

# **MIND** THE GAP!

**VERBESSERTE  
INTERVENTIONEN  
BEI PARTNERGEWALT  
GEGEN  
ÄLTERE FRAUEN**



**Summary of the  
German case file analysis**

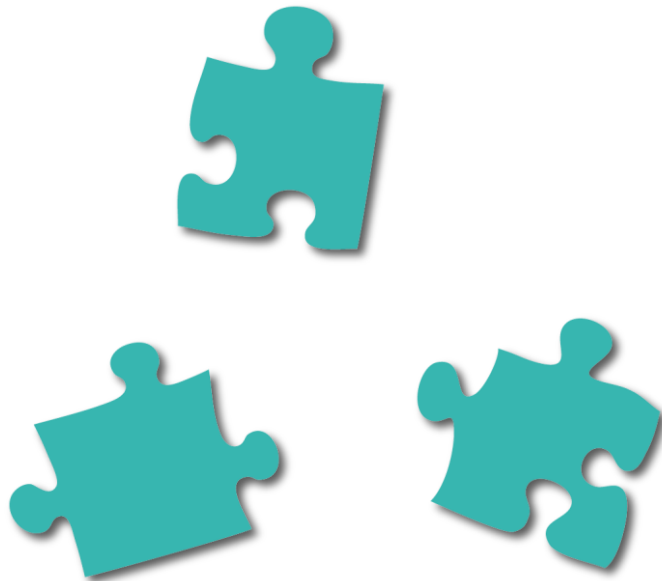
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## 1. Judicial system and proceedings in Germany

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The German Criminal Code (*Strafgesetzbuch*) does not include specific regulations on intimate partner violence. However, victims of IPV are protected by general criminal law statutes regarding offences such as assault, coercion, rape, and murder / manslaughter. In

1997, Germany passed a law considering acts of sexual violence not involving penetration as rape; at this point of time, sexual violence within marriage was also recognized as rape.



In 2002, largely following the Austrian example, Germany passed the Violence Protection Act (*Gewaltschutzgesetz*). This Act is part of German civil law and offers protection for victims of domestic violence. Especially, victims can apply for protection orders and for allocation of the home. The offender may be banned from entering the shared home or even a larger zone surrounding it. He may also be banned from communicating with the victim and ordered to stay away from her and to avoid places the victim regularly visits. The home where offender and victim used to live together may be allocated to the victim only. Victims may also apply for compensation and damages, and for sole custody of the children. In most German federal states, so-called intervention centres have been implemented in order to provide information for victims of domestic violence regarding their legal rights under the Violence Protection Act. Following the *Gewaltschutzgesetz*, the 16 German federal states have reformed their police laws and empowered the police with measures for crisis intervention. In cases of imminent danger, the police may ban the perpetrator from the residence and issue an order obliging the offender to keep away from it. This order lasts for a limited period of time (usually 10-14 days) and is intended to give the victim the opportunity to file a civil law request at the family court. In most German federal states, the police may take the perpetrator into temporary custody to enforce his eviction from the home.

While the 2002 *Gewaltschutzgesetz* also refers to stalking behavior at the level of civil law, Germany introduced specific criminal law sanctions against stalking in 2007.

When police are called to a domestic violence incident, they take measures to protect the victim from imminent danger. Depending upon legislation in the respective federal state, information on the incident and the victim may be passed on to intervention centres (in some German *Länder* even without victims' consent). Intervention centres offer "pro-active counseling", i.e. they establish contact with the victim in order to provide advice on legal rights and opportunities.

Regarding criminal prosecution, the victim can report the offence orally or in writing. Usually, this is done to the police; however, offences can also be reported immediately to the judiciary (public prosecution office or court). Police intervention and police investigations will be documented and passed on to the public prosecutor. The public prosecutor decides whether there are sufficient grounds for indicting the suspect. Whereas German police



have no discretion regarding whether or not to investigate a case, the public prosecution office may terminate proceedings. Main reasons for dismissal are lack of sufficient evidence against the suspect, the suspect's guilt being regarded as of minor nature and a lack of public interest in the prosecution. In cases of minor guilt, prosecution may be terminated conditionally (e.g. after paying a certain sum to a charity) or unconditionally. Certain offences (e.g. so called simple bodily assault, as opposed to aggravated assault) will only be prosecuted if the victim has filed an application for criminal prosecution or the public prosecutor regards prosecution of this specific injury as being of public interest. The victim can appeal a public prosecutor's decision to terminate proceedings on account of lack of sufficient evidence.

