

Management of allegedly dangerous individuals by Swiss cantonal police forces

Study Report

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Summary

I. Research objective

This research examined the management of allegedly dangerous individuals by cantonal police forces in Switzerland. The phenomenon of preventive policing was investigated through the recording and analysis of approximately 300 cases handled by the institutionalised threat and risk management units of three cantons. For the first time, empirical insights have been developed regarding who these allegedly dangerous individuals are and what common features and differences they exhibit. This study examined both the structure and procedures, as well as the decision-making of police forces dealing with such individuals. Topics of special interest included risk assessment approaches, the role algorithmic decision-making plays, and the measures taken to mitigate risks. These procedures were appraised in light of their human rights implications and legal foundations. As the area of preventive policework has received little attention from the legal field, this report represents a basis for further discussion and will provide policymakers, legal scholars, and practitioners with important findings to consider.

II. Data collection and method

This study was based on police reports and documentation from three cantonal police forces: Zurich, St. Gallen, and Berne. From June to September 2022, data from 293 cases were collected (100 in St. Gallen, 100 in Zurich, and 93 in Berne). To account for cantonal particularities and contextualise the results of the collected cases, expert interviews with the leading officials of the forces' threat and risk management units were conducted in advance. During the fall of 2022, the data were analysed using quantitative and qualitative methods. Limitations mainly stemmed from the fact that data collection was based primarily on files. Documentation can be incomplete and not always comprehensive. This was taken into account when interpreting the results.

III. Results

The results show that 46.5% of the cases concerned the category of domestic violence, sexual violence, and incidents in connection with intimate relationships. Next, threats and physical violence against the authorities and their representatives (25.5%) and against other persons (15.5%) were prominent. Only 5.2% of the cases were related to extremism and radicalization.

Regarding demographic typification of allegedly dangerous individuals, the analysis showed that the threat and risk management units dealt with a diverse spectrum of individuals. However, tendencies were identified. The cases mainly concerned males (93.8%). The mean age was 39 years, and most individuals were between 26 and 45 years of age (48.4%). Minors, by contrast, were only marginally represented (2.1%). While every second case involved a Swiss national (54.3%), the remaining individuals belonged to a range of 36 different nationalities. Foreign nationals were, therefore, overrepresented.

More than one in three individuals was unemployed (38.3%). Every fifth individual received a disability pension (15.9%) or was retired (4.5%). In contrast, only 29.4% of the allegedly dangerous individuals were employed or self-employed. Finally, officially documented mental health issues were found in about one-third of the cases (33.4%).

The cantonal threat and risk management units became aware of allegedly dangerous individuals primarily through reports from other authorities such as regional police forces or the child and adult protection authority (48.5%). In addition, they relied on their own screening of police databases to identify incidents that might be of interest (16.8%). The number of cases in which a potential victim contacted the cantonal threat and risk management unit directly was relatively low (14.3%).

Almost two-thirds (67.3%) of the allegedly dangerous individuals were previously registered with other police units before their cases came to the attention of the cantonal threat and risk management units. Of these individuals, most had one previous registration (29.1%) or between two and five registrations (27.1%). The results further showed that 27.5% of the registered individuals had known records of previously concluded criminal proceedings. In 17.5% of the cases, an ongoing criminal proceeding typically related to the incident that led to the involvement of the cantonal threat and risk management unit was present, implying that the prosecution was actively and simultaneously involved.

When confronted with a potential case, the specialized units conducted an initial risk assessment to obtain a first estimate of the severity of the risk associated with the individual. In St. Gallen and Zurich, an extended risk assessment that resulted in a more comprehensive report was then carried out in about one-third of the cases (34.5%). The case files rarely contained specific documentation regarding why such an assessment was found to be necessary. In the canton of Berne, only one out of four cases (26.9%) was classified as high risk, which would cause it to be the exclusive responsibility of the cantonal threat and risk management unit and lead to more in-depth assessments.

Algorithmic tools were used in all three cantons, though they only featured a very simple “if-then” structure, making them comprehensible. Moreover, they were used in a flexible and not fully automated manner. Opaque technical tools, automated decision-making or even intelligent devices were not in use. Less transparent tools such as DyRiAS, which have been tested in previous years, were not present. Nonetheless, all units used structured tools by default to support their risk assessments. Regarding the influence of such tools for decision-making in terms of measures taken, no conclusions could be drawn for two cantons, as the files analysed did not contain any information in this regard. No detailed documentation of the relevant arguments and decision-making processes was available. However, the data sets provided for the third canton showed that in almost every case, the results of such tools had a medium to high impact on the assessment of a case and its risk (98.2%).

Finally, in most cases (94.9%), measures to mitigate or further specify risks were taken. The cantonal threat and risk management units relied on a range of efforts. The collection of further information about an individual based on either internal police files or networking with other authorities often constituted a first step (85.3%). Furthermore, directly confronting the individual proved to be of particular

relevance (51.9%). In about a quarter of all cases (24.9%), further measures were taken to protect and/or support the victims. Such efforts were seen mainly in cases of domestic or sexual violence.

IV. Discussion

The issues that threat and risk management units deal with are mostly related to conflicts in intimate relationships or the domestic sphere and disputes with the authorities. The main types of allegedly dangerous individuals could therefore be assigned to the group of “persons at risk of committing violent offences in their social environment” or “troublemakers exhibiting aggression towards the authorities”. The term “dangerous individual” barely reflects these (and other) heterogeneous types of problematic individuals and the kinds of risk they suggest. Yet, it was found that many of these individuals were socially marginalised. Unemployment rates were high, mental health problems widespread (especially among the “troublemakers” category), and males with foreign nationality overrepresented. Marginalisation was very likely a contributory cause of the risk situation, but could also be a key factor in prevention. It is evident that these specialised police units do not perform traditional police work. Rather, they are concerned with tasks that exist in the space between social work and policing. Such tasks include, for example, assistance with establishing contact with other institutions that provide support for dealing with personal issues. This kind of assistance apparently fills a contemporary social need. However, this dual role of the cantonal threat and risk management units that incorporates both repressive policing and social support can be challenging.

The data collected further shows that threat and risk management are not exclusively situated in a mere pre-crime context. This is surprising, as the label it is given both publicly and legally is usually one of pure crime prevention (i.e., the management of threats that have not yet been realized). The cases analysed showed, however, that the cantonal threat and risk management units often focused on individuals whose behaviour gives rise to concerns regarding violence or who had already exhibited behaviour prosecutable under criminal law that also indicated a possibility of future incidents.

Therefore, the borders between purely preventive and investigative police activities are blurred. As the legal framework differs depending on this distinction, it can be difficult to predict which law will apply to measures taken based on threat and risk management. This is particularly important regarding the guarantee of procedural rights, but it is also apparent that there is an obvious need to take measures with regards to certain persons who are not adequately covered by current procedures under criminal and police law.

In this new era of predictive policing, there have emerged concerns that risk assessment and decision-making are largely achieved through algorithmic tools. These concerns about automated decisions relate mainly to their lack of traceability and accountability. This study suggests that algorithmically structured tools constitute an important part of risk assessment. However, those being used can by no means be described as “black boxes,” but rather are flexible and easily understandable instruments. The relevance of algorithmic decision-making may have increased in recent years in this field, but not with

respect to more advanced or intelligent tools. What may represent such a “black box,” however, is that due to a lack of detailed documentation regarding decision-making procedures, it is difficult or nearly impossible to trace who decided what, with what help, and based on what factors. Therefore, concerns should focus less on the question of whether choices with human rights implications are being made by algorithms or humans, and rather on how to generally guarantee adequate traceability and accountability in such decision-making.

Threat and risk management by the police inevitably encroach on fundamental rights, whether in gathering information about individuals from various sources and private individuals or confronting individuals directly. The measures taken are rarely overly invasive. Nevertheless, the monitoring, collection of information, and if necessary, further measures are relevant in terms of human rights. It is vital that these measures are embedded in a sufficient legal framework. Above all, those affected must be afforded the possibility of having potentially inappropriate measures legally reviewed.

V. Conclusion

Cantonal threat and risk management units pursue the early identification and mitigation of risk to prevent severe and targeted violence. In so doing, they provide a valuable contribution to the common good, and the cases analysed here showed that the social and police work these units provide are responding to a social need, especially in the field of domestic and sexual violence, as well as regarding threats directed at the authorities and their representatives.

However, there must be a legal framework that justifies, legitimates, and delimits such institutionalised policing. This is important precisely because the nature of this work is not entirely clear-cut and almost always features various facets. At the boundary between pre-crime and post-crime, but also at the interface connecting social work, adult and child protection measures, and repression, different challenges arise. These must receive increased attention in the further (legal) anchoring of this type of police activity. The cantons are therefore advised to define clear structures, procedures, and responsibilities related to this field. A special focus should be on how to improve the traceability of decisions that result in encroachments on fundamental rights, regardless of whether they are made by humans or algorithms.

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List of abbreviations

AI	Artificial intelligence
AJP	Allgemeine Juristische Praxis
art.	Article/articles
Behav. Sci. Law	Behavioral Sciences and the Law
BE	Canton of Berne
BEGS	Beratungs- und Anlaufstelle für Extremismus und Gewaltprävention Schweiz
BGE	Official compilation of the Swiss Federal Supreme Court Decisions
BSK	Commentary of Basel
CAPA	Child and adult protection authority
CC	Swiss Civil Code of 10 December 1907, SR 210
cf.	Confer, compare
ch.	Chapter
cit.	Cited
CrimC	Swiss Criminal Code of 21 December 1937, SR 311.0
CrimPC	Swiss Criminal Procedure Code of 5 October 2007, SR 312.0
Cst	Federal Constitution of the Swiss Confederation of 18 April 1999, SR 101
CTRM	Cantonal Threat and Risk Management
DPA (or IDA)	Cantonal Act on Data Protection
DyRiAS	Dynamic Risk Analysis System
E.	Consideration
ECHR	European Convention of Human Rights
ed./eds.	Editor/editors
e.g.	Exempli gratia (for example)
etc.	Et cetera (and so on)
et seq./seqq.	Et sequens/et sequential (and the following/and those that follow)
EU	European Union
Eur J Secur Res	European Journal for Security Research
FADP	Federal Act on Data Protection of 19 June 1992, SR 235.1

FFA	Forensic Assessment & Risk Management Unit
FSO	Federal Statistical Office
HK	Handkommentar
IPBM	Institut Psychologie und Bedrohungsmanagement
i.e.	Id est (that is)
lit.	Litera (letter)
M	Marginal number
m	Missing
N	Sample
NKrim	Neue Zeitschrift für Kriminologie und Kriminalpolitik
ODARA	Ontario Domestic Assault Risk Assessment
OFK	Orell Fuessli Commentary
p./pp.	Page/pages
para.	Paragraph
PK	Practice commentary
PolA	Cantonal Police Act
POLIS	Police Information System of the canton of Zurich
QFLR	Quid? Fribourg Law Review
Ra-Prof	Radicalisation profiling
resp.	Respectively
RPpsych	Interdisziplinäre Zeitschrift Rechtspsychologie
Sci. Adv.	Science Advances
SECO	State Secretariat for Economic Affairs
SG	Canton of St. Gallen
SK	Schulthess Commentary
SR	Classified compilation of Federal legislation
SRF	Swiss Radio and Television
VSKC	Association of the heads of the Swiss criminal investigation departments
ZH	Canton of Zurich
ZStrR	Schweizerische Zeitschrift für Strafrecht

1 Introduction

Traditionally, police investigations are carried out after a crime has been committed.¹ In the past few decades, the focus has shifted and the prevention of crime become a predominant paradigm in police work.² In Switzerland, this is mainly due to tragic events that raised widespread concerns regarding public safety and cast the authorities in a negative light, since the perpetrators were known to the police before the incidents occurred.³ This public pressure led to the prevailing opinion that intensified preventive police work was necessary. Consequently, the identification of risks as early as possible became a major focus of police work.⁴ In Switzerland, this effort was institutionalized in different ways, leading to structured *threat and risk management* units within many cantonal police forces, as well as the formation of networks consisting of different authorities supporting this effort.⁵

The rise of organized threat and risk management procedures and units has resulted in the professionalization of preventive policing and establishment of standardized risk assessment and management approaches. In this context, the term *predictive policing* has emerged, usually referring to the use of algorithms to forecast crimes.⁶ In threat and risk management, such algorithmic tools are used for evaluating the risk of future violent behaviour.⁷ They promise compensation for human flaws and the introduction of more adequate results.⁸ Yet they have been criticized for lacking reliable training data, producing arbitrary and biased results, and falling short of evaluation.⁹ Given this criticism, the use of algorithms to assess the risk of violence in allegedly dangerous individuals has caused concerns about the legal implications for those individuals, and thus has become a topic of interest for the media¹⁰ and legal scientists.¹¹ Concerns about human rights implications not only stem from the algorithmic tools, but also the preventive measures taken by the police based on those tools.¹²

A 2020 study conducted at the University of St. Gallen examined the use of algorithms by the Swiss criminal justice authorities,¹³ finding that a significant number of cantonal police forces rely on algorithmic tools when assessing risk, and that the results of those tools influence the human decision-making process, at least to some extent.¹⁴ Against this background and in view of the ongoing (critical) debate regarding preventive police measures and the role algorithms play in them, this study further examined

¹ BRUN, 157.

² BERGER, 344; BRUNNER 2017a, 5.

³ BRUNNER 2017a, 4.

⁴ BRUNNER 2021, 13 et seq.

⁵ Cf. BRUNNER 2017a, 4 et seqq.; WECHLIN, 7 et seqq.

⁶ Cf. EGBERT/KRASMANN, 905 et seqq.; GABEL CINO, 1073 et seqq.

⁷ SIMMLER/BRUNNER/SCHEDLER, 17 et seq.

⁸ LIN ET AL., 2 et seqq.

⁹ Cf. COCITO ET AL., 2 et seqq.; SIMMLER, 452 et seqq.; SIMMLER/BRUNNER/SCHEDLER, 52.

¹⁰ E.g. SRF, predictive policing; FICHTER/WÜSTHOLZ, 1 et seqq.

¹¹ Cf. the study of SIMMLER/BRUNNER/SCHEDLER; cf. also the chapters in SIMMLER, Smart Criminal Justice; BRUN, 157 et seqq.

¹² SIMMLER/BRUNNER/SCHEDLER, 44 et seq.; BRUN, 166 et seqq.

¹³ Cf. the study of SIMMLER/BRUNNER/SCHEDLER.

¹⁴ Cf. below ch. 2.2.2.

the management of allegedly dangerous individuals by the Swiss police. The goal was to develop a comprehensive picture of how threat and risk management in Switzerland works, how the police units in question operate, who the individuals most affected by these measures are, what concrete outcomes they face, and finally, what role algorithms play throughout.

Therefore, this study is organized as follows. As a first step, we describe the theoretical background needed to best understand the context of the research subject (Chapter 2). We then elaborate upon the research questions (Chapter 3) and explain the empirical methods used to answer them (Chapter 4). Next, we present the findings regarding the organization of and procedures used by threat and risk management units (Chapter 5), and the characteristics of the allegedly dangerous individuals, the process of assessment, and measures taken to mitigate potential risks (Chapter 6). Next, we discuss the results (Chapter 7). Our report then ends with the conclusions drawn from this investigative effort (Chapter 8).

2 Theoretical background

2.1 Swiss police system: Organization and legal foundation

Regarding *legislation*, the Swiss constitution (Cst) assigns policing to the cantons if it does not concern post-crime police work within the framework of criminal investigations. Each canton is competent to determine the *organization* of and procedures for the cantonal police force and pass corresponding legislation.¹⁵ Consequently, there are 26 different police legislative bodies in Switzerland. In criminal justice, we must differentiate between organizational and procedural questions. While organization of the (criminal) courts and prosecution are covered by cantonal law, the legislation for criminal procedures is an expression of federal competence, and thus there is one Swiss Criminal Procedural Code (CrimPC) that uniformly governs criminal procedural matters throughout the entire country.¹⁶ In certain areas, policing can also interface with areas regulated by the Civil Code (CC). This is the case when child or adult protection measures such as protective placements become necessary.¹⁷

Regarding the *functions* of the police, it is challenging to make clear-cut distinctions among the manifold tasks and functions police perform and fulfil.¹⁸ To reduce complexity, the following focuses on police activities relevant to the subject of the present research. Within this scope, two main functions of the police are of particular importance. One is *guaranteeing public order and safety*, and the other is *criminal investigations*. This differentiation of goals and tasks is relevant to determine the applicable legal bases defining and delimiting the scope of police activities, and most importantly, the rights and duties of individuals affected by them.

