

Robbery Homicide

A Swiss and International Perspective

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vorgelegt von

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Die Rechtswissenschaftliche Fakultät gestattet hierdurch die
Drucklegung der vorliegenden Dissertation, ohne damit zu den
darin ausgesprochenen Anschauungen Stellung zu nehmen.

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Vorwort

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Lupus est homo homini, non homo, quom qualis sit non novit

(Plautus, Asinaria II. 4, 495)

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Abbreviations

ACC	Austrian Criminal Code
Art.	Article
AS	Amtliche Sammlung [Official Compilation of Federal Legislation]
BetmG	Betäubungsmittelgesetz [Law on narcotics]
BGE	Bundesgerichtsentscheid [Decision of the Federal Court]
BSK	Basler Kommentar
CATI	Computer-assisted telephone interviews
CCC	Constitutio Criminalis Carolina
CCrP	Swiss Criminal Procedure Code [Schweizerisches Strafprozessrecht StPO]
CCTV	Closed Circuit Television systems
CIUS	Crime in the USA
DNA	Deoxyribonucleic Acid
ESB	European Sourcebook of Crime and Criminal Justice Statistics
et al.	and others
et seq.	et sequentes [and the following]
FBI	Federal Bureau of Investigation
FCC	French Criminal Code
FHMS	Finnish Homicide Monitoring System
GCC	German Criminal Code
HMP	Her Majesty's Pleasure [ter Beschikkingstelling TBS]
ICC	Italian Criminal Code
ICVS	International Crime Victimization Survey
i.e.	id est [that is]
ISRd	International Self-Report Delinquency Study
IVAWS	International Violence against Women Survey
let.	Letter [litera]
NCS	National Crime Survey

Abbreviations

no.	number [Ziffer]
NZZ	Neue Zürcher Zeitung
OFS	Office of Federal Statistics Switzerland [Bundesamt für Statistik]
p.	page
para.	paragraph [Absatz]
QCA	Qualitative Comparative Analysis
resp.	respectively
SCC	Swiss Criminal Code [Schweizerisches Strafgesetzbuch StGB]
SNF	Swiss National Science Foundation [Schweizerischer Nationalfonds]
SR	Systematische Rechtssammlung [Classified Compilation of Federal Legislation]
UCR	Uniform Crime Reports
USA	United States of America
vs.	versus
WHO	World Health Organization

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L

Introduction

Paula Roth distrusted the banking system. Everyone, her guests as well as her future murderer, knew that her savings were hidden in the Bellaluna, her hotel in the remote Albula valley. She even personally told the man who acted as the instigator of the robbery that her money was stored in the house. Rumours of her wealth spread, and three men, of whom two were heavily in debt, decided to rob the elderly lady who lived alone in her guesthouse, seemingly an easy target. According to the court files, they entered the guesthouse in the evening of 18 April 1988 and sent their host to the wine cellar in order to search for drinks. In the meantime, one man left the building to wait for the others in a restaurant in Bergün, whereas his accomplice followed Paula Roth to the cellar. There, he stabbed her several times until she bled to death. Without informing the remaining accomplice that the old lady had been murdered, the two robbers searched the house for money, without finding anything of great value. They finally left the Bellaluna, joined the third robber and left in his car. Paula Roth was found the day after, lying in a pool of blood.¹

The story of the Bellaluna murder is only one of many examples of a robbery homicide in Switzerland in the last 20 years. However, the case has drawn the attention of the media, not only because Paula Roth was an “original” of the Albula valley and appreciated by her many guests, but also because the strategy of her murderers was unusually brutal and dreadful. In general, homicide motivated by monetary gain is considered murder and therefore falls under the category of article 112 or at least article 111 of the Swiss Criminal Code SCC (*Schweizerisches Strafgesetzbuch*, StGB). Hence, as this type of criminal homicide constitutes by far the most serious form of interpersonal violence and is correspondingly prosecuted by rigorous sanctions in the SCC, its prevention is crucial. However, to this day, no research has been conducted in the field of homicides committed during a predatory property crime in Switzerland. Therefore, the goal of this dissertation is threefold.

First, it aims to elucidate the phenomenon of homicide in the context of property crimes in Switzerland in order to lead to a better understanding of

¹ ACHERMANN/ROHNSTOCK, p. 179 et seq.

this special type of homicide. Based on the Swiss Homicide Database sponsored by the Swiss National Science foundation SNC, I will use descriptive as well as multivariate statistical analysis in order to research robbery homicide cases collected from legal medicine, court and police files and covering over 20 years. Second, this work deliberately sets a strong comparative focus and international orientation in order to comprehend the phenomenon of robbery homicides in other countries and to improve our knowledge of property crime homicides in general. Third, it proposes adequate prevention measures in order to reduce the risk of victimisation as well as the commission of a property crime homicide.

- 4 The present work is subdivided into three parts. The first part includes a theoretical approach to robbery homicides. Therein, the most important terms and concepts are defined in order to circumscribe the notion of a robbery homicide in a legal as well as criminological context. Furthermore, this part includes a brief historical development of robbery homicides and their legal treatment. Also, criminological theories will be presented in order to explain the phenomenon of robbery homicide from a criminological perspective. Finally, this theoretical part finishes with an extensive overview on the state of research for homicide and robbery in Switzerland as well as robbery homicide in Switzerland and other countries.
- 5 The second part of this work is dedicated to an analysis of robbery homicides in Switzerland. From the Swiss Homicide Database, a database including all homicide cases² that took place in Switzerland between 1980 and 2004, I selected all homicide events that occurred within a property crime and conducted frequency analysis of demographic variables of victims and offenders, circumstances of the homicide as well as police and court information. Furthermore, throughout all frequency analysis, I compared robbery homicide with homicide without robbery and, where information was available in the International Crime Victimization Survey (ICVS), with robbery without lethal ending, in order to situate robbery homicide in the context of its most related crime forms. Based on the results of the bivariate analysis, multivariate analysis, namely logistic regression, was conducted, in order to confirm potential correlations as well as evaluate the importance of some of the independent variables. Furthermore, the final chapter of the second part is dedicated to an international comparison of US-American

² For limitations, see N 143-144.

robbery homicide data from the Federal Bureau of Investigation (FBI) Uniform Crime Reports (UCR). There, selected characteristics of robbery homicide in the USA will be analysed and compared with findings from the Swiss Homicide Database in order to research discrepancies as well as commonalities of robbery homicide in these two countries.

The third part of this study proposes an overview as well as a discussion of the findings and deduces the results for the research hypothesis stated at the beginning of this work. Furthermore, chapter 15 is dedicated to a discussion of possible prevention measures as well as policy implications that derive from the results of the present research. Since robbery homicide is a very serious form of interpersonal violence, it will be crucial to contribute to a better understanding of this type of crime as well as to propose prevention measures that might save the lives of future victims. In a final chapter, future research directions will be identified in order to improve the knowledge of robbery homicide henceforth. 6

Part 1: Theoretical approach to robbery homicides

Preface: Robbery homicide as a specific subcategory of homicide or the need for disaggregation

If we think of homicide incidents, we immediately have several scenarios in mind. An angry husband killing his wife because he suspected her of having an extra-marital affair, a bar fight ending lethally, a robbery gone wrong, drug dealers fighting and killing for predominance in the business, a serial killer rampaging in a certain area, organised crime using contract killers to eliminate witnesses; these are only a few illustrations of situations in which homicides occur. However, it is obvious that all these above mentioned situations present different parties to the crime as well as different motivations for their actions. Indeed, research based on disaggregated homicide data found that predictors of homicide varied considerably within different subtypes.³ The need to disaggregate homicide data in order to study different types of homicide separately seems to constitute a logical consequence of this observation. Nevertheless, the study of specific homicide subtypes, especially the homicidal situation as unit of analysis, was relatively neglected by research.⁴ Fortunately, there has been a visible trend towards an increase in specific homicide research over recent years. This research inscribes itself to this relatively young tradition of homicide analysis within the situational context and constitutes an attempt to focus on one particular subtype of homicide, namely homicides committed in the course of a predatory property crime, a scenario which includes robbery and burglary. By focusing on this specific subsample of homicide as unit of analysis, I also intend to encourage the use of disaggregated data in the field of homicide for future research. In line with previous research,⁵ I believe the disaggregation of homicide to be

³ See KUBRIN, for a cluster analysis of different homicide types.

⁴ MIETHE/REGOECZI; FLEWELLING/WILLIAMS.

⁵ MAXFIELD, Homicide reports, 671; MARKWALDER/KILLIAS, Handbook, forthcoming; LAND/MCCALL/COHEN, p. 955; DECKER, p. 610; PIZARRO, p. 324; KUBRIN, p. 140; WILLIAMS/FLEWELLING, p. 422.

Part 1: Theoretical approach to robbery homicide

the key to a better understanding of the diversity and complexity of homicide incidents.

§ 1 Definitions

I. Introduction

The term “predatory property crime homicides”, or more colloquially called “robbery homicide”, refers to a homicide committed in the course of a contact property crime. Therefore, this notion is composed of two parts: A homicidal aspect as well as the commission of a property crime with immediate contact. In a broad sense, criminal homicide is generally defined in criminological literature as the *unlawful and unjustifiable action or inactions that result in the death of other human beings*.⁶ This definition thus includes intentional as well as negligent homicides. However, most research on homicide, especially when in comparative perspective, is limited to intentional offences and thus excludes homicides committed involuntarily. Therefore, definitions used include in general *the killing of a person by a human offender, and this intentionally*.⁷ Robbery, on the other hand, is delineated as *theft or attempted theft by force or the threat of violence*.⁸ Thus, it can be concluded that robbery is a combination of a property crime as well as a violent crime.⁹

The two concepts combined, robbery homicide consists in the *intentional killing of a person due to an attempted or completed theft by force*. However, robbery as well as homicide are legal constructs, and therefore their definitions vary according to the legal system in which they occur. Hence, the chapter on definitions is composed of two parts. Part one¹⁰ consists of a general overview of terminology and definitions of robbery homicide used in criminological research, whereas part two¹¹ focuses on definitions for our research project on robbery homicides in Switzerland, examining more closely the legal definitions as well as inclusion criteria used *in casu*.

⁶ FOX/LEVIN/QUINET, p. 4. This definition also excludes killings in the context of warfare; see also the definition in DALY/WILSON, p. 14.

⁷ SMIT/DE JONG/BIJLEVELD, p. 5.

⁸ COOK, robbery violence, p. 357.

⁹ COOK, robbery violence, p. 357.

¹⁰ See chapter 2 *Robbery homicides and their definition in criminological research*.

¹¹ See chapter 3 *Definitions used for this research*.

II. Robbery homicides and their definition in criminological research

A. Legal classification of robbery homicides

a) *The US-American classification of felony homicides and the felony murder rule*

- ¹⁰ As mentioned above, the definition of robbery homicide varies not only from research to research, but also according to the legal system which serves as reference. As the main body of research stems from US-American sources, their concepts and legal definitions are predominantly used in robbery homicide research. The main difference in defining robbery homicide in US-American research results from the concept of felony homicide and the legal rule of felony murder. The term felony homicide determines, according to the FBI's Uniform Crime Reporting (UCR), all homicides committed during a felony offence. Hence, not only property crimes such as robbery, burglary or theft, but also sex offences, narcotic drugs, arson or gambling constitute categories of felony homicides according to the UCR classification rule.¹² On the other hand, the felony murder rule is a legal concept that allows the application of murder in the first degree if the homicide took place during the commission of a particular category of felony.¹³ For the subsequent analysis of these legal concepts, we have to keep in mind that each state within the USA has its own criminal code, and that definitions hence may vary according to where the homicide took place¹⁴. However, in general, the US-American legal system knows 3 levels of criminal homicides, namely murder (in the first and in the second degree), manslaughter and involuntary and/or negligent homicide.¹⁵ Murder in the first degree consists of a homicide more or less to murder according to article 112 of the SCC¹⁶ and describes the killing of a person with premeditation, deliberation, and

¹² However, the definition is not always limited to felony offences, as the FBI expanded homicide data also includes some misdemeanours; See FBI, Table 10, for the categorisation of felony homicides.

¹³ NEMETH, p. 136; FINKELSTEIN, p. 83.

¹⁴ See FINKELSTEIN for an overview on the differences within states regarding homicide rules.

¹⁵ NEMETH, p. 116.

¹⁶ See N 25 et seq. for details on article 112 SCC.

intentional knowledge as well as without privilege or right. Furthermore, the existence of a specific intent is required.¹⁷ Some states also define this special mental condition of the murderer as *malice aforethought*.¹⁸ On the other hand, murder in the second degree lacks this premeditation, although the killing is still committed with intent,¹⁹ and corresponds to our article 111 SCC homicide.²⁰ Thus, the *mens rea* of the offender is the essential factor to determine whether the offender is guilty of a first or second degree murder. Finally, manslaughter encloses all homicide cases that are still without privilege or right but present mitigating factors or provocation. It is also possible that these acts are accidental or negligent.²¹

Consequently, the felony murder rule consists of a type of strict liability and imposes first degree murder even for cases where the *mens rea* for homicide could partially or totally not be established.²² In order to commit a felony murder, the offender has to cause the death of some other person during a specific felony. The intent of the offender has to be on the commission of the felony, however, not on the commission of the homicide. Not all felonies qualify for the felony murder rule. However, it is commonly admitted that serious types of crimes, such as robbery and burglary, are included in the felony murder rule.²³ Further, the felony murder rule also enlarges the circle of victims, as it applies to all persons killed in connection with the felony offence, may they be intentionally targeted or not.²⁴ Hence, in US-American literature, property crime homicides constitute a subcategory of felony homicides.

b) European legal classification

In continental European countries, legal articles on homicide mostly differ in regard to the elements of intent and premeditation.²⁵ Whereas most countries require the homicide to be intentional (and thus have a separate category for

¹⁷ NEMETH, p. 119.

¹⁸ FINKELSTEIN, p. 100. See N 12 for the European interpretation of *malice aforethought*.

¹⁹ NEMETH, p. 127.

²⁰ See N 23 et seq. for details on article 111 SCC.

²¹ NEMETH, p. 128.

²² NEMETH, p. 135; ROBINSON, p. 589; ZIMRING/ZUEHL, p. 31.

²³ NEMETH, p. 137.

²⁴ NEMETH, p. 137; ROBINSON, p. 589.

²⁵ SMIT/DE JONG/BIJLEVELD, p. 5; See also MALBY, p. 7, for difficulties regarding cross-national homicide definitions in Europe.

unintentional homicide), others, such as England, also include some forms of unintentional homicide into the homicide category.²⁶ Further, the categorisation of different forms of homicide varies within countries.²⁷ Some countries have a special legal rule for murder, which is generally defined as premeditated homicide committed with malice aforethought and with some degree of planning.²⁸ It can either take the form of an independent provision or of a type of aggravated homicide. Other countries, however, do not differ between homicide and murder, and thus the offender is found guilty of a basic homicide. However, the judge will take into consideration the degree of premeditation while pronouncing the verdict.²⁹ Finally, homicide definitions vary across countries in regard to the inclusion of certain special forms of killings, such as infanticide, assault leading to death or euthanasia.³⁰

- 13 When it comes to robbery homicide, legislative solutions differ from country to country. Hence, the German Criminal Code (GCC), although not possessing a specific felony murder rule,³¹ recognises a special legal disposition for robbery with lethal ending, in which the offender is sentenced to lifelong imprisonment or a custodial sentence of at least 10 years if *he causes, at least in a frivolous way, the death of a person in the course of the robbery*.³² However, although this disposition does not apply simultaneously with negligent manslaughter as well as other forms of robbery according to § 250 GCC, it does not exclude the dispositions regarding homicide and thus enters into real concurrence³³ with the articles for murder and manslaughter (§§ 211 and 212 GCC).³⁴ Similarly, the Austrian Criminal Code (ACC) punishes robbery with lethal ending, classified as a serious form of robbery, with a prison sentence of 10 to 20 years or lifelong imprisonment.³⁵ If the

²⁶ HORDER, p. 19; SMIT/DE JONG/BIJLEVELD, p. 5.

²⁷ SCHWARZENEGGER, BSK STRAFRECHT II vor Art. 111 N 34.

²⁸ SMIT/DE JONG/BIJLEVELD, p. 5.

²⁹ SMIT/DE JONG/BIJLEVELD, p. 6.

³⁰ MALBY, p. 7; SMIT/DE JONG/BIJLEVELD, p. 7 et seq.

³¹ WEIGEND, p. 277.

³² See § 251 GCC (*Raub mit Todesfolge*):
Verursacht der Täter durch den Raub (§§ 249 und 250) wenigstens leichtfertig den Tod eines anderen Menschen, so ist die Strafe lebenslange Freiheitsstrafe oder Freiheitsstrafe nicht unter zehn Jahren.

³³ For the definition of real concurrence, see N 50 et seq.

³⁴ FISCHER/SCHWARZ/DREHER/TRÖNDLE, p. 1708; KÜHL/LACKNER/DREHER, p. 1171.

³⁵ See § 143 ACC: (*Schwerer Raub*):

offender causes the death by negligence, only § 143 ACC is applicable; however, if the offender acts intentionally regarding the killing of a person, murder according to § 75 ACC enters into real concurrence with either § 142 ACC (robbery) or, if a serious robbery is present because of other reasons than the death of the victim, with § 143.³⁶ The latter situation can be fulfilled if the robbery is armed.³⁷

Finally, in the French Criminal Code (FCC), robbery is classified as a special form of theft and is punished by lifelong imprisonment as well as a fine of 150'000 Euros if the theft is *preceded, accompanied or followed either by violence causing death, or acts of torture or barbarity*.³⁸ Also, in article 221-2, the FCC enumerates two forms of qualified homicides, namely if the murder *precedes, accompanies or follows another felony* (para. 1), or if the murder *is intended either to prepare or to facilitate a misdemeanour, or to assist an escape or to ensure the impunity of the misdemeanant or an accomplice to a misdemeanour* (para. 2).³⁹ It is this homicide disposition that

Wer einen Raub als Mitglied einer kriminellen Vereinigung unter Mitwirkung (§ 12) eines anderen Mitglieds dieser Vereinigung begeht oder wer einen Raub unter Verwendung einer Waffe verübt, ist mit Freiheitsstrafe von fünf bis zu fünfzehn Jahren zu bestrafen. Ebenso ist der Täter zu bestrafen, wenn durch die ausgeübte Gewalt jemand schwer verletzt wird (§ 84 Abs. 1). Hat die Gewaltanwendung jedoch eine Körperverletzung mit schweren Dauerfolgen (§ 85) zur Folge, ist der Täter mit Freiheitsstrafe von zehn bis zu zwanzig Jahren, hat sie aber den Tod eines Menschen zur Folge, mit Freiheitsstrafe von zehn bis zu zwanzig Jahren oder mit lebenslanger Freiheitsstrafe zu bestrafen.

³⁶ FABRIZY, p. 453.

³⁷ BERTEL/SCHWAIGHOFER, p. 244.

³⁸ See article 311-10 FCC:

Le vol est puni de la réclusion criminelle à perpétuité et de 150000 euros d'amende lorsqu'il est précédé, accompagné ou suivi soit de violences ayant entraîné la mort, soit de tortures ou d'actes de barbarie.

³⁹ See article 221-2 FCC:

Le meurtre qui précède, accompagne ou suit un autre crime est puni de la réclusion criminelle à perpétuité.

Le meurtre qui a pour objet soit de préparer ou de faciliter un délit, soit de favoriser la fuite ou d'assurer l'impunité de l'auteur ou du complice d'un délit est puni de la réclusion criminelle à perpétuité.

Les deux premiers alinéas de l'article 132-23 relatif à la période de sûreté sont applicables aux infractions prévues par le présent article.

can be applied if the offender has committed a qualified theft in combination with an intentional homicide.⁴⁰

- 15 On the other hand, Italy, as well as Switzerland, does not make specific legal provisions concerning robbery homicide. However, the Italian Criminal Code (ICC) classifies as aggravated homicide killings that occur in order to commit or hide another offence, or in order to ensure oneself or another person the profits, products or prize or impunity of another offence.⁴¹ Homicide in connection with a robbery is classified among this form of aggravated homicide and is punishable by lifelong imprisonment.⁴² Also, the ICC admits concurrence between the aggravated homicide (article 576 no. 1 ICC) and the robbery (article 628 ICC).⁴³

B. Definition of robbery homicide in criminological research

- 16 The definition as well as the inclusion criteria of robbery homicide varies from research to research. In general, the classification in existing literature

⁴⁰ MAYAUD/ALLAIN, p. 281; RASSAT, N 275. However, French criminal law does not recognise ideal concurrence, but only real concurrence; see ACKERMANN, BSK STRAFRECHT I Art. 49 N 3.

⁴¹ ANTOLISEI, p. 53. See Article 576, no. 1 ICC, in connection with article 61 no. 2 ICC: Article 576 ICC: (*Circostanze aggravanti. Pena dell'ergastolo*)
Si applica la pena dell'ergastolo se il fatto preveduto dall'articolo precedente è commesso:
1. *col concorso di taluna delle circostanze indicate nel n. 2 dell'articolo 61*
[...]
Article 61 n. 2 ICC: (*Circostanze aggravanti comuni*)
Aggravano il reato quando non ne sono elementi costitutivi o circostanze aggravanti speciali le circostanze seguenti:
1. [...] 2) *l'aver commesso il reato per eseguirne od occultarne un altro, ovvero per conseguire o assicurare a sé o ad altri il prodotto o il profitto o il prezzo ovvero la impunità di un altro reato;*
[...]

⁴² ANTOLISEI, p. 53; MANZINI/PISAPIA/NUVOLONE, p. 34 et seq.

⁴³ MANZINI/PISAPIA/NUVOLONE, p. 35; CRESPI/ZUCALÀ/FORTI, p. 585. See also BACCAREDDA BOY/LALOMIA, p. 409-410, and CRESPI/ZUCALÀ/FORTI, p. 2105-2106, for a differentiation of type of concurrence according to the type of robbery (*rapina* vs. *rapina impropria*), weapon used (armed vs. unarmed robbery) and the *mens rea* of the offender.

is threefold. Some research⁴⁴ chose a rather narrow approach, defining robbery homicide as homicide committed while the offender was engaged in a robbery *stricto sensu*. Therefore, only situations where the homicide offender took something by force from the victim are included in this definition. This definition is mostly used in research that focuses only on street robbery. Excluded are situations in which the offender had to force the entrance to the dwelling of the victim in order to steal.

Other research chose to enlarge the inclusion criteria to other property crimes, such as burglary or other forms of theft.⁴⁵ In this sense, GRUENEWALD/PIZARRO/CHERMAK define robbery homicides as “non-drug incidents that resulted from the offender's attempt to take by force money or other material goods from the victim”.⁴⁶ The reason for broadening the definition of robbery homicide to other property crimes is mainly that property crimes which are initially defined as non-violent, such as burglary or other types of theft, become assimilated to a robbery (or theft by means of violence) if the offender is confronted by the victim during the commission of the property crime. The proof of the resulting violence is precisely the homicide that follows the contact between offender and victim. Therefore, it is common to enlarge the notion of robbery homicide to homicides committed during a burglary or specific type of theft (such as motor vehicle theft) as well. Hence, by broadening the definition of robbery homicides, researchers mainly focus on all types of contact property crimes, whether they are initially considered violent or not, that lead to the commission of a homicide, precisely because in the end all these property crimes have a violent outcome and can therefore be assimilated to the definition of robbery.

A third category consists of an even broader approach, regrouping either all felony related homicides or, even broader, all “instrumental” homicides, in one category.⁴⁷ The instrumental categorisation system is based on RICHARD BLOCK's theory of “instrumental versus expressive homicide”.⁴⁸ Thus, the instrumental category includes all homicides that have a planned, premeditated element and were not spontaneous in nature. Therefore, we

⁴⁴ COOK, victim resistance; COOK, robbery violence.

⁴⁵ HENDRICKS/JENKINS/ANDERSON; GRUENEWALD/PIZARRO/CHERMAK; LEISTRA/NIEUWBEERTA.

⁴⁶ GRUENEWALD/PIZARRO/CHERMAK, p. 268.

⁴⁷ BLOCK/ZIMRING; BLOCK, Chicago; PARKER/SMITH; DECKER; MIETHE/DRASS; KUBRIN; ROBERTS/ZGOBA/SHAHIDULLAH.

⁴⁸ See N 78 et seq. for details on the theory of instrumental and expressive homicide.

have not only robbery and theft related homicides, but are also in presence of a variety of other felony homicides, such as sex offences, drug offences or other felony related behaviour, as well as other planned types of homicides. The usefulness of this dichotomy has been contested in recent years. FELSON/MESSNER argued that in the end, all homicides are somewhat instrumental because they always include the search for a specific instrumental goal.⁴⁹ Further, MIETHE/REGOECZI consider this distinction to be too broad, as it regroups various different homicide constellations.⁵⁰

- 19 The first and second approaches also have their advantages and drawbacks. By enlarging the concept of robbery homicide to all contact property crimes resulting in a homicide, information on specific circumstances of the different subtypes of property crime homicides might be lost, as this is always the case for aggregated data. However, by regrouping these subtypes of property crime homicides, more cases can be considered for the analysis, improving the quality of the data for statistical analysis. Also, it is sometimes difficult, if not impossible, to clearly distinguish between a robbery homicide *stricto sensu* and a burglary or theft homicide, especially if one has to work with pre-coded data, such as the UCR. By merging these subcategories of property crime homicides, the risk of false negatives increases on one hand; on the other hand, the risk of false positives that occurs in case of too strict definitions can be decreased. Thus, considering the advantages and drawbacks of all three approaches, I chose the second approach and included in my research not only robbery homicides *stricto sensu*, but also homicides in the context of burglary and theft.⁵¹

C. Terminology

- 20 As we could see in the definition part of this work in N 16 et seq., there are various names that design the concept of predatory property crimes. Some researches refer to it as robbery homicides, some as homicides within an “acquisitive crime”,⁵² others again as property crime homicides. However, the next chapter will treat the definitions of the concept for this research. In order to establish terminological precision, the terms “(predatory) property

⁴⁹ FELSON/MESSNER, p. 521.

⁵⁰ MIETHE/REGOECZI, p. 127

⁵¹ See N 21 et seq. for the inclusion criteria applied to this research.

⁵² ROSENFELD, p. 290.

crime homicides” and “robbery homicides” are synonymously used in this research.

III. Definitions used for this research

A. Introduction

The existing literature and research deals with a great variety of definitions concerning property crime homicides, and hence uniform inclusion criteria are far from being the norm. As mentioned in N 16 et seq., some researches have opted for a relatively broad notion of robbery homicide, whereas others prefer a narrower scope. In this research, a relatively broad scope is chosen, including not only robbery homicides *per se*, but also homicides committed during a burglary or theft. The inclusion criteria are based on legal definitions of the SCC.⁵³ For the homicidal aspect, this means that only cases where the offender was either convicted or expected to be convicted of a completed intentional homicide⁵⁴ were taken into account.⁵⁵ For the property crimes, cases were selected if they involved an offender who committed an attempted or completed robbery⁵⁶ or burglary.⁵⁷ In all cases, the property crime offender has to be identical to the homicide offender, which is why I excluded crime precipitated homicides, that means property crime offenders who were killed during their illegal activity, from the general analysis.⁵⁸ Furthermore, there are 16 cases where the offenders are unknown but where the circumstances indicated that the homicide was committed during a property crime. In these cases, information about the conviction of the offender is naturally lacking. However victim and circumstantial variables still provide valuable information, and these cases thus remain in the database.

⁵³ SR 311.0. These legal specifications are, if not mentioned otherwise, based on Swiss legislation. German legal terminology is used as reference language.

⁵⁴ Articles 111, 112, 113, 114 or 116 of the SCC; see N 23 et seq. for details.

⁵⁵ With exception of one case where the offender committed a robbery homicide but was acquitted due to unsoundness of mind. See N 269 for details regarding the type of verdict.

⁵⁶ Article 140 SCC; see N 40 et seq. for details.

⁵⁷ Since there is no specific article for burglary in the SCC, article 139 SCC for theft, article 186 SCC, which covers unlawful entry, and article 144 SCC (wilful damage to property) are combined. See N 45-46 for details.

⁵⁸ See N 163 et seq. for a short overview on crime precipitated homicides.

- 22 The following chapters aim to give an overview of the legal definitions on homicide and property crimes that serve as foundation for this research. The notion of robbery homicide being composed of two major legal categories, namely the category of offences against life and limb and the category of offences against property, I discuss the homicidal aspect of robbery homicide in chapter B, whereas the element of property crime is covered in chapter C. Chapter D touches the specific legal problem of concurrence, and chapter E summarises the key elements of the definitions for this research.

B. The definition of homicide: Intentional homicide

a) *The classification system of the Swiss Criminal Code: The basic role of article 111 SCC*

- 23 Homicide and its various subtypes are described in the second book of the SCC, under the first title called offences against life and limb (*Straftaten gegen Leib und Leben*). Article 111 SCC covers intentional homicide and constitutes the general clause of homicide.⁵⁹ It defines intentional homicide as the *intentional killing of a person, but without fulfilling the special requirements of the following articles*. Therefore, article 111 represents a residual category, applicable only if no other aggravated or privileged type of homicide described by articles 112, 113, 114 and 116⁶⁰ of the SCC is more suitable *in casu*. This three level legal model (one neutral article as basis, followed by aggravated (qualified) and minor (privileged) legal dispositions) is also in use in the German and Italian penal legislations.⁶¹
- 24 Since this research only takes into account intentional types of homicides, article 117 SCC (Homicide through negligence) is not applicable. Hence, all homicides have to fulfil the definition of intention of article 12 para. 2 SCC, which consists of the knowledge as well as the will to commit the offence.⁶²

⁵⁹ CORBOZ, p. 30 N 20; DONATSCH, p. 6; STRATENWERTH/JENNY/BOMMER, p. 22 N 2; TRECHSEL/FINGERHUTH, StGB PRAXISKOMMENTAR 111 N 1.

⁶⁰ See N 25 and seq. as well as N 32-33 for further information on the other homicide articles.

⁶¹ SCHWARZENEGGER, BSK STRAFRECHT II vor Art. 111 N 34.

⁶² Article 12 SCC (Intention and negligence):

1 Unless the law expressly provides otherwise, a person is only liable to prosecution for a felony or misdemeanour if he commits it wilfully.

The intention has to include only the causing of death.⁶³ The penalty frame for article 111 SCC consists of imprisonment of 5 years minimum.

b) Article 112 SCC: Murder as a qualified form of homicide

aa) In general

An aggravated form of homicide is described by article 112, which sanctions murder. The approximate counterpart of this article in American criminal law would be murder in the first degree. However, article 112 of the SCC requires not only a certain degree of premeditation – which is the case for first degree murder in the United States of America⁶⁴ – but also stipulates that *the offender acts in a particularly unscrupulous manner, in which the motive, the objective or the method of commission is particularly depraved*.⁶⁵ Hence, in order to apply, article 112 SCC requires, along with the existence of an intentional homicide,⁶⁶ the offender to act in a particularly unscrupulous manner. In line with the legal definition, the offender can fulfil the condition of unscrupulousness in three ways: Either his motive, his objective or his method of committing the homicide is especially cruel and abject. However, these ternary qualifying constellations are not exhaustive *per se*; an overall assessment of all circumstances by the judge is always necessary.⁶⁷

bb) Unscrupulous motive

2 A person commits a felony or misdemeanour wilfully if he carries out the act in the knowledge of what he is doing and in accordance with his will. A person acts wilfully as soon as he regards the realisation of the act as being possible and accepts this.

⁶³ SCHWARZENEGGER, BSK STRAFRECHT II 111 N 7.

⁶⁴ NEMETH, p. 11; FOX/LEVIN/QUINET, p. 6. However, some states also consider a homicide to be murder in the first degree if the act is especially brutal or cruel. FOX/LEVIN/QUINET, p. 6.

⁶⁵ This notion of unscrupulous manner was introduced by the amendment of 1989 and replaced the concept of reprehensible attitude or dangerousness in the original version of the 1938 SCC. See AS 1989 2449.

⁶⁶ CORBOZ, p. 34 N 1; SCHWARZENEGGER, BSK STRAFRECHT II 112 N 2; STRATENWERTH/JENNY/BOMMER, p. 29 N 18; TRECHSEL/FINGERHUTH, StGB PRAXISKOMMENTAR 112 N 3.

⁶⁷ SCHWARZENEGGER, BSK STRAFRECHT II 112 N 7, as well as STRATENWERTH/JENNY/BOMMER, p. 31 N 22. In this sense see also BGE 117 IV 369 p. 390.

According to the practice of the Federal Court, unscrupulous motives are given if the offender acts out of cupidity (*Habgier*), namely in case of a robbery homicide, in case of contract killings or for acquiring an inheritance or an insurance benefit.⁶⁸ Therefore, robbery homicide is a classic example where article 112 SCC could be applicable. According to doctrine and jurisprudence, this condition of ruthlessness is clearly fulfilled when it comes to homicide in combination with the search for monetary gain, such as during a robbery or burglary.⁶⁹ In several judgments of the Swiss Federal Court, the application of article 112 SCC for a robbery homicide was confirmed.⁷⁰ As described in § 11,⁷¹ robbery homicides are much more frequently sanctioned by article 112 SCC than non-robbery homicides. It is also irrelevant if the robber commits the appropriation before, during or after the homicide and if he kills out of fear of the reaction of his victim or without particular reason; as long as he commits the homicide during the commission of a robbery, the element of cupidity can be assumed.⁷²

- 27 Other unscrupulous motives can consist in revenge, extreme egoism, fundamentalist or political reasons, pleasure in killing or sexual satisfaction.⁷³

cc) *Unscrupulous objective*

- 28 In this category, the external goal of the act is considered, which is distinct from the motivation of the offender described in N 26-27. However, it is almost impossible to be in presence of an unscrupulous objective without

⁶⁸ DONATSCH, p. 8-9.

⁶⁹ CORBOZ, p. 36 N 8; SCHWARZENEGGER, BSK STRAFRECHT II 112 N 9; DONATSCH, p. 9; STRATENWERTH/JENNY/BOMMER, p. 32 N 23; TRECHSEL/FINGERHUTH, STGB PRAXIS-KOMMENTAR 112 N 11.

⁷⁰ See SCHWARZENEGGER, BSK STRAFRECHT II 112 N 9 for a list of Federal Court decisions.

⁷¹ See N 270-271 for details.

⁷² SCHWARZENEGGER, BSK STRAFRECHT II 112 N 9; STRATENWERTH/JENNY/BOMMER, p. 32 N 23.

⁷³ See SCHWARZENEGGER, BSK STRAFRECHT II 112 N 8 et seq., for further elaborations on these motives.

simultaneously being in presence of an unscrupulous motive, and hence this category is deprived of any practical use.⁷⁴

dd) Unscrupulous method of commission

The method of commission of the homicide is unscrupulous if the offender executed the homicide in a particularly cruel or insidious way, if his choice of weapon shows this particular cruelty or if his execution of the homicide endangered other persons.⁷⁵ 29

ee) Applicability of article 112 SCC and circumstantial appreciation of all elements of the crime by the judge

The SCC does not recognise a special rule applying to homicides in the course of another felony, as is the case for the felony-murder rule in the US-American legal system.⁷⁶ Therefore, the judge cannot automatically apply murder for the robbery homicide offender, but has to consider the circumstances of the act to see whether they are particularly gruesome. After weighting all external and internal circumstances, he decides whether article 112 SCC (murder) or 111 SCC (intentional homicide) is applicable *in casu*.⁷⁷ 30
In the US-American system, the felony-murder rule grants first degree murder status for every offender who killed someone in the course of a felony. This rule even applies to offenders who did not directly cause the victim's death, as long as they were implicated in the felony that led to the homicide.⁷⁸

The SCC punishes an article 112 SCC offence with either lifelong imprisonment or imprisonment not under 10 years. Article 112 SCC is one of the rare legal dispositions that allow imposing lifelong imprisonment.⁷⁹ 31

⁷⁴ SCHWARZENEGGER, BSK STRAFRECHT II 112 N 16; TRECHSEL/FINGERHUTH, StGB PRAXISKOMMENTAR 112 N 15.

⁷⁵ SCHWARZENEGGER, BSK STRAFRECHT II 112 N 17 et seq.

⁷⁶ See N 10-11 for details on felony homicide in the USA.

⁷⁷ SCHWARZENEGGER, BSK STRAFRECHT II 112 N 7, as well as STRATENWERTH/JENNY/BOMMER, p. 31 N 22.

⁷⁸ FOX/LEVIN/QUINET, p. 6. See N 10-11 for more information about the felony homicide rule.

⁷⁹ See N 283 et seq. for details concerning lifelong imprisonment.

c) Exclusion of other forms of homicide

- ³² Articles 113, 114 and 116 of the SCC describe privileged forms of homicide. Article 113 SCC sanctions manslaughter, which constitutes a type of homicide committed in a *state of extreme emotion, which emotional state is excusable in the circumstances, or in a state of profound psychological stress*. Article 114 SCC delineates homicide at the request of the victim, and article 116 SCC punishes infanticide, meaning the *killing of a child by the mother either during delivery or while she is under the influence of the effects of giving birth*.
- ³³ Although all homicides complying with the above mentioned articles of the SCC were included in the Swiss Homicide Database, it is not surprising that only homicides of the category of articles 111 and 112 SCC are applicable for the analysis of robbery homicide.⁸⁰ All other types of homicides are self-excluding by their nature and definition.

C. The definition of property crimes in the context of homicide

a) Introduction

- ³⁴ Offences against property (*Strafbare Handlungen gegen das Vermögen*) are enumerated in the second title of the SCC and are covered by the articles 137 to 172ter SCC. I decided to include robbery as well as robbery related homicides in my analysis.⁸¹ By this choice, only attempted or completed property crimes with immediate contact, or thefts followed by a homicide in order to eliminate witnesses and secure escape, i.e. contact property crimes or “predatory property crimes”, are included. This means, in the course of the property crime, the offender must have had immediate contact with his/her victim(s), regardless of whether the victim was the prior target of the property crime or not, and therefore acted aggressively. As a consequence, cases where the homicide victim was simultaneously the property crime victim as well as cases where the victim of the property crime was dissociated from the homicide victim were included.⁸² On the other hand, cases where the

⁸⁰ See N 270-271, for empirical support underlying this statement.

⁸¹ For another example of this categorisation, see HENDRICKS/JENKINS/ANDERSON, p. 317-318.

⁸² For the latter, see the explanations in N 42-43 concerning predatory theft.

offender of the property crime became the victim of the homicide, so called *crime precipitated homicides*, are not included in the general analysis. However, § 7.VI provides a short overview of this particular type of homicide that occurs in relation with a property crime. Further, homicides in the course of a property crime that lacks an immediate aggressive stealing character and can therefore not be qualified as contact property crimes, such as in the course of embezzlement, are excluded from the analysis. By restricting my analysis to contact property crimes, two possible types of property crimes remain for analysis: Robbery and burglary. However, as robbery constitutes a qualified form of theft and is therefore founded on article 139 SCC (theft) for its basic constitutive elements, it is necessary to present this legal disposition in a first step.

b) Theft: Article 139 SCC

aa) In general

Article 139 SCC punishes *any person who for his own or for another's unlawful gain, appropriates moveable property belonging to another person with the object of permanently depriving the owner of it*. Bicycle, motorcycle and car thefts are included in this legal disposition. Therefore, my data presents cases where the robbery was based on a “standard” larceny-theft, but also cases where a car/motorcycle-theft occurred in combination with a homicide. 35

bb) Objective and subjective conditions of article 139 SCC

Theft according to article 139 SCC requires the following elements of the offence to be fulfilled. First, the object of the theft has to be movable as well as property of another person (*fremd*). This condition therefore excludes immovable and intellectual property as well as property that are not someone else's (*nicht fremd*).⁸³ The latter condition is important in combination with non-tradable objects, such as narcotics. Illegal substances cannot be owned 36

⁸³ See DONATSCH, p. 134; STRATENWERTH/JENNY/BOMMER, p. 289, N 4 et seq.; TRECHSEL/CRAMERI, STGB PRAXISKOMMENTAR vor Art. 137 N 2 et seq.; NIGGLI, BSK STRAFRECHT II vor Art. 137 N 25 et seq.

legally and can therefore not be subject to theft according to article 139 SCC.⁸⁴

- 37 Second, as the commission of the offence consists in taking away another person's property, the offender is required to obtain effective control over the object (*Gewahrsam*).⁸⁵ This second condition itself is composed of two elements. It is first required to have a real physical possibility of influence over the object (*Herrschaftsmöglichkeit*); this means, the offender not only has to benefit from an actual possibility to access the object, but also needs the knowledge of where to find the object in order to establish the possibility of influence over the object.⁸⁶ Second, after the possibility of power over the object, the offender also needs to have the *will* to control the object (*Herrschaftswille*), which requires beforehand the knowledge of the existence of the object.⁸⁷ Once the possibility as well as the will of control over the object is completed, the offender has to break the control over the object of the proprietor in order for a taking of property to occur.⁸⁸ Furthermore, he also has to establish a new control over the object.⁸⁹ The offence is completed (*vollendet*) once the offender has established his control over the object; however, the offence is only concluded (*beendet*) once the enrichment has taken place, which can occur in different moments.⁹⁰
- 38 In order for a theft to be complete, the offender also needs to fulfil the subjective requirements of article 139 SCC. First, the offender needs to act with intention (*Vorsatz*), which is defined by article 12 para. 2 SCC and consists of the knowledge as well as the will to commit the crime in

⁸⁴ TRECHSEL/CRAMERI, StGB PRAXISKOMMENTAR vor Art. 137 N 5; NIGGLI, BSK STRAFRECHT II vor Art. 137 N 46. See N 32-33 for details concerning the theft of illegal substances.

⁸⁵ DONATSCH, p. 135; STRATENWERTH/JENNY/BOMMER, p. 319, N 70; TRECHSEL/CRAMERI, StGB PRAXISKOMMENTAR 139 N 3; NIGGLI/RIEDO, BSK STRAFRECHT II 139 N 12.

⁸⁶ DONATSCH, p. 135-136; STRATENWERTH/JENNY/BOMMER, p. 319, N 71; TRECHSEL/CRAMERI, StGB PRAXISKOMMENTAR 139 N 3 et seq.; NIGGLI/RIEDO, BSK STRAFRECHT II 139 N 18.

⁸⁷ DONATSCH, p. 138; TRECHSEL/CRAMERI, StGB PRAXISKOMMENTAR 139 N 5; NIGGLI/RIEDO, BSK STRAFRECHT II 139 N 35-36.

⁸⁸ DONATSCH, p. 139; STRATENWERTH/JENNY/BOMMER, p. 325 N 82; TRECHSEL/CRAMERI, StGB PRAXISKOMMENTAR 139 N 10; NIGGLI/RIEDO, BSK STRAFRECHT II 139 N 47-48.

⁸⁹ DONATSCH, p. 141; STRATENWERTH/JENNY/BOMMER, p. 327 N 86; NIGGLI/RIEDO, BSK STRAFRECHT II 139 N 58.

⁹⁰ DONATSCH, p. 142; TRECHSEL/CRAMERI, StGB PRAXISKOMMENTAR 139 N 11.

question.⁹¹ Further, the offender also needs to possess the intention of appropriation of the object as well as the intention to unlawfully enrich himself.

cc) *Scale of penalties and qualified forms of theft*

The punishment for theft consists in a custodial sentence of up to 5 years or in a monetary penalty. Aggravating forms of theft are presented in no. 2 and 3. Therefore, punishment for theft can be increased by up to 10 years of custodial sentence or a monetary penalty of not less than 90 daily penalty units⁹² if the offender commits thefts on a professional basis (no. 2), whereas no. 3 sanctions the offender of a theft with up to 10 years of custodial sentence or a monetary penalty not under 180 daily penalty units if he commits the theft as member of a group or gang, if he carries a gun or another dangerous weapon with him in order to commit the theft, or if he otherwise manifests a specific dangerousness in committing the theft. The last category of specific dangerousness can apply to theft committed during a burglary, as this special form of theft can lead to dangerous situations if offender and victims or other third persons meet during the commission of the offence.⁹³ If the qualification of article 139 no. 3 para. 4 SCC is, however, admitted precisely because the theft took place during a burglary, the Swiss doctrine considers the connecting offences in case of burglary, namely article 186 SCC (unlawful entry) and article 144 SCC (wilful damage to property)⁹⁴ to be consumed,⁹⁵ since these concomitant offences are already taken into consideration for the qualification of the offence and thus cannot be considered twice.⁹⁶ Finally,

⁹¹ See N 24 for details concerning the definition of intention according to article 12 para. 2 SCC.

⁹² Fines (*Geldstrafen*) are calculated by using a daily rate system (*Tagessatzsystem*). In doing so, the judge allocates a number of days according to the offence committed by the offender. Then, he fixes the amount of money the offender has to pay per day, this regarding the income of the offender. Finally, the amount of days are multiplied by the money per day in order to obtain the total sum owed by the offender; KILLIAS/KUHN/DONGOIS/AEBI, N 1320.

⁹³ NIGGLI/RIEDO, BSK STRAFRECHT II 139 N 188.

⁹⁴ See N 45-46 for more information about the legal qualification of burglary in Swiss criminal law.

⁹⁵ And thus to enter into non-genuine concurrence; see N 50 et seq. for more information about concurrence of law.

⁹⁶ NIGGLI/RIEDO, BSK STRAFRECHT II 139 N 188; STRATENWERTH/JENNY/BOMMER, p. 335 N 108. For a more differentiated point of view, see DONATSCH, p. 147.

no. 4 constitutes a mitigated form of theft and stipulates that theft to the detriment of a family member is only prosecutable on complaint.

c) Robbery: Article 140 SCC

aa) Introduction

- ⁴⁰ Robbery is defined by art. 140 SCC and adds the element of violence and threatening behaviour to the concept of theft. Therefore, this legal disposition is composed of an offence against the property as well as an offence against the freedom of a person.⁹⁷ Article 140 para. 1 SCC includes two possible robbery scenarios: Robbery *stricto sensu* (*Raub im engeren Sinne*) according to article 140 no. 1 para. 1 SCC and predatory theft (*räuberischer Diebstahl*) according to article 140 no. 1 para. 2 SCC.

bb) Robbery *stricto sensu* (article 140 no. 1 para. 1 SCC)

- ⁴¹ As described by article 140 no. 1 para. 1 SCC, robbery *stricto sensu* consists of *theft by using force on another, threatening another with imminent danger to life or limb, or making another incapable of resistance*. We are, hence, in presence of a theft⁹⁸ that was preceded by violent or threatening actions of the offender that precisely allowed him to commit the theft. In order to fulfil the requirements of article 140 no. 1 para 1 SCC, the offender has to commit at least one of the three constraints enumerated in the legal disposition: He either uses violence against a person, threatens a person or causes a person to be unable to resist.⁹⁹ The violent actions or threats have to be directed towards the person who causes an obstacle between the offender and the target of the theft, which can consist of someone who's in charge of the object or otherwise holds a position of protection.¹⁰⁰ Finally, the robber is required to act intentionally according to article 12 para. 2 SCC.¹⁰¹

⁹⁷ DONATSCH, p. 148; NIGGLI/RIEDO, BSK STRAFRECHT II 140 N 7.

⁹⁸ See N 35 et seq. for the requirements of article 139 SCC.

⁹⁹ See DONATSCH, p. 150 et seq.; STRATENWERTH/JENNY/BOMMER, p. 338 N 114 et seq.; TRECHSEL/CRAMERI, StGB PRAXISKOMMENTAR 140 N 3 et seq. as well as NIGGLI/RIEDO, BSK STRAFRECHT II 140 N 11 et seq., for further details about the constraining factors.

¹⁰⁰ DONATSCH, p. 149; STRATENWERTH/JENNY/BOMMER, p. 338 N 116; TRECHSEL/CRAMERI, StGB PRAXISKOMMENTAR 140 N 6; NIGGLI/RIEDO, BSK STRAFRECHT II 140 N 22.

¹⁰¹ See N 24 for the definition of intention according to article 12 para 2 SCC.

cc) *Predatory theft (article 140 no. 1 para. 2 SCC)*

In case of predatory theft described in article 140 no. 1 para. 2 SCC, offenders who were caught *in flagranti* committing a theft and consecutively used the above mentioned force or threats towards the victim are also punishable of a robbery. Thus, robbery according to Swiss criminal law, not only includes the classic form of robbery that consists in using force or threats in order to commit a theft, but also reprimands violent actions or threats that follow a theft with the goal of securing the stolen goods.¹⁰² Therefore, in this case, the threatening or violent behaviour has to occur after the completion of the theft; otherwise the action would fall under para. 1.¹⁰³ It is also required that the offender was “caught in the act”, which means that the violent or threatening behaviour was directed towards either witnesses or persons called by the latter in order to intervene. Hence, in the case of a predatory theft, the victim of the theft does not have to be identical to the victim of the threats, but can consist of any witness or third person compelled to intervene.¹⁰⁴ However, the constraints have to intervene before the robber secures his prey and therefore concludes the theft.¹⁰⁵ Also, the threatening and violent behaviour towards the victim has to take place in order to secure the stolen objects. If the use of violence is only aimed to secure the escape without saving the stolen good, article 140 no. 1 para. 2 SCC does not apply.¹⁰⁶ Hence, in the case of predatory theft, the theft cannot be attempted.

The commission of a robbery according to article 140 no. 1 SCC is sanctioned by up to 10 years of custodial sentence or a monetary penalty of at least 180 daily rates.¹⁰⁷

dd) *Aggravated robbery (article 140 no. 2-4 SCC)*

¹⁰² DONATSCH, p. 153; STRATENWERTH/JENNY/BOMMER, p. 342 N 125; TRECHSEL/CRAMER, StGB PRAXISKOMMENTAR 140 N 14; NIGGLI/RIEDO, BSK STRAFRECHT II 140 N 9.

¹⁰³ DONATSCH, p. 153; STRATENWERTH/JENNY/BOMMER, p. 342 N 125.

¹⁰⁴ DONATSCH, p. 154; NIGGLI/RIEDO, BSK STRAFRECHT II 140 N 45.

¹⁰⁵ DONATSCH, p. 154; TRECHSEL/CRAMER, StGB PRAXISKOMMENTAR 140 N 12. For the problem of conclusion of predatory theft, see NIGGLI/RIEDO, BSK STRAFRECHT II 140 N 161-162. See also N 36 et seq. for the notion of completion and conclusion of theft.

¹⁰⁶ DONATSCH, p. 154; STRATENWERTH/JENNY/BOMMER, p. 342 N 125; TRECHSEL/CRAMER, StGB PRAXISKOMMENTAR 140 N 12; NIGGLI/RIEDO, BSK STRAFRECHT II 140 N 40.

¹⁰⁷ See footnote 92 for details concerning the system of fines in Switzerland.

Besides the basic offence of robbery listed in no. 1, no. 2-4 enumerate qualified robbery offences that entail specific minimum sentences. Article 140 no. 2 SCC reprimands the use of a firearm or other dangerous weapons during the robbery by allocating a minimum prison sentence of one year for this qualified form of robbery. Furthermore, the offender will be sentenced to at least two years of imprisonment if he acts as a member of a group whose goal is to commit robbery or theft repeatedly (article 140 no. 3 para. 2 SCC) or if he otherwise reveals his particular dangerousness throughout his actions (article 140 no. 3 para. 3 SCC). Finally, article 140 no. 4 SCC increases the minimum custodial sentence to 5 years if the offender causes life-threatening circumstances for the victim or if he injures the victim seriously or acts cruelly.

d) Burglary: A special case in Swiss criminal law

- 45 Furthermore, burglary related homicide offences are included in the analysis. The SCC does not have a specific article that penalises burglary. Therefore, in presence of burglary, Swiss law combines article 139 SCC for theft¹⁰⁸ with article 186 SCC, which covers unlawful entry (*Hausfriedensbruch*), and article 144 SCC (wilful damage to property, *Sachbeschädigung*).¹⁰⁹ Unlawful entry, as defined by article 186 SCC, consists in the punishment of *any person who, against the will of the lawful occupants, enters a building, an apartment, a self-contained room within a building, an enclosed area, courtyard or garden forming a direct part of a building, or a clearly demarcated workplace or, despite requests from the lawful occupants to leave, remains in such a location*. Unlawful entry is an offence prosecutable on complaint and can be sanctioned with up to three years of custodial sentence or monetary penalty.
- 46 As mentioned above, if the offender damages doors, windows or other places in order to trespass, he will be punishable of criminal damage. Article 144 para. 1 SCC defines criminal damage to property as *the damaging, destruction, or disabling of property belonging to another or in respect of which another has a right of use*. Prosecutable on complaint, the sanction for criminal damage to property consists in imprisonment up to three years or a mon-

¹⁰⁸ See definition under N 35 et seq.

¹⁰⁹ DONATSCH, p. 450; STRATENWERTH/JENNY/BOMMER, p. 335 N 108; TRECHSEL/FINGERHUTH., StGB PRAXISKOMMENTAR 186 N 20; DELNON/RÜDY, BSK STRAFRECHT II 186 N 43.

etary penalty. Para. 2 reprimands cases of criminal damage during a riot, and para. 3 is applicable if the offender has caused considerable damage. Both qualified cases are prosecuted *ex officio*, contrary to para. 1. Furthermore, para. 3 foresees a punishment of 1 to 5 years of custodial sentence.

e) Attempted robbery or burglary

As already mentioned above, I also decided to include cases where the offender did not complete the property crime when he committed the homicide. However, in any case, the homicide had to be completed in order to be included in the analysis. 47

f) Exclusion of theft or robbery of drugs

For the analysis, cases that involved theft or robbery of illegal substances were not considered in the analysis. The reason for this exclusion is twofold. First, by excluding cases of robberies or thefts between drug dealers or addicts, I tried to eliminate “milieu” cases, meaning property crimes that happen in the drug or other criminal milieu. This exclusion is mainly motivated by considerations about the homogeneity of the victim and offender group, since especially victims, but also offenders of a regular property crime homicide, are supposed to present different characteristics than their counterparts of drug or criminal milieu robberies or thefts. I thus prefer to split the two groups in order to avoid an increasingly heterogeneous group. Robbery homicide that includes a drug addicted offender who kills a non-drug addicted victim in order to steal something (other than drugs) has been, however, considered, as it constitutes a relatively frequent case in Switzerland.¹¹⁰ 48

Second, in legal terms, the possession, purchase, sale, transmission or other actions involving narcotics is illegal according to article 19 of the law on narcotics (BetmG, *Betäubungsmittelgesetz*).¹¹¹ Therefore, narcotics are not subject to being owned and consequently not tradable (*verkehrsfähig*) in Swiss law. The lack of tradability also excludes the object being another's property (*Fremdheit der Sache*).¹¹² Consequently, an object that cannot be legally owned cannot be stolen, because for theft the law requires the object to be another's property (*fremd*). 49

¹¹⁰ See N 199 et seq. for the drug use of robbery homicide victims and offenders.

¹¹¹ SR 812.121

¹¹² DONATSCH, p. 84; TRECHSEL/CRAMERI, STGB PRAXISKOMMENTAR vor Art. 137 N 5.

D. Concurrence of laws

- 50 Swiss criminal law does not cumulate sentences in case of several crimes occurring together. In cases of concurrence of laws (genuine concurrence, *echte Konkurrenz*), may it be the simultaneous concurrence of several criminal actions (real concurrence, *Realkonkurrenz*), or the violation of several different penal provisions in one act (ideal concurrence, *Idealkonkurrenz*),¹¹³ Swiss criminal law applies specific legal provisions in order to calculate the aggravation of the sentence.¹¹⁴ As a general rule, if several offences are present, this will not lead to separate verdicts, but the Swiss criminal law considers the most serious offence and then aggravates the sentence by maximum 50%.¹¹⁵ In some cases however, legal dispositions are mutually exclusive and hence cannot apply simultaneously (non-genuine concurrence, *unechte Konkurrenz*, *Gesetzeskonkurrenz*). This is the case for offences that target the same legally protected interest (*Rechtsgut*). In these cases, the more specific legal disposition is preferred over the more general (*lex specialis derogat legi generali*) as well as the more recent disposition over the older one (*lex posterior derogat legi anteriori*).¹¹⁶
- 51 In order to determine whether several legal dispositions occurring together in one act (*Idealkonkurrenz*) enter into real concurrence with each other and therefore provoke an aggravation of the sentence, the Swiss doctrine has developed rules that determine the type of concurrence between legal dispositions.¹¹⁷ As, for the offence of robbery homicide, we are in presence of a crime composed of both a robbery or burglary and a homicide, it is important to know whether these two offences in one act are entering into real concurrence with each other or not.
- 52 In general, the Swiss doctrine admits real concurrence (*echte Konkurrenz*) between the general clause of robbery and its qualifying forms and the homicide according to article 111 or 112 SCC.¹¹⁸ However, the majority of the

¹¹³ DONATSCH/TAG, p. 392; KILLIAS/KUHN/DONGOIS/AEBI, p.176 et seq. See also N 272 et seq. for provisions concerning the concurrence of laws in the SCC.

¹¹⁴ For more details about the aggravation of the sentence, see N 272 et seq.

¹¹⁵ TRECHSEL/KILLIAS, p. 267.

¹¹⁶ KILLIAS/KUHN/DONGOIS/AEBI, N 1110.

¹¹⁷ See KILLIAS/KUHN/DONGOIS/AEBI, N1103 et seq., as well as DONATSCH/TAG, p. 392 et seq., for a general overview on concurrence of laws in the Swiss legal system.

¹¹⁸ DONATSCH, p. 159; STRATENWERTH/JENNY/BOMMER, p. 347 N 138; NIGGLI/RIEDO, BSK STRAFRECHT II 140 N165-166.

doctrine considers articles 111 or 112 to subsume the special qualification of life-threatening circumstances enumerated in article 140 para. 4 SCC.¹¹⁹ Some of the Swiss doctrine even considers article 112 alone if the required ruthlessness of the murder definition is admitted based on the reasoning that the homicide was committed for the purpose only to rob the victim.¹²⁰ In cases where the intention of stealing from the victim is developed after the homicide, articles 111 and 112 enter into real concurrence with article 139 SCC (theft) or article 137 SCC (unlawful appropriation).¹²¹

In line with the argumentation developed above, the dispositions applicable in case of a burglary, namely articles 139, 144 and 186, also enter in genuine concurrence with the dispositions on homicide, since they both protect a different legal interest.¹²² 53

E. Summary

In sum, this research includes cases of completed homicides committed during a completed or attempted predatory property crime, be that the above defined situations of a robbery or burglary. Cases where the property crime offender became consecutively the victim of the homicide are not included in this analysis. Also, robbery or theft of drugs was excluded from the analysis. The reason I preferred a relatively broad categorisation over a narrow focus on the “stereotypical” case of robbery homicides is twofold. First, although this research is based on a complete dataset of homicides over a timespan of more than 20 years, homicide remains a relatively rare event in Switzerland. Hence, the number of cases of robbery homicides alone would have been too weak to perform significant statistical analysis.¹²³ In combining robbery homicide with cases of homicides during a burglary, the number of cases is solid enough for basic descriptive analysis. Second, emphasising on the homicidal aspect, I was interested in all cases where the offender was willing and able to kill a victim following his property crime 54

¹¹⁹ NIGGLI/RIEDO, BSK STRAFRECHT II 140 N 138; DONATSCH, p. 159; TRECHSEL/CRAMERI, StGB PRAXISKOMMENTAR 140 N 27. Contra: SCHUBARTH/ALBRECHT, N 92. This question is judged irrelevant by STRATENWERTH/JENNY/BOMMER, p. 347 N 138.

¹²⁰ SCHUBARTH, p. 92. Contra: TRECHSEL/CRAMERI, StGB PRAXISKOMMENTAR 140 N 27.

¹²¹ NIGGLI/RIEDO, BSK STRAFRECHT II 140 N 138; STRATENWERTH/JENNY/BOMMER, p. 347 N 138.

¹²² In this sense, see DELNON/RÜDY, BSK STRAFRECHT II 186 N 43.

¹²³ See N 161 for a detailed overview of the number of robbery homicide cases *stricto sensu*.

related behaviour, regardless of the type of property crime. One might argue that robbers who kill their victim might already present different predispositions, since robbery is a crime based on violence, and that on the other hand theft and burglary are not per se violent offences but rely more heavily on stealth.¹²⁴ However, as already mentioned in N 19, it is sometimes difficult to distinguish other types of property crime homicides from a “standard” robbery homicide, which is the reason why I regrouped all contact property crimes into one category. I am, though, well aware that regrouping different homicide situations might involve the risk of having differences between the different subtypes undiscovered. However, by disaggregating the data into the two subcategories during the analysis, I checked for possible discrepancies between the different types of homicides. Where differences were found between the two subtypes, the analysis will indicate these specifics.¹²⁵

¹²⁴ See also MAXFIELD, Homicide reports, p. 674, for this distinction.

¹²⁵ See N 155-156 for details.

