

## Registered Serious Crime in Germany

Data Source: Federal Crime Agency (BKA) Statistics

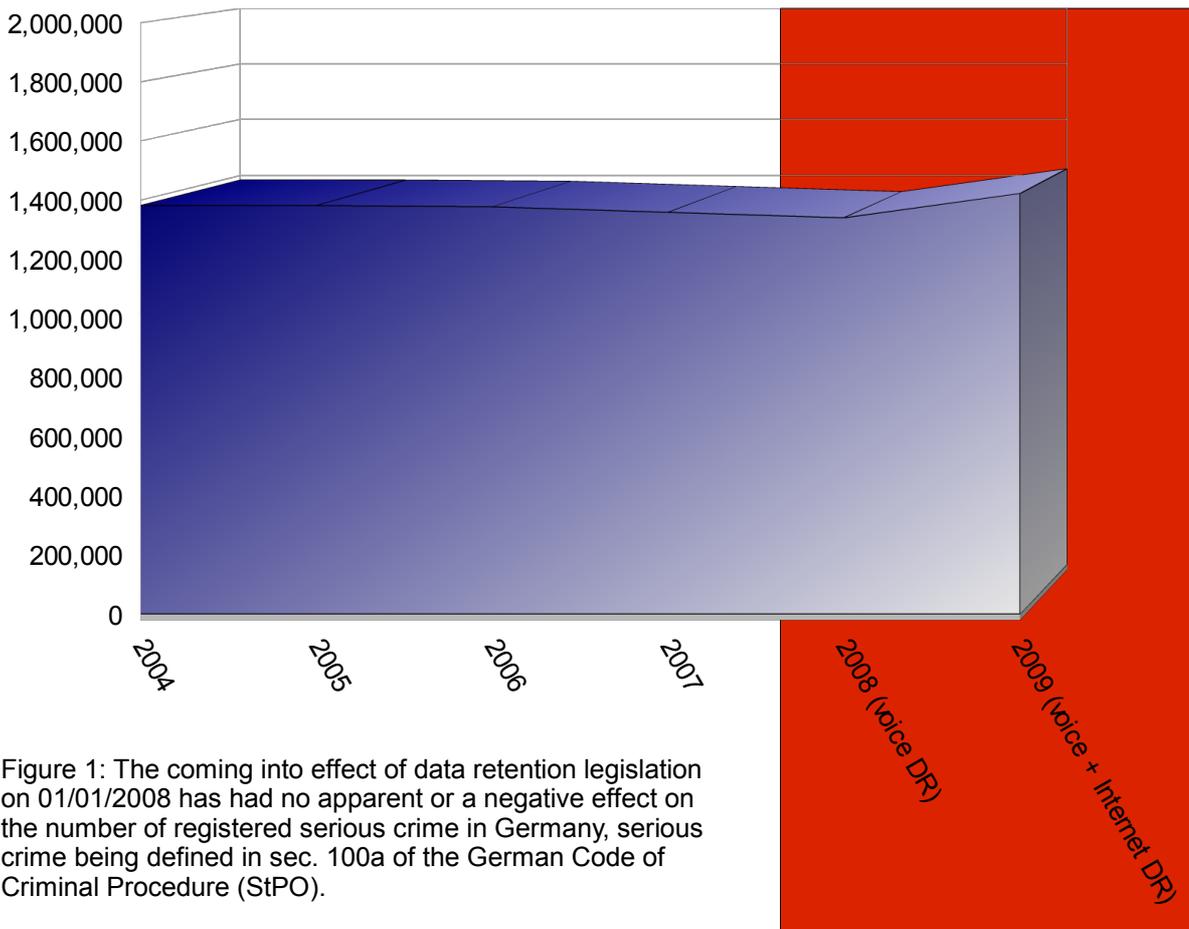


Figure 1: The coming into effect of data retention legislation on 01/01/2008 has had no apparent or a negative effect on the number of registered serious crime in Germany, serious crime being defined in sec. 100a of the German Code of Criminal Procedure (StPO).