Guaranteeing public order and safety generally includes protection from threats to public safety, and especially the prevention of crime.¹⁹ For example, traffic control is a typical task in this area. The legal bases are established by different cantonal police acts.²⁰ In contrast, *criminal investigation* means police activity in criminal procedure and concerns investigations supporting the prosecution of crimes.²¹ In this field, police activity is based on the CrimPC, which legitimates and delimits the scope of police action, and most importantly, defines the procedural rights of individuals who become the subjects of criminal investigation.²² Furthermore, the CrimPC assigns the administration of proceedings to a prosecutor, meaning that the police are bound by instructions issued by the public prosecutor's office when performing tasks in the field of criminal investigation that are governed by the CrimPC.²³ Whether or not

¹⁵ MOHLER 2012, M 197.

¹⁶ Cf. Art. 123 Cst.

¹⁷ Art. 28b et seqq. and 453 CC; SCHWANDER, 12.

¹⁸ Cf. TIEFENTHAL, § 4 M 12 et seqq.

¹⁹ TIEFENTHAL, § 4 M 28 et seqq.

²⁰ TIEFENTHAL, § 2 M 55.

²¹ Cf. Art. 15 CrimPC; SK CrimPC-KELLER, Art. 15 M 3; SCHMID/JOSITSCH, § 20 M 339 et seqq.

²² For example, the right against self-incrimination of the accused, cf. Art. 113 CrimPC, or the right to protective measures for victims, cf. Art. 152 et seqq. CrimPC.

²³ Art. 15 para. 2 CrimPC.

a police activity belongs to the field of criminal investigation or that of preventive policing has far-reaching implications for the individual.²⁴ This can be illustrated according to three important aspects.

One is the *legal position* of the individual involved. The CrimPC defines the role of the accused and determines their rights in criminal proceedings.²⁵ By contrast, the cantonal police acts usually lack a definition for allegedly dangerous individuals and do not institutionalize their legal position.²⁶

A second aspect is *information about the legal position* of the individual. If the police interrogate a person during a criminal procedure or arrest an individual upon catching them committing a crime, the CrimPC stipulates that the person must be informed about the reason why they are being interrogated and their rights and duties as the subject of a criminal procedure.²⁷ Conversely, conversations between the police and individuals that serve preventive purposes usually don't carry with them a general legal duty to inform the person affected and consequently restricted in exercising their fundamental rights.

Lastly, whether the CrimPC is applicable has implications regarding the *legal protection* of the individual. For example, the CrimPC stipulates that the accused has the right to appoint an attorney to safeguard their interests during criminal proceedings.²⁸ Cantonal police legislation does not contain such a provision. Furthermore, measures taken during criminal investigations (e.g., search and seizure warrants) are subject to the legal remedies enshrined in the CrimPC and can be appealed accordingly.²⁹ Conversely, preventive measures taken by the police are not clearly categorised and regulated.

The *prevention of crime* has gained special importance in the past several years. Criminal offences should be prevented. This requires measures taken in advance. In this preliminary stage, however, one is not within the scope of application of criminal procedural law with its very clearly delineated requirements.³⁰

²⁴ For an overview of the differences in defensive rights between the CrimPC and cantonal police law as well as the implications for the individual targeted by threat and risk management, cf. SIMMLER, 482 et seq.; KETTIGER, M 8 et seq.

²⁵ Art. 111 et seqq. CrimPC.

²⁶ Cf. SIMMLER, 447 et seq.

²⁷ Cf. Art. 158 and Art. 181 CrimPC.

²⁸ Art. 127 et seqq. CrimPC.

²⁹ Art. 393 et seqq. CrimPC.

³⁰ WOHLERS, 1313 et seq.; BRUNNER ET AL., 15.

2.2 Cantonal threat and risk management in Switzerland

2.2.1 Concept and purpose

Due to the intensified focus on preventive police work, the concept of cantonal threat and risk management (CTRM) has emerged in most Swiss cantons.³¹ The general *objective* of CTRM is to prevent violent crime.³² It builds upon the assumption that targeted violence can be anticipated based on warning signals in individuals' behaviour.³³ The goal of CTRM is to identify such warning signals at an early stage, assess the risk potential that an individual might exercise violence towards a victim, and mitigate that risk.³⁴ To this end, CTRM takes a proactive, three-stage approach: (1) as early as possible, identify cases that threaten to escalate; (2) gather all information necessary for a sound risk assessment; and (3) de-escalate the situation by taking adequate measures.³⁵ The cases are usually dynamic, so assessing risks and taking measures is a continuous process.³⁶

The *scope of action* of a CTRM unit includes any form of targeted violence, be it physical, psychological, or sexual in nature.³⁷ According to the literature, typical phenomena include domestic violence, stalking, extremism, and threats toward individuals or institutions.³⁸ To identify risk potential at an early stage and take appropriate measures to prevent violence, the threshold of activity of the CTRM units is set at a low level (i.e., as soon as the behaviour of an individual gives rise to justified concerns that they are at risk of exerting violence and thus pose a severe threat).³⁹

In terms of *structure*, the ability to identify risk early on requires an interdisciplinary approach and co-operation.⁴⁰ In everyday life, allegedly dangerous individuals are involved with different (public) actors with whom potential risk could materialize and where in response, quick action is needed.⁴¹ Given this need for rapid and coordinated action, CTRM demands a network consisting of the police and different public authorities such as schools, child and adult protection agencies (CAPA), migration authorities, health care institutions, victim support centres, and correctional facilities. The police form the core of the network, since they are often the first to take notice of a case (i.e., through a report or first-hand observation).⁴²

³¹ Cf. BORUM ET AL., 323 et seqq.

³² BRUNNER 2021, 21 et seq.

³³ BORUM ET AL., 329 et seq.; HOFFMANN/ROSHDI, 266; MELOY ET AL., 260 et seqq.

³⁴ BRUNNER 2017a, 4 et seq.; GULDIMANN/BRUNNER/HABERMEYER, 230 et seqq., KANTON SOLOTHURN, 7 et seq.; WECHLIN, 10.

³⁵ BRUNNER 2017a, 4 et seq.

³⁶ WECHLIN, 12.

³⁷ BRUNNER 2017a, 4; BRUNNER ET AL., 8; KANTON SOLOTHURN, 12 et seqq.

³⁸ BRUNNER ET AL., 8.

³⁹ GULDIMANN/BRUNNER/HABERMEYER, 230.

⁴⁰ BRUNNER ET AL., 9; GULDIMANN/BRUNNER/HABERMEYER, 230.

⁴¹ GULDIMANN/BRUNNER/HABERMEYER, 234.

⁴² BRUNNER 2021, 17.

2.2.2 Risk assessment

According to a study published in 2020, a significant number of Swiss cantons rely on algorithmic tools when assessing risk within the scope of CTMR.⁴³ As an overview, the risk assessment tools most often used are described in the following subsections.⁴⁴

Octagon: Octagon is a flexible assessment framework applied to various forms of violence. Its goal is to determine the need for intervention and adequate measures in specific cases.⁴⁵ To this end, Octagon guides the user through a questionnaire addressing eight dimensions (e.g., psychological predisposition, criminal history, current problematic behaviour). In identifying the risk, the user assigns yellow, orange, or red flags.⁴⁶ The urgency of the intervention is determined by the user based on the number and allocation of flags. Then, Octagon generates general recommendations with regards to measures. The user then decides on suitable measures or exempts from taking measures. Octagon is available in paper-based form or online. It is important to note that the tool does not perform any automated algorithmic risk calculations. However, as each question leads to flags and flags lead to recommendations, it is algorithmic in a broad sense because it is based on an “if-then” structure. By 2020, at least six cantons used the tool and in at least four cantons, the implementation was planned.⁴⁷

ODARA: The Ontario Domestic Assault Risk Assessment is an actuarial risk assessment tool that calculates the risk potential of a male individual who has assaulted his female partner; this is accomplished by comparing him to similar perpetrators associated with the same risk. The tool guides the user through a catalogue of 13 items, including criminal history, threats and confinement during the index incident, children in the relationship, and substance abuse. Each item is scored with a 0 or 1, and the total score (i.e., the sum of the items) indicates the risk potential.⁴⁸ As an actuarial tool, ODARA only contains static variables and combines the information in a mechanical way.⁴⁹ As of 2020, at least three Swiss cantons used ODARA.⁵⁰

DyRiAS: The Dynamic Risk Assessment System is a tool designed for different areas (e.g., workplace, school, intimate relationships) that guides the user through a catalogue of various items and factors (e.g., whether someone is prone to alcoholism). Based on the answers, DyRiAS calculates the risk potential in the form of a risk number, with 1 indicating a low risk and 5 a very high risk. Given this automated risk calculation, DyRiAS can be considered an algorithmic checklist.⁵¹ By 2020, at least six cantons had implemented DyRiAS, and in two cantons, the implementation was planned.⁵²

⁴³ SIMMLER/BRUNNER/SCHEDLER, 14 et seq.

⁴⁴ For an overview of the use of tools in the Swiss cantons cf. SIMMLER/BRUNNER/SCHEDLER, 14.

⁴⁵ ENDRASS/ROSSEGGER 2017, 40.

⁴⁶ For further information cf. ENDRASS/ROSSEGGER 2016, 1 et seqq.

⁴⁷ Cf. SIMMLER/BRUNNER/SCHEDLER, 14.

⁴⁸ For further information on ODARA cf. HILTON, 66 et seqq.

⁴⁹ SEEWALD ET AL., 221.

⁵⁰ SIMMLER/BRUNNER/SCHEDLER, 14.

⁵¹ For information on the purpose and function of DyRiAS cf. IPBM, DyRiAS; for the use of DyRiAS in Switzerland as of 2020 cf. SIMMLER/BRUNNER/SCHEDLER, 15 et seq.; 20 et seqq.

⁵² SIMMLER/BRUNNER/SCHEDLER, 14.

RA-PROF: Radicalization profiling works in a fashion similar to that of *DyRiAS*. The tool is designed to identify radicalization tendencies. Risk assessment is based on an online questionnaire that includes 40 items. The algorithm calculates the risk potential from the number of questions answered with a “yes.” The result then appears as a colour. Red stands for an urgent need for action. *RA-PROF* is an algorithmic checklist based on a simple algorithm.⁵³ As of 2020, it was used in at least three cantons; in one canton, the implementation was planned.⁵⁴

In sum, none of the tools in use were based on advanced algorithms, nor could any be considered self-learning (i.e., intelligent).⁵⁵ Nevertheless, such tools do generate a risk indication, either numerically or based on categories. They serve as a basis for further evaluation, and their results inevitably influence human risk assessment.⁵⁶ Looking at the situation in 2020 in the three cantons analysed in this study, CTRM in Zurich relied on Octagon, *DyRiAS*, and *ODARA*; in St. Gallen, Octagon and *DyRiAS* were in use, and in Berne, no information on tools was available.⁵⁷

2.2.3 Measures

Besides regular police interventions such as interrogations, CTRM relies on a few specific measures to assess and mitigate risk. One prominent CTRM-specific measure is the so-called *threat address*. A threat address can be described as a conversation initiated by the CTRM unit and involving allegedly dangerous individuals.⁵⁸ It pursues three main goals: (1) gathering information to assess the situation and risk potential and finding measures to mitigate the risk; (2) discussing and demonstrating ways the individual might reduce the risk; and (3) explaining to the individual that their behaviour causes harm to the victim and conflicts with (criminal) law, as well as general social norms.⁵⁹ It thus serves a twofold purpose. It is a valuable source of information, and at the same time a means of de-escalating a situation by direct contact with the individual.⁶⁰ The conversation is informal in character and often takes place at the individual’s home or in a public space.⁶¹ Participation in a threat address is generally optional, so it is not a highly coercive measure in the formal sense.⁶² However, it clearly affects civil liberties.⁶³ The modalities by which the CTRM unit conducts threat addresses depend on the organization of that unit in the canton. Another CTRM-specific measure is *connecting with other authorities within the network*.⁶⁴ The connection is mainly relevant in cases of individuals with psychological issues or severe violence

⁵³ For information on the purpose and function of *Ra-Prof* cf. BEGS, *Ra-Prof*; for the use of *Ra-Prof* in Switzerland as of 2020 cf. SIMMLER/BRUNNER/SCHEDLER, 15 et seq.; 20 et seqq.

⁵⁴ SIMMLER/BRUNNER/SCHEDLER, 14.

⁵⁵ SIMMLER/BRUNNER/SCHEDLER, 17 et seqq.

⁵⁶ SIMMLER/BRUNNER/SCHEDLER, 27; SIMMLER ET AL., 10 et seq.

⁵⁷ SIMMLER/BRUNNER/SCHEDLER, 14 et seq.

⁵⁸ GULDIMANN/BRUNNER/HABERMEYER, 232.

⁵⁹ BEYLI-HELMY ET AL., 362 et seq.

⁶⁰ GULDIMANN/BRUNNER/HABERMEYER, 232.

⁶¹ GULDIMANN/BRUNNER/HABERMEYER, 232.

⁶² GREUTER, 99.

⁶³ Cf. ch. 7.5.

⁶⁴ BRUNNER 2021, 17; GULDIMANN/BRUNNER/HABERMEYER, 230.

that calls for coordinated and interdisciplinary case management, including CAPA and the health authorities.⁶⁵

2.3 Synthesis

Thus far, we have seen that in Switzerland, the police fulfil two main functions: the prevention and prosecution of crime. In both fields, police action can infringe upon fundamental rights, but the legal bases differ. The former is primarily based on cantonal police legislation, while the latter is founded on the CrimPC, which contains a set of provisions that protects the rights of the accused. This is not the case for allegedly dangerous individuals when police work is of a preventive nature. CTRM pursues the goal of early detection and intervention for the mitigation of risks. The existing literature has mainly provided theoretical descriptions of CTRM. However, little empirical research has been done on how this approach has been concretely implemented. The present research endeavoured to shed light on CTRM, especially the subjects with whom CTRM units work, how such agencies assess risk, and what measures CTRM allows for to achieve risk mitigation (i.e., what the management of allegedly dangerous individuals looks like as directed by CTRM forces in Switzerland.

⁶⁵ Cf. BRUNNER 2021, 17; GULDIMANN/BRUNNER/HABERMEYER, 234.

3 Research questions

To examine the work of CTRM units (i.e., specialized police units within the CTRM network), different aspects needed to be considered and concepts described in a holistic fashion. As CTRM unit organization can vary by canton, it was necessary first to determine the respective structures and procedures. To draw an adequate picture of the different CTRM systems, a set of preliminary questions was formulated. These questions focused on the following four areas:

- **Organisation and structure of the CTRM unit:** How is the police unit organised and what further authorities are involved?
- **Case management:** How are allegedly dangerous individuals managed and what do the respective decision-making processes look like?
- **Data management:** How are the allegedly dangerous individuals registered and what databases are used for this purpose?
- **Access to data:** Who has the right to access registered data?

Based on this preliminary information, this research attempted to answer how work with allegedly dangerous individuals looks in CTRM practice. Thus, the first important element to examine was the individuals who were the subjects of the cases with which the CTRM units dealt. Another major topic of interest was the risk assessments conducted by the CTRM units, and particularly the associated use of algorithmic risk assessment tools. Moreover, it was essential to examine what measures the specialized CTRM police units undertook to mitigate risk and how these measures were justified. For this purpose, the following research questions were formulated:

1. **Types of individuals:** What types of individuals were registered by the CTRM units?
2. **Reasons for registration:** How did these individuals get on the list or in the database?
3. **Risk assessment:** How were potentially dangerous individuals assessed?
4. **Risk assessment tools:** What role did technical tools play in these assessments?
5. **Measures:** What measures were taken to mitigate potential risks stemming from these individuals?
6. **Justification:** How were these measures justified?
7. **Effect:** What impacts of the measures could be observed?

4 Method

The findings presented in Chapters 5 and 6 are based on an empirical study conducted from June to September 2022. As mentioned above, the study was based on two fundamental themes related to CTRM. Firstly, the structures of CTRM units were established based on preliminary questions, in order to account for cantonal differences. Secondly, the management practices applied to allegedly dangerous individuals were examined. Therefore, a dualistic approach was chosen in terms of data collection. While the first theme was based on expert interviews, a quantitative analysis of the collected cases was conducted to resolve the second. Therefore, the CTRM units of the cantons of St. Gallen, Zurich, and Berne were approached for cooperation.

4.1 Expert interviews

4.1.1 Data collection

To examine the structures, procedures, and decision-making of CTRM units in the cantons of St. Gallen, Zurich, and Berne, guided interviews based on an identical catalogue of predefined questions were conducted. This semi-structured approach offered enough flexibility within the predefined thematic framework and questions to allow for follow-up questions and clarifications, facilitating our understanding of CTRM practices in the three cantons. The questions were answered orally by the heads of the CTRM units during pre-meetings (i.e., meetings between the research team from the University of St. Gallen and the CTRM units) to clarify the data collection modalities. The answers were simultaneously transcribed, as the interviews were not recorded. After converting the transcriptions into clean text, the interviewees were given the opportunity to review their answers and adjust them in written form, if necessary.