If the case continues to court, the victim usually is the main witness for providing testimony regarding the incident and the damage occurred. However, German procedural law recognizes circumstances that justify the refusal of a witness to give a statement, especially if the defendant is a close relative. The victim may also act as a prosecuting party. So-called private prosecution is possible for certain offences for which public interest in prosecution is denied because of their minor nature. For some offences (e.g. serious sexual offences; offences involving bodily injury) the victim has a right of participation in the public prosecution as a private accessory prosecutor. The judge again may dismiss the case (conditionally or unconditionally). Criminal sanctions in domestic violence cases include custodial and non-custodial measures.

## 2. File characteristics

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The German sample consists of 94 files from ten public prosecutor's offices. The paper files were sent to German Police University by public prosecutor's offices of the German federal state of Hesse, a state in former Western Germany which has around 6 million inhabitants. Since files from nearly all over Hesse were gathered, there is a broad variety and mixture of characteristics to be found regarding social and economic factors of the area, population, wealth and urbanization. Additionally, files from the public prosecutor's office of Gera were analysed. Gera is a medium-sized town in former Eastern Germany (state of Thuringia), the public prosecutor's office is as well responsible for the surrounding towns and rural areas and the city of Jena.

Via a police database search in Hesse<sup>1</sup>, all cases of domestic violence against women aged 60+ years by intimate partners or former intimate partners, which were registered in the years of 2008-2010, were collected. A stratified random sample was selected from the data base: All cases of victims of 75 years or older were included. Even though the characteristics

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<sup>1</sup> Files from Gera were chosen because of an additional sample of intervention center files that was analyzed, which stemmed from the state of Thuringia. Nine files, which matched the ones from intervention centers, could be gathered from the public prosecutor's office in Gera.

for case retrieval were included in the police data base, the 115 files received included 23 files which didn't meet the selection criteria. 21 of these cases were excluded from the sample<sup>2</sup>. Two files in which victims were slightly younger than 60 years stayed in the sample, because the cases were interesting for the analysis and relevant regarding all other selection criteria.

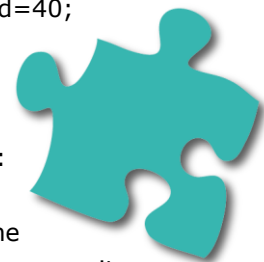
Whenever the police data base implied there were several cases referring to the same victim-suspect dyad, all of these files were requested. The 94 files in the sample refer to 82 couples<sup>3</sup>. Since the analysed files stemmed from public prosecutor's offices, the entire sequence from first police notice to the closing of the case is included. Nonetheless, due to a very high number of case dismissals and to lots of victims and suspects refusing to give evidence, a considerable amount of the files only provided a part of the information aimed at being gathered by the case file analysis, especially regarding police investigations and court actions.

### 3. Results from the quantitative analysis

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The mean age of the victims was 68 years (Min=57; Max=83; SD=6.237; N=93), around 50 % of the victims were between 65-74 years old, only 17.2 % of the files related to victims who were older than 75 years, 31.2 % were below 65. Suspects, who were all of male gender, were in average 68 years old (Min=40; Max=90; SD=10.259; N=94). Around 35 % of both victim and suspect had a so-called migration background.

In 79.8 % of the cases, victim and suspect were a couple when the offense was reported to the police. Further 9.6 % were ex-partners and another 6.4 % were co-habiting ex-partners – a group that we can say is in our sample an especially “explosive” combination. Most of the victims and perpetrators were retired at the time of the incident and lived together in a very long relationship (M=36.4 years; SD=16.787; Med=40; Min=1; Max=60). In only one fourth of the files the relationship of victim and perpetrator had lasted for less than 20 years. A considerable ratio of victims and suspects suffered from health issues such as serious illnesses (e.g. suspects: 20 %) or dementia (victims: 6.4 %; suspects: 9.6 %), around 10 % of the victims were permanently medically supported (due to cancer, care dependency, or psychiatric disorders). The victim was receiving nursing care from the suspect in seven cases, in six cases it was the other way around. There is a considerable number of cases in which an undersupply of nursing care came into light in the course of the investigations of the police. In only 3.2 %



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<sup>2</sup> These were cases in which the suspect was not the (former) partner of the victim and cases with non-violent offenses. If the suspect or victim in an excluded file corresponded with another file in the sample, additional information from the excluded file was included in the analysis of the other case(es).

