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2014

Norwegian Bureau for the  
Investigation of Police Affairs



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# FOREWORD



In this annual report, the Bureau has chosen to give some thought to the fact that ten years have passed since our establishment on 1 January 2005. We review some of the major lessons learned during this period. We also provide some statistics for the whole period.

In 2014, the Bureau applied a considerable part of its resources to investigating information provided by a convicted criminal alleging that a police officer had acted corruptly. During the initial phase of the investigation, the police officer was remanded in custody and held in isolation. During the investigation, certain documents have been classified and excepted from

*A police officer should view control and investigation of his activities as a natural part of his professional engagement.*

access by the accused. In its work on the case, the Bureau has been criticised by lawyers and the media for imposing such radical measures. It has been pointed out that the Bureau uses "police methods". The Bureau is an investigation agency, not a supervisory body. It is the responsibility of the Bureau to investigate and, when there are grounds for so doing, to prosecute employees of the police and prosecuting authority. In questions regarding law enforcement, we act within the framework of the legislation adopted by the politicians and under the control of the courts. Corruption constitutes a threat to the fundamental principles of our society. A suspicion found to be supported by evidence must be taken seriously, and the facts of the case must be clarified by means of an objective and effective investigation. It is difficult to envisage that, in its investigations, the Bureau should refrain from using methods provided by law. This would entail that the Bureau's cases were not investigated as effectively as other criminal cases. No-one would find that acceptable.

In 2014, the demands placed by this corruption case on our investigation resources had an adverse effect on the execution of our remaining responsibilities. The processing of other cases demanding investigative resources has been somewhat delayed. The statistics for 2014 must be viewed in this light.

An important task for the Bureau is to contribute to police training by means of lectures and other dissemination of information. In spring 2014, the Bureau was

able for the first time to meet all of the first-year students at the Police University College. The Bureau held lectures for students in Stavern, Oslo, Kongsvinger and Bodø. In our view, it is important that police employees from the basic course onwards are aware of society's need for control of the police's use of its powers. A police officer should view control and investigation of his/her activities as a natural part of his/her professional engagement.

The Bureau wishes to commemorate its tenth anniversary with a seminar in May 2015 drawing attention to a topic that has occupied a central place in many cases dealt with throughout the period: the police's use of police custody and treatment of detainees by the police. The purpose of the seminar is to bring experience to the fore within the framework of learning and improvement. The Bureau has invited speakers to the seminar from the European Committee for the Prevention of Torture (CPT), the Norwegian Bar Association and the superior public prosecution authority among other institutions.

Jan Egil Presthus, Director of the Norwegian Bureau for the Investigation of Police Affairs

*Jan Egil Presthus,  
Director of the Norwegian Bureau for the Investigation of Police Affairs*

# 10 YEARS SINCE THE BUREAU WAS ESTABLISHED

*On 1 January 2015, it was ten years since the establishment of the Bureau. This provides an opportunity to sum up experience from our own activities and the agencies that the Bureau is responsible for investigating.*

## CASE PROCESSING, ORGANISATION AND EFFICIENCY

Like its predecessor, SEFO, the Bureau has been criticised for the proportion of unprosecuted cases. Each year, the Bureau has considered approximately 1200 complaints, but the proportion of complaints resulting in penalties is low, between 3% and 8%. It is particularly the large proportion of unprosecuted cases rather than the individual cases themselves that has been used as a basis for criticising the Bureau's decisions. During the ten years, few individual decisions have been subjected to broad debate. Comparisons that the Bureau has made with the other Nordic countries' units with partially the same mandate, show considerable similarity in the proportion of cases resulting in penalties.

During certain periods, the Bureau's case processing time has been excessive both in relation to stated targets and in relation to what has been regarded as desirable out

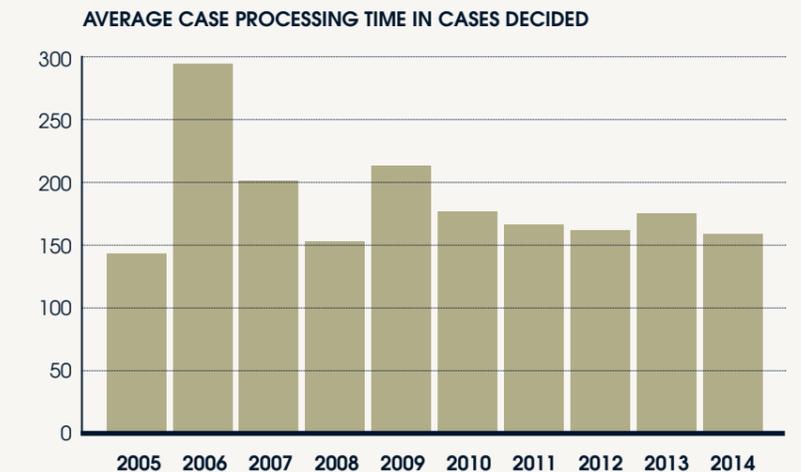
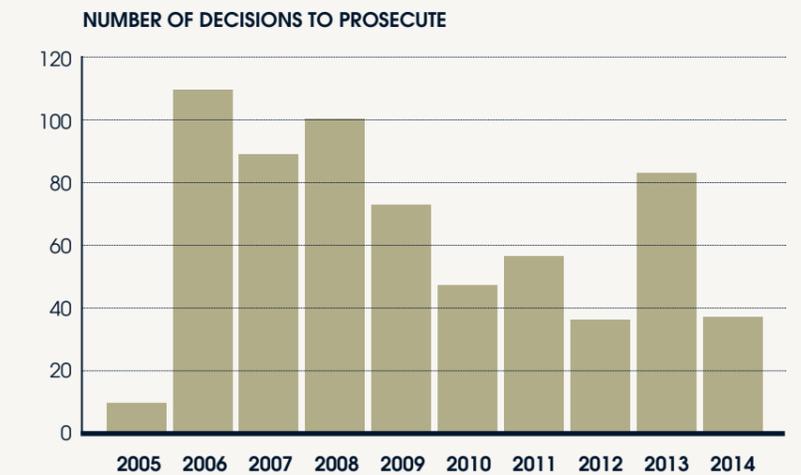
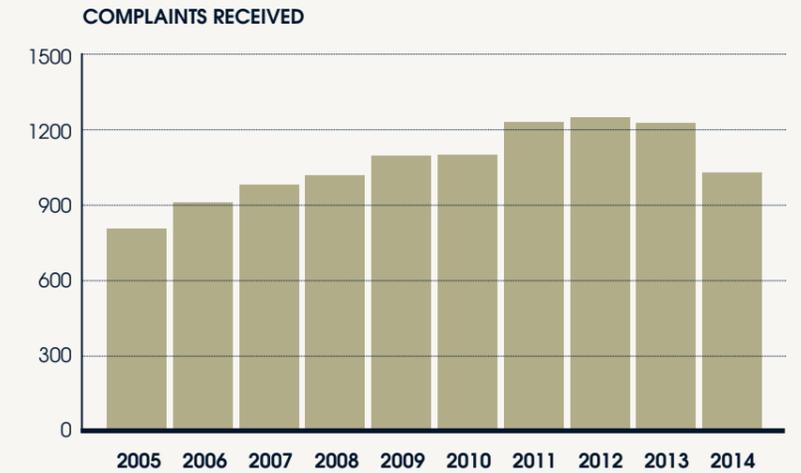
of regard both for clarification of the case and for the parties to the case. Partly as a result of evaluation of the Bureau during the 10-year period (NOU 2009:12), the number of posts has been increased. The Bureau currently has a permanent staff of 36 persons, and has in addition 11 persons engaged on assignment. In accordance with stipulations, the Bureau has a two-level organisation.