§ 2 Robbery and other theft related homicide: A selective historical retrospective

Robbery, burglary or theft resulting in homicide is not a phenomenon of modern times, but appears throughout history. However, the legal response varied across times and societies. In early Roman law, the response to criminal offences, such as theft (*furtum*), robbery (*rapina*), wilful damage to property (*damnum iniuria datum*) and physical injury (*iniuria*), were civil actions (*actiones poenales*) and consisted in paying fines.¹²⁶ It is with the transformation of certain types of private acts (*delicta*) into public offences (*crimina*) as well as with the creation of new offences that were before not considered to be criminally relevant that the penal laws started to emerge.¹²⁷ The criminalisation of previously non-criminal acts was mostly motivated by the violation of a public interest. Thus, certain types of thefts, such as theft of cattle, armed theft or burglary, were considered criminally relevant, whereas other types of theft remained private offences.¹²⁸ The criminalisation of robbery (*rapina*), however, was developed by M. Terentius Lucullus as an answer to increased robbery gang activities, and has gradually become applicable for single offender robberies as well.¹²⁹ Thus, the victim was allowed to file a criminal action simultaneously to the civil action. On the other hand, homicide (*homicidium*, before also called *parricidium*), which was defined as the killing of a free man, has always been reprimanded and has known harsh sentences.¹³⁰ Consequently, in case of a robbery homicide, the Roman law cumulated the sentences for robbery as well as for homicide.¹³¹

Since there was no centralised legal power after the end of the Roman Empire, royal legislators in Europe were mainly concerned with creating edicts that regulated compensations engendered by the frequent feuds between

¹²⁶ HONSELL, p. 163. However, in the early Roman law of the twelve tables, armed thieves or thieves caught during night time were allowed to be killed by the victim, a legal solution found as well in the Germanic laws (HONSELL, p. 164-165). The same solution was reserved for murderers; however, the family of the deceased was also allowed to sell the offender into slavery (WESEL, p. 170).

¹²⁷ CARBASSE, p. 43; BLANKE, p. 51.

¹²⁸ CARBASSE, p. 67; BLANKE, p. 51.

¹²⁹ WOLF, p. 2; CARBASSE, p. 67; BLANKE, p. 52.

¹³⁰ CARBASSE, p. 56-57; HONSELL, p. 91; WESEL, p. 170.

¹³¹ WOLF, p. 2.

different clans.¹³² In general, robbery and killings resulting from raids against other clans were not considered to be dishonourable criminal offences but had the character of acts of war.¹³³ Thus, depending on the legislator, there were numerous ways of dealing with robbery homicide. In Frankish law, the killing of a person, also in case of robbery homicide, engendered either the right to a feud and revenge for the clan of the deceased, or the payment of compensation.¹³⁴ Langobardic law imposed fines only in case of robbery homicide¹³⁵ and further admitted real concurrence between murder and robbery.¹³⁶ Alemannic law as well only knew monetary punishment in case of robbery homicide.¹³⁷

- 57 However, with increasing mobility of the population as well as the renaissance of Roman law in the XII century, the right to feud became more and more obsolete, and the prevailing royal houses as well as important cities sought to extend their legislative power by implementing statutes that created various new criminal dispositions.¹³⁸ It was also in the early 13th century that EIKE VON REPGOW wrote the *Sachsenspiegel*, one of the oldest and most important compilations of Germanic statutes of law.¹³⁹ Therein we can observe an interesting shift from the former acceptance of homicide as an act of feud to a criminalisation of homicide. Also, the *Sachsenspiegel*, although it never mentions the word “murder”, differentiates between homicide and murder, this also in regard to the punishment.¹⁴⁰ Thus, murder in combination with robbery was mentioned to be a particularly serious form of homicide and was punished by breaking on the wheel.¹⁴¹ On the other hand, robbery alone was considered as an “honest” crime and less reproachable than stealing alone, which was highly despised because of its stealthy character.¹⁴² Hence, robbers were usually decapitated, a more “noble” way of execution

¹³² KILLIAS/KUHN/DONGOIS/AEBI, N 109; CARLEN, p. 36; OSENBRÜGGEN, Alamannen, p. 310-311; WESEL, p. 306-307.

¹³³ RADBRUCH/GWINNER, p. 18-19; SCHEELE, p. 58.

¹³⁴ WOLF, p. 6; WESEL, p. 294.

¹³⁵ WOLF, p.17; OSENBRÜGGEN, Langobarden, p.151-152.

¹³⁶ OSENBRÜGGEN, Langobarden, p. 153.

¹³⁷ WOLF, p. 7.

¹³⁸ KILLIAS/KUHN/DONGOIS/AEBI, N 110; CARBASSE, p. 121; SCHEELE, p. 56.

¹³⁹ SCHEELE, p. 17.

¹⁴⁰ SCHEELE, p. 136.

¹⁴¹ SCHEELE, p. 147.

¹⁴² SCHUBERT, p. 173; WOLF, p. 5; BLANKE, p. 54; SCHEELE, p. 190.

than hanging, which was reserved for thieves and highly shameful for the offender as well as his family.¹⁴³ Despite these increasing efforts to incriminate homicidal acts, many local nobles were able to uphold their rights to feud and raid, although some of them were charged for their crimes.¹⁴⁴

Whenever powerful noble families were able to establish their influence more permanently, the importance of penal law increased. In the Ancient Regime, however, the *Constitutio Criminalis Carolina* (CCC) was imposed by Charles V. and constituted one of the first and most influent attempts to codify penal law.¹⁴⁵ It also introduced subjective elements to the definition of offences as well as to sentencing guidelines.¹⁴⁶ Hence, the CCC introduced a differentiation between homicide and murder based on the premeditation of the offender, which means that homicide offenders acting with premeditation were sentenced to harsher punishments than offenders acting out of an impulse.¹⁴⁷ Further, some qualified types of homicide were developed based on the CCC, such as robbery homicide (*latrocinium*), contract killings (*assassinium*) and assassination (*homicidium proditorium*).¹⁴⁸ 58

Finally, based on writings of Enlightenment philosophers such as MONTESQUIEU,¹⁴⁹ BECCARIA¹⁵⁰ and ROUSSEAU,¹⁵¹ the criminal justice system of the Ancient Regime was seen as flawed and unjust.¹⁵² Hence, in order to control the arbitrariness of judges in their application of the law as well as the criminal justice system in general and thus increase the legal certainty (*Rechtssicherheit*), the first criminal law codifications emerged in the late 18th century.¹⁵³ The most important criminal law codifications were certainly the Bavarian Code (*Codex iuris Bavarici criminalis*) of 1751, the Prussian Code (*Allgemeines Landrecht für die preussischen Staaten*) of 1794, the Austrian *Constitutio Criminalis Theresiana* in 1768 (shortly followed by the 59

¹⁴³ SCHUBERT, p.173; SCHEELE, p. 211.

¹⁴⁴ See KILLIAS/KUHN/DONGOIS/AEBI, N 110, for examples of these famous “robber barons”.

¹⁴⁵ KILLIAS/KUHN/DONGOIS/AEBI, N 115.

¹⁴⁶ CARLEN, p. 41; SCHAFFSTEIN, p. 147.

¹⁴⁷ SCHAFFSTEIN, p.147; DAVID, p. 8.

¹⁴⁸ SCHAFFSTEIN, p.148; DAVID, p. 9.

¹⁴⁹ MONTESQUIEU.

¹⁵⁰ BECCARIA.

¹⁵¹ ROUSSEAU.

¹⁵² CARBASSE, p.391; ROBINSON/FERGUS/GORDON, p. 251.

¹⁵³ KILLIAS/KUHN/DONGOIS/AEBI, N 116 and N 119; CARBASSE, p. 391.

Josephinian Criminal Code in 1787) and the French Code (*Code pénal*) of 1811. The Bavarian Code of 1751 incorporated the concept of *latrocinium* from the CCC and classified robbery homicide as well as homicide for cupid reasons as murder.¹⁵⁴ The punishment for robbery homicide according to § 15 of the Bavarian Code consisted of death on the wheel from below (*Strafe des Rades von unten*).¹⁵⁵ Also, the early Austrian Codes classified robbery homicide as aggravated form of murder according to § 99. However, the sanction for murder did not consist in death sentences, but the Josephinian Code applied custodial sentences only.¹⁵⁶

- 60 On the other hand, the Prussian Code enumerated several robbery homicide scenarios under the section of robbery. It states in § 1191 that the robber who kills his victim in the course of robbery will be sentenced to death by the sword and consecutively broken on the wheel; the same punishment will apply if the life of the victim was saved due to special circumstances or hazard (§ 1192). However, the offender who kills someone intentionally in order to commit a robbery is subject to punishment of the wheel from below (*Strafe des Rades von unten*, § 1193). If he kills his victim in order to break the resistance of the victim, the punishment will be the wheel from above (*mit dem Rade von oben herab zu bestrafen*, § 1194). If he commits a robbery only and then kills the victim who pursues him in order to save his life, he will be sentenced to death by the sword (§ 1195). However, if he not only wants to save his life but also his prey, the punishment will be the wheel from above (§ 1196).¹⁵⁷ Thus, in total, the Prussian Code describes 6 scenarios of robbery homicide, which stipulates that robbery homicide must have been of great concern at the time of the elaboration of the code. Also, in line with the Bavarian and Austrian Codes mentioned above as well as in the French *Code pénal* from 1810,¹⁵⁸ the punishments were still very severe. It was only within the following years and revisions of the original codes that punishment in general as well as for robbery homicide in particular, became more lenient, a leniency that was mostly due to the abolition of qualified

¹⁵⁴ DAVID, p. 12.

¹⁵⁵ DAVID, p. 13.

¹⁵⁶ DAVID, p. 12.

¹⁵⁷ HATTENHAUER/BERNERT, p. 719.

¹⁵⁸ See CARBASSE, p. 439, for sentencing of robbery homicide in the French Criminal Code of 1810.

(and thus aggravated) death penalties (such as death on the wheel) as well as to the introduction of mitigating circumstances for the offenders.¹⁵⁹ Finally, the historical development of these different codifications has also engendered different solutions for the legal classification of robbery homicide, since some legislations still have provisions for robbery homicide specifically, whereas others classify this particular offence among the homicide offences.¹⁶⁰

Excursus: Robbery homicide as trigger effect for modern empirical work in criminology

The problem of robbery and robbery homicide was also at the origin of one of the first empirical works in criminology. Still a pressing problem in the 18th century London, it was HENRY FIELDING, a London judge and one of the “inventors” of criminology,¹⁶¹ who conducted empirical research on robbery based on court data and home visits to London’s poor, more than a decade before BECCARIA and the classical school even started to emerge. He concluded, based on his case analysis, that environmental factors¹⁶² such as drinking, gambling and poverty, were causes of delinquency, and proposed that robberies might be reduced by increasing prices for alcohol, enforcing gambling laws and enlarging support for the poor. As a wave of robbery homicide ravaged London in 1753, FIELDING was mandated to stop the violence. He requested a grant in order to pay a group of detectives as well as informants who could help to collect evidence against the robbery murders, and the homicides and robberies consequently stopped for more than 2 months. Due to this success, the detectives continued their work, which led to the birth of the “Bow Street Runners”, the predecessors of the Metropolitan Police.¹⁶³

¹⁵⁹ DAVID, p. 1236 et seq.

¹⁶⁰ See N 12 et seq. for details of European legislation on robbery homicide.

¹⁶¹ SHERMAN, p. 199 et seq.

¹⁶² See FIELDING, p.78: „*The gentlest Method which I know, and at the same Time perhaps one of the most effectual, of stopping the Progress of Vice, is by removing the Temptation*”.

¹⁶³ SHERMAN, p. 121.

§ 3 Robbery homicide explained by criminological theory

I. Introduction

- ⁶² Theories, in everyday life as well as in criminological research, help us to understand the phenomenon we are investigating, validate findings of our research and situate them in an intellectual framework. This work aims to incorporate theoretical concepts of crime and criminal behaviour, and apply them to the results of my research. However, in using theoretical approaches to robbery homicide, we must be aware of the diversity of theories in the field of criminology as well as their limited applicability to certain aspects of the crime in question. This means, one theory alone is certainly not apt to explain the entire crime of robbery homicide in its complexity and diversity.¹⁶⁴ However, every theory has its merits and downfalls, and the body of theories proposed by criminologists has to be considered in a holistic approach. Therefore, the following criminological theories are meant to be seen as a puzzle of clues helping to explain certain aspects and motivations of robbery homicide, however without being mutually exclusive. Thus, in this chapter, the following enumeration of criminological theories does not claim to be exhaustive, but focuses on theories containing explanations that are most relevant to robbery homicide.

II. Biological causes of crime and violent behaviour

- ⁶³ The assumption that delinquent behaviour roots in biological causes has a long tradition in criminological research. Nested within the positive school of thinking of the 19th century, biological causes of delinquency have mostly been connected to the work of CESARE LOMBROSO, also called the “father of modern criminology”.¹⁶⁵ However, already in the late 18th century, phrenologists such as GALL and SPURZHEIM discovered an interest in the biology of criminals.¹⁶⁶ In his most famous work *L’Uomo Delinquente* (The Criminal

¹⁶⁴ In this sense, see WOLFGANG/FERRACUTI, p. 161.

¹⁶⁵ WILLIAMS/MCSHANE, p. 36; BROOKMAN, p. 56.

¹⁶⁶ See RAFTER, for a comprehensive description of the history of phrenology.

Man),¹⁶⁷ LOMBROSO postulates that criminals present physiognomic abnormalities. By observation and by conducting anthropometric studies of criminals, he reaches the conclusion that criminals often present bodily abnormalities (or, as he describes it, *atavistic*, meaning primitive characteristics), as well as other traits, such as the lack of remorse or the presence of tattoos. Hence, he concludes that one must be born criminal.¹⁶⁸ However, due to a large number of critics of his work, he expanded his biologically based concept of the criminal man and added psychological, social and economic factors to the explanation of crime.¹⁶⁹

Further, biological causes of crime were expanded in the 19th century by research on hereditary factors, such as lack of intelligence¹⁷⁰ as well as research on body types.¹⁷¹ However, the latter approach had already been harshly criticised at that time,¹⁷² and due to abusive tendencies of eugenics and other biologically based theories in the first half of the 20th century, the biological approach was somewhat stained and became fairly unpopular in the following decades, leaving the field to more sociologically and psychologically based theories on crime and criminal behaviour. Biological approaches resurged again in the 1970ies and 1980ies while studying genetic factors of crime, this mostly by research examining twins, family members or adopted siblings.¹⁷³ However, twin and family studies cannot rule out that the differences or similarities between the related persons are due to environmental factors more than to genetic ones.¹⁷⁴ Also, results are mixed when it comes to the conclusion whether twins or family members are more concordant in their criminal (or non-criminal) behaviour. A meta-analysis investigating the link between genetics and crime suggests that better designed and more recent studies provide somewhat less support for the gene-crime link than older studies with poorer design.¹⁷⁵ Still, the meta-analysis estimates the heritability factor to vary between 11% and 17%.¹⁷⁶

¹⁶⁷ LOMBROSO

¹⁶⁸ WILLIAMS/MCShANE, p. 37.

¹⁶⁹ See LOMBROSO FERRERO, p. 142.

¹⁷⁰ GODDARD; GORING.

¹⁷¹ SHELDON; GLUECK/GLUECK.

¹⁷² See SUTHERLAND, for a critical response to SHELDON's research.

¹⁷³ WALTERS.

¹⁷⁴ ANDERSON, p. 102; BROOKMAN, p. 60.

¹⁷⁵ Meaning those studies published from 1975 and later, WALTERS, p. 606.

¹⁷⁶ WALTERS, p. 607.

- 65 Moving away from genetic crime research, new biological criminology has been expanded to other study areas and has known a considerable growth in recent years. Generally new biological criminologists reject the concept of the criminal as a defective biological type and the idea of a “gene for crime”. They focus more on violent, aggressive and anti-social behaviour and try to explain these behavioural patterns by means of molecular genetics, neurochemistry and neurobiology.¹⁷⁷ New biological criminology takes its richness from the interdisciplinarity of its approach. One could even consider it to be an important paradigm shift in modern criminology, by moving away from purely sociological theories that have dominated criminology for more than a decade and accepting a more interdisciplinary approach to the understanding of crime and criminal behaviour.¹⁷⁸ The biological aspect of crime would therefore be an important element in the general understanding of criminality.
- 66 Applied to the problem of aggressive behaviour, and therefore also to the crime of robbery homicide, new biological theories offer various angles of explanations. For instance, studies about the effects of hormones, especially testosterone, on violent behaviour have steadily increased in recent years.¹⁷⁹ In a specific study on homicide, homicide offenders with high levels of testosterone were found to be more likely to kill people they knew and to plan the offence. The same results were not found in robbery offenders who did not commit a homicide.¹⁸⁰ In general, a meta-analysis of 45 studies found a positive, however weak, correlation between testosterone and aggression.¹⁸¹ Further, low levels of cortisol have also been linked to a certain disposition for violence and aggressiveness,¹⁸² also in interaction with testosterone.¹⁸³ However, these studies are often based on small samples and unusual subgroups, such as prisoners who are criminally insane, and thus their results might sometimes be difficult to generalise.¹⁸⁴

¹⁷⁷ ROSE, p. 6.

¹⁷⁸ WRIGHT/BOISVERT, p. 1228.

¹⁷⁹ For a summary of studies on hormonal causes of deviant behaviour, see ANDERSON. See also BOOK/STARZYK/QUINSEY, for a meta-analysis on testosterone and violence.

¹⁸⁰ DABBS/RIAD/CHANCE, p. 601-602.

¹⁸¹ BOOK/STARZYK/QUINSEY, p. 593.

¹⁸² MCBURNETT/LAHEY/RATHOUZ/LOEBER, p. 40.

¹⁸³ POPMA/VERMEIREN/GELUK/RINNE/VAN DEN BRINK/KNOL/JANSEN/VAN ENGELAND/DORELEIJERS, p. 408.

¹⁸⁴ BROOKMAN, p. 66.

III. Differential association theory

EDWIN H. SUTHERLAND's general theory on crime, the differential association theory, was created in 1939 and amended several times until its final version in 1947.¹⁸⁵ The key element in his work consists in the statement that *criminal behaviour is learned*.¹⁸⁶ In addition to this statement, there are other points that form the theory of differential association. In sum, the theory states that criminal behaviour is learned by associating and interacting with others, and this through a process of communication. This learning process happens within small personal groups. These interactions allow learning not only the definitions of the deviant behaviour, but also the techniques of committing criminal behaviour. When it comes to defining criminal behaviour, the person can either be surrounded by peers who define legal rules as worth observing or others who are favourable to the violation of these rules. A person can turn into a delinquent if he or she possesses a lot of definitions favourable to the violation of rules. However, the learning process of delinquent behaviour and values is the same as for any other type of learning.¹⁸⁷

Therefore, the important point of the theory consists not in purely associating with delinquent peer groups, but in learning and favouring delinquent behaviour and values through the association with delinquency prone groups¹⁸⁸. Thus, offences typically committed in groups and within a criminal milieu, such as robbery or burglary, would be explained by the association with delinquent peers, the learning process of delinquent behaviour, such as techniques of breaking into a house or ambuscading a victim, as well as the promotion of the values of the delinquent behaviour. It is also in this regard that SUTHERLAND's differential association theory ties into the subculture of violence theory by WOLFGANG/FERRACUTI described in subchapter IV: The members of the intimate learning groups all share favourable attitudes towards the use of deviant, violent behaviour.

¹⁸⁵ WILLIAMS/MCSHANE, p. 79.

¹⁸⁶ SUTHERLAND/CRESSEY, p. 80.

¹⁸⁷ SUTHERLAND/CRESSEY, p. 80 et seq.

¹⁸⁸ WILLIAMS/MCSHANE, p. 83.

IV. Subculture of violence

- ⁶⁹ Next to the general body of literature concerning subculture theories,¹⁸⁹ the theory of subculture of violence created by WOLFGANG/FERRACUTI¹⁹⁰ focuses on a combination of different theories in order to explain violent crimes, such as homicide and robbery. Starting point of the theory was WOLFGANG's comprehensive work on homicide created in 1958,¹⁹¹ which constitutes the first systematic approach to homicide and solidifies WOLFGANG's status of being the founding father of modern homicide research. In their theory, WOLFGANG/FERRACUTI include culture conflict, differential association as well as psychological theories of learning, conditioning, developmental socialisation and differential identification.¹⁹² Furthermore, WOLFGANG/FERRACUTI include empirical findings on homicide in their conceptual framework. The core statement of the subculture of violence theory consists in the concept that there are subcultures which differ from the central society, but that the members of those subcultures are neither totally different nor in total conflict with that main society. It is also not necessary that the actors in this subculture use violence in all situations. The members of a subculture of violence learn to use violence and share a favourable attitude towards the use of violence. The theory refers in this regard to the theory of the differential association theory created by SUTHERLAND, which is described in subchapter III. It is therefore accepted in these specific subcultures to use violence in certain situations. Consequently, the individuals do not need to feel guilty about their aggressive behaviour, since their subculture does not necessarily see this behaviour as deviant.¹⁹³ Hence, according to the subculture theory of WOLFGANG/FERRACUTI, robbery homicide offenders would be more likely to stem from these subcultures where violence is an acceptable means to achieve the desired goal. They therefore have a less negative attitude towards the use of violence and do not hesitate to use it if necessary to obtain something, such as money or other goods. It can also be concluded that robbery homicide offenders will be more likely to be involved in subgroups, such as criminal milieu groups, that accept and promote the use of violence.

¹⁸⁹ See the work of COHEN; CLOWARD/OHLIN; MILLER.

¹⁹⁰ WOLFGANG/FERRACUTI.

¹⁹¹ WOLFGANG.

¹⁹² WILLIAMS/MCShANE, p. 127; PRIDEMORE, p.129.

¹⁹³ WOLFGANG/FERRACUTI, p. 158 et seq.

Although the theory of the subculture of violence is still very popular among homicide researchers¹⁹⁴, WOLFGANG/FERRACUTI's theory also encountered the criticism that the perspective takes as a given the existence of a subculture of violence and fails to ask how such a subculture arises in the first place.¹⁹⁵ Further, the objection has been raised that no culture generally approves of violence in the first place, with exception of very few situations.¹⁹⁶ Nevertheless, the subcultural approach of WOLFGANG/FERRACUTI has, due to its popularity among criminologists, been tested multiple times. Applied to the problem of robbery homicides specifically, PARKER examined deprivation as well as subcultural variables for robbery homicide. However, although the percentage of black population was positively correlated with robbery homicide, the author could not draw any conclusions for the existence of a black subculture of violence based on these results.¹⁹⁷

V. Anomie and strain theory

A. Anomie theory

The concept of anomie is connected to the work of ÉMILE DURKHEIM and ROBERT K. MERTON and constitutes a macro-level theory of criminal behaviour. In his writings, DURKHEIM describes anomie and anomic suicide specifically as a general breakdown of (moral) rules in a society. This deregulation comes, according to DURKHEIM, from the increasing complexity of modern society, a society that relies not so much on social bounds within its members anymore, but on more and more contractual relationships between persons, which are easily broken. Without the stability of these rules (also called social norms) and their use as a reference point, the individual cannot find his place in society anymore and does not know how to behave correctly. DURKHEIM sees in the commercial as well as industrial world a constant state of anomie.¹⁹⁸

MERTON continues to develop the initial ideas of DURKHEIM, however con-

¹⁹⁴ See PARKER; DEFRONZO/DITTA/HANNON/PROCHNOW; WILLIAMS/FLEWELLING, for examples of the testing of the subculture of violence theory.

¹⁹⁵ KUBRIN/WADSWORTH, p. 8.

¹⁹⁶ CORZINE/HUFF-CORZINE/WHITT, p. 44.

¹⁹⁷ PARKER, p. 1001.

¹⁹⁸ DURKHEIM, p. 264 et seq.

sidering that not the breakdown of social norms is responsible for anomie in society, but that the lack of controlling force of these social norms within the system is crucial to explain the occurrence of anomie. MERTON splits the concept of social norms into two parts, one being the *goals* of a society and the other the *means* of achieving these goals.¹⁹⁹ As a consequence, he redefines anomie as the dissociation of these goals and means due to the structure of society nowadays. Therefore, deviant behaviour results from this incapability of achieving socially desired goals by socially accepted means.²⁰⁰ Hence, according to MERTON's definition of anomie, robberies resulting in homicide might occur because the offender does not dispose of non-deviant, socially acceptable means in order to obtain one of the goals that modern materialistic society dictates, meaning the pursuit of money or goods.²⁰¹

B. Strain theory

- ⁷³ Strain theory constitutes a further elaboration of MERTON's anomie theory and has been developed not only by MERTON himself, but also by other theorists.²⁰² It consists of a more general form of anomie and shifts the focus on the motivation of committing crimes. The question is therefore where these strains that produce deviant behaviour come from. Several currents of strain theory have emerged based on general strain. One current translates this question about the strain that is provoked by modern societies into an examination of discrepancy between poverty and wealth. There, the question is mainly whether absolute or relative deprivation has an effect on crime rates in a certain area.²⁰³ However, tests of this theory on relative or absolute deprivation and its influence on homicide rates in a specific area are overall inconclusive.²⁰⁴
- ⁷⁴ Hence, robbery homicides with a predominantly monetary motivation that have the homicide as a by-product of the robbery might therefore be caused by economic deprivation and the strain (or anomie) resulting of this depriva-

¹⁹⁹ MERTON, p. 672-673.

²⁰⁰ MERTON, p. 177.

²⁰¹ In this sense, see GRUENEWALD/PRIDEMORE, p. 373.

²⁰² Such as COHEN; CLOWARD/OHLIN. For newer versions of the theory, see also AGNEW's general strain theory and MESSNER/ROSENFELD's institutional strain theory.

²⁰³ See MESSNER; BLAU/BLAU.

²⁰⁴ See PRIDEMORE, p. 131 et seq. for an overview on empirical findings of strain in relation with economic deprivation.

tion. Measures of economic deprivation and inequality might therefore be fit to explain robbery homicide, as it is hypothesised by PARKER.²⁰⁵ However, the results of his study conclude that poverty is not statistically related to robbery homicide.²⁰⁶ Also, GRUENEWALD/PRIDEMORE explain their increase in robbery homicides in Chicago between 1900 and 2000 among others with strain theory, arguing that the widespread goods of a materialistic society will also create the desire to possess more goods, and will promote illegal means to obtain them.²⁰⁷ Finally, testing anomie theory based on rates for homicide and selected property crimes in 50 States of the USA, STACK found that his variables measuring anomie, namely income inequality, percentage black, unemployment, immigration and population density were all (but unemployment) significantly related to the homicide rate.²⁰⁸

VI. Social disorganisation theory

Social disorganisation theory is mainly due to the work of SHAW/MCKAY²⁰⁹ 75 and is settled within the Chicago School of criminological thinking.²¹⁰ The core element of the theory consists in the idea of social disorganisation in neighbourhoods causing crime rates to increase, and can therefore be classified as macro-level theory. Socially disorganised neighbourhoods are characterised by the loss of stability and cohesiveness due to the deterioration of relationships within the family and between friends. Economic deprivation, racial heterogeneity and a high resident mobility are prone to increase this instability and disorganisation of social bonds within neighbourhoods.²¹¹ Or, in other words, social disorganisation occurs if “*the structure and culture of a community are incapable of implementing and expressing the values of its own residents.*”²¹²

Empirically, the social disorganisation theory has been tested multiple times. 76 The findings, however, vary considerably according to the different macro-level elements of the theory that were tested *in casu*. Based on

²⁰⁵ PARKER, p. 990.

²⁰⁶ PARKER, p. 999.

²⁰⁷ GRUENEWALD/PRIDEMORE, p. 373.

²⁰⁸ STACK, p. 342.

²⁰⁹ SHAW/MCKAY.

²¹⁰ WILLIAMS/MCSHANE, p. 60.

²¹¹ SHAW/MCKAY, p. 315 et seq.

²¹² KORNHAUSER, p. 63.

LAND/MCCALL/COHEN's famous review of literature on studies examining structural covariates of homicide rates in different time and geographical units,²¹³ KUBRIN expanded the above mentioned research and used disaggregated homicide rates in order to investigate whether neighbourhood structure has an effect on different types of homicide. He found that disadvantage as well as population size and residential mobility were significantly positively related to felony homicides.²¹⁴ Based on homicide data from Newark, New Jersey, PIZARRO/MCGLOIN examined gang homicide based on the concept of collective behaviour or social disorganisation. This was measured with the following macro-level variables: Poverty, unemployment, number of people receiving public assistance in the area, percentage of single-parents having children less than 18 years of age, residential mobility, population size and number of different ethnic groups in the area.²¹⁵ Using logistic regression,²¹⁶ they found that this special type of homicide could not be predicted by social disorganisation measures, with the exception of poverty which was a significant predictor.²¹⁷ On the other hand, for robbery and aggravated assaults only, HIPPI/TITA/BOGGESE found support for the theory of social disorganisation. Examining intergroup as well as intragroup robberies and aggravated assaults involving Latinos and African American offenders in Los Angeles, it resulted that African Americans were far more likely to commit robberies than Latinos, and this against their own ethnic group (24%) as well as against Latinos (28%)²¹⁸. Further, social disorganisation variables, such as absolute racial inequality as well as racial transition, had an impact on intra- as well as intergroup violence; however, at the same time, this finding has to be pondered by the fact that intragroup violence was always more common than intergroup violence²¹⁹. Thus, in sum, variables linked to social disorganisation theory are relatively well suited to explain the spatial distribution of homicide²²⁰; however, since this was not the case for certain

²¹³ LAND/MCCALL/COHEN.

²¹⁴ KUBRIN, p. 158.

²¹⁵ PIZARRO/MCGLOIN, p. 202.

²¹⁶ See N 287 for the definition of logistic regression.

²¹⁷ PIZARRO/MCGLOIN, p. 204.

²¹⁸ HIPPI/TITA/BOGGESE, p. 537.

²¹⁹ HIPPI/TITA/BOGGESE, p. 553.

²²⁰ PRIDEMORE, p. 144.

subtypes of homicides²²¹, this finding might not apply to all homicide constellations.

Finally, one study examined homicide rates of different cities in Europe, using social disorganisation theory among others to explain structural covariates of the different homicide rates.²²² They found that population structure, namely the degree of urbanism of a city, the level of deprivation as well as the degree of development of a city were all positively correlated with the homicide rate of a city.²²³ On the other hand, variables such as population heterogeneity, unemployment and young residents did not contribute to the explanation of homicide rates in these cities, a finding that the authors explain partially by the mix of skilled and unskilled immigrants in the heterogeneity variable, making the latter less fit to measure social disorganisation, as well as by the better social system cushioning economic deprivation in times of unemployment.²²⁴ In conclusion, whereas social disorganisation might fit the circumstances in US-American cities, it is less suitable to apply to urban situations in European cities, since the latter present a different ethnical and social composition of inhabitants and different dynamics also in regard to activities. ⁷⁷

VII. Expressive vs. instrumental homicide

Although a few researchers realised the need for classification of different types of homicide,²²⁵ RICHARD BLOCK was one of the first to classify homicide based on a theoretical approach. BLOCK's theory of instrumental versus impulsive or expressive homicides is based on the dichotomy that homicides are instrumental if the offender acts in order to maximise benefits and minimise risk, and impulsive if no such weighting of costs and benefits is undertaken.²²⁶ Hence, homicides can be categorised as either planned, premeditated and goal oriented (and thus "instrumental") or impulsive, spontaneous and unplanned ("expressive").²²⁷ For some, this dichotomy is ⁷⁸

²²¹ See PIZARRO/MCGLOIN, p.204.

²²² MCCALL/NIEUWBEERTA, p. 167.

²²³ MCCALL/NIEUWBEERTA, p. 179.

²²⁴ MCCALL/NIEUWBEERTA, p. 180.

²²⁵ WOLFGANG.

²²⁶ BLOCK, Violent crime, p. 9.

²²⁷ MIETHE/REGOECZI, p. 101-102.

thus synonymously used for felony or non-felony homicides,²²⁸ whereas for others, the category of instrumental homicides is broader and also includes other, non-felony related planned behaviour.²²⁹

- 79 The usefulness of this dichotomy has recently been tested by MIETHE/REGOECZI. Using the method of Qualitative Comparative Analysis,²³⁰ they could prove that 78% of the homicide situations presented profiles unique to either the instrumental or expressive category.²³¹ Within the instrumental category, the majority of robbery homicides (88.6%), burglary homicides (87.8%), car theft homicides (86%) and larceny homicides (78.9%) presented structures similar to other instrumental homicides.²³² However, other subtypes of instrumental homicides, such as homicides in the context of narcotics laws or gambling, only presented a similarity of 65% respectively 58.5% in comparison with other instrumental homicides.
- 80 Although the instrumental/expressive distinction has often been used in criminological research,²³³ it also raised some criticism. One critical point might be the existence of variation within the relatively broad categorisation of instrumental and expressive homicides. Thus, there is a real danger of having several distinct homicide types within the instrumental or expressive category, and the results of this dichotomy might be misleading.²³⁴ Also, it is possible that some types of homicides, such as gang homicides, present both instrumental as well as expressive characteristics and might not fit into either of the two categories.²³⁵ Further, it has been criticised that even the harm caused by expressive, angry aggression is finally goal oriented and thus instrumental, and hence the dichotomy is of little practical use.²³⁶ Finally, the

²²⁸ BLOCK, Victim-offender dynamics, p. 751.

²²⁹ MIETHE/REGOECZI, p. 101-102.

²³⁰ Qualitative Comparative Analysis (QCA) is a statistical technique that allows clustering different cases into subgroups by comparing their characteristics. See MIETHE/DRASS, p. 8 et seq., as well as MIETHE/REGOECZI, p. 50 et seq., for detailed information about the technique and application of QCA.

²³¹ MIETHE/REGOECZI, p. 107.

²³² MIETHE/REGOECZI, p. 108.

²³³ See BLOCK/ZIMRING; BLOCK, Chicago; PARKER/SMITH; DECKER; MIETHE/REGOECZI, for examples of research using the instrumental vs. expressive categorisation of homicide.

²³⁴ MIETHE/REGOECZI, p. 127.

²³⁵ MIETHE/REGOECZI, p. 127.

²³⁶ FELSON/MESSNER, p. 521.

distinction is closely related to the notion of *intention*, a legal concept based on the subjective perceptions of the offender.²³⁷ Whether the offender acts planned and premeditated is thus a question of *mens rea* and can apply to all types of homicides. It is thus questionable whether a typology based on the intention of the offender is really useful for further disaggregation.

VIII. Rational theories

A. Lifestyle theory

The lifestyle theory of HINDELANG/GOTTFREDSON/GAROFALO²³⁸ examines 81 the question why certain population groups are more at risk of personal victimisation (or, in a later version, direct contact predatory victimisation)²³⁹ than others and constitutes a precursor for COHEN/FELSON's routine activities approach.²⁴⁰ They conclude that victimisation is a result of a certain lifestyle, a notion that consists of routine daily activities such as vocational activities as well as leisure activities.²⁴¹ The authors define the concept of lifestyle by 3 aspects. First, it is composed of the role expectations that people are subject to in a society. Adolescents, for example, have social roles that require frequent social contacts and going out in the evening, which makes them prone to victimisation. Second, the position in the social structure also defines risk of victimisation, as higher positions imply different types of activities that are less likely to result in victimisation. Finally, the third aspect consists of the decisions or "adaptations" one makes in regard to one's own behaviour; one can either avoid risky behaviour and lifestyle or accept certain risks.²⁴² However, the initial theory neglected an important aspect, namely that the perception of crime affects behaviour in a way unrelated to routine activities.²⁴³ Thus, GAROFALO expanded the lifestyle theory in 1987 and added elements

²³⁷ See N 10 et seq. for the notion of intention in homicide research.

²³⁸ HINDELANG/GOTTFREDSON/GAROFALO.

²³⁹ See GAROFALO, p. 36.

²⁴⁰ See N 83 et seq.

²⁴¹ HINDELANG/GOTTFREDSON/GAROFALO, p. 241.

²⁴² HINDELANG/GOTTFREDSON/GAROFALO, p. 242 et seq.

²⁴³ MAXFIELD, Lifestyle, p. 277.

unrelated to lifestyle, such as economic constraints and housing options, perceptions about crime, target attractiveness and individual differences.²⁴⁴

- 82 Applied to homicides in the context of a robbery or burglary, the life style model might imply that elderly persons beyond the age of retirement are more likely to become victims of a burglary homicide, since their lifestyle consists of more time spent at home. However, the opposite would be true for street robbery that turns into a homicide, since young people more frequently populate the streets in order to go out and pursue evening activities, thus increasing the exposure time for robbery. Further, robbery of stores and shops would, according to the lifestyle model, more target persons in the workforce employed in companies that are at risk of being robbed, such as petrol stations and shops, jewellery stores or taxis. This theory is also very fit to explain crime precipitated homicides, such as the robbers or burglars killed during their offence, since the latter, by their criminal involvement, cultivate a more risky lifestyle and are, through their deviant activities, more exposed to the risk of becoming a victim as well.

B. Routine activities theory

- 83 The theory of routine activities was created by COHEN/FELSON²⁴⁵ and initiated an important paradigm shift in criminological theory, as it moved away from purely sociological or psychological explanations to a more “ecological” approach to crime and criminal behaviour. In their theory, COHEN/FELSON connect everyday activities and social interactions, also called “routine activities”, with the emergence of crime. In order for a criminal activity to be likely to happen, the authors presuppose 3 elements: First, there has to be a motivated offender. Then, this motivated offender has to meet a suitable target. The final requirement is a negative one, namely the absence of a capable guardian who could prevent the crime from happening.²⁴⁶ Hence, in everyday life, if these 3 elements meet, the opportunity of committing a crime is created. As routine activities change over time and become more widespread, this change in society would also affect the opportunities of committing crime positively. Hence, routine

²⁴⁴ GAROFALO, p. 36 et seq.

²⁴⁵ COHEN/FELSON.

²⁴⁶ COHEN/FELSON, p. 589.

activities can be used to explain victimisation, but can also be applied to explain the decision making process of offenders.²⁴⁷

Applied to robberies or burglaries, the routine activity approach offers very helpful insight in regard to the motivation of the offender and choice of victim, since it assumes that the offender will decide to commit the offence if he finds himself in presence of a suitable target, such as a person walking the streets alone at night, or an easily accessible apartment on the first floor with no lights on, as well as if there is no “guardian”, thus no protection attached to the target. In the above mentioned examples, this guardianship would for example consist in another person for the person walking alone or a security system monitoring the apartment. Thus, circumstantial, situational factors influence the offender in his decision to commit the act, but not intrinsic psychological motivation alone. 84

In this sense, GRUENEWALD/PRIDEMORE argue that the increase of robbery homicides in Chicago between 1900 and 2000 might be due to the greater availability of goods in general, and thus the higher risk of being in presence of suitable targets subject for theft and violent appropriation.²⁴⁸ Also, MESSNER/TARDIFF applied the routine activities approach to homicide in New York in order to test whether socio-demographic as well as temporal factors can be related to location of the homicide and the type of homicide (measured by the relationship between victims and offenders).²⁴⁹ The significant associations between sex, age, employment status of the victim as well as victim-offender relationship and the location of the homicide found in the research were compatible with routine activities approach, in the way that persons whose life was predominantly home-based were more likely to be killed by a family member and at home.²⁵⁰ Also, weekday homicides more often involved strangers than those happening at the weekend.²⁵¹ Further, another research examining the link of street robbery to routine activities has confirmed the hypothesis of routine activities that the more people stay away from home, the more crime is likely to occur.²⁵² 85

²⁴⁷ MAXFIELD, *Lifestyle*, p. 279.

²⁴⁸ GRUENEWALD/PRIDEMORE, p. 373.

²⁴⁹ MESSNER/TARDIFF, p. 241.

²⁵⁰ MESSNER/TARDIFF, p. 262.

²⁵¹ MESSNER/TARDIFF, p. 265.

²⁵² GROFF, p. 98

§ 4 Review of literature

I. Research on homicide in Switzerland

A. Previous studies on homicide

- 86 Due to a very limited amount of nationwide data sources on homicide, research on national homicide trends has remained rather limited. First trend data, covering the period from 1877 to the present, were published by KILLIAS²⁵³ and BIERI.²⁵⁴ Cross-sectional data on police records of attempted and completed homicides were published by the Office of Federal Statistics (OFS), with a focus on domestic violence.²⁵⁵ In order to overcome the limits related to absolute numbers which are too small, a national database sponsored by the Swiss National Science Foundation (SNF) of all cases of completed homicide was established by all Swiss institutes of Forensic Medicine and coordinated by the Institutes of Criminology of the Universities of Lausanne and Zurich.²⁵⁶ This database will be presented in more detail below.²⁵⁷ It covers the period of 1980 to 2004 (in some areas, records older than 1990 were no longer available), with a random sample of all suicides and a regional sample of attempted homicides, and was subject to several recent publications.²⁵⁸ Finally, the first step of the Swiss Homicide and Suicide Database project sponsored by the Swiss National Science Foundation consisted in creating a database limited to 4 cantons in the French-speaking part of Switzerland and was based on legal medicine, police and court files.²⁵⁹ This first database was used in several Master of Art dissertations.²⁶⁰
- 87 Some studies have analysed homicide within the context of violence in general at the regional level. EISNER,²⁶¹ for example, analysed 1100 police re-

²⁵³ KILLIAS, *Criminologie*.

²⁵⁴ BIERI.

²⁵⁵ ZODER/MAURER.

²⁵⁶ KILLIAS/MARKWALDER/WALSER/DILITZ.

²⁵⁷ See N 135 et seq. for a detailed description of the Swiss Homicide Database.

²⁵⁸ See KILLIAS/MARKWALDER/WALSER/DILITZ; LIEM/BARBER/MARKWALDER/KILLIAS/NIEUWBEERTA; MARKWALDER/KILLIAS, *Handbook*; KILLIAS/MARKWALDER.

²⁵⁹ VILLETATZ/KILLIAS/MANGIN.

²⁶⁰ CHAMOT; RUIZ.

²⁶¹ EISNER.

ports on homicide, assault, robbery and sexual violence in the city of Basle and analysed victim, offender and circumstantial variables for these offences. Another study²⁶² is based on 81 homicides in the region of Basle City and particularly considered the ethnical aspect of these crimes. Further, MASSONET/WAGNER/KUHN²⁶³ analysed basic victim, offender and circumstantial variables and based their research on police reports of the cantons of Zurich and Vaud. Another study²⁶⁴ covered homicides in the Canton of Geneva between 1971 and 1990 by analysing files from the Institute of Legal Medicine in Geneva. Finally, based on a cohort study of serious violent or sexual offenders in Zurich, RINDLISBACHER examined recidivism of homicide offenders.²⁶⁵

Specific subtypes of homicides have also been subject to studies. Especially homicides within the family and intimate partnerships have been researched extensively.²⁶⁶ Furthermore, some studies have more closely examined children²⁶⁷ or adolescent²⁶⁸ victims of homicide. In recent years, the homicide followed by suicide of the offender has gained considerable attention, which is the reason why research has considerably increased in this field.²⁶⁹ Furthermore, legal aspects of homicide offenders,²⁷⁰ serial homicide offending²⁷¹ and certain other aspects of homicide events, such as factors influencing the lethal outcome of an aggression,²⁷² situational factors and modus operandi²⁷³

²⁶² FREI/GRAF/DITTMANN.

²⁶³ MASSONNET/WAGNER/KUHN.

²⁶⁴ FERNANDEZ/LA HARPE.

²⁶⁵ RINDLISBACHER.

²⁶⁶ BAGGIANO; BAYALA; BUONVICINI; KILLIAS/DILITZ/BERGERIOUX; LEVRAY; PEDEVILLA; ZODER/MAURER; ZODER.

²⁶⁷ BÄRTSCH.

²⁶⁸ MICHAUD; SCHLUETER/NARRING/MÜNCH/MICHAUD.

²⁶⁹ FREI/HAN/WEISS/DITTMANN/ADJACIC-GROSS; GRABHERR/JOHNER/DILITZ/BUCK/KILLIAS/MANGIN/PLATTNER; HAENEL/ELSASSER; LIEM/BARBER/MARKWALDER/KILLIAS/ NIEUW-BEERTA.

²⁷⁰ CONTAT; RODIEUX.

²⁷¹ BRUGHELLI.

²⁷² DÉCOSTERD.

²⁷³ HARDEGGER.

as well as unsolved homicide cases²⁷⁴ have been subject to these studies based on the French part of the homicide database.²⁷⁵

B. Characteristics of homicide

- 89 Homicide rates in Switzerland are relatively low in comparison with other European countries. With a homicide rate of 0.7 per 100,000 in the year 2007, Switzerland presents one of the lowest rates of completed homicide in Europe according to police data.²⁷⁶ On the other hand, eastern European countries such as Estonia, Ukraine and Lithuania, present around ten times higher homicide rates, whereas only Austria and Norway have, with a rate of 0.6, slightly lower rates than Switzerland.²⁷⁷
- 90 According to the OFS data presented in figure 1, the total number of homicide offences (article 111-116 SCC) known to the police presents only slight variations during the last 20 years. However, a strong trend towards an increase of attempted homicides is visible over the years, whereas completed homicides decrease during the same span of time. A project on whether or not this can be attributed to improved emergency care has just been started by the University of Zurich Institute of Criminology and the Emergency Department of the Zurich University Hospital.

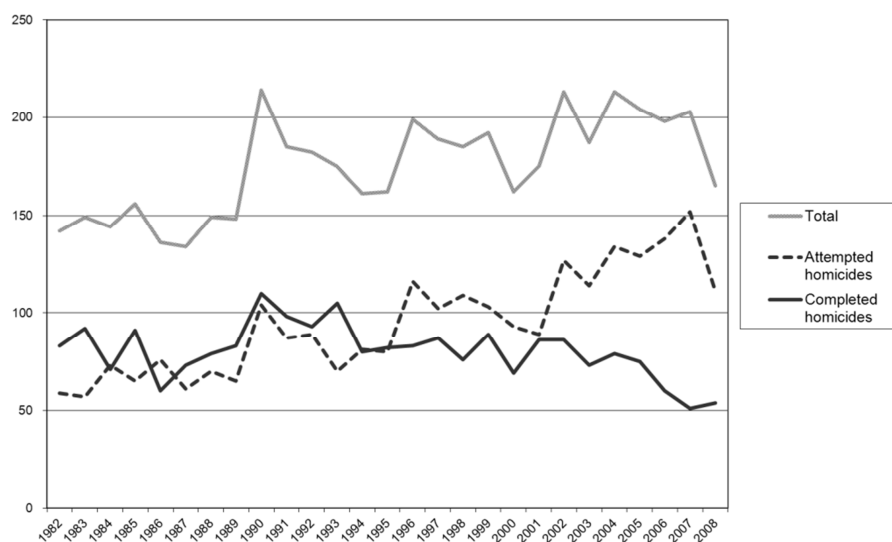
²⁷⁴ GRUBER.

²⁷⁵ These theses are limited to the French part of Switzerland because they are based on the first homicide database project in 4 French-speaking cantons. For more information about this database, see VILLETZAZ/KILLIAS/MANGIN.

²⁷⁶ WODC, p. 41.

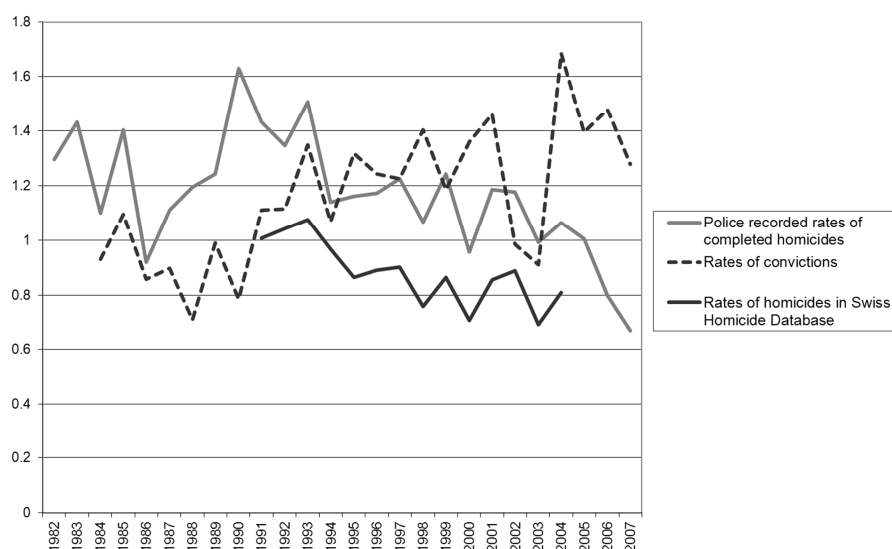
²⁷⁷ WODC, p. 41; See also MALBY, p. 14, for an overview of homicide rates within European countries, based on criminal justice and WHO data.

Figure 1: Absolute number of police-recorded attempted and completed homicides (Source: OFS, Straftaten)



Together with arrest rates and data from the Swiss Homicide Database, data on convictions are presented in figure 2. Here as well, a trend is difficult to discern, although a slight increase in convictions based on sections 111-116 SCC can be observed over the years. However, the numbers for the most recent years do not contain cases that have not yet been finally adjudicated. Conviction data combine completed and attempted homicide.

Figure 2: Rates per 100'000 of police-recorded homicides, conviction rates and homicide rates (Source: OFS, Straftaten; OFS, Verurteilungen; Swiss Homicide Database)



- 92 Homicides in Switzerland are characterised by a high number of domestic cases. In fact, homicides within the family or intimate partnerships represent almost half of the homicide cases in Switzerland.²⁷⁸ This finding is, however, not related to a high rate of domestic violence. On the contrary, the International Violence against Women Survey (IVAWS) has shown that women in Switzerland are considerably less often exposed to (former or present) partner violence than women living in Denmark, Costa Rica, Italy²⁷⁹ and six more countries that participated in the IVAWS.²⁸⁰ This seemingly contradictory finding could be due to the high presence of military firearms that are stored at home and easily available for domestic conflicts.²⁸¹ Also, more than half of all cases (56.7%) take place in a private dwelling.²⁸² Further, Switzerland presents, compared to other countries such as the

²⁷⁸ MARKWALDER/KILLIAS, Handbook, forthcoming; ZODER/MAURER, p. 24. See also p. 9 for an overview of other percentages of domestic homicides in other studies.

²⁷⁹ For Italy in particular, see ISTAT, p. 8.

²⁸⁰ JOHNSON/NEVALA/OLLUS, p. 40.

²⁸¹ KILLIAS/MARKWALDER, forthcoming.

²⁸² MARKWALDER/KILLIAS, Handbook, forthcoming.

Netherlands and the USA, a high share of homicides followed by the suicide of the offender.²⁸³ Moreover, within this subgroup, victims are almost exclusively killed by firearms.²⁸⁴ In general, firearms are the modal weapon of homicides in Switzerland, and the rate of Swiss gun homicides is among the highest in Europe.²⁸⁵ In 44% of the homicide cases in Switzerland, a firearm was involved.²⁸⁶ This result may be linked to the high availability of firearms in Switzerland. As the Swiss military system requires every male Swiss citizen to serve in the militia and to keep his army equipment at home, prevalence of gun ownership is higher in Switzerland than in other European countries.²⁸⁷

II. Research on robbery and other violent property crimes in Switzerland

A. Previous studies on violent property crimes

Besides official statistics on robbery or burglary offences known to police and conviction data, there are several other data sources that allow research on robbery and burglary in Switzerland. Victimization surveys, such as the International Crime Victimization Survey (ICVS),²⁸⁸ question victims of crimes about specific aspects of their crime experience, including detailed questions on the offence as well as the offender. Also, some self-reported delinquency surveys have included questions on offending and victimisation of juveniles²⁸⁹ as well as young adults.²⁹⁰

²⁸³ LIEM/BARBER/MARKWALDER/KILLIAS/NIEUWBEERTA, p. 72.

²⁸⁴ LIEM/BARBER/MARKWALDER/KILLIAS/NIEUWBEERTA, p. 73

²⁸⁵ KILLIAS/MARKWALDER, forthcoming

²⁸⁶ MARKWALDER/KILLIAS, Handbook, forthcoming.

²⁸⁷ See TSELONI/BASS, p. 365.

²⁸⁸ See N 145 et seq. for a general description of the ICVS.

²⁸⁹ See KILLIAS/AEBI/HERRMANN/DILITZ/LUCIA, for results of the International Self-Report Delinquency Study (ISRD) 1992 and 2006.

²⁹⁰ See HAAS, for a study based on young recruits in Switzerland.

B. Characteristics of robbery and burglary

- ⁹⁴ According to the Swiss victimisation survey, 7 out of 1000 persons were victims of a robbery in 2004.²⁹¹ For burglary, 1.1% of the private households were victimised in 2004, and 0.9% were touched by an attempted burglary. Thus, in international comparison, Switzerland presents average rates for robbery²⁹² and burglary²⁹³ within European countries. The same is true if we consider police-recorded crime numbers. According to the European Sourcebook of Crime and Criminal Justice Statistics 2010 (ESB 2010), Switzerland presented a rate of total 59 robberies per 100'000 population in 2007, a number that remained relatively stable during the years 2003 to 2007.²⁹⁴ For burglary, the ESB counted 761 burglaries per 100'000 population in 2007, of which 327 per 100'000 population were domestic burglaries. It can also be noted that the total number of burglaries in Switzerland decreased by 19%, the number of domestic burglaries by 16% in comparison to 2003.²⁹⁵ In sum, compared to other countries in the ESB, Switzerland's robbery rates are average; however, the rates of burglary are among the highest when considering all participant countries.²⁹⁶

²⁹¹ KILLIAS/HAYMOZ/LAMON, p. 28.

²⁹² VAN DIJK/VAN KESTEREN/SMIT, p. 74.

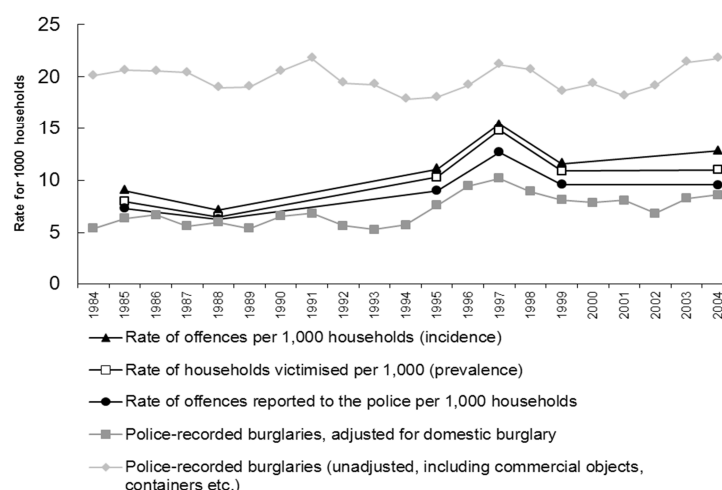
²⁹³ VAN DIJK/VAN KESTEREN/SMIT, p. 65.

²⁹⁴ WODC, p. 49.

²⁹⁵ WODC, p. 51-52.

²⁹⁶ WODC, p. 49-52.

Figure 3: Evolution of completed residential burglary (prevalence and incidence rates for 1 year per 1'000 households) according to 1984/87–2005 ICVS data and police data²⁹⁷



Longitudinal patterns of robbery as well as burglary in Switzerland are presented in figures 3 and 4. Based on ICVS as well as police data, we can see that burglaries in private homes strongly increased between 1984 and 1997, then decreased until 1999 to slightly increase again.²⁹⁸ Considering the most recent ICVS sweep conducted in 2011, it becomes apparent that domestic burglary has increased drastically, since 19 from 1'000 households experienced a burglary in the year 2010.²⁹⁹ The trend patterns are similar for robbery in public space, where victimisation increases greatly until 1995, followed by a decrease and an increase from the end of the 1990ies.³⁰⁰ Also for robbery, the last ICVS data show an increase in victimisation, since 0.9 of the surveyed persons indicated that they had become a victim of robbery in the year 2010.³⁰¹

²⁹⁷ Source: KILLIAS/HAYMOZ/LAMON, p. 105. Reprinted with permission of the authors.

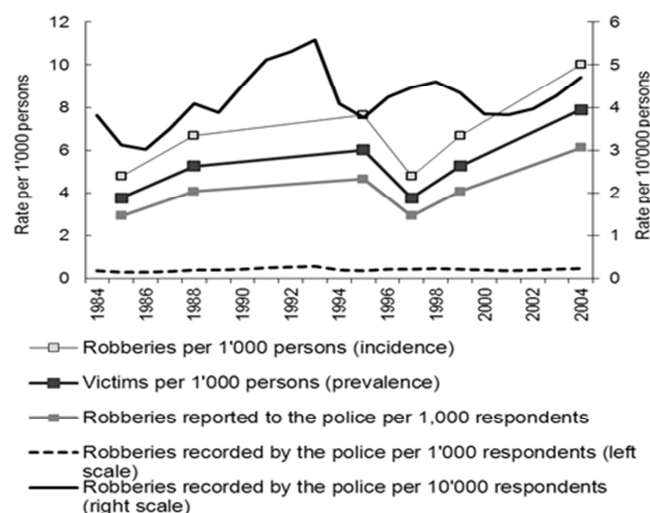
²⁹⁸ KILLIAS/HAYMOZ/LAMON, p.106.

²⁹⁹ KILLIAS/STAUBLI/BIBERSTEIN/BÄNZIGER/IADANZA, p. 11

³⁰⁰ KILLIAS/HAYMOZ/LAMON, p. 111.

³⁰¹ KILLIAS/STAUBLI/BIBERSTEIN/BÄNZIGER/IADANZA, p. 13.

Figure 4: Evolution of robbery and violent theft in the public sphere (prevalence and incidence rates for 1 year per 1'000 households) according to 1984/87–2005 ICVS data and police data³⁰²



- 96 What are more precisely the characteristics of victims, offenders as well as the circumstances of violent property crimes in Switzerland? Since official data only contain limited information, victimisation as well as self-reported delinquency surveys are required to gain a better insight. Fortunately, several such surveys have been conducted in Switzerland in the last years. Especially the ICVS data have several additional questions in regard to robbery and burglary victimisation. Hence, in analysing data from the last 3 ICVS sweeps,³⁰³ robbery mostly takes place during a free-time activity (40%), on the way to work (13%) or on vacation (12%). However, relatively little offences are committed at work (6%). Most of the victims indicate that there were more than two offenders (62%), which confirms the general finding of the literature³⁰⁴ that robbery is more often committed in groups. Also, in 86% of the cases, the offender is unknown to the victim. Robbery is

³⁰² Source: KILLIAS/HAYMOZ/LAMON, p. 110. Reprinted with permission of the authors.

³⁰³ The analysis has been undertaken for this research and will be further discussed in the second part of this work.

³⁰⁴ See N 109 et seq.

predominantly committed by male offenders, since 91% of the offenders are male, whereas only 6% are female. In all other cases, the offenders were males as well as females. According to estimations of the victims, 87% were younger than 35 years, and 63% of foreign nationality. On the other hand, victims of robbery are considerably older, with a mean age of 36 years. Further, 31% were most likely under the influence of alcohol or drugs. When it comes to the *modus operandi*, 29% of the offenders used any type of weapon during the robbery. These weapons mostly consist of knives (82%); in only 12% the offender used a firearm. The relatively low number of firearm involvement in robberies is also confirmed by police statistics from the Office of Federal Statistics; for the year 2009, only 12% of the robberies reported to the police were committed with help of a firearm.³⁰⁵

On a more local level, Eisner examined violent crime in the city of Basle and found that most of the robberies take place in public places (79%),³⁰⁶ and that these offences involve mostly strangers (98%).³⁰⁷ Also, the offenders are younger, since 88% are less than 30 years old. Thus, the author concludes that in this regard, robbery offenders can be more assimilated to property crime offenders, such as thieves and burglars, than to violent offenders.³⁰⁸ Further, only 5% of the robbery offenders are female, whereas 60% of the robbery victims are female.³⁰⁹ Also, foreign nationals are, with 34%, overrepresented within the offender category.³¹⁰ In a Zurich cohort study of recidivism for serious violent and sexual offenders, RINDLISBACHER found that 21% of the robbers recidivated for the same offence, and 58% for any offence. On the other hand, homicide offenders were less likely to recidivate in the first place (overall 25% recidivism rate), and even less likely to recidivate for another homicide (5%).³¹¹

³⁰⁵ OFS, Schusswaffen.

³⁰⁶ EISNER, p. 148.

³⁰⁷ EISNER, p. 150.

³⁰⁸ EISNER, p. 163.

³⁰⁹ EISNER, p. 167 and p. 193.

³¹⁰ EISNER, p. 210.

³¹¹ RINDLISBACHER, p. 263.

III. Research on robbery homicide

A. Review of literature on robbery homicide in Switzerland

⁹⁸ To date, no study has researched characteristics of robbery homicide in Switzerland specifically. This lack of research is mainly due to the sparse aggregated data in this field, making the study of specific subtypes of homicides difficult. However, some aspects of robbery homicide have been treated by research based on the first Swiss Homicide and Suicide Database.³¹² For instance, CHAMOT examines the victim-offender relationship in regard to the motive of the homicide and distinguishes for this purpose between expressive and instrumental homicides,³¹³ as BLOCK stipulates in his categorisation of homicides.³¹⁴ Her first hypothesis suggests that the stronger the relationship between homicide victim and offender, the more likely the motive of the homicide is to be expressive. The results confirm that within the category of “intimates”,³¹⁵ almost 90% of the homicides are expressive in nature. However, the category of non-intimates is fairly more heterogeneous in nature, with 60% of the homicide motives being expressive, versus 40% instrumental.³¹⁶ In a second hypothesis, CHAMOT stipulates that it would be easier to establish a profile for expressive homicides committed by a proxy as well as for instrumental homicides committed by a non-intimate, as these two scenarios would constitute the “norm” stipulated by research. There, however, a clear profile for instrumental homicides committed by non-intimates failed to emerge, a finding which the author explains by the small number of cases as well as the diversity of scenarios within the non-intimate instrumental group.³¹⁷ Another research based on the 2003 homicide database examines the

³¹² VILLETIAZ/KILLIAS/MANGIN.