4.1.2 Interview analysis

The goal of the preliminary interviews was to describe the CTRM units in the three cantons. To this end, a thematic analysis was conducted based on an inductive semantic approach. First, the questions were categorized according to four aspects: organization and structure, case management, data management, and access to data.⁶⁶ The interviewees' answers were then coded and allocated to these four categories.⁶⁷ To ensure that an adequate picture of the CTRM units in the three cantons could be generated, the answers were checked for relevant aspects and any gaps that might require consultation with the interviewee. Lastly, the coded answers were thematically presented according to the four categories.⁶⁸

⁶⁶ Cf. ch. 3.

⁶⁷ Cf. MAYRING, 67 et seqq.

⁶⁸ Cf. MAYRING, 103.; for the results cf. ch. 5.

4.2 Case analysis

4.2.1 Data collection

In the cantons of St. Gallen and Zurich, the data could be collected through an onsite analysis of the CTRM files provided. They consisted of entries in the general police database, as well as reports conducted by the respective CTRM units as part of their risk assessment. To analyse the individual case files, a predefined catalogue of variables was established beforehand. UniPark software was used to collect these variables. The catalogue consisted of pre-defined and open-text variables; the latter allowed for the collection of further information. The data obtained were then processed into an anonymised database. For data analysis, Excel and SPSS were used.

By contrast, in the canton of Berne, access to the respective case files could not be granted. This was mainly because access to the necessary police databases could not be authorised. The files proved to be too extensive to produce anonymised extracts that could have been used for independent data collection. To ensure that the canton of Berne could be included, data collection was carried out by members of the Berne CTRM unit, based on the predefined set of parameters used in the onsite analyses in St. Gallen and Zurich. The data collected in this way were then processed and included in the anonymised database.

4.2.2 Sample

To obtain a randomly collected sample, the plan was to analyse the first 100 cases in every canton that were opened in 2021. The targeted sample would thus have consisted of a total of 300 cases. However, in Berne, some datasets contained too little information, which is why we had to reduce their sample to 93 cases. The final sample ($N = 293$) consisted of 100 cases from each of the cantons of St. Gallen and Zurich and 93 cases from the canton of Berne. (In Berne, only 93 cases from 2021 were available.) It is important to note that this sample was not composed of 293 individually registered subjects, but rather of 293 incidents in which the respective CTRM units undertook some form of case management. Six individuals were included twice within the sample. There was always only one individual per case. Finally, as originally planned, all cases originated in 2021. In St. Gallen and Berne, however, it was not possible to consider the first chronological 100 and 93 cases, respectively. Instead, a randomly selected sample of cases opened or concluded in 2021 was used. In Zurich, the first 100 cases (starting from January 1, 2021) were examined as part of the onsite case analysis.

4.2.3 Analysis

Data were analysed quantitatively using both univariate and bivariate analysis. The results were recorded both in absolute numbers and percentages. To calculate the percentages, only those cases in which a clear classification was possible were considered. Missing or insufficient data were reported separately as “missing” and not considered in the distribution.

Variables in an open-text format were primarily subjected to a qualitative content analysis. For this purpose, the core contents of the given information were elaborated upon and condensed into thematic units.

4.2.4 Limitations

As part of the analysis, both the structural differences of the individual CTRM units and the different data sources had to be considered. At first, only entries in the general police database and reports on risk assessments were included in the case analyses for St. Gallen and Zurich. Other documents that the CTRM unit could have had at its disposal were not included in the case analysis. All statements referred exclusively to the contents and information documented in the official entries and risk assessment reports reviewed. In contrast, there was no such limitation regarding the data from Berne. Here, data collection was performed by members of the CTRM unit themselves. It could therefore be assumed that the data were collected in their entirety, taking all available information into account. Regarding Berne, additional limitations had to be considered. Firstly, the data sets provided did not allow for conclusions to be drawn about previous police registrations, nor distinctions made between individual registrations. The corresponding results (see Chapter 6.3) do not include data from Berne. Secondly, no information on criminal proceedings for allegedly dangerous individuals could be made available. The evaluations of ongoing and/or past criminal proceedings (see Chapter 6.3.3) included in the present study only represent the cantons of St. Gallen and Zurich. Thirdly, it was not possible to compare the types of risk assessment for all three cantons. In St. Gallen and Zurich, distinctions among the different types were based on the ways in which risk assessments were concluded (i.e., these were considered initial risk assessments if concluded with an entry in the general police database or a short report and extended risk assessments if concluded with a comprehensive report). In Berne, it was not possible to make such a differentiation, as the primary distinction was between “yellow” and “red” cases. The results are therefore included separately in this context (see Chapter 6.4). Finally, in some cases, information provided regarding certain parameters was insufficient. The cases concerned had to be declared “missing” in the respective evaluations and were not included in the results.

5 Results of the expert interviews

5.1 CTRM in the canton of Zurich

Organization: The specialized police units of the Zurich Cantonal Police (Violence Protection Service), Zurich City Police (Threat Management Unit), and Winterthur City Police (Violence Protection Service) form the core of the CTRM network. The network also includes the Forensic Assessment and Risk Management unit (FFA), an expert unit composed of psychologists and forensic psychiatrists supporting the police units in their performance of risk assessments, as well as an interdisciplinary expert committee (IFG) composed of representatives of the network who are responsible for monitoring and evaluating the CTRM efforts.

Case Management: In Zurich, there are three general ways that a CTRM unit takes up a case. The first is *initial assessments* that take place when cases are reported directly to the unit. The second is *early detection*, when cases are not reported to the unit, but rather detected by screening cases reported by the regional police. In these cases, the final decision regarding whether to take up a case is made by the head of the specialized police unit, after discussion with the team. *Notification of prosecution* occurs if an individual is ordered to collaborate with the CTRM unit instead of being ordered into pre-trial custody.⁶⁹ Case management and reporting depend on whether there is a need for an extended risk assessment. If the CTRM unit estimates a low risk potential, it usually does not take any measures. Such cases are concluded with a short entry in the general police database and the individual is not informed about being the subject of a case. However, if the unit identifies a need for an extended risk assessment and takes measures such as a threat address, the case is concluded with an extended report. If a threat address takes place, the CTRM unit informs the individual that they are subject of a case, as well as the fact that participation in the threat address is optional.

Data management: Cases are recorded in the general police information system (POLIS). This is the main police database and includes case reports and police journals. The results of extended risk assessments (e.g., expert opinions, Octagon evaluations, etc.) are recorded in POLIS, as well. Data processing in the POLIS system is governed by the cantonal POLIS ordinance, which stipulates that the data collected in CTRM cases must be deleted after a period 10 years.⁷⁰ Furthermore, allegedly dangerous individuals and other affected persons have the right to inspect files (i.e., data stored in POLIS) if they have a legally protected interest.⁷¹ Whether and how individuals are informed about their right to inspection is not known.

Access to data: Access to CTRM cases in POLIS is reserved for officers of the specialized CTRM unit and designated police members. If necessary, the public prosecution office can request or consult reports

⁶⁹ WOSTA, 214.

⁷⁰ § 18 para. 5 lit. g ZH-POLIS Ordinance.

⁷¹ Cf. § 11 ZH-POLIS Ordinance.

within the context of a criminal investigation, and other authorities within the CTRM network can obtain access to CTRM files if a case so requires (e.g., to check for a potential accommodation in a psychiatric clinic⁷²).

5.2 CTRM in the canton of St. Gallen

Organization: As Zurich has served as a trail blazer for many cantons establishing CTRM units, the organization of the St. Gallen CTRM is very similar to that of Zurich. However, St. Gallen is smaller than Zurich, which is why its CTRM unit maintains more lean and less complex structures. The St. Gallen CTRM encompasses a network composed of a specialized unit of the cantonal police, including a police psychologist and other public authorities (CAPA, schools, etc). Furthermore, it includes a specialized (coordination) group focusing on domestic violence that is composed of experts such as psychologists and social workers and representatives of other institutions, including victim assistance centres. As in Zurich, the specialized police unit is the main point of contact for other public authorities.

Case management: How the CTRM unit registers a case depends on how they become informed of it. A case may be registered after screening the police journal for cases that seem to bear risk potential. In such situations, the initial registration is made by the regional police first confronted with the case. If a case is reported directly to the CTRM unit (e.g., by the victim or a public authority), the first registration in the police journal is made by the CTRM unit itself. In both situations, the decision regarding whether to take up the case is made by the head of the specialized CTRM police unit or their deputy, after discussing the case with specialized staff. The work of the CTRM group is governed by the principle of dual control, so any decision, including whether to make a case active, involves at least two people. As in Zurich, the St. Gallen CTRM also differentiates between these two general types of cases, depending on volume.

Data management: As in the canton of Zurich, the St. Gallen CTRM registers cases of allegedly dangerous individuals in the general police database. A specific CTRM database does not exist. The amount of information depends on whether the case ends with a short entry in the general police journal or a full CTRM report. In low-risk cases, the police records indicate that the CTRM unit has estimated a low risk potential and thus will no longer pursue the case. If the CTRM unit conducts an extended risk assessment, including possible measures, a final report is issued that includes a detailed case summary regarding the risk assessment conducted, any measures taken, and recommendations for other authorities or victims. Only if a case requires an extended risk assessment will the CTRM create a final, more comprehensive report and the individual be informed that they are the subject of a CTRM case or initiation of a threat address.

Access to data: The police journal and final CTRM reports are accessible by the general police, but only the specialized police unit has access to the folders for CTRM cases in the police database. Within the CTRM network, there is no comprehensive mutual access to the files kept on an individual. Moreover,

⁷² Art. 426 et seqq. CC.

all files held by the police are subject to inspection by persons with a legally protected interest in them. All data collected by the police are subject to the deletion periods provided for in cantonal law.⁷³

5.3 CTRM in the canton of Berne

Organization: In terms of organization, structure, and processes, CTRM in the canton of Berne shows relevant differences from what is seen in Zurich and St. Gallen. Among other reasons, this is due to geographical characteristics and the fact that Berne is a bilingual canton (both German and French). The goal of preventing severe targeted violence, the essence of CTRM, remains the same, though the approach is different. As in Zurich and St. Gallen, in Berne, the CTRM is composed of a specialized unit of the cantonal police, as well as other public authorities. Contrary to Zurich and St. Gallen, in Berne the actual CTRM unit only deals with high-risk cases, while regional police units address those of moderate or low risk. Therefore, the primary assessment is not done by the CTRM itself.

Case management: The initial registration of the case is done by the regional police, based on a report or their own observations (e.g., during patrol). The regional police then make a first estimate of the case. If the risk seems medium to high, two other police officers from the CTRM unit become involved in the risk assessment. Cases are categorized according to the estimated risk. Those with low risk and no need for measures are categorized as “green.” Those with a certain risk potential and requiring further measures are categorized as “yellow,” and high-risk cases are categorized as “red.” Whether the CTRM unit or general regional police are competent to deal with a case depends on the category: “green” and “yellow” cases remain with the regional police, while the CTRM unit is responsible for “red” cases. Regarding decision-making, the responsibilities overlap: In “green” cases, the regional police officers are allowed to make decisions. In “yellow” cases, any decision-making requires three police officers. In “red” cases, the CTRM unit makes all decisions, together with a representative from the regional police.

Data management: All information about a case is recorded in the police journal, and there is no specific database where allegedly dangerous individuals are registered. There is also a list on which the cases are registered by colour, as access to case data depends on the category (i.e., green, yellow, or red). Contrary to Zurich and St. Gallen, the Berne CTRM does not register its cases in standardized reports, and instead keeps extensive documentation on all cases.

Access to data: Access to “green” and “yellow” cases is reserved for police officers dealing with those cases. For “red” cases, only the CTRM unit is allowed access in the database. Access to data is granted to all persons with a legally protected interest in the case. Generally, there is no exchange of data between the police and other authorities, and when it occurs, this happens only selectively and when the case requires it. All data stored in the CTRM journal is deleted after two years, and the general police journal deletion period is five years.⁷⁴

⁷³ Cf. Art. 14 et seqq. of the Ordinance on the Police Information System of the canton of St. Gallen.

⁷⁴ Art. 142 para. 1 BE-DPA.

6 Results of the case analysis

6.1 Case typology

As mentioned in Chapter 4.2.2, data on 293 CTRM cases were collected with the goal of analysing the types of individuals registered, reasons for registration, ways potentially dangerous individuals were assessed, measures taken to handle and mitigate potential risks coming from these individuals, and justifications for and effects of measures taken. Since registration by a CTRM unit can occur in various contexts, the cases were highly heterogeneous. Thus, the sample was disaggregated into different types of cases and the analysis – when possible – presented by type of CTRM case.

6.1.1 Definitions

The following five types of CTRM cases were identified.

Domestic and/or sexual violence and other incidents regarding intimate relationships: This category consisted of cases of domestic violence, which referred to physical, psychological, and/or sexual violence against spouses, partners, children, or close relatives (e.g., parents, grandparents, siblings), as well violence occurring in triangular constellations (e.g., threats against the new partner of a former partner, threats against a child's partner, etc.). In addition, cases in which, for example, a child abduction was suspected were also included. Cases were also included if a conflict in the domestic sphere led to additional incidents directed against involved authorities or their representatives (e.g., threats in the context of a divorce). Cases involving stalking were included if the incidents occurred in the context of (former) partnerships or, alternatively, if the stalking was related to an attempted establishment of a relationship. Finally, sexual delinquency such as rape, sexual acts with children, and sexual harassment were included, even if the respective victims were neither in a partner relationship with the perpetrator nor related to the latter.

Threats and/or physical violence against authorities and their representatives: This category included threats made verbally, in written form, or in any other way to one or several authorities or their representatives. Thus, not only explicit threats were included, but also messages with confusing and/or latently threatening contents (e.g., conspiracy theories). The same applied to cases with prolonged and/or intense conflicts between the allegedly dangerous individual and one or several authorities. Physical violence to the detriment of the latter was also included (e.g., assault of public officials or resistance to police officers). Finally, cases were included if violence or threats were directed against medical, psychiatric, or similar institutions and/or their staff, provided that the allegedly dangerous individual was obliged to cooperate with or stay in the institution.

General threats and/or physical violence against other individuals: This category included cases in which a threat was made and/or physical violence used without it being possible to assign the case to either Type 1 or Type 2. Threats and assaults within the context of neighbourly conflicts are an example. Furthermore, cases in which physical violence against unspecified victims was expected (e.g., due to mental instability) were included.

Extremism and/or radicalisation: This category included cases of suspected extremism or radicalisation of any kind. Additionally, cases in which, for example, threats of terrorist attacks or mass shootings were made were also included.

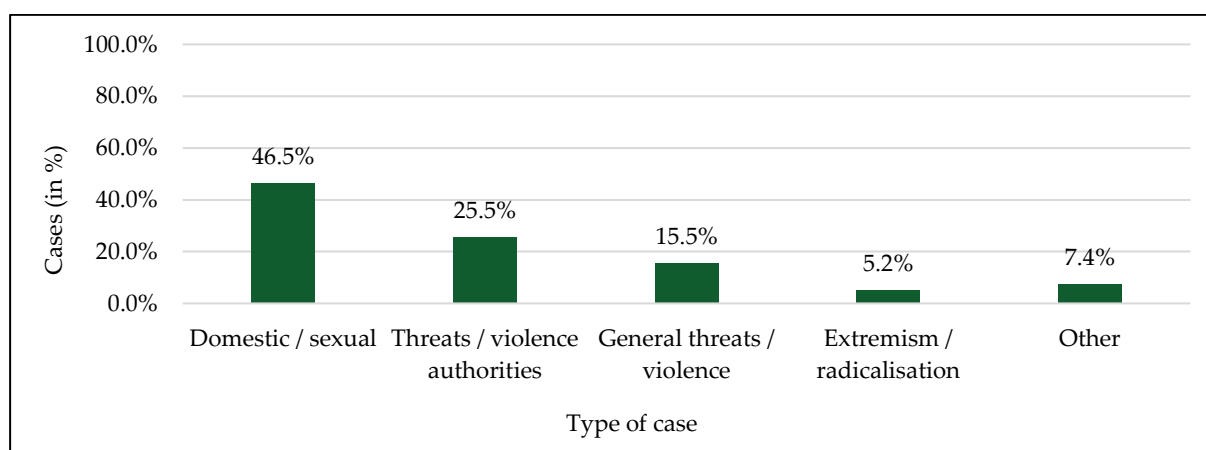
Other: This category included those cases that could not be assigned to one of the other four types.

6.1.2 Frequency of specific types

Figure 1 shows that most cases could be classified as incidents involving domestic or sexual violence or incidents in the context of intimate relationships (46.5%, N = 126). Threats and/or violence against the authorities and their representatives accounted for 25.5% (N = 69) of the cases. Interestingly, they were more frequent than similar incidents directed against other individuals (15.5%, N = 42). Finally, incidents of extremism and/or radicalisation were rarely registered (5.2%, N = 14).

In total, 271 of 293 cases could be assigned to a specific type. In 22 cases, all of which concerned the canton of Berne, the data sets provided did not contain sufficient information to make such a classification. These cases were therefore not included in the type-specific analysis.

