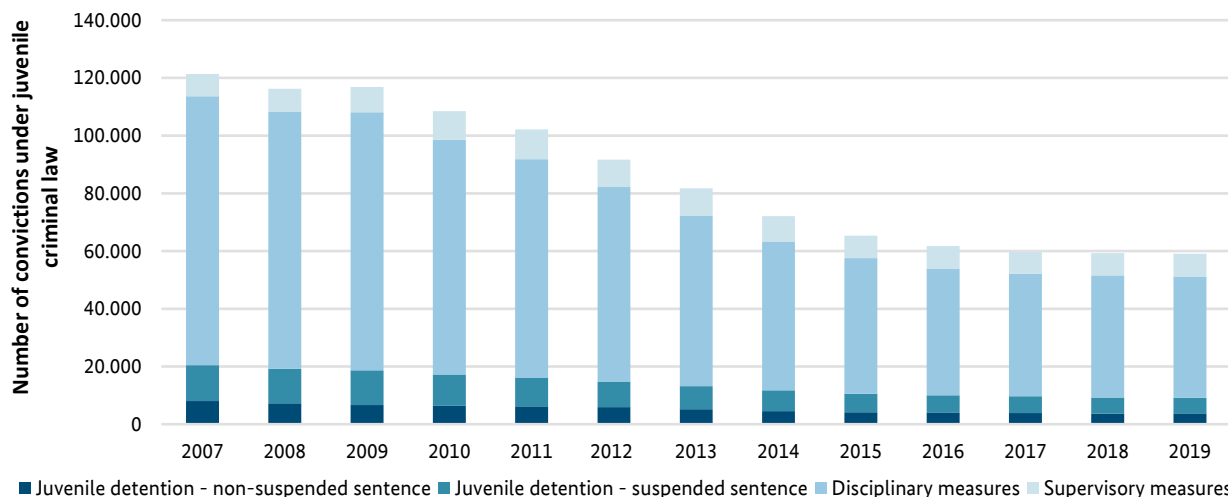
<sup>181</sup> On this subject: Klatt et al. 2016, p. 32 ff.

<sup>182</sup> The number of decisions under section 27 JGG is shown separately in table 2.2 of the criminal prosecution statistics.

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guilt was particularly severe.<sup>183</sup> The criminal prosecution statistics for 2019 do not record any final and binding conviction involving such a long youth penalty.<sup>184</sup>

**Figure 11: Development of sanctioning practice relating to convictions under juvenile criminal law - Germany 2007 to 2019**



Source: Strafverfolgungsstatistik (criminal prosecution statistics) 2007 to 2019, special assessment by the Federal Statistical Office (*Statistisches Bundesamt*).

With regard to the development of juvenile sanctioning practice from 2007 to 2019<sup>185</sup>, the fall in the overall numbers of convictions under juvenile criminal law is particularly conspicuous. Whereas in 2007, more than 120,000 juveniles and young adults aged between 18 and 20 were convicted under juvenile criminal law, this number had fallen by approximately half by 2019 (to just under 60,000).<sup>186</sup> This reduction is considerably greater than that of convictions under general criminal law (cf. Figure 10). The basic frequency distribution of sanctions in connection with convictions under juvenile criminal law remained similar, but the proportion of supervisory measures doubled between 2007 and 2019 from 6.4% to 13.3%.<sup>187</sup> This significant reduction in absolute figures cannot be fully explained by demographic developments. The numbers of convicted (German) juveniles and young adults aged 18 to 20 per 100,000 inhabitants of their age cohort also fell considerably during the same period.<sup>188</sup> The termination practice of public prosecution offices and courts alone cannot explain this reduction in the numbers of defendants convicted, since the number of terminations under sections 45 and 47 JGG was also considerably lower in 2019 than in 2007.<sup>189</sup> This suggests that the reduction in the number of persons convicted under juvenile criminal law between 2007 and 2019 is to a significant extent due to a reduction in the number of registered crimes among young age groups during this period.<sup>190</sup>

<sup>183</sup> The provision entered into force on 8 September 2012, cf. Act extending the courses of action available to the youth courts (*Gesetz zur Erweiterung der jugendgerichtlichen Handlungsmöglichkeiten*) of 4 September 2012, Federal Law Gazette (*Bundesgesetzblatt*) I 2012, p. 1854.

<sup>184</sup> Strafverfolgungsstatistik 2019, table 4.1.

<sup>185</sup> On developments in previous decades: 2nd PRC 2006, p. 562 (former West Germany).

<sup>186</sup> This reduction cannot be explained by the rate of application of the juvenile criminal law to young adults aged 18 to 20, which was similar in 2019 (61.9%) to what it was in 2007 (62.9%): Strafverfolgungsstatistik 2007 and 2019, table 1.3.1 in each case.

<sup>187</sup> See also: RatSWD 2020, p. 28.

<sup>188</sup> Strafverfolgungsstatistik 2007 and 2019, table 1.3.1 in each case; see also section 2.4.3.3. On the fall in the numbers of various reactions under juvenile criminal law per 100,000 of the population, see Jehle 2019, p. 44.

<sup>189</sup> Staatsanwaltschaftsstatistik 2007 and 2019, table 2.2.1 in each case, and Staatsanwaltschaftsstatistik 2007 and 2019, table 2.2 in each case. An overall view of the development of informal reactions (terminations for discretionary reasons) and formal sanctions (convictions) is to be found in: Heinz 2017, p. 89 ff.

<sup>190</sup> On this subject, cf. also: section 2.4.2.3; BKA 2020b, pp. 32 ff. and 103 ff. On the fall in the number of suspects per 100,000 of the population: Heinz 2017, p. 47 ff.

### 2.3.3.3 Measures of reform and prevention, additional penalties and incidental consequences

In addition to a penalty - or on its own in the case of offenders who lack criminal responsibility - a *measure of reform and prevention* may be ordered under sections 61 et seqq. StGB. While disciplinary measures involving deprivation of liberty are uncommon, offenders with an alcohol or drug addiction are increasingly being placed in addiction treatment facilities (section 64 StGB).<sup>191</sup> The number of such orders increased from 1812 in 2007 to 3317 in 2019.<sup>192</sup> Placements in a psychiatric hospital in accordance with section 63 StGB (969 in 2019) and placements in preventive detention in accordance with section 66 StGB (53 in 2019) are less common.

Of the *disciplinary measures not involving deprivation of liberty* (supervision of conduct, prohibition of pursuit of an occupation, disqualification from driving), disqualification from driving was predominant, as in previous years. In 2019, more than 96,000 persons adjudicated were disqualified from driving (section 69 et seqq. StGB).<sup>193</sup> In addition, approx. 30,000 temporary driving bans under section 44 StGB were imposed in connection with sentencing for an offence.<sup>194</sup> Since 2017 it has, under certain conditions, also been possible to impose this *additional penalty* under section 44 of the Criminal Code for criminal offences unconnected with road traffic.<sup>195</sup> Thus, it will be interesting to see how this application practice develops in the years ahead.

In comparison with the 2nd PRC,<sup>196</sup> there were significant amendments to criminal law in the area of *asset recovery*. In 2017, completely new rules were introduced, also in implementation of Directive 2014/42/EU, comprehensively reforming the criminal law on asset recovery (sections 73 et seqq. StGB, sections 111b et seqq., 421 et seqq., 459g et seqq. StPO).<sup>197</sup> A key aim of these provisions is to effectively recover assets obtained by criminal means, thus removing incentives to commit profit-oriented crimes and ensuring that crime does not pay.<sup>198</sup> Asset recovery under criminal law is of considerable practical significance.<sup>199</sup> The 2019 criminal prosecution statistics record a total of more than 107 000 confiscations in convictions under sections 73 et seqq. StGB.<sup>200</sup> The number of rulings on confiscation under the new legislation is thus significantly greater than the number of rulings on confiscations and forfeiture in previous years.<sup>201</sup> In the reporting year 2019, most cases involved confiscation of proceeds of crime under sections 73, 73b, 73c StGB (46.8%), followed by confiscation of means of crime, products of crime or objects of crime under sections 74, 74a, 74b, 74c StGB<sup>202</sup> (46.5%). In total, other types of confiscation<sup>203</sup> comprised just 6.7% of cases.<sup>204</sup>

<sup>191</sup> On long-term developments, 2nd PRC 2006, p. 578 f.; Jehle 2019, p. 40.

<sup>192</sup> Strafverfolgungsstatistik 2007 and 2019, table 5.5 in each case.

<sup>193</sup> Strafverfolgungsstatistik 2019, table 5.4; concerning the development of application practice: 1st PRC 2001, p. 362 f.; 2nd PRC p. 583. Concerning the differentiation from driving bans: Heinz 2017, p. 148; 1st. PRC 2001, p. 362 f.

<sup>194</sup> Strafverfolgungsstatistik 2019, table 5.3.

<sup>195</sup> Section 44 (1) sentence 2 StGB, introduced by the Act for more effective and more practical criminal proceedings (*Gesetz zur effektiveren und praxistauglicheren Ausgestaltung des Strafverfahrens*) of 17 August 2017, Federal Law Gazette (*Bundesgesetzblatt*) I 2017, p. 3202, which entered into force on 24 August 2017.

<sup>196</sup> 2nd PRC 2006, p. 584 ff.

<sup>197</sup> The Act to Reform Asset Recovery in Criminal Law (*Gesetz zur Reform der strafrechtlichen Vermögensabschöpfung*) of 13 April 2017, Federal Law Gazette (*Bundesgesetzblatt*) I 2017, p. 872, entered into force on 1 July 2017.

<sup>198</sup> On the legislative purpose, see, for example, BeckOK-StGB/Heuchemer, section 73 recital 1 with further references; Reitemeier 2017, p. 354.

<sup>199</sup> See also: BeckOK-StGB/Heuchemer, section 73 recital 5 et seq.

<sup>200</sup> Strafverfolgungsstatistik 2019, table 5.2. Several confiscation decisions in one conviction are counted several times.

<sup>201</sup> For example, 42 743 convictions with confiscation/forfeiture in 2016: Strafverfolgungsstatistik 2016, table 5.2.

<sup>202</sup> Possibly in conjunction with special provisions.

<sup>203</sup> Confiscation of assets of unclear origin (section 76a (4) StGB), extended confiscation of proceeds of crime under section 73a StGB and confiscation of material and rendering unusable under section 74d StGB.

<sup>204</sup> Strafverfolgungsstatistik 2019, table 5.2, own calculations. Provisional measures to freeze assets subject to confiscation are not included in the criminal prosecution statistics (sections 111b et seqq. StPO, on this subject: BeckOK-StGB/Heuchemer, section 73 para. 35 et seqq.). Concerning the number of investigation proceedings in which confiscation measures were taken: Staatsanwaltschaftsstatistik 2019, table 2.2.1.1.

## 2.3.4 Imposition of sanctions

As shown, sentences involving deprivation of liberty are only rarely imposed under juvenile and general criminal law. In the overwhelming majority of cases, non-custodial sanctions are imposed, such as a fine or a suspended prison sentence, or - under juvenile criminal law - non-custodial disciplinary measures, such as warnings or work duties.<sup>205</sup>

### 2.3.4.1 Victim-offender mediation

Victim-offender mediation offers an alternative or supplement to traditional state sanctions. It enables both the defendants and those affected by a criminal offence to take a more active part in proceedings than would be the case in main proceedings before a court.<sup>206</sup> Under section 155a StPO, at every stage of the proceedings, the public prosecution office and the court are to examine whether it is possible to reach a mediated agreement between the accused and the aggrieved person; section 155b StPO provides for the conduct of victim-offender mediation. Section 46a no. 1 StGB provides for victim-offender mediation to be considered when sentencing under general criminal law. If the offender, in an effort to achieve reconciliation with the victim (victim-offender mediation), has made restitution for the act committed in full or to a substantial degree or has earnestly striven to make restitution, then the court may mitigate the penalty or may dispense with imposing a penalty.<sup>207</sup> Juvenile criminal law provides for further possible applications of victim-offender mediation (section 10 (1) sentence 3 no. 7, section 45 (2) sentence 2, section 47 (1) sentence 1 no. 2 JGG). It may be concluded from the statistics of the public prosecution offices that approx. 168 000 proceedings were terminated with conditions in 2019; in more than 9 700 of these proceedings, the condition of victim-offender mediation was imposed (section 153a (1) sentence 2 no. 5 StPO). In addition, in approximately 6 500 proceedings, simply making reparations for damage (section 153a (1) sentence 2 no. 1 StPO) was imposed as a condition. Significantly more frequently, however, in 84.5% of proceedings, payment of a sum of money to a non-profit-making institution or to the German state treasury is imposed in terminations of proceedings (section 153a (1) sentence 2 no. 2 StPO).<sup>208</sup> The criminal prosecution statistics indicate that the criminal courts issued an instruction to attempt victim-offender mediation in 2 155 cases in 2019. Such decisions are taken more frequently in juvenile criminal cases than in proceedings under general criminal law.<sup>209</sup>

To supplement the above, reference may be made to the results of a research project. The latest survey, from 2018, related to approx. 9 000 aggrieved parties and defendants taking part in more than 70 regional offers, most of which were maintained by independent agencies.<sup>210</sup> The overwhelming majority of mediation proceedings ended with a consensual settlement.<sup>211</sup> In the last ten years, bodily harm offences accounted for approximately 50% of the cases that were the subject of victim-offender mediation. Where an agreement was reached, it involved an apology in more than 60% of all cases. Behaviour agreements were introduced in 2010. In the first years, they were concluded in approximately one in three cases; their use has declined since 2014 to just under 30% of cases. In addition, restitution has become firmly established in victim-offender mediation. Use of restitution has increased from approximately 20% of cases in 2011 to nearly 28% in 2018.<sup>212</sup>

<sup>205</sup> Sections 2.3.3.1 and 2.3.3.2; on judicial practice under juvenile criminal law, cf. 2nd PRC, p. 559 ff.; Ostendorf/Drenkhahn 2020, p. 170 ff.

<sup>206</sup> On the fundamental significance of victim-offender mediation: 1st PRC 2001, p. 387 ff. and 2nd PRC 2006, p. 589 ff.

<sup>207</sup> The same applies in a case in which making restitution for the harm caused required substantial personal effort or personal sacrifice on the offender's part, and compensation has been made to the victim in full or to a substantial degree (section 46a no. 2 StGB).

<sup>208</sup> Staatsanwaltschaftsstatistik 2019, table 2.2.1.1.

<sup>209</sup> Strafverfolgungsstatistik 2019, table 10.

<sup>210</sup> Hartmann et al. 2020, p. 8 ff. The surveys are based on the voluntary provision of data by the participating agencies.

<sup>211</sup> Hartmann et al. 2020, p. 64.

<sup>212</sup> Hartmann et al. 2020, p. 66 f.

#### 2.3.4.2 Numbers of prisoners and persons placed in preventive detention

Despite the quantitatively predominant position of non-custodial sanctions, the enforcement of deprivations of liberty is particularly significant due to the degree to which such an intervention affects the rights of the person involved. Legislative developments in recent years have been notably characterised by a broadening of the transfer of legislative competences for prisons from the Federation to the federal states.<sup>213</sup>

On 31 March 2019, there were 50 038 prisoners (serving custodial sentences or juvenile detention) and 551 persons in preventive detention in German prisons.<sup>214</sup> In almost all cases, these were adult prison sentences. In nearly 92% of cases, the prisoners were serving a custodial sentence under the general criminal statutes.<sup>215</sup> In addition, approx. 7% of prisoners were in juvenile prisons and 1% were in preventive detention.<sup>216</sup> Furthermore, 13 588 prisoners were in remand detention on the reference day 31 March 2019.<sup>217</sup>

There has been an overall downward trend in the numbers of prisoners and persons in preventive detention since 2007. From 2016 to 2017, the number of prisoners and persons in preventive detention rose slightly, but since then, the downward trend has continued. In terms of percentage, the decline in juvenile detention sentences was larger than that in adult custodial sentences. In recent years, however, the numbers of persons in preventive detention on 31 March were higher than in 2005. The development of the numbers of prisoners and persons in preventive detention is influenced by various circumstances, including crime trends, judgment practice, revocation rates in the case of suspended sentences, the duration of imprisonment<sup>218</sup>, and other circumstances, such as demographic factors.<sup>219</sup>

#### 2.3.4.3 Persons placed in secure psychiatric detention

The available statistical data on enforcement of secure psychiatric detention in accordance with sections 63, 64 StGB, which is organised in healthcare institutions outside the judiciary, do not include all placements. Secure psychiatric detention under sections 63, 64 StGB is governed by the 16 secure psychiatric detention acts of the federal states. Nationwide information is available in the judicial criminal prosecution statistics concerning the number of *judicial orders* for placements in a psychiatric hospital in accordance with section 63 StGB, placement in an addiction treatment facility in accordance with section 64 StGB and placement in preventive detention in accordance with section 66 StGB.<sup>220</sup> No nationwide information is available, however, on *actual placements* in psychiatric hospitals or addiction treatment facilities.<sup>221</sup>

The group of federal states for which data are available on the numbers of people in secure psychiatric institutions on the reference day has changed in recent years. For the reference day 31 March 2019, data were available from twelve states.<sup>222</sup> According to this data, a total of 4 300 persons were in

<sup>213</sup> The law regarding secure psychiatric detention has always fallen under the remit of federal state legislation. Thus, all the states have relevant statutory provisions. For an overview, see Laubenthal 2019, pp. 31 f. and 783 ff.

<sup>214</sup> Strafvollzugsstatistik 2019, tables 3.1 and 4. Persons in remand detention, custody awaiting deportation, and other forms of deprivation of liberty are not included; on this subject, see: Strafvollzugsstatistik über den Bestand der Gefangenen und Verwahrten 2019. On the capacity utilisation of prison places in the federal states, see: Statistisches Bundesamt 2015, p. 28 f.; Strafvollzugsstatistik über den Bestand der Gefangenen und Verwahrten 2019.

<sup>215</sup> Including defendants sentenced to juvenile detention who are exempt from juvenile prison under section 89b JGG.

<sup>216</sup> Strafvollzugsstatistik 2019, p. 11, own calculations.

<sup>217</sup> Strafvollzugsstatistik über den Bestand der Gefangenen und Verwahrten 2019, table March 2019. On prisoners in remand detention, see above section 2.3.2.

<sup>218</sup> Since these are the numbers on a reference day in a given year, persons serving short sentences are underrepresented in comparison with prisoners serving long sentences: Jehle 2019, p. 55. On the likely length of sentences: RatSWD 2020, p. 35.

<sup>219</sup> For details: Heinz 2017, p. 156 ff.

<sup>220</sup> On this subject, also: Jehle 2019, p. 40 f.; on developments in earlier years and possible reasons: 2nd PRC 2006, p. 579 ff.

<sup>221</sup> Cf. section 1.3.3.3.

<sup>222</sup> These data relate to the ten federal states included in Figure 12 (see legend on Figure 12), plus Mecklenburg-Western Pomerania and Saxony.

### 2.3 Longitudinal and cross-sectional development of crime control by public prosecution offices and courts

an addiction treatment facility in accordance with section 64 StGB and a further 5 926 persons were in psychiatric hospitals in accordance with section 63 StGB at this time.<sup>223</sup> To ensure comparability between different reference years, Figure 12 compiles the numbers of people in secure psychiatric institutions for the ten federal states for which data are available for the entire period from 2005 to 2019.<sup>224</sup> In these federal states, the number of persons in an addiction treatment facility in accordance with section 64 StGB on the reference day, 31 March, rose significantly from 2 254 in 2005 to almost twice that figure, 4 056, in 2019.<sup>225</sup> However, in these ten federal states, the number of persons in a psychiatric hospital on the basis of a judicial order under section 63 StGB on the reference day 31 March 2019 was 5 592, only slightly higher than on 31 March 2005 (5 301 persons) (Figure 12). The increase over many years in the numbers of persons placed in secure psychiatric detention slowed down in 2013 and was followed by continual decline. Since 2010, however, the number of patients in secure psychiatric hospitals on the reference day has been larger than the number of prisoners (serving adult prison sentences and juvenile detention) expected to serve more than five years (or a life sentence) in the federal states concerned.<sup>226</sup> The outlined increase over many years in the number of persons placed in psychiatric institutions under section 63 StGB prompted the federal legislator to tighten the requirements for such placements, and particularly for their continuation, by means of the Act to re-enact the law on placement in a psychiatric hospital and to amend other provisions of 8 July 2016 (*Gesetz zur Novellierung des Rechts der Unterbringung in einem psychiatrischen Krankenhaus und zur Änderung anderer Vorschriften*),<sup>227</sup> in alignment with the requirements of recent supreme court decisions. Accordingly, the Federal Court of Justice (*Bundesgerichtshof*, BGH) also sets high standards of proportionality on orders of this “exceptionally burdensome measure, which constitutes a particularly serious intrusion on the rights of the persons concerned.”<sup>228</sup>

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<sup>223</sup> Data from the federal states providing data which varies in terms of the period covered is compiled annually by the Federal Statistical Office on behalf of the BMJV. This working document is made available to the BMJV, all Ministries of Justice of the *Länder* and all statistical offices of the *Länder* for their further use: RatSWD 2020, p. 18.

<sup>224</sup> These data relate to the federal states specified in the the legend on figure 12.

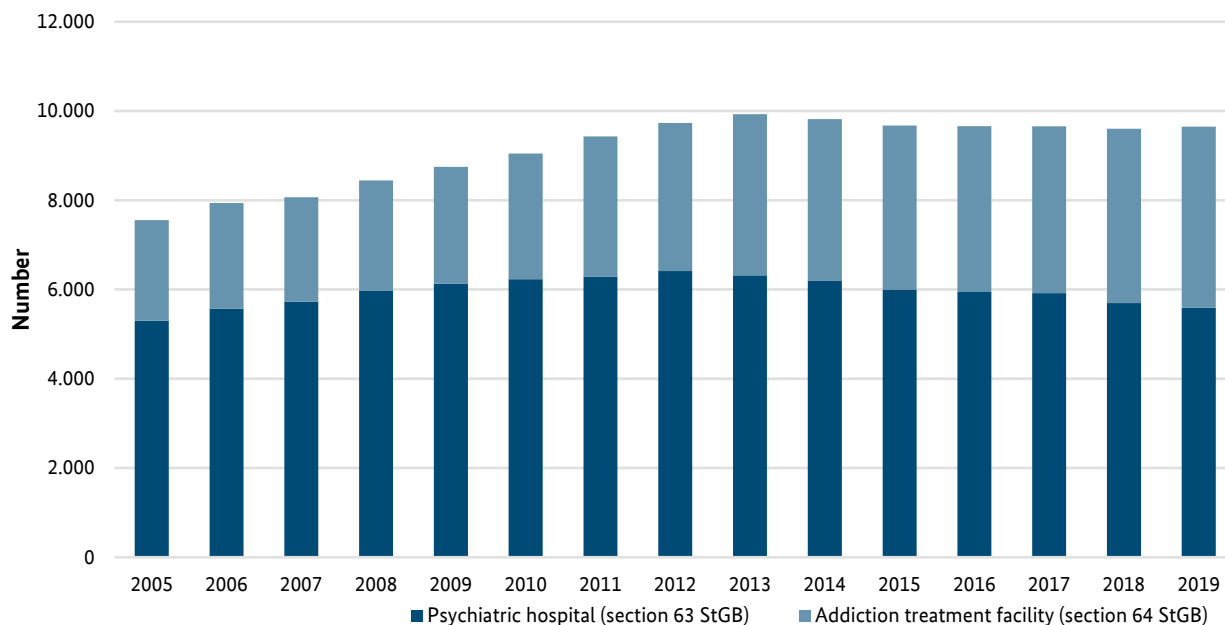
<sup>225</sup> This trend is also evident in a calculation per 100 000 inhabitants of the total population; see also Heinz 2017, p. 144.

<sup>226</sup> Strafvollzugsstatistik 2019, tables 1.2 and 3.1. See also: RatSWD 2020, p. 37. The likelihood of being included in a survey conducted on a specific reference day in a given year is greater in cases of long stays in prison or a secure psychiatric institution than in cases of short stays (see above); cf. also Dessecker 2019 on the number of persons and the duration of stay.

<sup>227</sup> Federal Law Gazette (*Bundesgesetzblatt*) I 2016, p. 1610.

<sup>228</sup> Federal Court of Justice (BGH) decision of 6 December 2018 (4/StR 367/18).

**Figure 12: Persons in secure psychiatric detention 2005 to 2019, reference day 31 March**



Source: Data on persons placed in secure psychiatric detention in different federal states and in different years, special evaluation by the Federal Statistical Office (*Statistisches Bundesamt*).

The data cover the federal states for which data on persons placed in secure psychiatric detention is available for 2015 to 2019: Baden-Württemberg, Bavaria, Berlin, Bremen, Hamburg, Hesse, Lower Saxony, North Rhine-Westphalia, Saarland, Schleswig-Holstein.

2012: some of the data for Schleswig-Holstein is from 2011.

2016: the results for Berlin are from 2015.

2017: the results for North Rhine-Westphalia are from 2016.

2018: the results for one clinic in North Rhine-Westphalia were not available on the reference day.

2019: for Berlin, the results are from 2018.

### 2.3.4.4 Release from prison and supervision of conduct

Since 2019, the prison statistics have enabled nationally standardised annual results to be compiled on admissions to and releases from prison, since the relevant data are reported for all the months of the year.<sup>229</sup>

The majority of departures<sup>230</sup> took place after the end of the sentence (77.3%), or on account of re-release on parole for the rest of the sentence/placement (14.1%). The latter are mainly due to suspension after serving two-thirds of the sentence in accordance with section 57 (1) StGB (65.2%). 13.2% of suspensions are effected by granting clemency and 12.2% of cases are suspensions of juvenile detention under sections 88, 89 JGG. Suspension of enforcement of the remainder of the sentence after one half of a determinate sentence of imprisonment has been served under section 57 (2) StGB takes place in 7.9% of cases, suspension of enforcement of the remainder of a sentence of imprisonment for life in accordance with section 57a StGB takes place in 0.8% of cases and suspended enforcement of placement in preventive detention takes place in 0.6% of cases.<sup>231</sup>

<sup>229</sup> Until 2018, the reports were only for the months of March, August and November.

<sup>230</sup> Cf. prison rules of procedure: departure is to be understood as meaning leaving the prison where the prisoner is located once and for all. In principle, it also includes permanent transfer to a different institution. Such departures are not included in these calculations, which only relate to departures at the end of a sentence, departures due to suspension of the remainder of the sentence/placement, departures due to deferral of enforcement of the sentence under section 35 BtMG and departures under section 465 StPO.

<sup>231</sup> Strafvollzugsstatistik über den Bestand der Gefangenen und Verwahrten 2019, special evaluation by the BfJ.

## 2.3 Longitudinal and cross-sectional development of crime control by public prosecution offices and courts

As of the reference day 31 March 2019, 68.3% of a total of 50 589 prisoners in detention and preventive detention had a previous conviction and 38.5% were readmitted (56.4% of persons with a previous conviction). As expected, the percentage of persons with a previous conviction serving an adult prison sentence (70.1%) was significantly higher than the percentage of persons with a previous conviction serving a juvenile prison sentence (42.8%). The largest proportion, 88.9%, were in preventive detention. This distinction was also reflected in the number of persons newly admitted. This proportion was 12.7% for youth prisons, 40.1% for prisons and 77.0% for preventive detention.<sup>232</sup> Thus, in comparison with the data of the last PRC, which related to the reference day 31 March 2005, not only had the number of prisoners and persons in preventive detention<sup>233</sup> fallen by a significant 20.4%, from 63 533 to 50 589; at the same time, the proportion of readmissions also fell slightly. With regard to the persons readmitted: while young adults under 25 serving a custodial sentence in prison were often readmitted within a year and in more than two thirds of cases within two years, this gap between admissions increases with age. In the case of more than a third of people over the age of 40, readmission takes place only after more than five years.<sup>234</sup>

In addition to the sentence, the court may order supervision of conduct under sections 68 et seqq. StGB, or this may occur by law. This is intended to prevent the defendant convicted from committing further crimes through monitoring and control and by means of assistance and supervision to help him or her to lead a crime-free life in the future.<sup>235</sup> Statistics on supervision of conduct were introduced and conducted for the first time in the reference year 2015. To compile national results, the federal states' data collection tools had to be standardised. Standardised data collection of the agreed basic figures is now possible for the reference year 2019. The relevant results are not yet available.

### 2.3.5 Leading a crime-free life subsequent to receiving a criminal sentence

The predominant aim of criminal law is to prevent crime.<sup>236</sup> That also applies to the criminal sentences described, up to and including custodial sentences. The intention behind prison treatment measures is to ensure that persons convicted do not commit any further crimes after their release. Extensive research has been done on the subject of leading a crime-free life subsequent to receiving a criminal sentence in Germany. Everyone receiving a criminal sentence in a specified reference year or who were released from custody during a specified risk period was examined to check whether they reoffended.<sup>237</sup> The data base comprised personal entries in the Central Criminal Register and the Educative Measures Register, which are generally retained for at least five years. In the case of measures involving deprivation of liberty, the observation period began on the date of release; in the case of non-custodial sanctions - including suspensions of sentence - it began on the date of the decision.

The findings showed that over a three-year period (2013 to 2016), criminal prosecution remained a one-off event for most people. Only approximately one person in three (34%) committed a further offence within the three-year observation period; approximately two-thirds of the 854 500 persons

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<sup>232</sup> Strafvollzugsstatistik 2019, table 4.

<sup>233</sup> A differentiation must be made here: as a proportion of total numbers, there has been an increase in the persons in preventive detention. Cf. section 2.3.4.2.

<sup>234</sup> In purely mathematical terms, such long gaps between admission and readmission can only occur in isolated cases among people under 30. Presumably, a large proportion of the changes in the readmission period with age can be explained by this age-related shift. The older a person is, the longer the period of time is during which they could have previously been imprisoned.

<sup>235</sup> Meier 2019, p. 295 ff.

<sup>236</sup> Cf., for example, on the different purposes of sentences: Meier 2019, p. 17 ff.; Streng 2012, p. 3 ff.

<sup>237</sup> Jehle et al. 2020; Jehle et al. 2016; cf. also Kerner et al. 2017.



### 2.3 Longitudinal and cross-sectional development of crime control by public prosecution offices and courts

recorded for the reference year 2013 were not registered for having committed further criminal offences. This outcome corresponds to the findings of several previous studies.<sup>238</sup> “In the majority of cases where there was a criminal-law response to a further offence, it did not lead to a prison sentence being enforced, but to milder sanctions. [...] [O]nly 4% of all persons convicted or released from custody in 2013 were (once again) sentenced to a non-suspended term of imprisonment or juvenile detention. Six percent [were sentenced to] a [suspended] term of imprisonment or juvenile detention [...] for reoffending, 18% were given a fine and 4% were handed down a youth court decision. In the case of 3% of all persons, the new offence [was] even concluded by termination again under juvenile criminal law.”<sup>239</sup>

The age and sex of persons convicted were highly significant in relation to the frequency of reoffending. The recidivism rate was highest among juveniles, at approx. 40%, and lowest among persons over 60, at 14%. Women reoffended significantly less frequently than men. Moreover, the recidivism rate was highly dependent on previous offences: the higher the number of previous convictions and more severe the sentences were in those cases, the more likely it was that a person would reoffend.<sup>240</sup>

There was also evidence of significant differences in the recidivism rates in connection with different types of sentence. The recidivism rate was higher among those sentenced to non-suspended terms of imprisonment and juvenile detention than it was among those receiving milder sentences. The highest recidivism rates occurred after serving a non-suspended juvenile detention sentence (64%) or youth detention (62%), and the lowest recidivism rates occurred after the imposition of a fine (31%). The recidivism rates of defendants sentenced to suspended terms of imprisonment were lower than those of persons sentenced to terms of imprisonment and juvenile detention without conditions. However, the correlation between criminal sentences and reoffending should not be interpreted in causal terms, since more severe sentences are imposed in particular on people who already have a significant criminal history.<sup>241</sup>

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<sup>238</sup> Jehle et al 2020, p. 16.

<sup>239</sup> Jehle et al. 2020, p. 16f.

<sup>240</sup> Jehle et al 2020, p. 17.

<sup>241</sup> Jehle et al. 2020, p. 17f.

## 2.4 Crime and crime control differentiated by demographic characteristics

This subchapter examines certain demographic characteristics, such as age or sex, both of victims and of persons prosecuted and convicted under criminal law. With regard to persons prosecuted and convicted under criminal law, the distribution among Germans and non-Germans is also examined. Moreover, light is shed on the characteristics seen over time.

### 2.4.1 Extent and development of the victimisation risk as reflected in the PCS

Victims are only recorded in the crime and criminal justice statistics in connection with certain offences and offence categories. The most detailed representation is to be found in the PCS. There, generally, a record is made of victims in the case of criminal acts committed against highly personal legal assets (life, physical integrity, freedom, honour and sexual self-determination).<sup>242</sup> In this context, victims are defined as “natural persons against whom the punishable act was directly targeted.”<sup>243</sup> The records on victims in the PCS were considerably extended in 2011 by introducing three context catalogues enabling a significant number of further details of the victim-suspect relationship and specific information about victims to be recorded.<sup>244</sup> This extension enables more detailed analyses to be made, such as those in the situation report on “Violence against police officers”<sup>245</sup> or the booklet “Intimate Partner Violence: A Crime Statistics Analysis”.

An analysis of PCS victim data shows clear offence-, age- and sex-specific differences, which are already known from research into unrecorded crime (cf. section 2.2.4). As is the case with the frequency with which victims are registered, there are also major offence-specific differences with regard to the victimisation risk.<sup>246</sup> In 2019, for example 0.7 inhabitants per 100 000 were the victims of a completed intentional homicide, 39.5 were victims of a completed robbery (including extortion with use of force or threat of force and attacking a driver to commit robbery) and 682.4 were victims of a completed act of bodily harm.<sup>247</sup> With the exception of offences against sexual self-determination, men are more frequently the victims of criminal offences than women. A comparison of the age groups shows that juveniles and young adults aged 18 to 20 are more frequently victims than adults above this age. Among adults, older people are less at risk than younger people.<sup>248</sup> When looking at particular offences, it is conspicuous that male juveniles and young adults aged 18 to 20 are particularly at risk of becoming victims of bodily harm or robbery (cf. Table 2). They are also the age group statistically most likely to commit these offences.<sup>249</sup> In contrast, among women over 60, just 114.5 per 100 000 female inhabitants in this age group become victims of bodily injury. This risk is much higher among younger people, and also among younger women.

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<sup>242</sup> BKA 2019a, p. 24.

<sup>243</sup> BKA 2020d, p. 38. The PCS catalogue of criminal offences indicates the offences or offence categories for which the victims are recorded. BKA 2020e.

<sup>244</sup> 1. “Victim-suspect relationship - formal” (for example level of family relationship or degree of friendship); 2. “Victim-suspect relationship - geographical/social proximity” (shared or separate dwelling or institutions); 3. A record is made of certain professions (for example, police officer) and impairments of the victim (helpless person).

<sup>245</sup> Cf. also section 3.1.4.1 Unlawful violence against the police.

<sup>246</sup> The victimisation numbers record the frequency with which a person becomes a victim (victims per 100 000 of the relevant group of persons in the resident population) (i.e. a person who is a victim more than once is counted more than once): BKA 2020d, p. 11.

<sup>247</sup> BKA 2020d, p. 19.

<sup>248</sup> Cf. 1st PRC 2001, p. 30f.

<sup>249</sup> Cf. section 2.4.2.1.

**Table 2: Victimization numbers by age and offence category and by sex, completed offences 2019**

Age group	Sex	Intentional homicide offences	Offences against sexual self-determination	Robbery offences	Bodily harm	Offences against personal liberty
Children under the age of 14	m	0.5	4.2	19.9	483.7	105.0
	f	0.3	29.0	3.1	280.9	85.2
Juveniles aged 14 to 17	m	0.4	36.4	227.5	2139.3	425.1
	f	0.3	460.6	29.2	1262.6	419.8
Young adults aged 18 to 20	m	0.7	23.1	209.4	2830.3	495.4
	f	0.4	337.1	50.7	1474.2	561.2
Adults aged 21 to 59	m	0.8	4.7	67.0	1049.3	380.4
	f	0.6	62.9	29.6	703.7	353.4
Adults aged 60 and older	m	0.6	0.6	13.8	190.2	117.2
	f	0.7	5.7	11.5	114.5	59.9

Source: PCS, own evaluation.

The victimisation risk numbers have developed slightly differently for the offence categories under consideration. In purely quantitative terms, the risk of becoming the victim of a completed intentional homicide is now lower than in 2005 (victimisation risk numbers: 2005: 1.1; 2019: 0.7). In contrast, there has been a rise in the number of police-registered risks of bodily harm offences (victimisation risk number: 2005: 663.8 and 2019; 682.4). In the case of both of these offences it may be assumed that only part of the increase is “real”. A not inconsiderable proportion may be due to the shift between the “light” and “dark fields” as a result of changed reporting behaviour, particularly in less serious cases.<sup>250</sup> In contrast to bodily harm, there has been steady decline in the registered victimisation risk for robberies since 2005 (victimisation risk number in 2005: 60.9; victimisation risk number in 2019: 39.5). Due to the amendment to section 177 StGB in 2017, which made sexual assault a criminal offence alongside sexual coercion and rape, it does not make sense to compare victimisation risk numbers with earlier years in cases of offences against sexual self-determination. Until 2016, the victimisation risk numbers for such offences were established to be between 17.3 (2005) and 12.9 (2015).

In 2019, there was only a small difference between the victimisation risk for men and women with regard to completed intentional homicide (0.7 for men in comparison with 0.6 for women). In the case of robbery, the victimisation risk for men (58.0) is more than twice that for women (21.4). The largest difference in the victimisation risk between the sexes is to the detriment of female victims in the case of criminal offences against sexual self-determination (5.4 in comparison with 63.3). In contrast, men are approximately one and a half times more likely than women to be the victims of bodily harm offences. Offences against the person and sexual offences take place particularly frequently within the victim’s close social circle and victims and offenders therefore know each other well (Table 3).<sup>251</sup> However, there is often no relationship between male suspects and male victims of bodily harm offences (47.2%), particularly in the case of serious and dangerous bodily harm offences (49.2%). In the case of robbery, acquaintances or relatives of only approx. 18% of victims are investigated as suspects. In the case of offences against personal liberty, it is striking that where the victims

<sup>250</sup> Cf. section 2.1.2.

<sup>251</sup> Cf. also BKA 2020f on intimate partner violence.

## 2.4 Crime and crime control differentiated by demographic characteristics

are women, a family member or relative is involved in 38.8% of cases, whereas this is only true in 9.9% of cases where the victims are men.

**Table 3: Victim-suspect relationships by offence category and sex, completed offences 2019**

Offence category	Sex	Total	Spouse/partner/ family	Informal relationship	Formal relationship	No relationship	Unknown
Intentional homicide offences	m	291	28.9%	37.8%	3.4%	17.2%	12.7%
	f	254	70.5%	14.6%	2.8%	6.3%	5.9%
Offences against sexual self-determination	m	2211	7.0%	34.6%	13.8%	34.8%	9.8%
	f	26609	14.1%	33.8%	7.1%	38.7%	6.3%
Of which rape/ sexual coercion/ sexual assault	m	519	12.5%	45.7%	8.7%	20.0%	13.1%
	f	8006	28.4%	48.0%	2.7%	13.4%	7.6%
Robbery offences	m	23765	1.0%	16.1%	1.3%	65.4%	16.3%
	f	9007	11.1%	8.8%	0.8%	65.9%	13.4%
Bodily harm	m	350295	12.8%	24.7%	4.8%	47.2%	10.5%
	f	216221	48.0%	19.4%	4.3%	23.3%	4.9%
Of which dangerous and serious bodily injury	m	102307	8.2%	24.8%	3.7%	49.2%	14.0%
	f	36090	38.8%	21.5%	4.6%	27.3%	7.9%
Offences against personal liberty	m	115514	9.9%	24.5%	4.9%	51.3%	9.4%
	f	100668	38.8%	21.5%	4.2%	29.0%	6.5%

Source: PCS, own evaluation.

## 2.4.2 Suspects investigated by the police

### 2.4.2.1 Suspects by age and sex

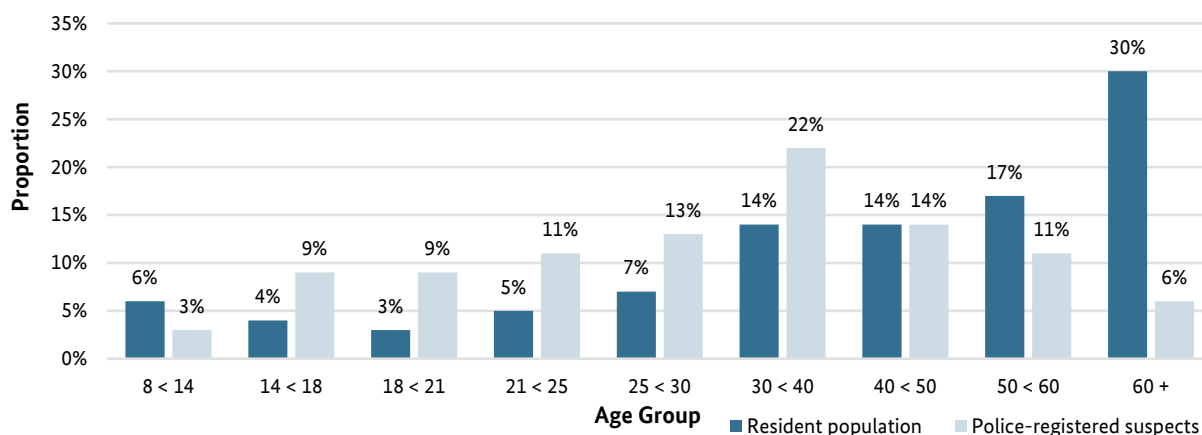
Of the offences recorded by the police in Germany in 2019, a total of 57.5% were cleared up. That means that the (criminal) offence, “according to the police investigation result, was committed by at least one suspect whose legitimate personal data are, in principle, known.”<sup>252</sup> 2019211 suspects were investigated in connection with these 3 124 161 cleared-up cases. In terms of numbers, adult male Germans were most frequently registered; of the suspects investigated, 78.8% were 21 years of age or older (cf. Figure 13); 3.6% were children (of an age meaning they could not be held responsible under criminal law).<sup>253</sup> 8.8% were juveniles, and another 8.8% were young adults aged between 18 and 20. 75.0% of all suspects were male; 65.4% of all suspects were German citizens.

<sup>252</sup> BKA 2020a, p. 49.

<sup>253</sup> This recording practice, which includes persons who cannot be held responsible under criminal law, especially children, is due to the statistics-keeping system “because it is not possible to exclude the offences committed by this group of persons from the case statistics.” Cf. BKA 2020b, p. 27.

## 2.4 Crime and crime control differentiated by demographic characteristics

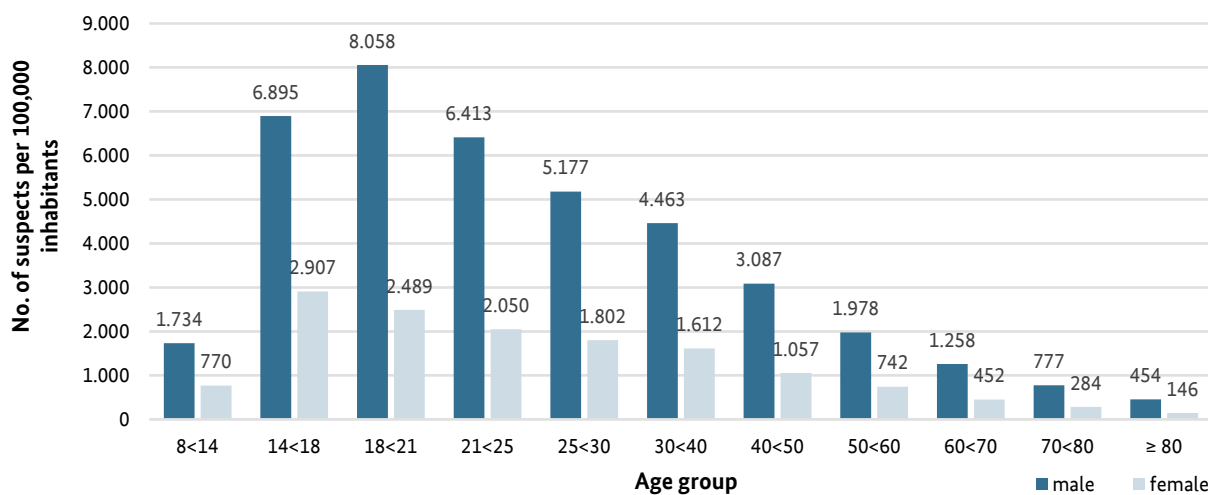
**Figure 13: Age composition of resident population and of police-registered suspects 2019**



Source: PCS, own evaluation.

Figure 14 shows the number of German citizens officially registered as suspects per 100,000 inhabitants of the resident population by age group and sex. It is evident that the crime rate among women of all age groups is considerably lower than those of men in the respective age groups. In particular, it becomes apparent that young men are conspicuously overrepresented when their share of the population is taken into account: the crime rate increases sharply at first, reaches its peak in the young adult (18 to 20) age group and then falls again, gradually abating from the age of 34. Among women, the peak of the crime rate is in a younger age group than among men (14 to 17). With regard to the finding that the crime rate is higher among young people, many criminologists assume this phenomenon to be nearly universal.<sup>254</sup>

**Figure 14: Number of suspects per 100,000 of the German population by age and sex, 2019**



Source: PCS, own evaluation.

“The overrepresentation of young people among suspects and persons convicted is placed into context<sup>255</sup> when one considers the type and gravity of the offences committed. The proportion of less serious offences is highest among children and juveniles. According to the PCS, the crimes committed predominantly by juveniles are less serious crimes against property and assets.<sup>256</sup> In the case of crimes typically committed by adults, such as economic or environmental crime, drug, weapons and

<sup>254</sup> Cf. Mischkowitz 1993 with further references.

<sup>255</sup> Cf. section 2.4.3.1.

<sup>256</sup> On the subject of child and juvenile crime, cf. details in the 1st PRC 2001, p. 475 ff.

## 2.4 Crime and crime control differentiated by demographic characteristics

human trafficking and other types of organised crime, violence within the family, corruption and taking bribes, the damage is generally much greater than in the case of the crimes against property and assets typically committed by young people.”<sup>257</sup> Youth delinquency is thus generally petty, temporary and widespread. In polls, approximately 80% of young people state that they have committed a crime at least once. However, public attention often focuses on the very small group (approx. 6% of a cohort) of so-called prolific or repeat offenders, who are responsible for about half of the crimes committed by the respective cohort.<sup>258</sup>

### 2.4.2.2 Proportion of non-Germans among suspects

Care is required with regard to evaluating the proportion of non-Germans among suspects.<sup>259</sup> The subject of “crimes by foreigners and/or immigrants” is and has been one of the most controversial and emotionally laden crime policy issues - and not just since 2015.<sup>260</sup> Just by categorising in terms of the characteristic “non-German”, “foreigner”, “immigrant” or “refugee”, this could suggest that this group is particularly likely to commit crimes, but this is not the case.<sup>261</sup> The PCS distinguishes between Germans and non-Germans. Non-German suspects are persons of foreign nationality, stateless persons, and persons whose nationality is unclear or on whom information on nationality is lacking. The PCS also includes the reason for residence of non-German suspects.<sup>262</sup> Such reasons include unauthorised and authorised residence. They are as follows: “asylum seekers”, “beneficiaries of protection and persons entitled to asylum, quota refugees”, “temporary suspension of deportation” and “other authorised residence”.

In 2019, the *proportion of non-German suspects* in the PCS was 34.6% for crimes overall and 30.4% for all crimes other than violations of the law on foreigners.<sup>263</sup> The offences for which there was a large proportion of non-German suspects include: offences against the Residence Act, the Asylum Act and the Freedom of Movement Act/EU (99.2%), document forgery (57.1%), serious theft (42.5%), robbery offences (39.7%), murder under specific aggravating circumstances (*Mord*), homicide (*Totschlag*) and killing a person at their own request (39.7%), simple theft (37.2%), rape and sexual coercion as well as sexual assault in especially serious cases (36.8%). In the case of narcotics offences (27.1%), offences against personal liberty (27.7%) and damage to property (21.0%), their proportion is lower than that for criminal offences overall. The large number of non-Germans suspected of offences against the Residence Act, the Asylum Act and the Freedom of Movement Act/EU and of document forgery offences is related to cases of unauthorised entry and varying basis for residence.<sup>264</sup>

If one looks at the *nationalities* of non-German suspects, the proportion of Turkish nationals - the most populous group of non-Germans in Germany - is the largest. In 2019, they accounted for 10.1% of a total of 699 261 non-German suspects, followed by Romanian (7.6%) and Syrian (7.0%) nationals, who immigrated in increasing numbers from 2015 onwards.<sup>265</sup> The PCS no longer records whether non-German suspects are, for example, employees or tourists/transit passengers.

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<sup>257</sup> Cf. 2nd PRC 2006, p. 31 f.; the difference is even more pronounced in the case of macro-crimes, such as genocide or forced displacement.

<sup>258</sup> Cf. Neubacher 2020, p. 71 ff.; Ostendorf/Drenkhahn 2020, p. 30 ff. with information on difficulties of definition and risk factors favouring prolific delinquency.

<sup>259</sup> Cf. section 1.3.4.

<sup>260</sup> Cf. special cases that have attracted public attention, Neubacher 2020, p. 170 f.

<sup>261</sup> Meier 2016, p. 138 f.

<sup>262</sup> BKA 2020g.

<sup>263</sup> Most violations of the law on foreigners can only be committed by non-Germans, for example section 95 of the Residence Act.

<sup>264</sup> BKA 2020b, p. 54.

<sup>265</sup> Cf. the overview of the nationalities of non-German suspects, 2012 to 2019: BKA 2020b, p. 130.

## 2.4 Crime and crime control differentiated by demographic characteristics

Both the 1st and the 2nd PRC devoted a separate subchapter to “immigrants”. They pointed out that factors such as perception and evaluation,<sup>266</sup> socio-demographic characteristics or statistical (distortion) factors must be taken into account<sup>267</sup> in any analysis and evaluation of crimes committed by non-German suspects. A statistical distortion occurs here mainly because certain groups of non-Germans (such as tourists or people staying in Germany without a residence permit) are recorded as suspects, but are not included in the population statistics because they are not part of Germany’s resident population. Thus, doubt is sometimes cast on the general usefulness of comparing the proportions. In terms of the composition of the respective group of the population, it must also be considered that the non-German group includes a higher proportion of men, is younger and is more likely to live in big cities than the German group.<sup>268</sup> Publications on the PCS always point out that any evaluation of the statistical findings must take the above factors into account. In addition, some publications on the subject in recent years, including situation reports by the BKA (“Crime in the context of immigration”<sup>269</sup>),<sup>270</sup> are based on careful analyses and evaluations of crimes committed by immigrants.<sup>271</sup> A study by the Criminological Research Institute of Lower Saxony (*KFN*) in Schleswig-Holstein, for example, concluded that the number of persons officially registered as suspects (suspect rate) among immigrants, calculated in a very complex process, was 1.6 to 1.8 times higher than among the German population. With regard to international research findings, however, it may be assumed “that it may be possible to explain these differences essentially in terms of other factors (than the characteristic “immigrant”), such as socio-economic status, opportunities for participation in society and the overrepresentation of non-Germans in urban areas in comparison with rural areas.”<sup>272</sup>

### 2.4.2.3 Suspect numbers seen over time

In recent years, the number of suspects per 100 000 of the German population has fallen steadily. In 2009<sup>273</sup>, the total number of suspects over the age of eight per 100 000 of the population was 2477; in 2019 it was just 1949, representing a fall of approx. 21%.<sup>274</sup> The decline in recent years in the number of young adult suspects (aged 18 to 20) per 100 000 of the population must be underlined; from 7042 in 2009, the number of suspects in this group per 100 000 of the population had fallen by approx. 24% to 5344 in 2019. The number of juvenile suspects per 100 000 of the population of the corresponding age has also declined significantly since 2009 (6853). In 2019, it was 4954, constituting a decline of approx. 28% in comparison with 2009.<sup>275</sup>

The numbers of German and non-German suspects developed differently in the period between 2009 and 2019. While there has been a consistent decline in the number of German suspects since 2009, the number of non-German suspects increased until 2016. There were significant increases in the numbers of non-German suspects in 2014 (+14.7%) and 2015 (+47.7%), years characterised by high immigration levels.<sup>276</sup> From 2017, the number of non-German suspects also fell; the decrease in

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<sup>266</sup> Cf. subchapter 2.1.

<sup>267</sup> 1st PRC 2001, p. 306 ff.; 2nd PRC 2006, p. 411 ff.

<sup>268</sup> Kunz/Singelstein 2016, p. 245 ff.; Neubacher 2020, p. 165.

<sup>269</sup> Definition of immigrant suspect: analogously to the data recorded in the PCS, the National Situation Report classifies suspects as immigrants if the basis for their residence is recorded as “asylum seeker”, “beneficiary of protection and person entitled to asylum, quota refugee”, “temporary suspension of deportation” or “unauthorised residence”, cf. BKA 2020h.

<sup>270</sup> The situation reports since 2015 have been posted on the BKA website.

<sup>271</sup> See, for example, Atanisev et al. 2019, p. 17 ff.; Feltes 2016; Haverkamp 2017; Steinwand 2010; Walburg 2016a; 2016b.

<sup>272</sup> Glaubitz/Bliesener 2018, p. 93; cf. also Heinz 2017, p. 45 f.; Kunz/Singelstein 2016, p. 245 ff.

<sup>273</sup> On the introduction of counting the real number of suspects per 100 000 of the population at federal level: BKA 2020b, p. 162. Thus, comparisons with previous years are not possible.

<sup>274</sup> A comparison of the number of suspects per 100 000 of the population in more recent years with the years after 2013 is only possible to a limited extent since the basis for calculating the number of suspects per 100 000 of the population changed with the 2011 census. However, the basic statement that the number of suspects per 100 000 of the population declined during the period under observation does not change, even when the above reservations are taken into account.

<sup>275</sup> BKA 2020b, p. 103 ff.

<sup>276</sup> Cf. explanations on the increase in the number of residence-related investigation proceedings in 2014/2015: section 2.3.1.

2017 was significant (-22.8%). The negative growth rate in the number of non-German suspects subsequently aligned itself approximately with that of German suspects.<sup>277</sup> For crimes overall, it amounted to -1.3% for non-German suspects and -1.7% for German suspects in 2019. In the case of criminal offences not including violations of the law on foreigners, the negative growth rate among non-German suspects was somewhat higher (-2.0%) than among German suspects (-1.7%). Consideration of the percentage shares of non-German suspects shows an increase in their share of overall criminal offences from 21.1% in 2009 to 34.6% in 2019. An increase from 19.2% to 30.4% was recorded for criminal offences not including violations of the law on foreigners.<sup>278</sup>

### 2.4.3 Defendants convicted, prisoners and persons in preventive detention

As consideration of the results of the PCS and “dark field” research has shown, criminal behaviour and its registration are not evenly distributed among the population. There are noticeable differences, particularly in terms of characteristics such as age or sex. Judicial data differentiated according to demographic characteristics are available with relation to court decisions and prison sentences,<sup>279</sup> but not with regard to investigation proceedings by the public prosecution office.<sup>280</sup>

#### 2.4.3.1 Defendants convicted, prisoners and persons in preventive detention by age and sex

Of a total of 728 868 persons convicted in 2019, 3.9% were juveniles, 6.8% were young adults (aged 18 to 20) and 89.3% were adults.<sup>281</sup> Further subdivision into age groups shows that more than a quarter of persons convicted (26.6%) were between 30 and 39 years of age, while the over 70s accounted for a share of just 2.2%.<sup>282</sup>

The number of persons convicted per 100 000 inhabitants (cf. section 1.3.3) can be calculated by placing the number of Germans convicted in relation to the German population over the age of criminal capacity (14 years of age). According to this means of calculation, in 2019, approx. 743 persons were convicted per 100 000 persons who had reached the age of criminal capacity. In terms of age, there was only a slight difference between the numbers of juveniles (801) and adults (711), while the number of young adults aged 18 to 20 years of age at the time of the offence who were convicted (1521) was significantly higher. Among adults, there is also a large difference between young adults and older age groups (cf. Figure 15).<sup>283</sup>

As in the case of suspects (section 2.4.2), a majority of the persons convicted were men (81.3% in 2019). On closer consideration of details, however, there are certain differences in the shares of the sexes. In 2019, approximately 82% of convicted juveniles and adults between 30 and 39 years of age were male; among young adults aged 18 to 20, the figure was as high as 85.4%. In contrast, among the persons convicted who were at least 70 years of age, just 73.2% were men, which may be connected with the population share of men in this age group.<sup>284</sup> There are also differences according to

<sup>277</sup> On this subject, cf. also the development in the field of detected crime as elaborated on in section 2.2.2.

<sup>278</sup> BKA 2020b, p. 23.

<sup>279</sup> Both the criminal prosecution statistics and the prison statistics contain information on the age, sex and nationality of defendants adjudicated or convicted with final and binding effect, and persons serving a custodial sentence or juvenile or placed in preventive detention.

<sup>280</sup> Thus, it is not possible to tell, for example, how frequently proceedings were terminated by the public prosecution office - for discretionary reasons or due to other regulations - or for which groups of offenders. Cf. Heinz 2014, p. 46; RatSWD 2020, p. 26.

<sup>281</sup> The relevant age here - in accordance with section 1 JGG - is the person's age at the time of the offence (as in the PCS data in section 2.4.2.1).

<sup>282</sup> Strafverfolgungstatistik 2019, table 2.1, own calculations.

<sup>283</sup> Strafverfolgungstatistik 2019, table 1.3.1.

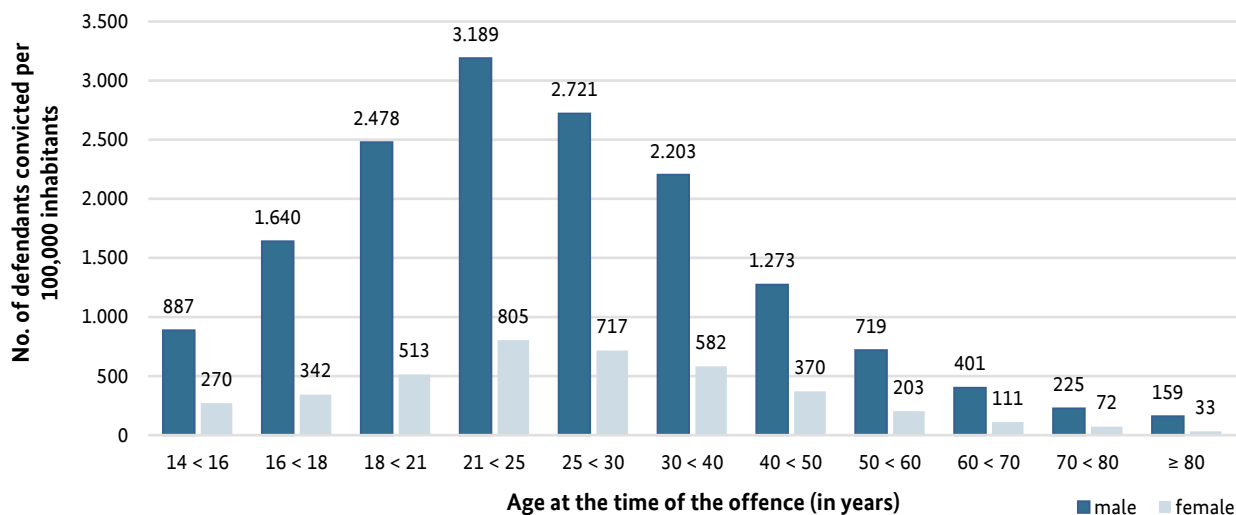
<sup>284</sup> Strafverfolgungstatistik 2019, table 2.1, own calculations.



## 2.4 Crime and crime control differentiated by demographic characteristics

sex in terms of the number of persons convicted. In 2019, the number of persons convicted among male Germans was 1214 per 100 000 of the population, whereas for females it was just 300. For male young adults aged 18 to 20, the number of persons convicted was 2478; for women in the same age group, the number was just 513.<sup>285</sup> Figure 15 subdivides the results into further age groups, underlining the overrepresentation of young males convicted in both the 18 to 20 and 21 to 24 age groups: the age curves for the numbers of persons convicted per 100 000 of the population rise sharply for juveniles of both sexes, peak among 21 to 24-year-olds and then decline again with increasing age.<sup>286</sup> The number of persons convicted per 100 000 of the population is significantly lower among women than among men in all age groups.

**Figure 15: Number of German defendants convicted, by age and sex - Germany 2019**



Source: Special evaluation by the Federal Statistical Office (*Statistisches Bundesamt*) on the basis of the criminal prosecution statistics (*Strafverfolgungsstatistik*) 2019 and the continuous updating of population figures (reference day 31 December 2018, results on the basis of the 2011 census).<sup>287</sup>

A comparison of the age curve of the number of defendants convicted with the age curve of the number of suspects per 100 000 of the population (section 2.4.2, Figure 14) shows the following: in terms of defendants convicted of both sexes, the highest incidences are in the 21 to 24 age group, while in terms of suspects, the peak incidences are already reached by younger age groups.<sup>288</sup> This effect may be due to the fact that minor delinquency - especially in younger age groups - generally does not lead to a conviction, but to termination of the proceedings.<sup>289</sup> In order to look in more detail at this filtering process in criminal proceedings and the type of terminations of proceedings, differentiated by age and sex,<sup>290</sup> it would be an advantage if demographic characteristics were also available in the official statistics for all decisions by the public prosecution office.<sup>291</sup>

The filtering process in the course of criminal proceedings (section 2.1.2) also influences the offence structure with regard to convictions in different age groups. As shown in section 2.4.2 above, young

<sup>285</sup> *Strafverfolgungsstatistik* 2019, table 1.3.1.

<sup>286</sup> For earlier reference years, see, for example, Heinz 2003, p. 34 f.; 2017, p. 37 f. (where road traffic offences are not included).

<sup>287</sup> The number of defendants convicted and the number of suspects per 100 000 of the population can only be calculated in relation to the resident German population, cf. section 1.3.4.

<sup>288</sup> The numbers of defendants convicted is largest in the 21 to 24-year-old age group, even when road traffic offences are not included, as in the PCS: *Strafverfolgungsstatistik* 2019, table 1.2; Heinz 2017, p. 38 f.

<sup>289</sup> Cf. section 2.3.1; Heinz 2017, p. 38; concerning the ratio of suspects/defendants convicted, differentiated by age groups: Heinz 2003, p. 34 f.

<sup>290</sup> Regarding sections 45 and 47 JGG on the basis of data from the Central Criminal Register and Educative Measures Register, cf., for example, Palmowski 2019, p. 295. Regarding the numbers of defendants adjudicated among juveniles/young adults aged 18 to 20, and adults for selected categories of offences, see, for example: 2nd PRC 2006, p. 92. On the greater significance of court terminations in juvenile criminal law, see section 2.3.1 above.

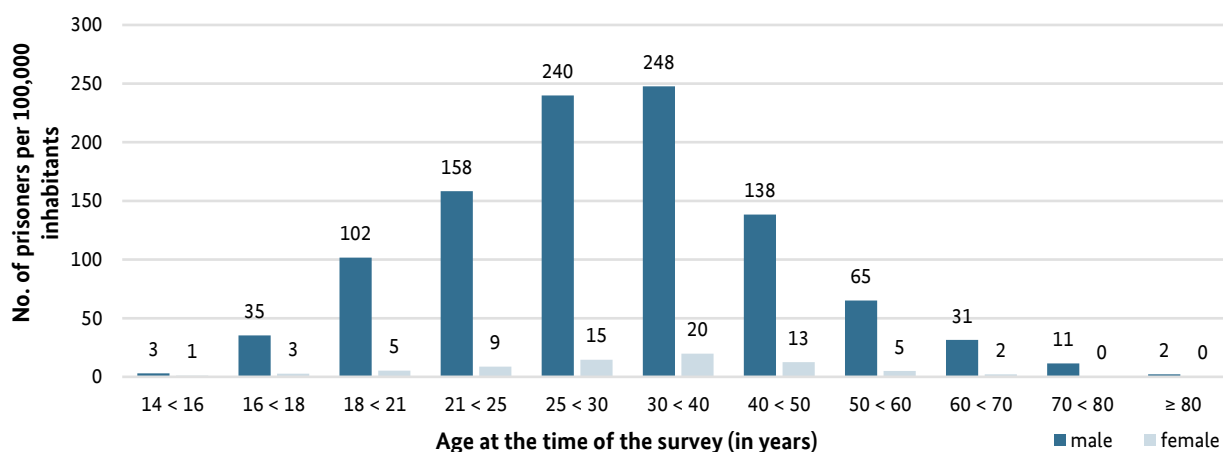
<sup>291</sup> Cf. the recommendations in the RatSWD 2020, p. 26 ff.

## 2.4 Crime and crime control differentiated by demographic characteristics

people are often registered by the police for more minor offences against property and assets. A considerable proportion of these minor offences are concluded by a termination of proceedings by the public prosecution office or the court, however, and not by a conviction.<sup>292</sup> Nevertheless, in terms of numbers, the great significance of simple theft (section 242 StGB) among juveniles is also reflected in the numbers of convictions: 21.4% of all juvenile convictions were based on such an offence (as the most serious criminal offence). 13.2% of all convictions of juveniles were for criminal offences under the Narcotics Act, 11.2% for simple bodily harm (section 223 StGB) and a further 10.1% for dangerous bodily harm<sup>293</sup> under section 224 (1) StGB.<sup>294</sup>

If one considers demographic characteristics in *prison*, one sees that the proportion of men on the reference day 31 March 2019 was 94.1%.<sup>295</sup> Thus, the proportion of women becomes smaller at every stage of criminal proceedings and with the increasing intensity of intervention of sanctions in a person's rights. This finding of a significantly lower incidence of "registered" crime among women is valid internationally. Evidence of this has been available since official statistics began to be recorded.<sup>296</sup>

**Figure 16: Prison rates (prisoners and persons in preventive detention) for Germans, by age and sex - Germany, reference day 31 March 2019**



Source: Special evaluation by the Federal Statistical Office (*Statistisches Bundesamt*) on the basis of the prison statistics (*Strafvollzugsstatistik*) 2019 and the continuous updating of population figures (reference day 31 December 2018, results on the basis of the 2011 census)

Juveniles account for just a small share of prisoners. Of a total of 50 589 prisoners and persons in preventive detention, 0.8% were juveniles, 3.8% were young adults aged 18 to 20 and 95.4% were adults.<sup>297</sup> Even if one looks at juvenile prisons only, most prisoners there have reached the age of majority.<sup>298</sup> Juvenile prisoners are rare, as underlined in Figure 16, which shows the prison rate (prisoners and persons in preventive detention per 100 000 inhabitants) for Germans by age group and sex. The incidence was particularly high in the 25–39 age group.<sup>299</sup> Since these are stock data, the age structure in prison is influenced not only by the frequency of sentences without conditions, but also by the length of stay in prison. In counts conducted on a reference day, people in detention for a

<sup>292</sup> Sections 2.3.1 and 2.3.3.2.

<sup>293</sup> It should be taken into account that dangerous bodily harm is already deemed to have taken place if the bodily harm was committed by more than one party acting jointly (section 224 (1) no. 4 StGB). In 2019, this was the case in approximately 52% of instances of dangerous bodily harm.

<sup>294</sup> *Strafverfolgungsstatistik* 2019, table 2.1, own calculations. This information relates to German and non-German juveniles.

<sup>295</sup> For a comparison of the proportion of women among suspects, defendants convicted and prisoners: Heinz 2017, p. 43 ff. On the types of offences: Heinz 2017, p. 159 ff.

<sup>296</sup> 2nd PRC 2006, p. 32.

<sup>297</sup> The relevant age here is not the age at the time of the offence, but the age at the time of the survey.

<sup>298</sup> Jehle 2019, p. 58 f.; *Strafvollzugsstatistik* 2019, table 2.

<sup>299</sup> Regarding the distortion factors relating to these stock numbers, see section 2.3.4.2.