³¹³ CHAMOT’s categorisation of instrumental homicides includes all cases where the offender attempts to improve his situation by making a rational choice of minimising the risks and maximising the profits, or by gaining some other advantage over his victims. These cases are often linked to a financial motivation.

³¹⁴ See N 78 et seq. for further elaborations concerning the instrumental vs. expressive dichotomy developed by RICHARD BLOCK.

³¹⁵ Intimates are defined as either parental relationship or boy/girlfriends or lovers. CHAMOT, p. 26.

³¹⁶ CHAMOT, p. 43.

³¹⁷ CHAMOT, p. 47.

criminal history of homicide offenders in general and as well within certain subtypes of homicides, such as criminal homicides. The findings suggest that among the total of 13% of criminal homicides in the database, 76.5% of the offenders presented a criminal history, which is significantly higher than the percentage found in the relational homicide category. The author explains this finding by the criminal “milieu” in which these offenders are generally situated.³¹⁸

Besides his master thesis based on the first Swiss Homicide and Suicide Database, RINDLISBACHER examined a Zurich cohort of 90 serious violent and sexual offenders and found that 38% of the homicide offenders had already been previously convicted of a robbery, which is much more than previous convictions for assault (with 23%). He thus concludes that homicide offenders are often robbers as well, and that this finding might be due to a certain amount of robbery homicides that occurred within this subgroup.³¹⁹ Finally, in the context of a general overview on homicide in Switzerland, robbery homicide was broadly examined by MARKWALDER/KILLIAS using data from the Swiss Homicide and Suicide Database.³²⁰ In this research, besides trends and prevalence of different types of homicides, some circumstantial variables as well as gender, age and ethnicity of victims and offenders were examined. Since the database is identical to the one used in this research, the results are congruent with those presented in part 2, with exception of three cases eliminated in this research because the offenders were not convicted of a homicide, but of assault with deadly ending.³²¹

³¹⁸ CONTAT, p. 29

³¹⁹ RINDLISBACHER, p. 273.

³²⁰ MARKWALDER/KILLIAS, Handbook, forthcoming.

³²¹ See N 21 for the inclusion criteria of this research.

B. Review of literature on robbery homicide in other countries

a) Introduction

- ¹⁰⁰ Robbery homicide research in other countries, as well as in Switzerland, heavily relies upon appropriate disaggregated data. However, the idea of creating homicide databases that cover all homicide cases over a longer period of time and including many details on case, victim and offender characteristics has been recently promoted in Europe. Such databases are now available for Finland,³²² Sweden,³²³ England and Wales,³²⁴ the Netherlands³²⁵ and Switzerland.³²⁶ In the USA, robbery homicide literature is frequently based on official data, such as data from the UCR.³²⁷ Large and detailed homicide surveillance systems, such as the Chicago Homicide Database collected by BLOCK in the 1970ies,³²⁸ are relatively rare in the USA, and thus detailed analysis of robbery homicides not as abundant as one might expect.³²⁹

b) Prevalence of robbery homicide in international comparison

- ¹⁰¹ As mentioned above, studies examining the characteristics of robbery homicide are based on homicide surveillance systems that are prone to disaggregation. Thus, information in this section mostly stems from US-American research and those European countries with large homicide databases, such as the Netherlands.³³⁰ In general, the percentage of robbery homicides within the total number of homicides is fairly similar throughout the countries. In Switzerland³³¹ as well as in the Netherlands,³³² around 7%

³²² KIVIVUORI/LEHTI/AALTONEN.

³²³ GRANATH.

³²⁴ SOOTHILL/FRANCIS/ACKERLEY/FLIGELSTONE.

³²⁵ LEISTRA/NIEUWBEERTA.

³²⁶ KILLIAS/MARKWALDER/WALSER/DILITZ.

³²⁷ See COOK, robbery; COOK, robbery violence; HENDRICKS/JENKINS/ANDERSON.

³²⁸ See BLOCK, Violent crime.

³²⁹ See DALY/WILSON; PIZARRO; LOFTIN; KUBRIN, for examples of local homicide databases.

³³⁰ See LEISTRA/NIEUWBEERTA, for details on the Dutch homicide database.

³³¹ MARKWALDER/KILLIAS, Handbook, forthcoming

of the homicide cases are robbery related. In the Finnish Homicide Monitoring System (FHMS),³³³ felony homicides make up to 10% of the total homicides. Within these homicides in context of another crime, robbery homicides constitute 4.2% of the homicide incidents, whereas 2.2% are theft and 1.5% are burglary related.³³⁴ Thus, property crime homicides make up to 7.9% of all homicide cases in Finland. In Sweden, 8% of the victims were killed during a robbery homicide between 2003 and 2006.³³⁵ In southern Denmark, 10% of all adult victims were killed during a robbery. This number decreases to 5% if only adult female victims are considered, and increases drastically to 37% if only elderly victims above 64 years are included.³³⁶ In the England and Wales Homicide Index,³³⁷ a computer based system in operation since 1976 that registers all homicides (murder, manslaughter and infanticide) known to the police, 7.4% of all homicides are theft or other gain related,³³⁸ which means that they were committed within a robbery, burglary or other gain. Analysis of UCR data from 1976 to 1985 show that 9.9% of the homicides are robbery related, and 1.4% theft related.³³⁹ Another study shows that for the years 1993 to 2002, robbery homicides make up to 8.7% of the total homicide cases in the USA.³⁴⁰ However, within the USA, the percentage might vary considerably depending on the location and the year of the analysis, since cities as well as earlier years present a higher rate of robbery homicides.³⁴¹ In this sense, 16% of the homicides in Chicago in the year 1983 were robbery related;³⁴² in Baltimore, this was the case for 17% of the homicides in 1983.³⁴³ Saint Louis had 18% of robbery homicides for the years 1985 to 1995,³⁴⁴ and Newark presented 12% of robbery related homicides during the years 1997 to 2005.³⁴⁵ In an international perspective, however, we can see that the overall

³³² LEISTRA/NIEUWBEERTA, p. 44.

³³³ KIVIVUORI/LEHTI/AALTONEN.

³³⁴ KIVIVUORI/LEHTI/AALTONEN, p. 10.

³³⁵ GRANATH/HAGSTEDT/KIVIVUORI/LEHTI/GANPAT/LIEM/NIEUWBEERTA, p. 56.

³³⁶ LETH, p. 424.

³³⁷ SOOTHILL/FRANCIS/ACKERLEY/COLLETT.

³³⁸ FRANCIS/BARRY/BOWATER/MILLER/SOOTHILL/ACKERLEY, p. 13.

³³⁹ MAXFIELD, Homicide reports, p. 675.

³⁴⁰ HENDRICKS/JENKINS/ANDERSON, p. 318.

³⁴¹ See N 102 et seq. for trends regarding robbery homicides in the USA over time.

³⁴² ZIMRING/ZUEHL, p. 3.

³⁴³ LOFTIN, p. 195.

³⁴⁴ KUBRIN, p. 148.

³⁴⁵ GRUENEWALD/PIZARRO/CHERMAK, p. 267.

share of robbery homicides is more or less equally distributed within all of the countries observed.

c) *Rates and trends of robbery homicide*

- ¹⁰² Examining trends in robbery homicide occurrence, BLOCK found, based on his Chicago database of homicides between 1965 and 1973, that robbery homicides increased from 8% in 1965 to 19% of all homicides in 1973, which constitutes a change of 309%.³⁴⁶ He also discovered that the average age of robbery homicide offenders became considerably younger over time, and that the racial composition changed as well. Whereas 80% of the male robbery homicide victims were whites or Latinos in 1965, this was the case for only 34% in 1973. Thus, there was a considerable increase of black male victims during this 9 year period.³⁴⁷
- ¹⁰³ Still looking at trends and patterns of robbery homicides and based on UCR data, COOK³⁴⁸ examined trends in robbery homicides in 52 large American cities in order to evaluate if robbery became more violent during the period of 1968 to 1983. Although homicide in general was subject to greater fluctuation during the period studied, the rate of robbery homicide has remained fairly stable meanwhile. Further, the robbery murder-robbery ratio decreased substantially in 1981. For the years 1993 to 2002, HENDRICKS/JENKINS/ANDERSON³⁴⁹ examined, within the category of workplace fatalities in general and based on UCR data as well, workplace homicides that were related to robberies, and compared those with the general robbery homicide development in the US. They found that the overall decline of workplace homicides was mainly due to a greater decline of robbery related workplace homicides and that this development was paralleled by the general decline of robbery related homicides in the USA.³⁵⁰ Robbery related homicides, with exclusion of those committed in the workplace, declined by average 7.7% during that time period, whereas the overall homicide rate declined by an average of only 4.7%.³⁵¹

³⁴⁶ BLOCK, Chicago, p. 505.

³⁴⁷ BLOCK, Chicago, p. 506.

³⁴⁸ COOK, Robbery.

³⁴⁹ HENDRICKS/JENKINS/ANDERSON.

³⁵⁰ HENDRICKS/JENKINS/ANDERSON, p. 320.

³⁵¹ HENDRICKS/JENKINS/ANDERSON, p. 319-320.

Looking at structural, cultural as well as demographic variables, 104
 GRUENEWALD/PRIDEMORE compared rates of homicide in Chicago for the
 years 1900 and 2000 in order to evaluate whether these characteristics have
 changed over time and influenced rates of homicides.³⁵² Categorising
 homicides into two circumstantial categories, namely profit-motivated and
 argument-related homicides, the profit-motivated group contained homicides
 committed during a larceny, robbery or burglary.³⁵³ This group increased
 from 13% in 1900 to 17% in 2000, which constitutes an increase of nearly
 one third of the cases. On the other hand, the argument related category
 decreased substantially during the same time span.³⁵⁴

Based on the socioeconomic strain and subcultural approaches, PARKER 105
 examined, based on data from the years 1973-75, homicide rates from 299
 central US-American cities, this by disaggregating homicide into robbery
 homicides, other felony homicides, intimate partnership homicides and non-
 intimate homicides between acquaintances.³⁵⁵ He found that poverty was not
 significantly related to robbery homicides, whereas percentage black,
 southernness and population density were significant predictors for this type
 of homicide. Thus, these results do not support the hypothesis that robbery
 homicide is a by-product of economically motivated crimes.³⁵⁶ Using the
 same structural approach, KUBRIN examined the impact of neighbourhood
 structure for disaggregated homicide types in Saint Louis for the years 1985
 to 1995 and found that disadvantage, population size as well as population
 turnover were significantly related to robbery homicides, a finding that
 somewhat contradicts the results from PARKER's research.³⁵⁷

Finally, a recent research report from the European Homicide Monitor 106
 indicates that the robbery murder rate in the Netherlands is 0.9, whereas
 Sweden and Finland have a rate of 0.6 robbery murders per million
 inhabitants.³⁵⁸

³⁵² GRUENEWALD/PRIDEMORE, p. 357.

³⁵³ GRUENEWALD/PRIDEMORE, p. 372.

³⁵⁴ GRUENEWALD/PRIDEMORE, p. 372-373.

³⁵⁵ PARKER, p. 996.

³⁵⁶ PARKER, p. 1001.

³⁵⁷ KUBRIN, p. 158.

³⁵⁸ GRANATH/HAGSTEDT/KIVIVUORI/LEHTI/GANPAT/LIEM/NIEUWBEERTA, p. 57.

d) *Characteristics of robbery homicide*

aa) *Victim characteristics*

- ¹⁰⁷ Victim characteristics were subject to several US-American studies in the 1970ies and 1980ies. Based on a large Chicago homicide database covering the years 1965 to 1973, BLOCK³⁵⁹ found that the typical robbery homicide victim was black (71%), male (82%) and between 15 and 24 years old (35% of the victims). Also, the age difference between victim and offender in robbery homicide was found to be more pronounced than in other homicides.³⁶⁰ Similar findings were replicated for Chicago by ZIMRING/ZUEHL,³⁶¹ where victims of robbery homicides were found to be mostly blacks (62%), males (81%) and with an age difference of more than 10 years in regard to the offender,³⁶² as well as for Saint Louis, where victims of felony homicides³⁶³ were also found to be mostly males (81%) and considerably older than the offenders (39 years vs. 24 years).³⁶⁴ Moreover, DALY/WILSON³⁶⁵ report that victims of robbery homicides were mostly males, namely 79.7% in their Canadian sample and 85.7% in their Detroit sample, however without finding parallel results for robbery without lethal ending, where women were equally often victimised as men. Finally, in Australia, the majority (48%) of victims of robbery homicides were 45 years or older and predominantly male (78%).³⁶⁶ The finding that robbery homicide victims are generally older could be confirmed by a Canadian study which found that the over 65-years old were more than twice (41%) as likely to become victims of a robbery homicide,³⁶⁷ as well as by a data sample of homicides in Newark which found that with a mean age of 37.28,

³⁵⁹ BLOCK, Violent crime

³⁶⁰ BLOCK/ZIMRING, p. 8.

³⁶¹ ZIMRING/ZUEHL.

³⁶² ZIMRING/ZUEHL, p. 23; CLARK, p. 456.

³⁶³ Although the category consists of “felony homicides“, it is possible to assimilate this group to robbery homicides, since only 2% within the category are not robbery related; see KUBRIN, p. 148, for the composition of the felony homicide category.

³⁶⁴ KUBRIN, p. 147.

³⁶⁵ DALY/WILSON, p. 179.

³⁶⁶ MOUZOS, p. 4.

³⁶⁷ KENNEDY/SILVERMAN, p. 313.

robbery homicide victims were much older than their counterparts in other homicide types.³⁶⁸

Based on the dataset *Murder and manslaughter 1992 – 2001*, LEISTRA/ NIEUWBEERTA examined 2389 homicide cases in the Netherlands by type of homicide, and thus presented a detailed analysis on robbery homicide victims, offenders and circumstances. The category of robbery homicides includes victims of robberies, hold-ups or burglaries and excludes drug related robbery cases, and corresponds therefore closely to the definition used in the present research.³⁶⁹ From the total of 7% of homicides that are robbery related (N=182), this subgroup includes 50% of burglary homicide cases, 37% of hold-ups and 13% of street robberies. Only 3% of the cases involve more than one victim. As well as in the US-American literature mentioned above, robbery homicides in the Netherlands mostly involve men, since 73% of the victims are male.³⁷⁰ Further, 21% of the victims are of non-Dutch nationality. Also five taxi drivers were victimised in the Dutch sample, and thus making up almost 3% of the homicide victims.³⁷¹ In a comparison with Sweden and Finland based on the same Dutch data, robbery homicide victims were reported to have a mean age of 54.5 in the Netherlands, 50.5 in Sweden and 50.7 in Finland. It could also be confirmed that robbery homicide victims thus presented a considerably higher mean age than victims of other types of homicide.³⁷²

bb) Offender characteristics

In his study on homicides in Chicago, BLOCK found that the typical robbery homicide offender presented similar characteristics to his victim, namely that they were mostly black (75%), male (83%) and relatively young, namely between 15 and 24 years old (39%). In two thirds of the cases, there were multiple offenders involved.³⁷³ These findings were confirmed by a subsequent analysis of Chicago homicides conducted by ZIMRING/ZUEHL,³⁷⁴ who found that several offenders were present in 66% of the cases, as well as

³⁶⁸ PIZARRO, p. 334.

³⁶⁹ However, in contrast to this study, LEISTRA/NIEUWBEERTA excluded robbery homicides in the homosexual milieu (LEISTRA/NIEUWBEERTA, p. 142-143).

³⁷⁰ LEISTRA/NIEUWBEERTA, p. 47.

³⁷¹ LEISTRA/NIEUWBEERTA, p. 144.

³⁷² GRANATH/HAGSTEDT/KIVIVUORI/LEHTI/GANPAT/LIEM/NIEUWBEERTA, p. 73.

³⁷³ BLOCK, *Violent crime*, p. 51.

³⁷⁴ ZIMRING/ZUEHL, p. 25.

by a Newark based study which, by logistic as well as multinomial regression, found that the number of suspects had a significant impact on the probability that the homicide was robbery related.³⁷⁵ Further, robbery homicide suspects in Newark were also found to be younger and more likely to be African American than in other types of homicides.³⁷⁶ Finally, based on homicide data from Saint Louis, KUBRIN confirms these findings, since 92% of the suspects were black, and 95% of the robbery homicides involved male offenders.³⁷⁷

- 110 Consistent with these earlier results, CLARK found in his analysis of multiple homicide offenders that in the case of robbery homicides in private homes, the offenders were younger, more likely unknown to their victims and presented more often a history of drug abuse.³⁷⁸ In this sense, KUBRIN found that for his subsample of felony homicides, 44% of the cases were drug related, and 36% alcohol related.³⁷⁹ That robbery homicide offenders are more often under the influence of alcohol was also found by a German study. There, 71% of the robbery offenders were not under the influence of alcohol, whereas this was only the case for 45% of the robbery homicide offenders.³⁸⁰
- 111 In Australia, armed robbery homicide offenders also mostly consisted of young adults (51.8% were younger than 25) and males (93.4%). In the Netherlands as well, there were several offenders present in 47% of the cases.³⁸¹ Also in regard to gender and race, the Dutch data confirms findings from US-American research: Robbery homicides mostly involve male offenders (91 %)³⁸² and offenders of foreign origin, with 41% of the offenders being of non-Dutch nationality.³⁸³ Also, with a mean age of 27.7, they are also considerably younger than their counterparts of other homicide types, a finding that is also true for Sweden and Finland (with robbery homicide offender mean ages of 25.4 respectively 28.1).³⁸⁴ These findings are also replicated in Germany, where robbery homicide offenders were

³⁷⁵ PIZARRO, p. 335 and p. 342.

³⁷⁶ PIZARRO, p. 342.

³⁷⁷ KUBRIN, p. 148.

³⁷⁸ CLARK, p. 456.

³⁷⁹ KUBRIN, p. 148.

³⁸⁰ POST, p. 64.

³⁸¹ LEISTRA/NIEUWBEERTA, p. 143.

³⁸² LEISTRA/NIEUWBEERTA, p. 47.

³⁸³ LEISTRA/NIEUWBEERTA, p. 49.

³⁸⁴ GRANATH/HAGSTEDT/KIVIVUORI/LEHTI/GANPAT/LIEM/NIEUWBEERTA, p. 82.

found to be on average 26 years old and more often of foreign nationality than the average population.³⁸⁵

cc) Relationship between victim and offender

According to the research of BLOCK,³⁸⁶ 87% of the offenders and their 112 victims were family or knew each other in 1974. This finding is atypical, since consecutive research suggests that robbery homicide is mostly a crime between strangers. Thus, ZIMRING/ZUEHL found that in 53% of all cases, the victim was a stranger to the offender.³⁸⁷ In COOK's study on robbery homicide, this was the case for 73% of the murders, and in KUBRIN's Saint Louis felony homicide sample, 49% of the cases involved strangers.³⁸⁸ In Newark, strangers accounted for 69% of the robbery homicides; the importance of this variable is also confirmed by logistic regression analysis, showing that acquaintances, friends, intimate partners and family members are less likely to be involved in a robbery homicide.³⁸⁹

dd) Location of the offence

When it comes to the location of the robbery homicide, most countries report 113 that around half of the robbery homicides take place in a residential setting. In Chicago, robbery killings mostly take place in a residential setting (36%), in comparison to robbery without lethal ending where half of the cases take place on the street.³⁹⁰ In Saint Louis, around 53% of the felony homicides take place inside a home, whereas 44% are located in a public place.³⁹¹ In Australia, 55.3% of the robbery homicides were committed in a residential setting, compared to only 7.5% of the robberies.³⁹² In the Netherlands, 55% of the cases took place in a private home.³⁹³

Another approach to robbery homicide in regard to location is led by 114 research on workplace homicide. In this field, most research found that the

³⁸⁵ POST, p. 45-46.

³⁸⁶ BLOCK, Violent crime, p. 48.

³⁸⁷ ZIMRING/ZUEHL, p. 9.

³⁸⁸ KUBRIN, p. 150.

³⁸⁹ PIZARRO, p. 334-335.

³⁹⁰ ZIMRING/ZUEHL, p. 8.

³⁹¹ KUBRIN, p. 148.

³⁹² MOUZOS, p. 4.

³⁹³ LEISTRA/NIEUWBEERTA, p. 46.

majority of homicides that happened at the work place of the victim concerned robbery homicides. In fact, RIEDEL found that 54% of the workplace homicides in California were robbery related.³⁹⁴ Similar results were presented by WALKER/RICHARDS for England and Wales, where nearly 40% of the workplace homicides were caused by a robbery gone wrong.³⁹⁵

ee) Weapon use and lethality of robbery homicide

- 115 In Chicago and for the years 1982/83, most robbery homicides involved guns (59%), and only 19% were committed by means of knives.³⁹⁶ This finding is confirmed by KUBRIN who found that 69% of the victims were killed by gunshot, whereas 13 per cent were stabbed/slashed and 9 per cent beaten to death.³⁹⁷ In Australia, 23% of the offenders used a firearm, 48.6% used another weapon and 24.8% were unarmed.³⁹⁸ In the Netherlands, within the robbery homicide category, 28% of the victims were killed by firearms, 34% by knives/stabbing, 13% by strangulation or suffocation and 25% of the victims were killed by other means.³⁹⁹
- 116 However, the essential question is to know whether the use of certain weapons in robbery increases the risk of a lethal ending. Several researchers have tried to tackle this question in comparing robbery without lethal ending and robbery killings.⁴⁰⁰ BLOCK found that three-quarters of the cases were committed with a firearm, which is a higher number than for robbery only.⁴⁰¹ In a further study based on the same database, BLOCK also found that the presence of a gun during a robbery increases the likelihood that the robbery victim will die; 2.6% of robberies where a gun was used resulted in death, whereas this was the case for only 0.6% of the robberies committed by other means. However, although the use of guns increases the risk of lethal injuries, it decreases the general risk that the victim will be injured.⁴⁰²

³⁹⁴ RIEDEL, p. 168.

³⁹⁵ WALKER/RICHARDS, p. 354.

³⁹⁶ ZIMRING/ZUEHL, p. 15.

³⁹⁷ KUBRIN, p. 148.

³⁹⁸ MOUZOS, p. 4.

³⁹⁹ LEISTRA/NIEUWBEERTA, p. 45.

⁴⁰⁰ See also N 119 et seq. for research concerning the comparison between robbery homicide and homicide alone or robbery without lethal ending.

⁴⁰¹ BLOCK, *Violent crime*, p. 51.

⁴⁰² BLOCK, *Victim-offender dynamics*, p. 751.

COOK⁴⁰³ found that the major difference between non-fatal robbery and robbery homicide consisted in the type of weapon used; in 65% of all robbery homicides, a gun was used, whereas this was the case in only 17% of all robberies.⁴⁰⁴ Also, ZIMRING/ZUEHL found that the death rate per hundred gun robberies was more than twice as high as the death rate for knife robbery.⁴⁰⁵ The above mentioned findings are furthermore confirmed by research from ZIMRING/HAWKINS who found a higher lethality of robbery and burglary in New York than in London and explained this finding by the high prevalence of gun use in New York; in fact, 85% of the robbery homicide victims in New York were killed by gunshot, whereas only 40% of robberies were actually committed with a gun. Furthermore, the higher number of lethal assaults in New York might have also contributed to this difference between the two cities. However, the difference of robbery and burglary rates is not as pronounced between the USA and other European countries, although the lethal outcome is much higher in USA. Thus, gun use is the major predictor for the difference in lethality.⁴⁰⁶ 117

Based on the assumption that robbery offenders prefer compliance over harm and are thus less likely to kill their victims than assault offenders, FELSON/MESSNER found that assault offenders were almost 4 times more likely to kill their victims than their robbery counterparts.⁴⁰⁷ Generally, guns were highly correlated with lethal outcome, since offenders who used guns were over 40 times more likely to kill their victims than offenders who did not use any weapons.⁴⁰⁸ 118

ff) Relationship between robbery, robbery homicide and homicide

COOK examined the correlation between robbery, robbery homicide and overall homicide rates, this in order to evaluate whether robbery homicide is more closely related to robbery or homicide in general. Regression analysis confirmed that the rate of change in robbery murder rate was linked to the robbery rate but not to the homicide rate.⁴⁰⁹ Thus the author concluded that there must be a direct causal link between the robbery and the robbery 119

⁴⁰³ COOK, Robbery violence.

⁴⁰⁴ COOK, Robbery violence, p. 365.

⁴⁰⁵ ZIMRING/ZUEHL, p. 16.

⁴⁰⁶ ZIMRING/HAWKINS, p. 45.

⁴⁰⁷ FELSON/MESSNER, p. 532.

⁴⁰⁸ FELSON/MESSNER, p. 535.

⁴⁰⁹ COOK, Robbery violence, p. 370.

homicide rate. However, since robberies involving guns are much more likely to result in robbery homicides, the influence of gun robberies on robbery homicide is more pronounced than that of non-gun robberies.⁴¹⁰

- 120 Examining more closely the characteristics of robbery homicides as well as the link between robberies, robbery homicides and homicides alone, COOK further used National Crime Survey (NCS) data for robbery and UCR data for homicides. In comparison to robbery victims, robbery homicide victims were found to be considerably older and more likely to be male; also, they appeared to know their perpetrator. However, the most important difference consists in the weapon use; whereas 65% of all robbery homicides were committed by guns, this was only the case in 17% of all robberies.⁴¹¹ In this aspect, robbery homicides are more closely related to non-felony homicides. Compared to non-felony homicides, robbery homicides seem to present demographic offender variables that are closer to robbery than to non-felony homicides, which means that robbery homicide offenders are more likely to be male, under 21 years old and non-white.⁴¹² They also differ from non-felony homicides in regard to the victim-offender relationship, since 85% of the robbery and 73% of the robbery murder cases involve strangers, whereas this is the case for only 12% of the non-felony homicides.⁴¹³ COOK also found a greater age disparity between victims and offenders of robberies and robbery homicides than for those of non-felony homicide. Overall, robbery homicide victims are considerably older than robbery or non-felony homicide victims. In sum, the study suggests that robbery murder is more closely related to robbery, and thus robbery prevention will also have an influence on the number of robbery murder cases.⁴¹⁴
- 121 ZIMRING/ZUEHL also compared non-lethal robbery to robbery killings in Chicago and found striking differences. Whereas robberies mostly occurred on the streets, there were many more robbery homicides in residential locations, which led the researchers to the conclusion that residential robbery

⁴¹⁰ COOK, *Robbery violence*, p. 372-373.

⁴¹¹ COOK, *Robbery violence*, p. 364.

⁴¹² See also N 109 et seq. for the characteristics of robbery homicide offenders.

⁴¹³ COOK, *Robbery violence*, p. 365.

⁴¹⁴ COOK, *Robbery violence*, p. 374.

is much more dangerous.⁴¹⁵ Robbery killings also involved strangers less often than robbery.

Analysing characteristics of robbery homicides in opposition to robberies 122 without lethal ending in Australia, MOUZOS found that robbery homicides were more likely to be committed in a residential setting (55 %) and to involve older (48 % versus 21 %) and male (74 % versus 65 %) victims.⁴¹⁶ Also, the use of weapon differed considerably between the two types of crimes. Only a quarter of the robbery homicide offenders were unarmed, whereas this was the case in 59% of the robbery offenders. Robbery homicide offenders also used guns more often (23% versus 9%).⁴¹⁷ Finally, robbery homicide also presents a considerably higher clearance rate than robbery.⁴¹⁸

In his analysis, STECK surveyed 67 robbery homicide offenders and 123 compared these offenders with a control group of 58 convicted robbers as well as with 34 men who had indicated to have overcome a financial crisis without committing an offence. His results show that in comparison with standard robbers, robbery murders more often encountered difficulties during the commission of the robbery. These difficulties include being under the influence of drugs, acquaintance with the victim, victim resistance or lack of armament. They further reported more often a sense of threat, a lack of control as well as panic and anger during the commission of the robbery. Also, they were more often under the influence of alcohol during the offence.⁴¹⁹ However, they reported less monetary problems than their standard robbery counterparts. Overall, the study also concludes that robbery murders present similar characteristics to robbers.⁴²⁰ Unfortunately, the external validity of this study is somewhat hampered by the small sample size and the non-randomised research design.

Using the same database, POST created a detailed analysis of robbery 124 homicide offenders and the situational elements of the offence. By examining biographical, psychosocial as well as circumstantial variables, POST's findings confirm that the robbery homicide group does not differ

⁴¹⁵ ZIMRING/ZUEHL, p. 8.

⁴¹⁶ MOUZOS, p. 4.

⁴¹⁷ MOUZOS, p.4.

⁴¹⁸ MOUZOS, p. 4. See N 127 et seq.

⁴¹⁹ STECK, p. 76.

⁴²⁰ STECK, p. 78.

substantially from the robbery group in regard to socio-demographic factors and thus concludes that they both originate from the same delictual source. However, in regard to the circumstantial elements of the offence, robbery homicide offenders differed considerably from offenders committing a robbery without lethal ending. There, robbery homicide offenders were found to be more often under the influence of alcohol, the offender was more often without weapon at the beginning of the offence and they seem to have known their victim more often than robbery offenders. Apart from these differences, both robbers as well as robbery homicide offenders differed consistently from the control group of non-deviant persons⁴²¹.

gg) Recidivism of robbery homicide offenders

- 125 Recidivism is a constant concern in criminal justice systems and is especially crucial for serious offenders, such as homicide offenders. However, little research exists in the area of recidivism of robbery homicides specifically. HARRENDORF examined recidivism rates of dangerous violent and sexual offenders in Germany and also included robbery homicide offenders as a special subgroup of homicide. He found a very high general recidivism rate for robbery offenders only, namely almost 60%, whereas only one quarter of the homicide offenders, among those also robbery homicide offenders, recidivated for any type of crime. For specific recidivism of violent offences, the risk of reoffending is particularly high for robbery offenders; there, more than 20% committed another violent crime. Homicide offenders in general recidivated considerably less for violent offences, since only 8.2% of them were convicted for another violent offence. However, robbery homicide offenders presented, with 12.1%, a higher recidivism rate for violent offences. Nevertheless, none of the robbery homicide offenders was reconvicted for another robbery homicide, whereas this was the case for 1.1% of the homicide offenders and 7.6% of the robbery offenders.⁴²² Furthermore, only one third of the robbery homicide offenders had, at the time of the evaluation, never been convicted before. Over 36% of them had already been convicted of another violent crime, and 13.8% had been convicted of a robbery before. Thus, robbery homicide offenders present a higher number of previous convictions than homicide offenders in general.⁴²³

⁴²¹ POST, p. 75-76.

⁴²² HARRENDORF, p. 7.

⁴²³ HARRENDORF, p. 10.

This finding is confirmed by a study on criminal trajectories of homicide offenders that are based on the Dutch homicide database as well as data from criminal record registries. There, 29% of the robbery murders are found in the highest risk group, which consists of offenders who start with the highest number of reconvictions at age 20 and show high levels of reconvictions throughout their lives. Compared to other homicide subtypes, robbery murders are the most prevalent in this high risk group.⁴²⁴

Although not specifically investigating robbery homicides, another study examining recidivism of four different types of homicides in New Jersey found that the felony homicide category as well as the altercation homicide category had higher expected recidivism rates, whereas the categories of domestic violence and accident homicides had lower expected recidivism rates. In total, there were 63% of offenders in the felony-homicide category who recidivated.⁴²⁵

hh) Clearance rate and legal outcomes in robbery homicide

In Chicago, ZIMRING/ZUEHL found that whereas approximately one out of ten robberies was solved within 2 months (13%), the clearance rate of robbery homicide was five times greater (namely 57%).⁴²⁶ However, this clearance gap could neither be explained by case characteristics, such as prior relationship or drug involvement, nor by special efforts in police investigation, since the percentage of cleared robbery killings is five times greater after two days of investigation and stays the same after two months.⁴²⁷ Australian research shows that the clearance rate of robbery homicide is 75.9%, whereas only 20.4% of the robberies in Australia are solved.⁴²⁸ On the other hand, within the homicide group, homicides occurring in the context of another crime in Australia were significantly more likely to be unsolved.⁴²⁹ This finding that felony related (or

⁴²⁴ NIEUWBEERTA, p. 57.

⁴²⁵ ROBERTS/ZGOBA/SHAHIDULLAH, p. 504.

⁴²⁶ ZIMRING/ZUEHL, p. 26.

⁴²⁷ ZIMRING/ZUEHL, p. 27-28.

⁴²⁸ MOUZOS, p. 4.

⁴²⁹ MOUZOS/MULLER, p. 3.

instrumental) homicides generally present lower clearance rates is replicated by most of the research in this field.⁴³⁰

- 128 When it comes to legal outcomes of robbery homicides, very little research is available. In the Netherlands, robbery homicide offenders are more likely to receive prison sentences (79%) than offenders killing family members or sexual murderers, whereas on the other hand, they are less likely to receive HMP⁴³¹ (18%). They also receive longer sentences than their domestic homicide counterparts; on average, a robbery homicide offender is sentenced to 8.1 years of imprisonment.⁴³² Also, based on a data sample of 17 convicted robbery homicide offenders in Germany, VOLBERT found that nine offenders were convicted of completed murder, four of completed manslaughter, one of attempted murder, one of attempted manslaughter and two of robbery with deadly ending.⁴³³ Also, the sentence length of imprisonment was between 6 and 13 years, and five offenders received life-long prison sentences.⁴³⁴
- 129 Finally, based on the first Swiss Homicide and Suicide Database,⁴³⁵ RODIEUX analysed sentences inflicted for a homicide. She found that 82% of the homicide offenders who committed the offence because of “material interests” received prison sentences, which is a higher percentage than for most other categories. Only 19% had their sentence replaced by a measure, and none of these offenders received probation.⁴³⁶

⁴³⁰ ROBERTS, p. 88; LITWIN, p. 342; ALDERDEN/LAVERY, p. 124; JIAO, p. 9; REGOECZI/KENNEDY/SILVERMAN, p. 148; RIEDEL/RINEHART, p.90; PUCKETT/LUNDMAN, p. 184. For mixed results see REGOECZI/JARVIS/RIEDEL, p. 155; LITWIN/YILI XU, p. 107.

⁴³¹ HMP (Her Majesty’s Pleasure), also called TBS in Dutch, is a form of detention applied in addition to or instead of a punishment if the offender is not fully responsible for his/her crimes due to mental disturbances and if there is a risk of recidivism for a similar crime. See NIEUWBEERTA, p. 49.

⁴³² LEISTRA/NIEUWBEERTA, p. 146-147. See also BIJLEVELD/SMIT, p. 1003, who found homicides that were robbery related received considerably harsher punishment than intimate partner homicides, parent and child killings.

⁴³³ See N 13 for more information about the legal qualification of robbery homicide in Germany.

⁴³⁴ VOLBERT, p. 102.

⁴³⁵ VILLETIAZ/KILLIAS/MANGIN.

⁴³⁶ RODIEUX, p. 36.

IV. Synthesis

Due to very sparse data and research in this field, it is difficult to draw a general picture of trend patterns of robbery homicides. The few studies available only concern the USA and are very punctual in their time frame. Even in the USA, there is no study that continuously compiles trends of robbery homicide from earlier years to nowadays. Furthermore, studies examining trends of robbery homicides specifically are virtually non-existent in Europe. On the other hand, information on the prevalence of robbery homicide in different countries in Europe as well as in the USA is available due to a large surveillance system prone to disaggregation. In general, the prevalence of robbery homicide within the total share of homicide is relatively equal throughout the countries. Dutch, Finnish, English and Swiss data show percentages of robbery homicides around 7 to 8%, and US-American research has shown a slightly higher percentage of around 9 to 10%. Due to the massive decrease of crime in general but also homicide and robbery homicide in particular in the USA during the last two decades, the time span on which the calculation is based is very important. Accordingly, more recent data show robbery homicide percentages that can be assimilated to those found in Europe.⁴³⁷ 130

Considering the above mentioned research on robbery homicide, the “stereotypical” robbery homicide happens between predominantly male and older victims and young male offenders of either foreign ethnicity or minority background. Also, robbery homicide is a group crime, since multiple offenders are often present. In most cases, the victim and the offender are strangers to each other. Although gun use varies according to the location of the study, research could show that firearm use in robbery increases the risk of a lethal ending. Also, research suggests that robbery homicide offenders more often present a criminal history and are thus more likely to recidivate. Finally, robbery homicide presented some substantial difference in regard to robbery without lethal ending, since robbery homicides were more likely to involve older victims known to the perpetrator, firearms as *modus operandi* and residential settings as locations. Nevertheless, there are some indications that robbery homicides are more closely related to robbery without lethal ending than non-felony homicides, since robbery homicide offenders present more demographic similarities to 131

⁴³⁷ See N 302.

robbery offenders than homicide offenders and are also less likely known to their victim than homicide offenders in general.

Part 2: Robbery homicide in Switzerland

§ 5 Overview

The second part of this study is dedicated to an empirical analysis of robbery homicides in Switzerland that occurred between 1980 and 2004. Furthermore, this analysis will be completed by a comparison to homicides other than predatory property crime homicides in our database, as well as a category that includes robberies without lethal outcome based on crime victimisation data from the ICVS Switzerland.⁴³⁸ § 6 enumerates the research hypotheses and provides an overview of the databases used as well as data coding procedures within these data sources. § 7 is dedicated to an overview of the typology of robbery homicide cases in the database and offers an excursus on crime precipitated homicides. In § 8, victim and offender characteristics are examined, using robbery homicides, homicides without robbery and robbery without lethal outcome as unit of analysis. § 9 examines the situational elements of robbery homicides, homicides without robbery and robbery without lethal outcome. § 10 and § 11 deal with variables related to the police investigation respectively the legal outcome of the robbery homicide. § 12 puts the bivariate findings in a multivariate context. Finally, § 13 consists of a comparison of robbery homicide in the USA and in Switzerland by using data from the UCR.

⁴³⁸ See COOK, Robbery violence, for a similar approach.

§ 6 Methodology

I. Research hypothesis

- ¹³³ In consideration of the above mentioned body of literature regarding robbery homicide and its characteristics,⁴³⁹ I can deduce several expected characteristics of robbery homicide victims, offenders and circumstances in Switzerland. Therefore, following research hypotheses are postulated:

Hypothesis 1: Robbery homicide victims are expected to be older than their counterparts in the robbery as well as in the residual homicide category.

Hypothesis 2: Robbery homicide offenders are expected to be younger than their counterparts in the homicide category and to be more likely of foreign ethnicity or member of a minority.

Hypothesis 3: There tend to be more multiple offenders involved in a robbery homicide.

Hypothesis 4: Robbery homicide is expected to present a higher share of stranger relationships than the standard homicide group, however a lower share of the latter in regard to robbery without lethal ending.

Hypothesis 5: Robbery homicide is, in general, more closely related to robbery than to other homicides.

Further, concerning the legal analysis of robbery homicides and based on the legal homicide definitions in the Swiss Criminal Code,⁴⁴⁰ I expect robbery homicide offenders to be:

Hypothesis 6: more likely convicted of murder than their counterparts in the standard intentional homicide category.

Hypothesis 7: and consequently face longer prison sentence than the non-robbery homicide group, since murder as an aggravated form of homicide implies harsher sentences.

⁴³⁹ See N 98 et seq. for details.

⁴⁴⁰ See N 23 et seq. for details.

II. Data

A. Introduction

As already mentioned in the review of literature in part I, little empirical knowledge is available on homicides in Switzerland in general, and even less so on robbery homicides specifically. This research is based on the only exhaustive database including all types of homicides in Switzerland, the Swiss Homicide Database.⁴⁴¹ In order to ensure a comparison with robbery cases without deadly endings, data from ICVS Switzerland were used. The following chapters give an overview of the databases as well as methodology used for this research. The inclusion criteria for this study have already been treated in the first part of this research.⁴⁴²

B. The Swiss Homicide Database

a) *General description of the database*

The Swiss Homicide Database is part of a research project realised by the Universities of Zurich and Lausanne and sponsored by the Swiss National Science Foundation (SNF).⁴⁴³ The SNF project's goal was to improve the empirical knowledge about homicides and suicides in Switzerland by creating a national homicide and suicide database based on legal medicine, police and court files. The first part of this SNF project started in 2001 and was limited to 4 cantons in the French-speaking part of Switzerland.⁴⁴⁴ After completion of this first SNF-project, the SNF sponsored an extension of the project to all Swiss cantons. The extended Swiss project differs only slightly from the original project. In order to shorten the already complex data collection process, only completed homicides were included in the data collection, excluding the attempted homicide cases previously considered. Also, some questions have been added to the original questionnaire in order to complete the database.

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⁴⁴¹ KILLIAS/MARKWALDER/WALSER/DILITZ.

⁴⁴² See N 21 et seq.

⁴⁴³ KILLIAS/MARKWALDER/WALSER/DILITZ.

⁴⁴⁴ The first project included homicides in the cantons of Vaud, Neuchâtel, Valais and Fribourg; see VILLETIAZ/KILLIAS/MANGIN.

As a general rule, only cases which were assumed to be committed intentionally by the offender were considered in the data collection process. This means that only cases where the offender was found or expected to be found guilty of an article 111, 112, 113, 114 and 116 crime of the SCC were selected,⁴⁴⁵ whereas negligent manslaughter or assaults followed by death of the victim were not taken into consideration. However, this selection process was sometimes difficult to achieve, as legal medicine files, which constituted the starting point of the data collection, do not usually include legal classification of the offence. Hence, it was sometimes not possible to clearly know from the beginning whether the offender would be found guilty of an intentional offence or not,⁴⁴⁶ which is the reason why there are a limited number of marginal cases where the intention of the offender was not clear from the beginning.⁴⁴⁷ Furthermore, some offenders were consecutively discharged by the courts.

b) Data collection

- 137 As a first step in the data collection process, homicide cases were identified through autopsy registries in the Institutes of Legal Medicine of Lausanne, Geneva, Berne, Basle, Zurich, St. Gallen, Chur and Lugano. All intentional homicide cases that took place in Switzerland between the years 1980 and 2004 were collected. Therefore, the study presents a complete dataset of all homicides that took place in Switzerland during this span of time, with exception of the Institute of Legal Medicine in Berne, in which the records were only available from 1991 on, as well as some cantons in which data was not available electronically before 1985. Further, cases where no autopsy was performed are not included in the study. However, such cases are rare in Switzerland, at least in fatalities with an unknown cause where a homicide cannot be excluded from the beginning.
- 138 In a second step, police and court files were used to complete the data from the Institutes of Legal Medicine. As autopsy files mostly contain information about the homicide victim as well as about medically relevant circumstances

⁴⁴⁵ See N 23 et seq. for definitions of homicide in Switzerland.

⁴⁴⁶ This is especially true for cases where no trial had been held yet. Furthermore, for cases with unknown offenders, the intent of the offender was determined by the present circumstances.

⁴⁴⁷ There are 30 cases with known offenders in the standard homicide category which can be classified as “borderline” intentional.

of the act, this step was particularly important for data concerning offender characteristics, legal qualifications and circumstances of the act that were not relevant to medical examiners and therefore rarely present in autopsy reports. Finally, the earlier data collection of the four French-speaking cantons has been updated to the year 2004 and merged into the new nationwide sample.

c) Data coding

aa) Case selection for the analysis

The data collected in the Institutes of Legal Medicine, from the police or in court were coded electronically, using a coding file for general case information, one for victim information and a third for offender information. FileMaker program was used for registering data electronically. The cases were categorised according to circumstantial evidence found in the files. 139

In order to isolate all the homicide cases linked to a predatory property crime homicide, I selected in a first step all cases that were categorised as being committed during a robbery, hold-up or theft based on the circumstantial variable. In order to cover all possible cases with connection to a property crime and include also cases that were classified incorrectly or that were classified under another category (although they presented a property crime in conjunction with the homicide), the remaining cases were then individually reviewed. According to the case description, some of these cases were added to the dataset. However, in order to guarantee a certain congruity of the data, I decided to eliminate from the general analysis robberies in the drug milieu (N=9) as well as crime precipitated homicides (N=14). The latter are examined shortly in § 7.VI. The reason for this exclusion consists mainly in the typology of the victim. I judged that victims of drug related robbery homicides as well as crime precipitated homicide victims stem from a criminally inclined milieu and therefore might present considerably different characteristics from victims of “regular” robbery homicide.⁴⁴⁸ As will be visible in § 7.VI, the analysis of the characteristics of crime precipitated robbery homicide victims, especially the high involvement in prior criminal activities of the latter, confirms this hypothesis. Also, as treated in N 48-49, illegal substances cannot be subject 140

⁴⁴⁸ See KILLIAS/KUHN/AEBI, N 1142 et seq., as well as MITCHELL/WILSON/MACKENZIE, p. 4, for differences in delinquency rates of drug addicts.

of theft and are thus not included in the analysis. However, cases where drug addicted offenders committed a robbery homicide on a victim who was not involved in the drug milieu were included,⁴⁴⁹ this precisely because I estimated that their victims will present similar characteristics to victims of robbery homicide in general.

- ¹⁴¹ The comparison category of “other homicides” is residual and consists therefore of all other types of homicides in our database.⁴⁵⁰ The composition of this category is visible in figure 8 in N 160.

bb) Missing data

- ¹⁴² Although the Swiss homicide and suicide research project combined several data sources in order to obtain a complete dataset, the problem of missing data could not be avoided completely. Indeed, legal medicine as well as police and court records do not systematically include all pieces of information that are requested in our coding list. This is particularly true for variables that are not directly relevant to the police investigation, such as provenance of firearms, substance abuse, mental illness or criminal history of victims or variables regarding offenders who were deceased and thus not prosecuted anymore. Therefore, it is essential to deal with missing data in a coherent way. In this research, the technique of complete case analysis (or listwise deletion) was chosen, one of the most commonly used techniques to deal with missing data in homicide research.⁴⁵¹ This technique implies that all cases with no relevant information available were excluded from the analysis, and therefore only “valid” cases were considered. When it comes to questions in our coding list that allow for a “no” answer, the items left empty and the “no” answers were combined, given that an “empty” cell could also mean that the characteristic in question (for example, a history of alcohol abuse) was not present. This proceeding is justified in regard to the nature of the official files that serve as foundation of the data collection, since coroners, police officers as well as court officials usually collect all the important information on a case, and if this information is missing in the file, one can assume that it was not present during the investigation. In other cases, the missing values only consist of cases with unknown offenders,

⁴⁴⁹ The so called „*Beschaffungskriminalität*“.

⁴⁵⁰ For an overview of other types of homicides in Switzerland, see MARKWALDER/KILLIAS, Handbook, forthcoming.

⁴⁵¹ RIEDEL/REGOECZI, p. 170.

cases where the court files were not accessible and cases from the 2001 project that did not collect all information included in the 2004 coding list.⁴⁵²

d) Data limitations

As a database based on autopsy records, cases where no autopsy was performed are naturally lacking. However, in cases of homicide, an autopsy is almost always ordered by legal officials, and the number of missing cases due to the non-existence of an autopsy is therefore small. In fact, a comparison of homicides followed by suicide in the Swiss database with homicide-suicide reports from the Swiss newspaper NZZ between 1995 and 2004 has shown that only 16% of all cases were not reported in our database, but reported in the newspaper.⁴⁵³ Homicide-suicide constitutes, however, a special category of homicide, since the death of the offender usually closes the investigation and an autopsy of the persons involved is not routinely ordered. Thus, for other homicide constellations, the proportion of cases not examined by coroners is certainly far below 16%. For robbery homicide cases in particular, this limitation is certainly not to be taken into serious consideration, as it can be assumed that for all victims of a robbery homicide, autopsies are ordered and their bodies therefore present in the Institutes of Legal Medicine.

Further, some of the earlier cases before 1985 might be missing due to the non-availability of these data in electronic format, and the Institute of Legal Medicine in Berne only had records available from 1991 on.⁴⁵⁴ Also, other limitations of the data might result from difficulties in classification of the homicides by legal medicine, police and courts.⁴⁵⁵ In general, the motivations of a homicide are sometimes difficult to determine, as several underlying motivations might come into play. For the specific case of homicides in the course of robbery, the difficulty lies first of all in the composite nature of the offence. We are not only in presence of a property

⁴⁵² For the robbery homicide cases, there were 16 offenders unknown, one case where the information was not accessible and 10 cases were from the 2001 project and thus lacked some questions added in the questionnaire of 2004. For the standard homicide cases, 156 offenders were unknown, 84 cases with no access to the court files and 176 cases were from the 2001 project.

⁴⁵³ MARKWALDER/KILLAS, NZZ-Berichte, p. 6.

⁴⁵⁴ See also N 137-138.

⁴⁵⁵ See ZIMRING/ZUEHL, p. 4, for further information about the difficulty in establishing homicide motivations.

offence, but also of a homicide, meaning an offence against the physical integrity of a person. Therefore, it is sometimes difficult to determine whether the offender's first goal was to steal from the victim, and consecutively killed him/her, or whether his first purpose was to kill the victim and then committed the property crime.⁴⁵⁶ Accordingly, whereas some of these cases will be classified as robbery homicide, others might be considered as having other motivations and therefore will be classified under another category.⁴⁵⁷ Second, research⁴⁵⁸ has established that a considerable share of robbery homicide offenders is unknown to their victims. Therefore, we can assume that the share of robbery homicide cases in the category of undetermined-motive killings will also be disproportionate.⁴⁵⁹ Thus, the numbers of robbery homicides in the database are most likely undercounts. Finally, as robbery homicide is a rare event in Switzerland,⁴⁶⁰ the validity of the data might be limited, due to the small number of incidents.

C. The International Crime Victimization Survey (ICVS)

a) General description of the database

- 145 The International Crime Victimization Survey (ICVS) was first launched in 1989 and took place in 14 countries.⁴⁶¹ With 1000 respondents randomly selected throughout Switzerland, it constituted the second national victimisation survey conducted in Switzerland⁴⁶² and was repeated in 1996 (with 1000 respondents), 1998 (with 3000 respondents), 2000 (with over 4200 respondents), 2005 (with 3800 respondents)⁴⁶³ and most recently in 2011 (with 2035 respondents).⁴⁶⁴ Using an internationally standardised

⁴⁵⁶ See ZIMRING/ZUEHL, p.34 et seq., for a very good illustration of this problem.

⁴⁵⁷ See LOFTIN, for an example of the inconsistency in classifying robbery homicide.

⁴⁵⁸ See N 112.

⁴⁵⁹ COOK, Robbery, p. 483; ZIMRING/ZUEHL, p. 5; REGOECZI/KENNEDY/SILVERMAN, p. 141; MAXFIELD, Homicide reports, p. 680-681.

⁴⁶⁰ See N 161-162 for numbers of robbery and burglary homicide in Switzerland.

⁴⁶¹ See VAN DIJK/MAYHEW/KILLIAS, for more information about the 1989 ICVS survey.

⁴⁶² The first nationwide victimisation survey in Switzerland was conducted in 1984 and was first limited to the French-speaking part of Switzerland. However, this survey was extended to the German- and Italian-speaking part of Switzerland in 1987. Before this survey, only one victimisation survey in Switzerland had been conducted by CLINARD. For details, see KILLIAS/HAYMOZ/LAMON, p. 1.

⁴⁶³ KILLIAS/HAYMOZ/LAMON, p. 1.

⁴⁶⁴ KILLAS/STAUBLI/BIBERSTEIN/BÄNZIGER/IADANZA, p. 8.

questionnaire, the ICVS not only allows the comparison of criminal victimisation within different regions of Switzerland, but also assesses Switzerland in an international context of crime. Furthermore, the five sweeps of ICVS show trends and developments of crime and victimisation during the last 15 years and therefore present a longitudinal character as well.

In order to compare non-lethal robbery from the ICVS to lethal robbery cases from the homicide database, I used data based on three sweeps of the ICVS, which concern the years 2005, 2000 and 1998. The reason for including only these three sweeps consists mainly in comparability issues. Whereas the last three ICVS questionnaires are mainly identical, the versions from the years 1996 and earlier present some changes in their content as well as in the definitions of crimes and would have been difficult to merge. Furthermore, the most recent sweep could not be considered because the project was still ongoing during the compilation of this research. ¹⁴⁶

b) Data collection

From the beginning, the ICVS was conducted by computer-assisted telephone interviews (*CATI*). The surveyed persons were randomly selected by the computer and then guided through the questionnaire by the interviewer. As the questionnaire appeared electronically on the screen, the interviewer could easily manoeuvre through the survey, and non-relevant questions were automatically filtered out by the computer program. This method has the advantage of being relatively cost-efficient, especially in comparison to standard interviews that are very costly. Also, research has shown that the choice of survey method has only a weak impact on the results,⁴⁶⁵ whereas the structure of the survey itself is of greater importance.⁴⁶⁶ ¹⁴⁷

⁴⁶⁵ KILLIAS, *suisses face au crime*, p. 25 et seq.; SCHERPENZEEL, p. 7 et seq.

⁴⁶⁶ Especially the chronological classification of the incidents is of major importance; see KILLIAS/HAYMOZ/LAMON, p. 15; VAN DIJK/VAN KESTEREN/SMIT, p. 22.

c) Data coding

aa) Case selection for the analysis

- 148 In order to compare lethal robbery cases to non-lethal robberies, I decided to select all robbery cases in the ICVS database. The reason why I limited the comparison to non-lethal robbery victimisation only and did not include other property crimes, such as burglary or theft, is twofold. First, as my research focus lies on homicides committed in the course of a contact property crime, I am interested in comparing the first to a category where a contact property crime occurs, however without lethal ending. Therefore, I am only interested in property crimes that are characterised by an immediate contact as well as the presence of violence or threats of violence towards the victim, which is why theft is not considered.
- 149 Second, I have also excluded burglary from the analysis. For burglary without immediate contact with the victim, the above mentioned limitation is also valid. Further, all burglary cases where the victim was present during the burglary, could be assimilated to a contact property crime. However, the ICVS does not reveal whether the victim was threatened or injured, nor does it include questions regarding the characteristics of the offender. Therefore, as a considerable share of information is lacking, I have decided to exclude these cases from the analysis as well.
- 150 Further, the included cases of robbery victimisation mostly occurred within Switzerland (83%). However, a small number of victimisations happened outside Switzerland (17%). In order to avoid any further decrease of the already small number of robbery cases in the ICVS data (N=115), I decided to include all robberies, whether they occurred in Switzerland or abroad.

bb) Missing data

- 151 Missing data in surveys conducted through interviews are, in general, not very common. 'Don't know' and 'refusals' are the only missing values in the ICVS, besides some structural missing data that result from inconsistent answers.⁴⁶⁷ These missing values were, according to the technique of

⁴⁶⁷ VAN DIJK/VAN KESTEREN/SMIT, p 39-40, for general information about the management of missing data in the ICVS.

complete case analysis (or listwise deletion) used in the homicide database as well, excluded from the main analysis.

d) Data limitations

In general, victimisation survey data also include cases that were not reported to the police and therefore present a more complete picture of crime in society than police or court statistics.⁴⁶⁸ Therefore, underreporting is not an issue in victimisation surveys. Limitation of the comparison with ICVS data consists in the comparability to robbery, burglary and theft homicide in general. In the ICVS, I chose to select only robbery cases. I therefore did not include burglary cases where the victim had contact with the offender because the ICVS did not raise information about the offender in these cases. Therefore, the two groups do not match perfectly. Also, limitation of the validity of the data might arise because of the relatively small number of cases.

III. Method

In order to examine the characteristics of robbery homicides, basic descriptive analysis was used, and chi-square tests were conducted in order to evaluate the statistical significance between the variables. Wherever possible, robbery homicides were compared to robbery without lethal outcome and homicides without connection to a property crime. This comparison aims to investigate whether robbery homicides are more closely related to robbery or whether they are more similar to the crime of homicide. However, a *caveat* consists due to the fact that the “other homicide” group is also very diverse and not homogeneous; the intimate partner/family and acquaintance killings constitute the biggest share, but there are also other criminal milieu cases, sexual homicides and homicides due to various reasons that are aggregated into one residual category. However, splitting up the other homicide category into subgroups would have been largely beyond the scope of this study, and has thus been omitted.

In a second step, the results from the bivariate frequency analysis were used in order to conduct multivariate logistic regression analysis.⁴⁶⁹ Since there

⁴⁶⁸ In this sense, see ZIMRING/ZUEHL, p. 329.

⁴⁶⁹ See N 287-288 for more information about logistic regression analysis.

are relatively few cases available, the logistic regression is limited to the independent variables with the strongest statistical significance in the frequency analysis.

§ 7 Typology of the robbery homicides in the database

I. Introduction

- 155 The database of predatory property crime homicides is composed of several subtypes. For the purpose of this study, I distinguish between homicides in the context of robbery and burglary. The reason for above mentioned categorisation is mainly legal: the main distinctive character consists of the legal definition of the property crime that led to the homicide in question. Whereas robbery homicide is committed during a robbery attack of the offender, burglary homicide encloses all circumstances where the offender had to unlawfully enter premises in order to steal something from and harm the victim.⁴⁷⁰
- 156 In this chapter, a short overview of the epidemiology of these two categories is given; however, for the general analysis, the subcategories are merged into one predatory property crime category in order to increase the number of cases and improve the quality of the analysis. Nevertheless, it will be mentioned in the further analysis if one of these two subtypes presents any particularities or distinctive characteristics. Finally, this chapter presents a brief excursus on crime precipitated homicides as a specific (“reversed”) type of predatory property crime homicide.

II. Rates and trends

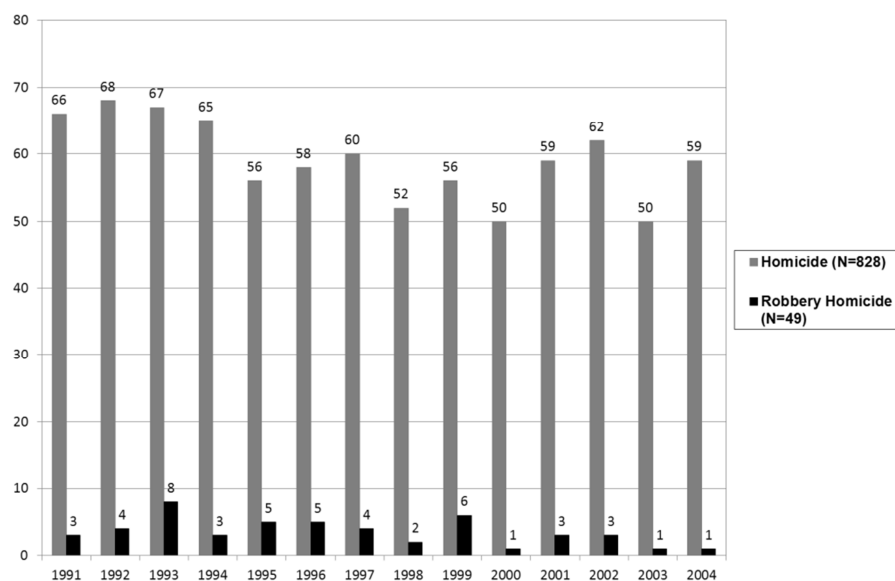
- 157 Although there have been very few robbery homicide cases in Switzerland over the last twenty years, the distribution of cases from 1991 to 2004 is presented in figure 5. Before 1991, a trend analysis is not possible, since

⁴⁷⁰ See N 34 et seq. for the legal definitions of robbery and burglary.

some of the legal medicine institutes did not conserve all files and hence the sample cannot be considered to be complete.⁴⁷¹

As is visible in figure 5, the occurrence of robbery homicide varies between 158 one case and 8 cases per year in the observed time span, and consists of average 4 cases per year. A trend pattern is not visible, which is probably due to the very low absolute number of cases. In relation to the general population in Switzerland, the occurrence of a robbery homicide is on average 0.05 per 100'000 persons. Based on the number of victimisations, the average value remains 0.05 and thus means that one out of two million persons becomes a victim of a robbery homicide, a number that is extremely low. In comparison, the rate for homicide in general is higher but still very low in international comparison,⁴⁷² since on average 0.9 homicides occurred per 100'000 inhabitants during the years 1991 and 2004.