<sup>3</sup> 74 dyads: 1 file, 5 dyads: 2 files, 2 dyads: 3 files. Data were analysed with regard to files, not couples.

of the German files there was evidence that the victim already had contact to a victim support institution when the offense happened.

There were several typical constellations of victim-suspect-relationships or offense-specific characteristics that could be found in the German sample through a qualitative analysis (see summary of qualitative analysis).

The offenses recorded by the police were mainly violent offenses (63 cases), threats (13), and coercion (2) and insults (8). Sexual offenses (3) and attempted homicide (2) were rarely reported in the files<sup>4</sup>. A "history of violent offenses" of the suspect mentioned by anyone in the file was documented in 57.4 % of the cases, but only 4.3 % of the suspects were already convicted due to DV. In 68.8 % of the cases, the victims only reported one incident to the police when they gave a statement. In the 29 cases where more than one incident was reported to the police, the duration of violence reported was in average one and a half years (Max = 10 y.). In 16 % of the cases reciprocal violence was reported. In 17 cases, weapons or objects were used to harm or threaten the victim (2x firearms (threatening only), 5x knives or sharp objects, 8x other objects, 2 bottles). A large percentage of the suspects was intoxicated during the attack (30.9 %, victims only 8.5 %).

In a large number of cases a high risk of severe or lethal violence occurrences which was categorized by the following characteristics could be found in the files: in 13.8 % of the files it was documented that victims were strangled or attempted to be strangled, in 26.6 % of the files the suspect threatened to kill the victim or himself, possession of firearms was documented in 9.7 % of the files.

Luckily, in most cases the physical consequences of the incidents were of low severity: In 19.1 % of the cases, victims claimed they had no injuries, in further 26.6 % of the cases no injuries were visible, minor injuries were documented in 34 % of the cases. Moderate injuries were documented in 8.5 % and only in 2.1 % of the files major injuries were reported and documented. A characteristic which always has to be taken into consideration when interpreting those numbers (e.g. concerning injuries that are not visible) is that in a considerable amount of files from Germany police was not called directly to intervene when the incident happened. In only 50 % of the cases, the victim was the one who informed police first, in the other cases it was family members (12.8 %), neighbours (12.8 %) or other persons such as nurses, friend or witnesses. The direct responses taken by police can therefore also only be interpreted under consideration of the limitation described above. The main responses taken by police when arriving at the crime scene were entering the apartment (60.7 %) and measures aiming at the criminal prosecution of the suspect (45.7 %). In 35.1 % of the cases the suspect was banned when police arrived. In only 8.8 % of the files it was documented that police officers handed out a legal information leaflet to the victim, giving her oral information about options for support was documented in 29.8 %. Eye-witnesses only existed in 21.5 % of the files, but in 33 % others (in particular family members, law enforcement agencies, victim support institutions or nurses) already had knowledge of violence in the relationship of victim and suspect. Case referral from police to

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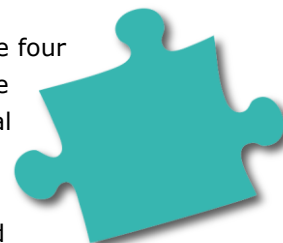
<sup>4</sup> Further offenses that were mentioned only once: fraud, counterfeiting of documents, robbery and extortion, vandalism



other institutions/support agencies only occurred in a few singular cases in the German analysis.

Using the categories given in the instrument, most of the victims could be described as only partially supportive towards criminal prosecution of the suspect (29.8 %), even mainly reluctant (7.4 %) or not at all supportive (20.2 %). Only few were mainly (9.6 %) or fully supportive (14.9 %). Most cases did not proceed to the court. The reasons for dismissal of the cases (83 %<sup>5</sup>) were in most of the cases lack of evidence, that there were no charges pressed by the victim or that there was only a “minor guilt” of the suspect.

The judicial consequences in the 14 cases in which suspects were charged were four pre-trial convictions issued as penal orders (15 to 50 so-called daily rates, the level of a daily rate depending on the convict’s income), eight main trial convictions (1 prison sentence of 2 years and 9 months, one suspended prison sentence of six months, five fines and one suspended fine in the range between 15 and 90 daily rates). One case was dismissed during the trial, and one defendant was acquitted. The cases that went to court were all characterized by a certain severity compared to the ones dismissed: they were cases of repeated violence, where the couples were already known to the police or victims repeatedly called police for help because of violent occurrences during the investigations. In all of these cases, the offenses were rather severe acts of violence and/or medical reports were available and/or there were witnesses to the offenses. Both cases in which victims were threatened with firearms were among those that went on trial, as well as two cases in which victims were raped.