## 2.4 Crime and crime control differentiated by demographic characteristics

short period are underrepresented and people with long sentences are overrepresented.<sup>300</sup> In view of the many findings on the connections between age and crime, such age distributions are of significance for criminology.<sup>301</sup>

### 2.4.3.2 Proportion of non-Germans among defendants convicted, prisoners and persons in preventive detention

Unlike the PCS, the criminal prosecution statistics do not include any information on a person's basis for residence, making it impossible to differentiate between, for example, the categories of asylum seeker, temporary suspension of deportation and unauthorised residence.<sup>302</sup> For this reason, the category of "immigrants" as defined in the PCS<sup>303</sup> cannot be presented using data from the criminal prosecution or prison statistics. While both these data sources contain information on nationality, the characteristic of nationality says little overall about these individuals' situations or how they have come to the attention of the authorities for criminal activities.<sup>304</sup>

Of the 728 868 persons convicted in 2019, 64.9% were German nationals and 35.1% were non-Germans.<sup>305</sup> In terms of a rough categorisation by age group, the share of non-Germans among juveniles was 21.8%, significantly lower than the share of non-Germans among all persons convicted (Figure 17).<sup>306</sup>

In prison, the proportion of non-Germans is similar (Figure 17).<sup>307</sup> As of the reference day 31 March 2019, 33.3% of a total of 50 589 prisoners and persons in preventive detention were non-Germans. As already shown in the 2nd PRC, the proportion of non-Germans in open prisons (22.7%) was smaller than that in closed prisons (35.1%). 35 non-Germans (6.4% of 551 persons in preventive detention) were in preventive detention on the reference day.<sup>308</sup> As in previous years, the proportion of non-Germans among young adults aged 18 to 20 in juvenile prisons<sup>309</sup> (35.2%) was smaller than the proportion of young adults aged 18 to 20 in adult prisons<sup>310</sup> (58.5%).<sup>311</sup>

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<sup>300</sup> Heinz 2014, p. 49 f.; RatSWD 2020, p. 35.

<sup>301</sup> Summaries are provided, for example, in Boers 2019; Walburg/Verneuer 2019; Eisenberg/Kölbel 2017, p. 958 ff.

<sup>302</sup> Concerning records in the PCS, see, for example, BKA 2020b, p. 136 ff.

<sup>303</sup> BKA 2020b, p. 149.

<sup>304</sup> The criminal prosecution statistics, like the PCS, do not include any information concerning migrant backgrounds; the sole key factor is the nationality of the defendants adjudicated or convicted. In the criminal prosecution statistics, all persons who do not have German nationality are deemed to be non-Germans; within this meaning, this group includes stateless persons. Persons who have both German and another nationality are recorded as Germans in the criminal prosecution statistics; it is not discernible whether the person has an additional nationality, cf. Strafverfolgungsstatistik 2019, p. 13.

<sup>305</sup> Strafverfolgungsstatistik 2019, table 8.2, own calculations. On the subject of differentiating by particular nationalities: Strafverfolgungsstatistik 2019, table 8.1 and 8.5. If violations of the law on foreigners (Residence Act, Asylum Act and Freedom of Movement/EU Act) are not taken into account, the proportion of non-German defendants convicted is somewhat lower (34.3%). The number of persons suspected of violations of the law on foreigners is significantly larger. Heinz 2017, p. 47 ff. Concerning the termination practice of the public prosecution office in this area, cf. section 2.3.1.

<sup>306</sup> Strafverfolgungsstatistik 2019, table 8.2.

<sup>307</sup> See also Jehle 2019, p. 57 f.

<sup>308</sup> Strafvollzugsstatistik 2019, table 2, own calculations; cf. also: 2nd PRC 2006, p. 616.

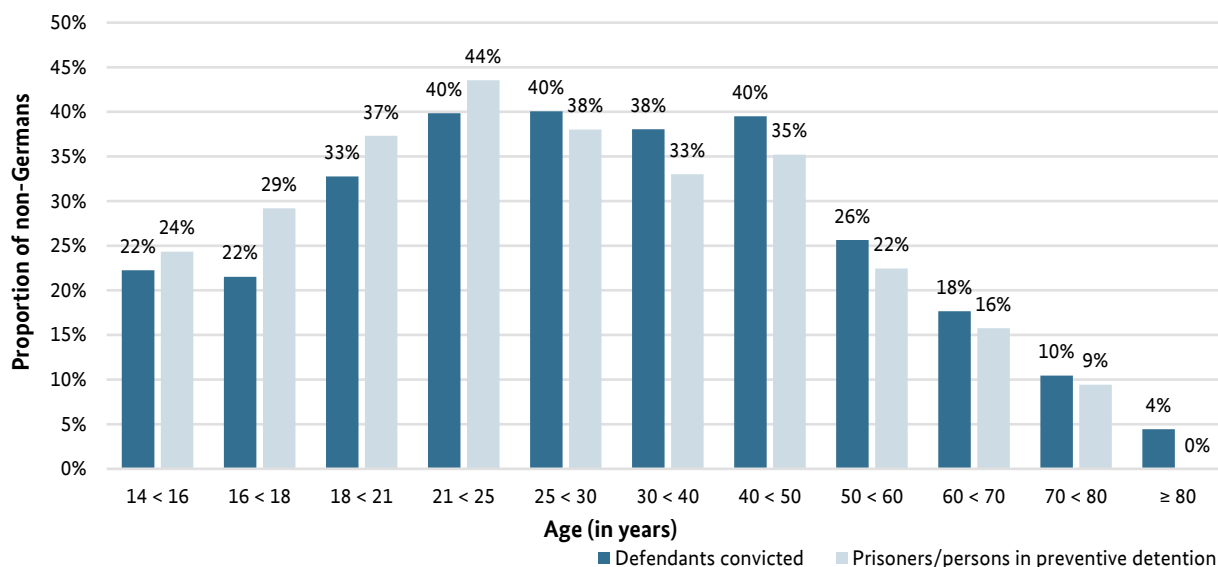
<sup>309</sup> Including custodial sentences of defendants convicted being served in a young offenders' institution under section 114 JGG.

<sup>310</sup> Including defendants sentenced to youth penalties who are exempt from juvenile prison under section 89b JGG.

<sup>311</sup> Strafvollzugsstatistik 2019, table 2, own calculations. See also 2nd PRC 2006, p. 616.

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**Figure 17: Proportion of non-Germans among defendants convicted and prisoners/persons in preventive detention, by age - Germany 2019, reference day 31 March 2019**



Note: In the case of defendants convicted, their age at the time of the offence is relevant; in the case of prisoners/persons in preventive detention, their age at the time of the survey is relevant.

Source: Calculation by the Federal Statistical Office (*Statistisches Bundesamt*) on the basis of the *Strafverfolgungsstatistik* (criminal prosecution statistics) 2019 and the *Strafvollzugsstatistik* (prison statistics) 2019.

A comparison of the proportions of young non-Germans under 25 among defendants convicted and prisoners/persons in preventive detention shows a relatively higher number of young non-Germans in prison (Figure 17).<sup>312</sup> Also, the proportion of non-Germans is significantly smaller in over-50 age groups than among younger adults. An interpretation of these numbers must consider factors including the age structure of non-Germans in Germany.<sup>313</sup> The data do not allow firm conclusions to be drawn as to whether this is connected with the different severity of criminal offences committed by young non-Germans in comparison with young Germans, whether it is the result of different severity of sentencing by the courts or whether it is due to other reasons. The factors referred to above (socio-economic status, opportunities for participation) lead to unfavourable social prognoses, which are an obstacle to suspension of the execution of sentence.

The proportion of foreign prison inmates in remand detention of the total number of prisoners in remand detention is particularly high, at 60.4%.<sup>314</sup> This could be due to courts more frequently assuming the risk of flight as a ground for detention in such cases.<sup>315</sup> With regard to the foreigners in all types of detention, Turkish nationals - the most populous immigrant group in Germany - were the group most strongly represented here too, followed by Polish and Romanian nationals.<sup>316</sup>

<sup>312</sup> Cf. 2nd PRC 2006, p. 616 ff.

<sup>313</sup> On this subject, see, for example, continuous updating of Germany's population figures, reference day 31 December, age in years, nationality/sex/marital status, retrievable using the table code 12411-0006 from <https://www-genesis.destatis.de>; cf. also section 2.4.2.2.

<sup>314</sup> *Strafvollzugsstatistik über den Bestand der Gefangenen und Verwahrten 2019*, table March 2019; BMJV, survey on the number of foreigners in prison on the reference day 31 March 2019.

<sup>315</sup> Cf. PRC 2006, p. 426 f. and p. 616 f.; Bock 2019, p. 369; Neubacher 2020, p. 169 ff.

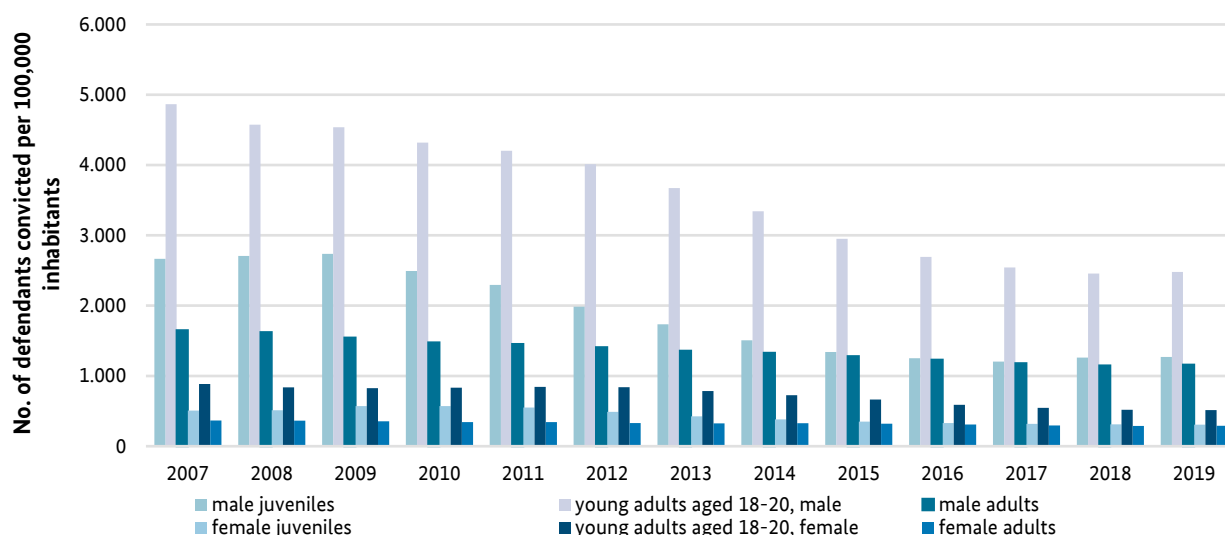
<sup>316</sup> BMJV, survey on the reference day 31 March 2019 on the number of foreigners in prisons; on suspects, cf. section 2.4.2.2.

### 2.4.3.3 Defendants convicted, prisoners and persons in preventive detention considered over a period of time

The number of convictions decreased between 2007 and 2019 (see section 2.3.3). This development is also reflected in Figure 18, which shows the numbers of persons convicted per 100 000 inhabitants during this period for Germans, differentiated by age and sex.

The greatest decline in the number of persons convicted was recorded among male juveniles and young adults aged 18 to 20. In this group, the number of persons convicted between 2007 and 2019 fell by about half. Among male German young adults aged 18 to 20, a decline from 4865 to 2478 per 100 000 inhabitants of the relevant population group was recorded. Among male German juveniles, the number of persons convicted in 2007 was 2666; the number in 2019, in contrast, was 1270. The year before, the number of persons convicted in both groups was even lower than in 2019. Most recently, the number of male juveniles convicted was therefore on approximately the same level as the number of male adults convicted. A downward trend is also to be found in the police data, as shown in section 2.4.2.3. Although the recording methods of the PCS and the criminal prosecution statistics are not the same,<sup>317</sup> this development in the same direction suggests that the considerable decline in the number of defendants convicted among the young age groups is at least partly due to a decline in registered crime.<sup>318</sup>

**Figure 18: Number of German defendants convicted, by age and sex: Germany 2007 to 2019**



Source: Calculation by the Federal Statistical Office (*Statistisches Bundesamt*) on the basis of the *Strafverfolgungsstatistik* (criminal prosecution statistics) 2007 to 2019 and the continuous updating of population figures in different years (reference day 31 December of the respective previous year, from 2011 onwards: results on the basis of the 2011 census).

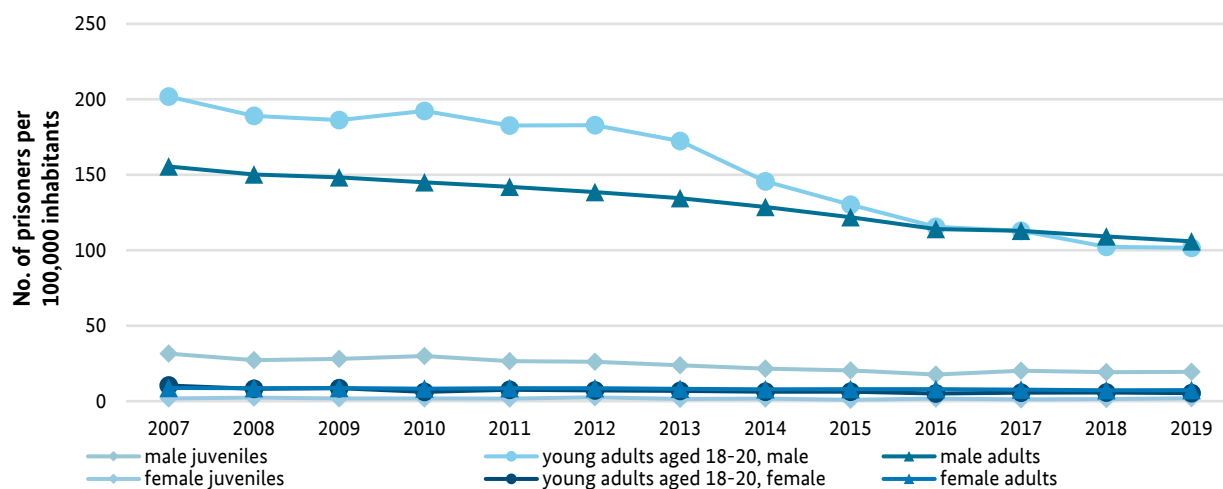
In this period, the prison statistics data (reference day 31 March) also show a downward trend in the incidence per 100 000 inhabitants. For example, the prison rate among young German male adults aged 18 to 20 declined from 202 in 2007 to 102 in 2018 (Figure 19). Between 2018 and 2019, the prison rate in this population group remained stable, while the downward trend in the rate for male adults continued and the prison rate decreased (slightly).

<sup>317</sup> See subchapter 1.3.

<sup>318</sup> See subchapter 2.3 above (also on the development of the termination practice of the public prosecution office).

## 2.4 Crime and crime control differentiated by demographic characteristics

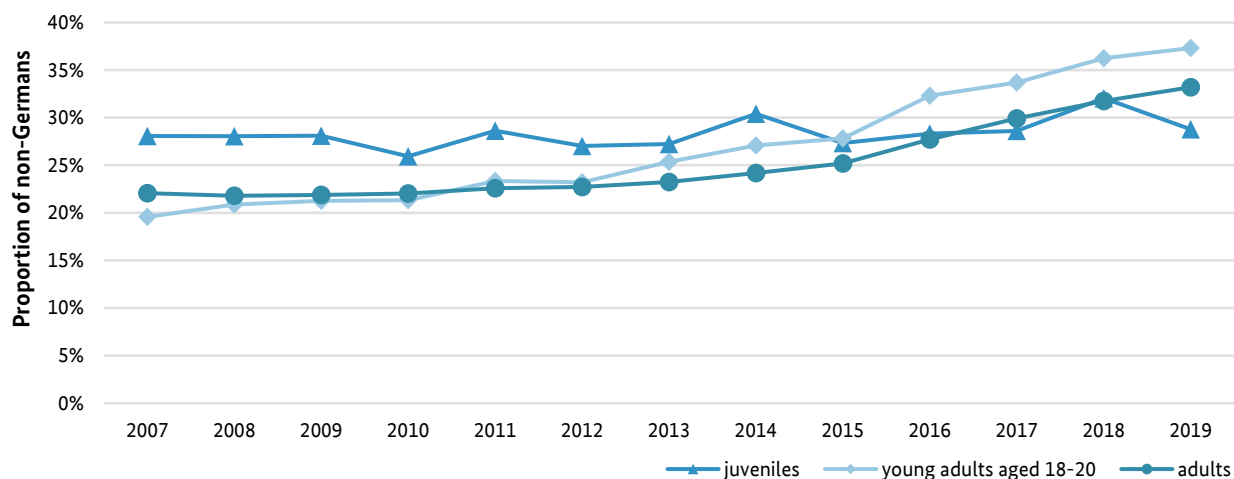
**Figure 19: Prison rates (prisoners and persons in preventive detention) for Germans, by age and sex - Germany 2007 to 2019, reference day 31 March**



Source: Calculation by the Federal Statistical Office (*Statistisches Bundesamt*) on the basis of the *Strafvollzugsstatistiken* (prison statistics) 2007 to 2019 and the continuous updating of the population in different years (reference day 31 December of the respective previous year, from 2011 onwards: results on the basis of the 2011 census).

Particular attention is repeatedly given to the increase in the proportion of non-Germans in the number of convictions and also to their overrepresentation in prisons. In 2007, just under 80% of defendants convicted were German nationals; this proportion had fallen to 64.9% in 2019.<sup>319</sup> The same applies to prison: from 2007 to 2019, the proportion of non-Germans among prisoners and persons in preventive detention on 31 March, the reference day, rose from 22.0% to 33.3%. In particular, there is a discernible increase among adults, who comprise the majority of prisoners, and among young adults aged 18 to 20, while the proportion of non-German juveniles in 2019 was at a level similar to that in 2007 (Figure 20).

**Figure 20: Proportion of non-Germans among prisoners and persons in preventive detention, by age groups - Germany 2007 to 2019, reference day 31 March**



Source: Prison statistics 2007 to 2019, special evaluation by the Federal Statistical Office (*Statistisches Bundesamt*).

The data do not allow any reliable conclusions to be drawn as to the extent to which an increase in the proportion of non-Germans in prison is the result, alongside demographic developments, of increased crime and/or increased intensity with which prosecutions are pursued and/or severity of

<sup>319</sup> Strafverfolgungsstatistik 2007 and 2019, table 1.3.1.

## 2.4 Crime and crime control differentiated by demographic characteristics

sentence.<sup>320</sup> The growth in the number of non-German prisoners leads to particular demands and challenges for prison officers. The 2nd PRC, for instance, gives the examples of national or ethnic tensions in prison, difficulties with oral communication due to the diversity of languages and dialects, and different ritual requirements of prisoners who have a religious faith.<sup>321</sup>

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<sup>320</sup> Cf. sections 2.4.2.2 and 2.4.3.2 above.

<sup>321</sup> See 2nd PRC 2006, p. 617 with further references; also on the particular burdens on the non-German prisoners (for example, the threat of deportation or expulsion after partly or completely serving their sentence) cf. also section 3.1.2 on violence in prison.

## 2.5 Crime and crime control in Germany in an international comparison

### 2.5.1 Substantive and methodological requirements of an international comparison of national crime numbers

When comparing the development of crime in different countries, there are a number of methodological and material hurdles to be overcome. That is due to the fact that crime is not merely an object, but a “social construct”, influenced by social and cultural values.<sup>322</sup> National legal systems differ, as do the forms of prosecution or the types of statistical data collections. Nevertheless, there are ways of making comparative statements, for example by contrasting developments over time or comparing regional groups of countries rather than single nation states. This enables common or divergent trends to be analysed.<sup>323</sup> Thus, the primary aim of international comparisons of national crime numbers is not to draw up rankings of the world’s safest or least safe countries. Their main purpose is to create an international empirical basis for criminological analyses which are then used as the basis for evidence-based crime policy measures.<sup>324</sup> The general substantive limitations and methodological challenges to be considered in international comparisons presented in the 2nd PRC still apply today.<sup>325</sup> In particular, three groups of factors must be taken into account when making an international comparison of crime:<sup>326</sup>

- substantive factors, such as the perception of criminal offences in the population, reporting behaviour, structures relating to opportunities for crime, and sociodemographic factors;
- legal factors, such as the definition of criminal offences and procedural regulations (for example, the principles of discretionary prosecution and mandatory prosecution);
- statistical factors, such as the definition of the units to be recorded (case, suspect, victim), counting rules, the scope of statistical records.

Since the publication of the 2nd PRC, however, there have been some major changes with regard to the data basis for international comparisons of crime.<sup>327</sup> One significant innovation relates, among other things, to the introduction of EU crime statistics.<sup>328</sup> The specific implementation provided for harmonised data transfer on certain offences to the European statistical authority, Eurostat.<sup>329</sup> In addition, it was intended that guidelines for victim surveys would be drawn up in cooperation with the United Nations Economic Commission for Europe (UNECE), the United Nations Office on Drugs and Crime (UNODC) and the researchers responsible for conducting the International Crime Victims Survey (ICVS).

The outcome of these efforts is a new source of police and judicial data at European level (Eurostat), based on the data transfer of official national statistics. Until 2013, Eurostat and UNODC requested data separately. In 2013, the decision was taken to merge the previously parallel data surveys of the two organisations, and to harmonise statistical definitions for cross-border data surveys. In 2014, Eurostat and UNODC conducted a joint survey on crime trends for the first time. The survey asks

<sup>322</sup> cf. 2nd PRC 2006, p. 37; section 2.1.1.

<sup>323</sup> See the statements in the 2nd PRC 2006, p. 36 ff.

<sup>324</sup> Cf. UNODC 2018 and the European Sourcebook of Crime and Criminal Justice Statistics: Aebi et al. 2017, p. 20.

<sup>325</sup> On this subject, see the 2nd PRC 2006, p. 36 ff.

<sup>326</sup> In line with von Hofer 2000, p. 78 ff.; a summary is to be found in Aebi 2008, p. 196. See also Aebi et al. 2017, p. 20 f.

<sup>327</sup> On the data basis at that time, cf. 2nd PRC 2006, p. 36 ff.

<sup>328</sup> Council and Commission Action Plan implementing the Hague Programme, Communication from the Council 2005/C 198/01, p. 13. More precisely: statistics on crime and the response to it by the prosecution (police and judiciary).

<sup>329</sup> Cf. EU Action Plan 2006-2010. COM (2006) 437 final and Stockholm Programme: Council of the European Union, 2010/C 115/21.



## 2.5 Crime and crime control in Germany in an international comparison

about criminal offences overall and about certain types of offences at the different stages of prosecution. Another important step with regard to the comparability of data was taken in 2015, when it was decided to introduce an International Classification of Crime for Statistical Purposes (ICCS) and an implementation plan. The ICCS consists of behavioural definitions of an offence rather than consisting of specific national legal provisions. For the purpose of implementation, the individual countries have been asked to prepare so-called correspondence tables that assign national criminal offences or classifications in the national statistics to the new International Classification of Crime for Statistical Purposes (ICCS).<sup>330</sup>

In terms of recording the “dark field” of crime, the ICVS was conducted most recently in 2010. Since then, because it was not possible to conduct a follow-up study, there has been a need for an internationally comparable victim survey. Until such a survey is conducted, it will be necessary to draw on national survey data to make international comparisons.<sup>331</sup> The Manual on Victimisation Surveys was developed in 2010 to support individual states in setting up a national victim survey.<sup>332</sup>

### 2.5.2 Specific substantive and methodological areas of international comparative crime analysis

Unlike in the 2nd PCS, the presentation of specific substantive and methodological areas is made with reference to the data basis provided by Eurostat, UNODC and the authors of the European Sourcebook of Crime and Criminal Justice Statistics (ESB) 2021.

In line with the 2nd PRC, Figure 21 attributes particular significance to homicide offences, as statutory definitions of homicide, in comparison with many other offences, usually do not differ fundamentally from one another.<sup>333</sup> The figure presents victims of intentional homicide offences as defined in the International Classification of Crime for Statistical Purposes (ICCS). It clearly shows how the USA sticks out and how Japan retains its traditionally very low position in international comparison.<sup>334</sup> The figures for Germany, too, are comparatively low. Whereas in the USA, approximately five victims of intentional homicide per 100 000 inhabitants were counted in 2017 and 2018, the numbers in Germany were 1/0.9 per 100 000 inhabitants and in Japan 0.2/0.3 per 100 000 inhabitants.

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<sup>330</sup> On Germany's participation in implementation of the ICCS, cf. Baumann et al. 2016, p. 102 ff.

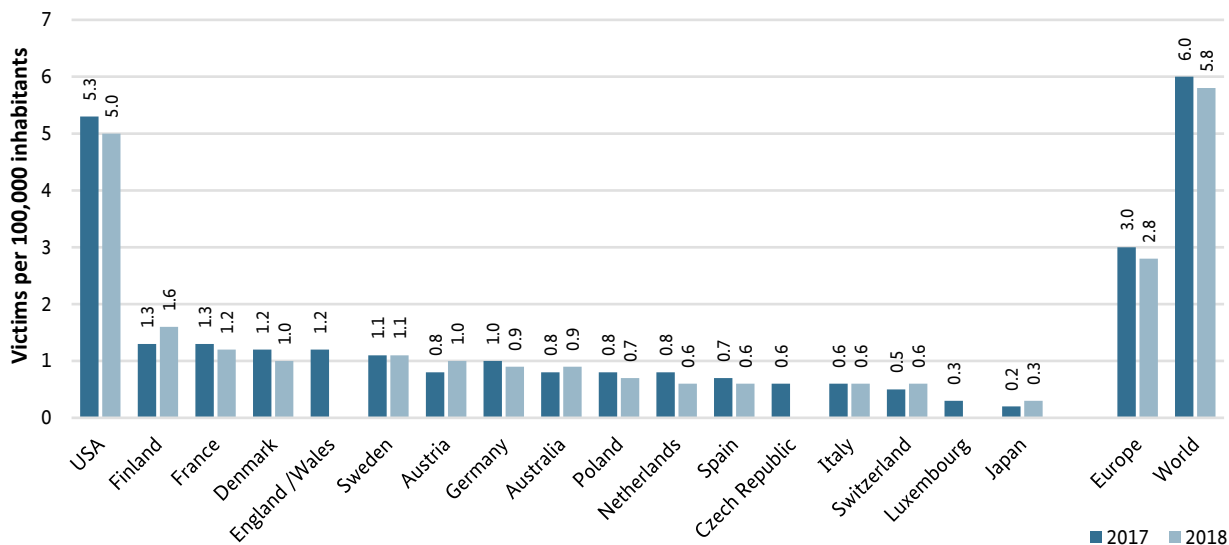
<sup>331</sup> On this subject, see section 2.5.2.

<sup>332</sup> UNODC/UNECE 2010.

<sup>333</sup> 2nd PRC 2006, p. 42 f.

<sup>334</sup> On this finding, cf. 2nd PRC 2006, p. 43.

**Figure 21: Crime rates for intentional homicide offences in 2017 and 2018: international and European comparison of UN-CTS data**



Source: UNODC, victims of intentional homicide, rates per 100000 population.

Within Europe, the ESB data allow a comparative analysis of crime to be made.<sup>335</sup> Figures on nearly all European countries are collected, a total of 46, but they are not listed individually here. Instead, an average value is given for all the countries included. In addition, the countries of Western and Northern Europe that are most comparable with Germany in social and economic terms are put together.<sup>336</sup> It was not always possible for each country to provide figures on the individual offence categories, so the population in the individual categories varies. In the course of prosecution, the case numbers decrease considerably between the police and the criminal courts.<sup>337</sup> This is not a specifically German phenomenon, but one that can be observed in all criminal justice systems. It can be presented using the figures available in the ESB on crimes that come to police attention and on convictions. The offence categories robbery, serious sexual coercion and drug offences are selected as examples (Figure 22).<sup>338</sup>

As far as *robbery* is concerned, there are differences in offence figures between Germany, Western and Northern Europe, and Europe, but these differences become much slighter if one looks at the numbers of persons convicted. The proportion of persons convicted in relation to criminal offences registered by the police in Germany (16%)<sup>339</sup> was similar to that in Western and Northern Europe (14%), but significantly lower than in Europe as a whole (26%). In the case of serious sexual offences<sup>340</sup>, however, the considerable differences in terms of numbers of registered offences between Germany, Western and Northern Europe, and Europe as a whole remain more or less intact in terms of persons convicted. The rate of persons convicted as a proportion of offences in Germany (6%) is similar to that in Western and Northern Europe (6%), but significantly lower than in Europe as a

<sup>335</sup> The following two sections are based on current statements by Jörg-Martin Jehle, co-author of the European Sourcebook of Crime and Criminal Justice Statistics, in line with Jehle 2015, p. 67 ff.

<sup>336</sup> Austria, Switzerland, France, Belgium, the Netherlands, the United Kingdom (with separate statistics for England and Wales, Scotland, and Northern Ireland), Ireland, Denmark, Norway, Sweden, Finland and Iceland.

<sup>337</sup> Cf. a detailed presentation of the filtering process by social control in the criminal justice system in the funnel model in section 2.1.2.

<sup>338</sup> Since numbers on suspects are not available for all countries, these are not shown in the figure.

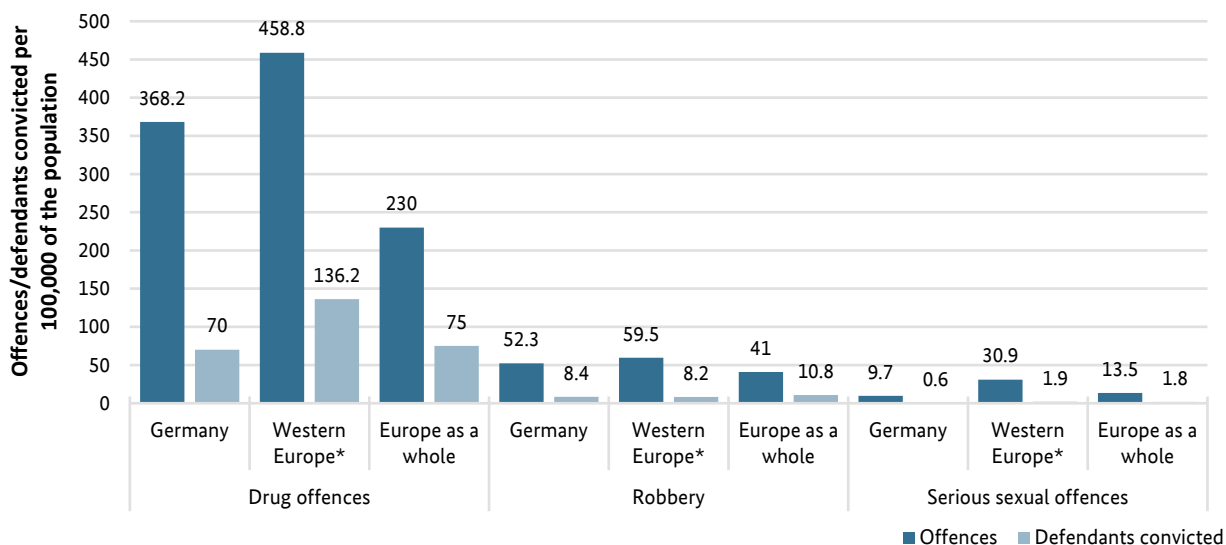
<sup>339</sup> This is a simplified presentation that does not show changes over time. Cf. section 1.3.4.

<sup>340</sup> The ESB asks about “rape” and defines the term as “sexual intercourse with a person against his/her will (per vaginam or other)”. Thus, the term is used to mean a serious form of sexual coercion, particularly rape. It is not intended to include less serious forms of sexual coercion, as these are recorded separately. These acts cannot be excluded in all countries, however, either because the definition of the criminal offence is broad, or because the crime statistics do not make a distinction. This is true in particular of the Scandinavian countries. Cf. Aebi et al. 2021, p. 404 f.

## 2.5 Crime and crime control in Germany in an international comparison

whole (13%). In the case of drug offences, considerable differences are evident both in the number of crimes registered with the police and at the level of the persons convicted. The rate of persons convicted as a proportion of offences also differ (Germany 19%, Western and Northern Europe 30%, Europe as a whole 33%).

**Figure 22: Offences and persons convicted per 100 000 inhabitants of the resident population for drug offences, robbery and serious sexual offences, 2016**



\* Western and Northern Europe; arithmetic average on the basis of own calculations (BfJ).

Source: Aebi et al. 2021, for offences, see tables 1.2.1.10, 1.2.1.12, 1.2.1.24; for persons convicted, see tables 3.2.1.8, 3.2.1.10, 3.2.1.21.

Under the limitations mentioned above (section 2.5.1), the new ESB also compares the results of national victim surveys.<sup>341</sup> The main finding of this comparison was that in victim surveys around the year 2015, theft had the highest prevalence and sexual assault<sup>342</sup> the lowest prevalence.<sup>343</sup> With regard to the general sense of security, it was established that this varies strongly in the EU states which were compared, as does confidence in the police, although there is no discernible correlation between these two attitudes. In comparison with the other countries in the survey, Germany and Iceland have the highest proportion of the population that state that they have confidence in the police.<sup>344</sup>

### 2.5.3 Crime control in an international comparison

Both the latest crime situation and trends, and the responses to crime of the instances of social control in the criminal justice system, some of which are looked at in this section, vary at European and international level. The prison rate, one of the most frequently used indicators, is calculated as the absolute number of prison inmates per 100 000 inhabitants of the respective resident population.

The presentation in Figure 23 is made analogously to the selection of countries in Figure 21 on crime with reference to the data basis provided by Eurostat and UNODC.<sup>345</sup> The size of the prison

<sup>341</sup> Aebi et al. 2021, p. 337 ff.

<sup>342</sup> The standard question about sexual assault in the ESB was asked as follows: “Has anyone grabbed you, touched you or assaulted you for sexual reasons in a really offensive way?” The question asked in the individual countries varied significantly, however, and, in terms of definition, ranged from offensive touching to rape, cf. Aebi et al. 2021, pp. 343 and 354.

<sup>343</sup> Aebi et al. 2021, p. 347. In Germany, the only question to be asked was about theft, cf. section 2.2.4. In general, it should be noted that for a given offence, varying numbers of countries provided data from victim surveys.

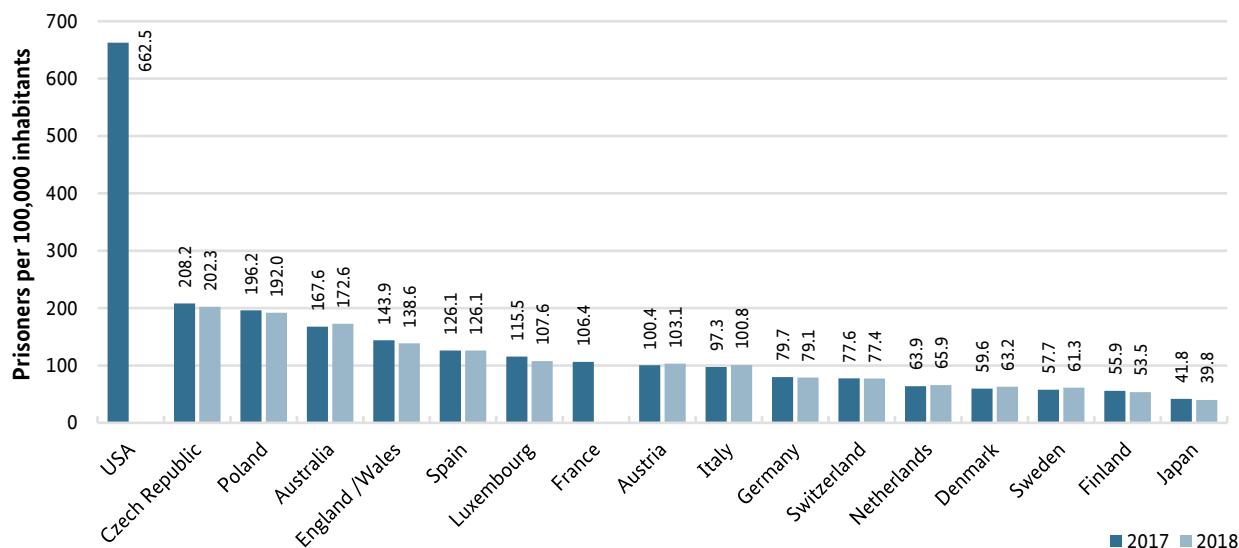
<sup>344</sup> Aebi et al. 2021, pp. 347 and 369 f. On the subjects of sense of security and confidence in the police, see also section 2.6.3.

<sup>345</sup> Cf. 2nd PRC 2006, p. 608 ff.

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population in 2017 in the countries observed ranged from approx. 42 prisoners per 100 000 inhabitants in Japan to approx. 663 prisoners per 100 000 inhabitants in the USA. In Germany, there were nearly 80 prisoners per 100 000 inhabitants in 2017 and approx. 79 in 2018.

**Figure 23: Prison rate 2017/2018 for all offences: international and European comparison of UN-CTS data**



Source: UNODC, persons held in prison, rates per 100 000 of the population. Data for France and the USA for 2018 were not yet available.

In a *European comparison* of prison rates, for which Council of Europe prison statistics data serve as the basis, the rate in Germany in 2019 (76.6 prisoners per 100 000 persons in the resident population) was significantly lower than the average, 106.1. While many Eastern European countries have comparatively high prison rates, the rates in the Scandinavian countries are significantly lower than in Germany in some cases. The Council of Europe prison statistics also show the development of the prison rates in Europe between 2009 and 2019.<sup>346</sup> These statistics show that in Germany, as in other European countries, the prison rate has fallen since the 2nd PRC,<sup>347</sup> while in Austria, it has risen slightly (2003: 97; 2011: 104.7; 2019: 105.6).<sup>348</sup>

The respective prison rate is affected by many factors, only some of which are quantifiable. When making an international comparison of prison rates, some of the differences between countries may be due to different recording methods. The prison rate also depends on the number of admissions to prison and the length of detention.<sup>349</sup> The number of admissions is also only partly determined by the number of people sentenced to a non-suspended sanction in a prison. Other admissions are due to “alternative sentences”, such as “prison sentences as an alternative” to an unpaid fine, or due to the revocation of the suspension of a sentence. The duration of detention, on the other hand, depends on the duration of the sentence imposed and on how parole, clemency or an amnesty are handled.<sup>350</sup> The development of sanctioning practice in Germany is also characterised by the frequent use of non-custodial rather than non-suspended sanctions such as prison sentences (on this subject, see subchapter 2.3). This does not apply to the homicide offences discussed in section 2.5.2, however.

<sup>346</sup> Aebi/Tiago 2020, p. 30 f.

<sup>347</sup> Cf. section 2.3.4.2.

<sup>348</sup> Aebi/Tiago 2020, p. 31; 2nd PRC 2006, p. 609.

<sup>349</sup> 2nd PRC 2006, p. 608 ff; see also Heinz 2017, p. 161.

<sup>350</sup> On this overall subject: Heinz 2017, p. 161.

## 2.6 The public's sense of security and fear of crime

“In addition to the crime situation and its development, the extent to which citizens feel threatened by crime and how they subjectively judge and evaluate the crime situation are significant to crime policy (...).”<sup>351</sup> Fear of crime is frequently identified in polls as being less pronounced than concerns about political issues or personal emergencies and uncertainties in everyday life.<sup>352</sup> This varies according to the social or geographical context. The higher people's social status, level of education and integration are, the lower the levels are at which they fear crime. People with a pronounced fear of crime also have greater fears of other things.<sup>353</sup> Having been a victim of crime in the past can lead to a greater fear of crime. Here, too, personal characteristics are a crucial factor.<sup>354</sup> There is evidence of a paradox relating to fear of crime: people who have a statistically lower victimisation risk, such as elderly people or women,<sup>355</sup> report a particularly great fear of crime, while this fear is much less pronounced among young men, although statistically their victimisation risk is much higher.<sup>356</sup> The public continue to perceive crime as being on the increase, in some cases overestimating its structure and extent.<sup>357</sup> Taking into account the results of many studies, it can be established that citizens' feeling of safety (or lack thereof) on the one hand and the “objective” crime situation and development on the other often do not run in parallel.<sup>358</sup>

A fear of crime may lead to a loss of trust in other people, reduced participation in public life and the undermining of faith in governmental institutions. These changes not only impair the quality of individuals' lives, but are also detrimental to the functioning of society and social coexistence.<sup>359</sup> Years ago, KERNER concisely expressed the major significance that a sense of security has for criminological research and crime policy. He said that it was the duty of the state to ensure “not only that citizens can go out in the evening, but that they also believe that they can do so.”<sup>360</sup>

### 2.6.1 Development of research and current data situation

Since the Second Periodical Report on Crime and Crime Control in Germany was compiled, there have been considerable changes, both with regard to the state of research and the data situation.<sup>361</sup> At national level, the project “Barometer of Security in Germany (BaSiD)”, including the “2012 German Victimization Survey” module, the 2017 German Victimization Survey, the project “Economic indicator system to measure security and security economics in Germany (WISIND)”, the state surveys in Lower Saxony, North Rhine-Westphalia, Schleswig-Holstein, and Mecklenburg-Western Pomerania, the studies by LIEBL in Saxony and Hesse, the pupil surveys conducted by the KFN, and the longitudinal criminological research conducted by the University of Münster in Duisburg, Münster and Bocholt, have created extensive new data availability,<sup>362</sup> leading to numerous findings on the public's sense of security and fear of crime.

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<sup>351</sup> 2nd PRC 2006, p. 486.

<sup>352</sup> For details on this subject, cf. section 2.6.3.

<sup>353</sup> Eisenberg/Kölbel 2017, p. 299 f.

<sup>354</sup> Eisenberg/Kölbel 2017, p. 299; Neubacher 2020, p. 140.

<sup>355</sup> With qualifications: Eisenberg/Kölbel 2017, p. 299.

<sup>356</sup> Heinz/Spiess 2001, p. 153 f.; Neubacher 2020, p. 139. Cf. section 2.4.1 on risk of victimisation by sex.

<sup>357</sup> Neubacher 2020, p. 139; Pfeiffer et al. 2004.

<sup>358</sup> 2nd PRC 2006, p. 486; Heinz/Spiess 2001, p. 153.

<sup>359</sup> 2nd PRC 2006, p. 486.

<sup>360</sup> Kerner 1986, p. 155; 2nd PRC 2006, p. 488.

<sup>361</sup> On the state of research and the data situation up to the compilation of the 2nd PRC, cf. 2nd PRC 2006, p. 487 ff.

<sup>362</sup> Cf. also section 2.2.4 above.

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Questions on feelings of security and the fears of the public are asked not only in criminological studies, but also in welfare surveys,<sup>363</sup> the German General Social Surveys (GGSS)<sup>364</sup> by commercial opinion research institutes, the German Socio-Economic Panel (SOEP) and the European Social Survey (ESS). The surveys on the fears of Germans conducted by R+V Versicherung since 1991<sup>365</sup> are also well known. They contain long time series with annual repetitions of the measurements, indicating which issues cause particular anxiety and how fears have changed over time. The European Commission has also commissioned a survey twice a year since 1974, the *Standard Eurobarometer*, in which participants are asked to name two central social problems at national and European level. The position of the subject of crime can be identified here, not only over time, but also in comparison with other EU countries. The data situation for an international comparison on the basis of comparable “dark field” studies is deficient, however.<sup>366</sup> It is possible to resort to national surveys - as was the case recently in the ESB 2021 (cf. section 2.5.2) - but there is a lack of studies that provide comparable results.

### 2.6.2 Sense of security - different types and points of reference

A fundamental distinction needs to be made between social and personal attitudes to crime.<sup>367</sup> What is meant by social attitudes to crime is attitudes to certain institutions that exert social control within the criminal justice system (for example the police and courts), or attitudes to sentences. With regard to security (or lack thereof), social attitudes are directed at questions of the extent to which the community is perceived as being threatened or characterised by crime and regarding the relevance of the subject of national security.<sup>368</sup> Thus, the issue here is the perception of crime as a social problem,<sup>369</sup> also referred to as *social fear of crime*.<sup>370</sup>

*Personal fear of crime* refers to the extent to which individuals feel that they are personally threatened by crime.<sup>371</sup> With regard to this personal perception of threat, three levels can be distinguished: a cognitive level (perceived risk of being victimised) a conative, i.e. behavioural level (avoidance behaviour and protection measures) and an affective level (feelings of insecurity with regard to potential criminal acts).

There is a correlation between the perception of crime as a social problem on the one hand and personal fear of crime on the other.<sup>372</sup> However, their causes, characteristics, development and consequences may be very different.

### 2.6.3 Social fear of crime

The results of the *R+V Versicherung study*,<sup>373</sup> “*Die Ängste der Deutschen*” (“What Germans Fear”) in recent years have indicated a shift in citizens’ concerns recently, from economic to more general political issues. In 2020, however, economic concerns were once again among the greatest fears as a

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<sup>363</sup> The German Welfare Survey is a representative survey conceived to measure individual welfare and quality of life. The Welfare Survey was conducted in West Germany in 1978, 1980, 1984 and 1988 and for the whole of Germany in 1993 and 1998; cf. GESIS 2020a.

<sup>364</sup> GESIS 2020b.

<sup>365</sup> R+V Versicherung 2020b. Cf. section 2.6.3.

<sup>366</sup> The International Crime Victims Survey (ICVS) was discontinued in 2010 and it was not been possible to implement the European Safety Survey (EU SASU) project.

<sup>367</sup> Cf. Heinz/Spiess 2001, p. 157; Louis-Guérin 1984, p. 625; Skogan 1993, p. 132 ff.

<sup>368</sup> Cf. 2nd PRC 2006, p. 491 f.; Heinz/Spiess 2001, p. 157; Hummelsheim-Doss 2017, p. 36.

<sup>369</sup> Cf. Heinz/Spieß 2001, p. 165 ff.; Wetzels et al. 1995, p. 189 f.

<sup>370</sup> Cf. Boers 1991, p. 207 ff.; Ziegleder et al. 2011, p. 21 f.

<sup>371</sup> Cf. Gabriel/Greve 2003.

<sup>372</sup> Cf. for example Pfeiffer et al. 2004; Schwind et al. 2001, 261 ff.

<sup>373</sup> In 2020,  $n = 2446$  took part in the survey.

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result of the COVID-19 pandemic.<sup>374</sup> With regard to crime, *fear of terrorist attacks* increased sharply between 2014 and 2016, with the agreement rate among those polled rising sharply from 39% to 73%. In 2017, it remained one of the Germans' greatest fears, with an agreement rate of 71% of those polled. This fear declined continually in the following years, however. In 2020, a fear of terrorist attacks was voiced by only 35% of those polled.<sup>375</sup>

The results of the latest *Standard Eurobarometer* show that *concerns about crime* rank low in Germany. In a European comparison, however, Germany (11%) ranks above the average of the 27 Member States (8%).<sup>376</sup> Since 2020, citizens throughout the EU have been occupied primarily by economic concerns.<sup>377</sup>

Since the police play a key part in preventing and prosecuting crime, fear of crime is closely connected with trust in the police. The *2012 and 2017 German Victimization Surveys* (DVS) asked questions on *trust in the police and institutional trust*.<sup>378</sup> It has been shown that the police enjoy the highest level of trust, ahead of the public prosecution offices, courts, Federal Government and political parties. These results confirm the findings known from other studies (for example the GfK Global Trust Report,<sup>379</sup> GGSS), according to which the police are trusted most in comparison with other institutions.<sup>380</sup>

A more precise analysis of the 2012 and 2017 DVS data underlines that a clear majority of the population (83%) rates the police's efforts in combatting crime as very or rather good. This proportion was significantly lower than five years previously, with a difference of approx. 3.4 percentage points.<sup>381</sup> In 2017, three quarters of people over the age of 16 living in Germany said they expected that the police would treat a poor and a rich person equally if they reported a crime. This is a significant increase of nearly five percentage points in comparison with 2012. At the same time, the proportion of people believing that the police treat poor people worse has declined by 4.5% to 23.4%.<sup>382</sup> The proportion of those believing that the police rarely or never use more force than required by law or by the situation was nearly 60% in 2017, a significant increase of approximately 5% in comparison with 2012. Thus, trust in the police increased in this regard, in spite of the fact that the proportion of those that expected the police to very often or often use more force than required by law or by the situation remained constant, at around 11%. The proportion of people who sometimes think this is the case declined significantly by five percentage points (2012: 33.9%, 2017: 28.9%).<sup>383</sup>

*“Regarding the influence of migration background<sup>384</sup> on the assessment of the use of force, the results of the 2017 DVS point to different effects. 22.5% of persons whose migrant background was from Turkey and 24% of persons whose migrant background was from a country in the former Soviet Union were of the opinion that the police often or very often use more force than legally or situationally required. These shares tended to be higher than those of people without a migrant background (10.0%); the differences between the groups are not statistically reliable, however, due to the small number of cases in the relevant DVS question module. On the other hand, there was a statistically significant difference between*

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<sup>374</sup> R+V Versicherung 2020c.

<sup>375</sup> R+V Versicherung 2020d.

<sup>376</sup> European Commission 2020, p. 20 f. Respondents were asked what in their view were currently the most important problems facing their country.

<sup>377</sup> European Commission 2020, pp. 16 and 20.

<sup>378</sup> Cf. Birkel et al. 2014, p. 49 ff.; Birkel et al. 2019, p. 63 ff.

<sup>379</sup> GfK Verein 2017, p. 36 ff.

<sup>380</sup> Birkel et al. 2019, p. 78. The 2012 DVS did not yet ask the question concerning trust in the public prosecution office.

<sup>381</sup> Birkel et al. 2019, p. 72.

<sup>382</sup> Birkel et al. 2019, p. 74.

<sup>383</sup> Birkel et al. 2019, p. 76.

<sup>384</sup> In the context of the 2017 DVS, a person with a migrant background is defined as someone who has the nationality of one or more country other than Germany and/or was born abroad (outside the territory of the present-day Federal Republic of Germany) and moved to the territory of the present-day Federal Republic of Germany after 1949, or has at least one parent who was born abroad and moved to the territory of the present-day Federal Republic of Germany after 1949, cf. Birkel et al. 2019, p. 9.

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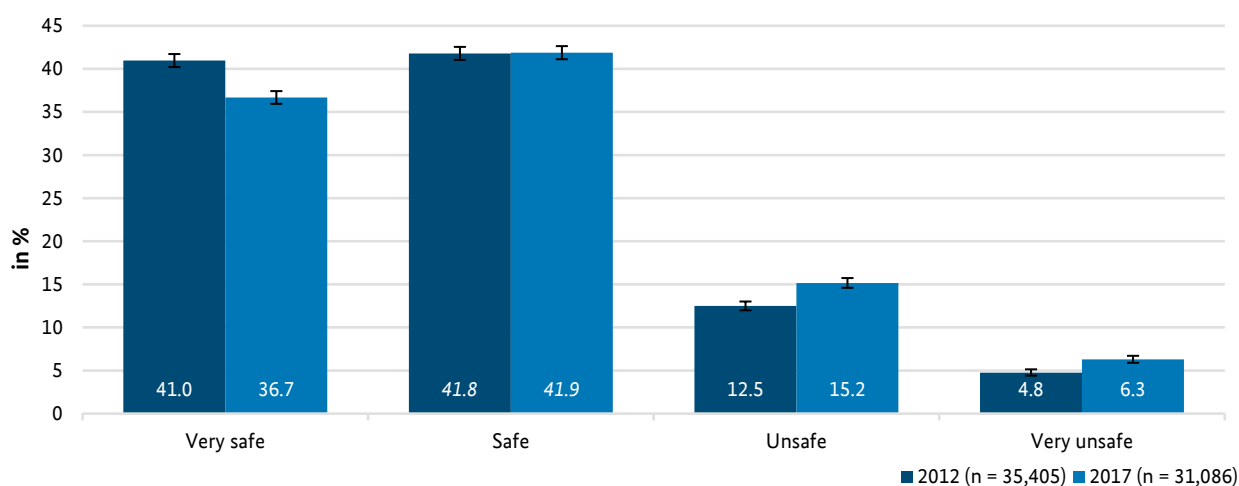
*people without a migrant background and people with a migrant background in a country other than Turkey or a country of the former Soviet Union with regard to the opinion that the police seldom or never use more force than legally or situationally required. While 62.2% of persons without a migrant background were of this opinion, the share in the migrant group in question was significantly lower, at 51.5%.”<sup>385</sup>*

### 2.6.4 Personal fear of crime

Personal fear of crime is about the question of the extent to which people see themselves as being confronted with the risk of falling victim to crimes in their individual everyday lives.<sup>386</sup> The 2012 and 2017 DVS surveys produced findings at a national level on all three levels of the personal fear of crime described in section 2.6.2.

The *affective fear of crime*, feelings of fear relating to the threat of crimes, was recorded by measuring responses to the following questions: “How safe do you - or would you - feel walking alone in your neighbourhood after dark? Very safe, safe, unsafe, very unsafe?” Figure 24 illustrates that 78.6% of the population would feel very safe or safe in their neighbourhood at night. Compared to 2012, however, the percentage of those who feel unsafe or very unsafe has increased.<sup>387</sup>

**Figure 24: Sense of lack of safety in the neighbourhood, 2012 and 2017**



Note: Based on the Chi-Square test, differences to 2012 figures are statistically significant at a probability of error below 5%, except for values in italics.

Source: Birkel et al. 2019, p. 46.

Observation of the affective fear of crime over a longer period shows a long-term downward trend until 2015.<sup>388</sup> The surveys indicated that after this, perceived insecurity increased in Germany for a period, as can be concluded from the results of the 2017 DVS.<sup>389</sup> According to the R+V Versicherung study referred to above, which also sheds light on the period after 2017, fear of becoming the victim of a criminal offence such as burglary, theft, bodily harm or fraud was always low on the anxiety scale. In 2020, just 18% of citizens feared becoming a victim of one of these crimes.<sup>390</sup> That was the lowest value since the surveys began in 1992.<sup>391</sup>

<sup>385</sup> Birkel et al. 2019, p. 76 f.

<sup>386</sup> Cf. Gabriel/Greve 2003, p. 601. PRC 2006, p. 503.

<sup>387</sup> For possible explanations for this, cf. Birkel et al. 2019, p. 99.

<sup>388</sup> Dittmann 2009, p. 5; Hummelsheim-Doss 2017, p. 37.

<sup>389</sup> Cf. Birkel et al. 2019, p. 45.

<sup>390</sup> R+V Versicherung 2020a.

<sup>391</sup> R+V Versicherung 2020d.



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The DVS confirms that women have a greater fear of crime than men.<sup>392</sup> This may be partly explained by the fact that men tend not to admit to having fears and perceptions of threat when questioned in surveys. The perception of greater vulnerability, on the other hand, particularly by younger women, leads to feelings of fear of rape and assault by men.<sup>393</sup> These differences become particularly apparent with regard to fear of specific crimes. In 2017, a much larger number of women feared bodily harm (22% of women compared to 14% of men), burglary (26% of women compared to 22% of men), robbery (26% of women compared to 16% of men), a terrorist attack (26% of women compared to 17% of men) and sexual harassment (22% of women compared to 7% of men).<sup>394</sup>

Alongside sex, age also plays a key role in perceived safety. The results of the DVS show that the 25 to 54-year-old age group felt least unsafe. People over 75 and people in the youngest age group (16 to 24-year-olds) felt significantly more unsafe.<sup>395</sup> The more pronounced fear of crime among older people<sup>396</sup> despite their lower victimisation risk<sup>397</sup> can be explained by their greater vulnerability and more limited possibilities for coping with the experience of being a victim.<sup>398</sup>

Having a migrant background also influences how safe or unsafe a person feels in their neighbourhood. The two migrant groups that were focused on in the DVS, i.e. persons from Turkey and the former Soviet Union, felt slightly more anxious than persons without a migrant background. Among migrant groups, roughly one in four feels unsafe (approx. 26%); among non-migrant Germans, the figure was one in five (20%).<sup>399</sup>

In the geographical context of the fear of crime, the question of differences between the eastern and western states is often discussed. Generally speaking, the population's sense of feeling unsafe increased in nearly all federal states between 2012 and 2017. This trend is particularly striking in Baden-Württemberg (+8%), Saxony-Anhalt (+7.6%), Saxony (+6.4%), Bavaria (+5.5%), Lower Saxony (+5.3%) and North Rhine-Westphalia (+4.1%), where the share of people who feel unsafe or very unsafe in their neighbourhood increased significantly. "The largest proportion of fearful people is to be found in Saxony-Anhalt (30%), and in Saxony and Berlin (both 28%). The least fear of crime is to be ascertained in Rhineland-Palatinate and Hesse (both 17%) as well as Schleswig-Holstein and Bavaria (both 18%)."<sup>400</sup> Relative differences between the eastern and western federal states can also be ascertained. In eastern Germany, approx. one person in four (26%) feels unsafe; in western Germany, approx. one person in five (21%) feels unsafe.<sup>401</sup>

With regard to the size of places of residence, very small towns with fewer than 2000 inhabitants had a comparatively small proportion of anxious citizens (14%). In contrast, their share was greatest in medium-sized cities with between 50 000 and 100 000 inhabitants (26%). In big cities with a population of more than 500 000, approx. 22% of inhabitants were afraid of being alone in their residential district in the evening. A comparison between 2012 and 2017 also shows that feelings of being unsafe increased most significantly in medium-sized cities.<sup>402</sup>

In order to record the *cognitive level* of security perceptions, respondents were asked how high they estimated the risk of becoming the victim of a specific criminal offence within a certain period. The results of the 2017 DVS show that a clear majority believe it is unlikely that they will be affected by crime within the coming year. In the case of bodily harm, approximately 3% considered it fairly or

<sup>392</sup> Cf. 2nd PRC 2006, p. 485. In 2017, the gender gap had widened in comparison with 2012: Birkel et al. 2019, p. 49.

<sup>393</sup> Cf. 2nd PRC 2006, p. 485; Birkel et al. 2014, p. 67 with further references.

<sup>394</sup> Birkel et al. 2019, p. 48. Cf. Table 2 on offence-specific victimisation risk by age and sex on the basis of the PCS.

<sup>395</sup> It is conspicuous, however, that in the period from 2012 to 2017, subjective feelings of being unsafe increased most sharply among middle-aged respondents: Birkel et al. 2019, p. 49f.

<sup>396</sup> With qualifications: Eisenberg/Kölbels 2017, p. 299 with further references.

<sup>397</sup> Cf. the data on "elder abuse" in section 3.1.2.1, however.

<sup>398</sup> Cf. 2nd PRC 2006, p. 485.

<sup>399</sup> Birkel et al. 2019, p. 50f.

<sup>400</sup> Birkel et al. 2019, p. 53.

<sup>401</sup> Birkel et al. 2019, p. 53f.

<sup>402</sup> Birkel et al. 2019, p. 52. On the geographic distribution of detected crime, cf. section 2.2.3.

very probable that they would become a victim of such an offence; in the case of robbery, this was the case among approx. 8%, in the case of terrorism approx. 9% and in the case of burglary, approx. 10%. In the case of sexual harassment, the values for men are approx. 2%, whereas for women they are approx. 7%. Seen in overall terms, the estimated risk is relatively low.<sup>403</sup> The discrepancy between offence-specific fear and estimation of risk is particularly striking. Thus, it becomes evident that approx. 18% of the population are fairly or very afraid of becoming the victim of bodily harm, but only approx. 3% consider it likely that this will actually happen. For domestic burglary, the discrepancy was 24% to 10%, for robbery 21% to 8% and for terrorism 22% to 9%. With regard to sexual coercion, the discrepancy was 7% to 2% for men and 22% to 7% for women. It is also interesting to note that the differences between the federal states in terms of perceptions of risk are less pronounced than differences relating to fear of crime. However, people in eastern Germany estimate the risk of becoming the victim of a crime as being greater than people from western Germany do.<sup>404</sup>

With regard to avoidance behaviour, the *conative level of fear of crime*, the 2017 DVS survey findings show that the vast majority of the population avoids places or situations at least occasionally in order to minimise the risk of being the victim of a crime. When asked how often they avoid certain streets, squares and parks or take detours to protect themselves against crime, approximately 56% of men and three-quarters of women answered that they do so “rarely”, “sometimes”, in a few cases “frequently” and in some cases “always”. The proportion of people who at least on rare occasions avoid people who appear threatening (at least approx. 86% of women and approx. 73% of men) is somewhat larger. Just under 78% of women avoid being out alone after nightfall at least on rare occasions, whereas the figure for men was approx. 46%. “[S]uch behaviours are a daily routine only for a much smaller number of respondents, however: just 21% of men and 39% of women either often or always avoid certain streets, squares and parks, and 13% of men and 45% of women often or always avoid being out alone after nightfall. Almost half of women limit their everyday areas of activity due to their sense of feeling unsafe.”<sup>405</sup>

If these results are compared with those for fear of crime, it can be seen that among men and even more so among women, avoidance behaviour is more prevalent than the affective fear of bodily harm and robbery. “Even among women who feel very safe in their neighbourhood, more than half avoid being out alone after nightfall, and one-fifth even do so frequently or always. This underlines the fact that for many women, restricting their movement is a fact of life.”<sup>406</sup> There is little or no evidence of a trend towards more pronounced avoidance behaviour among older respondents. A differentiation based on the size of the place of residence does not reveal any significant differences in avoidance behaviour either.<sup>407</sup>

### 2.6.5 Evaluation of the state of research and background to the trends

There has been an improvement in the deficient research situation lamented in the 2nd PRC with regard to measuring and analysing fear of crime<sup>408</sup> and conducting regular victim surveys to accompany the statistics. That said, the institutional requirements for this had not yet been sufficiently fulfilled before the preparation of the 2017 DVS. Not until the decision was taken by the Standing Conference of Interior Ministers of the *Länder* in the Federal Republic of Germany in December 2017 to provide for regular nationally representative victim surveys to be conducted under the aegis

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<sup>403</sup> Birkel et al. 2019, p. 55 f.

<sup>404</sup> Birkel et al. 2019, p. 57 f.

<sup>405</sup> Birkel et al. 2019, p. 59 f.

<sup>406</sup> Birkel et al. 2019, p. 60.

<sup>407</sup> Birkel et al. 2019, p. 60 f.

<sup>408</sup> Cf. 2nd PRC 2006, p. 528 f.

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of the BKA,<sup>409</sup> was a decisive turning point reached. It enabled investigations to be conducted, for example, to ascertain the necessary reliable information on which subgroups in the population are particularly likely to suffer from fear of crime and for what reasons, and to what extent this actually adversely affects their quality of life.<sup>410</sup>

The descriptive results of the two Victimization Surveys presented here are just part of what is potentially and will potentially become possible in terms of evaluations and elaborated analyses on the basis of the data already available and the regular future data surveys. An example of this is the in-depth analyses which build on the 2012 Victimization Survey, taking the geographical context into special consideration.<sup>411</sup> These address subjects such as multiple victimisation,<sup>412</sup> the effects of context on individual feelings of fear of crime,<sup>413</sup> the problems of comparing cities,<sup>414</sup> immigrants' feeling of being unsafe<sup>415</sup> and attitudes to punishment in Germany<sup>416,417</sup> The fact that the nature of the fear of crime, as explained in the 2nd PRC, is primarily connected with characteristics of social disorder and a low level of social cohesion in urban districts or residential areas, is also confirmed by more recent studies.<sup>418</sup> The same applies to the insight that the fear of becoming the victim of a criminal offence ranks significantly lower than other risks and fears in life.<sup>419</sup>

It remains to be seen whether the increase in the feeling of being unsafe which is noticeable when one compares the 2012 DVS data with the 2017 DVS data will continue in spite of the fact that the R+V Versicherung study for 2019 and 2020 shows the lowest values since the study began.<sup>420</sup> At any rate, a fall in the feeling of being unsafe in 2019 and 2020 corresponded to the reduction in PCS case numbers in 2018 and 2019, which could indicate that there are certain parallels between subjective sense of security and the recorded crime situation during this period. The influence of crime on the sense of security is just one of a number of factors, however.

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<sup>409</sup> IMK (Standing Conference of the Interior Ministers of the *Länder* in the Federal Republic of Germany) 2017, p. 14; cf. the recommendations in RatSWD 2018. The survey on "Security and Crime in Germany (SKiD)" resulting from the decision was conducted for the first time at the end of 2020.

<sup>410</sup> Cf. 2nd PRC 2006, p. 528.

<sup>411</sup> Birkel et al. 2016.

<sup>412</sup> Birkel 2016.

<sup>413</sup> Pritsch/Oberwittler 2016.

<sup>414</sup> Hummelsheim-Doss 2016.

<sup>415</sup> Oberwittler/Zirinig 2016.

<sup>416</sup> Leitgöb-Guzy 2016.

<sup>417</sup> An overview of the breadth of the research spectrum is to be found in: Guzy et al. 2015a and 2015b.

<sup>418</sup> Cf. 2nd PRC 2006, p. 485; Pritsch/Oberwittler 2016.

<sup>419</sup> Cf. Heinz/Spiess 2001, p. 153.

<sup>420</sup> A comparison of these two studies is not possible on account of their different methodologies and item formulations.

# 3 Special section

## 3.1 Violent crime

### 3.1.1 Overview of violent crime

#### 3.1.1.1 The concept of violence and its recording in crime statistics

“Gewalt” (meaning “violence” or “force”) is a term which is not used consistently in German-speaking countries. Citizens’ understandings of the nature of violence are diverse,<sup>421</sup> as are legal and scientific perspectives on violence.<sup>422</sup> The concept of violence is not free from judgement, however. The targeted presentation of findings on violent crime in Germany requires a discussion of the understanding of the term on which they are based.

To lend a systematic nature to the rest of this report, a distinction is made here between personal and institutional violence (cf. Figure 25).<sup>423</sup> *Personal violence* comprises acts and omissions directed at persons by one or several persons performing an act to the detriment of one or several other persons. According to this definition, personal violence may refer to “any act performed or threatened (including acquiescence or omission), performed with the intention [...] [or the intention thus perceived from the point of view of the person concerned] of harming another person psychologically or physically.”<sup>424</sup> Criminological analyses of personal violence may distinguish between *physical and psychological violence, sexual abuse and neglect*. This distinction is used, for example, in questions of danger to child welfare in the context of domestic violence or violence in institutions.<sup>425</sup> The use of violence can also be judged on the basis of its degree of *purposefulness* or *intentionality*<sup>426</sup> – whereby the latter can be subdivided into expressive, instrumental and regressive forms of violence<sup>427, 428</sup>

*Institutional violence* can be understood to mean forms of violence by the state, but also structural<sup>429</sup> and cultural violence. *Cultural violence* legitimises violence through ideological views and the corresponding patterns of justification.<sup>430</sup> Conspiracy narratives, for example, are used to justify deviation from necessary health protection measures against SARS-CoV-2 (coronavirus).

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<sup>421</sup> Cf. Schwind 1990, p. 46 f.

<sup>422</sup> Cf. inter alia Neidhardt 1986; Imbusch 2002.

<sup>423</sup> Cf. Melzer/Schubarth 2015, p. 25 ff.

<sup>424</sup> Melzer/Schubarth 2015, p. 25. Personal violence can also take the form of autoaggressive behaviour against oneself or belongings. Such variants are declared as such when discussing them in this report.

<sup>425</sup> Cf. Statistisches Bundesamt 2020a; BMFSFJ 2014; for example Keupp et al. 2017, p. 23 ff. On violence in institutions and for a definition, see section 3.1.2.

<sup>426</sup> Cf., for example, Rau 2017, pp. 295–311.

<sup>427</sup> Expressive violence is highly dynamic. Its functional aims are the self-presentation and self-reassurance of the person using violence. It is affectively charged and accompanied by intense emotions. Instrumental violence is used intentionally and rationally to resolve a (supposed) problem and/or achieve a pursued aim. Regressive violence is linked with values held and is justified by the valuing or devaluing of, primarily, characteristics attributed to (groups of) people. Xenophobic acts of violence are an example.

<sup>428</sup> Heitmeyer et al. 1995, p. 72.