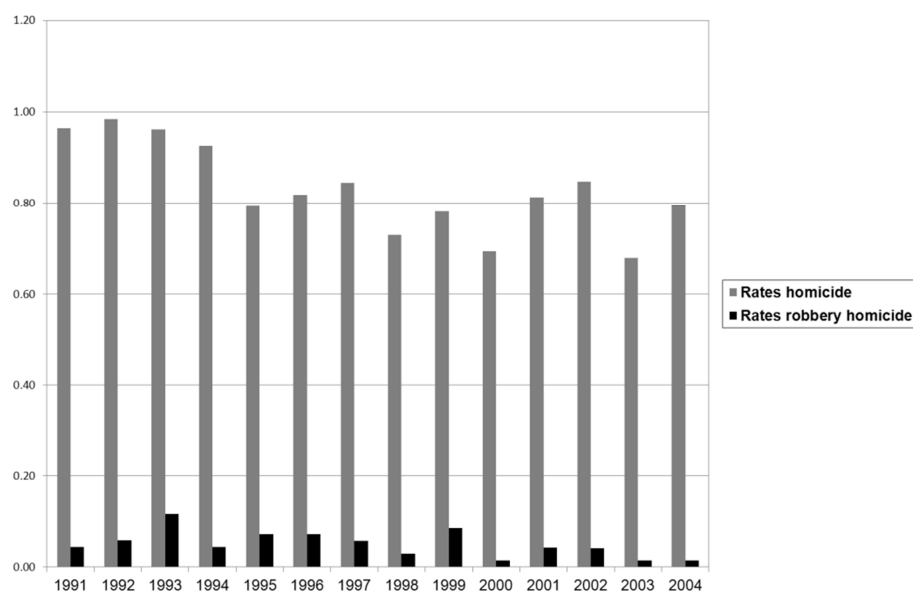
Figure 5: Absolute numbers of homicides without robbery and robbery homicides, in % of cases (years 1991 to 2004, N=877)



⁴⁷¹ See N 143-144 for limitations of the homicide database.

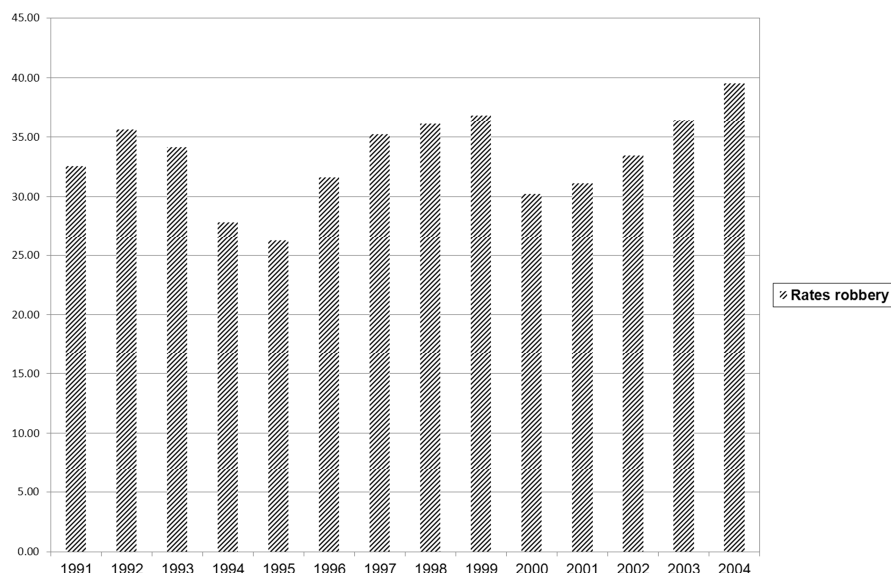
⁴⁷² See N 89 et seq.

Figure 6: Rates per 100'000 of homicide without robbery and robbery homicide (based on number of cases, years 1991 to 2004)



- 159 If we compare robbery homicide rates to rates of robbery without lethal ending based on data from police statistics in figure 7, it is visible that the risk of becoming a robbery victim in Switzerland is considerably higher, since the mean rate of robbery between 1991 and 2004 is 33 per 100'000 inhabitants. However, trends in robberies are not congruent with trends in robbery homicide or homicide alone if we compare the distribution of rates in figures 5 and 6.

Figure 7: Rates per 100'000 of police recorded robberies in Switzerland, years 1991 to 2004 (Source: OFS, Straftaten)

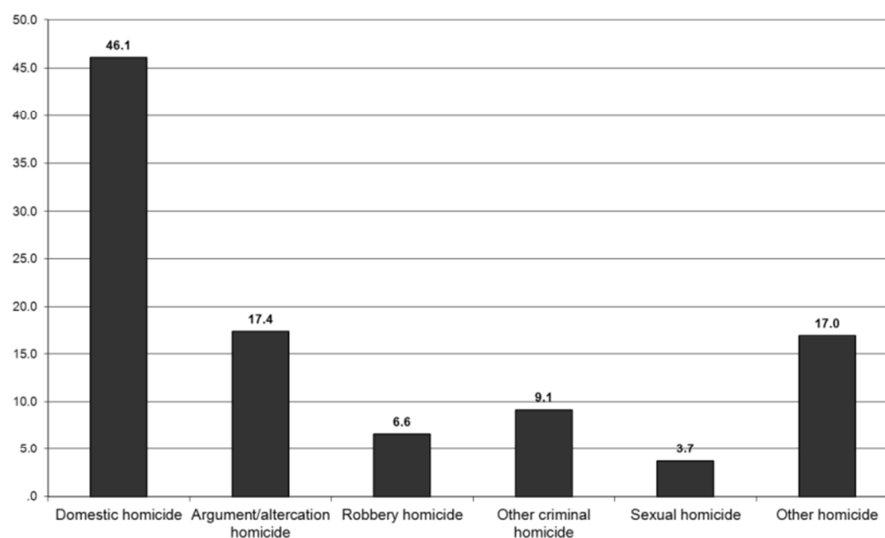


III. Proportion of robbery homicides

Out of the 1313 homicide cases in Switzerland between 1980 and 2004, ¹⁶⁰ robbery homicide makes up for 7% of all cases (N=87), whereof 5.3% concern the “classical” robbery homicide (N=70) and 1.3% (N=17) homicides within burglaries. Thus, the overall proportion of robbery homicide in Switzerland is similar to other countries in Europe and overseas.⁴⁷³ Unfortunately, due to the low number of cases, changes in robbery homicide characteristics over time, such as violent patterns or the change of clearance rates, could not be examined.

⁴⁷³ See N 101 for an overview on the proportion of robbery homicides in other countries.

Figure 8: Typology of homicides in Switzerland, in % of cases (N=1313)

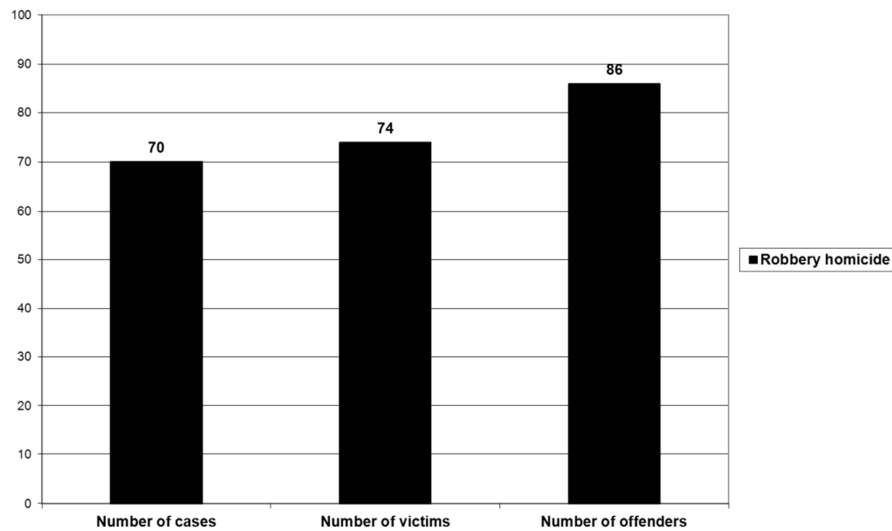


IV. Robbery homicide *stricto sensu*

- ¹⁶¹ Robbery homicide can be considered the “classical” case of a predatory property crime homicide and constitutes, with 70 cases out of 86, the largest category in the database. 86 offenders ended the life of 74 victims. In order to be selected for the robbery homicide category, the homicide had to be committed in the context of a robbery attack of the offender. The Swiss legal definition of robbery has been used as inclusion criteria for this category.⁴⁷⁴ In 13 cases, the offender could not be found and therefore remains unknown. In these cases, only victim and circumstantial information on the robbery homicide are available.

⁴⁷⁴ For the definition of robbery, see N 40 et seq.

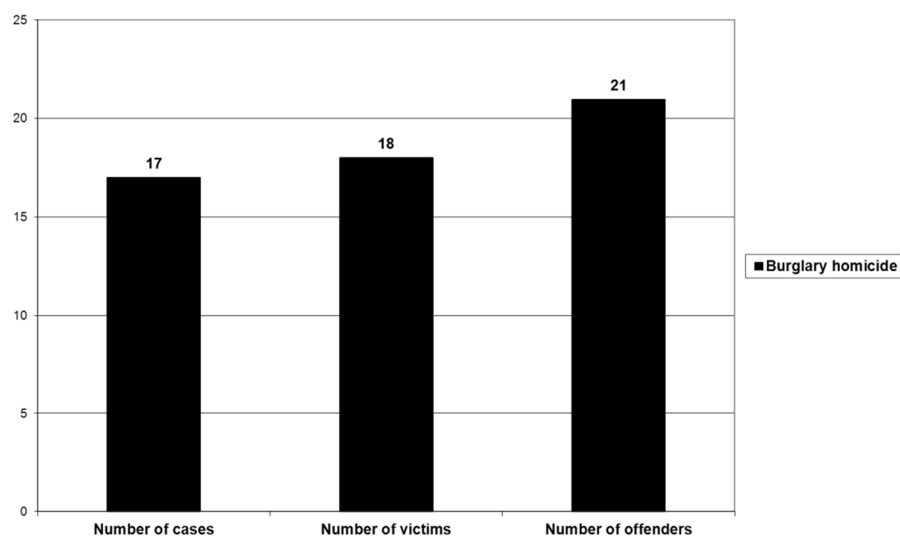
Figure 9: Number of cases, victims and offenders of robbery homicide



V. Burglary homicide

The category of burglary homicides includes all homicides committed in the context of a burglary. The definition of burglary can be found in N 45-46. In the database, there are 17 cases of burglary homicide, with 18 victims being killed by 21 offenders. In 3 of these cases, the offender was unknown to official authorities, which is why we do not have offender information for these cases.

Figure 10: Number of cases, victims and offenders of burglary homicide



VI. Excursus: Homicide victimisation of the property crime offender in the course of a robbery or burglary

- ¹⁶³ As mentioned earlier in this research,⁴⁷⁵ I excluded homicides that occurred in the context of a robbery or burglary where the initial property crime offender became the victim of the homicide. This particular constellation where the offender of a crime finally becomes victim of a homicide due to his involvement in criminal behaviour is referred to as *crime precipitated homicide* by COPES/KERLEY/CARROLL⁴⁷⁶ and has led to mainly US-american research.⁴⁷⁷ Probably, the reason for this scientific interest in the USA is connected to the fact that the USA have a very liberal law on firearms, a very high number of gun owners and that it is often indicated that these guns were used for defensive purposes.⁴⁷⁸ Thus, the scenario of

⁴⁷⁵ See N 21.

⁴⁷⁶ COPES/KERLEY/CARROLL, p. 242.

⁴⁷⁷ See COPES/KERLEY/CARROLL; KERLEY/COPES/HOCHSTETLER/CARROLL.

⁴⁷⁸ McDOWALL, p. 132.

offenders being killed during their initial offence constitutes quite a frequent situation and is also classified among the different types of homicides, however not being considered as criminal but as justifiable homicide.⁴⁷⁹

In Switzerland, what is referred to as *crime precipitated homicides* in general, but specifically killings of robbery or burglary offenders during their offence by victims of the property crime or police officers are very rare events. Over the period of 1980 to 2004, only 3% (N=44) of all homicide cases concerned situations where an offender was killed during the commission of a crime. Among these few cases, 14 crime precipitated homicides happened in the context of a robbery or burglary, which constitutes 34% of the overall crime precipitated homicides and only 1% of the total homicides. In total, 16 offenders and 14 victims were involved. Therefore, due to the low number of these cases, statistical analysis is limited. Consequently, this excursus is restricted to basic victim and offender variables as well as circumstantial elements proper to crime precipitated homicides in the course of robbery or burglary. 164

Table 1 shows the basic characteristics of victims and offenders as well as the circumstances surrounding robbery related crime precipitated homicides. It is first of all very striking that crime precipitated homicides involve only male participants, since all victims and offenders are males. This is extraordinary, considering that the percentage of female victims in robbery homicides consists of 35%, and in homicide in general even more, since 45% of the victims are females.⁴⁸⁰ However, this fact can be explained by the “reversed” victim category of crime precipitated homicides, given that the victim initially is an offender of a property crime. Hence, as we have already established earlier, male offenders are highly overrepresented in the field of violent property crimes.⁴⁸¹ 165

⁴⁷⁹ See MACDONALD/PARKER, p. 189-190. See also FBI, Table 14, for numbers on justifiable homicide by law enforcement, and FBI, Table 15, for numbers on justifiable homicide by private citizens in the USA.

⁴⁸⁰ See N 170.

⁴⁸¹ See N 94 et seq. for characteristics of robbery and burglary offenders in Switzerland.

Table 1: Characteristics of victims, offenders and circumstances of crime precipitated homicides

	Victims (in %)	Offenders (in %)	Circumstances (in %)
<i>Sex male</i>	100 (N=14)	100 (N=16)	-
<i>Mean Age</i>	31.36	33.83	-
<i>Foreign nationality</i>	64.3 (N=9)	26.7 (N=4)	-
<i>Criminal record (police or court record)</i>	71.4 (N=10)	6.3 (N=1)	-
<i>Offender unknown to victim</i>	-	-	85.7 (N=12)
<i>Firearm as modus operandi</i>	-	-	85.7 (N=12)
<i>Location of the homicide: Public area</i>	-	-	85.7 (N=12)

166 Further, offenders are generally older than their victims, which is unusual since the opposite is true for all other homicide categories in general as well as robbery homicide in particular.⁴⁸² However, this finding is coherent if we consider that the victims are property crime offenders in the first place and thus are supposed to present characteristics similar to offenders. In this regard, however, it is interesting to note that victims of crime precipitated homicides are generally older than robbery homicide offenders or robbery offenders.⁴⁸³

167 Also, the majority of victims are foreign nationals, whereas only one quarter of the offenders are non-Swiss, a finding that is again reversed in

⁴⁸² See MARKWALDER/KILLIAS, Handbook, forthcoming, for the mean age of victims and offenders in other homicide subgroups.

⁴⁸³ See N 175 for the age of robbery homicide and robbery offenders.

comparison to other homicide groups. The relatively high number of Swiss offenders can be explained by the high prevalence of police officers killing property crime offenders in line of duty, since this scenario constitutes 63% (N=10) of the offenders. Thus, since police officers are predominantly Swiss citizens, their share is disproportionate. On the other hand, we have seen for robbery without lethal ending that offenders with foreign background were overrepresented.⁴⁸⁴ Since crime precipitated homicides present this *reversed* logic of offenders becoming victims, the high number of foreign victims is thus explained by the high involvement of foreign offenders in property crimes.

The high share of police officer killing property crime offenders in line of duty is also responsible for the high prevalence of firearm use in this category. In total, 86% of the homicides were committed by firearms, and all of the involved firearms were legally owned. Also, the very small involvement of the offenders in prior criminal activities can be explained by the predominance of police officers as offenders. The opposite is true for crime precipitated homicide victims, since their involvement in prior criminal activities is considerable. Also, not surprisingly, this finding can be explained by the criminal activities of the victims in regard to property crimes.⁴⁸⁵

When it comes to the location of the crime precipitated homicide, almost all killings occur in public space, a finding that can be explained by the fact that the property crime offenders were mostly confronted by the police while committing a robbery in a public place or while fleeing from a crime scene.⁴⁸⁶ Finally, if we have a look at the sentence imposed, little information is available for these 16 offenders. However, it seems that none of the ten police officers have been sentenced to prison, and most of them were able to benefit from an abatement of the action. However, of the 6 remaining offenders, 5 were sentenced to prison without probation between 2 and 5.5 years; for one case, no information was available. Due to the almost non-existent information on conviction articles, a detailed analysis was not possible in that regard.

⁴⁸⁴ See N 96-97 for the share of foreign nationals in robbery offences in Switzerland.

⁴⁸⁵ This finding is also corroborated by COPES/KERLEY/CARROLL, p. 249, who found that 43.2% of the persons killed during a predatory crime had prior convictions for violent crime, and 34.5% had prior convictions for non-violent crimes.

⁴⁸⁶ See COPES/KERLEY/CARROLL, p. 250, for similar findings.

§ 8 Victim and offender characteristics

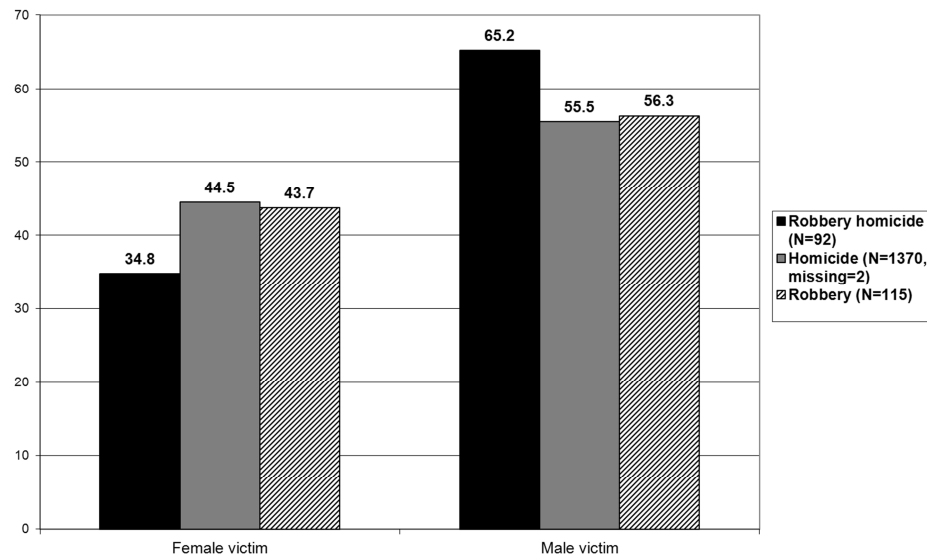
I. Gender

A. Victims

- ¹⁷⁰ The percentage of male victims of a property offence homicide is, with 65% compared to 56% for the homicide and 56% for the robbery victim category, higher, however without being statistically significant. This result confirms findings from studies in other countries indicating a higher share of male victims for robbery homicide than for other homicide types, as well as for robbery without lethal ending.⁴⁸⁷
- ¹⁷¹ One possible explanation for the higher victimisation of males in the context of robbery homicides could be that in Switzerland, men are still more involved in businesses and the professional world than women and therefore more likely targets for robbery or theft (and the homicide that results from those crimes). However, if we look at the distribution of male and female victims in regard to the location of the homicide, it results that 29% of the male victims were killed at their workplace, whereas this was the case for 22% of the female victims, this difference not being statistically significant. Another explanatory approach could consist in the fact that robbery or burglary offenders feel less threatened by female victims and thus behaved less aggressively towards the latter.

⁴⁸⁷ See N 119 et seq.

Figure 11: Gender of victims of robbery homicide, other homicide and robbery, in % of victims



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

□: Between robbery homicide and robbery, □ = $p \leq 0.05$, □□ = $p \leq 0.01$, □□□ = $p \leq 0.001$

+: Between homicide and robbery, + = $p \leq 0.05$, ++ = $p \leq 0.01$, +++ = $p \leq 0.001$

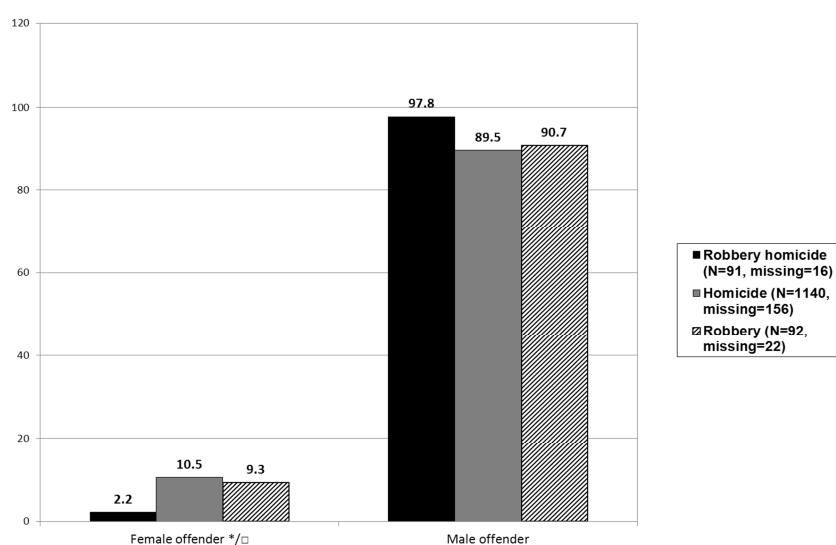
B. Offenders

Looking at the gender of the offender, the difference between the two homicide categories is even more pronounced; here, robbery homicide offenders are almost exclusively males (98%), whereas regular homicide and robbery without lethal outcome present a statistically significant lower percentage of male offenders (89% resp. 91%). However, there is a caveat for the group of robbery only offenders: there, the group of mixed offenders (females and males, 3.8%) in the robbery group is not included in the male offender category. Therefore, the 91% are a conservative estimation of the percentage of male offenders. If we include the group of mixed offenders, the total of male robbery offenders rises to 94% and approaches the percentage of the robbery homicide category. Also, the statistical significance between robbery homicide and robbery disappears if we include the percentage of mixed offenders in the robbery group.

The main reason for this difference between robbery homicide offenders and standard homicide offenders in regard to their gender is certainly that the

standard homicide category also contains homicide subtypes that are mostly, if not exclusively, committed by females, such as infanticide⁴⁸⁸ (N=43) and neonaticide (N=19). Therefore, without considering these typically “female” homicide types, the discrepancy of the percentages of female offenders becomes less pronounced.⁴⁸⁹

Figure 12: Gender of victims of robbery homicide, other homicide and robbery, in % of offenders



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

□: Between robbery homicide and robbery, □ = $p \leq 0.05$, □□ = $p \leq 0.01$, □□□ = $p \leq 0.001$

+: Between homicide and robbery, + = $p \leq 0.05$, ++ = $p \leq 0.01$, +++ = $p \leq 0.001$

⁴⁸⁸ Infanticide being defined as the killing of a child aged 5 or less.

⁴⁸⁹ See MARKWALDER/KILLIAS, Handbook, forthcoming, for the distribution of gender in different types of homicide.

II. Age

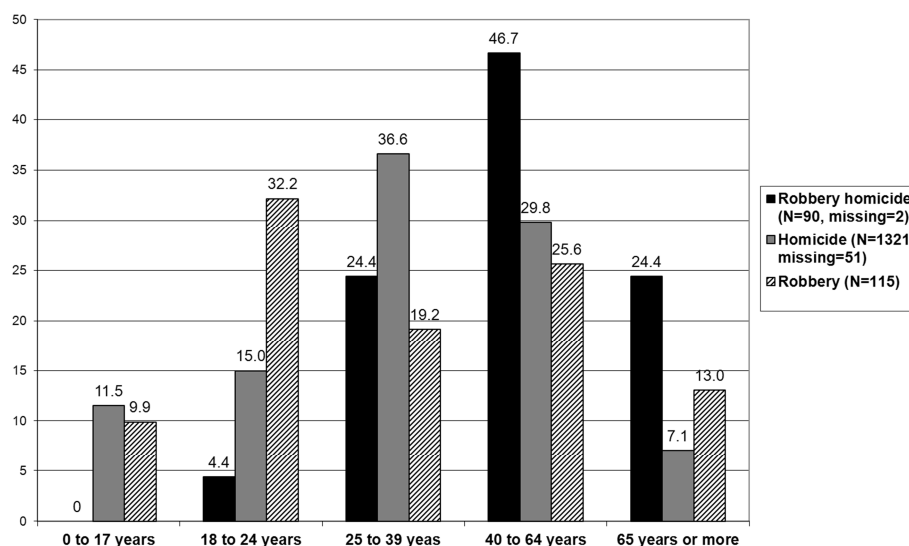
A. Victims

It is already visible in figure 13 that victims of a robbery homicide are more ¹⁷⁴ dominantly present in the older victim categories than victims from the standard homicide group. In fact, there are 71% of the robbery homicide victims who were older than 40 years at the time of the homicide, whereas this was only the case for 37% of the non-robbery homicide victims, making this difference highly statistically significant ($p \leq 0.001$). This difference is also apparent if we consider the mean age of the victims, since robbery homicide victims are on average 52 years old, compared to 35 years for standard homicide victims and 36 years for robbery victims. This finding also corroborates earlier literature.⁴⁹⁰ The reason for this result could be that older persons present a higher fortune accumulated during their working years and more real estate assets that can be burgled. Also, older persons stay at home more often and could thus be more prone to burglary victimisation than younger persons.⁴⁹¹ It is furthermore interesting to note that there are no victims of robbery homicides under 18 years old, and very few under 25 years, whereas this age population is highly at risk for robbery without lethal ending. It thus seems that although persons under 25 years old are prone to robbery victimisation in general, these robbery experiences rarely turn into a lethal outcome. We can thus assume that robberies of young people and the constellation in which they occur might be somewhat more “harmless” than robbery of older persons, since they are less likely to end with the death of the robbery victim.

⁴⁹⁰ See N 107-108.

⁴⁹¹ See KENNEDY/SILVERMAN, p. 313, who found that the elderly were more than twice as likely to become victims of theft related homicides than younger persons.

Figure 13: Age distribution of robbery homicide, other homicide and robbery victims, in % of victims



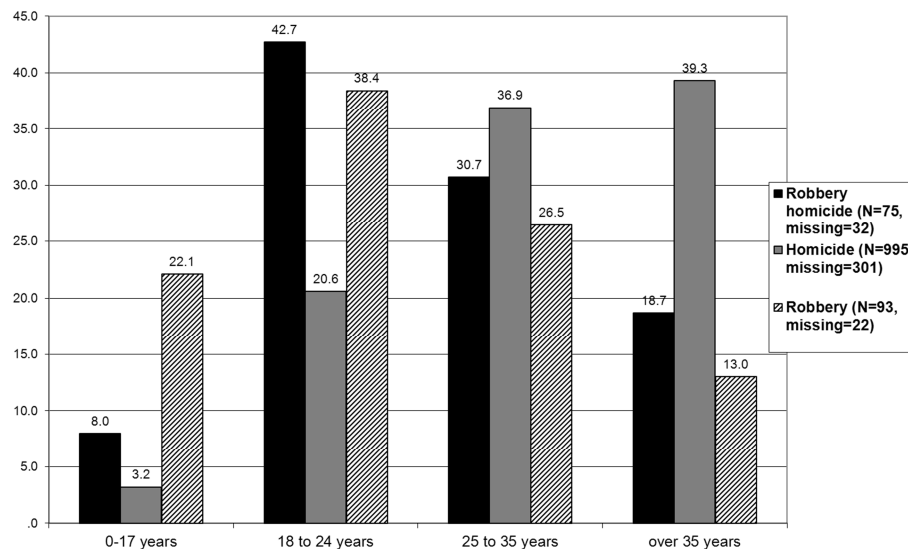
B. Offenders

175 When it comes to the age of the offender, the opposite phenomenon can be observed. Here, offenders of a robbery homicide are generally younger than their standard homicide counterparts, having a mean age of 27 years compared to non-robbery offenders with a mean age of 35 years. Only 9 per cent of the robbery homicide offenders are 40 years or older, which is significantly less than the 29 per cent of the non-robbery homicide offenders in this category ($p \leq 0.001$). In this regard, robbery homicide offenders can be assimilated to robbery offenders, since the latter are generally very young. Unfortunately, an exact mean age cannot be calculated, since the ICVS only surveyed the age of the offender in a categorical variable. However, as it results from figure 14, robbery offenders are even younger than robbery homicide offenders, since they are highly overrepresented in the age categories of younger than 25 years (61%). Also, there are significantly more minor offenders in the robbery homicide category (8% compared to 3%).⁴⁹²

⁴⁹² Again, this finding can be explained by the high number of intimate partner violence in Switzerland, a subcategory of homicide consisting usually of older offenders. See

The young age of robbery homicide as well as robbery offenders can be explained by the well corroborated fact that delinquency in general is more prevalent among adolescents and young adults and that serious and repeated offenders continue to offend even beyond their 30ies.⁴⁹³ On the other hand, the biggest share of homicide offenders, namely intimate partner or family homicide offenders, presents a mean age of 38 years and they are thus relatively old, hence accounting for the increase in the mean age of offenders.⁴⁹⁴

Figure 14: Age distribution of robbery homicide, other homicide and robbery offenders, in % of offenders



MARKWALDER/KILLIAS, Handbook, forthcoming, for mean ages of offenders of different homicide types.

⁴⁹³ KILLIAS/KUHN/AEBI, N 529 et seq.

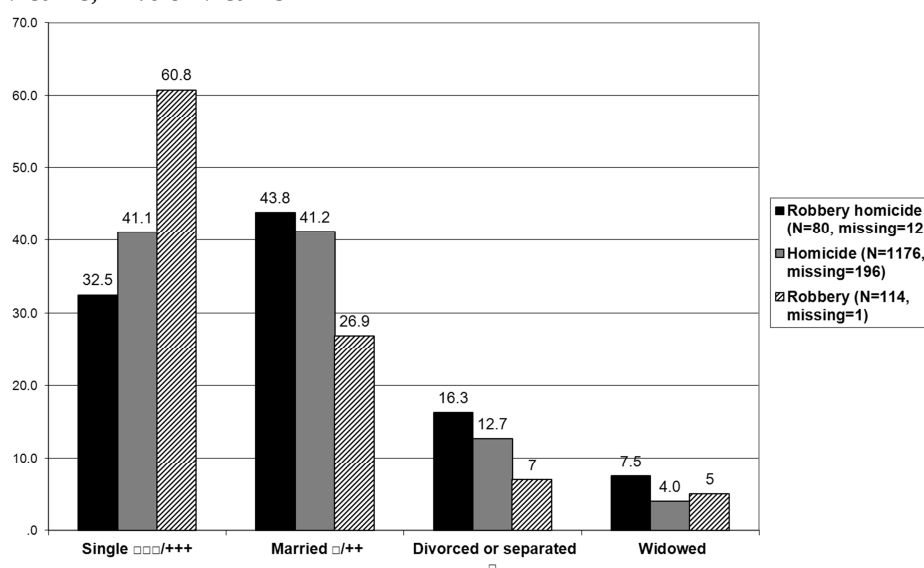
⁴⁹⁴ All other types of homicide offenders present similar age patterns to robbery homicide offenders; See MARKWALDER/KILLIAS, Handbook, forthcoming, for an overview on the mean age of different types of homicide offenders.

III. Marital status

A. Victims

- 176 No statistically significant difference can be found between the marital status of robbery homicide victims and that of victims from the standard category. However, robbery homicide victims are slightly less likely to be single, more often married, more often divorced and more often widowed compared to the reference group. This finding, although not statistically significant, might be a correlate of the higher age of robbery homicide victims in general.

Figure 15: Marital status of robbery homicide, other homicide and robbery victims, in % of victims



+: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

□: Between robbery homicide and robbery, □ = $p \leq 0.05$, □□ = $p \leq 0.01$, □□□ = $p \leq 0.001$

+: Between homicide and robbery, + = $p \leq 0.05$, ++ = $p \leq 0.01$, +++ = $p \leq 0.001$

- 177 On the other hand, compared to robbery without lethal ending, robbery homicide victims (as well as victims in the standard homicide group) are significantly less likely to be single ($p \leq 0.001$) and more often married or divorced ($p \leq 0.05$). Since robbery homicide victims are considerably older

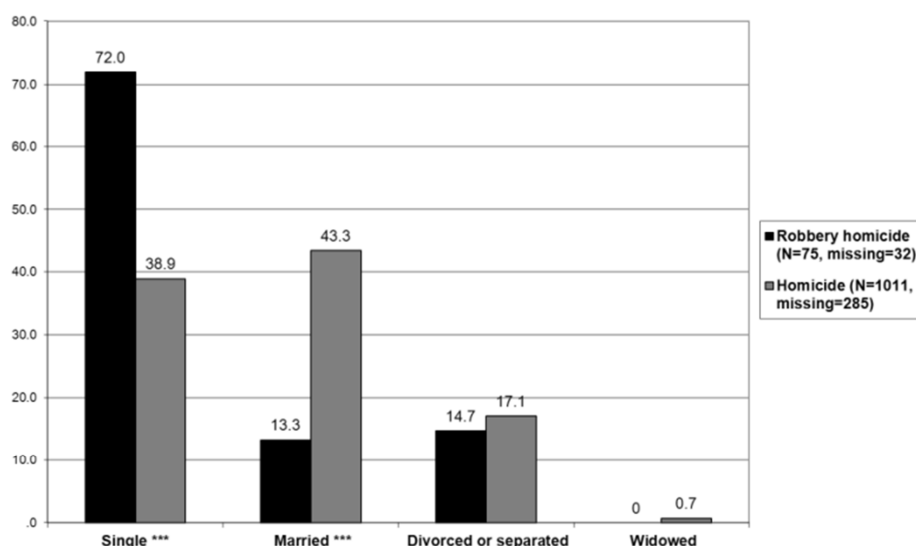
than victims of a robbery alone,⁴⁹⁵ this finding is not surprising. However, in comparison to the standard homicide group, this finding cannot be explained by age, since both standard homicide as well as robbery victims present a mean age of around 35 years. Thus the high number of married and divorced victims in the standard homicide group is again most likely the result of the predominant category of domestic homicides, where victims as well as offenders are more likely married or divorced.

B. Offenders

On the other hand, offenders of a robbery homicide are more likely to be single, whereas non robbery homicide offenders are more often married. This difference is statistically significant ($p \leq 0.001$ -level for both categories) and again most likely due to the younger age of robbery offenders as well as the predominance of domestic homicides in the standard homicide category. However, besides these two possible explanations, if we consider marriage to be an indicator for an integrated, non-deviant lifestyle, this finding might also point out that robbery homicide offenders are less likely to be socially integrated and to lead a law-abiding lifestyle. A significant difference for the other marital status categories could not be found, this probably due to the low number of individuals in those categories.

⁴⁹⁵ See N 174 for the age of robbery homicide victims in comparison with other homicide victims and robbery victims.

Figure 16: Marital status of robbery homicide and other homicide offenders, in % of offenders



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

IV. Living circumstances

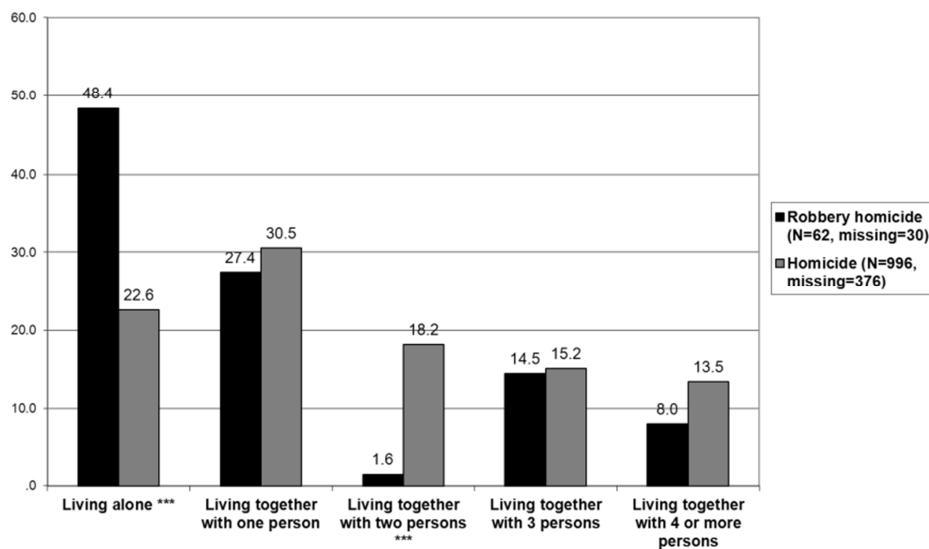
A. Victims

179 Figure 17 shows that robbery homicide victims are significantly more likely to live alone than their counterparts in the standard homicide category (48% vs. 23%). One might argue, according to the routine activities theory,⁴⁹⁶ that offenders choose victims according to their “attractiveness” and their absence of a guardian and that victims who live alone would be more vulnerable and therefore more attractive to burgle and steal from. However, victims of burglary homicide were not more likely to live alone than victims of robbery or theft homicide, which is why this theory might not apply here. After all, the reason for this finding is most likely again based on the predominance of family and intimate partner homicides in the standard

⁴⁹⁶ See N 83 et seq. for more information about routine activity theory.

category, subgroups in which the victim generally lives together with either their family or their lover.

Figure 17: Living circumstances of robbery homicide and other homicide victims, in % of victims

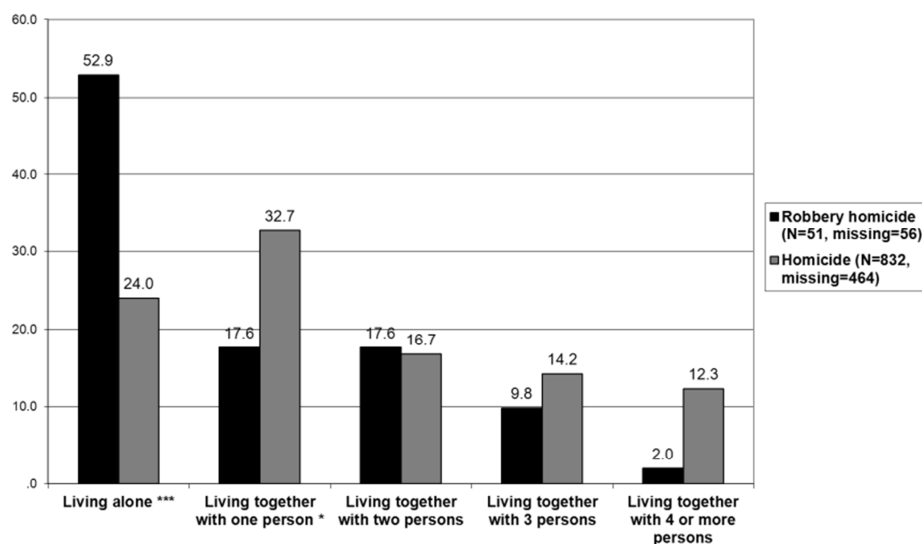


*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

B. Offenders

As well as for the robbery homicide victims, offenders from this subgroup 180 are more likely to live alone than offenders from the standard homicide group. Here again, besides the predominance of family and intimate partner homicides in the standard category, robbery offenders are also much younger than standard homicide offenders and therefore less likely to be married and have a family to live with.

Figure 18: Living circumstances of robbery homicide and other homicide offenders, in % of offenders



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

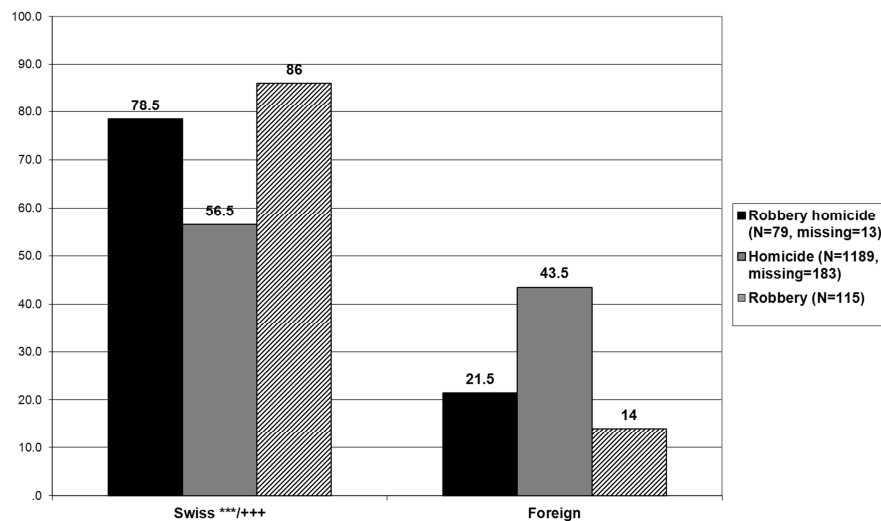
V. Residence status and nationality

A. Victims

- 181 All victims of a robbery homicide are legal residents of Switzerland. Concerning their nationality, the sample becomes more diverse; however, the majority of victims are Swiss citizens (79%), whereas only 57% of the non-robbery homicide victims are Swiss. This difference is highly significant at a $p \leq 0.001$ -level. On the other hand, most of the foreign victims stem from countries such as Spain (6 %, N=4), Italy (4%, N=3) and Turkey (4%, N=3). It is interesting to note that nationals from the Balkan states are not present in the robbery homicide victim category, whereas they are highly present in the standard homicide category. The biggest group of Balkan nationals concerns victims from Serbia-Montenegro who represent 11% of the standard homicide victims. This finding is most likely linked to the argument

homicide category, a type of homicide that often happens between foreign persons from the same ethnic background.⁴⁹⁷

Figure 19: Victim nationality for robbery homicide and other homicide, in % of victims



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

□: Between robbery homicide and robbery, □ = $p \leq 0.05$, □□ = $p \leq 0.01$, □□□ = $p \leq 0.001$

+: Between homicide and robbery, + = $p \leq 0.05$, ++ = $p \leq 0.01$, +++ = $p \leq 0.001$

Although the difference between robbery homicide victims and robbery 182 victims in regard to their nationality is statistically not significant, it is visible from figure 18 that victims of robbery without lethal ending present an even higher share of Swiss nationals than robbery homicide victims. However, the ICVS definition of nationality differs from that of the Swiss Homicide Database, since the victims of robbery were asked whether or not they were born in Switzerland. Thus, in regard to robbery, it is not so much the nationality but more the place of birth that was surveyed.

⁴⁹⁷ See MARKWALDER/KILLIAS, Handbook, forthcoming, for the distribution of foreign nationals within the different homicide categories.

B. Offenders

- ¹⁸³ Offenders from the robbery homicide group do not differ from the standard homicide group in their nationality; in both groups, there are slightly more foreign offenders than Swiss offenders. Keeping in mind that the percentage of foreign nationals living in Switzerland is currently around 22%⁴⁹⁸ and that this percentage was even lower for the years 1980 to 2004,⁴⁹⁹ foreign offenders are still highly overrepresented in both homicide categories as well as in the standard robbery category, since they represent, if we exclude the category of mixed nationals for the analysis, 82% of the offenders in the robbery category.⁵⁰⁰ On the other hand, police-recorded data on robbery offenders shows that between 1991 and 2004, the mean percentage of foreign offenders was 58%, oscillating between 47% and 67%. Foreign offenders are hence considerably more often reported in the crime victimisation data than in police statistics. This finding might be due to the fact that similar to robbery homicide, foreign offenders are less prevalent in serious robbery incidents. Since more serious offences are more likely reported to the police and thus offenders of serious robbery more likely to be seen in the police statistics, foreign offenders might be underrepresented in the police statistics. However, since ICVS data report all robbery incidents independently of their seriousness, the percentage of foreign offenders having committed “trivial” robberies might be overrepresented there. This selectiveness of police statistics is also confirmed by the fact that in the ICVS, less than half (45%) of the robbery victims indicated that they reported the incident to the police.
- ¹⁸⁴ In sum, foreign nationals are highly overrepresented as offenders of robbery, this also in regard to robbery homicide and the standard homicide category. However, the ICVS also recognises a group of mixed offenders (foreign and Swiss), and thus the percentage of foreign offenders is most likely undercounted. Therefore, in presence of the same percentage of foreign offenders on one hand, but a significant higher number of Swiss victims on the other hand, it is important to determine the distribution of the

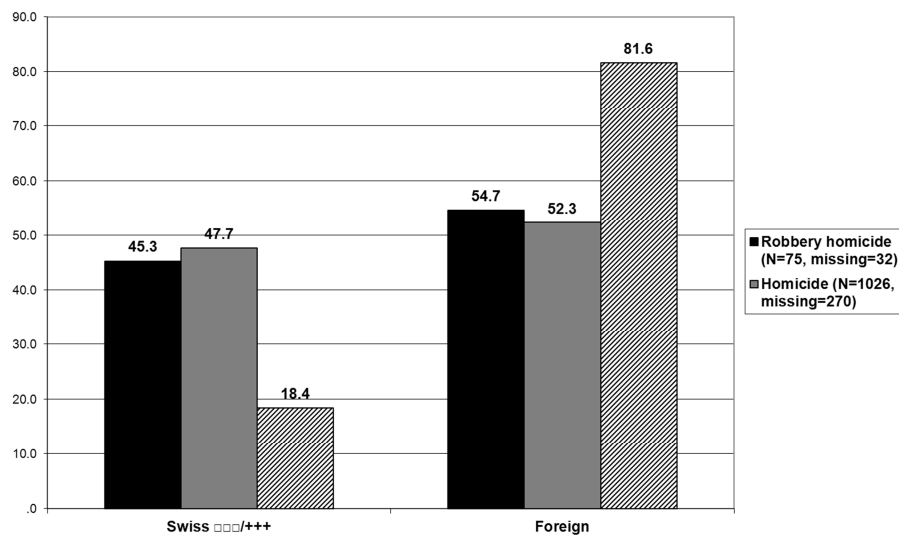
⁴⁹⁸ OFS, ausländische Bevölkerung.

⁴⁹⁹ OFS, ausländische Wohnbevölkerung.

⁵⁰⁰ Without isolating the category of offenders of Swiss and foreign nationality, this percentage would decrease to 73%, even so still being highly significant. However, the ICVS question on the offender’s nationality is based on the appreciation of the victims and can thus sometimes be erroneous.

nationalities of victims and offenders in a crosstabulation, which will be done in the next section.

Figure 20: Offender nationality for robbery homicide, other homicide and robbery, in % of offenders



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

□: Between robbery homicide and robbery, □ = $p \leq 0.05$, □□ = $p \leq 0.01$, □□□ = $p \leq 0.001$

+: Between homicide and robbery, + = $p \leq 0.05$, ++ = $p \leq 0.01$, +++ = $p \leq 0.001$

C. Robbery homicide: An intercultural or intra-cultural crime?

- 185 Table 2 presents the findings and shows whether robbery homicide is more an intra-cultural or an intercultural phenomenon.⁵⁰¹ As homicide and violence in general predominantly occur within the same racial or ethnic background,⁵⁰² it is even more surprising that robbery homicide seems to be an exception to this rule. Here, Swiss victims and foreign victims are equally often killed by a Swiss offender (56% resp. 58%) as well as a foreign offender (44% vs. 42%). On the other hand, around 77% of the Swiss offenders target Swiss victims, whereas only 23% kill victims of foreign nationality. Foreign offenders target Swiss victims in the same proportion as Swiss offenders, namely 78% Swiss victims and 22% foreign victims. In the standard homicide category, foreign victims are much more likely killed by foreign offenders (84%), a finding that is also true for Swiss victims being killed by a Swiss offender (73%). This result might be partially due to partner killings that often occur within the same cultural background. Thus, robbery homicide is much more evenly distributed within Swiss and foreign victims and offenders than standard homicide, which leads to the conclusion that robbery homicide is more likely intercultural rather than intra-cultural. In this regard as well, robbery homicide is more similar to robbery, since the latter also presents more intercultural characteristics.⁵⁰³ Swiss offenders targeted 13% foreign victims and 87% Swiss victims, whereas foreign offenders robbed 16% foreign victims and 84% Swiss victims. Thus, Swiss offenders targeted foreign or Swiss victims to the same extent as foreign offenders.

⁵⁰¹ In the European context, it is more accurate to use the terminology of inter- or intra-cultural rather than inter- and intra-racial predominantly used in criminological research.

⁵⁰² See EISNER, p. 225. Also, KILLIAS/MARKWALDER/WALSER/DILITZ, p. 19, found this to be true for Swiss offenders as well as foreign victims; however, foreign offenders seem to choose their victims more equally between nationalities.

⁵⁰³ It has to be kept in mind, however, that ICVS data on victims' nationality are based on the place of birth, and that the nationality of offenders is based on estimations of the victims.

Table 2: Robbery homicide, in % of cases (in brackets the percentage for non-robbery homicides)

		<i>NATIONALITY OF OFFENDER (IN % OF CASES)</i>	
<i>NATIONALITY OF VICTIM (IN % OF CASES)</i>		Swiss	Foreign
Swiss	Within victim nationality	56.1 (72.6)	43.9 (27.4)
	Within offender nationality	76.7 (85.8)	78.3(30.2)
	Total	43.4 (41.4)	34.0 (15.6) ***
Foreign	Within victim nationality	58.3(16)	41.7 (84)
	Within offender nationality	23.3 (14.2)	21.7 (69.8)
	Total	13.2 (6.9)	9.4 (36.1) ****

*: Between robbery homicide and homicide; * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

VI. Relationship between victim and offender

In what relationship are victims and offenders of a predatory property crime homicide in Switzerland? The following figure shows the relationship between victims and offenders of a robbery homicide compared to non-robbery homicides. The variable based on the number of victims was chosen in order to avoid a high number of cases where the offender was unknown and consequently the relationship between victim and offender. Also, if the analysis is based on number of offenders as to the relationship between offenders and victims, the percentages do not differ considerably.

Whereas the majority of victims in the non-robbery homicide category are either related or known to the offender, robbery homicide victims are predominantly strangers to their offenders. With 66% of all victims who are

killed by a perpetrator they did not know before, this category accounts for the highest number of victims, followed by the categories of professional acquaintances (17%) and private acquaintances (16%). Thus, the variable of the relationship between victims and offenders is one of the most distinctive factors between the group of robbery homicides and the standard group, and confirms findings from existing research.⁵⁰⁴ Also, this percentage of stranger relationship is most likely even higher in reality, since there are 23% of missing values in the robbery homicide category, compared to 16% in the homicide category. Since it is more likely that stranger-to-stranger homicides remain unsolved, there is probably a high number of strangers involved in the missing category.⁵⁰⁵ It can also be noted that, accounting only for one victim, it is extremely rare in Switzerland that offenders target family members or intimate partners for a predatory property crime homicide.

- 188 The finding that there are very few victims acquainted with their offender might also be due to the exclusion of drug-related robbery homicides, since these homicides are more likely to happen between persons, such as dealers and drug consumers, who know each other prior to the offence. Of the 9 victims who were killed during a robbery homicide in the drug milieu in the Swiss Homicide Database and thus not included in this analysis, 7 (79%) knew the offender, whereas only 2 (21%) had unknown attackers, thus confirming the above stated hypothesis. Accordingly, KUBRIN/WADSWORTH distinguished between stranger and non-stranger robbery homicides in a sample of black homicide offenders and found that the non-stranger robbery homicide group more often involved drugs as the target of theft.⁵⁰⁶ Also, according to victims in the ICVS data, robbery offenders were unknown to them in 86% of the cases. Thus, robbery presents an even higher share of stranger perpetrators than robbery homicide, a finding that is well corroborated by prior research.⁵⁰⁷
- 189 Another interesting aspect consists of the high number of professional acquaintances in the robbery homicide category. This finding is not surprising if we take into account that a high number of robbery homicides are work-

⁵⁰⁴ See N 112 for existing research on the relationship between victims and offenders in robbery homicide.

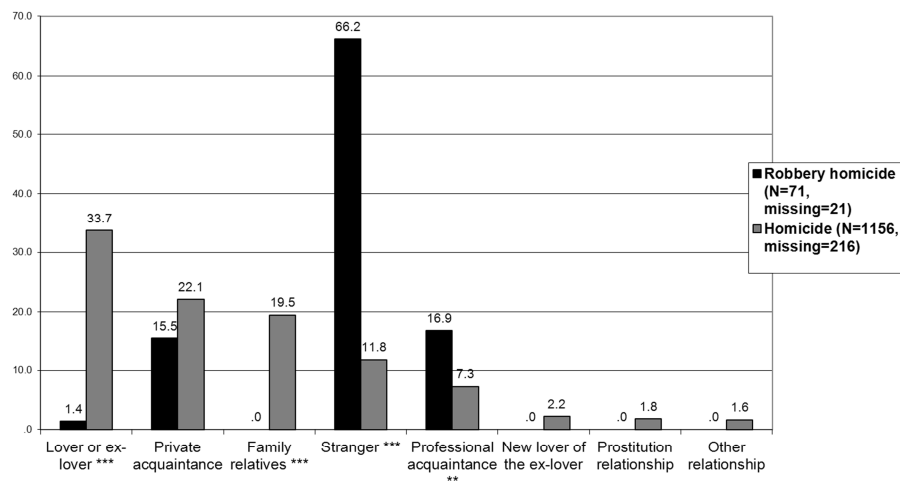
⁵⁰⁵ See ZIMRING/ZUEHL, p. 5, and N 143-144, for the problem of misclassification due to the stranger relationship.

⁵⁰⁶ KUBRIN/WADSWORTH, p. 14.

⁵⁰⁷ See N 112 for results corroborating this finding.

place related. As will be visible in N 243 et seq., 26% of the robbery homicide victims were killed at their workplace during a robbery or hold-up. In combination with the finding that 17% of the relationships in the robbery homicide category are colleagues from work, it can be deduced that it is quite frequent that employees target their own workplace in order to steal or rob something, and that these property crimes also sometimes end lethally.⁵⁰⁸

Figure 21: Relationship between victim and offender for robbery homicide and other homicide, in % of victims



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

⁵⁰⁸ See N 246 et seq. for more information about workplace related robbery homicides.

VII. Employment

A. Employment situation

a) *Victims*

- ¹⁹⁰ The number of victims without employment in the robbery homicide category is, compared to standard homicide, considerably and significantly ($p \leq 0.001$) lower. Again, this finding is logical, as robbery homicide offenders usually select victims who are “suitable” targets,⁵⁰⁹ meaning persons who have a stable income or financial assets and are therefore estimated to be worthwhile persons to steal from, or persons who were victimised by robbers precisely at their working place. Also, this result might be influenced by the fact that men, who are generally more prevalent in the workplace,⁵¹⁰ are slightly overrepresented in the robbery homicide category.⁵¹¹ Nevertheless, there is still a considerable proportion of victims without employment, at least much more than the average unemployment rate in Switzerland (which has varied between 1.8% and 4.5% in the last 20 years⁵¹²). However, this high number is due to the relatively high number of victims beyond the age of retirement, which is the case for 24% of the robbery homicide victims.⁵¹³ Detail analysis confirms that of all the robbery homicide victims who did not have employment at the time of the homicide, 86% (N=19) were retired or beneficiary of a pension. In conclusion, robbery homicide victims are well integrated in the working environment and thus, since employment can be seen as an overall indicator of social integration, also well embedded in society.
- ¹⁹¹ In comparison, robbery victims do not differ significantly from robbery homicide victims in regard to their professional involvement, since 59% of the robbery victims were employed at the time of the survey. Around 14% of the victims of a robbery are retired or beneficiary of a pension, which is less than for robbery homicide victims. However, this result is plausible, since robbery victims are also generally younger than their robbery homicide

⁵⁰⁹ See N 83 et seq. for the notions of routine activity theory.

⁵¹⁰ OFS, Erwerbstätigkeit.

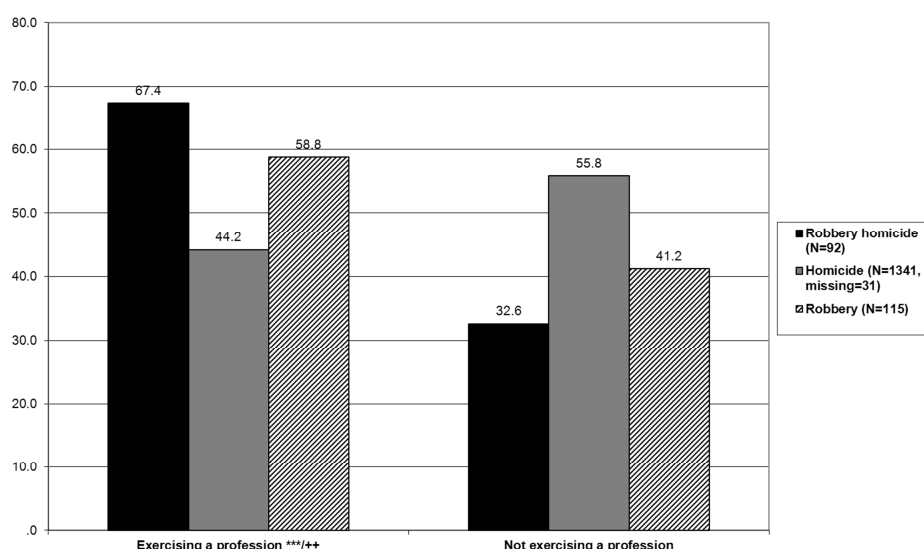
⁵¹¹ See N 170-171 for the gender of robbery homicide victims.

⁵¹² OFS, Erwerbslosenquote.

⁵¹³ See also N 174 for the older age of victims.

counterparts.⁵¹⁴ In sum, the still relatively low rate of employed robbery victims cannot be explained by the old age of the victims, as this is the case for robbery homicide victims. Thus, victims of robbery are, although not as pronounced as for homicide victims, still less likely to be employed than persons from the general population.

Figure 22: Employment situation of robbery homicide, other homicide and robbery victims, in % of victims



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

□: Between robbery homicide and robbery, □ = $p \leq 0.05$, □□ = $p \leq 0.01$, □□□ = $p \leq 0.001$

+: Between homicide and robbery, + = $p \leq 0.05$, ++ = $p \leq 0.01$, +++ = $p \leq 0.001$

b) Offenders

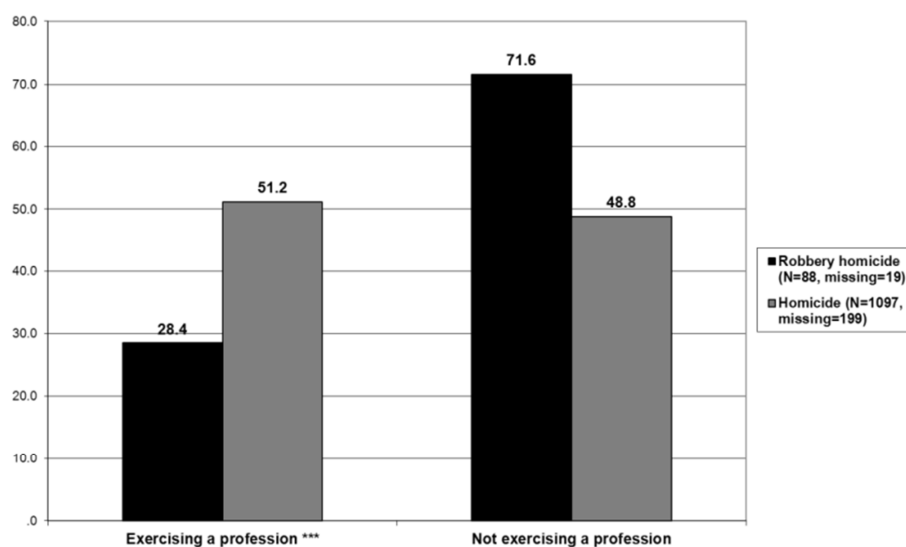
On the other hand, the employment situation of robbery homicide offenders differs considerably from that of their victims. Here, only 28% of the offenders are employed, against 51% in the non-robbery homicide category ($p \leq 0.001$). This is particularly atypical, since robbery homicide offenders are almost exclusively males and thus more likely to be present in the general

⁵¹⁴ See N 174 for results concerning the age of the victims.

working population. Also, they are of young age, making retirement as a possible reason for unemployment unlikely. Keeping in mind that according to most recent census data, 77% of women and 88% of men between 18 and 65 years are in the workforce in Switzerland,⁵¹⁵ robbery homicide offenders very rarely present a stable employment, and thus differentiate considerably in that regard from other homicide offenders as well as the general population.

- 193 As a consequence, if we consider employment as an important factor of social integration, the high unemployment rate in the category of robbery homicide offenders suggests that these perpetrators are less likely to be leading a socially integrated life, and that they might suffer from monetary problems and unstable income. The higher amount of offenders that are part of “milieu” or criminal groups observed in N 234 corroborates this conclusion.

Figure 23: Employment situation of robbery homicide and other homicide offenders, in % of offenders



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

⁵¹⁵ OFS, Erwerbstätigkeit.