#### **4. Typology of police-recorded cases of domestic violence against older women**

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This typology is based on extensive summaries of the information available from the public prosecutor’s files. It focuses on dominant characteristics of the victim/suspect relationship as perceived and recorded by the police. The descriptions detail incident characteristics, typical history of violence, cooperation with law enforcement authorities and case outcome.

##### **4.1. History of (intense) unilateral violence**

This group contains not only cases with a history of violence reported by the victims, but also cases in which the relationship’s (assumed) on-going violent nature a.) is available via witness accounts, b.) can be inferred from indirect statements made by the victim or c.) is being suggested by the victim’s flat refusal to even talk to the police.

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<sup>5</sup> in two files, information on the dismissal of the case were not available

As most of the violence-reporting victims had also withstood intervention attempts for a long time, it stands to reason that the subgroups a.), b.) and c.) might be precursory or less intense developments of the same relationship type as the one reported by the victims.<sup>6</sup>

➤ **Victim reports**

Some of the cases (n=12) were characterized by a long history of violence reported by the victim. These included the most severe physical and sexual offenses in the sample. Some of the victims had pressed charges against their abusive husbands before. These cases were characterized by very scared victims and abusive, controlling husbands who tended to threaten the victims with physical harm, death and, should the victim contact the police, defamation charges. Most of the victims who decided to report the perpetrator received support from family members or neighbours who encouraged them to involve the police. Most of the victims in this group did not want the perpetrator to be prosecuted, but to end the violence. Still, the cases in this group had the highest rate of both previous separation attempts and eventual separation after the incident.

➤ **History of unilateral violence implied or according to other sources (n=4)**

In two other cases, the victims denied having ever been subject to physical violence (before). In both cases, the victims' daughters were certain their mothers suffered regular physical abuse; one victim's brother had previously intervened when the suspect had tried to attack his wife.

In two more cases, the victims stated their husbands were "only violent when drunk", followed by "he's an alcoholic" and therefore drunk frequently. Both victims were intent on resolving the situation and accepted social services' support.

➤ **Victims opposing prosecution<sup>7</sup>**

A significant part of the analysed cases (n=11) were dealing with non-cooperative victims. These usually involved a husband exerting physical violence which resulted in minor or no visible injury. They were characterized by victims who did not wish to involve the police or any other institution. These victims did not call the police or press charges against the perpetrators: all incidents were called in by other witnesses. All victims invoked the right to refuse to give evidence.



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<sup>6</sup> This assumption is based on Johnson's (2008) concept of "Intimate Terrorism" which depicts long-term unidirectional violence as rooted in a web of power and control. He describes it as evolving over time, and the victims as being less likely to respond to intervention attempts. Johnson, M. P. (2008): *A typology of domestic violence: Intimate terrorism, violent resistance, and situational couple violence*. Lebanon, NH: Northeastern University Press.

<sup>7</sup> While the other groups were characterized on the level of relationship according to police accounts and statements given, "victims opposing prosecution" is actually a collection of cases in which the victims completely refused to cooperate with the police. Consequently, there is little or no information on the type of relationship available to the police. Although the category might therefore be considered a collection of untypifiable cases, it was included in the typology as a) refusal is a distinctive factor in police perception and intervention, and b) the victim's refusal to cooperate might point to a specific type of relationship we otherwise hardly have access to (e.g. characterized by coercive control), which is further supported by the indicators' similarity with the groups detailed in 1.1 and 1.2.

Most of these couples presumably had a history of violence, indicated by neighbours' statements or previous investigations and fruitless intervention centre attempts. Half of these case files (5) indicated signs of controlling behaviour on the suspect's part (2) or involved a (terribly) frightened victim (3), the other half (5) involved heavily intoxicated perpetrators.

If talking at all, the victims tended to make excuses for the perpetrators' actions, instead blaming intoxication, mental illness or themselves. All victims in this group wanted to make up with their husbands and opposed to their prosecution. All of the case files that include information on case outcome got dismissed due to lack of evidence as none of the victims pressed charges or provided evidence.

