

Increasing sentences for homicide in the Netherlands?

A study into the trend of higher sentences for
homicide in the Netherlands and law-based
factors that could explain this increase

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Thesis
13-01-2019
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SUMMARY

This research looks into the trend of sentences for homicide in the Netherlands between 2006-2017. Earlier research shows that sentences for homicide in the Netherlands have increased. Furthermore, research also shows that there are law-based factors that influence sentences. This research looks into whether sentences have increased between 2006-2017 and whether these law-based factors can explain this increase. The analysis shows that the mean final sentence increases until 2009 and then decreases. The mean final sentence does not show an increasing trend in sentences. However, when looking into trends in sentences for the different types of homicides, sentences for murder and manslaughter show a stable increasing pattern.

Prosecutorial recommendations for manslaughter also show an increasing trend, but this pattern is not identical to the pattern of final sentences. Prosecutorial recommendations for murder do not show an increasing trend. Therefore, prosecutorial recommendations cannot explain the increasing trend for murder and manslaughter. Sentences for qualified manslaughter, child murder and child manslaughter show an unstable pattern, possibly due to a low level of cases. TBS and accountability can also not explain the increasing trend of sentences. Juvenile law sentences show an increasing pattern in sentences, but due to the relative low amount of cases, the effect cannot be large enough to explain the increase in sentences. Threat is the only crime, that one is sentenced for in combination with a homicide, that could influence the trend of sentences for homicides. However, threat can only be an increasing factor between 2011-2016, while murder and manslaughter have a stable increasing pattern for 2006-2017. The absence of law-based factors in this research that can explain the increase in sentences could point to judges becoming more punitive between 2006-2017.

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1. INTRODUCTION

"Judges punish homicide with a higher sentence; on average two years longer". This was the headline of an article of de Volkskrant in 2011. According to research by this newspaper, judges in the Netherlands have increased their sentences for murder and manslaughter between 2006-2010 with an average of two extra years. The average sentence in 2010 was 14,7 years for murder and 10,7 years for manslaughter. The article also states that one-third of the convicted also got sentenced to psychiatric care next to their time in jail. However, in the article of the Volkskrant, the methods of research are not explained. The findings of the newspaper correspond with findings of Van Wingerden and Nieuwbeerta (2006). They find that sentences of homicide have increased with 2,6 years between 1993-2004. Recommended sentence has increased with 2,3 years in the same period. This increase remains significant when controlling for changes in characteristics of the crime, of the offender and of the victim.

This research looks into the trend of sentences for homicide in the Netherlands, and focuses on law-based factors that could explain the increase in sentences. Before discussing the main research question, an introduction into (sentencing of) homicide in the Netherlands is first presented to define the context of this research.

1.1 HOMICIDE IN THE NETHERLANDS

Long-term studies into homicide indicate that homicide decreased remarkably in Europe between the mid-sixteenth century until the early twentieth century (Eisner, 2003). The lowest homicide rates were found in the 1950s for almost all European countries (Ganpat & Liem, 2012, p. 330). Nieuwbeerta and Leistra (2007, pp. 33-35) show that from the 1970s the homicide rate increases remarkably. From the mid-1990s, the homicide rate decreases again (Nieuwbeerta & Leistra, 2007, p. 41; Ganpat & Liem, 2012, p. 330).

On average, 179 persons die in a homicide each year in the Netherlands, based on the number of deaths caused by homicide between 2004-2009 (Liem, Van Wilsem, Smit, & Nieuwbeerta, 2012). According to Statistics Netherlands (Centraal Bureau voor de Statistiek, 2018), 1673 persons were killed in the Netherlands between 2006-2016. This is a historically

low number, as the average amount of homicides per year was 246 a decade earlier. This decrease is remarkable, as since 1965 there has been a constant increase in homicides in the Netherlands followed by a stable period at the end of the century. Ganpat and Liem (2012, p. 332) state that the homicide rate in the Netherlands is about average compared to other West-European countries. The majority of homicides takes place in the main cities in the Netherlands: Amsterdam, Rotterdam and The Hague. Approximately ten percent of all homicide cases remains unsolved. The most predominant types of homicide are intimate partner homicide and homicide in the context of an argument or altercation. On average, each homicide case involves 1,07 victims and 1,40 perpetrators. The majority of perpetrators and victims are male, and roughly half of all perpetrators and victims are of non-Dutch ethnicity. Most perpetrators are sentenced to incarceration. Perpetrators sentenced to both incarceration and a "terbeschikkingstelling" [TBS] treatment, which is detention under a hospital order, are mostly found guilty of sexual homicide, killing their child or killing their parent (Ganpat & Liem, 2012, p. 338).

1.2 SENTENCING FOR HOMICIDE IN THE NETHERLANDS

Tak (2008, p. 7), Tonry and Bijleveld (2007), and Downes and Van Swaaningen (2007) state that the Dutch criminal justice system has been known for its mild and humane criminal justice system and tolerance when it comes to societal and morally controversial issues such as drugs or euthanasia. This has been the case for nearly fifty years after World War II. Its image of a mild criminal justice system has been based on a strikingly low prison rate in the early 1970s. According to Downes and Van Swaaningen (2007), the Dutch criminal justice system was known for its sparing use of custody. Using a prison sentence was seen as a last resort. In 1970, the incarceration rates in the Netherlands per 100,000 citizens were the lowest in Europe, but since then, they have grown faster than in any other European country (Tak, 2001, p. 151; Tonry & Bijleveld, 2007). In the early twenty-first century, the Dutch criminal justice system is seen as one of Europe's most severe (Tonry & Bijleveld, 2007). This change in the Dutch criminal justice system is caused by a steep rise in the crime rate in the 1980s (Downes & Van Swaaningen, 2007). Crime has changed, becoming more violent and organized. This has made that tolerance, that once characterized the Dutch criminal system, has become criticized and disputed. The demand for a safer society by the Dutch society

resulted in a decline in tolerance when it comes to crime and tougher attitude towards criminality (Tak, 2008, p. iii). According to Berghuis and Mak (2002), until 1993 sentences have increased for crimes society had changed its view about, for instance severe sexual crimes and severe violent crimes such as murder.

Homicide is, compared to other forms of criminal behavior, strongly underresearched in the Netherlands (Johnson, Van Wingerden & Nieuwbeerta, 2010; Liem, Aarten, & Schönberger, 2017a). Not much is known about sentencing offenders of murder and manslaughters by the prosecutor and the criminal court. Data of courts, the prosecutor and Statistics Netherlands do not differentiate between an attempted murder and a murder, as both are registered as "crimes against life and a person". Furthermore, the police, the prosecutor and the courts all register their own work only, which creates a lack of overview of the journey of offenders through the penal system (Nieuwbeerta & Leistra, 2007, p. 151).

1.3 THE MAIN RESEARCH QUESTION

This research looks into the trend of sentences for homicide in the Netherlands, and focuses on law-based factors that could explain the increase in sentences. The data needed to look into this topic is retrieved from www.uitspraken.rechtspraak.nl, which gives the minutes of court meetings and verdicts, and the Dutch Homicide monitor, which is a dataset that contains detailed information of homicides that have taken place in the Netherlands from 1992 onwards. It includes detailed information about the offender, victim and offense (Liem, Aarten, & Schönberger, 2017b). All information together creates a new database containing 1052 cases with an individual offender sentenced for homicide.

This research looks into sentencing in the period 2006-2017. Crucial for this research is the increase of the maximum length of a temporary prison sentence in the Netherlands: the maximum length was increased from 20 to 30 years from February first, 2006 onwards (Tweede Kamer, 2004, p. 3; Johnson et al., 2010). This change in the law increased the maximum temporary sentence to jail for qualified murder and murder from twenty years to thirty years. The maximum non-temporary sentence for these offences is a lifelong sentence. The change in maximum temporary sentence was made because the House of Representatives of the Netherlands found that the difference between the maximum

temporary sentence of twenty years and a lifelong sentence was too large (Tweede Kamer, 2004, p. 3). The Dutch Supreme Court (Hoge Raad, 2006) ruled that offences committed before February first, 2006, should be sentenced applying the old maximum temporary sentences. Therefore, this research starts from 2006 onwards. There are no cases included in this research whereby the offence was committed before February first, 2006, in combination with a sentence of twenty years or a lifelong sentence for (qualified) murder. The last year of the data of this research is 2017. The Dutch Homicide Monitor includes case numbers and detailed information until the end of 2016 and this research is based on those case numbers. However, the Dutch Homicide Monitor uses the date a crime has been committed, whereas this research looks at the date an offender is sentenced. Some crimes committed in 2016 are sentenced in 2017. Therefore, this research includes cases sentenced in 2017.

This research looks into whether sentences have increased and whether law-based causes are the explanation for an increase. In this research, law-based causes are sentence characteristics, the psychological state of the offender, and being charged for multiple crimes. These three groups all have a legal basis in the Dutch Code of Criminal Law. Sentence characteristics are variables such as the (prosecutorial) charge, sentence in years of incarceration, and charge regarding TBS. A sentence thus holds more than only the years of incarceration. The psychological state of the offender is measured by whether or not juvenile law is imposed and whether the offender is held accountable for the crime. Being charged for multiple crimes includes all crimes that an offender is charged with while also being charged with homicide. An offender can for instance be charged with homicide and an attempt to manslaughter, which is expected to increase the total sentence of the offender compared to an offender that is only charged with a homicide. However, this increase should not be seen as an increase in punitivity of homicide, but as an increase in sentence due to the multiplicity of crimes one is sentenced for. Punitivity is measured by looking at a specific crime and comparing sentences in cases with similar conditions (Van Tulder, 2011).

The main research question of this research is: *To what extent have sentences for homicide increased in the period 2006-2017 and what law-based factors can explain this change in punitivity?*

To answer this question, four sub questions are formulated. The first sub question focuses on the trend in sentencing of homicide between 2006-2017, whereas the last three sub questions focus on the explanation for the change in length.

1. To what extent have sentences for homicide increased in the period 2006-2017?
2. To what extent do sentence characteristics explain an increase in sentences between 2006-2017?
3. To what extent does the psychological state of the offender explain an increase in sentences between 2006-2017?
4. To what extent does being charged with multiple crimes explain an increase in sentences between 2006-2017?

1.4 RELEVANCE

Johnson et al. (2010) state that most research looking into criminal sentencing has been restricted to U.S. context and suffers from key data limitations. Ganpat and Liem (2012, p. 329) and Bijleveld and Smit (2006) state that systematic research on homicide in general in the Netherlands is relatively limited. Johnson et al. (2010) explain that studies that specifically focus on the punishment of homicide cases are rare. The studies that have been done on punishment often focus on particular types of homicide or make use of relatively small data samples. According to Johnson et al. (2010), only four studies look into homicide sentencing decisions. Curry, Lee, and Rodriguez (2004) focus on sentences for violent crimes including homicides; Auerhahn (2007a) looks into homicide sentences of males convicted of third-degree murder or manslaughter; Auerhahn (2007b) looks into sentences for intimate and non-intimate partner homicides and the role gender has in the harshness of the sentence; and Franklin and Fearn (2008) focus on the role of gender in sentences for homicide. However, all four studies are based on data from the United States.

Johnson et al. (2010) focus their research on the Netherlands, looking into the influence of prosecutorial sentencing recommendations, victim/offender relationships, and extralegal factors (for instance age and race) on sentences between 1993-2004. The independent variable is, among others, case characteristics, which consist of dummies of multiple crimes charged, indicted for murder, TBS recommendation, sentenced for murder, TBS sentence, multiple suspects and multiple victims. All these variables except for multiple suspects have

a significant effect on sentence lengths. However, this study does not focus on trends in sentencing. Van Velthoven (2014) looks into trends in sentencing of felonies between 1995-2012. When he focuses on the group of crimes against humanity, it shows that the punitivity of judges in these cases has increased, primarily between 2008-2012. However, he measures punitivity by adding up different types of sentences (jail, fine etc.) into one number: the sentence points. He does not include TBS in his research. This makes it unclear from his research whether the increase in punitivity is for instance caused by imposing less TBS and more sentences to jail, which would increase the sentence point while punitivity has not increased. Concluding, there is no research that looks into trends in sentencing in the Netherlands taking into account all forms of sentencing. This research attributes a clear research gap as it looks into increases in punitivity over time in combination with legal factors that could cause an increase.

The societal relevance of looking into the trend of sentences for homicide in the Netherlands is that judges are "an institution of society". Judges have a certain freedom to act upon their own point of view, but also have to take into account the ruling conceptions of society in their rulings (De Keijser, Van de Bunt, & Elffers, 2004). According to Van der Maden, Malsch and De Keijser (2017), research among Dutch citizens shows that they desire higher sentences than are currently imposed by judges. According to the Sociaal en Cultureel Planbureau (2009, pp. 77-78), it is popular belief in the Netherlands that sentences are too mild: 77 percent of citizens agreed with this statement in 2009. Van Wingerden (2011, p. 311) states that according to citizens, sentences are not high enough to make up for the degree of harm caused by the victim. She states that the desire for higher sentences was heard in politics. It made that in 2006, the maximum temporary sentence has increased from 20 to 30 years.

However, citizens still feel that sentences are too mild. Citizens probably have severe crimes of violence in mind when they state that sentences are too low (Van Wingerden, 2011). The media is also primarily focused on sentences for severe offences (Van der Maden et al., 2017), claiming that sentences for murder and manslaughter are too mild (for instance Zembla, 2007; De Volkskrant, 2009). An increase in imposed sentences for homicide, taking into account other variables that influence the length of a sentence, could point to judges becoming more punitive caused by the desire for higher sentences for homicide from

society. An absence of an increasing trend could point to judges not responding to the call from society and thus not acting as an institution of society. It is crucial for the societal debate about sentences being too mild to know whether sentences have increased and whether legal variables can explain this increase.

This research first discusses the Dutch criminal justice system. After that, chapter 3 presents the theoretical framework, containing a discussion about trends of sentences for homicide, and a section about the law-based factors that influence the sentence imposed for homicide according to literature. Chapter 4 presents the data and methodology used to answer the main question and its sub questions. Chapter 5 presents the analysis of the data. Chapter 6 contains the answer on the main question and a discussion.

2. THE (DUTCH) CRIMINAL JUSTICE SYSTEM

This chapter starts with discussing criminal justice systems in general, explaining what theories are at the basis of criminal justice systems and sentencing. Second, legal goals of sentences are discussed, followed by a theory and empirical research on concerns that influence judges and other criminal justice actors in determining the sentence imposed on an offender. The third and fourth section discuss the Dutch criminal justice system, followed by the relevant articles from the Dutch Code of Criminal Law.