B. Field of work

a) Victims

When it comes to the field of work victims and offenders are employed in, statistical analysis is difficult due to the low numbers in the robbery homicide category. However, victims of a robbery homicide are, not surprisingly, mostly found in the area of sales and commerce (25%, N=18) where they are also highly overrepresented in comparison with standard homicide victims, industrial professions (16%, N=12), in the field of tourism and transportation (16%, N=12) as well as in the hotel business and gastronomy (12%, N=9). Not surprisingly, these are, besides industrial professions, fields of work with a high possibility of being responsible for certain amounts of cash and with client contact. The category of tourism and transportation almost exclusively concerns taxi drivers (N=11) who were victimised in a robbery homicide attack. Considering all professions individually, taxi driver generally seems to be a high risk occupation in regard to robbery homicide victimisation.⁵¹⁶

Unfortunately, the ICVS does not contain detailed questions about the profession of robbery victims. Profession is surveyed in broad categories, such as liberal professions, industrial professions, independent, executive level, dependent employment/public officer, blue-collar worker, housewife/husband, no profession and other. It results that most of the victims, namely 68%, work as employees or in official positions (dependent employment/public officers), followed by independently employed (8%) and executive level employed (6%). Thus, little can be said about the specific profession of robbery victims in comparison to robbery homicide victims.

b) Offenders

The few robbery homicide offenders who have a stable working situation are mostly employed in technical, industrial or construction professions (54%, N=28) as well as in hotels and restaurants (19%, N=10). In regard to the field of work, robbery homicide offenders do not differ from their counterparts in the homicide category. On the other hand, the most common

⁵¹⁶ This result of a high victimisation of taxi drivers is in line with earlier findings in Switzerland by MASSONNET/WAGNER/KUHN, p. 101, as well as in the Netherlands by LEISTRA/NIEUWBEERTA, p. 144, and USA by HENDRICKS/JENKINS/ANDERSON, p. 321.

reason why an offender is not working at the time of the homicide is that he/she is unemployed (60%, N= 28), a student/apprentice (15%, N=7) or beneficiary of a pension from the invalidity insurance (9%, N=4). Therefore, being unemployed seems to increase the risk of offending; this seems logical in the first place, as the robbery homicide offender's first goal is primarily a monetary gain from his property crime. Thus, the strain resulting from an economically disadvantaged situation of the offender might be at the origin of the decision to commit the robbery in the first place.⁵¹⁷ Consequently, one can speculate that these offenders might not have felt the need to commit property crimes in the first place if they had been employed and earned a stable income. Unfortunately, the available data does not allow more in depth analysis in this field.

VIII. Substance abuse

A. Introduction

- ¹⁹⁷ A considerable amount of research exists in the field of substance use and abuse as well as psychiatric symptoms of homicide victims and offenders.⁵¹⁸ However, specific research on the history of drug use of robbery homicide victims and offenders is almost inexistent. For homicide in general, however, research found that the risks of death by homicide and accident were highest for individuals suffering from alcoholism and drug use.⁵¹⁹ Also, research has shown that in several European countries, alcohol sales are correlated with higher homicide rates.⁵²⁰ Thus, it can be admitted that alcohol abuse and alcohol consumption play an important role in the occurrence and commission of homicide.⁵²¹
- ¹⁹⁸ For the history of substance abuse as well as substance use during the homicide, I assumed that if there were no indications of any substance use/abuse in the files, neither the victims nor the offenders were under the

⁵¹⁷ See N 73-74 for detailed information about strain theory.

⁵¹⁸ See for instance HIROEH/APPLEBY/MORTENSEN/DUNN.

⁵¹⁹ HIROEH/APPLEBY/MORTENSEN/DUNN, p. 2111.

⁵²⁰ These countries are: Finland, Ireland, Portugal, Spain and Sweden. See ROSSOW, p. 81.

⁵²¹ See also KILLIAS/KUHN/AEBI, N 312, as well as BYE, forthcoming, for an overview on alcohol and homicide in Europe.

influence of any substance.⁵²² Thus, this hypothesis engenders a conservative estimation of the victim's and offender's substance use before and during a homicide, and the estimates of the prevalence of substance use probably fall below the true extent to which participants in a homicide are intoxicated.

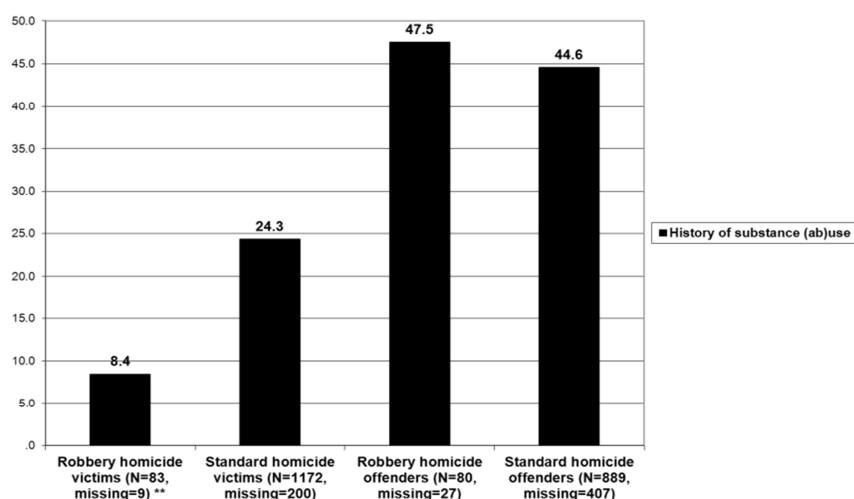
B. History of substance abuse

a) *History of substance abuse of victims and offenders*

In Switzerland, robbery homicide victims are significantly ($p \leq 0.01$) less 199 likely to have a history of substance consumption (8%), compared to non-robbery homicide victims (24%). This lack of substance abuse in the past is another sign of the relatively well integrated position of robbery homicide victims. On the other hand, robbery homicide offenders do not consume more substances than their standard homicide counterparts (48% vs. 45%). Comparing victims and offenders, there is a great discrepancy between the substance abuse of victims and that of offenders of robbery homicide, since the latter have a considerably higher consumption. Also, this finding confirms the existence of this typical "gap" between victim and offender lifestyle and personal background, a gap that seems more pronounced between victims and offenders of robbery homicide than between standard homicide victims and offenders.

⁵²² For the treatment of missing cases in the analysis, see also N 142.

Figure 24: History of substance abuse for victims and offenders of robbery homicide and other homicide, in % of victims respectively offenders

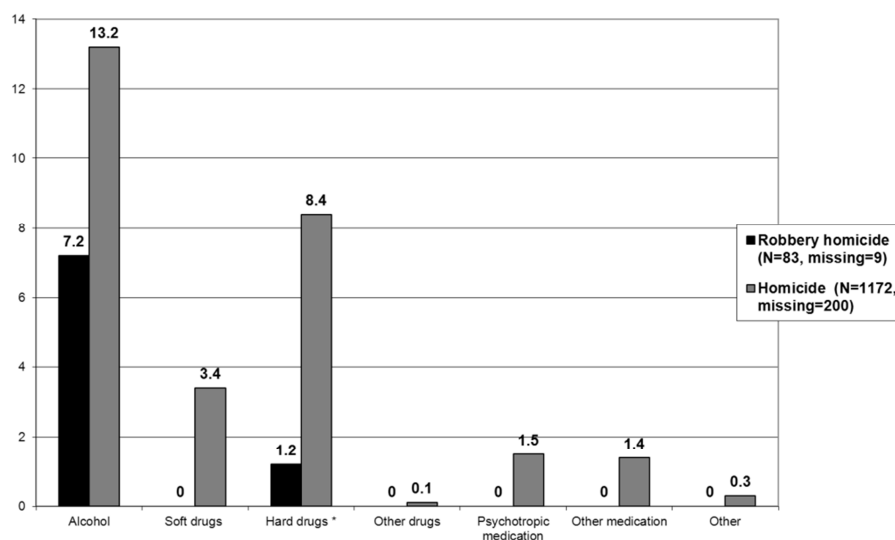


*: Between robbery homicide victims and homicide victims, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

b) *Type of substance used by victims and offenders*

- 200 What substances are usually consumed by homicide victims and offenders? The following figure 25 indicates the substance use of victims for various legal and illegal substances.
- 201 As already observed in figure 24, robbery homicide victims are less likely to consume substances in the first place. The detailed substance analysis indicates that only a few among them consume alcohol (7%, N=6) and hard drugs (1%, N=1). It seems therefore that non-robbery homicide victims are more involved in substance use than their robbery homicide counterparts. However, since there are so few robbery homicide victims consuming any substances in the first place, significant differences between the two groups are rare. The only significant difference in substance abuse between robbery homicide victims and homicide victims concerns the hard drug category, where homicide victims are more prevalent than robbery homicide victims ($p \leq 0.05$).

Figure 25: Type of substance used by victims of robbery homicide and other homicide prior to the homicide, in % of victims



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

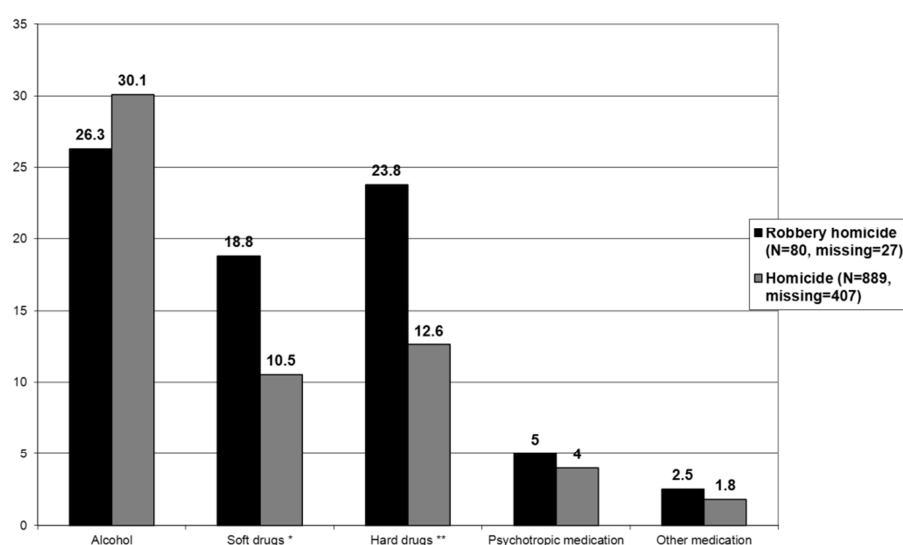
For robbery homicide offenders, this is not the case, their overall legal and illegal substance consumption being more or less equal to that of non robbery homicide offenders. Figure 26 shows the distribution according to different substances.

Alcohol drinking patterns are similar between the two groups, with 26% of robbery homicide offenders having consumed alcohol in the past, against 30% of alcohol consumers among the non-robbery homicide offenders. However, robbery homicide offenders are more likely to consume soft drugs in comparison to non-robbery homicide offenders (19% against 11%), although this difference is only statistically significant at a $p \leq 0.05$ level. More pronounced is the difference for hard drugs; here, almost 24% of the robbery homicide offenders consumed hard drugs in the past, whereas only 13% in the standard homicide group are hard drug users ($p \leq 0.01$). Given the general correlation between drug use and criminality,⁵²³ the use of hard drugs

⁵²³ See KILLIAS/KUHN/AEBI, N 1142 for results of the Swiss program of heroin release on drug use and crime.

is a good indicator of the “criminogeneity” of a population. Hence, robbery homicide offenders seem in general more highly embedded in the criminal world than their counterparts from the standard group. Furthermore, their psychotropic and other medication use is slightly, but not significantly higher than that of the standard group.

Figure 26: Type of substance used by offenders of robbery homicide and other homicide prior to the homicide, in % of offenders



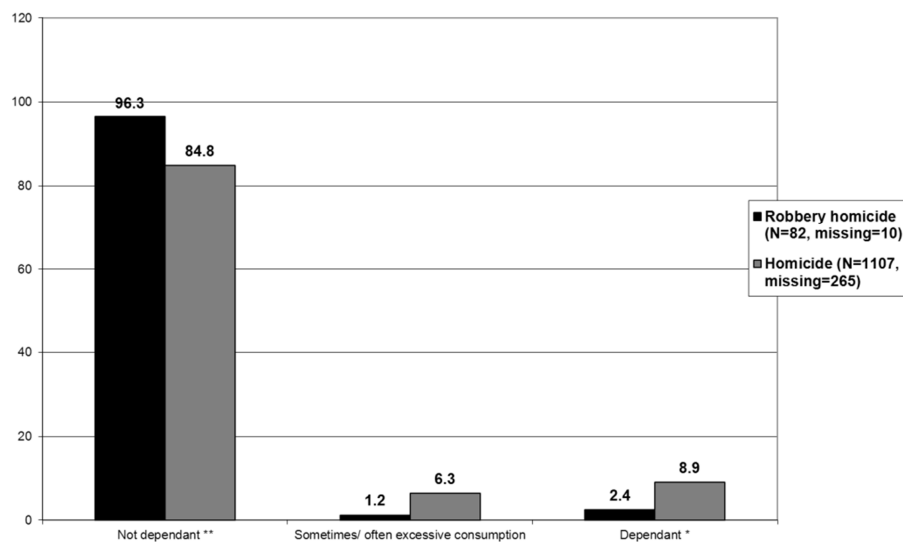
*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

c) *Level of dependency of victims and offenders*

204 The above described variable measures the substance use of victims and offenders. However, in order to evaluate the seriousness of the consumption, I also raised the question about the frequency of such consumption and dependency that results from it. The information was originally classified in four categories, namely whether the participants in robbery homicide were not dependent on any substance, whether they sometimes consumed the substance in an excessive way, whether they often presented an excessive consumption or whether they were known to be dependent on the substance. Because of the small number of cases in the two middle categories, occasional and frequent excessive consumption were merged together into

one category. The following figures show the percentages of victims and offenders being dependent on one of the above mentioned substances.

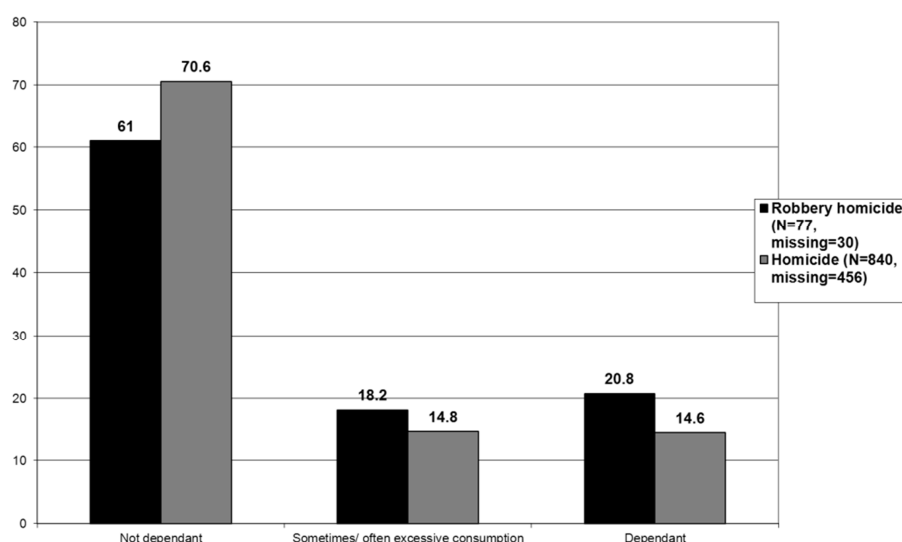
Figure 27: Substance dependency of robbery homicide and other homicide victims, in % of victims



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

Only 2% (N=2) of robbery homicide victims suffer from a substance dependency. This percentage is only slightly significantly lower than that of the non-robbery homicide category. Also, robbery homicide victims are less likely to have an excessive consumption than their counterparts from the standard homicide category, although this difference is not statistically significant. The low absolute numbers in the category of robbery homicide victims are certainly partially responsible for this weak statistical outcome.

Figure 28: Substance dependency of robbery homicide and other homicide offenders, in % of offenders



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

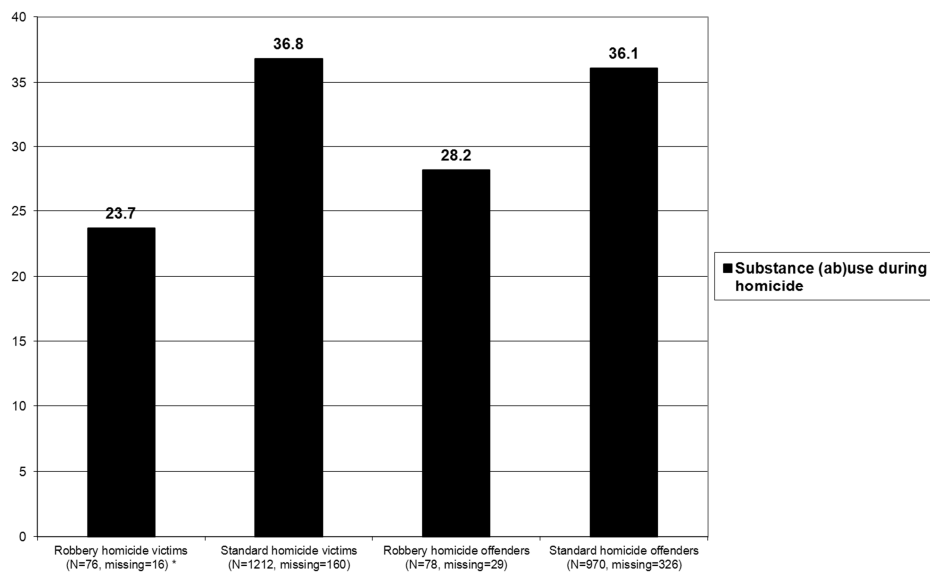
- 206 Since offenders of robbery homicide consume substances much more often in the first place, it is not surprising that they also present a higher percentage of dependency than their victims. On the other hand, they are not more likely to develop a dependency on substances compared to non-robbery homicide offenders. Almost 21% among them are reported to depend on a substance, compared to 15% of the non-robbery homicide offenders. Although this difference seems important, it remains statistically not significant.

C. Influence of substance (ab)use during the homicide

a) *Influence of substance on victims and offenders*

In the Swiss sample, robbery homicide victims are significantly less under the influence of alcohol, drugs or other substances than their counterparts in the standard homicide group ($p \leq 0.05$). This finding supports the hypothesis that robbery homicide victims have more often a conventional, less “risky” lifestyle and belong to a less deviant population group than other homicide victims. For robbery homicide offenders, however, this difference is not statistically significant, although robbery homicide offenders present a lower percentage of intoxication during the homicide (28%) than non-robbery homicide offenders (36%).

Figure 29: Substance use of victims and offenders of robbery homicide and other homicide during the homicide, in % of victims resp. offenders



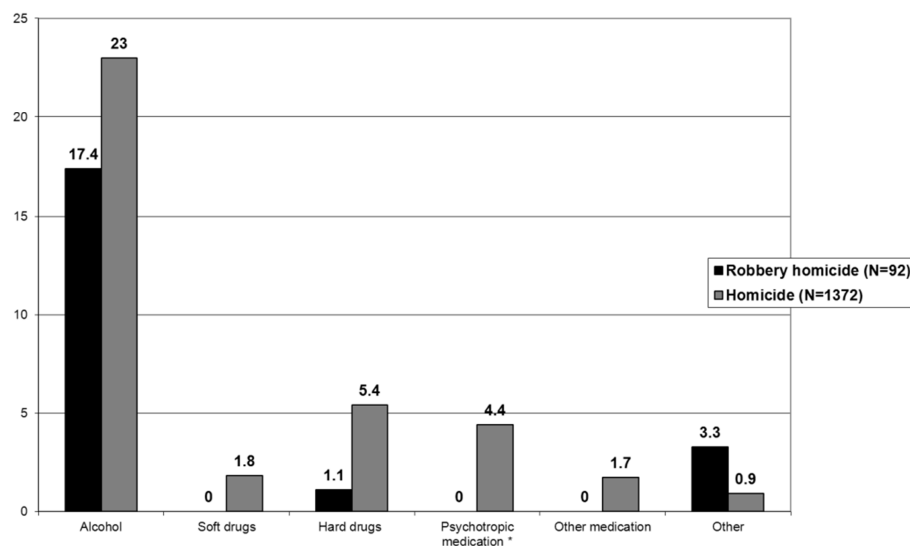
*: Between robbery homicide victims and homicide victims, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

b) Type of substance used

aa) Victims

208 The detailed distribution of the consumed substances during a homicide incident shows that robbery homicide victims constantly present lower rates for every substance used during the homicide. However, only the difference in psychotropic medication consumption is statistically significant between the two groups ($p \leq 0.05$). Also, only one robbery homicide victim had consumed hard drugs during the commission of the robbery homicide. The use of hard drugs is higher in the non-robbery homicide victim category, however without attaining a statistically significant level. None of the robbery homicide victims was reported being under the influence of psychotropic medication during the homicide, whereas 4% in the standard homicide victim category were reported to be under the influence of psychotropic medication during the homicide.

Figure 30: Type of substance used by victims of robbery homicide and other homicide during the homicide, in % of victims

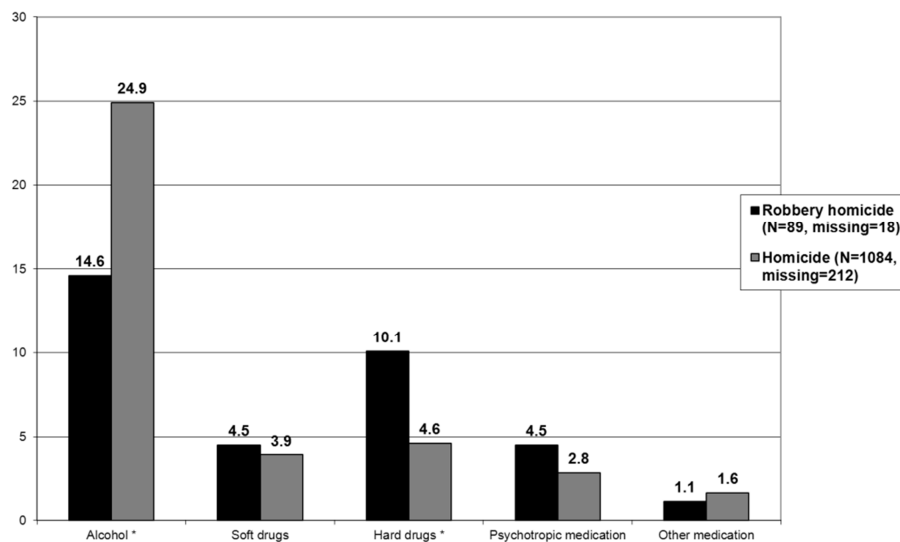


*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

bb) Offenders

For the offender group, the findings are more heterogeneous. Robbery homicide offenders are underrepresented in the category of alcohol intoxication during the homicide incident (15%, compared to 25% for non-robbery homicide offenders, $p \leq 0.05$). This finding might indicate a certain premeditation in the commission of robbery in the first place, as robbers might be inclined to think that alcohol hinders their ability to effectively act according to plan, and therefore avoid it. On the other hand, robbery homicide offenders do not present a lower rate of intoxication when it comes to soft and hard drugs, psychotropic and other medication. However, it is only in the category of hard drugs where the difference is statistically significant at a $p \leq 0.05$ -level. It is important to keep in mind that there are only few individuals in the robbery homicide category and therefore, comparisons with variables presenting more than one category become fairly difficult, as the number of offenders in each category tends to be small. This might also be the reason why most of these comparisons do not turn out to be statistically significantly correlated.

Figure 31: Type of substance used by offenders of robbery homicide and other homicide during the homicide, in % of offenders



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

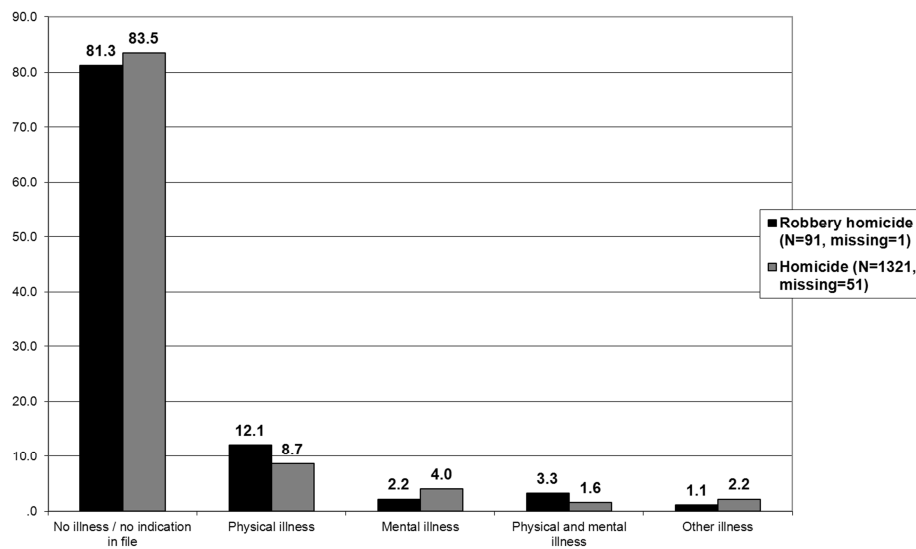
IX. Health problems

- ²¹⁰ The state of health within the victim and offender population is, in line with substance abuse, often found to be worse for persons involved in homicide. Thus, research found that men with schizophrenia and persons with affective psychosis were more likely to become victims of a homicide.⁵²⁴ However, there is a caveat concerning the codification in the database. The category of health problems was coded by students without any clinical background or medical knowledge and thus does not correspond to a medically correct assessment of pathologies. Therefore, it might be possible that in some cases, physical illness was coded as mental illness and vice versa, or it was coded in the “other” category if the student was not sure where to place it. Also, we have to keep in mind that the codification was not based on a medical evaluation of victims or offenders, but relied on indications from other sources, such as family members or other acquaintances of victims and offenders, that could be found in the files. In some cases, these indications might even only have “hearsay” character.
- ²¹¹ In general, robbery homicide victims and offenders do not differ from other homicide victims and offenders in regard to their health. Around 16% of all robbery homicide victims and 19% of robbery homicide offenders suffer from some sort of illness, whether it is physically or mentally originated. On the other hand, data from the Office of Federal Statistics (OFS) indicate that 27% of the population suffered from a chronic disease or health problem in 2007, starting from 14% in the category of 15 to 24 years old and increasing almost linearly up to 48% for the oldest age category of 75 years and more.⁵²⁵ However, these data are difficult to compare with our data, since they only include chronic diseases. Further, the OFS data unfortunately do not allow distinctions between physical and mental health issues. Nevertheless, while keeping in mind that the OFS data do not measure exactly the same phenomenon and can therefore only serve as an approximate estimation, it can be postulated that the rates for robbery homicide victims and offenders do not seem to differ much from the general population.

⁵²⁴ HIROEH/APPLEBY/MORTENSEN/DUNN, p. 2112.

⁵²⁵ OFS, Gesundheitszustand.

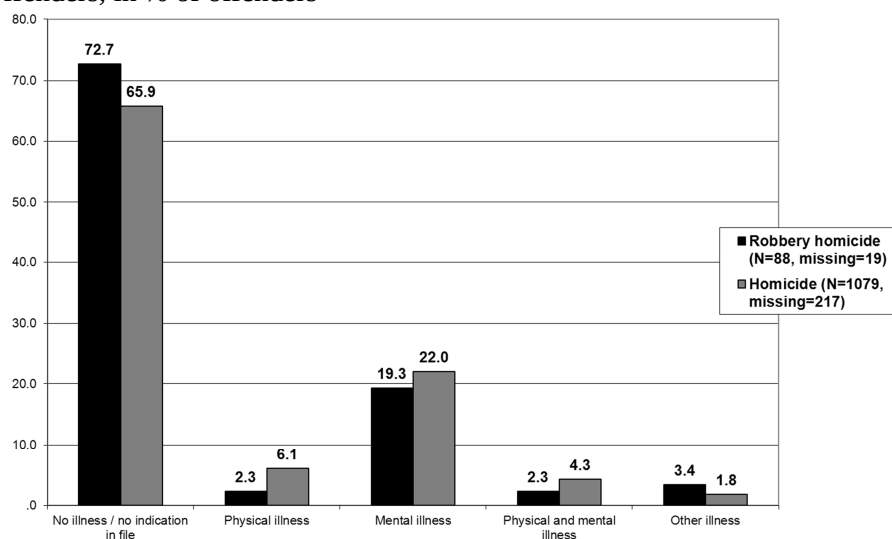
Figure 32: Health problems of robbery homicide and other homicide victims, in % of victims



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

Robbery homicide victims are slightly more likely to suffer from physical illness than standard homicide victims. However, the difference is more pronounced in comparison to robbery homicide offenders. This finding might be due to the considerable age gap between robbery homicide victims and offenders, since physical illness is more widespread among the elderly.

Figure 33: Health problems of robbery homicide and other homicide offenders, in % of offenders



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

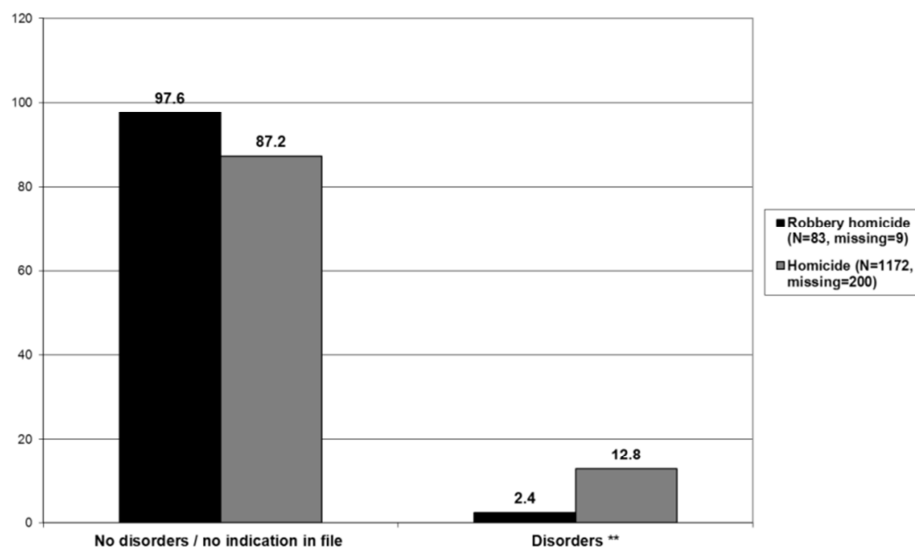
- 213 It is interesting to note that although there is no statistical difference between the two groups, homicide offenders in general are highly prone to mental illness. Thus, a previous pathology might be at the origin of the aggressive behaviour that led to the homicide. Also, the high proportion of mental illness of offenders might be caused by the (almost systematically ordered) psychiatric evaluation in cases of homicide.

X. Behavioural disorders

A. Victims

Behavioural disorders, such as violent, risk-taking and suicidal tendencies, ²¹⁴ have often been linked to criminal offending.⁵²⁶ However, little is known about behavioural disorders of crime victims. Concretely, it is of interest to investigate whether homicide victims present a higher risk of behavioural disorders and whether this risk differs between the two categories of homicide victims studied in this research. The following figure presents the percentage of robbery and non-robbery homicide victims who suffer from any type of behavioural disorder.

Figure 34: Prevalence of behavioural disorders in robbery homicide and other homicide victims, in % of victims

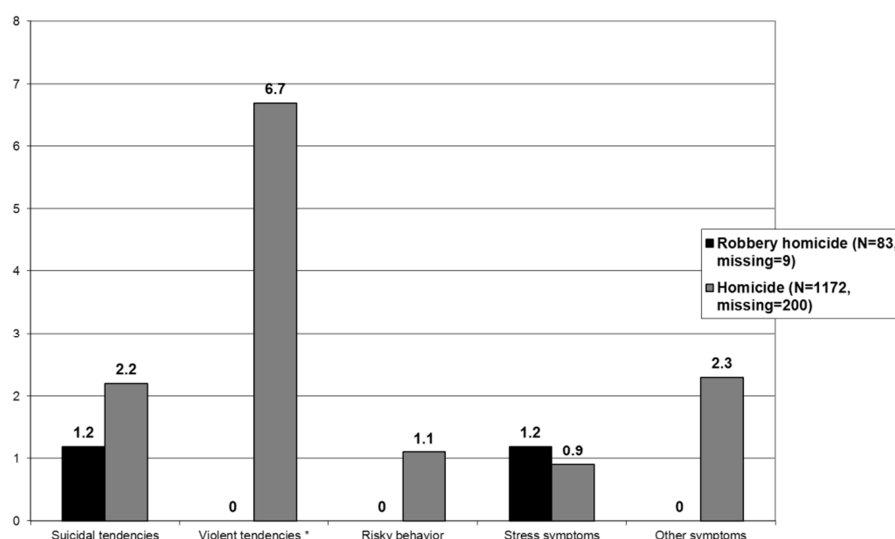


*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

⁵²⁶ See KILLIAS/KUHN/AEBI, N 658a et seq.

- 215 Robbery homicide victims are significantly less likely to suffer from behavioural disorders in general than other homicide victims (2% vs. 13%, $p \leq 0.01$). Again, this finding supports the hypothesis that robbery homicide victims are more “conventional” and socially integrated than their non-robbery counterparts and do, therefore, not often suffer from disorders linked to deviant behaviour as such. However, indications of behavioural disorders of victims are often missing in the files, mainly because they are less relevant for coroners as well as police reports. Also, these indications are not based on a professional psychiatric expertise, but often given by relatives or other sources close to the victim and therefore not scientifically classifiable.

Figure 35: Type of disorder for robbery homicide and other homicide victims, in % of victims



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

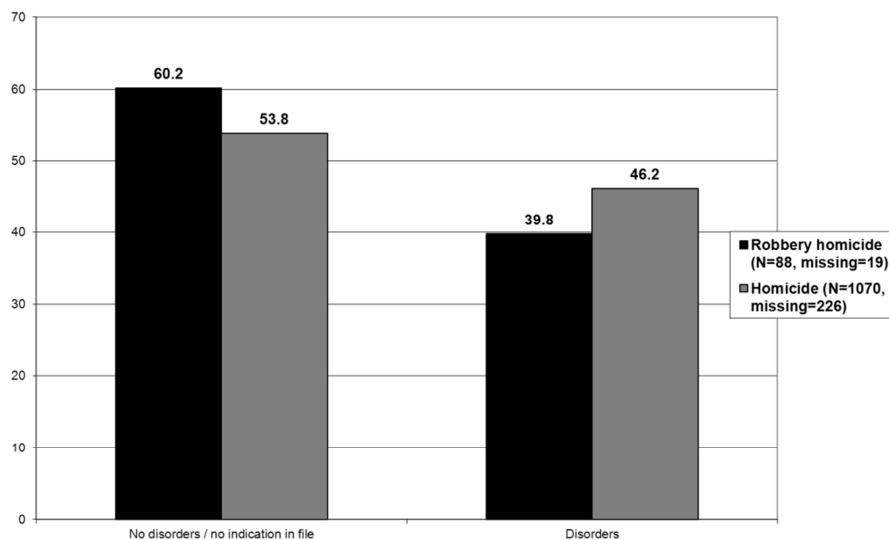
- 216 Figure 35 shows the distribution of behavioural disorders among robbery and non-robbery homicide victims. These percentages have to be considered with precaution, as numbers of robbery victims presenting any kind of behavioural disorder are very low (N=2) and therefore rates are not really valid. Nevertheless, the overall picture shows that the two victim categories present a fairly similar distribution of disorders. Only outlier is the violent tendencies, where non-robbery homicide victims are overrepresented in
- 136

regard to robbery homicide victims ($p \leq 0.05$). This overrepresentation of violent behavioural troubles is most likely the reason for the statistically significant outcome of the dichotomous variable presented in figure 33, and might be due to a higher presence of violent persons in other homicide categories, such as the argument category as well as criminal milieu homicides, where the victims show more aggressive behaviour and where the homicide is often victim precipitated.

B. Offenders

In the Swiss sample, no overall statistically significant difference was found²¹⁷ between robbery homicide offenders and non-robbery homicide offenders when it comes to behavioural disorders. However, the overall prevalence of disorders in the offender category is striking, also in comparison to the victims who present considerably lower rates.

Figure 36: Prevalence of behavioural disorders for robbery homicide and other homicide offenders, in % of offenders

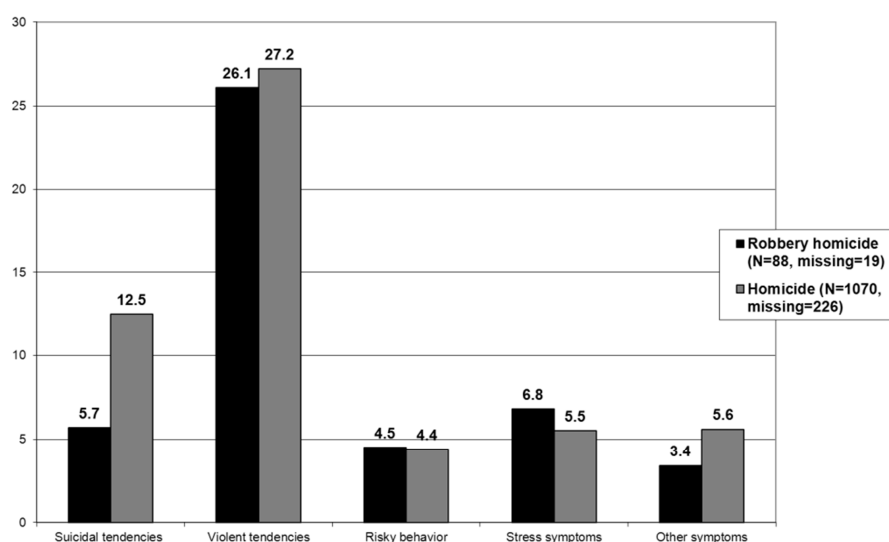


*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

If we take a closer look at the specific behavioural disorders in question, we²¹⁸ can also conclude that robbery and non-robbery homicide offenders present

fairly similar patterns of disorder. The category of suicidal tendencies constitutes an exception, since robbery homicide offenders are slightly less likely to suffer from suicidal behaviour, however this comparison does not reach a statistically significant level. The higher rate of suicidal non-robbery homicide offenders is partially influenced by the offenders from the category of homicide followed by the suicide of the offender.⁵²⁷

Figure 37: Type of disorder for robbery homicide and other homicide offenders, in % of offenders



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

⁵²⁷ However, homicide offenders who committed or attempted suicide account for only 35% (N=45) of all offenders in the Swiss database with suicidal tendencies, see KILLIAS/MARKWALDER/WALSER/DILITZ, p. 33-34.

XI. Criminal history

A. Introduction

The criminal history of offenders, but also that of victims, is an important criminological variable. It allows the comprehension of criminal trajectories that lead to a homicide incident and better evaluate the risk of becoming a homicide offender. As shown in the literature review,⁵²⁸ recidivism research on robbery or felony homicide offenders has shown that this particular subgroup of homicide offenders presents considerably higher recidivism rates. 219

In order to learn more about the prior criminal involvement of homicide protagonists in Switzerland, information about both homicide victims and offenders was collected. The variable measuring the criminal background is threefold; the victim or offender has either no criminal background according to the consulted files, or he/she is already recorded by the police (and has therefore already been arrested once) or has a justice record, which means that he/she has been convicted of an offence prior to the occurrence of the homicide. 220

B. Victims

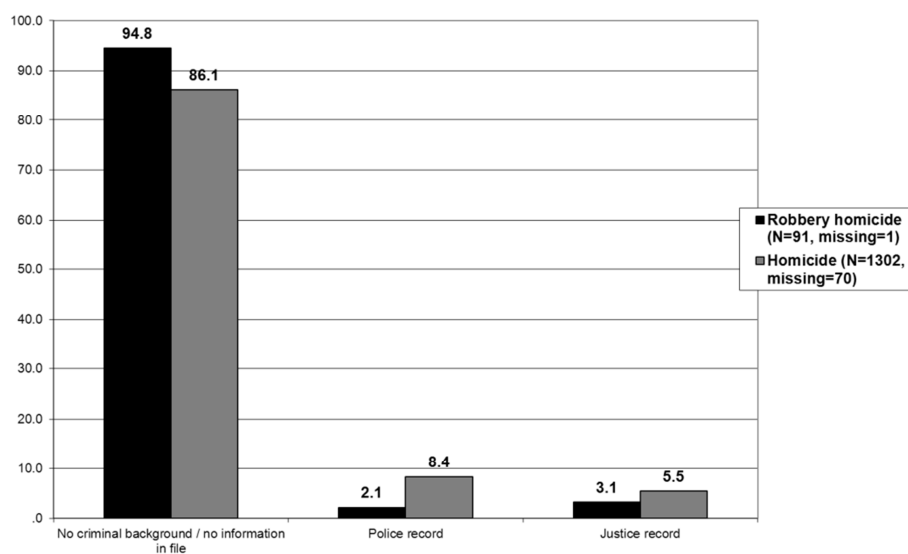
Among victims of a robbery homicide, only 2% were known to the police before they were victimised, and 3% already had a justice record. Thus, the majority of 95% have never been in touch with the criminal justice authorities. In comparison with non-robbery homicide victims, the two categories resemble each other fairly well and do not differ significantly. Moreover, compared to the general Swiss population, these rates are very low. KILLIAS/AESCHBACHER estimated the rate of convicted males up to the age of 33 in Switzerland to be 24%, this calculation being based on criminal records and therefore excluding some contraventions that are not subject to registration.⁵²⁹ Another Swiss research based on criminal record entries 221

⁵²⁸ See N 125-126 for recidivism of robbery homicide offenders.

⁵²⁹ This rate is based on the cohort of 1953 and includes traffic offences; KILLIAS/AESCHBACHER, p. 6.

estimated the lifetime prevalence of criminal convictions among persons aged 18 to 65 to be 33% for men and 8% for women.⁵³⁰

Figure 38: Criminal history of robbery homicide and other homicide victims, in % of victims



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

⁵³⁰ STORZ, p. 6.

C. Offenders

a) *Criminal history*

On the other hand, the criminal history of homicide offenders shows another picture. Overall and not surprisingly, robbery and non-robbery homicide offenders present much higher previous arrest and conviction rates than their victims. For previous police records, the difference between victims and offenders as well as the difference between robbery and non-robbery homicide offenders is less pronounced. ²²²

With more than half of the robbery homicide offenders presenting a conviction record, this subgroup is highly overrepresented in the justice records, this also in regard to the general population.⁵³¹ On the other hand, only 35% of the non-robbery homicide offenders have been convicted of an offence in the past, which is significantly ($p \leq 0.01$) less than for robbery murders and fairly close to the rate for the general population mentioned above.⁵³² Indeed, standard homicide offenders did not seem to be convicted more often than men from the general population, which might be due to the high prevalence of homicides in a family setting.⁵³³ However, as robbery homicide offenders are much more present in the court files, it can first be deduced that they are implied in a more “deviant” lifestyle or “criminal milieu”, a conclusion that is in line with previous research on the criminal history of felony homicide offenders in Switzerland.⁵³⁴ Second, this result confirms that robbery homicide offenders present a higher risk of reoffending, a finding that is also corroborated by previous research.⁵³⁵ ²²³

⁵³¹ See N 221 for data on the prevalence of criminal convictions in the general population.

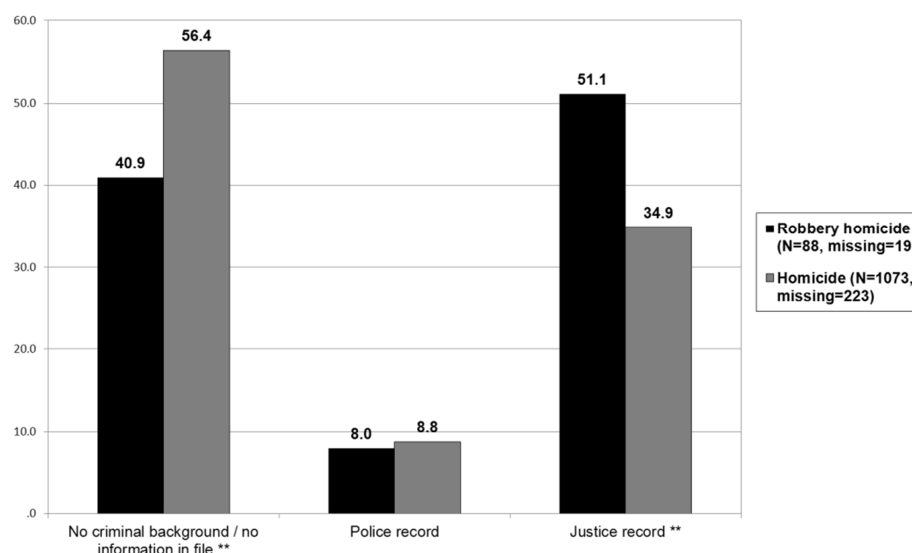
⁵³² See N 221.

⁵³³ KILLIAS/MARKWALDER/WALSER/DILITZ, p. 27-28. See also NIEUWBEERTA, p. 55-56 for similar results in the Netherlands.

⁵³⁴ See CONTAT, p. 29

⁵³⁵ See N 125-126 for research on recidivism of robbery homicide offenders.

Figure 39: Criminal history of robbery homicide and other homicide offenders, in % of offenders



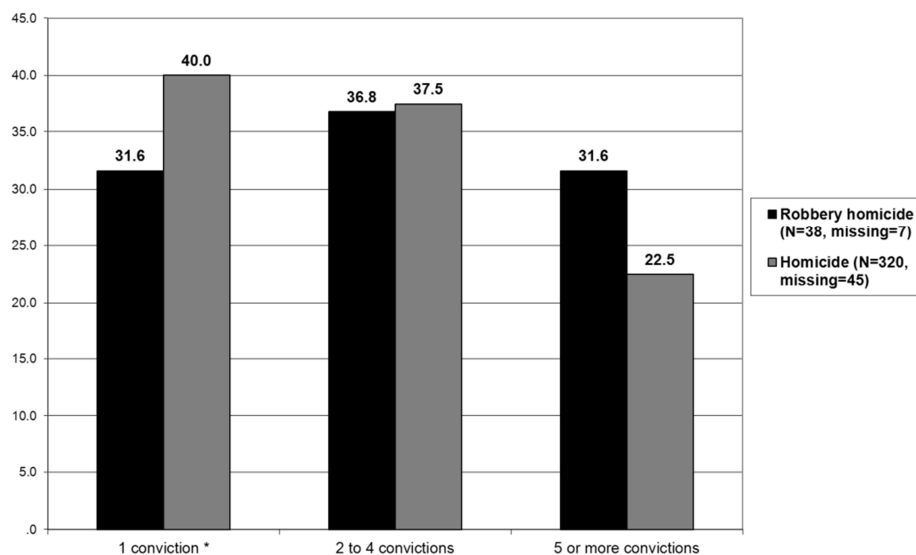
*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

b) *Number of convictions in the past*

224 In order to evaluate the frequency of prior criminal activity, figure 40 presents the number of convictions of robbery homicide and other homicide offenders. Only offenders with prior court records have been selected in the following analysis, which restricts the number of subjects of analysis to 45. Robbery homicide offenders do not only present a higher conviction rate than non-robbery offenders, but have also been significantly ($p \leq 0.05$) more often convicted in the past. Whereas 32% of the robbery homicide offenders have only been convicted once in their life, this number is significantly higher for non-robbery homicide offenders. There, 40% of the offenders presented only one conviction in the past. On the other hand, two thirds of the previously convicted robbery homicide offenders present more than one conviction in the past. Especially in the category of 5 or more convictions, robbery offenders are overrepresented in comparison to the standard homicide offenders, although the result does not reach statistical significance. This finding leads to the conclusion that robbery homicide offenders tend to present not only a higher overall rate of criminal history, but have also a higher amount of multiple convictions. This finding confirms

prior research indicating that felony homicide offenders present the highest mean number of convictions within different types of homicides.⁵³⁶ Therefore, the “typical” robbery homicide offender is characterised by numerous previous convictions and contacts with law enforcement as well as justice authorities.

Figure 40: Number of prior convictions of robbery homicide and other homicide offenders, in % of offenders



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

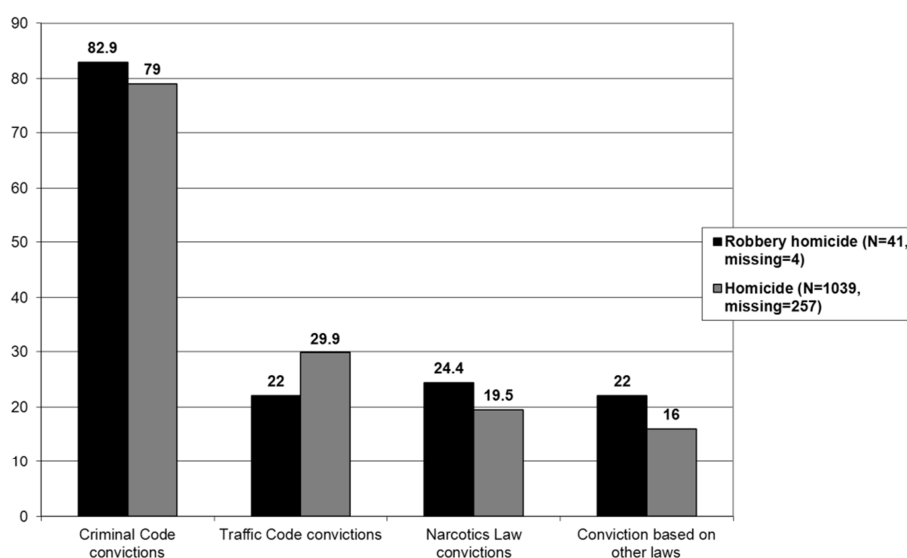
c) *Legal base of previous convictions*

What are the types of offences the robbery homicide offenders were previously convicted for? The following figures show conviction rates based on legal codes that include criminal law dispositions. The main body of criminal dispositions being included in the SCC, the Swiss criminal law is completed by dispositions embedded in other legal codes. These dispositions outside the SCC are called accessory criminal law, the most important

⁵³⁶ ROBERTS/ZGOBA/SHAHIDULLAH, p. 505.

accessory criminal dispositions being found in the Traffic Code,⁵³⁷ the Law on Immigrants⁵³⁸ as well as in the Law on Narcotics.⁵³⁹ Multiple counts are possible for this variable, as one judgment can be based on several different legal dispositions found in different codes. Again, only offenders who were convicted by a court were included in this analysis. In total, 45 offenders were known to be convicted of any offence.

Figure 41: Legal basis of conviction for robbery homicide and other homicide offenders, in % of offenders with prior convictions



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

- 226 The Criminal Code constitutes the prevailing legal foundation of previous convictions of robbery and non-robbery offenders in Switzerland, making up to 83% of their previous convictions. Dispositions in other legal codes are less likely to occur. There are no significant differences between the two homicide offender groups. The high number of SCC based convictions leads

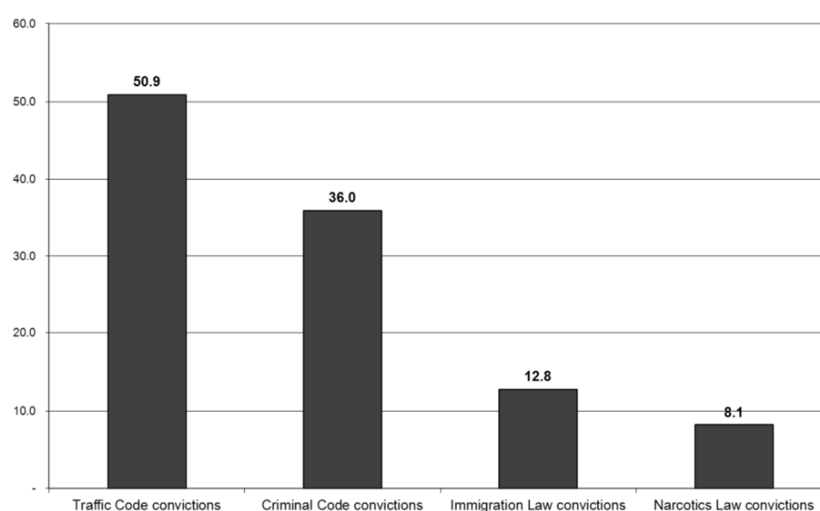
⁵³⁷ SR 741.01 titel 5 (Articles 90-103).

⁵³⁸ SR 142.20 chapter 16 (Articles 115-122).

⁵³⁹ SR 812.121 chapter 4 (Articles 19-28a).

to the assumption that robbery homicide offenders, as well as homicide offenders in general, present more serious prior convictions than the standard population. In order to corroborate this hypothesis, these findings are compared with conviction statistics for the general population (see figure 42).

Figure 42: Conviction rates in Switzerland according to different criminal laws (in %, mean value of the years 1984-2004, based on conviction statistics and excluding contraventions. Multiple counts possible. Source: OFS, Verurteilungen)



If we compare the legal foundations of the homicide offenders' previous convictions with those for the general population, robbery and non-robbery homicide offenders are much more likely to have a prior conviction for a Criminal Code offence. In comparison, only 36% of all convictions in Switzerland⁵⁴⁰ were based on the Criminal Code. On the other hand, Traffic Code violations constitute the biggest share of convictions, with more than half of the convictions pronounced in this field. Thus, we can conclude that offenders of a robbery homicide present not only more often a criminal

⁵⁴⁰ Contraventions being excluded, as they do not appear in the criminal records.

history than the general population, but are also much more likely to have been convicted of a SCC offence. This finding confirms our hypothesis that robbery homicide offenders are usually convicted of more serious offences than persons from the general population, since the predominant conviction base for the general population consists of the less serious Traffic Code convictions.

- 228 If we take a detailed look at the 41 robbery homicide offenders where we know the legal disposition of the previous conviction, we see that 12% (N=5) have been previously convicted of a robbery, 63% (N=26) of another property crime and 24% (N=10) of assault or other violent crime. It is evident that although relatively few of the robbery murderers have previously been convicted of a robbery, their involvement in other property crimes, such as theft, burglary or embezzlement, is very high. Thus we can conclude that robbery homicide offenders are very likely “specialists” in reoffending, which means that they predominantly commit property crimes, since 75% among them have already been convicted of either a robbery or other property crime in the past.

XII. Number of participating persons

A. Number of victims and offenders

One of the distinctive characteristics of robbery homicide resulting from research consists in the high number of multiple offenders targeting one single victim⁵⁴¹. Thus, in order to corroborate these findings, the question was surveyed whether the offender acted alone or with other co-offenders. The concept of co-offending is not explicitly defined in the SCC; however doctrine and jurisprudence admit this legal concept to be a form of authorship⁵⁴². Co-offending is given if the participants act together wilfully and consciously in order to commit an offence⁵⁴³. Both offenders are punishable as authors even if they did not execute all elements themselves, as long as they act with intention according to article 12 para. 2 SCC.⁵⁴⁴

As figure 43 shows, this finding is also true in Switzerland. Robbery homicide offenders act significantly more often in groups than other homicide offenders. In over one quarter of all cases, robbery homicide is committed in groups, thus confirming earlier findings in literature.⁵⁴⁵ However, robbery without lethal ending is even more prone to be committed in groups, with over 68% of the victims being attacked by more than one offender. On the other hand, robbery homicide offenders usually target one victim, since only 5 cases out of 87 present two victims. There are no cases with more than two victims in the robbery homicide category. In this regard, robbery homicide does not differ from standard homicides, since the number of victims killed during the homicide is more or less the same in the two groups. For robbery only, information on the presence of other victims was unfortunately not surveyed.

⁵⁴¹ See N 109 et seq.

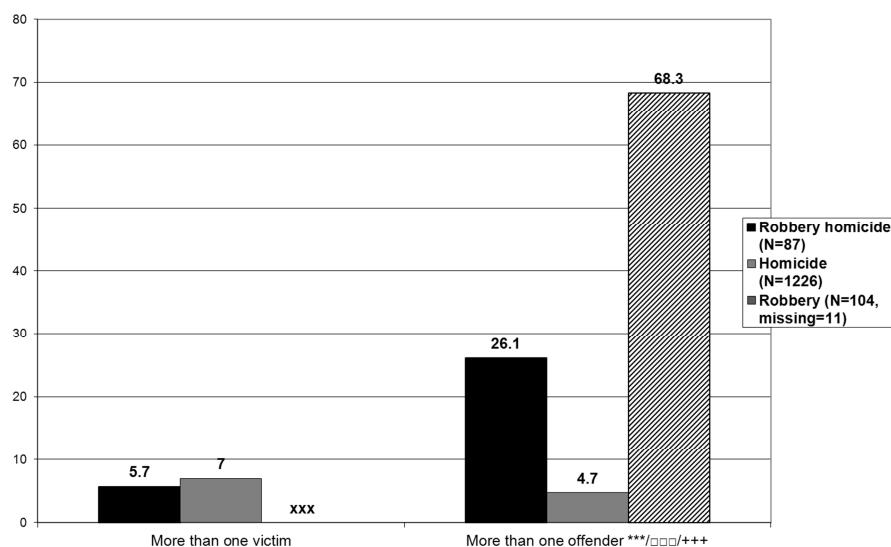
⁵⁴² DONATSCH/TAG, p. 166, KILLIAS/KUHN/DONGOIS/AEBI, N 602; TRECHSEL/KILLIAS, p. 260.

⁵⁴³ DONATSCH/TAG, p. 167, KILLIAS/KUHN/DONGOIS/AEBI, N 603; TRECHSEL/KILLIAS, p. 260.

⁵⁴⁴ See N 24 for the definition of intention.

⁵⁴⁵ See N 109 et seq.

Figure 43: Percentage of multiple victims and multiple offenders for robbery homicide, other homicide and robbery⁵⁴⁶, in % of victims resp. offenders



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$
 □: Between robbery homicide and robbery, □ = $p \leq 0.05$, □□ = $p \leq 0.01$, □□□ = $p \leq 0.001$
 +: Between homicide and robbery, + = $p \leq 0.05$, ++ = $p \leq 0.01$, +++ = $p \leq 0.001$

B. Number of accomplices

- 231 Since robbery homicide offenders more often act in groups, it would also be more likely that they have accomplices involved in the offence. Article 25 SCC defines the accomplice as someone who provides help in order to commit a felony or misdemeanour.⁵⁴⁷ He will be punishable for the offence he contributed to, however, while benefiting from a reduction of the sentence. In Swiss criminal law, the distinction between co-offenders and accomplice consists in the extent of contribution of the participants. Whereas

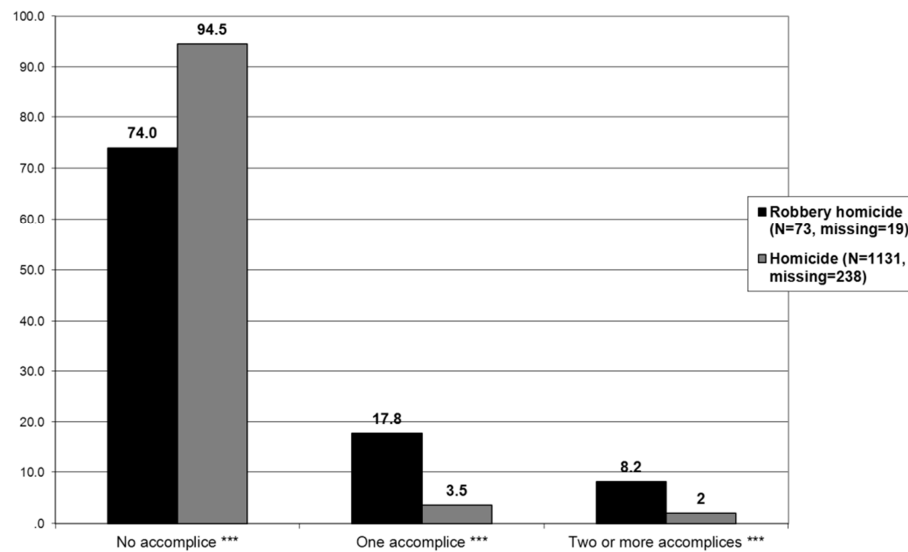
⁵⁴⁶ Data on simultaneous victimisation of other persons is unavailable in the ICVS.

⁵⁴⁷ Article 25 SCC (*Aiding and abetting*):

Any person who wilfully assists another to commit a felony or a misdemeanour shall be liable to a reduced penalty.

co-offender act together and have control over the act (*Tatherrschaft*), the accomplice only provides punctual, subordinate support.⁵⁴⁸

Figure 44: Number of robbery homicide and other homicide offenders acting with help of an accomplice, in % of offenders



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

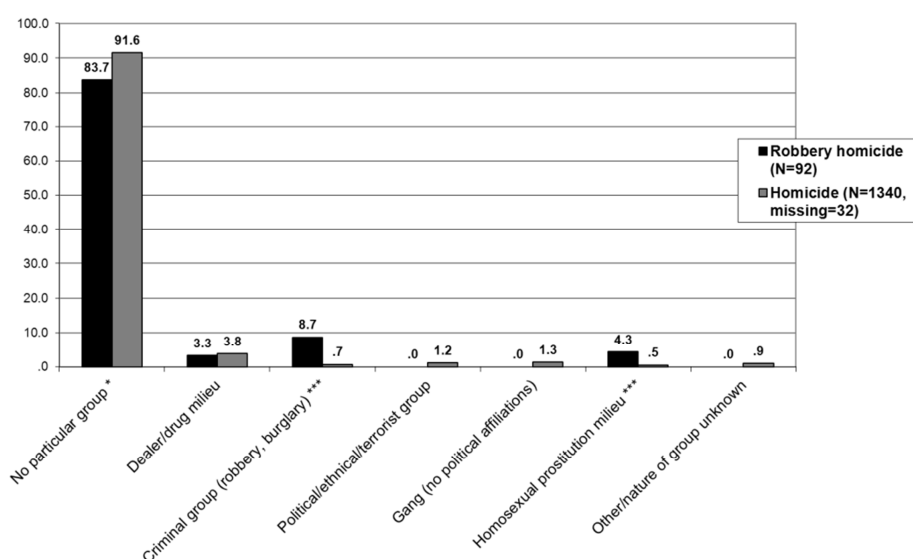
As we can see in figure 44, the initial hypothesis is confirmed. Robbery homicide offenders are significantly more likely to commit the offence with one or several accomplices than standard homicide offenders. Thus, this finding confirms the high prevalence of groups involved in robbery homicide.²³²

⁵⁴⁸ DONATSCH/TAG, p. 177; KILLIAS/KUHN/DONGOIS/AEBI, N 619; TRECHSEL/KILLIAS, p. 261.