All cases are dealt with on two levels, by the investigation divisions and by the Director. The Bureau has developed routines involving thorough documentation of assessment of evidence and legal assessments in recommendations and decisions. In all cases prosecuted, a reasoned prosecution decision is provided in writing. Of course, the organisation and the requirements regarding reasoned decisions, etc. have an effect on the speed with which cases can be dealt with. Among others, local trade unions have advocated relaxation of the requirements regarding

processing on two levels and reasoned decisions. This has also been raised in the Bureau's dialogue with the Ministry and the Director of Public Prosecutions. Out of regard for quality requirements and confidence in the work of the Bureau, it has been agreed that the Bureau's work routines should not be simplified.

In 2014, the Bureau considered a number of cases that can be viewed as particularly labour-intensive. In view of this and the failure of the Bureau over time to meet its targets, the Director of the Bureau considers that a certain strengthening of the core staff may be called for.

Within the framework of the current rules, the Bureau has attached importance to transparency with regard to cases and work. The Bureau currently publishes brief summaries of all decisions on its website. Decisions in cases of general interest are published in their entirety in anonymised form.



## Cases and case areas

# 10 YEARS SINCE THE BUREAU WAS ESTABLISHED

### THE OBIORA CASE

Eugene Obiora died of suffocation when, in September 2006, he was arrested by the police at a public service office in Trondheim. The Bureau's decision to drop the case against the officers who intervened against Obiora, resulted in strong reactions and public debate. On the basis of expert assessments, the Bureau found that shortage of oxygen came about as a result of breathing difficulty or pressure against the neck. Obiora's own efforts to resist arrest, the placement in the prone position over time and the fact that the police's use of force in holding him down and keeping him still resulted in pressure against a hard surface. The Bureau's assessment was that there was no evidence that the officers who intervened against Obiora had acted negligently in relation to the fatal injury or that they had shown gross lack of judgment in the course of duty. In the Bureau's assessment, there was no evidence that the treatment of Obiora was motivated by racism. The investigation showed that the Norwegian police lacked knowledge of dangers associated with placing an arrested person in the prone position handcuffed behind his back. Following an appeal by the relatives of the deceased, the Bureau's decision to

drop the case was upheld by the Director of Public Prosecutions in December 2007.

In its decision in the Obiora case, the Bureau pointed out that the police authorities of other countries, including the Danish police, owing to several similar incidents, had a better knowledge than the Norwegian police of the dangers associated with the prone position. Reference was also made to the fact that, prior to this incident, descriptions of the death by suffocation of agitated and struggling persons had been given in the literature of emergency medicine and forensic medicine. In 2010, the Parliamentary Ombudsman criticised the Norwegian authorities for the police's lack of knowledge of the danger of loss of life associated with the prone position. The Parliamentary Ombudsman's assessment was that the Norwegian authorities had not complied sufficiently with their convention obligations with regard to the use of the prone position in connection with arrests. According to the Parliamentary Ombudsman, the necessary knowledge could have been obtained without expending considerable resources.

In 2010, Obiora's bereaved relatives

entered into a settlement with the state of their compensation claim. The bereaved relatives later brought a claim before the European Court of Human Rights. They claimed that article 2 of the ECHR (Right to life) had been violated since Norwegian authorities had not ensured sufficient training in the police regarding the risk associated with use of the prone position as an arrest technique. It was moreover submitted that article 14 (Prohibition of discrimination) cf. article 2 had been violated on the basis that the Norwegian authorities had not protected Obiora from police racism.

In 2011, the European Court of Human Rights rejected the appeal, observing that the appellant, by bringing a civil action against the state for compensation, had made use of the available national judicial remedies, and the subsequent settlement entailed forfeit of further use of these remedies. The court also called attention to the fact that the national police authorities had now changed the training scheme in order to prevent similar tragic incidents from occurring in the future. It was also pointed out that the appellant had in no way enlarged on the appeal concerning discrimination, and that the matter had

### THE BUREAU'S CASES WHERE POLICE EMPLOYEES IN ADDITION TO OTHER PENALTIES, OR AS THE SOLE PENALTY, HAVE BEEN DEPRIVED OF THEIR POSITIONS (SEE SECTION 29 OF THE PENAL CODE (2005-2014)).

