

Norwegian Bureau for the  
Investigation of Police Affairs



annual report

2010



annual report

# 2010

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## Foreword

**In this annual report, the Bureau presents statistical data. The report will also try to provide further insight into our activities and some of the cases that have been investigated in 2010. The report contains articles on, among other things, the police's use of blunt force, deprivation of liberty and misuse of the police national register data. The Bureau hopes that the articles can provide a basis for reflection and learning for employees within the police force and the prosecuting authority.**

Each year, the Norwegian Bureau for the Investigation of Police Affairs ("Bureau") handles several cases that concern deprivation of liberty and the police

deadline for an arraignment in court is not upheld, in the opinion of the Bureau, this is a very serious issue. We also believe that there may be reason to question whether the police, when a suspect is held in police custody, carry out investigations and appraisals in the tempo that can be expected. Is it, for example, reasonable and proportional that a person shall be held in custody for an extra 24 hours, from Sunday to Monday, because the prosecuting officer that has ordered the arrest is free at the weekend and will first be able to examine the developments in the case after arrest and evaluate the issue of release when he/she returns to work on Monday? It appears to the Bureau that the police's organisation of the work in some cases can have

considers, for its part, the opportunity to contribute to improvements in the police and prosecuting authorities' practices to be an extremely motivating aspect of its work.

In the hearing statements in NOU 2009:12, the overall expression is that the work in respect of investigation of the police and prosecution authorities now has a suitable and confidence-inspiring form. Certain hearing bodies point out that case processing times are too long. The average case processing time has been reduced from 2009 to 2010 and the investigations divisions - at the year change 2010-2011 - have portfolios that are considered to be under control. The Bureau has also received enhanced support in the state budget for 2011. Our aim is to reduce case processing times even further.

One of the Bureau's ongoing tasks is to contribute to increasing the public's trust in the community's ability and willingness to investigate and prosecute crimes committed by employees of the police and prosecuting authorities. Those who are to appraise work or activities should have the broadest possible basis for their assignment. As a trial arrangement in 2011, the Bureau will publish a summary of resolutions passed in all cases that concern police districts under the investigation departments in the Western Norway region. The resolutions, in anonymised form, will be published monthly. Due to capacity issues, it will not be possible to publish summaries of all the resolutions passed in all cases from all the investigation departments.

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use of arrest. In one article in this report, we pose questions about the issue of deprivation of liberty and whether for the police and prosecuting authority, it may become so commonplace that one loses sight of the seriousness of this type of intervention for the arrested person. The decision to place a person in custody based on the suspicion that he/she has committed a criminal offence is an extremely invasive initiative. Employees of the police and the prosecuting authority, in the event of deprivation of liberty, must ensure that they are acting within the framework of the law and applicable guidelines. If a

too great an effect on the duration of a suspect's deprivation of liberty.

The report from the Committee that in 2008 was appointed the task of evaluating the control mechanisms for the police (NOU 2009: 12) was published for initial hearings in 2010. The Committee pointed out, among other things, the importance of establishing police routines that ensure a learning process from cases in which the Bureau has criticised or proposed a review of routines. The hearing bodies, including the police, have fully agreed with the Committee's evaluations on this point. The Bureau

# Organisation and staffing of the Norwegian Bureau for the Investigation of Police Affairs



The Bureau is organised with one level for investigations and another level for senior management and the final decision of prosecutions.

## THE BUREAU IS ORGANISED WITH THREE INVESTIGATION DIVISIONS:

- Investigation division Eastern Norway (located in Hamar and in Oslo)
- Investigation division Western Norway (located in Bergen)
- Investigation division Central Norway and Northern Norway (located in Trondheim)

The Senior Officer of the Bureau, who has the overall responsibility for all the Bureau's enterprises and decides on prosecutions in all cases, is located in Hamar.

The Bureau has 31 permanent employees, of which

16 are investigators. Employees are localised with 16 at Hamar, 4 in Trondheim and 7 in Oslo. In addition to the permanent employees, 11 persons are engaged on assignment and handle processing of criminal cases. These positions are held by 10 lawyers in private practice and a psychologist. All have varied and comprehensive work experience from private and public enterprises. The system of persons on assignment is designed to underline the Bureau's independence and to contribute to openness and trust.

Investigators in the Bureau must have good knowledge of the police organisation and working methods and must be able to conduct themselves with authority and confidence when required. The Bureau's investigators are mainly recruited from positions within the police force. The Bureau also has investigators with alternative professional and

trade backgrounds. The majority of the permanently employed legal professionals in the Bureau have been employed by the prosecution authorities during their careers. The legal professionals' collective experience is, however, varied and also encompasses other positions in state and municipal administrations, private enterprises and work as legal counsel.

The Bureau emphasises professional development among its employees and during 2010 four professional seminars have been held. One topic during seminars has been, among other things, experiential learning based on the Bureau's own cases, tactical investigation management and the investigation of electronic evidence. In addition to the Bureau's own employees and those on assignment there have been lecturers from the Police College, Kripes, Oslo University, the BI Norwegian



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School of Management, Police Federation attorneys and representatives from comparable services in Sweden and the United Kingdom. The Bureau and the Swedish National Bureau for Police Affairs held a joint conference for the first time in May 2010.

Several employees in the Bureau have taken leave of absence during 2010 to participate in courses or to undergo further training.

The objective of the Bureau is that absence due to illness shall be under 4 percent. In 2010 the number was 2.1 percent. This is somewhat lower than in 2009 when absence due to illness was 3.1 percent.

In 2009, the Bureau carried out a survey among employees, concerning psychological and social factors in their work. The results of the survey, that indicated a relatively high degree of job satisfaction among employees, was presented for review by the working environment committee, in which it was decided that a working group would be formed in order to identify three areas to be preserved and three to be amended. The working group presented the results of their work at a seminar in December 2010.



# The Police Operations Centre

**The Operations Centres have important functions in relation to the safety of citizens and preservation of individuals' legal safeguards. The Centre's tasks are, among other things, to lead and coordinate the joint operative actions in the police district and to ensure that all notifications from the public that are received by the Operations Centre are properly received and processed.**

The Norwegian Bureau for the Investigation of Police Affairs has investigated several cases involving Senior Operations Officers and Operators. The Bureau's case portfolio shows that the evaluations and decisions made by the Senior Officers or Operators will be reported relatively often and be subject to investigation. The Bureau's impression is that in many circumstances, this function experiences considerable pressure and the tasks carried out can be extremely difficult.

The Bureau noted a case in 2010, that a Senior Operations Officer, in connection with a police action in which a police officer was hit by a vehicle and killed, had not asked control questions regarding the active police officers' evaluations and intended methods. According to the police's own instructions, the Senior Operations Officer, in many circumstances, has the responsibility for

steering and controlling the operative officers' actions. This applies, among other things, to vehicle pursuits. The Bureau, in several cases, has been of the opinion that the Senior Operations Officers, in situations where the patrols involved are manned by experienced personnel, do not ask control questions and to an excessive degree hand over the control of the action to the patrol officers. One of the intentions of the Senior Operations Officer's function is that evaluations shall be carried out in a somewhat more reflective situation, unaffected by the intensity of a police action. This intention is not fulfilled when, for example, during a vehicle pursuit, the decisions regarding whether to call off the pursuit or not are completely handed over to the crew of a police patrol.

The Bureau has handled several cases concerning Senior Operations Officers' evaluations and deci-

sions in connection with the use of police arrest. In 2010, a Senior Operations Officer was investigated for unlawful deprivation of liberty when two witnesses that had been victims of a kidnapping and serious threats of violence were held in custody before they were to be questioned.

The Senior Operations Officer founded his decision to hold the persons in custody on the fact that his knowledge of the witnesses meant that they otherwise would disappear from the police station. The Bureau meant that placing the two persons in custody was unwarranted. The witnesses' rights were not respected. However, the case was dismissed. Decisive emphasis was placed on the fact that the Senior Operations Officer's objective was to secure evidence in a hectic and demanding situation in which the perpetrator was arrested by the police in an armed action.



The most difficult task for Senior Operations Officers and Operators is to assess the actual need for police action and to prioritise relevant assignments. The public will in some cases experience that the personnel at the Operations Centres are not very accommodating.

A Senior Operations Officer was reported for neglect of duty for not taking seriously a notification of serious threats. The person submitting the report experienced that the Senior Operations Officer did not understand him and the caller was left to cope alone. The person making threats was previously known to the police, for threats, violence and the illegal possession of firearms. The Bureau dismissed the case; however, it asked questions as to whether the Senior Operations Officer had obtained available information and whether

a genuine risk assessment had been undertaken. The person making threats was involved in other criminal acts later that same day and was arrested by the police in an armed action.

Several cases in which Senior Operations Officers or Operators have been investigated, concern their contact with callers from the public in connection with missing persons reports or request for assistance for incapacitated persons. A Senior Operations Officer was investigated in connection with the follow-up of a report of an incapacitated woman. The police district had received a report concerning a missing person from the woman's family earlier that day. The notifications were not correlated. The Bureau pointed out that the Senior Operations Officer was not especially inviting and did not ask any control questions of the caller

regarding the incapacitated woman. No initiatives were implemented by the Senior Operations Officer. The woman was found dead several days later. The Bureau dismissed the case. Emphasis was placed on the fact that due to other ongoing assignments the Senior Operations Officer was in a demanding work situation. Among other things he was responsible for placing in custody and following up a large number of arrested persons.

After this incident the police district revised its routines and drew up standard questions that were asked of all callers reporting persons that may be in need of assistance. The case has been considered to be suitable for national experiential learning.