2.1 CRIMINAL JUSTICE SYSTEMS

At the basis of criminal law are the absolute and relative theories. The absolute theory states that a sentence is justified because punishments serve as retribution for the unjust act. The relative theory, on the other hand, does not justify a sentence based on retribution but on steering citizens. As the state punishes individuals for unjust acts, all other citizens are given the example of what happens when they act unjustly. Seeing this convinces rational citizens not to behave in the same way as the offender. It thus decreases crime (Ten Voorde, 2008). This is also called general deterrence. The deterrence theory suggests that a criminal justice system should be based on deterrence: encouraging citizens to obey the law instead of violating it. This can be done by making the law reasonable and certain, such that citizens can make their decisions rationally (Akers, 1999, p. 16). The deterrence theory states that crime can be deterred by increasing certainty, celerity and severity. Certainty is the likelihood of being caught, celerity is the swiftness of legal punishment, and severity is the level of punitivity. The interplay of certainty, celerity and severity determines the deterrence. When a punishment is certain, but the severity is zero, crime will not be deterred (Stafford, 2015, p. 255).

Classical criminological theories are based on the idea that people decide and take action based on rationality. They calculate the risk of pain versus the potential pleasure when deciding whether or not to violate the law. If they believe that the pleasure will be higher than the pain, they will commit the crime. This also works the other way around: when the expected pain is higher than the expected pleasure, people will obey the law because this is the rational choice (Akers, 1999, p. 16). People will maximize their pleasurable consequences

and minimize painful consequences of their behavior (Stafford, 2015, p. 255). Pleasure and pain, or benefits and costs, are measured by using the economic concept of utility. The utility is the sum of all costs and benefits of an action, whereby these costs are not objective, but subjective. If the expected utility of committing a homicide is higher than the expected utility of not committing a homicide, the rational person will commit the homicide (Piliavin, Gartner, Thornton, & Matsueda, 1986). A cost of a homicide is the possibility of ending up incarcerated, whereby some people will find this a higher price to pay than others.

2.2 SENTENCES

According to De Rechtspraak (n.d.a), the goal of sentences is fourfold.

- Retaliation: those who commit a crime, cannot get away with it. The victim and society deserve retaliation.
- Prevention: preventing the offender of committing the crime again. The sentence (TBS, incarceration, fine etc.) that fits this purpose best depends on the personal circumstances of the offender.
- Discouraging: showing possible offenders the consequences of committing a crime can discourage them from committing a crime themselves.
- Protecting society: an offender that is serving a sentence in jail cannot commit another crime while being in jail.

Steffensmeier, Ulmer, and Kramer (1998) discuss the focal concerns theory of sentencing. There are three focal concerns that influence judges and other criminal justice actors in determining the sentence imposed on an offender. These three concerns are:

- The offender's blameworthiness and the degree of harm caused by the victim
- Protection of the community
- Practical implications of sentencing decisions

The first concern states that a sentence increases when the offender is fully to blame and the degree of injury caused is high. The punishment should fit the crime. According to Steffensmeier et al. (1998), most sentencing research shows that this concern has the largest influence on sentences. The second concern is associated with the theory of Albonetti

(1991), suggesting that decisions about sentencing are made in an arena of bounded rationality. The community should be protected, and therefore the judge and other criminal justice actors predict the dangerousness of the offender and the risk that the offender will recidivate. The third concern is associated with maintaining working relationships, ensuring a stable flow of cases, and depending on correctional crowding and resources. Local politics and community norms play a role, just as concerns about the practical implications of the decision of the judge on the offender. This for instance relates to the health condition of the offender and the effect on family relationships (Steffensmeier et al., 1998). This last concern means that not all factors that have an influence on sentencing have a legal basis.

According to Albonetti (1991), there is another non-legal factor that influences sentences: uncertainty. She hypothesizes that judges attempt to manage uncertainty in the sentencing decision. This uncertainty is due to incomplete information. In her theory, judges manage uncertainty by developing patterned responses. Johnson et al. (2010) explain that prosecutors and judges have limited time and information and therefore draw on experience, normative courtroom mores, and societal stereotypes to get an idea of the risk and level of criminality of an offender. Albonetti (1991) finds support for her hypothesis, stating that prior records, race of the defendant, and the use of a weapon influence the sentencing decision. According to her, this indicates that judges attempt to manage uncertainty in sentencing decisions by basing these decisions on characteristics as prior records, race of the defendant, and the use of a weapon.

2.3 THE DUTCH CRIMINAL JUSTICE SYSTEM

Since the 1970s, the Dutch system is aimed at reducing the use of custodial sentences (Tak, 2001, p. 151). This is done by replacing custodial sanctions for noncustodial sanctions, by shortening effective terms of imprisonment, and by developing new noncustodial sanctions. One of the reforms used to decrease the use of custodial sentences was to decrease the amount of pretrial detentions (Tak, 2001, p. 158). The financial penalties act of 1983 made it possible to sentence all offenses, including those subject to life imprisonment, with a fine. Before this act, financial penalties were only intended for infractions and minor crimes (Tak, 2001, p. 161).

The Dutch judiciary is based on wide discretionary power when it comes to sentencing, as there are very few statutory rules that courts have to take into account when deciding on a sentence (Van Wingerden, 2001, pp. 311-312; Tak, 2008, p. 129). The Dutch Code of Criminal Law does not work with mandatory minimum sentences. The statutory minimum term of imprisonment is one day, regardless of the crime and seriousness of the offence. Maximum terms of imprisonment are specified per offence and only applied in the heaviest cases within a specific offence. When for instance looking into murder, the maximum sentence for murder would only be given in heavy cases, such as when an offender commits multiple murders. Most crimes do not have life imprisonment as a maximum sentence (Tak, 2008, p. 129). In the Netherlands, a life imprisonment sentence without parole is one of the possible sentences for murder and qualified manslaughter. There is no death penalty possible. In general, offenders are released after serving two thirds of their sentence (Johnson et al., 2010). Judges are appointed for life. The prosecutor's charges and sentencing recommendations are public and explicit, as all recommendations are saved in a formal sentencing record in Dutch courts. Plea bargaining is not allowed in the Netherlands. Plea bargaining means that it is possible to make concessions about the charge or the sentence in exchange for guilty pleas. The Dutch system does not use juries in any part of the trial (Johnson et al., 2010).

In the Netherlands, the prosecutor starts the trial by explaining what he is charging the offender with. After that, the judges start asking their questions to the offender. The prosecutor and the lawyer of the offender have the possibility to ask questions (Openbaar Ministerie, n.d.a). The prosecutor recommends a sentence. The prosecutorial recommendations are likely to be higher than the final sentence, as the prosecutor is likely to pursue more severe sentences. Judges might mitigate these sentences. The prosecutor might also expect this "judicial discounting", which could lead to more severe sentences (Johnson et al., 2010). Serious cases, like homicide, are decided by a court consisting of three or more judges instead of the one judge common for less serious cases. These three judges have to agree with each other both on the guilt of the offender and on a sentence. Prison sentences are the norm as a sentence for homicide (Johnson et al., 2010). The judge has to decide whether an offender is found guilty of the crime he is prosecuted for (Stevens, De Wilde, Cupido, Fry, & Meijer, 2016, p. 19). This means that an offender cannot be sentenced

for manslaughter when he is only prosecuted for murder, and murder cannot be proven during trial. Instead of then charging the offender for manslaughter, the offender will be found innocent by the judges. To circumvent this, the prosecutor can charge the offender with multiple crimes using a hierarchy (Stevens et al., 2016, p. 23). For instance, when the offender killed one person, the prosecutor can prosecute the offender for murder, but state that when murder is not proven, he will prosecute the offender for manslaughter. In this research, the first charge is listed.

2.4 THE DUTCH CODE OF CRIMINAL LAW

The Dutch Code of Criminal Law contains the laws on homicide in the Netherlands. Furthermore, it also contains the rules regarding sentencing. This section first discusses possible sentences for homicide, including factors that can decrease or increase a sentence. This is followed by the influence of juvenile law and being charged with multiple crimes on sentencing, according to the Dutch Code of Criminal Law. TBS, juvenile law, and other crimes where the database contains more than 30 cases of are discussed in depth.

SENTENCES FOR HOMICIDE

Murder is defined in articles 289 and 291 (Maxius, n.d.a) of the Dutch Code of Criminal Law. Manslaughter is defined in articles 287, 288, and 290 (Maxius, n.d.a) of the code of criminal law. These articles state, translated from Dutch, the following:

Article 287 (Maxius, n.d.a)¹

He who deliberately takes another human beings life, is found guilty of homicide and punished with a sentence of at most 15 years of imprisonment or a fine of the fifth category.

Article 288 (Maxius, n.d.a)¹

Manslaughter followed, accompanied or prior to an offence and committed with the objective to prepare or to ease the execution of that offence, or to, while being caught in the act, secure themselves or other participants with impunity or the possession of the unlawfully obtained, is punished with a life imprisonment or a temporary sentence of at most 30 years of imprisonment or a fine of the fifth category.

¹ All articles retrieved from Maxius are translated from Dutch.

Article 289 (Maxius, n.d.a)¹

He who deliberately and intentionally takes another human beings life, is found guilty of murder and punished with a life imprisonment or a temporary sentence of at most 30 years of imprisonment or a fine of the fifth category.

Article 290 (Maxius, n.d.a)¹

The mother who, because of fear for the discovery of the delivery of her child, deliberately takes her child's life at or shortly after birth, is found guilty of child manslaughter and punished with at most 6 years of imprisonment or a fine of the fourth category.

Article 291 (Maxius, n.d.a)¹

The mother who, by executing her decision, made out of fear for the discovery of the coming delivery of a child, deliberately takes her child's life at or shortly after birth, is found guilty of child murder and punished with at most 9 years of imprisonment or a fine of the fifth category.

The articles state the definition of respectively manslaughter, qualified manslaughter, murder, child manslaughter and child murder, followed by the maximum sentence for the offence. The maximum sentences for manslaughter, child manslaughter and child murder are a temporary imprisonment sentence. The maximum sentence for qualified manslaughter and murder is life imprisonment. Article 10 (Maxius, n.d.b) states that a prison sentence is lifelong or temporary, whereby the temporary sentence cannot exceed 30 years. An offender sentenced with a lifelong prison sentence will not be released, except when getting grace from the Dutch king, which is not a common event. Since 2017, new policy states that an offender should be reassessed after 27 years of incarceration to decide if there is still a legitimate cause to keep the offender incarcerated (De Rechtspraak, n.d.b).

According to the Dutch Code of Criminal Law, there are circumstances that increase the maximum sentence of an offender (Maxius, n.d.c). Article 43a states that a temporary sentence of incarceration can be increased by $\frac{1}{3}$ when an offender is charged with the same or a similar offence within five years, notwithstanding that a temporary sentence cannot

exceed 30 years of incarceration. A temporary sentence can also be increased by $\frac{1}{3}$ when a civil servant uses its position to commit an offence (Maxius, n.d.c). The only factor that reduces a sentence is when an offender comes to an agreement with the prosecutor that the offender will give a witness testimony (Maxius, n.d.d).

There are also circumstances that make an offender free from punishment (Maxius, n.d.c). Article 41.1 states that an offender who acts in self-defense ("noodweer") against emendate and illicit assault should not be punished. Article 41.2 ("noodweerecnes") states that an offender who exceeds the boundaries of self-defense in 41.1 should also not be punished when it is the result of a state of mind caused by the assault. Articles 42 and 43 state that an offender should not be punished when committing the offence while following an official order or while carrying out the law. Article 39 (Maxius, n.d.c) states that an offender cannot be punished for an offence while lacking psychical development or while having a psychiatric disorder. However, an unaccountable offender is still likely to be sentenced (Goethals, 2015, p. 428). Being unaccountable means not being punishable, but the Dutch Code of Criminal Law states that an offender who is unaccountable for an offence can be sentenced to a psychiatric hospital or sentenced to TBS (Maxius, n.d.e). This is possible because TBS and a psychiatric hospital are not seen as a punishment in the law but as a measure (Maxius, n.d.b). They can be seen as a safety measure. There are different levels of accountability (Goethals, 2015, p. 428). In this research, there are three: unaccountable, less accountable or accountable.

TBS can be imposed when an offender committed a crime while lacking psychical development or while having a psychiatric disorder. Imposing is possible when the offence committed comes with a prison sentence of four years or more, in combination with TBS being necessary to guarantee the safety of others. A judge can decide to not impose a sentence to jail when imposing TBS, although he finds the offender guilty (Maxius, n.d.e). The judge also has the discretionary power to, in case of an offender that is less accountable, sentence the offender to a combination of TBS and a period of incarceration (Goethals, 2015, p. 429). There are two types of TBS: TBS with conditions or TBS with compulsory treatment. TBS with conditions is a milder form than TBS with compulsory treatment. The offender has to comply with certain conditions, but is not compulsory treated. In case of TBS with compulsory treatment, the offender is treated in a closed facility, which is not the case

with TBS with conditions (Rijksoverheid, n.d.). In cases of homicide, TBS with conditions and TBS with compulsory treatment are of unlimited duration (Maxius, n.d.e).

JUVENILE LAW

Article 77a states that every juvenile offender in the age of 12 to 18 at the time of the crime should be sentenced according to the juvenile justice system. Articles 77b, however, gives the judge the possibility to sentence juveniles in the ages of 16 and 17 at the time of the crime according to the adult justice system, with the exception that a lifelong sentence cannot be imposed. Article 77c gives the possibility to sentence an offender aged 18-23 at the time of the crime applying juvenile law. Being allowed to use 77b and 77c depends on the seriousness of the crime (article 77b), the personality of the offender and the circumstances among which the crime took place (articles 77b and 77c). The maximum duration of imprisonment is one year for offenders younger than 16 and two years of offenders older than 16 (Maxius, n.d.f).

Article 77s explains that in juvenile law, an offender that is unaccountable or less accountable can be sentenced to a PIJ-measure when the offence committed comes with a prison sentence of four years or more, in combination with the PIJ-measure being necessary to guarantee the safety of others and when the measure benefits the development of the offender (Maxius, n.d.f). The PIJ-measure stands for the juvenile being placed in a correctional closed institution. The PIJ-measure has the informal name "juvenile-TBS" (Dienst Justitiële Inrichtingen, 2016). A juvenile offender can also be sentenced to a conditional PIJ-measure, meaning that the PIJ-measure is not imposed as long as the offender acts upon the conditions given by the judge. The maximum duration of a PIJ-measure is seven years. After seven years, the PIJ-measure can be changed into TBS when the safety of others would otherwise be in danger (Maxius, n.d.f).