#### **4.2. Nursing care and dementia / mental illness / physical illness**

The largest group in the sample (n=29) was characterized by one of the partners suffering from dementia or another severe mental or physical disorder and their corresponding need for nursing care and/or guardianship, which massively strained the relationship. In most of these cases, a history of violence was reported.

##### **➤ Violence directed at incapacitated victims**

About a third of the cases (n=11) involved the victims being cared for by their husbands, who - according to witnesses and family - were not able to cope with the strenuous situation. Most perpetrators hit or slapped the victims - some regularly - with only minor or no injuries. None of these cases were reported by the victims, but by eye witnesses. As the victims were not fit for interrogation or claimed nothing had happened, most cases got dismissed. Most of these victims were soon after placed in a nursing home or otherwise being cared for by their adult children.

##### **➤ Violence by incapacitated perpetrators**

The case files involving perpetrators suffering from dementia or other mental or physical disorders associated with challenging behaviour (n=13) were characterized by the perpetrators' unpredictable attacks. Most of these perpetrators had their wife or an adult child appointed as legal guardian. They showed very aggressive behaviour, insulting, physically attacking and threatening to kill not only their caregiving wives but also adult children and professional caregivers. Most of the perpetrators were committed to a psychiatric hospital directly after the incident and were eventually placed in a nursing home.

The victims did not wish their husbands to be prosecuted, but the situation to change. Most of them didn't press charges against their husbands. As the perpetrators were assumed not to be criminally liable or declared unfit to face trial, most cases got dismissed.

##### **➤ Violence directed at "mentally ill" victims**

A small but very distinct group (n=5) is made up of victims that seem to be mentally ill, exhibiting very aggressive behaviour and signs of paranoia. Characteristically, they reported their husbands for minor physical assault and threatening or trying to kill them. Police reports described the victims' behaviour as aggressive and erratic. Most victims had a history of psychiatric treatment, at least according to the perpetrators. In none of these

cases did the police check the medical history or interview the legal guardians assigned to some of the victims. Although most of the victims in this group pressed charges and testified, all cases got dismissed due to lack of evidence (“his word against hers”).

### **4.3. Reciprocal violence**

A second group involving long-term violent relationships was characterized by reciprocal violence (n=8). These were mostly dysfunctional relationships exhibiting regular (physical) fights, threats and insults from partners, regular police involvement, but only minor injuries. Reversed offender/victim roles in prior police reports were mentioned. Most of these couples only involved the police in the heat of the moment; when things had cooled down, they refused to give evidence.

### **4.4. Violence by former partners**

Some of the analysed case files dealt with separated or divorced couples (n=12). In most of these cases, the victims were still being stalked, threatened or hit by their (former) husbands. In some cases, the former partners had separated completely, but the ex-husbands kept persecuting and threatening (to kill) their former wives. Other perpetrators, usually separated more recently, had contacted their (former) wives to argue about money and property issues, which culminated in verbal and physical violence. In some other cases, the former couples had divided their house into two apartments and kept the married façade; all of these were characterized by reciprocal violence. All of the victims contacted the police themselves, and most of them testified. Still, most of the cases got dismissed as being a “private matter” or because of “minor guilt”.

## 5. Conclusions

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Some of the main results of the analysis showed that often the older victims of domestic violence do not primarily seek criminal prosecution of their (former) partner, but have a need for protection and rather want the situation to change. Because these women often do not know about all their rights – especially those granted by the Protection against Violence Act – it would be advisable to consider handing out information about the law and support/intervention agencies more often.

German case file analysis also showed that in some cases police is confronted with situations in which there is a need for institutional and professional interventions that has so far not been recognized by the persons concerned. This relates to age-specific diseases like dementia and to home care situations which are unstable and characterized by overburdened caregivers. In these cases, as well as in cases in which it can be suspected that one of the persons concerned is suffering from mental diseases, medical professionals should be consulted more often to make diagnosis and in order to ensure an appropriate health and/or nursing care. Of course, the situations described above are often quite hard to assess. While the assessment of age-specific diseases cannot be a police officer's task it seems reasonable to familiarize the officers – as far as possible – with basic knowledge on frequent disease patterns, their potential behavioural correlates and key contact persons from medical and care-giving professions. To tackle these very complex problem constellations, an intensification of cooperation with other relevant professions and institutions (e.g. health, care, protection against violence) seems recommendable.



## **Impressum**

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