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# DEPRIVATION OF LIBERTY

## The police's duty of activity when a person is deprived of their liberty

**Depriving a person of their liberty during investigation requires more than that the basic conditions for remanding in custody exist. Deprivation of liberty is an invasive initiative in respect of the individual that places demands on leadership and control. Can deprivation of liberty become so commonplace that it is possible to lose sight of the seriousness of this type of intervention for the arrested person?**

A person that was suspected of robbery was arrested by armed police. He was arrested on a Saturday, five days after the robbery had taken place. The suspicion was largely based on a certain personal likeness between images from a security camera and pictures registered in the police foreigners register. The police attorney explained that he did not thoroughly review the investigation material before the decision to arrest the person was taken. In an interview immediately after the arrest, the suspect denied any knowledge of the robbery and there was no other information that connected him with the incident. It was not documented that any investigative procedures were instigated after the interview. When the police attorney read the interview on Monday, he found it improbable that the arrested person had committed the robbery and ordered him released.

A person was arrested after being caught in the act whilst stealing from his workplace. The arrest took place on a Thursday morning and he was interviewed on Friday morning. He admitted that he had committed theft on a large scale. The prosecution authority decided to hold the suspect in police custody until Monday. When he was arraigned on Monday, four days had passed since his arrest. No investigations had been carried out during the weekend. The police attorney that arraigned the suspect did not inform that the arraignment deadline had expired. Neither was any expiry of the deadline noted in the court journal. After the court had ordered the person to be held in custody, the suspect was taken back to police custody. It is not documented that anyone in the police district during the time the man was held in police custody was in contact with the criminal administration agency, in order to have him transferred to a prison.

These are examples of cases in which the Norwegian Bureau for the Investigation of Police Affairs has evaluated whether the police attorneys involved have committed criminal acts in the execution of their duty, in their decisions to deprive a person of his liberty. The Bureau has not handled many such cases; however, each individual case is serious, as

it concerns the individuals' basic human right to freedom and the authorities' obligation to avoid arbitrary deprivation of liberty. For many years there has been a strong focus within the judicial sector on the use of deprivation of liberty before a legally enforceable judgement exists, among other things as a consequence of international criticism aimed at Norwegian authorities. The European Committee for the Prevention of Torture (CPT), in several of its reports concerning Norway, has been critical of the scope of the use of remanding suspects in custody, police arrest during custody, the length of time spent in custody and restrictions imposed upon those held in custody.

Practice from the European Court of Human Rights shows that arraignment or release four days after arrest is on the very limit of what can be permitted in relation to the European Human Rights Convention article 5 no. 3 pertaining to the right to freedom. When the deadline in the Criminal Procedure Act in regard to arraignments for remanding in custody was extended to three days, it was applied as a basis that a longer arraignment deadline would reduce the need for remanding suspects in custody and reduce the overall time that suspected persons were deprived of their liberty during investigations. A premise was that only in exceptional circumstances would it be necessary to wait with an arraignment of the person until the absolute deadline had expired, see Odelsting Prop. No. 66 (2001-2002). In introducing the change in the law, the Director of Public Prosecutions emphasised that the Chief of Police and the responsible police attorney have a special responsibility to ensure that remanding in custody, arrest and the use of police custody shall only be used in accordance with the legislation and the Director of Public Prosecution's guidelines. This means that, among other things, the extended arraignment deadline shall only be used when it is

necessary in regard to effective investigation, see Director of Public Prosecution's memorandum no. 4/2006. In the memorandum, it is also pointed out that an arrest also invokes a distinct duty to maintain activity in the investigation process.

It must be expected that police attorneys maintain activity and follow the absolute arraignment deadline. Further, it must also be expected that the need to hold persons under arrest from the authorities' side is to be subjected to a real and independent review. The Bureau believes that it is not in accordance with the legislators' premises and the directives from the superior prosecution authority, if

persons are held in custody for several days whilst waiting for prosecution authority assessments. It is applied as a basis that a police attorney, in evaluating the issue of deprivation of liberty, actively considers the proportionality, including the need and opportunity for investigation during deprivation of liberty. The regulations pertaining to police working hours or the resource situation in general may be a reason why, for example, that investigations are not carried out on Saturdays and Sundays. However, according to

the Criminal Procedure Act, when the prosecution authority during investigation decides to use its authority to deprive someone of their liberty, a specific evaluation of how the time that the suspect is in custody will be employed shall be carried out.

In the police custody regulations § 3-1, it has been determined that the prisoner, within two days of arrest shall be transferred from police custody to a prison, unless this is impossible for practical reasons. If the transfer takes place after this stipulated time, the reason shall be noted in the arrest journal. The Bureau has handled several cases in which it has been submitted that transfer has not taken place at all or has taken place too late. A reference to such a case is made on page 24.

*Arraignment or release four days after arrest is on the very limit of what can be permitted in relation to the European Human Rights convention.*



# Misuse of REGISTER DATA

The Norwegian Bureau for the Investigation of Police Affairs regularly handles reports with allegations that employees in the police and prosecution authorities have unlawfully passed on information obtained from the police registers. During the investigation of this type of allegation, the Bureau can obtain information from the register managers, concerning the person's use of the registers. Unfortunately, it has been shown that it is far from uncommon that suspects have accessed the registers and searched for information, without proper professional grounds to do so.

**As recent examples, we refer to two cases that were determined in 2010:**

In one case, a woman who had had a brief relationship with a police officer, reported the officer for passing on information obtained from the police register to a third party outside of the police service. The information that was obtained concerning the police officer's use of the register indicated that he had searched the register, looking for information about the woman. He had also searched for information concerning another person that he knew had had a relationship with the same woman.

Based on the result of the subsequent investigation it was not found to be proven that the police officer had breached his duty of confidentiality. In his statement, he claimed that the woman had acted strangely and caused a nuisance and that he had the need for more information. The Bureau regarded the use of the registers as censurable; however, it was not found to be so serious as to

warrant sanctions for having been negligent in his duty as an officer. The woman appealed against the Bureau's decision to the Director of Public Prosecutions, who agreed with the criticism of the use of the police registers and also agreed that the threshold for a criminal act had not been reached.

In the other case, a police district had employed a person on work experience via NAV (Norwegian Employment Service). The person worked with archiving, copying and secretarial assignments and in the course of her work had access to the criminal records register and the police case handling system (BL). The person was reported for having passed on information that was subject to a duty of confidentiality, to family and friends. The Bureau's investigations confirmed that this person, without proper reason, had searched data concerning a number of persons in the police registers. However, it was not considered to be proven beyond a reasonable doubt that she had passed on information that was subject to a duty of confidentiality. Also, the Bureau did not find in this case that the misuse of access to the registers was a criminal act. The Bureau found that adequate instruction had not been given by the police district and that it was first after the misuse was uncovered that the person was requested to sign a declaration of a duty of confidence.

Central and local instructions for the various registers currently regulate the right of access to information, to matters in which there is a professional basis for obtaining information. Legislation has been supplemented by regulations in the Police Registers Act in 2010 that have not yet come into force. In accordance with the Police Registers Act

§ 21, police officers and the public prosecuting authority may be granted access to information, insofar as this is required in exercising their professional duty and it is for purposes as defined in the law. Based on the current regulations there is no doubt that the registers must not be used for private purposes.

The legislators, in passing the Police Registers Act have determined that there shall be no limitations on the exchange of information internally within the police service. Among other things, this is out of consideration for the effective fight against crime; it is considered to be necessary for employees to be able to access register data. The legislators' decision must clearly be able to be seen as an expression of great faith that police officers will act correctly in their use of the information. The consequences of misuse will mean that restrictions may need to be applied that will weaken the effectiveness of police work.

The Bureau's understanding is that within the police service, there may be a need to underline the restrictions that actually apply to the use of the registers. Certain employees, based on the training they have been given, may have formed a wrong impression as to how the registers may be used. Several employees, in interviews with the Bureau, have stated that they have been informed by instructors to use the registers to search for persons that they already know, in order to gain experience in the use of the registers and to gain knowledge of the search possibilities in the system. The claim that this type of poor advice has been given has been confirmed to the Bureau by police officers at a high level.



# THE USE OF BLUNT PHYSICAL FORCE BY THE POLICE

**According to the Police Act § 6, the police have the right to use force during the execution of their duty, when it is necessary and defensible to do so. The use of force must also be proportional. Based on regulations legal practice and judicial theory, it is clear that the use of blunt force by the police is limited. Blunt force is, in principle, only to be used in self-defence or in the most extreme situations.**

Auglend et. al. write in the book "Police Law" on page 435 the following concerning the use of blows as forcible means: "The police officer's physical force may manifest itself in many forms, from the gentlest pressure via physical removal by carrying or forcible removal or marching, to breaking down resistance using raw muscle power, if necessary through the use of blunt force. The latter, as a rule, is only permitted in an emergency situation..."

Weapons instructions have rules concerning the use of blows from a baton. Blows must only be used in especially dangerous situations or when action cannot be taken without the police officer being exposed to injury. Blows must not be aimed at the head. The Bureau has handled several cases in which the police have been reported for unlawful use of force, for having struck persons about the head. The cases concern different situations, blows struck by the police in self-defence (emergency situation), blows as a form of forcible means

on a person that has not responded to other forms of force, blows that were designed to waken/distract a person and blows struck as a response to other types of provocation than blunt force.

The Bureau, in several cases concerning blows struck about the head, has believed that there has been a basis for imposing sanctions. Despite the fact that in some cases the courts have not found that the use of physical force was improper and sanctionable, the use of physical blows has not, in any case, been regarded as legitimate. The courts' acquittals thus do not change the principle that blows must only be used in the most extreme situations. From recent Supreme Court practice that applies to blows in arrest situations, reference is made to Supreme Court Journals 2007 page 1172 and page 1473.