- 1. Forged diploma from the Norwegian Police University College (section 182 of the Penal Code) (2005)** Newly graduated from the Norwegian Police University College – man (25) – 45 days suspended sentence
- 2. Serious breaches of confidentiality (sections 121 and 325 (5) of the Penal Code) (2006)** Police Chief Inspector – man (37) – 30 days suspended sentence
- 3. Theft of passport, etc. (section 258, etc., section 47 of the Immigration Act) (2006)** Police Chief Inspector – man (52) – 2 years unconditional sentence
- 4. Embezzlement, etc. (sections 121, 255, 325 (5), etc. of the Penal Code) (2006)\*** Police officer – woman (28) – fine NOK 10 000
- 5. Drug abuse, etc. (sections 121, 258 of the Act relating to medicinal products, etc.) (2008)** Police Chief Inspector – man (49) – 2 years unconditional sentence
- 6. Serious breaches of confidentiality (section 121 second paragraph of the Penal Code) (2007)\*** Custody Officer (temporary) – man (19) – fine NOK 10 000
- 7. Theft from a person in need of help, etc. (section 258, etc. of the Penal Code) (2007)** Police officer – man (31) – 36 days unconditional sentence
- 8. Theft/embezzlement of drugs, drug abuse (section 162, etc. of the Penal Code) (2007)** Police officer – man (47) – 60 days unconditional sentence
- 9. Gross corruption (section 276b, etc. of the Penal Code) (2008)** Police officer – man (51) – sole penalty
- 10. Threats against colleagues (section 227, etc. of the Penal Code) (2008)** Police Chief Inspector – man (44) – 45 days unconditional sentence
- 11. Sexually offensive behaviour (sections 201b, 124, 325 (1), etc. of the Penal Code) (2008)** Police Chief Inspector – man (37) – 45 days suspended sentence
- 12. Theft of drugs, etc. (sections 162, 127, 256, 204a. of the Penal Code) (2009)** Police Chief Inspector – man (41) – 6 months unconditional sentence
- 13. Repeated breaches of duty of confidentiality vis-à-vis media (section 121 of the Penal Code) (2009)** Police Chief Inspector – man (56) – 90 days (60 days suspended sentence)
- 14. Threats, witness tampering, etc. (sections 132a, 227, 325 (5) of the Penal Code) (2010)** Police officer – man (31) – 90 days suspended sentence
- 15. Gross corruption, etc. (section 276b of the Penal Code) (2010)** Police Chief Inspector – man (52) – 1 year and 6 months unconditional sentence (Norwegian Supreme Court Reports for 2011, page 477.)
- 16. Gross corruption, etc. (section 276b of the Penal Code) (2010)** Police Chief Inspector – man (57) – 2 years unconditional sentence
- 17. Gross corruption, etc. (section 276b of the Penal Code) (2011)** Police officer – man (54) – 8 months unconditional sentence (Supreme Court judgment HR-2011-2143A)
- 18. Misuse of position (section 193, etc. of the Penal Code) (2011)** Police Chief Inspector – man (54) – 1 year and 3 months unconditional sentence
- 19. Misuse of position (section 193, etc. of the Penal Code) (2011)** Police officer – man (45) – 2 years unconditional sentence
- 20. Violation of section 118 of the Penal Code (2013)** Police Superintendent – man (57) – sole penalty

\* Time limit 5 years

been thoroughly investigated by the Bureau.

It has been established that, during the period from 2005 to 2015, the professional skills involved in police arrest techniques underwent considerable development. In this work, a significant role was played by experience of the Obiora case and other cases dealt with by the Bureau.

### COURT CASES CONCERNING USE OF FORCE

In 2011, the Bureau indicted an officer in Telemark police district for applying pressure to an arrested person while he was lying on the ground in the prone position handcuffed behind his back. The person suffered respiratory failure and cardiac arrest, resulting in brain damage. The officer was convicted by the district court and subsequently acquitted by the Court of Appeal. The Court of Appeal found that the officer's pressure against the arrested person had only lasted for a few seconds, and found this to lie within the officer's margin of impunity. Nor did the Court of Appeal find that it could exclude the possibility that the respiratory failure and cardiac arrest had occurred for other reasons than the pressure applied by the officer.

Half of the cases concerning use of force prosecuted by the Bureau during the last 10 years have resulted in acquittals. It is difficult on the basis of legislation and case law to define any clear and general limits for the right of the police to use force without being liable to penalties. On the basis of section 6 of the Police Act and section 48 of the Penal Code, a specific discretionary assessment must be made in each case regarding whether the use of force was necessary, justifiable and proportional, or whether, in the circumstances, it can be deemed to have been "absolutely unwarranted". In cases resulting in acquittals, the courts have found the police to have a wider margin of impunity than was adopted by the Bureau in its prosecution assessment of the case. This applies to assessments both of the necessity of the intervention and of the manner in which force was used.

Professional and lay judges can be said to show considerable understanding for the difficulties that may be involved in police assessments associated with use of force. The Bureau has never criticised the decisions of the courts, but has pointed out that those inclined to comment on this type of case should also be aware of how

such cases are dealt with by the courts. During the ten-year period, a number of cases concerning use of force have been tried by the Supreme Court. The decision regarded as being of greatest interest is that published in the Norwegian Supreme Court Reports for 2007, page 1172. The case concerned use of force in the arrest of a driver who refused to stop for the police.

### ARREST

From 2006 to 2014, the Bureau imposed corporate penalties on police districts on 18 occasions (see section 48a of the Penal Code). Corporate penalties were imposed when several persons independently made errors, while their acts were not in isolation found to be subject to penalty.

Of the 18 corporate penalties, 11 were associated with the use of police custody. In the view of the Bureau, the police may in some situations have a too perfunctory approach to the use of custody. This applies to assessments of necessity, justifiability and proportionality. In some of the cases that have resulted in penalties, the police have quite simply not had the necessary control of the custody, which has resulted in excessive duration and

unauthorised custody. Custody is a very invasive measure, and all assessments and acts associated with the legal basis, need and duration must be of high quality.

From 2005 to 2014, 12 persons lost their lives in Norway in connection with police custody. In three cases, the incidents resulted in penalties. The causes of death varied. In some cases, it is clear that the police were not quick enough in registering symptoms of poisoning or sickness. Symptoms of sickness were also sometimes wrongly perceived as the effects of substance use. Police officers and custody officers lack medical expertise. However, experience shows that examination and clearance by a doctor prior to placement in police custody does not guarantee that the custody does not involve risk. In a number of cases, questions have been raised regarding whether supervision of detainees has been carried out in accordance with the requirements that follow from rules and guidelines. Pursuant to section 2-5 of the regulations concerning police custody, the police shall in connection with supervision "reassure themselves of the detainee's situation".

In a ten-year retrospective view, it is natural to call attention to the problems involved in the shortage of remand custody places. It is disheartening to read the police's own statistics on custody duration and failure to comply with the rule concerning transfer from police custody to prison within 48 hours. Although, in its assessment of specific cases, the Bureau has not found grounds to impose penalties, the situation could be characterised as untenable. In 2013, there were in Norway 4 250 cases where detainees were held in excess of the maximum custody period. It is assumed that the new guidelines from the Director of Public Prosecutions laid down in the circular of 4 July 2014 have made some improvement to the situation.

Several cases considered by the Bureau give reason to question whether the police comply with the intentions of the amendment of the time limit for applying for remand provided in section 183 of the Criminal Procedure Act. In 2006, the time limit for bringing arrested persons before the court was extended to three days. In making this amendment, it was assumed that the police would only exceptionally

delay bringing a person before the court until three days had elapsed. In the view of the Bureau, it is important that the Ministry now completes its work on the subsequent control of extension of the time limit. The deadline for comments was 1 March 2011.