BEING CHARGED WITH MULTIPLE CRIMES

Articles 57 and 58 explain that in case of an offender being charged with multiple crimes, the maximum sentence for these crimes combined is the maximum sentence of the individual crimes added. However, this maximum sentence for the crimes combined cannot exceed 1½ of the maximum sentence of the individual crime with the highest maximum sentence

(Maxius, n.d.g). For example: committing a murder and a manslaughter does not mean that the maximum sentence for the offender is 45 years, as this sentence exceeds $1\frac{1}{3}$ of the maximum sentence of the individual crime with the highest maximum sentence. The individual crime with the highest maximum sentence is murder (30 years), so the maximum sentence cannot exceed 30 times $1\frac{1}{3}$, which is 40 years of incarceration. Article 59 states that a lifelong sentence cannot be combined with other sentences.

There are five crimes that offenders are charged with in combination with a homicide in the database: assault, attempt to murder, attempt to manslaughter, theft, and threat. According to article 300, assault is sentenced with at most three years of imprisonment or a fine of the fourth category. However, depending on the consequences of the assault, the maximum sentences can increase up to nine years for an intentional assault that results in death (Maxius, n.d.h).

An attempt to a crime is sentenced with $\frac{2}{3}$ of the maximum sentence of the main crime (Maxius, n.d.i). This means that an attempt to manslaughter is sentenced with a maximum of 10 years ($\frac{2}{3}$ of 15) and an attempt to murder is sentenced with a maximum of 20 years ($\frac{2}{3}$ of 30).

Theft is sentenced to at most four years of imprisonment or a fine of the fourth category, according to article 310. However, articles 311 and 312 state the maximum sentence of imprisonment can increase up to fifteen years when the theft results in death (Maxius, n.d.h).

The maximum sentence for threat is two years or a fine of the fourth category. However, this maximum sentence can increase up to six years when an offender has threatened with an act of terrorism.

3. THEORETICAL FRAMEWORK

This literature review consists of two sections. The first section discusses the trend in the length of sentences for homicide. The section is based on previous literature discussing trends in sentencing for homicide. The second section discusses the legal factors that influence sentencing of homicide, also found in previous research. These factors can be helpful in answering the second part of the main question: what law-based can explain a possible change in length of sentences?

3.1 TRENDS IN SENTENCES FOR HOMICIDE IN THE NETHERLANDS

Heinz (2011, pp. 133-134) states that the punitive turn or "get-tough movement" in the United States, that started around 1980, was also visible in Western Europe, however in a milder form. This punitive turn in the United States was accompanied by harsher penalties, which resulted in increased prison rates. Berghuis and Mak (2002) state that between 1980-1993, in the Netherlands the sentences for murder and manslaughter went up, but this increase stopped after 1993. Between 1995 and 2001, more sentences were imposed in the Netherlands, but those sentences had not increased in general. However, Berghuis and Mak (2002) mention that for specific crimes, among which murder, sentences did increase until 1993.

Van Wingerden and Nieuwbeerta (2006) use the database Murder and Manslaughter of the Netherlands Institute for the Study of Crime and Law Enforcement to look into recommended and imposed sentences for homicide in the Netherlands between 1993-2004. Their first finding is that there seems to be a relative increase in the amount of suspects charged with murder compared to manslaughter. Their second finding is that the sentence recommendations of the prosecutor have increased with 2,3 years. The actual sentences increased with 2,6 years over the same period. This increase remains when controlling for offender, victim and situation offense characteristics, and when types of sentences are taken into account. Their third finding is that the amount of imposed lifelong sentences has increased. Therefore, Van Wingerden and Nieuwbeerta (2006) conclude that judges have become more punitive between 1993-2004.

Ganpat and Liem (2012, p. 339) state that between 1993-2006 the length of imprisonment and the frequency of imposing life imprisonment have increased for perpetrators that are found guilty of homicide. The average length of the prosecutorial recommendation of imprisonment for homicide increased from 7,8 years in 1993 to 10,0 years in 2006. The imposed sanction for homicide increased from 6,0 years of imprisonment to 8,5 years in the same time frame.

Van Tulder (2011) also finds a clear increase in sentences for murder and manslaughter between 2000-2009 in the Netherlands. According to Tulder, this could prove that judges act upon the call from society for more severe sentences. The increase in lifelong sentences also points to judges becoming more punitive. Imposing TBS or a fine was stable in 2000-2009.

Van Velthoven (2014) looks into sentences imposed between 1995-2012 in the Netherlands. He concludes that for most common criminality, the punitivity has not increased. However, for a selective group of severely violent crimes, judges clearly have become increasingly punitive. Research repeatedly shows that a majority of Dutch citizens thinks that crimes are being punished too mildly. However, judicial institutions claim that judges have become more punitive over time. This increase in punitivity is according to Van Velthoven (2014) only present in a selective group of crimes, such as murder and manslaughter. For these crimes, he finds a clear increase in sentences.

Based on the research discussed in this section, the following first hypothesis is formed:
Hypothesis 1: *There is a positive trend of higher sentences for homicide between 2006-2017 in the Netherlands.*

3.2 LAW-BASED FACTORS THAT INFLUENCE SENTENCES FOR HOMICIDE IN THE NETHERLANDS

To be able to measure the effect of time on the severity of a sentence imposed for homicide in the Netherlands, other variables that influence sentences should be taken into account. This section looks into factors that have a legal basis in the Netherlands: the type of homicide, prosecutorial recommendations, TBS, juvenile law, accountability, and being charged for multiple crimes. For these variables, hypotheses are formulated to be able to check whether these variables could influence trends in sentencing.

Prosecutorial recommendations: Johnson et al. (2010) find that in the Netherlands prosecutorial recommendations have a large effect on judicial sentences. The influence of the prosecutor is, according to them, crucial but under investigated. They find some preliminary evidence that prosecutorial sentence recommendations are relatively higher than the actual sentence imposed by judges. Judges are strongly influenced by prosecutorial recommended sentences. For every extra year of incarceration recommended, the actual sentence increases by 0,69 years. Next to that, factors that influence prosecutorial sentence recommendations and factors that influence judicial sentences are substantially similar. When recommended sentences are included, most other sentencing factors become insignificant.

Hypothesis 2: Prosecutorial recommendations have a positive effect on the final sentence. Higher prosecutorial recommendations thus result in higher final sentences.

Legal type of homicide: Johnson et al. (2010) find that offenders sentenced for murder have a sentence that is on average 1,74 years longer than offenders sentenced for manslaughter. Auerhahn (2007a) also finds that in Pennsylvania, the conviction offense influences the sentence. Wermink et al. (2017) find that in the Netherlands, more severe crimes are sentenced with a longer time in prison. Basing the order on the maximum sentences in articles 287-291 of the Dutch Code of Criminal Law (Maxius, n.d.a) as a measurement of the severity of a crime, the following hypothesis is formulated:

Hypothesis 3: The legal type of homicide influences sentences: murder and qualified manslaughter are sentenced most severe, followed by respectively manslaughter, child murder and child manslaughter.

Including TBS treatment: Van Wingerden and Nieuwbeerta (2006) and Johnson et al. (2010) find that offenders with a sentence that includes TBS receive on average less years of incarceration than offenders that do not have TBS treatment included in their sentence. If an offender is found partially unaccountable, TBS can be imposed in conjunction with a sentence to jail. If an offender is found unaccountable, TBS without a sentence to jail is a possible sentence (Johnson et al., 2010).

Hypothesis 4: Being sentenced to TBS decreases the imprisonment sentence of offenders.

Juvenile law: Johnson et al. (2010) find that 18-30-year-old offenders are on average sentenced with an additional 1,89 years of incarceration compared to juveniles. Van Velthoven (2014) shows that sentences based on juvenile law are on average less severe than sentences to jail for adults. He measures this using his sentence points. On average, the sentence points for juvenile law are between 75-90 points in 2006-2012, whereas the sentence points for adults are between 140-160 points.

Hypothesis 5: Offenders sentenced based on juvenile law receive a lower sentence than offenders sentenced based on the law for adults.

Accountability: Baumer, Messner and Felson (2000) find that in the United States, a victim's conduct does affect legal outcomes. Offender who for instance kill while being in a physical attack are not sentenced or sentenced more mildly. Johnson et al. (2010) find that offenders partially unaccountable are seen as less culpable in the Netherlands due to their mental state at the time of the offense. Therefore, their prison sentence is likely to be shorter. Instead of years in prison, a person that is (partially) unaccountable can be sentenced to a special penal institution for the mentally ill (Johnson et al., 2010). In the Dutch Code of Criminal Law, it is stated that an offender who is unaccountable for an offence can be sentenced to a psychiatric hospital or sentenced to TBS (Maxius, n.d.e). Therefore, being found (partly) unaccountable is not equal to being sentenced to TBS treatment. The following hypothesis on accountability is formulated:

Hypothesis 6: Being found (partially) unaccountable decreases the imprisonment sentence of offenders.

Committing multiple crimes: Johnson et al. (2010) find that in the Netherlands both prosecutors and judges impose more severe sentences on offenders who commit multiple offences, meaning that offenders sentenced for homicide in combination with other crimes receive a more severe sentence than an offender who is only sentenced for homicide. Wermink et al. (2017) find that in the Netherlands, offenders sentenced for multiple crimes in the same trial face longer sentences.

Hypothesis 7: Offenders being charged for multiple crimes are sentenced with more severe sentences.

Comparing this section with section 2.4, it makes sense that offenders sentenced for murder have a higher sentence than offenders sentenced for manslaughter, that offenders sentenced based on juvenile are sentenced with less years of incarceration and that committing multiple crimes increases a sentence. However, as judges have wide discretionary power when it comes to sentencing, the analysis has to prove whether these hypotheses are not only true in theory, but also in practice.

4. DATA AND METHODOLOGY

This chapter first discusses the research question and the type of research question. Next, the operationalization of the main concepts is described. Section three describes the research design and the methods. Section four discusses how data is gathered and analyzed to answer the main question. This chapter ends with the validity and reliability of this research.

4.1 THE RESEARCH QUESTION

The main research question of this paper is: *To what extent have sentences for homicide increased in the period 2006-2017 and what law-based factors can explain this change in punitivity?* This main research question is deductive, as it is testing the hypothesis that there is a positive trend of higher sentences for homicide between 2006-2017 in the Netherlands (Van Thiel, 2015, p. 37). This research looks into one dependent variable, sentences for homicide, at multiple moments in time and compares the outcomes. The unit of analysis and the unit of observation are lengths of sentences of offenders of homicide in the Netherlands between 2006-2017. As the units of analysis and unit of observation are identical, these units have the same features over time. This makes this research a longitudinal study, specifically a trend study (Van Thiel, 2015, p. 70). This research starts with 2006, as the maximum temporary sentences for murder and qualitative manslaughter have increased as from February first, 2006. There are no cases included in this research whereby the offence was committed before February first, 2006, in combination with a sentence of twenty years or a lifelong sentence for (qualified) murder.

4.2 OPERATIONALIZATION

To be able to measure the abstract concepts used in the research question, the main concepts should be defined in a way that makes the concepts measurable (Bleijenbergh, 2013, pp. 42-43). The main concepts of the research question and sub questions are sentences, homicide, and law-based factors.

- A perpetrator is sentenced when he or she is found guilty and accountable for his or her actions. When someone is not sentenced, this could be among other reasons because the perpetrator is not held accountable for his or her actions due to mental illness or because the perpetrator deceased (Liem et al., 2017a). In the Netherlands however, an offender can be sentenced while not be held (fully) accountable of his or her actions. In these cases, the offender can be sentenced to "terbeschikkingstelling" [TBS], which goal is to secure society. A combination of a sentence to jail and TBS is possible for the offenders that are held partly accountable (Openbaar Ministerie, n.d.b).
- For the definition of homicide, the definition of the Dutch Homicide Monitor is used. The Dutch Homicide Monitor defines homicide as "an intentional criminal act of violence by one or more human beings resulting in the death of one or more other human beings" (Liem et al., 2013). Homicide is defined as a crime defined in the Dutch Code of Criminal Law as murder or manslaughter (Liem et al., 2017a). Murder is defined in articles 289 and 291 (Maxius, n.d.a) of the code of criminal law. Manslaughter is defined in articles 287, 288, and 290 (Maxius, n.d.a) of the code of criminal law.
- In this research, law-based causes are sentence characteristics, the psychological state of the offender, and being charged for multiple crimes. These three groups all have a legal basis in the Dutch Code of Criminal Law.

4.3 RESEARCH DESIGN

To answer this research question, a quantitative research design is used. This design is used because time and sentences are both numerical. Information collected that is numerical should be analyzed using a quantitative research design (Van Thiel, 2015, p. 74). The dependent variable in this design is the length of the sentence for homicide for an offender. The main independent variable is the year in which the perpetrator is sentenced. In this way, the influence of time on sentencing is examined.