Year	Registered Serious Crime	Data Retention Policy
2004	1,382,118	none
2005	1,381,750	none
2006	1,377,824	none
2007	1,359,102	none
2008	1,340,560	voice data retention
2009	1,422,968	voice and Internet data retention
2010	n/a	none as of 02/03/2010

## Serious Crime Clearance Rate in Germany

Data Source: Federal Crime Agency (BKA) Statistics

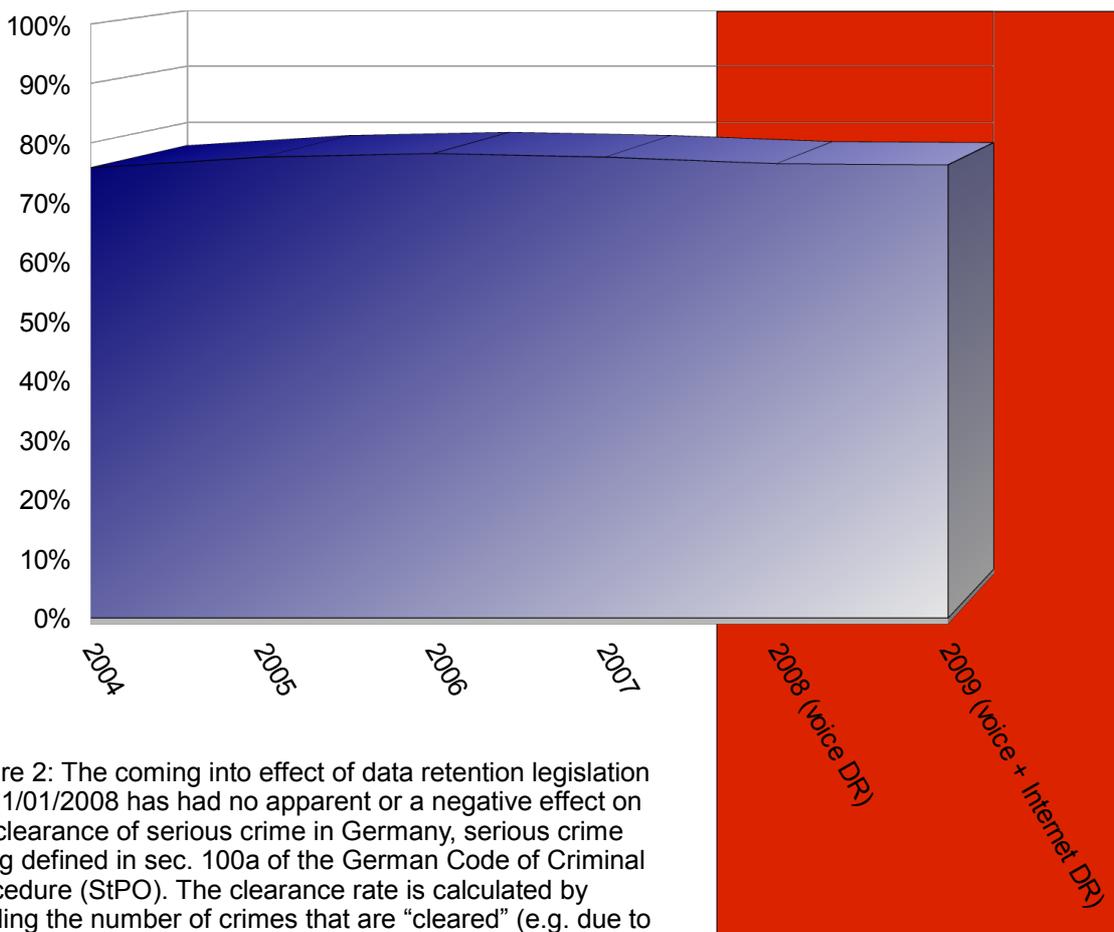


Figure 2: The coming into effect of data retention legislation on 01/01/2008 has had no apparent or a negative effect on the clearance of serious crime in Germany, serious crime being defined in sec. 100a of the German Code of Criminal Procedure (StPO). The clearance rate is calculated by dividing the number of crimes that are “cleared” (e.g. due to a charge being laid) by the total number of crimes recorded.