The Bureau's cases give an impression that police managers have paid too little attention to questions concerning the use of police custody. When in 2013 the Bureau investigated the practice of handcuffing detainees to rings fastened to the cell wall of the custody facility in Søndre Buskerud police district, the investigation showed that four cells in Drammen were equipped with such rings. The management of the police district was unacquainted with the practice, and the Norwegian Police Directorate's police custody inspection body had not noticed the rings or posed questions that could have revealed such a practice. Custody is among the most invasive measures at the disposition of the police. It is of paramount importance that a competent and committed police management is attentive to the need to show regard for detainees and their rights.

The Parliamentary Ombudsman's National Preventive Mechanism against Torture and Inhuman Treatment became operational in 2014. The unit has already visited several custody facilities and reported findings and recommendations. The Prevention Mechanism has access to the Bureau's cases.

#### VEHICLE PURSUIT

The Bureau's cases show that, from 2005 to 2014, twelve persons lost their lives in connection with vehicle pursuits by the police. Twenty persons were seriously injured. (Incidents involving little or no injuries to persons have been excepted). Vehicle pursuit is a lawful and regulated police method. The Bureau has based its assessment of potential criminal liability in connection with vehicle pursuits on current guidelines laid down in instructions issued by the Norwegian Police Directorate. No cases where lives have been lost in connection with vehicle pursuits have resulted in penal reactions following processing by the Bureau or the Director of Public Prosecutions. In some cases, critical questions have been asked regarding the assessment of the need for vehicle pursuit. The number of dead and seriously injured

clearly demonstrates the extremely hazardous nature of vehicle pursuit. In addition to the risk to involved vehicles, the method involves risk for other road users and persons along the road. One of the 12 persons killed was a female cyclist who died after being hit by a drunken car driver who was being pursued by the police. In many situations, the suspected offences that give rise to vehicle pursuit are not among the most serious. In view of the extent of injuries, the Bureau urges the police to be constantly attentive when practising the method, and to consider the need for amendments to guidelines and routines.

#### OTHER CASES

During the 10 years of the Bureau's existence, 196 police employees have been indicted, had their cases adjudicated following a summary judgment on confession or been given the option of a fine by the Bureau. In 15 cases, a waiver of prosecution has been issued. In 20 cases, police employees have been deprived of their positions by court judgment.

Cases resulting in deprivation of position have included cases concerning gross corruption, sexual offences, misuse of position, embezzlement and drug use. Although critics of the Bureau's work often voice the opinion that more people should have been punished, it must be regarded as reasonable to characterise the number of cases and penal reactions, viewed in relation to society's expectations to the police service, as both sufficient and sufficiently serious. The Bureau has stated that a number of the offences could have been avoided if police managers had been more attentive in exercising management. In several of the most serious cases, it is clear that many people have observed danger signals that should have been reacted to. The police have important tasks, and perform their responsibilities on behalf of society and the general public. The content and serious nature of these responsibilities entails strict requirements regarding managers. In the view of the Bureau, there is room for improvement in police managers' intervention against employees whom one does not fully trust to behave in accordance with the requirements and ideals of the service.



#### OFFENCES RESULTING IN PENALTIES 2005-2014 (counts in indictments and fines)

Type of offence	Number	Percentage
Fraud	13	2%
Breach of confidentiality	70	11%
Violation of official duties	26	4%
Breach of the Immigration Act	3	0%
Forgery	5	1%
False testimony	8	1%
Custody	1	0%
Gross lack of judgment in the course of duty	124	20%
Corruption	24	4%
Bodily harm	19	3%
Human trafficking	1	0%
Misuse of position	18	3%
Obstructing police investigations	1	0%
Drug offence	32	5%
Sexual offence	41	7%
Damage to property	4	1%
Customs Act	8	1%
Traffic offence	113	18%
Threats	4	1%
Theft	20	3%
Careless handling of a firearm	3	0%
Unlawful deprivation of liberty	1	0%
Embezzlement	25	4%
False statement in the course of duty	1	0%
Immigration Act	3	0%
Firearms Act	43	7%
Other	14	2%
<b>Total</b>	<b>625</b>	

**CORPORATE PENALTIES: 2005-2014** Section 48a, first paragraph of the Penal Code: When a penal provision is contravened by a person who has acted on behalf of an enterprise, the enterprise may be liable to a penalty. This applies even if no individual person may be punished for the contravention.

- Asker and Bærum police district**  
Unlawful deprivation of liberty, (section 226 of the Penal Code) (2006)
- Østfold police district**  
Seized money missing, NOK 250 000, (section 325 (1) of the Penal Code) (2006)
- Telemark police district**  
Inadequate follow-up of firearms case (section 325 (1) of the Penal Code) (2007)
- Vestfold police district**  
Unlawful deprivation of liberty, (section 325 (1) of the Penal Code) (2009)
- Telemark police district**  
Breach of confidentiality, (sections 121 and 325 of the Penal Code) (2009)
- Vestfinnmark police district**  
Slow case processing, (section 325 (1) of the Penal Code) (2009)
- Midtre Hålogaland police district**  
Censurable conduct of search, (section 325 (1) of the Penal Code) (2009)
- Søndre Buskerud police district**  
Censurable supervision of detainee, (section 325 (1) of the Penal Code) (2009)
- Sør-Trøndelag police district**  
Unlawful deprivation of liberty, (section 325 (1) of the Penal Code) (2010)
- Hedmark police district**  
Censurable custody conditions (section 325 (1) of the Penal Code) (2011)
- Oslo police district**  
Unlawful deprivation of liberty (section 325 (1) of the Penal Code) (2011)
- Søndre Buskerud police district**  
Unlawful deprivation of liberty (section 325 (1) of the Penal Code) (2012)
- Søndre Buskerud police district**  
Censurable supervision of detainee – naked in cell (section 325 (1) of the Penal Code) (2012)
- National Police Immigration Service**  
Breach of Working Environment Act – fire safety, inadequate training (2012)
- Romerike police district**  
Censurable circumstances regarding search of residence, etc. (section 325 (1) of the Penal Code) (2013)
- Oslo police district**  
Censurable circumstances in connection with the execution of a sentence (section 325 of the Penal Code) (2013)
- Oslo police district**  
Inadequate routines for use of photo records (section 325 of the Penal Code) (2013)
- Søndre Buskerud police district**  
Handcuffing to cell wall of detainees in danger of self-injury (section 325 of the Penal Code) (2013)

## APPROVAL OF OVERTIME

*Cases where the employer suspects that an employee has claimed pay for overtime that has not been carried out.*

Several police agencies, have reported employees to the Bureau for fraud in connection with claims for overtime pay. The employer has found grounds to suspect an employee of claiming overtime pay without having worked overtime. One of the cases concerned an employee who had been given consent to perform a considerable amount of work at home. Another case concerned an employee who had relatively extensive authority to work overtime at the office during weekends. Common to these cases was that the reports included overtime that had been approved and where payment had been claimed. In both cases, suspicion had been aroused by a number of claims for overtime pay over a long period.