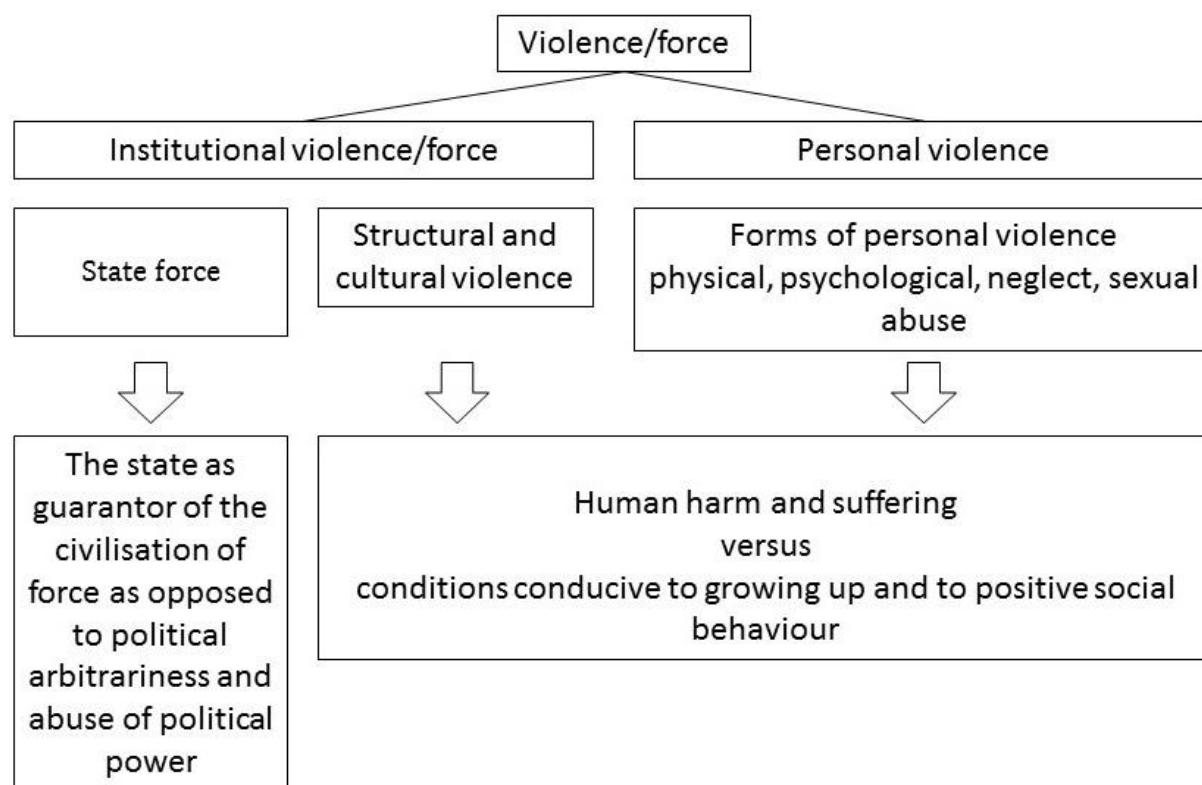
<sup>429</sup> *Structural violence* does not emanate from individuals but is part of social structures and their institutions. It is immanent within these (partial) systems and comes into play when structural violence impedes or reduces the development of individual potential (for example, when social and economic inequality affects access to education). Cf. Melzer/Schubarth, p. 25 ff.

<sup>430</sup> Cf. Melzer/Schubarth 2015, p. 25 ff.

### 3.1 Violent crime

*State force* refers to power structures. This means, on the one hand, the state *monopoly on the use of force* claimed and asserted by the state. In this case, the use of force is reserved and legitimised for state institutions on the basis of the fundamental democratic principle of the separation of powers between the legislative, judicial and executive branches.<sup>431</sup> It is based on handling the state’s powers responsibly and serves to protect fundamental rights and to structure citizens’ social participation. On the other hand, the risk of *abuse of power by the state*, unjustified restrictions of civic rights or violations of human rights is inherent in (the exercising of) state force.<sup>432</sup>

**Figure 25: Classification of the concept of violence/force (*Gewalt*)**



Source: Melzer/Schubarth 2015, p. 27, own editing.

In criminal law, a uniform definition of violence is not used either; instead, it varies depending on the elements of the offence, and is influenced by past rulings.<sup>433</sup> Moreover, “violence” is not an explicit characteristic of the offence in all “violent offences”; in the case of murder under specific aggravating circumstances or other homicide offences, for example, the term is not even mentioned as an element of the offence. In summary, violence within the meaning of criminal law can be defined as *any physical activity exerting physical coercion to overcome actual or anticipated resistance*.<sup>434</sup>

The presentation of the nature and development in section 3.1.1.2 below is largely based on the concept of violence in the relevant crime statistics sources on recorded crime and the relevant studies on unrecorded crime. For the field of unrecorded crime, the report presents the concept of violence in more specific terms in connection with the relevant findings. For recorded crime, violence can be defined across findings, however. The PCS are based on a comparatively *narrow*

<sup>431</sup> Cf. Melzer/Schubarth 2015, p. 26 f. In democratic states, there are exceptions to the state monopoly on the use of force, including, for example, the right to use force to defend oneself against an unlawful attack (self-defence, section 32 StGB), or the right of anyone to make a citizens’ arrest in accordance with section 127 StPO.

<sup>432</sup> Cf. Melzer/Schubarth 2015, p. 26 f.

<sup>433</sup> Neubacher 2020, p. 209.

<sup>434</sup> Psychological coercion is involved if it is also felt physically, but fear and agitation are not sufficient, cf. BeckOK-StGB/Wittig, section 249 recital 4; Schönke/Schröder/Eisele, preliminary remarks sections 234 et seqq. recital 10a.

### 3.1 Violent crime

*definition of violence*, focussing on serious violent offences against persons.<sup>435</sup> Thus, the definition of violent crime on which corresponding aggregate keys in the PCS are based covers the following offences:<sup>436</sup>

- murder under specific aggravating circumstances, homicide and killing upon request (sections 211, 212, 213, 216 StGB);
- rape, sexual coercion and sexual assault in particularly serious cases, including those resulting in death (sections 177, 178 StGB)<sup>437</sup>;
- robbery, extortion with use of force or threat of force and attacking a driver to commit robbery (sections 249–252, 255, 316a StGB);
- dangerous and grievous bodily harm, female genital mutilation and bodily harm resulting in death (sections 224, 226–227, 231 StGB);
- abduction for the purpose of extortion and hostage-taking (sections 239a, 239b StGB) and attacks on air and maritime traffic (section 316c StGB).

The definition by no means covers all criminal offences which involve the threat or use of physical violence. For evaluations of the frequency of violent crime, particular note must be taken of the fact that some types of bodily harm are not included in the aggregate key on violent crime, namely bodily harm and negligent body harm (sections 223, 229 StGB) and ill-treatment of persons in one's charge (section 225 StGB). Moreover, coercion and threatening commission of a serious offence (sections 240, 241 StGB) and sexual crimes such as sexual abuse of persons in one's charge (sections 174, 174a, 174b, 174c StGB), sexual abuse of children and its subcases (sections 176 et seqq. StGB) are *not included* in the definition of violent crime in the PCS. Data on these criminal offences are to be found elsewhere in the PCS.<sup>438</sup>

The restrictive wording of the definition of violent crime in the PCS is due primarily to the severity of the relevant offences.<sup>439</sup> On average, offences not included in the aggregate keys are significantly less serious.<sup>440</sup> This does not alter the fact that some of these criminal offences also sometimes gravely violate rights of personal liberty, the physical integrity of those affected or their physical and psychological health, and some of them always do so.

The criminal court prosecution statistics do not have their own definition of violence, but may be evaluated on the basis of the definition of violence in the PCS.<sup>441</sup> Since the judicial data recorded do not differentiate on the basis of motives for the offence, situations in which the offence takes place, or offender-victim relationships,<sup>442</sup> the judicial data - in contrast to police data - do not distinguish, for example, between a handbag robbery and robbery of a business.<sup>443</sup> Similarly, the criminal prosecution statistics, unlike the PCS, do not provide any indication as to whether a violent offence (for

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<sup>435</sup> Cf. 2nd PRC 2006, p. 59.

<sup>436</sup> Aggregate key 892000 (cf. BKA 2020c, p. 3). There have been only marginal changes to this definition in recent years. Most recently, amendments were made as a result of the 50th Act to Amend the Criminal Code - Improvement in the Protection of Sexual Self-Determination (50. Gesetzes zur Änderung des Strafgesetzbuchs - Verbesserung des Schutzes der sexuellen Selbstbestimmung) of 4 November 2016, Federal Law Gazette (*Bundesgesetzblatt*) I 2016, p. 2460, which entered into force on 10 November 2016.

<sup>437</sup> Rape under section 177 (6), (7), (8) StGB, sexual assault and sexual coercion in particularly serious cases under section 177 (1), (2), (4), (5) in conjunction with subsections (6) no. 2, (7), and (8) StGB.

<sup>438</sup> Cf. BKA 2020a, p. 12; BKA 2020b, pp. 15, 33, 35 and 114; BKA 2020d, pp. 12 ff., 24 and 32 f.; BKA 2020i, pp. 17 ff. and 55 ff.

<sup>439</sup> Cf. 2nd PRC 2006, p. 64.

<sup>440</sup> The reasoning behind this is easy to understand when one looks at the example of acts directed at objects which, in many cases, involve the use of violence (too) and are subsumed in criminal law, depending on the specific events, under the terms of criminal damage (section 303 StGB) or arson (section 306 et seqq.; section 306f StGB).

<sup>441</sup> On the data basis of the criminal prosecution statistics, see section 1.3.3.2.

<sup>442</sup> Strafverfolgungsstatistik 2019, p. 10. An exception is the information concerning whether there was a connection with a traffic accident (Strafverfolgungsstatistik 2019, p. 14).

<sup>443</sup> On recording in the PCS, cf. BKA 2020a, pp. 32 and 46.

### 3.1 Violent crime

example, grievous bodily harm) was a case of intimate partner violence.<sup>444</sup> Information on the situation in which the offence takes place or the motives for the offence are only shown in the criminal prosecution statistics if they derive from the text of the law, for example in the case of criminal liability in accordance with section 4 of the Act on Protection against Violence (*Gewaltschutzgesetz*).

#### 3.1.1.2 Forms and development

Central characteristics of the PCS, including the number of cases, clear-up rate, and data on victims and suspects are presented below for the following offence categories:

- (1) dangerous and grievous bodily harm (sections 224, 226, 231 StGB); from 2013, including female genital mutilation (section 226a StGB),<sup>445</sup>
- (2) robbery, extortion with use of force or threat of force, attacking a driver to commit robbery (sections 249–252, 255, 316a StGB),
- (3) rape, sexual coercion and sexual assault in particularly serious cases including those resulting in death (sections 177, 178 StGB)<sup>446</sup> and
- (4) murder under specific aggravating circumstances, murder, homicide and killing upon request (sections 211, 212, 213, 216 StGB)

(cf. Table 4).<sup>447</sup> That is followed by a presentation of criminal court prosecution statistics data in the offence categories, and core results from research into unrecorded violent crime. Police and statistical findings on violence in organised crime are presented separately.

For other violent phenomena, including sexual abuse of children,<sup>448</sup> domestic violence,<sup>449</sup> human trafficking,<sup>450</sup> politically and/or religiously motivated violence<sup>451</sup> or the area of firearms crime,<sup>452</sup> reference is made to further reports and specialist literature.

#### Violent crime recorded by the police: PCS

The PCS record 181 054 cases for 2019 under the aggregate key “violent crime.”<sup>453</sup> That corresponds to a share of 3.3% of police-registered crime in that year. In terms of numbers, it is thus a small fraction of police-registered offences.

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<sup>444</sup> The PCS data enable evaluations of intimate partner violence to be made on the basis of the victim-suspect relationship with regard to types of relationship and the geographical-social context (cf. BKA 2020f).

<sup>445</sup> The provision was introduced by the 47th Criminal Law Amendment Act (47. *Strafrechtsänderungsgesetz*) of 24 September 2013, Federal Law Gazette (*Bundesgesetzblatt*) I 2013, p. 3671 and entered into force on 28 September 2013. For easier readability, the addition “from 2013, including female genital mutilation (section 226a StGB)” is omitted below. It should be noted, however, that this grievous form of bodily harm was always included in the data from 2013 onwards.

<sup>446</sup> Cf. footnote 437.

<sup>447</sup> The cases of bodily harm resulting in death (sections 227, 231 StGB), abduction for purposes of extortion (section 239a StGB), hostage-taking (section 239b StGB) and attacks on air and maritime traffic (section 316c StGB) - which are also contained in the aggregate key - make up 0.1% of violent crimes; since this is such a small proportion, it is not presented separately in the figure below. These data were included in the overall number of violent offences, however.

<sup>448</sup> BKA 2019b; Gysi/Rüegger 2017; Weber 2018a. A major driving force for preventing child sexual abuse is the office of the “Independent Commissioner for Child Sexual Abuse Issues”, which was created in 2010 and consolidated in 2018 by the Federal Cabinet (UBSKM 2020; for further information: [beauftragter-missbrauch.de](http://beauftragter-missbrauch.de) | 0800 22 55 530).

<sup>449</sup> BKA 2020f; Steingen 2020. In the field of prevention, the National Centre for Early Prevention (*Nationales Zentrum Frühe Hilfen - NZFH*) was set up in 2007 to establish a coordinated and multiprofessional service for parents in the field of early childhood intervention, from pregnancy to children’s early years (cf. [fruehehilfen.de](http://fruehehilfen.de); section 16 (3) of the 8<sup>th</sup> Book of the German Social Code (*Sozialgesetzbuch VIII - SGB VIII*)).

<sup>450</sup> BKA 2020j; BKA/ Bundespolizeipräsidium 2020; Vogeler 2018; Weber 2018a.

<sup>451</sup> Ben Slama/Kemmesies 2020; BKA 2020k; Salzborn 2020. On crime motivated by right-wing ideology, see subchapter 3.3.

<sup>452</sup> BKA 2020l; Baier/Bergmann 2018.

<sup>453</sup> BKA 2020a, p. 12.

### 3.1 Violent crime

**Table 4: PCS violent crimes 2019 - cases, offence rate, proportions of attempts, clear-up rate and threat/use of firearms<sup>454</sup>**

		2004	2009	2014	2019
<b>Aggregate key violent crime</b>	Cases	211 172	208 446	180 955	181 054
	% of total	100	100	100	100
	Offence rate <sup>***</sup>	255.9	254.2	224.0	218.1
	Proportion of attempts in %	11.9	13.6	15.8	16.2
	Clear-up rate in %	74.9	75.3	74.8	78.3
	Firearms in %	3.6	2.7	1.8	1.5
<b>(1) Dangerous and grievous bodily harm, female genital mutilation*</b>	Cases	139 748	149 301	125 752	133 084
	% of total	66.2	71.6	69.5	73.5
	Offence rate <sup>***</sup>	169.3	182.1	155.7	160.3
	Proportion of attempts in %	7.7	10.5	13.6	14.5
	Clear-up rate in %	84.2	82.2	82.4	82.9
	Firearms in %	1.4	0.9	0.7	0.6
<b>(2) Robbery, extortion with use of force or threat of force, attacking a driver to commit robbery</b>	Cases	59 732	49 317	45 475	36 052
	% of total	28.3	23.7	25.1	19.9
	Offence rate <sup>***</sup>	72.4	60.1	56.3	43.3
	Proportion of attempts in %	18.9	20.0	19.0	20.2
	Clear-up rate in %	50.8	52.6	51.6	59.0
	Firearms in %	8.8	8.2	5.1	5.1
<b>(3) Rape, sexual coercion and sexual assault in particularly serious cases**</b>	Cases	8 831	7 314	7 345	9 426
	% of total	4.2	3.5	4.1	5.2
	Offence rate <sup>***</sup>	10.7	8.9	9.1	11.4
	Proportion of attempts in %	15.0	16.2	15.7	10.5
	Clear-up rate in %	83.0	81.6	81.0	84.5
	Firearms in %	1.1	0.6	0.3	0.2
<b>(4) Murder under specific aggravating circumstances, murder, homicide and killing upon request</b>	Cases	2 480	2 277	2 179	2 315
	% of total	1.2	1.1	1.2	1.3
	Offence rate <sup>***</sup>	3.0	2.8	2.7	2.8
	Proportion of attempts in %	67.4	72.4	74.5	78.1
	Clear-up rate in %	95.4	95.7	96.5	94.0
	Firearms in %	10.0	8.3	5.6	5.4

\* up to 2013: Dangerous and grievous bodily harm; 2013: Introduction of section 226a StGB (female genital mutilation)

\*\* up to 2016: Rape and sexual coercion in particularly serious cases; 2016: Reform of section 177 StGB with extension of criminal liability and introduction of new criminal offences

\*\*\* Number of cases per 100 000 inhabitants

Source: PCS, own evaluation.



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Meanwhile, qualified bodily injuries (1) account for nearly three quarters of offences classified as violent crimes by the police in the PCS. The share of robbery offences (2) of violent offences has fallen slightly in recent years and amounted to just under one fifth in 2019. The proportions of serious cases of sexual coercion and rape (3) and homicide offences (4) remained relatively constant in recent years and at a low level, at 5.2% (3) and 1.3% (4).

A five-year comparison of the development in the number of cases of violent crimes shows a slight increase; a fifteen-year comparison, however, and thus a comparison with the reference year 2004 ( $n = 211172$  cases), shows a clear reduction in the number of cases (-14.3%). Since the population fluctuated in the period under review, the offence rate, indicating the number of cases per 100000 inhabitants in Germany, was used to evaluate developments. According to these statistics, the number of violent crimes fell from approx. 256 cases per 100000 inhabitants in 2004 to just under 218 in 2019 (cf. Table 4).<sup>455</sup> This decline is primarily due to falling offence rates in categories (1) and (2), the categories with the largest numbers of cases. This represents a reverse in the trend in the period before 2007 for the area of grievous and dangerous bodily harm. The 2nd PRC had recorded an increase in cases since the mid-1990s.<sup>456</sup>

A further decline from 3.6% in 2004 to 1.5% in 2019 was recorded for the share of cases, low in any case, in which a threat was made with a firearm or a firearm was used.<sup>457</sup> This tendency is also visible in each category when one takes a differentiated view of the four offence categories. In offence categories (1) and (4), increasing proportions of attempts were also recorded; in the case of grievous and dangerous bodily harm in category (1), the proportion of attempted but not completed offences almost doubled from 7.7% in 2004 to 14.5% in 2019. This means that in the area of the offences recorded in the Police Crime Statistics, there was a decline in the proportion of especially serious offences for the period under observation, measured by the case numbers of completed offences and offences in which a threat was made with a firearm or a firearm was used.

For most violent crimes, the *clear-up rate* was high, i.e. the proportion of cases in which one person at least known by name or caught in the act, is deemed to be a suspect according to the results of police investigations. For violent crime as defined in the PCS aggregate key, it has been stable since 2004 at approx. 75%. In the case of intentional homicide offences (4), the police achieved a clear-up rate of 94.0% in 2019; six out of ten registered robbery offences (2) were cleared up.

The majority of *suspects* registered for violent offences were male, as in previous decades. In 2019, a proportion of less than 15% of suspects were women and girls.<sup>458</sup> In 2019, too, young men aged 16 to 21 were most frequently represented among the suspects and the presumed victims when measured by the number of suspects and victimisation risk number per 100000 of the population in comparison with other age groups and women and girls. Measured by their share of the population, they were overrepresented<sup>459</sup> - although it was only possible to calculate this in a meaningful way for German nationals.<sup>460</sup> A large proportion of police-registered cases of juvenile crime is to be evaluated as violence among people of the same age.<sup>461</sup>

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<sup>454</sup> For a comparison with the previous PRC see 2nd PRC 2006, p. 74.

<sup>455</sup> The increase in the offence rate for rape offences is comparable with previous years only to a very limited extent since the 50th Act to Amend the Criminal Code - Improvement in the Protection of Sexual Self-Determination (50. Gesetz zur Änderung des Strafgesetzbuchs - Verbesserung des Schutzes der sexuellen Selbstbestimmung) of 4 November 2016, Federal Law Gazette (Bundesgesetzblatt) I 2016, p. 2460, which entered into force on 10 November 2016, amended previous definitions of criminal offences and created new ones.

<sup>456</sup> 2nd PRC 2006, p. 85 f.

<sup>457</sup> Thus, the positive development already noted in the 2nd PRC continued. Cf. 2nd PRC 2006, p. 59.

<sup>458</sup> BKA 2020i, p. 167.

<sup>459</sup> On this subject, cf. also the findings on the victimisation risk of young men in section 2.4.1 and on the overrepresentation of young males suspected of crime in general in section 2.4.2.1.

<sup>460</sup> Cf. section 1.3.4 on the problems of calculating the number of suspects per 100000 inhabitants for non-German suspects.

<sup>461</sup> Heinz 2020, p. 232 f. and 2nd PRC 2006, pp. 354-406.

### 3.1 Violent crime

The decreasing proportion of suspects of violent crimes among juveniles and young adults aged 18 to 20 since 2004 is to be emphasised - this trend exists despite a slight renewed increase in the numbers from 2017.<sup>462</sup> A crucial reason for this was the fall in the shares of grievous and dangerous bodily harm and robbery offences by approximately 10% between 2004 and 2019. In the case of the homicide and sexual offences in the aggregate key, however, the lower proportion - as compared to offence categories (1) and (2) - has hardly changed.

Regarding questions of *involvement in an offence and acting under the influence of alcohol*, the following picture emerges: as in previous years, serious sexual offences were almost exclusively attributable to suspects acting alone (2019: 87.1%). In the other three offence categories (1, 2, 4), there were considerable proportions both of suspects acting alone and jointly up to and including 2019. In the case of homicides, the proportion of suspects acting alone declined from 68.3% in 2004 to 57.1%, while in the case of robbery offences, the proportion of suspects acting alone rose from 36.6% in 2004 to 42.8% in 2019. As in previous years, the proportion of suspects committing bodily harm offences while under the influence of alcohol was similar to the proportion of suspects committing homicide and serious sexual offences under the influence of alcohol. Most recently, this proportion was more than one quarter, significantly higher than for robbery offences, where the proportion was 14.7% in 2019.<sup>463</sup>

An analysis of the *victims of violent crime* as defined by the PCS aggregate key shows a reduction by approximately 10% in the proportion of juvenile and young adult victims of robbery offences in comparison with 2004 (37.5%) and 2019 (27.4%); this was also the case for suspects.<sup>464</sup> A similar decline was recorded for the victims of grievous and dangerous bodily harm in this group (from 36.4% in 2004 to 27.1% in 2019). There was no such decline in relation to the homicide and sexual offences contained in the aggregate key, however.<sup>465</sup>

There were also changes in the proportion of cases where the victim was in an intimate partnership or family relationship with the suspect (or, in the case of several suspects, with at least one of the suspects). The offence rate in this case constellation nearly doubled, from 7.4% in 2004 to 14.4% in 2019.<sup>466</sup> The proportion of cases involving this case constellation increased in three of the four offence categories. It may be assumed that a certain proportion of these increases is due to an increase in the number of cases and that changes in reporting practices have also led to shifts between unrecorded and recorded crimes.<sup>467</sup> As in previous years, this proportion was comparatively high in the case of homicide offences (4) in 2019 at 25.2%.<sup>468</sup> Thus, a considerable proportion of serious violent crimes takes place within the immediate social environment. Outside of these developments, family relationships or intimate partnerships between suspects and victims of grievous and dangerous bodily harm and robbery offences were quite rare (most recently in 2019: 16.1%/3.9%).<sup>469</sup>

While the majority of victims of offences in categories 1, 2 and 4 were male (most recently in 2019, approx. between 70% and 74%), the victims of serious cases of sexual coercion and rape (offence category 3) were almost always female, and in more than 40% of cases they were still juveniles or young adults aged 18 to 20.<sup>470</sup> This combination of characteristics was also already recorded in previous years. Seen in combination with the characteristics of suspects discussed above, this means that frequently, serious sexual violence tended to be perpetrated by older, male suspects against younger female victims.

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<sup>462</sup> PCS 2019, own evaluation. Cf. also the development in the number of juvenile and young adult (18-20) suspects per 100 000 inhabitants shown in section 2.4.2.3.

<sup>463</sup> PCS 2019, own evaluation.

<sup>464</sup> PCS 2019, own evaluation.

<sup>465</sup> PCS 2019, own evaluation.

<sup>466</sup> PCS 2019, own evaluation.

<sup>467</sup> Cf. section 2.1.2.

<sup>468</sup> PCS 2019, own evaluation.

<sup>469</sup> PCS 2019, own evaluation.

<sup>470</sup> PCS 2019, own evaluation. Cf. also Table 2 in section 2.4.1.

### 3.1 Violent crime

#### Violent crime recorded by the police: Court sanctions

As described in sections 1.3.2 and 2.1.2, the PCS tend to overestimate the numbers of offences and suspects. If in the case of physical assault, for example, the police investigations conclude that the offence was attempted homicide, but the intention to kill cannot be substantiated through examination by a court, a sentence for an offence such as dangerous bodily harm may be considered instead of a sentence for attempted homicide.<sup>471</sup> The extent and type of such redefinitions cannot be determined on the basis of the statistics currently available. The criminological research findings available on this subject underline that redefinitions take place, particularly in the area of homicide offences.<sup>472</sup>

A special evaluation of the criminal court prosecution statistics by the Federal Statistical Office (*Statistisches Bundesamt*), using the PCS definition of violence, found that a total of 44 137 final and binding adjudications were made under adult criminal law (general criminal law) and juvenile criminal law in 2019. The conviction rate, i.e. the proportion of convictions of the total adjudications for violent offences, was 61.0%. In the case of the remaining persons, the courts took other decisions, for example, termination of proceedings or acquittal. By far the highest proportion of the 44 137 adjudications in the area of violent crime were for dangerous and grievous bodily harm. These offences accounted for 76.1% of these adjudications. In second place were robbery offences, at 19.0%.

Criminal court prosecution statistics data enabled the judiciary's sanctioning behaviour to be observed in more detail for different categories of offences. Using the PCS definition of violence, the subsequent focus was on the 31 427 court adjudications under adult criminal law in 2019. The conviction rate under adult criminal law was 58.3%. In these cases, a fine or prison sentence was imposed by the court. In a further 29.3% of cases, the court took a different decision and imposed, for example, a measure of reform and prevention or terminated the proceedings.<sup>473</sup> In addition, 12.4% of adjudications were acquittals. Figure 26 provides a differentiated overview of the judicial decisions for the different violent crimes.<sup>474</sup>

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<sup>471</sup> RatSWD 2020, p. 40.

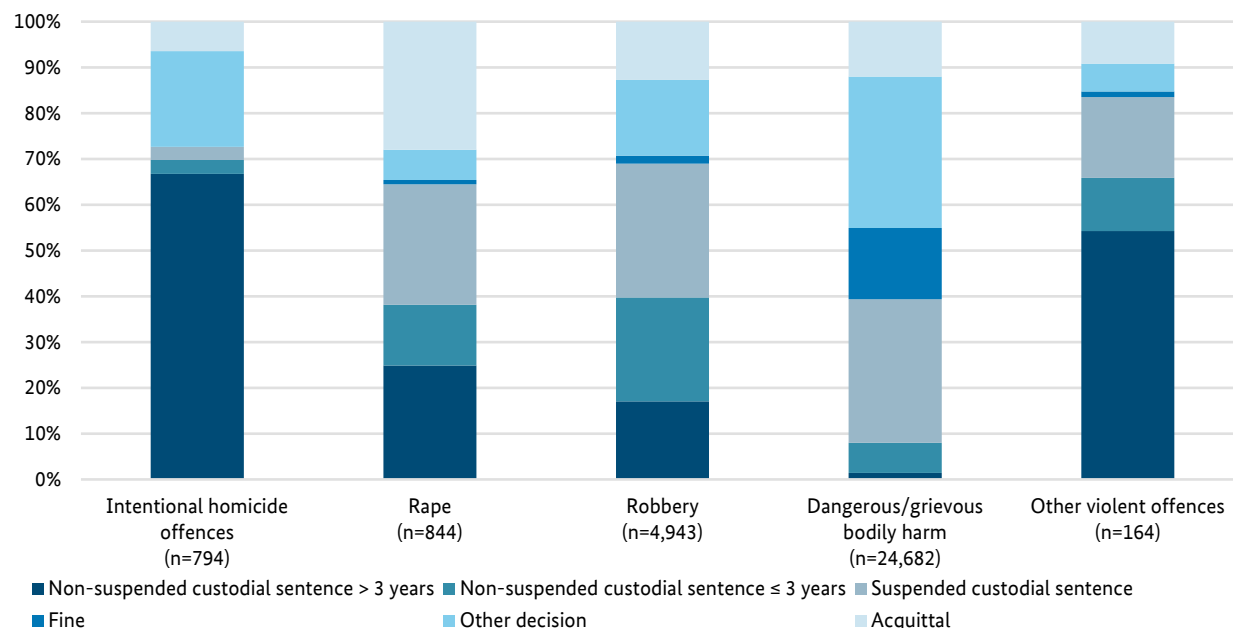
<sup>472</sup> Heinz 2020, p. 128 ff.; Verrel 1995, p. 73 ff. and Sessar 1981, pp. 103 f. and 132 ff.

<sup>473</sup> The "other decisions" category is made up of terminations of court proceedings and independent decisions for measures of reform and prevention, acquittals with measures of reform and prevention and dispensing with imposing a penalty. In the case of adjudications under the adult criminal statutes, the criminal prosecution statistics do not distinguish between the different reasons for termination. Thus, an evaluation of this category of rulings had to be left open (see also Heinz 2017, p. 105).

<sup>474</sup> In comparisons with earlier reporting years - 1st PRC 2001, p. 67; 2nd PRC 2006, p. 94 (both with reference to the former West Germany) - it is to be noted that legislative reforms - particularly of the law governing sexual offences - have led to amendments to penal provisions in the field of violent crime in recent years and decades. The results shown in the figure are therefore not completely comparable with those of previous years. In any analysis, it must also be taken into account that in cases where several offences were committed by one act or in joinders of offences, sentencing may take place on the basis of other penal provisions. When an adjudication or conviction is based on a number of penal provisions, the criminal prosecution statistics only count the most serious offence (see above).

### 3.1 Violent crime

**Figure 26: Court sanctions imposed on defendants adjudicated for violent crimes under general criminal law - Germany 2019**



Legend: intentional homicide offences: sections 211, 212, 213, 216 StGB (including attempts); rape: sections 177 (6), (7), (8) and 178 StGB; robbery: sections 249–252, 255, 316a StGB; dangerous/grievous bodily harm: sections 224, 226 (1) and (2), 226a, 231 StGB; other violent offences: sections 227, 239a, 239b, 316c StGB.

Source: Criminal prosecution statistics 2019, special evaluation by the Federal Statistical Office (*Statistisches Bundesamt*).

In the case of intentional homicide offences (including attempts) nearly all persons convicted under the adult criminal statutes were sentenced to a prison term of more than three years (non-suspended sentence), as in previous years. The average prison sentence passed for these offences was 10.2 years.<sup>475</sup> The average prison sentence handed down for intentional homicide offences has changed very little in comparison with the reference year 2004; at that time it was 10.3 years for the area under observation, the territory of the former West Germany.<sup>476</sup> The time actually served in prison by the convicted persons cannot, as yet, be calculated using the available criminal prosecution and prison statistics data.<sup>477</sup> For offences grouped together in the rape category, the average non-suspended prison sentence handed down in 2019 was 4.5 years; in the case of robbery offences, it was 3.4 years and in the case of dangerous/grievous bodily harm it was 2.1 years.<sup>478</sup> In contrast to the sentences imposed for intentional homicide offences, the sentences imposed for these offence categories were not almost exclusively non-suspended prison terms; they also included suspended sentences. In the case of serious sexual coercion/rape and robbery offences, slightly more than 40% of prison sentences imposed were suspended; in the case of dangerous/grievous bodily harm, this figure was nearly 80%.

Sentences to fines are not provided for within the regular sentencing bracket for the criminal offence categories shown in Figure 26.

<sup>475</sup> In accordance with the calculation in the 2nd PRC, calculations of the average number of years in detention were based on the class midpoints of the data categorised in the criminal prosecution statistics. In the case of sentences to life imprisonment ( $n = 117$  for intentional homicide offences - Strafverfolgungsstatistik 2019, table 3.1), for example, the figure used was 22 years (2nd PRC 2006, p. 94).

<sup>476</sup> 2nd PRC 2006, p. 94.

<sup>477</sup> The criminal prosecution statistics record only the envisaged prison term (RatSWD 2020, p. 35). Concerning the duration of detention/preventive detention, see for example: Dessecker/Leuschner 2019, p. 33 ff. with further references.

<sup>478</sup> In 2004 (in the former West Germany), the average prison sentence lengths handed down in the case of non-suspended prison terms were 4.4 years, 3.5 years and 1.7 years (2nd PRC 2006, p. 94).

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In the case of dangerous bodily harm (section 224 (1) StGB) for example, this bracket ranges from terms of imprisonment of six months to ten years; for other violent crimes, the lower limit is even higher. Nevertheless, fines may also be considered for violent offences, for example in less serious cases, in the case of an attempt or if there was another statutory mitigating circumstance.<sup>479</sup> It is in view of such case constellations that fines in the dangerous and grievous bodily harm category, where they comprise 28.3% of sentences, are to be explained.

The proportion of adjudications in which the outcome was an acquittal without measures was highest in the category of offences subsumed under the term “rape”, at 28.0% of adjudications (cf. Figure 26).

A possible reason for this circumstance cited in the academic literature is that there is a higher-than-average rate of acquittals in offence categories where evidentiary conclusions are based mainly on statements by victims and witnesses.<sup>480</sup> The criminal prosecution statistics do not provide any information concerning the reasons for acquittals.

#### Violent crime - the dark field

The results reported above are based on the knowledge gained by the criminal prosecution authorities in the course of their work. However, a significant proportion of violent offences in Germany remain unrecorded.<sup>481</sup> In the last ten years, an increasing number of major “dark field” studies have been conducted in Germany, which also include the experience of victims of violence. The German Victimisation Survey (DVS), which carried out surveys in 2012 and 2017, is a notable example at national level.<sup>482</sup> At federal state level, Mecklenburg-Western Pomerania, Lower Saxony, North Rhine-Westphalia and Schleswig-Holstein have carried out studies in this area.<sup>483</sup> Other “dark field” studies during this period looked at smaller units, such as cities or regions.<sup>484</sup>

In the field of violent offences, the only offences examined by all the studies conducted at federal and state level were bodily harm and robbery, which is why the following presentation focuses on these two offences. The 12-month prevalences and reporting rates concerning bodily harm are to be seen in Table 5, and concerning robbery, they are summed up in Table 6.<sup>485</sup>

The proportion of people who were a victim of bodily harm within a year was between 1.9% and 3.6%. Where the “dark field” studies made a distinction between less and more serious forms of bodily harm, the less serious forms were predominant in terms of victims’ experiences.<sup>486</sup> Hardly any significant changes in the proportions of victims over time were recorded.<sup>487</sup> In Schleswig-Holstein, there was a significant increase in the twelve-month prevalence for bodily harm offences committed with a firearm, but where only slight injuries were caused, between the first survey in 2015 and the second survey in 2017.<sup>488</sup> Both in 2012 and 2017, the German Victimisation Survey revealed differences between the federal states with regard to the volume of bodily harm offences committed.

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<sup>479</sup> Cf., for example, end of section 224 (1) StGB and sections 49 and 47 StGB.

<sup>480</sup> Heinz 2017, p. 103. On this subject, cf. also the findings of studies by Elz 2021 on terminations of proceedings under section 170 (2) StPO.

<sup>481</sup> Information about other fundamentals of and insights into the “dark field” are to be found in sections 1.3.1 and 2.2.4 and in subchapter 2.6.

<sup>482</sup> Birkel et al. 2019; Birkel et al. 2014. On this subject, see also section 2.2.4.

<sup>483</sup> LKA Mecklenburg-Vorpommern et al. 2018b; LKA Niedersachsen 2017; LKA Niedersachsen 2016; LKA Niedersachsen 2013; LKA Nordrhein-Westfalen 2020a; Dreißigacker 2017; Dreißigacker 2016. Cf. section 2.2.4 above.

<sup>484</sup> For example, a survey of citizens in Bochum (Feltus/Reiners 2019) or a survey of school pupils in Aachen (Bergmann/Baier 2015).

<sup>485</sup> When comparing values from different studies, it must always be noted that the thematic focus of the studies and the methods they use may be different. The sometimes varying manifestations of the values may be a result of different data collection methods. The findings presented are consistent in terms of general trends.

<sup>486</sup> Dreißigacker 2017, pp. 36 and 40; LKA Niedersachsen 2017, p. 49.

<sup>487</sup> Birkel et al. 2019, p. 16 f.; Dreißigacker 2017, p. 40 f.; LKA Niedersachsen 2017, p. 46.

<sup>488</sup> Dreißigacker 2017, p. 40 f.

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The federal states of Hamburg, Berlin and North Rhine-Westphalia, which have a high population density, had a higher incidence of victims of bodily harm in both waves of the survey.<sup>489</sup>

**Table 5: Twelve-month prevalences (12-MP) and reporting rates for bodily harm<sup>490</sup>**

Year of survey	Germany <sup>491</sup>		Mecklenburg-Western Pomerania <sup>492</sup>		Lower Saxony <sup>493</sup>		North Rhine-Westphalia <sup>494</sup>		Schleswig-Holstein <sup>495</sup>	
	12-MP	Reporting rate	12-MP	Reporting rate	12-MP	Reporting rate	12-MP	Reporting rate	12-MP	Reporting rate
2012	2.7%	32.9%	-	-	-	-	-	-	-	-
2013	-	-	-	-	2.3%	24.1%	-	-	-	-
2015	-	-	1.9%	27.4%	1.9%	22.2%	-	-	2.0%	25.6%
2017	3.0%	36.6%	-	-	2.1%	32.0%	-	-	2.3%	29.5%
2019	-	-	-	-	-	-	3.6%	23.3–26.4%	-	-

Source: own compilation from the surveys specified.

In parallel with the trend in terms of recorded crimes, the probability of becoming the victim of a bodily harm varied by age and sex. The older a person was, the less likely they were to become the victim of bodily harm.<sup>496</sup> Men were more frequently affected by bodily harm than women,<sup>497</sup> with the exception of the context of break-ups of relationships, when women were more frequently affected by violence than men.<sup>498</sup> Moreover, the victims of bodily harm offences were frequently affected by this kind of violence more than once. In the German Victimisation Survey 2012, which included figures on this subject, victims of more than one offence accounted for two thirds of offences in the statistics.<sup>499</sup> Approximately two thirds to three quarters of bodily harm cases remained unreported, i.e. they were not reported (see Table 5). Serious forms of bodily harm were reported more frequently than less serious forms of bodily harm.<sup>500</sup>

The reporting rates for robbery offences were on a similar scale in most studies (see Table 6). Thus, the overwhelming majority of these cases, too, were not reported. The statistics did not confirm any changes in reporting rates between the different survey years.<sup>501</sup> In comparison with bodily harm offences, both reported and unreported robbery offences were less common.<sup>502</sup> The proportion of

<sup>489</sup> Birkel et al. 2014, p. 18; Birkel et al. 2019, pp. 33 and 37 f.

<sup>490</sup> The *twelve-month prevalence* describes the percentage share of the survey group who, within the last twelve months - in this case, as a rule, the twelve months before the data were collected - were affected by an event (in this case bodily harm). The *reporting rate* describes the proportion of criminal offences specified by the participants in the study that came to the attention of the criminal prosecution authorities, compared with all criminal offences in an offence category (in this case bodily harm).

<sup>491</sup> Birkel et al. 2019, pp. 18 and 40; in 2012  $n=35\,503$  and in 2017  $n=31\,192$  participants aged over 16 who took part in the respective telephone survey - Birkel et al. 2014, p. 3; Birkel et al. 2019, p. 8.

<sup>492</sup> LKA Mecklenburg-Vorpommern et al. 2018b, p. 81; in 2015  $n=31\,700$  participants aged over 16 - LKA Mecklenburg-Vorpommern et al. 2018b, p. 47 ff.

<sup>493</sup> LKA Niedersachsen 2017, pp. 46 and 56; in 2013  $n=18\,940$  participants - LKA Niedersachsen 2013, p. 4; in 2015  $n=20\,468$  participants - LKA Niedersachsen 2016, p. 5; in 2017  $n=18\,070$  participants - LKA Niedersachsen 2017, p. 10 f.

<sup>494</sup> LKA Nordrhein-Westfalen 2020a, pp. 46 and 75; in 2019  $n=23\,850$  participants; the reporting rates are shown separately depending on the number of persons involved in the offence (group or individual).

<sup>495</sup> Dreißigacker 2017, pp. 40 and 44. In 2015  $n=13\,070$  participants - Dreißigacker 2016, p. 3; in 2017  $n=11\,614$  participants - Dreißigacker 2017, p. 8.

<sup>496</sup> Birkel et al. 2014, p. 29; Birkel et al. 2019, p. 21; Dreißigacker 2016, p. 24; Dreißigacker 2017, p. 36; LKA Niedersachsen 2017, pp. 40 ff. and 90.

<sup>497</sup> Birkel et al. 2014, p. 29; Birkel et al. 2019, p. 21; Dreißigacker 2016, p. 24; Dreißigacker 2017, p. 36; LKA Niedersachsen 2017, pp. 40 ff. and 90.

<sup>498</sup> Dreißigacker 2016, p. 24; Dreißigacker 2017, p. 36; LKA Niedersachsen 2017, pp. 40 ff. and 90.

<sup>499</sup> Birkel et al. 2014, p. 24.

<sup>500</sup> Dreißigacker 2017, p. 42; LKA Niedersachsen 2017, p. 52 f.

<sup>501</sup> Birkel et al. 2019, p. 40; Dreißigacker 2017, p. 44. The high fluctuations observed in Lower Saxony were insignificant, due to the small number of cases involved (LKA Niedersachsen 2017, p. 55 f.).

<sup>502</sup> Birkel et al. 2019, p. 20; Dreißigacker 2017, p. 36; LKA Niedersachsen 2017, p. 43.

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people who were victims of a robbery within one year was a maximum of 1.5% (North Rhine-Westphalia). At federal level, the twelve-month prevalence of people affected by a robbery rose significantly from 2012 to 2017, however, whereas “dark field” studies from the federal states did not indicate any significant changes in the proportions of victims.<sup>503</sup> As in the case of bodily harm, the federal states also differed in terms of the frequency distributions of robbery offences, with a tendency for the number of offences to be larger in the city states.<sup>504</sup> In relation to age, robbery victims tended to be younger males, although, unlike in the case of bodily harm, the statistical risk did not differ significantly between the sexes.<sup>505</sup>

**Table 6: Twelve-month prevalences (12-MP) and reporting rates for robbery**

Year of survey	Germany <sup>506</sup>		Mecklenburg-Western Pomerania <sup>507</sup>		Lower Saxony <sup>508</sup>		North Rhine-Westphalia <sup>509</sup>		Schleswig-Holstein <sup>510</sup>	
	12-MP	Reporting rate	12-MP	Reporting rate	12-MP	Reporting rate	12-MP	Reporting rate	12-MP	Reporting rate
2012	0.7%	33.6%	-	-	-	-	-	-	-	-
2013	-	-	-	-	0.5%	35.0%	-	-	-	-
2015	-	-	0.6%	30.8%	0.5%	25.0%	-	-	0.5%	35.2%
2017	1.0%	32.0%	-	-	0.6%	37.0%	-	-	0.5%	36.2%
2019	-	-	-	-	-	-	1.5%	44.7–46.8%	-	-

Source: own compilation from the surveys specified.

As well as the “dark field” studies referred to above that show the experiences of victims of violence in the overall population, a large number of “dark field” studies looked at the self-reported delinquency and victim experiences of young people.<sup>511</sup> Young people are particularly relevant when analysing violent offences since they commit such offences more frequently than adults and are also more frequently affected by them.<sup>512</sup> Some of the most frequent violent offences to be committed by young people were less serious bodily harm offences (acting on their own).<sup>513</sup> Further findings, some of which include longitudinal data, have been made possible by studies such as the Duisburg longitudinal study “Crime in the Modern City,”<sup>514</sup> the nationwide pupil surveys by the KFN of 2007 and 2008<sup>515</sup> and the KFN surveys of pupils, currently the most extensive in Germany, called the “Niedersachsensurvey” (Lower Saxony Survey)<sup>516</sup> carried out every two years since 2013.

<sup>503</sup> Birkel et al. 2019, p. 18 ff.; Dreißigacker 2017, p. 40; LKA Niedersachsen 2017, p. 51.

<sup>504</sup> Birkel et al. 2014, p. 18; Birkel et al. 2019, p. 33.

<sup>505</sup> Birkel et al. 2014, p. 28 f.; Birkel et al. 2019, p. 20 and Dreißigacker 2017 p. 36.

<sup>506</sup> Birkel et al. 2019, pp. 18 and 40.

<sup>507</sup> LKA Mecklenburg-Vorpommern et al. 2018b, p. 80.

<sup>508</sup> LKA Niedersachsen 2017, pp. 46 and 56.

<sup>509</sup> LKA Nordrhein-Westfalen 2020a, pp. 49 and 75.

<sup>510</sup> Dreißigacker 2017, pp. 40 and 44.

<sup>511</sup> Haverkamp 2019; Heinz 2020.

<sup>512</sup> Boers/Reinecke 2019; Bergmann et al. 2019, pp. 39 and 44.

<sup>513</sup> Baier et al. 2009, p. 64; Bergmann et al. 2019, p. 41.

<sup>514</sup> Repeated surveys of an original population of former year seven pupils from Duisburg are a central part of this study, conducted on the basis of a longitudinal design. The participants were accompanied over a period of more than 15 years and interviewed several times. On the methodology, cf. Bentrup 2019, and on the findings, cf. the anthology edited by Boers/Reinecke 2019.

<sup>515</sup> Baier et al. 2009, p. 9. The study polled year nine pupils from a representative selection of administrative districts and towns not attached to an administrative district in a nationwide poll conducted in writing in 2007 and 2008. On average, they were 15 years of age, and  $n = 44\,610$ .

<sup>516</sup> Krieg et al. 2020, pp. 25–29; Bergmann et al. 2019, p. 16 ff.; Bergmann et al. 2017, pp. 17 and 19 f. In 2013,  $n = 9\,512$  pupils in year nine, aged approximately 15, took part in the Lower Saxony Survey in writing; in 2015,  $n = 10\,638$ ; in 2017,  $n = 8\,938$  and in 2019  $n = 12\,444$ ; from 2019, the survey was also partially computer-based.

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A number of “dark field” studies have shown a decline over the last two decades in the number of experiences made by young people as offenders, and to a lesser extent, as victims, in relation to bodily harm and robbery offences, which were examined by all of the studies.<sup>517</sup> At the same time, there were no signs of an increase in violence by young people.<sup>518</sup> This trend may have been and may be different in different localities or at federal state level (intermittently), however, since deviant behaviour, just like violent behaviour, depends on a multitude of conditional factors, which may well vary by region (see below and section 3.1.1.3). Thus, the results of the Lower Saxony Survey showed that in comparison with previous survey waves, the twelve-month prevalence of *juveniles who used violence* rose significantly between 2015 and 2017, from 6.1% to 7.7%, recently falling again slightly to 7.5%, and the twelve-month prevalence of robbery rose by 0.4% in comparison with 2013, and 0.5% in comparison with 2015 to 1.0% in 2019.<sup>519</sup> In the case of bodily harm, the prevalence rate in 2019 did not differ significantly from that in 2013.<sup>520</sup>

The Lower Saxony Survey documented an increase in *victimisation rates* compared with 2013/2015 levels. The twelve-month prevalence of Lower Saxon juveniles who had experienced violence at least once rose from 16.1%/15.4% to 18.7% (2017) and most recently to 19.3% in 2019.<sup>521</sup> In contrast, the twelve-month prevalence of robbery and bodily harm by more than one person did not change significantly over the years, and thus remained stable. Most recently, 3.1% of participants said they had experienced robbery and 2.2% said they had experienced bodily harm committed by more than one person.<sup>522</sup> In the 2019 Lower Saxony Survey, 38.8% of juveniles reported that they had experienced violence at least once during their lifetime; in the 2017 study, the figure had already been 31.9% (2015: 27.2%, 2013: 27.4%).<sup>523</sup> About half of the victims of violent offences were the same age as the offenders and about two thirds of victims knew the offenders.<sup>524</sup>

Victims’ experiences also vary, depending on various factors. According to the data for 2019, for example, female juveniles were significantly more frequently affected by sexual offences than male juveniles, while for male juveniles, a significantly higher incidence of cases was documented of robbery and bodily harm committed by more than one person or using a weapon.<sup>525</sup> There was shown to be a connection with regard to school type - divided into low, medium and high. The higher the school type (Translator’s note: there are four types of secondary school in Germany), the lower the proportion of pupils who had experienced violence.<sup>526</sup>

The reporting rates derived from the study’s data were 12.5% for bodily harm by one person, 27.1% for bodily harm by more than one person and 37.7% for robbery.<sup>527</sup> Thus, among juveniles from Lower Saxony, the reporting rate for bodily harm offences was significantly lower and for robbery higher than the reporting rate for these offences among the total population recorded in the German Victimization Survey.<sup>528</sup> Moreover, the young participants were more likely to report a violent offence they had mentioned if they did not know the offender, financial damage of more than 50 euro had been caused or they required treatment by a doctor.<sup>529</sup>

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<sup>517</sup> Pfeiffer et al. 2018, pp. 13 ff. and 19.

<sup>518</sup> Heinz 2020, p. 361.

<sup>519</sup> Bergmann et al. 2019, p. 41 f.; Krieg et al. 2020, p. 65. In the Lower Saxony Survey, experiences of violence were surveyed from the perspectives of both victims and offenders in the seven offence categories robbery, extortion, bodily harm by a single person/by more than one person/with a weapon, sexual harassment and sexual violence: cf. Krieg et al. 2020, p. 54 f.

<sup>520</sup> Krieg et al. 2020, p. 65.

<sup>521</sup> Krieg et al. 2020, p. 57 f.

<sup>522</sup> Krieg et al. 2020, p. 57.

<sup>523</sup> Krieg et al. 2020, p. 56.

<sup>524</sup> Bergmann et al. 2017, p. 45; Bergmann et al. 2019, p. 39; Krieg et al. 2020, p. 60.

<sup>525</sup> Krieg et al. 2020, p. 58.

<sup>526</sup> In the survey, the “sexual harassment” category, defined as “indecent touching against a person’s will, for example between their legs or on their breast”, was an exception for which the connection in the lifetime prevalence remained, but not in the twelve-month prevalence in 2019: cf. Krieg et al. 2020, pp. 54 f. and 58.

<sup>527</sup> Krieg et al. 2020, p. 61.

<sup>528</sup> Birkel et al. 2019, p. 40 f.

<sup>529</sup> Krieg et al. 2020, pp. 60 f. and 68.



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Violence against young people is and remains a highly significant type of offence in social, crime policy and health care terms. This unwaning high social relevance has recently been reinforced as public attention has focused on new, previously comparatively little-noticed crime risks for children and juveniles. As well as the risks of the digital world and social media, which are discussed in subchapter 3.2, this relates in particular to physical and psychological violence, neglect and sexual abuse in institutions, which are discussed in section 3.1.2.

#### Violent crime and organised crime (OC)

To supplement the above observations, a concise presentation of violent crime in connection with organised and serious crime (OC) follows.<sup>530</sup> The descriptions address forms of violence that extend beyond the narrow definition of violence in the PCS. They are based on proceedings registered by the police and findings of police investigations. The primary motives for OC are to acquire material benefits and power or influence. The Second Periodical Report on Crime and Crime Control in Germany already recognised the connection between violence and organised crime: “Violence is an inseparable part of every form of organised crime [...]”<sup>531</sup>

In comparison with previous years, the number of *OC investigative proceedings* in Germany based exclusively on violent crimes declined once again in 2019 to 17 (2018: 25; 2017: 33).<sup>532</sup> Extortion offences and crimes against life were the subjects of the majority of proceedings against groups. In the proceedings in 2019, more than half the groups committed more than one category of offence; in 13 proceedings, the suspects were armed (2018: 20).<sup>533</sup> While the number of investigative proceedings conducted primarily for violent offences in the field of OC is very small, violent offences such as extortion and offences against life were also registered as ancillary offences in other fields of OC activity, for example, drug trafficking and smuggling.<sup>534</sup>

That also explains, for example, why no proceedings were conducted in 2019 for violent offences against *Italian OC* groups (*Ndrangheta*, *Cosa Nostra*, *Stidda*, *Camorra* and *Apulian OC*). At the same time, it is known that psychological and physical violence, for example in the form of extortion of protection money, was used to enforce own interests. The violence took place mainly within the criminal milieu or was exerted against compatriots with family ties to the respective regions of origin of Italian Organised Crime.

In 2019, one OC investigation proceeding for violent offences was conducted against groups from the area of *Russian-Eurasian OC* (REOC). Police findings indicate a new quality here with regard to the willingness to use violence and the consistency of its implementation by the relevant organisations and networks from the Northern Caucasus. Members of Chechen groups, for example, have a high level of willingness to commit violence,<sup>535</sup> and an affinity for weapons and combat sport. Own interests were aggressively enforced with a calculated willingness to use force, making it almost impossible for those affected - especially by protection money extortion - to resist or report the crime to the police. In investigations against Chechen-dominated groups, the suspects frequently had access to fully-automatic weapons. In contrast to other fields of OC, a few individuals in Chechen OC

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<sup>530</sup> In this context, OC is understood to be the planned commission - driven by the pursuit of profit or power - of criminal offences “which, individually or as a whole, are of considerable importance, where more than two persons collaborate on a division-of-tasks basis for a prolonged or indefinite period of time a) by using commercial or business-like structures, b) by using violence or other means of intimidation or c) by exerting influence on politics, the media, the public administration, the judiciary or the business sector [...]” Cf. working definition developed by the Joint Working Party of the German Police and Judicial Authorities (GAG Justiz/Polizei) in May 1990: BKA 2020m, p. 11.

<sup>531</sup> 2nd PRC 2006, p. 440; on this subject cf. also the clear presentation in Neubacher 2020, p. 207f.

<sup>532</sup> BKA 2020m, p. 49.

<sup>533</sup> BKA 2020m, p. 49.

<sup>534</sup> BKA 2020m, p. 41f.

<sup>535</sup> BKA 2020m, p. 28.

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groups were investigated who had committed OC crimes and also had links with the Islamist spectrum. However, “no structural links between OC groups and the field of terrorism/politically motivated crime have been identifiable so far.”<sup>536</sup>

Violence also plays a part in connection with crimes committed by members of ethnically isolated subcultures (so-called *clan crime*).<sup>537</sup> In 2019, proceedings were conducted in one OC case<sup>538</sup> of violent crime. Outside the field of OC, other investigations into violent crimes were also registered against suspects from the clan milieu. Of the total crimes committed by people with a clan connection, the proportion of violent crimes is extremely high.<sup>539</sup> Thus, the considerable violence and threat potentials of criminal members of clan structures are included in different definitions of the phenomenon as an inherent characteristic.<sup>540</sup> Cases of escalating violence are often caused by rivalries or conflicts among or between family members.<sup>541</sup> In addition, the aggressive proclamations of alleged territorial claims, intimidation attempts and threats contribute to creating a sense of lack of safety or even a climate of fear in parts of society.<sup>542</sup> An aggressive manner and acts of resistance towards representatives of public safety agencies were registered by the police, for example in tumultuous situations.<sup>543</sup>

The potential for violence of *outlaw motorcycle gangs and similar groups* is reflected in the higher number of investigations against them on suspicion of violent crimes in comparison with the above-mentioned OC groups. Seven of the 15 OC investigations into outlaw motorcycle gangs and four of the six organised crime proceedings against similar groups in 2019 were conducted on suspicion of violent crime.<sup>544</sup>

#### 3.1.1.3 Explanatory approaches and possibilities for prevention

##### Explanatory approaches

The explanations in the previous chapter mainly presented findings on behaviour patterns in connection with personal violence. The violent phenomena subsumed under this term are extremely diverse.<sup>545</sup> The empirical reality is that the heterogeneity of these phenomena extends over many people with very different personalities who displayed violent behaviour in a wide range of situations. BOCK therefore states that on the one hand “many, often less serious violent offences [are] committed by a highly problematic group of polytropic offenders...”, while on the other hand ... there [is] no socially problematic behaviour precisely in the case of many homicide offences committed in

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<sup>536</sup> BKA 2020m, p. 29.

<sup>537</sup> To date, there has been no nationwide standardised definition of the term “clan crime” (*Clankriminalität*), cf. BKA 2020m, p. 30. This report refers to the classification criteria and indicators for clan crime established by the federal and state authorities. These define clan crime as “crimes committed by members of ethnically isolated subcultures”. It is “characterised by family ties, a common ethnic origin and a high degree of isolation of the perpetrators, which facilitates the commission of crimes or makes it more difficult to detect crimes. This is accompanied by an own set of values and the rejection on principle of the German legal system. In this context, clan crime can feature one or several of the following indicators:

- a strong orientation towards the mostly patriarchal-hierarchical family structure,
- a lack of willingness to integrate, with aspects of territorial concentration,
- the provocation of escalations even in the case of non-significant occasions or minor legal infringements,
- the exploitation of mobilisation and threat potentials which are inherent to groups,
- a recognisable degree of willingness to commit violence” (BKA 2020m, p. 30).

<sup>538</sup> More than half ( $n=24$ ) of the 45 proceedings were attributed to the offence category “drug trafficking/smuggling” (BKA 2020m, p. 33).

<sup>539</sup> LKA Niedersachsen 2020, pp. 8 and 11; LKA Nordrhein-Westfalen 2020b, pp. 16 ff. and 33 f.; LKA Nordrhein-Westfalen 2019, pp. 6, 10 ff. and 14 f.

<sup>540</sup> For example, in the definition quoted in footnote 537.

<sup>541</sup> BKA 2020m, p. 34; LKA Niedersachsen 2020, p. 14 f.; LKA Nordrhein-Westfalen 2020b, p. 19 f.

<sup>542</sup> Cf. LKA Niedersachsen 2020, p. 14 ff.; LKA Nordrhein-Westfalen 2020b, pp. 19 and 23.

<sup>543</sup> LKA Niedersachsen 2020, p. 15 f.; LKA Nordrhein-Westfalen 2020b, pp. 14–20 and 34.

<sup>544</sup> BKA 2020m, p. 22 ff.

<sup>545</sup> Cf. section 3.1.1.1.

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the context of serious conflicts within intimate relationships. The background of politically/religiously motivated violent crimes or aggressive sexual crimes is different again.”<sup>546</sup>

Due to their complexity, violent behaviours and what triggers them cannot be explained or understood scientifically, i.e. also comprehending the point of view of the person using violence, by taking just one approach. Thus, two examples are given of approaches to explaining it, one for expressive and one for instrumental violence.<sup>547</sup> For the area of regressive violence, the mechanisms explained in sections 3.3.1.3 and 3.3.3.2 apply. Other phenomenon-related explanation attempts follow in the subsequent discussions of the focal issues of “institutional violence” and “violent phenomena in connection with the COVID-19 pandemic”.<sup>548</sup>

*Expressive violence* is functional and is aimed at the self-presentation and self-assurance of the person using the violence.<sup>549</sup> Dynamic interactions are typical of this type of violence. The person using violence can attract attention with it. To this extent, expressive violence is a frequent form of violence used by young people and a decline in its frequency is associated, for example, with the development of improved self-control. Some of the young people affected have major problems with self-control, however, and exhibit low tolerance of frustration.<sup>550</sup> At the same time, they more often perceive actions by other people to be a threat or discrimination, so they feel attacked.<sup>551</sup> Violence - and also renouncing violence - is thus a question of the interaction of various cognitive, linguistic and other competences and physical conditions. In some cases, the incidence of violence among young people may be high and may have detrimental development dynamics, such as the reciprocal reinforcement of norms which are open to violence, membership of delinquent youth groups and violent behaviour itself, all of which may promote (further) violent behaviour.<sup>552</sup> For the overwhelming majority of young people, however, violent delinquency is an episode, i.e. limited to a certain period during their adolescence.<sup>553</sup> This effect has been confirmed repeatedly in other national and international studies on the development of delinquency, including violent behaviour among young people.<sup>554</sup> A decline was observed in the Duisburg study, also among young, so-called multiple offenders, albeit only from the age of 15 onwards.<sup>555</sup> This very small group of multiple offenders within a birth cohort, who are defined in various ways by criminologists and criminal prosecution authorities,<sup>556</sup> is responsible for a majority of the (violent) crimes of such a birth cohort. The Duisburg study defines them as committing five or more violent crimes per year. They accounted for a proportion of approx. 6% of juveniles between 13 and 14 years of age and more than 75% of the violent crimes reported were attributable to them.<sup>557</sup> Multiple offenders commit both expressive and instrumental violence.

*Instrumental violence* is used in an intention to resolve a (supposed) problem or to realise an aim that has been set. In contrast to expressive violence, the focus here is not the experience associated with the use of violence. Rather, the violence is a functional lever. The offender decides to use violence because he or she sees it as promising means of achieving something. This behaviour is accompanied by a high level of determination that can be followed through various stages: deciding to

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<sup>546</sup> Bock 2019, p. 399 with reference to Kröber 1993 and Rasch 1964. “Polytropic” means “very adaptable”.

<sup>547</sup> For definitions, see section 3.1.1.1.

<sup>548</sup> Cf. sections 3.1.2.2 and 3.1.3.2.

<sup>549</sup> Cf. section 3.1.1.1. and footnote 427.

<sup>550</sup> Schmeck/Stadler 2012, 913 f.

<sup>551</sup> Schmeck/Stadler 2012, 913 f.

<sup>552</sup> Seddig 2014.

<sup>553</sup> Cf. also section 2.4.2.1 above.

<sup>554</sup> For a representative example, cf. the “Cambridge Study in Delinquent Development”: Farrington et al. 2009.

<sup>555</sup> Walburg/Verneuer 2019, 138 f.

<sup>556</sup> In a complete survey by the LKA of Hesse on all multiple (intensive) offenders on record in Hesse on 31 July 2006 (multiple intensive offenders,  $N = 1328$ ), said offenders were defined as follows: “As a rule, repeated offences from different categories including property/asset crimes, bodily harm offences or robbery offences were committed” and “taking into account their criminal backgrounds and the evident lack of effect of previous penal and resocialisation measures”, it has to be expected that new offences will be committed (Koch-Arzberger et al. 2010, p. 17).

<sup>557</sup> Boers et al. 2010, p. 5.

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act, planning the offence, implementing it and behaviour after the offence.<sup>558</sup> In such cases, bodily harm used as intimidation or a threat is closely associated with extortion, corruption or robbery offences, or with the realisation of other offences such as drug trafficking. Economic action theories, including the rational choice theory, provide explanations for instrumental violence.<sup>559</sup> The decision to use violence is then the result of a process of deliberation in which the “alternative paths of action” are evaluated “in terms of costs, benefits and the probability of them happening” and the “best” option is implemented.<sup>560</sup> Since people in such decision-making processes rarely - if ever - have all the information about all the conceivable alternatives for action, the model was further developed with regard to expectations of an assumed benefit. Since actors base their decisions for action on a *subjective expected utility*, this model is also referred to as the SEU model. The violence used in Organised Crime, described in section 3.1.1.2, is often instrumental violence. It is used if necessary - but then definitively - possibly with a conscious delay so the affected persons are given a false sense of security or are beguiled into being inattentive.<sup>561</sup>

One cause of (possibly violent) confrontation between criminal members of the *clan structures* and the German legal system is their traditional understanding of norms and values which, to an overwhelming extent, is incompatible with the legal provisions of the Federal Republic of Germany. Elements of these understandings include the so-called “might is right” principle and standards of masculinity that legitimise or glorify violence.

#### Possibilities for prevention

The heterogeneous forms taken by violent crime and its causes also provide numerous approaches for measures that aim to prevent or at least reduce violence. Prevention (practice) has two main points of reference:

- Firstly, it interprets behavioural problems and crime aetiologically as the “result of development processes in which an intervention can be made in the form of appropriate measures” (*development-related crime prevention*)
- and secondly, it “aims not to influence people, but to change social spaces (districts, city quarters, “hotspots”) and potential opportunities for crime” (*situation-related crime prevention*).<sup>562</sup>

Victim-related measures can also be categorised under the first point of reference - development-related crime prevention. Their aim is to reduce the risk of becoming a victim, for example by means of training strategies to deal with dangerous situations.<sup>563</sup>

Another distinction made in measures of crime prevention is between universal, selective and indicated possibilities for action. *Universal measures, also called primary crime prevention*, such as social policy or the threat of punishment, are addressed at everyone in society, regardless of their criminal risk.<sup>564</sup> *Selective measures, also called secondary crime prevention*, such as addressing persons who pose a potential threat, or using technical protective devices, on the other hand, are addressed at potential offenders, potential victims or places and situations prone to crime.<sup>565</sup> *Indicated measures, also called tertiary crime prevention*, such as imposing and enforcing fines, non-custodial or non-suspended sentences on offenders and offers of therapy for victims, are addressed at people who have already committed criminal offences or have already been victims of criminal offences.<sup>566</sup>

The practice of violence prevention in Germany aims to reach many very different life contexts, such as families, care constellations, educational and leisure facilities, collective accommodation,

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<sup>558</sup> Bock 2019, pp. 183–186.

<sup>559</sup> Cf. Becker 1982 and on classification also Meier 2016, pp. 38–42.

<sup>560</sup> Bock 2019, p. 85.

<sup>561</sup> 2nd PRC 2006, p. 443.

<sup>562</sup> Meier 2016, p. 293 f.

<sup>563</sup> Meier 2016, p. 293.

<sup>564</sup> Meier 2016, p. 295 f.

<sup>565</sup> Meier 2016, p. 296.

<sup>566</sup> Meier 2016, p. 296 f.

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public spaces and prisons. It takes place within a complex structure of actors, regulations, working methods and means of financing, within the responsibility of the state and also of society.<sup>567</sup> Professional violence prevention experts usually work in social services, day care centres, schools and clubs, as well as for independent agencies or as instructors in prevention programmes. The police and judiciary bear responsibility for protecting against threats, and in the context of minimising recidivism among former convicts. Volunteers work in associations, and not least, demands are made on parents as legal guardians. The different ways of seeing oneself professionally and the specific logic behind the actions of the police, judiciary and social work sometimes make it difficult for them to cooperate in preventing violence. New forms of cooperation, such as “*Houses of Juvenile Justice*”<sup>568</sup> or confidence-building joint initial and further training formats foster and improve the necessary collaboration.<sup>569</sup>

#### 3.1.1.4 State measures and state-funded measures

What has been said in the above sections underlines the need for (crime) policy to continue to resolutely take steps relating to violent crime, also in view of the positive trends in a number of its areas, and to further develop measures to prevent violence.<sup>570</sup> The state has paved the way for groundbreaking measures to improve the prevention of violence in recent years by means of legislative measures,<sup>571</sup> by establishing commissioners and contacts<sup>572</sup> for various issues, by means of financial support for programmes run by private agencies<sup>573</sup> and, not least, by including (criminal prosecution) authorities in networks<sup>574</sup>. From the spectrum of the numerous state and state-funded measures, a selection is presented below on the prevention of violence by and against young people, on information for persons affected by violence, on structural approaches and on violence in Organised Crime.

On the basis of science and (social) educational and behavioural therapy practice, *child-centred programmes* for work in child day-care centres,<sup>575</sup> primary and secondary schools,<sup>576</sup> as well as parent training programmes for the context of families<sup>577</sup> and mentor and behavioural programmes in neighbourhoods or local contexts<sup>578</sup> have been developed.<sup>579</sup> Selection guidelines are provided by the portal “*Wegweiser Entwicklungsförderung und Gewaltprävention*” (guidebook of developmental support and violence prevention) of the German Forum for Crime Prevention (DFK) in combination with the “Prevention Green List”, which links up scientific quality criteria with specific programme

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<sup>567</sup> There are often calls for Germany to have an obligatory coordinated strategy; due to the different decision-making and implementation levels, this is subject to many prerequisites, is complex and has not been possible to date. In specific areas of activity, such as preventing domestic or extremist violence (on this subject, see subchapter 3.3), continual developments have led to improved statutory, organisational and financial framework conditions and coordinated working methods of the security and social authorities as well as civil society agencies. Cf. also the demand made by the Initiative for the Prevention of Violence in Society as a Whole (*Initiative Gesamtgesellschaftliche Gewaltprävention*) (Voß 2019).

<sup>568</sup> Cf. section 3.1.1.4.

<sup>569</sup> Holthusen 2016, p. 12.

<sup>570</sup> For more information on this subject, see Voß/Marks 2016 and the services of the Police Crime Prevention Programme (ProPK): polizei-beratung.de.

<sup>571</sup> Representative examples are the Third Victims’ Rights Reform Act of 2015 (3. *Opferrechtsreformgesetz*), the Act to Improve Protection Against Stalking of 2017 (*Gesetz zur Verbesserung des Schutzes gegen Nachstellungen*) and the Federal Child Protection Act of 2012 (*Bundeskinderschutzgesetz*). The latter extended concepts such as the concept of prevention by expanding the state’s provision of advice and support - in terms of time - to prevent risks to child welfare arising in the first place.