Year	Serious Crime Clearance Rate	Data Retention Policy
2004	75.8%	none
2005	77.6%	none
2006	78.2%	none
2007	77.6%	none
2008	76.5%	voice data retention
2009	76.3%	voice and Internet data retention
2010	n/a	none as of 02/03/2010

## Registered Internet Crime in Germany

Data Source: Federal Crime Agency (BKA) Statistics

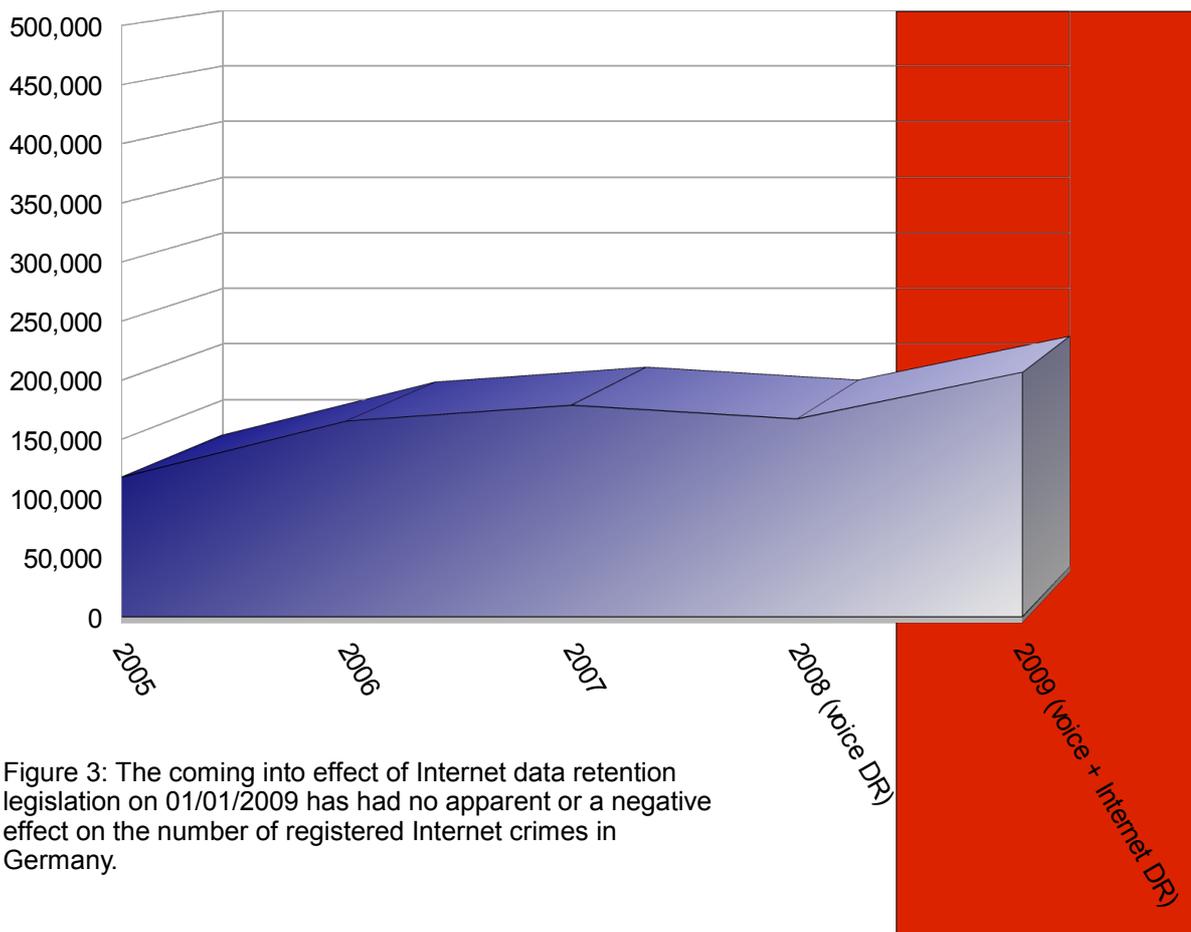


Figure 3: The coming into effect of Internet data retention legislation on 01/01/2009 has had no apparent or a negative effect on the number of registered Internet crimes in Germany.