The Bureau's investigation of the cases consisted of clarifying whether the reported employees had actually worked at the times for which overtime pay had been claimed. Among other measures, attempts were made to detect electronic traces that could prove or disprove that work had been performed as well as electronic traces that could provide information

concerning the location of the reported employee at the time for which overtime pay had been claimed.

In one of the cases, a person was recently indicted. In the view of the Bureau, there is evidence that the indicted person was not in the office during the period for which overtime pay had been claimed. Nor is there an evidence that, at the times stated, he used the police systems as a necessary and natural part of his work task.

In the view of the Bureau the cases may serve as a reminder of the importance that the employer has sound routines for control of the use and approval of overtime.

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## CUSTODY/ INCIDENTS IN POLICE CUSTODY

*Each year, the Bureau considers a number of cases concerning police custody. In connection with cases in 2014, we have chosen to focus here on the length of custody (including failure to comply with the time limit for detention prior to a remand hearing) as well as the use of handcuffs in police custody and the service during police custody of writs prescribing fines.*

The Bureau has considered a number of cases where the time limits for detention prior to a remand hearing have not been complied with. There are separate time limits for transfer from police custody to prison and for detention prior to a remand hearing. The arrested person must be transferred from police custody to a remand custody cell within 48 hours from the time of arrest unless for practical reasons this is not possible (see section 3-1 of the regulations concerning police custody). If the prosecuting authority wishes to detain the arrested person, he or she must as soon as possible, and on the third day following arrest at the latest, appear before the district court with an application that he/she be remanded in custody (see section 183, first paragraph, of the Criminal Procedure Act.

The three-day time limit for detention prior to a remand hearing laid down in section 183, first paragraph, of the Criminal Procedure Act was provided in order to reduce the need for remand in custody and the total length of the time spent in custody by charged persons during an investigation. It is assumed in the travaux préparatoires to this provision that the three-day time limit will increase

the likelihood that the case will be so thoroughly investigated during the period that the charged person is detained that there will be no need for remand. It is further stated that the main rule will still be that the charged person is to appear in court as soon as possible, and that it will only exceptionally be appropriate to wait until the time limit expires. The length of the period prior to an application for remand will depend on the circumstances of the individual case, among others, the seriousness of the offence and the complexity and length of the investigation.

The Director of Public Prosecutions' circular 4/2006 states that the chief of police and the responsible police lawyer have special responsibility for ensuring that remand custody and the use of police custody in connection with investigation are used in compliance with the circular. The Director of Public Prosecutions further specifies that the prosecuting authority must make active and targeted efforts to ensure that the conditions of the travaux préparatoires are met, and that the extended time limit is only used when necessary out of regard for an effective investigation.

*Continued*

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## CUSTODY/ INCIDENTS IN POLICE CUSTODY

In 2014, the Bureau considered a case where a man had been arrested and taken into police custody because he was found to be storing drugs and had a history of substance abuse and economic crime. On the day of the man's arrest, a search was made of his home, and two days later he was examined again. After three days, he was remanded in custody, and was transferred to remand custody six days after being arrested. The Bureau found that there had been no reason to wait until three days after making the arrest before applying for remand in custody. Sufficiently thorough investigations of the case had already been made on the day of the arrest, and it seems to have been clear at an early stage that an application for remand in custody was highly appropriate. The principal reason for not applying for remand in custody earlier was that the police lawyer had been occupied with other work. The Bureau stated that regard for the arrested person must have highest priority, and that, if the responsible lawyer does not have the capacity to make the necessary applications for remand in custody, their superior officer must be notified so that this work can be transferred to another lawyer.

The impression from the Bureau's investigation was that the overall control of the time limit provided in section 183, first paragraph, of the Criminal Procedure Act was inadequate. Since the maximum time limit had been complied with, no grounds were found for considering criminal liability for gross lack of judgment in the course of duty. However, the case was sent to the chief of police for administrative assessment.

In 2014, the Bureau also considered a case where the police had decided to place a man in a cell while handcuffed. The man had disturbed the police's arrest of an acquaintance of his, and had failed to comply with an order to remove himself. Pursuant to section 9, first paragraph, of the Police Act, he was taken to the custody facility because, owing to intoxication, he had disturbed the public peace and order, accosted others or caused danger to himself or others.

The Bureau stated that the decision regarding whether the use of handcuffs is lawful is not only dependent on whether the conditions of section 3-2 of the Police Instructions are met. Consideration must

also be given to whether the specific use is necessary, proportional and justifiable (see section 6 of the Police Act). The threshold for use of handcuffs, including the interpretation of the assessment of need, must be assessed differently where handcuffs are used on a person locked in a cell than where handcuffs are used during arrest and transport. In a cell, the arrested person is isolated and prevented from violence towards persons other than himself.

The Bureau found that the decision that the man was to remain handcuffed after being placed in the cell was based on a fear that he would behave violently on removal of the handcuffs and/or a fear that he would behave violently when police officers later visited him in the cell. The Bureau observed that the grounds for taking the man to the police station and the man's verbal reactions to the police officers did not in themselves differ from other situations regularly faced by the police. The decision concerning use of handcuffs was found to be due to the fact that the man was aggressive and unpredictable, and that he had previously shown violence towards police officers.

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*From time to time, the Bureau receives complaints alleging that detainees have been forced to accept fines while they are still in police custody.*

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The Bureau doubted the necessity and justifiability of the use of handcuffs in the cell. It was not clear whether alternative courses of action had been considered, such as laying the man on a mattress or requesting the participation of more officers in removal of the handcuffs. Reference was also made to the fact that the man was handcuffed behind his back, and that he remained handcuffed for several hours. The use of force was deemed as a whole to be extensive. The Bureau found that it was, formally speaking, the duty officer who decided that the man was to be placed in a cell while handcuffed behind his back and when the handcuffs were to be removed. This was in accordance with the police district's instructions for use of police custody. Furthermore, the decision and its execution were not documented otherwise than by noting in the duty log that the patrol had notified that the man was to be placed in the cell while handcuffed. In the view of the Bureau, the documentation associated with the intervention was inadequate. It stated the use of handcuffs in police custody to be a use of force of such an invasive character that clear documentation must be provided concerning the basis for the decision to

use handcuffs, the factors justifying the placement of the handcuffs and the specific supervisory routines implemented in order to limit the nature and duration of the intervention. The documentation must also state explicitly who made the decision. The Bureau concluded that the conduct of the officers did not qualify as censurable, and dropped the case on the ground that no criminal offence was deemed proven.