Figure 1: Frequency by Case Type (in %)



6.2 Characteristics of allegedly dangerous individuals

One goal of this study was to identify the characteristics of individuals registered as allegedly dangerous by CTRM units. Thus, the following analysis was concerned with key variables such as gender, age, nationality, employment, religion, and mental health issues.

6.2.1 Gender

In 93.8% of the cases analysed, the registered individual was male. Allegedly dangerous females were only registered in 6.2% of the cases. One case did not contain any information on the gender of the registered individual, as their identity could not be obtained by the CTRM unit. Overall, males were

highly overrepresented in our sample, to an even greater extent than males accused in police-recorded crimes.⁷⁵

Table 1: Genders of Allegedly Dangerous Individuals (in %)

Gender	
Male (N = 274)	93.8%
Female (N = 18)	6.2%
Total (N = 292, m = 1)	100.0%

Disaggregated into different types of CTRM cases, the male-female distribution did differ from the overall distribution. In the extremism/radicalisation category, all individuals were exclusively male. Female individuals were primarily registered in the threats/violence against authority category. In that category, cases of registered females exclusively consisted of constellations in which either explicit threats were made or letters with “confusing” or latently threatening contents were sent to the respective authorities.

Table 2: Genders of Allegedly Dangerous Individuals by Case Type (in %)

Gender	Domestic / sexual (N = 126)	Threats / violence: authorities (N = 69)	General threats / vi- olence (N = 42)	Extremism / radicali- sation (N = 14)	Other (N = 20)
Male (N = 253)	96.0%	87.0%	95.2%	100.0%	90.0%
Female (N = 17)	4.0%	13.0%	4.8%	0.0%	5.0%
Other (N = 1)	0.0%	0.0%	0.0%	0.0%	5.0%
Total (N = 271, m = 22)	100.0%	100.0%	100.0%	100.0%	100.0%

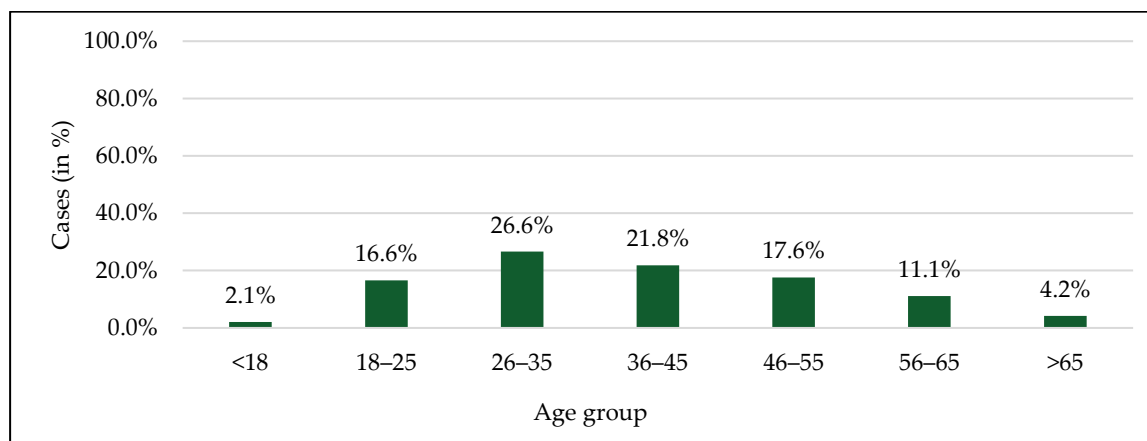
6.2.2 Age

While the average age of the individuals was 39 years, more than half of the registered individuals were 36 years or older. As compared to the overall police-recorded offender population, these individuals were older.⁷⁶ In only six cases (2.1%) were minors registered as allegedly dangerous individuals. In this respect, it is clear that the CTRM units rarely focused on juveniles.

⁷⁵ For the overall share of male offenders cf. Federal Statistical Office (FSO), Accused persons, Key figures, retrieved under <<https://www.bfs.admin.ch/bfs/en/home/statistics/crime-criminal-justice/police/accused-persons.html>>.

⁷⁶ For the age of offenders cf. Federal Statistical Office (FSO), Accused persons, Key figures 2021, retrieved from <<https://www.bfs.admin.ch/bfs/en/home/statistics/crime-criminal-justice/police/accused-persons.html>>.

Figure 2: Ages of Allegedly Dangerous Individuals (in %)

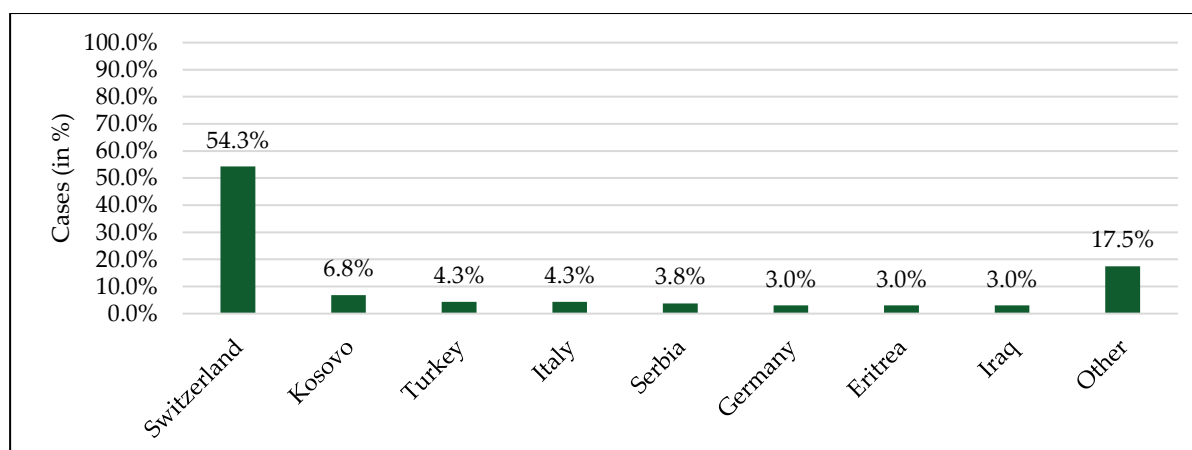


When disaggregated into different types of cases, the average ages varied. Individuals registered in connection with domestic and sexual violence and other incidents related to intimate relationships had a mean age of 38 years (N = 125). The mean ages of individuals registered in cases involving threats and/or violence against authorities and their representatives or other persons were 43 (N = 68) and 42 (N = 41) years, on average. In cases concerning extremism or radicalisation, the mean age was just 32 years (N = 14), substantially lower. The lowest average, 31 years, was recorded for the category of “other” cases (N = 19).

6.2.3 Nationality

More than half of the registered individuals were Swiss nationals. As for individuals of other origins, a variety of different nationalities (36 in total) were found. Among them, Kosovo, Turkey, Italy, Serbia, Germany, Eritrea, and Iraq were the most frequently recorded. Thus, it should be noted that even though CTRM units were found to deal with Swiss nationals in approximately one out of every two cases, it otherwise managed individuals of a wide range of nationalities and cultural backgrounds.

Figure 3: Nationalities of Allegedly Dangerous Individuals (in %)



With 71.1%, Swiss nationals were the most frequently registered in connection with conflicts with the authorities or their representatives. Also, Swiss nationals were prominent in the category of general threats (62.5%). In contrast, cases of domestic and sexual violence and in connection with intimate relationships were predominantly traced back to individuals of other nationalities (61.9%).

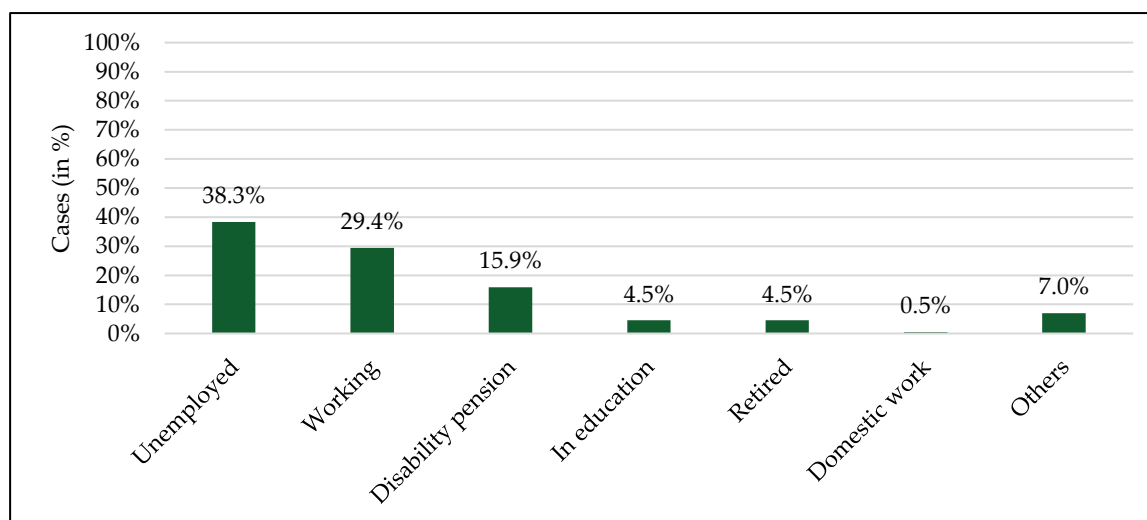
Table 3: Nationalities of Allegedly Dangerous Individuals by Case Type (in %)

Nationality	Domestic / sexual (N = 113)	Threats / violence: authorities (N = 45)	General threats / violence (N = 32)	Extremism / radicalisation (N = 8)	Other (N = 14)
Swiss nationality (N = 108)	38.1%	71.1%	62.5%	50.0%	64.3%
Foreign nationality (N = 104)	61.9%	28.9%	37.5%	50.0%	35.7%
Total (N = 212, m = 59)	100.0%	100.0%	100.0%	100.0%	100.0%

6.2.4 Employment status

Ninety-two cases did not contain any information regarding the employment statuses of registered individuals. However, from the cases that did contain such references, it was determined that more than one in every three was registered as unemployed (38.3%, N = 77). In addition, one-fifth received a disability pension (15.9%, N = 32) or was retired (4.5%, N = 9). Another 4.5% (N = 9) were still in education at the time of registration. Finally, in 29.4% (N = 59) of the cases, it was recorded that the registered individual was working (i.e., employed or self-employed).

Figure 4: Employment Statuses of Allegedly Dangerous Individuals (in %)



The results show that the proportion of employed individuals was particularly high in the area of domestic and sexual violence (40.9%). In contrast, the individuals in cases of extremism or radicalisation were mostly unemployed (71.4%). However, due to the small sample size, this result must be interpreted with caution.

Table 4: Employment Statuses of Allegedly Dangerous Individuals by Case Type (in %)

Employment status	Domestic / sexual (N = 93)	Threats / violence: authorities (N = 42)	General threats / vi- olence (N = 27)	Extremism / radicali- sation (N = 7)	Other (N = 12)
Unemployed (N = 67)	39.8%	35.7%	11.1%	71.4%	58.3%
Working (N = 55)	40.9%	23.8%	22.2%	0.0%	8.3%
In education (N = 7)	2.2%	2.4%	3.7%	14.3%	16.7%
Domestic work (N = 1)	1.1%	0.0%	0.0%	0.0%	0.0%
Retired (N = 9)	4.3%	7.1%	7.4%	0.0%	0.0%
Disability pension (N = 30)	6.5%	31.0%	37.0%	0.0%	8.3%
Other (N = 12)	5.4%	0.0%	18.5%	14.3%	8.3%
Total (N = 181, m = 90)	100.0%	100.0%	100.0%	100.0%	100.0%

6.2.5 Religion

In 259 of the 293 cases (88.4%), the reviewed files did not allow any conclusions to be drawn about the religions of the registered individuals, as religion was not explicitly documented. In these cases, religion apparently did not play a significant role in the risk assessment, which is presumably why the CTRM officers refrained from explicitly recording it. However, in those cases in which religion was explicitly mentioned (11.6%, N = 34), the Islamic faith was by far the most frequently referenced (61.8%, N = 21). The category of extremism and radicalisation contained – when known – only individuals with an Islamic religious background (N = 5). This can be explained by the fact that these individuals were considered possibly dangerous because of radical Islamic tendencies, and hence the religion of the individual played an important role and consequently was registered by the CTRM unit.

6.2.6 Mental health issues

In one of every three cases (33.4%), explicit documentation on mental health issues was found. Personality disorders and accentuations (N = 22), schizophrenia (N = 22), addiction to alcohol and/or drugs or other substances (N = 17), and depression (N = 9) were the most frequently mentioned. In St. Gallen and Zurich, such references usually resulted from diagnoses provided by external expertise. In some cases, however, they seemed to be based on assumptions on the part of the CTRM unit. It was therefore not always conclusively clear whether a disposition was based on a psychiatric diagnosis. Also, it is likely

that the number of persons with mental health issues was underestimated in our sample, since the analysis was based only on detected and explicitly registered issues.

Table 5: Mental Health Issues of Allegedly Dangerous Individuals (in %)

Mental health issues	
Mental health issues documented (N = 98)	33.4%
No mental health issues documented (N = 195)	66.6%
Total (N = 293)	100%

The frequency of mental health issues varied across the categories. Such disorders were comparatively frequently registered in the categories of threats and violence directed against the authorities (43.5%) and other individuals (42.9%), whereas in the domestic resp. extremism category, only around one-fourth (22.2% for domestic and 28.6% for extremism) of the allegedly dangerous persons were officially known to have any mental health issues.

Table 6: Mental Health Issues by Case Type (in %)

Mental health issues	Domestic / sexual (N = 126)	Threats / violence: authorities (N = 69)	General threats / vi- olence (N = 42)	Extremism / radicali- sation (N = 14)	Other (N = 20)
Mental health issues docu- mented (N = 87)	22.2%	43.5%	42.9%	28.6%	35.0%
No mental health issues documented (N = 184)	77.8%	56.5%	57.1%	71.4%	65.0%
Total (N = 271, m = 22)	100.0%	100.0%	100.0%	100.0%	100.0%

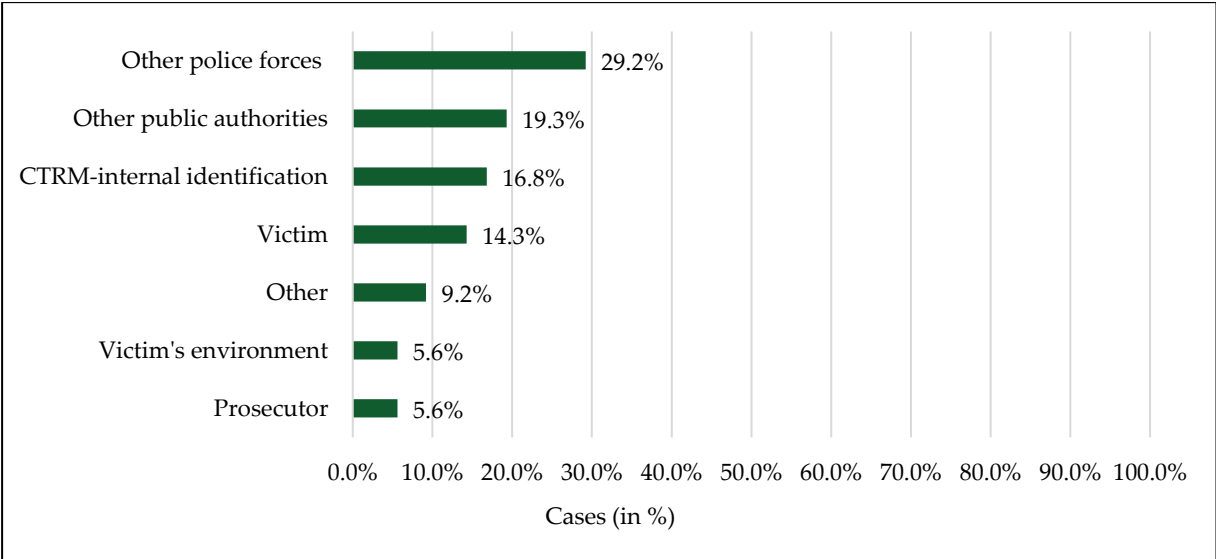
6.3 Registration of allegedly dangerous individuals

To analyse the different ways allegedly dangerous individuals were registered by the CTRM units, this work examined the key registration that led to the CTRM activity. Additionally, the files sometimes contained references to previous police registrations in which the allegedly dangerous individual exhibited behaviour that led to police activity, with or without involvement of the CTRM. These references were analysed separately as criminal or risk-relevant background information. As the data provided by the Berne CTRM did not include corresponding differentiation among individual registrations, it was not taken into account. Therefore, the conclusions drawn in Chapter 6.3 apply only to the data collected in the cantons of St. Gallen and Zurich.