Year	Registered Internet Crime	Internet Data Retention Policy
2005	118,036	none
2006	165,720	none
2007	179,026	none
2008	167,451	none
2009	206,909	Internet data retention
2010	n/a	none as of 02/03/2010

## Internet Crime Clearance Rate in Germany

Data Source: Federal Crime Agency (BKA) Statistics

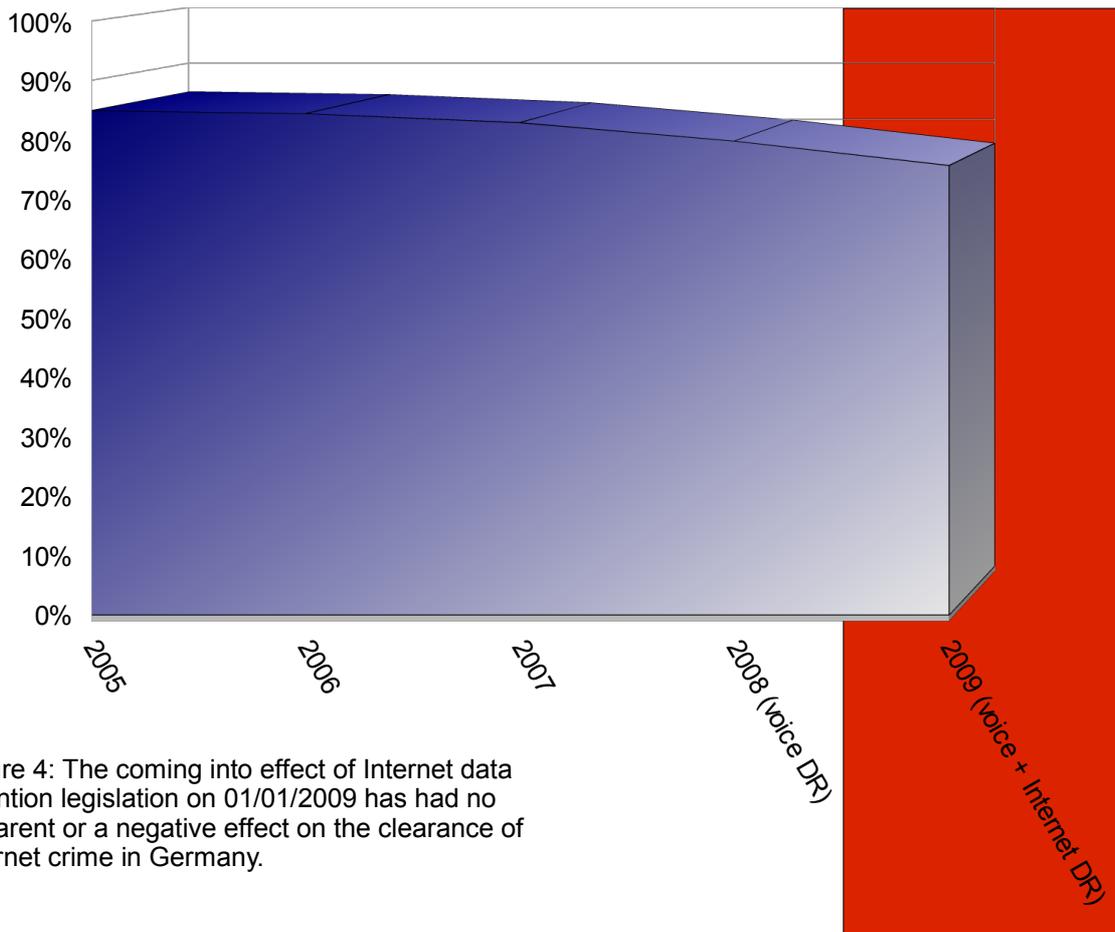


Figure 4: The coming into effect of Internet data retention legislation on 01/01/2009 has had no apparent or a negative effect on the clearance of Internet crime in Germany.

Year	Internet Crime Clearance Rate	Internet Data Retention Policy
2005	84.9%	none
2006	84.4%	none
2007	82.9%	none
2008	79.8%	none
2009	75.7%	Internet data retention
2010	n/a	none as of 02/03/2010

Note: While data retention was in effect in Germany, retained data could be used for the prosecution of serious crime and for the identification of suspects of Internet crime.