XIII. Group/Gang membership of the offender

- 233 The variable of group/gang membership of the offenders and their accomplices is linked to the high prevalence of multiple offender cases in robbery homicide and aims to measure whether the homicide took place within a setting of organised crime, meaning whether it was street-gang related, in a mafia or other criminal milieu context. I also expanded this notion to other, non-criminal milieux that are however closely linked to the criminal world, such as the homosexual prostitution milieu. Since the variable is victim based, the results are indicated in per cent of victims killed by the offender.

Figure 45: Type of group affiliation of robbery homicide and other homicide offenders, in % of victims killed by the offender



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

- 234 Overall, 16% of all robbery homicide offenders are somewhat involved in a specific group or gang. On the other hand, group or gang members only account for 8% of all non-robbery homicide offenders. Robbery homicide offenders are especially overrepresented when it comes to criminal groups that congregate in order to commit property crimes, such as robbery and

burglary. This finding is not surprising and is also corroborated by the high number of multiple offenders in the category of robbery homicide.⁵⁴⁹ Also, robbery homicide offenders are significantly more likely to be located in the context of homosexual contacts/prostitution, but we have to keep in mind that there are only 4 offenders in the robbery homicide category. There, the classical situation consists in homosexual prostitutes who kill their clients in order to steal money or other goods from them. However, a study examining the characteristics of unsolved homicides in Switzerland, which was based on the first version of the Swiss Homicide Database,⁵⁵⁰ has found that 5 out of the 19 unsolved homicide cases concerned killings in the homosexual prostitution milieu.⁵⁵¹ This finding thus confirms that the likelihood of having robbery homicides in the unknown category is high, and our number in Switzerland likely to be an undercount.

⁵⁴⁹ See N 229-230.

⁵⁵⁰ See VILLETIAZ/KILLIAS/MANGIN, for details concerning this earlier version of the Swiss homicide database.

⁵⁵¹ GRUBER, p. 11-12.

§ 9 Characteristics of the offence

I. Homicide weapon

A. Type of weapon involved in the homicide

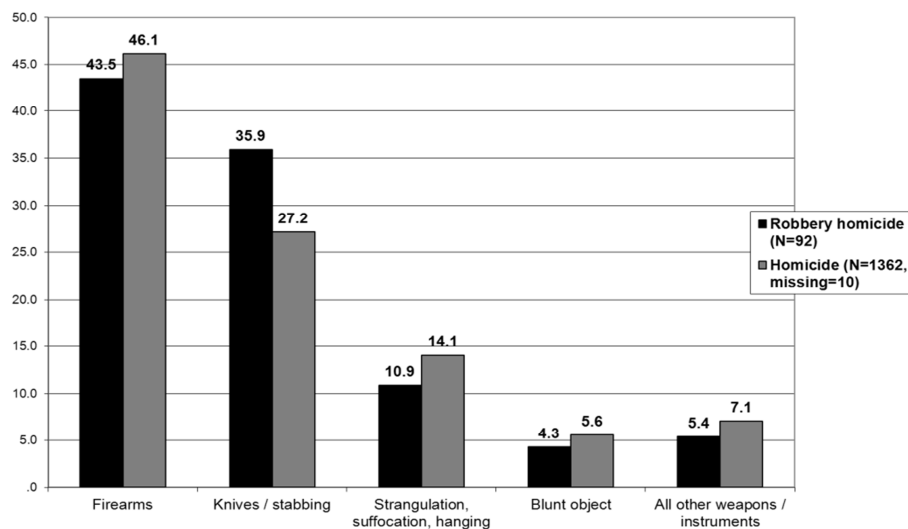
- ²³⁵ The method of killing is a key element in homicide research in general, but specifically important for robbery homicide, since the lethal outcome of offences has often been linked to the type of weapon involved.⁵⁵² It is thus crucial to examine whether the use of a certain type of weapon will increase the risk of a robbery turning into a robbery homicide. In the Swiss sample, the variable of the weapon involved in the homicide is linked to the victim's section; therefore, the homicide weapon is recorded for every victim killed. Although a combination of several weapons is theoretically possible, the chosen variable only measures the primary weapon used *in casu*.
- ²³⁶ In general, robbery homicide offenders use the same type of weapons as non-robbery homicide offenders to kill their victims; no overall significant difference was found between the two groups. Overall, firearms are most predominantly used, with 44% of all victims being killed by this type of weapon. Compared to other subtypes of homicide, such as homicides followed by a suicide of the offender where 83% of all victims were killed by firearm,⁵⁵³ firearms are less prevalent in robbery homicide. A large number of robbery homicide victims (36%) were killed by stabbing, followed by a considerably smaller group of victims being killed by strangulation, suffocation or hanging (11%) or by a blunt object (4%). The residual category of "all other weapons" makes up for 5% of the victims killed and mainly consists of cases where personal force was used (N=3).
- ²³⁷ Robbers, on the other hand, seem to use fewer weapons in the first place, since only 34% of them were reported to use a weapon during the offence. Further, if a weapon was involved in the robbery, it almost exclusively concerned knives (84%). In only 13% of the cases where weapons were used (N=4), the offender perpetrated the robbery with help of a firearm. Thus, this

⁵⁵² See N 115 et seq.

⁵⁵³ LIEM/BARBER/MARKWALDER/KILLIAS/NIEUWBEERTA, p. 73.

finding corroborates earlier research stipulating that firearm involvement considerably increases the risk for a robbery to end lethally.⁵⁵⁴

Figure 46: *Modus operandi* for robbery homicide and other homicide, in % of victims



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

B. Origin of firearms

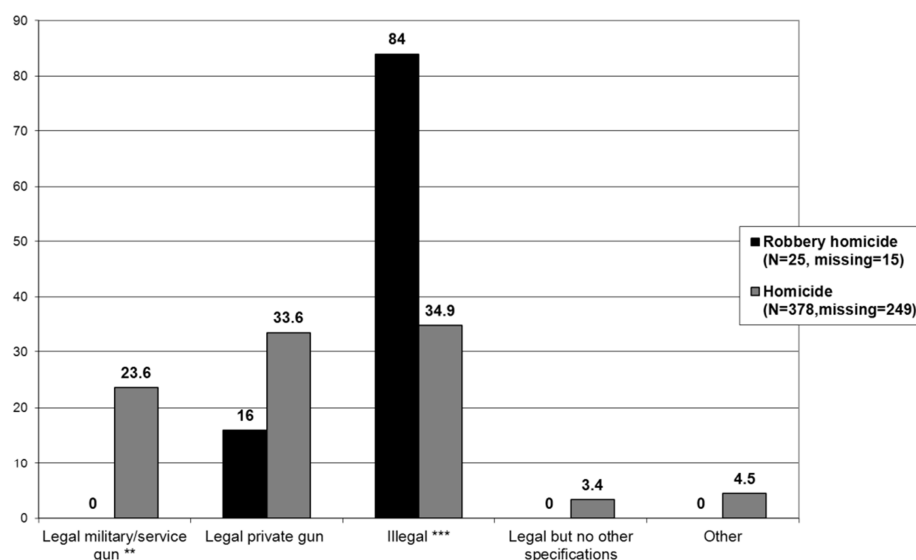
As a result of the above found lethality of firearms in robberies,⁵⁵⁵ it is 238 crucial to investigate the origin of the firearm used in the crime. Since Switzerland has one of the highest gun ownership rates per household due to the Swiss military militia, firearm accessibility is relatively easy, this especially for Swiss citizens.⁵⁵⁶ Thus, it is important to evaluate whether the firearms used in robbery homicides are rather private, legally owned guns, or whether they are acquired illegally.

⁵⁵⁴ See N 115 et seq. for the relationship between firearm involvement and lethality of the robbery.

⁵⁵⁵ N 235 et seq.

⁵⁵⁶ See N 92 for further explanations regarding the Swiss militia system.

Figure 47: Legal status of firearms involved in robbery homicide and other homicide, in % of total victims killed by firearms



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

- 239 The share of illegal firearms in robbery homicide is considerable, making up 84% (N=21) of all firearm perpetrated homicides, and therefore constituting the largest category. On the other hand, illegal firearms account for only 35% of non-robbery homicides, making this difference highly significant statistically ($p \leq 0.001$). However, non-robbery homicides are more likely committed by legal firearms, such as legal military guns or private firearms.
- 240 Although firearm involvement is similar in both robbery and non-robbery homicides, the provenance of the weapons differs considerably. The high number of illegal firearms in robbery homicide might be due to the criminal milieu the offenders come from, where illegal firearms frequently circulate. Also, types of homicide with a high number of Swiss offenders, such as homicides followed by the suicide of the offender, tend to involve more legally acquired firearms. This finding can be explained by the militia military system in Switzerland, where every male citizen has to serve in the army and is allowed to keep his service weapon at home during his active

duty years. Moreover, he can decide whether he wants to acquire the weapon after completion of the military service. Therefore, a considerable number of Swiss males have access to a legal firearm.⁵⁵⁷ On the other hand, private gun ownership is more limited for foreign citizens without permanent residence status⁵⁵⁸ and even excluded for citizens of selected nationalities.⁵⁵⁹ Therefore, it is not surprising to find a higher amount of illegal firearms in possession of foreign nationals. Within the category of robbery homicides committed with illegal firearms, 57% of the offenders are foreign nationals. However, due to the small total number (8 foreign offenders who have used illegal firearms on their victims, compared to 6 Swiss offenders), this finding might be somewhat unstable. Also, for non-robbery homicide, the use of illegal firearms is clearly dominated by foreign nationals (76%). Thus, we can state that for robbery homicide, foreign as well as Swiss offenders tend to use illegal firearms more often, which leads to the conclusion that the milieu implications for both nationals must be greater than for standard homicide.

C. Accessibility to other firearms

In order to survey whether offenders using firearms for their crime are otherwise heavily armed and could provide for even more firearms than the one used *in casu*, this variable is destined to evaluate whether the homicide offender had access to other firearms. My hypothesis of robbery homicide offenders being more likely found in a criminal milieu also engenders that they might have an easier access to firearms. It can be expected that the accessibility of firearms might be higher for robbery homicide offenders due to their connections and their contacts with other “deviant” persons. As figure 48 shows, this is the case, however only in a weakly significant proportion ($p \leq 0.05$). In case of 31% of all robbery homicide victims who have been killed by firearms, the offender would have been able to provide another firearm, and therefore was not limited to the one firearm used for his

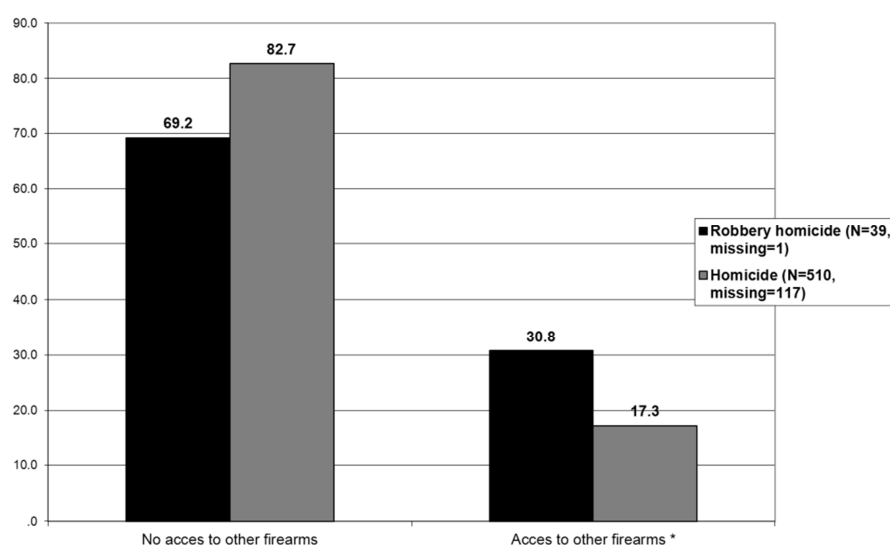
⁵⁵⁷ See N 92 for information on gun ownership of military weapons in Switzerland.

⁵⁵⁸ Article 6b of the Weapon Law (SR 514.54) requires an official confirmation from the country of residence that the person is allowed to own a weapon in his/her country of origin.

⁵⁵⁹ Based on article 7 of the Weapon Law as well as article 12 of the Weapon Regulation (SR 514.541), citizens of the following countries are not allowed to possess weapons in the sense of the Weapon Law: Serbia, Croatia, Bosnia-Herzegovina, Kosovo, Montenegro, Macedonia, Turkey, Sri Lanka, Algeria, and Albania.

crime. On the other hand, only 17% of non-robbery homicide victims were killed by offenders with access to more than one firearm.

Figure 48: Possibility of access to other firearms by robbery homicide and other homicide offenders, in % of total victims killed by firearms



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

- 242 Interestingly, robbery homicide offenders and burglary homicide offenders differ in this aspect. Although burglary homicide offenders match perfectly with robbery homicide offenders when it comes to the frequency of firearm use, none of the burglary homicide offenders would have been able to provide another firearm (other than that used for the crime). Although there is only a weak statistical significance ($p \leq 0.05$), this might be an indication that burglary homicide offenders are less linked to the local criminal milieu.

II. Location of the homicide

A. Place of homicide occurrence

a) *In comparison to other types of homicides and robbery without lethal outcome*

The location of the homicide is an important variable in homicide research. 243 It is especially important because we want to know the “hot spots” of robbery homicide, therefore the places where a person is specifically at risk of being victimised. This point is not only important in regard to a better profiling and understanding of robbery homicide, but also for prevention measures aiming to reduce the risk of certain locations. The variable measuring the location of the homicide is a victim-based variable.

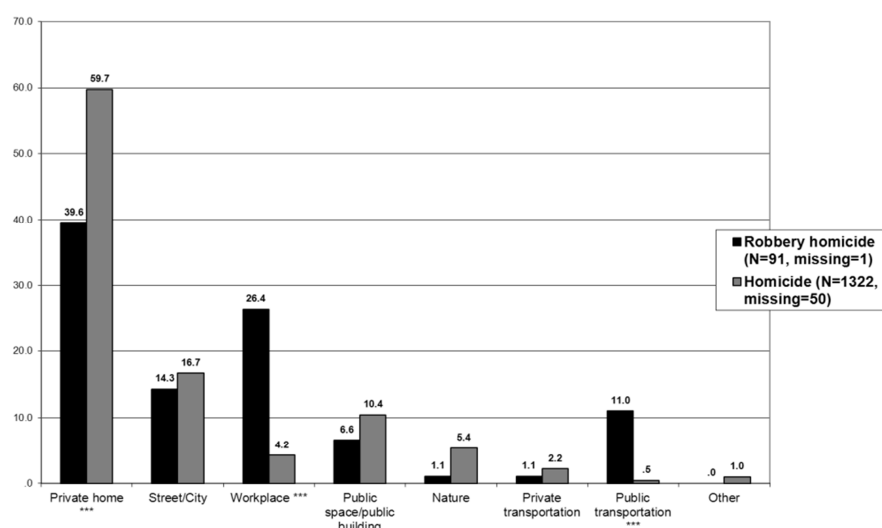
Robbery homicide presents a special pattern when it comes to the location of 244 the homicide. Although most of the robbery homicides still take place in a private home (40%), this percentage is significantly lower ($p \leq 0.001$) than that for non-robbery homicide (with 60% of all victims being killed in a private dwelling). Overall, robbery homicide predominantly takes place outside the private sphere. Killings that occurred at the workplace and in public transportation are highly overrepresented in comparison to non-robbery homicide ($p \leq 0.001$), with 26 resp. 10% of all robbery homicide victims being killed in these locations. The finding that homicides in connection with robbery are overrepresented within the group of workplace homicide is confirmed by research.⁵⁶⁰ The high prevalence of killings occurring in public transportation is mainly due to the high number of taxi drivers being killed at work and classified among this category. Also, a high number of victims are killed on the streets or in a city centre (14%), although this finding is also true for non-robbery homicide victims. Altogether, we can conclude that robbery homicide is not so much a “street crime” in a narrow sense, but highly present in the overall public sector.

Since the ICVS did not cluster the responses into the same categories, it is 245 difficult to compare the location for robbery with the results from the Swiss Homicide Database. However, it results that most of the robberies in Switzerland occur during leisure activities, such as sports, cinema or going

⁵⁶⁰ See RIEDEL, p. 168, with 54% for the USA and WALKER/RICHARDS, p. 354 in England and Wales, with nearly 40% of the workplace homicides being robbery or theft related.

out in the evening (40%), or on the way to work (13%). Relatively few happen at the work place (6%), which is surprising given the high number of robbery homicides located at work. Thus, I conclude that robberies in stores or other public locations might be more likely to turn “bad” than regular “street robbery” that happens during evening activities. Due to this higher lethality, it is thus crucial to take a closer look at robbery homicides with commercial targets, which will be done in the next section.

Figure 49: Location of the homicide, in % of victims



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

b) Commercial targets of robbery homicide

Although the body of literature in the field of workplace homicides is relatively wide in US-American research,⁵⁶¹ little to nothing is known about this phenomenon in European or specifically in Swiss research.⁵⁶² Since the Swiss Homicide Database did not contain the question of the exact location nor any further detail characteristics, the above described categorisation variable is the only information available. This lack of information is unfortunate especially in regard to commercial targets of hold-ups ending lethally, since there is no information surveyed about the type of commerce targeted in the attack. Thus, little information is available on commercial workplace robbery homicide, which is unfortunate given that it would be crucial to identify commercial locations at risk in order to apply prevention solutions to these specific locations. However, the staff codifying the information from the official files were permitted to add any additional information on the homicide location by filling out the “precision” field after the question. Hence, analysing the cases where this additional information was available, some more conclusions about the type of commerce chosen for the robbery homicide could be drawn. In total, there are 26% of robbery homicide victims killed at their workplace (N=24). Taxi drivers that were killed in or around their taxi (and thus, technically, their workplace as well), were not included in the category of commercial workplace homicides, since taxis are mobile and can thus not be assimilated to commercial locations.⁵⁶³ 246

Looking at the workplace homicides qualitatively in combining the location variable with case descriptions and working information of the victim, it results that workplace homicide locations can be broadly classified in three groups. The first group consists of money storage locations such as banks, post offices as well as exchange bureaux. In each of these locations, two employees were killed at work during a robbery. A second subgroup consists of retail targets, such as jewellery stores, where 3 victims were killed during a robbery, weapon stores with two employees killed at work, petrol stations with two fatalities, and other commercial stores, with 6 persons being victimised at work. The remaining 5 cases can be classified among a third 247

⁵⁶¹ See HENDRICKS/JENKINS/ANDERSON; RIEDEL; and TA/MARSHALL/KAUFMAN/LOOMIS/CASTEEL/LAND, for examples of research on workplace homicide in the USA.

⁵⁶² For one of the rare exceptions, see WALKER/RICHARDS’s study on workplace homicide in England and Wales.

⁵⁶³ See N 194 for more information about the victimisation of taxi drivers.

residual category and consist of a secretary killed in her office (without specification of what type of office), a worker of a train company killed in the warehouse of his company in front of the empty safe, a prostitute robbed and killed in her working chamber, a restaurant owner killed behind his restaurant and a security guard victimised at work.

- 248 Thus, I conclude that the most commonly targeted locations for a “hold-up” robbery that ends lethally are locations where money is stored, such as banks, exchange bureaux or post offices, as well as commercial stores such as jewellers, petrol stations and weapon stores. It becomes clear that robbers mostly target stores where they hope to find great value and easy access, which is in line with the routine activity theory⁵⁶⁴ stating that motivated offenders look specifically for a suitable target, i.e. stores where they hope to find valuable goods, such as jewellers, weapon stores, exchange bureaux or other stores, and that they “attack” if there is no guardian protecting these targets. With help of the routine activity approach, it also becomes evident why in a country with a very prevalent banking sector, only two banks were targets of a hold-up; As banks usually have the advantage of a very solid security protection system, hold-ups become increasingly risky and difficult, and the condition of an “absent guardian” thus not fulfilled *in casu*. Hence, motivated offenders might switch to more easily available targets, such as retail stores, that have less security measures.

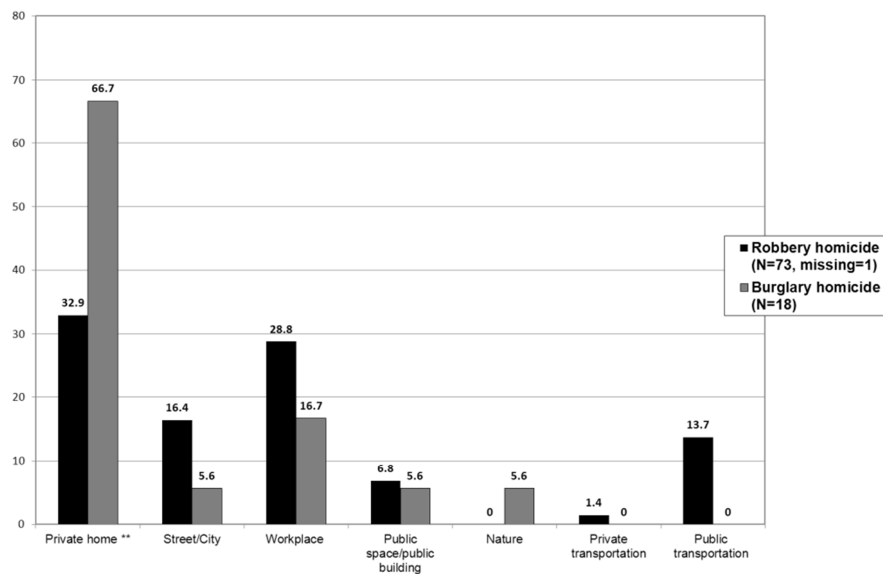
c) *Within the category of property crime homicides*

- 249 Location is one of the rare variables where robbery homicides *stricto sensu* differ from burglary homicides. Not surprisingly, burglary homicides are significantly more likely (67% in comparison to 33%, $p \leq 0.01$) to take place within a private home. Robbery homicides, on the other hand, take place more often in public space, such as streets (16% vs. 6%) and the work place (29% vs. 17%), this however without being statistically significant. Burglary homicides are significantly more prevalent in the private sphere and indoors, such as private housing or work places, whereas most of the robbery happen somewhere in public. Thus we can conclude that property crime homicides in general, but even more so robbery homicides specifically, are predominantly “public” crimes. However, within this comparison, we have

⁵⁶⁴ See N 83 et seq. for more information about the routine activity theory.

to keep in mind that the absolute number of burglary homicides, with only 18 victims in our database, is very low.

Figure 50: Location of the homicide for robbery homicide *stricto sensu* and burglary homicide, in % of victims



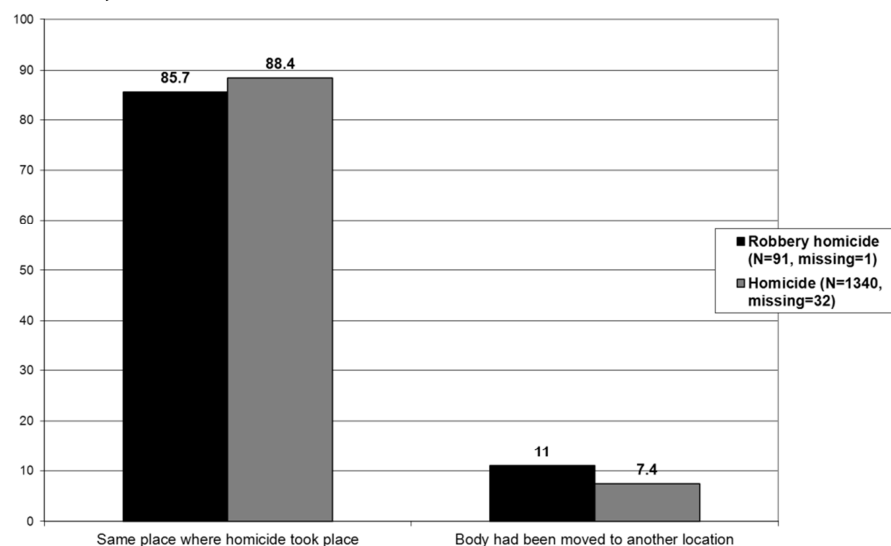
*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

B. Location where the body was found

Another interesting aspect of the *modus operandi* of an offender and therefore an important factor for the crime scene analysis is not only to know where he killed his victim(s), but also if the place of the killing is identical to the place where the body was found, or if the offender moved the body *post mortem*. Offenders who move their victims in order to dissimulate the traces of the crime are believed to be more experienced criminals.⁵⁶⁵ However, in my dataset, there are also other situations where the offender changes the placement of the victim after the killing, e.g. for sentimental reasons (offender puts dead victim in bed) or because he wants to call attention to the homicide by exposing the victim.

⁵⁶⁵ HÄKKÄNEN/LAAJASALO, p. 42.

Figure 51: Location of victim's body after the robbery homicide and other homicide, in % of victims



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

- 251 In general, only a minority of homicide offenders move their victim's body after death. Although robbery homicide offenders move the body slightly more (11% of the victims are moved by their offenders) than non-robbery homicide offenders (7%), this difference is not statistically significant. Also, it goes in line with findings of a Finnish homicide sample, where 8.3% of the homicide offenders with no diagnosis of a mental disorder moved their victim's body to another place.⁵⁶⁶

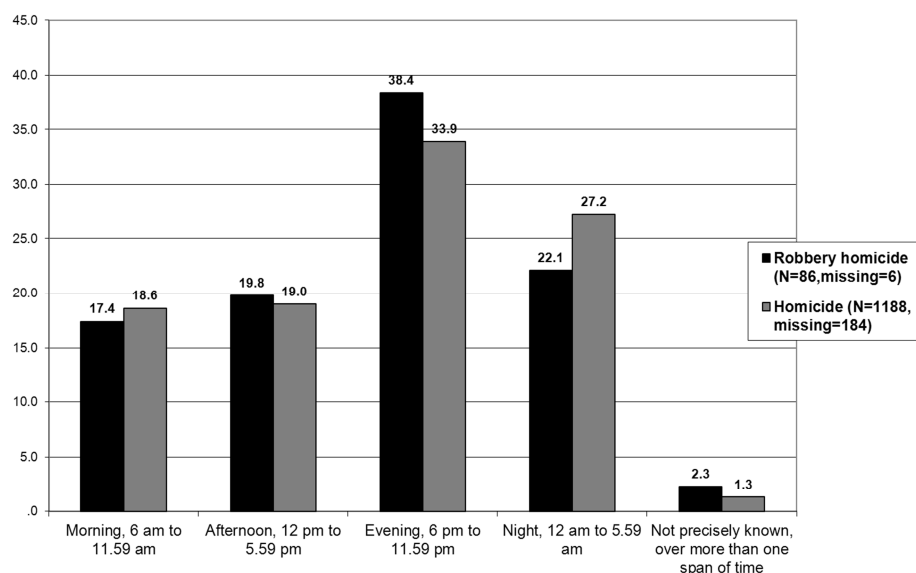
⁵⁶⁶ HÄKKÄNEN/LAAJASALO, p. 42. However, offenders diagnosed with a mental disease are much more likely to move the victim after death.

III. Time of the homicide

What time of day holds the highest risk of robbery homicide victimisation? ²⁵²

According to figure 52, robbery and non-robbery homicides present a similar time pattern. Most of the homicide victims are killed in the evening (38% of the robbery homicide victims and 34% of the non-robbery homicide victims) or at night (22% of the robbery homicide victims and 27% of the non-robbery homicide victims). During daytime, homicide incidents prevail less frequently, with 17 resp. 19% of homicides taking place in the morning and 20 respectively 19% of them occurring in the afternoon. However, time of day is not a very discriminating factor in regard to the risk of robbery homicide victimisation; this finding could be due to the heterogeneous scenarios within the robbery homicide category. Whereas street robberies turning into homicide are probably more prevalent in the evening, burglars might decide to commit their offence when persons are usually absent from their homes, thus during daytime. The same might be true for commercial robberies that end lethally, since these offences have to happen during store opening hours. However, if we split up the property crime homicides into robbery homicide and burglary homicide, it is interesting to note that burglary homicides present a very even time distribution: Whereas 4 burglaries were committed in the morning, 3 happened in the afternoon, 4 in the evening and 4 at night. Robbery homicide *stricto sensu* is slightly more prevalent in the evening, with 41% of the cases happening between 6 pm and midnight.

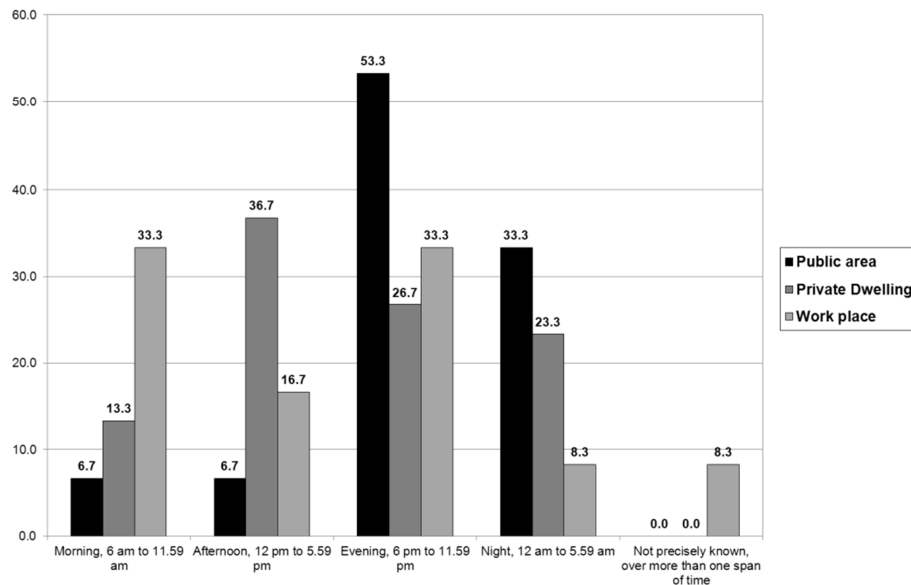
Figure 52: Time of homicide, in % of victims



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

- 253 If we differentiate between the location of the homicide and time of the homicide, even clearer time patterns emerge. Within public locations, most of the robbery homicides, namely 87%, occur in the evening or at night. However, robbery homicides in private dwellings are, as already mentioned for burglary homicide alone, very evenly distributed over time. The same is true for workplace homicides, although they rarely happen between midnight and 6 am. This detail analysis is, however, limited by the small number of cases in the different categories.

Figure 53: Time of homicide according to the location, in % of robbery homicide victims (N=85, missing=7)



IV. Third person involvement

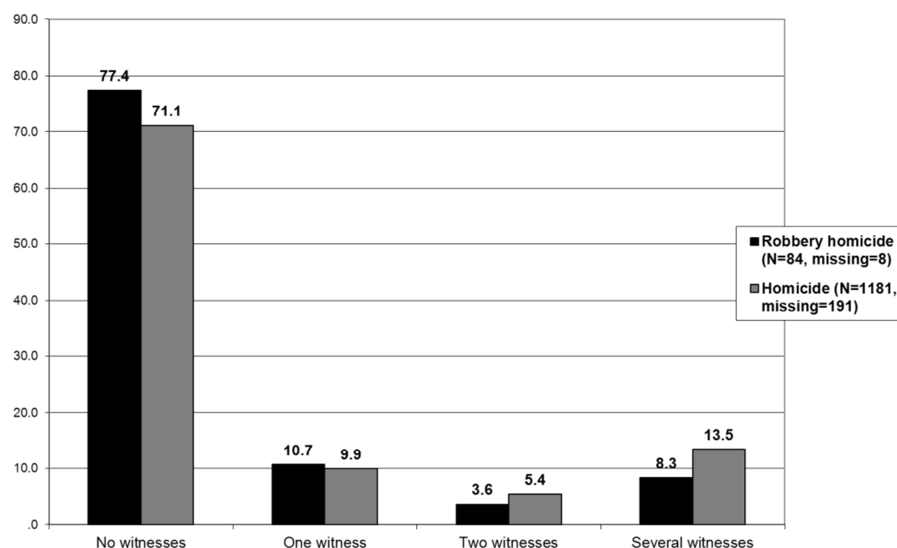
A. Presence of witnesses

Homicide predominantly happens in a “closed” setting and rarely involves bystanders. Witness involvement is neither current for robbery homicides nor for other homicides. More than two thirds of the victims (77%) were killed without presence of a witness. This finding somewhat contradicts earlier findings on the presence of witnesses during a robbery homicide by DIETZ, who found that felony homicides frequently occurred in presence of witnesses,⁵⁶⁷ as well as KUBRIN, who found that bystanders were more often present in robbery homicide than domestic homicide but less often present in comparison to argument related homicides.⁵⁶⁸

⁵⁶⁷ DIETZ, p. 187.

⁵⁶⁸ KUBRIN, p. 148.

Figure 54: Number of witnesses of a robbery homicide and other homicide, in % of victims



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

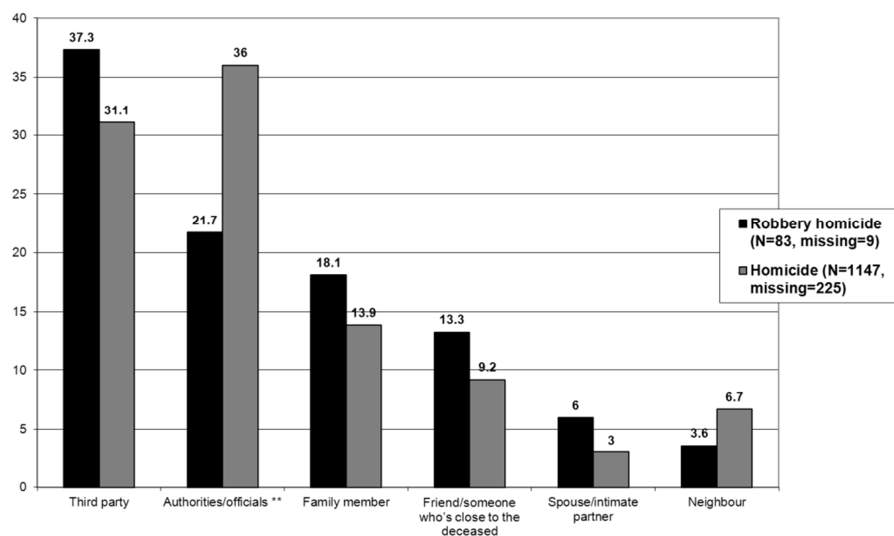
B. Person who discovered the victim's body

255 Not surprisingly, the variable of the first person on the crime scene is heavily linked to the setting in which the homicide takes place. Therefore, one would expect that robbery homicides, occurring frequently in the public sphere,⁵⁶⁹ are more likely discovered by persons unknown to the victim and offender and unrelated to the homicide incident. Figure 55 confirms this hypothesis. In 37% of all cases, robbery homicide victims are discovered by third persons, meaning people unrelated and unknown to both homicide victim and offender. However, they are significantly less likely to be discovered by official authorities, such as police, than non-robbery homicide victims ($p \leq 0.01$). On the other hand, the share of family members, intimate partners or friends discovering the victim is slightly, but not significantly, higher for robbery homicide, which is probably due to the fact that robbery homicides

⁵⁶⁹ See N 244 for details.

are more often perpetrated by strangers and that therefore the above named persons are less likely involved in the homicide themselves.

Figure 55: Person finding the victim, in % of victims



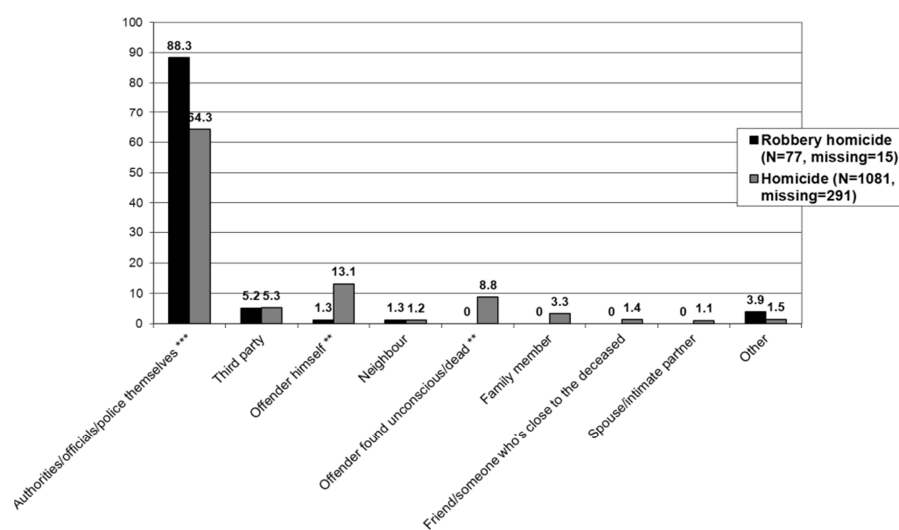
*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

C. Person who reported the homicide to the police

In the overwhelming majority of cases (88%, $p \leq 0.001$), robbery homicide offenders were reported by the police or other official authorities. In only a few cases, the offender was reported to the police by someone else, such as a third person (5%, $N=4$) or a neighbour (1%, $N=1$). Unlike non-robbery homicide offenders who are more likely to report themselves to the police (13%, $p \leq 0.01$), robbery homicide offenders almost never “turn themselves in” (1%, $N=1$). Also, none of the robbery homicide offenders were found dead or unconscious on the crime scene, whereas this was the case for almost 9% of the non-robbery homicide offenders ($p \leq 0.01$). This finding stipulates that a robbery homicide followed by an attempted or completed suicide of the offender is a highly unlikely occurrence. On the other hand,

most homicides followed by the suicide of the offender happen in a family homicide setting and involve offenders of Swiss nationality.⁵⁷⁰

Figure 56: Persons reporting the homicide to the police, in % of victims



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

⁵⁷⁰ For more information about the specific category of homicides followed by the suicide of the offender, see LIEM/BARBER/MARKWALDER/KILLIAS/NIEUWBEERTA.

§ 10 Police investigation

I. Detection of the suspect

The question whether a suspect has been arrested and charged or not is commonly referred to as the “clearance rate” of an offence in criminological research.⁵⁷¹ Clearance rates in police investigation are a major topic in criminological research and, as considered a derivative of police efficiency,⁵⁷² also politically sensitive. They might vary a great deal, depending on the type of crime.⁵⁷³ In general, homicide presents relatively high clearance rates in comparison to other offences, and especially in comparison with robbery. According to OFS statistics, 87% of the completed homicides occurring in Switzerland in the year 2010 have been solved. In the year 2009, this was even the case for 96% of the completed homicides. On the other hand, robbery has a very low clearance rate in Switzerland, since only 37% could be cleared by the police.⁵⁷⁴ 257

However, there is considerable inconsistency when it comes to clearance rates within the different types of homicides. Research has found that specifically homicides in the context of another felony present much lower clearance rates than other types of homicides, such as homicides within the family or intimate partners.⁵⁷⁵ In order to evaluate whether the clearance rates are different between the two subtypes, figure 57 shows the overall clearance rate between robbery homicides and homicides, clearance being defined as the number of cases where an offender was found and arrested, independently of whether he was further charged for the crime or not. Cases that remained uncleared concern offenders who were either unknown from the beginning, or fugitives and thus not arrested. It becomes evident that although robbery homicides present a slightly higher percentage of offenders who are either unknown or otherwise not arrested (21%) than standard homicides (with 15%), this difference is not statistically significant. Thus, robbery homicides are equally often cleared as standard homicides, a finding 258

⁵⁷¹ MOUZOS/MULLER, p. 2.

⁵⁷² LITWIN/YILI XU, p. 94; REGOECZI/KENNEDY/SILVERMAN, p. 136.

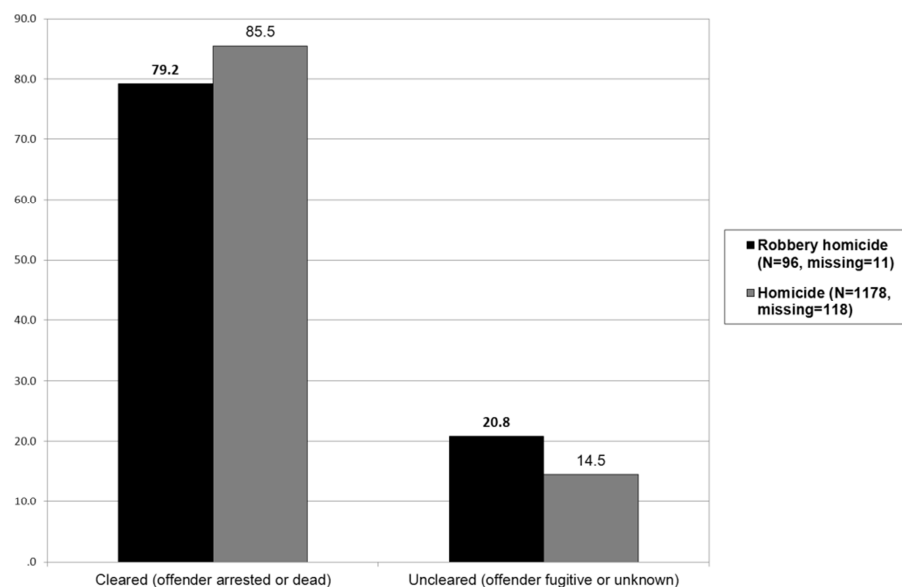
⁵⁷³ See OFS, Kriminalstatistik, p. 13, for an overview of clearance rates in Switzerland according to SCC offences.

⁵⁷⁴ OFS, Kriminalstatistik, p. 13.

⁵⁷⁵ See N 127 et seq.

that seemingly contradicts research on clearance rates of felony homicides in other countries.⁵⁷⁶

Figure 57: Percentage of uncleared cases, in % of offenders



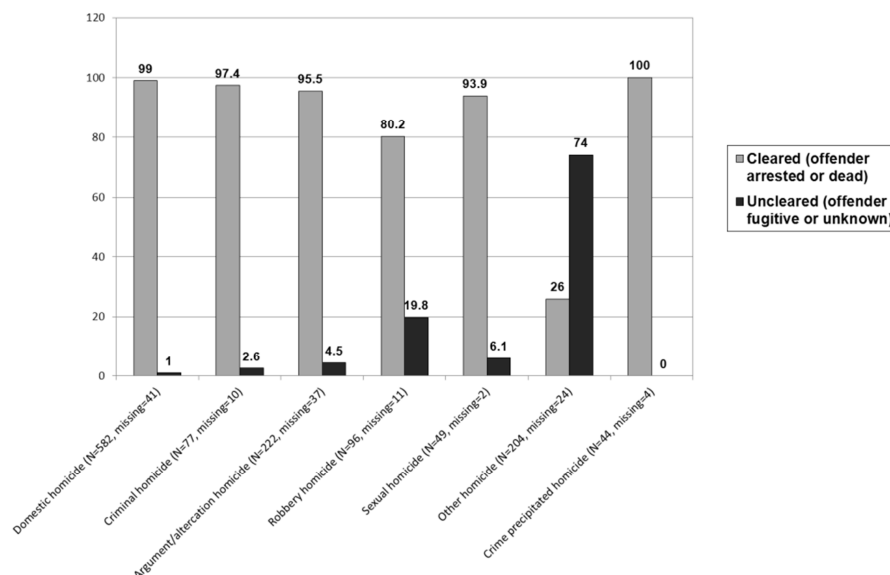
*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

- 259 However, this finding might be due to the great heterogeneity of the standard homicide group, where homicides with a high clearance rate, such as intimate partner killings, are regrouped with homicides with low clearance probability, such as neonaticides. Also, homicides with unknown circumstances, and thus uncleared as well, are regrouped in the standard homicide category, thus increasing the percentage of overall uncleared cases. Hence, it is useful to compare robbery homicide with other types of homicides, which is presented in figure 58. It becomes evident that robbery homicides present, with 21% of the cases remaining uncleared, a significantly higher amount of uncleared cases than all other types of homicides ($p \leq 0.001$ against domestic, criminal and argument homicide,

⁵⁷⁶ See N 127 et seq.

$p \leq 0.01$ against crime precipitated homicide and $p \leq 0.05$ against sexual homicide), with exception of the residual category of “other homicides” where 74% of the cases are not solved ($p \leq 0.001$). However, as mentioned above, this category mainly consists of unsolved cases where the circumstances are also unknown ($N=171$). Thus, it can be concluded that robbery homicide does, as is stipulated by research,⁵⁷⁷ present a higher rate of unsolved cases than other types of homicide.

Figure 58: Percentage of uncleared cases per type of homicide, in % of offenders



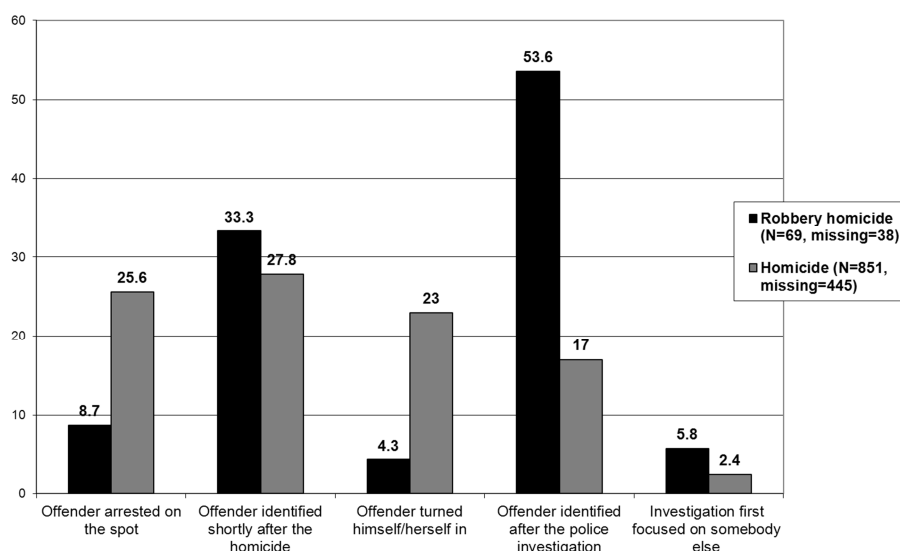
*: Between robbery homicide and other types of homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

Figure 59 illustrates how the offender was detected by the police after the homicide incident. Robbery homicide offenders are significantly less likely to be arrested on the spot by police officials ($p \leq 0.01$). Furthermore, they are more than five times less likely to turn themselves in than other homicide offenders ($p \leq 0.001$). On the contrary: Most of the robbery homicide

⁵⁷⁷ See N 127 et seq.

offenders (54%, $p \leq 0.001$) were identified after the police investigation, which stipulates that there was no primary suspect of the crime to begin with. Hence we can conclude that the police investigation tends to be more difficult in a robbery homicide case because the offender is not likely to be obvious and clearly linked to the crime. This finding might also be due to the fact that a big share of robbery homicide offenders are strangers to their victims and therefore harder to be linked to them in a police investigation. These difficulties in police investigation are also confirmed by the finding displayed in figure 59 that in robbery homicide cases, the investigation is more likely to focus on a wrong person before the offender is found (6% vs. 2% for non-robbery offenders). Also, in more than half of the cases, the offender was identified after a police investigation took place, a finding that confirms the importance of police work in case of a robbery homicide. Only 9% of the robbery homicide offenders could be arrested on the spot, which is significantly less than in the standard homicide category. Also, as noted in N 256, robbery homicide offenders almost never turn themselves in, whereas a considerable share of non-robbery homicide offenders, namely 23%, did surrender to the police.

Figure 59: Detection of the offender, in % of offenders (Multiple answers possible)



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

Finally, 15% of the offenders were unknown from the beginning, and the homicide is still unsolved. In standard homicide, this is the case for 12% of the offenders. ²⁶¹

Has the clearance rate of robbery homicide increased within the time span of the database? Unfortunately, our database includes insufficient robbery homicides in order to evaluate this question. Also, trend analysis would include only the years from 1991 to 2004, since our database is not complete for the years prior to 1991.⁵⁷⁸ However, while having a qualitative look at the 87 cases of robbery homicide over the last 20 years, it is interesting to see that there have been no unsolved robbery homicides after 1999, with exception of one case in 2004. It could be that due to new technologies, such as the DNA analysis, the investigation could be improved and clearance rates for homicides that often involve strangers, such as robbery homicide, increased. Further analysis of robbery homicides for more recent years would give answers to this question and will hopefully be undertaken in the near future. ²⁶²

II. Pre-trial detention

Of those offenders known to police officials, how many were detained while awaiting trial? Articles 220 to 240 of the Swiss Criminal Procedure Code (CCrP) determine the guidelines for pre-trial detention. Article 221 CCrP enumerates the conditions of applicability. First, as a *conditio sine qua non* of detention (*allgemeiner Haftgrund*, article 221 para. 1 CCrP), the existence of a strong suspicion (*dringender Tatverdacht*) is *de rigueur*.⁵⁷⁹ Therefore, there must be concrete clues that the suspect has committed a crime according to article 10 SCC.⁵⁸⁰

Cumulative to the first general condition, pre-trial detention can only be ordered if one of the four alternative⁵⁸¹ conditions enumerated in article 221 ²⁶⁴

⁵⁷⁸ See N 144.

⁵⁷⁹ SCHMID, N 1019; DONATSCH/SCHWARZENEGGER/WOHLERS, p. 161; SCHMOCKER, COMMENTAIRE ROMAND 221 N 7; FORSTER, BSK STRAFPROZESSORDNUNG 221 N 1.

⁵⁸⁰ SCHMID, N 1019; SCHMOCKER, COMMENTAIRE ROMAND 221 N 10; FORSTER, BSK STRAFPROZESSORDNUNG 221 N 2.

⁵⁸¹ The conditions of article 221 para. 1 let. a-c CCrP as well as article 221 para. 2 CCrP do not have to be fulfilled altogether; pre-trial detention can be ordered if one of the four conditions applies *in casu*, see SCHMID, N 1021. Consequently, the general condition of

para. 1 let. a CCrP, article 221 para. 1 let. b CCrP, article 221 para. 1 let. c CCrP and article 221 para. 2 CCrP are fulfilled. Hence, pre-trial detention of suspects is possible if the suspect is likely to avoid trial or judgment by escaping abroad or by disappearing within national boundaries (Article 221 para. 1 let. a CCrP) or if he presents any risk of collusion (Article 221 para. 1 let. b CCrP) or recidivism (Article 221 para. 1 let. c CCrP).⁵⁸² Finally, article 221 para. 2 CCrP constitutes a special case within these four alternative conditions, by admitting pre-trial detention for persons who threaten to commit a serious crime according to article 10 para. 2 SCC, however without having concretely achieved any criminal behaviour so far (*Ausführungsgefahr*).⁵⁸³

- 265 Considering the above mentioned conditions, pre-trial detention is mostly applicable for dangerous suspects, who have committed a serious crime (or intended to do so). Therefore, I hypothesise that homicide offenders in general, but even more so robbery homicide offenders, are most likely to be detained before trial. Being suspected of one of the most serious crimes in the SCC, the risk of escape, collusion or recidivism is commonly assumed.⁵⁸⁴
- 266 For the analysis of the number of homicide offenders who are detained pending trial, I excluded all offenders who were not officially charged of the crime, which concerns all offenders who are unknown, deceased or not accused for other reasons.
- 267 The initial hypothesis being confirmed, the large majority of robbery homicide offenders, namely 92%, are held in custody before their trial. The share of non-robbery homicide offenders is, with 90%, almost the same. The remaining 8 resp. 10% of offenders who are not held in custody before their trial consist largely of offenders held in psychiatric institutions instead, or offenders who were accused but escaped the authorities, or offenders

the existence of a strong suspicion is cumulative to the special conditions, whereas these special conditions are alternative among each other; FORSTER, BSK STRAFPROZESSORDNUNG 221 N 4.

⁵⁸² SCHMID, N 1022 et seq.; DONATSCH/SCHWARZENEGGER/WOHLERS, p. 162 et seq.; SCHMOCKER, COMMENTAIRE ROMAND 221 N 11 et seq.; FORSTER, BSK STRAFPROZESSORDNUNG 221 N 5 et seq.

⁵⁸³ SCHMID, N 1026; DONATSCH/SCHWARZENEGGER/WOHLERS, p. 165; SCHMOCKER, COMMENTAIRE ROMAND 221 N 21-24; FORSTER, BSK STRAFPROZESSORDNUNG 221 N 16 et seq.

⁵⁸⁴

arrested in countries other than Switzerland. In a few cases, the assumption of a no-answer where no information could be found in the files⁵⁸⁵ might be the reason for a negation of pre-trial detention as well. Nevertheless, pre-trial detention is almost always imposed on homicide offenders in general and on robbery homicide offenders specifically.

⁵⁸⁵ See N 142 for more information concerning the methodological issues of coding the no-answers.

§ 11 Court sentence

I. Type of verdict given by the court

- ²⁶⁸ This variable determines the actual judicial phase of the homicide case at the time of this survey. As legal medicine files are referred to as the starting point of this research, some of the recorded victim data are fairly recent. Therefore, some of these cases might still be under investigation or pending in court. Figure 60 shows that this is so for almost 4% of the non-robbery offenders. Also, for 6% of the regular homicide offenders, no judgment was rendered owing to the fact that either at the stage of prosecution (article 319 et seq. CCrP)⁵⁸⁶ or in court (article 329 para. 4 CCrP),⁵⁸⁷ the proceedings were dropped.
- ²⁶⁹ With the exception of one offender being acquitted by the court (1%) because he lacked soundness of mind according to article 19 SCC⁵⁸⁸ and two deceased during the trial (3%) and therefore no longer subject to a verdict,

⁵⁸⁶ For details regarding the discontinuation of proceedings at the stage of prosecution, see SCHMID, N 1247 et seq.; DONATSCH/SCHWARZENEGGER/WOHLERS, p. 224 et seq.; ROTH, COMMENTAIRE ROMAND CLASSEMENT N 1 et seq.; GRÄDEL/HEINIGER, BSK STRAFPROZESSORDNUNG Einstellung N 1 et seq.

⁵⁸⁷ For details regarding the discontinuation of proceedings at the stage of court, see SCHMID, N 1280 et seq.; DONATSCH/SCHWARZENEGGER/WOHLERS, p. 230; WINZAP, COMMENTAIRE ROMAND LITISPENDANCE N 1 et seq.; STEPHENSON/ZALUNARDO-WALSER, BSK STRAFPROZESSORDNUNG N 1 et seq.

⁵⁸⁸ See article 19 SCC (*Absence of legal responsibility due to a mental disorder and diminished responsibility*):

1 *If the person concerned was unable at the time of the act to appreciate that his act was wrong or to act in accordance with this appreciation of the act, he is not liable to prosecution.*

2 *If the person concerned was only partially able at the time of the act to appreciate that his act was wrong or to act in accordance with this appreciation of the act, the court shall reduce the sentence.*

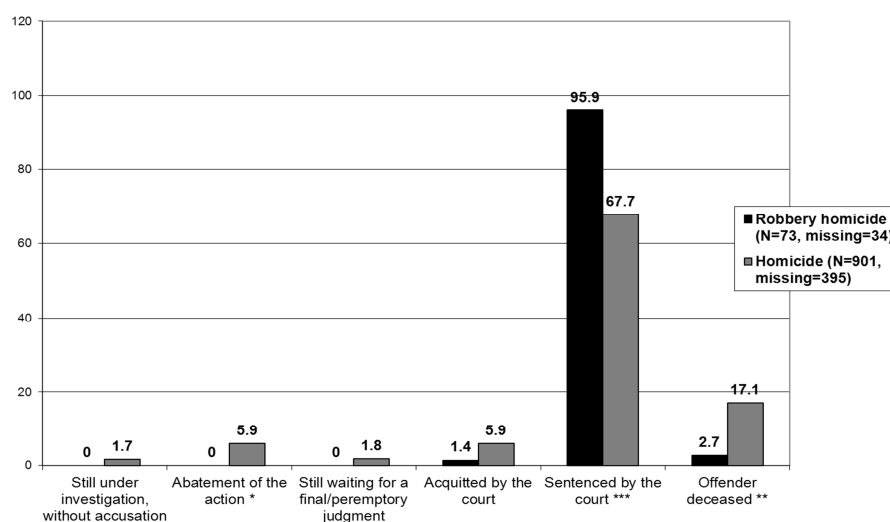
3 *Measures in accordance with Articles 59–61, 63, 64, 67 and 67b may, however, be taken.*

4 *If it was possible for the person concerned to avoid his state of mental incapacity or diminished responsibility and had he done so to foresee the act that may be committed in that state, paragraphs 1–3 do not apply.*

See also DONATSCH/TAG, p. 268, as well as KILLIAS/KUHN/DONGOIS/AEBI, N 921, for the legal consequences of mental incapacity.

all other robbery homicide offenders (96%) were found guilty and sentenced by the court. On the other hand, only 68% of the non-robbery homicide offenders were found guilty after trial. The significantly higher number of deceased offenders (17%), mainly the result from the frequent number of homicides followed by the suicide of the offender, mostly accounts for this finding; however, even taking the deceased offenders into account, the conviction rate for non-robbery offenders remains significantly lower than for robbery homicide offenders ($p \leq 0.001$). Therefore, the only slightly significant greater part of offenders who profited from an acquittal (6%) as well as the cases still under investigation or suspended also contributes to the lower level of convictions for non-robbery homicide offenders.

Figure 60: Type of verdict given by the court, in % of offenders



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

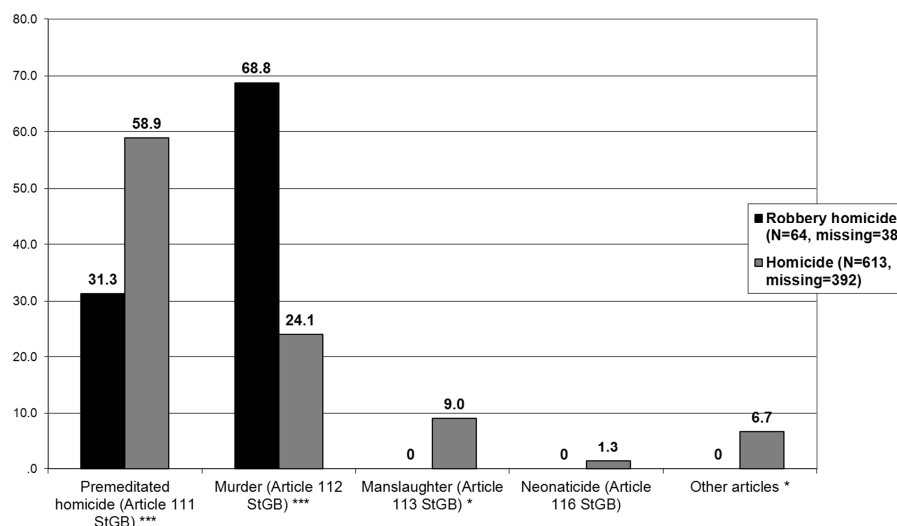
II. Legal qualification of the robbery homicide

- ²⁷⁰ The predominant question concerning the legal qualification of robbery homicide consists mainly in assessing whether the robbery homicide was judged as a “standard” premeditated homicide based on article 111 SCC, or whether the court estimated that the conditions of murder according to article 112 were fulfilled *in casu*.⁵⁸⁹ As already mentioned in N 33, other types of homicide, such as manslaughter or neonaticide, are naturally incompatible with a homicide in the context of a property crime and therefore, as figure 61 indicates, only present in the non-robbery homicide category. Further, there is no conviction based on article 114 (Homicide at the request of the victim) present in our database.
- ²⁷¹ Only approximately one third (31%) of the robbery homicide offenders were sentenced based on article 111 SCC; on the other hand, around two thirds of all non-robbery homicide offenders (59%) were convicted based on this article, a highly significant difference ($p \leq 0.001$). However, two thirds of the robbery homicide offenders (69%) were convicted for murder according to article 112 SCC, which is significantly more than in the standard homicide category, accounting for only 24% of all non-robbery homicide offenders ($p \leq 0.001$). Thus, robbery homicide offenders run a considerably higher risk of being found guilty of murder than other homicide offenders. This finding is not surprising, as the condition of ruthlessness is, according to Swiss doctrine and jurisprudence, clearly fulfilled in case of a killing for monetary gain.⁵⁹⁰ Thus, if no other circumstantial factors allow mitigating the deviant behaviour, robbery homicide would consequently be sanctioned based on article 112 SCC.

⁵⁸⁹ See N 23 et seq. for definitions regarding standard homicide and aggravated homicide (murder).

⁵⁹⁰ For the notion of ruthlessness in combination with murder, see N 26-27.