From time to time, the Bureau receives complaints alleging that detainees were forced to accept fines or that attempts were made to pressure them into doing so while they were still in police custody. In a case from 2014, a person was taken into custody for failing to comply with a police order to remove himself from a pub and owing to his behaviour in the police car. In accordance with section 9 of the Police Act, it was decided to take him into custody on grounds of intoxication and disturbance of public peace and order. According to the man, he was removed from the cell the following morning and served a writ prescribing an optional fine. He told the police that he would not accept the fine, and was informed that he would have to return to the cell and

wait to be examined by an investigator. When informed that it could take up to three hours before he was examined, he accepted the fine in order to be released from the custody facility.

In this case, the Bureau did not find it proven that the man had been threatened into accepting the fine, and the case was dropped on the ground that no criminal offence was deemed proven. Nor has the Bureau previously concluded criminal liability in cases concerning service of writs prescribing fines in police custody, but holds the view that the police should show caution in carrying out such practice. This is particularly applicable if the alternative to accepting the fine is continued custody pending an examination. In such situations, the detainee may easily feel pressured into accepting a fine. Moreover, the detainee may thus be deprived of the opportunity for necessary consideration and assessment of the fine, both because the detainee's view regarding the fine might be influenced by his desire to be released from custody and because, at such a point in time, the detainee's state of mind might be such that his judgment is somewhat weakened. ■

## POLICE METHODOLOGY AND METHODOLOGICAL DEVELOPMENT

*The Bureau understands that the police cannot have guidelines for dealing with all conceivable situations.*

A number of cases considered by the Bureau have raised the question of whether a specific type of method or procedure used by the police can be deemed lawful, either in general or in relation to the specific situation in which it is used. These cases also involve the question of how the method was developed and how the person using the method learned of it, as well as what knowledge or control senior officers, the Norwegian Police Directorate or the Police University College had of the development of the method.

The Bureau recently decided on a case where officers in a police district were reported for improper conduct. When the officers perceived that a person suspected of drug trafficking attempted to conceal and swallow drugs, they prevented the suspect from swallowing the drugs by one of the officers inserting a collapsed telescopic baton in the suspect's mouth while another officer attempted to remove the drugs from the person's mouth using an extended telescopic baton. While this was happening, the suspect was lying on the pavement handcuffed behind his back resisting the actions of the police. The incident was videoed by an observer, and the video was later made available on the Internet.

The officers told that they had proceeded as described, among other reasons, in order to prevent the suspect from harming himself. The Bureau's assessment was that the procedure adopted by the police, which involved examining the oral cavity, must be deemed a physical examination (see section 157 of the Criminal Procedure Act and chapter 10 of the Prosecution Instructions). The officer did not have the right to decide on physical examination. The Bureau further pointed out that the procedure had been brutally carried out. Neither in its design nor from the point of view of hygiene is the baton regarded as particularly suitable for the purpose it was used for. In a judgment of 13 March 2014 (LB-2013-106824), Borgarting Court of Appeal, like the Bureau, concluded that the procedure is to be deemed a physical examination.

The police officer told that they were often faced with persons who attempted to conceal drugs in their mouths. Operative officers had for some years needed a method for preventing the swallowing of drugs, and the matter had been brought up at training sessions. However, no solutions had been put forward by the police district or the Police University



College. Officers had been told that they must find their own solutions. The officers otherwise pointed out that the use of the baton in the oral cavity was not something they had thought up themselves, but had been common practice among officers in the police district for many years. One of the officers told that he had become familiar with the procedure as early as 2005.

Managers in the police district told that they were unacquainted with the procedure, and maintained that it could not have been employed to any great extent. One manager referred to the fact that police routines did not exist for dealing with every conceivable situation, and pointed out that the police did not have the capacity to take into custody all those suspected of concealing drugs in their mouths. When informed of the incident, the police district's top management had banned the use of the baton for preventing the swallowing of drugs.

The Bureau understands that the police cannot have guidelines for dealing with all conceivable situations. However, it is clearly a managerial responsibility to keep informed concerning police procedures,

and to ensure that routine operations/situations are dealt with in a lawful manner. Officers requesting clarification concerning procedures and methodology must be taken seriously and provided with guidance.

## NOTIFICATION OF COMPLAINTS

From time to time, the Bureau is asked by officers why the Bureau did not notify them that they had been reported. The provisions of the Criminal Procedure Act and the Prosecution Instructions concerning reports of offences, investigation and the rights, right of appeal, etc. of suspects and charged persons apply correspondingly to the Bureau's handling of criminal cases. The rules are thus the same whether it is a police officer who has been reported or an "ordinary citizen".

The Bureau generally receives a complaint directly from the complainant or forwarded from the police district. The Bureau registers the complaint and sends written confirmation of the registration to the complainant. There is no corresponding legal provision stipulating that the person reported shall be notified that he has been reported.

The Bureau initiates investigations when, as a result of a complaint or other circumstances, there are reasonable grounds to investigate whether a criminal offence has been committed. Investigations are also initiated when a person dies or is seriously injured as a result of an act carried out in the performance of duty or while the person is in police custody. If the Bureau initiates investigations, the reported officer will be made aware of the report when summoned to examination as a suspect. The officer is also informed of the report if coercive measures are used against him.

In cases where investigations are not initiated by the Bureau, the reported officer often learns of the report as a result of the Bureau's written notification of the decision not to prosecute.



## “THE POLICE DO NOT ANSWER MY ENQUIRIES....”

In connection with reports of offences and other enquiries to the Bureau, many people complain that the police do not answer their enquiries. A number of people say that they have repeatedly raised a matter by telephone or e-mail without receiving any reply from the police. They feel that they are rebuffed.

The Bureau understands that, in the course of a busy working day, it may be difficult to deal with all enquiries in an effective way. We also know that many people are not satisfied with the answer they receive if it fails to meet their expectations.

On the basis of their responsibilities as a public agency, the police may not omit to reply to enquiries. A rapid and explanatory response is good service and, in most cases, good use of resources. Enquiries that remain unanswered create dissatisfaction and additional work.