<sup>572</sup> Cf. section 3.1.1.2, footnote 448 and section 3.1.2.3.

<sup>573</sup> Cf., for example, the child-centred prevention programmes referred to below.

<sup>574</sup> Cf., for example, the Joint Counter-Terrorism Centre, founded in 2004 (BMI, 2011), and the Joint Centre for Countering Extremism and Terrorism, founded in 2012 (BKA 2021b).

<sup>575</sup> Cf. the “Papilio”, “EFFEKT” or “Kindergarten plus” programmes.

<sup>576</sup> Cf. the programmes “fairplayer.manual”, “Lions Quest”, “buddy”, “Klasse 2000” or “Media Heroes against Cyberbullying”.

<sup>577</sup> Cf. the “ELTERN AG”, “Opstapje” or “TripleP” programmes.

<sup>578</sup> Cf. the programmes “Balu und Du” or “Fit für kulturelle Vielfalt”.

<sup>579</sup> DFK 2018. These universal measures are classified as development-related crime prevention.

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recommendations and implementation aids.<sup>580</sup> To prevent *violence by young repeat offenders*, but also other criminal offences by young people, “Houses of Juvenile Justice” (HDJR) have been set up in a number of federal states, where state institutions and municipal authorities - including the police, public prosecution office, public youth welfare and youth court assistance service - collaborate under one roof, physically or at least virtually.<sup>581</sup> Cases are managed according to the place of residence principle, with cases involving a particular offender, for example within the ambit of the police, being dealt with by a single case worker.

In the *federal funding programme “Ending Violence against Women Together”*, launched in 2020, the Federal Government supports the states and municipalities with the needs-based development of their assistance systems and to expand and test new support services for women affected by violence, and their children. Up to 120 million euro has been earmarked for this programme until 2023.<sup>582</sup>

Citizens affected by crimes can find information about the help available via websites and data bases, for example via

- “*Hilfe-Info*”, the online portal operated by the BMJV for victims and/or witnesses of a crime, which provides clear and concise information on all legal matters of concern to victims following a crime, including assistance and advisory services, financial, practical, psychological and forensic support services, and on the course of prosecution proceedings, and
- which, via a link to the free *Online Database for Victims of (Violent) Crime (ODABS)*, facilitates an (anonymous) search for advice centres, counselling and assistance available in the region concerned (“Advice Centre Finder”);
- the (free and anonymous) *Violence against Women Support Hotline* of the Federal Office of Family Affairs and Civil Society Functions offers people concerned initial psychosocial advice, crisis intervention and information on local support services (all of which are accessible and available in a number of different languages);
- the initiative *Stronger than Violence* launched by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) addresses women and men, but also the people in their lives, and offers a combination of assistance and advisory services.<sup>583</sup>

In the field of situation-related crime prevention, architectural and use-related structural improvements and spatial concepts are to be designed, following public debate, as community-based compromise solutions. Urban development processes involving and integrating citizens have been supported by the Federal Government since 1999 with the “*Social City*” *urban development promotion programme*.<sup>584</sup> The aim is to promote local communitisation and to strengthen social cohesion.

The Federal Government, security and judicial authorities, also in coordination with cooperation partners at supranational and international level, such as Europol, Eurojust and the European Judicial Network (EJN), are using various strategies to combat the *violence inherent* in some forms of *Organised Crime*.<sup>585</sup> A holistic administrative approach, involving close cooperation between the police, public prosecution office, customs, tax investigation service, foreigners and public order authorities as well as agencies such as public health offices, puts pressure on OC structures and dissolves them wherever possible.<sup>586</sup> “In order to pursue this approach, also internationally, the BKA in 2019 took

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<sup>580</sup> See [wegweiser-praevention.de](http://wegweiser-praevention.de); [gruene-liste-praevention.de](http://gruene-liste-praevention.de).

<sup>581</sup> The HDJR and selective and indicated measures in this context are classified as development-related crime prevention.

<sup>582</sup> See [gemeinsam-gegen-gewalt-an-frauen.de](http://gemeinsam-gegen-gewalt-an-frauen.de). The money is to be used to develop women’s refuges, special consultation services and other institutions offering assistance. The federal funding programme is part of the overall Federal Government programme for the implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention).

<sup>583</sup> See [hilfe-info.de](http://hilfe-info.de); [odabs.org](http://odabs.org); [hilfetelefon.de](http://hilfetelefon.de) | 0800 0116 016; [staerker-als-gewalt.de](http://staerker-als-gewalt.de).

<sup>584</sup> Cf. [staedtebaufoerderung.info](http://staedtebaufoerderung.info).

<sup>585</sup> Cf. Bundestagsdrucksache (Bundestag printed paper) 19/18202, p. 4f.

<sup>586</sup> Cf. [administrativeapproach.eu](http://administrativeapproach.eu).

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over as the German National Contact Point for the European Network on the Administrative Approach (ENAA)” and the “Federal Government supports the judicial authorities on an ongoing basis in processing cases with cross-border connections.”<sup>587</sup>

#### 3.1.2 Focus on institutional violence

Two definitions are helpful to describe “institutional violence”: Firstly, *institutions* are understood to be *establishments in buildings* such as schools, clinics, care institutions including old people’s homes, barracks or prisons. Thus, institutional violence has a connection with a particular place. Secondly, according to Gadon, “*institutional violence refers to the actual, attempted or threatened harm towards another person within the institutional setting which may include physical, verbal and/or sexual aggression.*”<sup>588</sup> This is being stated at the outset because orientation to the official or criminal law definition is not always possible (the PCS uses a narrow definition of violence, see above). Scientific and social discourse and studies supplementing official statistics are based on wider definitions of violence, which are specified here in connection with the relevant statement. Comments on sexual abuse are limited to a few exemplary statements below since this issue requires discussion as a focal area in its own right. Further information can be obtained from the sources indicated.

The suffering and injustice experienced by children and young people in past decades in children’s and youth welfare homes, facilities for the disabled and child and juvenile psychiatric facilities, the experiences reported in connection with the so-called convalescent homes, reports on experiences of violence and sexual abuse in (residential) schools, church-related contexts and youth groups have recently been the subject of critical examination and reappraisal. This serves as a reminder and should prompt discussion of how it was possible for violence and sexual abuse to take place within such structures and what can be done about it. Often, there were dependent relationships or structures characterised by a pronounced power imbalance. The state bears special responsibility here, particularly if people are in its care, if it has an influence on their accommodation, oversight over an institution or a special guardian function for the well-being of the persons concerned.

The incidents discussed below may have taken place in multiple constellations of offenders and victims. Information is provided both on violence by representatives of an institution vis-à-vis its clients and on violence that takes place in other role constellations, such as among the clients of an institution. Institutional violence is primarily relevant for people who have medium and long-term contact with an institution. In contrast with brief contacts, such as a short appointment with a municipal authority to submit an application, some people stay in institutions for longer periods. Alongside staff, pupils or clients spend time in institutions or even (have to) take up residence in the institution. The latter may be on account of an increased need for care or when starting to serve a prison sentence. Violence in institutions often occurs in particular relationships of dependence or under conditions involving a duty of care and guarantor positions. The probability of violent incidents going unreported, particularly in isolated institutions, is generally high. This is due to the dependent relationships that often exist there. The relatively stable structures and continuity in terms of institutional staff involve a high risk of repeat offences for those affected.<sup>589</sup>

##### 3.1.2.1 Forms and development

Some findings from the official statistics are set out below, before being presented within a selection of research findings on violence in different types of institution - educational institutions, care and

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<sup>587</sup> Bundestagsdrucksache (Bundestag printed paper) 19/18202, p. 4f.

<sup>588</sup> Gadon et al. 2006, p. 515.

<sup>589</sup> Cf. section 3.1.2.2 and, as an example, Rau et al. 2019, pp. 82f., 111, 164–210 and 370.

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health-sector institutions and prisons.<sup>590</sup> That is followed by an overview of the developments in recent years.

Institutional violence is not identified as such in the PCS. An approximation can only be made using the PCS by considering the victim's relationship to the suspect. Information as to whether a formal relationship existed between the victim and the suspect as part of an organisation, association or group is too unspecific for this purpose. However, information on the geographical-social characteristics of an offence enables statements to be made as to whether the person affected by the crime was in a relationship involving education or care with the suspect, but did not live together with them in the same household. These are placed in one of three defined categories: the education sector, the health sector and other, including probation supervision and public youth welfare. In itself, the distribution of the proportions of victims in these categories provides little by way of criminological information, however. Two further limitations should be mentioned. Firstly, the definition of these categories goes beyond the definition of institutions underlying these observations, as can be seen by looking at the example of the victims of probation supervision. Secondly, institutional violence is also included in another of the geographical-social characteristics of the PCS, specifically in an educational or care relationship and living together in a common household. However, such constellations also include apartments for children and juveniles or social institutions with rules and a distribution of tasks for everyday life and to meet needs. The PCS figures do not allow any conclusions to be drawn on either of these points. Thus, the following statements are to be considered with these limitations in mind.

In 2019, 2687 persons were registered by the police as victims of attempted or completed violence in the above three categories in an institutional context.<sup>591</sup> This corresponded to a share of 1.2% of all victims of violent crime within the meaning of the PCS aggregate key "violent crime". The proportion of victims of violent crime as a whole in recent years was consistently between 1.0% and 1.2%. In 2019, victims of institutional violence were most frequently affected by dangerous and serious bodily harm<sup>592</sup> (87.3%). A comparison of the victim numbers in 2019 with previous years showed an increase of 19.4% between 2014 and 2019. A generally heightened awareness of issues relating to institutional violence may have contributed to this.<sup>593</sup>

The current *judicial and criminal justice statistics* do not record circumstances of the crime, such as the scene of the crime. Thus, the available statistics do not indicate whether, for example, crimes took place within or outside educational or health care facilities or in prison. If at all, information on how institutional violence is sanctioned can be deduced either indirectly, for example by asking about violence used by officials representing their institutions and violence used on them,<sup>594</sup> or if the criminal law provisions themselves allow a direct connection to such an institution to be identified. The latter is the case for the crimes "Sexual abuse of prisoners, persons detained by official order, or sick or vulnerable institutionalised persons" (section 174a StGB)<sup>595</sup> and "Sexual abuse exploiting a counselling, treatment or support relationship" (section 174c (1) and (2) StGB)<sup>596</sup>, although these penal provisions go beyond the narrow definition of violence in the PCS.<sup>597</sup> In the reporting year 2019, there were a total of 30 adjudications on the basis of the criminal law provisions of section 174a and 174c StGB.<sup>598</sup> For a number of other criminal offences, it is not possible to identify whether the offence was committed in connection with an institution on the basis of the available data. That applies, for example, to ill-treatment of persons in one's charge under section 225 StGB (206 adjudications in 2019). Thus, the persons concerned, such as teachers, prison officers, hospital

<sup>590</sup> The anthology by Rettenberger et al. 2020 gives a more detailed overview of the current state of research.

<sup>591</sup> To enable a comparison to be made with section 3.1.1.2, only victims subsumed under the aggregate key "violent crime" were included. PCS 2019, own evaluation.

<sup>592</sup> The statistics record dangerous and grievous bodily harm together with the crime of "female genital mutilation".

<sup>593</sup> Cf. also section 3.1.2.2 below.

<sup>594</sup> On this subject, see section 3.1.4.

<sup>595</sup> On this subject, cf. BeckOK-StGB/Ziegler, section 174a recital 3.

<sup>596</sup> On the area of application, see BeckOK-StGB/Ziegler, section 174c recital 1 ff.

<sup>597</sup> Cf. section 3.1.1.1.

<sup>598</sup> Strafverfolgungsstatistik 2019, table 2.1.



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or care home employees, child care workers in kindergartens and parents, may be in a relationship involving care or custody within the meaning of section 225 (1) no. 1 StGB.<sup>599</sup>

#### Educational institutions

To date, social and specialist discourse on violent incidents in educational establishments has addressed two main constellations, firstly, violence among young people and secondly, violence by (educational) personnel to the detriment of young people. Teachers at state-run schools may, by using physical violence, be committing a criminal offence under section 340 StGB (bodily harm in public office). The provision imposes a penalty for bodily harm committed by holders of a public office *in the course of discharging their duties or in relation to their duties*, whereby there must be an objective connection to an *abuse of official power*.<sup>600</sup> As well as teachers, holders of a public office may be, for example, customs or police officers.<sup>601</sup> An exact categorisation according to professional groups is not possible on the basis of the PCS statistical data, however, which is why no evaluation can be made here.

Research findings on teachers' misconduct reported by pupils are to be found in the Lower Saxony Survey data for 2013, 2015 and 2017.<sup>602</sup> Approximately one third of participants said that a teacher had ridiculed them or had been "really malicious" to them during the last school semester.<sup>603</sup> A smaller proportion said they had experienced at least one of these forms of bullying by teachers several times a month (2013: 3.9%; 2015: 3.6%; 2017: 4.4%). According to the results of the survey, physical violence was very rarely used by teachers. In 2013, 1.5% of participants reported that they had been hit by a teacher during the previous school semester; in 2015, the figure was 1.0% and in 2017, it was 1.4%.<sup>604</sup> More recently, there has been an increase in violence against teachers at schools being pointed out. Three studies initiated on this subject since 2016 by the teachers' trade union "*Verband Bildung und Erziehung*" suggest that there has been an increase in psychological and physical violence by pupils against teachers.<sup>605</sup> In the trade union study in 2020, respondents at school level reported cases of direct psychological violence at 61% of schools during the last five years<sup>606</sup> (2018: 48%), cases of psychological violence via the internet at 32% of schools<sup>607</sup> (2018: 20%) and physical attacks at 34% of schools (2018: 26%).<sup>608</sup> Current findings on teachers affected are included in the Lower Saxony Survey 2019. It reports that during the last school semester, 29.8% of  $n \geq 661$  teachers answering the relevant question had been insulted on or close to school premises at least once by at least one pupil, 15.6% had been ridiculed, 5.9% had been threatened and 0.4% had been hit.<sup>609</sup>

Administrative data and data from representative surveys of pupils over the last two decades indicate that there has been a significant decline in violence by pupils against other pupils. According to German Statutory Accident Insurance (DGUV) data, the number of registered so-called "fighting accidents" in schools fell from 14.9 per 1,000 insured pupils in 1999 to 8.4 in 2018. Over the same pe-

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<sup>599</sup> See BeckOK StGB/Eschelbach, section 225 para. 8 et seqq.

<sup>600</sup> Cf. BeckOK-StGB/Eschelbach, section 340 StGB recital 15; Schönke/Schröder/Hecker, section 340 recital 4 f. As well as protecting the physical integrity of the person concerned, the purpose here is also to protect the public interest in the proper performance of duties vis-à-vis citizens by a person who represents the state (cf. Schönke/Schröder/Hecker, section 340 recital 1).

<sup>601</sup> For the purposes of the German Criminal Code, 'public official' means any person who, under German law, is a public official or judge, carries out other public official functions or has otherwise been appointed to serve with an authority or other agency commissioned to perform public administration services (section 11 (1) no. 3 StGB).

<sup>602</sup> For background information on the Lower Saxony Survey, see section 3.1.1.2 and footnote 516 above.

<sup>603</sup> Bergmann et al. p. 2017, p. 60 ff.; Bergmann et al. 2019, p. 46 ff.

<sup>604</sup> Bergmann et al. p. 2017, p. 60 ff.; Bergmann et al. 2019, p. 46 ff.

<sup>605</sup> Cf. Forsa 2020, p. 5 f., Forsa 2018 and Forsa 2016. In 2018  $n=1200$  and in 2020  $n=1302$  head teachers surveyed and in 2016  $n=1951$  teachers at schools of general education in Germany surveyed.

<sup>606</sup> Insults, threats, offensive comments, bullying or harassment.

<sup>607</sup> Defamation, harassment, exertion of pressure, threats or coercion.

<sup>608</sup> Forsa 2020, p. 5.

<sup>609</sup> On these and other differentiated findings, cf. Krieg et al. 2020, pp. 38 and 180 f. and for further background information on the Lower Saxony Survey 2019, see section 3.1.1.2 and footnote 516.

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riod, fractures caused by violence - an indication of serious forms of physical confrontation - declined from 1.3 to 0.5 per 1000 pupils.<sup>610</sup> Findings from surveys confirm this picture. In major surveys of year nine classes conducted by the KFN,<sup>611</sup> the proportion of those who had frequently been affected by physical violence in a school context during the previous school semester declined from 2.3% to 1.3% between 2007/2008 and 2015.<sup>612</sup>

In past years, broad public awareness has helped to put violence suffered by young people and violent behaviour by staff at (residential) schools and homes, sometimes from a long time ago, on the agenda of public and specialist discourse and academic studies. This has increasingly been the case since 2010. The focus was and continues to be on questions of (taking) responsibility, recognising suffering, in the sense of being aware of it and providing assistance, and questions concerning inquiries. In addition, academic studies with different focal areas have aimed to research the backgrounds, reasons, causes and consequences of crimes in (educational) institutions. To sum up, the results show that *physical* and *psychological violence* and *sexual abuse* and the *neglect* of basic psychosocial and material needs were widespread in many institutions which were actually supposed to provide for and educate children and young people. Available studies<sup>613</sup> relate primarily to residential school establishments where pupils were present all day and where diverse forms of violence, including sexual abuse, took place *systematically and on a huge scale over years or decades*. At the same time, a number of studies suggest that overall, there has been a decline in the frequency of these crimes in the last three to four decades<sup>614</sup> - albeit with the exception of a few individual institutions.

#### Care and health sector

Violence may also take place in inpatient establishments for people who are ill, in need of care or who have a disability - either actively in the form of abuse or through neglect in the sense of failing to carry out actions on which those affected depend on account of their impairments. In Germany, approximately one fifth of the 4.1 million people in need of care in 2019 lived in care establishments offering full-time care.<sup>615</sup> It is difficult to conduct research on victimisation in care establishments since it is only possible to survey those affected to a very limited extent. Available studies clearly show that the frequency of violent incidents in inpatient care establishments goes far beyond a few individual cases. In a survey of care staff, 71.5% of respondents reported that they had “physically or psychologically abused, neglected or, for reasons of work efficiency, [limited the freedom of] a resident at least once during the last twelve months.”<sup>616</sup> Estimates based on analyses of the international state of research allow the assumption to be drawn that the twelve-month prevalence of psychological abuse among residents of care institutions was and remains approximately 33% and that the corresponding prevalence for physical violence and financial exploitation respectively is still well in excess of 10%.<sup>617</sup> Nearly two thirds of all care staff in full-time care institutions admitted to having committed at least one form of elder abuse in the past year.<sup>618</sup> More recent studies have also pointed

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<sup>610</sup> Deutsche Gesetzliche Unfallversicherung 2012; 2016; Hochschule für Polizei und öffentliche Verwaltung Nordrhein-Westfalen (University of Applied Sciences for Police and Public Administration North Rhine-Westphalia) 2018; for 2018, information was provided by telephone by German Statutory Accident Insurance.

<sup>611</sup> For a summary, see Pfeiffer et al. 2018.

<sup>612</sup> Pfeiffer et al. 2018, p. 22.

<sup>613</sup> See representative examples in Brachmann 2019; 2018; Bundschuh et al. 2017; Burgsmüller/Tilmann 2019; Frings/Löffler 2019; Keupp et al. 2019; Rau et al. 2019; Pöter/Wazlawik 2018; Siebert et al. 2016; Wazlawik et al. 2019. For basic information on the subject, cf. also the website of the Independent Inquiry into Child Sexual Abuse in Germany (aufarbeitungskommission.de).

<sup>614</sup> Cf. for example Bundschuh et al. 2017, pp. 118f., 128, 176f. and 184f.; Keupp et al. 2017, pp. 22, 288f. and 352f.; Rau et al. 2019, pp. 82f., 109ff. and 208f.; Raue 2010, p. 1f.

<sup>615</sup> Statistisches Bundesamt 2020b, p. 19.

<sup>616</sup> Written survey conducted in Hesse of 361 care staff in the inpatient care sector (Görgen 2010, p. 487).

<sup>617</sup> Yon et al. 2018, p. 61.

<sup>618</sup> Yon et al. 2018, p. 61.

### 3.1 Violent crime

to the widespread nature of violent behaviour by - often cognitively impaired - fellow occupants of care institutions.<sup>619</sup>

The DGUV documents and publishes figures on violence to the detriment of health service staff and in homes (not including recreational and holiday retreats) in its report on accidents at work.<sup>620</sup> A significant proportion of the persons affected on record were working in inpatient institutions such as hospitals or homes at the time of the incident. In 2019, 5035 accidents were reported in the health and care homes sector (extrapolation) as a result of psychological or physical violence by persons within or outside the institution.<sup>621</sup> Here, too, the scientific findings suggest that there is a significant “dark field” because many incidents go unreported.<sup>622</sup>

#### Prisons

The state also has a special responsibility for prisoners housed in prisons to serve a term of imprisonment or juvenile detention, remand detention, preventive detention or youth detention. It must protect them from attacking one another<sup>623</sup> and against unjustified use of force by staff. As employer, the state also bears responsibility for protecting prison employees. For prisons, violence is an ever-present issue. Maintaining security and order, a prerequisite for humane prisons that aim for social reintegration, is a central task of prisons.

Information on violence is available both from evaluations of registered incidents<sup>624</sup> and from surveys, usually of prisoners, which also include the dark field. While there are some studies on violence in prison, there are no regular, repeated surveys, let alone comprehensive studies of all prisons in Germany, the results of which could be compared and which, in particular, could show a development over a longer period. The following figures can therefore only provide an ad hoc snapshot. That said, a survey of 5983 detainees in men’s, women’s and juvenile prisons in five federal states in 2011 and 2012 *over a period of four weeks* indicated *high prevalence rates, particularly of physical victimisation*. The rates among the participants were as follows: men: 16.8%; women: 11.4% and prisoners in juvenile prisons: 32.4%. For extortion, the rates were as follows: men: 11.4%; women: 12.7%; prisoners in juvenile prisons: 19.6%.<sup>625</sup> Approximately one in 50 persons interviewed in men’s prisons (2.1%) reported that they had suffered rape or sexual coercion; in women’s prisons, the proportion of persons who had experienced sexual violence was lower, at 1.1%, and in juvenile prisons it was the highest, at 3.3%.<sup>626</sup> Another longitudinal study conducted between 2010 and 2017 evaluated 1769 responses from 883 male juvenile prisoners and 469 responses from 269 female juvenile prisoners.<sup>627</sup> Of the participants in the study, 64% of the male prisoners and 49% of the female prisoners said that they had used physical violence against fellow prisoners in the previous three months.<sup>628</sup> In the twelve months before the survey was conducted, 39% of male prisoners were both perpetrators and victims of physical violence. Thus, dividing into separate categories of perpetrators and victims “fails to reflect the reality of prison violence.”<sup>629</sup> Analysis of the longitudinal data indicated that there was an overall increase in both psychological and physical violence during the term of imprisonment.<sup>630</sup>

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<sup>619</sup> Görgen et al. 2020a, 182 f. and 186 f.; Görgen et al. 2020b, p. 4 ff.

<sup>620</sup> Cf. DGUV 2020. “Homes” subsumes care establishments and retirement homes.

<sup>621</sup> Additional evaluation provided upon request by the DGUV for 2019 for accidents caused by human violence, attack, threat or surprise, differentiated according to economic sector - summary of reports by commercial employers’ liability insurance associations and public-sector accident insurance companies.

<sup>622</sup> For an overview, particularly of the situation in emergency admissions, cf. Hüfner et al. 2020 and Hochschule Fulda 2019.

<sup>623</sup> BVerfGE 116, 69, 87.

<sup>624</sup> Cf. the studies by Heinrich 2002 and Wirth 2007 in Hesse and North Rhine-Westphalia.

<sup>625</sup> Baier/Bergmann 2013, p. 76 ff.

<sup>626</sup> Baier/Bergmann 2013, p. 78.

<sup>627</sup> Cf. Neubacher/Boxberg 2018, p. 200 and Häufle et al. 2013.

<sup>628</sup> Neubacher/Boxberg 2018, p. 200 f.

<sup>629</sup> Neubacher/Boxberg 2018, p. 202.

<sup>630</sup> Neubacher/Boxberg 2018, p. 201.

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Only limited information (older information, and, apart from press reports, hardly any up-to-date information) is available on violence against prison staff and against prisoners by staff in Germany.<sup>631</sup> On the basis of a breakdown by federal state, BACHMANN reported the following numbers of disciplinary measures taken against male prisoners after assaults on staff. In 1998 one violent attack by prisoners took place per 0.5% of the annual average occupancy rate ( $n = 324$  incidents); the rates in 2005 and 2006 were 0.36% and 0.3% respectively.<sup>632</sup> The findings are supported by the results of a prison study in Lower Saxony conducted in 2002.<sup>633</sup> General prison service staff reported mainly psychological and rarely physical violence.<sup>634</sup> Approx. eight out of ten general prison staff taking part in the study said that they had never been touched or held by a prisoner in the previous twelve months.<sup>635</sup>

Conversely, 40.9% of participants in the general prison service reported that they had had to touch or push away a prisoner at most approx. once a month during the twelve months before the time of the survey (50.7% said that they had never done this). 45.2% of participants in the general prison service reported that they had had to hold or tie up prisoners just as frequently (40.9% “never” had to do so).<sup>636</sup> According to the results of the study, serious violence, such as hitting, kicking or use of weapons, is an exception.<sup>637</sup> If it does take place, it is above all in the task area of the security and control service.

In an institutional context, “violence/force” also includes precautionary measures, measures of direct force and disciplinary measures, even if these measures are executed lawfully in accordance with statutory enabling provisions with regulatory conditions attached. They are used to maintain safety and order within institutions, and thereby indirectly provide an insight into the situation in prisons. To represent this, the prison statistics from 2019 onwards were extended to include, in future, developments relating to the most serious precautionary and disciplinary measures.

#### Other institutions

In the wake of the wide reception of the discourse on violence and sexual abuse in educational institutions among the general public and the media, other state, church and private institutions have been subject to scrutiny in recent years.<sup>638</sup> Beyond the initial definition of institutions above, violence and sexual abuse have been discussed in the context of sports clubs, political organisations, art and culture, the scouting movement and other institutionalised groups.<sup>639</sup> With regard to the Federal Armed Forces, crimes of this nature relating to the relationship between superiors and subordinates in the Federal Armed Forces recorded under the Military Criminal Code (*Wehrstrafgesetz*, WStG) can provide information. In 2019, the criminal prosecution statistics recorded nine adjudica-

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<sup>631</sup> Cf. Bachmann 2009, p. 89 f.

<sup>632</sup> For the calculation and limitations, for example because of the current different recording practices for assault, cf. Bachmann 2009, p. 89 f. Based on an evaluation of files and criminal complaints about prisoners on account of violence against persons between 1989 and 1998, Heinrich (2002, p. 371 f.) published relative frequencies of incidents for Hesse measured against the average annual occupancy (in each case  $\leq 2.9\%$ ).

<sup>633</sup> Part of the study was a written survey conducted in 2002 of  $n = 1717$  prison staff, of whom  $n = 1081$  were general prison staff (return rate approx. 45%; cf. Lehmann/Greve 2006, pp. 27–30).

<sup>634</sup> For physical violence with the same result for prisons in Hesse in the 1990s, see Heinrich 2002, p. 377.

<sup>635</sup> Cf. for further detailed findings: Lehmann/Greve 2006, pp. 73–86.

<sup>636</sup> Thus, the two forms of confrontation (staff against prisoners and prisoners against staff) occur with comparable frequency. Cf. Lehmann/Greve 2006, p. 73.

<sup>637</sup> “[I]n the perception of staff, little violence [is evident] in the interaction between staff and prisoners. The results suggest that violence is less frequent than is generally assumed by the public and that it is primarily of a verbal nature” (Lehmann/Greve 2006, p. 73).

<sup>638</sup> Bundschuh 2010; Dreßing et al. 2018; Kowalski 2018; Rettenberger et al. 2020.

<sup>639</sup> Cf. as examples Ringe deutscher Pfadfinderinnen- und Pfadfinderverbände e. V. 2021; Rulofs et al. 2020; ZEIT ONLINE 2018 and the Themis Trust Centre against Sexual Harassment and Violence for victims from the German film, television and theatre sector, which receives support from 19 institutions from the cultural and media sector and from the Federal Government Commissioner for Culture and the Media (themis-vertrauensstelle.de).

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tions and six convictions for mistreatment of subordinates under section 30 WStG and four convictions for degrading treatment of subordinates under section 31 WStG. There were also three convictions for physical assault on a superior (section 25 WStG).<sup>640</sup>

From constitutional and crime policy perspectives, greater attention needed and needs to be given to institutions such as prisons and secure psychiatric hospitals, where people are deprived of their liberty.<sup>641</sup> With many educational institutions having drawn up and implemented prevention plans in response to the investigation and inquiry efforts, there has increasingly been critical reflection on the use of force and violence in psychiatric clinics<sup>642</sup> (and care institutions) and changes have been initiated. The central organisational form of social coexistence in which many children and young people, but also people of all other age groups, are affected by violence - the social institution of the family - also requires ongoing attention and support.<sup>643</sup>

#### 3.1.2.2 Explanatory approaches and possibilities for prevention

There are some major differences between the institutions discussed here with regard to their characteristics and framework conditions. These also have a long-term effect on the type and level of violence to be observed within the context of the different institutions. The social dynamics within child and youth welfare institutions are completely different to those in retirement homes, and the social dynamics in institutions providing care for the disabled are completely different to those in prisons. The residents have different needs, and different requirements regarding their need and ability to move, and their ability to understand and obey rules. This is reflected in the institutions' different mandates, different legal bases and powers, different equipment and differently trained staff. Yet there are also common structural features, such as the vulnerability and dependence of residents or clients vis-à-vis the institution, the power gap between them and the staff of the institution, and the fact that the institution is more or less closed off and secluded from the rest of society.

For several decades, the social sciences have been describing institutional structures' potential to encourage crime and institutional mechanisms that foster violence. FOUCAULT'S discussions of power and control<sup>644</sup> and the sociologist Goffman's concept of the "total institution" offer explanations. According to Goffman, a "total institution" is to be understood to be "a place of residence and work where a large number of like-situated individuals, cut off from the wider society for an appreciable period of time, together lead an enclosed, formally administered round of life [...]"<sup>645</sup> "Total institutions" thus include (care) homes, boarding schools, barracks, prisons and closed psychiatric hospitals.

Unlike most other peoples' lifestyles, this type of communitisation, sometimes involuntary, leads to different areas of life being linked in time and space. There is a substantial overlap between the areas of contact, recreation and (where relevant) work. The areas important to individuals, where they have a free choice of location and activity, are limited to matters with little scope for decision-making. In their fully-fledged form, "total institutions" subject people to an overall plan or objective by imposing a regulatory corset on their everyday schedules, which are structured accordingly and implemented by the institution's representatives.<sup>646</sup> The characteristics of a "total institution" enable individual institutions to be analysed with regard to the extent to which they match this type.

An institution's seclusion may lead to a lack of external control, resulting in staff having to answer only to their own conscience and/or management-level supervisors. This fosters everything from

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<sup>640</sup> Strafverfolgungsstatistik 2019, table 2.1. There were no adjudications for criminal offences under sections 23 and 24 WStG (threat/coercion of a superior) in the 2019 criminal prosecution statistics.

<sup>641</sup> Görgen et al. 2015, p. 434 ff.; Häufle et al. 2013.

<sup>642</sup> Cf. representative statements, for example, in Kammeier 2019; Zinkler/von Peter 2019.

<sup>643</sup> Cf. BKA 2020f.

<sup>644</sup> Foucault 1975.

<sup>645</sup> Cf. Goffman 1973, p. 11; for further information on the four central characteristics of a "total institution": Goffman 1973, p. 17.

<sup>646</sup> Goffman 1973, p. 17.

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arbitrary conduct right up to tyranny.<sup>647</sup> There is a danger that the behaviour that gives the institution's clients their identity will be systematically suppressed and replaced by the rules and the overall aims of the institution.<sup>648</sup>

In addition, secondary analytical evaluations showed risk factors for violence to occur in institutions.<sup>649</sup> Frequent *institutional risk factors that contribute to the occurrence of violence and sexual abuse*, which are therefore particularly relevant from a criminological point of view, include the following:

- strict separation from the outside world and thus the establishment of an institutional and structural microcosm largely beyond formal or informal scrutiny;
- inadequate equipment and thus a number of professional and structural shortcomings;
- the establishment of authoritarian, hierarchical power relationships, held to be inviolable, with a primacy of the institution represented in absolutist terms;
- an atmosphere of devaluation and ubiquitous violence;
- a lack of positive relationships
- and the suppression of physicality and sexuality.

Other factors promoting violence were: unclear or educationally inadequately defined closeness-distance relationships between staff and the children or young people, the submission of young peoples' needs to the aims of the institution and networks which, for a long time, prevented the detection of violence and sexual abuse.<sup>650</sup> To date, there have not been any studies on the extent to which institutional risk factors identified as contributing to the occurrence of violence and sexual abuse in educational institutions also apply to other institutions. Nevertheless, such efforts appear to be promising and parallels appear to exist. The causes of violent behaviour by care staff towards residents, for example, are complex, but similar factors to those mentioned above are under discussion. There may be parallels with adverse effects relating to pressures and overload on carers, the power constellations in institutions and residents' "submission" to institutional procedures and structures, the low level of formal and informal social control over life and work in (care) homes, and the diverse opportunities for committing crimes.<sup>651</sup>

*Possibilities for preventing institutional violence* can be categorised at four different levels and above all are universal and selective measures.<sup>652</sup> The literature distinguishes between four levels: governance and management, (educational) concept, staff and potential victims.<sup>653</sup> The institutional aims and structures are defined at governance and management level. These include the selection and development of things such as protection concepts as part of, or to supplement, the educational concept. Appropriate decisions at this level are, for example, to employ qualified staff and to have an adequate staffing ratio. Regular meetings, supervisions and further training opportunities are targeted at staff, for example, while potential victims can be informed of the help available and contacts. Preventing violence in institutional contexts must always be understood as a holistic task. What is decisive are not only specific individual measures and projects aimed at reducing violence but the entire state of the institution, from management awareness, staffing levels, spatial and architectural design, administrative workflows and technical precautions to communication with clients and staff and concepts for dealing with clients.

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<sup>647</sup> Goffman 1973, p. 87; for the effects in a boarding school, cf. for example Rau et al. 2019, pp. 175–179.

<sup>648</sup> Goffman 1973, p. 49f.

<sup>649</sup> Scientists compared structurally similar institutions here, in which a particularly large number of acts of violence were made public. Cf. Pöter/Wazlawik 2018; Rau et al. 2019, pp. 164–210.

<sup>650</sup> See Pöter/Wazlawik 2018; Brachmann 2019; Keupp et al. 2019, among others.

<sup>651</sup> Görden et al. 2015.

<sup>652</sup> For a comprehensive account and details, see section 3.1.1.3 above.

<sup>653</sup> Rau et al. 2019, p. 179f. with reference to Bange 2015, p. 139ff.

### 3.1.2.3 State measures and state-funded measures

There are many programmes for *preventing violence in educational institutions* - some of which are scientifically quality-assured. Some are designed to serve as major long-term building blocks of the institution's educational concept, while others are rather a temporary supplement to a concept. For the programmes and how to obtain more detailed information, see section 3.1.1.4. In addition, more and more educational institutions rely on protective concepts, primarily to prevent sexual abuse.<sup>654</sup>

Since long-term care insurance came into effect in Germany in 1995, statutory provisions to improve quality have been introduced (staff working conditions, standards to assure and develop quality in care, quality control),<sup>655</sup> which also serve to improve protection against violence in the care and health sector.<sup>656</sup> To this end, there has been a Federal Government Commissioner for the Concerns of Patients since 2004 and a Federal Government Care Commissioner since 2014.<sup>657</sup> Since 2011 there has also been a care hotline of the BMFSFJ for people seeking advice.<sup>658</sup> As well as providing anonymous and confidential advice and specialist information on entitlements to benefits and support options in the context of care, the care hotline and the associated information web portal provide advice and assistance for family members who feel overburdened by the care situation.<sup>659</sup>

The prevention of violence in prison is based primarily on a holistic understanding as described above, and is also understood to be a leadership and management task for the prison as a whole. Good material conditions, such as accommodation in well-equipped individual cells, rooms and structures designed to the greatest possible extent with people in mind, adequate opportunities for exercise and activities and social contacts within the institution as well as with one's family and social environment outside the prison are aspects that must be taken into account and seen in relation to the measures for technical, structural and administrative safety.

It is also necessary to maintain and extend the knowledge basis by consistently pursuing criminological research, evaluating projects and measures and collecting data on violent incidents and precautionary and disciplinary measures on an ongoing basis. Not only has the Federal Constitutional Court placed the legislator under an obligation to create a sufficiently specific statutory basis for prisons, specifying the interventions into prisoners' fundamental rights in the context of the deprivation of liberty and the prerequisites that must be fulfilled in order to use them; it has also placed the legislator under an obligation to develop a statutory resocialisation concept and to base the execution of prison sentences on that concept. In this process, the legislator must base the statutory provisions on carefully investigated assumptions and prognoses on the effectiveness of different prison models and treatment measures, using all available information sources and the latest scientific findings. Considering the outstanding importance of the fundamental rights affected by prison, the legislator is also under an obligation to observe the effects of its statutory prison concept and to

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<sup>654</sup> An example is the "Schools against sexual violence" initiative of the Independent Inquiry into Child Sexual Abuse in Germany, which all the federal states have joined since 2019: [schule-gegen-sexuelle-gewalt.de](http://schule-gegen-sexuelle-gewalt.de). Similar aims are pursued by the "No room for abuse" initiative of the Independent Inquiry into Child Sexual Abuse in Germany, which encourages institutions and organisations working for and with young people in Germany to draw up or develop protection concepts - as well as schools, these include child day-care centres, homes, sports clubs, clinics, churches and child and youth travel services: [kein-raum-fuer-missbrauch.de](http://kein-raum-fuer-missbrauch.de).

<sup>655</sup> Cf. for example Chapter 11 of the Eleventh Book of the Social Code (SGB XI) and the Nursing Staff Strengthening Act (*Pflegepersonal-Stärkungsgesetz*, PpSG) of 11 December 2018, Federal Law Gazette (*Bundesgesetzblatt*) I 2018, p. 2394.

<sup>656</sup> These measures are addressed primarily at the governance and management level, the conceptual level and the staff level.

<sup>657</sup> See [patientenbeauftragte.de](http://patientenbeauftragte.de); [pflgebevollmaechtigter.de](http://pflgebevollmaechtigter.de). The commissioners are assigned mainly to the level of prevention, working for people who may potentially become victims of violence, but they also work at other levels. Back in 1999, local advice centres joined forces to form the Federal Association of Crisis Hotlines, Counselling Services and Complaints Offices for Older People with the aim of improving their living situation, reducing grievances in care settings and providing assistance in situations involving domestic violence ([beschwerdestellen-pflege.de](http://beschwerdestellen-pflege.de)). Extensive information for the elderly on preventing crime and violence can also be found in the services offered by the Police Crime Prevention Programme of the Federation and the States, for example the booklet "Im Alter sicher leben" (Living in safety in your old age); see [polizei-beratung.de](http://polizei-beratung.de).

<sup>658</sup> See [wege-zur-pflege.de](http://wege-zur-pflege.de) | 030 20179131.

<sup>659</sup> Bundestagsdrucksache (Bundestag printed paper) 19/14216, p. 64.

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improve it as necessary. The legislator must therefore ensure that it is possible to learn from experience of the respective statutory forms of enforcement, from the way in which the statutory provisions are applied and from comparisons with relevant experiences outside its own geographical remit. Collecting appropriate data designed with comparability in mind enables the successes and failures of prison, particularly the recidivism rate, to be identified and evaluated (cf. section 2.3.5), targeted research to be conducted into the factors responsible, and scientific and political knowledge to be gained.<sup>660</sup> One of the ways in which the federal states do this is to set up criminological prison services<sup>661</sup> which address diverse current, practical research questions, engage in a regular exchange of views and also operate joint projects.<sup>662</sup> The Federation and the federal states also jointly maintain the Centre for Criminology in Wiesbaden, which conducts many research projects in the area of prisons and secure psychiatric detention. Finally, the federal states themselves commission or approve research projects conducted by external research institutions, for example the study funded by the German Research Foundation into “Violence and suicide among male and female juvenile detainees in Germany” conducted by the Institute of Criminology at the University of Cologne<sup>663</sup> or the evaluations on youth detention in Schleswig-Holstein<sup>664</sup> and Lower Saxony<sup>665</sup> and the study on victimisation in juvenile prison<sup>666</sup> by the KFN.

Collaboration on drafting international standards and human rights conventions for the prison context, such as the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)<sup>667</sup> or the European Prison Rules of the Council of Europe,<sup>668</sup> and their domestic implementation when drawing up prison concepts also serve to prevent violence in prison.

Finally, external assistance of prison institutions is also important to create transparency and to ensure an unbiased view of established routines. In Germany, the *National Agency for the Prevention of Torture* is an institution whose (voluntary) staff regularly visit institutions accommodating people who have been deprived of their liberty.<sup>669</sup> The *European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment* (CPT) also pays regular visits to detention facilities, to check how people who have been deprived of their liberty are treated.<sup>670</sup> The National Agency and CPT compile reports about the visits and make recommendations to the competent supervisory authorities or to Federal Government with a view to improving the living and/or treatment situation of the people accommodated there and improving their protection against violence. Moreover, in 2017 a *Point of Contact for Discrimination and Violence in the Federal Armed Forces* was established. Its team supports active and former members of the Federal Armed Forces who experience physical or emotional violence at the workplace.

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<sup>660</sup> BVerfGE 116, 69, paras. 59, 62, 64.

<sup>661</sup> See [kriminologische-dienste.de](http://kriminologische-dienste.de).

<sup>662</sup> Cf., for example, the evaluation of juvenile prisons under the auspices of the Criminological Service of North Rhine-Westphalia - Working Group on Interstate Evaluation of Juvenile Prisons 2017.

<sup>663</sup> Cf. [kriminologie.uni-koeln.de/forschung/laufende-projekte/gewalt-und-suizid-unter-weiblichen-und-maennlichen-jugendstrafgefangenen](http://kriminologie.uni-koeln.de/forschung/laufende-projekte/gewalt-und-suizid-unter-weiblichen-und-maennlichen-jugendstrafgefangenen).

<sup>664</sup> Cf. [kfn.de/forschungsprojekte/evaluation-des-jugendarrestes-in-schleswig-holstein](http://kfn.de/forschungsprojekte/evaluation-des-jugendarrestes-in-schleswig-holstein).

<sup>665</sup> Cf. [kfn.de/forschungsprojekte/evaluation-des-jugendarrestvollzuges-in-niedersachsen](http://kfn.de/forschungsprojekte/evaluation-des-jugendarrestvollzuges-in-niedersachsen).

<sup>666</sup> Cf. <http://kfn.de/viktimisierung-im-vollzug>.

<sup>667</sup> Cf. UNODC 2015.

<sup>668</sup> Cf. [search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=09000016809ee581](http://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016809ee581).

<sup>669</sup> “The National Agency was established according to the Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment dated 10 December 1984. The establishment of national mechanisms for the prevention of torture is determined under Article 3 of the Optional Protocol (known as OPCAT) dated 18 December 2002. These mechanisms are meant to supplement the work of the newly established Subcommittee for the Prevention of Torture (SPT)” (National Agency for the Prevention of Torture/*Nationale Stelle zur Verhütung von Folter* 2020). For further information, see [nationale-stelle.de](http://nationale-stelle.de).

<sup>670</sup> Council of Europe 2021; [coe.int/en/web/cpt/home](http://coe.int/en/web/cpt/home).



### 3.1.3 Focus on violent phenomena in connection with the COVID-19 pandemic

The global spread of the coronavirus SARS-CoV-2 since 2019 (referred to below as the COVID-19 pandemic, after the resulting lung disease) has had a fundamental impact on public life in many countries. On 11 March 2020, the World Health Organization (WHO) officially declared the outbreak to be a pandemic, underlining the need to take longer-term measures to sustainably reduce health risks to the population.<sup>671</sup> The measures initiated by the Federal Government and the states have had a serious impact on the living conditions of citizens in Germany. Given these significant changes in various areas of public life and in many peoples' personal lives, changes in the crime rate and various crime phenomena were to be expected.

#### 3.1.3.1 Forms and development

In view of the ongoing existence of the COVID-19 pandemic, it is not yet possible to provide an overall retrospective view of crimes since the beginning of the outbreak in the Federal Republic of Germany. The 3rd PRC therefore focusses primarily on the developments and initial findings concerning (possible) effects on violent crime of measures to contain COVID-19 and the reversal of these measures.<sup>672</sup> The information is based on initial empirical findings. Due to the dynamic nature of developments and time required to record developments, only partial information is available. It is discussed in connection with criminological considerations. The report includes sources available up to 14 May 2021.<sup>673</sup>

The analysis of the characteristics and development of violent phenomena in connection with the COVID-19 pandemic distinguished between four different constellations (cf. Table 7). Chronologically, it differentiates between distinct phases of the lockdown, when the measures ordered brought public life to an almost complete standstill, and alternating phases of less restrictive measures. The first lockdown phase considered here, which included the nationwide closure of child-care institutions and schools, was from calendar week 12, 2020 (starting on 16 March 2020) to calendar week 18. For the period commencing in calendar week 19 (from 4 May 2020), the Federal Government and the Ministers President of the federal states decided on the first easing of restrictions. The second lockdown phase began in calendar week 51, on 16 December 2020. In the lockdown phases, many families and households were in constant close proximity and had to live and work with significantly reduced direct social contacts to the outside world. Many people were put on short-term working or worked from home. Outpatient and inpatient care services and other professional groups entrusted with providing for and protecting the population were close to breaking point.

In terms of space, a distinction is made between public space - defined here as space accessible to all - and places not accessible to all (non-public spaces). The first includes places such as many streets, squares, parks, stations, cultural and educational institutions, public authorities, shopping centres and hospitals; the second includes places such as private homes, private property, residential care institutions and in-patient facilities.

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<sup>671</sup> Further, regularly-updated information and specific data on the situation in Germany are provided, for example, by the Robert Koch-Institut: [rki.de/DE/Content/InfAZ/N/Neuartiges\\_Coronavirus/nCoV.html](https://www.rki.de/DE/Content/InfAZ/N/Neuartiges_Coronavirus/nCoV.html).

<sup>672</sup> For the rationale underlying this choice of focus, cf. subchapter 1.2.

<sup>673</sup> For further analyses of the effects of the COVID-19 pandemic on the crime situation in Germany, see BKA 2021c.

**Table 7: Analysed case constellations of violent phenomena in 2020 as a function of the intensity of COVID-19 measures and the location**

	Calendar weeks 12 to 18 and from calendar week 51 (lockdown)	Calendar weeks 19 to 50 (easing of restrictions)
non-public areas	Constellation 1	Constellation 2
public areas	Constellation 3	Constellation 4

#### Constellation 1 - Lockdown/non-public areas

Due to the restrictions on social life that were advised and imposed, many more people spent longer periods of time at home. This led to an increased risk of crime in domestic settings. As in other countries, it was assumed that there would be an increase in domestic violence in the Federal Republic of Germany. This was anticipated on account of the increased pressures, increased opportunities to commit crimes and reduction in effective intervention measures.<sup>674</sup> “Domestic violence” includes all acts of violence between people living in close social relations, in particular violence between adults in intimate partnerships, violence that harms children, violence by children towards their guardians, violence between siblings and violence against older people living in the household.<sup>675</sup> From a criminological perspective, an *increase in all forms of violence* - physical and psychological violence, sexual abuse and neglect - was to be expected, as was an increase in violent crime in digital space.<sup>676</sup>

The figures published to date indicate a tendency for the predicted developments and risks to have been accurate in many places, also internationally.<sup>677</sup> Helplines such as the “Nummer gegen Kummer” helpline<sup>678</sup> (figures reported for February to April 2020) and “Gewalt gegen Frauen” (violence against women support hotline)<sup>679</sup> reported a substantial increase in the number of people contacting them and also reported that the violence was more serious.<sup>680</sup>

Some (federal) states, youth welfare offices and help systems reported stagnant or decreasing numbers of (reported) cases of requests for help, threat assessments and victims of violence during and after the first lockdown.<sup>681</sup> However, the data situation regarding reported domestic violence is significantly influenced by people outside the victims’ social setting, for example educational personnel, youth welfare office staff, doctors or friends and acquaintances, who submit reports on the basis of evidence such as victims’ injuries. Thus, the risk of discovery was significantly reduced during the phases of lockdown and, to a certain extent, afterwards too. For the victims themselves, on the other hand, it was more difficult to get help.<sup>682</sup>

The statistics on the time of offence, contained in the PCS 2020 (table 8), will enable recorded crimes at federal level to be broken down by offence category and month. These statistics were not yet complete and available when this report went to press. A comparison of the PCS figures for the whole of 2020 with those of 2019 shows that, if attempts are included, the number of victims of violent crime as defined in the PCS who lived in the same household as the suspect increased by 6.6% to

<sup>674</sup> Cf. Bradbury-Jones/Isham 2020; Riebel 2020, p. 312 ff.; Steinert/Ebert 2020; Usher et al. 2020 and section 3.1.3.2.

<sup>675</sup> Riebel 2020, p. 305 ff.; Todt et al. 2016, p. 499.

<sup>676</sup> On this last subject, cf. subchapter 3.2.

<sup>677</sup> Bundestagsdrucksache (Bundestag printed paper) 19/21670, p. 4.

<sup>678</sup> “Nummer gegen Kummer” is a registered association bringing together 90 local organisations that operate helplines for children, juveniles and parents (including local associations of the Deutscher Kinderschutzbund, a child protection organisation, and other welfare associations). The association receives funding from the BMFSFJ. See [nummergegenkummer.de](http://nummergegenkummer.de).

<sup>679</sup> “Gewalt gegen Frauen” is a support hotline organised by the Federal Office of Family Affairs and Civil Society Functions (Bundesamt für Familie und zivilgesellschaftliche Aufgaben, BAFzA). It offers anonymous help free of charge to women affected by violence, as well as members of their families, friends, and professionals. See [hilfetelefon.de](http://hilfetelefon.de) | 08000 116 016.

<sup>680</sup> Nummer gegen Kummer 2020; Bundesregierung 2020a; BAFzA 2021, p. 9 ff.

<sup>681</sup> Bundestagsdrucksache (Bundestag printed paper) 19/21670, p. 2.

<sup>682</sup> Cf. Riebel 2020, p. 317.

### 3.1 Violent crime

20266.<sup>683</sup> Between 2019 and 2020, in the same spatial-social constellation as above, the number of victims of simple bodily harm increased by 6.5% to 83 910, and the number of victims of sexual abuse increased by 14.1% to 2874. These figures include attempts in each case.<sup>684</sup> In a year-on-year comparison, the actual developments correspond to the developments anticipated, although detailed analyses have not yet been made and in terms of causes, it is to be taken into account that the PCS figures may be influenced by other factors.<sup>685</sup>

Researchers at the Technical University of Munich and the RWI Leibniz Institute for Economic Research have presented a first survey on the dark field. Approx.  $n = 3800$  women aged 18 to 65 took part in a nationwide online survey for women between 22 April and 8 May 2020.<sup>686</sup> For the four weeks before the survey, 3.1% of these women reported experiencing a physical confrontation, 3.8% reported feeling threatened and 4.6% reported being prevented from having social contact.<sup>687</sup> According to the report, the number of victims was even higher in some constellations, and violence was used more frequently against women and children. This was the case, among other things, when

- the respondents were at home in quarantine (physical violence against women: 7.5%; against children: 10.5%);
- one of the partners had been on short-time working or had become unemployed due to the pandemic (physical violence against women: 5.6%, against children: 9.3%) or
- one of the partners suffered from anxiety or bouts of depression (physical violence against women: 9.7%, physical violence against children: 14.3%).<sup>688</sup>

Only a small number of the women affected by violence had made use of some form of assistance.<sup>689</sup> The study's data do not allow any conclusions to be drawn on how men were affected or any comparisons to be made over time. In cooperation with the BKA, the BMFSFJ and the BMI are planning to conduct a survey on experience of violence as part of the ongoing study. The focus of the survey will be on violence in relationships between couples and sexualised violence. Project work began in 2021.<sup>690</sup>

#### Constellation 2 - Lifting of restrictions/non-public areas

It is not yet possible to conclusively describe developments during the time after the lockdown. Theoretically, one would expect there to be a certain general decline in the numbers of cases of domestic violence.<sup>691</sup> However, practically no "dark field" figures have yet been collected or published for these months. As soon as restrictions began to be lifted, there was a rise in the numbers of crimes reported and requests for assistance, for example at outpatient clinics for victims of violence.<sup>692</sup> The reason for this could be the reversal of the restrictions described in constellation 1, which meant that victims were able to access the relevant assistance more easily and had more (in-person) contact to people outside the social environment concerned. The "Gewalt gegen Frauen" support hot-

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<sup>683</sup> BKA 2021d; BKA 2020n. The presentation in this report is based primarily on the PCS definition of violent crime: cf. section 3.1.1.1. A distinction must be made between this definition and the definition used by the BKA for the situation concerning violence in intimate partnerships: cf. BKA 2020f, p. 1.

<sup>684</sup> BKA 2021d; BKA 2020n; the sexual abuse category includes sections 176, 176a, 176b, 182, 183, 183a StGB.

<sup>685</sup> BKA 2020a, p. 6f.

<sup>686</sup> Steinert/Ebert 2020, p. 1.

<sup>687</sup> Steinert/Ebert 2020, p. 1.

<sup>688</sup> Steinert/Ebert 2020, p. 1ff.

<sup>689</sup> Steinert/Ebert 2020, p. 4. From the perspective of the prosecution authorities, the European Union Agency for Law Enforcement Training reported that nearly half the institutions surveyed in summer 2020, particularly police forces, in 21 EU countries had had greater difficulty in reaching victims, suspects and witnesses. The duration of the investigation process was extended and criminals went unpunished for longer (CEPOL 2020, p. 5).

<sup>690</sup> Bundesregierung 2020b.

<sup>691</sup> For an explanation of this assumption, see section 3.1.3.2.

<sup>692</sup> Cf., for example, press statements to this effect, rbb24 2020; Gehmlich/Menzel 2020.

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line recorded a sharp increase in the number of counselling contacts occasioned by domestic violence as early as in April 2020 - up to 555 per week. The numbers of cases remained high in the months that followed and only declined in the late summer of 2020.<sup>693</sup>

#### Constellations 3 and 4 - lockdown and the lifting of restrictions/public areas

During the period of lockdown, a *decline* in violent crimes in public areas was to be anticipated. A substantial proportion of violent crimes are committed on impulse with little advance planning. Crimes committed in public spaces are often linked with situational conditions, for example at large-scale events. These situational conditions, and thus opportunities for people to meet, are lacking during a lockdown involving restrictions on movement and contact. The findings available to date confirm the assumptions' tendencies, both for Germany and internationally. This can be measured in particular in the declining numbers of robberies and cases of bodily harm.<sup>694</sup> A corresponding decline in the total numbers in the PCS for 2020 was discernible compared with 2019. According to the PCS, the number of cases of intentional simple bodily harm under section 223 StGB, including attempts, fell by 3.4%, the number of cases of dangerous and grievous bodily harm on streets, lanes and squares fell by 6.8% and the number of cases of robberies fell by 6.0%.<sup>695</sup> In contrast, the number of physical assaults on enforcement officers and persons in equivalent positions rose by 5.9% in comparison with 2019 to a total of 15 797 cases.<sup>696</sup>

As the restrictions on movement and contact were reduced, more people were able to meet in public areas and there were more opportunities to commit crimes. An *increase* in violence in public areas was therefore to be anticipated. Compliance with certain health protection measures was still required, which in turn may have influenced an increase. Data at federal level, which would give more precise information about these theoretical considerations, were not available when this report was compiled.

In the public perception, it was the increasing numbers of protests, particularly in the context of demonstrations against state protection measures, which involved some serious acts of violence against bystanders, press representatives and public officials, usually police officers. This was the case in particular at larger events with thousands or tens of thousands of participants. The inhomogeneous group of protesters represented a wide range of opinions. They included supporters of conspiracy narratives, anti-vaccinationists, citizens without any political ideology, but also so-called *Reichsbürger* (Translator's note: individuals who reject the existence of the Federal Republic of Germany and its legal system, deny the legitimacy of its democratically elected representatives or claim that the German legal order does not at all apply to them) and extremists.<sup>697</sup>

*"While there has been no overall radicalisation to date of the heterogeneous demonstrations against Federal and state government measures to curb the coronavirus pandemic, there is evidence of aspects of increasing radicalisation among parts of the spectrum of the participants in these protests. [...] This was [evident] during the demonstrations on 18 November 2020 in Berlin [...], when, during the course of the demonstration, physical attacks were made, some of them major, on the forces deployed [...], including throwing stones, spraying irritants and lighting signal ammunition."*<sup>698</sup>

The so-called "Querdenken 711" initiative from Stuttgart has emerged as a driving force behind the protests. Following its first public appearance in April 2020, it now has a number of associated regional groups throughout Germany.

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<sup>693</sup> BAFzA 2021, p. 9 ff.

<sup>694</sup> Eisner 2020.

<sup>695</sup> BKA 2021e.

<sup>696</sup> BKA 2021e. On this subject, cf. also the overview of violent crime in section 3.1.1 and section 3.1.4 on the subject of "Violence against the police".

<sup>697</sup> Bundestagsdrucksache (Bundestag printed paper) 19/25214, p. 4.

<sup>698</sup> Bundestagsdrucksache (Bundestag printed paper) 19/25214, p. 2.

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#### Politically-motivated (violent) crime in the context of the COVID-19 pandemic

The federal states reported 3559 politically-motivated crimes in connection with the COVID-19 pandemic, of which 1411 (39.7%) were recorded during demonstrations.<sup>699</sup> In order of frequency, these crimes were targeted at the “health sector”, the “state, its institutions and symbols”, the “police” and “other political opponents.”<sup>700</sup> Of the 478 violent crimes recorded, most were resistance offences ( $n = 202$ ), bodily harm ( $n = 181$ ) and breaches of the peace ( $n = 67$ ).<sup>701</sup> Approximately six out of ten violent crimes could not be categorised as having a political motivation or ideology, while approx. two out of ten could be categorised as politically motivated crime - left-wing, and politically motivated crime - right-wing.<sup>702</sup> In the area of other crimes, the 1025 cases of insults, as an expression of psychological violence, made up the largest share.

#### 3.1.3.2 Explanatory approaches and possibilities for prevention

In the field of criminology, two groups of explanations are regarded as particularly relevant for providing a scientific assessment of changes in violent crime under the conditions of the COVID-19 pandemic.<sup>703</sup> Firstly, there are so-called *strain theories*, which describe peoples’ actions in stressful situations or phases. These are particularly suitable for providing a scientific explanation for the occurrence of violence in non-public areas. Secondly, explanatory approaches that deal with changes in so-called *crime opportunity structures* are also helpful, describing factors required to realise a crime. These provide a particularly good explanation for violent crime in public areas. One theory from each of these two groups of theories is discussed below. As well as these two types of explanatory approach, all other theories aimed at identifying the causes of violent crime can contribute to understanding how violence comes about.<sup>704</sup>

In the area of strain theories, the *general strain theory of crime and delinquency* originally proposed by AGNEW describes constellations or phases which people perceive as being associated with pressure or strain.<sup>705</sup> Specifically, individuals experience strain when

- they are unable or prevented by other people from achieving a desired goal (for example, to concentrate on working at home when the neighbours are noisy) or
- an achievement or something they value is taken away (for example, a quarantine measure restricts them in their freedom of movement) or
- they suffer harm (for example, a SARS-CoV-2 virus infection caused by intentional or negligent actions by third parties).<sup>706</sup>

If the person concerned does not have the requisite skills for socially-acceptable (self-) regulation, the emotions arising when under pressure, such as fear, frustration or anger, may be associated with violent behaviour due to the urge to compensate for these emotions. In particular, intensive pressure over a long period of time can lead to externally aggressive behaviour being directed against other people.<sup>707</sup>

To contain the COVID-19 pandemic, there were and are a number of restrictions on movement and contact,<sup>708</sup> involving spatial restrictions, changes to everyday routines, excessive strain or boredom,

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<sup>699</sup> BMI/BKA 2021, p. 10 f.

<sup>700</sup> BMI/BKA 2021, p. 11. Educational, research and scientific institutions and the media are also the targets of attacks: cf. BT printed paper 19/25214, p. 5.

<sup>701</sup> BMI/BKA 2021, p. 10 f. For a definition of politically motivated violent crime as a subset of politically motivated crime, see section 3.3.1.1.

<sup>702</sup> BMI/BKA 2021, p. 10.

<sup>703</sup> For a representative account, cf. Eisner/Nivette 2020, p. 2 f.

<sup>704</sup> Cf. section 3.1.1.3 and more detailed manuals and handbooks, such as Bock 2019 pp. 19, 61–106; Melzer et al. 2015; Walter 2008.

<sup>705</sup> Agnew 1992.

<sup>706</sup> Cf. Agnew 1992, p. 74.

<sup>707</sup> Cf. Agnew 1992, p. 60 f.

<sup>708</sup> Cf. section 3.1.3.1.

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unemployment, social isolation, financial curtailments or increased drug consumption, which can additionally increase people's sensitivity and aggressiveness. For many citizens, this led to considerable constant strain, leading to violent behaviour in some people under the conditions referred to above. While services continued to be provided for people affected by violence,<sup>709</sup> it was difficult to reach these offers of information and assistance or to escape to friends' homes or women's refuges.<sup>710</sup>

Of the explanatory approaches which mainly describe crime opportunity structures and changes to them, the *routine activity approach* is a frequently-used model. According to this model, crime occurs when a person who is inclined towards committing a crime and a potential goal or victim come together and informal and formal social control do not (or are unable to) provide sufficient protection.<sup>711</sup> Violent crime in public areas varied accordingly under the changes in necessary measures, particularly restrictions on movement and contacts. There were less frequent opportunities for potential offenders and potential victims of crimes to meet in public areas.

In connection with the *routine activity approach*, so-called shift effects<sup>712</sup> are being discussed which, in combination with the mechanisms of the general strain theory, are having an impact under the conditions of the COVID-19 pandemic and the state measures accompanying it.<sup>713</sup> Depending on how strict the restrictions on movement and contacts were, what that means in specific terms for violent crime is that (significantly) fewer crimes were to be expected in public areas while there would be an increase in violence in non-public areas. Thus, prevention measures primarily addressed behaviour in non-public areas and were designed to be universal and selective.<sup>714</sup> The aim is and was to reach all members of society, if possible, particularly potential victims and offenders.<sup>715</sup>

#### 3.1.3.3 State measures and state-funded measures

Depending on the restrictions on movement and contact that were in place, the measures taken to contain the pandemic have affected and continue to affect the accessibility of information and violence prevention services. However, many offers of assistance were and are being maintained as far as possible in compliance with medically required protective measures. Violence prevention and victim assistance organisations and the police counselling service quickly adapted to the new situation, actively stepping up their presentation of existing and new offers of support in a variety of ways. One focus was on violence prevention services in non-public areas and on self-help - for guardians, for example via the portal "Positiv Eltern sein in unsicheren Zeiten" ("Positive parenting in uncertain times").<sup>716</sup>

The "Do something campaign" website ("Aktion tu was") presented recommended actions for preventing violence, explaining to victims, members of their families and also uninvolved third parties such as neighbours what to do in case of violence in their social environment.<sup>717</sup> The handout "Protecting children" ("Kinder schützen") prepared by the Police Crime Prevention Programme of the States and the Federation (*Programm Polizeiliche Kriminalprävention der Länder und des Bundes*, ProPK) targets teachers, educational specialists and volunteers who work with children and young

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<sup>709</sup> Cf. section 3.1.3.3.

<sup>710</sup> Cf. Riebel 2020, p. 316.

<sup>711</sup> Cohen/Felson 1979. Formal social control includes measures by state institutions (such as the police, judiciary, tax office) that contribute to people conforming to legal norms (including those under criminal law), while informal social control takes place through contacts other than with state institutions (such as family, friends, neighbourhood). On the significance of formal and informal social control, cf. subchapter 2.1. above.

<sup>712</sup> Cf. Kunz/Singelstein 2016, p. 155 f.; Neubacher 2020, p. 109 ff.

<sup>713</sup> Eisner/Nivette 2020, p. 2 f.; Baier 2020.

<sup>714</sup> Relevant examples are providing information about emergency numbers in case of domestic violence or information on assistance services, communicated to the public through media campaigns. For the various crime prevention measures, cf. section 3.1.1.3.

<sup>715</sup> See also sections 3.1.1.3 and 3.1.3.3.

<sup>716</sup> See [positiv-elternsein.de](https://positiv-elternsein.de); [polizei-beratung.de/medienangebot/detail/4-wege-aus-der-gewalt/](https://polizei-beratung.de/medienangebot/detail/4-wege-aus-der-gewalt/).

<sup>717</sup> See [aktion-tu-was.de](https://aktion-tu-was.de).

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people with recommendations, providing information on how to react in a case of suspected child abuse or neglect and what actions are possible.<sup>718</sup> It aims to give these groups confidence in their actions when dealing with a suspected case of danger to child welfare.

In very general terms, emergency numbers and information on nationwide assistance organisations were communicated to the public. Relevant information and messages on violence prevention targeted at young people were placed on channels that appeal to young people such as Instagram and YouTube as well as on appropriate websites.<sup>719</sup>

Outpatient clinics for victims of violence,<sup>720</sup> counselling centres and women's refuges also remained accessible during lockdown, maintaining opportunities for the protection and support of victims of violence.<sup>721</sup> In the area of women's refuges, the BMFSFJ has responded to the situation by funding the "Assistance system 2.0" programme, part of the Federal Programme "Join forces to end violence against women" (*Gemeinsam gegen Gewalt an Frauen*). This programme enables the technical equipment of women's refuges and counselling centres to be upgraded, staff to obtain the requisite qualifications and interpretation services to be provided.<sup>722</sup>

Measures for the protection of public areas were also taken under the difficult conditions of the COVID-19 pandemic by police and security authority officers and staff. Individuals and groups that showed a potential for violence in connection with their protest were and are being kept under observation by the police and security authorities.<sup>723</sup> State and non-state actors counteract the conspiracy narratives frequently accompanying protests with a propensity for violence or the efforts to spread such narratives in different ways, among other things through information campaigns, fact checks or tips for practising articulate arguments against the conspiracy narratives.<sup>724</sup>

#### 3.1.4 Unlawful violence against and by the police

In general, the German public have great trust in the police.<sup>725</sup> At the same time, police officers have been the victims of violent assaults more frequently in recent years. The *Federal Situation Report "Violence against Police Enforcement Officers"* has been providing information on crimes committed against on-duty police officers on the basis of the PCS figures since 2011.<sup>726</sup> Since last year, 2020, media reports on unlawful (racist) acts of violence by police officers<sup>727</sup> and right-wing extremist statements on the Internet and in chat groups<sup>728</sup> have led to a social and political debate. Disciplinary measures were taken in response to substantiated accusations against police officers, including dismissals and/or investigative proceedings.<sup>729</sup> In the course of the debate, scientists, some parts of the police force and society, and politicians spoke up in favour of more scientific studies being undertaken in these two subject areas.<sup>730</sup>

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<sup>718</sup> See [polizei-beratung.de/medienangebot/detail/44-kinder-schuetzen/](https://polizei-beratung.de/medienangebot/detail/44-kinder-schuetzen/).

<sup>719</sup> For example, [polizeifuerdich.de](https://polizeifuerdich.de), which targets children and young people aged 12 to 15.

<sup>720</sup> Victims of violence can have forensic evidence documented at outpatient clinics for victims of violence for use in possible court proceedings. The examination, carried out by medical staff with forensic training, is voluntary. The victims decide on what further steps are taken, for example, whether to report a crime.

<sup>721</sup> For details on this subject and on further Federal Government measures, cf. *Bundestagsdrucksache* (Bundestag printed paper) 19/21670.

<sup>722</sup> BMFSFJ 2020a.

<sup>723</sup> BfV 2021; *Bundestagsdrucksache* (Bundestag printed paper) 19/25214; Ministry of the Interior, Digitalisation and Migration Baden-Württemberg 2020; ZEIT ONLINE 2020.

<sup>724</sup> BpB 2020a; ProPK 2020a.

<sup>725</sup> Cf. sections 2.5.2 and 2.6.3. as well as Birkel et al. 2019, p. 78.