Physical blows as a response to foregoing provocation, in the light of the police's demands for professionalism and self-control, will not be con-

sidered to be legitimate, cf. police instructions § 5-2. If the provocation is serious enough and the blow is of less force it is, however, not certain that this will be a basis for imposing sanctions on the person concerned. In 2008, the Bureau dismissed a report against a police officer that had slapped a 15 year old girl in the face. The slap was the immediate response after the girl had spat in the officer's face. In the evaluation of the case, reference was made to the Supreme Court decision in Supreme Court Journals 1992, page 1283, in which it is stated that: "The guilty party can, in my view, be criticised for his actions. However, one must also, when it concerns a police officer on duty give a certain amount – albeit very limited – of leeway for a human reaction to a serious provocation. In such case this must apply when the response to a provocation is not of a more violent character than in this particular case". The Director of Public Prosecutions upheld the Bureau's resolution; however it also stated, among other things, the following: "Slapping, spitting and other similar conduct



by a police officer as a reaction to being spat upon in the face is unacceptable and censurable. Such actions are in conflict with the police instructions § 5-2, concerning the police officers conduct on duty...". The Director of Public Prosecutions pointed out that despite the fact that an action that is otherwise sanctionable may be rendered non-punishable, by warrant of the Penal Code § 228, section 3, the action is not lawful.

In 2010, the Bureau has conditionally withdrawn a case against a police officer that, with an open hand, struck a young man across the face. The blow was considered to be an immediate reaction to the actions of the man – he had refused to obey an order from the police and demonstratively blew cigarette smoke into the police officers face. The Bureau's assessment is that having cigarette smoke blown in one's face as a provocation cannot be put on a par with being spat upon.

In 2010, the Bureau has dismissed a case, with ref-

erence to the Penal Code § 228, section 3, in which a blow was struck on the head of a person. In this case the foregoing provocation was that the police officer was spat upon and the spit went into the officer's mouth.

Some police officers, in interviews with the Bureau have explained the use of blows in connection with arrest situations, done in order to distract, or for example to create a moment of confusion, which makes it easier to put an otherwise uncooperative person in handcuffs. The Bureau, in one case, posed the question to the Police College whether this is a method that has been assessed there, and one that is actually taught at the College. The Police College has stated that the use of force to create a distraction/shock effect is not a part of their training in arrest techniques.

Physical blows, especially those aimed at the head, are methods that are higher up on the force scale. A police force that uses physical blows in situa-

tions that could have been resolved using less extreme intervention will run the risk of losing the faith of the public. It is therefore important that the strict standards that are set at the Police College also lead the way for what is acceptable in practical service.

One element in the assessment of what is acceptable without being sanctionable, is of course the professionalization that is steadily taking place in the police force in general. There is hardly any doubt that today, there are strict standards expected of a police officer's ability to handle difficult tasks without losing self-control.

In 2010, the Bureau has sent several cases that concern the use of physical blows to administrative evaluation in the police district. An overview of these can be found on the The Norwegian Bureau for the Investigation of Police Affairs website: [www.spesialenheten.no](http://www.spesialenheten.no)

# Politimann sex-sjikaner

## Sexual involvement between police officers and parties in criminal cases

Employees in the police force will, in many circumstances, come into close contact with, and act alone, in relation to persons that are in vulnerable situations. In the Norwegian Bureau for the Investigation of Police Affairs' case portfolio, there are several examples that employees in the police have exploited or sought to exploit their position of trust for sexual purposes. This type of exploitation of the officer's position can be extremely damaging to the persons involved and is clearly conduct that will break down the general faith in the police. The security of evidence in criminal cases can also be compromised in such situations.

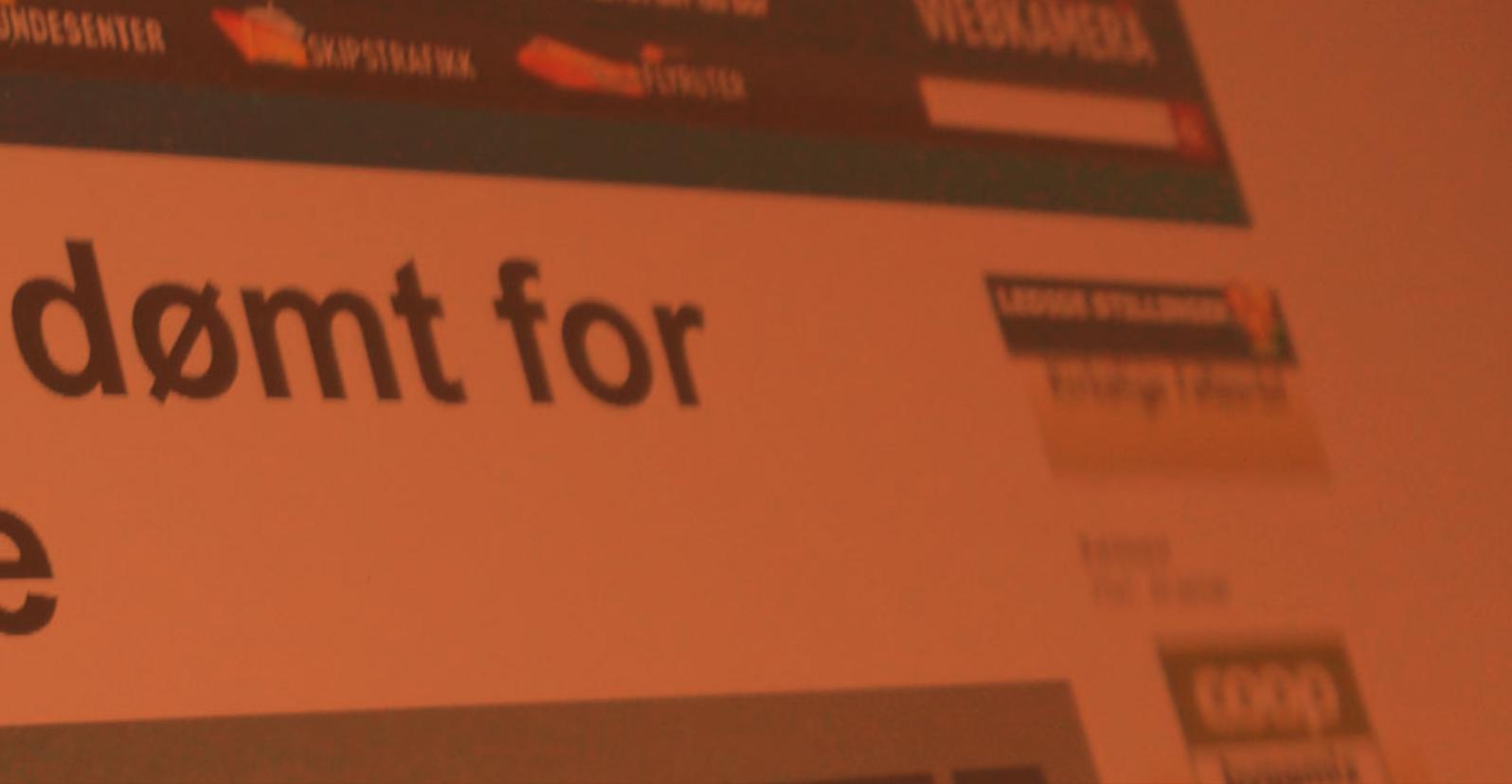
If a police officer develops a personal and intimate relationship with a party in a criminal case, he must immediately notify his superiors of the matter. A police officer who fails to inform of the relationship, in addition to weakening the police's work in a criminal case, may also incur criminal liability. In 2005, the Bureau imposed a fine on a police officer for having shown gross negligence in the performance of his duty, because he did not inform his superiors that while he was an investigator in a family abuse case, he had had a sexual relationship with the aggrieved in the case. No indictment had been issued in the family abuse case and the case was dismissed by the prosecuting authority. When the Bureau's case against the police officer was heard by the District Court, the Court's evaluation was that he had acted imprudently; however, his conduct could not be considered to be gross negligence. He was therefore acquitted.

The acquittal was appealed against to the Appeal Court and the Appeal Court stated in the premises for its judgement that the police officer, due to his relationship with the party, was disqualified in regard to the family abuse case and that he had not maintained his duty to report in accordance with standard police instructions § 7-6. The majority in the Appeal Court found, in common with the District Court that he had acted improperly, but that his failure to notify his superiors could not be considered to be a case of gross negligence. A minority of two felt that the conditions for invoking sanctions were present.

In 2009, a police officer was indicted by the Bureau for several criminal violations. One of the items in the indictment related to gross negligence in the performance of his duty, in that as an investigator he had failed to notify his superiors that he had

started a sexual relationship with the aggrieved in an assault case. In this particular case an indictment had been issued and the police officer had given a statement in the Appeal Court, without informing of his relationship with the aggrieved. The District Court concluded in this case that this was a case of gross negligence. In the premises for the judgement, reference was made to the fact that the relationship was of an extensive character and that the police officer himself had initiated the relationship. The police officer's appeal to the Appeal Court in respect of this specific item was rejected.

A common feature of some cases in which a position of trust has been attempted to be exploited for sexual purposes is that the police officers have held positions of special trust and special competence within a professional area.



In 2008, a police officer was, among other things, indicted for sexually offensive conduct in regard to a young girl and for having abused his position. The police officer, who had the task of promoting preventive initiatives and investigations of young persons under 18 years old, sent offensive text messages to a girl aged 16, in which he invited to sexual contact. In the District Court, the police officer was sentenced to a 45 day suspended jail term and was deprived of the right to hold a position in the police force for all time. The judgement is legally binding.