Next to sentences and time, the dataset also contains other variables that could influence sentences. Therefore, all variables are split into three categories which are equal to the sub questions: sentence characteristics, the psychological state of the offender, and being

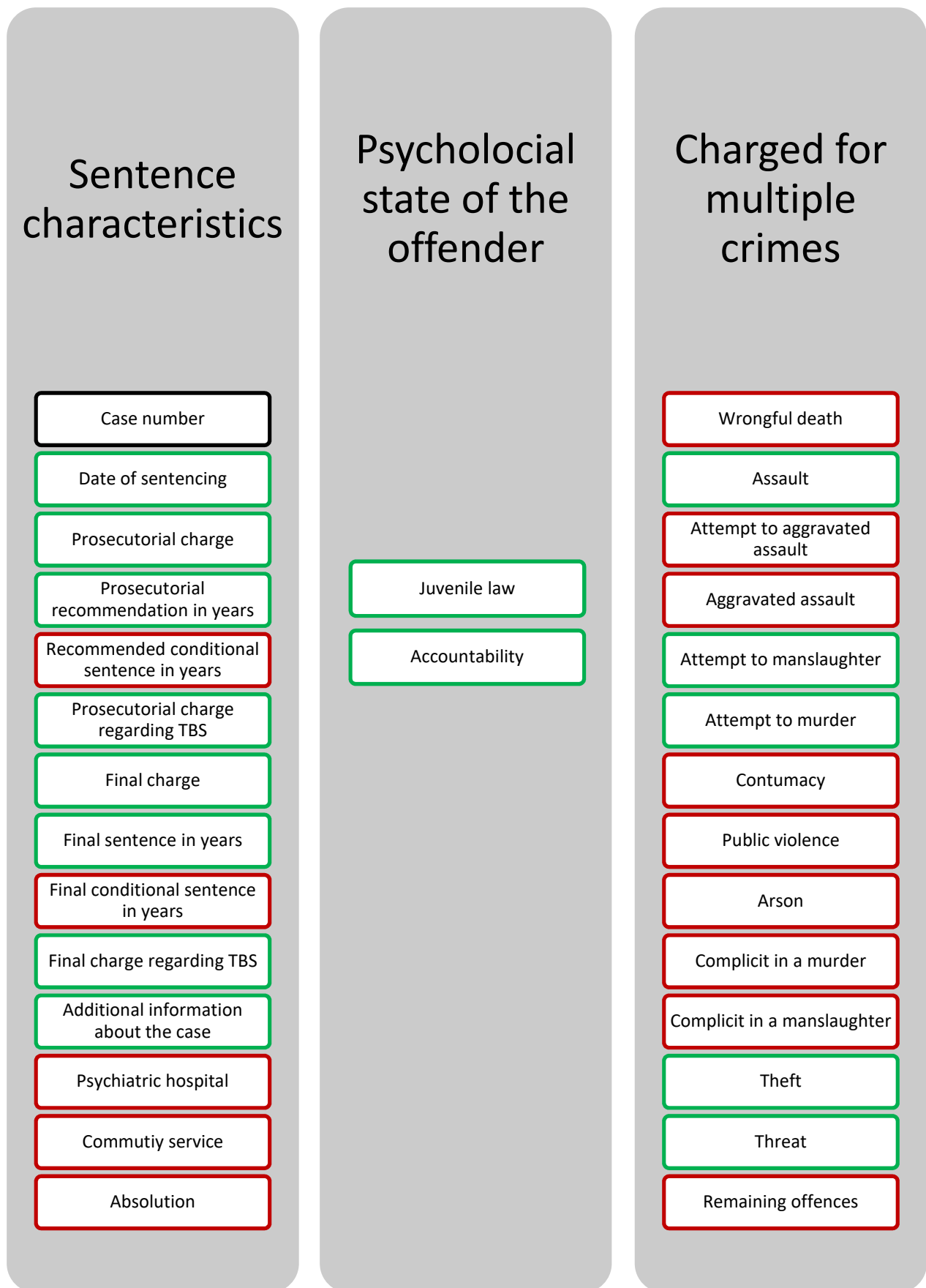


Figure 1: Variables in the dataset.

charged with multiple crimes. Figure 1 shows all variables included in the dataset, split into the three categories. "Sentence characteristics" thus does not only include the final sentence in years of incarceration, but also the final charge, conditional sentence and whether TBS was imposed. Furthermore, information about prosecutorial sentencing is included. The case numbers are used to link cases to the same cases in the Dutch Homicide Monitor and to cases on www.uitspraken.rechtspraak.nl. "Additional information" is a variable that is used to give a summary of the case. Recommended and final conditional sentences, having to go to a psychiatric hospital, having to do community service or getting absolution from the crime are not included in this research. Although they can be part of a sentence and are present as a variable in the database, it is important to have at least 30 cases of the same crime to be able to compare, otherwise the amount of cases is low. There are nine cases in the dataset with a sentence that includes having to go to a psychiatric hospital. 22 cases include a prosecutorial conditional sentence, 20 cases include a final conditional sentence. There are no cases of community service or getting absolution in the database combined with a sentence for homicide. Variables that are not included in the analysis are red, those that are included are green.

In "charged for multiple crimes", the database describes all crimes found in the Dutch Code of Criminal Law that an offender is sentenced for at the same trial as the homicide. Only the five variables that contain at least 30 cases in the dataset are analyzed, and marked green in figure 1. Appendix A contains the operationalization of the variables included in the dataset.

Linking figure 1 to the hypotheses, hypothesis 1 is linked to sub question one, using information of sentence characteristics to state whether sentences have increased. Hypotheses 2-4 are linked to sentence characteristics and thus sub question two, hypotheses 5-6 are linked to the psychological state of the offender and thus sub question three, and hypothesis 7 is linked to being charged for multiple crimes and thus to sub question four.

4.4 DATA GATHERING AND EXPLOITATION

To gather the data, the starting point was information from the Dutch Homicide Monitor. The Dutch Homicide Monitor is a dataset that contains detailed information of all homicides that have taken place in the Netherlands from 1992 onwards (Liem et al., 2017b). It includes

detailed information about the offender, victim and offense. The dataset is dynamic in that it is continually updated with new cases. The Dutch Homicide Monitor was initially set up and maintained by Leiden University and the Dutch Institute for the Study of Crime and Law Enforcement (NSCR) (Liem et al., 2013) and it now continues at Leiden University (Liem et al., 2017a). It is composed by using seven sources: newspaper articles, data from the National Police, data from the Public Prosecution Office (OMDATA), case files, the Legal Services Department (DJI), the Research and Documentation Centre (OBJD), and Statistics Netherlands (CBS) (Liem et al., 2017a). Crimes are included that are defined as murder (art. 289 and 291) or manslaughter (art. 287, 288, and 290) according to the Dutch Code of Criminal Law (Ganpat & Liem, 2012, p. 331). All cases whereby the prosecutor charges the suspect with murder or manslaughter are included (Liem et al., 2017a).

Creating a new dataset specifically made for this research started with the data from the Public Prosecution Office, found in the Dutch Homicide Monitor. It provides all case numbers created between 2006-2016 in which the offender violated one of the articles concerning homicide (articles 287-291 of the Dutch Code of Criminal Law). The total number of case numbers was 1684. However, this dataset also included cases in which the offender was not prosecuted for homicide, but for attempt to homicide or for being complicit in a homicide. These cases are excluded from the new dataset. Furthermore, cases whereby no information was available about the final charge are also excluded from the dataset. As table 1 shows, this leaves 1052 cases in the final dataset.

Table 1

Amount of cases in the dataset

All cases		1684
<i>Final sentence</i>	Murder	422
	Manslaughter	558
	Qualified manslaughter	61
	Child murder	4
	Child manslaughter	7
	No homicide	423
	Unknown	209
	Cases in dataset	1052*

** The sum of murder, (qualified) manslaughter, child murder and child manslaughter as final charge.*

The data needed to score the variables shown in figure 1 are mainly retrieved from www.uitspraken.rechtspraak.nl. This website holds records of trials based on case numbers. The case numbers from the Dutch prosecutor are needed to find the right record. When a case record is not known on www.uitspraken.rechtspraak.nl, www.recht.nl is looked into based on the case record. In case this website also does not hold the record, further information from the Dutch Homicide Monitor is used. The Dutch Homicide Monitor is used in this research to find information about for instance names, dates and places to be able to look into newspapers on the internet for information about sentences, situational circumstances, or other crimes. When no information in the Dutch Homicide Monitor is available to look on the internet, or when no information is available on the internet, "unknown" is registered in the database for this research. The exploration of the data is done using the statistical program SPSS to perform the statistical analysis.

4.5 VALIDITY AND RELIABILITY

Systematic and coincidental measurement errors can affect respectively the validity and the reliability of research (Vennix, 2012, p. 186). First, the validity in general is discussed. Then, this thesis further examines the way measurement errors are prevented as much as possible. After that, the same issues are examined regarding reliability issues.

VALIDITY

Validity is the extent to which there are systematic measurement errors made. To get the validity of research as high as possible, both the internal and external validity should be taken into account (Van Thiel, 2015, p. 61). Internal validity is about the legitimacy of research. Do the researchers measure what they want to measure? The operationalization should be a representation of the theoretical construct and should measure the presupposed relation between the dependent and independent variable (Van Thiel, 2015, p. 61). The internal validity of this research is made as high as possible by operationalizing concepts using the Dutch law. These definitions are unequivocally and specific and define the concepts as needed to answer the main question. Furthermore, prosecutors and judges use the same definitions in trial and thus the definitions used in this research are the same

definitions as used in the record of the trials. Therefore, the internal validity of this research is high.

External validity is about whether the outcome of the research is generalizable. Outcomes could be generalizable to other people, institutions, times and places. On the basis of a sample, one wants to be able to make a statement about the whole population (Van Thiel, 2015, p. 62). Because the dataset contains almost all homicides in the Netherlands from 2006 onwards according to the Dutch prosecutor (except for the unknown cases), the dataset consist of a representative sample of the population. The external validity is therefore high.

RELIABILITY

Research is reliable when it gives the same results when another researcher would repeat the same research. It goes into the question whether there are made coincidental measurement errors. Research should not be influenced by the researcher or by the instrument that is used for measurement (Vennix, 2012, p. 186). Reliability depends on accuracy and consistency. Research methods should be executed accurately to measure the targeted variables (Van Thiel, 2015, p. 60). Consistency means that when research is repeated by another researcher, the same outcome should occur. The consistency could be a problem with a few variables in this research, as quantifying data is always done by a person. This means that the interpretation of this person could influence how the data is quantified. For example, one of the variables in this research is accountability. Next to fully accountable or unaccountable, in some cases the accountability is not described in records as "less accountable", but terms as "a little less accountable" or "not fully accountable" are used. This makes it hard to divide these terms into groups. To conquer this problem, only one groups is make in between "fully accountable" and "not accountable": less accountable. This group is thus a group that measures less precise, but this way of measuring increases the reliability of this research. In cases where it was unclear what the value of a variable should be, "unknown" is answered.

Another possible problem with this research is the fact that the researcher made the dataset alone. As no other person has checked the scores in the dataset, there is a possibility of coincidental measurement errors due to mistakenly typing the wrong score. To conquer this

problem, all missings were detected and scored. Then, the complete dataset was checked for illogical combinations of scores on variables. For instance, when someone was sentenced using juvenile law, the final sentence cannot be higher than two years of incarceration. When someone is held fully unaccountable for the crime, a sentence of TBS is likely to be given. Cases, in which this sentence was not given, are checked for coincidental measurement errors. In this way, coincidental measurement errors are checked for to the utmost extent. Therefore, the reliability of this research is high.

5. ANALYSIS

In this chapter, the four sub questions are answered. Section 5.1 first shows an overview of the 1052 cases. After that, section 5.2 looks into whether sentences have increased and whether sentence characteristics explain this trend. Chapter 5.3 looks into the effect that the psychological state of the offender has on sentences and trends in sentences. Chapter 5.4 looks into the influence that other crimes, that one is sentenced for at the same time as the homicide, have on sentences and trends in sentencing.

The data contains 1052 cases, but some of these cases have missing data for some variables. When a figure or table is made, all cases in which one of the variables needed for that figure or table is missing, are excluded from that specific figure or table. Because of this excluding of cases depending on the variables needed, different figures can include a different number of cases. This method is used to analyze with the maximum amount of cases.

5.1 OVERVIEW

The dataset contains 1052 cases of homicide. Figure 2 shows how these cases are spread out over the period 2006-2017.

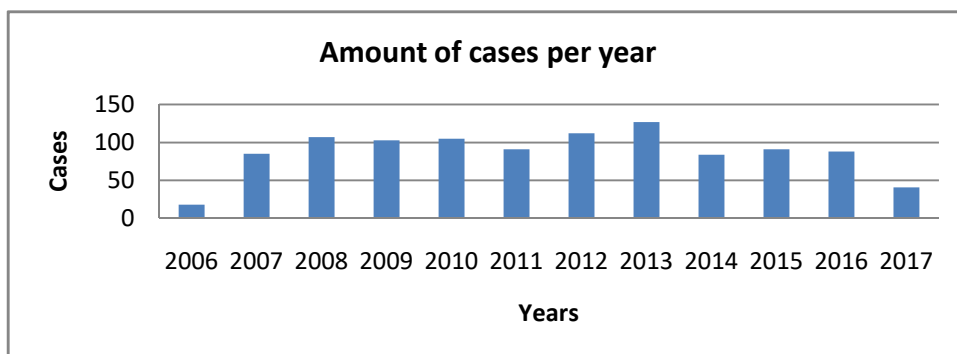


Figure 2: Amount of cases per year.

The figure shows that the dataset contains less cases in 2006 and 2017 than in the other years. The low level of cases in 2006 can be explained by the fact that all cases are included that have a case number created in 2006. However, this does not mean that that cases also had the ruling in 2006. Many cases with a case number created in 2006 had their ruling in 2007. 2017 has a lower amount of cases because the database contains case numbers made until 2017. Some of these cases had their rulings in 2017.

CHARGES FOR HOMICIDE

The dataset contains 40 percent cases of murder as a final charge (422 cases), 6 percent of qualified manslaughter (61 cases), 53 percent of manslaughter (558 cases), and less than 1 percent of child murder (7 cases) and child manslaughter (4 cases). Frequencies of prosecutorial charges are different. 83 percent of cases have a prosecutorial charge for murder, 3 percent for qualified manslaughter, 12 percent for manslaughter, and less than 1 percent for child murder or child manslaughter. 0,8% has an unknown prosecutorial charge.

YEARS OF INCARCERATION

No incarceration is one of the most prevailing prosecutorial and final sentences. No incarceration was recommended 68 times and sentenced in 85 cases. Apart from zero years of incarceration, years of incarceration seems to be normally distributed with a low level of sentences between 0-4 and 20-30 years of incarceration and a peak around 12 years of incarceration.

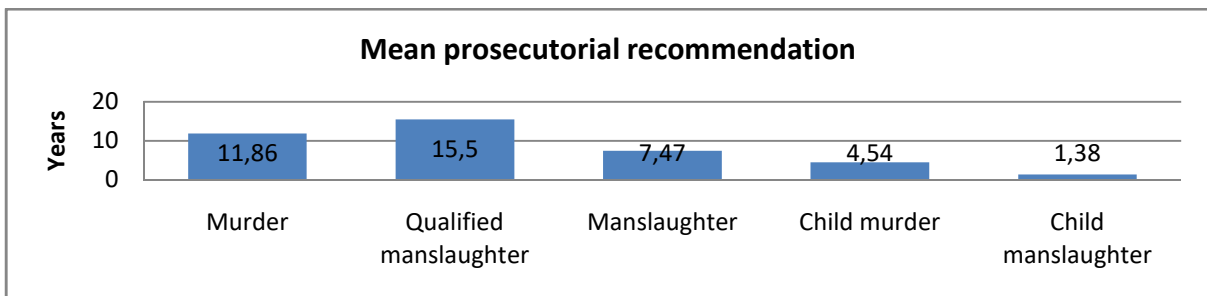


Figure 3: The mean prosecutorial recommendation in years set out over the prosecutorial charges (N=1012).