## Serious criminal offences, as defined in sect. 100a StPO, in Germany according to police crime statistics

### Introduction

The EU data retention directive 2006/24 requires telecommunications companies to store data about all of their customers' communications in order to facilitate "the investigation, detection and prosecution of serious crime, as defined by each Member State in its national law."

The German Federal Constitutional Court allowed access to retained traffic data only for the investigation and prosecution of serious crime as defined in the wiretapping section of the German code of criminal procedure (sect. 100a StPO). This section encompasses the following types of crime:

**1) Crimes against peace (sect. 80-80a StGB), high treason (sect. 81-82 StGB), endangering the democratic Rule of Law (sect. 84-86, 87-89 StGB), treason and endangering external security (sect. 94-100a StGB)**

Not covered by police statistics.

**2) Bribery of a member of parliament (sect. 108e StGB)**

Only the total of sect. 108e and 331-335 StGB offences was recorded up until 2005.

**3) Crimes against the national defence (sect. 109d-h StGB)**

Not covered by police statistics.

### 4) Crimes against public order (sect. 129-130 StGB)

Statistics cover sect. 130 StGB offences only:

Year	Reg. cases	Clear. quota
2003	2,202	67.9%
2004	2,649	68.9%
2005	2,812	69.8%
2006	3,096	71.3%
2007	3,168	71.4%
2008	3,354	65.6%
2009	3,430	65.6%

### 5) Counterfeiting money and official stamps (sect. 146, 151-152, 152a subject. 3, sect. 152b subject. 1-4 StGB)

Statistics cover total of sect. 146, 147-149, 151-152, 152a subject. 1, 2, 4, 5, sect. 152b subject. 5 StGB offences only:

Year	Reg. cases	Clear. quota
2003	6,068	?
2004	7,760	?
2005	7,873	74.1%
2006	7,923	59.5%
2007	9,087	46.8%
2008	7,560	53.6%
2009	9,531	47.8%



**6) Crimes against sexual self-determination (sect. 176a, 176b, 177 subject. 2 no. 2, sect. 179 subject. 5 no. 2 StGB)**

Statistics cover sect. 176a, 176b, 179 StGB offences only:

Year	Reg. cases	Clear. quota
2003	3,792	93.4%
2004	4,116	93.6%
2005	3,824	94.2%
2006	3,655	93.7%
2007	3,849	93.2%
2008	3,897	92.4%
2009	3,835	91.3%

**7) Dissemination, purchase and possession of pornographic writings involving children and juveniles (sect. 184b subject. 1-3, sect. 184c subject. 3 StGB)**

Statistics cover total of sect. 184b subject. 1-4 StGB only; not registered before 2004 when sections not yet in force; sect. 184c subject. 3 StGB only registered since 2009 and therefore ignored (=11 cases, clear. quota not revealed).

Year	Reg. cases	Clear. quota
2003	?	?
2004	7,395	86.5%
2005	8,382	81.9%
2006	7,442	83.8%
2007	11,704	89.0%
2008	9,585	86.3%
2009	7,069	85.6%

**8) Murder and manslaughter (sect. 211, 212 StGB)**

Statistics cover total of sect. 211, 212, 213, 216 StGB offences only:

Year	Reg. cases	Clear. quota
2003	2,541	95.5%
2004	2,480	96.1%
2005	2,396	95.8%
2006	2,468	95.5%
2007	2,347	96.8%
2008	2,266	97.0%
2009	2,277	95.7%

**9) Crimes against personal liberty (sect. 232-233a, 234-234a, 239a-b StGB)**

Statistics cover total of sect. 232-233a, 234-234a, 235-236, 238, 239a-b, 240-241, 316c StGB offences only:

Year	Reg. cases	Clear. quota
2003	154,894	90.4%
2004	160,956	90.4%
2005	163,414	89.9%
2006	166,282	89.8%
2007	182,219	89.3%
2008	197,987	88.7%
2009	203,048	89.3%

**10) Gang theft and aggravated gang theft (sect. 244 subject. 1 no. 2, sect. 244a StGB)**

Statistics cover sect. 244 subject. 1 no. 3 StGB offences only:

Year	Reg. cases	Clear. quota
2003	123,280	19.6%
2004	124,155	19.5%
2005	109,736	19.6%
2006	106,107	19.3%
2007	109,128	20.0%
2008	108,284	18.1%
2009	113,800	16.9%



### 11) Robbery and extortion (sect. 249, 255 StGB)

Statistics cover sect. 249-252, 255, 316a StGB offences only:

Year	Reg. cases	Clear. quota
2003	59,783	50.0%
2004	59,732	50.8%
2005	54,841	50.9%
2006	53,696	51.5%
2007	52,949	51.5%
2008	49,913	52.8%
2009	49,317	52.6%

### 12) Commercial or gang handling of stolen goods (sect. 260, 260a StGB)

Statistics cover sect. 260 subsection. 1 no. 1, 2, sect. 260a StGB offences only:

Year	Reg. cases	Clear. quota
2003	2,436	100.1%
2004	2,538	99.2%
2005	3,114	98.4%
2006	3,191	98.8%
2007	1,952	97.0%
2008	2,562	96.9%
2009	2,650	97.8%

Note: Clearance rates higher than 100 % can be explained in part by the fact that cases from previous years were cleared up during the period under review.

### 13) Money laundering or concealment of unlawfully acquired assets (sect. 261 subsection. 1, 2, 4 StGB)

Statistics cover sect. 261 StGB offences only:

Year	Reg. cases	Clear. quota
2003	745	96.5%
2004	776	96.6%
2005	2,023	80.8%
2006	2,997	91.8%
2007	3,923	94.9%
2008	2,582	94.0%
2009	4,566	93.8%

### 14) Fraud and computer fraud (sect. 263 subsection. 3 sent. 2, sect. 263 subsection. 5, sect. 263a subsection. 2 StGB)

Total of sect. 263, 263a, 264, 264a, 265, 265a, 265b StGB offences:

Year	Reg. cases	Clear. quota
2003	876,032	79.5%
2004	941,859	81.4%
2005	949,921	83.1%
2006	954,277	83.8%
2007	912,899	83.3%
2008	887,906	81.7%
2009	955,804	81.3%

Sect. 263a StGB offences (except debit card with PIN and telecommunications provider access fraud, which is included in the previous table's statistics):

Year	Reg. cases	Clear. quota
2003	11,388	43.2%
2004	14,186	46.4%
2005	15,875	48.7%
2006	16,211	48.9%
2007	16,274	37.2%
2008	17,006	37.1%
2009	22,963	34.8%



**15) Subsidy fraud (sect. 264 subsection. 2 sent. 2, sect. 264 subsection. 3 in conjunction with sect. 263 subsection. 5 StGB)**

Statistics cover sect. 264 StGB offences only:

Year	Reg. cases	Clear. quota
2003	625	98.2%
2004	657	97.7%
2005	628	99.5%
2006	553	97.1%
2007	847	98.6%
2008	773	98.4%
2009	624	97.9%

**16) Aggravated bankruptcy (sect. 283a sent. 2 StGB)**

Statistics cover sect. 283a StGB offences only:

Year	Reg. cases	Clear. quota
2003	19	94.7%
2004	28	100%
2005	22	90.9%
2006	86	97.7%
2007	10	100%
2008	12	100%
2009	13	100%

**17) Crimes against competition (sect. 298, sect. 299 in conjunction with sect. 300 sent. 2 StGB)**

Year	Reg. cases	Clear. quota
2003	302	95.0%
2004	137	87.6%
2005	155	94.2%
2006	218	96.3%
2007	98	92.9%
2008	166	94.6%
2009	106	96.2%

**18) Endangering of public safety (sect. 306-306c, sect. 307 subsection. 1-3, sect. 308 subsection. 1-3, sect. 309 subsection. 1-4, sect. 310 subsection. 1, sect. 313-314, sect. 315 subsection. 3, sect. 315b subsection. 3, sect. 316a, sect. 316c StGB)**

Arson (statistics cover sect. 306-306d and sect. 306f subsection. 1, 2 StGB offences only):