A police officer with special competence in sexual crimes who was the contact person for this professional area in his police district, was in 2009 in-

dicted by the Bureau for among other things, in relation to 5 aggrieved parties, having procured sexual favours by abusing his position, dependent relationship or position of trust, and in relation to 3 aggrieved parties, in the same manner, attempting to procure sexual favours. The indictment also encompassed violations of the Penal Code's regulations concerning rape, sexually offensive conduct and gross negligence in the performance of duty. In the District Court, the police officer was largely found guilty in accordance with the indictment, and sentenced to a prison term of 4 years. He was also deprived of the right to hold a position in the police force for all time. The case is due to be heard by the Appeal Court in 2011.

In the autumn of 2010, a police officer who worked with preventive policing and among other things had the task of offering guidance and warning parents and young people about the dangers of the internet was indicted by the Bureau for, on several occasions, procuring sexual favours by abusing his position, dependent relationship or position of trust. He was also indicted for sexually offensive behaviour, for having been in possession of child pornography and for on 9 different occasions having conducted himself in a manner that was likely to bring his position as a police officer into disrepute. Several of the indictment items concerned the police officer's conduct on the internet, where via the use of fictitious identities, among other things has enticed young girls to communicate about sexual matters and invited contact. The main hearing in the District Court is scheduled in May 2011.

Despite the fact that these cases are spread over several years and in relation to the total scope of the police's activities are relatively few, the Bureau's assessment is that they clearly illustrate that on recruitment to special and trusted positions in the police it is important to ensure that the motives for applying or remaining in the specific role are the correct ones.



*A common feature of some cases in which positions of trust have been exploited for sexual purposes is that the police officers have held special positions of trust and have held special competence within a professional area.*

# The duty to register crime reports



**Each year, The Norwegian Bureau for the Investigation of Police Affairs receives reports from persons claiming that the police do not register crime reports. Some of these reports come from persons that submit a great deal of crime reports to the police. Several of these persons also submit a great number of reports each year to the Bureau. As an illustration, one person, during a period of two years, is registered as submitting 22 reports to the Bureau. Several of these concern complaints that the police have not registered his crime reports.**

The prosecution instructions § 7-1 determine that every report shall be registered in accordance with applicable rules. Performance of duty in breach of these guidelines, according to circumstances, may lead to criminal liability for a breach of duty or serious professional negligence. Legal practice shows that the matter must be very serious before sanctions are relevant according to these regulations. Even though there is no basis for criminal liability, in several of these cases, the Bureau has pointed out that the police district cannot refrain from registering, evaluating and taking decisions regarding reports from individual persons. In one complaint the Director of Public Prosecutions has stated the following:

“The Director of Public Prosecutions applies as a basis that the police district has adequate routines for registering crime reports. In common with the Bureau, the Director of Public Prosecutions is of the opinion that despite the fact that over the years A has submitted an extreme number of crime reports, supplementary information etc., the police cannot refrain from registering the crime reports he submits. If the police are of the opinion that A’s communications via e-mail do not fulfil the requirements that can stipulated for crime reports, he should be specifically notified of this fact”

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*In common with the Bureau, the Director of Public Prosecutions is of the opinion that despite the fact that over the years A has submitted an extreme number of crime reports, supplementary information etc., the police cannot refrain from registering the crime reports he submits.*



# The Norwegian Bureau for the Investigation of Police Affairs' engagement in international cooperation



## 1. Nordic Cooperation

### Norwegian-Swedish conference on police affairs

The Swedish National Police-Related Crimes Unit" is the name of the agency in Sweden that has the task of investigating and evaluating the prosecution of cases involving employees of the police and prosecuting authorities. (A further presentation of the unit is contained in the Bureau's annual report for 2009).

The Norwegian Bureau for the Investigation of Police Affairs and the Swedish National Bureau for Police Affairs held a joint conference for the first time in May 2010 for their employees. The main objective of the conference was to exchange experiences and information about their areas of work. Social conditions and legislation in Norway and Sweden are alike. The activities of the two agencies therefore face comparable challenges, both in respect of investigative and legislative issues. The Swedish National Bureau also has similar challenges to face to those of the Norwegian Bureau in regard to establishing a good dialogue with the public.

The Swedish National Bureau and the Norwegian Bureau will to continue their cooperation and also wish to hold joint meetings in the future at which representatives for other Nordic countries' agencies also participate.

There are various reasons why employees in the police and the prosecution authorities commit crimes in performance of their duty. The lectures during the first Scandinavian conference provided an insight into strategies for analysis and understanding of the risks and how to prevent undesirable incidents.

### Attrition within the police

Professor Liv Finstad of the Institute of Criminology at Oslo University gave an account of an survey

carried out among operative police personnel in two larger Norwegian cities and three rural police districts. Finstad described factors that can lead to stress and 'wear and tear' on police officers. Strategies that can prevent stress were also discussed. Finstad raised, among other things, the issue of whether it is possible to predict which police officers may commit crimes in the course of the performance of their duties or in some other way will show negative development in service.

### Threats to the police

A representative for the Serious Organised Crime Agency (SOCA), London, U.K. underlined the importance of taking the possibility of corruption among employees in the police force seriously. Corrupt police officers are a special threat as they have knowledge of the investigative methods and have access to police databases and registers. For criminal organisations, police information is of great interest. Leaks of police information must therefore be taken seriously and treated either as disciplinary matters or as corruption. The importance of analysis of factors that lead to a police officer becoming corrupt were highlighted. Based on experience, it appears that social relationships in local environments and loyalty to family and friends are often of greater significance than money when a police officer allows himself to be corrupted. Organised criminal groups will often possess the resources and influence that are required to put pressure on police officers.

### Force Vetting

An employee from Hampshire Constabulary HQ gave a presentation of the British concept known as "force vetting", which is a tool used to minimise internal risks and to ensure the public's faith in the police force. "Force vetting" involves processes in which employees of the police (both civil employees and police officers) are cleared before being given access to sensitive information. It was pointed out that "force vetting" should be a

dynamic and continual process. This means that the issue of the employees' suitability must be regularly assessed. "Force vetting" is also reviewed in the Bureau's annual report for 2009.

## 2. European Partners Against Corruption (EPAC)

Since 2006, the Bureau has participated in the organisation European Partners Against Corruption (EPAC). In 2010, the Bureau has participated in a working group that is developing proposals for a common European standard for "police oversight principles". EPAC is a primus motor for the further development of EMD's standards for the independent investigation of cases in which employees in the police services are accused of committing criminal acts in the performance of their duty.

The Bureau participated in this year's EPAC conference, which this year was held in Romania in November 2010. The theme during the conference was among other things the danger that organised criminals represent in regard to corruption, and corruption as a threat to nations' internal security. Other themes discussed were the challenges faced in achieving a sound community dialogue and how to address the media in regard to police cases and corruption cases.

## 3. Other international activities

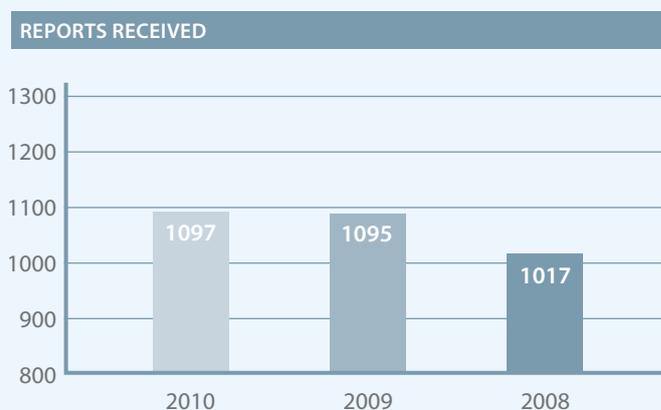
In May 2010, a representative for the Bureau held a lecture at a Portuguese conference about the fight against organised crime. In accordance with the wishes of the arrangers, in the Bureau's lecture, emphasis was placed on informing of the nature of the work carried out and working methods, with special focus on the cooperation between investigators and legal professionals.

# Statistics

## Case processing times and reports received

The Norwegian Bureau for the Investigation of Police Affairs has an average case processing time of 177 days for cases determined in 2010. This is a reduction in relation to 2009, when the case processing time was 214 days. The goal of the Bureau is that the average time shall not exceed 150 days.

In 2010, the Bureau has registered 1097 new reports. During the same period, 1352 reports have been concluded (951 cases). The reason that the number of concluded reports is higher than the number of received reports is that several cases are duplicated during the case processing. A case is duplicated if the criminal offence involves several penal provisions. Certain cases are first duplicated when they reach the prosecution stage. This means that the number of cases going to prosecution increases in the year that the decision is made. In respect of the number of cases received, this will influence numbers in the year that the original case is registered, i.e. in certain cases, the previous year.



TEMA	2010	2009	2008
Case processing from receipt of case until prosecution decision is made	177 days	214 days	153 days
Cases received	833 cases	829 cases	799 cases
Reports received	1097 reports	1095 reports	1017 reports
Concluded cases	951 cases	923 cases	805 cases
Concluded reports	1352 reports	1377 reports	1367 reports
Decision to prosecute (indictment, charge, optional penalty writ, waiver of prosecution)	49 reports	71 reports	91 reports
Appeals to the Director of Public Prosecutions	145 cases	120 cases	126 cases

## 35 % of cases dismissed without investigation

The objective of investigation is to obtain the necessary information in order to determine the question of whether the case shall lead to indictment and to serve as preparation for the case if it should go to court. The question as to whether investigation is to be initiated is one of overall appraisal. In the appraisal, emphasis is placed on things such as probability and objectivity. The Bureau's practice is to maintain a low threshold for initiating investigation. Many reports are evaluated as having too little substance, such that there are no reasonable grounds to initiate an investigation. The reasons for this are many; some of those reporting incidents believe that an action carried out by the police is an offence, even if according to law it is a fully legitimate one.