<sup>726</sup> Cf. BKA 2020o and PCS table 943 Specifics about victims - enforcement officers and emergency service staff.

<sup>727</sup> The discussion began in the USA, where Afro-American George Floyd was killed by a police officer during an arrest. This led to protests by the Black Lives Matter movement, which draws attention to racist discrimination around the world.

<sup>728</sup> Cf. sections 3.3.1.2 and 3.3.2.

<sup>729</sup> Cf., for example, BMI 2020a; Hessenschau 2020; Polizei Berlin 2020; Sprengel 2020; WDR 2021.

<sup>730</sup> Cf. section 3.1.4.3.

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### 3.1.4.1 Forms and development

#### Unlawful violence against the police

The penal provisions of resistance to and assault of enforcement officers (sections 113 and 114 StGB) exist to protect public officials and holders of elected public office.<sup>731</sup> In accordance with section 115 StGB, these provisions also apply to protect persons who are vested with the powers and duties of enforcement officers, persons from the fire brigade, the civil protection service or one of the rescue services who are rendering assistance, or - since 3 April 2021 - the emergency treatment or casualty department. While the main purpose of section 113 StGB is to protect acts of enforcement by the state, the main purpose of section 114 StGB is to protect individual officers.<sup>732</sup> Individual officers are also protected by the penal provisions applicable to everyone, like anyone else.<sup>733</sup>

The PCS registered a total of 36 126 cases under sections 113 to 115 StGB in 2019, including 21 207 cases of resistance to *enforcement officers and persons vested with the powers and duties of said officers* and 14,919 cases of assault on these persons.<sup>734</sup> The clear-up rate was nearly 99%.<sup>735</sup>

According to the Federal Situation Report “Violence against Police Enforcement Officers”, increasing numbers of cases and victims have been observed since 2011.<sup>736</sup> Due to the amendment to section 113 StGB and the introduction of section 114 StGB in 2017, only a limited comparison can be made with earlier years, however.<sup>737</sup> In 2019, a total of 38 635 violent acts were registered *against police enforcement officers*, including attempts. Of these offences, if one only considers offences covered by the PCS definition of violence, the number of cases is 1363. The overwhelming majority of these are dangerous and grievous bodily harm (93.6%). If one extends the perspective beyond the PCS definition of violence, an additional 1589 cases of simple bodily harm, 13 316 cases of assault and 19 559 cases of resistance to enforcement officers are to be documented.<sup>738</sup>

Behind the case numbers are people affected by violence. The victim numbers underline the extent of the crimes. In 2019, 2280 police enforcement officers were the victims of dangerous or serious bodily harm covered by the definition of violence in the PCS (proportion of attempts: 57.0%).<sup>739</sup> Beyond this (narrow) definition of violence, an additional 2846 police enforcement officers were registered as having been the victims of simple bodily harm in 2019 (proportion of attempts: 27.5%); in addition, there were 26 176 victims of an assault and 43 290 victims of resistance against enforcement officers.<sup>740</sup> A possible reason for the higher numbers of victims in comparison with case numbers and the higher proportion of attempts in the case of serious crimes is the number of police enforcement officers at the events in question. As a rule, patrol duty is performed by at least two police officers, for example. That means that if acts of resistance are committed against enforcement officers in this context, at least two operational staff are present or affected and (are able to) report the incident. Situations in connection with demonstrations or major events are another example. Here, too, several operational staff are always present and/or affected in any confrontations where objects are used to attack officers. Nevertheless, it remains the case that the number of victims has risen steadily in this offence category in recent years.

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<sup>731</sup> Section 114 StGB was added by the 52nd Act to Amend the Criminal Code - Strengthening the Protection of Enforcement Officers and Rescue Services (52. *Gesetz zur Änderung des Strafgesetzbuches - Stärkung des Schutzes von Vollstreckungsbeamten und Rettungskräften*) of 23 May 2017, Federal Law Gazette (Bundesgesetzblatt) I 2017, p. 1226, which entered into force on 30 May 2017.

<sup>732</sup> For details, cf. Schönke/Schröder/Eser, section 113 recital 1.

<sup>733</sup> For jurisdictional conflicts, see Schönke/Schröder/Eser, section 113 recital 68.

<sup>734</sup> BKA 2020o, p. 9.

<sup>735</sup> BKA 2020o, p. 13.

<sup>736</sup> BKA 2020o, p. 52.

<sup>737</sup> Cf. Görgen/Hunold 2020.

<sup>738</sup> BKA 2020o, pp. 53 and 59.

<sup>739</sup> BKA 2020o, p. 59.

<sup>740</sup> BKA 2020o, pp. 53 and 59.



### 3.1 Violent crime

The statistical data in the criminal prosecution statistics relating to public officials and holders of elected public office can only provide information relating to resistance offences.<sup>741</sup> According to these data, German courts adjudicated a total of 14 134 persons under section 113 et seqq. StGB in the course of 2019; of these, 11 889 were convictions.<sup>742</sup>

Results of surveys of police officers in ten federal states in 2010<sup>743</sup> and in North Rhine-Westphalia in 2012<sup>744</sup> document the victimisation of officers on the basis of research studies.<sup>745</sup> The studies showed that police officers were frequently confronted with verbal violence in the form of insults, offensive remarks or threats. Physical attacks, including pushing, shoving, holding, hitting and kicking, also occurred frequently, while serious assaults using dangerous implements or weapons tended to be reported only rarely.<sup>746</sup>

#### Unlawful violence by the police

Police enforcement officers exercise the state monopoly on the use of force and may use direct force to avert danger. If the prerequisites for use of force have not been fulfilled, the use of force is unjustified and may be liable to punishment. Little reliable data is available in Germany on the extent of unlawful use of force by the police and its victims. Hitherto, only the *public prosecution office statistics* have contained data on crimes committed in the course of performing police duties. Although the *PCS* and the *criminal prosecution statistics* contain statistical data on offences under section 340 StGB (bodily harm in public office), they do not differentiate according to the different professional groups covered by that provision.<sup>747</sup>

In 2019, 23 investigation proceedings by the public prosecution office were completed in the category “intentional homicide by police officers”. In addition, 2340 proceedings concluded in the category “Use of violence and abandonment by police officers” were recorded in the statistics.<sup>748</sup> Most of these investigation proceedings were terminated in accordance with section 170 (2) StPO.<sup>749</sup> In 2019, the public prosecution office made such terminations in 91.3% of cases of intentional homicide offences and 86.9% of cases of the use of violence/abandonment.<sup>750</sup> In 2019, a total of 52 proceedings from these two categories were concluded with an indictment in the broader sense<sup>751</sup> or an application to issue a penal order. More details concerning the motive for the crime, the circumstances in which it was committed, or an evaluation of the crime by the public prosecution office cannot be

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<sup>741</sup> The criminal prosecution statistics do not provide any information on the circumstances of the offence. Thus, in cases of offences such as bodily harm or homicide, which could also be directed at a person other than a public official or holder of elected public office, it is not possible to ascertain whether the victim of the offence was a public official or holder of elected public office who sustained the injury in the course of their duties.

<sup>742</sup> Of these, 6820 adjudications (including 5482 convictions) were made under section 113 StGB, 5539 adjudications (including 4925 convictions) were made under section 114 StGB, 1678 adjudications (including 1397 convictions) were made under section 115 (1) and (2) in conjunction with sections 113 and 114 StGB and 97 adjudications (including 85 convictions) were made under section 115 (3) in conjunction with sections 113 and 114 StGB. Strafverfolgungsstatistik 2019, table 2.1.

<sup>743</sup> A total of  $n = 22\,579$  police officers from Berlin, Brandenburg, Bremen, Mecklenburg-Western Pomerania, Lower Saxony, Rhineland-Palatinate, Saarland, Saxony-Anhalt, Schleswig-Holstein and Thuringia took part in the study conducted by the KFN on “Police Officers as Victims of Violence”. The responses of  $n = 20\,938$  persons were evaluated (the adjusted return rate was thus 25.1%), cf. Ellrich et al. 2012, p. 6.

<sup>744</sup>  $n = 18\,443$  police officers from North Rhine-Westphalia took part in the study by Kiel University. At the time of the survey, that corresponded to a share of approximately 47% of that federal state’s police officers who were not on leave, undergoing training or abroad; for details cf. Jager et al. 2013, p. 38.

<sup>745</sup> Ellrich et al. 2012, p. 34; Jager et al. 2013, p. 11.

<sup>746</sup> Ellrich et al. 2012, p. 33; Jager et al. 2013, p. 70.

<sup>747</sup> Thus, an evaluation specifically concerning police officers is not possible. That corresponds to the problem of teachers discussed in section 3.1.2.1 above; thus, reference may be made to the statements made there.

<sup>748</sup> Staatsanwaltschaftsstatistik 2019, table 2.1.2, investigation proceedings completed by the public prosecution office before regional and local courts.

<sup>749</sup> Cf. section 2.3.1 - termination due to lack of sufficient suspicion.

<sup>750</sup> Data from the public prosecution office statistics 2019, own calculations.

<sup>751</sup> These include charges, application to open a procedure for preventive detention, application to carry out an objective procedure, application for a decision to be taken in accelerated proceedings (section 417 StPO) and application for the simplified procedure for matters involving juveniles (section 76 JGG).

### 3.1 Violent crime

concluded from the statistical data. When examining the termination practice of the public prosecution office with regard to *violent crimes committed by police officers*, it should be noted that persons may be included in the records who work for the police but are not enforcement officers. It must also be underlined that the crimes concerned are not exclusively violent crimes within the meaning of the narrow PCS definition, but also other crimes.<sup>752</sup>

Statistically, termination, not indictment, is the rule, as shown in section 2.3.1 above. The proportion of all crimes terminated under section 170 (2) StPO is 28.7%. In comparison, proceedings in the above-mentioned categories are much more frequently terminated under this provision, at 91.3%/86.9% respectively. The *hypotheses* for explaining the high termination rate in these investigation proceedings relate on the one hand to a proportion of unjustified reports<sup>753</sup> and on the other to the possible impact of institutionalised behavioural norms in the police and public prosecution office.<sup>754</sup>

Currently, no results of representative “*dark field*” studies on the subject of “police violence” for Germany are available. Since March 2018, the research project on “Police Use of Excessive Force” (KviAPol) at the Ruhr University Bochum has been examining experiences of victimisation, the dark figure of unregistered incidents and reporting behaviour with regard to (allegedly) unlawful police violence. The final report had not yet been published when the PRC was under preparation. The first intermediary report presents results of a quantitative online victim survey.<sup>755</sup> It gives the respondents’ assessments and evaluations, but not facts determined by the courts.<sup>756</sup> Shoves and blows, being held, being grabbed too hard, kicks, shackling or being fixed in place were very frequently or frequently described as forms of force. The use of pepper spray played an important role in encounters during mass events, particularly at football matches. There were only very occasional reports of electroshock weapons (tasers) or guns being employed.<sup>757</sup> The study suggests that the number of crimes that go unreported is considerable. Taking into account the assumption that victims who report incidents are probably also more willing to take part in such a study, the dark figure is presumably approximately five times as large as the official figures.<sup>758</sup> Since the study’s sample is not representative,<sup>759</sup> it remains an open question whether the results can be transferred to German society as a whole.

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<sup>752</sup> The homicide offences of sections 211, 212 and 213 StGB (murder under specific aggravating circumstances (*Mord*), murder (*Totschlag*), and less serious cases of murder) are also covered by the narrow definition of “violent crime”. In contrast, sections 221 and 340 StGB (abandonment, bodily harm in public office) do not fall under this definition, or in the case of section 340 StGB, only do so in the case of dangerous or grievous bodily harm. On the narrower definition of violence in the PCS, see section 3.1.1.1 above.

<sup>753</sup> Unjustified reports may result from the fact that it is sometimes difficult for lay people to judge whether criminal liability exists. Cases are reported where the use of force was legitimate and termination ensues, cf. Singelstein 2013, p. 21; Singelstein 2003, p. 12. Also, suspected cases of unlawful police violence are frequently reported directly to the public prosecution office, as recommended by victim assistance agencies and leaflets for victims of unlawful police violence, cf. Amnesty International 2016, p. 3; RAV, no date.

<sup>754</sup> Singelstein 2013, p. 21 ff. with further references; Singelstein 2003; on the subject of “error culture”, cf. also section 3.1.4.2.

<sup>755</sup> The subject of the study was experiences of physical violence used by the police that were considered excessive by respondents. The study also included 63 qualitative partially-structured interviews with experts from various backgrounds (judiciary, police, civil society) which have yet to be evaluated, cf. Abdul-Rahman et al. 2020a, p. 14. On experiences of racism and discrimination in the context of police violence, cf. Abdul-Rahman et al. 2020b.

<sup>756</sup> Abdul-Rahman et al. 2020a, p. 7f. Cf. generally on this problem of “dark field” surveys, section 1.3.1. above; on the method of the study, cf. Abdul-Rahman et al. 2020a, pp. 16-30 and 80 ff.

<sup>757</sup> Abdul-Rahman et al. 2020a, p. 51 ff.

<sup>758</sup> Abdul-Rahman et al. 2020a, p. 80 ff.

<sup>759</sup> The participants in the study were allowed to nominate themselves to take part. Concerning the sample, cf. Abdul-Rahman et al. 2020a, p. 7.

### 3.1.4.2 Explanatory approaches and possibilities for prevention

Studies on unlawful violence against police officers and on unlawful police violence emphasise that the use of violence must be understood as an interaction and that the specific situation plays a major part, albeit one that only partially has been sufficiently researched.<sup>760</sup>

#### Unlawful violence against the police

With a view to explaining the *use of violence against the police*, a KFN study conducted in 2014 examined risk factors for the victimisation of officers engaged in operational and patrol duties.<sup>761</sup> It found that on the part of the police, work-related factors such as exhaustion were associated with a higher risk of victimisation during operational and patrol duties. On the part of citizens, persons under the influence of alcohol or drugs or with psychological abnormalities were associated with a higher risk to the police. As well as major events, operations relating to domestic violence involved an increased victimisation risk for officers.<sup>762</sup>

With regard to how violence occurs, it seems that a considerable proportion of the violence used results from a dynamic process of interaction between the participants, since the attacks often did not take place immediately upon arrival at the place of deployment, but during the deployment.<sup>763</sup> This circumstance offers starting points for prevention, including self-protection instruments, for which police law makes provision. Competent team behaviour during the deployment, based on the self-protection guidelines and deployment competence concept, had a strong protective effect.<sup>764</sup> Within the context of initial and further training, a stronger focus should therefore be placed on the areas of self-protection, communication and de-escalation. In certain situations, technical measures may also be used for protection, taking into account the specific conditions of the intervention (visual and audio footage, body cameras in close-range deployments or drones during major deployments).<sup>765</sup>

#### Unlawful violence by the police

According to the statements of victims polled in the KviAPoL study, the majority of cases of *unlawful police violence* took place in public areas, particularly at demonstrations, football matches and other mass events,<sup>766</sup> whereby escalation periods were generally shown to be short. At mass events, survey participants in more than half of the cases estimated the escalation period to have been less than two minutes, and outside such events, between two and ten minutes.<sup>767</sup>

Attempts to explain police violence contain expressive, instrumental and regressive elements.<sup>768</sup> Attention is given to notions of masculinity that favour violence, for example,<sup>769</sup> and structural prejudice that can lead to *racial* or *social profiling*.<sup>770</sup> Scientific findings on the occurrence of racial profiling in Germany have been rare to date. For this reason, public debate is calling for a study on the subject, something which has also been recommended by the European Commission against Racism

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<sup>760</sup> Bosold 2006, p. 174; Görden/Hunold 2020 with further references; Manzoni 2003, pp. 36-40 also elucidates the complexity of conducting research into the causes of the use of violence by and against the police.

<sup>761</sup> In the written survey addressed at all operational and patrol officers in Lower Saxony, questions were asked regarding the type of operations, information on the location of deployment, officers' actions and visible features of their opponents - regardless of whether or not violence occurred during the operations. A total of 1,931 people took part in the survey, a return rate of 40.1%.

<sup>762</sup> Baier/Ellrich 2014, p. 130 ff.; cf. also Ellrich et al. 2012, pp. 64 f., 42 f. and 149. Concerning offenders' motives as seen by police officers (such as escape during arrests and hostility towards the state): Ellrich et al. 2012, p. 70 f.

<sup>763</sup> Baier/Ellrich 2014, p. 22 with further references.

<sup>764</sup> Baier/Ellrich 2014, p. 130 ff.

<sup>765</sup> Görden/Hunold 2020; Thiel 2019, 302 ff.

<sup>766</sup> Abdul-Rahman et al. 2020a, pp. 31 ff. and 44.

<sup>767</sup> Abdul-Rahman et al. 2020a, p. 45 ff.

<sup>768</sup> For a definition of these forms of violence, cf. section 3.1.1.1.

<sup>769</sup> Seidensticker 2019; Görden/Hunold 2020.

<sup>770</sup> One can speak of *racial profiling* when police officers draw their suspicion exclusively or mainly from a person's skin colour or ethnic origin. Cf. Behr 2017, p. 82 ff.; Herrnkind 2014, p. 35 ff.

### 3.1 Violent crime

and Intolerance (ECRI).<sup>771</sup> Police research has identified factors that may lead to unlawful use of violence, including own experience of victimisation,<sup>772</sup> low self-esteem,<sup>773</sup> a higher willingness to take risks<sup>774</sup> and, above all, a low level of identification with the police.<sup>775</sup> Moreover, police structures and organisational forms are examined, such as diversity within the police force and police training or the appearance of a so-called cop culture that can favour, and not least cover up, attitudes and structures that are accepting of violence. This also influences the possibilities and limits of internal control, the so-called error culture, within the police force.<sup>776</sup> This could also be a reason for the comparatively high termination rate in investigation proceedings against police officers. According to SINGELNSTEIN, the conflict of interests involved in making statements against and investigating one's own colleagues may impede investigations and the evidence within the police force and public prosecution offices.<sup>777</sup>

Measures deemed to create more transparency in cases of unlawful police violence are, for example, identification markings for police deployment forces, more research and the establishment of independent entities to examine the accusations in question.<sup>778</sup>

#### 3.1.4.3 State measures and state-funded measures

##### Unlawful violence against the police

In 2017, section 113 StGB was tightened up and section 114 StGB introduced to afford enforcement officers better protection against assault.<sup>779</sup> Since November 2019, the German Police University has been examining the subject in its study on violence against enforcement officers and emergency services ("*Gewalt gegen Vollstreckungsbeamte und Rettungskräfte*", GeVoRe). The project aims to make an interdisciplinary and inter-perspective record and description of the impact of the statutory amendment of sections 113, 114 and 115 StGB.<sup>780</sup>

In its universal prevention measures such as its "Strong for you. Strong for Germany" (*Stark für dich. Stark für Deutschland*) campaign from 2017, and its "Protection is something we need to do together" ("*Schutz geht nur gemeinsam*") campaign from 2021, the Federal Government highlights the importance of the services performed by police officers and emergency services workers.<sup>781</sup> The campaigns underline the zero-tolerance policy on violence in general and for these professional groups in particular. Examples of selective prevention measures are material to accompany deployments, such as information or postcards with the slogan "Demo: YES! Violence: NO!" and posters taking a de-escalating approach to accompanying measures at demonstrations. Measures for the safety of deployment forces have been and are being improved, including in particular (the provision of) protective equipment, reporting channels and training content.<sup>782</sup>

The BMI-funded study on motivation, attitudes and violence in the everyday life of enforcement officers ("*Motivation, Einstellung und Gewalt im Alltag von Polizeivollzugsbeamten - MEGAVO*") is to conduct more detailed research into violence against the police, using methods including individual

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<sup>771</sup> ECRI 2020, p. 41.

<sup>772</sup> Görden/Hunold 2020; Baier/Ellrich 2015, p. 37 ff.; Manzoni 2003, p. 168.

<sup>773</sup> Bosold 2006, p. 152 ff.

<sup>774</sup> Ellrich/Baier 2015, pp. 35–40.

<sup>775</sup> Bosold 2006, p. 149 ff.

<sup>776</sup> Behr 2013; Behr 2020; Seidensticker 2019.

<sup>777</sup> Singelstein 2003, p. 24; 2013, pp. 21 f. and 26.

<sup>778</sup> Cf. Singelstein 2003, p. 24; 2013, p. 26; Töpfer 2018; Kreuzer 2020. On police and complaints offices in other EU countries, see Töpfer/Peter 2017.

<sup>779</sup> The legal amendments have been received with some criticism in the specialist discourse (cf. Görden/Hunold 2020 with further references). Points of criticism included the (limited) preventive effect and the privileged protection under criminal law of the forces deployed.

<sup>780</sup> More detailed information is to be found on the project website: [gevore.de](http://gevore.de). The BMBF-funded study on "Attacks on staff and officials of organisations with security tasks" (AMBOSafe) is also devoted to this subject (BMBF 2020).

<sup>781</sup> BMI 2017; BMI 2021b; cf. [sicherheit.bund.de](http://sicherheit.bund.de).

<sup>782</sup> Cf. representative examples: Bundespolizei 2019; HMDIS 2020; Polizei Nordrhein-Westfalen 2021.

### 3.1 Violent crime

interviews with police officers and offenders. The talks with offenders aim to explain in more detail their motivation for using violence and to describe situations that foster violence. As well as analysing the dynamic way in which violence occurs, the aim is to shed light on the effects of violence on everyday working life and the mental health of the police officers concerned. The aim here is to identify possible assistance services.<sup>783</sup> The term of this BMI-financed project is three years. Thus, results are expected in 2024.

#### Unlawful violence by the police

In the MEGAVO study, “existing measures to ensure that the principle of zero tolerance towards antisemitism, right-wing extremism and racism are practised in and by the police force, [are also to be] [...] continued and further developed as necessary [...]”<sup>784</sup> The attitudes expressed in mission statements and declarations on the self-understanding of police work, too, allow no scope for justification of unlawful police violence or extremism of any kind.<sup>785</sup>

Some federal states have appointed or decided to appoint police commissioners to deal with citizens’ complaints about the police and also submissions from the police.<sup>786</sup> These were established in Baden-Württemberg, Rhineland-Palatinate and Schleswig-Holstein in 2014/2016.<sup>787</sup> It has also been decided to establish such a position in Berlin and Hesse, while in Brandenburg a legislative process has been launched to this effect under the coalition agreement.<sup>788</sup> Since 2019, there has been a Police Commissioner for police officers in North Rhine-Westphalia, whom they can contact with suggestions and information without going through official channels.<sup>789</sup> On 18 January 2021, the position of Values Commissioner was established at the BKA. He or she has the task of maintaining an overview of all measures in connection with values and coordinating specific measures with the aim of enhancing employees’ resilience to extremism and discrimination.<sup>790</sup>

To make it easier to identify members of the police force on deployment, an identification obligation was introduced in the federal states;<sup>791</sup> it is fulfilled in different ways by different federal states, however. In 2019, the Federal Administrative Court ruled that the obligation to wear an identifier was lawful.<sup>792</sup>

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<sup>783</sup> Schiemann 2021, pp. 7 and 10.

<sup>784</sup> Cf. the press statement by the Federal Ministry of the Interior, Building and Community of 7 December 2020.

<sup>785</sup> Cf. the representative example of the self-understanding of the police in North Rhine-Westphalia: [polizei.nrw/artikel/rolle-und-selbstverstaendnis](https://www.polizei.nrw/artikel/rolle-und-selbstverstaendnis); the mission statement of the Bavarian police: [polizei.bayern.de/wir/leitbild](https://www.polizei.bayern.de/wir/leitbild); the mission statement of the police in Rhineland-Palatinate: [polizei.rlp.de/de/die-polizei/unser-leitbild](https://www.polizei.rlp.de/de/die-polizei/unser-leitbild); or the initiative of the Police Academy of Lower Saxony, “Police Protection for Democracy”: [pa.polizei-nds.de/polizeigeschichte/polizeischutz\\_fuer\\_die\\_demokratie/](https://www.pa.polizei-nds.de/polizeigeschichte/polizeischutz_fuer_die_demokratie/).

<sup>786</sup> For more details on prevention and intervention opportunities of the Commissioners and calls for (even) more independent police complaints offices in Germany: Görden/Hunold 2020 and Kreuzer 2020.

<sup>787</sup> Baden-Württemberg: [buergerbeauftragte-bw.de](https://www.buergerbeauftragte-bw.de); Rhineland-Palatinate: [diebuergerbeauftragte.rlp.de](https://www.diebuergerbeauftragte.rlp.de); Schleswig-Holstein: [landtag.ltsh.de/beauftragte/bb-polizei](https://www.landtag.ltsh.de/beauftragte/bb-polizei).

<sup>788</sup> Senatsverwaltung für Justiz, Verbraucherschutz und Antidiskriminierung 2020; Hessische Staatskanzlei 2020; Polizei Brandenburg 2020.

<sup>789</sup> Ministerium des Innern des Landes Nordrhein-Westfalen 2019.

<sup>790</sup> Cf. BKA 2021f.

<sup>791</sup> This means an obligation to wear a name tag on one’s uniform. In closed deployments, this obligation may also be fulfilled by means of an individually assigned alphanumerical identifier.

<sup>792</sup> Judgment of 26 September 2019, file references 2 C 31.18 and 2 C 33.18.

## 3.2 Grooming, stalking and bullying in digital space

“The establishment of the Internet as a social space represented the greatest revolution in the forms of human communication and interaction in recent decades.”<sup>793</sup> More than half of humanity uses the Internet regularly, with an upward trend.<sup>794</sup> Social media in particular are used for everyday communication.<sup>795</sup> These new social interaction processes and opportunities change the way that closeness and relationships are structured and experienced in one’s social environment and also the way that conflicts are dealt with, inevitably also leading to negative and delinquent accompanying phenomena.<sup>796</sup> While subchapter 3.1 focused mainly on violent crime in the analogue world, this subchapter addresses three phenomena where violence against a person is committed digitally, with a mainly psychological impact: *cybergrooming*, *cyberstalking* and *cyberbullying*. Against the backdrop of an overall fall in crime numbers in Germany,<sup>797</sup> the rising numbers of reported and unreported crimes in connection with these three phenomena over the past years clearly show that online personal attacks are an increasing, socially relevant problem. It particularly, but not exclusively, affects children and young people. That is true both of victims and offenders.<sup>798</sup>

### 3.2.1 Definitions

#### 3.2.1.1 Cybergrooming

The term *cybergrooming* denotes establishing contacts online for the purpose of sexual abuse. According to the generally-used definition in German-speaking countries, only children under the age of 14 can be victims of such acts. However, the understanding of the term *cybergrooming* has not been conclusively clarified in national or international research discourse. Thus, the question arises, for example, as to whether the term covers only the long-term establishment of contacts or also short-term activities. Also, the characteristic of abuse of trust is subject to debate, as are questions as to whether *cybergrooming* has to include the aim of bringing about an offline meeting and whether demographic characteristics of the offender and victim play a role.<sup>799</sup> The presentation below is limited to the legal definition, firstly because it describes conduct that is clearly liable to criminal prosecution and secondly because the recorded crime statistics are based on the penal provision as a criterion. Where studies presented in this report are based on divergent definitions, these are explained in connection with the studies.

Cybergrooming is criminalised in section 176b (1) StGB.<sup>800</sup> The criminal offence covers influencing a child under the age of 14 by way of content, “firstly, in order to cause the child to perform sexual acts on or in the presence of the offender or a third person or to have the offender or a third person perform sexual acts on the child,” or secondly, to produce, access, obtain or possess child pornographic material. Content is deemed to be such as that contained in writings or data carriers or

<sup>793</sup> Rettenberger/Leuschner 2020, p. 242. Cf. Beisch/Schäfer 2020; Rüdiger/Bayerl 2020, p. 4.

<sup>794</sup> Statista Research Department 2019.

<sup>795</sup> A number of these did not even exist at the time of the 2nd PRC: cf. Doerbeck 2019, p. 39.

<sup>796</sup> A detailed presentation of the subject is to be found in Rettenberger/Leuschner 2020.

<sup>797</sup> For details on this, see subchapter 2.2 above.

<sup>798</sup> Cf. section 3.2.2.

<sup>799</sup> For a detailed discussion of all these aspects, see Rüdiger 2020, p. 35 ff. with further references.

<sup>800</sup> Until 30 June 2021, the regulatory content of this provision was to be found in section 176 (4) no. 3 of the old version of the German Criminal Code. Cf. Bundesratsdrucksache 634/20, p. 42; Bundestagsdrucksache (Bundestag printed paper) 19/24901, p. 16 ff.; Article 10 of the Act to combat sexualised violence against children (*Gesetz zur Bekämpfung sexualisierter Gewalt gegen Kinder*) of 16 June 2021, Federal Law Gazette (*Bundesgesetzblatt*) I 2021, p. 1810.

## 3.2 Grooming, stalking and bullying in digital space

transmitted by information or communications technology without necessarily being saved (cf. section 11 (3) StGB).<sup>801</sup> The latter concerns telephone calls, for example, which have been included as an element of the offence since a statutory amendment adopted in 2015<sup>802, 803</sup> Online communication via e-mails and chatroom messages, social networks, WhatsApp messages and SMS text messages was already covered in its entirety by the penal norm because influencing by way of “writings” within the meaning of section 11 (3) of the old version of the German Criminal Code was already deemed to be equivalent to influencing by means of “information or communications technology.”<sup>804</sup>

In the past, it was often difficult to detect offenders attempting to make contact with children via the Internet. By amending section 176 (6) of the old version of the German Criminal Code (now: section 176b (3) StGB) with respect to cybergrooming, the Act of 3 March 2020<sup>805</sup> introduced criminal liability for unsuccessful attempts.<sup>806</sup> This also criminalised cases where offenders falsely assumed they were influencing a child, but in fact were communicating with an adult or juvenile, for example with criminal prosecution authority investigators or parents. This amendment was intended to make it easier to prosecute.

### 3.2.1.2 Cyberstalking

As in the case of analogue *stalking*,<sup>807</sup> there is no universally applicable definition of cyberstalking, due to the diverse forms it can take.<sup>808</sup> Cyberstalking may be summarised as “intentional, repeated and unwelcome contact using computer-based communication technologies, or disparagement, humiliation or threats that take place using these technologies, causing fear to the victims.”<sup>809</sup>

In order to be able to prosecute stalking, it was included as a criminal offence in the German Criminal Code in 2007 (section 238 StGB).<sup>810</sup> Originally, stalking was defined in the law as an *Erfolgsdelikt*, i.e. criminal liability was dependent on whether the victim demonstrably reacted to the offender’s actions by seriously restricting their lifestyle (for example, moving house or changing jobs). In accordance with the new version of section 238 StGB, which came into effect in March 2017,<sup>811</sup> it is

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<sup>801</sup> The concept of content replaced the concept of writings in the German Criminal Code as of 1 January 2021: 60th Criminal Code Amending Act - Modernisation of the concept of text and other concepts (60. Gesetz zur Änderung des Strafgesetzbuchs - Modernisierung des Schriftenbegriffs und anderer Begriffe) of 30 November 2020, Federal Law Gazette (Bundesgesetzblatt) I 2020, p. 2600.

<sup>802</sup> 49th Criminal Code Amending Act - Transposition of European rules on the law governing sexual offences (49. Gesetz zur Änderung des Strafgesetzbuchs - Umsetzung europäischer Vorgaben zum Sexualstrafrecht) of 21 January 2015, Federal Law Gazette (Bundesgesetzblatt) I, 2015 p. 10, which entered into force on 27 January 2015. On the Council of Europe and EU rules, cf. Article 23 of the Lanzarote Convention and Article 6 of Directive 2011/93/EU. Terminological explanations are to be found in ECPAT Deutschland e. V. 2018, p. 52 ff.

<sup>803</sup> Bundestagsdrucksache (Bundestag printed paper) 19/19859, p. 60; Bundestagsdrucksache (Bundestag printed paper) 18/2601, p. 28; Schönke/Schröder/Eisele, recital 176 para. 14b.

<sup>804</sup> Bundestagsdrucksache (Bundestag printed paper) 19/19859, p. 60; Schönke/Schröder/Eisele, StGB, section 176 recital 14a.

<sup>805</sup> 57th Criminal Code Amending Act - Criminal liability for unsuccessful attempts at cybergrooming - (57. Gesetz zur Änderung des Strafgesetzbuchs - Versuchsstrafbarkeit des Cybergroomings) of 3 March 2020, Federal Law Gazette (Bundesgesetzblatt) I 2020, p. 431, which entered into force on 13 March 2020.

<sup>806</sup> For a critical view on this: van Endern 2020.

<sup>807</sup> In general, the term refers to behaviour where someone watches, pursues, threatens or harasses another person, or possibly also assaults them, and the behaviour causes fear to the victim. Cf. Port 2012, p. 11. On this subject, see also the statements in the 2nd PRC 2006, p. 126 f.

<sup>808</sup> For an overview on this subject, see, for example, Huber 2013, pp. 67-73; Port 2012, p. 11.

<sup>809</sup> Cf. Southwork et al. 2007, p. 843; Rettenberger/Leuschner 2020, p. 245.

<sup>810</sup> Act to criminalise persistent stalking (Gesetz zur Strafbarkeit beharrlicher Nachstellungen) of 22 March 2007, Federal Law Gazette (Bundesgesetzblatt) I 2007, p. 354, which entered into force on 31 March 2007. Protection against stalking has been provided under criminal law since 2001 by the Act on Protection against Violence (Gewaltschutzgesetz); on this subject, see Port 2012, p. 130 ff.

<sup>811</sup> Act to improve protection against stalking (Gesetz zur Verbesserung des Schutzes gegen Nachstellungen) of 1 March 2017, Federal Law Gazette (Bundesgesetzblatt) I 2017, p. 386, which entered into force on 10 March 2017.

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sufficient if the offender's actions are *suitable* for seriously restricting that person's lifestyle.<sup>812</sup> The offence of stalking covers not only seeking the other person's physical proximity (subsection 1 no. 1), but also variants that may have a connection to the Internet as a means and resource used by the offender. This includes in particular section 238 (1) no. 2 StGB, which criminalises persistent attempts to establish contact with the other person by means of telecommunications or other means of communication. These include e-mails and messages on online platforms including stalking activities in cyberspace, but also telephone calls.<sup>813</sup>

Offences such as insult (section 185 StGB), threatening commission of serious criminal offence (section 241 StGB), malicious gossip (section 186 StGB) or computer fraud (§ 263a StGB) may continue to be classified as cyberstalking.

### 3.2.1.3 Cyberbullying

To date, a generally accepted definition of the term *cyberbullying* does not exist. The literature first draws upon definitions of bullying<sup>814</sup> before turning to the distinguishing features of cyberbullying. Common definitions of bullying generally include three main factors: a (1) persistent, (2) intentionally damaging behaviour characterised by a clear (3) imbalance of power between the victim and the person committing the offence.<sup>815</sup> This power imbalance may either exist from the beginning (for example due to popularity, physical strength, self-confidence) or it may result from the bullying itself (for example, when a previously popular person becomes a victim of anonymous insults).<sup>816</sup>

Starting from these basic elements and taking into account the phenomenology of cyberbullying, DOERBECK (2019) developed a proposal for a definition. According to this definition, cyberbullying is "intentional behaviour, consisting of individual negative actions, directed against a person who is weaker - at least as a result of this action - and that takes place using information and communications media. It must be repeated over a lengthy period of time unless the action in question is a public act that leads to other people continuing the cybermobbing process over a lengthy period - as intended and condoned by the original offender."<sup>817</sup> Cyberbullying can be committed both by a group and by an individual; unlike bullying, cyberbullying has the characteristic that members of a group need not be personally acquainted and may remain at least partly anonymous.<sup>818</sup> "In addition, spatial, social and temporal boundaries are removed, since content is accessible publicly and outside the context or situation and cannot readily be deleted."<sup>819</sup>

To date, neither bullying nor cyberbullying has been a specific criminal offence in Germany.<sup>820</sup> However, depending on the situation in a particular case, crimes such as insult (section 185 StGB), malicious gossip (section 186 StGB), defamation (section 187 StGB), violation of privacy of spoken word (section 201 StGB), violation of intimate privacy by taking photographs or other images (section 201a StGB), coercion (section 240 StGB), threatening commission of serious criminal offence

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<sup>812</sup> Schönke/Schröder/Eisele, section 238 recital 1. This new version of section 238 StGB takes the burden off victims and makes it easier to prosecute since it is no longer necessary to prove a serious change in an area of life. In contrast to the above-mentioned definition, the characteristic of fear is not included here. On this subject, see Schönke/Schröder/Eisele, section 238 recital 4.

<sup>813</sup> BeckOK-StGB/Valerius, section 238 recital 6.

<sup>814</sup> The literature often takes Olweus' definition as a starting point, cf., for example, Olweus 2010, p. 351 f. For an overall view, see Doerbeck 2019, p. 32 ff.

<sup>815</sup> Kothgassner/Kafka 2018, p. 154.

<sup>816</sup> Doerbeck 2019, p. 90 f. with further references; Katzer 2014, p. 58.

<sup>817</sup> Doerbeck 2019, p. 114.

<sup>818</sup> Doerbeck 2019, p. 112; Rettenberger/Leuschner 2020, p. 247 with further references.

<sup>819</sup> Rettenberger/Leuschner 2020, p. 247.

<sup>820</sup> The existing legal situation offers sufficient protection, cf. Doerbeck 2019, p. 363 ff.; Weber 2018b, p. 115 ff. In contrast, a penal provision was drawn up in Austria in 2016 specifically for cases of cyberbullying and cyberstalking (section 107c of the Austrian Criminal Code - *Österreichisches Strafgesetzbuch*, öStGB); on this subject cf. Huber/Pospisil 2018, p. 79.



(section 241 StGB) or depictions of violence (section 131 StGB) may be committed as part of cyberbullying.<sup>821</sup>

### 3.2.2 Forms and development

The data available indicate an increasing prevalence of all three phenomena. While the proportion of total recorded crime is considered low - despite the fact that the number of cases has been increasing for years, the “dark field” data point to crime being significantly more widespread. Cybergrooming and cyberbullying in particular are phenomena that occur within children’s and juveniles’ peer groups.

#### 3.2.2.1 Statistical records of “light” and “dark fields”

The statistical data situation on these three phenomena is patchy.<sup>822</sup> Cybergrooming, cyberstalking and cyberbullying are not directly identified as such in the PCS. Since such offences are not specific criminal offences in their own right, they are not recorded in the criminal prosecution statistics.<sup>823</sup> The subject of cyberstalking can be approached using the PCS by looking at section 238 StGB with the special identification “means and resources used by the offender: Internet.” To date, the PCS registered grooming under one PCS key together with section 176 (4) no. 4 StGB, old version.<sup>824</sup> Thus, an evaluation may overestimate the numbers of cases of grooming.<sup>825</sup> Many of the recorded cases may be classified as cybergrooming, however.<sup>826</sup> In the case of cyberbullying, even that is not possible, since bullying incidents, as described, may be recorded under a wide range of criminal offences, depending on the specific form they take.<sup>827</sup> Thus, this evaluation of the data on recorded crimes will be limited to grooming and cyberstalking.

Based on the criminal court prosecution statistics on section 176 (4) no. 3 (a) and (b) of the old version of the German Criminal Code, it is impossible to identify clearly whether the influence on the child took place using the means and resources of the internet (cybergrooming) or by means of a telephone call. Due to increasing internet communication in recent years, it may now be plausibly assumed that many such cases occur online.

In “dark field” research, many surveys in recent years have examined the three phenomena both from the victims’ and, in some cases, also from the offenders’ perspective. The main statements on prevalence made in these studies are also presented below. It should be noted that these studies paraphrase cyberbullying, cybergrooming and cyberstalking in different ways.<sup>828</sup> The studies also differ

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<sup>821</sup> Doerbeck 2019, p. 138 ff.

<sup>822</sup> For general comments on the problem of delineating “cybercrime” in the crime statistics: Plank 2020, p. 18 ff.

<sup>823</sup> Cf. Strafverfolgungsstatistik 2019, p. 10. Information on the means and resources used by the offender, such as the Internet, can only be identified from the data in the criminal prosecution statistics if relevant indications are included in the wording of the penal provision.

<sup>824</sup> Section 176a (1) no. 3 StGB has contained this provision since 1 July 2021. Since statistical data covering the period up to and including 2019 are evaluated below, references in this section give the former location of the norms in the German Criminal Code, however.

<sup>825</sup> Until 31 December 2020, crimes which involved an offender influencing a child “by showing pornographic pictures or representations” fell under section 176 (4) no. 4 StGB (old version). Cybergrooming may fall within the scope of this offence, but the offence may also occur outside the phenomenon of cybergrooming. As of 1 January 2021, “pictures and representations” was replaced by “content”; for details, cf. Bundestagsdrucksache (Bundestag printed paper) 19/19859, p. 61.

<sup>826</sup> This analysis of the offence using the PCS basic table 01 did not include the identification “means and resources used by the offender: Internet” because, according to BKA information, there is undercoverage of use of the Internet as part of the offence. Cf. also Rüdiger 2020, p. 126 ff.

<sup>827</sup> Also, these offences do not occur only within the context of cyberbullying. Thus, for example, sending just one threatening e-mail does not qualify as cyberbullying, in spite of the fact that the offence is registered as a threat carried out using the Internet as a means or resource of the offence. Thus, there are no clear police-registered data that can be evaluated in connection with cyberbullying.

<sup>828</sup> For general information on problems with the wording of questions in “dark field” studies: section 1.3.1.

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with regard to the reference periods of the questions and the regional distribution of samples. However, they make it possible to get an idea of the three phenomena.

### 3.2.2.2 Grooming and cybergrooming

Case numbers of crimes under section 176 (4) nos. 3 and 4 StGB (old version) were fairly constant in 2010 and 2011 and have increased steadily since. In 2019, the police recorded 3,264 cases, nearly three and a half times as many as in 2010 ( $n = 941$ ). This development is also reflected in the increase in the offence rate. In 2010, 1.2 cases per 100 000 people were registered, while in 2019, 3.9 cases per 100 000 people were registered.<sup>829</sup> The relative proportion of grooming cases of all registered cases of child sexual abuse also rose steadily, from 7.9% in 2010 and 7.5% in 2011, to 23.9% in 2019.<sup>830</sup> The increase in case numbers may have been influenced by the broadening of the definition of the crime in 2015 (see above) and by heightened social awareness of this crime, as well as by the increasing intensity and duration of social media use via mobile end devices by children and juveniles documented over the same period.<sup>831</sup> The latter factor supports the assumption that the increase in case numbers is probably mainly due to cybergrooming cases. The clear-up rate for grooming was 86.0% in 2019 and was thus higher than in 2010 (80.7%).<sup>832</sup>

In 2019, 2103 people suspected of grooming were registered by the police.<sup>833</sup> The overwhelming majority (92.6%) of them were male.<sup>834</sup> The proportion of children and juveniles among the suspects has risen significantly since 2010.<sup>835</sup> In 2019, the proportion of children, juveniles and young adults (18–20) among the suspects was 57.3%, with 14 to 17-year-olds comprising the largest group among the suspects, at 31.4% (Figure 27).<sup>836</sup> This development may be linked to increased smartphone use by children and juveniles.<sup>837</sup> In comparison, more adult suspects over the age of 21 are registered in connection with child sexual abuse. In 2019, they comprised a proportion of 60.8%.<sup>838</sup> Most suspects (89.1%) acted alone and only a minority (36.8%) were already known to the police.<sup>839</sup>

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<sup>829</sup> PCS, own evaluation.

<sup>830</sup> PCS, own evaluation.

<sup>831</sup> Cf. Feierabend et al. 2019, pp. 29 and 31; Rüdiger 2020, p. 130 ff.

<sup>832</sup> Thus, it is almost identical to the clear-up rate of all recorded cases of child sexual abuse, which was 87.0% in 2019. Cf. BKA 2011, p. 35 and BKA 2020p.

<sup>833</sup> BKA 2020q.

<sup>834</sup> The proportion of more than 90%, observed over the last ten years, has also remained constant: Rüdiger 2020, p. 140.

<sup>835</sup> At the same time, the average age of suspects has fallen. Cf. the detailed account in Rüdiger 2020, p. 151 ff.

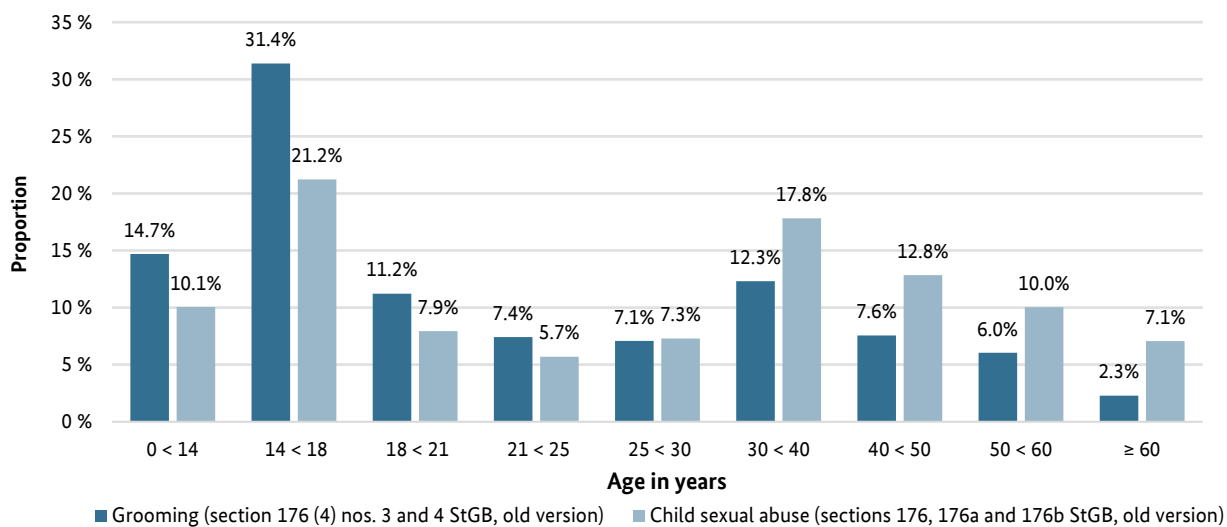
<sup>836</sup> Regarding the age structure of suspects in Germany in general, cf. section 2.4.2.1. When looking at the age structure of female suspects in connection with cybergrooming, specific characteristics are conspicuous, on this subject, see Rüdiger 2020, p. 163 ff.

<sup>837</sup> Rüdiger 2020, p. 156 f.

<sup>838</sup> PCS, own evaluation.

<sup>839</sup> BKA 2020r.

**Figure 27: Age structure of grooming suspects (section 176 (4) nos. 3 and 4 StGB, old version,  $n = 2103$ ) and child sexual abuse (sections 176, 176a, 176b StGB, old version,  $n = 10259$ ) as a percentage, 2019**



Source: PCS, own evaluation.

77.5% of the 3667 registered victims of grooming in 2019 were female.<sup>840</sup> Most of them (66.1%) were between twelve and 13 years of age.<sup>841</sup> A further 24.4% were ten or eleven years old and 6.3% were just eight or nine. The small proportion of children under eight (3.2%)<sup>842</sup> is presumably due to the fact that young children of that age do not yet frequently make contact with other people via the Internet and communication services or receive messages via these services, quite apart from the question of whether their literacy skills are adequate.<sup>843</sup>

In the case of cybergrooming, the proportion of victims who were in a family relationship with the suspect was very small (3.4%). Half of registered victims of cybergrooming (50.7%) had no relationship with the suspects before the offence was committed. The proportion of suspects from victims' extended personal environment was 35.6%.<sup>844</sup>

The criminal prosecution statistics for 2019 recorded a total of 143 adjudications under section 176 (4) no. 3 (a) and (b), old version StGB. Of these, 77.6% were convictions, 1.4% were acquittals (without measures) and 21.0% other rulings.<sup>845</sup> Like the PCS statistics already discussed, the figures on persons adjudicated and convicted cannot be attributed in full to the phenomenon of cybergrooming due to methodological limitations. In interpreting these figures, it should also be noted that in the case of an adjudication/conviction for more than one offence, only the most serious is counted.<sup>846</sup> The number of adjudications/convictions that could be made under section 176 (4) no. 3 (a) and (b) StGB (old version) in addition to other crimes could therefore be larger.<sup>847</sup>

<sup>840</sup> PCS, own evaluation.

<sup>841</sup> A reminder: the crime can only be committed against children under the age of 14.

<sup>842</sup> PCS, own evaluation.

<sup>843</sup> Cf. Rüdiger 2020, p. 180 with further references.

<sup>844</sup> For purposes of comparison, these are the data on child sexual abuse: 21.9% relatives, 32.8% strangers, 38% personal environment. In the case of 7.1% of sexual abuse victims and 10.3% of cybergrooming victims, it was not possible to clarify the relationship of the victim to the suspects, PCS, own evaluation.

<sup>845</sup> Strafverfolgungsstatistik 2019, table 2.2, own calculation.

<sup>846</sup> Strafverfolgungsstatistik 2019, p. 13; cf. section 1.3.3.2.

<sup>847</sup> On the issue of which offence is regarded as more serious in the event of several offences: BeckOK-StGB/Ziegler, section 176 StGB, recital 43–45.

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Cybergrooming has been the subject of a number of “dark field” studies in Germany.<sup>848</sup> The MiKADO study<sup>849</sup> and the SPEAK! study<sup>850</sup> both examined explicitly sexual online victimisation. EU Kids Online<sup>851</sup> and Juveniles in Lower Saxony (“Niedersachsensurvey”)<sup>852</sup> asked questions about experiences that can be classified as cybergrooming phenomena. However, the coverage of these studies was very different in each case, making a direct comparison between them impossible. Comparison with PCS data is also limited by the fact that, according to the legal understanding of the definition on which the PCS records and criminal prosecution statistics are based, only children under the age of 14 can be victims of cybergrooming, while the studies mainly polled older juveniles, without taking the time of the incident into account.<sup>853</sup>

According to the above-mentioned studies, between 6% and 35% of girls and between 2% and 24% of boys have received online invitations to take part in conversations with sexual content or perform sexual acts or have been the target of online sexual harassment.<sup>854</sup> Like the PCS data, these studies suggest that there are significant differences between the sexes: girls are victims of cybergrooming significantly more frequently than boys.<sup>855</sup>

The finding from the area of recorded crime that many juveniles are among the suspects can also be confirmed by the “dark field” studies. Approximately 2% of juveniles have themselves addressed others sexually online, though here, too, a significant difference between the sexes can be established. More boys than girls indicated this within the scope of the surveys.<sup>856</sup> In the Lower Saxony Survey 2017, there was an indication of a slight increase in prevalence, both on the part of victims and of perpetrators;<sup>857</sup> this was also evident in the area of recorded crime.

### 3.2.2.3 Cyberstalking

In 2019, a total of 2009 cases of stalking using the Internet as a means and resource were registered by the police.<sup>858</sup> These can be placed in the category of the phenomenon of cyberstalking. In comparison with 2010 ( $n = 1068$ ), the number of recorded cases of cyberstalking has nearly doubled. Since the number of police-registered offline stalking cases has seen a decline in recent years, the

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<sup>848</sup> For a summary of studies from Switzerland and Austria, cf. Rüdiger 2020, p. 252 ff.

<sup>849</sup> The BMFSFJ-funded research project MiKADO on the subject of “Child abuse - aetiology, “dark field” and victims” (2012 to 2015) aimed to document sexual interest in children among the general public and the victimisation experiences of children and adolescents in relation to sexual violence. Forms of online sexual violence were also examined. In the context of this study, 2248 14 to 17-year olds were among the participants of a non-representative online survey on sexual victimisation in the media, cf. Neutze/Osterheider 2015, p. 1.

<sup>850</sup> The study “SPEAK: Sexualised violence in the experience of juveniles” was conducted in 2017 by the Universities of Marburg and Gießen with funding from the Hessian Ministry of Education. 2719 pupils from years nine and ten, aged 14 to 16, from 53 schools of general education in Hesse took part in the representative survey, cf. Maschke/Stecker 2017, p. 4. The following question was asked on cybergrooming: “Sexual advances have been made towards me online/I have been sexually harassed online”, cf. Maschke/Stecker 2017, p. 7.

<sup>851</sup> The EU Kids Online network, a research network established in 2009, now has more than 33 participating countries. The network makes data available, facilitating comparisons of country-specific Internet use by children and young people. Based on a quota sample, 1044 children and young people aged between 9 and 17 were polled using an online survey for the current study in Germany conducted in summer 2019, cf. Hasebrink et al. 2019, p. 5 f. Cybergrooming was described as being “asked questions about sexual matters about oneself that one does not want to answer”, Hasebrink et al. 2019, p. 25.

<sup>852</sup> For background information on the Lower Saxony Survey, see section 3.1.1.2 above and footnote 516. Part of the study dealt with cybercrime perpetration and victimisation during the last school semester. Instead of the term cybergrooming, the term “sexual cyberbullying” was used. This included the invitation to perform sexual acts, sending of photographs of naked people and the invitation to talk about sex, cf. Bergmann et al. 2019, p. 45 f.

<sup>853</sup> Cf. Rüdiger 2020, p. 223.

<sup>854</sup> Bergmann et al. 2019, p. 48; Hasebrink et al. 2019, p. 25; Maschke/Stecker 2017, p. 7; Neutze/Osterheider 2015, p. 1.

<sup>855</sup> Cf. Bergmann et al. 2019, p. 48; Hasebrink et al. 2019, p. 25; Maschke/Stecker 2017, p. 7; Neutze/Osterheider 2015, p. 2. The results of other studies are similar, see, for example, Bergmann/Baier 2016, p. 185; Wachs et al. 2012, p. 631.

<sup>856</sup> Bergmann et al. 2019, p. 50; Maschke/Stecker 2017, p. 13.

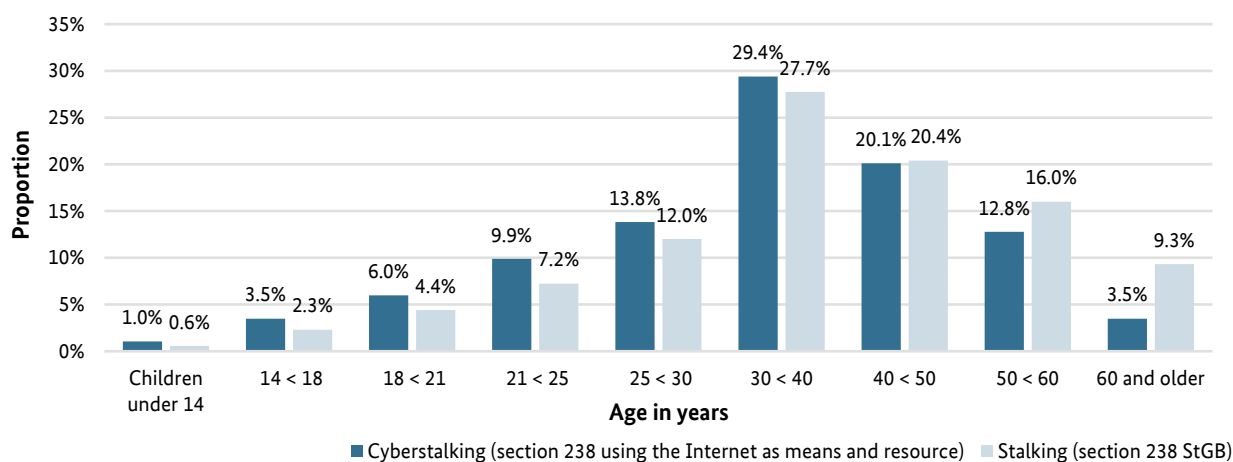
<sup>857</sup> Bergmann et al. 2019, pp. 46 f. and 50. No data on cybergrooming were collected in the survey round in 2019.

<sup>858</sup> BKA 2020s.

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relative proportion of cyberstalking of all recorded cases of stalking has increased from approximately 4% to nearly 11%.<sup>859</sup> The offence rate per 100 000 people rose from 1.3 in 2010 to 2.4 in 2019; in 2017 and 2018, it was already 2.5.<sup>860</sup> The clear-up rate for cyberstalking cases in 2019 was at 88.9%, somewhat higher than in 2010, when it was 85.9%, and therefore nearly as high as the clear-up rate for stalking cases overall, which was 91.8% in 2019.<sup>861</sup>

**Figure 28: Age structure of suspects of cyberstalking (n = 1721) and stalking (n = 15 904) as a percentage, 2019**



Source: PCS, own evaluation.

Nearly 80% of the total of 1721 suspects of cyberstalking were male in 2019.<sup>862</sup> In general, the age structure of the suspects of cyberstalking and stalking (Figure 28) is reminiscent of the age composition of all police-registered suspects (Figure 13).

Here, too, it is conspicuous that in the age groups younger than the 30–39 age group, the proportions of people involved in cyberstalking are somewhat higher than the total proportions of people involved in stalking.<sup>863</sup> The great majority of suspects acted on their own (94.8%) and about half the suspects were already known to the police (52.3%).<sup>864</sup> International studies repeatedly confirm these demographic data (majority of suspects are male, middle-aged and single).<sup>865</sup>

In 2019, 2119 victims of cyberstalking were registered with the police. Approximately 80% of them were women.<sup>866</sup> The clear majority of victims (approx. 81%) were between 21 and 59 years of age.<sup>867</sup> When examining victim-suspect relations, it becomes apparent that the group of (former) intimate partners play a significant role.<sup>868</sup> In 2019, 25.3% of the men and 43.9% of the women affected were recorded as being in an intimate partnership with the suspect.<sup>869</sup> 90.7% of these cases involved a constellation where the relationship between the couple no longer existed at the time of the offence, however.<sup>870</sup> A social relationship with the suspect was established for a further 33.1% of registered

<sup>859</sup> PCS, own evaluation.

<sup>860</sup> PCS, own evaluation.

<sup>861</sup> BKA 2020p, 2020s; PCS, own evaluation.

<sup>862</sup> PCS, own evaluation.

<sup>863</sup> PCS, own evaluation.

<sup>864</sup> PCS, own evaluation.

<sup>865</sup> Huber 2013, pp. 105 f. and 140 f.; for a summary: Port 2012, p. 96 f. with further references.

<sup>866</sup> PCS, own evaluation.

<sup>867</sup> PCS, own evaluation.

<sup>868</sup> Rettenberger/Leuschner 2020, p. 245.

<sup>869</sup> Marriage, registered partnership, unmarried cohabitation, former intimate partnership.

<sup>870</sup> PCS, own evaluation.

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cyberstalking victims.<sup>871</sup> Just 14.3% of victims did not have any relationship to the suspect.<sup>872</sup> Prominent and public figures are also represented in this group.<sup>873</sup> When comparing the demographic data of the victims of cyberstalking registered in the PCS with those of all recorded victims of stalking, no significant differences become apparent.

In 2019, there were a total of 656 judicial adjudications (including 417 convictions) relating to section 238 StGB.<sup>874</sup> However, for the aforementioned reasons, it is not possible to determine the extent to which these convictions had a connection to the Internet.

In “*dark field*” research, only one recent study, by DREßING et al.,<sup>875</sup> has been devoted to the phenomenon of cyberstalking. 6.3% of those polled reported that they had experienced unwanted online harassment that had lasted more than two weeks and made them anxious.<sup>876</sup> 80.5% of the victims were women, confirming the PCS data in this respect; 69.4% of the offenders were male.<sup>877</sup> When examining the victim-suspect relationship, the large proportion of former partners becomes apparent here too: 29.3% of cases involved a former partner, and another 4.5% of cases involved a current partner’s former partner.<sup>878</sup>

### 3.2.2.4 Cyberbullying

Cyberlife III,<sup>879</sup> EU Kids online,<sup>880</sup> the Lower Saxony Survey,<sup>881</sup> the JIM study 2020 (on youth, information and media)<sup>882</sup> and the study by PORSCHE and PIESCHL are notable studies devoted to the subject of cyberbullying.<sup>883</sup> Since cyberbullying is not covered by the PCS, “*dark field*” study figures are

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<sup>871</sup> PCS, own evaluation.

<sup>872</sup> For a further 10.3% of suspects of cyberstalking, it was not possible to clarify the relationship.

<sup>873</sup> On the subject of stalking experienced by prominent public figures, cf. Port 2012, p. 47 ff. From the perspective of criminal psychology, it should be considered here that the assumption of unfamiliarity is based on objective criteria, whereas the offender may subjectively perceive the relationship to be familiar or even intimate and very personal, cf. Rettenberger/Leuschner 2020, p. 245.

<sup>874</sup> Strafverfolgungsstatistik 2019, table 2.1.

<sup>875</sup> The Central Institute of Mental Health (CIMH) in Mannheim published the study on the prevalence of cyberstalking in Germany. 6379 persons took part in an online survey on the subject, which was published via the “Studi VZ” social network. The participants included 42% women with an average age of 24.4, making the results representative of all the members of Studi VZ, cf. Dreßing et al. 2014, p. 62.

<sup>876</sup> Dreßing et al. 2014, p. 63. The duration of two weeks and the anxiety caused were criteria necessary for the definition as cyberstalking.

<sup>877</sup> Dreßing et al. 2014, p. 63.

<sup>878</sup> Dreßing et al. 2014, p. 63 f. This relationship constellation between the victim and the offender was also apparent in the “*dark field*” study on stalking in general: Dreßing et al. 2019, p. 9.

<sup>879</sup> The “Cyberlife III” study by the *Bündnis gegen Cybermobbing e. V.* (alliance against cyberbullying, registered association) is a follow-up study of the Cyberlife studies of 2013 and 2017. As well as questioning parents and teachers, an online survey of a total of 5523 pupils aged between eight and 21 was conducted between 2 March and 2 November 2020 (net sample: 4413). Cyberbullying was defined as “intentional insults, threats, humiliation or harassment of another person using Internet and mobile telephone services over a lengthy period”. Cf. Beitzinger et al. 2020, pp. 13, 84 and 103.

<sup>880</sup> The study deliberately chose a broad definition of bullying in its use of the wording “malicious and hurtful” behaviour, thereby including behaviour which, strictly speaking, is not bullying or cyberbullying, but which can be very hurtful for victims, cf. Hasebrink et al. 2019, p. 17.

<sup>881</sup> In 2017, with reference to Internet and smartphone use, the following questions were asked: 1. Whether one had been ridiculed, offended, insulted or threatened; 2. Whether rumours had been spread about oneself or one had been talked badly of; 3. Whether someone had published private messages, confidential information, photographs or videos of oneself, to expose one or make one look ridiculous; 4. Whether one had been excluded from a group. Cf. Bergmann et al. 2019, p. 45. In 2019, it was asked whether mean or hurtful online messages or photographs had been sent or malicious calls had been made, cf. Krieg et al. 2020, p. 70.

<sup>882</sup> The JIM Study (Youth, Information, Media) is an annual study commissioned since 1998 by the Media Educational Research Association Southwest (mpfs). A representative sample of young people is selected from households with a landline connection or using mobile phone numbers. For the JIM Study 2020, 1200 young people between the ages of twelve and 19 were interviewed by telephone or polled using an online questionnaire. Cf. Feierabend et al. 2020, p. 2 f.

<sup>883</sup> For the first time in 2014, the study presented representative nationwide data for German-speaking pupils aged between 14 and 20 ( $n=1734$ ). The data were collected in structured telephone interviews and relate to the prevalence of cyberbullying and the associated consequences and risk factors. Cyberbullying was defined as “intentional insults, threats, exposure or

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the only ones that can provide information on the prevalence of this phenomenon among children and juveniles.<sup>884</sup>

According to the studies referred to, cyberbullying is a widespread phenomenon in the everyday experience of children and young people. The prevalence of victims in this population group ranges from approx. 3.5% to approx. 17%.<sup>885</sup> If, contrary to the definition (section 3.2.1.3), one also includes one-off incidents, as many as approximately 66% of children and young people have already had negative content directed at them.<sup>886</sup> The results of the studies, which are based (also methodologically) on predecessor studies, also indicate a trend towards increasing prevalence.<sup>887</sup> Recently, the lockdown imposed due to the COVID-19 pandemic in spring 2020 may be a possible reason for increasing prevalence.<sup>888</sup>

Many children and young people also report experiences with cyberbullying from the perspective of offenders. Between 7.5% and 26.8% have taken part in acts of cyberbullying themselves.<sup>889</sup> In the EU Kids Online study, the proportion who had treated others maliciously online at least rarely was as high as 57%.<sup>890</sup> Also, approximately one fifth of those who had not yet committed an offence could imagine doing so in general.<sup>891</sup> However, significantly fewer have bullied others several times per month; the most recent prevalence rate for this in Lower Saxony, for example, was between 1.1% and 2.6%.<sup>892</sup>

The studies presented also suggest the following: the victimisation rate increases with age<sup>893</sup> and girls tend to be affected more frequently than boys.<sup>894</sup> There were also differences with regard to the type of school attended; significantly lower frequencies are documented for grammar schools than for other types of school.<sup>895</sup>

### 3.2.3 Explanatory approaches and possibilities for prevention

Starting from classic criminological theories,<sup>896</sup> some of which are summarised by RÜDIGER in his *broken web approach* and applied to cyberspace,<sup>897</sup> it becomes clear why cyberspace has structures that are particularly conducive to crime. Firstly, an almost endless social space is opened up where potential victims can be contacted. A large group of people can be reached with comparatively little effort (sending an e-mail, uploading a picture, text or video file onto a platform that already exists). At least at first sight, the Internet provides simple ways to become and remain anonymous, which in

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harassment online or by mobile phone” and questions were asked about it using one direct and five behaviour-based questions. Cf. Porsch/Pieschl 2014, p. 11 f.

<sup>884</sup> For an overview of empirical studies on cyberbullying in Germany and abroad, see also Doerbeck 2019, p. 41 ff.

<sup>885</sup> Beitzinger et al. 2020, p. 103; Bergmann et al. 2019, p. 46; Feierabend et al. 2020, p. 61; Krieg et al. 2020, p. 71; Porsch/Pieschl 2014, p. 13.

<sup>886</sup> The findings vary greatly, however: Bergmann et al. 2019, p. 46; Feierabend et al. 2020, p. 61; Hasebrink et al. 2019, p. 18; Porsch/Pieschl 2014, p. 13.

<sup>887</sup> Beitzinger et al. 2020, p. 103; Bergmann et al. 2019, p. 46 f.

<sup>888</sup> Beitzinger et al. 2019, p. 103; Feierabend et al. 2020, p. 61. Cf. in this connection also the results of the ARD/ZDF online study, which asked about matters including changes in daily routines as a result of lockdown: Beisch/Schäfer 2020, p. 465.

<sup>889</sup> Beitzinger et al. 2020, p. 107; Bergmann et al. 2019, p. 50; Porsch/Pieschl 2014, p. 14.

<sup>890</sup> Hasebrink et al. 2019, p. 20.

<sup>891</sup> Porsch/Pieschl 2014, p. 14.

<sup>892</sup> Bergmann et al. 2019, p. 50; Krieg et al. 2020, p. 75.

<sup>893</sup> Beitzinger et al. 2020, p. 102; Feierabend et al. 2020, p. 60 f.; Hasebrink et al. 2019, p. 18; Porsch/Pieschl 2014, p. 16.

<sup>894</sup> Beitzinger et al. 2020, p. 103; Bergmann et al. 2019, p. 47 f.; Feierabend et al. 2020, p. 61; Hasebrink et al. 2019, p. 18; Krieg et al. 2020, p. 71.

<sup>895</sup> Beitzinger et al. 2020, p. 103 f.; Bergmann et al. 2019, p. 49; Feierabend et al. 2020, p. 61; Krieg et al. 2020, p. 72.

<sup>896</sup> Cohen and Felson's routine activity theory (1979) and Cornish and Clarke's rational choice theory (1986) have been applied to the context of cybercrime, cf. Rettenberger/Leuschner 2020, p. 243. Concerning other theories used to explain crime in digital space, see Plank 2020, p. 58 f.

<sup>897</sup> Rüdiger 2020, pp. 406-415 with further references.