Figure 61: Legal qualification of the homicide, in % of offenders



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

III. Mitigating and aggravating causes

A. Introduction

a) *Mitigating and aggravating causes in Swiss criminal law*

When it comes to the assessment of the penalty, the offender can either present causes that exempt him from any punishment (*Strafbefreiungsgründe*),⁵⁹¹ causes that reduce the punishment (*Strafmilderungsgründe*) or causes that aggravate the punishment (*Strafschärfungsgründe*). The first situation not being relevant to the study of robbery homicides, I will focus on factors causing an aggravation or mitigation of the sentence. First, mitigating factors are ruled by several articles in the Swiss Criminal Code. Article 48 SCC constitutes the general article and enumerates causes that can

⁵⁹¹ Articles 52, 53, 54 and 55a of the SCC are general causes of exemption of punishment. Some articles in the second book of the SCC enumerate special causes of exemption of punishment (as an example, see article 173 no. 4 SCC).

lead to a mitigation of the sentence.⁵⁹² Furthermore, other articles in the general part of the SCC also include causes for mitigating the sentence.⁵⁹³ According to article 48a SCC, the mitigation of the sentence has as a result that the minimum sentence for a certain offence does not have to be considered,⁵⁹⁴ and that the judge can apply another type of sanction, however while being bound to respect the minimum and maximum penalty frame of that new type of sanction.⁵⁹⁵

- 273 Also, the judge always has to take into consideration the seriousness of the violation or threat for the protected legal interest, the abjection of the offender's action, his motivations and goals as well as the extent to which the offender was capable of avoiding the violation or threat,⁵⁹⁶ while determining the sentence. These considerations are important for mitigating as well as aggravating (*Strafminderungs- and Straferhöhungsgründe*) the sentence and are not exhaustive *per se*; in each case, the judge has to consider the background and the personal circumstances of the offender as well as the effects of the punishment of the offender. These causes, however, do not affect the legal frame of the punishment, but are considerations that mitigate or aggravate the sentence within the legal frame.
- 274 Aggravating circumstances are ruled by article 49 SCC and concern the simultaneous concurrence of several criminal actions (*Realkonkurrenz*) or the violation of several different penal provisions in one act

⁵⁹² Following causes are listed by article 48 SCC: estimable motivations of the offender, serious distress, acting upon the impression of a serious threat, obedience or dependence, temptation by the victim, excusable strong emotional reaction or mental strain, sincere repentance, considerable time span since the occurrence of the act.

⁵⁹³ These articles are: Article 16 para. 1 SCC (legitimate self-defence), article 18 para. 1 SCC (legitimate act in situation of necessity), article 19 para. 2 SCC (reduced mental capacity), article 21 sentence 2 (error of law), article 22 para. 1 SCC (attempt), article 23 SCC (free and voluntary desistance/active repentance), article 25 SCC (complicity), article 26 (secondary participation in special offences), as well as all causes for exemption of punishment according to articles 52 et seq. SCC. For this last point, however, the doctrine does not unanimously accept that causes for exemption of punishment can also be used as mitigation causes; *Pro* KILLIAS/KUHN/DONGOIS/AEBI, N 1004; TRECHSEL/PAUEN BORER, StGB PRAXISKOMMENTAR vor Art. 52 N 8; *Contra* RIKLIN, BSK STRAFRECHT I VOR ART. 57 N 28.

⁵⁹⁴ Article 48a para. 1 SCC.

⁵⁹⁵ Article 48a para 2 SCC.

⁵⁹⁶ Article 47 SCC.

(*Idealkonkurrenz*).⁵⁹⁷ The effect of any type of concurrence consists in an aggravation of the most serious offence by half of its frame of punishment, if the offences committed are reprehended by the same type of punishment.⁵⁹⁸ This means, the maximum penalty conferred by the SCC for the most serious offence committed by the offender will be increased by 50%.⁵⁹⁹ For example, robbery according to article 140 para. 1 SCC has a legal maximum penalty of up to 10 years of imprisonment or a fine not fewer than 180 daily rates. Therefore, in presence of other criminal offences that include shorter prison sentences, the judge will be able to flex the legal penalty frame for robbery by 5 years (10:2 = 5). Thus, the judge will be able to sentence the offender to a prison sentence of 0 to 15 years (instead of 0 to 10 years). Within this penalty frame, he/she is free to fix the punishment, in consideration of all mitigating or aggravating factors.

b) *Mitigating and aggravating causes as variables in the database*

For the variables of mitigating and aggravating circumstances, it was possible that a case presented mitigating as well as aggravating circumstances. Therefore, these two categories are not mutually exclusive. The percentage of offenders with mitigating or aggravating circumstances is calculated based on all offenders who were either convicted or where the action was still pending in court or at the police investigation level as well as those in which the offender was not convicted due to a suspension of the action or an acquittal by the court. The last two situations are included because mitigating circumstances, such as the irresponsibility of an offender, can be at the origin of an abatement of action. Thus, in order to include all cases with mitigating or aggravating circumstances, it is important to include all types of court actions against the offender. Therefore, I excluded only cases where the offender deceased during the criminal investigation.

The variables measured not only the presence of either mitigating or aggravating circumstances, but also surveyed more specifically whether the

⁵⁹⁷ See also N 50 et seq. for the notion of concurrence of law.

⁵⁹⁸ By same type of punishment, the SCC requires the different offences committed by the offender to be reprimanded by fines, community work or imprisonment. Therefore, an offence punishable by a fine cannot be aggravated with another offence punishable by imprisonment.

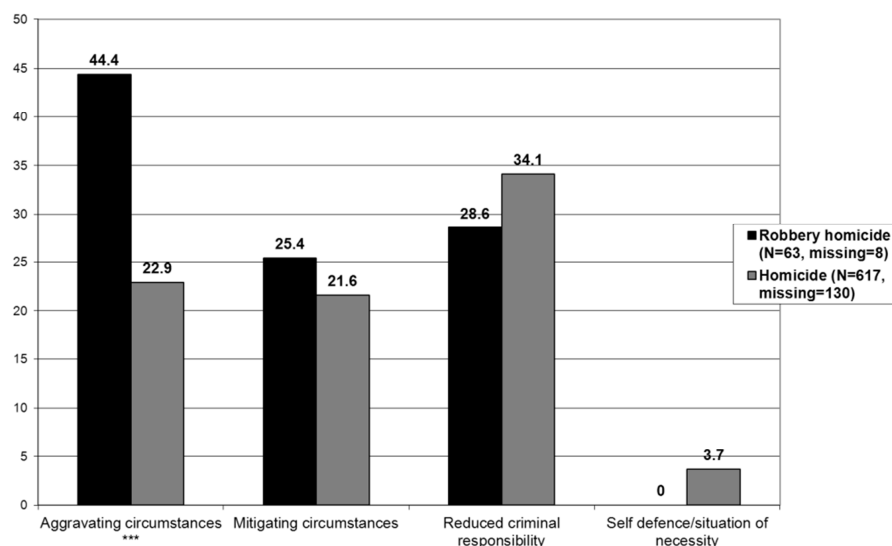
⁵⁹⁹ KILLIAS/KUHN/DONGOIS/AEBI, N 1117; TRECHSEL/KILLIAS, p. 267.

offender benefited from reduced criminal responsibility (article 19 SCC) or whether he had acted in legitimate self-defence (article 16 SCC) or in a situation of necessity (article 18 SCC). The last two situations being recoded into one variable, it was only possible to determine how many offenders presented a reduced criminal responsibility and how many had acted in a situation of self-defence or necessity.

B. Mitigating causes

- ²⁷⁷ As evident in figure 62, the frequency of imputing mitigating circumstances to the offender does not differ between the robbery homicide and the non-robbery homicide group. Approximately 25% of the robbery homicide offenders and 22% of standard homicide offenders benefit from a mitigated circumstance influencing their sentence. Also, our survey raised the question whether the offender was considered to have limited criminal capacity or whether he had acted in self-defence. No significant difference exists between robbery and non-robbery homicide offenders when it comes to their criminal capacity, with 29% vs. 34% of the offenders being considered not fully sane and therefore benefiting from a mitigation of the sentence or even a waiver of the sentence (according to the degree of criminal capacity). Understandably, no robbery homicide offender could invoke legitimate self-defence or a situation of necessity for his actions. However, 4% of all non-robbery homicide offenders were able to benefit from such a mitigating factor.

Figure 62: Aggravating causes, mitigating causes, reduced criminal responsibility and situations of self-defence/necessity, in % of offenders



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

C. Aggravating causes

Whereas no difference was found in the frequency of applying mitigated 278 circumstances in both homicide types, there is a highly significant difference in the frequency of distribution of aggravating circumstances between robbery homicide offenders and non-robbery homicide offenders. With 44% of the robbery homicide offenders being charged with aggravating elements to their offence, they are almost twice as likely to have their sentence aggravated than their counterparts from the standard homicide group (with 23%, $p \leq 0.001$). This finding, however, has to be considered in relation to the article from the Criminal Code that serves as foundation of the sentence; this means, we need to show the distribution of the aggravating (as well as the mitigating) circumstances depending on the basis conviction article. By doing so, I hypothesise that offenders convicted of homicide according to article 111 SCC will more likely receive aggravating circumstances in their judgment, since article 111 SCC serves as a basis article that is more likely to be aggravated by other factors. On the other hand, article 112 SCC already constitutes an aggravated form of homicide, and thus further aggravation of the sentence might be less likely. The following subchapter indicates the

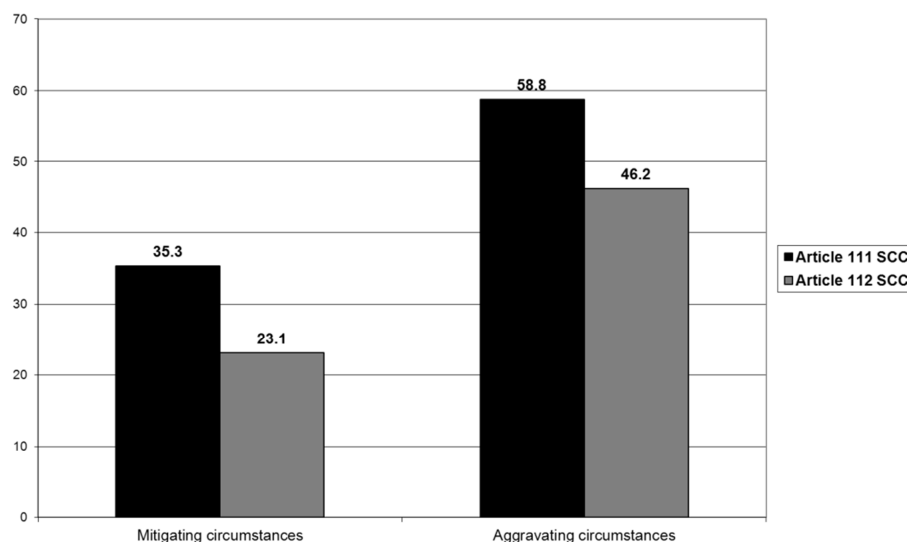
distribution of aggravating as well as mitigating circumstances by conviction article.

D. Mitigating and aggravating causes and their influence on the legal qualification of the homicide

a) *For robbery homicide offenders*

²⁷⁹ Results show that for robbery homicide offenders, mitigating and aggravating circumstances are statistically independent from the basic conviction article. There is no link between article 111 SCC and mitigating circumstances or article 112 SCC and aggravating circumstances. However, although the difference is not statistically significant, offenders convicted of an article 111 SCC homicide are more likely to present mitigating (35%) as well as aggravating (59%) circumstances than offenders convicted of a 112 SCC murder. This finding might be due to the characteristic of article 111 SCC as the “basic” homicide article, since mitigating or aggravating circumstances would be helpful to evaluate a higher or lesser punishment of the offender within the legal frame. Therefore, robbery homicide offenders present a higher amount of aggravating circumstances than non-robbery homicide offenders, independently of their basis conviction article. As will be apparent in N 280-281, this total difference is mostly due to a higher number of convictions based on article 111 SCC that present aggravating circumstances, since the number of offenders presenting aggravating circumstances in combination with an article 112 SCC conviction is both 46% in the robbery homicide as well as in the non-robbery homicide category. This finding might be due to a higher prevalence of concurring offences for robbery homicide offenders that can engender an aggravation of the sentence independently of the basic conviction article, since we are always in presence of a property crime and a homicide in case of robbery homicide. As was developed in N 50 et seq., concurrence of offences will engender an aggravation of the sentence.

Figure 63: Mitigating and aggravating circumstances per article of conviction, in % of robbery homicide offenders

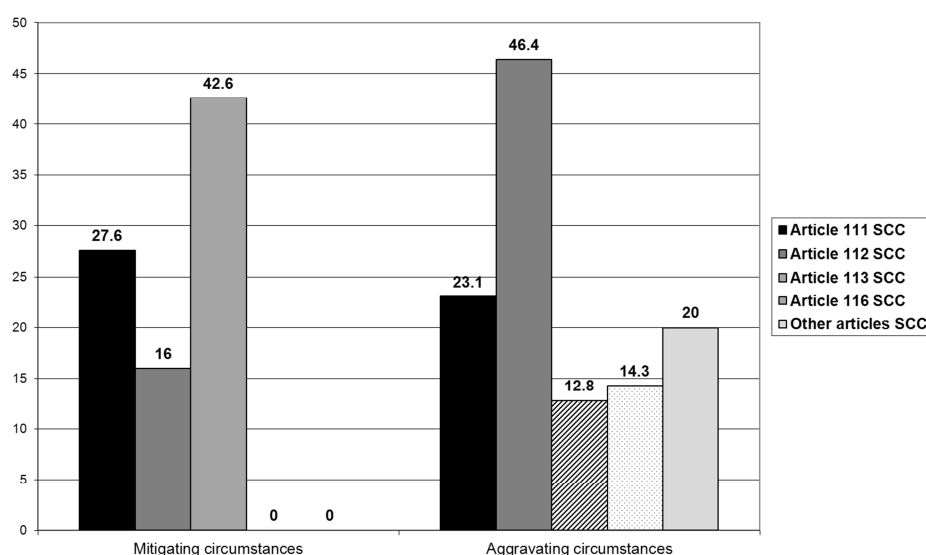


b) For non-robbery homicide offenders

The distribution of mitigating and aggravating circumstances is more interesting within the category of non-robbery homicide offenders and in comparison to the robbery homicide offender category. The former present mitigating and aggravating circumstances for the articles 111, 112, 113, 116 SCC and other conviction articles. It is especially evident that for article 113 SCC (manslaughter), a considerable share of offenders (43%) benefit from mitigating circumstances. Offenders convicted of an article 111 SCC or 112 SCC are much less likely to have their sentence reduced by mitigating circumstances (with 28% resp. 16%). The difference is statistically significant at the $p \leq 0.01$ -level. No mitigating causes were found for article 116 (infanticide) and other articles. This finding might be due to the nature of article 113 SCC. Being a qualified form of a homicide, article 113 SCC requires some mitigating circumstances to the offence by law, namely intense emotions (*heftige Gemütsbewegung*) or a great emotional stress (*grosse seelische Belastung*). Therefore, it is more likely that an offender qualifying for article 113 SCC might also present other mitigating circumstances that possibly come into play.

281 For the aggravating circumstances, the high percentage of offenders in the 112 SCC category attracts attention. There, 46% of the offenders are found guilty of murder with aggravated circumstances. In comparison to the robbery homicide category, this percentage is not excessive. However, compared to other conviction articles within the non-robbery category, this number is striking. Therefore, almost half of the offenders who are convicted of murder according to article 112 SCC also present aggravating circumstances to their act, which is significantly ($p \leq 0.001$) more than for other articles.

Figure 64: Mitigating and aggravating circumstances per article of conviction, in % of other homicide offenders



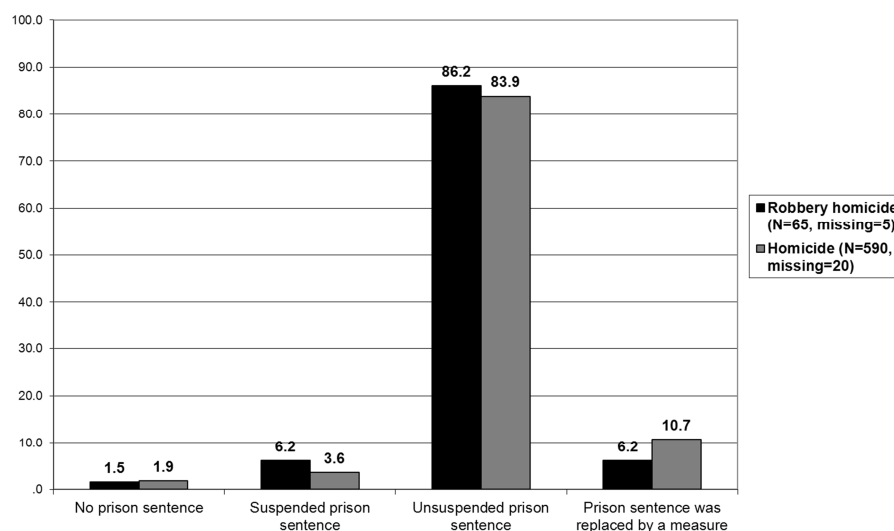
IV. Prison sentence

A. Prevalence of prison sentences among robbery and non-robbery homicide offenders

Having examined the presence of aggravating and mitigating circumstances ²⁸² in subchapter III, the next step consists in evaluating the frequency of prison sentence among the convicted robbery and non-robbery homicide offenders. Thus, only offenders who were found guilty and sentenced by the court were included in this analysis. Figure 65 shows the distribution of offenders being sentenced to an unsuspended as well as suspended custodial sentence, those who are sentenced to a punishment other than prison or those whose prison sentence was replaced by a measure.⁶⁰⁰ If convicted by the court, robbery homicide offenders present similar patterns of custodial sentences and do not differ significantly from the standard homicide group. The majority among them receive unsuspended prison sentences (86%). Only one robbery homicide offender did not receive a custodial sanction, 4 robbery homicide offenders received suspended custodial sentences, and another 6 had a measure imputed.

⁶⁰⁰ If measures are necessary, the court will sentence the offender and impose an appropriate measure at the same time. However, the measures are usually executed prior to the punishment, with exception of the indefinite detention (*Verwahrung*); see KILLIAS/KUHN/DONGOIS/AEBI, N 1527; SCHWARZENEGGER/HUG/JOSITSCH, p. 292.

Figure 65: Prevalence of prison sentences, in % of convicted offenders



*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

B. Length of the prison sentence

283 For the evaluation of the length of the prison sentence, I only selected offenders who received an unsuspended prison sentence (N=56). In total, there were 21% (N=12) of the robbery homicide offender sentenced to a lifelong imprisonment. Being the harshest sentence in Swiss criminal law, lifelong imprisonment is only admitted for murder (112 SCC), qualified taking of hostages (article 185 para. 3 SCC) and for genocide (article 264 SCC) as well as for serious cases of attacks against the freedom of the confederation (article 266 para. 2 SCC).⁶⁰¹ In our data, all the offenders sentenced to a lifelong imprisonment were convicted of murder according to article 112 SCC.⁶⁰²

⁶⁰¹ BRÄGGER, BSK STRAFRECHT I 41 N 10, p. 716. Furthermore, the Swiss Military Criminal Code also includes some provisions that are sanctioned by lifelong imprisonment.

⁶⁰² In two cases, the exact condemnation article was unknown. However, since lifelong imprisonment is not possible to impute in case of another homicide article, we can presume that these two offenders were also condemned based on article 112 SCC.

In general, and excluding all cases with lifelong prison sentences, the mean prison sentence for robbery homicide offenders was 169 months. However, those offenders convicted on the basis of article 111 SCC received shorter prison sentences, with a mean length of 144 months, compared to a mean length of 183 months for offenders convicted of a 112 SCC murder. Therefore, convicted murderers received on average a 40 months longer prison sentence than their counterparts who were convicted of article 111 SCC. This difference would even be greater if we took into consideration the lifelong sentences of the 12 murderers. 284

Table 3: Mean sentence length in months of robbery and non-robbery homicide offenders, by conviction article

<i>Conviction article</i>	<i>Robbery homicide offenders (N=43)</i>	<i>Non-robbery homicide offenders (N=428)</i>
Article 111 SCC ***	143.93	106.83
Article 112 SCC	182.57	168.53
Article 113 SCC	-	54.71
Other articles	-	41.57
<i>All convictions ***</i>	<i>169.09</i>	<i>112.32</i>

*: Between robbery homicide and homicide, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$ based on ANOVA-test.

Non-robbery homicide offenders were convicted of considerably shorter prison sentences than their robbery homicide counterparts, and this constantly for article 111 SCC convicted offenders as well as article 112 based convictions (although the latter comparison is not statistically significant). This finding is coherent with the higher percentage of aggravating circumstances in robbery homicide cases. Therefore, these aggravating circumstances translate themselves into higher prison sentences. Also, the higher number of robbery homicide offenders with a criminal 285

history⁶⁰³ could be responsible for this difference in sentence length, since, according to article 47 para. 1 SCC, the judge also takes into account the antecedents of the offender. If the offender has a high number of criminal offences in the past, the judge will more likely impose a harsher sentence.⁶⁰⁴ In 29 cases, the non-robbery homicide offender was sentenced to a lifelong prison sentence, which constitutes only 6% of all non-robbery homicide offenders. Thus, to the same extent that robbery homicide offenders are more often convicted of murder according to article 112 SCC, they are also more likely to receive lifelong imprisonment.

- ²⁸⁶ Also, the relatively low mean sentence length for sentences based on article 113 and other articles confirms that these legal dispositions are less serious and thus imply lesser punishment. Further, article 116 SCC convictions were not included because there were only 2 offenders sentenced to an unsuspended custodial sentence in our database, and thus mean sentence length cannot be calculated.

⁶⁰³ See N 222 et seq. for information about the criminal history of robbery homicide offenders.

⁶⁰⁴ See N 274 for further information about the aggravation of the sentence in Swiss criminal law.

§ 12 Multivariate analysis

I. Introduction to logistic regression

After having undertaken bivariate statistical analysis in order to evaluate significant associations between various independent variables and the dependent variable of robbery homicide, a second step in the data analysis process consists in the evaluation of the predictive power of these variables. This can be done by techniques of regression. Regression is a statistical technique that allows evaluating whether one or several independent variables can predict a certain outcome (the dependent variable). Regression can either be simple if only one variable is used to predict an outcome, or multiple if several variables serve as predictors.⁶⁰⁵ Since the model aims to identify variables that are best suited to explain robbery homicide, multiple regression is applied in order to include several variables that might serve as predictors of the occurrence of robbery homicide. Thus, multiple regression consists in an equation that allows the calculation of an outcome based on several predictive variables. Several techniques of multiple regression can be applied based on the type of the data. Linear multiple regression can be applied if the data fulfil the assumption of linearity, an assumption that is clearly violated *in casu*, since the dependent variable in this research, namely the existence of robbery homicide, is dichotomous in nature.⁶⁰⁶ Logistic regression, on the other hand, is also a technique of multiple regression, however with the assumption of the outcome variable being dichotomous in nature and predictive variables that are either continuous or categorical.⁶⁰⁷ Hence, logistic regression can be applied for the present data, as the dependent variable, namely the fact whether the homicide is a robbery homicide or not, is dichotomous in nature.⁶⁰⁸

Thus, two models are created, one including offender variables and one including victim variables. Because there are few N in the first place (victims N=92, offenders N=107), the independent variables were dichotomised as well in order to reduce the danger of zero cell counts,

⁶⁰⁵ FIELD, p. 143.

⁶⁰⁶ FIELD, p. 220; FROMM, p. 5.

⁶⁰⁷ FIELD, p. 218.

⁶⁰⁸ FIELD, p. 220; FROMM, p. 5.

meaning variable combinations containing no objects.⁶⁰⁹ Also, because every new variable introduced in the multivariate model increases the risk of zero cell counts and the number of cases observed is very small, I decided to introduce only few independent variables into my model.

II. Computation of the logistic regression model

A. Victim based model

- 289 According to the results of the bivariate analysis, only those variables with a highly significant bivariate effect ($p \leq 0.001$ -level) were selected to be introduced into the victim based logistic regression model. In addition, the second selection consisted in the importance these statistically significant variables have for the explanation of robbery homicide according to prior research. As a result, the final model included the following variables, coded into dummy variables: Aged over 26 years, no prior relationship between victims and offenders, workplace location, victim single and victim being of Swiss nationality.

B. Offender based model

- 290 As for the victim based model, the offender model is based on variables that showed a statistically significant effect in the bivariate analysis ($p \leq 0.01$ -level or higher) and were considered to contribute in a significant way to the explanation of robbery homicide by prior research. Thus, the following variables were included into the model, also coded into dummy variables: Offender aged 26 or younger, offender having a police or justice record, multiple offenders present and no professional activity of the offender.

⁶⁰⁹ For the problem of zero cell counts, see MENARD, p. 78 et seq.; RINDLISBACHER, p. 290.

III. Results

A. Victims

It is evident from table 4 that only 3 out of 5 variables included in the model contribute significantly to the explanation of robbery homicide, and that they differ in regard to their strength of predictive power. The fact that victims and offenders did not know each other prior to the offence still remains one of the strongest predictors for robbery homicide. If offenders are strangers to their victims, the chances of being in presence of a robbery homicide are 14 times higher than in case of a prior relationship between victim and offender. Also, if the victim is killed at his/her place of work, the chances that the homicide is robbery related are six times higher. Furthermore, age still remains a powerful predictor of robbery homicide victimisation, since victims older than 26 years are almost five times more likely to become victims of a robbery homicide than victims aged 26 or younger. 291

On the other hand, whether the victim was a Swiss national or did not remain significant in the multivariate model. In the bivariate analysis, this variable was highly significant at a $p \leq 0.001$ -level, however in the multivariate analysis the importance of this variable as a predictor of robbery homicide disappeared. Also, the variables of the victim being single or not no longer turned out to be statistically significant in combination with the other variables. Thus, we can see that being single or not is not significantly associated with a risk of becoming a robbery homicide victim. Probably, the significant bivariate effect of this variable was correlated with the higher age of the victims; however, in the multivariate model that can control for eventual interactions between variables, this relationship is not relevant anymore. 292

Table 4: Logistic regression analysis of victim characteristics in robbery homicide (Method: Forced entry)

	Logit coefficient	Standard error	Exp. (B)
<i>Older than 26 years</i>	1.563**	.578	4.775
<i>Offender unknown to victim</i>	-2.668***	.313	14.405
<i>Swiss national</i>	.536	.339	1.708
<i>Victim single</i>	0.110	0.346	1.117
<i>Killed at work-place</i>	1.845***	.419	6.327
<i>Constant</i>	-5.602***	.657	0.004

*: $p \leq 0.05$; **: $p \leq 0.01$; ***: $p \leq 0.001$

B. Offenders

- 293 The strongest predictive power for robbery homicide in regard to offender characteristics consists in the fact that multiple offenders were present. If the offender acted in a group, the likelihood of being in presence of a robbery homicide increases by almost five times. Also, the age of the offender is an important variable to predict robbery homicide, since the presence of an offender aged 26 or younger increases the risk of robbery homicide by factor three. Further, the odds of being in presence of a robbery homicide increase almost 2.5 times if the offender has a police or justice record. However, the fact that the offender did not have a professional activity, although highly significant in the bivariate analysis,⁶¹⁰ does not contribute in a significant way to the explanation of robbery homicide in the multivariate model.

⁶¹⁰ See N 192.

Table 5: Logistic regression analysis of offender characteristics in robbery homicide (Method: Forced entry)

	Logit coefficient	Standard error	Exp. (B)
<i>Offender aged 26 or younger</i>	1.065***	.260	2.901
<i>Police or justice record</i>	.833***	.259	2.300
<i>Multiple offenders</i>	1.585***	.275	4.881
<i>No professional activity</i>	.479	.268	1.615
<i>Constant</i>	-4.021***	.293	.018

*: $p \leq 0.05$; **: $p \leq 0.01$; ***: $p \leq 0.001$

IV. Summary of the findings and conclusion

In the multivariate analysis, it could be confirmed that all the considered victim as well as offender variables, with exception of the variable of professional activity of the offender and the nationality and single status of the victims, remained highly significant and are thus important predictors of robbery homicide. We can thus conclude that these variables contribute to the explanation of the phenomenon and are independent of each other, which means that their predictive power is not due to a correlation with the variables in the model. Hence, according to the multivariate analysis, the most likely scenario for robbery homicide to occur consists in the situation where a victim older than 26 years is attacked at his/her workplace by several strangers younger than 26 years who present a criminal history.

§ 13 Comparison of robbery homicides in Switzerland and the USA

I. Introduction

²⁹⁵ The aim of this chapter is to give an overview of rates and characteristics of robbery homicide in the USA, in comparison with the data available from Switzerland. Thus, I want to research whether the prevalence as well as the characteristics of robbery homicide offenders, victims and circumstances differ in these two countries. Data for the USA are taken from the FBI's Uniform Crime Reports, a surveillance system that will be presented in subchapter II.A. Further, in subchapter II.B., I will give a short description of the inclusion criteria used for this comparison, and subchapter III will then present the results of the comparison. Finally, subchapter IV gives a summary of the findings.

II. Methodology

A. Data

²⁹⁶ The data for the USA are taken from the Supplementary Homicide Reports (SHR) that are compiled as an extension of the FBI Uniform Crime Reporting (UCR). The UCR is a surveillance system based on data from over 17'000 agencies within the USA. On an annual basis, the FBI compiles crime trends and rates, arrest rates and clearance rates as well as various other information and publishes them in its reports "*Crime in the USA*" (CIUS).⁶¹¹ Within this publication, the FBI also presents results from its supplementary homicide data that contain demographic variables such as gender, age, and race of homicide victims and offenders, the relationship between victims and offenders, the *modus operandi* as well as the circumstances of the homicide.⁶¹² It is with the latter that I disaggregated homicide into different subtypes and isolated all robbery and theft related incidents. Unfortunately, these supplementary homicide data only contain very few variables that are disaggregated according to the circumstantial

⁶¹¹ FBI, UCR.

⁶¹² FBI, SHR.

variable as unit of analysis. Thus, the only variables available for comparison are gender of the victims, relationship between victim and offender, and *modus operandi*. All variables are victim based. Further, it was not possible to isolate drug-related cases, in which point the UCR data differ from robbery homicide data in Switzerland.⁶¹³

When it comes to the time frame of the comparison, I used UCR data from the years 1991 to 2004 for the trend analysis as well as for the computation of rates, since I had to adapt the time frame to the Swiss Homicide Database. As developed in N 143-144, the Swiss Homicide Database is only complete from the year 1991 onwards, since earlier records were partially unavailable due to destruction of the files in the Institute of Legal Medicine in Berne as well as some files being unavailable in electronic format before 1985.

For the analysis of the characteristics of robbery homicide, which means for the variables gender, relationship and *modus operandi*, data from the most recent year available in the UCR are used, which is the year 2009. For the Swiss data, robbery homicides from the years 1981 to 2004 were included in the database.⁶¹⁴ Since the UCR data contain enough victims (N=990), it was not necessary to add several years of data collection. Also, I estimate that the composition of robbery homicide in regard to gender, relationship and *modus operandi* has not changed drastically in recent years, which is the reason why I chose a different time span of the data.⁶¹⁵ Finally, as UCR data are not case-based but based on victims, I also chose to analyse the variables based on the number of victims in my database.

B. Definition of robbery homicides

As already described in N 21 et seq., I included homicides committed during a robbery, burglary or theft and excluded drug-related events from my analysis of predatory property crime homicides in Switzerland. For the analysis of the UCR data, the categories of homicides during a robbery, burglary, larceny-theft and motor vehicle theft were used, since including these categories creates the closest compatible comparison group in regard to the inclusion criteria in the Swiss database.

⁶¹³ See N 48-49 for the exclusion of incidents related to theft in the drug milieu.

⁶¹⁴ See N 137-138 for the time frame of the data collection.

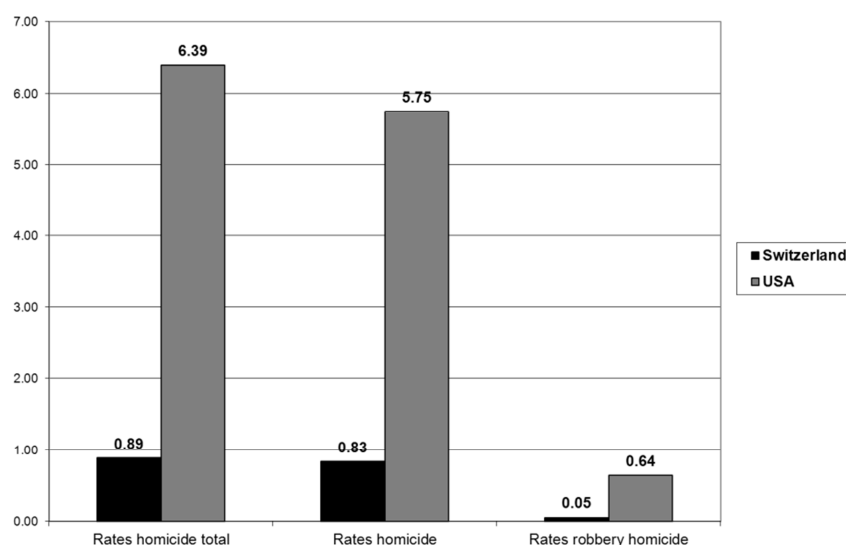
⁶¹⁵ Analysis based on the year 2004 has shown that the composition of robbery homicide in regard to gender, relationship and *modus operandi* did not change considerably in comparison to the year 2009. See MARKWALDER, Presentation ASC 2009.

III. Results of the comparison

A. Rates and trends of robbery homicides in Switzerland and the USA

³⁰⁰ In order to generate a general overview of the occurrence of robbery homicide in the USA as well as in Switzerland, figure 66 presents rates for total homicide, homicide without robbery homicide as well as rates for robbery homicides only. It is evident that the risk of victimisation of a robbery homicide is, with 0.05 persons per 100'000, more than ten times less likely in Switzerland than in the USA. Also, the risk of homicide victimisation in general is around 7 times lower in Switzerland compared to the USA.

Figure 66: Rates per 100'000 for homicide total, homicide without robbery homicide and robbery homicide (mean value based on the years 1991-2004 for both countries)



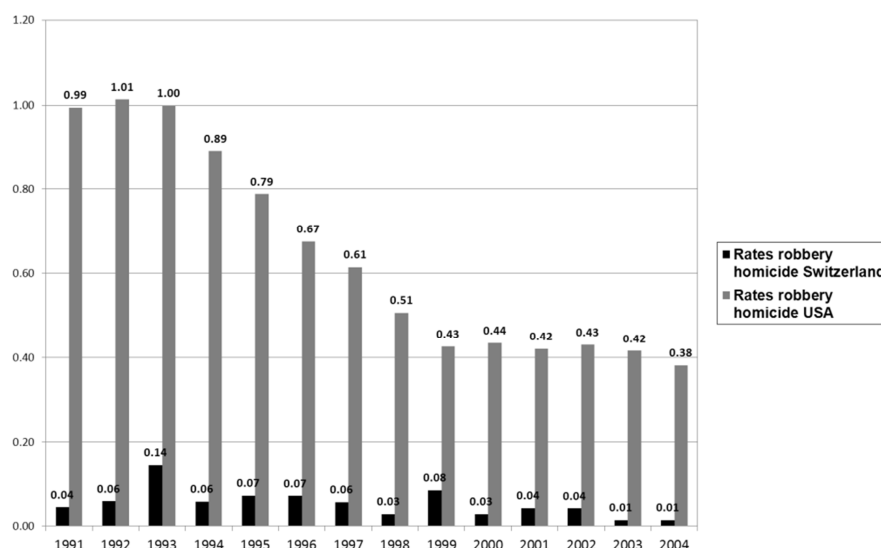
³⁰¹ Since the USA have experienced a considerable drop in homicide cases, this mean rate is lower than usual. However, as I had to calculate the rate based on means for the years 1991 to 2994 in Switzerland, I estimated it coherent

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to do so for the US as well. Figure 67 shows the development of robbery homicides throughout the years 1991 to 2004 for both countries. As mentioned already, whereas the occurrence of robbery homicide is relatively stable in Switzerland, the USA experienced a veritable drop of this type of crime between 1991 and 1999, from 1 person per 100'000 being victimised in a robbery homicide in 1991 to less than half of that rate (0.43 per 100'000) in 1999. During the years 2000 to 2004, the rate of robbery homicides stabilises itself and oscillates between 0.44 and 0.38. This development is not unusual, since the US have known a general crime decrease starting in the years 1990 and continuing until now. The reasons for this drop have been vividly disputed among criminologists, some arguing it has to do with demographics, while others “blame” the disappearance of crack in the cities, harsher handgun policies or the decrease of specific types of offending, such as juvenile delinquency.⁶¹⁶ However, it is interesting to note that robbery homicide does not present an exception to the general crime drop, but follows general trends in criminal offending. Overall, despite this drastic decrease in robbery homicide in the USA, Switzerland still presents a more than ten times lower risk of becoming a robbery homicide victim.

⁶¹⁶ See BLUMSTEIN/ROSENFELD, for an overview of the causes of the drop of homicides specifically.

Figure 67: Development of robbery homicide rates per 100'000 in the USA and Switzerland, years 1991 to 2004

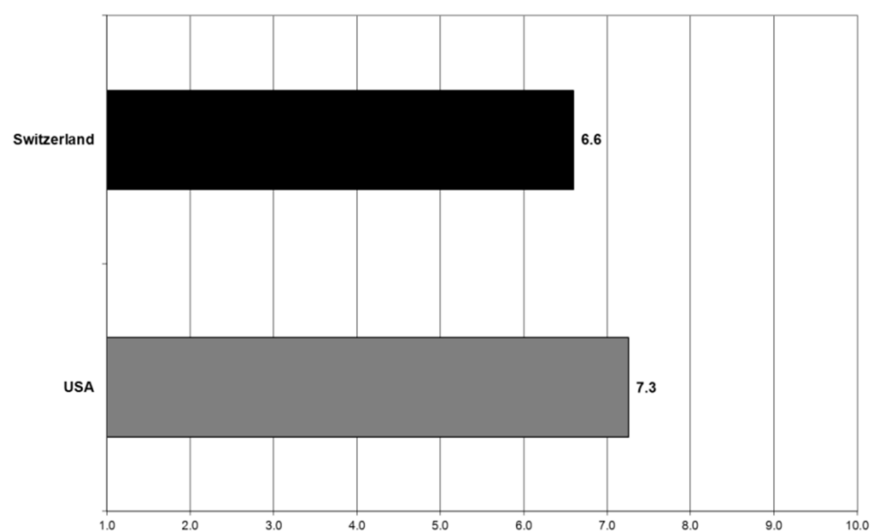


- 302 What is now the share of robbery homicides within the total of homicides in both countries? Figure 68 shows that for the years 1981 to 2004, 6.6% of the homicides in Switzerland are robbery related, whereas this is the case for 7.3% in the USA for the year 2009. Therefore, the share of robbery homicides within the total number of killings is almost identical in both countries. This is surprising, given that the overall high homicide rate in the USA is mainly explained by a high number of “street crimes”, in which robbery usually is included, and not so much by homicides within the family, where Switzerland presents a much higher number than the USA.⁶¹⁷ Thus, it could be that the “street crimes” mostly consist of gang killings or arguments due to the latter and not so much to robbery *stricto sensu*. However, as mentioned in N 144, it is also possible that robbery homicides are overrepresented within the category of unknown homicides in general. Since 35% of the homicide cases in 2009 were classified as unknown in the USA, this percentage is significantly higher than the 12% in Switzerland, and thus

⁶¹⁷ See MARKWALDER/KILLIAS, Handbook, forthcoming, for an overview of rates for total homicides, homicides within the family and homicides followed by suicide in different countries.

the probability of the existence of robbery homicides contained in this category also higher. Unfortunately, it was not possible to add other categories, since the categorisation system of the UCR differs from that of our database.

Figure 68: Percentage of robbery related homicides in Switzerland and the USA (year 2009 for the USA, years 1980-2004 for Switzerland)



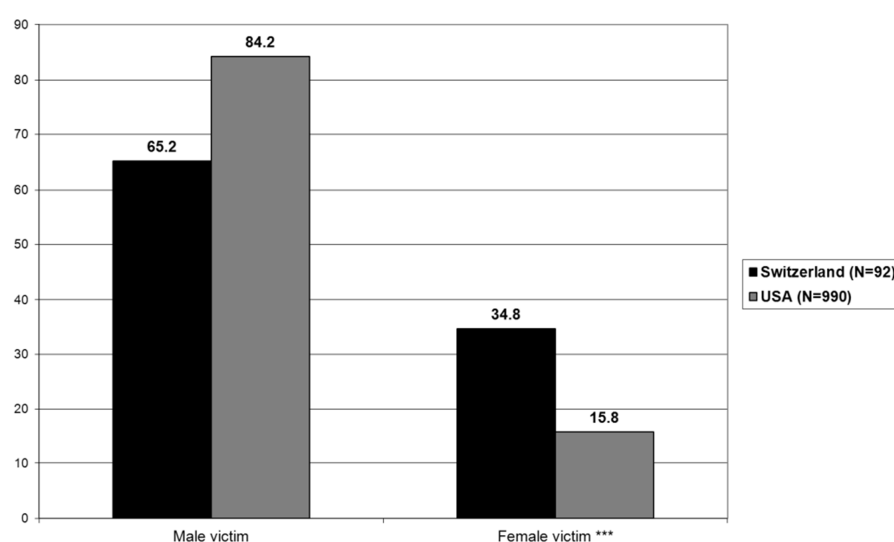
Between Switzerland and USA: * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

B. Gender of victims of robbery homicide

Figure 69 shows that victims are significantly ($p \leq 0.001$) more likely to be male than female in the USA in comparison to Switzerland. This finding being confirmed by earlier research on robbery homicide in the USA,⁶¹⁸ a higher amount of street robbery, a scenario where males are predominantly victimised, could be the reason for this result. Unfortunately, information on gender of offenders is not available in the Uniform Crime Reports of the FBI, and therefore comparison with Swiss data not possible.

⁶¹⁸ See N 107-108

Figure 69: Gender of victims, in % of victims (year 2009 for USA, years 1980-2004 for Switzerland)



*: Between Switzerland and USA, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

C. Relationship between victim and offender of robbery homicide

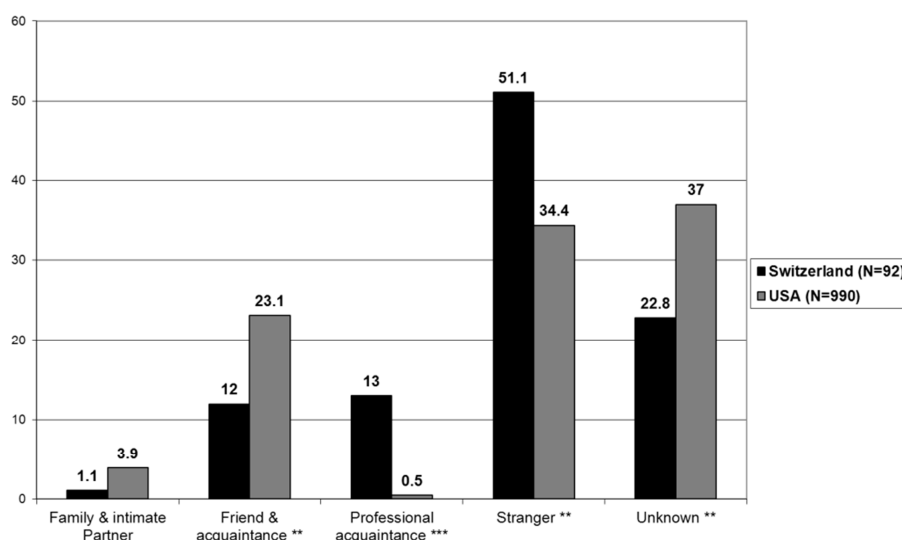
³⁰⁴ Also in regard to the relationship between victims and offenders of robbery homicide, US data differ considerably from those found in Switzerland. Whereas robbery homicide within the family or intimate partners are almost inexistent in both countries, the scenario of robbing and killing an acquaintance is very frequent in the USA and also statistically different at a $p \leq 0.01$ level. This finding might be influenced by the inclusion of events where drugs are involved, since in those scenarios, victims and offenders more likely know each other.⁶¹⁹ As mentioned in N 299, these scenarios were excluded in the Swiss robbery homicide data. Further, robbery homicides in Switzerland are significantly ($p \leq 0.001$) more likely to occur between professional acquaintances, such as co-workers, a situation that is almost

⁶¹⁹ See KUBRIN/WADSWORTH, p. 14, for empirical support.

inexistent in the USA. This result could be due to the fact that problematic persons with criminal histories and/or substance abuse issues are still more likely to be integrated into the workforce in Switzerland and thus also more prone to seize opportunities to reach for money at the workplace, whereas this is rarely the case in the US. Systematic background checks make it very difficult for persons with a criminal background to re-enter the workforce after their sentence, and thus these persons are almost systematically excluded from the majority of job possibilities after their release.⁶²⁰

Further, the share of offenders who are strangers to their victims is also significantly ($p \leq 0.001$) higher in Switzerland than in the USA; however, since the opposite is true for the unknown category ($p \leq 0.01$), it is very likely the latter contains many stranger relationships.

Figure 70: Relationship between victim and offender of robbery homicide, in % of victims (year 2009 for the USA, years 1980-2004 for Switzerland)



*: Between Switzerland and USA, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

⁶²⁰ See VISHNER/DEBUS/YAHNER, p. 3.

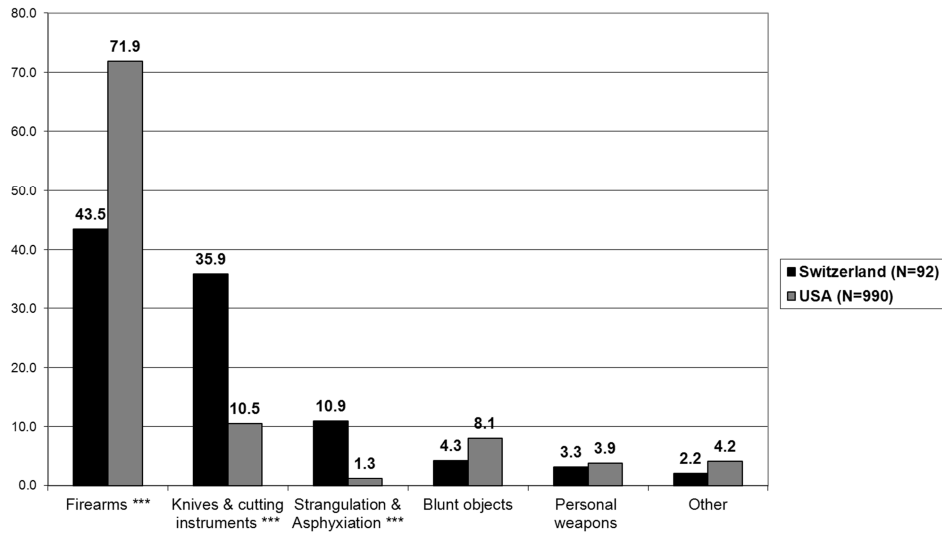
D. Modus operandi

- ³⁰⁶ The most striking difference in regard to the *modus operandi* of robbery homicides consists in the high number of firearms used in the USA. In fact, more than two thirds of the robbery homicide victims are killed by firearms, whereas this is only the case for 44% of the Swiss victims ($p \leq 0.001$). Considering that Switzerland already presents a relatively high rate of gunshot fatalities in combination with robbery⁶²¹ as well as for homicide in general,⁶²² this percentage in the USA seems exorbitant. However, it has to be kept in mind that the USA possess very liberal gun ownership policies and thus one of the highest rates of gun ownerships per household, which also leads to the assumption that firearms are more easily available on the open as well as on the black market. As observed in N 92, firearms are also quite widespread in Switzerland due to the military system; however, as observed in N 238 et seq., robbery homicides are mostly perpetrated using illegal firearms.
- ³⁰⁷ Since firearm use is less prevalent in the Swiss data sample, other methods of killing are more predominant. Around 36% of the victims were killed by Swiss robbery homicide offenders using knives or other cutting instruments, which is significantly more than the 11% of American offenders ($p \leq 0.001$). Also, Swiss robbery homicide offenders were more likely to strangle or asphyxiate their victims ($p \leq 0.001$) than their American counterparts.

⁶²¹ For instance, compared to the Netherlands with 28% of the robbery homicide victims being killed by firearms, Switzerland presents a much higher percentage of gunshot fatalities. See N 115 et seq. for the use of firearms in other countries.

⁶²² See KILLIAS/MARKWALDER, forthcoming, for an overview on firearm homicide in different countries.

Figure 71: *Modus operandi* of robbery homicides, in % of victims (year 2009 for the USA, years 1981-2004 for Switzerland)



*: Between Switzerland and USA, * = $p \leq 0.05$, ** = $p \leq 0.01$, *** = $p \leq 0.001$

IV. Summary of the findings

Although this comparison was very limited in regard to the available variables, it can still be remarked that robbery homicides differ in some aspects between the two countries. First, male victims are predominant in the USA, whereas the gender distribution is more equal in Switzerland. Further, Switzerland presents a much higher share of victims and offenders who were professional acquaintances and thus knew each other before the offence. The situation where an offender robs his own workplace and then kills one of his colleagues thus seems to be a far more frequent scenario in Switzerland than in the USA. Finally, robbery homicides in the USA are predominantly committed with use of firearms; in Switzerland, this *modus operandi* is still the most frequently used, however other means of killing are more likely to occur as well.

Part 3: Discussion

§ 14 Discussion of the findings

I. Overview of the findings

A. Robbery homicide in general

Based on the bivariate and multivariate analysis of the 90 robbery homicide cases in Switzerland, several prominent characteristics of robbery homicide could be discovered. First, when it comes to trends and rates of robbery homicide in Switzerland, the analysis could not deliver valid results, since the number of robbery homicides per year was too small. However, it seems that in this regard, robbery homicides occur with relative consistency over the years, since no extreme peaks could be observed between the years 1991 and 2004. Also, with 0.05 per 100'000 inhabitants, Switzerland presents a very low rate of robbery homicide, and thus the risk of becoming a victim of such a crime is very low. However, with 7% of the homicides in Switzerland being robbery related, the share of robbery homicides in Switzerland is quite similar to that found in other European countries as well as the USA.

B. Robbery homicide victims

When it comes to victim characteristics, robbery homicides mostly involve male victims, since over two thirds of them are males. However, in comparison to the USA, the gender distribution in robbery homicide victimisation is more equal in Switzerland, since over 80% of the robbery homicide victims were males in the USA. On the other hand, standard robbery and homicide victims are, with 56% of male victims, less likely to involve men as victims. However, this difference is statistically not significant. Also, victims of robbery homicide are, with a mean age of 52 years, significantly older than their counterparts from the standard homicide or robbery group (with a mean age of 35 respectively 36 years). It is thus much more likely that the robbery ends lethally if an elderly person is targeted. Therefore, this finding confirms the *Research Hypothesis 1* postulating that robbery homicide victims are expected to be older than their counterparts in the robbery as well as in the residual homicide category, and is thus in line with findings from other countries.

- 311 Robbery homicide victims are also more likely to live alone in comparison to the standard homicide category, a finding that is probably due to the predominance of domestic homicides in the standard homicide category, since domestic homicides mostly involve persons living together in one household. When it comes to the nationality of the robbery homicide victims, 79% are Swiss nationals, a finding that differs considerably, and at a statistically high level, from the standard homicide group, where only 57% of the victims are Swiss. Only robbery victims present, with 86%, a higher share of Swiss victims, but this difference is not statistically significant. Because of the high prevalence of foreign offenders targeting Swiss victims (34% of all cases), it can also be stated that robbery homicide is more often an intercultural crime than standard homicide, where only 13% of the cases occur between a foreign offender and a Swiss victim.
- 312 One of the most discriminating variables for robbery homicide consists of the relationship between victims and offenders. Whereas the residual homicide category contains only 12% of victims who did not know their offender prior to the offence, robbery homicide contains 66% of unknown victim-offender relationships, a difference that is highly significant. Only robbery without lethal ending presents, with 86% of all offenders being unknown to their victims, a higher share of unknown victim-offender relationships. On the other hand, the situation that robbery homicide victims were killed by persons they knew prior to the offence is not very common. This result might also be influenced by the exclusion of robbery homicide between drug dealers or addicts, since the latter are more often acquaintances. Most of the cases where the offender was known to the victim prior to the offence concerned workplace homicides where the offender was a working colleague of the victim (17%) or robbery homicides between private acquaintances (16%). Thus, *Research Hypothesis 4* stating that robbery homicide is expected to present a higher share of stranger relationships than the standard homicide group, however a lower share of the latter in regard to robbery without lethal ending, can be confirmed. Robbery homicides in Switzerland again do not differ in this regard in comparison to other countries. The fact that strangers are more often involved in robbery homicides than in other homicides can be considered a well corroborated fact. However, in comparison to US data, Switzerland presents a considerably higher amount of homicides occurring between working colleagues, a fact that might be due to the better integration into the workforce of persons with a criminal background. Also, consistent with earlier research, robbery without lethal ending presents an even higher

number of stranger relationships. The risk of becoming a victim of robbery homicide thus increases if the victim knew the offender prior to the offence, i.e. if they were working colleagues or private acquaintances. A possible explanation could be that the offender had, in order to remain undetected, to kill the victim, since the latter could otherwise identify him and thus increase the danger of detection.

Considering the work situation, robbery homicide victims are significantly more likely to be employed than victims from the standard homicide group. However, they are still less likely to be in the workforce if compared to the general population. This gap might be due to the high age of robbery homicide victims, since 24% of them are beyond the age of retirement. The most prevalent work fields of robbery homicide victims are cab drivers as well as sales and commerce personnel. 313

When it comes to the question of substance use, victims of robbery homicide generally consumed significantly less substances before the homicide and were also significantly less likely intoxicated during the homicide than their counterparts from the residual homicide category. The absence of drug consumption and the resulting problems of dependency can be interpreted as a sign of a well-integrated, non-deviant lifestyle of robbery homicide victims. In regard to their health in general, robbery homicide victims do not seem to differ either from other homicide victims or from the general population. However they are significantly less likely to present any behavioural disorders, such as violent, risk-taking or suicidal tendencies, in comparison to their standard homicide counterparts. Also, the overwhelming majority of 95% of the robbery homicide victims has never been in touch with the criminal justice system. 314

C. Robbery homicide offenders

Robbery homicide offenders are characterised by the fact that they are almost exclusively males. In the Swiss data sample, 98% of the offenders are men, which is significantly more than for standard robbery and standard homicide. This predominance of male offenders in comparison to standard homicide is mostly due to some categories in the standard group, such as neonaticide or infanticide, that are composed of almost exclusively female offenders. When it comes to the age of the offenders, robbery homicide offenders are significantly younger than their counterparts from the standard homicide category, since they present a mean age of only 27 years, this in comparison to a mean age of 35 years for non-robbery homicide offenders. 315

Only robbery offenders who did not kill their victims present an even younger age than robbery homicide offenders. This finding is influenced by the high share of family or intimate partner homicides, since offenders of this type of homicide are generally older and thus account for the increase in the general mean age. The age gap between victims and offenders of a robbery homicide is also more pronounced, since we have seen that robbery homicide victims are generally older than other types of homicide victims. Thus, *Research Hypothesis 2* stating that robbery homicide offenders are expected to be younger than their counterparts in the homicide category can be confirmed.

- 316 Due to their young age, robbery homicide offenders are also significantly more likely to be single than offenders from the standard homicide group, who are on the other hand more often married. This finding is also influenced by the high number of domestic homicides in the residual category, since this type of homicide mostly occurs between intimate partners who are either married or living in concubinage. Accordingly, robbery homicide offenders also more often live alone. If we consider marriage or also concubinage to be a predictor of a socially integrated, non-deviant lifestyle, one might also conclude that robbery homicide offenders seem to be more often outside this norm.
- 317 Offenders are, in contrast to their victims, more likely of foreign nationality, since more than half of the offenders are non-Swiss. In comparison to other homicides, however, the share of foreign nationals does not differ. On the other hand, robbery offenders are much more often foreign nationals, since more than 80% of them are non-Swiss. Here again, *Research Hypothesis 2* is confirmed, since it stipulates that robbery homicide offenders are more likely of foreign ethnicity or members of a minority. The lethality of a robbery is thus influenced by the nationality of the offender; in presence of a Swiss offender, a robbery is more likely to take a lethal turn. In combination with the high number of Swiss victims, it results that robbery homicide is not predominantly an intra-cultural phenomenon, but also presents a high number of Swiss victims being killed by foreign offenders.
- 318 Compared to robbery homicide victims who are more often employed than their counterparts in the standard homicide group, robbery homicide offenders present a different picture. Only 28% of them are in the workforce, which is significantly less than their counterparts in the standard homicide category, where over half of the offenders have an employment. The difference between the general population and robbery homicide offenders is even more

pronounced, since the unemployment rate in Switzerland varied between 1.8% and 4.5% in the last 20 years.⁶²³ Thus, this extreme underrepresentation of robbery homicide offenders in the workforce might be another indicator of a dysfunctional, deviant lifestyle. It also points to the direction that offenders might have monetary troubles, since they do not have a stable income, and thus proceed to commit property crimes in the first place.

When it comes to the substance use of robbery homicide offenders, around half of the offenders present a history of substance abuse. This finding differs not considerably from other homicide offenders, but is strikingly high in regard to the 8% of victims with a history of substance use. Thus, this discrepancy again confirms that the gap between victim and offender lifestyle is considerable. The fact that robbery homicide offenders cultivate a more deviant lifestyle is also confirmed by the higher use of hard drugs in comparison to other homicide offenders. Further, robbery homicide offenders are less likely to be under the influence of drugs during the commission of the offence than non-robbery homicide offenders, but this difference is not statistically significant. It could nevertheless be explained by a more premeditated nature of robbery homicides. Since the consumption of drugs could have a bad influence on the smooth commission of an offence, these offenders might decide, although they present just as frequently a history of substance use, not to consume any substances for the commission of the robbery. If drugs are consumed during the offence, it again predominantly concerns hard drugs, the only category where robbery homicide offenders differ from non-robbery homicide offenders in their choice of substance.

Further, robbery homicide offenders are, to the same extent as other homicide offenders, highly prone to mental illness, since 19% among them are reported to have mental problems. In this aspect again, robbery homicide offenders differ considerably from their victims, since only 2% of robbery homicide victims present any mental troubles. Moreover, robbery homicide offenders also present high rates of dysfunctional behaviour, such as violent, risk-taking or suicidal tendencies, since almost 40% among them are reported to suffer from such tendencies. In one quarter of offenders with behaviour disorders, violent tendencies were observed. In comparison to other homicide offenders, there is again no difference in the prevalence of behavioural disorders; however, in comparison to robbery homicide victims, it can be stated that here again, the difference is striking, since victims almost never

⁶²³ OFS, Erwerbslosenquote.

suffer from such tendencies. However, as stated in the methodological part, it cannot be excluded that data on substance abuse, mental illness and behavioural disorders of victims are lacking due to the nature of the evaluated files.⁶²⁴

- 321 Robbery homicide offenders are also highly overrepresented in the records of the criminal justice system, since more than half of them present a justice record prior to the robbery homicide. This is significantly more than for other homicide offenders and for the general population. They also present more prior convictions than the standard homicide offender group. Most of the records concern Criminal Code convictions.
- 322 Finally, another very discriminating variable between robbery homicide and non-robbery homicide consists in the number of offenders and other participants in the crime. Robbery homicide offenders act significantly more often in groups, since in one quarter of the cases, more than one offender was present. This percentage is only topped by robbery without lethal ending, since more than two thirds of the robbery offenders act in groups. Also, robbery homicide offenders more often present accomplices than other homicide offenders. Thus, *Research Hypothesis 3* is confirmed by this finding. In this regard, the results are also in line with previous research which constantly found that robbery homicide offenders acted more often in groups.
- 323 Considering the substantially higher share of multiple offenders in robbery cases in comparison to robbery homicides, it can be deduced that the risk of getting killed during a robbery increases if the offender acts alone. This finding might be due to the fact that a single offender who is confronted with a victim might have trouble to dominate the victim without harming him/her. This lack of control over a situation might push the offender to react in an uncontrolled way and to harm the victim. In a group, the offenders can share the task of neutralising the victim and might feel less threatened by their victim.
- 324 In line with the higher percentage of multiple offenders, robbery homicide offenders are also significantly more likely to be part of a group, such as an affiliation to a criminal group, or to be active in the homosexual prostitution milieu.

⁶²⁴ See N 142.