The Bureau also receives some reports in which the person reporting the incident plainly has the motive of obstructing the police work in an ongoing investigation. A number of reports are clearly frivolous or without foundation. From the statistics for 2010, it appears that 35% of reports are dismissed as there are no reasonable grounds to warrant the initiation of an investigation. In 2009 this figure was 32%. The fact that a case is dismissed on these grounds does not mean, however, that the matter has not been thoroughly appraised. In the majority of cases, case documents from the reporter's criminal case in the police have been reviewed ("mirror case").

In many cases, in addition to conducting a review of the crime report, the person submitting the report has been asked to provide a fuller account of the matter. Even in cases where investigation is not initiated, an underlying argument for the decision is given.



*"The Bureau must decide each case in accordance with the principles for good prosecution practice."*

## Percentage of cases resulting in fines or indictment

A certain amount of criticism has been aimed at the Bureau, with the assertion that too few cases lead to criminal sanctions. In this respect, it is important to point out that the Bureau's task is to investigate and evaluate cases in regard to prosecution, in accordance with the relevant framework of legislation and legal practice. Legislation provides the police with broad authority, and legislators, in several areas, have set a relatively high threshold for concluding criminal liability. Legal practice has also determined that the police shall be given a relatively broad framework when the issue of punishment in connection with the lawful performance of duty is evaluated. Among other things, emphasis is placed on the fact that the police often have a duty to intervene in unclear and difficult situations. The Bureau has to determine each individual case in accordance with the principles of sound prosecution practice. This means, among other things, that reasonable doubt concerning actual circumstances that are of importance for the criminality of the Bureau's cases – just as in other criminal cases – shall favour the suspect.

An indictment shall not be issued unless there is confidence that criminal liability exists and there is a belief that this can be proved in court. Of 1352 processed reports in 2010, 49 led to positive prosecution decisions in the form of optional penalty writ, indictment, charge or waiver of prosecution. In 2010, in total there were 19 persons or corporate entities that had fine imposed, were indicted or charged. A further review of cases that led to positive prosecutions is found on pages 20 and 21.

# Statistics

## Case processing

In the preliminary process of setting up the Bureau, it was a premise that the case processing within the unit should be carried out at two levels and that the Director of the Bureau should not participate or provide detailed guidance for the investigation division's work. When a case is considered to be adequately prepared, the investigation department issues a written proposal on the question to prosecute or not. The decision is drafted by a permanently employed legal professional or an assigned attorney. All decisions and resolutions within the Bureau are given underlying reasons. Stating the underlying grounds of course requires a great deal of resources; however, this provides valuable information to the reporter and the person being reported. The Bureau's reasons will in some cases provide guidelines for the police in areas in which there may be a need to correct routines/practices.

In some decisions, the Bureau criticises certain actions taken by police or the prosecuting authorities, even though the conclusion is that no criminal liability exists. An open and accessible investigation and decision-making process is important in order to fulfil Norway's obligations in respect of the European Convention on Human Rights. The Council of Europe's

Human Rights Commissioner has highlighted the Bureau's substantiated prosecution decisions as an example of sound legal practice.

The Bureau has the right to use all lawful investigation methods. Gathering of evidence in the Bureau's cases takes place first and foremost via interviews with the reporter of the crime, witnesses and the suspect. In the majority of cases that are sent to the Bureau, the person reporting the case is already a party in a criminal case with the police. "Mirror case" is a term that is used on the police case documents in the criminal case against the reporter and is normally obtained if a "mirror case" of this type exists. The Director of Public Prosecutions is the superior instance to the Bureau and can impose the initiation, implementation and suspension of an investigation. The Director of Public Prosecutions also processes appeals against decisions made by the Bureau.

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*In some resolutions, the Bureau criticises certain actions taken by police or the prosecuting authorities, even though the conclusion is that no criminal liability exists.*

## Who reported cases in 2010?

The overview shows categories of those submitting reports in cases that have been decided in 2010. The overview also includes cases in which the Bureau has started an obligatory investigation (serious injury or death). In

these cases the police district is listed as the reporter. The majority of reports are submitted by the aggrieved party. 77% of reporters in prosecution cases are men, 23% are women.

WHO REPORTED?	NO. OF REPORTERS 2010	%	NO. OF REPORTERS 2009	%	NO. OF REPORTERS 2008	%
The Bureau's own initiative	4	1	15	2	9	1
Police district	95	13	136	14	79	9
Aggrieved party	541	73	655	70	617	75
Aggrieved party's lawyer	79	11	100	11	90	11
Others	25	3	30	3	30	4
<b>Total</b>	<b>744</b>		<b>936</b>		<b>825</b>	

## Who was reported in 2010?

The overview shows positions categorised and (partial) origins within the departments for persons in cases that have been decided upon by the Bureau in 2010. 73% of cases concerned policemen/women, 24% a police district

and those employed by the prosecution services and 2% civilian employees within the police.

WHO WAS REPORTED?	NO. REPORTED 2010	%	NO. REPORTED 2009	%	NO. REPORTED 2008	%
Policemen/women	733	62	980	72	1013	77
Police attorneys	134	11	128	9	116	9
Public prosecutors	25	2	14	1	23	2
The Director General of Public Prosecution	5	0	5	0	5	0
Civilians working with the police	18	2	18	1	15	1
Others (including enterprises and Chiefs of Police)	259	22	216	16	143	11
<b>Total</b>	<b>1174</b>		<b>1361</b>		<b>1315</b>	

## Summary of registered cases in 2010

It is important to point out that the type of case in the table is based on the reporter's preconception of the type of criminal act that has taken place. When

the cases are finally investigated, the code for the type of case may be amended, based on the prosecution decision.

TYPE OF CASE	NO. 2010	NO. 2009	NOTES
Unlawful use of force	88	75	
Unlawful deprivation of liberty	22	24	
Unlawful search	14	19	
Breach of confidentiality	50	57	
Falsifying information	24	32	E.g. submitting a false report, false statement, false report of criminal act
Drug violations	0	6	
Sexual offences	14	19	
Theft etc.	25	18	
Gross lack of judgement in the course of duty	329	310	Several cases here will also apply to unlawful use of force
Improper conduct	44	42	
Dereliction of duty	71	56	
Traffic violations	30	25	

# Decisions to prosecute in 2010

Below is an overview of cases that in 2010 have been determined by the Norwegian Bureau for the Investigation of Police Affairs and a penal sanction where imposed. The overview details indictments, waiver of prosecution and fines (optional penalty writ). Cases with positive prosecution decisions that have been processed by the courts in 2010 are also referenced in the overview of court cases, see page 27.

## INDICTMENTS

- A police officer was indicted for a violation of the Penal Code section 132 (a) for, in connection with a traffic control, having acted unlawfully by repeatedly requesting the police officers from the traffic division, who had stopped him, to state that he had driven at a lower speed than had been measured. This was so that he would receive a lesser punishment. The police officer was in addition indicted for certain other violations committed off duty, including a violation of the Penal Code section 227 for having threatened his partner. The person, by a judgement passed at Ofoten District Court of June 2010, was largely found guilty in accordance with the Bureau's indictment. The sentence imposed was 90 days, suspended for 2 years. He was deprived of the right to hold the position of police officer for all time. The judgement is final and legally enforceable.

- On the 26th January 2010, a police officer was indicted for serious corruption. From the autumn of 2007 until December 2008 he was the executive officer in a Court of Enforcement case in which a person (A), in connection with the sale of a commercial enterprise, had petitioned for the enforced sale of bonds. During the same period, the police officer worked on an assignment for A by promoting A's interests in a dispute that formed the foundation of A's petition. For doing so, the police officer received financial remuneration from A. On 11th June 2010, Brønnøy District Court acquitted the police officer. The majority of the Court (lay judges) found that the police officer had acted censurably; however he had not acted in a manner that it could be regarded as corruption in the eyes of the law. The Court chairman found that it had been proven beyond a reasonable doubt that the police officer had conducted himself in a corrupt manner and that as a highly experienced police officer he must have understood that the remuneration he received from A and the services he performed for A in this connection were improper. The Bureau appealed against the judgement. The

appeal hearing is to take place at Hålogaland Appeal Court in February 2011.

- In September 2010, a police officer responsible for preventive work among young persons, including the safe use of the internet, was indicted for 3 violations of the Penal Code section 193, for having abused a position of trust to procure sexual relations with two young girls. The police officer is also indicted for, in respect of one of the girls, for having abused a position of trust to exploit the girl for sexual purposes by allowing her to repay debts by performing sexual acts (Penal Code section 224). The indictment also encompassed two incidents of the possession of images and film that depict sexual assault on children or that sexualise children (Penal Code section 204 (a) section 1 (a)). Further, the officer is also indicted for several sexually offensive acts on girls on the internet. Ten different grounds in the indictment concern the Penal Code section 325 no. 5 and the police officer's contact with young girls via various internet communities. He claimed to several of the girls that he was a girl of a similar age. Indictments were also issued for two violations of the Penal Code section 325 no. 1, pertaining to serious dereliction of duty. The main hearing in this case is scheduled for May 2011.

## OPTIONAL PENALTY WRIT

### *Serious neglect of duty*

- A police officer was fined NOK 10 000 imposed for serious neglect of duty. He received, during the course of his work, a distraint order against his partner; he failed to register the case and ensure further processing. The fact that no losses were incurred by the creditor is considered to be a coincidence that the police officer did not have control of. The fine has been accepted.

### *Frightening behaviour*

- A police officer was fined NOK 7 500 imposed for a violation of the Penal Code section 390 (a) and section 325 no. 5. The police officer had con-

cluded an assignment during which he had used a weapon, and was in a changing area that the police shared with other public services. He aimed his service pistol at a person that he believed was a colleague and that came in from another changing room. In addition to the fact that the incident was frightening for the other person, the Bureau found that the officer's conduct was liable to weaken faith in the police service. His conduct represented a serious deviation from responsible handling of police service weapons. The fine has been accepted.