Year	Reg. cases	Clear. quota
2003	15,450	34.0%
2004	13,104	34.4%
2005	12,636	37.8%
2006	12,381	37.3%
2007	13,100	37.3%
2008	13,916	48.3%
2009	13,523	48.8%

Causing a nuclear explosion (statistics cover sect. 307 StGB offences only):

Year	Reg. cases	Clear. quota
2003	0	n/a
2004	0	n/a
2005	0	n/a
2006	0	n/a
2007	0	n/a
2008	0	n/a
2009	0	n/a

Causing an explosion (statistics cover sect. 308 StGB offences only):

Year	Reg. cases	Clear. quota
2003	339	61.1%
2004	338	55.9%
2005	346	61.0%
2006	350	68.6%
2007	413	55.4%
2008	399	56.6%
2009	457	51.6%



Abuse of ionising radiation (statistics cover sect. 309 StGB offences only):

Year	Reg. cases	Clear. quota
2003	1	0%
2004	2	50%
2005	0	100%
2006	3	0%
2007	1	0%
2008	0	100%
2009	0	100%

Preparing to cause an explosion or radiation offence (statistics cover sect. 310 StGB offences only):

Year	Reg. cases	Clear. quota
2003	16	75.0%
2004	22	86.4%
2005	32	65.6%
2006	24	75.0%
2007	13	76.9%
2008	33	84.8%
2009	29	89.7%

Causing flooding: not covered by statistics.

Causing a common danger by poisoning:

Year	Reg. cases	Clear. quota
2003	22	40.9%
2004	16	50.0%
2005	10	50.0%
2006	8	50.0%
2007	10	40.0%
2008	8	37.5%
2009	7	42.9%

Disruption of rail, ship and air traffic, disruption of road traffic: not covered by statistics.

Attacking a driver for the purpose of committing a robbery:

Year	Reg. cases	Clear. quota
2003	549	53.2%
2004	581	49.1%
2005	493	51.9%
2006	419	52.5%
2007	448	49.1%
2008	393	55.5%
2009	417	51.3%

Attacks on air and maritime traffic:

Year	Reg. cases	Clear. quota
2003	3	66.7%
2004	1	100%
2005	3	0%
2006	1	100%
2007	2	100%
2008	0	100%
2009	0	100%

SUBTOTAL NO. 18:

Year	Reg. cases	Clear. quota
2003	16,380	35.3%
2004	14,064	35.6%
2005	13,520	39.0%
2006	13,186	38.7%
2007	13,987	38.3%
2008	14,747	48.8%
2009	14,433	49.0%

Note: The rise in the clearance quota as of 2008 is mainly due to the clearance of more arson offences.



**19) Taking and offering a bribe (sec. 332, 334 StGB)**

Covered by statistics as of 2006:

Year	Reg. cases	Clear. quota
2003	?	?
2004	?	?
2005	?	?
2006	780	94.2%
2007	824	93.2%
2008	726	90.3%
2009	729	92.4%

**20) Tax evasion, commercial, violent and gang smuggling, handling tax-evaded property (sec. 370 subsec. 3 sent. 2 no. 5, sec. 373, sec. 374 subsec. 2 AO)**

Not covered by statistics.

**21) Pharmaceutical products offences (sec. 95 subsec. 1 no. 2a in conjunction with sec. 95 subsec. 3 sent. 2 no. 2b AMG)**

Statistics cover the total number of AMG offences only:

Year	Reg. cases	Clear. quota
2003	2,292	91.3%
2004	3,816	93.2%
2005	4,708	94.6%
2006	2,316	86.2%
2007	2,397	84.3%
2008	3,376	86.7%
2009	3,583	87.0%

**22) Abusive application for asylum (sec. 84 subsec. 3, sec. 84a AsylVfG)**

Statistics cover sec. 84, 84a, 85 AsylVfG offences only:

Year	Reg. cases	Clear. quota
2003	17,911	99.6%
2004	13,058	100%
2005	9,461	99.3%
2006	5,688	100%
2007	3,507	99.8%
2008	2,590	99.5%
2009	3,665	99.5%

**23) Smuggling of aliens (sec. 96 subsec. 2, sec. 97 AufenthG)**

Statistics cover only sec. 96, 97 AufenthG offences as of 2005:

Year	Reg. cases	Clear. quota
2003	?	?
2004	?	?
2005	5,154	81.9%
2006	3,572	78.8%
2007	3,410	76.4%
2008	2,985	70.6%
2009	3,212	72.2%

**24) Foreign trade and payments offences (sec. 34 subsec. 1-6 AWG)**

Not covered by statistics.