6.3.1 Sources of registration

A CTRM unit becomes aware of cases and allegedly dangerous individuals primarily through three types of reports: first, through reports from other police units, especially regional police units (29.2%); second, from reports made by other public authorities/institutions, such as CAPA; and third, through direct reports by (potential) victims themselves (14.3%). In addition, units also gain knowledge of cases and allegedly dangerous individuals by screening the general police database and locating relevant activities or incidents. Thus, it can be concluded that CTRM units tend to obtain their knowledge about incidents and allegedly dangerous individuals through other police or public authorities (48.5%) rather than through direct reports by potential victims and people close to them (19.9%) or the units' own investigations (16.8%).

Figure 5: Sources of Reports (in %)



The different sources of reports were the most evenly distributed in the category of domestic and sexual incidents. The greatest portion of cases in this category were identified by the CTRM units themselves (25.7%), while reports by victims (14.9%) and those in their environment (10.8%) were also quite widespread, particularly in comparison to other types of cases, in which such victim reporting was less likely to occur. Threats and violence against authorities or other individuals were mostly brought to the attention of the CTRM unit by other police authorities (40.0% resp. 39.1%), especially the regional police. Except for one case where a report was made by a youth centre, all cases regarding extremism and radicalisation were brought to the attention of CTRM units by public officials such as members of other police forces, public authorities, or a prosecutor.

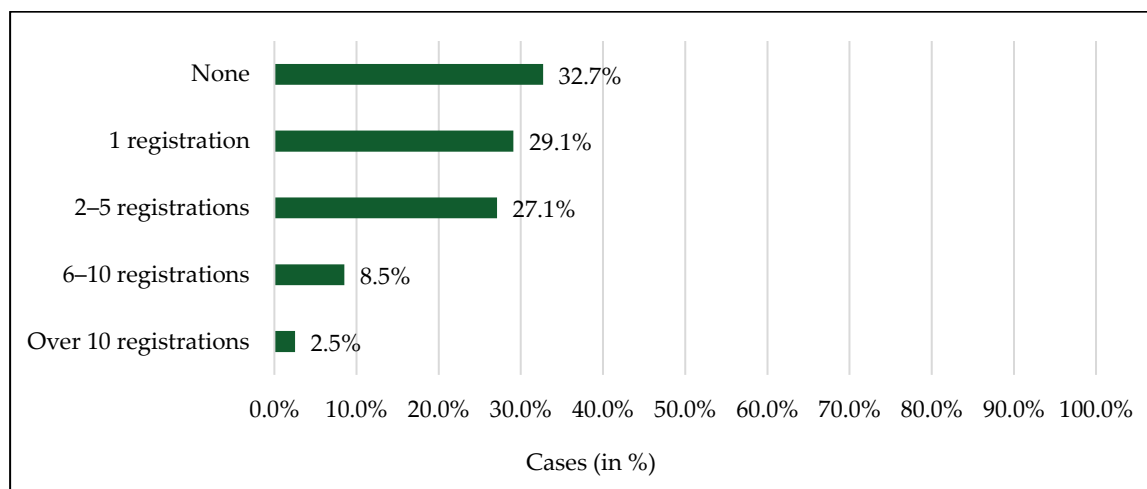
Table 7: Sources of Reports by Case Type (in %)

Sources of reports	Domestic / sexual (N = 74)	Threats / violence: authorities (N = 45)	General threats / violence (N = 23)	Extremism / radicalisation (N = 8)	Other (N = 11)
Report by other police forces (N = 47)	18.9%	40.0%	39.1%	37.5%	27.3%
Report by other public authorities (N = 31)	18.9%	20.0%	17.4%	25.0%	18.2%
CTRM internal identification (N = 27)	25.7%	8.9%	17.4%	0.0%	0.0%
Report by the victim (N = 23)	14.9%	20.0%	13.0%	0.0%	0.0%
Report by the victim's environment (N = 9)	10.8%	0.0%	4.3%	0.0%	0.0%
Report by the prosecutor (N = 9)	8.1%	0.0%	4.3%	25.0%	0.0%
Other sources (N = 15)	2.8%	11.1%	4.3%	12.5%	54.5%
Total (N = 161, m = 39)	100.0%	100.0%	100.0%	100.0%	100.0%

6.3.2 Prior registrations

The results show that two-thirds of the allegedly dangerous individuals (67.3%, N = 134) had been registered in the general police database before the key registration that led to CTRM activity. Most of these individuals were registered once (29.1%, N = 58) or between two and five times (27.1%, N = 54) before the CTRM unit became active in the case. It can thus be observed that the majority of the allegedly dangerous individuals in our sample were already known to the police. It should be noted that these previous registrations could date back several months or even years. However, in 86 cases (64.2%), the files indicated that other police forces were already aware of the respective incidents that subsequently led to the CTRM unit initiating its case management. In the context of domestic violence, for example, the regional police had often identified and dealt with threats or physical and sexual assaults that then led to the CTRM office becoming active in the case (N = 42).

Figure 6: Number of Previous Registrations (in %)



The proportion of individuals who were already registered with the police before the central registration that led to the CTRM activity was roughly between 60% and 70% for all categories. The only exception was the category of extremism and radicalisation, where most individuals were already previously registered (87.5%, N = 7). However, since there were only a few individuals in this category, the findings are not robust from a statistical point of view. Furthermore, it should be noted that these earlier registrations were not necessarily related to extremism or radicalisation. Instead, they could also be general offences resulting from, for example, drug possession or traffic violations. This was also true for all other categories, where previous registrations were not necessarily within the same context as the incident registered by the CTRM unit.

Table 8: Number of Previous Registrations by Case Type (in %)

Number of previous registrations	Domestic / sexual (N = 108)	Threats / violence: authorities (N = 48)	General threats / violence (N = 23)	Extremism / radicalisation (N = 8)	Other (N = 12)
None (N = 65)	31.5%	39.6%	30.4%	12.5%	33.3%
1 registration (N = 58)	26.9%	35.4%	30.4%	25.0%	25.0%
2-5 registrations (N = 54)	29.6%	18.8%	26.1%	50.0%	25.0%
6+ registrations (N = 22)	12.0%	6.3%	13.0%	12.5%	16.7%
Total (N = 199, m = 1)	100.0%	100.0%	100.0%	100.0%	100.0%

6.3.3 Involvement in criminal proceedings

In general, the files did not contain extensive information on criminal proceedings, unless they had a direct impact on the risk assessment. Thus, it is likely that the number of individuals with ongoing or concluded criminal proceedings, as well as the number of proceedings per person, were underestimated

in our sample, as the analysis was based only on explicitly documented proceedings. However, in 90 of 200 cases (45.0%), ongoing (17.5%, N = 35) or concluded (27.5%, N = 55) criminal proceedings involving the registered individual could be found. In these 90 cases, the vast majority contained references to one criminal proceeding (82.2%). Additionally, eight cases referred to two proceedings (8.9%), two cases to three proceedings (2.2%), four cases to four proceedings (4.4%), and one case each to five and six proceedings (1.1% each).

Table 9: Involvement in Ongoing or Concluded Criminal Proceedings (in %)

Involvement in criminal proceedings	
Proceedings documented (N = 90)	45.0%
No proceedings documented (N = 110)	55.0%
Total (N = 200)	100.0%

In all but two of the ongoing cases, the criminal proceedings were related to the incidents that led to CTRM involvement. This implies that the CTRM unit and prosecutor's office were actively involved in the case at the same time. It should be noted that in three cases, the CTRM unit became active after an individual had been released from pre-trial detention. In another case, the individual was legally obliged to contact the CTRM office during the criminal proceedings. Furthermore, it was found that one time a CTRM unit refrained from conducting any further actions because an ongoing criminal proceeding had been identified. In this case, it was also explicitly stated that the case would only be opened if the Juvenile Prosecutor's Office submitted a CTRM request. Similarly, in another case, the CTRM unit refrained from conducting a threat address because criminal proceedings were already in progress. However, there were also various cases in which the interplay between the CTRM unit and prosecution was not thoroughly documented. Thus, it can be stated that the presence of ongoing criminal proceedings had a number of different implications for CTRM activities. Due to an absence of detailed documentation in the files analysed, however, these could not always be reconstructed, and clear conclusions drawn.

6.4 Risk assessment of allegedly dangerous individuals

Due to the structural differences within the analysed cantons, the data sets provided by the canton of Berne could not be directly compared to the data collected in St. Gallen and Zurich. The results are disclosed separately below.

6.4.1 Types of risk assessment: St. Gallen and Zurich

Overall, two categories of risk assessments could be distinguished. First, there were cases in which the CTRM unit only conducted an initial risk assessment; these were concluded with an entry in the general

police database or a short report. Second, there were cases in which an extended risk assessment was carried out, which was documented in and concluded with a comprehensive report.

Table 10: Types of Risk Assessment in St. Gallen and Zurich (in %)

Type of risk assessment	
Extended risk assessment (N = 69)	34.5%
Initial risk assessment (N = 131)	65.5%
Total (N = 200)	100.0%

An extended risk assessment, concluded with a more detailed report, was carried out in about one-third of the cases (34.5%). In all other cases, the CTRM unit didn't identify the need for any further extended risk assessment (65.5%) subsequent to the initial evaluation. Thus, these cases were concluded with an entry in the general police database and/or a short report. Furthermore, it was found that the files analysed generally did not contain any detailed information on why an extended risk assessment seemed necessary (see the data limitation considerations described in Chapter 4.2.4). Likewise, the files analysed did not typically explicitly mention the specific factors directly leading to the conclusion that an extended risk assessment was necessary.

Table 11: Types of Risk Assessment in St. Gallen and Zurich by Case Type (in %)

Risk assessment	Domestic / sexual (N = 108)	Threats / violence: authorities (N = 48)	General threats / vi- olence (N = 23)	Extremism / radicali- sation (N = 8)	Other (N = 13)
Extended risk assessment (N = 69)	46.3%	12.5%	34.8%	25.0%	23.1%
Initial risk assessment (N = 131)	53.7%	87.5%	65.2%	75.0%	76.9%
Total (N = 200)	100.0%	100.0%	100.0%	100.0%	100.0%

With regards to case typology, it was noticeable that threats and/or violence against the authorities were mostly concluded with a journal entry or short report (87.5%). In contrast, cases in the context of domestic or sexual violence more frequently led to an extended risk assessment (46.3%).

6.4.2 Types of risk assessment: Berne

In the canton of Berne, cases are categorised according to the estimated risk. Those with a risk potential that requires further measures are categorized as "yellow," while high-risk cases are categorized as "red." About three-quarters of all cases in our sample were assigned to the "yellow" category. In contrast, only about a fourth of the cases were classified as "red." However, the degree to which the two

categories had an influence on the extent of the risk assessment cannot be answered conclusively, as the necessary information was not provided in the underlying data sets. Furthermore, as already mentioned, the risk categorization in Berne could not be directly compared to the proceedings in Zurich and St. Gallen.

Table 12: Types of Risk Assessment in Berne (in %)

Type of risk assessment	
Yellow cases (N = 68)	73.1%
Red cases (N = 25)	26.9%
Total (N = 93)	100.0%

The results show that “red” cases were opened especially often in the context of threats and physical violence against other persons (N = 7) or the authorities (N = 5), as well as domestic or sexual violence (N = 6). In contrast, there was only one “red” case in the context of extremism and radicalisation.

6.5 Role of algorithmic tools in risk assessment

When looking at the question of algorithmic tools used in the context of risk assessment, data in the canton of Berne were provided by the CTRM unit itself. It can therefore be assumed that all cases in which an algorithmic tool was used were disclosed accordingly. In St. Gallen and Zurich, this information was retrieved from documents made available by the CTRM unit. This difference in data collection is important because the use of algorithmic tools was generally not explicitly mentioned in the files analysed. Instead, most files only contained references to the results of such tools. Whether algorithmic tools were used could thus in most cases be determined only based on such references. The following results are therefore presented separately.

6.5.1 Role and influence of algorithmic tools: St. Gallen and Zurich

6.5.1.1 Use of algorithmic tools

In our sample, an algorithmic risk assessment tool or the results of such a tool were used in at least 25% of the cases. In most, the tools were seemingly applied by the CTRM unit itself. However, there were cases where the files only mentioned the results of algorithmic risk assessment tools that had been carried out by external institutions/authorities. For example, in 14 cases (7.0%), the files contained references to such tools applied by forensic psychiatrists (i.e., external experts). Similarly, in 11 cases (5.5%), the files referred to risk assessments that were commissioned by the prosecution in the context of ongoing or past criminal proceedings.

Table 13: Use of Algorithmic Tools in St. Gallen and Zurich (in %)

Use of algorithmic tools	
Tool used (N = 50)	25.0%
No use of tools visible in the files (N = 150)	75.0%
Total (N = 200)	100.0%

The only type of algorithmic tool used in the cantons of St. Gallen and Zurich was Octagon (see Chapter 2.2.2), with one exception in which ODARA was utilised (see Chapter 2.2.2). The use of other algorithmic tools previously implemented by the CTRM units of certain cantons (e.g., DyRiAS) could not be identified.

Table 14: Types of Algorithmic Tools used in St. Gallen and Zurich (in %)

Algorithmic tool	
Octagon (N = 49)	98.0%
ODARA (N = 1)	2.0%
Total (N = 50)	100.0%

While the use of algorithmic tools could be found in 65.2% of cases with an extended risk assessment, only 3.8% of the cases (five out of 131 cases) with an initial assessment contained any references to the use of such tools. Thus, algorithmic tools and/or their results were primarily applied in cases of extended risk assessments. However, it is possible that in initial assessments, which usually were only summarily reported, the use of tools and/or their results were documented less consistently.

Table 15: Use of Algorithmic Tools in St. Gallen and Zurich by Assessment Type (in %)

Use of algorithmic tools	Extended assessment (N = 69)	Initial as- sessment (N = 131)
Tool used (N = 50)	65.2%	3.8%
No use of tools visible in the files (N = 150)	34.8%	96.2%
Total (N = 200)	100.0%	100.0%

6.5.1.2 Influence of algorithmic tools

Regarding the influence of algorithmic tools, the files provided by the CTRM units of St. Gallen and Zurich generally only mentioned that such tools or their results were used. Therefore, nearly all of the files contained no documented information regarding how or to what extent the use or results of an

algorithmic tool had influenced the risk assessment. Thus, conclusions about the influence of algorithmic tools on decision-making or risk assessment could not be drawn. However, two cases with explicit references to the results of an algorithmic tool were found. In these cases, it was mentioned in the files that the results of the tool contributed to the decisions made or led to further monitoring.

6.5.2 Role and influence of algorithmic tools: Berne

6.5.2.1 Use of algorithmic tools

Based on the data collected by the CTRM unit of the canton of Berne, an algorithmic tool was used in approximately three out of every four cases (76.3%). The percentage was thus significantly higher than in St. Gallen or Zurich. However, this should not necessarily lead to the conclusion that algorithmic tools are used more often in this canton. As previously mentioned, the data collection process differed between the cantons, since for Berne, information on the application of algorithmic tools was provided directly by the CTRM unit, and thus should be considered more comprehensive.

Table 16: Use of Algorithmic Tools in Berne (in %)

Use of algorithmic tools	
Tools used (N = 71)	76.3%
No tools used (N = 22)	23.7%
Total (N = 93)	100.0%

In contrast to the other two cantons, in Berne, Octagon was only sporadically used. Instead, the primary tool was BRO (Berne Risk Octagon). This is a very similar tool. As the name suggests, BRO is based directly on Octagon, with only minor adaptations for cantonal specifics.

Table 17: Algorithmic Tools Used in Berne (in %)

Algorithmic tools	
Octagon (N = 2)	2.9%
BRO (N = 64)	90.1%
Octagon and BRO (N = 5)	7.0%
Total (N = 71)	100.0%

Algorithmic tools were predominantly used in both “yellow” (73.5%, N = 50) and “red” (84.0%, N = 21) cases. The latter, however, showed a slightly higher frequency.

Table 18: Use of Algorithmic Tools in Berne by Assessment Type (in %)

Use of algorithmic tools	Yellow cases (N = 68)	Red cases (N = 25)
Tools used (N = 71)	73.5%	84.0%
No tools used (N = 22)	26.5%	16.0%
Total (N = 93)	100.0%	100.0%

6.5.2.2 Influence of algorithmic tools

The Berne CTRM provided information on the influence of technical tools for 57 out of the 71 cases in which algorithmic tools were used. They indicated whether the influence of the tool on the result of the risk assessment was high, medium, low, or non-existing. According to these data, the results provided by the tool had a considerable influence on the risk assessment in approximately one-third of cases (29.8%) and a medium level of influence in approximately two-thirds of cases (68.4%). In only one case was the influence of the tool estimated to be low. These findings indicate that in the CTRM unit's assessment, the algorithmic tool always influenced the risk assessment, and that influence was generally seen to be of a high or medium level.