### *Breach of official duty*

- A police officer fined NOK 7 000 imposed for a violation of the Penal Code section 324, for having inappropriately used his authority as a police officer to investigate the theft of his own mobile telephone. He searched, among other things, the police registers and used his police warrant card when he went to ask questions of the assumed perpetrator's employer. The investigation was carried out partially outside of his local and professional area. The Bureau's investigation uncovered issues that led to the case being sent to administrative evaluation. The fine has been accepted.

### *Breach of duty of confidentiality*

- A police officer was fined NOK 10 000 imposed for a breach of confidentiality. The police district received a tip-off that a named person was involved in the illegal sale of alcohol. The tip-off was entered into the intelligence computer system Indicia. A short time later, it became known that the man the tip-off concerned was the son-in-law of a police officer in the police district. The police officer was notified of the situation and chose to confront his son-in-law with the information. The police officer acknowledged during questioning that he had notified his son-in-law that the police had information that he had ordered illegal alcohol. The relevant information was protected by the duty of confidentiality both according to the Police Act section 24 and the Criminal Procedure Act section 61 (a). The fine has been accepted.



#### *Assault – use of a police dog*

- A police officer was fined for assault and for serious neglect of duty in connection with an arrest in February 2010. He led his police dog, which was on a leash, towards a person and allowed the dog to bite the person on the right thigh. Two other police officers had already control of the arrested person when the dog was brought in. The optional penalty writ was not accepted. North Troms District Court, in a judgement passed on 12th October 2010, found that the accused had overstepped the boundary in respect of the lawful use of force according to the Police Act section 6 and the Penal Code section 48 section 3. In the view of the Court, no situation existed that indicated that such serious force was required. The accused was ordered to pay a fine of NOK 10 000 and case costs in the sum of NOK 5 000. The judgement is legally binding.

#### *Irresponsible behaviour involving firearms and ammunition*

- A police officer responsible for police students during their practical experience year carried out a shooting exercise, in which the students were to aim shots with a revolver at another person. He obtained revolvers and ammunition to use during the exercise. In order to ensure that the revolvers cannot shoot live ammunition, in accordance with the manufacturer's safety regulations, a safety spring must be inserted in the revolver barrel. He neglected to use the prescribed safety equipment and did not check the ammunition that was handed out to the students. After the students had started to load their revolvers, it was discovered that the ammunition that had been handed out was a mixture of blanks and live ammunition. The police officer had a fine of NOK 10 000 imposed for a violation of the Penal Code section 352, section 1, pertaining to irresponsible behaviour involving firearms etc. The fine

has been accepted. The case was sent to the police district for a review of the routines for the storage and use of firearms and ammunition.

#### **CORPORATE PENALTY**

##### *Unlawful deprivation of liberty*

- Sør-Trøndelag Police District, as a corporate entity, was fined NOK 50 000 imposed for serious neglect of duty. A person that had been ordered to be released by the prosecution authority on 1st December 2009 at approximately 16.00 was first released the next day at approx. 08.20. The person was held in custody for more than 16 hours without a legal basis. The Bureau's investigation revealed failures in communications between the involved parties. The exact cause of the failure in communications was not discovered and the investigation result did not provide grounds for sanctions against individuals. In the assessment of the imposition of corporate sanctions, emphasis was placed on the fact that the police district experienced a similar incident in 2009, in which an arrested person had not been released, despite the fact that an order for release had been given. The fine has been accepted. The police district was recommended to review its routines.

#### **VIOLATIONS OF ROAD TRAFFIC LEGISLATION**

- In 2010 the Norwegian Bureau for the Investigation of Police Affairs has issued 5 fines for violations of road traffic legislation. An overview of these can be found on the Bureau's website:

**[www.spesialenheten.no](http://www.spesialenheten.no)**

#### **WAIVER OF PROSECUTION**

##### *Police attorney ordered deletion of interviews*

- The prosecution was waived after a police attorney, had violated the Penal Code section 120. As the responsible prosecution officer in a narcotics case

the attorney gave an order that the accused's signed statement was to be deleted. The investigators were instructed to interview the accused once more. The decision to delete the statement was made in order to avoid reprisals against the accused from other suspects in the criminal case. However, there was no immediate acute situation that warranted deleting the document. The Criminal Procedure Act's regulations for exempting information should have been applied, cf. Criminal Procedure Act section 242 (a). The case was dismissed by the Bureau, in accordance with the Penal Code section 166 and Penal Code section 325 section 1 no. 1, due to evidential circumstances. The Bureau's evaluation was that the Penal Code section 120 could not be applied. The Director of Public Prosecutions, in processing an appeal against the Bureau's resolution, found that the Penal Code section 120 pertained to the issue and that the prosecution should be waived. The decision is final and legally enforceable.

##### *Unlawful use of force and assault*

- The Bureau waived the prosecution against a police officer for a violation of the Penal Code section 228 section 1. In connection with the performance of public order duty he hit a person with an open hand, after the person had interfered with the police and did not obey several orders to remove himself from the situation. The blow was a reaction to the man wilfully blowing cigarette smoke in the officer's face. The police officer has pleaded not guilty to any offence and has requested that the Bureau bring the case to court.

# EMERGENCY TURN-OUTS IN 2010

Several of the cases handled by the Bureau require immediate response. This applies to situations in which a person has been seriously injured or there has been loss of life as a consequence of the police and the prosecuting authority's actions. In cases in which there is a suspicion of serious crime, immediate investigation initiatives may also be necessary in order to secure evidence.

The Bureau for the Investigation of Police Affairs covers the entire country and it can therefore be difficult to reach a location and to initiate investigations as rapidly as desired. This means that as a rule, the immediate securing of evidence must be done with the assistance of the police. Frequently, police officers that have taken part in direct actions have to be shielded and must wait for a time before giving their statements to the Bureau. In 2010, the Bureau was deployed and initiated immediate investigations in 14 incidents. Arrest actions and searches planned in advance are not included here.

**4th January 2010**

**Troms Police District**

The police fired shots at a person. The person was hit in the thigh. The person, who was armed with an axe and a knife, had taken hostages and was making threats to kill. The shots were fired after the person did not obey the police's orders to lay down his weapons.

**18th January 2010**

**Nord-Trøndelag Police District**

A person who was brought to a hospital by the police for enforced medication died in connection with the assignment. The subsequent forensic medical examination concluded that the man died as a result of blocked arteries and a heart attack.

**30th January 2010**

**Rogaland Police District**

The driver of a vehicle that was detained by the police in a traffic stop, drove away from the checkpoint. The police pursued the driver, who later collided with oncoming traffic in a tunnel. The collision led to personal injury.

**13th March 2010**

**Oslo Police District**

The police fired shots at a person in an apartment. Shots were fired after the person attacked nearby police officers with a knife. The person was taken to hospital with a gunshot wound to the leg and a hand wound.

**30th March 2010**

**Hedmark Police District**

A person died whilst in police arrest.

**3rd April 2010**

**Agder Police District**

A police patrol attempted to stop the driver of an ATV for control. The driver did not stop when signalled to do so by the police, and instead drove onto a path/cycleway. When the driver tried to cross a pedestrian bridge, the vehicle overturned and the driver fell several metres into a river and was killed.

**9th April 2010**

**Hordaland Police District**

The police initiated an armed action in order to locate and arrest an armed individual who had threatened his partner. The person was found sitting in a car. When the police went to arrest the person, he shot himself and was injured.

**1st May 2010**

**Østfold Police District**

The police were called out in connection with an incident in which an armed person had ensconced himself in an apartment. Repeated attempts were made to get the man to give himself up voluntarily. After hearing several shots fired inside the apartment the police decided to take action. During the subsequent action the person pointed a gun at the police. The police fired shots at the person's legs.

**31st May 2010**

**Telemark Police District**

The police arrested a person after reports of a public order offence and vandalism. The person was extremely aggressive and the police were forced to lay the person face down on the ground and to use leg restraints. The arrested person then stopped breathing and went into cardiac arrest. First aid was administered by the police and after a time the person's breathing was restored.

**22nd August 2010**

**Hordaland Police District**

A young man was found dead at the bottom of a steep motorway cutting. During that same evening, the police had received a report that the individual was walking in the road in a tunnel, heavily intoxicated. He was then apprehended and driven by a police patrol to a bus station, where he was left to get home by himself. The Bureau initiated an investigation to determine whether the police had maintained their duty to provide assistance.

**15th September 2010**

**Follo Police District**

The police were sent to search an apartment. When a person in the apartment refused to open the door for the police, the police let themselves in. The person in the apartment set himself on fire and was seriously injured.

**26th September 2010**

**Hordaland Police District**

A police patrol pursued an unregistered motorcycle. The motorcycle was ridden at high speed and the rider refused to stop when ordered. The rider lost control of the motorcycle and fell off. He was then hit by the police vehicle and was seriously injured.

**3rd October 2010**

**Agder Police District**

A police officer, during an armed action, fired a shot at a person that attempted to evade arrest. The shot hit the person in the thigh.

**10th December 2010**

**Østfold Police District**

The Bureau was notified that an employee in a police district was suspected of stealing from the workplace. For tactical reasons, the Bureau initiated an investigation immediately.