■

## MISUSE OF POLICE RECORDS

During the ten years of its existence, the Bureau has considered many cases where it has been revealed that police officers have used police records to search for information that they have no official need for. On the adoption and entry into force of the new Police Records Act and regulations under the Act, all provisions concerning access to and use of police records have been gathered in one place. Although it was not possible to interpret the rules in any other way previously either, the Act now states explicitly that access to information from police records shall be provided to the extent needed in the course of duty and for the purposes covered by the Act. Use of the records in violation of the rules may, following a specific assessment, also be subject to penalty. The Bureau has responded with penalties for misuse of records – including in cases where information has not been disclosed in such a way as to constitute a breach of confidentiality. The annual lists of decisions to prosecute and court cases include both fines and convictions for misuse of records. In connection with investigation and prosecution

of such cases, both officers and defence lawyers have expressed that this offence is not subject to penalty because “everyone else” snoops in the records. The fact that colleagues too have broken rules or committed criminal offences has no significance for the criminal liability of the person being prosecuted.

■

# ASSISTANCE TO THE CPT

*(European Committee for  
the Prevention of Torture )*

**The CPT's report concerning the visit  
and the response of the Portuguese  
authorities are available here:**

- [www.cpt.coe.int/documents/prt/2013-35-inf-eng.pdf](http://www.cpt.coe.int/documents/prt/2013-35-inf-eng.pdf)
- [www.cpt.coe.int/documents/prt/2013-36-inf-eng.pdf](http://www.cpt.coe.int/documents/prt/2013-36-inf-eng.pdf)

**PORTUGAL**

The visit, which took place in May 2013, was a follow-up of the CPT's periodic visit to Portugal in February 2012. The CPT wished to further investigate a number of matters concerning the prison service, and also wished to examine Portugal's national systems for dealing with allegations of abuse of civilians by persons in positions of authority. The delegation also reviewed several specific cases concerning allegations of abuse by persons in positions of authority.

The delegation from the CPT held a number of meetings, among others, with ministries, the Prosecutor General's Office, the prison service, and the Inspectorate General of Home Affairs (IGAI), and also reviewed a number of cases concerning allegations of abuse by persons in positions of authority. My contribution was primarily associated with the latter.

The CPT stressed the importance of following up allegations of abuse of civilians by persons in positions of authority, in relation both to the victims and to the persons accused of such abuse. It was emphasised that the credibility of the ban on ill-treatment was weakened every time persons in positions of authority who had ordered

the ill-treatment or carried it out were not held responsible for their actions. It was furthermore pointed out that, unless such allegations were responded to promptly and effectively, the offenders would believe that they could continue their ill-treatment with impunity.

The visit revealed systematic failure in certain areas. There was, for example, no central system for ensuring documentation of abuse cases enabling control that such allegations were followed up. The committee also pointed out a number of shortcomings in the investigation of individual cases.

*Text: Investigative Prosecutor Helle  
Gulseth, Norwegian Bureau for the  
Investigation of Police Affairs*



*In spring 2013, the Bureau received a request from the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) to provide an expert in connection with a visit to Portugal. Owing to my international experience from the Ministry of Justice's Crisis Response Pool project (Styrkebrønn) in Afghanistan and Moldova, I was asked to attend, and was then approved by the CPT.*

**For information on the CPT's work in  
Ukraine in autumn 2013 and spring  
2014, see the CPT website:  
[www.cpt.coe.int/en](http://www.cpt.coe.int/en), particularly:**

- [www.cpt.coe.int/documents/ukr/2014-15-inf-eng.pdf](http://www.cpt.coe.int/documents/ukr/2014-15-inf-eng.pdf)
- [www.cpt.coe.int/documents/ukr/2013-12-20-eng.htm](http://www.cpt.coe.int/documents/ukr/2013-12-20-eng.htm)
- [www.cpt.coe.int/documents/ukr/2014-02-26-eng.htm](http://www.cpt.coe.int/documents/ukr/2014-02-26-eng.htm)
- [www.cpt.coe.int/documents/ukr/2014-09-18-eng.htm](http://www.cpt.coe.int/documents/ukr/2014-09-18-eng.htm)

**UKRAINE**

In September 2014, I took part in the CPT's visit to Ukraine. The visit was a follow-up of previous visits and contact with the Ukrainian authorities in 2013 and 2014, with particular attention to the situation and developments in Ukraine since autumn 2013.

Meetings held included meetings with ministries, the Prosecutor General and the Public Prosecutor's Office in Kiev. Visits were paid to a number of institutions where prisoners were held, and a considerable number of persons were examined. One of the purposes of the visit was to investigate allegations of serious physical abuse of detainees by staff at two prisons. The CPT had received clear indications that detainees had been subjected to physical punishment and other reprisals for allegedly complaining to the CPT.

Another purpose of the visit was to examine the remand custody situation of persons who had been arrested in connection with the ongoing antiterrorism operations. The visit also involved an assessment of the prosecuting authority's investigation of allegations of abuse of civilians by persons in positions of authority during the Maidan demonstrations.

My task consisted mainly of reviewing parts of this investigation material with a focus both on the investigation of individual cases and on Ukraine's systems for processing such cases.

CPT work has enabled me once more to focus my attention outside Norway's borders and work on matters of importance to human rights. Knowledge of other nations' systems also enables us to view Norwegian arrangements more critically.

New role for the  
Parliamentary Ombudsman:

## PREVENTION OF TORTURE

During spring 2014, the Parliamentary Ombudsman's National Preventive Mechanism against Torture and Ill-Treatment was established as a new unit at the Office of the Parliamentary Ombudsman.

The Prevention Mechanism is an interdisciplinary team of five persons with expertise in human rights, medicine and social science. The unit may also engage external experts for selected visits.

The Parliamentary Ombudsman's Prevention Mechanism conducts visits throughout Norway to places where persons have been or may have been deprived of their liberty. This includes prisons, police custody facilities, detention centres for foreign nationals, psychiatric institutions and locked child welfare institutions. The Prevention Mechanism has access to all such places including private institutions licensed by the public authorities. Visits may be announced or unannounced.

A major source of information is interviews with persons deprived of their liberty, and the interviews are always conducted without other persons present than the person deprived of liberty and the Unit's

employee(s), with the possible addition of an interpreter.

Following a visit, a report is published containing both findings and recommendations. The reports are made available on the Parliamentary Ombudsman's website (<https://www.sivilombudsmannen.no/om-torturforebygging/forsiden/>). The unit does not consider individual complaints, but ensures that persons deprived of liberty are informed of the possibility of having their case considered by one of the other departments of the Parliamentary Ombudsman.