**25) Narcotic and drug offences (sec. 29 subsec. 3 sent. 2 no. 1, sec. 29a, sec. 30 subsec. 1 no. 1, 2, 4, sec. 30a, sec. 30b BtMG)**

Statistics cover sec. 29a subsec. 1 no. 1, 2, sec. 30 subsec. 1 no. 1, 2, sec. 30a StGB offences only:

Year	Reg. cases	Clear. quota
2003	1,895	94.9%
2004	2,059	?
2005	2,180	95.1%
2006	1,941	93.9%
2007	1,797	94.5%
2008	1,846	92.9%
2009	1,865	93.8%

**26) Raw materials suited to make drugs surveillance act offences (sec. 19 subsec. 3 sent. 2 GÜG)**

Not covered by statistics.

**27) War weapons control act offences (sec. 19 subsec. 1-3, sec. 20 subsec. 1-2, sec. 20a subsec. 1-3, sec. 21 KrWaffKontrG)**

Statistics cover total of all KrWaffKontrG offences only:

Year	Reg. cases	Clear. quota
2003	595	85.2%
2004	612	86.4%
2005	563	86.1%
2006	509	87.4%
2007	490	90.4%
2008	466	85.6%
2009	555	85.4%

**28) International criminal code (sec. 6-12 VStGB)**

Not covered by statistics.

**29) Weapons act (sec. 51 subsec. 1-3, sec. 52 subsec. 1 no. 1, 2 c, 2 d, sec. 52 subsec. 5, 6 WaffG)**

Statistics reveal total of WaffG offences only:

Year	Reg. cases	Clear. quota
2003	33,007	94.1%
2004	41,031	94.5%
2005	37,023	94.8%
2006	37,841	94.7%
2007	38,510	94.4%
2008	38,077	94.5%
2009	38,856	93.5%



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### 30. TOTAL

Year	Reg. cases	Clear. quota
2003	1,298,731	74.0%
2004	1,382,118	75.8%
2005	1,381,750	77.6%
2006	1,377,824	78.2%
2007	1,359,102	77.6%
2008	1,340,560	76.5%
2009	1,422,968	76.3%

#### Conclusion

The analysis reveals that data retention, while in force, did not make the prosecution of serious crime any more effective. With data retention in effect, more serious criminal acts (2009: 1,422,968) were registered by police than before (2007: 1,359,102), and serious offences were cleared less often (2009: 76.3%) than before the retention of all communications data (2007: 77.6%).

User avoidance behaviour can explain the counterproductive effects of blanket data retention on the investigation of crime: In order to avoid the recording of sensitive information under a blanket data retention scheme, users begin to employ Internet cafés, wireless Internet access points, anonymization services, public telephones, unregistered mobile telephone cards, non-electronic communications channels and such like. This avoidance behaviour can not only render retained data meaningless but also frustrate more targeted investigation techniques that would otherwise have been available to law enforcement. Blanket data retention can thus be counterproductive to criminal investigations, facilitating some, but rendering many more futile.

A coalition of more than 100 civil liberties, data protection and human rights associations as well as crisis line and emergency call operators, professional associations of journalists, jurists and doctors, trade unions, consumer organisations and industry associations is lobbying the Commission to “propose the repeal of the EU requirements regarding data retention in favour of a system of expedited preservation and targeted collection of traffic data”. They have recently been joined by the German Minister of Justice Sabine Leutheusser-Schnarrenberger who is also advocating an opening of the data retention directive to a targeted investigative approach, involving the collection of data on suspect communications only. The German example proves that such targeted investigations can, overall, be more effective than collecting information on the entire population's contacts, movements and Internet use.

Data source: Police Crime Statistics published by the Federal Crime Agency (BKA).