Table 19: Influence of Algorithmic Tools in Berne (in %)

Influence of algorithmic tools	
High (N = 17)	29.8%
Medium (N = 39)	68.4%
Low (N = 1)	1.8%
None (N = 0)	0.0%
Total (N = 57, m = 14)	100.0%

6.6 Measures taken by CTRM units to mitigate potential risk

The measures taken by CTRM units can be divided into two broad categories: measures targeting the allegedly dangerous individual and measures taken for the protection and/or support of the victim.

6.6.1 Measures regarding allegedly dangerous individuals

In most cases (94.9%), the CTRM units took measures to identify, assess, and mitigate risks from allegedly dangerous individuals. In only 15 cases (5.1%), there was no indication of any measures being taken, and these cases were evenly distributed among the different case types (with the exception of the extremism/radicalisation category, in which all cases resulted in measures being taken). Except for one case from the canton of Berne, all cases without measures taken stemmed exclusively from St. Gallen

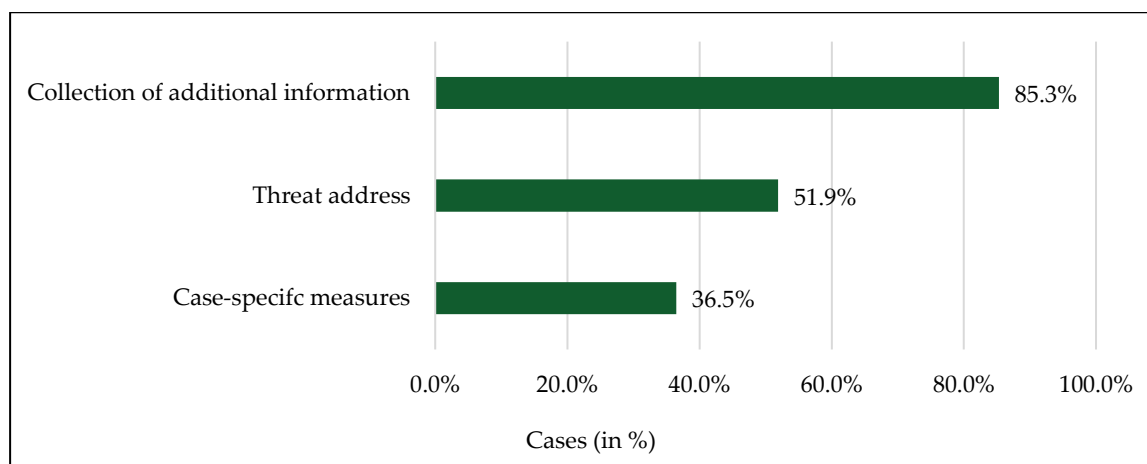
and Zurich. The cases were all closed after an initial risk assessment and concluded with an entry in the police database. Consequently, in cases with extended risk assessments, at least one measure directed towards the individual was always taken.

Table 20: Measures regarding Allegedly Dangerous Individuals (in %)

Measures	
Measure taken (N = 278)	94.9%
No measure taken (N = 15)	5.1%
Total (N = 293)	100.0%

The most frequently taken measure was the collection of additional information, which was conducted in 85.3% (N = 250) of the cases. The results further show the importance of the threat address, as in over half of the cases (51.9%, N = 152) the CTRM unit directly contacted the individual to have such a conversation. In addition, units relied on a variety of case-specific measures in 36.5% (N = 107) of cases.

Figure 7: Measures regarding Allegedly Dangerous Individuals (in %, multiple answers possible)



6.6.1.1 Collection of additional information

Further information was collected in order to decide whether an extended risk assessment was necessary and served as a basis for extended risk assessments. The collected information was mainly taken from internal files, particularly the general police databases. Based on this data source, additional information (e.g., the individual's previous registrations, potential possession of weapons, the results of previous risk assessments) could be gathered. In 10.0% (N = 25) of the cases, the CTRM unit collected forensic psychiatric assessments conducted by specialists commissioned either by the CTRM unit itself or other authorities. In another 3.2% (N = 8) of the cases, the unit had access to forensic psychiatric assessments commissioned by the public prosecution in the course of criminal proceedings against the allegedly dangerous individual.

6.6.1.2 Threat address

The threat address was usually employed in pursuit of two main goals. The individuals could be confronted with their behaviour, informed that it was doing harm to the victim and/or violating the law, and warned about the consequences. Additionally, it also served as a means of exploring the background of an incident so that the individual's behaviour could be better understood, ways of supporting them found, and most importantly, further incidents prevented.

In St. Gallen and Zurich, a threat address was carried out in 65 cases with extended risk assessments (77.4%). However, this measure was also used in 19 cases where only an initial risk assessment was carried out (22.6%).

Finally, the existence of a threat address correlated with the use of algorithmic tools. In 68.4% (N = 104) of the cases in which a threat address was conducted, an algorithmic tool was also used.

6.6.1.3 Case-specific measures

In addition to the measures already mentioned, a wide range of case-specific measures were found to be used by CTRM units. These measures had three principal goals. A first group of measures was primarily aimed at improving the personal situation of the allegedly dangerous individual. These included, for example, assistance in establishing contact with other institutions to receive support in dealing with personal issues (e.g., psychotherapy or addiction counselling). A second group focused on the efficient identification of future incidents, in particular in the form of a file-based monitoring system whereby the general police database was continuously screened for possible future registrations. Finally, a third group of case-specific measures was directly aimed at preventing imminent threats (e.g., presence at judicial appointments or the confiscation of weapons).

6.6.2 Measures regarding (potential) victims

Measures taken for the protection and/or support of victims were found in approximately every fourth case (24.9%). These included general recommendations (e.g., to avoid contact with the allegedly dangerous individual or notify the police if further incidents occurred), legal counselling, and establishing contact with victim support services, among others. In all other cases, no indications for such measures could be found.

Table 21: Measures Regarding Victims (in %)

Measures	
Measure taken (N = 73)	24.9%
No measure taken (N = 220)	75.1%
Total (N = 293)	100.0%

The results show that in cases of domestic or sexual violence, measures were most often taken to support or protect the victims (38.1%, N = 48). However, such measures were less frequent in the context of incidents directed against the authorities or their representatives (14.5%, N = 10). Finally, no victim measures were taken in the context of extremism and radicalisation, which can be explained by the absence of a particular victim in these cases.

Table 22: Measures Regarding Victims by Case Type (in %)

Measures	Domestic / sexual (N = 126)	Threats / violence: authorities (N = 69)	General threats / violence (N = 42)	Extremism / radicali- sation (N = 14)	Other (N = 20)
Measures taken (N = 71)	38.1%	14.5%	23.8%	0.0%	15.0%
No measures taken (N = 200)	61.9%	85.5%	76.2%	100.0%	85.0%
Total (N = 271, m = 22)	100.0%	100.0%	100.0%	100.0%	100.0%

6.6.3 Justification of measures taken

As measures were mostly only summarily described in the files analysed, little information on the reasons or justification for those taken could be found in St. Gallen and Zurich. Therefore, the justification for these measures often remained unclear. Due to the limitation that only journal entries and risk assessment reports were analysed (see Chapter 4.2.4), however, it could not be directly concluded that a CTRM unit would fail to justify the measures taken.

With regards to the canton of Berne, it must be noted that the corresponding parameters were mostly answered exclusively with a reference to criminal or police laws. In this respect, no further conclusions could be drawn.

6.6.4 Impact of measures taken

In St. Gallen and Zurich, the files analysed usually documented the results of the respective risk assessments that led to measures being taken. Also, assessments were generally concluded before any longer-term developments could be observed and recorded. Therefore, the results and consequences of the measures taken were not usually part of the files (see, however, Chapter 4.2.4). As an exception, the results of a threat address were frequently documented as a summary of the conversation with the allegedly dangerous individual. The individual's attitude of cooperation was explicitly mentioned in 61 cases. The results show that most individuals (67.2%, N = 41) were willing to cooperate with the CTRM unit and participated in their threat address. Another 13.1% (N = 8) hesitated at first but ultimately cooperated with the unit. Finally, just 19.7% (N = 12) of the individuals were either uncooperative or completely refused to take part in the threat address. These results suggest that the allegedly dangerous individuals were generally willing to participate in their threat addresses.

In the data sets provided by the canton of Berne, reference was mostly made to general consequences, and thus it was usually not possible to clearly assign these to one or more specific measures. Thus, no reliable conclusions could be drawn here.

7 Discussion

7.1 Various types with similar profiles

In the literature, the *scope of action* of cantonal threat and risk management is typically exemplified by various phenomena such as domestic violence, extremism, or threats against individuals or authorities.⁷⁷ Accordingly, the results of this study confirm that the cases a CTRM unit covers include various types. As a first type, cases involving *domestic or sexual violence and other incidents in the context of intimate relationships* were analysed. With 46.5%, these were by far the most common.⁷⁸ CTRM units most frequently identify these kinds of risks based on their own observations, mainly when screening incidents documented in police journals.⁷⁹ Thus, these specialized units perceive severe violence in the domestic sphere as of particular importance for their mission. This corresponds with the literature describing physical and psychological violence in partnerships as a key predictor of future acts of severe violence.⁸⁰ Also in the context of intimate partner violence, the most frequent type of homicide in Switzerland, victims have been found to experience prior violence and threats by the offender in over 40% of cases.⁸¹ Moreover, the emergence of CTRM can be traced back to one case in particular, in which a man killed his wife after a history of several years of domestic violence.⁸² At that time, the media criticised that this offender was “known to the police” beforehand but no action was taken. As the present study confirms, a very relevant portion of cases that CTRM units deal with now includes allegedly dangerous individuals posing a risk to their current or former intimate partner or children in their household.

The second highest number of incidents (25.5%) was related to *incidents directed against authorities and their representatives*, indicating another area of CTRM focus. In most of these cases, the CTRM unit was contacted by other police forces or the authorities concerned. The high number of these cases can thus primarily be attributed to a comparatively high number of reports. This correlates with a study conducted in Lucerne, in which one in five employees of the cantonal administration reported that they had received death threats due to their function, while one in three employees stated that they had been threatened in some other way.⁸³ Also, a recent study showed that 46.5% of police officers serving the

⁷⁷ E.g. BRUNNER ET AL. (2021), 8; GULDIMANN/BRUNNER/HABERMEYER, 231; FEDERAL COUNCIL OF SWITZERLAND, 6; WECHLIN, 8.

⁷⁸ Cf. ch. 6.1.2.

⁷⁹ Cf. ch. 6.3.1.

⁸⁰ E.g. KRAUSE/GULDIMANN/HABERMEYER, 170; STAUBLI/MARKWALDER/WALSER, 43.

⁸¹ WALSER/MARKWALDER/KILLIAS, 38 et seq.

⁸² BRUNNER 2017b, 17; BIBERSTEIN, 52.

⁸³ WECHLIN, 8 et seq.

canton and city of St. Gallen had been threatened during their work in the three years prior.⁸⁴ Additionally, 21.3% reported that they had been the victim of assault and 55.0% stated that they had experienced other acts of aggression.⁸⁵ Similar tendencies become visible in the federal police crime statistics, which indicate an increase in violence and threats against the authorities and officials in recent years.⁸⁶ Yet, the frequency of initial risk assessments in these cases suggests that most of the time, an immediate risk of targeted violence did not seem to be identified.⁸⁷ This may also be attributable to the fact that a high number of cases concerned so-called “querulous behaviour” or “troublemakers” who did not represent a severe risk. This was mostly a matter of prolonged (legal) conflicts between the registered individual and one or multiple authorities, whereby explicit threats or physical violence had not necessarily occurred.

Cases related to *extremism and radicalisation* were rarer than expected (5.2%), given that the prevention of terroristic acts has increasingly gained importance and attention in the last few decades.⁸⁸ Also, only five cases were connected to Islamist extremism. Thus, this phenomenon cannot be considered a core activity of the CTRM units in Switzerland. Finally, it should be noted that cases that solely involved the prevention of *offences against property* were missing. CTRM activities were focused only on the protection of the physical, psychological, and/or sexual integrity of potential victims.

The term “dangerous individual” only barely reflects the heterogeneity of the types of cases and individuals with which the CTRM units deal. This correlates with ENDRASS/ROSSEGG, who stated that the perpetrators of serious violence tend to be highly heterogeneous in terms of risk-relevant characteristics.⁸⁹ However, certain tendencies could be identified. *First*, the cases mainly involved male adults.⁹⁰ At just under 94%, the proportion of men was even higher than in the federal police crime statistics, which reported a proportion of approximately 80% regarding offences against life and limb⁹¹ and felonies and misdemeanours against liberty⁹² for the year 2021.⁹³ This result was not unexpected. Lower crime rates among women have been empirically proven, with the differences regarding violent crime being particularly pronounced.⁹⁴ The latter was also reflected in the cases of threats/violence against the authorities. Here, females were more frequently represented, with 13.0% of the total. Incidents of physical violence, however, could not be traced back to any woman.⁹⁵

⁸⁴ SIMMLER/MARKWALDER, 37.

⁸⁵ SIMMLER/MARKWALDER, 37.

⁸⁶ FEDERAL STATISTICAL OFFICE, 62.

⁸⁷ Cf. ch. 6.4.1 et seq.

⁸⁸ E.g. DUVILLARD, 7 et seqq.; SWISS SECURITY NETWORK, 5 et seqq.

⁸⁹ ENDRASS/ROSSEGG 2017, 38 et seq.

⁹⁰ Cf. ch. 6.2.1.

⁹¹ Cf. Art. 111 et seqq. CrimC.

⁹² Cf. Art. 180 et seqq. CrimC.

⁹³ For an overview of the overall share cf. Federal Statistical Office (FSO), Straftaten und beschuldigte Personen, retrieved from <<https://www.bfs.admin.ch/bfs/en/home/statistics/crime-criminal-justice/police/offences.assetdetail.21324219.html>>.

⁹⁴ E.g. DOELLING ET AL., 211; HABERMEYER/CAVELTI, 32.

⁹⁵ Cf. ch. 6.2.1.

Second, almost half of the registered individuals were of a foreign nationality (45.7%).⁹⁶ Foreign nationals were thus overrepresented.⁹⁷ In the area of domestic and sexual violence, this proportion was even higher (61.9%).⁹⁸ The higher number of different nationalities correlates with the findings of other studies, which have presented the phenomenon of domestic violence as a culturally widespread issue.⁹⁹

Third, mental health issues were explicitly documented in one out of every three cases (33.4%). More specifically, cases concerning threats or violence against the authorities and their representatives (43.5%) or other persons (42.9%) had the highest frequencies of mental health issues reported. Thereby, it is likely that the number of individuals with mental health issues was underestimated in our sample, since the analysis was based only on issues of obvious mental health diagnoses that had been detected and registered.¹⁰⁰ Nevertheless, this proportion appears high. For example, in a German study, police officers estimated that about 18% of individuals with whom they were in contact through their work were mentally ill.¹⁰¹ Thus, our sample suggests that a special focus is placed on the prevention of severe violence among individuals with suspected or diagnosed mental health issues. This seems plausible, as in the context of rampage killings, for example, PETER/BOGERTS found that 74% of perpetrators were diagnosed with mental disorders.¹⁰² However, such results should also be treated with caution. Mental health issues can be associated with an increased risk of interpersonal violence. However, this risk varies greatly by individual.¹⁰³ Most importantly, the CTRM only becomes active in case of an incident involving violence or a risk of violence, whereas the mere presence of a mental health issue alone does not activate the CTRM.¹⁰⁴ It is therefore consequent that no case was found in our sample in which the registered individual was subjected to case management by the CTRM unit based solely on an existing diagnosis.

Fourth, unemployment rates were impressively high. While in the total population of Switzerland only about 3% are unemployed,¹⁰⁵ 38.3% of the allegedly dangerous individuals in the cases studied were unemployed at the time of their registration. Additionally, 15.9% received a disability pension and 4.5% were already retired. Apart from those still in education (4.5%), only 29.4% of the registered individuals were employed or self-employed and thus had a regular occupation.¹⁰⁶ As employment can be an important indicator of social integration and economic stability, it is of note that a high number of allegedly dangerous individuals were not in a stable social and economic situation. However, it must also be

⁹⁶ Cf. ch. 6.2.3.

⁹⁷ For an overview of the overall share of the resident population cf. Federal Statistical Office (FSO), Population by migration status, retrieved from <<https://www.bfs.admin.ch/bfs/en/home/statistics/population/migration-integration/by-migration-status.html>>.

⁹⁸ Cf. ch. 6.2.3.

⁹⁹ E.g. OTT/SCHWARZENEGGER, 95; STAUBLI/MARKWALDER/WALSER, 10 et seq.

¹⁰⁰ Cf. ch. 6.2.6.

¹⁰¹ LOREY/FEGERT, 239 et seqq.

¹⁰² PETER/BOGERTS, 60.

¹⁰³ MAIER ET AL., 53 et seqq.

¹⁰⁴ Cf. ch. 2.2.1 and 6.3.1.