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some cases can only be reversed with great effort.<sup>898</sup> Thus, from the offender's perspective, cyberspace offers good starting conditions. On the one hand, the possible gains are high, and on the other hand the risk of being discovered or sanctioned is comparatively low. Due to the continually changing technical possibilities, it is also difficult for potential victims to protect themselves comprehensively against digital attacks. This provides technologically adept (groups of) perpetrators with a constant supply of new opportunities to commit crimes.<sup>899</sup>

The anonymity of the Internet makes it difficult to identify perpetrators and assess the extent to which norms have been violated, presenting the criminal prosecution authorities and courts with special challenges. Behaviour that violates norms may thus remain visible in digital space for a lengthy period, suggesting "normality" to other users (in the sense of compliance with norms), something that would hardly be conceivable in an offline environment. This effect, which has also been described as "fixed transparency of crime,"<sup>900</sup> can result in an erosion of other Internet users' orientation to norms, thereby at least impeding efforts to prevent crime in digital space.<sup>901</sup>

"As well as the reduced possibilities of access of formal social control by state entities, the possibilities of informal social control are also limited in certain fields of digital interaction [section 2.1.1]. That applies [...] [for example] where anonymity makes it impossible for people to be confronted with their transgression or only possible under certain conditions, or where it is easy to avoid such confrontation. Forums that limit access to strictly preselected user groups further impede informal social control."<sup>902</sup>

#### 3.2.3.1 Cybergrooming

International research to date has focused mainly on middle-aged males as the perpetrators of cybergrooming.<sup>903</sup> Therapy and treatment are available for potential adult perpetrators who are sexually attracted to children. Attention is drawn to these in relevant campaigns.<sup>904</sup> However, in view of the fact that an increasing number of suspects are children and juveniles, crime prevention measures for this age group are also<sup>905</sup> essential. "Dark field" studies on cybergrooming have shown not only that sexually harassing content exists, but also that for many juveniles, exchanging sexual content online and meeting an online contact of the same age in real life are part of everyday reality, and are not necessarily associated with negative experiences.<sup>906</sup> Consequently, approaches to crime prevention should concentrate on raising awareness of the dangerous aspects of exchanging sexual content online. As well as providing information about sexuality, it is therefore important to communicate norms and values in digital space.<sup>907</sup> That includes providing information explaining that certain online actions are punishable offences and the consequences for victims.<sup>908</sup> Juveniles in particular are often unaware of this.<sup>909</sup>

As already shown above, age and sex influence one's victimisation risk. As well as these characteristics, frequent and lengthy Internet use and risky online behaviour, such as willingness to provide

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<sup>898</sup> Rettenberger/Leuschner 2020, p. 243. On this subject cf. also Mathiesen 2014, p. 28 f.

<sup>899</sup> Rettenberger/Leuschner 2020, p. 243. Cf. Neubacher 2020, p. 220 ff.

<sup>900</sup> Rüdiger/Bayerl 2020, p. 5.

<sup>901</sup> Rettenberger/Leuschner 2020, p. 243 f.

<sup>902</sup> Rettenberger/Leuschner 2020, p. 244.

<sup>903</sup> See, for example, offender typologies in the "European Online Grooming Project". Gottschalk 2011; Webster et al. 2012; the phase model in O'Connell 2003 and linguistic analysis in Black et al. 2015. For a criticism of the poorly thought through and unproven assumption that offenders are always paedophiles: Rüdiger 2020, p. 42.

<sup>904</sup> Information is to be found on this subject at [kein-taeter-werden.de](http://kein-taeter-werden.de).

<sup>905</sup> Concerning the basic principles of crime prevention, see section 3.1.1.3 above

<sup>906</sup> Approximately one in four juveniles aged 14 to 17 meets online acquaintances: Hasebrink 2019, p. 27; Neutze/Osterheider 2015, p. 2. 94% of the juveniles polled in the EU Kids Online study have sent sexually explicit messages via direct message at least a few times: Hasebrink et al. 2019, p. 25.

<sup>907</sup> Klinger/Völkl-Kernstock 2018, p. 216; Rüdiger 2020, p. 420 ff. Cf. recommendations for "safer sexting" in Poitzmann 2018.

<sup>908</sup> Polizei für dich 2020a; Rüdiger 2020, p. 425. Cf. also Schwind 2016, p. 265.

<sup>909</sup> For an example of how media education and crime prevention can go hand in hand, cf. Kegler/Bubenitschek 2019.



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personal information or to engage in conversations about sexual matters, are regarded as risk factors.<sup>910</sup> Social factors (such as having fewer friends), may also be risk factors for cybergrooming.<sup>911</sup> Previous experiences of victimisation, such as cyberbullying or other forms of physical or sexual victimisation, unclear sexual orientation or belonging to a sexual minority may also increase the risk of victimisation.<sup>912</sup> For girls in particular, a lower level of education and alcohol and drug consumption have also been identified as risk factors for cybergrooming.<sup>913</sup> For Germany, the assumption that a bad upbringing or parent-child relationship increases the risk of cybergrooming was not confirmed, however.<sup>914</sup>

The stress of becoming the victim of an online sexual attack is perceived very differently by victims.<sup>915</sup> In a study by KATZER, the experiences did not play any major role for the majority of girls affected.<sup>916</sup> Some victims suffer from a high level of psychological stress, however. In KATZER'S study, nearly one third displayed acute and lasting stress.<sup>917</sup> The victims feel shame and aggression and sometimes even develop self-harming behaviour. The more individual risk factors that apply to the victim, the more serious the effects.<sup>918</sup> The effects on victims are serious, making victim-specific prevention measures essential.

As is the case with offenders, providing young people with training in media competence is a universal means of crime prevention. To protect against victimisation, it is important to learn how to handle one's own data responsibly, as well as pictures and videos of oneself.<sup>919</sup> Selective crime prevention involves teaching self-assertion and how to set boundaries.<sup>920</sup> In particular, groups with an increased victimisation risk should be made aware of this.<sup>921</sup> This includes raising awareness of dangers when meeting online acquaintances.<sup>922</sup>

In order to be able to do the relevant awareness-raising work at home and at school, parents and teachers need to be sensitised towards the issue.<sup>923</sup> This requires further-training programmes and information campaigns. First and foremost, however, measures to prevent cybergrooming should start with victims themselves.

### 3.2.3.2 Stalking and cyberstalking

Cyberstalking and analogue stalking may be regarded as two forms or methods of the same underlying phenomenon.<sup>924</sup> In the online survey on cyberstalking, just 25% of victims were affected exclusively by cyberstalking methods - the great majority of victims, however, experienced both cyberstalking and analogue stalking.<sup>925</sup> Cyberstalking can lead to considerable stress - from insomnia to panic attacks or psychological disorders such as depression.<sup>926</sup> As already shown, there are some par-

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<sup>910</sup> Bergmann/Baier 2016, p. 186. The same view is taken by Soo/Bodanovskaya 2011, p. 47 with further references.

<sup>911</sup> Bergmann/Baier 2016, p. 186.

<sup>912</sup> Bergmann/Baier 2016, p. 186; Soo/Bodanovskaya 2011, p. 46 with further references; Whittle et al. 2013a; Wolak et al. 2004, 424.e19.

<sup>913</sup> Klinger/Vökl-Kernstock 2018, p. 221; Neutze/Osterheider 2015, p. 2; Soo/Bodanovskaya 2011, p. 46 with further references.

<sup>914</sup> Bergmann/Baier 2016, p. 185. This assumption was made, for example, in the study by Ybarra et al. 2007.

<sup>915</sup> Cf., for example, Katzer 2007, p. 97 f.; Klinger/Vökl-Kernstock 2018, 221; Ybarra et al. 2004.

<sup>916</sup> Katzer 2007, p. 103 f.

<sup>917</sup> Katzer 2007, p. 104.

<sup>918</sup> Whittle et al. 2013b, p. 67.

<sup>919</sup> That also applies to cyberstalking and cyberbullying, cf. Kothgassner/Kafka 2018, p. 159.

<sup>920</sup> Neutze/Osterheider 2015, p. 3. For specific recommendations for action, cf.: ProPK 2020b; Polizei für dich 2020a.

<sup>921</sup> Bergmann/Baier 2016, 186; Neutze/Osterheider 2015, p. 3.

<sup>922</sup> Cf. ProPK 2020b; Polizei für dich 2020a.

<sup>923</sup> Rüdiger 2020, p. 420 ff.

<sup>924</sup> Port 2012, p. 17 ff.

<sup>925</sup> Dreßing et al. 2014, p. 63.

<sup>926</sup> Dreßing et al. 2014, p. 63 ff. Cf. Port 2012, p. 118 f. with further references.

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allels between analogue stalking and cyberstalking with regard to perpetrators and victim characteristics.<sup>927</sup> A number of offender typologies exist in the international research on stalking,<sup>928</sup> of which some have already been transferred to cyberstalking or have been developed especially for it.<sup>929</sup> In addition, the different approaches of offenders are described, including the repeated unwanted contacting of victims, dissemination of private information in digital space, identity theft<sup>930</sup> and the placement of malware on victims' computers.<sup>931</sup>

In connection with offender-related prevention measures, warning people considered a potential threat appears to be an effective way of dealing with stalking and cyberstalking. This should be done "as early, as clearly and as resolutely as possible".<sup>932</sup> It involves police officers approaching suspected offenders and informing them that their behaviour is a crime and that they will face consequences if they do not refrain from such activities. However, this measure can only be applied if the victim knows the offender's identity.

Dealing with this crime phenomenon involves acquiring media competence, including learning to be careful about disclosing private information on the Internet (universal crime prevention), and in particular selective and indicated victim-related crime prevention when unwanted contact is likely (selective) or has even already taken place (indicated). The aim is to prevent further victimisation. Specific ways of dealing with this crime are to be found on the websites of the crime prevention programme ProPK or the *Weißer Ring*.<sup>933</sup>

### 3.2.3.3 Cyberbullying

Empirical studies are not limited to the occurrence of cyberbullying, but also examine the forms it takes. They discuss, for example, the services used to carry out cyberbullying,<sup>934</sup> and frequently occurring types of bullying.<sup>935</sup> Studies indicate that perpetrators of cyberbullying have a high level of online competence and engage in risky online behaviour.<sup>936</sup> There is also empirical evidence indicating that some of them are also victims. In the Cyberlife III study, for example, one perpetrator in three was also a victim of cyberbullying.<sup>937</sup> That gives rise to concerns that some of the victims learn negative forms of behaviour from the offenders and then apply them themselves.<sup>938</sup> In addition, offenders display certain personality traits, such as a low level of self-control and self-confidence and in some cases also narcissism and a diminished capacity for empathy.<sup>939</sup> These traits can be supplemented by the motive for the act, which was examined in the Cyberlife III study. The most frequently mentioned motive was that the person concerned deserved it (45%) or that the offender had had trouble with the person concerned (41%).<sup>940</sup> Approximately 27% did it "for fun", while another

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<sup>927</sup> Section 3.2.2.3; Port 2012, pp. 97 and 113.

<sup>928</sup> The typology of an Australian research group, for example, is prevalent: Mullen et al. 1999.

<sup>929</sup> For an overview, see Port 2012, p. 65 ff. with further references.

<sup>930</sup> Port 2012, p. 35 f. Identity theft is also used for fraud purposes; on this subject, see: BKA 2019c, p. 12.

<sup>931</sup> Kothgassner/Kafka 2018, p. 160.

<sup>932</sup> Brüggem 2020, p. 7.

<sup>933</sup> ProPK 2020c; [weisser-ring.de/praevention/tipps/stalking](http://weisser-ring.de/praevention/tipps/stalking). Keeping a diary, taking screenshots and saving all communications as evidence are specified as possible ways to enable prosecution to take place. The *Weißer Ring* provides a free app for this purpose: [nostalk.de/](http://nostalk.de/). For possible actions, see also: Kothgassner/Kafka 2018, p. 162; Port 2012, p. 123 ff.

<sup>934</sup> According to the results of the Cyberlife III study, cyberbullying took place most frequently using messaging services such as WhatsApp or Telegram (88%) and social networks such as Facebook (78%), cf. Beitzinger et al. 2020, p. 106.

<sup>935</sup> Most frequently mentioned in the Cyberlife III study were insults or offensive remarks (72%) and the dissemination of lies and rumours (58%): Beitzinger et al. 2020, p. 104 f. In EU Kids Online, 59% reported malicious messages being sent using messaging services and 33% reported hurtful messages that others were able to see: Hasebrink et al. 2019, p. 19.

<sup>936</sup> Chen et al. 2017, p. 1200.

<sup>937</sup> Beitzinger et al. 2020, p. 108. A significant intersection was also found by Porsch/Pieschl 2014, p. 15.

<sup>938</sup> On this subject, see Kothgassner/Kafka 2018, p. 156 f.

<sup>939</sup> Ang/Goh 2010; Chen et al. 2017, p. 1200; Patchin/Hinduja 2010, p. 618.

<sup>940</sup> The theory of lack of self-control may provide explanatory approaches for cyberbullying in connection with the above-mentioned personality traits and motives for the offence: Doerbeck 2019, p. 74 ff. The theory says that people who lack the ability to keep their short-term needs under control display deviant behaviour: Gottfredson/Hirschi 1990.

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12% said they thought it was “cool”. Other motives were boredom (18%) and a bad mood (15%), while 16% said they had “gone along with the herd”.<sup>941</sup>

Based on these insights, possible means of prevention are training sessions in empathy, team skills and moral courage.<sup>942</sup> These are intended to help not only the person who is the first to make offensive statements to change their behaviour patterns and reflect on how these affect other people. Bystanders, too, can intervene to help victims, preventing them being victimised again or from continuing to be victimised.<sup>943</sup> Bystanders are people such as schoolmates, friends or acquaintances who witness events.<sup>944</sup> If they do not express a view on the crime, their passivity is interpreted by offenders as approval, thus exacerbating harm to the victim.<sup>945</sup>

Studies on the situation of victims indicate that many pupils who are bullied online are also the victims of bullying at school.<sup>946</sup> People who experience a low level of popularity and acceptance among their peers are at particular risk of becoming victims of cyberbullying.<sup>947</sup> Personality traits such as low self-esteem, low self-confidence and shyness are risk factors for cyberbullying,<sup>948</sup> as are problematic family relationships, over-protective parents<sup>949</sup> and particularly intensive use of social media.<sup>950</sup> The consequences for victims range from short-term consequences such as anger, anxiety or psychosomatic disorders to long-term stress from traumatisation and bouts of depression.<sup>951</sup> In the Cyberlife III study, approximately one in three victims spoke of extreme stress due to cyberbullying and one in four victims reported having thoughts of suicide. One in five pupils mentioned having consuming alcohol or pills as a result.<sup>952</sup> At the behavioural level, many victims withdraw socially and there is a drop in their school performance.<sup>953</sup> Cyberbullying also has the special feature that a single action, such as the dissemination of an embarrassing picture via the Internet, can cause permanent damage.<sup>954</sup> Victims of cyberbullying have a particularly pronounced sense of losing control and powerlessness due to the speed of public dissemination via the Internet, the ease with which third parties can be involved and the offender’s possible anonymity. There is nowhere for victims to retreat to any more, as constant access to the Internet and social media exposes them to hostility wherever they go.<sup>955</sup>

As well as acquiring media literacy, and building on it, training should be provided on dealing with offensive content.<sup>956</sup> Taking the above-mentioned risk factors into account, it is also important to promote self-awareness and self-confidence and to build up a good network of relationships.<sup>957</sup> Promoting this competence and providing advisory services, while focusing on a target group, can be done via the Internet or using an app, in schools using specially developed programmes or in peer-

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<sup>941</sup> Beitzinger et al. 2020, p. 108 ff. The theory of social learning can be used to provide a criminological explanation of the motive for an offence. According to this theory conceptualised by Akers, deviant behaviour is learned when the positive consequences of deviant behaviour are more powerful than those of non-conforming behaviour. Meier 2016, p. 64 f.; on applying this theory to cyberbullying: Doerbeck 2019, p. 77.

<sup>942</sup> Katzer 2014, p. 155.

<sup>943</sup> Katzer 2014, pp. 170–173.

<sup>944</sup> For a detailed account of the role of bystanders who witness cyberbullying: Obermaier et al. 2015, p. 30.

<sup>945</sup> Festl 2015, pp. 35 f. and 41 with further references; Obermaier et al. 2015, p. 31; Sitzer/Marth 2013, p. 3; Sitzer 2013. This is also referred to as the bystander effect, whereby the greater the number of people present, the smaller the sense of responsibility of each individual, cf. Doerbeck 2019, p. 58 with further references.

<sup>946</sup> Beran/Li 2007, p. 22 f.; Kowalski/Limber 2013, p. 14; cf. also Chen et al. 2017, p. 1205. Labelling theory and the theory of learned helplessness provide possible explanations for this; for details, cf. Doerbeck 2019, pp. 71 and 77.

<sup>947</sup> Katzer 2011, p. 8; Sitzer 2013.

<sup>948</sup> Katzer 2011, p. 8; Sitzer 2013.

<sup>949</sup> Katzer 2011, p. 8.

<sup>950</sup> Kothgassner/Kafka 2018, p. 156 with further references.

<sup>951</sup> Doerbeck 2019, p. 65 ff. with further references.; Katzer 2014, p. 101 ff.

<sup>952</sup> Beitzinger et al. 2020, p. 110 f.

<sup>953</sup> Doerbeck 2019, p. 67 f. with further references; Katzer 2014, p. 104 with further references; Krieg et al. 2020, p. 73 f.

<sup>954</sup> Kothgassner/Kafka 2018, p. 156.

<sup>955</sup> Katzer 2014, p. 103; cf. also Kothgassner/Kafka 2018, p. 158.

<sup>956</sup> ProPK 2020d.

<sup>957</sup> Katzer 2014, p. 152.

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to-peer training sessions.<sup>958</sup> Awareness-raising work with parents should encourage them to support their children in actively solving problems and sensitise them to the dangers of being overprotective.<sup>959</sup> That would mean that the children learn how to act in emergency situations and whom they can contact.<sup>960</sup> An attempt should be made to reduce victims' feelings of shame, as these often prevent them from seeking help from other people.<sup>961</sup>

### 3.2.4 Summary and outlook

Different definitions hamper the discourse on the three cyber phenomena presented above and the collection of data on reported and unreported crimes. Available findings allow approximations to be made regarding the extent, type, risk factors and consequences, but their validity is limited, due to a lack of comparability and, in some cases, non-representative results. However, the data suggest that cybergrooming and cyberbullying differ considerably from their analogue equivalents, for example due to the removal of spatial boundaries in the case of cyberbullying. In addition, youth-specific forms of these two phenomena exist, which have not yet been adequately considered in the research and discourse on cybergrooming.<sup>962</sup> In contrast, cyberstalking is a crime involving victims and offenders who are usually already adults. The “cyber” part of the term means it denotes just one method or form of the basic phenomenon of stalking.

Developing a standardised understanding of the term is seen to be one way to further develop statistical recording and improve the confirmed empirical foundation as a basis for prevention work.<sup>963</sup> A first step could be to optimise the comparability of scientific findings. Current findings also suggest that it would be appropriate for research and social discourse to address the issue of juveniles being “perpetrators”, particularly with regard to the phenomenon of cybergrooming, since the boundaries between socially acceptable and unacceptable - criminal - behaviour sometimes appear to be blurred in this area.

### 3.2.5 State measures and state-funded measures

In recent years, the Federal Government has extended protection for victims of cybergrooming and cyberstalking by making amendments to the Criminal Code, and closing criminal liability loopholes (cf. section 3.2.1). Moreover, further forms of cyberstalking have been added in section 238 (1) of the Criminal Code thanks to the Act to Amend the Criminal Code to combat stalking more effectively and improve the recording of cyberstalking as well as to improve protection against forced prostitution under criminal law (*Gesetz zur Änderung des Strafgesetzbuches - effektivere Bekämpfung von Nachstellungen und bessere Erfassung des Cyberstalkings sowie Verbesserung des strafrechtlichen Schutzes gegen Zwangsprostitution*) of 10 August 2021.<sup>964</sup> The nationwide initiative launched in 2019 “Stronger than violence” provides information on subjects including cyberbullying and cyberstalking and shows how to get help. The expansion of expert advisory agencies planned under the federal funding programme “Ending Violence against Women Together” also benefits victims of digital violence.<sup>965</sup>

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<sup>958</sup> See, for example: [klicksafe.de](https://klicksafe.de); [juuuport.de](https://juuuport.de).

<sup>959</sup> Katzer 2014, p. 153; Kothgassner/Kafka 2018, p. 159.

<sup>960</sup> Katzer 2014, p. 152; cf. ProPK 2020d; Polizei für dich 2020b.

<sup>961</sup> Katzer 2014, p. 107 ff.

<sup>962</sup> The predominant idea of what an offender looks like is that of a middle-aged male paedophile.

<sup>963</sup> Cf. Plank 2020, pp. 25 f. and 31 f.

<sup>964</sup> Federal Law Gazette (*Bundesgesetzblatt*) I 2021, p. 3513. The Act entered into force on 1 October 2021.

<sup>965</sup> Bundesregierung 2020c. Concerning the funding programme and the aforementioned initiative, see section 3.1.1.4 above.

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The police provide leaflets and information material that can be downloaded from the websites [polizei-beratung.de](http://polizei-beratung.de) and [polizei-fuer-dich.de](http://polizei-fuer-dich.de) as well as further advice and contacts, information about how to protect oneself and whom to contact if one becomes a victim.

### 3.3 Crime motivated by right-wing ideology including right-wing terrorism

Right-wing extremism is currently seen as one of the greatest threats to the free democratic basic order in Germany.<sup>966</sup> The bringing to light of the murders by the so-called National Socialist Underground (NSU) in 2011, the murder of Kassel's Regional Commissioner Dr. Walter Lübcke, the antisemitic attack on the Jewish community in Halle (Saale) in 2019 and the xenophobic<sup>967</sup> and racist attack in Hanau in 2020 are some of the most terrible right-wing motivated crimes of recent years. Yet even beyond these serious manifestations of right-wing violence, the past few years have been marked by a surge in the number of crimes motivated by right-wing ideology. In connection with the immigration of refugees since 2015, many crimes were committed against asylum seekers and refugees, against their accommodation and against people perceived by right-wing extremists to be particularly committed to accepting and looking after refugees. At the same time, a change in political and social discourse can be observed. While the majority of the German population continue to welcome social diversity, approximately one third of the population calls the principle of equal rights for all into question, thus doubting one of the principles of the rule of law of the free democratic basic order in Germany.<sup>968</sup> That does not mean that one third of Germans are right-wing extremists, however. Right-wing ideology is also to be found in state institutions, as demonstrated by the racist incidents in the Federal Armed Forces and police that have come to light in recent years.<sup>969</sup> Anti-democratic attitudes in society are a dangerous development for Germany's liberal social order as enshrined in the Basic Law (*Grundgesetz*).<sup>970</sup> At the same time, they are a breeding ground for the radicalisation of individuals, which may ultimately lead to serious and extremely serious crimes.<sup>971</sup> It is often not possible to clarify in detail the individual motives of perpetrators of crimes motivated by right-wing ideology. However, the general political objective of right-wing extremists is known - it is to abolish the social and political system of the Federal Republic of Germany. Thus, in the context of current developments, the legislature and the security authorities are making considerable efforts to counter crime motivated by right-wing ideology in all its forms.

The focus is increasingly being placed on the Internet, both for preventing and combating crime motivated by right-wing ideology.<sup>972</sup> For many citizens, the Internet is the most important source of information for forming a personal opinion. Targeted disinformation, so-called *fake news*, is often difficult to distinguish from information from reliable sources, however.<sup>973</sup> It often features a presentation of simple and comprehensible spurious solutions for complex problems, holding particular population groups responsible, or placing blame, reinforced by unobjective conspiracy nar-

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<sup>966</sup> BMI 2020b; BMJV 2020a; Küpper et al. 2019a, p. 117. For the reasons for focusing on "Crime motivated by right-wing ideology", see subchapter 1.2.

<sup>967</sup> Use of the term "xenophobia" is the subject of sometimes critical discussion. It is argued that the term suggests that the victims are foreign, thereby excluding them and implying that this foreignness is what causes the problem. That corresponds to the perpetrators' perspective, thus obscuring the societal dimension of racism. cf. Bischof 2013, p. 44 f; Bundesregierung 2017, p. 9; Cremer/Cobbinah 2019, p. 651; Neue deutsche Medienmacher e. V. 2013, p. 46.

<sup>968</sup> Küpper et al. 2019b, p. 260.

<sup>969</sup> On this subject, cf. also section 3.1.4 and section 3.3.1.2.

<sup>970</sup> Zick et al. 2019a, p. 18.

<sup>971</sup> Heitmeyer et al. 2020, p. 59; Eckert 2020, p. 255; for a detailed presentation of radicalisation processes, see Ben Slama/Kemmesies 2020, 213–388.

<sup>972</sup> Bundesregierung 2016, p. 24 ff.; CDU Federal Committee on Domestic Policy and Integration, 2012, p. 3; Holger Münch, BKA President, in an interview with the Tagesspiegel newspaper on 19 February 2021.

<sup>973</sup> Rieger et al. 2020a, p. 355 f.

ratives, on certain individuals and secret networks. The hatred this stokes is to be seen on a daily basis in online forums and social media in the form of statements that in themselves frequently constitute criminal offences motivated by right-wing ideology.

It is here that said breeding ground for right-wing radicalisation becomes particularly visible. A central aim of the right-wing scene is to extend this breeding ground by influencing mainstream society. To achieve this objective, certain events and social developments are taken up by the right-wing scene, and reinterpreted and instrumentalised for its own purposes. That applies in particular to acts of violence committed by immigrants that arouse a particularly high level of public interest. Especially after prominent homicides where (German) children or women are among the victims, right-wing extremists use society's concern to emotionalise the debate and to disseminate xenophobic positions and hostility towards asylum-seekers.<sup>974</sup>

The same applies to crisis-like developments associated with great uncertainty and fear among the public. The COVID-19 pandemic, for example, offers many points for right-wing narratives and racist and antisemitic prejudices to latch onto. Accordingly, right-wing extremists increasingly attempted to instrumentalise the movements protesting against the measures to curb the pandemic in order to spread their ideology. The known strategies of the right-wing scene here included exploiting the concerns and fears of sections of the population, spreading distrust towards rule of law institutions, driving the destabilisation of structures within society and justifying politically-motivated crimes. Because of their technological capabilities, social media in particular provide ample opportunity to present such content in an emotional way, to disseminate it with a potentially vast reach and to reach people who previously had no direct contact with the right-wing scene. Taking up these considerations, this subchapter focuses on crimes motivated by antisemitism and hate crimes motivated by right-wing ideology on the Internet.

#### 3.3.1 Overview of crime motivated by right-wing ideology, including right-wing terrorism

The area of crimes motivated by right-wing ideology covers a wide spectrum of different ideological orientations and different manifestations. Despite this heterogeneity, some elements are common to all sub-areas. This section, which precedes an in-depth look at the main topics, gives an overview of the crimes registered by the authorities in the whole of this phenomenon area. Providing an effective response to the security challenges in this area requires not only knowledge about the occurrence, but also sound knowledge of current manifestations and their effect as well as an in-depth understanding of the causes and factors influencing crimes motivated by right-wing ideology.

Of politically-motivated crimes, terrorist crimes - the most aggressive form of right-wing extremism - are the most extreme manifestation. Extremism and terrorism are closely related. Terrorists' actions are based on an extremist world view to which everything is subordinated, including other peoples' rights.<sup>975</sup>

Terrorist attacks are rare in Germany. Due to the great damage caused not only to the direct victims but also to the entire population, combating terrorism is a high priority for the security authorities.

Many definitions of terrorism are to be found in the academic literature, which emphasise different focal areas (for example the feature of organisation or of the systematic, strategic or continued approach).<sup>976</sup> Terrorism is defined in the law in terms of forming terrorist organisations (sections 129a, 129b StGB<sup>977</sup>). "Every crime committed in pursuit of the objectives of a terrorist organisation or in

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<sup>974</sup> BMI 2020c, p. 47 f.

<sup>975</sup> Neubacher 2020, p. 198.

<sup>976</sup> Cf., for example, Kemmesies 2020, p. 39; Eisenberg/Kölbl 2017, p. 923.

<sup>977</sup> Terrorist crimes by foreign organisations without an independent suborganisation in the Federal Republic of Germany are covered by section 129b StGB.

### 3.3 Crime motivated by right-wing ideology including right-wing terrorism

order to uphold it is a terrorist crime (in its own right). In addition, serious politically motivated violent crimes (listed in section 129a StGB) committed according to a plan as part of an ongoing fight, usually by groups organised on the basis of a division of labour and operating under cover, are considered to be terrorism. Furthermore, the offences [preparation of serious violent offence endangering state under] section 89a StGB, [establishment of relations for purpose of committing serious violent offence endangering state under] section 89b StGB, [financing of terrorism under] section 89c StGB and [instructions for committing serious violent offence endangering state under] section 91 StGB are classified as terrorism.

If they are crimes listed in section 129a StGB, terrorist crimes may also be committed by individual offenders if their objectives when committing the offence are to seriously intimidate the population, to unlawfully force public agencies or international organisations to act or refrain from acting or to seriously destabilise or destroy the basic political, constitutional, economic or social structures of the Federation, of a federal state or of an international organisation.”<sup>978</sup>

As radicalisation levels increase, extremists become more willing to use violence. The road from developing radical attitudes to committing terrorist crimes varies greatly from one individual to another, however, and is rarely straightforward.<sup>979</sup> There is no clear-cut transition from violence-oriented right-wing extremism to right-wing terrorism. Crimes that do not fall under the statutory definition of terrorism may also aim “to have a massive psychological effect on the social environment.”<sup>980</sup> Preventing and combating right-wing terrorism therefore require consideration of developments beyond the statutory definition of terrorism and that the causes and effects of right-wing terrorism be viewed in the context of current societal developments.

First, central terms will be clarified and the statistical practice of recording crimes motivated by right-wing ideology and cases of right-wing terrorism presented (section 3.3.1.1). These records comprise an important part of the authorities’ knowledge base for identifying areas for action, putting security policy decisions on an evidence-based footing. A basic understanding of the authorities’ recording methods makes it easier to interpret the occurrence of crime motivated by right-wing ideology and right-wing terrorist crime in Germany presented in section 3.3.1.2. As well as looking at the statistical development of the total occurrence of such crimes since 2006, changes in the severity and type of crimes within the period under observation are discussed. Then, section 3.3.1.3 will discuss explanatory approaches and general prevention possibilities, before section 3.3.1.4 presents relevant state measures to reduce crime motivated by right-wing ideology and right-wing terrorism.

#### 3.3.1.1 Terms and crime statistics records

Two central data bases are available to the authorities for statistical analyses of crime motivated by right-wing ideology. The first is prepared by using the “*Criminal Police Reporting Service for Politically-Motivated Crime*” (KPM-D-PMK) and compiled at the Bundeskriminalamt (BKA). Based on the Survey of the state judicial administrations on investigation proceedings of the public prosecution offices concerning right-wing extremist and xenophobic crimes (*Erhebung der Landesjustizverwaltungen über Ermittlungsverfahren der Staatsanwaltschaften wegen rechtsextremistischer und fremdenfeindlicher Straftaten* - the REX statistics) the second data base is subsequently compiled at federal level by the BfJ to produce subject-specific individual statistics. The recording practice of these two data bases and the definition system of terms such as “crime motivated by right-wing ideology”, “right-wing extremism” and “xenophobia” on which they are based are presented below.

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<sup>978</sup> BKA 2020k.

<sup>979</sup> Ben Slama 2020, p. 318.

<sup>980</sup> Kemmesies 2020, p. 39.



#### Police statistics records of politically motivated crime - right-wing

The cases recorded by the police forces of the federal states and by the BKA are evaluated within the context of a multi-dimensional examination of individual cases, taking different aspects into account. If it is established that the offence was triggered by the offender's political motivation, it is recorded using the KPMD-PMK.<sup>981</sup> It identifies the ideological orientation and the severity of the crime. With regard to ideological orientation, crimes are categorised as being motivated by right-wing ideology if, taking into account the circumstances of the crime and/or the offender's attitude, there is reason to assume that the offences are to be ascribed to a right-wing orientation, without the offence necessarily having to aim to overturn or do away with an element of the free democratic basic order.

A key feature of right-wing ideologies is their assumption that people are unequal or are not of equal value. "Supposedly 'natural' characteristics are deduced on the assumption that there are different human 'races'. Value judgements are made about people, considering them as being of higher or lower value on the basis of their actual ethnicity or that attributed to them or aspects such as their skin colour. This assumed inequality of value of different, supposedly ethnically homogeneous groups is given as the reason for one's own group to have preferential rights and for the other group, considered to be of less value, not to be given rights."<sup>982</sup> "Crimes in which connections with ethnic nationalism, racism, social Darwinism or National Socialism are entirely or partly responsible for the offence having been committed, [...] [are] generally [classified] as right-wing extremist [...]"<sup>983</sup>

"Crimes are classified as belonging to [the overall spectrum of extremism] when there is actual evidence that they are targeted against the free democratic basic order, that is to say, at removing or invalidating one of the following constitutional principles:

- the right of the people to exercise state power in elections and referenda and through special organs of legislative and executive power and of the administration of justice, and to elect representatives of the people in general, direct, free, and equal elections and by secret ballot,
- the binding of legislation to the constitutional order and the binding of executive power and the administration of justice to laws and regulations,
- the right to form and exercise parliamentary opposition,
- the removability of the government and its responsibility to parliament,
- the independence of the courts,
- the exclusion of tyranny and arbitrary rule of any kind,
- the human rights specified in the Basic Law.

Crimes which, through the use of force or corresponding preparatory activities, endanger the interests of the Federal Republic of Germany abroad or are directed against the understanding between countries are also classified as [extremist crime]."<sup>984</sup>

A distinction is also made between different areas, including hate crime and its subcategories - xenophobic and antisemitic crimes. "Hate crime refers to politically motivated crimes where if, taking the circumstances of the offence and/or the offender's attitude into account, there are grounds for believing that they were committed on the basis of the offender's prejudice regarding nationality, ethnicity, skin colour, religious affiliation, social status, physical and/or mental disability or impairment, sex/sexual identity, sexual orientation or physical appearance. [...] These crimes may be directed directly against a person or group of persons, against an institution or object/item which is

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<sup>981</sup> For more detailed information on the overall system for defining politically motivated crime, see BKA 2020a and BMI 2020d.

<sup>982</sup> BKA 2020t.

<sup>983</sup> BKA 2020t.

<sup>984</sup> BKA 2020t.

### 3.3 Crime motivated by right-wing ideology including right-wing terrorism

classified by the offender as belonging to one of the above-mentioned social groups (actual affiliation or that attributed to them), or which is directed against any target in connection with the offender's aforementioned prejudices."<sup>985</sup>

The category of hate crimes includes crimes motivated by antisemitism. These are hate crimes committed on the basis of an anti-Jewish attitude.<sup>986</sup> Hate crimes also include the subcategory of xenophobic crimes. These include cases where crimes are committed on the basis of the victim's actual nationality, ethnicity, skin colour or religious affiliation – or any of these which are attributed to them.<sup>987</sup>

Politically motivated violent crime is a subset of politically motivated crime where the perpetrators display a particular willingness to use violence. According to the nationally standardised catalogue of violent crimes, these include homicides (including attempts), bodily harm, fire-related and explosives crimes, breach of the peace, dangerous intervention in shipping, air, rail and road transport, deprivation of liberty, robbery, extortion, obstruction and sexual crimes. The statutory definition of terrorist crimes is to be found in section 129a StGB "Forming terrorist organisations" and section 129b StGB "Foreign criminal and terrorist organisations". In addition, crimes under sections 89a, 89b, 89c and 91 StGB in particular (serious violent offence endangering state and financing of terrorism) are categorised as terrorist crimes.

As a rule, the records and evaluations within the framework of the police reporting system take place at the beginning of proceedings (so-called entry statistics). They give information on the police view concerning categorisation. However, they do not contain information on changes in the evaluation in the further course of judicial proceedings.<sup>988</sup>

#### Judicial records of criminal proceedings for right-wing extremist and xenophobic crimes

Due to the way in which public prosecution office statistics and criminal court statistics on the administration of justice are recorded, it is not possible to identify crimes motivated by right-wing ideology in the further course of criminal proceedings. The public prosecution office statistics indicate the number of investigation proceedings completed by the public prosecution office in the areas of "offence against the security of the state" and "political criminal matters". However, it is not evident from this what political motives the perpetrator was pursuing. In contrast to the records of the KPMD-PMK, it is thus not possible to distinguish between crime motivated by left-wing ideology, crime motivated by right-wing ideology, and other areas of the phenomenon of politically motivated crime.<sup>989</sup>

When fixing the penalty, racist, xenophobic, antisemitic or other motives evidencing contempt for humanity under section 46 (2) StGB may be taken into consideration as aggravating circumstances.<sup>990</sup> However, it is not apparent from the data sources available how often and in what way

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<sup>985</sup> BKA 2020t.

<sup>986</sup> The definition of "antisemitism" can be found in section 3.3.3.

<sup>987</sup> BKA 2020t.

<sup>988</sup> On perception, evaluation and filtering in the area of social control in the criminal justice system, see section 2.1.2 and the 2nd PRC 2006, p. 13 f.

<sup>989</sup> Also in terms of criminal sanctions, it is impossible to identify from the criminal prosecution statistics which convictions involved a right-wing motive contributing to the formation of the judgment. The criminal prosecution statistics allow court adjudications and convictions to be differentiated according to the criminal offence for which they were pronounced (for example, bodily harm). However, they do not provide any information as to whether sentencing took aspects such as the offender's motive and objectives into account, and if so, which such aspects were taken into account. Thus, it is not apparent from the data sources available how frequently and in what way aggravating circumstances deriving from the offender's political attitudes played a role in the conviction.

<sup>990</sup> The racist, xenophobic or other motives evidencing contempt for humanity were explicitly included in the text of section 46 (2) StGB in 2015 by means of the Act of 12 June 2015 to implement recommendations of the NSU Committee of Enquiry of the German Bundestag (*Gesetz vom 12.06.2015 zur Umsetzung von Empfehlungen des NSU-Untersuchungsausschusses des Deutschen Bundestags*) (Federal Law Gazette (*Bundesgesetzblatt*) I 2015, p. 925); the attribute "antisemitic" was included in 2021 with the entry into force of the Act of 30 March 2021 to combat right-wing extremism and hate crime (*Gesetz vom 30.03.2021 zur Bekämpfung des Rechtsextremismus und der Hasskriminalität*) (Federal Law Gazette (*Bundesgesetzblatt*) I 2021, p. 441).

### 3.3 Crime motivated by right-wing ideology including right-wing terrorism

such circumstances are weighted as aggravating circumstances in judicial practice. The criminal prosecution statistics allow a detailed differentiation of court adjudications and convictions to be made according to the criminal offence for which they are pronounced. However, they contain no information as to whether and which aspects of sentencing contained in section 46 (2) StGB, such as the offender's motivation and objectives, have been taken into consideration in the judgment. Indications of the motive can only be derived from the criminal prosecution statistics if these are reflected in the definition of the criminal offence in the text of the law.<sup>991</sup>

On the part of the judiciary, however, the REX statistics do provide a record of investigation proceedings by the public prosecution offices into crimes motivated by right-wing ideology. Since this data base was introduced, the collection methods have been continually improved and were significantly revised in the reporting year 2013. Since then, there has been a nationally standardised and reliable data basis. It covers offences under sections 86, 86a, 125, 125a, 130, 131, 211, 212, 223 to 231, 340, 306 to 306f StGB and other offences where, taking into account the circumstances of the crime and/or the offender's attitude, there is reason to assume that the offender is to be categorised as having a right-wing extremist or xenophobic attitude.<sup>992</sup> Since the definitions of the concepts "right-wing extremist", "xenophobic" and "antisemitic" are based on the definitions used for the KPMD-PMK statistics, the two sets of data are comparable in principle.<sup>993</sup>

As already explained,<sup>994</sup> the data bases presented here only depict the area of crime that is recorded in the crime statistics. Thus, only crimes known to the authorities are recorded and only those where the offender's political motivation was also recognised and categorised accordingly. In order to be able to make statements on the "actual crime situation", it is essential to add other information, particularly "dark field" studies. For decisions on security policy and police strategy, knowledge from police and judicial records is supplemented by research findings and information from civil society organisations. The case numbers recorded there are often higher than those recorded by the police. One of the reasons for this is that they are based on wider definitions and classification rules. In evaluating a crime, a definition of the offence, the motivation for the offence and the basic ideological character of the suspect or defendant may be taken into consideration. In the case of civil-society actors, the offender's biography (for example, previous politically motivated crimes) and fundamental political attitude, or the victim's perception, may also be included in the evaluation. As a result, the statistical presentations of civil-society actors sometimes include facts that do not meet the statutory criteria for a criminal offence.

#### 3.3.1.2 Forms and development

Overall, the right-wing extremist scene in Germany is heterogeneous. It is characterised by various (including subcultural) tendencies, which differ from one another as regards their organisational form, political objectives and preferred means of achieving these objectives.<sup>995</sup> Accordingly, the crimes categorised in the statistics as being part of the phenomenon area of right-wing politically motivated crime also differ. In relation to the severity of offences, the cases on record range from

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<sup>991</sup> See also: Strafverfolgungsstatistik 2019, p. 10.

<sup>992</sup> In future, beyond the existing statistics available, there will also be judicial statistics on hate crimes, allowing a differentiation by motive categories which is also used in the police statistics on politically motivated crime concerning hate crime.

<sup>993</sup> Discrepancies between the two data sources arise mainly because police cases (recorded by the Criminal Police Reporting Service for Politically-Motivated Crime, KPMD-PMK) cannot be equated with investigation proceedings conducted by the public prosecution office (REX statistics). Moreover, cases may be reported directly to the public prosecution office. As a rule, the police do not become aware of these cases. Re-evaluations or other interpretations in terms of definitions may also lead to different categorisations by the Criminal Police Registration Service and public prosecution offices.

<sup>994</sup> Subchapter 2.1.

<sup>995</sup> For an overview of organised right-wing populism and right-wing extremism in Germany, see Backes/Nattke 2020.

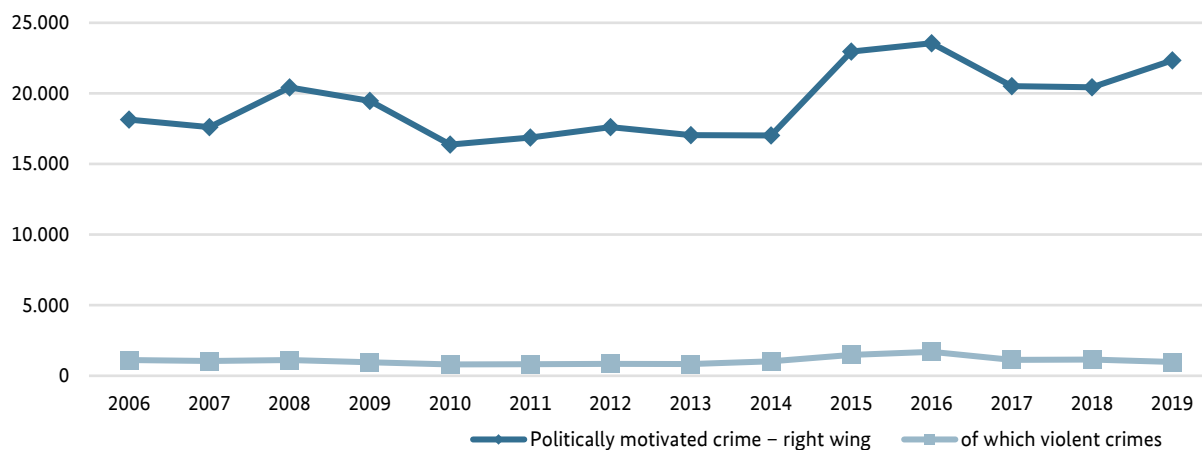
### 3.3 Crime motivated by right-wing ideology including right-wing terrorism

damage to property and propaganda offences<sup>996</sup> to politically motivated violent crime<sup>997</sup> and right-wing motivated terrorism.<sup>998</sup>

#### Cases of politically motivated crime recorded in the police statistics - right-wing

Figure 29 presents all crimes recorded between 2006 and 2019<sup>999</sup> categorised as being politically motivated crime (right-wing) in accordance with the definition system used by the KPMD-PMK.

**Figure 29: Occurrence of politically motivated crimes - right-wing - 2006 to 2019**



Offences/year	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Politically motivated crime - right-wing	18142	17607	20422	19468	16375	16873	17616	17042	17020	22960	23555	20520	20431	22342
of which violent crimes	1115	1054	1113	959	806	828	842	837	1029	1485	1698	1130	1156	986

Source: Bundeskriminalamt (BKA).

The total number of registered cases of right-wing politically motivated crime in 2006 was 18 142, the highest level since the introduction of the KPMD-PMK in 2001.<sup>1000</sup> Following a slight decline in the following year, 20 422 cases were registered in 2008, a significant increase in the number of registered criminal offences. In 2009 and 2010, case numbers saw another decline, after which in the years until 2014 they remained at approximately the same level, between 16 375 (2010) and 17 616 criminal offences (2012). 22 960 cases of crime motivated by right-wing ideology were registered in 2015, a significant increase of nearly 35%. This increase continued in 2016, when 23 555 cases of politically motivated right-wing crime were registered, the highest ever level on record. While the total number of crimes was somewhat lower in the following years - 20 520 cases in 2017 and 20 431 cases in 2018 - it was still very high overall. Since 2019, there has once again been an increase in crimes motivated by right-wing ideology, with 22 342 cases registered.

<sup>996</sup> Dissemination of propaganda material or use of symbols of unconstitutional organisations under sections 86, 86a StGB.

<sup>997</sup> According to the nationally standardised catalogue of violent crimes, these include homicides (including attempts), bodily harm, fire-related and explosives crimes, breach of the peace, dangerous intervention in shipping, air, rail and road transport, deprivation of liberty, robbery, extortion, obstruction and sexual crimes.

<sup>998</sup> The statutory definition of terrorist crimes is to be found in section 129a StGB “Forming terrorist organisations” and section 129b StGB “Foreign criminal and terrorist organisations”. Offences under sections 89a, 89b, 89c and 91 StGB (serious violent offence endangering state and financing of terrorism) are also categorised as terrorism.

<sup>999</sup> Cut-off date 31 January 2020. For reasons of comparability, the data sources used in this PRC mainly cover the period up to and including the reporting year 2019 (cf. subchapter 1.3). For the statistics on politically motivated crime in 2020, see BMI/BKA 2021.

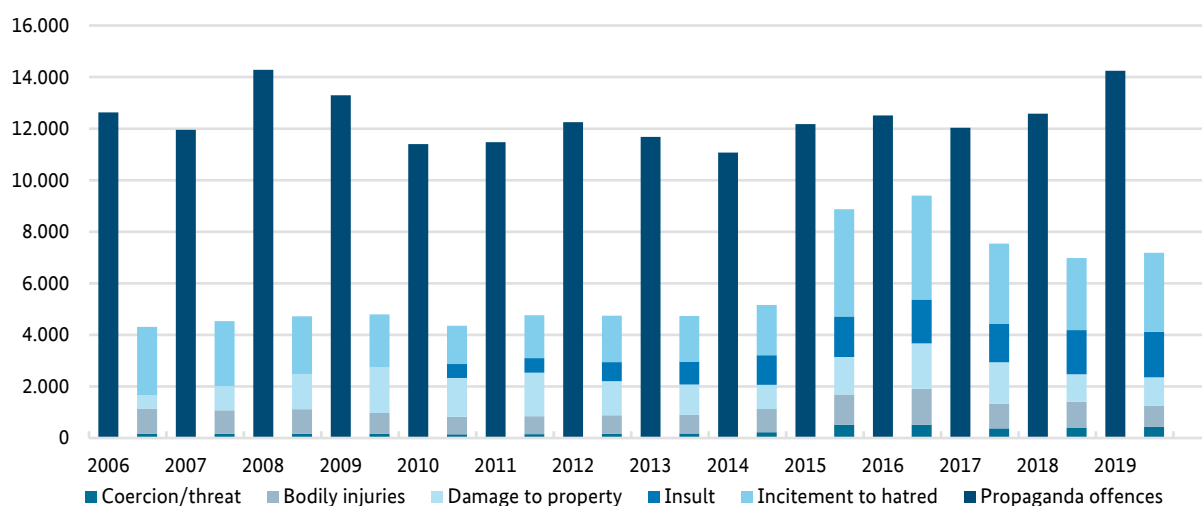
<sup>1000</sup> For the development of crime motivated by right-wing ideology between 2001 and 2006, see the 2nd PRC 2006, p. 150 f.

### 3.3 Crime motivated by right-wing ideology including right-wing terrorism

The sharp increase in politically motivated crime - right-wing - in 2015 can be ascribed to right-wing extremist reactions to the influx of refugees to Germany at that time. As well as criminal incidents recorded in the context of setting up accommodation for asylum applicants, many criminal offences were also committed against refugees and asylum applicants outside such accommodation. In parallel with the overall incidence of crimes motivated by right-wing ideology, the share of violent crimes recorded within this phenomenon area also increased during this period. In 2016, 1698 politically motivated violent crimes (right-wing) were registered, the highest level since records began. Approximately half that number, 837 cases, had been recorded three years previously. At the same time, there was an increase in online hostilities towards public officials and holders of elected public office, members of aid organisations and their supporters, and also towards other public and civil society figures who advocated for taking in refugees.

Figure 30 shows the most frequent categories of politically motivated crime - right-wing - between 2006 and 2019.

**Figure 30: Offence categories of politically motivated crime - right-wing - 2006–2019**



Offence categories/ year	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Propaganda offences	12 629	11 954	14 283	13 295	11 401	11 475	12 250	11 680	11 071	12 175	12 512	12 032	12 582	14 247
Incitement to hatred	2 654	2 520	2 238	2 042	1 485	1 664	1 796	1 770	1 951	4 159	4 029	3 116	2 794	3 062
Insult					540	565	742	889	1 149	1 569	1 706	1 479	1 711	1 770
Damage to property	514	935	1 365	1 784	1 512	1 685	1 319	1 171	936	1 451	1 760	1 604	1 070	1 099
Bodily injury	976	914	955	800	672	699	720	730	900	1 177	1 393	961	1 000	828
Coercion/threat	169	164	165	170	147	149	166	172	224	515	516	376	404	429

Source: Bundeskriminalamt.

The most frequent offences in the area of politically motivated crime - right-wing - are dissemination of propaganda material and use of symbols of unconstitutional organisations. These criminal offences, subsumed under the heading *propaganda offences*,<sup>1001</sup> are largely responsible for the increase in the number of politically motivated crimes - right-wing - in 2019 (from 12 582 offences in 2018 to 14 247 criminal offences in 2019). In contrast to the developments in 2015, this was not associated with a sharp increase in registered cases of incitement to hatred<sup>1002</sup> or an increase in the number of violent crimes. At the same time, however, there was evidence of a qualitative increase in serious violent crimes and the formation of terrorist groups within the right-wing spectrum, including

<sup>1001</sup> Under sections 86, 86a StGB.

<sup>1002</sup> Under section 130 StGB.

### 3.3 Crime motivated by right-wing ideology including right-wing terrorism

five attempted homicide offences and, taking into account the murder of the Regional Commissioner of Kassel and the attack on a synagogue in Halle, two completed homicide offences with a total of three fatalities.<sup>1003</sup> In the view of the Federal Office for the Protection of the Constitution (*Bundesamt für Verfassungsschutz*), the regular discoveries of collections of weapons with right-wing extremists and the ongoing high proportion of violence-orientated people in the right-wing extremist milieu make it necessary to step up observation.<sup>1004</sup>

When examining the age structure and sex of suspects, it becomes apparent that in 2018 and 2019, approximately half of the suspects were male and over 30 years of age. In 2010, the proportion of this population group among the suspects was approximately 21%. The proportion of 18 to 24-year-old men among the suspects, 40%, was much higher at that time (2010) than in 2018 (15%). This population group, who were aged 18 to 24 in 2010, was particularly frequently represented among the suspects of politically motivated crime - right-wing. Some members of this group are now to be found among the 30+ age group who also make up a large proportion of suspects.<sup>1005</sup>

With regard to specific areas of politically motivated crime - right-wing, an increase in hate crimes of 4.7% was recorded in 2019, from 7153 to 7491 crimes. A majority of these cases were characterised by xenophobia. The number of cases increased by 3.5% on the previous year, from 7064 to 7318. In the area of antisemitically motivated crimes, there was a significant increase of 18.4% in the number of recorded politically motivated crimes - right-wing, from 1603 cases in 2018 to 1898 cases in 2019. In the area of racism, the numbers rose from 1664 cases (2018) to 2003 cases (2019), a rise of 20.4%. When interpreting these figures, it must be taken into consideration that under some circumstances, a criminal offence may be placed in several subcategories, for example, when there was evidence of both antisemitic and xenophobic motives. The attack in Halle (Saale) on 9 October 2019, for example, was categorised as having antisemitic, xenophobic and racist motives. There was an increase in the number of politically motivated criminal offences (right-wing) against public officials and holders of elected public office from 517 cases (2018) to 609 cases (2019).

#### Criminal proceedings for right-wing extremist and xenophobic criminal offences recorded in the judicial statistics

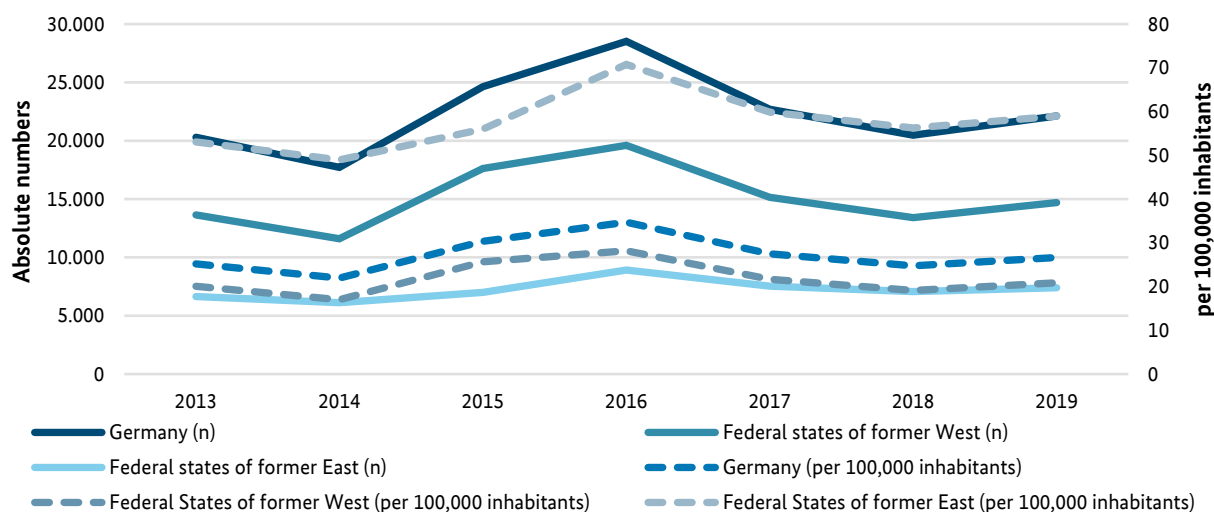
Figure 31 presents the incidence of investigation proceedings by the public prosecution office between 2013 and 2019 for right-wing extremist and xenophobic criminal offences in accordance with the REX statistics. As well as showing the absolute incidence, the incidence per 100 000 inhabitants and the incidence in the federal states of the former West and former East are shown separately.

<sup>1003</sup> BMI 2020c, p. 24. A more detailed account of the incidents is given below.

<sup>1004</sup> *Bundestagsdrucksache* (Bundestag printed paper) 19/16170, p. 6.

<sup>1005</sup> This does not allow the conclusion to be drawn that the same offenders were involved, however.

**Figure 31: Proceedings by the public prosecution offices for right-wing extremist and xenophobic criminal offences between 2013 and 2019**



Source: REX statistics.

In general, the numbers of investigation proceedings for right-wing extremist and xenophobic crimes registered between 2013 and 2019 match developments in the crime statistics of the KPMD-PMK. There was a sharp increase in the number of cases between 2014 and 2016, from 17 719 proceedings in 2014 to 28 522 proceedings in 2016. By 2018, the numbers had fallen to 20 483 proceedings, but they rose again in 2019 to 22 126 proceedings. A comparison of the federal states of the former West and former East shows that in 2019, 14 703 proceedings took place in the federal states of the former West, approximately two thirds of the total number of proceedings. 7398 proceedings, approximately one third of the total number of proceedings, took place in the federal states of the former East. However, it should be noted that the population in the federal states of the former East accounts for approximately 15% of the total population. If the absolute figures are viewed in relation to the number of inhabitants, the incidence in the federal states of the former East in 2019 was approximately 59 proceedings per 100 000 inhabitants, significantly higher than that in the federal states of the former West (approximately 21 proceedings per 100 000 inhabitants).

If the investigation proceedings are broken down according to the individual offences, propaganda offences<sup>1006</sup> account for between 48% (2016) and 67% (2014) of all investigation proceedings. Offences of expression (*Äußerungsdelikte*)<sup>1007</sup> accounted for a further 14% (2013) to 29% (2016), while the proportion of bodily harm and homicide offences was below 4% throughout this period and cases of arson comprised between 0.1% (2019) and 0.5% (2016) of all investigation proceedings. The proportion of proceedings terminated because no offender could be identified<sup>1008</sup> was consistently between 35% and 45% of the investigation proceedings initiated. At least 73% of investigation proceedings against known defendants were also terminated, however, while a conviction was made in approximately 20% of proceedings.

#### Particularly serious cases of crime motivated by right-wing ideology

In recent years, a number of incidents motivated by right-wing ideology were characterised by extremely intense violence and grave consequences for the victims. Among the population, these cases

<sup>1006</sup> Sections 86, 86a StGB.

<sup>1007</sup> Sections 130, 131 StGB.

<sup>1008</sup> Under section 170 (2) StPO.

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triggered widespread sympathy for the victims. Policymakers and the security authorities immediately initiated new measures and adapted existing strategies to prevent future incidents on a similar scale as effectively as possible.<sup>1009</sup>

A key event of recent years was the bringing to light of the so-called NSU in 2011 and the violent crimes of which it was accused. The NSU, and its presumed members Uwe Böhnhardt, Uwe Mundlos and Beate Zschäpe, were accused not only of bomb attacks and a large number of bank robberies, but also of the murder of ten people between 2000 and 2007, including nine people with a migration background and a policewoman. The two offenders Uwe Mundlos and Uwe Böhnhardt escaped arrest on 4 November 2011 by committing suicide. Beate Zschäpe gave herself up to the police in Jena after being on the run for four days. Munich Higher Regional Court sentenced her to life imprisonment on 11 July 2018 for offences including murder, membership of a terrorist organisation and serious arson, and established that her guilt was particularly severe. Four other defendants were sentenced, some of them to long prison sentences, for aiding and abetting murder and other criminal offences.<sup>1010</sup> The judgment is final and binding, except with regard to one defendant.<sup>1011</sup>

The murder of Kassel's Regional Commissioner Dr. Walter Lübcke during the night of 1 to 2 June 2019 was also motivated by right-wing extremism and xenophobia. Two days after the arrest of the suspected offender on 15 June 2019, the Federal Public Prosecutor General took over the investigations.<sup>1012</sup> The main defendant, a member of the right-wing scene, stated that his motivation for the offence was the victim's political commitment in the context of immigration since 2015. On 28 January 2021, he was sentenced to life imprisonment for murder by Frankfurt am Main Higher Regional Court. When announcing the judgment, the judges established the particular severity of his guilt. The co-defendant was sentenced to one year and six months' imprisonment for a violation of the Weapons Act; the sentence was suspended for three years.<sup>1013</sup> The judgment is not yet final and binding; all the parties to the proceedings have lodged an appeal on points of law.

On 9 October 2019, a heavily-armed right-wing extremist attempted to enter the synagogue in the Paulus district of Halle (Saale) by force, where the Jewish congregation had gathered to celebrate the Jewish holiday Yom Kippur. After the failure of his attempt to enter by force, the offender shot two people near the scene of the crime and injured two more during his escape. The offender live streamed his offence online, commenting on his actions and clearly articulating his xenophobic and antisemitic motive for the offence at the beginning of the live stream.<sup>1014</sup> On 21 December 2020, Naumburg Higher Regional Court sentenced the defendant to life imprisonment followed by preventive detention, among other things for murder, attempted murder, bodily harm, extortion with use of force or threat of force, and incitement to hatred.<sup>1015</sup>

On the evening of 19 February 2020, an attack with a xenophobic and racist background took place in the city centre of Hanau in Hesse, during the course of which a total of eleven people, including the German suspect and his mother, died. Five other people were injured, three of them seriously. The locations of the crimes were a number of cafés and shisha bars and the neighbouring areas. Finally, the suspect and his mother were found dead at the residential address they shared. Both had gunshot wounds. The suspect had his own website publishing world conspiracy elements as well as files suggesting a xenophobic and racist motivation. Due to the particular severity of the offence, the Federal Public Prosecutor General initiated investigative proceedings on 20 February 2020 against person(s) unknown on suspicion of participation in murder, attempted murder, dangerous bodily harm and other offences, and commissioned the BKA with further investigations.<sup>1016</sup>

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<sup>1009</sup> On this subject, see section 3.3.1.4 and Bundesregierung 2021a.

<sup>1010</sup> Munich Higher Regional Court, judgment of 11 July 2018, 6 St 3/12.

<sup>1011</sup> Situation as of 19 April 2021.

<sup>1012</sup> BMI 2020c, p. 54 f.

<sup>1013</sup> Frankfurt am Main Higher Regional Court, judgment of 28 January 2021, 5-2 StE 1/20 - 5a - 3/20.

<sup>1014</sup> BMI 2020c, p. 56.

<sup>1015</sup> Naumburg Higher Regional Court, judgment of 21 December 2020, 1 St 1/20.

<sup>1016</sup> Generalbundesanwalt 2020.



#### Networks within the right-wing extremist scene

Mass events such as concerts by right-wing extremist bands and combat sports tournaments are very significant for networking within the right-wing extremist scene. The function of such events is not only to forge a sense of identity; as a rule, speeches and song lyrics are also used to disseminate and reinforce the scene's ideology. These events often also feature information stands of right-wing extremist organisations and parties, serving to coordinate the trade in memorabilia and plan propaganda and attacks on political opponents.<sup>1017</sup> In recent years, the Federal Office for the Protection of the Constitution (*Bundesamt für Verfassungsschutz*) has noted that the organisation and implementation of such mass events has become increasingly professional. Whereas in previous years, the public were usually excluded from such events, organisers in recent years have started to register tournaments and concerts officially and to make them accessible to the public. Thus, as well as functioning as networking meetings, such events are also a source of income for financing right-wing extremist structures and activities.<sup>1018</sup> The largest events of recent years include the right-wing extremist combat sports tournament *Kampf der Nibelungen* held in 2018, attended by 850 people from all over Germany and from other European countries, and the *Tage der nationalen Bewegung* in Themar, also in 2018, which was attended by approximately 2250 people.<sup>1019</sup>

As well as these physical meetings, the importance of online chat groups and fora and the role of social media for networking in the right-wing extremist scene have increased significantly. The scene uses the Internet as a space for giving structure, for recruiting and for mobilisation. It is a medium for making political demands and drawing attention to activities and campaigns.<sup>1020</sup> In this connection, the so-called *Reichsbürgerbewegung*, ("citizens of the Reich" movement), parts of which are right-wing extremist, the essentially similar so-called *Selbstverwalter* (self-administrators) scene, the campaign-orientated *Identitarian movement* and the so-called New Right play a relevant role.<sup>1021</sup> The New Right are an informal but closely interconnected network of right-wing groups, individuals and organisations. They use a variety of strategies to pursue the objective of bringing positions ranging from antiliberal to antidemocratic into society and pushing through political demands.<sup>1022</sup> Essentially, the arguments and slogans communicated by the different groups and movements are the same, resulting in the dissemination of a shared, consistent narrative about the supposedly imminent death of the German people ("the great replacement").<sup>1023</sup>

The use of the Internet also leads to the scene becoming ever-better connected in terms of international networks. Right-wing extremists systematically maintain contact with like-minded people abroad. They influence one another in making strategic plans and support each other, not least financially.<sup>1024</sup> Above all, the right-wing extremist scenes in individual countries are connected across borders by common narratives, such as the "great replacement" referred to above, or a "white genocide", which are used to give transnational justification to violence which is organised and implemented locally.<sup>1025</sup> A comparative international study shows that violence-oriented right-wing extremists from Germany have the strongest international networks, and that they entertain relations with almost all other right-wing extremists.<sup>1026</sup>

At the end of November 2020, the Parliamentary Oversight Panel of the Bundestag submitted its final report on its supervisory task "Findings, contributions and measures of the Federal Armed Forces Counterintelligence Office, Federal Office for the Protection of the Constitution and Federal

<sup>1017</sup> Kreter 2019, p. 171 f.; on the subject of the right-wing rock scene cf. Mischler/Möller 2020.

<sup>1018</sup> Kreter 2019, p. 171 f.

<sup>1019</sup> BMI 2020c, pp. 61–66.

<sup>1020</sup> Rieger et al. 2020a, p. 352.

<sup>1021</sup> Zick 2020, p. 281; on the Identitarian movement, see BMI 2020c, pp. 90–92; on *Reichsbürger* and *Selbstverwalter*, see BMI 2020c, p. 102 ff.

<sup>1022</sup> BfV 2020a, p. 31; on the New Right, see also Pfahl-Traughber 2019a.

<sup>1023</sup> Ibsen et al. 2020, p. 98.

<sup>1024</sup> Ibsen et al. 2020, pp. 25 ff. and 42 ff.

<sup>1025</sup> Ibsen et al. 2020, p. 11 ff.

<sup>1026</sup> Ibsen et al. 2020, p. 6.

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Intelligence Service to clear up possible right-wing extremist networks with connections to the *Federal Armed Forces*.<sup>1027</sup> The investigation indicated that some people with right-wing extremist and also violence-orientated attitudes are employed in the Federal Armed Forces and various federal and state security authorities, despite existing security checks. It also indicates that right-wing extremists in security authorities and the Federal Armed Forces are often in intense contact with one another. Networking takes place online via social media, but also in real life at arms fairs, firearms training and work-related meetings. Many participants in relevant chat forums had a pronounced affinity for weapons, specialist knowledge from their vocational experience and also had access to weapons at work.<sup>1028</sup>

In 2020, the Federal Office for the Protection of the Constitution (*BfV*) carried out a survey of the measures or proceedings taken under staff and labour regulations on suspicion of right-wing extremist attitudes or behaviour patterns among the state and federal security authorities. According to this survey, the security authorities of the *Länder* initiated investigations in a total of 319 cases of suspected right-wing extremism between 1 January 2017 and 31 March 2020. For the same period, the federal security authorities reported 58 suspected cases, and the Military Counterintelligence Service (*Militärischer Abschirmdienst*, MAD) reported 1064 suspected cases within the remit of the Federal Ministry of Defence.<sup>1029</sup> Further investigations were carried out in connection with organisational involvement in 34 cases. Of these people, slightly more than half were either members of a right-wing extremist party or belonged to another right-wing extremist organisation or group. In the case of slightly fewer than half, no connection with a right-wing extremist association was established.<sup>1030</sup>

#### Manifestations and strategies of right-wing terrorism

Right-wing extremist terrorism has occurred repeatedly in different forms and with varying intensity ever since the Federal Republic of Germany was established. In recent years, the neo-Nazi scene in particular, with its affinity for violence, has been identified by the security authorities as having right-wing terrorist risk potential. The penchant of members of this scene for procuring weapons and explosives, their ideological appropriation of a warrior ideal and fostering of the notion of an enemy defined by biological determinism can be conducive to the development of terrorist intentions to act. In the reporting period since the 2nd PRC, right-wing extremist terrorism has been influenced on the one hand by perpetrators acting alone, who have few connections within the scene or only a very small group of supporters; on the other hand, small groups frequently emerge which, in terms of their process of radicalisation, were sometimes strongly influenced by online networking and the public debates in social networks.<sup>1031</sup>

In this connection, the immigration debate since 2015 gave fresh impetus to right-wing terrorist ideas. In the wake of what right-wing extremists assumed was broad public approval, this led to a stepping-up of right-wing terrorist efforts. An example of this is the *Oldschool Society* (OSS), a group that planned bomb attacks on accommodation for asylum applicants, which were, however, thwarted before they could be carried out.<sup>1032</sup> In March 2017, four members of the OSS were convicted of founding and being members of a terrorist organisation, of whom two as ringleaders, and sentenced to prison terms of between three and five years.<sup>1033</sup> In October 2019, two other people accused of participating in a terrorist organisation as members were sentenced to prison terms of two years and four months and two years, respectively, the latter being a suspended sentence.<sup>1034</sup> In July 2019, another accused member of the OSS was sentenced to a suspended prison term of one year

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<sup>1027</sup> *Bundestagsdrucksache* (Bundestag printed paper) 19/25180.

<sup>1028</sup> *Bundestagsdrucksache* (Bundestag printed paper) 19/25180, p. 5.