D. Circumstances of the robbery homicide

In general, robbery homicide offenders do not differ from other homicide offenders in their choice of weapons; they predominantly use firearms, since 44% of the victims were killed with guns, followed by stabbing (36%) and the considerably smaller group of victims killed by strangulation, suffocation or hanging (11%) or killed with a blunt object (4%). However, what differs considerably between the two groups is the origin of the firearms; whereas 35% of the firearms used for a standard homicide are of illegal provenance, this is the case for 84% of the firearms involved in robbery homicides. Thus, one can conclude that robbery homicides are almost exclusively committed with illegal firearms. This finding again points to the conclusion that robbery homicide offenders are inclined towards a criminal milieu and that the firearms come from these milieu sources. Another hint in this direction is given by the finding that robbery homicide offenders are also more likely than their counterparts from the standard homicide category to have access to other firearms than the one used for the crime. 325

Another important aspect of firearm use concerns robberies without lethal ending, since the latter are almost never perpetrated with help of firearms. In fact, in only 34% of the robbery cases, the victim reported that a weapon was involved. Most of these weapons concern knives (84%), whereas only 13% (N=4)⁶²⁵ of the victims indicate having been threatened by a firearm. Thus, the risk of a robbery taking a lethal turn increases drastically if a firearm is involved, a result that has been corroborated by US-American research repeatedly.⁶²⁶ This finding is not surprising, given the fact that with firearms, it is easy to kill several people without special effort and to inflict more serious injuries than with other means. 326

In international comparison, Switzerland presents a relatively large amount of firearm use compared to countries such as the Netherlands or Australia. On the other hand, in comparison to US data, the use of firearms is relatively low, since robbery homicides in the USA are in 72% of the cases committed with help of a firearm. This overwhelming dominance of firearm use is most likely due to the higher availability of firearms in the USA. 327

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⁶²⁵ Which constitutes a very low absolute number of 4 victims.

⁶²⁶ See N 115 et seq.

Location is another variable where robbery homicide differs considerably from other homicides as well as from robbery without lethal ending. Although still most of the robbery homicides take place in a residential setting (40%), this percentage is considerably lower than in the standard homicide category. In this aspect, however, robbery homicide *stricto sensu* and burglary homicides differ, since burglary homicides occur significantly more often in private dwellings (67% vs. 33%).

- 329 More than one quarter of the robbery homicides take place at the workplace, and 11% in public transportation (mostly taxis), which makes robbery homicide a crime that is widely present in the public sphere. On the other hand, robberies without lethal ending are mostly reported to occur during leisure activities but rarely at work. Thus, it can be concluded that robberies that occur at the workplace are at a much higher risk of ending lethally than others being perpetrated on the streets. It is thus not so much the classical “street robbery” that one has to be afraid of, since the probability of getting killed afterwards is relatively small. However, the chances of becoming a victim of robbery homicide increase drastically if the robbery takes place in a store or shop. Thus, for further prevention measures, this finding will be essential, since it indicates that these commercial targets have to be better secured.⁶²⁷
- 330 In the overwhelming majority of robbery homicide cases, no witnesses were present. On the other hand, after completion of the robbery homicide, the body of the victim was most frequently found by a third person. However, the body was significantly less likely discovered by official authorities, such as the police, than non-robbery homicide victims, a finding that is probably due to the influence of domestic homicides, since in these cases, the police are often called by neighbours or other family members and thus fast to intervene. However, when it comes to the question of who reported the robbery homicide to the police, it results that in 88% of the cases, the police themselves discovered and reported the offence. This is a significantly higher percentage than for non-robbery homicides, since the latter present a much higher share of offenders who turn themselves in (13%) or are found dead on the crime scene (9%). This finding is mostly due to domestic homicides that present a high share of offenders who turn themselves in; in

⁶²⁷ See N 351 et seq. and N 355 for situational prevention measures of commercial locations.

around one quarter of the cases, the offender surrendered to the police.⁶²⁸ Also, a high number of offenders who kill their intimate partner or members of their family commit suicide after the homicide.⁶²⁹ In case of a robbery homicide, however, the offender almost never turns himself in or kills himself as a consequence of the criminal behaviour. It can thus be concluded that in case of a robbery homicide, a police investigation is always needed in order to identify the offender, and that robbery homicide followed by an attempted or completed suicide of the offender is a highly unlikely occurrence.

E. Police investigation and legal consequences of robbery homicide

Police work and their efficiency are often measured by the number of cases that are cleared. Thus, the clearance rate is an important variable especially for homicide, since it constitutes one of the most serious crimes in the SCC and its repression is thus crucial. Robbery homicide has, as has been stipulated by prior research,⁶³⁰ one of the lowest clearance rates within different types of homicides. Whereas the percentage of uncleared cases oscillates between 0 and 6% for other types of homicides, around one quarter (22%) of the robbery homicides remained uncleared, which is thus significantly more than for other homicides. This low clearance rate is to a great extent due to the nature of the relationship between victims and offenders. As mostly strangers are involved in robbery homicides, it is more difficult for the police to link the offender to the victim as well as to the offence. On the other hand, since intimate partner and family killings include offenders from the same family circle as the victim, their identity is almost always established from the beginning. Hence, in case of robbery homicides, the police investigation, and especially the forensic evidence found on the scene of the crime, is especially important in order to link the offender to the offence.

⁶²⁸ See N 260 for a more detailed discussion of the surrender of robbery homicide offenders to the police in comparison to non-robbery homicide offenders.

⁶²⁹ See LIEM/BARBER/MARKWALDER/KILLIAS/NIEUWBEERTA, for further information about homicide-suicide in Switzerland and in comparison to other countries.

⁶³⁰ See N 127 et seq.

- 332 The difficulties encountered by the police in cases of robbery homicide are also confirmed by the finding that in more than half of the cases, the offender was only discovered after a police investigation took place. In comparison to the standard homicide category, this percentage is significantly higher, since the latter merely present 17% of the cases where the offender's identity could be established only thanks to the police investigation. On the other hand, offenders were more likely arrested on the spot or turned themselves in in the standard homicide category, whereas robbery homicide offenders almost never turned themselves in and were discovered on the spot in only 9% of the cases.
- 333 Not surprisingly, the overwhelming majority of robbery homicide offenders as well as homicide offenders in general are taken into custody before trial. Before court, almost all robbery homicide offenders were found guilty and sentenced by the court, with exception of one offender being acquitted and two deceased. However, the percentage of offenders who were found guilty was significantly lower for non-robbery homicide offenders, this mainly because they presented a significantly higher amount of deceased offenders due to the high number of homicides followed by the suicide of the offender. Also, more trials were still pending or suspended in the non-robbery homicide category, which also contributes to a lower conviction rate. Nevertheless, non-robbery homicide offenders presented a higher number of acquittals than robbery homicide offenders.
- 334 Considering the legal qualifications developed in N 23 et seq., it is not surprising that robbery offenders were in two thirds of the cases convicted of murder according to article 112 SCC. On the other hand, only 24% of the standard homicide offenders were convicted of murder, a difference that is highly significant. The opposite is true for convictions based on article 111 SCC; there, two thirds of the standard homicide offenders were convicted based on article 111 SCC, whereas only one third of the robbery homicide offenders were qualified as homicide according to article 111 SCC. Thus, the probability of being convicted of murder is considerably higher for robbery homicide offenders, since two out of three are convicted of murder, whereas only one out of three is convicted of a standard homicide according to article 111 SCC. Hence, my *Research Hypothesis 6* stipulating that robbery homicide offenders are more likely convicted of murder than their counterparts in the standard intentional homicide category can also be admitted. As we have seen in N 26-27, monetary considerations as motivation for the commission of a homicide are usually a qualifying factor for the application of article 112 SCC, and this legal qualification is thus also

reflected in the high number of murder convictions of robbery homicide offenders.

Whereas mitigating circumstances as well as reduced criminal responsibility 335 were equally frequently applied to robbery- as well as non-robbery homicide offenders, the distribution of aggravating circumstances differs considerably between the two categories. With 44% of the robbery homicide offenders being charged with aggravating elements to their offence, they are almost twice as likely to have their sentence aggravated than their counterparts from the standard homicide group. The fact that concurrence of laws aggravates sentences might be at the origin of this result, since in case of robbery homicide, a property crime enters into real concurrence with the homicide. Within the category of robbery homicide offenders, 35% of the offenders convicted of an article 111 SCC homicide had their sentence mitigated, and 59% presented aggravating circumstances to their offence. Robbery homicide offenders who were convicted of murder according to article 112 SCC received less often mitigating (23%) or aggravating circumstances (46%). This finding might be due to the nature of article 111 SCC as a basic conviction article. Since article 112 SCC already contains qualifying aggravating factors in its definition, further aggravating circumstances might not have to be considered in the verdict. Also, mitigating factors are less likely to be found, since murder is *per se* an aggravated form of homicide. On the other hand, a “neutral” basic article such as article 111 SCC can be more easily aggravated or mitigated by factors present in the case.

Looking at the sentence imposed, robbery homicide offenders equally often 336 face confinement as the standard homicide group, may this be in the form of prison sentences on probation, without probation or confinement in other institutions, such as mental health facilities. On the other hand, for convictions based on article 111 SCC as well as article 112 SCC, robbery homicide offenders receive considerably longer prison sentences than their counterparts from the standard homicide category. In sum, their mean sentence length is 169 months, whereas non-robbery homicide offenders only receive a mean sentence length of 112 months. They also receive lifelong prison sentences more often, since 21% among them received this most severe punishment, in comparison to only 6% of the standard homicide category. However, this result is linked to the higher prevalence of convictions based on article 112 SCC. Since robbery homicide offenders are around three times more likely to be convicted of murder than standard homicide offenders, they also receive lifelong prison sentences three times more often. *Research Hypothesis 7* stating that robbery homicide offenders

are more often convicted of murder and consequently face longer prison sentence than the non-robbery homicide group is thus confirmed by these results. In sum, robbery homicide offenders are predominantly convicted of murder and receive considerably longer prison sentences which are more often lifelong confinement than in case of standard homicide offenders.

II. Robbery homicide: More related to a non-lethal robbery or a homicide?

337 Based on findings from international (however mostly US-American) criminological research, it was evident in N 119 et seq. that robbery homicide offenders can be more assimilated to robbery offenders than homicide offenders. We have seen that robbery homicide offenders present congruent characteristics in regard to their demographics, since they are more likely male, young and of foreign ethnicity.

338 The analysis of the Swiss data allows these findings to be confirmed in respect of offender characteristics. Unfortunately, the ICVS data on robbery permitted relatively few comparisons. However, based on the variables available for comparison, it resulted from the analysis that robbery homicide offenders were similar to robbery offenders in regard to their gender as well as their age and the fact that they acted more often in groups. These characteristics are also found to be predominant by research of robbery homicides in other countries. Also, Swiss robbery homicides differentiate from robbery without lethal ending in aspects already discovered by criminological research, namely their weapon use as well as their different location. In Switzerland as well as in other countries, firearms are less likely involved in robbery than in robbery homicide. In that respect, robbery homicides are more closely related to standard homicides. Further, it seems that robbery homicides take place more often in commercial as well as residential settings, whereas robbery without lethal ending is more predominantly a street crime. Also, robbery differs from robbery homicide in regard to the age of victims; whereas robbery homicide victims are considerably older, robbery victims are relatively young. Finally, although offenders of foreign nationality are present in more than half of the cases and are thus highly overrepresented in regard to the number of foreign inhabitants in the general population, their share does not differ in comparison with other homicides. However, their share differs considerably in comparison with robbery offenders, since the latter are reported to be of foreign nationality in 82% of the cases. Thus, the risk of the robbery taking a lethal turn increases if a Swiss offender is pre-

sent. In sum, it can thus be concluded that the risk of being killed during a robbery is dependent on the age of the victim, the location of the incident as well as the presence of a firearm and the nationality of the offender.

In consideration of the above mentioned elements, it can be concluded that robbery homicides are more closely related to robberies without lethal ending, since their offenders present similar characteristics. Thus, *Research Hypothesis 5* stating that robbery homicide is, in general, more closely related to robbery than to other homicides, can be confirmed, although we have seen that it also presents some patterns similar to homicides. 339

This overall conclusion makes sense if we think of robbery homicide as a by-product of a robbery gone wrong and a primarily unwanted, yet accepted result of the initial goal, namely to illegitimately enrich oneself by means of violence taking foreign property. Obviously, this scenario does not apply for offenders who first killed a person for other reasons and then decided to steal goods from the victim; however, this situation does not constitute the classical case of a robbery homicide and will therefore mostly be classified among other motivational categories anyway. 340

This finding that robbery homicide can be classified as a “by-product” of a robbery gone wrong has important prevention and policy implications. Since robbery homicides are more related to robberies, it makes sense to focus on prevention of robberies in order to decrease robbery homicides at the same time. Further, it is also crucial to evaluate the differences of robbery homicides in regard to non-lethal robbery, this in order to find out which are the elements that make a robbery turn into a lethal offence. Thus, the distinguishing elements of robbery and robbery homicide mentioned above, such as age of the victim, the location of the homicide as well as the presence of a firearm and the nationality of the offender will be important for the evaluation of risk when it comes to robbery homicides.⁶³¹ 341

⁶³¹ See N 356 for the applicability of these findings in risk evaluation tools.

III. Difference between robbery homicide *stricto sensu* and burglary homicide

- ³⁴² The analysis has shown that robbery homicide *stricto sensu* does not differ in many regards from burglary homicides, and that it was thus justified to treat these two types of homicides as one category. In total, burglary homicides only presented specific characteristics in two regards. First, although the frequency of firearm use does not differ among the two subtypes, none of the burglary homicide offenders would have been able to provide another firearm (other than that used for the crime). It has already been speculated in N 242 that this finding might indicate that burglars have fewer ties to the local criminal milieu for the supply of weapons. However, the significance of this difference is statistically weak. Second, burglary homicide differs from robbery homicide *stricto sensu* in regard to the location of the crime, a finding that is not surprising. The majority of burglary homicides occur in private dwellings, whereas robbery homicides are predominantly street crimes.
- ³⁴³ Thus, in conclusion, burglary homicides present very similar characteristics to robbery homicides *stricto sensu*, with exception of less ability to provide for supplementary firearms as well as a higher number of residential locations of the homicide. Although the small number of burglary homicide cases could partially be responsible for the non-significant outcome of some comparisons, property crime homicides do not differ considerably from each other.

IV. Conclusion

- ³⁴⁴ Summing up the above mentioned findings, robbery homicides take place between predominantly young, male offenders acting in groups and presenting a charged criminal background, and older male victims who did not know their offenders prior to the offence. These findings are all in line with previous research and thus allow the conclusion that robbery homicide in Switzerland does not present significantly different patterns from robbery homicide in other countries. Thus, there is no “Swiss” robbery homicide, but this specific type of homicide presents characteristics similar to that in the different countries where research is available. It is hence possible to apply research findings from other countries to robbery homicide in Switzerland. Robbery homicide thus presents a relatively homogeneous picture in international comparison, although this type of homicide as well is

influenced by circumstantial factors that can act as facilitators, such as gun availability.

§ 15 Preventive measures and policy implications

I. Introduction

³⁴⁵ In regard to prevention measures for homicide, it has already been argued that disaggregation of homicides in subtypes will be a useful tool for more efficient and specific problem oriented solutions. It is thus useful to focus on dominant characteristics of homicide situations for public policy and prevention.⁶³² In regard to robbery homicide as a specific subtype of homicide, it is crucial to know the detailed characteristics of robbery homicide and to classify robbery homicide as either more robbery related or more homicide related. All this information will be useful for further prevention measures. Thus, as results from the analysis conducted in the second part of this research, robbery homicides present similar patterns to robbery without lethal ending, especially in regard to their offenders. Specific preventive measures are required to focus on the prevention of robbery and not so much of homicides in general in order to avoid the occurrence of robbery homicide, since the latter are more related to robberies without lethal ending. Hence, the prevention measures proposed in the following sections aim to prevent robbery or burglary in the first place so that the possibility of the occurrence of a homicide in the course of these crimes will be decreased.

II. Situational prevention measures

A. Introduction

³⁴⁶ As became evident in the analysis part of this research, the routine activities approach of COHEN/FELSON⁶³³ is often well suited to explain certain aspects of the crime of robbery homicide. If situational aspects, such as target attractiveness and guardianship of the target, influence the outcome of the crime, the logical consequence would be to adapt these situational factors in order to prevent crime from happening. Thus, situational prevention measures are preventive measures that are directed towards specific offences and aim to

⁶³² MIETHE/DRASS, p. 128-129.

⁶³³ See N 83 et seq. for more information about the routine activities approach.

manage the environmental factors in a permanent way in order to reduce the benefits of crime and make the commission of crime more difficult or risky.⁶³⁴

B. Weapon availability and control of illegal weapons

As we have seen in N 236, firearms account for 44% of the robbery 347 homicide victims. Also, almost all of the involved firearms were of illegal origin. Research stipulated that firearm robberies end more often lethally than robberies committed with other weapons, a finding that is also true for Switzerland.⁶³⁵ Switzerland has a high rate of gun ownership per household due to the militia system, and legal firearms are very prevalent.⁶³⁶ However, a study examining gun ownership and selected offences in 21 countries, among those Switzerland, and based on ICVS data found no correlation of the rate of gun ownership in a country and robbery rates, although the correlation of handgun ownership specifically and robbery rates was slightly higher.⁶³⁷ On the other hand, gun ownership was strongly correlated with suicide as well as female homicide.⁶³⁸ The authors explain these findings by the fact that private firearms, such as military weapons, are predominantly kept at home and are thus involved in offences that happen at home, such as domestic disputes or conflicts between acquaintances. As we have seen in N 243 et seq., this is not the case for robbery, since this crime predominantly takes place outside the private home in the public sphere. Thus, the influence of legal gun ownership on robbery is expected to be less strong. However, the results also indicated that handguns were more important for robbery than long guns or rifles, and that the involvement of guns in robbery did not depend so much on firearms kept at home, but more on guns on the street.⁶³⁹ Although an extensive open market also nourishes the black market, which means that if it is easy to obtain weapons in a country legally, the circulation of illegal weapons is also higher,⁶⁴⁰ gun control policies that aim to reduce the availability of firearms for robberies or other theft related “street-crimes”

⁶³⁴ CLARKE, p. 4.

⁶³⁵ See N 235 et seq.

⁶³⁶ See N 92.

⁶³⁷ KILLIAS/VAN KESTEREN/RINDLISBACHER, p. 441-442.

⁶³⁸ KILLIAS/VAN KESTEREN/RINDLISBACHER, p. 444.

⁶³⁹ KILLIAS/VAN KESTEREN/RINDLISBACHER, p. 443.

⁶⁴⁰ COOK/MOORE, p. 283.

would have to focus more on firearms present on the streets and thus circulating in the illegal market.

- 348 An interesting example of the impact of legal restrictions on the use of weapons on the street is provided by the amendment of the Swiss Law on Weapons in the year 1999. This amendment abolished the right to carry weapons in the public sphere and thus conferred to police officers the right to control persons for the carrying of illegal weapons, controls that were effectively undertaken after the introduction of the amendment.⁶⁴¹ Consequently, it was to be expected that offenders might refrain from carrying their firearms in public and use them in a robbery, since the risk of detection would increase considerably. Also, illegal firearms might also be more likely detected and then confiscated, which decreases the involvement of the latter in offences such as robberies. As a result, this legal change had a proven effect on the number of robberies (as well as assaults) committed with weapons,⁶⁴² since robberies with use of firearms as well as knives decreased considerably between 1992 and 2005 according to police statistics. In fact, whereas firearms were used in 18.5% of the robberies in 1998, their presence decreased and was situated at 10.6% in 2005. The use of knives dropped from 20.2% to 11.1% the same time span.⁶⁴³ The prohibition of carrying weapons in the public space might also be a possible explanation for the relatively low number of robbery homicides that occurred after 1999. As we have seen in N 158, the number of robbery homicides after the introduction of the amendment remained on a very low level, oscillating between one and three cases during the years 2000 and 2004, with exception of the year 1999 when 6 robbery homicides occurred.
- 349 The same effect as in the Swiss study was found by SHERMAN/SHAW/ROGAN in the Kansas City Gun Experiment. In this famous criminological study, additional police controls in one part of the city of Kansas were implemented, whereas in another area that served as control group, the presence of police remained the same. The researchers hypothesised that additional gun seizures in the concerned area would also lead to a decrease of gun related crime, whereas in the control area the

⁶⁴¹ BURLET/PELLET/VIREDAZ/KILLIAS, p. 1.

⁶⁴² A reduction of assaults committed with help of firearms or knives could also be observed, see BURLET/PELLET/VIREDAZ/KILLIAS, p. 5-6.

⁶⁴³ BURLET/PELLET/VIREDAZ/KILLIAS, p. 4.

number of gun crimes would remain the same.⁶⁴⁴ In fact, gun seizures increased by 65% during the trial phase in the area with intensified police control and also led to a 49% decrease of gun crime, whereas gun seizure as well as gun related crime remained stable in the control area.⁶⁴⁵

In sum, weapon availability is an important factor for the commission of an offence and, as we have seen in regard to the involvement of firearms, can determine the fatal or non-fatal outcome of a robbery. The amendment of the weapon law in 1999 as well as the Kansas City Gun Experiment further show that legal changes or changes in policing can have significant effects on the behaviour of persons and lead to adaptations in the behaviour of offenders. 350

C. Protection of the workplace

As we have seen in N 243 et seq. as well as in the multivariate analysis in N 291-292, a high number of robbery homicide victims, namely almost one quarter, were killed at their workplace. Especially money storage locations, such as banks, post offices or exchange bureaux as well as retail stores, such as jewellers or petrol stations, are often targets of robberies with deadly endings. It could also be observed that, based on the comparison of robbery homicides with robberies without lethal ending, robberies of commercial targets are much more likely to turn lethal than street robberies.⁶⁴⁶ Thus, it is crucial to secure the premises of certain stores in order to deter robbers, and, according to the routine activities theory, to make the target less vulnerable and thus less “suitable”.⁶⁴⁷ The classical solution for the prevention of robbery or theft and the resulting deadly ending in stores consists in the installation of video surveillance cameras, also called Closed Circuit Television systems (CCTV). These CCTV systems have become increasingly popular in recent years and have as primary goal the prevention of personal and property crime, since offenders are thought to be deterred by the increased risk of detection. On the other hand, it has also been argued that CCTV systems could increase crime because victims feel safe and neglect to adapt precaution measures in certain situations.⁶⁴⁸ 351

⁶⁴⁴ SHERMAN/SHAW/ROGAN, p. 2.

⁶⁴⁵ SHERMAN/SHAW/ROGAN, p. 6.

⁶⁴⁶ See N 243 et seq.

⁶⁴⁷ See N 83 et seq. for an overview of the routine activities approach.

⁶⁴⁸ WELSH/FARRINGTON, p. 3-4.

- 352 In a meta-analysis reviewing 44 studies on the effect of CCTV on crime, WELSH/FARRINGTON concluded that CCTV had a modest impact on the reduction of crime and was most effective when placed in car parks in order to reduce vehicle crimes. Of the 23 evaluations where violence (including robbery) was examined, CCTV systems only had significant effects in 3 studies.⁶⁴⁹ However, the positive result in case of vehicle crimes might also be due to the high camera coverage of these places, an element that might contribute to the success of CCTV in these areas.⁶⁵⁰ Accordingly, if CCTV cameras target one particular store, the coverage of the cameras would also be high, and effects of the cameras might be positive. Thus, visible CCTV cameras covering a wide area of the store might be fit to reduce robbery as well as theft in the first place, since their presence could deter motivated offenders due to the higher risk of detection. However, the use of CCTV surveillance systems also has implications for the personal rights of the workers who are filmed as well as data protection issues. Therefore, these aspects also have to be considered and pondered with possible advantages of camera surveillance.
- 353 Besides CCTV camera surveillance, it is also possible to secure stores with help of surveillance of security personnel. This option is, however, costly and thus not suitable for small stores with a small volume of sales. However, with other small measures based on situational prevention, such as securing monetary values in safes or behind glass windows,⁶⁵¹ the attractiveness of the target could be reduced. Further, a meta-analysis of HUNTER/JEFFERY was able to prove that environmental factors, such as the presence of two or more clerks, good money handling systems, the reduction of concealed access as well as locations with commercial activities in the evening, had an influence on the number of robberies of convenience stores.⁶⁵²
- 354 Another important professional group prone to robbery homicide victimisation are taxi drivers. As we have seen in N 194, they are disproportionately touched by robberies that ended lethally. Thus, applying situational prevention measures, it might be desirable to separate the taxi driver and his client by glass windows inside the taxi so that the driver is

⁶⁴⁹ WELSH/FARRINGTON, p. 18.

⁶⁵⁰ WELSH/FARRINGTON, p. 19.

⁶⁵¹ See EKBLOM, for the effectiveness of the implementation of counter screens in British post offices.

⁶⁵² HUNTER/JEFFERY, p. 201.

protected from possible assaults by clients. Also, in order to reduce the availability of cash inside taxis and thus decrease the target attractiveness in case of robbery, credit-card payments could be promoted in taxis.

D. Burglary protection of private housing and retail locations

In order to prevent the unlawful entry of offenders into private homes or commercial targets during closing hours, there are many ways to secure buildings and make them more burglary-proof. Burglary protection mainly consists in securing entrances and thus creating situational obstacles to an easy intrusion. This can be achieved by better door systems, video surveillance, fencing the property or a better lighting system,⁶⁵³ making the potential offender more prone to detection. It has been established by research that such physical protection measures are efficient in order to reduce property crime in general but also burglaries of residential locations.⁶⁵⁴ Based on ICVS data for burglary from 1998, KILLAS/CLERICI/BERRUEX found that in Switzerland, homes that had implemented burglary protection measures, such as alarm systems, secured doors and windows or owning a dog, had a higher risk of burglary than those homes without burglary protection at the time of the victimisation survey; however this contradictory finding resulted from the installation of security measures after a burglary. Homes with prior security measures had a significantly lower risk of burglary, which leads to the conclusion that these situational measures are efficient for the prevention of burglary.⁶⁵⁵

III. Legal and judicial policy measures

Legal measures can also have a preventive impact on certain types of crimes or criminal behaviour. As we have seen in N 348 et seq., the legal restriction of the right to carry weapons has led to a reduction in crimes committed with

⁶⁵³ See GRISWOLD, p. 210, for an example of the positive impact of improved lighting on commercial burglary.

⁶⁵⁴ See CUSSON, p. 416 et seq., for an overview of the effects of situational protection on property crimes in general and burglaries in particular. See also BERNASCO, p. 182 et seq., for specific measures of “target hardening” in regard to burglary.

⁶⁵⁵ KILLAS/CLERICI/BERRUEX, p. 10.

help of weapons. Thus, the legislator can influence certain situational factors by editing regulations. Also, it is one of the main goals of the criminal justice system to neutralise serious offenders with multiple prior convictions in order to prevent offences committed by recidivists. As we have seen in chapter N 222 et seq., robbery homicide offenders much more often present a criminal history as well as multiple prior convictions than standard homicide offenders. It is hence desirable that these serious offenders are recognised at an early stage and can thus be neutralised by the criminal justice system before they reoffend. In order to evaluate the potential risk of recidivism of an offender, risk-assessment tools could be created that can detect persons at risk of reoffending. Such tools can only be developed based on prior research such as the one present here. Hence, in order to know more about recidivism patterns of robbery homicide offenders, one has to invest in further research. However, what is known from this research suggests that robbery homicide offenders can be, although never convicted of a robbery homicide prior to the one in the study, considered “specialists” when it comes to reoffending, since they have mostly been convicted of property crimes such as robbery or theft.⁶⁵⁶ Also, they present a higher number of previous convictions than other homicide offenders. Thus, as a starting point for a risk assessment tool, the focus must be on offenders who have committed multiple property crimes. In addition, other variables found in this research that increase the risk of a robbery ending lethally, such as targeting older victims, commercial locations or using firearms during the commission of a robbery, have to be considered in order to evaluate *in abstracto* the risk of further reoffending. Hence, these elements have to be considered by the judge in order to make a more positive or negative prognosis about the future reoffending of the robbery offender.⁶⁵⁷ Since the prognosis of the judge influences the outcome of the sentence length and thus the time an offender remains “neutralised” in prison, these variables could as well influence to a certain extent the numbers of robbery homicides.

⁶⁵⁶ See N 225 et seq. for detailed information about the legal basis of previous convictions of robbery homicide offenders.

⁶⁵⁷ See article 47 SCC and N 272 et seq. for the influence of prior convictions on the sentence.

§ 16 Future research directions

I. Improvement of data availability

A. Establishment of comprehensive and continuous homicide surveillance systems

As I have noticed throughout this work, research on specific subtypes of homicide, such as robbery homicide in particular, is severely limited due to the nature of most homicide data. Since data in the field of homicide are mostly difficult or impossible to disaggregate, it results that subcategorisations and analysis of homicide subtypes are rarely found. However, prior research as well as this research *in casu* shows that disaggregation into different subtypes of homicide is essential, since characteristics differ considerably between the latter. Aggregated data risk blurring all different situations into one category and thus makes particularities indiscernible. The result is the risk that prevention measures will be too general and might not fit certain types of homicides. Therefore, the creation of comprehensive homicide surveillance systems is an important step towards a better data situation. As I have mentioned earlier, efforts in this direction have been undertaken by several countries.⁶⁵⁸ However, most of the databases created in these countries are projects within a certain time span and are not continuously updated. It is thus difficult to generate trend analysis if the timeline of the surveillance system is not continuous. 357

In regard to the situation in Switzerland, a country that is already in possession of a very detailed homicide surveillance system, it would be most desirable to update the existent database for the years to come. This would first allow better analysis in general, since homicide is a relatively rare event in Switzerland and case numbers therefore low. Second, it would generate reliable trend analysis of homicide in general as well as the different subtypes in particular. Trend analysis is important because it can attract attention to changes in situational factors that influence some types of offences but not others, thus increasing the ability for specifically tailored solutions to an offence. The downside of updating and maintaining these surveillance systems is, however, that the data collection process is relatively 358

⁶⁵⁸ See N 100.

time consuming. It would therefore be desirable to create a general data storage system that could be shared by various authorities, such as legal medicine institutes as well as police and courts, in order to collect all necessary and relevant data on a case in one file. Organisational concerns as well as data protection issues are, however, an important barrier to such a generalised information system. Nevertheless, a basic general electronic information system on inhabitants is already in place in Finland and contains name, personal identity code, address, citizenship and native language, family relations and date of birth and death.⁶⁵⁹ This information is also readily available for research purposes⁶⁶⁰ and can easily be linked and updated with information from other sources, such as coroner, police and court files. This option would probably be best suitable for research purposes as well, as it is less intrusive on the privacy of persons, since data are not generally accessible by everyone but would be restricted to research purposes.

- 359 Further, in order to promote international comparisons of homicide in general and subtypes particularly, the homicide monitoring systems in different countries should be as far as possible standardised. International comparisons are desirable because one can compare homicide situations and factors that are specific to every country which could influence the occurrence of lethal violence. Thus this would also increase the knowledge of homicide in general and allow potential prevention measures that are country specific.

B. Data collection on robbery and robbery homicide

- 360 Further, since relatively little detailed knowledge on robberies without lethal ending is available, it would be advisable to collect more information about this type of behaviour as well in order to obtain better comparison material. Right now, the only national data available on robbery that contains detailed information, such as victim, offender and circumstantial facts, is contained in the ICVS. However, very little data are available on robberies of stores and other commercial locations, since the ICVS is limited to non-commercial robberies and burglaries. In order to increase the knowledge of victimisation

⁶⁵⁹ POPULATION REGISTER CENTRE.

⁶⁶⁰ For an example of the use of this data source, see AALTONEN/HINKKANEN/KIVIVUORI/SIRÉN.

of commercial targets and the persons working in them, it would be desirable to survey shops and other commercial locations as well. An important step in this direction has already been undertaken by the project “*Survey to assess the level and impact of crimes against businesses in Switzerland*” of the Institute of Criminology at the University of Zurich that aims to investigate criminal victimisation of banks and commerce perpetrated by their employees. This research focuses mainly on white collar crime and property crimes committed by the firm’s own employees, but would also cover the situation where an employee robs his/her own employer. Furthermore, such a survey could be extended to victimisation not only perpetrated by the enterprise’s own employees, but also by offenders outside its own workforce.

II. Future fields of research

Although the present work aims to give an extensive overview of the prevalence, victim and offender characteristics as well as situational factors of robbery homicide, much more needs to be done. For instance, accentuated research on commercial robbery homicides, in comparison to robbery homicides occurring on the streets or in a private setting, could not be undertaken by this research, since our database did not collect detailed information about the location of the offence. Thus, in most cases, it was not possible to know where exactly the robbery homicide took place, which would have been interesting for crime mapping purposes and risk assessment tools. Further, the type of commerce was also not surveyed in a specific variable, and thus information on the type of store was only available if it was included in the general case description.

Finally, as mentioned at the beginning of this work,⁶⁶¹ it is essential to promote disaggregated homicide research and to sensitise homicide researchers for the need of creating research based on a homicide typology. It would also be highly desirable to further test homicide typology empirically in order to see whether the classification reflects the reality of different homicides.⁶⁶² Only if we know more about the different types of homicide separately, will we be able to address effective prevention

⁶⁶¹ See preface on page 5.

⁶⁶² See BIJLEVELD/SMIT, p. 195 et seq., as well as MIETHE/REGOECZI, p. 107 et seq., for empirical testing of homicide typologies.

measures to the various manifestations of homicide in our society and save the lives of potential victims.

Appendix: The Swiss Homicide Database Questionnaire

INFORMATIONS GENERALES SUR LE DOSSIER « HOMICIDE »

CODE ICDP :

DATE DE CODAGE :

jour

mois

année

QUEL EST LE NOM DU DEMANDEUR D'AUTOPSIE ? JUGE
D'INSTRUCTION / PROCUREUR / PREFET :

- (1) juge d'instruction / informateur, *précisez svp*
- (2) procureur, *précisez svp*
- (3) préfet, *précisez svp*
- (4) autre, *précisez svp*

ADRESSE COMPLETE DU JUGE D'INSTRUCTION / PROCUREUR
/ PREFET :

.....
.....

DATE DE LA DEMANDE
D'AUTOPSIE :

jour

mois

année

jour

mois

année

Appendix

**DATE DE L'AUTOPSIE
EFFECTUEE :**

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**NUMERO DE REFERENCE DE LA DEMANDE DU « JI, PROC »
POUR L'AUTOPSIE :**

(cf. la référence sur le mandat de comparution de l'expert légiste !)

.....
.....

CANTON DEMANDEUR :

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MEDECIN RESPONSABLE DE L'AUTOPSIE :

.....
.....

DATE DU RAPPORT D'AUTOPSIE :

<i>jour</i>	<i>mois</i>	<i>année</i>

CODE IUML POUR LE RAPPORT D'AUTOPSIE:

.....

CARACTERISTIQUES DE L'AFFAIRE PENALE :

Nombre de victimes autopsiées pour cette affaire pénale?
times

----------------------	----------------------

Nombre de personnes blessées par l'agresseur
sonnes blessées

--	--

Nombre d'agresseurs recensés pour cette affaire pénale?
agresseurs

--	--

**DONNEES PERSONNELLES CONCERNANT LA VICTIME DE
L' « HOMICIDE »**

*Si dans la même affaire pénale, il y a eu plusieurs victimes, il faut remplir un
formulaire pour chaque victime !*

1. Sexe de la victime

- (1) homme
- (2) femme

2. Date de naissance de la victime

<i>jour</i>	<i>mois</i>	<i>année</i>						
<table border="1"><tr><td></td><td></td></tr></table>			<table border="1"><tr><td></td><td></td></tr></table>			<table border="1"><tr><td></td><td></td></tr></table>		

3. Etat civil de la victime

- (1) célibataire
 - (2) marié
 - (3) divorcé
 - (4) séparé
 - (5) veuf
 - (6) inconnu
-

4. Combien de personnes vivent au domicile (adresse) de la victime :

--	--

 personnes (sans compter la victime !)

4.1. Quelles sont ces personnes :

- (1) un(e) conjoint(e), précisez depuis quand svp
- (2) un(e) partenaire non-marital(e), précisez depuis quand svp
- (3) ses parents
- (4) ses enfants
- (5) d'autres personnes de sa parenté
- (6) d'autres personnes sans lien de parenté
- (7) inconnu

4.2. Lieu de domicile de la victime :

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Pour la Suisse, précisez le canton et la commune, ou l'institution :

.....

Pour les pays étrangers, précisez la pro-

vince :.....

5. Lieu de naissance de la victime :

--	--	--

Pour la Suisse, précisez le canton :.....

Pour les pays étrangers, précisez la pro-

vince :.....

6. Origine ethnique de la victime :

.....

7. Nationalité de la victime :

--	--	--

précisez svp

8. La victime est-elle en formation ?

(1) non

(2) oui

8.1. Niveau de formation atteint par la victime (degré / diplôme le plus élevé atteint / obtenu) :

(1) école primaire

(2) école secondaire

(3) apprentissage / CFC

(4) gymnase / maturité

(5) université / haute école

(6) autre, *précisez svp*

8.2 Formation en cours

(1) école primaire

(2) école secondaire

(3) apprentissage / CFC

(4) gymnase / maturité

(5) université / haute école

(6) autre, *précisez svp*

9. La victime a-t-elle une activité professionnelle ?

- (0) non
 - (1) oui, à temps partiel
 - (2) oui, à temps plein
 - (3) inconnu
-

9.1. Secteur d'activité de la victime

- (1) agriculture
 - (2) industrie/ bâtiment/ profession technique
 - (3) banque/ assurance
 - (4) hôtellerie/ restauration
 - (5) médical/ pharmaceutique/ chimique
 - (6) social/ psychologique
 - (7) administration/ secrétariat
 - (8) enseignement/ recherche
 - (9) informatique/ télécommunication
 - (10) transport/ tourisme
 - (11) commerce/ vente
 - (12) marketing/ publicité
 - (13) artistique
 - (14) juridique
 - (15) inconnu
 - (16) autre, *précisez svp*
-

9.2. Si pas d'activité professionnelle, la victime est :

- (1) femme / homme au foyer
- (2) rentier / rentière AVS / AI, etc.

- (3) chômeur
 - (4) détenu
 - (5) écolier /étudiant
 - (6) pensionnaire (clinique)
 - (7) autre, *précisez svp*
-

9.3. Si activité partielle :

- (1) activité partielle uniquement
 - (2) à côté des études
 - (3) à côté du ménage
 - (4) à côté d'une rente
 - (5) autre, *précisez svp*.....
-

11. Statut professionnel de la victime (*le cas échéant, lors de la dernière activité professionnelle*)

- (1) indépendant
 - (2) dépendant, employé
 - (3) dépendant, cadre
 - (4) dépendant, cadre supérieur
 - (5) inconnu
 - (6) autre, *précisez svp*
-

11.1. De quelle confession est la victime ?

- (1) protestante
- (2) catholique
- (3) juive
- (4) musulmane

- (5) sans confession
 - (6) autre, *précisez svp*
-

11.2. La victime est-elle pratiquante (religion) ?

- (1) non-pratiquante
 - (2) pratiquante
 - (3) fervente pratiquante
 - (4) autre, *précisez svp*
-

12. La victime est-elle connue des services de police et de la justice
(antécédents policiers et judiciaires) ?

- (0) non, aucun antécédent
 - (1) victime connue des services de police
 - (2) victime connue de la justice
 - (3) sans indication
-

13. Combien de fois la victime a-t-elle été condamnée au cours de sa vie ?

--	--

14. Année de la dernière condamnation de la victime :

.....

15. Au cours de sa vie, sur la base de quelles dispositions légales la victime a-t-elle été condamnée? (au maximum trois condamnations !)

1^{ère} condamnation

--	--	--

2^{ème} condamnation

--	--	--

3^{ème} condamnation

--	--	--

16. La victime a-t-elle jamais été condamnée à une peine privative de liberté ?

- (1) non
 - (2) oui, avec sursis
 - (3) oui, sans sursis
 - (4) oui, remplacée par une mesure
-

16.1 Quelle était la durée globale de ces peines privatives de liberté ?

mois

--	--	--

16.2. Avant les faits, la victime consommait-elle de l'alcool, des drogues, des psychotropes, d'autres médicaments ?

- (0) non
 - (1) oui, de l'alcool
 - (2) oui, des drogues douces (haschisch, marijuana)
 - (3) oui, des drogues dures (héroïne, cocaïne)
 - (4) oui, d'autres drogues, *précisez svp*
 - (5) oui, des psychotropes, *précisez svp*
 - (6) oui, d'autres médicaments, *précisez svp*
 - (7) oui, autre, *précisez svp*
-

16.3 Si la victime consommait de l'alcool ou d'autres substances, était-elle dépendante ou sa consommation était-elle excessive?

- (0) non
 - (1) oui, parfois excessive
 - (2) oui, souvent excessive
 - (3) oui, dépendance
-

17. Au moment des faits, la victime avait-elle consommé de l'alcool, des drogues, des psychotropes, d'autres médicaments ?

- (0) aucune substance n'a été relevée
 - (1) traces d'alcool relevées
 - (2) traces de drogues douces (haschisch, marijuana)
 - (3) traces de drogues dures (héroïne, cocaïne)
 - (4) traces d'autres drogues, *précisez svp*
 - (5) traces de psychotropes, *précisez svp*
 - (6) traces d'autres médicaments, *précisez svp*
 - (7) autre, *précisez svp*
-

18. Au moment des faits, la victime souffrait-elle d'une maladie grave (maladie physique et/ou psychique) ?

- (0) aucune maladie n'a été mentionnée
- (1) maladie physique, *précisez svp*
- (2) maladie psychique, *précisez svp*
- (3) autre, *précisez svp*

18.1. Avant les faits, la victime était-elle considérée comme une personne souffrant de certaines tendances ?

- (0) aucune tendance
- (1) tendance suicidaire, *précisez svp*
- (2) tendance à la violence, *précisez svp*
- (3) tendance pour des conduites à risque, *précisez svp*
- (4) tendance au stress (événement psychosocial), *précisez svp*
- (5) autre, *précisez svp*

18.2. Relation entre la victime et l'auteur. La victime en était :

- (1) le fils/la fille
- (2) le frère/la soeur
- (3) le père/ la mère
- (4) autre lien de parenté, *précisez svp*
- (5) le (ex)conjoint(e)/ (ex)concubin(e)/ (ex)partenaire/ (ex)ami(e) intime, *précisez svp*.....
- (6) une personne sexuellement convoitée
- (7) le (la) nouvel(le) ami(e) de l'ex-partenaire
- (8) une connaissance professionnelle
- (9) une connaissance privée
- (10) une relation de prostitution

- (11) un inconnu
- (12) sans relation connue
- (13) autre, *précisez svp*

**DONNEES CONCERNANT LES CIRCONSTANCES MEDICO-LEGALES
DE L'« HOMICIDE »**

18.3. Motif de l'autopsie :

- (1) d'office (mort violente)
- (2) autre, *précisez svp*

18.4. Les premiers indices ont fait penser à :

- (1) un homicide par négligence (accident)
- (2) un homicide intentionnel
- (3) un suicide
- (4) des lésions corporelles intentionnelles avec issue fatale
- (5) une mort naturelle
- (6) autre, *précisez svp*

**18.5. L'enquête a-t-elle permis de constater que la première conclusion
était fausse ?**

- (1) oui, *précisez svp*

(2) non, *précisez svp*

(5) autre, *précisez svp*

19. Comment la mort s'est elle produite ?

(1) arme à feu, *précisez svp*

(2) arme blanche / instrument tranchant, *précisez svp*

(3) explosifs, *précisez svp*

(4) instruments contondants, *précisez svp*

(5) instruments piquants, *précisez svp*

(6) poison, *précisez svp*

(7) feu, *précisez svp*

(8) gaz, *précisez svp*

(9) eau, *précisez svp*

(10) ensevelissement, *précisez svp*

(11) véhicule, *précisez svp*

(12) pendaison, étranglement, étouffement, *précisez svp*
.....

(13) autre, *précisez svp*

20. Quelle est l'origine de ces armes ou instruments létaux ?

Veillez préciser l'origine pour chaque arme ou objet !

- (1) en possession de l'auteur, *précisez depuis quand* svp
.....
 - (2) en possession de la victime, *précisez depuis quand* svp
.....
 - (3) mis à disposition par un tiers
 - (4) trouvé sur place
 - (5) inconnue
 - (6) autre, *précisez svp*
-

21. La possession de l'arme à feu qui a servi à commettre l'homicide était-elle légale ou illégale ?

- (1) légale, arme militaire, *précisez svp*
 - (2) légale, arme privée, *précisez svp*
 - (3) légale, arme de service, *précisez svp*
 - (4) illégale, *précisez svp*
 - (5) autre, *précisez svp*
-

21.1 L'auteur avait-il accès à une arme à feu qu'il n'a pas utilisée pour le crime ?

- (0) non
- (1) oui

22. Combien de lésions ont été relevées sur le corps de la victime ?

--	--

lésions superficielles

--	--

*lésions profondes**autre, précisez svp*

23. Localisation des lésions superficielles relevées sur le corps de la victime :

- (1) tête/ cou, *précisez svp*
 - (2) tronc, *précisez svp*
 - (3) membres supérieurs, *précisez svp*
 - (4) membres inférieurs, *précisez svp*
 - (5) autre, *précisez svp*
-

23.1. Localisation des lésions profondes relevées sur le corps de la victime :

- (1) tête/ cou, *précisez svp*
- (2) tronc, *précisez svp*
- (3) membres supérieurs, *précisez svp*
- (4) membres inférieurs, *précisez svp*
- (5) autre, *précisez svp*

24. Type des lésions ayant entraîné la mort

- (1) asphyxie/ strangulation/ noyade
- (2) blessure par arme à feu
- (3) blessure par arme blanche
- (4) blessure par objet contondant
- (5) empoisonnement
- (6) coup de poing/ coup de pied
- (7) chute/ écrasement
- (8) inconnu
- (9) autre, *précisez svp*

25. Localisation des lésions ayant entraîné la mort ?

- (1) tête/ cou, *précisez svp*
- (2) tronc, *précisez svp*
- (3) membres supérieurs, *précisez svp*
- (4) membres inférieurs, *précisez svp*
- (5) autre, *précisez svp*

26. Indiquez les circonstances entourant l'homicide

- (1) homicide « pur », *précisez svp*
- (2) coups et blessures non létaux multiples, *précisez svp*
.....

-
- (3) viol, *précisez svp*
 - (4) empoisonnement, *précisez svp*
 - (5) attentats, *précisez svp*
 - (6) guerre, *précisez svp*
 - (7) torture, actes de barbarie, acharnement, *précisez svp*
.....
 - (8) sévices chroniques, *précisez svp*
 - (9) suicide élargi, *précisez svp*
 - (10) euthanasie, *précisez svp*
 - (11) autre, *précisez svp*
-

28. Dans quelle situation / lieu l'homicide a-t-il été commis ?

Veillez préciser le lieu du crime (lieu de travail, domicile, école, institution, etc.) !

- (1) nature, *précisez svp*
- (2) rue/ ville, *précisez svp*
- (3) transports publics
- (4) bâtiment/ lieu public, *précisez svp*
- (5) transports privés
- (6) logement, *précisez svp*
- (7) lieu de travail
- (8) inconnu
- (9) autre, *précisez svp*

29. Où le corps de la victime de l'homicide a-t-il été découvert ?

Veillez préciser le lieu du crime (lieu de travail, domicile, école, institution, etc.) !

(0) sur le lieu même de l'homicide, *précisez svp*

(1) le corps a été déplacé et découvert ailleurs, *précisez svp*

(2) autre, *précisez svp*

30. Quand l'homicide a-t-il été commis et le corps découvert ?

(1) l'agression a été commise le

<i>jour</i>	<i>mois</i>	<i>année</i>

(2) la mort est intervenue le

<i>jour</i>	<i>mois</i>	<i>année</i>

(3) le corps a été découvert le

<i>jour</i>	<i>mois</i>	<i>année</i>

(4) autre, *précisez svp*

31. A quel moment de la journée, l'homicide a-t-il été commis ?

(1) le matin (6h00 – 12h00), *précisez svp*

(2) l'après-midi (12h00 – 18h00), *précisez svp*

(3) le soir (18h00 – 24h00), *précisez svp*

- (4) la nuit (24h00 – 6h00), *précisez svp*
 - (5) autre, *précisez svp*
 - (6) cette information n'est pas disponible
-

32. Y a-t-il eu des témoins de l'homicide ?

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nombre de témoins sur le lieu du crime !

32.1. Qui a découvert la victime ?

- (1) membre de la famille, *précisez svp*
 - (2) ami/ proche, *précisez svp*
 - (3) conjoint/ concubin/ partenaire *précisez svp*
 - (4) voisin
 - (5) autorités/ fonctionnaire
 - (6) un tiers, *précisez svp*
 - (7) autre, *précisez svp*
-

32.2. Qui a dénoncé l'agresseur ?

- (1) membre de la famille, *précisez svp*
- (2) ami/ proche, *précisez svp*
- (3) conjoint/ concubin/ partenaire *précisez svp*
- (4) voisin

- (5) autorités/ fonctionnaire
 - (6) un tiers, *précisez svp*
 - (7) autre, *précisez svp*
-

33. Combien de personnes ont participé à l'homicide en tant qu'auteurs ou complices ?

--	--

 nombre d'auteurs !

--	--

 nombre de complices !

autre, *précisez svp*

34. Les auteurs et complices de l'homicide font-ils partie d'un gang ou d'un groupe mafieux ?

- (0) ils ne font partie d'aucun groupe particulier
 - (1) ils font partie d'un gang, *précisez svp*
 - (2) ils font partie d'un groupe mafieux, *précisez svp*
 - (3) autre, *précisez svp*
-

35. Dans quelles circonstances l'homicide a-t-il été commis ?

- (1) en état de légitime défense, *précisez svp*
- (2) en état de nécessité, *précisez svp*
- (3) dans le cadre d'un attentat, *précisez svp*

- (4) dans le cadre d'une guerre, *précisez svp*
 - (5) dans le cadre d'un règlement de compte, *précisez svp*
 - (6) dans le cadre d'un problème de vie privée, *précisez svp*
 - (7) dans le cadre d'un brigandage, hold-up, vol, *précisez svp*
 - (8) dans le cadre d'une prise d'otages, *précisez svp*
 - (9) autre, *précisez svp*
-

36. Tendance sexuelle de la victime?

- (1) hétérosexuel
 - (2) *homosexuel*
 - (3) *bisexuel*
 - (4) *inconnu*
 - (5) *autre*
-

DONNEES PERSONNELLES CONCERNANT L'AGRESSEUR

Si dans la même affaire pénale, il y a eu plusieurs agresseurs, il faut remplir un formulaire pour chaque agresseur !

1. Sexe de l'agresseur

- (1) homme
- (2) femme

2. **Date de naissance de l'agresseur**

	jour	mois	année

3. **Etat civil de l'agresseur**

- (1) célibataire
- (2) marié
- (3) divorcé
- (4) séparé
- (5) veuf
- (6) inconnu

4. **Combien de personnes vivent au domicile (adresse) de l'agresseur :**

personnes (sans compter l'agresseur !)

4.1. **Lieu de domicile de l'agresseur :**

Pour la Suisse, précisez le canton et la commune, ou l'institution :

.....

Pour les pays étrangers, précisez la pro

vince :

4.2. **L'agresseur vit-il sous le même toit que la victime ?**

- (1) oui, précisez depuis quand svp
- (2) non, précisez svp
- (3) autre, précisez svp

5. Relation entre l'agresseur et la victime : l'agresseur en était :

- (1) le fils/la fille
 - (2) le frère/la soeur
 - (3) le père/ la mère
 - (4) autre lien de parenté, *précisez svp*
 - (5) le (ex)conjoint(e)/ (ex)concubin(e)/ (ex)partenaire/ (ex)ami(e) intime, *précisez svp*
 - (6) une personne sexuellement convoitée
 - (7) le (la) nouvel(le) ami(e) de l'ex-partenaire
 - (8) une connaissance professionnelle
 - (9) une connaissance privée
 - (10) une relation de prostitution
 - (11) un inconnu
 - (12) sans relation connue
 - (13) autre, *précisez svp*
-

5.1. Si l'agresseur a eu/avait une relation maritale, de partenaire ou intime avec la victime :

a. La relation était:

- (1) maritale
- (2) concubinage
- (3) partenaire
- (4) ami intime

b. Durée approximative de la relation (en mois):

.....

c. La relation au moment de l'agression était :

- (1) en cours
- (2) en voie de dissolution
- (3) terminée, précisez depuis quand (en mois) svp

c1. Si la relation est terminée, précisez sur l'initiative de qui :

- (1) l'auteur
- (2) la victime

d. La relation était:

- (1) harmonieuse
- (2) conflictuelle
- (3) conflictuelle avec intervention(s) de la police

e. La victime a-t-elle cherché une séparation ?

- (1) oui
- (2) non

f. L'homicide a-t-il été précédé de menaces de la part de l'agresseur ?

- (1) oui
- (2) non

g. Nombre d'enfants du couple?

mineurs

--	--

majeurs

--	--

h. Où vivaient les enfants au moment de l'acte?

- (1) avec le couple
- (2) avec l'agresseur
- (3) avec la victime
- (4) avec un tiers
- (5) de façon indépendante
- (6) en institution
- (7) ailleurs, précisez svp

i. L'agresseur a-t-il envisagé (sans y parvenir) de tuer aussi un ou plusieurs des enfants ?

- (1) oui, précisez le nombre svp
- (2) non

j. L'agresseur a-t-il envisagé (sans y parvenir) de se suicider après ?

- (1) oui
- (2) non

6. Lieu de naissance de l'agresseur :

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Pour la Suisse, précisez le canton :

Pour les pays étrangers, précisez la province :

7. Origine ethnique de l'agresseur :

.....

8. Nationalité de l'agresseur :

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autre, précisez svp

9. L'agresseur est-il en formation ?

- (1) non
 - (2) oui
-

9.1 Niveau de formation atteint par l'agresseur (degré / diplôme le plus élevé atteint / obtenu) :

- (1) école primaire
 - (2) école secondaire
 - (3) apprentissage / CFC
 - (4) gymnase / maturité
 - (5) université / haute école
 - (6) autre, *précisez svp*
-

9.2 Formation en cours

- (1) école primaire
 - (2) école secondaire
 - (3) apprentissage / CFC
 - (4) gymnase / maturité
 - (5) université / haute école
 - (6) autre, *précisez svp*
-

10. L'agresseur a-t-il une activité professionnelle ?

- (0) non
- (1) oui, à temps partiel
- (2) oui, à plein temps

(3) inconnu

10.1 Secteur d'activité de l'agresseur :

- (1) agriculture
 - (2) industrie/ bâtiment/ profession technique
 - (3) banque/ assurance
 - (4) hôtellerie/ restauration
 - (5) médical/ pharmaceutique/ chimique
 - (6) social/ psychologique
 - (7) administration/ secrétariat
 - (8) enseignement/ recherche
 - (9) informatique/ télécommunication
 - (10) transport/ tourisme
 - (11) commerce/ vente
 - (12) marketing/ publicité
 - (13) artistique
 - (14) juridique
 - (15) inconnu
 - (16) autre, *précisez svp*
-

10.2. Si pas d'activité professionnelle, l'agresseur est :

- (1) femme / homme au foyer
- (2) rentier / rentière AVS / AI, etc.
- (3) chômeur
- (4) détenu
- (5) écolier /étudiant
- (6) pensionnaire (clinique)

(7) autre, *précisez svp*

10.3. Si activité partielle :

- (1) activité partielle uniquement
 - (2) à côté des études
 - (3) à côté du ménage
 - (4) à côté d'une rente
 - (5) autre, *précisez svp*.....
-

12. Statut professionnel de l'agresseur

- (1) indépendant
 - (2) dépendant, employé
 - (3) dépendant, cadre
 - (4) dépendant, cadre supérieur
 - (5) inconnu
 - (6) autre, *précisez svp*
-

13. De quelle confession est l'agresseur ?

- (1) protestante
 - (2) catholique
 - (3) juive
 - (4) musulmane
 - (5) sans confession
 - (6) autre, *précisez svp*
-

14. L'agresseur est-il pratiquant (religion) ?

-
- (1) non pratiquant
 - (2) pratiquant
 - (3) fervent pratiquant
 - (4) autre, *précisez svp*
-

15. L'agresseur a-t-il reçu une formation militaire ?

- (0) non, il n'a jamais effectué de service militaire
 - (1) oui, il a effectué son service militaire, *précisez svp*
 - (2) oui, il est officier à l'armée, *précisez svp*
 - (3) autre, *précisez svp*
-

17. L'agresseur est-il connu des services de police et de la justice (antécédents policiers et judiciaires) ?

- (0) non, aucun antécédent
 - (1) agresseur connu des services de police
 - (2) agresseur connu de la justice
 - (3) sans indication
-

18. Combien de fois l'agresseur a-t-il été condamné au cours de sa vie ? :

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19. Au cours de sa vie, l'agresseur a été condamné pour quels types de délits (au maximum trois condamnations !)?

1^{ère} condamnation

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2^{ème} condamnation

3^{ème} condamnation

20. Année de la dernière condamnation de l'agresseur :

.....

22a. L'agresseur a-t-il jamais été condamné à une peine privative de liberté ?

- (1) non
 - (2) oui, avec sursis
 - (3) oui, sans sursis
 - (4) oui, remplacée par une mesure
-

22.1 Quelle était la durée globale de ces peines privatives de liberté ?

mois

--	--

22.2. Avant les faits, l'agresseur consommait-il de l'alcool, des drogues, des psychotropes, d'autres médicaments ?

- (0) non
 - (1) oui, de l'alcool
 - (2) oui, des drogues douces (haschisch, marijuana)
 - (3) oui, des drogues dures (héroïne, cocaïne)
 - (4) oui, d'autres drogues, *précisez svp*
 - (5) oui, des psychotropes, *précisez svp*
 - (6) oui, d'autres médicaments, *précisez svp*
 - (7) oui, autre, *précisez svp*
-

22.3 Si l'agresseur consommait de l'alcool ou d'autres substances, était-il dépendant ou consommait-il avec excès?

- (0) non
 - (1) oui, parfois excessive
 - (2) oui, souvent excessive
 - (3) oui, dépendant
-

23. Au moment des faits, l'agresseur avait-il consommé de l'alcool, des drogues, des psychotropes, d'autres médicaments ?

- (0) aucune substance n'a été relevée
 - (1) traces d'alcool relevées
 - (2) traces de drogues douces (haschisch, marijuana)
 - (3) traces de drogues dures (héroïne, cocaïne)
 - (4) traces d'autres drogues, *précisez svp*
 - (5) traces de psychotropes, *précisez svp*
 - (6) traces d'autres médicaments, *précisez svp*
 - (7) autre, *précisez svp*
-

24. Au moment des faits, l'agresseur souffrait-il d'une maladie grave (maladie physique et/ou psychique) ?

- (0) aucune maladie n'a été mentionnée
- (1) maladie physique, *précisez svp*

(2) maladie psychique, *précisez svp*

(3) autre, *précisez svp*

25. Avant les faits, l'agresseur était-il considéré comme une personne souffrant de certaines tendances ?

(1) tendance suicidaire, *précisez svp*

(2) tendance à la violence, *précisez svp*

(3) tendance pour des conduites à risque, *précisez svp*

(4) tendance au stress (événement psychosocial), *précisez svp*
.....

(5) autre, *précisez svp*

26. Quelles sont les raisons / mobiles qui ont poussé l'agresseur à commettre son crime ?

(1) raison sentimentale / jalousie

(2) honneur/ vengeance

(3) intérêts matériels

(4) politiques/ idéologiques

(5) désir sexuel

(6) conflit/ désaccord

(7) haine raciale/ interethnique

(8) miséricorde

(9) inconnu

(10) autre, *précisez svp*

27. Enquête policière

a. Comment le suspect a-t-il été découvert/identifié (plusieurs réponses possibles) :

- (1) arrêté sur la scène du crime
- (2) identifié peu après la découverte du crime
- (3) l'auteur s'est lui-même livré
- (4) l'auteur a été identifié après enquête, *précisez la durée svp*
.....
- (5) l'enquête s'est d'abord focalisée sur une autre personne
- (6) autre, *précisez svp*

b. L'auteur a été arrêté/en détention préventive:

- (1) non
- (2) oui, *précisez la durée en mois svp*

c. L'auteur a été:

- (1) sous enquête, sans accusation
- (2) a bénéficié d'une décision de non-lieu
- (3) est toujours en attente d'un jugement définitif
- (4) acquitté
- (5) condamné, *précisez le numéro de l'article svp*

d. Eléments particuliers, le tribunal a retenu (plusieurs réponses possibles):

- (1) des circonstances aggravantes
- (2) des circonstances atténuantes
- (3) la légitime défense / état de nécessité
- (4) la responsabilité restreinte

e. Peine privative de liberté infligée

- (0) non, *précisez svp*
- (1) oui, avec sursis, *précisez svp*
- (2) oui, sans sursis, *précisez svp*
- (3) oui, remplacée par une mesure, *précisez svp*

28. S'agissait-il d'un acte ?

- (1) isolé
- (2) d'une série de meurtres, *précisez combien svp*
- (3) d'une tuerie de plusieurs personnes, *précisez combien svp*
.....

29. L'auteur est-il suspect pour d'autres crimes du même genre ?

- (1) oui, *précisez svp*
- (2) non

30. Tendance sexuelle de l'agresseur ?

- (1) hétérosexuel
- (2) homosexuel
- (3) bisexuel
- (4) inconnu
- (5) autre

Curriculum Vitae

1981	Born in Lübeck (Germany)
1988 – 2000	Primary school and high school in St. Gallen
2001 – 2005	Master of law at the University of Lausanne Switzerland
2005 – 2007	Master of law in criminal law and criminology at the University of Lausanne Switzerland
2007 – 2011	Assistant of Prof. Dr. Martin Kilias, chair of criminal law and criminology at the University of Zurich Switzerland