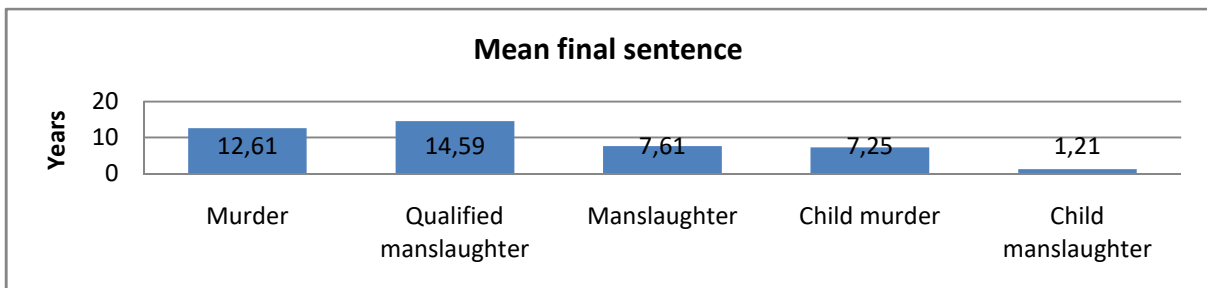


Figure 4: The mean final sentences in years set out over the final charges (N=1041).

To calculate the mean of the final sentences, all cases with a unknown final sentence are excluded. The cases with a life imprisonment as a final sentence (9 cases) are also excluded, as this sentence cannot be expressed in numbers of years of incarceration. Excluding these

cases leaves 1041 cases and a mean of 9,95 years of incarceration as a final sentence. The mean of recommended sentences is 11,33 years of incarceration (N=1047).

Figures 3 and 4 present the mean of the prosecutorial recommendation in years and the final sentence in years, set out over the five possible charges for homicide: murder, qualified manslaughter, manslaughter, child murder and child manslaughter. The complete dataset contains 20 cases of recommended life imprisonment, all with a prosecutorial charge for murder. In nine cases, life imprisonment was imposed: eight for murder and one for qualified manslaughter. These cases are excluded from calculations of the mean, as lifelong imprisonment is not quantifiable. Being charged with qualified manslaughter gives the highest mean for both recommended sentences and final sentence. The final sentence for murder is on average approximately one year less than the sentence for qualified manslaughter. The mean final sentence for child murder is 7.25 years, whereas the prosecutorial recommendation was 4.54 years. This large difference can be explained by the low level of child murder cases in the dataset: it contains four cases of child murder as a prosecutorial charge and seven as a final charge.

SENTENCES THAT INCLUDE TBS

Table 2
Prosecutorial and final charges regarding TBS

Prosecutorial charge regarding TBS	Final charge regarding TBS					Total
	No TBS	TBS with conditions	TBS with compulsory treatment	PIJ-measure	Conditional PIJ-measure	
No TBS	735	0	9	1	0	745
TBS with conditions	1	8	2	1	0	12
TBS with compulsory treatment	38	7	208	3	0	256
PIJ-measure	0	0	1	16	0	17
Conditional PIJ-measure	0	0	0	0	4	4
Total	774	15	220	21	4	1034

Table 2 shows the prosecutorial and final charges regarding TBS. The table contains 1034 cases, as all cases with a known prosecutorial and final charge regarding TBS are selected.

The table shows that on average, in most cases the prosecutorial charge regarding TBS is the same as the final charge regarding TBS. The most prevailing form of TBS is TBS with compulsory treatment. TBS with conditions is seldom asked or given. For juvenile law the same pattern occurs in a milder form: a PIJ-measure is asked and given four to five times more than a conditional PIJ-measure.

Table 3

Prosecutorial and final charges regarding different types of TBS

Final sentence regarding TBS	Final charge					Total
	Murder	Manslaughter	Qualified manslaughter	Child manslaughter	Child murder	
No TBS	307	409	50	4	3	773
TBS with conditions	6	8	0	0	1	15
TBS with compulsory treatment	91	117	9	2	0	219
Compulsory PIJ-measure	13	6	1	1	0	21
Conditional PIJ-measure	1	3	0	0	0	4
Total	418	543	60	7	4	1032

Prosecutorial recommendation regarding TBS	Prosecutorial charge					Total
	Murder	Manslaughter	Qualified manslaughter	Child manslaughter	Child murder	
No TBS	614	100	23	3	4	744
TBS with conditions	8	3	0	0	1	12
TBS with compulsory treatment	230	18	5	1	1	255
Compulsory PIJ-measure	14	1	1	0	1	17
Conditional PIJ-measure	3	1	0	0	0	4
Total	869	123	29	4	7	1032

Table 3² shows that on average, 25 percent of 1032 final sentences includes a form of TBS. TBS with conditions and TBS with compulsory treatment is most given in combination with a final charge for manslaughter or murder. A PIJ-measure is most given with a final charge for murder, and a conditional PIJ-measure is most given with a final charge for manslaughter. In cases of child manslaughter, relatively more (conditional) TBS or PIJ-measures are given. Qualified manslaughter has a relatively low amount of cases with imposed (conditional) TBS or PIJ-measures.

² All cases with a known prosecutorial charge regarding TBS and a known final charge regarding TBS are included. Of those cases, all cases with an unknown prosecutorial or final charge are excluded. This leaves 1032 cases.

5.2 TO WHAT EXTENT HAVE SENTENCES FOR HOMICIDE INCREASED IN THE PERIOD 2006-2017 AND TO WHAT EXTENT DO SENTENCE CHARACTERISTICS EXPLAIN THIS INCREASE?

After looking into an overview of the data, this section looks into trends. To answer the first and second sub question, this research does not only look into trends in (recommended) years of incarceration, but also into trends in imposing TBS. These variables are all part of the sentence.

TRENDS IN YEARS OF INCARCERATION

Figure 5 shows the prosecutorial recommendations compared to final sentences over the years. Cases containing life imprisonment are excluded. The figure shows that the mean prosecutorial recommendation is in all years higher than the mean final sentence. The difference is in most year at least approximately one year, in some years approximately two. Thus, figure 5 shows that mean prosecutorial recommendations are higher than final sentences, while figure 3 and 4 show that for murder, manslaughter and child murder mean final sentences are higher than mean prosecutorial recommendations. This can be explained by the fact that half of cases with a prosecutorial charge for murder end up being charged with manslaughter. As half of the cases with a prosecutorial charge of murder, and a prosecutorial recommendation that suits a murder charge, end in a final charge of manslaughter with a final sentence suiting manslaughter, on average the final sentences can be lower than the prosecutorial recommendations, while the final sentences for murder given are on average higher than the sentences asked for murder.

Figure 5 also shows the trend in sentencing. According to this figure, sentences increased between 2006-2009, but then decreased. A linear regression with as independent variable the date of sentencing and as dependent variable the final sentence in years gives a beta of $-.829$ with a significance of $.976$. The significance means that date of sentencing and final sentence in years are not significantly correlated, and the beta shows that a linear regression would have a negative slope if the correlation would have been significant. However, this linear regression did not incorporate any control variables. According to this test, there is no increase in sentencing between 2006-2017.

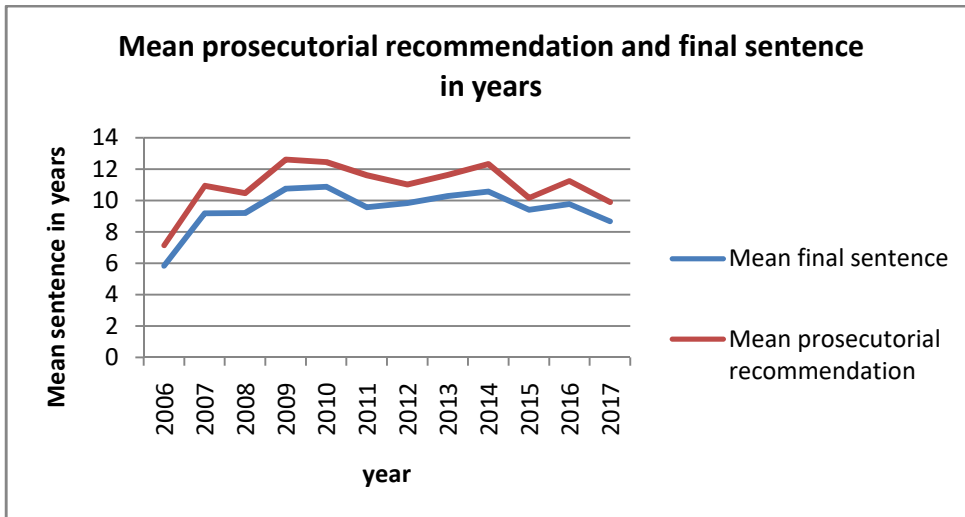


Figure 5: Prosecutorial recommendations compared to final sentences in 2006-2017 (N=1014).

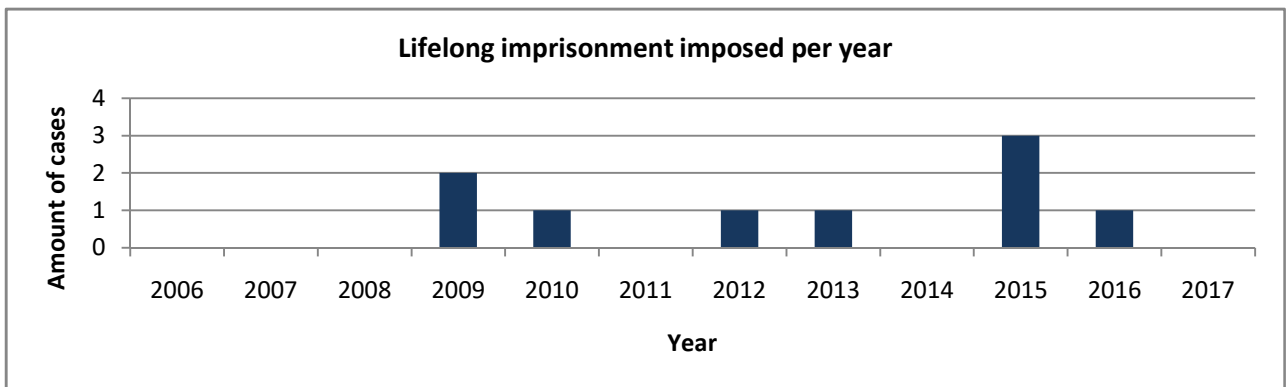


Figure 6: Lifelong imprisonment imposed per year.

Lifelong sentences are excluded from figure 5. Therefore, figure 6 shows the amount of lifelong imprisonment sentences imposed per year. As shown by this figure, there is no clear increase in imposed lifelong sentences between 2006-2017. There are 20 cases of recommended lifelong imprisonment, relatively equally distributed over 2006-2017, except for 2013 and 2015, which each had five cases. Therefore, lifelong sentences have not shown an increasing trend between 2006-2017.

This answers hypothesis 1, stating that *there is a positive trend of higher sentences for homicide between 2006-2017 in the Netherlands*. Between 2006-2009, there is a positive trend of sentencing in the Netherlands, but in 2009-2017, there is not. Overall, sentences between 2006-2017 do not show a positive trend.

Hypothesis 2 states that *prosecutorial recommendations have a positive effect on the final sentence. Higher prosecutorial recommendations thus result in higher final sentences.* Figure 5 does suggest that hypothesis 2 is true, as both prosecutorial recommendations and final sentences show the same pattern. Therefore, prosecutorial recommendations could influence a trend in sentences.

TRENDS FOR DIFFERENT TYPES OF HOMICIDE

Figure 7 shows the trends in final sentences in years for different types of homicide. Hypothesis 3 states that *the legal type of homicide influences sentences: murder and qualified manslaughter are sentenced most severe, followed by respectively manslaughter, child murder and child manslaughter.* This hypothesis is correct, with one exception: sentences for murder and qualified manslaughter are not equally severe, even though their maximum sentences as equal. Qualified manslaughter is sentenced more severe than murder. Therefore, the type of homicide could have an effect on trends in sentences.

Figure 7 shows that murder shows an increase in sentencing, starting around a mean of 11 years of incarceration and ending in 2016 with 14,59 years of incarceration. 2017, however, shows a decrease in sentencing. This could be explained by the low amount of cases of murder in that year (nine). Sentences for qualified manslaughter also increase between 2006-2016. Manslaughter also shows an increasing mean final sentence, starting the first three years with a mean around 6,5 years, and then continuing with means around 8 (with the exception of 2011 and 2012).

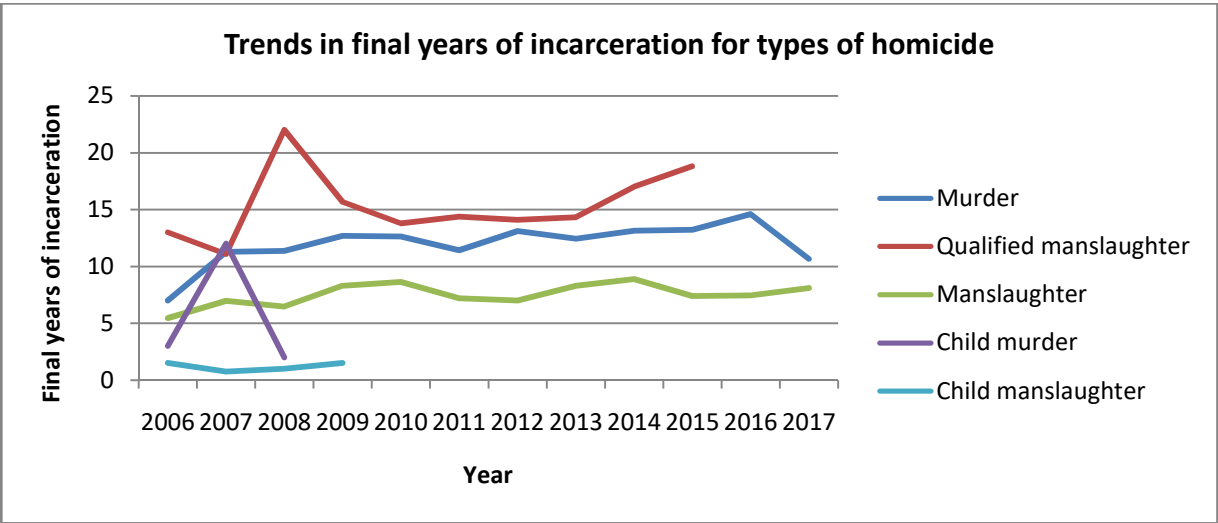


Figure 7: Trends in final sentences in years for different types of homicide.

The amount of cases over the years is important to take into account when interpretation figure 7. There are limited years whereby cases of child murder and child manslaughter are available, as there are only 7 cases of child murder and 4 of child manslaughter. Child manslaughter has a stable mean sentence, but child murder does not as the mean went up from 3.00 years to 12,00 years back to 2,00 years.

Concluding, setting out sentencing over time, there seems to be a trend of increasing final sentences for some types of homicide. Murder, qualified manslaughter and manslaughter show an increase in mean final sentences. Sentences for child murder and child manslaughter do not show a trend in sentences due to a low number of cases.