# Administrative assessments

## Experiential learning – transfer of cases to Chiefs of Police for administrative assessment

### Examples of cases that were sent for administrative assessment in 2010:

Details of cases that from 2005 to 2010 have been sent for administrative evaluation can be found at the Bureau's web site:  
[www.spesialenheten.no](http://www.spesialenheten.no)

**A POLICE OFFICER** was reported for unlawful use of force in connection with public order duty and the arrest of a female. The woman was arrested because she interfered with the police when they went to arrest her boyfriend. The police officer took hold of the woman's ponytail and laid her on the ground by pulling on her arm and her ponytail. The Bureau believed that the police officer had the right to use physical force against the woman; however, he was unnecessarily heavy-handed. The Bureau believed that there were grounds for criticism, but based on the specific circumstances there were no grounds for criminal liability. Among other things, emphasis was placed on the fact that the situation for the police officer was unclear and difficult as there were many intoxicated persons present at the scene.

**A CHIEF OF POLICE** reported the possible embezzlement of NOK 79 150. The money had been seized in a narcotics case and it was unclear as to when and how the money had disappeared. The Bureau received the report one and a half years after the money was placed in a safe, to which several officers had access. The Bureau's

investigations did not reveal any basis for suspicion of any specific persons and the case was dismissed due to an unknown perpetrator. The investigation did reveal, however, that there were weaknesses and a lack of proper routines for handling seized sums of money in the particular police district. The police's routines were not in accordance with the guidelines issued by the Directorate of Police.

**AN EMPLOYEE IN A POLICE DISTRICT** was reported in connection with a customs inspection. A customs region notified the police that they had detained a foreigner at the border between Norway and Sweden, and that the person had produced a forged driving licence. The police did not follow up the case themselves, but requested that the customs officers seize the driving licence from the person, destroy it and allow the person to enter. The Bureau took statements from employees in the customs region, which confirmed the incident had taken place. As the incident was not logged by the police, it was not possible to find out exactly which officer had handled the report from the customs region, and the case was dismissed due

to lack of evidence. The Chief of Police stated to the Bureau that the tasks carried out at border posts are extremely complex and that cases had to be prioritised according to their seriousness and the available resources. The Bureau stated that it is a serious matter when a person with forged documentation is allowed to cross the border without further investigations being carried out, or initiatives taken, by the police. The police's handling of the entry into the country by the foreigner does not appear to be in accordance with central guidelines. The directive to the customs authorities to allow the foreigner to enter the country also does not harmonize with tasks that the police are charged with, namely deporting persons who are in the country illegally.

**A PERSON** who was being held in custody for seven days reported the police for unlawful deprivation of liberty. The person was suspected of serious robbery and vehicle theft and in accordance with a ruling from the District Court, was remanded in custody for two weeks. On the seventh day, the suspect was transferred to prison. Due to new information in the criminal case that

**In 2010, the Norwegian Bureau for the Investigation of Police Affairs has transferred 50 cases to the Chief of Police or Senior Officer of the special section for administrative assessment. In 2009, 47 cases were transferred for administrative assessment.**

When the Bureau sends cases for administrative assessment, this means that during the investigation of the case, information has been discovered that should be followed up within the police or prosecution authorities. This can, among other things apply to cases in which no punishment has been imposed, but that the police should learn from experience of the case

and possibly amend their routines. Cases can also be sent to administrative evaluation because the Bureau believes the case may provide grounds for disciplinary reaction in regard to employees in the police services. Cases in which there has been a punitive reaction may also be subjected to administrative review and learning by experience.

The Director of Public Prosecutions, in memorandum no. 3/2006 has stated that criticism from the Bureau, in general, should be limited to the issues that have been subjected to investigation and be a part of the judicial evaluations. General criticism of the police's enterprises, organisation, routines etc. should be

addressed separately and directly with the Chief of Police or the Director of Public Prosecutions. If the criticism concerns the Directorate of Police's area of responsibility, the Directorate should also be informed. The Committee that has evaluated the Bureau and that in May 2009 published its report "A responsible police force" (NOU 2009:12) addresses issues that apply to knowledge-based learning from experience. The Committee believes that the Bureau's role as the competence agency should be emphasised and that the Directorate of Police's responsibility for learning from experience should be strengthened. This is a viewpoint that has received broad support in several hearing statements.

indicated that another person was the perpetrator, he was released later that same day. The regulations regarding the use of police custody § 3-1 determine that the transfer from police arrest to prison shall be within two days of arrest. The regulations are not absolute; they contain a reservation for circumstances in which "it is not possible for practical reasons" to adhere to this deadline. If a transfer takes place later, the reason for this must be noted in the arrest journal. The Bureau, in this case, applied as a basis that a transfer had been attempted, but that it had proved to be impossible due to capacity problems at the prison. The issue of release must be assessed in relation to the seriousness of the case, the degree of suspicion, the need to hold the person in custody and the strain on the person concerned in the event of continued police detention. The Bureau dismissed the case as no criminal liability was proven, with a reference to the fact that the issue of continued detention was considered by the District Court and that the police had attempted to find a place in prison. Emphasis was placed on the Supreme Court's decision (Supreme Court Journals 2010, p. 65), which stated that 8 days in police custody

did not in itself mean that continued detention was a disproportional reaction. The case was transferred to the police district for an administrative evaluation of routines in order to document initiatives required to obtain a place at a prison and initiatives to relieve the strain of detention in police custody beyond 48 hours.

**A PERSON** reported a police attorney, for being denied the opportunity to contact an attorney. The person was arrested at approximately 17.30 and some time later was made aware of her right to contact an attorney. Despite the fact that, on several occasions, she requested contact with an attorney, her request was not complied with before the following morning. The meeting with an attorney took place the following day at approx. 13.30.

There were several suspects in the case and the police attorney had given a directive that none of these were to be given the opportunity to contact an attorney before searches had been carried out during the evening. According to the Criminal Procedure Act section 95, persons charged with offences have the right to be assisted by legal counsel at every stage of the

case. The Director of Public Prosecutions, in a separate memorandum, has pointed out that a request to contact an attorney should normally be complied with as soon as possible and at the latest two hours after the suspect has arrived at the police station. The Bureau applied as a basis that the reason it took such a long time before the accused could contact an attorney was that imprecise directives had been given and that it took longer to complete the searches that first anticipated. The matter was not serious enough to conclude criminal liability. The case was transferred to the Chief of Police and the Directorate of Police for administrative evaluation. After a complaint from the arrested person about the dismissal of the case by the Bureau, the Director of Public Prosecutions upheld the decision. The Director of Public Prosecutions pointed out that the police attorney's decision to postpone contacting an attorney was in conflict with current guidelines and was censurable.



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*In cases in which the Norwegian Bureau for the Investigation of Police Affairs issues an indictment, the case is prosecuted in court by one of the Bureau's attorneys. In 2010 the Bureau has prosecuted 9 criminal cases.*

# Court cases in 2010

## **Gjøvik District Court**

### **Gross embezzlement**

A former civil employee in Vestoppland Police District who was responsible for accounts functions was found guilty by a judgement passed at Gjøvik District Court on 1st February 2010, according to the indictment and in accordance with the Bureau's submission of a prison sentence of 1 year and an order to repay NOK 1 086 461. The judgement concerned the gross embezzlement of cash payments for passport fees, foreign persons' fees and fines. The convicted person appealed in respect of the consideration of evidence in regard to the issue of guilt. Eidsivating Appeal Court found that the appeal clearly would not result in an amendment of the judgement and rejected the appeal in a ruling issued on 19th March 2010. The judgement is legally binding.

## **Brønnøy District Court**

### **Gross corruption**

On the 26th January 2010, a police officer was indicted for serious corruption. From the autumn of 2007 until December 2008 he was the executive officer in a Court of Enforcement case in which a person (A), in connection with the sale of a commercial enterprise, had petitioned for the enforced sale of bonds. During the same period, the police officer worked on an assignment for A by promoting A's interests in a dispute that formed the foundation of A's petition. For doing so, the police officer received financial remuneration from A. On 11th June 2010, Brønnøy District Court acquitted the police officer. The majority of the Court (lay judges) found that the police officer had acted censurably; however, he had not acted in a manner that it could be regarded as corruption in the eyes of the law. The Court chairman found that it had been proven beyond a reasonable doubt that the police officer had conducted himself in a corrupt manner and that as a highly experienced police officer he must have understood that the remuneration he received from A and the services he performed for A in this connection were improper. The Bureau appealed against the judgement. The appeal hearing is to take place at Hålogaland Appeal Court in February 2011.

## **Nord-Troms District Court**

### **Assault – use of a police dog**

A police officer was given a optional penalty writ for assault and for serious neglect of duty in connection with an arrest in February 2010. He led his police dog, which was on a leash, towards a person and allowed the dog to bite the person on the right thigh. Two other police officers had already control of the arrested person when the dog was brought in. The fixed penalty was not accepted. North Troms District Court, in a judgement passed on 12th October 2010, found that the accused had overstepped the boundary in respect of the lawful use of force according to the Police Act section 6 and the Penal Code section 48 section 3. In the view of the Court, no situation existed that indicated that such serious force was required. The accused was ordered to pay a fine of NOK 10 000 and case costs in the sum of NOK 5 000. The judgement is final and legally enforceable.