¹⁰⁵ Cf. State Secretariat for Economic Affairs (SECO), Labour market 2021, retrieved from <<https://www.admin.ch/gov/en/start/documentation/media-releases.msg-id-86721.html>>.

¹⁰⁶ Cf. ch. 6.2.4.

noted that information concerning the employment status of individuals was missing in around a third of the cases.

It can be concluded that CTRM units take a holistic approach that is primarily focused on the phenomena mentioned in the relevant literature. However, given the fact that such units are confronted with a large variety of different cases and individuals, it would seem simplistic to establish one specific profile of the “dangerous individual.” This, in turn, raises the question of whether a more differentiated terminology might be more appropriate. In particular, the cases of “querulous behaviour” have a very different character than those of domestic violence. Nevertheless, there are commonalities among the profiles. Many of the individuals concerned can be described as socially marginalised. They were often men with a foreign nationality. Many were also unemployed and/or had mental health problems. It seems that CTMR is fulfilling a very specific task in relation to certain individuals not covered by other authorities and thus represents a response to new demands.

7.2 Prevention but not pre-crime

While police work traditionally addresses (suspected) crimes,¹⁰⁷ the fundamental objective of the CTRM unit is to identify risks at an early stage, de-escalate them, and consequently prevent crime from occurring.¹⁰⁸ However, this study revealed that the activities of CTRM units can only partly be described as pre-crime management, as in a substantial amount of cases, (criminal) incidents had already occurred before a CTRM case was opened. In cases of domestic violence, for example, it was usually possible to identify one or more incidents of explicit threats and/or physical violence that had already been dealt with by the regional police before the CTRM unit became active.¹⁰⁹ In this respect, CTRM case management was not based on predictive large-scale surveillance systematically endeavouring to prevent first-time offenses by registered individuals.¹¹⁰ This is in line with the fact that CTRM units most frequently became aware of allegedly dangerous individuals through reports made by other police forces who had already detected relevant (criminal) behaviour, or through screening existing registrations in the police database.¹¹¹ Also, there was a relevant number of instances in which ongoing criminal proceedings regarding crimes that had already occurred were documented alongside the CTRM unit's activities.¹¹² Therefore, CTRM cannot be described as police work that is exclusively situated prior to criminal offences or legal prosecution (i.e., in a purely preventive pre-crime context). CTRM units also focus on individuals who have already exhibited behaviour that is potentially prosecutable under criminal law. However, these individuals show further warning signs that suggest a need for the prevention of further incidents.¹¹³ Consequently, the boundaries between exclusively preventive police activity and criminal

¹⁰⁷ BRUN, 157.

¹⁰⁸ Cf. ch. 2.2.1.

¹⁰⁹ Cf. ch. 6.3.2.

¹¹⁰ Cf. BRUNNER 2017a, 6; on the term of predictive policing cf. PULLEN/SCHEFER, 105.

¹¹¹ Cf. ch. 6.3.1.

¹¹² Cf. ch. 6.3.3.

¹¹³ PULLEN, 135.

investigation are blurred. For example, a clear distinction between prevention and investigation seems difficult if the CTRM unit collects additional information about a (criminal) incident that has led to a previous registration by the regional police. This is not unproblematic, as the applicable law differs depending on how the CTRM activity is classified.¹¹⁴ In the area of *public order and security policing*, cantonal police acts regulate police activities. As for *criminal investigation activities*, however, the CrimPC applies.¹¹⁵ Therefore, police enquiries¹¹⁶ are opened (and made pending) as soon as the police begin an investigation based on external reports or their own findings.¹¹⁷ From this point onwards, the prosecutor takes charge of the proceedings and can issue instructions and assignments to the police or take over the proceedings themselves.¹¹⁸

The dividing line between the two areas of law is based on the existence of an initial suspicion.¹¹⁹ If there is suspicion that a criminal offence has been committed, criminal procedure law is applicable.¹²⁰ As CTRM units do not operate in an exclusively pre-crime context, such suspicion is often already present. Nevertheless, the focus is not on investigating past crimes. The work is to be considered prevention, but it closely interfaces with criminal procedural law. Delicate questions of demarcation may therefore arise. Procedural regulations need to be reviewed and harmonized. Questions of demarcation can also arise with regards to child and adult protection measures. It seems as if CTRM is a catch-all for cases that overburden conventional procedures. Thus, this type of policing seems to satisfy subsidiary needs. The work of CTRM units can be described as something between social work and policing, operating between different legal spheres and concerned with different types of (often socially marginalized) individuals. The in-betweenness of this dual role can be challenging.

7.3 No algorithmic black boxes

One focus of this research was the use of algorithmic risk assessment tools. The results show that when assessing risks, CTRM units relied on such a tool in more than half the cases, and when they did, they almost always used Octagon, whereas DyRiAs, for example, was not used at all.¹²¹ This contrasts with the situation two years ago: As of 2020, most cantons in the German-speaking part of Switzerland, including the cantons comprising our sample, relied on a greater variety of algorithmic tools to assess risks, and in many cantons the implementation of additional tools was planned.¹²² Octagon, a tool based on a rather simple algorithm that includes a mere (flexible) “if-then” structure and is incapable of making independent decisions, prevailed over other tools and is now the most widely used instrument. The level of automation in risk assessment is therefore very low, and the level of technical autonomy (i.e.,

¹¹⁴ Cf. ch. 2.1.

¹¹⁵ BSK CrimPC-USTER, Art. 15 M 1; BSK CrimPC-RHYNER, Art. 306 M 5; PULLEN, 126 et seqq.

¹¹⁶ Art. 306 et seqq. CrimPC.

¹¹⁷ PK CrimPC-SCHMID/JOSITSCH, Art. 300 M 1; Art. 306 para. 1 CrimPC.

¹¹⁸ SK CrimPC-BOSSHARD/LANDSHUT, Art. 300 M 3; Art. 307 para. 2 CrimPC.

¹¹⁹ BSK CrimPC-RHYNER, Art. 306 N 6; WEY, 21; BGer 6B_1143/2015 judgement of June 6, 2016, E. 1.3.1.

¹²⁰ ZH-PolA-SCHINDLER/WIDMER, § 2 M 5 et seqq.; TIEFENTHAL, § 18 M 5.

¹²¹ Cf. ch. 6.5.2.1.

¹²² SIMMLER/BRUNNER/SCHEDLER, 14 et seq.

intelligence) is zero.¹²³ The results also indicate that CTRM units often only resort to Octagon if an extended risk assessment is necessary. In other words, the use of a risk assessment tool is not a standard part of the initial risk assessment and is only employed when evaluating a case in greater depth. It can therefore be stated that although structured algorithmic tools have become established in the three cantons evaluated, actual algorithmic decision-making is not taking place. This retreat of algorithmic tools can be explained in two ways.

Firstly, algorithms have increasingly become subject to condemnation and concern. Scholars have criticized algorithmic risk assessment tools for several reasons, such as often being black boxes and their risk calculations can be too complex to understand, especially in cases of commercial tools.¹²⁴ Additionally, users tend to uncritically follow algorithmic decisions, undermining institutional accountability.¹²⁵ Such tools also can produce biased results, leading to discrimination,¹²⁶ and they can lack scientific evaluation.¹²⁷ In addition to criticism expressed in the literature, scepticism among practitioners has manifested as well. Users have found fault with algorithmic risk assessment tools, mainly because a numerical risk prognosis may allow for estimation of the magnitude of a case but hardly helps a user in deciding whether intervention is necessary.¹²⁸ In contrast, many have praised Octagon for being beneficial in risk assessment, as it provides a “red thread” and ensures that the user considers all aspects relevant to the identification and mitigation of risk, and particularly because it does not produce any numerical risk prognosis.¹²⁹

Secondly, algorithms may provide guidance throughout the risk assessment process but cannot replace human decision-making. The results show that Octagon influenced risk assessment in one canton, but in the other two it was not possible to draw any conclusions based on the documentation available.¹³⁰ Given that Octagon offers recommendations on measures based on the assignment of flags, an actual connection between Octagon and the measures taken (e.g., a threat address) would not be surprising. Yet these recommendations are of a very general nature and require adaptation to the individual case, so decisions regarding what measures to take belong to the user.¹³¹ Thus, tools only have a supportive role. This finding corresponds with the widespread belief that the role of an algorithmic tool must remain one of support and the human must remain in charge.¹³²

In sum, users seem to value flexible and easy-to-follow instruments. To what extent they concretely influence their decision-making processes, however, remains unclear. They certainly play a role, or they

¹²³ On levels of automation and technical autonomy cf. SIMMLER/FRISCHKNECHT, 242 et seqq.

¹²⁴ LEESE, 27; SIMMLER, 453.

¹²⁵ LEESE, 22 et seqq.; CUMMINGS, 3; ZWEIG/WENZELBURGER/KRAFFT, 197 et seq.

¹²⁶ HUNZIKER, 269 et seqq., with further remarks.

¹²⁷ COCITO ET AL., 3; SIMMLER ET AL., 21, with further remarks.

¹²⁸ Cf. SIMMLER/BRUNNER/SCHEDLER, 18; 24; ENDRASS/ROSSEGGER 2017, 40.

¹²⁹ SIMMLER/BRUNNER/SCHEDLER, 18; 20.

¹³⁰ Cf. ch. 6.5.2.2.

¹³¹ Cf. ENDRASS/ROSSEGGER, 17 et seqq.

¹³² SIMMLER/BRUNNER/SCHEDLER, 55.

would not be so frequently employed. Yet, the results suggest that due to the manifest decline in algorithmic risk assessment tools within CTRM units, concerns about untraceable decision-making based on untransparent, ill-founded algorithmic black boxes¹³³ can be dispelled in Switzerland, for now.

7.4 Traceability of decisions

This study revealed that individual decision-making processes in CTRM units cannot be clearly reconstructed from the information documented in the case files. This was especially noticeable in cases where only an entry in the general police database was made, as these were predominantly short reports that summarized cases without including in-depth information. Moreover, this was the case in terms of *measures taken*. Since the CTRM reports usually only summarily described these measures, it was not always possible to find specific explanations for choices made or the initiation of a certain measure. Thus, the justification for these measures often remained unclear for outsiders, due to a lack of documentation.¹³⁴ Likewise, the use of *algorithmic tools* and their influence on risk assessments were not always sufficiently transparent to be fully comprehensible. In two cantons, most files only contained references to the results of such tools. It was therefore only possible to determine whether the CTRM unit had used an algorithmic tool. The files did not contain concrete information regarding how or to what extent the tool had influenced the assessment of the individual. In only two cases could explicit references to the influence of such tools be found.¹³⁵ The data provided by the third canton suggested that algorithmic tools had a medium to high level of impact on risk assessment.¹³⁶ Finally, there were also various cases in which the *interplay between the CTRM unit and the prosecution* had several implications on CTRM activities. Due to an absence of detailed documentation in the files, however, these implications could not always be conclusively reconstructed.¹³⁷ This incomplete documentation poses a problem regarding the traceability of decisions. In particular, this applies where significant encroachments on fundamental rights are made based on these decisions.

To interpret this finding, it is again necessary to differentiate between types of police actions. While cantonal police law applies in *public order and security policing activities*, the CrimPC determines the legal framework of a *criminal investigation*.¹³⁸ Accordingly, the regulations on documentation are different. Art. 307 para. 3 CrimPC, for example, requires the police to record their findings and the measures they take in written reports and on an ongoing basis.¹³⁹ Only limited exceptions are possible.¹⁴⁰ Likewise, the general principles of Art. 76-78 CrimPC apply.¹⁴¹ These state that all procedurally relevant events must be recorded in an adequate form and the corresponding records integrated into the files by the acting

¹³³ Cf. GABEL CINO, 1073 et seqq.; COCITO ET AL., 3 et seqq.

¹³⁴ Cf. ch. 6.6.3.

¹³⁵ Cf. ch. 6.5.1.2.

¹³⁶ Cf. ch. 6.5.2.2.

¹³⁷ Cf. ch. 6.3.3.

¹³⁸ BSK CrimPC-USTER, Art. 15 M 1; BSK CrimPC-RHYNER, Art. 306 M 5; PULLEN, 126 et seqq.; cf. ch. 2.1.

¹³⁹ Cf. VSKC-ALBERTINI, 562 on the necessary contents of police reports.

¹⁴⁰ Art. 307 para. 4 CrimPC; KETTIGER, M 8.

¹⁴¹ SK CrimPC-BRUESCHWEILER/NADIG/SCHNEEBELI, Art. 76 M 3.

authority.¹⁴² Conversely, the documentation of police activity under cantonal law is not regulated as comprehensively.¹⁴³ For example, § 12 para. 1 ZH-PolA simply states that the police must document their actions “appropriately.” Accordingly, the police have a considerable margin of discretionary power in deciding if and in what form something must be documented.¹⁴⁴ Furthermore, the police may question an individual without specific formal requirements if it is necessary to satisfy preventive policing duties.¹⁴⁵ Only a summary record of oral statements is required if the police expect to take measures that may restrict fundamental rights.¹⁴⁶ The stricter regulations of the CrimPC only apply if the questioning is related to a reasonable suspicion that an offence has been committed.¹⁴⁷

Thus, the concrete activities undertaken by the police determine the applicable law. This illustrates the CTRM unit's understanding of its role. It considers itself to primarily be a preventive police body regulated by cantonal law. Therefore, the scope of the documentation is not based on the stricter requirements of the CrimPC. Instead, it follows the greater flexibility of cantonal legislation. This approach explains why certain decision-making processes were not always documented comprehensively in the cases examined. Even if this practice is legal from today's perspective, it poses a problem in the long term. The issues discussed in connection with algorithmic decision-making (namely, traceability, transparency, and accountability¹⁴⁸) are just as important when it comes to human decision-making processes and the interaction of humans and technical systems. Traceability is of particular importance because of the need to protect human rights, especially procedural ones, the increased relevance of preventive police work, and the fact that the accompanying encroachment on fundamental rights requires a professionalization not only of the policing itself, but also of the associated legal procedures. If the verifiability of decision-making processes is to be ensured, or even just properly evaluated, comprehensible documentation is required.

7.5 Implications for fundamental rights

The activities of CTRM units have raised concerns regarding conflicts with fundamental rights.¹⁴⁹ Insofar as CTRM involves such conflicts, these activities require a sufficient legal basis and a public interest. Further, interference with fundamental rights must always be proportionate, i.e., adequate (i.e., suitable for achieving a legitimate public purpose), necessary (i.e., no less restrictive measures are available), and not outweighed by the negative effects for the individual.¹⁵⁰ In urgent and unforeseen cases that

¹⁴² VSKC-RHYNER, 109.

¹⁴³ KETTIGER, M 8.

¹⁴⁴ ZH-PolA-JAAG, § 12 M 4.

¹⁴⁵ § 24 ZH-PolA; cf. similar Art. 82 para. 1 BE-PolA; cf. further ZH-PolA-WEDER, § 24 M 1 et seqq., who mentions the threat address and informal interviews with allegedly dangerous individuals as prime examples.

¹⁴⁶ ZH-PolA-WEDER, § 24 M 22.

¹⁴⁷ § 24 para. 2 ZH-PolA; cf. similar Art. 81 para. 2 BE-PolA.

¹⁴⁸ Cf. LEESE, 25 et seqq.; ZWEIG/WENZELBURGER/KRAFFT, 197 et seqq.; BENNETT MOSES/CHAN, 817 et seqq.; SIMMLER/CANOVA, 48 et seqq.

¹⁴⁹ Cf. HUMANRIGHTS.CH, 1 et seqq.; FICHTER/WÜSTHOLZ, 1 et seqq.; SIMMLER/BRUNNER, 171 et seqq.

¹⁵⁰ Art. 36 Cst; HAEFELIN ET AL., § 9 M 302 et seqq.; EGLI, 118 et seq.

require immediate action, the so-called general police clause can replace a legal basis.¹⁵¹ In the context of CTRM activities, this clause is hardly ever applicable, given that it presents an institutionalized concept with a catalogue of recurring and thus foreseeably dangerous scenarios, as well as related measures.¹⁵² A legal basis for CTRM activity is therefore necessary, as the measures taken within this framework are suitable to constitute infringement upon various fundamental rights, above all regarding the rights to privacy, personal liberty, and a fair trial.