<sup>1029</sup> BfV 2020b, p. 11.

<sup>1030</sup> BfV 2020b, p. 21.

<sup>1031</sup> On the connection between digital hate cultures and right-wing terrorist violence, see Albrecht/Fielitz 2019.

<sup>1032</sup> BMI 2018a, p. 55.

<sup>1033</sup> Munich Higher Regional Court, judgment of 15 March 2017, 8 St 3/15 (2).

<sup>1034</sup> Dresden Higher Regional Court, judgment of 10 October 2019, 4 St 1/17.

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and five months for participation as a member of a terrorist association.<sup>1035</sup> The groups *Revolution Chemnitz* and *Gruppe Freital* also planned or carried out targeted acts of violence against foreigners, political opponents and representatives of the state while the broad public debate on immigration was under way. There was evidence of a significant transition in their approach from aggressive rhetoric to specific plans or actual criminal and violent acts with a terrorist dimension. Eight accused from the *Gruppe Freital* were sentenced to several years' imprisonment in March 2018 for offences including forming a terrorist organisation and membership of a terrorist organisation.<sup>1036</sup> In February 2021, three other members of the *Gruppe Freital* were sentenced to terms of imprisonment, some of which were suspended, for offences including membership of a terrorist organisation. A six-month suspended prison sentence was handed down to another of the accused, for offences including supporting a terrorist organisation.<sup>1037</sup> The eight accused from the *Revolution Chemnitz* group were also sentenced to a number of years in prison for membership and participation in a terrorist organisation, one of them as the group's founder and ringleader.<sup>1038</sup>

In parallel with the developments described above, from the 2010s onwards, there has been an increasing number of individual perpetrators with no major connections to the right-wing extremist scene, who act without or with very limited support from their environment and who were not or were no longer a focus of the security authorities at the time of the crime. In the view of the security authorities, such individuals pose a particular threat. The crimes they commit exhibit an extreme level of violence, the consequences are serious and have a major negative influence on the public's sense of security. At the same time, the security authorities' possibilities for discovering and thwarting planned crimes early on are considerably impeded by the low level of connection to structures known to the authorities.<sup>1039</sup> Both in the case of the attack on the Jewish community in Halle and with regard to the attack in Hanau, this type of right-wing terrorism has relevant characteristics which can be identified.

In another case in connection with right-wing extremist terrorism - which has not yet been concluded - the Federal Public Prosecutor General has, since 26 April 2017, been conducting criminal proceedings against Franco A., a lieutenant in the Federal Armed Forces.<sup>1040</sup> On 4 December 2017, the office of the Federal Public Prosecutor General indicted the then 28-year-old on suspicion of having prepared a serious violent offence endangering the state on the basis of an ethnic-nationalist attitude. He is accused of having registered as an asylum seeker using the fictional identity of a Syrian national. The idea was to use this identity to disguise the attacks he planned as radical Islamist terrorist acts, thereby diverting investigations towards asylum seekers registered in Germany. Franco A. is believed to have planned an attack on the life of high-ranking politicians who - in the view of the accused - had stood out by showing particular commitment to taking in refugees. He had obtained firearms, explosive devices and ammunition to carry out the attacks, some of which had been stolen from Federal Armed Forces stock.<sup>1041</sup> In the course of the investigation proceedings, findings were made concerning a group of so-called preppers. This group was making preparations, in particular for a so-called *Day X*, when they expected the state order to collapse.

Evidence of related right-wing extremist aspirations led to investigations by the Federal Prosecutor General on suspicion of preparations for a serious violent offence endangering the state. As well as security authorities' investigations commissioned by the Federal Public Prosecutor, the Parliamentary Oversight Panel of the Bundestag also investigated this case. In its final report, it said: "The work of the security authorities and the BfV brought to light intelligence on 'right-wing extremist settlement plans' by persons in Mecklenburg-Western Pomerania, intended to take effect in the

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<sup>1035</sup> Dresden Higher Regional Court, judgment of 11 July 2019, 4 St 5/18.

<sup>1036</sup> Dresden Higher Regional Court, judgment of 7 March 2018, 4 St 1/16.

<sup>1037</sup> Dresden Higher Regional Court, judgment of 4 February 2021, 4 St 1/20. Some of the judgments in these second proceedings are not yet final and binding because an appeal on points of law has been lodged.

<sup>1038</sup> Dresden Higher Regional Court, judgment of 24 March 2020, 4 St 3/19.

<sup>1039</sup> Bundesregierung 2013, p. 7.

<sup>1040</sup> Generalbundesanwalt 2017a.

<sup>1041</sup> Generalbundesanwalt 2017b.

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event of the collapse of state structures. A number of persons with a security authority or military background were linked with one another through an initial chat group (“Nordkreuz”).<sup>1042</sup> In addition, insignia of the controversial association “Uniter” were found during a search of Franco A.’s premises.<sup>1043</sup>

There is ongoing discussion in the right-wing extremist scene about suitable strategies and means to achieve their ideological objectives. In keeping with the scene’s general affinity for weapons and violence, the strategy models in circulation include using terrorist methods as an expedient means of achieving political objectives. The authorship of these models, written in English, is often anonymous and their international dissemination usually takes place online. It is difficult to prove the extent to which these theoretical concepts actually serve as orientation for right-wing extremist terrorists in Germany. However, there is no doubt that there are clear parallels between right-wing extremist activities in recent years and various terrorist concepts from the right-wing extremist spectrum.

The methods for the so-called *armed struggle* are of central importance in this connection. The concept of *leaderless resistance*, which has its origins in the United States’ neo-Nazi scene, aims to make it as difficult as possible for the security authorities to combat terrorist efforts by forming independent cells with conspiratorial operations. These groups are not linked organisationally with other groups, are not part of any superordinate hierarchical structure, and determine their methods and level of militancy autonomously.<sup>1044</sup> The concept of *leaderless resistance* envisages an extensive network of such cells acting independently from one another. The decentralised organisation of cells means that the scope of any state measures to thwart terrorist attacks would be limited to the respective cell. The small number of people who would be initiated into the specific terrorist plans would make it difficult for the security authorities to gain intelligence about such plans. The NSU<sup>1045</sup> can be interpreted as being a cell of this kind. While the so-called NSU was not part of an extensive network of different cells, according to current knowledge, its members acted largely without any links to the right-wing extremist scene and thus without superordinate leadership.

The publication series *Eine Bewegung in Waffen* (A movement in arms), which has been circulating in the right-wing extremist scene since late 1992, is one right-wing extremist strategic concept in Germany which has explicitly been put into words. The series includes instructions for carrying out a National Socialist revolution. It divides the right-wing extremist scene into a legal wing, summed up as the parties and their implementing agencies, and an illegal “armed” wing. It is intended that the latter wage a small-scale war in three phases. The methods recommended are sabotage, assassinations, hostage-taking and attacks. The aim is to build a network of well-trained actors and to ensure weapons supplies by procuring firearms, ammunition and explosives.<sup>1046</sup>

The security authorities also face major challenges from *individual perpetrators* in cases meeting the criteria of *lone wolf* or *lone actor terrorism*. This strategic concept, which was also worded by right-wing extremists in the United States, envisages individual perpetrators or micro-cells committing acts of violence, usually largely in isolation and without external support.<sup>1047</sup> However, the academic discourse on this theoretical concept indicates that while there are occasionally individual perpetrators who were socially and politically isolated, such as the Norwegian Anders Breivik, in most cases perpetrators are to be found in groups of politically like-minded people.<sup>1048</sup> Moreover, people who appear to be socially isolated may have connections to a digitally-networked right-wing extremist

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<sup>1042</sup> Bundestagsdrucksache (Bundestag printed paper) 19/25180, p. 3.

<sup>1043</sup> Bundestagsdrucksache (Bundestag printed paper) 19/25180, p. 3.

<sup>1044</sup> Pitcavage 2015, p. 1662.

<sup>1045</sup> For a more detailed presentation, see section 3.3.1.2. Particularly serious cases of .

<sup>1046</sup> Pfahl-Traughber 2017a, p. 218.

<sup>1047</sup> Pfahl-Traughber 2016, p. 15.

<sup>1048</sup> Schuurman et al. 2018, pp. 1191 and 1198; for a view of cases in Germany (although these do not correspond to the official understanding of terrorism), see Puls 2019.

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milieu in online discussion forums and social media.<sup>1049</sup> The extent to which the physical environment or online contacts are involved when planning and implementing the crime varies considerably, however, and is often difficult to understand. In the view of the German security authorities, social integration in the right-wing extremist scene or membership of an organisation is not inconsistent with the lone actor concept.<sup>1050</sup> Thus, the key criterion is that the specific planning and perpetration of the crimes take place largely in isolation, without outside assistance and uninfluenced by hierarchy or structure. The lack of any need to coordinate with other people makes it considerably more difficult for the security authorities to recognise that plans are being made, and to identify people.<sup>1051</sup>

According to current knowledge, the attacks in Halle (Saale) and Hanau were committed by perpetrators who largely corresponded to the concept of the *lone actor*.<sup>1052</sup> In both cases, the preparations and perpetration of the crimes took place without any assistance from other people. There are also parallels with the *lone actor concept* in the Walter Lübcke murder case. The main defendant acted on a largely self-sufficient basis. He was sentenced to life imprisonment for murder in the court of first instance. The co-defendant was acquitted of the accusation of aiding him. All parties lodged an appeal on points of law against the judgment.

#### 3.3.1.3 Explanatory approaches and possibilities for prevention

##### Explanatory approaches

A politically motivated crime involves not only the perpetrator's criminal act, but also the political attitude that motivated it.<sup>1053</sup> The area of right-wing extremist attitudes covers a wide thematic spectrum. While they focus on different topics, they have a common basis in the notion of the inequality of human beings due to their assumption of ethnic or cultural group characteristics.<sup>1054</sup> They also are directed against the idea of a free democratic basic order and are combined with the notion of a homogeneous national community oriented towards excluding purportedly deviant groups.<sup>1055</sup>

Explanations of politically motivated (right-wing) crime focus on *radicalisation processes* in a right-wing extremist context. Extremism is characterised by significant deviation from fundamental legal norms and societal values. The aim is to abolish or replace these norms and value systems. The radicalisation process involves increasing alignment with extremist attitudes and actions.<sup>1056</sup>

According to current knowledge, the development of extremist attitudes and radicalisation processes is due to the "interplay of a number of factors"<sup>1057</sup> at micro, meso and macro level. The micro level includes psychological factors regarding perception and identity and the individual's relationship to their environment. According to interviews with experts, biographical discontinuities, unstable family structures and experiences of loss and discrimination may lead to a search for meaning and the need for concepts and the feeling of belonging to a group.<sup>1058</sup> The meso level relates to the role of the group (homogeneity and community) and ideology (world view).<sup>1059</sup> In this connection, research on extremism points to how group polarisation processes are conducive to crime, and how

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<sup>1049</sup> Albrecht/Fielitz 2019, p. 185.

<sup>1050</sup> The theory of right-wing extremist swarm terrorism provides an explanation of how people without links to an extremist milieu become serious violent offenders. On this subject, see Köhler 2019, 144.

<sup>1051</sup> Bundestagsdrucksache (Bundestag printed paper) 19/16170, p. 14.

<sup>1052</sup> BpB 2020b.

<sup>1053</sup> What "attitudes" are, from a psychological point of view, is described in Eagly/Chaiken 1993, p. 1. How attitudes in turn influence actions is explained in Ajzen 1991, p. 188 f.

<sup>1054</sup> Heitmeyer 1992, 206.

<sup>1055</sup> Salzborn 2018a, p. 25 ff.; Pfahl-Traughber 2019b, p. 29 ff.

<sup>1056</sup> Neubacher 2020, p. 198 f.

<sup>1057</sup> Schröder et al. 2020, p. 400.

<sup>1058</sup> Meier et al. 2020, p. 504 f.; Neubacher 2020, p. 199.

<sup>1059</sup> Meier et al. 2020, p. 506 ff.

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in the context of such processes, groups isolate themselves from relativising influences of the outside world.<sup>1060</sup> Reference is made here to the sense of community, and identification with the group and its objectives and values, culminating in friend/foe classification.<sup>1061</sup> As already shown above, the Internet and music are very important media for amplifying and conveying extremist world views. People tending towards radicalisation feel that when they are engaged in online exchange with like-minded people they are “one of many”, which in turn drives the radicalisation process.<sup>1062</sup> The macro level relates to societal factors such as a poor economic situation, national or international crises and conflicts or social inequality.<sup>1063</sup>

Empirical evidence from a survey of school pupils supported the assumptions of anomie theory that lack of orientation and disorganisation lead to deviant behaviour. According to the survey, there is a significant positive relationship between extremist attitudes and anomie. The pupils in the sample surveyed who felt in a state of anomie showed an increased incidence of right-wing extremist and Islamist attitudes.<sup>1064</sup> There was also evidence that a low level of ability to exercise self-control as defined in the self-control theory was a risk factor for extremist attitudes.<sup>1065</sup> Other scientific findings also indicate that a perceived loss of social norms (anomic attitudes), low level of trust in political and state institutions and a sense of having limited political influence increase a person’s receptivity to *conspiracy narratives*.<sup>1066</sup> A more pronounced conspiracy mindset<sup>1067</sup> also goes hand in hand with greater acceptance of extremist attitudes.<sup>1068</sup>

The more radicalised people are, the more willing they are to commit themselves to implementing their political objectives.<sup>1069</sup> From a certain level of radicalisation upwards, criminal behaviour or the use of violence may also be seen as a legitimate means of achieving objectives.<sup>1070</sup> In the process of radicalisation, political involvement may transform from legal protest to forms that include illegal behaviour and ultimately to extremist use of violence. Radicalisation processes are often seen as a link between ideological attitudes and violent actions, whereby increasing radicalisation may lead to an increase in the perceived legitimacy of violence to achieve an ideological objective.<sup>1071</sup>

Terrorist crimes may result from the advanced radicalisation of offenders. However, radicalisation does not automatically lead to extremism and terrorism.<sup>1072</sup> Also, the underlying complexity is not taken into account by assuming a linear radicalisation process that ultimately leads to the perpetration of terrorist crimes. Particularly with regard to the actual perpetration of the offence, situational factors such as the opportunity to commit a crime or group dynamics appear to be the key influences.<sup>1073</sup> The influences that induce a person to commit terrorist crimes - regardless of their political motivation - may be very different in different individuals.<sup>1074</sup> In right-wing extremism, however, the interplay of radicalisation processes and the general affinity for violence in the scene are of central importance, leading to a high potential for terrorism at the end of the radicalisation process.

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<sup>1060</sup> Della Porta 2013, p. 260.

<sup>1061</sup> Meier et al. 2020, p. 505 ff.; Neubacher 2020, p. 199.

<sup>1062</sup> Höffler et al. 2020; Mischler/Möller 2020.

<sup>1063</sup> Meier et al. 2020, p. 509 ff.

<sup>1064</sup> Among other things, pupils were asked whether they agreed with the following statement: “Today, everything has become so chaotic that one does not know where one stands”, see Schröder et al. 2020, pp. 394 and 400.

<sup>1065</sup> Schröder et al. 2020, p. 400.

<sup>1066</sup> Brenner 2019, p. 389 f.; Douglas et al. 2019, p. 6 ff.

<sup>1067</sup> People display a conspiracy mindset when they agree with conspiracy narratives. This is associated with the perception that the world is shaped “by secretly hatched plans and agreements”, Imhoff 2014, p. 334.

<sup>1068</sup> Baier/Manzoni 2020, p. 83.

<sup>1069</sup> Eckert 2020, p. 215.

<sup>1070</sup> Zick et al. 2019b, p. 46.

<sup>1071</sup> This is the position taken by the so-called conveyor-belt theory of radicalisation, cf. Baran 2005, p. 68; Whine 2009, pp. 17, 33.

<sup>1072</sup> Kemmesies 2020, p. 39.

<sup>1073</sup> Ben Slama 2020, p. 323.

<sup>1074</sup> Ben Slama 2020, pp. 328-330.

#### Possibilities for prevention

Countering the emergence of right-wing extremist views by promoting programmes that strengthen democratic values and the appreciation of diversity as an effective antidote to extremism in society is a well-targeted approach with which to preventively counter crime motivated by right-wing ideology (primary prevention<sup>1075</sup>).<sup>1076</sup> Civic education plays a key role here, although preventing extremist attitudes or extremist behaviour is not its primary objective. Civic education aims to enable individuals to form political opinions by providing access to information and allowing them to process information, to build their sense of self-efficacy and to activate their political commitment.<sup>1077</sup> Civic education is provided from a democratic perspective (i.e. based on human rights, the rule of law and majority decisions combined with the protection of minorities), so that ideally, civic education processes lead to and reinforce pluralist democratic attitudes and behaviour. Civic education devoted explicitly to the subject of right-wing extremism can impart the essence of democracy by reflecting on and discussing undemocratic phenomena. Such reflection may result in an understanding of why certain essential characteristics of democracy may be a useful minimum consensus in a liberal social order. In this way, civic education may also have a preventive effect in terms of the link between a conspiracy mindset and politically extreme attitudes. A propensity to believe conspiracy narratives and resulting extremist attitudes can be countered by providing information on how political systems work, imparting an understanding of social processes and showing possibilities for political participation.<sup>1078</sup>

Prejudice plays a central role in terms of attitudes towards other social groups. Prejudices are false generalisations which, due to their negative connotations, foster an aversion towards other groups.<sup>1079</sup> An established measure in the context of secondary prevention to reduce group-related prejudice is based on the so-called contact hypothesis. This hypothesis states that interaction and contact with group members who were previously the object of negative prejudice contribute to reducing prejudice in the long term.<sup>1080</sup> Promoting relevant opportunities for interaction can therefore be another effective prevention measure.<sup>1081</sup>

Strengthening the competence of people working in the area of preventing right-wing extremism, racism and antisemitism is also useful.<sup>1082</sup> Civic education can place radicalisation processes in a political context, facilitate exchange between actors and encourage reflection on professional attitudes. A perspective that is critical of racism can also foster such reflection. Highlighting the racist attitudes that exist even in mainstream society is essential in this context and civil society actors and also groups of those affected play a central role here.<sup>1083</sup>

Thus, targeted interventions to stop radicalisation processes are often based on the ability of real-life social networks (such as family, friends, teachers, employers) to recognise and stop radicalisation processes. In addition, exchange between different social groups may not only have a preventive effect through reducing prejudice, but also open up homogeneous and isolated networks.

Stopping radicalisation processes by breaking up radicalised support structures is an effective measure for preventing terrorism. Another means of prevention is to identify radicalised right-wing extremists at an early stage in order to be able to thwart terrorist attacks in time. Being in a position to do this requires in-depth knowledge of the right-wing extremist strategy models presented above.<sup>1084</sup>

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<sup>1075</sup> On types of prevention, cf. section 3.1.1.3.

<sup>1076</sup> Bundesregierung 2020d; Kemmesies 2020, p. 35.

<sup>1077</sup> Krüger 2020, p. 701 ff.; Schmitt et al. 2020, p. 33 ff.

<sup>1078</sup> Van Prooijen 2018, p. 436 ff.

<sup>1079</sup> Allport 1979, p. 9.

<sup>1080</sup> Allport 1958, p. 254 f.

<sup>1081</sup> Binder et al. 2009, p. 852 f.

<sup>1082</sup> Krüger 2020, p. 704.

<sup>1083</sup> Kemmesies 2020, p. 42.

<sup>1084</sup> Section 3.3.1.2.

#### 3.3.1.4 State measures and state-funded measures

Fighting crime motivated by right-wing ideology with a view to maintaining the rule of law and protecting citizens has been an ongoing task of the Federal Government since the foundation of the Federal Republic of Germany. In recent years, landmark measures have been decided upon and decisions taken that will have a long-term effect, based on the understanding of the causes of crime motivated by right-wing ideology and possibilities for its prevention described above. The catalogue of measures of the Cabinet Committee for the fight against racism and right-wing extremism decided upon by the Federal Cabinet on 2 December 2020 contains approximately 90 separate measures. Using these measures, the aim is to better understand the causes of right-wing extremism, racism and antisemitism, to react with strength as a state to oppose the actions of right-wing extremists and to strengthen the promotion of democratic civil society. The catalogue of measures includes many amendments and innovations intended to contribute to improved prevention of radicalisation, the promotion of democracy (for example by means of civic education), improved victim protection and more efficient prosecution.<sup>1085</sup> Among other things, an amendment to the Criminal Code was initiated with a view to fighting the dissemination of data on political opponents (so-called lists of enemies)<sup>1086</sup> and extremism in the civil service, and particularly the Federal Armed Forces, by amending disciplinary measures and conducting research on extremism in the Federal Armed Forces. In addition, there is to be intensified cooperation of the Federal Office for the Military Counterintelligence Service (BAMAD) with the BKA and the BfV through closer networking in counterintelligence on extremism, and strengthening of the Joint Centre for Countering Right-Wing Extremism and Terrorism (*Gemeinsames Extremismus- und Terrorismusabwehrzentrum zur Bekämpfung des Rechtsextremismus/-terrorismus*, GETZ-R).<sup>1087</sup> Investments of more than a billion euro from the federal budget have been earmarked for 2021 to 2024 for implementing the catalogue of measures.<sup>1088</sup>

In 2001, the “Directive on the payment of hardship payments from the federal budget for victims of right-wing terrorist offences” created the possibility for victims of right-wing crimes to receive a financial hardship payment. This directive applies to all crimes from 1 January 1999. In 2010, the hardship payments were extended to the victims of all extremist attacks. Since 2002, victims of terrorist crimes have also been able to receive hardship payments under the “Directive on the payment of hardship payments from the federal budget for victims of terrorist crimes”. Under the new “Directive on the payment of support payments from the federal budget for persons economically affected by terrorist and extremist crimes”, self-employed persons, small enterprises and, in individual cases organisations, too, can receive support payments to compensate for material damage if their business premises were the scene of an attack in which people were killed or could have been killed after 1 January 2018. The BfJ is responsible for approving the hardship payments. Its tasks also include recovering the amounts disbursed as hardship payments from offenders. The increase in right-wing extremist attacks is also reflected in the amounts of applications received in this area. While in 2015, 107 applications were received from victims of right-wing extremist attacks, the numbers of applications received in the last three years have more than doubled in comparison with that number. A total of 1088 victims of right-wing extremist attacks applied for the approval of a hardship payment in the period from 2015 to 2020.<sup>1089</sup>

Federal funding programmes in the field of the prevention of extremism have also developed continuously in recent years. The BMFSFJ has been funding various programmes for the prevention of

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<sup>1085</sup> Bundesregierung 2021a.

<sup>1086</sup> On 24 June 2021, a bill to this effect was adopted by the Bundestag in the version amended by the legal committee (Bundestagsdrucksache (Bundestag printed paper) 19/30943); the Act entered into force on 22 September 2021, cf. Federal Law Gazette (*Bundesgesetzblatt*) I 2021, p. 4250.

<sup>1087</sup> Bundesregierung 2021a, pp. 51 and 54.

<sup>1088</sup> Bundesregierung 2021a, p. 5.

<sup>1089</sup> Information provided by the BfJ in 2020.



### 3.3 Crime motivated by right-wing ideology including right-wing terrorism

extremism for many years.<sup>1090</sup> The Federal Government's federal programme *Live Democracy! - Active against Right-wing Extremism, Violence and Hate*,<sup>1091</sup> which was initiated in 2014, refocused government efforts for the prevention of extremism in Germany. *Live Democracy!* funds model projects, initiatives and networking opportunities at municipal, regional and supraregional level. The three key objectives of the current funding period are to promote democracy and diversity (areas of activity: *Promoting democracy* and *Shaping diversity*) and to prevent extremism in Germany (area of activity: *Preventing extremism*). In principle, *Live Democracy!* takes a holistic approach that includes all forms of extremism. One focal area of the federal programme is on preventing right-wing extremism, however.

A central endeavour of the federal programme is to create sustainable structures and promote networking. Approximately 300 so-called *Partnerships for Democracy* have been established at municipal level. Within this framework, actors from civil society and municipal politics and administration come together to develop joint, local, needs-oriented strategies for preventing extremism. During the first funding period, so-called Federal State Democracy Centres (*Landes-Demokratiezentren*) were established at state level. The work for which they are responsible includes networking and coordinating partnerships for democracy and the local activities of counselling and prevention services. Specifically, these activities include mobile counselling and victims' counselling as well as disengagement and renunciation counselling services. At federal level, *Live Democracy!* supports networking and knowledge transfer among the many non-state actors and NGOs involved in preventing extremism by setting up so-called Competence Centres and Competence Networks (*Kompetenzzentren und -netzwerke*). Such Competence Centres and Competence Networks have been set up in all three of the programme's areas of activity.

Another objective of *Live Democracy!* is to support innovative approaches to preventing extremism and promoting democracy by carrying out pilot projects. To this end, the federal programme is funding some 150 model projects in the three areas of activity *Promoting democracy*, *Shaping diversity* and *Preventing extremism*. First and foremost, the area of *Preventing extremism* includes phenomenon-specific secondary and tertiary prevention projects. The objective of the projects in this area is to counter specific radicalisation processes. As well as preventing Islamist and left-wing extremism, preventing right-wing extremism is a central pillar of their work.<sup>1092</sup> Scientific monitoring and an evaluation of *Live Democracy!* are being conducted by the German Youth Institute (DJI).

The federal programme financed by the BMI and implemented by the Federal Agency for Civic Education (*Bundeszentrale für politische Bildung*, BpB), *Cohesion through participation* (*Zusammenhalt durch Teilhabe*), "promotes projects for democratic participation and against extremism in rural and structurally weak regions. The aim [...] is to [...] [strengthen] associations and coalitions devoted to establishing democratic association structures and to dealing with discriminatory and anti-democratic incidents within associations. The focus is on training voluntary democracy consultants [...] who are capable of identifying and managing conflicts in connection with group-related hatred. The projects are based primarily on potential in amateur sport, in voluntary fire brigades, voluntary divisions of the Federal Agency for Technical Relief (*Technisches Hilfswerk*, THW), and in welfare and other civil society organisations. Projects also take the approach of working within local community structures and, together with other actors, developing regional networks to deal with anti-democratic incidents.

Another pillar [...] [of *Cohesion through participation*] is the implementation of model projects in the area of strengthening digitalisation and developing associations, taking into special consideration

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<sup>1090</sup> As planned, the federal programme "Youth for tolerance and democracy" was discontinued in 2006 after a duration of six years and was replaced by the federal programme "Diversity does good - youth for diversity, tolerance and democracy" (2007-2011), which in turn was incorporated into the follow-up programme "Promoting tolerance - strengthening competence" (2011-2014).

<sup>1091</sup> All information on the federal programme *Live Democracy!* is available at [demokratie-leben.de](http://demokratie-leben.de).

<sup>1092</sup> *Live Democracy!* is currently funding 47 model projects in the area of *Preventing extremism*, of which 14 are addressing the specific phenomenon of right-wing extremism, BMFSFJ 2020b.

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the strengthening of participation in democratic learning. Clubs and associations are to develop innovative concepts, methods and instruments in this area, enabling these new competencies to be firmly established within the organisational structures among full-time staff and volunteers. [...] *Cohesion through participation* is a prevention programme; it counters extremist tendencies and those hostile to the constitutional order.”<sup>1093</sup>

As well as government measures, many civil-society projects and initiatives help to prevent right-wing extremism. Governmental and non-governmental initiatives usefully complement one another insofar as government efforts focus on forming networks between actors and existing projects, and establishing long-term structures as described above. Civil-society initiatives, on the other hand, primarily include project work, such as counselling services, knowledge transfer schemes, advanced professional training as well as deradicalisation and denunciation work.<sup>1094</sup>

The police authorities of the federal states and the Federation also operate in the context of the joint *Police Crime Prevention Programme of the States and the Federation* (ProPK) with the aim of reducing crime motivated by right-wing ideology by means of prevention work. The measures are targeted at prevention officers and police officers, multipliers and education professionals.<sup>1095</sup> However, services for the general public and special information services for right-wing leaning juveniles and young adults and their parents are also available online.<sup>1096</sup>

As well as preventive approaches, the government measures include the use of repressive means. As well as consistently prosecuting individual offences, these include efforts to break up right-wing extremist structures “the purpose or activities of which run counter to penal laws or are directed against the constitutional order or the idea of international understanding.”<sup>1097</sup> As part of these efforts, bans on organisations which have come to the attention of the authorities are considered on an ongoing basis. The latest successes in 2020, for example, were the bans imposed by the BMI on the right-wing extremist groups *Combat 18*, *Sturmbrigade 44*<sup>1098</sup> and *Nordadler*, as well as on the *Reichsbürger* group *Geeinte deutsche Völker und Stämme*.<sup>1099</sup>

The repressive measures are based on analyses of the available information collected by means of inter-agency cooperation and through exchange at international level.<sup>1100</sup> The collection system of the KPMD-PMK is being developed on an ongoing basis with the involvement of scientific expertise, and the REX statistics are also undergoing constant optimisation. The knowledge base of evidence-based security policy in the field of extremism and terrorism will be extended in future, for example by the *Monitoring System and Transfer Platform on Radicalisation* (MOTRA) project.<sup>1101</sup> By means of extensively monitoring radicalisation events in parts of the population, a broad network of university and non-university research institutions will identify potential dangers in this area and extend the possibilities for forecasting future changes. The basis of this is a number of different databases, which, taken together, cover a broad spectrum of relevant themes.

Following the discovery of the so-called NSU, the cross-agency coordination of measures relevant to security for fighting right-wing extremist terrorism was intensified. One of the most significant institutionalisations of this closer cooperation took place in 2012 through the establishment of the

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<sup>1093</sup> BpB 2021; the programme is being scientifically monitored and evaluated by the Association for Social Scientific Analysis, Advice and Evaluation (*Gesellschaft für sozialwissenschaftliche Analyse, Beratung und Evaluation*, proVal).

<sup>1094</sup> Gruber/Lützing 2017, p. 21.

<sup>1095</sup> Comprehensive information on crime prevention and victim protection is available on the *polizei-beratung.de* website under the heading “*Rechtsextremismus*” (right-wing extremism).

<sup>1096</sup> The online portals *polizeifürdich.de* and *aktion-tu-was.de* are targeted at the general public and have a particular focus on children, juveniles and young adults, encouraging them to show, among other things, more civic courage against extremism.

<sup>1097</sup> Article 9 (2) of the Basic Law (*Grundgesetz*).

<sup>1098</sup> The group also operated under the name “*Wolfsbrigade 44*” and other similar names.

<sup>1099</sup> Other government measures are discussed within the focal themes of “Online hate crimes” (section 3.3.2.3) and “Antisemitism” (section 3.3.3.3).

<sup>1100</sup> They include, for example, the Joint Centre for Countering Right-Wing Extremism and Terrorism, in which the security authorities, mainly from the police and intelligence services, exchange information on current developments in the different phenomenon areas in situation briefings and working groups, or EUROPOL’s cross-border cooperation.

<sup>1101</sup> For more details, see *motra.info*.

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*Joint Centre for Countering Extremism and Terrorism (Gemeinsames Extremismus- und Terrorismusabwehrzentrum, GETZ)*. The Centre is a communications platform on which 42 security authorities of the *Länder*, the Federation and the EU, mainly from the police and the intelligence services, exchange information on current developments in the different phenomenon areas in situation briefings and working groups. Within this structure, individual areas were set up to deal with different phenomenon areas. The GETZ-R is the central agency for the phenomenon areas of right-wing extremism/terrorism, which also covers the areas of anti-state *Reichsbürger* and *Selbstverwalter*. The main objectives of the GETZ-R are early detection of possible dangers and support for the participating agencies in managing possible dangerous situations/dangers and other tasks in fighting right-wing extremism and right-wing terrorism.

There are a total of nine working groups at the GETZ-R. These are divided into the thematic clusters of analysis, bans of organisations, case analysis, evaluation of dangers, operative information exchange, phenomenon-related situation, antisemitism, risk management and persons of interest. The working group on persons of interest (*AG Personenpotenziale*) collects and categorises information on right-wing extremist persons of interest. This is used as a basis to identify structures and networks as well as potential offenders. A risk assessment instrument, “right-RADAR” (*RADAR-rechts*), is currently under development with the aim of making it possible to evaluate the risk of right-wing extremists committing serious violent crimes on a sounder scientific basis in the future. The system will enable individual threat assessments to be made. It is planned that it will be available to the federal and state police from spring 2022.

Overall, the GETZ-R makes a crucial contribution to the targeted prevention of right-wing extremist terrorism and its consistent prosecution. The many successful investigations in recent years, most recently into the right-wing terrorist group *Revolution Chemnitz*, the group *Sturmbrigade 44*<sup>1102</sup> and the Nazi group *National Socialist Knights of the Ku Klux Klan*, are evidence of successful supranational and inter-agency cooperation.<sup>1103</sup>

At the same time, however, the right-wing terrorist incidents in recent years are evidence of the current challenges confronting the security authorities. Every case of right-wing extremist terrorism is taken as an opportunity to critically examine previous measures, the use of means available, and the existing legal provisions.

Following the murder of Dr. Walter Lübcke, plans for restructuring the fight against violence-oriented right-wing extremism have been implemented in a number of areas of activity of the BfV and the BKA. As well as organisational changes, this also involved a considerable increase in staffing levels for the area of right-wing extremism. The case of the suspected right-wing terrorist Franco A. also led to a critical evaluation of existing circumstances. Among other things, this culminated in extensive recommendations following the conclusion of the inquiries by the Parliamentary Oversight Panel.<sup>1104</sup> A ministerial working group within the Federal Ministry of Defence (*Bundesministerium der Verteidigung*, BMVg) also drew up a catalogue of measures in a structural analysis of the Special Operations Forces Command (*Kommando Spezialkräfte*, KSK) to prevent right-wing extremist tendencies within the Federal Armed Forces.<sup>1105</sup>

At international level, German security authorities are involved in the cross-border fight against terrorism through a number of initiatives and institutions, such as Europol’s *European Counter Terrorism Centre* (ECTC). Financial support for theme-related research projects using EU budget funds is helping to extend the scientific evidence base.<sup>1106</sup>

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<sup>1102</sup> The group uses a number of names including “*Wolfsbrigade 44*”.

<sup>1103</sup> BMI 2020c, p. 57 f.

<sup>1104</sup> Bundestagsdrucksache (Bundestag printed paper) 19/25180, p. 8 ff; on the Franco A. case, cf. section 3.3.1.2 above: Manifestations and strategies of right-wing terrorism.

<sup>1105</sup> BMVg 2020; cf. section 3.3.1.2. Networks within the right-wing extremist scene.

<sup>1106</sup> An example of this is RAN (*Radicalisation Awareness Network*): Civipol 2020, in which German security authorities are also involved, and the *DARE project* (*Database and Assessment of Risks of violent Extremists*), which collected data to improve the information value of risk factors and the prevention of terrorism. On this subject, see Universität Bielefeld 2019.

### 3.3.2 Focus on online hate crimes

The Internet has become an inherent part of many areas of everyday life. The increasing importance of the Internet means that information published online can have a considerable influence on shaping the opinions of many people. In addition, social media open up a virtual space where real interpersonal interaction takes place. As in real life, communication in social media, online forums and chat groups is subject to certain social norms, is guided by shared values, and in turn influences the way in which people conduct their interpersonal relations. The security authorities have observed a change in this area in recent years. The tone is sharper, and there is more verbal aggression and intimidation. The supposed anonymity of the Internet leads some users to treat others with disrespect. However, insults, threats of violence and verbal attacks transmitted online attack the personality rights of those affected no less than similar statements made offline. Moreover, publicly shared attacks of this kind may lead to users not expressing their uninfluenced opinions for fear of the reactions. The ultimate result is that the free expression of opinion is limited and there is a shift in the perceptible climate of opinion.<sup>1107</sup> In addition, a large number of anonymous threat letters are sent by e-mail to holders of elected public office, members of parliament, journalists, people who are socially or politically active and public authorities. These are often worrying and frightening for the victims. Being able to engage in a free discursive exchange is an essential cornerstone of our democratic society. Thus, discriminatory or hateful statements not only damage individuals, but limit the diversity of opinion in our democracy.<sup>1108</sup>

So-called hateful posts are the most frequent form of online hate crime. A *post* is a comment made accessible online to multiple users at one time. Politically motivated hateful posts are directed against a person or group of people or an institution on account of their actual membership of a particular social group – or that attributed to them. The victim’s membership of a group may relate to their nationality, ethnicity, skin colour, religious affiliation, beliefs, social status, disability or impairment, gender, sexual identity, sexual orientation or external appearance. However, such posts may also be directed against the victim’s actual political standpoint, attitudes or commitment – or those attributed to them. In the case of hateful posts which are mainly motivated by prejudice towards the victim’s group, the writer aims to damage the whole group.<sup>1109</sup> Such group-related derogatory remarks and the mentality of inequality on which they are based are a key feature of right-wing extremist ideology.<sup>1110</sup>

Hateful posts do not constitute a crime per se and may be below the threshold for prosecution. However, if they overstep the boundary to criminality, the criminal offence of insult (section 185 StGB) or incitement to hatred (section 130 StGB) may be fulfilled. However, hateful posts may fulfil the requirements of the criminal offence of coercion (section 240 StGB), threatening commission of serious criminal offence (section 241 StGB), propaganda offences (sections 86, 86a StGB), public incitement to commit offences (section 111 StGB), depictions of violence (section 131 StGB), and rewarding and approval of offences (section 140 StGB). From February 2022, large social networks must not only remove certain types of illegal content, but also report them to the BKA, so that it can facilitate prosecution by the competent prosecution authorities. The Central Reporting Unit for Criminal Content on the Internet (*Zentrale Meldestelle für strafbare Inhalte im Internet, ZMI*) was set up at the BKA for this purpose.

#### 3.3.2.1 Forms and development

Official data sources provide only a limited basis for judging the forms and development of internet hate crime motivated by right-wing ideology. Most incidents do not come to the attention of the

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<sup>1107</sup> Geschke et al. 2019, p. 5.

<sup>1108</sup> Geschke et al. 2019, p. 7.

<sup>1109</sup> The definition of hateful posts is based on the definition of prejudice-motivated crime. On this subject, see Birkel et al. 2019, p. 25. For further information on the subject of prejudice-motivated crime, see, for example, Coester 2008.

<sup>1110</sup> Heitmeyer 1992, p. 206.

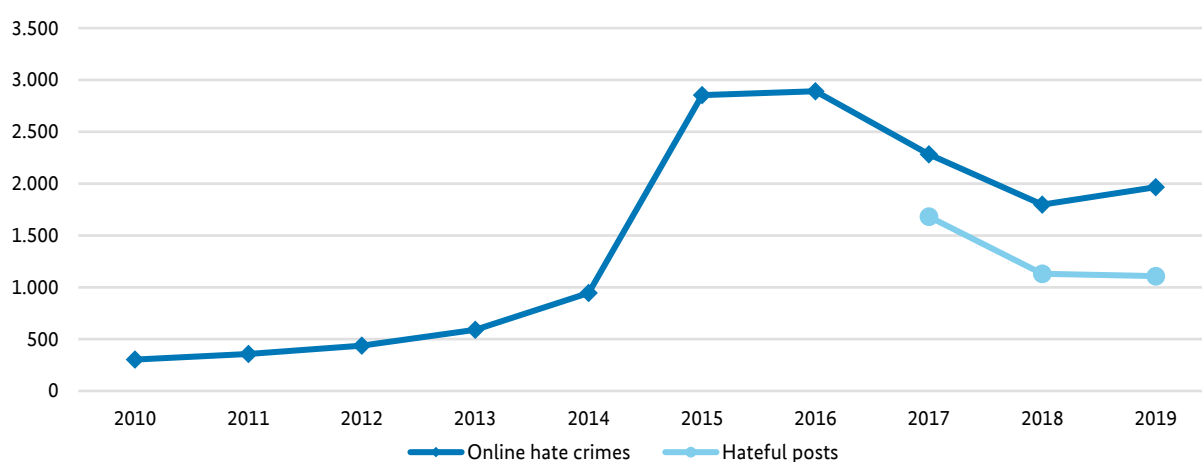
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security authorities since they either go unreported or take place in closed forums and discussion groups to which the security authorities have only limited access. Thus, it may be assumed that there is a very large “dark field” in the crime statistics relating to online hate crimes. However, the security authorities’ recording of crime statistics relating to online hate crimes is by no means obsolete, since these statistics allow important conclusions to be drawn on prosecution activities.

#### Police statistics on politically motivated online hate crimes - right-wing

Police statistics on politically motivated online hate crimes (right-wing) have been collected nationally since 2017 under the KPMD-PMK’s subject area of *hateful posts*. Before 2017, conclusions on the incidence and development of online hate crimes were drawn mainly from the numbers of cases of hate crimes where the offender used the Internet as a resource.<sup>1111</sup> Figure 32 presents the occurrence and development of crimes in both categories.

**Figure 32: Online hate crimes and hateful posts 2010 to 2019**



Offences/year	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Online hate crimes	303	357	437	590	945	2853	2891	2283	1798	1966
Hateful posts								1681	1130	1108

Source: Bundeskriminalamt.

In 2010, 303 cases of hate crimes where the offender used the Internet as a resource were registered, a relatively low number. By 2014, the number of registered criminal offences had risen to 945 incidents. The following year, there was a sharp increase in the number of online hate crimes, with the number of cases trebling to 2853. After a slight increase in the numbers of incidents again in 2016 (2891 cases) the numbers declined again by 2018, to 1798 cases. From 2018 to 2019, a slight increase was registered again to 1966 cases of hate crimes where the offender used the Internet as a resource. A decline in the number of hateful posts was recorded between 2017 and 2018, from 1681 to 1130 cases. In 2019, the volume remained at approximately the same level, at 1108 registered hateful posts.

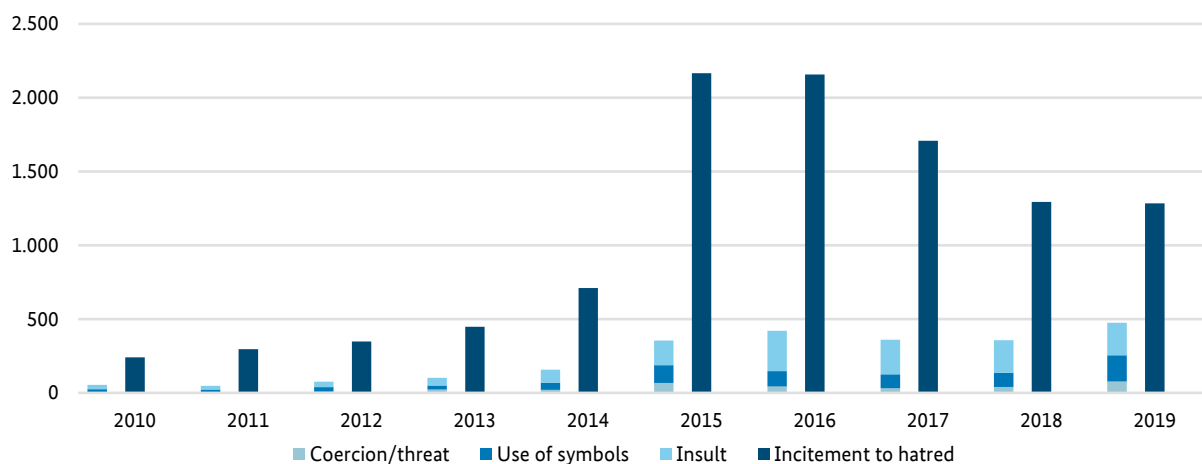
Although the overall development of police-registered online hate crimes is roughly consistent with the general development of politically motivated crime (right-wing) (see Figure 29), it is practically impossible to draw any conclusions on the total incidence of online hate crime on the basis of this data only vague explanatory approaches can be made. The developments shown indicate certain parallels with the public debate on refugee movements in 2015 and 2016. However, it should be

<sup>1111</sup> While “hateful postings” refer to online comments accessible to at least two Internet users, the traditional coverage of “hate crimes where the offender used the Internet as a resource” does not specifically define the number of recipients. Thus, comments that have just one addressee, such as private messages, may be included. Hateful posts also cover comments directed against the political position, attitude, or commitment of the aggrieved person, group of people or institution.

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taken into account that the subject of hateful posts gained greater attention during this period, which may have led to an increase in the reporting rate. At the same time, the entry into force of the Network Enforcement Act (*Netzwerkdurchsetzungsgesetz, NetzDG*) in 2017 may have led to a reduction in the numbers of cases, since it enables users to report illegal content directly to platform operators and they are required to remove or block them within a time limit. Thus, it may be the case that many users did not consider it necessary to report the content again. On the other hand, the declining media focus on the subject of immigration may also have contributed to this reduction.

**Figure 33: Offence categories using the Internet as an instrument of hate crime, politically motivated crime - right-wing 2010 to 2019**



Offence/year	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Incitement to hatred	241	296	348	448	711	2166	2157	1708	1294	1284
Insult	29	25	37	52	88	167	273	234	221	220
Use of symbols	19	19	31	27	49	120	104	94	96	178
Coercion/threat	6	4	8	23	21	68	44	32	40	77

Source: BKA.

As is to be seen in Figure 33, incitement to hatred accounts for the majority of the crimes in the area of online hate crimes recorded as politically motivated crime (right-wing). Within this offence category, the sharp increase from 711 registered cases in 2014 to 2166 cases in 2015 underlines that the overall development of online hate crime is decisively influenced by the incidence of incitement to hatred. With regard to age and sex, men over 30 make appearances particularly often. Between 2016 and 2018, more than two thirds of all recorded crimes were committed by people in this population group. In 2019, their share declined to 44%, while the share of male 14 to 17-year-olds increased from 7% in 2018 to 28% in 2019.

Since the end of 2017, an increasing number of e-mails to various state politicians, public figures, courts and other public institutions have been registered which combine insults and xenophobic statements with extortion attempts. As well as threats to sell firearms to right-wing extremists or carry out right-wing extremist attacks, there have also been bomb threats. The senders use different self-designations, such as *Staatsstreichorchester*, *Cyber Reichswehr* and *NSU 2.0*. Such e-mails aim to create a general threat scenario and to intimidate recipients. The collections of information by right-wing extremists referred to in media coverage as *enemy* or *death lists* are intended to fulfil the same function. According to the police's assessment, the primary intention of these lists, some of

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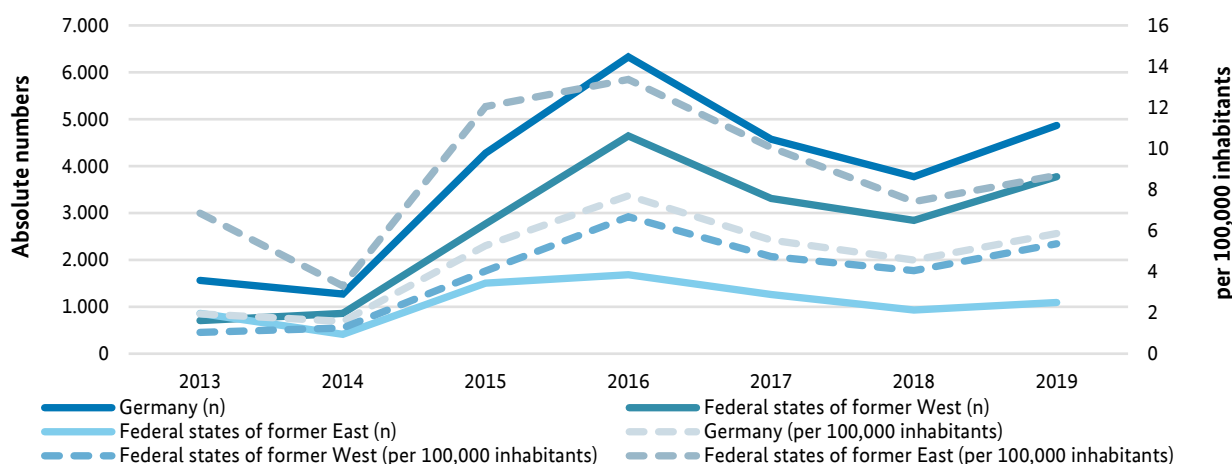
which are publicly accessible online, is to intimidate the people concerned, most of whom hold public office or are public figures.<sup>1112</sup> Since the publishing and compiling of such lists have rarely fulfilled the elements of a criminal offence, they are not recorded in the police statistics in most cases.<sup>1113</sup>

#### Judicial records of right-wing extremist and xenophobic crimes using the Internet

With regard to the statistical records on online hate crimes in the further course of prosecution, possibilities for clear identification are lacking in the judicial prosecution statistics. The means available do not allow the recorded criminal offences to be sorted by crimes motivated by right-wing ideology or by crimes committed online.<sup>1114</sup> The findings of the REX statistics presented below do provide an indication of the occurrence of such crimes, however.

Figure 34 presents the number of investigation proceedings by public prosecution offices into right-wing extremist and xenophobic crimes where, according to the REX statistics, the offender used the Internet as a resource.<sup>1115</sup> As well as absolute numbers, the incidence per 100,000 inhabitants is shown. The federal states of the former West and former East are recorded separately.

**Figure 34: Proceedings by the public prosecution offices for right-wing extremist and xenophobic criminal offences using the Internet, 2013 to 2019**



Source: REX statistics.

The development of criminal proceedings in cases of online right-wing extremist and xenophobic crimes recorded in the REX statistics is largely consistent with the findings of the police statistics of the KPMD-PMK. A sharp increase was recorded between 2014 and 2016. In 2016, 6329 proceedings were recorded, almost five times the number just two years previously, when 1272 cases were registered nation-wide. The total number had fallen to 3775 cases by 2018, but rose again to 4866 cases in 2019. If the absolute number of investigation proceedings is put in relation to the population, regional comparisons can be made. These indicate a considerably higher incidence in the federal states

<sup>1112</sup> BMI 2020c, p. 47.

<sup>1113</sup> To extend criminal liability appropriately, the Bundestag adopted the Federal Government bill to amend the Criminal Code to improve protection under criminal law against so-called lists of enemies in the version amended by the Committee on Legal Affairs (Bundestagsdrucksachen (Bundestag printed papers) 19/28678 and 19/30943) on 24 June 2021. The Act entered into force on 22 September 2021, cf. Federal Law Gazette (Bundesgesetzblatt) I 2021, p. 4250.

<sup>1114</sup> See section 3.3.1.1.

<sup>1115</sup> The statistics record cases where the act of publication on the Internet alone fulfilled elements of a crime (so-called crimes of expression and dissemination), as well as crimes in which the Internet was used as a communication medium for carrying out the crime. In cases where the Internet played only a subordinate role in the perpetration of the offence (for example, when contacts or attempts at contact between the perpetrator and victim took place prior to the actual offence), they are not recorded, however.

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of the former East in 2019, with 8.7 proceedings per 100 000 inhabitants, in comparison with an average of 5.4 registered proceedings in the federal states of the former West.

During the period under observation, the proportion of investigation proceedings terminated because the perpetrator could not be identified was 15% to 28%, significantly lower than in the case of offences where the offender did not use the Internet as a resource. In investigation proceedings against known accused persons, proceedings were terminated in nearly 75% of cases, while there were convictions in approximately 19% to 26% of cases. In this respect, crimes where the offender used the Internet as a resource do not differ from crimes overall.

In 2018 the collection of statistical records of investigation proceedings relating to hate crimes was initiated by the state departments of justice, and is conducted by the BfJ. It will supply new data in future. For the first time, these statistics differentiate hate crimes according to the motivation for them.<sup>1116</sup> In addition, they record the Internet as an instrument of crime - although this is not differentiated by motive, but is only in relation to the total number. There is no separate indication of right-wing extremist crimes in the statistics.

#### Online hate crimes beyond the official statistics

A representative national study commissioned by the NGO Campact e.V. made a major contribution to describing the phenomenon of online hate and assessing how widespread it is, taking into account the “dark field” not recorded in the criminal statistics.<sup>1117</sup> Of the 7349 respondents surveyed, 8% said that they had received hateful posts; the proportion of younger respondents (aged 18 to 24: 17%) and people with a migration background (14%) was particularly high.<sup>1118</sup> Journalists are another group who frequently receive hateful posts.<sup>1119</sup>

The BKA considers an event-related increase in case numbers to be possible at any time, for example due to an attack or violent crime by an immigrant. Such events can make a major contribution to mobilising the scene and thus, they may also lead to a greater number of hateful posts. However, the commitment to refugees shown by Kassel’s Regional Commissioner Dr. Walter Lübcke<sup>1120</sup> and his public position in 2015, for example, also triggered a wave of hateful comments advocating his murder and invoking further acts of violence.

As well as hateful posts by individual actors, there have also been targeted, coordinated attacks by collectively organised groups in recent years. An example of this was the right-wing extremist Internet group *Reconquista Germanica*, which first emerged before the Bundestag election in 2017 and, by its own account, dispersed in October 2019. By coordinating a large number of accounts, *Reconquista Germanica* reacted to social media posts by making targeted attacks on political opponents and institutions, bringing about the illusion of a distorted majority opinion and placing its own racist content into the online discourse.<sup>1121</sup>

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<sup>1116</sup> A distinction by motive is made as follows: antisemitic, disablist, hostile to Christians, xenophobic, Islamophobic, hostility due to sexual orientation/identity.

<sup>1117</sup> Geschke et al. 2019.

<sup>1118</sup> Geschke et al. 2019, p. 5.

<sup>1119</sup> Baldauf et al. 2018; Preuß et al. 2017.

<sup>1120</sup> On this subject, see section 3.3.1.2 Particularly serious cases of .

<sup>1121</sup> BMI 2020c, p. 60 ff.; Rieger et al. 2020b, p. 52.



### 3.3.2.2 Explanatory approaches and possibilities for prevention

There is discussion as to whether the shift to the right in political discourse to be observed in recent years, particularly on web-based communications platforms, may be a possible reason for the increased number of hateful posts.<sup>1122</sup> In this connection, reference is made to a normalisation of inhumane positions in public discourse.<sup>1123</sup>

Online media are also spaces where there is comparatively little social control. Communication on the Internet and in social media is often anonymous, offering many different ways of concealing one's identity.<sup>1124</sup> Anonymity can lead to a loss of inhibitions, meaning people become more likely to do things they wouldn't if their identity were known.<sup>1125</sup> An aggressive and hurtful communication style in web forums and social media may be experienced by new participants as normal and socially acceptable, and then be adopted by them. When such statements are clearly not sanctioned, this may foster further violations of standards.<sup>1126</sup> This tendency may sometimes be reinforced by the possibilities for personalisation and selection mechanisms offered by social media. The formation of so-called echo chambers,<sup>1127</sup> where users encounter content and network with accounts which overwhelmingly correspond to their own attitudes, results in their world view being reinforced and thus, in their greater willingness to express their opinion.<sup>1128</sup> This particularly applies to attitudes with a relatively low public approval rate which violate social values and norms.<sup>1129</sup> This echo chamber effect is amplified by algorithms or filters, which depend on the economic operating principle of showing Internet users personalised content.<sup>1130</sup>

Hateful posts have also spread further in the wake of the emergence of online hate cultures. Groups of Internet users who coordinate at short notice to collectively treat political opponents or particular social groups in a hostile manner online, mainly in social media, are referred to as digital hate cultures. They use the typical means of communication in web forums and social media, taking advantage of the technical functions of the digital world to achieve as wide a reach as possible.<sup>1131</sup>

Thematic educational initiatives that aim to provide guidance, particularly for young people, on using the Internet in a responsible and well thought-through way, can have a preventive effect, also in the context of online hate crime.<sup>1132</sup> Building media literacy skills may raise awareness of and help to prevent hate crime.<sup>1133</sup> Competent moderation of web forums may also be an effective way to reduce the occurrence of hateful posts.<sup>1134</sup> By providing the knowledge to recognise and categorise hateful posts and expediently handle such comments, and on technical possibilities for moderation, professionalised moderators can be trained and a strategy for the administration of online services prepared.<sup>1135</sup>

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<sup>1122</sup> Friedrich 2011, p. 19; Dialogperspektiven 2019: Evening event held on 23 January 2019 on the subject of "Democratise! Opportunities for a politicisation of society to combat the shift to the right".

<sup>1123</sup> Häusler/Küpper 2019, 148.

<sup>1124</sup> Brown 2018, p. 298.

<sup>1125</sup> Wachs/Wright 2018, p. 2.

<sup>1126</sup> Stark et al. 2017, p. 160; Hsueh et al. 2015, p. 567.

<sup>1127</sup> The term echo chamber originates from the field of acoustics and describes a space that amplifies resonance in a sound studio. When applied to communication processes, echo chambers or the echo chamber effect refer to situations where "beliefs are deepened or reinforced through communication and repetition within a closed system". On this subject, cf. Geissert 2019, p. 5f.

<sup>1128</sup> Stark et al. 2017, p. 150.

<sup>1129</sup> Keipi et al. 2020, p. 123 ff.

<sup>1130</sup> Montag 2018, p. 32 f.; Zuiderveen Borgesius et al. 2016, p. 2.

<sup>1131</sup> Albrecht/Fielitz 2019, p. 180.

<sup>1132</sup> Guhl/Baldauf 2018, p. 67 f.; BMFSFJ 2017, p. 49.

<sup>1133</sup> Blaya 2019, p. 163 ff.; Reinemann et al. 2019, p. 230 f.

<sup>1134</sup> Cheng et al. 2017, p. 2.

<sup>1135</sup> Tips for making rules are offered, for example by the website belltowers.news, which gives many specific ways of reacting to right-wing populist dialogue strategies, or by the editorial guidelines for dealing with hate speech of the Media Authority of North Rhine-Westphalia, Landesanstalt für Medien NRW 2018, cf. also Landesanstalt für Medien NRW/AJS NRW 2016, p. 20.

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Awareness can also be raised of the fact that the Internet is not an unlegislated area. High-profile information and measures by the prosecution authorities can underline the fact that the supposed anonymity of the Internet offers no protection against prosecution. Strengthening the online competence of the police and the judiciary enables crimes committed online to be systematically prosecuted.

Knowledge concerning the specific risk factors associated with online hate crimes can be a starting point for targeted forms of secondary prevention. There is evidence of similar risk factors - as well as frequent socio-economic stresses - among juvenile online aggressors to those discussed above in connection with general politically motivated crime.

#### 3.3.2.3 State measures and state-funded measures

Only in the last few years has hate crime become the subject of government and state-funded prevention measures. When the federal programme *Live Democracy!* began in 2015 (cf. section 3.3.1.4), there were some aspects of polarisation and radicalisation which were not yet covered by the public awareness for problems. Since the federal programme started, it has developed further in order to find answers to the current social challenges relating to increasing tendencies towards polarisation, and it has been supplemented by new fields of action and measures. Since 2017, these have included the programme area *Strengthening Activism on the Web - Against Hate on the Internet (Engagement im Netz - gegen Hass im Netz)*. From the beginning of 2018 to the end of 2019, 31 model projects were funded within this programme area. Their aims were as follows:<sup>1136</sup>

- Strengthening the information, media and methodological competence (digital literacy) of children and young people in dealing with hate speech, incitement and conspiracy ideologies on the Internet, particularly in social networks.
- Strengthening the competence of multipliers and of the attachment figures of children and young people.
- Enabling and strengthening people and groups who are particularly affected by racism and discrimination, particularly online hate speech and incitement.
- Enabling and strengthening willingness to engage in civil society activism against online content that is derogatory, inhumane and hostile to democracy. Making visible and strengthening online civil courage against hate speech, discrimination and exclusion.
- Protecting juveniles who are in danger of radicalisation, disrupting radicalisation processes and integrating distancing processes for juveniles who have already become ideologically radicalised (with a political or religious motivation).

Another approach to prevention taken in model projects in the *Live Democracy!* programme is to promote digital competence in dealing with hostile attitudes to democracy, and inhumanity.<sup>1137</sup> Projects of this type foster competence in dealing with hateful messages in workshops, seminars, training sessions and discussion events. The target groups are children and young people, educational experts and adult multipliers.<sup>1138</sup> The *klicksafe* website ([klicksafe.de](http://klicksafe.de)) is an example of this approach. *klicksafe* is an awareness campaign commissioned on behalf of the European Commission promoting media literacy when dealing with the Internet and new media. As well as information for parents, the platform also provides school teaching material on subjects such as online propaganda, hateful comments and misinformation.<sup>1139</sup>

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<sup>1136</sup> Institut für Sozialarbeit und Sozialpädagogik 2019, p. 3.

<sup>1137</sup> A list of all the model projects supported is available here: [demokratie-leben.de/das-programm/foerderperiode-2015-2019](http://demokratie-leben.de/das-programm/foerderperiode-2015-2019).

<sup>1138</sup> Institut für Sozialarbeit und Sozialpädagogik 2019, p. 26.

<sup>1139</sup> Rieger et al. 2020a, p. 361.

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In contrast, the project *Hate Aid* concentrates on providing advice and support to victims of hostility to democracy and inhumanity on the Internet or to people who, for example due to their membership of a social group, are at higher risk of becoming victims of hateful messages. Anyone who is the target of online attacks can contact *Hate Aid* and will receive support for defence strategies (hateaid.org). Advice can be given by telephone, chat, e-mail or in person. Insofar as necessary, employees cooperate with external therapists, supporting the working through of hostilities and helping to secure evidence and undertake post-processing. Support is also available for financing the cost of taking legal action.

*Das NETTZ* (das-nettz.de) is an example of a different approach to prevention. Projects of this kind aim to promote networking processes in and for digital space. The aim is to support and promote the work of campaigners and initiatives through improved visibility, and expert exchange and cooperation.<sup>1140</sup>

The Police Crime Prevention Programmes of the States and the Federation (ProPK) also have an interactive prevention concept *Zivile Helden* (Civil Heroes) devoted to the subject of online hate (zivil-helden.de/hass-im-netz). One of its aims is to encourage young web users to raise objections to hateful online posts and report them to the police or other points of contact.<sup>1141</sup> The website aims to promote civil courage online, particularly among young people, and to stimulate a low-threshold dialogue between the police and the public.

The police authorities have carried out regular national campaigns against hateful posts since 2016 to raise public awareness that the Internet is not an unlegislated area and that its supposed anonymity does not offer protection against prosecution. During these campaigns, the participating federal states simultaneously take measures in the context of investigation proceedings into hateful posts which constitute criminal offences. As well as carrying out searches of private homes and securing evidence such as laptops and smartphones, persons accused are interrogated with regard to their online hateful comments and further procedural steps are initiated. Media coverage of the measures has raised public awareness with the aim of sensitising the public to the fact that hateful posts are a crime and encouraging civil society to report them to the police or other points of contact. A concerted campaign of this kind was carried out for the first time under Germany's Presidency of the Council of the European Union in 2020 together with a number of EU Member States and other third countries.

The Network Enforcement Act (*Netzwerkdurchsetzungsgesetz - NetzDG*), which entered into force on 1 October 2017, is a further important building block in the fight against online hate crime. The way paved by this Act, making social network providers more accountable than hitherto, has led to improvements in the way they deal with users' complaints about unlawful content. In particular, providers have invested in human and physical resources and have brought their business processes into line with the statutory provisions, for example by naming authorised recipients in the Federal Republic of Germany and setting up specific reporting channels under the Network Enforcement Act. Thanks to the impact of the regulatory fining proceedings under the Network Enforcement Act, further progress has been made in the way in which providers deal with matters including complaints about unlawful content, and transparency obligations. The providers of large social networks with more than 100 complaints about unlawful content per calendar year have an obligation to publish semi-annual reports on how they deal with users' complaints about unlawful content.

At the initiative of the Federal Government, the Bundestag adopted the amendment to the Network Enforcement Act on 6 May 2021. The amendment has a twofold purpose: to transpose European

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<sup>1140</sup> The programmes mentioned here are examples of a whole series of model projects to receive funding within the "Live Democracy!" framework. However, as well as the federal programme, there are many other prevention programmes and initiatives against online hate crimes. Most of them are based on civil society engagement and depend on financial support from private donors.

<sup>1141</sup> Von Bissingen/Bubenitschek 2018, p. 36.

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rules for video-sharing platforms<sup>1142</sup> into national law, and to bring about improvements arising from practical experience to date. These adjustments make it easier for social media users to report unlawful content and allow them to have the provider's decision to remove or not to remove content reviewed. The creation of a state regulator of social network providers is also envisaged. In addition to its function as the authority conducting proceedings, the BfJ will also take on this supervisory function over network providers. The Act also provides for conciliation and complaint mechanisms. In this connection, the BfJ is preparing to set up an official conciliation board for disputes with the providers of video-sharing platform services that have their seat in the Federal Republic of Germany.

To ensure, however, that punishable content is not only removed but also leads to consequences under criminal law, the relevant comments need to be forwarded to the prosecution authorities and it has to be possible to identify the authors. The Act on Combating Right-Wing Extremism and Hate Crimes (*Gesetz zur Bekämpfung des Rechtsextremismus und der Hasskriminalität*) entered into force on 3 April 2021.<sup>1143</sup> It is brought with it significantly harsher penalties, higher pressure of investigations and blocks on releasing information regarding residents' registration law.<sup>1144</sup> From February 2022, large social networks will not only be required to remove certain criminal content, but also to report it to the BKA, enabling it to facilitate prosecution by the competent prosecution authorities. The Central Reporting Unit for Criminal Content on the Internet (*Zentrale Meldestelle für strafbare Inhalte im Internet, ZMI*) was set up at the BKA for this purpose. If the provider fails to fulfil this reporting obligation, or if it sets up a reporting system that is inadequate, a fine may be imposed.<sup>1145</sup>

This legislative package is also associated with new rules and increased penalties in the Criminal Code, including the following:<sup>1146</sup>

- Online insults are punishable by a prison sentence of up to two years.
- The sentencing range for death threats and rape threats made via the Internet has been trebled, to up to three years in prison.
- The special protection of section 188 StGB against malicious gossip and defamation in relation to persons in political life now applies explicitly to politicians at all levels, including municipal politicians. In addition, the criminal offence has also been extended to include protection against insults.
- Condoning serious offences that have not yet been committed is also punishable if these are suitable for causing a disturbance of the public peace.
- Threatening dangerous bodily harm and serious offences against sexual self-determination may now also be deemed to be a disturbance of the public peace by threatening to commit crimes.
- There was clarification that antisemitic motives are deemed, in principle, to be aggravating circumstances. For this reason, the catalogue of reasons for sentencing was explicitly supplemented by antisemitic motives.
- There is better protection for people exposed to hostility and threats on account of their professional or voluntary activities. Relevant blocks on releasing information from the population register have been established in residents' registration law for this purpose.

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<sup>1142</sup> "The Audiovisual Media Services Directive (AVMSD) makes compliance rules for video-sharing platforms to protect minors and the general public against certain content in user videos, for example when it incites violence or hatred towards a person on account of their sex or political views", BMJV 2020b.

<sup>1143</sup> Act on Combating Right-Wing Extremism and Hate Crimes of 30 March 2021, Federal Law Gazette (*Bundesgesetzblatt*) I 2021, p. 13.

<sup>1144</sup> BMJV 2021.

<sup>1145</sup> Bundesregierung 2021b.

<sup>1146</sup> BMJV 2021; Bundesregierung 2021b.

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As well as being used for hateful posts, the Internet has played a significant role in social networks in the area of right-wing motivated crime in the past.<sup>1147</sup> Thus, since as early as 2012, the federal security authorities have been using a platform, Coordinated Internet Analysis of Right-Wing Extremism (*Koordinierte Internetauswertung - Rechts*, KIA-R), to exchange information. Based on a division of labour, the BfV, BKA and MAD monitor the Internet within this context for the purposes of observing the situation, reconnaissance and early detection. The intelligence gained, which is also obtained from a structured assessment and observation of online hate crimes, is regularly reported to federal and state security authorities.

#### 3.3.3 Focus on antisemitism motivated by right-wing ideology

Particularly in right-wing extremist ideologies, antisemitism plays a central role. Within the heterogeneous right-wing scene, antisemitism is, as a content-related identification feature, an element linking all right-wing tendencies.