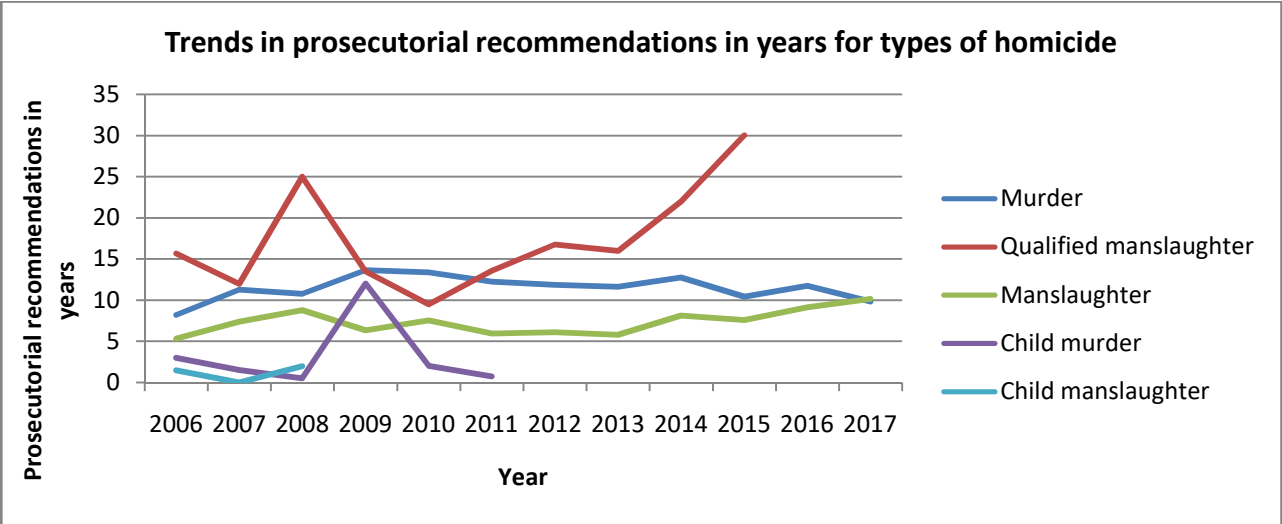


Figure 8: Trends in prosecutorial recommendations in years for types of homicide.

The same analysis that has been done for final sentences in years can also be done for prosecutorial recommendations in years. Figure 8 shows the trends in prosecutorial recommendations in years for different types of homicide. The pattern of prosecutorial recommendations for murder seems to increase first, and then decreases. The pattern for qualified murder is unstable. The explanation for the increase in prosecutorial recommendation for qualified manslaughter for the years 2014-2016 is that in 2014, 2015 and 2016, each year had only one case of qualified manslaughter, and thus that the increase in the pattern is only based on one case per year. The pattern of prosecutorial

recommendations for manslaughter seem to increase between 2013-2017. Again, child murder and child manslaughter have low levels of cases and therefore do not show a trend.

Concluding, the prosecutorial recommendations show an increase for murder in 2006-2009, but a decrease in 2009-2017. The prosecutorial recommendations for manslaughter have increased from 2013 onwards. The results for qualified manslaughter, child murder and child manslaughter are ambiguous, possibly due to the low number of cases. Comparing figure 8 with figure 7, in both figures the sentences for manslaughter increase. However, the prosecutorial recommendations for murder decrease from 2009 onwards, while the final sentences for murder have increased between 2006-2017. This points to prosecutorial recommendations not being the factor that increases final sentences for murder.

TRENDS IN SENTENCES THAT INCLUDE TBS

Figure 9 shows the prosecutorial charge and final charge regarding TBS set out over time. As 0 is no TBS, 1 is TBS with conditions and 2 is TBS with compulsory treatment, a decreasing trend would mean that less (severe) TBS is imposed more often. Both lines follow the same trend. This trend first decreases in 2007-2010 and then increases in 2012-2015. After 2015, the trend seems to decrease again. Concluding, charges regarding TBS do not show a stable trend that is increasing or decreasing.

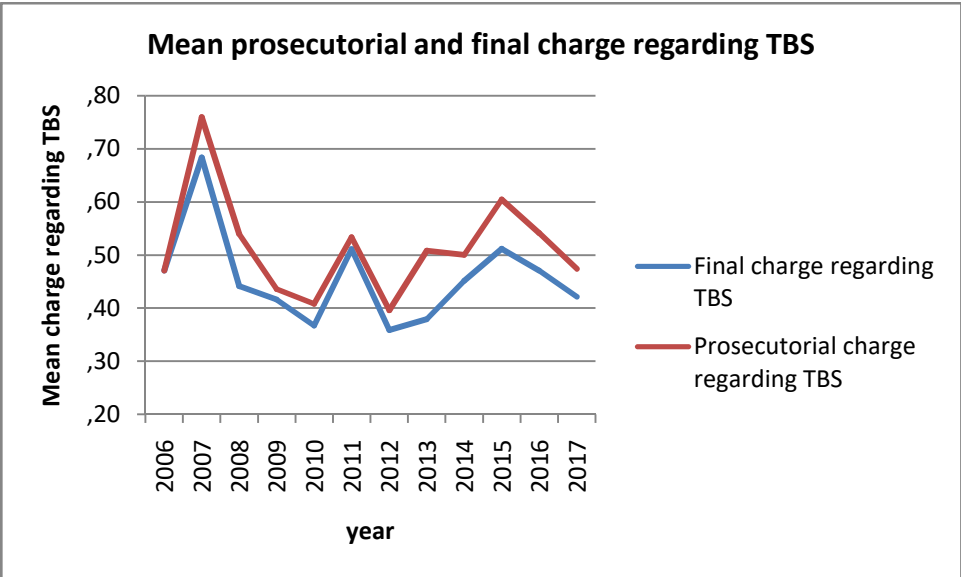


Figure 9: Mean prosecutorial and final charge regarding TBS

Hypothesis 4 states that *being sentenced to TBS decreases the imprisonment sentence of offenders*. This hypothesis is true, as the mean final sentence of offenders who do not have TBS included in their punishment is 12,5 years, whereas the mean final sentence of offenders who are sentenced to TBS is 7 years of incarceration. Being sentenced to TBS decreases the imprisonment sentence on average with 5,5 years and therefore, TBS influences the imprisonment sentence. However, as the mean charge regarding TBS does not show a stable trend, TBS does not seem to be the cause of a stable increasing trend in sentences.

5.3 TO WHAT EXTENT DOES THE PSYCHOLOGICAL STATE OF THE OFFENDER EXPLAIN AN INCREASE IN SENTENCES BETWEEN 2006-2017?

The third sub question looks into situational circumstances and their effect on sentencing in the Netherlands. In this research, situational circumstances consist of applying juvenile law and the level of accountability of an offender of the crime. These variables are set out over time to find out whether a change in one of these variables over time could explain an increase in length of sentences between 2006-2017.

JUVENILE LAW

To analyze whether sentences in juvenile law have increased, all cases whereby the offender is sentenced using juvenile law are selected. Also, only cases with a known recommended and final sentence in years are selected. This leaves 41 cases. Of these 41 cases, there is one case of qualified manslaughter as a final charge, no cases for child murder and two cases of child manslaughter. This leaves 17 cases of murder and 21 cases of manslaughter where juvenile law is applied. Figure 10 shows that both final sentences for murder and manslaughter in juvenile are increasing over time.

Hypothesis 5 in chapter three states: *Offenders sentenced based on juvenile law receive a lower sentence than offenders sentenced based on the law for adults*. This hypothesis is correct, as the mean final sentence in juvenile law is approximately 1,5 years of incarceration. An decreasing number of juvenile cases could thus increase the total mean sentence over time. However, there is no decreasing number of juvenile cases between 2006-2017.

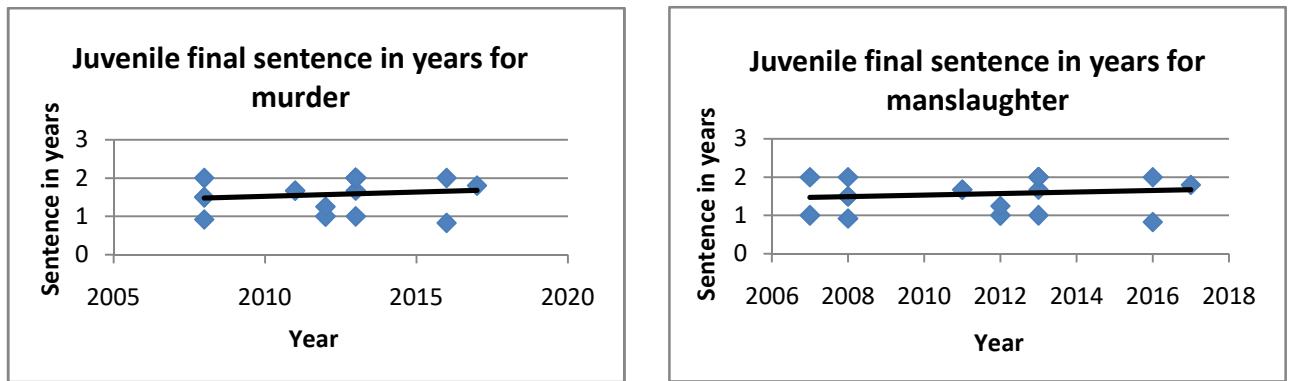


Figure 10: The final sentence in juvenile law over time, for murder and manslaughter.

ACCOUNTABILITY FOR THE CRIME

The answer to the question to what level the offender is accountable is used in defining the sentence. A conviction to jail is the standard. However, when one can prove that the offender is not fully accountable, the sentence to jail can be decreased. On the other side, being held not fully accountable makes TBS as a sentence an option, and TBS has no maximum duration. When accountability is not brought up by the prosecutor or the lawyer of the defendant, it will not be mentioned in trial and thus the judge will rule assuming full accountability of the offender.

All cases with a known accountability for the crime, final sentence in years and recommended sentence in years are selected, leaving 987 cases. There are 64 cases whereby the offender is not held accountable. In all these cases, the final sentence was zero years in jail. In 335 cases, the offender was less accountable. The trend of final sentences in these cases seems to slope downwards. In 588 cases, the offender was fully accountable. Figure 11 and figure 12 both show a slight increasing trend in sentences.

Hypothesis 6 states: *Being found (partially) unaccountable decreases the imprisonment sentence of offenders.* Being unaccountable decreases the imprisonment sentence to zero. There seems to be no difference in imprisonment sentences between offenders being fully accountable or less accountable. There is a stable increase in cases whereby the offender is unaccountable. Therefore, an increase in sentences is not caused by a decrease in cases with unaccountability.

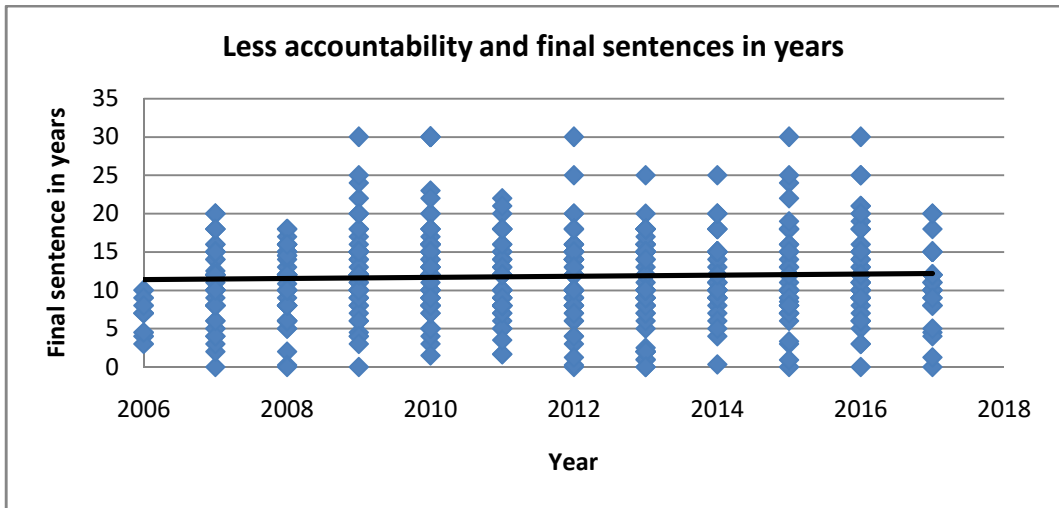


Figure 11: The final sentences for the less accountable over time.

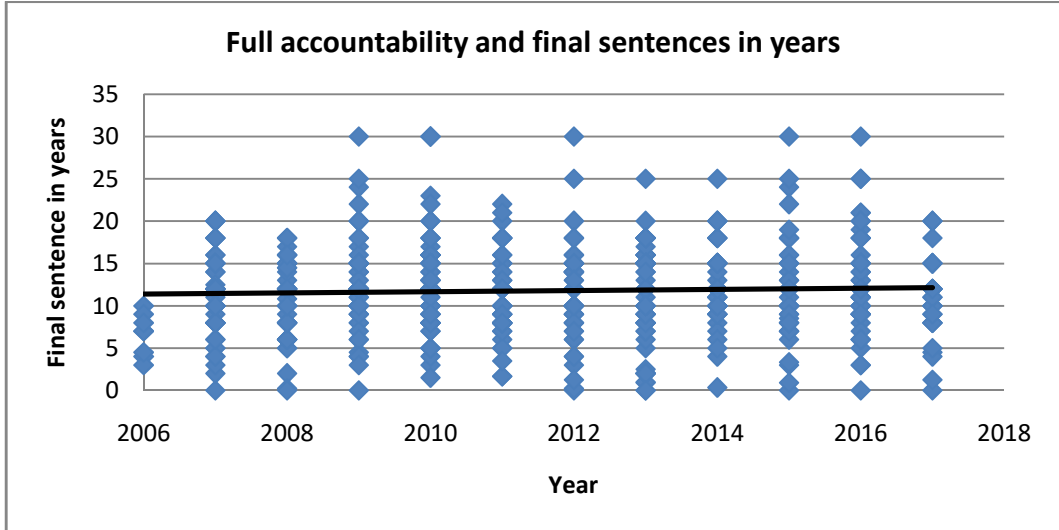


Figure 12: The final sentences for the accountable over time.

5.4 TO WHAT EXTENT DOES BEING CHARGED WITH MULTIPLE CRIMES EXPLAIN AN INCREASE IN SENTENCES BETWEEN 2006-2017?

The fourth sub question looks into other crimes that one is sentenced for during the same trial as the homicide. The influence and trends of five crimes are discussed in this chapter: assault, attempt to manslaughter, attempt to murder, theft, and threat. Their influence on sentences for homicide is analyzed to be able to discuss whether the increase in sentencing can be explained by a possible increase in sentences for other crimes apart from homicide. However, this analysis does not consist of a perfect treatment and control group, as both the treatment and the control group could also include other crimes besides the one crime that

is discussed in each part of this chapter. Therefore, the results should be seen as an indication of the effect of being charged with multiple crimes.