## **Gulating Appeal Court and the Supreme Court**

### **Breach of confidentiality**

In April 2009, a police attorney was fined by the Bureau for a breach of the duty of confidentiality. An 18 year old boy was under investigation by the police after a road traffic accident. Among other things, he was suspected of driving a vehicle whilst intoxicated. The boy's grandfather, who was not aware of all the facts of the case, went to the police station to find out why the boy's driving licence had been seized and was then informed by a police attorney that during the investigations information had been forthcoming that the boy was under the influence of hashish. The grandfather did not have the authority to act on behalf of the boy and the Bureau's assessment is that the police attorney had acted in conflict with the duty of confidentiality regulations and that his actions, based on the specific circumstances were grossly negligent. The police attorney was acquitted by a judgement passed at Haugaland District Court on 27th October 2009. After an appeal hearing, Gulating Appeal Court passed a judgement on 29th June 2010, in which the police attorney was found guilty. The convicted person appealed to the Supreme Court, in respect of the Appeal Court's application of the law. The Supreme Court, in a judgement of 3rd December 2010 (Supreme Court

Records-2010-2058-A) has submitted that there is no doubt that the actual information concerning the influence of hashish is encompassed in the duty of confidentiality. In its evaluation of the need to obtain consent, the Supreme Court has stated that the more sensitive the information is, the more important it is to ensure confirmation that valid consent has been given, or a representation assignment that encompasses access to sensitive information. The Supreme Court also stated that the police attorney should have investigated whether the boy had actually meant to give his grandfather access to information. Reference is made to the fact that the information in regard to the use of hashish was sensitive and that the police attorney was not under any pressure in regards to time and that the grandfather could therefore have been asked to return with a clear letter of authority. The police attorney was in any case acquitted. The requirement in respect of culpability for gross negligence was not found to have been fulfilled, in that the police attorney in the case based himself upon the belief that consent had been given. The Supreme Court states: "Despite the fact that one can criticise the conduct of X, this is not the same as to say the conduct is criminally sanctionable. In the requirement for negligence, there must be qualified censurable conduct that precedes strict reproach for the absence of due care – see among others, Supreme Court records 1970 page 1235."

## **Borgarting Appeal Court**

### **Gross corruption**

In October 2008, two police officers in Oslo Police District and a businessman in Oslo were indicted by the Bureau for gross corruption. The police officers were also indicted for abuse of their positions and for having shown gross negligence in the performance of their duty. One of the officers was also indicted for a breach of the duty of confidentiality, for having given information from the police registers to the businessman involved. The other police officer was also indicted for benefit fraud, customs fraud, theft of electricity and breaches of the firearms legislation. The indictment for corruption was in connection with the fact that the businessman, whilst he was serving a sentence, had been taken from the prison, on the pretence that he was assisting the police. The time spent outside the prison was,

# Court cases in 2010, continued...

however, spent with his girlfriend and his family. The businessman had for several years contributed with sponsorship for one of the police officers' car racing activities. Both police officers at the same time as, or near to, the times the businessman was taken out of the prison, had accepted money from the businessman. On 25th August 2009, Oslo District Court passed a judgement in which the police officers were sentenced to prison terms of two years and one year and six months respectively. The businessman was sentenced to a prison term of one year and three months. The convicted persons appealed against the judgement and the Crown Court referred the case to the appeal court, in respect of the part of the indictment that concerned corruption, abuse of position, gross negligence in the performance of duty and the breach of the duty of confidentiality. After an appeal hearing at Borgarting Appeal Court in June 2010, the accused were largely found guilty of the same crimes as in the District Court and were sentenced to prison terms of the same duration as handed down in the District Court. The police officers were deprived of the right to hold a position in the police service for all time. All three were ordered to pay case costs of NOK 50 000. The convicted persons appealed to the Supreme Court, in respect of the case



processing and the sentences imposed. One of the convicted police officers requested that the appeal committee should process the case anew and the Supreme Court's appeals committee decided on 15th December 2010 to allow his appeal in respect of case processing and the sentence imposed.

## **Borgarting Appeal Court**

### **Sentencing**

In Follo District Court's judgement of 30th September 2009, a police officer was sentenced to

a prison term of 120 days and was deprived of his position in the police force. He was found guilty of the acquisition and possession of amphetamines, violence committed upon a public enforcement officer in connection with his arrest by Bureau personnel, embezzlement of amphetamines from seizures carried out by the police, editing and possession of images that sexualise children and the unlawful possession of weapons. Both the convicted party and the Bureau appealed against the judgement to the Appeal Court. The Bureau's appeal in respect of the sentencing was referred for further processing. The Appeal Court, in a judgement of 22nd March 2010 amended the scope of the sentence to a prison term of 6 months. The convicted person appealed against the Appeal Court's sentencing, to the Supreme Court. The Supreme Court appeals committee ruled on 18th June 2010 that the appeal is rejected.

## **Ofoten District Court**

### **Unlawful influencing of a party within the judicial system**

On 5th April 2010, a police officer from Hordaland Police District was indicted for having influenced a party within the judicial system (section 132 (a)), threats, possession of doping substances, driving without a valid driving licence and for - off duty - having conducted himself in a manner likely to bring his position into disrepute (§ 325 section 1 no. 5). Ofoten District Court, in a judgement passed on 23rd June 2010, found the accused to be guilty of all charges, with the exception of the item in the indictment that pertained to the possession of doping substances. The accused, in June 2008, had been stopped in a traffic speed check. For 10-15 minutes he repeatedly asked the police officers that had stopped him not to report him for having driven at 131 km/h in an 80 km/h zone, but instead to reduce the reported speed so that the matter could be resolved by a fixed penalty fine. In its evaluation of the case, the Court referred to the fact that the accused had placed improper pressure on his colleagues and that he had asked them to commit a criminal offence. His colleagues were clearly placed in an uncomfortable situation. The threats were made in his free time in relation to a former partner. The sentence imposed by the District Court was a

prison term of 90 days and the loss of the right to hold a position in the police force. The judgement was not appealed against and is legally binding.

## **Eiker, Modum and Sigdal District Court**

### **Abuse of position to procure sexual favours etc.**

A police officer from Nordre Buskerud Police District was indicted for three counts of rape (section 192), five violations of the Penal Code section 193 concerning the abuse of a position in order to procure sexual favours and three attempts to procure sexual favours by abusing his position. The police officer came into contact with the aggrieved via his work as an investigator, or as the responsible officer for sexual assault cases and family assault cases. He was in addition,



among other things, indicted for gross negligence in the performance of his duty by having a sexual relationship with an aggrieved party in a criminal case that he himself had investigated. He had not informed his superiors, the public prosecution authorities, the defence counsel or the court about the matter. Further, the indictment also applied to a violation of the penal Code section 325 no. 5, for having sent text messages of a sexual nature to women he had met via his work for the police. The accused, in the District Court, was largely found guilty in accordance with the Bureau's indictment. He was sentenced to a jail term of 4 years and the loss of the right to hold a position in the police force for all time. Both the Bureau and the convicted party have appealed to the Appeal Court. The case is scheduled to be heard at Borgarting Appeal Court in January 2011.

# Meetings and lectures in 2010



**The Director of Public Prosecutions' memorandum 3/2006 of 6th September 2006 states:**

"The Norwegian Bureau for the Investigation of Police Affairs must place great emphasis on its relationship with the public and media, by among other things providing proper, objective information about their work and by being accessible, the Bureau must also establish a good and open dialogue with the police districts. It is important that representatives of the Bureau participate at meetings and seminars in the police districts, in order to inform about their duties and their activities."



*It is important that representatives of the Bureau participate at meetings and seminars in the police districts, in order to inform about their duties and their activities.*

The Committee, that in May 2009 issued a report concerning the Norwegian Bureau for the Investigation of Police Affairs (NOU 2009:12 – A responsible police force, openness, control and learning), writes that the Bureau is a agency

that identifies problems and that the Bureau's competence and knowledge is in demand in the police districts. The Bureau's decisions represent a significant starting point for learning by experience.

As in previous years, in 2010 the investigation divisions have held seminars in several police districts. The seminars have been held for senior leader groups, operative staff and police college students during their practical experience semesters.

The investigation division in Central and Northern Norway have held seminars for the students at the Police College in Bodø. The Senior Officer of the Norwegian Bureau for the Investigation of Police Affairs has held seminars in 2010 for senior officers at the Police College management course and the college studies for operations leaders. The Senior Officer of the Bureau has also held lectures at the meeting of Chiefs of Police and for police emergency response patrols.

# The Norwegian Bureau for the Investigation of Police Affairs



**By the Act of 5 March 2004, no. 13, the Storting (the Norwegian Parliament) resolved to establish a new central nationwide unit with responsibility for investigating cases involving the question of whether employees in the police or the prosecuting authority have committed a criminal offence in the course of their duty. The Bureau started its activities on 1 January 2005.**

The Bureau does not form part of the police or the ordinary prosecuting authority. It is an independent organisation that administratively falls under the Ministry of Justice and the Police (Civil Department) and that professionally reports to the Director General of Public Prosecutions.

The Director General of Public Prosecutions can issue orders to the Bu-

reau concerning the initiating, conducting and halting of investigations.

The Director General of Public Prosecutions also handles appeals against decisions made by the Bureau. The Bureau is headed by its Director, and investigations are conducted at three regional Investigation Divisions that submit recommendations (proposals) to the Director on how the question of prosecution should be decided. The work of the Bureau is carried out by permanently-employed staff and individuals on secondment.

## OPEN AND POSITIVE COMMUNICATION

*“One of the objectives of creating the Norwegian Bureau for the Investigation of Police Affairs was to strengthen the general public’s confidence in the community’s ability and willingness to investigate and prosecute crimes committed by members of the police*

*and prosecuting authority.*

*An important condition for achieving this objective is that the general public is given information about the system, how the Bureau is organised, how it functions and what decisions it makes. It is essential that the Bureau for the Investigation of Police Affairs establishes, as far as possible, an open and positive channel of communication with the media, about the Bureau’s work in general and the individual cases it pursues. By providing information that is both correct and impartial, the Bureau’s standpoint and decisions will be more easily understood and accepted. Issuing statements about individual cases requires a thought-through strategy and awareness about what information may be or should be provided in a given situation.”*

(Director of Public Prosecutions – Circular no. 3/2006)

*The Norwegian Bureau for the Investigation of Police Affairs is a nationwide investigatory and prosecution unit for cases involving the question of whether employees in the police or the prosecuting authority have committed a criminal offence in the course of their duty*



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Norwegian Bureau for the  
Investigation of Police Affairs