Even after the end of World War II, antisemitism remained a constant feature in the German population and it has manifested itself in different ways in the course of time. Following a series of anti-semitic incidents in the 1950s, there were several arson attacks on Jewish communities in the 1960s. In the 1970s, there was an increase in public Holocaust denials, accompanied by antisemitically motivated assassination attempts and murders which continued into the 1980s. The 1990s were characterised by an increasing number of attacks on synagogues, memorial sites and monuments and desecrations of cemeteries. Since the turn of the millennium, attacks on Jewish organisations and cultural sites have been and continue to be registered. The attack on a synagogue in Halle (Saale) on 9 October 2019 marked a low point of antisemitic violence.<sup>1148</sup> Right up to the present time, many Jews in Germany are regularly confronted by antisemitic attacks. Not least, social debates, sometimes with the involvement of prominent politicians and other public figures, show that antisemitism continues to pose a real threat to democracy.<sup>1149</sup>

Right-wing extremist actors use antisemitic narratives in a targeted way in order to have an impact on mainstream society.<sup>1150</sup> The protests against the government's measures to curb the COVID-19 pandemic were frequently used as a point of departure for disseminating right-wing extremist propaganda. The political content was often placed in the context of a conspiracy narrative with antisemitic references. As well as subliminal and encrypted antisemitism, openly articulated antisemitism was also voiced at demonstrations.<sup>1151</sup> Trivialisations and relativisations of the Holocaust in the form of comparisons of the Federal Government measures with the methods of National Socialism were frequently to be observed.

Recent studies confirm that antisemitic public attitudes are widespread and that antisemitism related to Israel is even on the increase in Germany. In the *Mitte-Studie* (Study of the political Centre) conducted by the Friedrich Ebert Foundation in 2018/2019, nearly 40% of respondents agreed with the statement that Israel treats Palestinians in the same way that Germany treated Jews during the Nazi dictatorship.<sup>1152</sup> On the other hand, while there has been an increase in antisemitism related to Israel, representative surveys that take other dimensions into account record a general decline in antisemitic attitudes among the German public.<sup>1153</sup> However, the increase in the significance of social media has made the dissemination of antisemitic attitudes more visible. The public accessibility

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<sup>1147</sup> Concerning the significance of the Internet, see section 3.3.1.2 Networks within the right-wing extremist scene.

<sup>1148</sup> On this subject, see also the further explanations in section 3.3.1.2 Particularly serious cases of .

<sup>1149</sup> BfV 2020a, p. 7.

<sup>1150</sup> Bundestagsdrucksache (Bundestag printed paper) 18/11970, p. 172f.

<sup>1151</sup> BfV 2020a, p. 50ff.

<sup>1152</sup> Zick et al. 2019c, pp. 67, 113.

<sup>1153</sup> Bundestagsdrucksache (Bundestag printed paper) 18/11970, p. 62.

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of antisemitic statements means there is a risk that antisemitic ill-feeling may be perceived as normal, thus shifting the limits of what it is perceived as acceptable to say.<sup>1154</sup>

Many people of Jewish faith living in Germany have perceived antisemitism as being on the rise in recent years. In a survey conducted in 2016,<sup>1155</sup> 76% of the Jews polled assessed the extent of antisemitism as being a major problem. 83% of respondents were expecting a further rise in antisemitism in the next five years.<sup>1156</sup> In another poll conducted two years later (2018), 59% of respondents said they feared being the target of an antisemitic attack within the next twelve months.<sup>1157</sup> A large proportion of respondents (44%) had already considered emigrating because, as Jews, they no longer felt safe in Germany.<sup>1158</sup> Surveys also show that direct experience of antisemitism is not rare among Jews in Germany.<sup>1159</sup> However, very few cases receive the amount of media attention that was given to the attack on the wearer of a kippah in Berlin in 2018, the attack by neo-Nazis on a Jewish restaurant in Chemnitz in 2018 or the attack on the Jewish community in Halle (Saale) in 2019.<sup>1160</sup>

In the fight against antisemitism, the Federal Government recommends use of the extended form of the internationally recognised working definition of antisemitism of the *International Holocaust Remembrance Alliance* (IHRA).<sup>1161</sup> The definition is as follows: “Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities. Manifestations might include the targeting of the state of Israel, conceived as a Jewish collectivity.”<sup>1162</sup> Thus, antisemitism is a “collective term for all attitudes and behaviour patterns which assume individuals, groups or institutions who/which are perceived as Jews have negative character traits on account of this affiliation.”<sup>1163</sup>

This definition expresses the fact that, despite the central importance of antisemitism to right-wing ideologies, it is not an exclusively (right-wing) extremist phenomenon. The focus below is exclusively on antisemitism motivated by right-wing ideology, however. Antisemitically motivated crimes that can be attributed to other ideological positions, such as Islamist antisemitism, are not discussed below. The presentation of the incidence and development of antisemitic crime uses official data as its primary sources. These only cover reported crimes. Since a large proportion of antisemitic offences take place in offence categories where the reporting rate is generally low, it may be assumed that many antisemitic offences are not recorded in the crime statistics. While bearing in mind that the official data sources show only part of the actual crime situation, they are an important basis for security policy decisions, supplemented by information from civil society actors, relevant NGOs and scientific expertise.<sup>1164</sup> Following the presentation of the official figures on the occurrence of crime, potential explanations and possibilities for preventing specific phenomena will be discussed. These form the basis for the state measures and state-funded measures to combat antisemitism in Germany, a discussion of which follows.

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<sup>1154</sup> BfV 2020a, p. 8.

<sup>1155</sup> This was a survey “conducted by the Institute for Interdisciplinary Research on Conflict and Violence in Bielefeld on behalf of the Independent Expert Group on Antisemitism as part of the study on “Jewish perspectives on antisemitism in Germany””, Bundestagsdrucksache (Bundestag printed paper) 18/11970, p. 104.

<sup>1156</sup> Bundestag printed paper 18/11970, pp. 107-109.

<sup>1157</sup> FRA 2018, p. 34.

<sup>1158</sup> FRA 2018, p. 39.

<sup>1159</sup> FRA 2018, p. 46; Bundestagsdrucksache (Bundestag printed paper) 18/11970, p. 108.

<sup>1160</sup> For a more detailed presentation of this incident, see section 3.3.1.2. Particularly serious cases of .

<sup>1161</sup> Bundestagsdrucksache (Bundestag printed paper) 19/8180, p. 16.

<sup>1162</sup> Auswärtiges Amt 2020.

<sup>1163</sup> Bundestagsdrucksache (Bundestag printed paper) 18/11970, p. 24.

<sup>1164</sup> For example, the Department for Research and Information on Antisemitism (RIAS) or the Center for Research on Antisemitism, Technical University, Berlin.

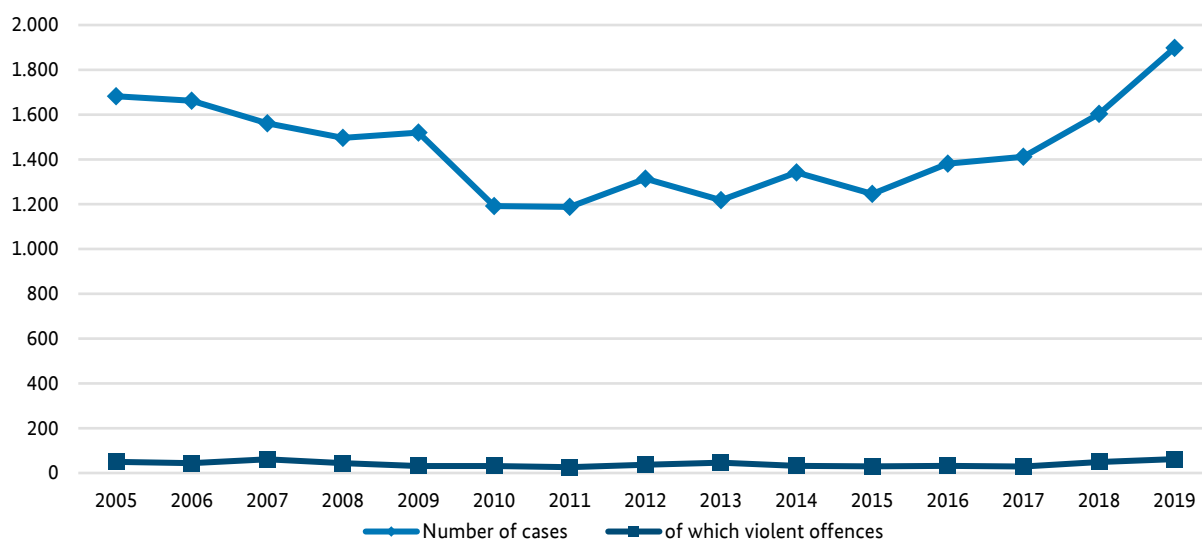
### 3.3.3.1 Forms and development

Usually, it is the serious antisemitic crimes that attract wide public attention. One of the most serious cases in recent years was the antisemitically motivated attack carried out on 9 October 2019 in Halle (Saale), in which two people were killed and two more were injured.<sup>1165</sup> While incidents of this severity rarely occur in Germany, this should not obscure the otherwise high incidence of antisemitic crimes. The incidence of officially recorded antisemitic offences in recent years is presented below.

#### Antisemitic offences recorded in the police statistics - politically motivated crime - right-wing

Most cases of antisemitic offences are verbal statements, hateful posts, less serious criminal damage to property, such as graffiti, or propaganda offences.<sup>1166</sup> Such incidents attract media attention less frequently and have a lower reporting rate.<sup>1167</sup> Thus, it must also be borne in mind that the findings shown below represent the offences recorded in the Police Crime Statistics and thus only a correspondingly reduced proportion of the total incidence of antisemitically motivated offences.

**Figure 35: Antisemitic politically motivated crime - right-wing, 2006–2019**



Offences/year	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Case numbers	1682	1662	1561	1496	1520	1192	1188	1314	1218	1342	1246	1381	1412	1603	1898
of which violent offences	50	44	61	44	31	31	26	37	46	32	30	32	29	49	62

Source: BKA.

In 2006, 1662 antisemitically motivated offences were registered, the second-highest level<sup>1168</sup> of such crimes in the area of politically motivated crime - right-wing - since recording by the KPMD-PMK began in 2001. The incidence had fallen to 1188 by 2011, remaining at a relatively constant level in the following three years, between 1218 cases in 2013 and 1342 cases in 2014. The number of police-registered offences with an antisemitic background has been increasing continuously since 2015, however. Most recently, a sharp increase of approximately 18% was recorded in the numbers of criminal offences motivated by antisemitism, from 1603 cases in 2018 to 1898 cases in 2019.

<sup>1165</sup> The incident is presented in detail in section 3.3.1.2. Particularly serious cases of .

<sup>1166</sup> RIAS 2020; FRA 2019, p. 7 ff.

<sup>1167</sup> FRA 2013, p. 53 f.

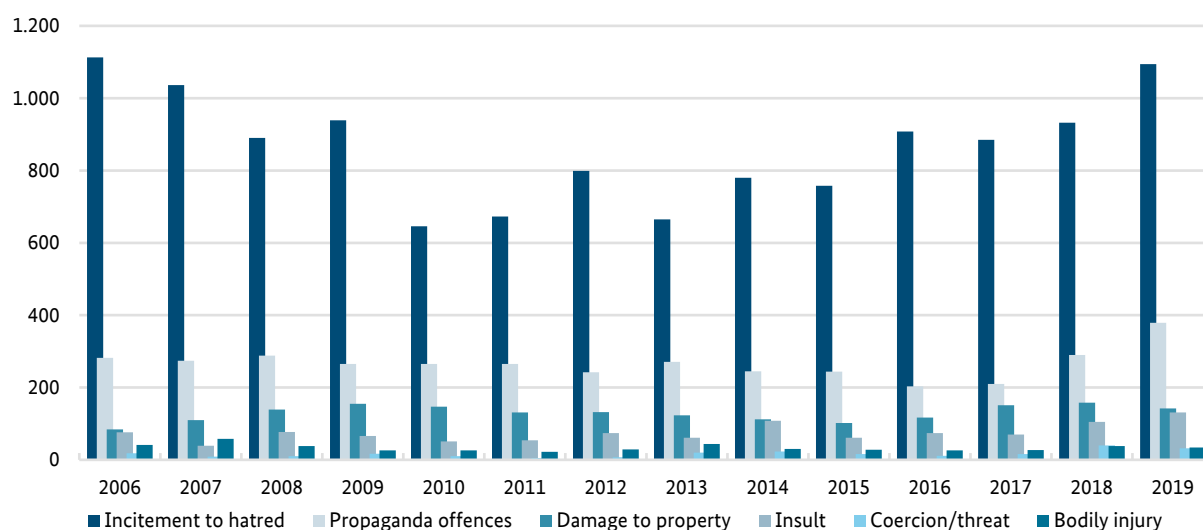
<sup>1168</sup> The highest level was recorded the previous year (2005), with 1682 registered criminal offences.

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Violent antisemitic crimes are, as is keeping with the severity of such crimes, less common than most other offences motivated by antisemitism. Over the whole reporting period, the proportion of antisemitic violent crimes comprised 2.8% of all registered cases in which the offence had an antisemitic motive. Essentially, however, developments in the area of violent crime have run in parallel with developments in the area of antisemitic crimes as a whole. There has been a conspicuously significant surge in recent years. The number of violent offences more than doubled between 2017 and 2019, from 29 violent offences in 2017 to 62 incidents in 2019, an increase of 33 violent offences. This surge is due in part to an increase in the number of extortionist letters (for example, in connection with the cluster of *Staatsstreicher* investigations)<sup>1169</sup> sent to public authorities and institutions (2017: 0; 2018: 7; 2019: 18). According to the BKA, most of the other violent offences were cases of bodily harm preceded by antisemitic insults or threats, often committed while under the influence of alcohol. There is no evidence of organised activities in these cases. There are no apparent connections between the 44 bodily harm offences committed in 2013, for example, in terms of time, place or thematic context (relating to triggering events).

As well as showing the incidence of bodily harm, Figure 36 also shows other frequently-occurring offence categories of antisemitic crimes between 2006 and 2019.

**Figure 36: Offence categories of antisemitic politically motivated crime - right-wing - 2006–2019**



Offences/year	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Incitement to hatred	1113	1036	890	939	646	673	799	665	780	758	908	885	932	1094
Propaganda offences	282	274	288	265	265	265	242	271	245	244	203	210	290	379
Criminal damage to property	84	110	139	155	147	131	132	123	112	102	117	151	158	142
Insult	76	39	77	66	51	54	74	61	108	61	74	70	105	131
Coercion/threat	18	9	10	17	10	5	7	20	23	16	11	16	40	32
Bodily harm	41	58	38	26	26	22	29	44	30	28	26	27	38	34

Source: Bundeskriminalamt.

Cases of incitement to hatred account for approximately 60% of all criminal offences motivated by antisemitism. A large proportion of these are perpetrated using the Internet as a resource (2017 to 2019: approx. 52%), making this the most frequent manifestation of antisemitism motivated by right-wing ideology in Germany. In relation to the total number of antisemitic offences, the majority of suspects are male and over 30 years of age. There is evidence of a divergent development in

<sup>1169</sup> On this subject, cf. section 3.3.2.1.



### 3.3 Crime motivated by right-wing ideology including right-wing terrorism

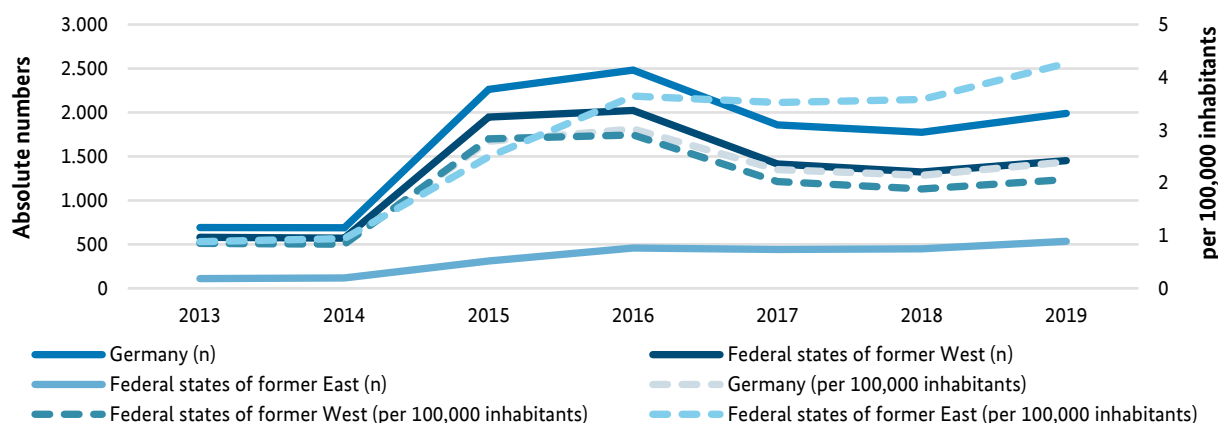
the proportion of 14 to 17-year-olds for 2019. Their share nearly trebled in comparison with that of the previous year (2018: 127 suspects; 2019: 346 suspects). Besides incitement to hatred, almost all the relevant criminal offences involved the use of symbols of unconstitutional organisations. These violations were often identified in the area of schools or in connection with the use of messenger apps on mobile telephones, such as class chat groups.

Damage to property accounts for approximately 9% of registered offences in the area of antisemitically motivated offences in the area of right-wing politically motivated crime. Three-quarters of such cases involved graffiti or inscriptions, frequently with damage done to Jewish establishments such as shops, cemeteries, monuments, memorials or so-called *Stolpersteine* (Translator’s note: engraved metal cobbles commemorating the victims of National Socialism), but also to other public areas. However, the significant surge in antisemitic incidents is also due to the increase in extortionist letters to public authorities and institutions (2017: 0; 2018: 7; 2019: 18).

#### Judicial records of investigation proceedings for antisemitic crimes

Figure 37 presents the incidence of public prosecution office proceedings relating to criminal offences with an antisemitic motive according to the REX statistics. As well as the absolute occurrence, the incidence per 100 000 inhabitants is shown and the federal states of the former East and former West are shown separately.

**Figure 37: Proceedings by public prosecution offices for antisemitic crimes, 2013 to 2019**



Source: REX statistics.

In 2013 and 2014, the number of registered investigation proceedings by the public prosecution office remained approximately the same, at 691 proceedings in 2013 and 689 in 2014. In 2015, there was a sharp increase in the number of investigation proceedings to 2263, and in 2016, the number of registered proceedings reached 2482, the highest value within the period under observation. The subsequent decline to 1774 proceedings in 2018 is largely due to the development in the federal states of the former West. In the federal states of the former East, the level remained approximately the same during the same period. From 2018 to 2019, the number of investigation proceedings increased again nationwide. A total of 1989 proceedings were registered in 2019.

When one considers the number of investigation proceedings per 100 000 inhabitants, the difference between the federal states of the former West and former East becomes apparent. While developments ran in parallel and at roughly the same level until 2015, the difference has increased each year since then. In the federal states of the former East, there were 4.3 investigation proceedings per 100 000 inhabitants in 2019, more than twice the number in the federal states of the former West (2.1 cases per 100 000 inhabitants).

#### Antisemitic crimes not recorded in the crime statistics

Little information is available on the number of criminal offences not recorded in the crime statistics. A survey was conducted by the European Union Agency for Fundamental Rights (FRA) in 2018 on experiences and perceptions in connection with antisemitism. It concluded that 52% of respondents of Jewish faith had been subject to antisemitic harassment within the last five years.<sup>1170</sup> Approximately 20% of victims said they had reported the most serious incident within the same period.<sup>1171</sup> It is to be noted here that offences categorised as harassment in the wording of the survey only account for a proportion of antisemitic offences. Many criminal offences, such as incitement to hatred, propaganda offences and damage to property, are characterised by a low reporting rate because there is no direct victim with a major incentive to make an official report of the incident.

Some of the antisemitic crimes not reported in the crime statistics are recorded by civil society initiatives and NGOs. Examples are "report-antisemitism.de" - the reporting portal of the Federal Association of Departments for Research and Information on Antisemitism (*Bundesverband der Recherche- und Informationsstellen Antisemitismus e.V. - RIAS*), and the Amadeu Antonio Foundation. The regular reports by such actors are an important supplement to official data sources to assess the character and development of antisemitic crime in Germany.

#### 3.3.3.2 Explanatory approaches and possibilities for prevention

Antisemitism is a central element of group-related inhumanity, since a stigma is conceived as being attached to membership of a religious group, leading to criminal and violent offences.<sup>1172</sup> Many assumptions concerning the origin and continuing existence of right-wing extremist attitudes within the population can also be applied to the area of antisemitism. In the case of antisemitism, the individual radicalisation process, from internalising the relevant ideology to committing serious crimes, also corresponds to the general process of radicalisation in the area of political extremism.

A prerequisite for effectively preventing and combating antisemitism is to know the forms it takes and be able to assess its objectives.<sup>1173</sup> In this connection, a distinction may be made between various types of antisemitism:<sup>1174</sup>

- *Political antisemitism* accuses Jews of striving for power in order to be able, as a minority, to suppress the majority society.
- *Social antisemitism*, on the other hand, claims that Jews have special social status achieved by conducting economic activities at other peoples' expense.
- *Modern antisemitism* developed in the course of the emergence of bourgeois society. It no longer justified antisemitism in religious terms, but gave pseudoscientific reasons for it, such as biological, racist arguments. It accused Jews of being responsible both for adverse side-effects of capitalism and for communism and liberalism – modern antisemitism combines contradictory elements and includes Christian anti-Jewish elements.<sup>1175</sup> Today, modern antisemitism is globally widespread.<sup>1176</sup>
- *Secondary antisemitism* or post-Holocaust antisemitism includes the Shoah in antisemitic statements, for example claiming that remembering the Nazi persecution of the Jews is a strategy

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<sup>1170</sup> FRA 2018, p. 47.

<sup>1171</sup> FRA 2018, p. 56.

<sup>1172</sup> Zick 2019, p. 297 f.

<sup>1173</sup> Bundestagsdrucksache (Bundestag printed paper) 18/11970, p. 223.

<sup>1174</sup> Cf. BfV 2020a, p. 12 ff.; the typologisation selected there follows Pfahl-Traughber 2007. More detail on the different ideological forms of antisemitism can be found, for example, in BMI 2018b, p. 24 ff, Pfahl-Traughber 2017b, p. 83 ff, and at: [bpb.de/politik/extremismus/antisemitismus/37944/was-heisst-antisemitismus](https://www.bpb.de/politik/extremismus/antisemitismus/37944/was-heisst-antisemitismus).

<sup>1175</sup> Schmid 2019, p. 55 ff.

<sup>1176</sup> Salzborn 2018b, p. 25 ff.

### 3.3 Crime motivated by right-wing ideology including right-wing terrorism

staged by Jews to defame German identity, or that Jews use Holocaust remembrance to enrich themselves.

- *Anti-Israeli or “anti-Zionist” antisemitism* is directed against the State of Israel and its policy, denies Israel’s right to exist or plays down the Holocaust by equating Israel’s current policy with the methods used during the Nazi period. The ostensible objection that one is only against the Zionist project and only anti-Zionist, but not antisemitic, misses the mark given that the historical Zionist movement had reached its objective in 1948 with the founding of the State of Israel. Thus, anti-Zionism today is synonymous with opposing the Jewish state as such.
- *Racist antisemitism*, which emerged in the nineteenth century and was radicalised by the Nazis, invokes the “racial theory” which claims that Jewish identity is biological in nature and deems Jews to be an inferior “*Mischlingsrasse*” (hybrid race).
- In *religious antisemitism*, denigrating Judaism frequently has the purpose of affirming other beliefs.<sup>1177</sup>

Fighting crime motivated by antisemitism means countering the spread of antisemitic attitudes among the general public. This is because before extremist views become consolidated, they take latent, subliminal forms, such as secondary antisemitism (the mentality that a line should be drawn under the past, relativising the Shoah, victim blaming etc.), antisemitism in the form of anti-Zionist “criticism of Israel” or antisemitism in the context of using explanatory models based on conspiracy ideologies. Placing the focus of education on latent, subtle forms of antisemitic expression that are not clear cut can raise participants’ awareness of contemporary forms of antisemitism (sensitisation) and they can learn to deal competently with antisemitism (qualification). Anchoring preventive approaches in educational establishments and regular state and non-state structures is a measure that can be used to strengthen the long-term effect of prevention work (implementation).<sup>1178</sup> In comparison with other educational programmes that take a preventive approach in the area of right-wing extremism, such programmes in the area of antisemitism also have to deal with the specific structure and potency of antisemitic worldviews. Particularly in the context of the latest developments, communicating how conspiracy narratives work is an appropriate way of encouraging people to question their ideas.<sup>1179</sup> Media competence and source criticism are particularly important in this connection.

The main educational approaches used in the prevention of antisemitism are education of encounter<sup>1180</sup> and education of recognition.<sup>1181</sup> These approaches are supplemented by more recent perspectives, such as education critical of antisemitism, subject orientation, the lifeworlds approach, conflict education, peer consulting and the reflective dialogue approach.<sup>1182</sup> Prevention work is carried out in areas of activity such as schools, higher education institutions, open youth and social work and advanced and further education for teachers and specialists.<sup>1183</sup>

Concepts of historical and civic education can also be applied. The approaches of civic education mentioned in connection with right-wing extremism in general (see section 3.3.1.3) also apply to dealing with antisemitism in particular. Antisemitic attitudes frequently appear to be accompanied

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<sup>1177</sup> Pfahl-Traugber 2007, p. 4 ff.; BfV 2020a, p. 12 ff.

<sup>1178</sup> Bundestagsdrucksache (Bundestag printed paper) 18/11970, p. 226.

<sup>1179</sup> Material for schools but also for extramural youth and adult education is to be found, for example, at: [bpb.de/236021](http://bpb.de/236021).

<sup>1180</sup> Education of encounter involves direct guided communication with Jews with the aim of breaking down prejudice and fear of contact and building up the ability to communicate (meetings with eye-witnesses of historical events, meetings with Holocaust survivors), Bundestagsdrucksache (Bundestag printed paper) 18/11970 p. 228.

<sup>1181</sup> Antisemitic positions, particularly of young people, are put in the context of the discrimination faced by the young people themselves. It has been shown that addressees are more open to content presented in educational practice, and the phenomena of distancing and provocation are minimised when addressees’ own history, understanding of the world they live in and experience are recognised and considered in the learning process, Bundestagsdrucksache (Bundestag printed paper) 18/11970, p. 229.

<sup>1182</sup> Bundestagsdrucksache (Bundestag printed paper) 18/11970, p. 229 ff.

<sup>1183</sup> Bundestagsdrucksache (Bundestag printed paper) 18/11970, p. 232 ff.

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by a feeling of political powerlessness and lack of orientation in the modern world.<sup>1184</sup> Civic education can counter both these components.

A psychological reason for accepting antisemitic narratives may also derive from the need to find an explanation in reaction to frustration and the perception of supposed or actual grievances. The fact that Jews are identified as such a minority is often due to prejudice. Being given information about the causes and effects of prejudice can help one to identify and critically question one's own prejudice.<sup>1185</sup> Another possibility for breaking down group-related prejudice is based on the assumptions of the so-called contact hypothesis. This hypothesis states that contact with Jews helps to break down prejudice in the long term.<sup>1186</sup>

#### 3.3.3.3 State measures and state-funded measures

On 18 January 2018, the German Bundestag adopted a cross-party resolution calling for decisive action to combat antisemitism, *Antisemitism entschlossen bekämpfen*,<sup>1187</sup> in which it called on the Federal Government to create the post of Antisemitism Commissioner. Dr. Felix Klein has been the holder of this office since 1 May 2018. It is based at the BMI. As *Federal Government Commissioner for Jewish Life in Germany and the Fight against Antisemitism*, he is responsible for the interministerial coordination of the Federal Government's measures to combat antisemitism and supports their implementation.<sup>1188</sup> At federal level, he also chairs the Joint Federal and State Commission to fight antisemitism and protect Jewish life, which was set up on 6 June 2019 on the basis of a resolution by the Federal Chancellor and the heads of government of the federal states. In addition, he suggests statutory amendments, such as adding antisemitic motives to section 46 (2) StGB,<sup>1189</sup> and contributes to raising society's awareness of current and historical forms of antisemitism through public relations work and civic and cultural education.<sup>1190</sup>

Another measure to combat antisemitism in Germany was the establishment of *the Independent Expert Group on Antisemitism*. The first Independent Expert Group on Antisemitism was set up in September 2009. It drew up a report on current manifestations, conditions and approaches to prevention in the field of antisemitism. The report was transmitted to the German Bundestag in November 2011 and served as an important basis for measures to combat antisemitism in the following years. The second Independent Expert Group on Antisemitism was set up in January 2015. This second Independent Expert Group on Antisemitism also comprised academics and actors from civil society organisations involved in research into and the prevention of antisemitism.<sup>1191</sup> The Independent Expert Group drew up its own agenda independently and autonomously. It presented its results in a report in 2017. In this report, the Independent Expert Group proposed various recommendations for action to combat antisemitism, many of which have already been implemented.<sup>1192</sup> On the part of the security authorities, for example, the area of further training for police officers was extended and an evaluation of the systems for recording politically motivated crimes was conducted. In addition, police cooperation with civil society organisations was intensified and communication channels with actors relevant to the subject, such as the Central Council of Jews in Germany and the Federal Government Commissioner for Jewish Life in Germany and the Fight against Antisemitism, were established.

"[...]n October 2018, the Federal Association of Departments for Research and Information on Antisemitism (RIAS) was founded. Its aim is to create a standardised nationwide civil society record and

<sup>1184</sup> Bundestagsdrucksache (Bundestag printed paper) 18/11970, p. 87.

<sup>1185</sup> Bundestagsdrucksache (Bundestag printed paper) 18/11970, p. 228.

<sup>1186</sup> Allport 1958, p. 254 f.

<sup>1187</sup> Bundestagsdrucksache (Bundestag printed paper) 19/444.

<sup>1188</sup> For further information, see BMI 2020e.

<sup>1189</sup> See below.

<sup>1190</sup> BfV 2020a, p. 7; for more detailed information, see: antisemitismusbeauftragter.de.

<sup>1191</sup> For a list of its members, see Bundestagsdrucksache (Bundestag printed paper) 18/11970, p. 17 f.

<sup>1192</sup> Bundestagsdrucksache (Bundestag printed paper) 19/22389.

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documentation of antisemitic incidents, including those below the threshold of criminal liability, thus supplementing police statistics. This Federal Association, which has received Federal Government funding since 2019, initiates and supports the gradual development of regional reporting and support networks. As well as antisemitic attacks and threats, the Federation Association regularly records a large number of offensive remarks and insults made on the telephone, by e-mail and on websites, as well as graffiti on house walls and damage to property. It is envisaged that in the medium and long term, these records will provide additional information that can help to give a better overall picture of the phenomenon of antisemitism in Germany, also and particularly to gain a better basis for more targeted prevention work.”<sup>1193</sup>

Improving the knowledge base for combating antisemitism is another central concern of the political agenda in combating antisemitism. To achieve this, the Federal Ministry of Education and Research is funding antisemitism research through the funding line announced on 7 April 2020 with a budget of twelve million euro with a view to better anchoring antisemitism research in the German university and research landscape. Also, previously often unaffiliated research in many disciplines and research fields is being more closely networked across disciplines and locations.<sup>1194</sup>

In order to counter the emergence and consolidation of antisemitic attitudes in the population, “hundreds of projects and programmes that define themselves as prevention against antisemitism are implemented each year.”<sup>1195</sup> The federal programme *Live Democracy!*, which has already been mentioned a number of times, has a significant reach.<sup>1196</sup> In early 2020, the second funding period of *Live Democracy!* was launched. Fifteen model projects on antisemitism are currently receiving funding for five years in the context of this programme.<sup>1197</sup> In addition, within the framework of the federal programme *Coherence through participation*, civil society organisations in the areas of *Strengthening democratic structures* and *Extremism prevention* are receiving funding. Thus, antisemitism-related prevention projects are also being financed from this fund.<sup>1198</sup> In addition, the Federal Agency for Civic Education offers an extensive range of educational products for different target groups. As well as developing its own offers, the Federal Agency for Civic Education is also involved in funding recognised civic education providers. Preventing antisemitism is a focal area of learning providers’ work that receives special funding. Creating links between all Federal Government measures, including the work of the Federal Agency for Civic Education, is a precondition for effective, jointly coordinated work.

Many of the measures to combat right-wing extremism and racism decided upon by the Federal Cabinet in December 2020 are designed to be cross-sectional and cross-phenomenon.<sup>1199</sup> Thus, they are also intended to combat and prevent antisemitism. Moreover, a number of projects in the catalogue of measures are also exclusively tailored specifically to combating antisemitism. In its final report published in May 2021, the Cabinet Committee reported on the state of implementation of these measures.<sup>1200</sup>

Structures, initiatives and local action plans for the prevention of antisemitism also exist at federal state level. The state agencies for civic education, Federal State Democracy Centres and the Partnerships for Democracy at municipal level play a central role for the implementation of preventive education work.

In order to also further reinforce prosecution at judicial level in the area of antisemitism, the Act on Combating Right-wing Extremism and Hate crimes (*Gesetz zur Bekämpfung des Rechtsextremismus*

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<sup>1193</sup> Bundesregierung 2021a, p. 73 f.

<sup>1194</sup> Bundesregierung 2021a, p. 74.

<sup>1195</sup> Bundestagsdrucksache (Bundestag printed paper) 18/11970, p. 226.

<sup>1196</sup> Bundestagsdrucksache (Bundestag printed paper) 19/19403, p. 5.

<sup>1197</sup> On this subject, see: [demokratie-leben.de/projekte-expertise/projekte-finden/themenfeld/Antisemitismus](https://demokratie-leben.de/projekte-expertise/projekte-finden/themenfeld/Antisemitismus).

<sup>1198</sup> Bundestagsdrucksache (Bundestag printed paper) 19/19403, p. 7.

<sup>1199</sup> See section 3.3.1.4.

<sup>1200</sup> Bundesregierung 2021a.

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*und der Hasskriminalität*) explicitly added antisemitic motives to the catalogue of reasons for sentencing in section 46 (2) StGB, thereby underlining once again that in principle, such motives must be taken into consideration as aggravating circumstances.<sup>1201</sup>

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<sup>1201</sup> Cf. also section 3.3.2.3.

## 4 Outlook

Fifteen years after the publication of the Second Periodical Report on Crime and Crime Control in Germany, this Third Periodical Report now presents an updated assessment of the development of crime and crime control in Germany. In a significantly more focused way than previously, this PRC discusses not only the general situation regarding crime and crime control, but also a selection of current issues that influence the security and sense of safety of citizens in Germany.

The decision to focus more strongly on specific areas in the 3rd PRC than previously inevitably means that other equally important and relevant issues cannot be addressed. The BMI and the BMJV believe that it would be useful to publish a PRC in every legislative period in future, making a scholarly appraisal of current developments in new and familiar focal areas. Current challenges in the field of crime, statutory amendments in the field of criminal law and prosecution and current social discourse will be the key factors for selecting the specific topics of future reports.

Future Periodical Reports should also be used to examine the effects of amendments to criminal law that have been passed. In 2016, for example, the 50th Act to amend the Criminal Code fundamentally redefined sexual assault, sexual coercion and rape (section 177 StGB). In the Act to Combat Sexualised Violence against Children (*Gesetz zur Bekämpfung sexualisierter Gewalt gegen Kinder*), which entered into force on 1 July 2021, the definition of the crimes of sexual abuse of children and child pornography were tightened significantly, investigation powers under criminal procedure law were extended and the period within which even minor convictions of particular relevance to the protection of children and juveniles can be recorded in an enhanced certificate of good conduct, as well as the relevant time periods for deletions from the Federal Central Register Act (*Bundeszentralregistergesetz*), were significantly extended. The effects of these and other reforms and their impact on the police and judicial statistics should be addressed in future Periodical Reports. Other focal areas could be corruption offences and criminal asset confiscation. Before the Fourth Periodical Report on Crime and Crime Control in Germany is prepared, the BMJV and the BMI will decide on the subjects to be dealt with in the light of current developments in the field of crime and political priorities.

Continuing to improve data availability remains an important task for the future. Great efforts are already being made in this area, both by the police and the judiciary. The Criminal Justice Statistics Act (*Strafrechtspflegestatistikgesetz*) will be able to make a major contribution here, a draft of which is currently being prepared by the BMJV. This Act is intended to increase the informational value of criminal justice statistics, particularly by closing data gaps.

# Glossary of terminology

## **administrative approach**

Approach centring on the close cooperation of different institutions/authorities.

## **adult**

Anyone who, at the time of the act, is at least 21 years old.

## **adult criminal law**

See → general criminal law.

## **aetiological**

Giving reasons, concerning the cause of things.

## **affective**

Relating to feelings, emotional.

## **aggregate key**

See key.

## **attempt to commit a criminal offence**

A → criminal offence has been attempted when a direct and immediate step has been taken towards its realisation, but it was unsuccessful (section 22 of the German Criminal Code (*Strafgesetzbuch*, StGB). An attempt to commit a → felony always entails criminal liability, an attempt to commit a → misdemeanour only if expressly so provided by law (section 23 (1) StGB). A more lenient penalty may be imposed for an attempt than for a completed offence (section 23 (2), section 49 (1) StGB).

## **case**

The Police Crime Statistics (PCS) only record cases that are sufficiently substantiated. This means that there must be verified evidence concerning the following:

- the facts of the case (fulfilment of all constituent elements of an offence as specified in a penal norm),
- the place of the offence, and
- the time of the offence/period during which the offence was committed (at least the year)

Vague, non-verifiable information alone, particularly concerning the number of (criminal) offences committed, does not suffice to be included as a case in the PCS. In major cases (such as fraud), the PCS are required, under the recording rules, to record only fully investigated incidents, based on the number of people directly affected (not only on the basis of customer files).

### **cleared-up case**

Criminal offence which, according to police investigation findings, was committed by at least one → suspect whose legitimate identity, in principle, is known (for example, by means of an ID document, biometric data and photograph etc.).

## **children**

Anyone who, at the time of the act, is under fourteen years of age (section 19 StGB).



**clear-up rate**

See crime quotients.

**cognitive**

Relating to perception, knowledge, one's own thinking.

**cohort**

(Population) group whose members have experienced the same significant life event during a certain period of time. An age cohort records persons who were born in a particular year or in particular years.

**conative**

Relating to action.

**conspiracy narrative/mentality**

People have a conspiracy mentality if they agree with conspiracy narratives involving the perception that the world is shaped by secretly-hatched plans and agreements (cf. section 3.3.1.3).

**conviction rate**

Indicates the proportion of defendants convicted with final and binding effect in the reference year of all the → defendants adjudicated against whom main criminal proceedings or procedures for penal orders have been terminated with final and binding effect in the same year. Instead of convictions, there may be terminations of proceedings or acquittals, reducing the conviction rate accordingly.

**cop culture**

Refers to police culture, defined as a “set of reference values constituting a transcendental framework that makes possible, limits and guides the everyday actions of police officers. Reference values provide information as to which values and virtues (such as self-discipline, bravery, loyalty and the courage of one's convictions) apply to what extent in which situations [,] and also as to when and to what extent force must, should or may be used” (Behr 2006, p. 48).

**correlation**

General term for the joint occurrence or joint (same or inverse) variation of two or more variables. A correlation of two characteristics does not necessarily mean that there is a causal connection.

**crime prevention**

State and private measures, taken as a whole, aimed at preventing crime.

**crime quotients**

The values calculated from absolute numbers to make a comparative assessment of crime (for further information, see section 1.3.4).

**clear-up rate**

The ratio of crimes that were cleared up as a percentage of cases that became known within the reference period.

$$\text{Clear-up rate} = \frac{\text{Cleared-up cases}}{\text{Cases that became known}}$$

**number of persons officially registered as suspects**

This is the number of identified suspects per 100 000 inhabitants of the relevant section of the population, not including children below eight years of age. (The reference day is 31 December of the year before the reference year).

$$\text{Number of persons officially registered as suspects} = \frac{\text{Suspects from eight years of age} \times 100\,000}{\text{Number of inhabitants older than eight years of age}}$$

**offence rate**

The offence rate is the total number of cases that come to police notice - or those for specific types of offence - per 100 000 inhabitants (the reference day is 31 December of the year before the reference year, or alternatively, the last available day, which is then specified). This rate expresses the risk posed by crime.

$$\text{Offence rate} = \frac{\text{No. of criminal offences} \times 100\,000}{\text{Number of inhabitants}}$$

N.B.:

The informational value of the offence rate is limited by the fact that only some of the offences committed come to the notice of the police, and that certain people, such as members of the stationed forces, foreign transit passengers, tourists, visitors and cross-border commuters, as well as non-Germans staying illegally in the federal territory, are not included in the number of inhabitants of the Federal Republic of Germany. Offences committed by these groups of people are included in the Police Crime Statistics, however.

**rate of increase**

This indicates the percentage change between different reference periods, for example in the number of cases, or of the offence rate for crime as a whole or for particular types of offences. A positive rate of increase means that there has been an increase, for example in the number of cases or the offence rate, while a negative rate of increase means that these numbers have decreased.

$$\text{Rate of increase} = \frac{(\text{Reference year} - \text{previous year}) \times 100}{\text{Previous year}}$$

**victimisation risk number**

The number of victims per 100 000 inhabitants of the relevant sector of the population (the reference day is 31 December of the year before the reference year). The victimisation risk number gives an indication of the risk of becoming the victim of a crime in particular age and gender groups.

$$\text{Victimisation risk number} = \frac{\text{Victims} \times 100\,000}{\text{Number of inhabitants}}$$

### **criminal offences**

Acts explicitly subject to penalty under the German Criminal Code and supplementary statutes (but not regulatory offences). German criminal law distinguishes between two kinds of punishable acts: → felonies (*Verbrechen*) and → misdemeanours (*Vergehen*).

### **criminal prosecution statistics**

The subject of the criminal prosecution statistics is the number of → defendants adjudicated and → defendants convicted with final and binding effect by the courts in the respective reference year. The following demographic structural characteristics of these defendants are recorded: age and sex, type of offence, type of criminal law applied and type of ruling. With regard to age, the age groups defined in the statutes are indicated: → juveniles, → young adults (*Heranwachsende*) and → adults.

In addition, a record is kept of defendants on whom decisions are taken under section 59 StGB and sections 27 and 45 (1) JGG. The prosecution statistics do not include regulatory offences, decisions taken before the opening of the main proceedings or decisions taken after the judgment entered into force.

### **cross-sectional study**

Research approach in surveys or other data collections where data are collected once, at a single point in time.

### **“dark field” (*Dunkelfeld*)**

Crime that is not detected (registered), in particular, criminal offences that are not reported. For certain offences, the number of crimes in the “dark field” can be estimated, for example using victim surveys.

### **defendant**

An accused or indicted accused person against whom a decision has been taken to open main proceedings or against whom a penal order has been issued.

### **defendant adjudicated**

Defendants adjudicated within the meaning of the → criminal prosecution statistics are → defendants against whom, in a reference year, penal orders have been issued or concerning whom criminal proceedings, following the opening of main proceedings, have been concluded with final and binding effect by judgment or decision to terminate proceedings. Their number comprises → defendants convicted and persons concerning whom decisions other than convictions have been taken (acquittal, dismissal of criminal proceedings, dispensing with punishment, ordering measures of reform and prevention and transfer to the family court in accordance with section 53 JGG). When adjudicating defendants who have violated several provisions of criminal law by one or several acts, the only criminal offence to be recorded in the statistics is the one subject to the most severe penalty under the law. If several criminal offences committed by the same person are adjudicated in several proceedings, this person is counted as a separate defendant (defendant adjudicated) for each of the criminal proceedings.

### **defendant convicted**

Defendants on whom a term of → imprisonment, military disciplinary confinement or a fine has been imposed under → general criminal law (also by a final and binding penal order) or whose criminal offence under → youth criminal law has been punished by → juvenile detention, → disciplinary measures or → supervisory measures.

### **defendants convicted, number of**

Numbers of defendants convicted are derived by presenting the number of defendants convicted recorded in the criminal prosecution statistics in relation to 100 000 inhabitants of the same group

of persons. They are only calculated for German nationals, since the group of non-Germans staying in Germany in the reference year cannot be statistically determined (cf. section 1.3.4). The number of inhabitants is the adjusted resident population at the beginning of the reference year (shown in the population statistics as the situation on 31 December of the year before the reference year).

### **delinquency**

Specific form of deviant behaviour which refers to acts subject to criminal or regulatory proceedings, applicable in particular to acts of misconduct by → children or in the context of juvenile crime.

### **disciplinary measures**

Sanction with punitive character under the Youth Courts Act, but not a criminal sentence (section 13 (3) JGG). Non-custodial disciplinary measures (section 13 JGG) are reprimands (section 14 JGG) and the imposition of conditions (making good for damage caused as a result of the offence, apologising personally to the aggrieved person, performing certain tasks or paying a sum of money to a charitable organisation - section 15 JGG). There is also youth detention (section 16 JGG), which may be imposed in the form of detention of the juvenile during leisure time, or short-term or long-term detention.

### **diversion**

In crime policy, the concept of diversion means diverting, redirecting or leading away from the formal social control system. In Germany, this is understood to mean the termination of criminal proceedings - upon fulfilment of the conditions for proceedings and when there is sufficient suspicion (or otherwise, termination in accordance with section 170 (2) of the Code of Criminal Procedure (*Strafprozessordnung*, StPO)) - by the public prosecution office (prosecutorial diversion) to avoid the preferment of charges or by the court (court diversion) to avoid conviction. The legal bases of this are sections 153, 153a and 153b StPO, sections 45 and 47 JGG and sections 29 (5), 31a, 37 and 38 (2) of the Narcotics Act (*Gesetz über den Verkehr mit Betäubungsmitteln*, BtMG).

### **diversion rate/ratio**

Proportion of terminations under sections 153, 153a, 153b StPO or sections 45, 47 JGG or sections 29 (5), 31a (2), 37 (2), 38 (2) BtMG of all → proceedings in which it is possible to prefer charges (under → general criminal law or → youth criminal law).

### **echo chamber (effect)**

A term originally used in the field of acoustics to describe a space that amplifies resonance in a recording studio. Applied to communications processes, it relates to isolated exchange and interaction with like-minded people, which may lead to uniform informational content within the group, resulting in one's own opinion being reinforced. The resonant effect of echo chambers leads to consolidation of one's own opinion patterns and potentially less acceptance of other opinions. When communicating in social networks, this effect is amplified by algorithms or filters, which depend on the economic operating principle of showing Internet users personalised content.

### **economic crime**

The following offences are to be considered as economic crime (PCS aggregate key number 893000):

1. All the criminal offences listed in section 74c (1) nos. 1–6b of the Courts Constitution Act (*Gerichtsverfassungsgesetz*, GVG) except computer fraud (cf. no. 6 (a)).
2. Offences committed in connection with real or fake economic activity and which, in addition to causing losses to individuals, may impair the economic sector or the general public and/or require special business knowledge to clear them up.

### **elder abuse**

Refers to violence against older people, especially in situations where there is an expectation of trust (for example in a care situation). Such offences may be committed by friends, partners, family members, acquaintances or care staff on whose support the elderly person relies or depends.

### **fake news**

Fake and knowingly or unknowingly circulated false reports, usually spread rapidly via the Internet and in social media. They serve to influence the (public) opinion-forming process in certain (political) directions or pursue commercial intentions.

### **federal states**

the German *Länder*

### **felonies (*Verbrechen*)**

Unlawful acts which are punishable by a minimum term of → imprisonment of one year or more (section 12 (1) StGB).

### **filtering process**

This takes place when offences and/or suspects previously in the “dark field” (unreported/undetected crime) move into the “light field” (reported/detected crime) due to informal and formal social control. Whether or not an event comes to the notice of the prosecution authorities depends in the first instance on evaluation, perception and decision-making processes. Thus, it is open to question whether facts will be clarified and the suspect prosecuted and sentenced.

### **fine**

A fine is only possible in the case of conviction under → general criminal law. A fine is imposed in daily rates. The minimum fine is five and the maximum is 360 full daily rates (section 40 StGB). The offender’s personal and financial circumstances must be taken into account when determining the amount of the daily rates. In the criminal prosecution statistics, sentences to pay a fine are only shown if these were not imposed in addition to or in conjunction with a term of imprisonment.

### **firearms**

Only firearms/guns defined as such in section 1 of the Weapons Act (*Waffengesetz*, WaffG) are deemed to be firearms in the sense of “shooting” and “carrying”. The legal definition of “firearms/guns as defined in section 1 of the Weapons Act” is to be found in the currently applicable version of the Weapons Act. The “carrying” of firearms by persons authorised to do so in the legitimate performance of their duties, against whom a complaint has been made as a result of them performing their duties, is not included.

A “threat” with a firearm is included in the PCS if at least one victim feels subjectively threatened. The carrying of firearms is registered if suspects had the firearm with them when the offence was committed. There does not need to be an intent to use a firearm.

### **flow statistics**

Flow statistics would collect information on one specific person at each stage of the preliminary, intermediate, main and execution proceedings and on penalised recidivist offences. Flow statistics of this kind are not collected in Germany.

### **funnel model**

The funnel model is based on a multi-stage counting procedure consisting of a number of different selection instances and stages. In the field of criminology, it is generally used to present crime statistics in graphic form, and in particular to illustrate the dimensions and development of crime. Starting from the (estimated) level of unrecorded crimes, various filtering and refinement processes are

carried out. This selection process reduces the number of cases, resulting in the funnel shape in the visual presentation of the statistics. This enables the dimensions of the → filtering process to be shown more clearly. Also, among other things, the differences between identified suspects and charged or convicted suspects can be made easier to understand.

### **general criminal law**

General criminal law is applied to → adults (thus, it is also referred to as adult criminal law) and in some cases to → young adults (*Heranwachsende*). Under section 105 JGG, → youth criminal law is applicable to young adults (*Heranwachsende*) who are still equivalent to → juveniles in terms of their development or who have committed an act of so-called youth misconduct.

### **hateful post (also: hateful commentary)**

Refers to a comment or post, made available online to a number of users at the same time, containing derogatory remarks about a person, group of people or institution on account of their actual membership of a particular social group or that attributed to them. The victim's membership of a group may relate to their nationality, ethnicity, skin colour, religious affiliation, beliefs, social status, disability or impairment, gender, sexual identity, sexual orientation or external appearance. However, such comments may also be directed against the victim's actual political standpoint, attitudes or commitment – or those attributed to them.

### **hotspot**

Refers to a place or area where a comparatively large number of cases of crime occur.

### **imprisonment**

Imprisonment (section 38 StGB) is for a fixed term, unless the law provides for imprisonment for life. The maximum term of a fixed-term period of imprisonment is 15 years, the minimum term one month.

### **incidence**

Describes the frequency with which a particular characteristic or event occurs within a certain period (or over a whole lifetime) in relation to a → population or part of a population (for example, 100 000 inhabitants). Unlike → prevalence, incidence also includes cases where people have been affected more than once.

### **joinder of offences**

If a person has committed several → criminal offences, all of which are adjudicated at the same time, and that person has been sentenced to more than one term of → imprisonment or more than one → fine, an aggregate sentence is imposed (section 53 StGB), whereby the aggregate sentence may not exceed the sum of the individual sentences (section 54 StGB).

### **juvenile**

Anyone who, at the time of the act, has reached the age of fourteen but not yet eighteen years (section 1 (2) JGG). (Translator's note: for terminological reasons, the term "juvenile detention" has been used for "*Jugendstrafe*", which is not limited only to this age group).

### **juvenile detention**

A sentence of juvenile detention (*Jugendstrafe*) (section 17 JGG) is the most serious sanction under the Youth Courts Act (JGG). The other sanctions under the Youth Courts Act, referred to as "measures", do not have the legal effects of a criminal sentence and also do not lead to an entry in the Federal Central Criminal Register, but are noted in the Educative Measures Register and remain there until the person reaches the age of 24. The minimum duration of juvenile detention is six months; its maximum duration is ten years (section 18 JGG).

### **key**

Clear specification of an offence or offence category in accordance with the PCS catalogue of criminal offences. The keys used in the PCS have six digits. The definition of a criminal offence under the PCS is not based exclusively on the legal norm, but may include additional information, such as where the offence took place, or the asset sought or acquired (for example, 371000 refers to the simple theft of narcotics from pharmacies).

#### **aggregate key**

Summary of several keys in an offence category in accordance with technically-defined specifications. An overview of all the aggregate keys can be retrieved from the BKA's website.

### **Land/Länder**

federal state(s) of Germany

### **leading a crime-free life subsequent to receiving a criminal sentence**

This means that a convicted offender does not commit any further criminal offences after serving their sentence, i.e. does not reoffend.

### **“light field” (Hellfeld)**

(Registered) crime that has come to the notice of the prosecution authorities, particularly reported criminal offences, to the extent that they have been cleared up.

### **longitudinal study**

Research approach in surveys or other data collections where data are collected at several points in time to examine change processes.

### **measures of reform and prevention**

Measures of reform and prevention under section 61 StGB are placement in a psychiatric hospital (section 63 StGB), in an addiction treatment facility (section 64 StGB) or in preventive detention (section 66 StGB). Non-custodial measures are → supervision of conduct (section 68 StGB), disqualification from exercising one's profession (section 70 StGB) and disqualification from driving (sections 69, 69a StGB). These measures are sometimes ordered in conjunction with punishment and sometimes independently from punishment in cases of acquittal, termination of the proceedings or in an autonomous procedure for preventive detention.

### **micro, meso and macro level**

Differentiation scheme used in the social sciences. The micro level covers elementary social phenomena and (relationships between) groups. The macro level provides a perspective for examining cause-and-effect relationships within society as a whole. Establishments and institutions that liaise between individuals' or groups' social actions and society as a whole are particularly evident at meso level.

### **military disciplinary confinement**

Military disciplinary confinement can only be imposed on members of the Federal Armed Forces (section 9 of the Military Penal Code (*Wehrstrafgesetz*, WStG)).

### **minor offence**

Cases of deviant behaviour involving a minor infringement of legal norms which are not subject to prosecution due to their minor nature.

**misdemeanours (*Vergehen*)**

Unlawful acts which are punishable by a minimum sentence of a term of → imprisonment of less than one year or by a fine (section 12 (2) StGB).

**multiplier**

A person or institution that transmits, multiplies or reinforces significant information. This term also refers to an individual or organisation that passes on information for the development of objectives, and public opinion-forming.

**non-custodial sanctions**

Sanctions not associated with deprivation of liberty. In the case of convictions under → general criminal law, these can be a fine; a warning with sentence reserved; suspension of a prison sentence or military disciplinary confinement. In the case of convictions under youth criminal law, these are → supervisory measures such as directions, supervisory assistance by a social worker within the meaning of section 12 no. 1 of the Youth Courts Act (*Jugendgerichtsgesetz*, JGG); non-custodial → disciplinary measures; a suspended sentence of → juvenile detention; suspension of the decision on the imposition of a youth penalty.

**non-Germans**

In the official statistics, non-Germans, or foreigners, are deemed to be any persons who are not Germans within the meaning of Article 116 (1) of the Basic Law. They include persons with foreign nationality, stateless persons and persons of unclear nationality. Persons who have both German nationality and another nationality are counted as Germans.

**non-suspended sanctions**

(Unconditional) non-suspended term of imprisonment under → general criminal law, and non-suspended → military disciplinary confinement. Under → youth criminal law: (unconditional) non-suspended → juvenile detention, youth detention, supervisory assistance in a day and night-time institution under section 12 no. 2 JGG.

**offence**

Refers to an illegal, punishable act against applicable law in the wider sense, associated with legal consequences.

**offence rate**

See crime quotients.

**parole**

Under → general criminal law, parole is possible after serving two-thirds, or exceptionally, half, of the term of → imprisonment (section 57 StGB); in the case of a life sentence, parole is possible after 15 years at the earliest (section 57a StGB). In the case of → juvenile detention exceeding one year, parole is permissible if the convicted person has served one third of the penalty, or earlier in the case of shorter terms of juvenile detention (section 88 JGG).

**payment cards**

Generic term for credit cards and debit cards. *Debit cards* are all payment cards that effect the immediate deduction of money from the account/direct debit when used. *Credit cards* are all payment cards that effect a deduction or debit from the account with a time lag.

**peer-to-peer**

Refers to the interaction or communication between persons who have a large number of common characteristics.



**pharming**

This is a further development of → phishing. This type of scam involves the manipulation of DNS queries by web browsers with the aim of redirecting users to a fraudulent website. Despite using legitimate access data, the fake website is accessed, and confidential data are intercepted or malware is installed.

**phishing**

This refers to fraudulently obtaining personal data such as private individuals' passwords or credit card numbers by such means as fraudulent e-mails, websites or text messages.

**police crime statistics (PCS)**

The PCS record criminal offences that have come to the notice of the police and have been finally processed by them, including punishable attempts and drug-related offences processed by customs. Statistical recording takes place (only) when the data have been submitted to the public prosecution office (outgoing statistics). Among other things, the PCS do not include crimes against the state, traffic offences (except infringements of sections 315, 315b StGB and section 22a of the Road Traffic Act (*Straßenverkehrsgesetz, StVG*)), offences committed outside the Federal Republic of Germany, or offences that were directly reported to the public prosecution office and only processed by it (such as offences relating to testimony).

**population**

Universe, total target group of a survey from which a → sample is taken.

**population/population figures**

Refers to all the individuals registered (in official population registers) in Germany. It includes both German nationals and non-German nationals who have an obligation to register under the Federal Registration Act (*Bundsmeldegesetz, BMG*) and who have fulfilled this obligation (see also Federal Registration Act). The following are not subject to reporting requirements: foreign transit passengers and tourists, cross-border commuters, members of the stationed forces and of foreign diplomatic and consular missions and their families. The population figures used in connection with the police crime statistics (PCS) are provided by the Federal Statistical Office ([destatis.de](http://destatis.de)).

**prepper**

This term refers to people who prepare for a particular and/or special event they believe is certain to occur and who take measures to be able to react in the best possible way to the event when it occurs. In Germany, such individuals are increasingly to be found among *Reichsbürger* and right-wing extremists preparing for a supposed overthrow of the political system of the Federal Republic of Germany.

**prevalence**

Generally, the proportion of times certain events or characteristics occur in a group or → population during a certain period. Lifetime prevalence indicates the ratio between the number of persons who - viewed retrospectively from the time of investigation - show or have shown a particular characteristic, and the total number of all relevant persons.

**prevalence rate**

Proportion of persons within the universe of all relevant persons (total population or certain sub-groups) who show a certain characteristic (such as delinquency) within a specified period. In victim surveys, for example, the victim rate shows what proportion of the total number of respondents states that they were a victim of a crime during the period referred to in the question.

### **principle of mandatory prosecution/principle of discretionary prosecution**

In accordance with the principle of mandatory prosecution under 152 (2) StPO, the public prosecution office is obliged to conduct investigations if there is an initial suspicion and to complete them in compliance with section 170 StPO. If the investigations result in a sufficient suspicion, the public prosecution office must prefer charges. The principle of discretionary prosecution is a departure from the principle of mandatory prosecution. To this extent, the public prosecution office may dispense with the prosecution of some acts in the area of less serious criminal offences in accordance with sections 153, 153a to e, 154, 154a StPO.

### **prison statistics**

These statistics demonstrate and visualise, from a demographic and criminological point of view, the structure of prisoners in prison and juvenile detention as well as persons in preventive detention as of the reference day 31 March of a reference year, and the changes over the course of time.

### **prisoner rate**

Number of prisoners on remand, convicted prisoners and prisoners in preventive detention per 100 000 of a country's registered inhabitants. This information is used primarily in international comparisons.

### **private prosecution**

This refers to proceedings (sections 374 to 394 StPO) before a local court acting as a criminal court, in which the aggrieved person or a person who, in addition to the aggrieved person or on his behalf, is entitled to file a request to prosecute, acts as prosecutor instead of the public prosecution office. Private prosecutions may only be brought for certain crimes, however.

### **proceedings in which it is possible to prefer charges**

Investigative proceedings against known → suspects which have been completed by preferring charges (including applications to open a procedure for preventive detention, for the execution of an objective procedure, for a ruling in a fast-track procedure, for simplified procedures in cases involving juveniles), by applying for the issue of a penal order, by conditional or unconditional termination, but not proceedings in which charges were not preferred for legal reasons (section 170 (2) of the Code of Criminal Procedure (*Strafprozessordnung*, StPO)).

### **public prosecution office statistics**

In the judicial statistics on public prosecution offices, cases dealt with by public prosecutors and public prosecutors at local courts are recorded by the regional and higher regional courts. For the most part, this information is collected in connection with proceedings. Since 1998, personal information on the individual defendants has been available at the end of the proceedings. Since 2004, all proceedings that have been concluded are differentiated according to groups of offences (so-called subject areas). It is not possible to distinguish particular offences, however. The public prosecution office statistics do not include any information on defendants' demographic characteristics.

### **racial profiling**

Refers to police measures taken on account of physical appearance or on the basis of ethnic characteristics and not based on a specific suspicion or perceived risk.

### **rate of increase**

See crime quotients.

### **readmission interval**

Time between prisoners being released and readmitted to prison (start of sentence) for another offence.

**reference period**

Time period covered by a report.

**repeat/prolific offender**

Refers to a person who has committed a number of offences within a year. The definition of the term varies according to the context in which it is used, for example research or police practice.

**representativeness, representative**

Characteristic of a survey that indicates that statements may be made about the total population on the basis of a sample.

**resident population**

See population.

**response rate**

Proportion of persons who, for example, took part in a survey. There are typical response rates for different study methods. As a rule, the response rate for postal population surveys is likely to be between 30% and 40%.

**sample**

Selection of elements of a total population (for example, all the inhabitants of the Federal Republic of Germany, all inhabitants of a city), whereby different selection procedures may be used (for example multilevel or stratified selection). A representative sample accurately reflects the structure of the total population. A prerequisite for a representative (random) sample is that all individuals in the total population have the same (or, in the case of stratified samples, a specifiable) probability of being included in the sample, and that the sample is sufficiently large in relation to the basic rate of the variable to be examined. Relatively large samples are thus required, particularly when examining statistically rare events (such as having been the victim of a violent crime).

**secondary analytical**

Describes the evaluation of non-primary (statistical) data or research results.

**several offences committed by one act**

If the same act violates more than one criminal statute or the same criminal statute more than once, the court only imposes one penalty (section 52 StGB).

**significance**

Term used in statistics to describe a sufficiently high probability that a calculated result, for example a difference between different groups, did not arise as the result of a random distribution in the sample taken, but actually exists in the total population (→ population).

**sociodemographic**

Describes characteristics relating to people's personal qualities, such as age, sex or income, making it possible to categorise them as belonging to a particular group.

***Staatsanwaltschaftsstatistik***

See public prosecution office statistics.

**subsequently cleared-up case**

See case.

### **supervision of conduct**

is a → measure of reform and prevention. It is only shown in the → criminal prosecution statistics if it is ordered by the court in accordance with section 68 (1) StGB. Supervision of conduct occurring automatically in connection with certain decisions, (for example in accordance with section 67b StGB), is not recorded in the criminal prosecution statistics.

### **supervisory measures**

Like → disciplinary measures, these are possible consequences of → criminal offences by → juveniles when → juvenile detention is not an option. There are two types of supervisory measures: giving instructions (section 10 JGG) and ordering the juvenile to avail himself/herself of supervisory assistance (section 12 JGG). Instructions are directions and prohibitions by which the juvenile should conduct his or her life. Section 12 JGG distinguishes between supervisory assistance by a social worker to support holders of rights of custody with child-raising, and supervisory assistance in a day and night-time institution or in another form of supervised accommodation. Section 8 JGG provides for possible combinations of supervisory measures with disciplinary measures, juvenile detention, incidental consequences and incidental penalties.

### **survey**

Research study in the form of a poll, for example in writing or by telephone.

### **suspect**

A suspect is anyone who, according to the results of a police investigation and on the basis of adequate factual evidence, is suspected of having committed an unlawful (criminal) act. The term also includes co-perpetrators, instigators or accessories.

Furthermore, it should be noted that, when recording the number of suspects for the Police Crime Statistics, grounds for exemption from punishment or lack of criminal liability are not taken into account. Thus, the total number includes children under fourteen years of age, the age of criminal responsibility, for example. Persons who cannot be convicted because they are deceased, ill or at large are also recorded as suspects.

### **suspects, counting at federal level**

The “real” suspect count introduced at federal level in 2009 means that a person who was registered in more than one federal state does not appear several times in the number of persons officially registered as suspects in the PCS, but as just one suspect. The changeover to this counting method means that it is not possible to compare the numbers of suspects with the years before 2009.

If, within a reference period, a number of cases with different offence keys are attributed to a suspect, he or she is counted for each category separately, but only once for the relevant superordinate groups of crimes or for the total number of crimes. Thus, the suspects attributed to individual (categories of) crimes cannot be added up to derive the total number of suspects.

### **suspects, immigrant**

These are persons whose residence status is “asylum seeker”, “beneficiary of protection and person entitled to asylum, quota refugee”, “temporary suspension of deportation” or “unauthorised residence”.

### **suspects, non-German**

These are persons with foreign nationality, stateless persons, persons of unclear nationality or persons about whom no information concerning nationality is available. Persons who have both German and another nationality are Germans.

**suspects, number of persons among the non-German population officially registered as**

This number *cannot* be calculated for non-Germans. One reason for this is that certain groups with foreign nationality who are staying in Germany legally (for example tourists, business travellers, cross-border commuters), or who are living in the country but do not have a permitted reason for doing so, are not included in the population statistics (cf. section 1.3.4).

**suspects, number of persons officially registered as**

See crime quotients.

**suspension of sentence**

Under → general criminal law, the enforcement of a sentence to a term of → imprisonment not exceeding two years may be suspended, subject to probation (section 56 StGB). Accordingly, under → youth criminal law, the enforcement of → juvenile detention not exceeding two years may be suspended, subject to probation (section 21 JGG).

**time of the offence**

This is the time the offence was committed. For offences committed over or within periods of time, the end of the period is deemed to be the time of the offence. If it is not possible to determine at least the year, the time of the offence is deemed to be unknown.

**UN-CTS**

Abbreviation for United Nations Surveys of Crime Trends and the Operations of Criminal Justice Systems. These surveys, which have been carried out jointly by the statistical office of the European Union (Eurostat) and the United Nations Office on Drugs and Crime (UNODC) since 2014, request information about criminal offences overall and also, for certain types of offences, about the different phases of criminal prosecution (police, prosecution, courts and prison), taking into account both official national statistics and victim surveys. The definitions of criminal offences used in the survey were implemented by Eurostat and UNODC as metainformation in the data query.

**valid, validity**

Refers to a quality criterion to evaluate data or scientific findings. Validity expresses the extent to which collected data or values measured in tests and experiments actually describe what is understood by the term, facts, property to be tested and so on.

**victims**

are natural persons against whom the punishable act was directly targeted. Victims are persons who are aggrieved or directly affected by specifically defined offences committed against highly-personal legal assets (life, physical integrity, freedom, honour, sexual self-determination) and by offences involving resistance to and assault on public authority if these are specified in the PCS catalogue of criminal offences as offering the possibility to record victims.

**victim survey**

Victim surveys request information from respondents as to whether they were the victims of certain (reported or unreported) → criminal offences (within a certain period of time).

**victimisation**

The process of becoming a victim of a crime.

**victimisation risk number**

See crime quotients.

**violations of the law on foreigners**

Refers to criminal offences under the Residence Act (*Aufenthaltsgesetz*, AufenthG), the Asylum Act (*Asylgesetz*, AsylG) and the Freedom of Movement Act/EU (*Freizügigkeitsgesetz/EU*, FreizügG/EU).

**young adults (*Heranwachsende*)**

Anyone who, at the time of the act, has reached the age of 18 but not yet 21 years (section 1 (2) JGG). They may either be adjudicated under → general criminal law or under → youth criminal law.

**young adults (*Jungerwachsene*)**

Anyone who, at the time of the act, has reached the age of 21 but not yet 25 years.

**youth criminal law**

The Youth Courts Act (*Jugendgerichtsgesetz*, JGG) is applicable to punishable acts of misconduct by → juveniles and those → young adults (*Heranwachsende*) who, in terms of their moral and intellectual development, are still equivalent to juveniles, or who have committed an act of so-called youth misconduct. Sanctions provided for under the Youth Courts Act are → juvenile detention, → disciplinary measures and → supervisory measures.

**zero-tolerance strategy**

Crime policy strategy laying down a very low-threshold approach to police intervention in the public domain. Based on the “broken windows theory” of crime, according to which signs of neglect encourage further crimes, resolute pre-emptive police action is taken against such behaviour before criminal offences are committed (for example, against aggressive begging, prostitution in the public domain and similar offences).

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Bundeskriminalamt (BKA), Division IZ 33, 65173 Wiesbaden | [iz33-psb@bka.bund.de](mailto:iz33-psb@bka.bund.de) | +49 (0) 611 55 0

## Authors at the Office:

Heike Bruhn (BKA), Daniel Church (BKA), Dr. Matthias Rau (BKA), Dr. Lena Vogeler (BfJ), Dr. Yvonne Wilms (BfJ)

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