ASSAULT

Of 987 cases, 940 cases do not include assault, and 47 do³. The mean final sentence for an offender that is also sentenced for assault is 9.7 years, while offenders without committing assault have a mean of 9.8 years of incarceration. This is contrary to what one would expect, as an additional crime is expected to increase the total sentence instead of lowering the sentence. However, the group of cases without assault contain relatively more severe final charges.

Figures 13 and 14 shows the mean prosecutorial recommendations and final sentences for cases including and excluding assault. The figure shows an inverted U-shape. This could be caused by the low amount of cases including assault each year: on average, each year has four cases including assault. Apart from peaks due to the low amount of cases, both lines seem to increase and decrease in the same years, and assault does not seem to have a (large) effect on final sentencing. This means that assault is not a factor that increases sentencing for homicide.

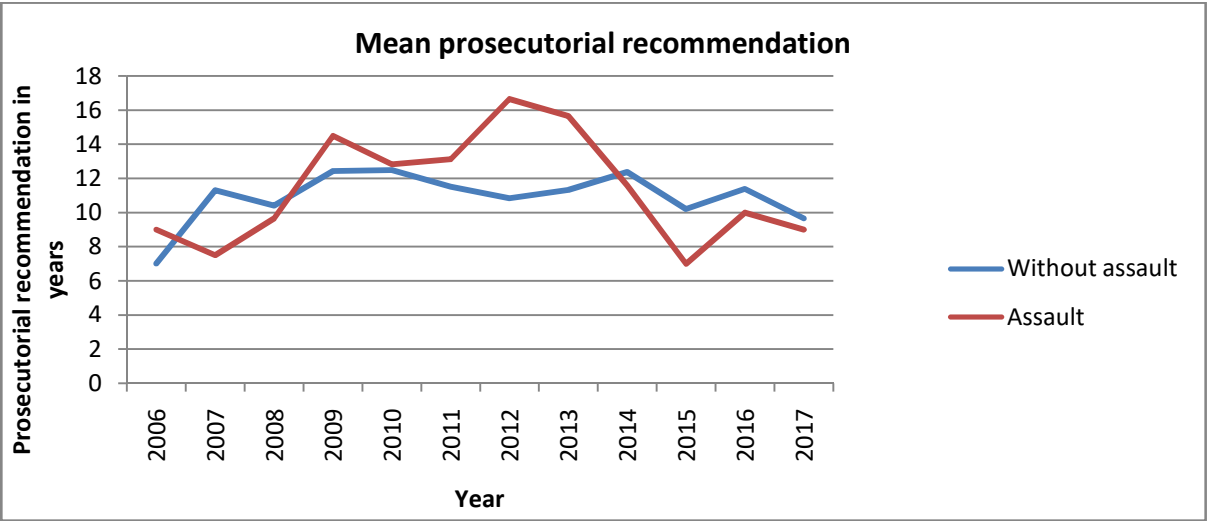


Figure 13: The mean prosecutorial recommendation for cases including and excluding assault.

³ All cases with a known prosecutorial recommendation and a known final sentence are selected. Furthermore, only offenders of whom is known whether they also are convicted for assault in the same trial are included. This leaves 987 cases.

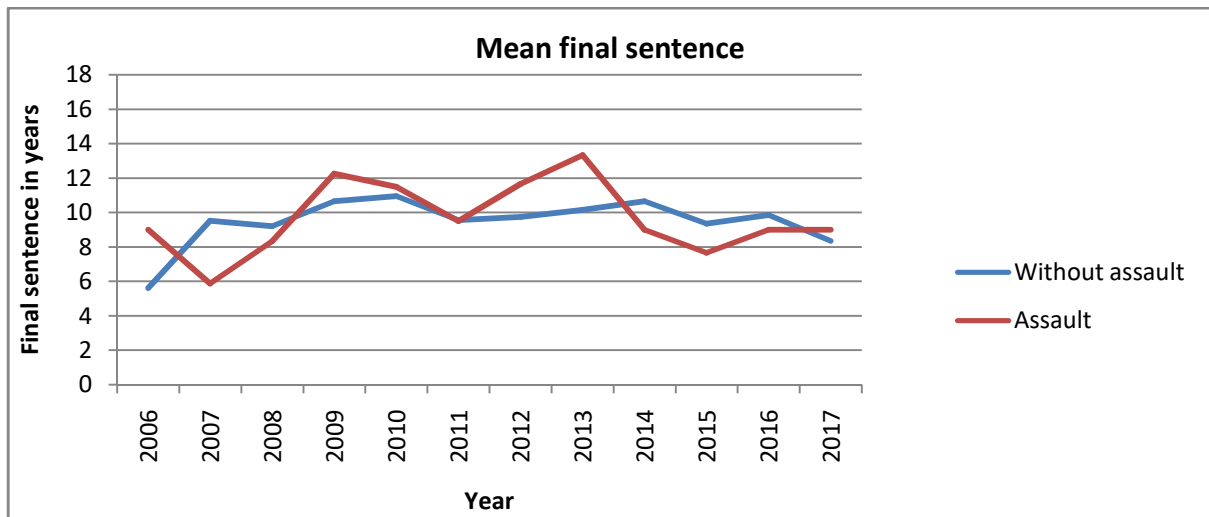


Figure 14: The mean final sentence for cases including and excluding assault.

ATTEMPT TO MANSLAUGHTER

Of 987 cases, 936 do not include an attempt to manslaughter and 51 do⁴. The mean final sentence for cases including attempt to manslaughter is 10.14 years, the mean for cases excluding attempt to manslaughter is 9.81 years. 82 percent of cases including attempt to manslaughter also include manslaughter as their final charge. This relative large population of manslughters in the group of cases consisting of attempts to manslaughter could have decreased the mean final sentence. In this case, committing an attempt to manslaughter increases the mean final sentence of an offender.

Figures 15 and 16 shows the mean prosecutorial recommendations and final sentences for cases including and excluding attempt to manslaughter. Apart from a few peaks due to the low amount of cases, the cases including attempt to manslaughter have a higher mean prosecutorial recommendation and final sentence from 2010 onwards. Excluding 2006-2008, both sentences for cases with and without attempt to manslaughter seem to follow the same pattern, which could mean that attempt to manslaughter is not a factor that increases sentencing for homicide.

⁴ All cases with a known prosecutorial recommendation and a known final sentence are selected. Furthermore, only offenders of whom is known whether they also are convicted for attempt to manslaughter in the same trial are included. This leaves 987 cases.

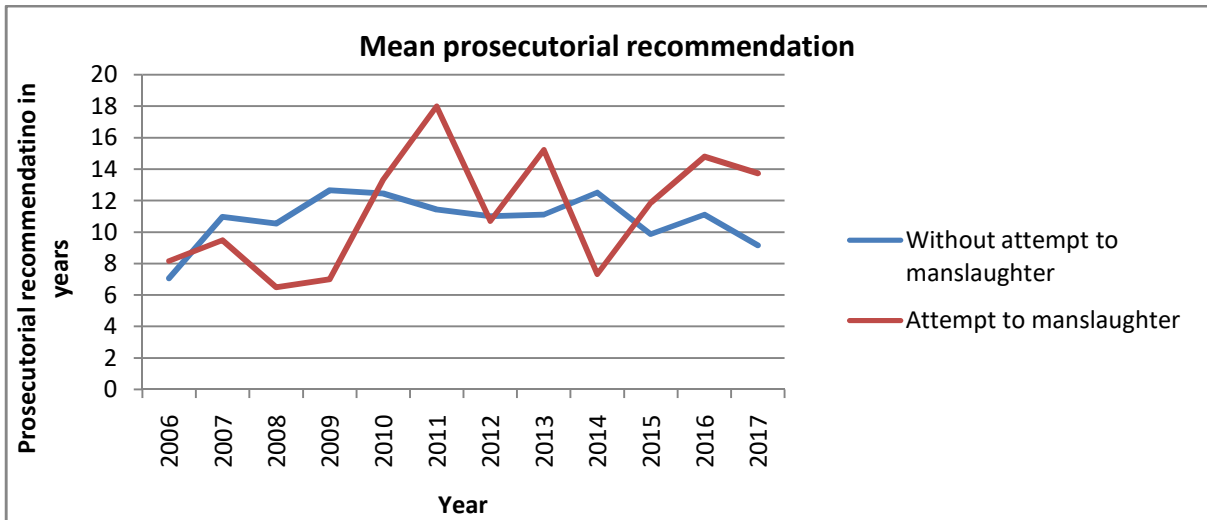


Figure 15: Mean prosecutorial recommendation for cases including and excluding attempt to manslaughter.

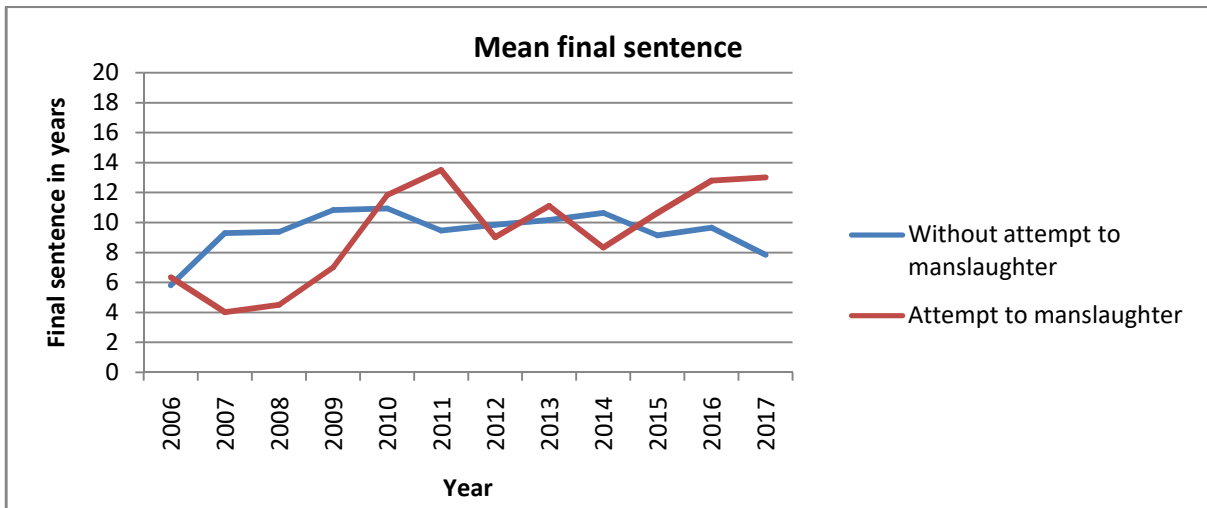


Figure 16: The mean final sentence for cases including and excluding attempt to manslaughter.

ATTEMPT TO MURDER

All cases whereby is known whether the offender is also convicted for attempt to murder in the same trial are included. This leaves 1019 cases, of which 988 do not include an attempt to murder and 31 do. The mean final sentence for cases including attempt to murder is 29.23, the mean for cases excluding attempt to murder is 10.16. However, this relative high mean for cases including attempt to murder is caused by including lifelong sentences in the data. In the data about final sentences, nine cases are life imprisonment cases, and in the data about prosecutorial recommendations 20 cases are. As these cases are marked with a

sentence of "100" in the database, this has a large effect on the mean. When excluding these life imprisonment cases, the mean final sentence for cases including attempt to murder is 14.48, the mean for cases excluding attempt to murder is 9.73. Attempts to murder are relatively often combined with a murder (in 76 percent). This combination could cause the mean final sentence including attempt to murder to increase relative to cases excluding attempt to murder. However, excluding lifelong sentences from the database leaves 987 cases, of which 21 also include attempt to murder. 21 cases is not enough to analyze further, as at least 30 cases are needed.

THEFT

Of 987 cases, 887 do not include a theft and 100 do⁵. The mean final sentence for cases including attempt theft is 12.10, the mean for cases excluding theft is 9.58. This difference in mean final sentence is (partially) caused by the large amount of qualified manslaughters in the group of cases including theft.

Figures 17 and 18 shows the mean prosecutorial recommendations and final sentences for cases including and excluding theft. Both lines representing cases including committing theft are above the line that represents cases excluding committing theft, apart from peaks. Both sentences for cases with and without seem to follow the same pattern, which could mean that theft is not a factor that increases sentencing for homicide.

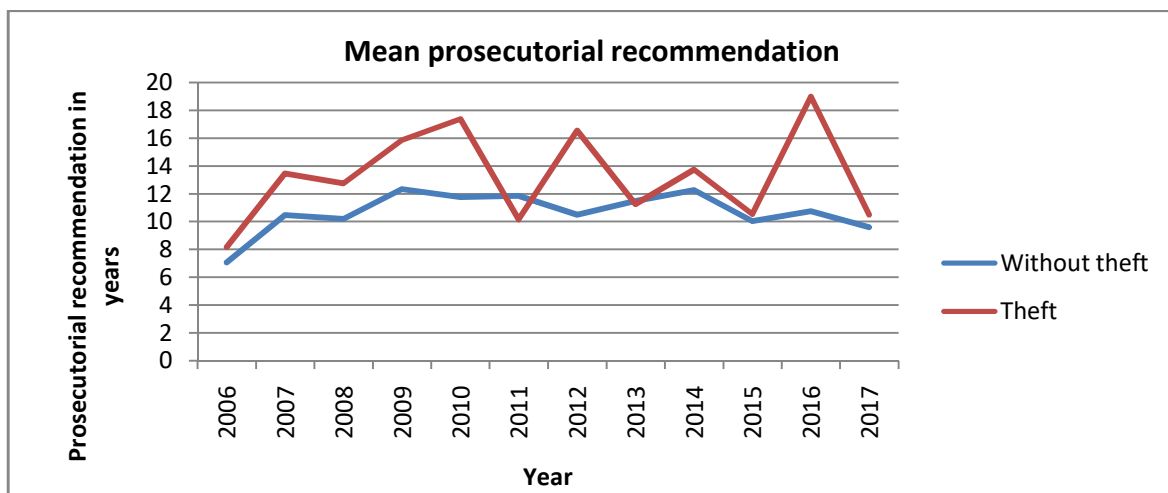


Figure 17: The mean prosecutorial recommendation for cases including and excluding theft.

⁵ All cases with a known prosecutorial recommendation and a known final sentence are selected. Furthermore, only offenders of whom is known whether they also are convicted for theft in the same trial are included. This leaves 987 cases.