7.5.1 Right to privacy

The results show that the work of the CTRM involves collecting and processing personal information on allegedly dangerous individuals, victims, and others involved in the case.¹⁵³ In so doing, the CTRM unit encroaches on the *right to privacy* enshrined in Art. 13 Cst and Art. 8 ECHR, which guarantees that public authorities must respect the personal sphere of the individual.¹⁵⁴ In particular, the right to *informational self-determination* protects the individual against abuse (i.e., the unlawful registration, collection, processing, storage, and transfer of personal data¹⁵⁵) by public authorities.¹⁵⁶ Data on the criminal history, health, personal views, etc., of a person are especially sensitive and therefore subject to a higher threshold of protection,¹⁵⁷ especially when such data are collected and processed without the knowledge of the individual.¹⁵⁸ The collection and processing of sensitive personal data by a CTRM unit constitutes an encroachment on the right to informational self-determination, and therefore requires a legal basis in the formal sense that defines the purpose and responsibilities of the data collection and processing.¹⁵⁹ In the cantons analysed, these norms are rather broad and define the tasks of the police in a fairly general manner (i.e., the prevention of crime), so it remains unclear to what end and based upon what measures the CTRM unit is collecting and processing personal data.¹⁶⁰ In addition, CTRM units frequently rely on threat addresses,¹⁶¹ which intrude on the privacy of individuals. Insofar as participation is optional in the cantons researched, this encroachment on the right to privacy is a minimal one, but a legal basis is still needed to justify this institutionalized police action and guarantee legal certainty.¹⁶² To avoid unjustified conflicts with the right to privacy, the cantons would do well to include the threat address and

¹⁵¹ HAEFELIN ET AL., § 9 M 312 et seq.; TIEFENTHAL, § 6 M 3 et seqq.; EGLI, 118; SCHWANDER, 14.

¹⁵² FEDERAL COUNCIL OF SWITZERLAND, 28; SIMMLER/BRUNNER, 173, with further remarks.

¹⁵³ Cf. ch. 6.6.1.1.

¹⁵⁴ Art. 13 Cst and on that KIENER/KAELIN/WYTTEBACH, § 14 M 1 et seq.

¹⁵⁵ Personal data includes all information related to an identified or identifiable person, cf. Art. 3 lit. a FADP; § 3 para. 3 ZH-IDA; Art. 1 para. 1 a SG-DPA; Art. 2 para. 1 BE-DPA; cf. also Art. 3 para. 1 Regulation (EU) 2018/1725.

¹⁵⁶ OFK Cst-BIAGGINI, Art. 13 M 12; KIENER/KAELIN/WYTTEBACH, § 14 M 2; EGLI, 129.; cf. also HK ECHR-MEYER-LADEWIG/NETTESHEIM, Art. 8 M 3.

¹⁵⁷ Art. 3 lit. c FADP; ZH-IDA § 3 para. 4 lit. a; SG-DPA Art. 1 para. 1 a; DPA-BE Art. 3; RHINOW/SCHNEIDER/UEBERSAX, M 1378; KIENER/KAELIN/WYTTEBACH, § 14 M 58.

¹⁵⁸ TIEFENTHAL, § 23 M 18; MOHLER 2012, M 1177.

¹⁵⁹ GLASS, 240; SIMMLER/BRUNNER, 180, with further remarks; regarding the use of AI by public authorities in this context cf. BRAUN-BINDER ET AL., 33 et seqq.

¹⁶⁰ Cf. § 3 et seqq. and § 52 ZH-PolA; § 12 and § 32 SG-PolA; § 9 and § 141 BE-PolA.

¹⁶¹ Cf. ch. 6.6.1.2.

¹⁶² SIMMLER/BRUNNER, 185.

purpose of and responsibilities for collecting and processing personal data into the cantonal police legislation.

Moreover, the results show that individuals were not in all cases *informed* about being subjects of a CTRM case or the fact that personal information was being collected. In general, they were only informed if a threat address occurred (i.e., if the CTRM unit conducted an extended risk assessment). Yet the files did not contain any information on whether the individuals were informed about the results of the risk assessment. To ensure transparency, there is a general duty to inform individuals about the collection of personal information, except if there is a legal basis that allows for restricting the information (as is usually the case in police work).¹⁶³ In terms of the duty to inform, it would be sensible to clearly regulate whether and how affected individuals should be informed about CTRM data collection.

Another interesting aspect is the *exchange of information* within the CTRM network. Literature on CTRM frequently highlights that the exchange of information collected on allegedly dangerous individuals and cases in general comprise a core component of CTRM practice, and the ability to exchange information among the members of the CTRM network, especially with the specialized police unit, is crucial to ensuring agile and efficient responses to risk.¹⁶⁴ To enable the CTRM network to efficiently and effectively prevent crime, a legal framework that guarantees a lawful exchange of information between different public authorities is indispensable.¹⁶⁵ For criminal investigations, consultation on the case files by the office of the prosecution and other public authorities is governed by the CrimPC.¹⁶⁶ In contrast, in preventive police work, a legal basis for the exchange of data must be provided for in cantonal law.¹⁶⁷ The files analysed contained little evidence that information was exchanged within the CTRM network, not to mention any details on what information was exchanged for what reason and on what grounds. Considering the importance of the exchange of information, this is rather surprising and raises the question of whether there really is only minimal exchange within CTRM networks, or whether what occurs is simply not documented in detail.

7.5.2 Right to personal liberty

The nature of police work frequently involves conflicts with personal liberty. Coercive measures of any kind affect the right to personal liberty as regulated by Art. 10 para. 2 Cst and Art. 5 ECHR. In particular, this is reflected in the freedom of movement, which guarantees the right to move according to one's own will and thus be free from unjustified state interference.¹⁶⁸ In this context, the threat address is of particular interest. The results suggest that the threat address is a frequently used measure; CTRM units

¹⁶³ TIEFENTHAL, § 23 M 22; cf. e.g. § 4 ZH-IDA.

¹⁶⁴ BRUNNER 2017b, 42 et seqq.; GULDIMANN/BRUNNER/HABERMAYER, 234; TIEFENTHAL, § 27 M 2; WECHLIN, 12; HEALTH DEPARTMENT OF THE CANTON OF ZÜRICH, 4 et seqq.

¹⁶⁵ SCHWANDER, 6 et seqq.; SIMMLER/BRUNNER, 184, with further remarks; cf. e.g., HEALTH DEPARTMENT OF THE CANTON OF ZÜRICH, 31 et seqq.

¹⁶⁶ Art. 101 para. 2 and 194 CrimPC; SCHMID/JOSITSCH, M 627 and 965.

¹⁶⁷ E.g., Art. 13 SG-PolA and Art. 13 SG-DPA; § 52 para. 4 ZH-PolA and Art. 16 et seq. ZH-IDA; Art. 144 BE-PolA and Art. 10 BE-DPA.

¹⁶⁸ HAEFELIN ET AL.; § 10 M 352; OFK Cst-BIAGGINI, Art. 10 M 19; EGLI, 125; MOHLER 2020, 98. Art. 5 ECHR only applies to deprivation of freedom, i.e. by detention; HK ECHR-MEYER-LADEWIG/HARRENDORF/KOENIG, Art. 5 M 9.

hardly ever take far-reaching coercive measures such as taking someone into police custody.¹⁶⁹ With the threat address, officers rely on a measure that is less invasive than one that brings about a deprivation of liberty. In the cantons analysed, the threat address lacks a truly coercive character, since participation is – at least in theory – optional for individuals (i.e., the allegedly dangerous individuals are free to decide whether to participate and cooperate with the police, without facing negative consequences by law).¹⁷⁰ Nevertheless, the threat address can interfere with the right to personal liberty. Certain affected individuals have been forced to cooperate with the CTRM units by the prosecutor's office, an action based on the CrimPC.¹⁷¹ Yet for others, cooperation with police officials might not always be perceived as truly optional. Possibly, the mere fear of negative consequences put psychological pressure on these individuals to cooperate with the police.

Moreover, the mere fact that police officials are contacting an individual based on data already collected may rise to the level of interference with their personal sphere. As this study has shown, the majority of individuals were open to communicate and cooperate with the CTRM unit, and therefore freely participated in the threat address.¹⁷² This measure on its own is not particularly problematic. However, further questions arise regarding how to deal with the information gathered during the conversation with the allegedly dangerous individual. In principle, a threat address is not analogous to a formal interrogation of an accused, and statements issued during a threat address are deemed inadmissible evidence in criminal proceedings, since the individual is not informed of their rights (as they would be in a formal interrogation).¹⁷³ A threat address aims to build trust and create a solid basis for support. However, once a criminal investigation is opened, the prosecution can request access to the CTMR police files.¹⁷⁴ Information that was protocolled based on the "optional" threat addressed at that point becomes visible to the prosecution, even though the affected individual was not informed beforehand that this could happen. This is problematic and how to treat information gathered within the framework of the threat address should be further explored. Regulating this measure may be necessary, even though its coercive nature is not pronounced at first glance.

¹⁶⁹ Cf. ch. 6.6.1.

¹⁷⁰ Ch. 6.6.4.

¹⁷¹ This is the case if, e.g., the public prosecution orders cooperation with the CTRM unit as an alternative measure in the sense of Art. 237 CrimPC instead of pre-trial custody, cf. WOSTA, 214.

¹⁷² Cf. ch. 6.6.4.

¹⁷³ Art. 141 para. 1 and Art. 158 CrimPC.

¹⁷⁴ Art. 194 CrimPC.

7.5.3 Right to a fair trial

The right to a fair trial, enshrined in Art. 29 Cst and Art. 6 ECHR, ensures that public authorities exercise their power towards individuals in a lawful manner.¹⁷⁵ The scope of application of Art. 6 ECHR is restricted to criminal proceedings and criminal investigations,¹⁷⁶ but its content, including the corresponding jurisdiction of the ECtHR, has been included in the Swiss Constitution.¹⁷⁷ In particular, Art. 29 Cst applies to judicial and administrative proceedings, and is therefore of relevance in the context of CTRM.¹⁷⁸ One important part is the *right to be heard*, including the *right to participate in proceedings*, which ensures that individuals subject to administrative proceedings (i.e., with the police) can participate and include their perspective.¹⁷⁹ Individuals are not to be treated as mere objects in such proceedings. This right can be limited in cases of overwhelming public interest, such as the risk of thwarting a measure.¹⁸⁰ In the context of CTRM, this implies that the individual must generally be given the opportunity to include their view regarding their case, at least as far as CTRM measures are concerned. However, when measures are taken to assess a risk in the first place, involving the allegedly dangerous individual can often jeopardise the effectiveness of the measure.

To abide by the right to a fair trial, the authorities must further *inform* individuals about the aspects included in a decision before issuing an order.¹⁸¹ The duty to inform no less applies if the CTRM unit assesses risk using an algorithmic tool. This means that the use of the tool must be made transparent and the results explainable, such that the individual understands how the tool performs risk calculations, what information is used, how the information is weighed, etc.¹⁸² The CTRM units in the cantons analysed only used Octagon, a tool that operates without any complex algorithm. Transparency regarding its functioning is therefore unproblematic. However, the traceability of decision-making should not be any less available with regards to decisions made by human officials. In this context, the analysed files did not contain any detailed information on whether and to what extent the individuals were informed about the procedures leading to decisions on measures taken, or if this right to be informed was restricted based on a competing public or private interest such as protection of the victim. This makes it more difficult for those affected to exercise their procedural rights and dispute any measures.

Moreover, the right to a fair trial encompasses the *right to inspect files*.¹⁸³ To effectively make use of their rights (e.g., to demand a rectification or deletion of data), the individual must first be informed about this right, except when there is an overriding public or private interest.¹⁸⁴ The results suggest that it was

¹⁷⁵ BSK Cst-WALDMANN, Art. 129 M 9; KIENER/KAELIN/WYTENBACH, § 40 M 10.

¹⁷⁶ HK ECHR-MEYER-LADEWIG/HARRENDORF/KOENIG, Art. 6 M 5.

¹⁷⁷ BSK Cst-WALDMANN, Art. 29 M 3.

¹⁷⁸ OFK Cst-BIAGGINI, Art. 29 M 3; HAEFELIN ET AL., § 26 M 829.

¹⁷⁹ Art. 29 para. 2 Cst; HAEFELIN ET AL., § 26 N 835; KIENER/KAELIN/WYTENBACH, § 41 M 36; Art. 6 para. 1 ECHR, on that HK ECHR-MEYER-LADEWIG/HARRENDORF/KOENIG, Art. 6 M 87.

¹⁸⁰ BSK Cst-WALDMANN, Art. 29 M 49; HK ECHR-MEYER-LADEWIG/HARRENDORF/KOENIG, Art. 6 M 55.

¹⁸¹ HAEFELIN ET AL., § 26 M 838; BSK Cst-WALDMANN, Art. 29 M 53.

¹⁸² WEDER, 248, with further remarks.

¹⁸³ BSK Cst-WALDMANN, Art. 29 M 54 et seq.; TIEFENTHAL, § 23 M 22; SIMMLER/BRUNNER, 180; HK ECHR-MEYER-LADEWIG/HARRENDORF/KOENIG, Art. 6 M 108 et seqq.

¹⁸⁴ HAEFELIN ET AL., § 26 M 838; BSK Cst-WALDMANN, Art. 29 M 53 et seqq.

during the threat address that the CTRM unit most often informed the individual about the fact that they were the subject of a case, yet the analysed files did not contain any information on whether and to what extent the individuals were informed about their right to inspection. In cases where the CTRM unit took no measures, individuals were not informed at all. Being informed about the right to inspect files is vital if individuals are to make use of this right, so CTRM units must ensure that individuals subject to their cases are sufficiently informed about their right to inspection. If the effectiveness of a measure or the CTMR unit in general would be thwarted by this information, it is then necessary to consider ways in which these rights might be exercised retrospectively.

The right to inspect files is accompanied by the authorities' *obligation to record* all relevant information and processes. The purpose is to ensure that the individuals concerned can exercise their rights of inspection and participation.¹⁸⁵ In this context, the results show that certain decision-making processes regarding the risk assessment of allegedly dangerous individuals could not always be fully reconstructed based on the information that the files included. However, it must be considered that CTRM units base their preventive activities on cantonal police law,¹⁸⁶ meaning that they enjoy greater discretion regarding if and in what form something must be documented.¹⁸⁷ It is essential that the files contain complete information that enables the allegedly dangerous individuals to understand the underlying decision-making processes in a transparent and comprehensible manner (continuously or subsequently). This transparency and documentation could, as already mentioned, serve the goal of traceability. In turn, this would strengthen credibility and trust in CTRM. Above all, it is necessary with regards to the right to a fair trial to give individuals (who may have been unjustly affected) the opportunity to exercise a defense against interference with their fundamental rights in an informed and effective manner.

¹⁸⁵ BSK Cst-WALDMANN, Art. 29 M 54; OFK Cst-BIAGGINI, Art. 29 M 21.

¹⁸⁶ Cf. ch. 7.4.

¹⁸⁷ ZH-PolA-JAAG, § 12 M 4.

8 Conclusion

Prevention of crime is a key paradigm in modern police work. The focus recently has increasingly shifted from repression to intervention before a violent crime occurs. Correspondingly, CTRM units have emerged and now represent an established institutional concept in many Swiss cantons. By focusing on the prevention of crime, especially in the context of domestic and sexual violence and threats toward the authorities, CTRM answers a pressing social need. However, as the goal is to identify, assess, and mitigate risk at an early stage, CTRM units conduct risk assessments and take measures that give rise to several legal concerns. Given the little research available on CTRM in Switzerland, it is important to shed light on the concept by looking at the actual practice. Therefore, this study empirically examined the concept of CTRM in three Swiss cantons. This research established that despite its preventive nature, CTRM units do not engage in random quests for potential criminals, but only become active upon a concrete incident that most often has already presented as a possible violation of the criminal code. Therefore, CTRM cannot be characterized as purely pre-crime, but rather as operating at the border of (or parallel to) criminal proceedings. This kind of police work cannot be clearly characterized regarding its functional and legal position. The lack of clarity naturally entails challenges and reveals that more thought must be given to enacting a clear framework that enables effective policing on solid legal grounds.

A key finding is that risk assessment tools are frequently used, yet the underlying algorithm is rather simple and comprehensible. Algorithms seem to be losing popularity in this specific field, and intense concerns about opaque, incomprehensible, and discriminatory algorithmic black boxes have not materialized. However, issues regarding transparency have arisen from human decision-making. Above all, rather non-detailed documentation and protocolling has yielded difficulties with tracing decision-making processes, thus potentially inhibiting the guarantee of procedural rights. It will not be possible in police work dealing with allegedly dangerous individuals to always only interact with individuals who are actually dangerous. This makes it even more important to ensure procedural fairness. Appropriate documentation leads to more comprehensible processes that are perceived as just. The institutionalization of CTMR and, above all, its increasing practical relevance will no longer allow it its current flexibility and informality. Standardized decision-making processes will increasingly become mandatory, which will lead to formalization and legislation. Such processes must not be exaggerated, but rather adapted to the reality of the field to ensure practicability.

A specific legal framework defining the procedures, roles, responsibilities, and procedural rights within the CTRM purview would guarantee that its work would be compatible with fundamental rights, while still allowing CTRM officers to fulfill the task of preventing violence and continue their important and meaningful contribution to the common good. However, this study only examined the CTRM units of three cantons, and the files analyzed allowed for only fragmented insights into the actual work. Future research should therefore include more cantons and examine specific aspects in greater detail, such as the interplay between the CTRM unit and public prosecutor and other authorities and the effectiveness of measures taken.

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