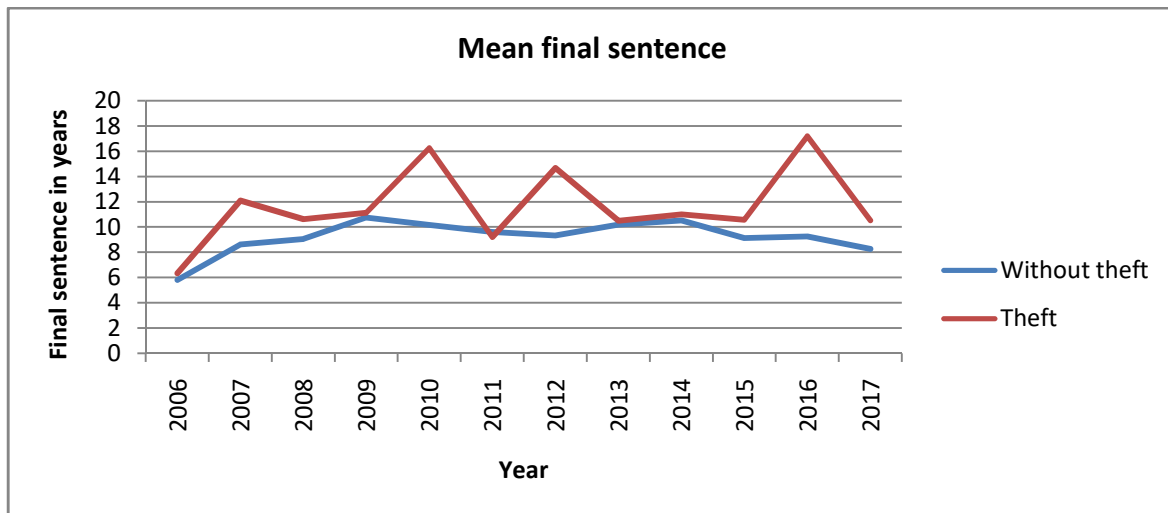


Figure 18: The mean final sentence for cases including and excluding theft.

THREAT

Of 986 cases, 950 do not include threat and 36 do⁶. The mean final sentence for cases including threat is 10.92, the mean for cases excluding threat is 9.80. The group of cases excluding threat holds relatively more cases of murder and qualified manslaughter, which could mean that the effect of threat on sentences is larger than the means show.

Figures 19 and 20 shows the mean prosecutorial recommendations and final sentences for cases including and excluding threat. The cases that include threat have a lower mean sentence in the first en last years due to a low amount of cases. In 2011, there is a peak for the cases that include threat, as in this year two out of the three cases include more offenses next to homicide and threat. Both figures do not fully follow the same pattern, as mean final sentences of cases including threat have increased in 2011-2016 compared to the mean final sentences of cases excluding threat.

Hypothesis 7 in chapter three states that *offenders being charged for multiple crimes are sentenced with more severe sentences*. The mean sentences of attempt to manslaughter, attempt to murder and threat are higher than the mean sentences excluding these crimes. For assault and theft, this effect is ambiguous. The trends of mean final sentences with and without the crime follow the same pattern, except for threat. This could mean that, except for threat, these crimes are not factors that increase sentencing for homicide.

⁶ All cases with a known prosecutorial recommendation and a known final sentence are selected. Furthermore, only offenders of whom is known whether they also are convicted for threat in the same trial are included. This leaves 986 cases.

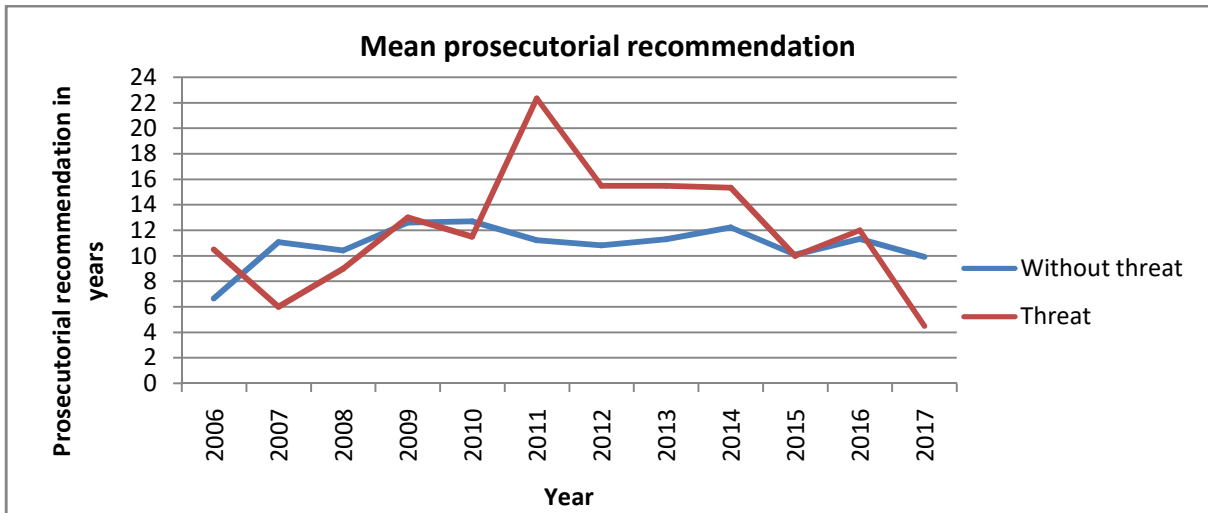


Figure 19: The mean prosecutorial recommendation for cases including and excluding threat.

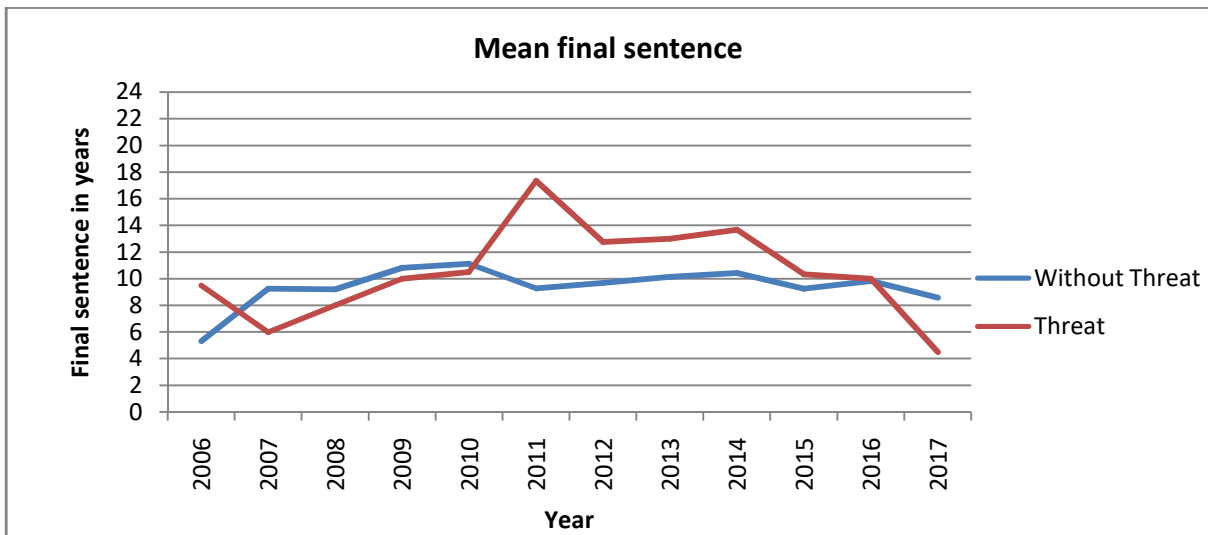


Figure 20: The mean final sentence for cases including and excluding threat.

6. CONCLUSION AND DISCUSSION

This chapter starts with the conclusion of this research. This conclusion is the answer to the main question and is based on the answers on the sub questions. After that, the discussion presents some limitations of this research and questions for further research.

CONCLUSION

The main research question of this research is: *To what extent have sentences for homicide increased in the period 2006-2017 and what law-based factors can explain this change in punitivity?*

The analysis shows that the mean final sentence increases until 2009 and then decreases. The mean final sentence does not show an increasing trend in sentences. However, when looking into trends in sentences for the different types of homicides, sentences for murder and manslaughter show a stable increasing pattern.

Prosecutorial recommendations for manslaughter also show an increasing trend, but this pattern is not identical to the pattern of final sentences. Prosecutorial recommendations for murder do not show an increasing trend. Therefore, prosecutorial recommendations cannot explain the increasing trend for murder and manslaughter. Sentences for qualified manslaughter, child murder and child manslaughter show an unstable pattern, possibly due to a low level of cases. TBS and accountability can also not explain the increasing trend of sentences. Juvenile law sentences show an increasing pattern in sentences, but due to the relative low amount of cases, the effect cannot be large enough to explain the increase in sentences. Threat is the only crime, that one is sentenced for in combination with a homicide, that could influence the trend of sentences for homicides. However, threat can only be an increasing factor between 2011-2016, while murder and manslaughter have a stable increasing pattern for 2006-2017. The absence of law-based factors in this research that can explain the increase in sentences could point to judges becoming more punitive between 2006-2017.

DISCUSSION

The main limitation of this research is that it looks into law-based variables that influence sentencing, whereby law-based is defined as variables discussed in the Dutch Code of Criminal Law. However, there are numerous other factors that influence sentences, both law-based and non law-based. For instance, the records of trials on www.uitspraken.rechtspraak.nl show that judges also take into account whether an offender showed remorse, whether the offender plead guilty, whether the offender was close to the victim, whether the offender has a criminal record etc. There are many legal factors that are not described in the Dutch Code of Criminal Law that could increase or decrease a sentence. Furthermore, research also shows that non-legal factors influence sentences. Johnson et al. (2010) find that the gender of the offender and victim, the age of the victim, and the nationality of the offender and victim influence sentences. Wermink, De Keijser, and Schuyt (2012) find that offenders that do not speak Dutch and do not look Dutch are twenty times more likely to be imprisoned compared to a Dutch speaking and Dutch looking offender. These factors are not taken into account in this research.

Based on this research, there are at least three questions for further research. First, this research starts with an article in De Volkskrant, stating that judges in the Netherlands have increased their sentences for murder and manslaughter between 2006-2010 with an average of two extra years. The average sentence in 2010 was 14,7 years for murder and 10,7 years for manslaughter. The article also states that one-third of the convicted offenders also get sentenced to psychiatric care next to their time in jail. Not all findings of De Volkskrant correspond with this research. This research shows that in 2006-2010, sentences have indeed increased with approximately two years. However, the average sentences for murder (12,5 years) and manslaughter (7,5 years) do not correspond with the research from De Volkskrant. Furthermore, this research shows that approximately 25 percent of sentences includes a form of TBS or a PIJ-measure. Further research could look into what caused the differences found between these two studies.

Second, further research could look into the effects of the change in the law in 2006, increasing the maximum temporary sentence to jail for murder and qualified manslaughter from twenty years to thirty years. Analyzing the dataset of this research, temporary

sentences between 20-30 years have occurred three times in 2006-2008, fourteen times between 2009-2011, eight times between 2012-2014 and eleven times between 2015-2016. Have judges slowly adapted to the new maximum temporary sentences, or are the other reasons for this trend?

Third, more research can be done into how legal factors influence sentences. As discussed in section 5.4, committing an extra crime does not always show to increase the sentence of an offender compared to offenders who did not commit that specific extra crime. Further research could look into the mechanism. Furthermore, if research shows that legal factors cannot explain the increase in sentencing, further research should look into judges becoming more punitive over time as a result of a society desiring higher sentences.

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APPENDIX A: OPERATIONALIZATION

Variable	Operationalization
Case number	Unique number given to every offender in a case. These numbers are received from the Dutch prosecutor.
Date of sentencing	dd--mm-yyyy of the final sentence of the case.
Prosecutorial charge	Options are no homicide, murder, qualified manslaughter, manslaughter, child murder or child manslaughter.
Prosecutorial recommendation	Numerical variable containing the recommended sentence of incarceration in years. A lifelong imprisonment is registered as 100.
Recommended conditional sentence	Numerical variable containing the recommended conditional sentence of incarceration in years.
Prosecutorial charge regarding TBS	Options are no TBS, TBS with conditions, TBS with compulsory treatment, PIJ-measure or conditional PIJ-measure.
Final charge	Options are no homicide, murder, qualified manslaughter, manslaughter, child murder or child manslaughter.
Final sentence	Numerical variable containing the final conditional sentence of incarceration in years. A lifelong imprisonment is registered as 100.
Final conditional sentence	Numerical variable containing the final conditional sentence of incarceration in years.
Final charge regarding TBS	Options are no TBS, TBS with conditions, TBS with compulsory treatment, PIJ-measure or conditional PIJ-measure.
Additional information about the case	Additional information used to find cases in news articles. It contains for instance the date and place of the crime, but also a summary of the crime.
Psychiatric hospital	Dummy variable telling whether an offender has to go to a psychiatric hospital.
Community service	Dummy variable telling whether an offender has to do

	community work.
Juvenile law	Dummy variable telling whether an offender is sentenced applying juvenile law.
Accountability	Options are fully accountable/not mentioned, less accountable or not accountable.
Wrongful death	Dummy variable telling whether an offender is also sentenced for wrongful death in the same trial as for homicide.
Assault	Dummy variable telling whether an offender is also sentenced for assault in the same trial as for homicide.
Attempt to aggravated assault	Dummy variable telling whether an offender is also sentenced for attempt to aggravated assault in the same trial as for homicide.
Aggravated assault	Dummy variable telling whether an offender is also sentenced for aggravated assault in the same trial as for homicide.
Attempt to manslaughter	Dummy variable telling whether an offender is also sentenced for attempt to manslaughter in the same trial as for homicide.
Attempt to murder	Dummy variable telling whether an offender is also sentenced for attempt to murder in the same trial as for homicide.
Contumacy	Dummy variable telling whether an offender is also sentenced for contumacy in the same trial as for homicide.
Arson	Dummy variable telling whether an offender is also sentenced for arson in the same trial as for homicide.
Complicit in a murder	Dummy variable telling whether an offender is also sentenced for being complicit in a murder in the same trial as for homicide.
Complicit in a manslaughter	Dummy variable telling whether an offender is also sentenced for being complicit in a manslaughter in the same

	trial as for homicide.
Theft	Dummy variable telling whether an offender is also sentenced for theft in the same trial as for homicide.
Threat	Dummy variable telling whether an offender is also sentenced for threat in the same trial as for homicide.
Remaining offences	Additional information containing all remaining offences that the offender is sentenced for in the same trial as for the homicide.

Note: All variables also have the option "unknown" when information about a case is not available.