Effective prevention is dependent on an integrated approach. An advisory committee with 15 members has therefore been established to ensure guidance and input from experts and civil society. Regular contact is also kept with the competent ministries, directorates and existing administrative supervisory bodies. Furthermore, the Prevention Mechanism provides lectures to relevant educational institutions and holds an ongoing dialogue with the trade unions in the sectors covered by the mandate.

Internationally, the Prevention Mechanism cooperates with international human rights

*Text: Helga Fastrup Ervik, head of the Norwegian National Preventive Mechanism against Torture and Ill-Treatment*



*When in June 2013 Norway ratified the supplementary protocol (OPCAT) to the United Nations Convention against Torture, the Parliamentary Ombudsman received a special mandate to combat torture, inhuman or degrading treatment or punishment.*

bodies, particularly the United Nations Subcommittee on Prevention of Torture (SPT). The SPT can itself visit all institutions for deprivation of liberty in Norway and provide guidance to the National Prevention Mechanism. The Prevention Mechanism also holds an ongoing dialogue with international expert organisations on prevention of torture, such as the Association for the Prevention of Torture (APT) and the European Committee for the Prevention of Torture (CPT), and participates in the professional networks for European OPCAT bodies.

In autumn 2014, a visit was paid to two prisons (Tromsø and Bergen). Two visits were paid to the central custody facility in Vestfold police district (Tønsberg) and one visit to the central custody facility in Søndre Buskerud police district (Drammen). The first visit to the Tønsberg custody facility was announced in advance, while the second visit was unannounced. The reports from all of the visits are available on the Parliamentary Ombudsman's website.

In the reports concerning visits to the police custody facilities, the unit was concerned with failure to comply with the time limit for detention. Long periods of police custody

are common at several facilities despite the fact that police custody is unsuitable for long periods of detention. The buildings and locations of police custody facilities make it difficult to meet the basic needs of the detainees to see daylight and to take part in physical activity. Specific measures were proposed to mitigate the adverse effects of isolation, and recommendations were given concerning medical assistance and suicide risk.

Visiting activities will be gradually increased in 2015, and extended to other types of institution, such as psychiatric institutions and child welfare institutions. The visits to custody facilities will be continued, and will as a rule be unannounced.

Annual reports on the work will be submitted to the Storting and to the United Nations Subcommittee on Prevention of Torture.

*Can experience of investigation of cases where the police have used firearms provide a basis for reflection in the public debate on arming of the police? Can experience of investigation of shooting incidents provide a basis for training in the police?*

## INVESTIGATION OF CASES INVOLVING POLICE SHOOTING

The Norwegian Bureau for the Investigation of Police Affairs will not take any standpoint on the question of arming of the police. However, during a period of public debate on this issue, we consider that it may be of interest to provide an account of experience of the investigation of shooting incidents during the last ten years. According to the rules, the Bureau must be notified and must initiate investigation of all cases where one or more persons has been injured as a result of the use of firearms by the police. Pursuant to section 34-6, second paragraph, of the Prosecution Instructions, the Bureau, regardless of any suspicion of a criminal offence, shall investigate cases where any person is killed or seriously injured as a result of actions by the police carried out in the performance of duty. Moreover, the Director of Public Prosecutions has issued instructions that investigations are to be initiated in such cases regardless of whether complaints have been made, including cases where injury of a person by police use of firearms is not serious (The Director of Public Prosecutions' circular 3/2006). The Bureau has also investigated incidents where the police have fired at a person without hitting him and incidents where only warning shots

were fired or where the use of firearms was only threatened.

Since 2005, the Bureau has investigated 15 cases where injury to a person has occurred as a result of the use of firearms by the police. A total of 16 persons have been injured in such incidents and, in two of these cases, the injuries resulted in death.

The first incident with fatal consequences occurred in Larvik on 18 May 2005. The police responded to a call from a person who had been threatened with a knife. A patrol turned out to talk to the person who was threatened and the assumed perpetrator (A). It was not considered necessary to request permission to carry firearms. When the patrol called on A at his home, the police officer B, began talking to him. A dangerous situation soon arose when A approached B with a raised cleaver. B sprayed pepper spray in A's direction and, while running out of the way, tripped and fell. A turned and walked in a different direction. The patrol requested permission to carry firearms and pursued A, who moved into an area with a lot of people and traffic. Before arming himself, B shouted to A that he must stop. A then approached B again with a raised cleaver.

B sprayed towards him with pepper spray without any visible effect. B's partner C arrived on the scene with the patrol car and B armed himself with the revolver that was stored in the car. Witnesses described A at this point as rocking from side to side, screaming and hitting the air with the cleaver. There were several persons in the area, including a number of children. B shouted "armed police!" to A and several times "Stop! It's the police!", "Lie down!" while aiming at A's stomach. B perceived that A moved as if to throw the cleaver at him and fired two shots in quick succession. The subsequent investigation showed that one of the shots hit A in the chest, killing him immediately. One of the shots failed to hit A. The Bureau examined 29 witnesses in addition to examining B and C as suspects. Forensic enquiries and an expert autopsy were carried out. Statements were obtained from the Norwegian Police University College and the armed forces on the danger associated with a knife attack. The case was dropped for both B and C on the ground that no criminal offence was deemed proven.

On 22 April 2006, an arrest situation ended when a person (A) was shot and killed by the police. The police turned out in

*In spring 2014, the Norwegian Police Directorate issued a statistical memorandum on police use of firearms. The following are some statistics from this publication (see "Politiets trussel om bruk av skytevåpen eller bruk av skytevåpen 2002-2013" (Police use of firearms or threats to use firearms 2002-2013), statistical memorandum revised 1 May 2014, Department of Police Preparedness and Crisis Management, Norwegian Police Directorate.*

### NUMBER OF CASES WHERE SHOTS WERE FIRED BY THE POLICE

2005	3
2006	3
2007	0
2008	2
2009	3
2010	6
2011	1
2012	3
2013	3

### NUMBER OF CASES WHERE THE POLICE THREATENED TO USE FIREARMS

2005	52
2006	75
2007	65
2008	55
2009	58
2010	75
2011	66
2012	58
2013	58

response to a report that shots had been fired in the vicinity of a holiday cabin. The patrol that turned out was granted permission to carry firearms, and armed themselves with service revolvers that were kept in the cars. After some time, more armed units arrived on the scene, including the Police Tactical Firearms Unit. Outside the cabin, two persons responded to shouts from the police. They informed that a third person had run into the forest armed with a shotgun. During the hours until A was shot and killed by the police, they shouted to him many times. Warning shots were fired and A responded several times by firing at the police and then continuing to run. Five officers were hit by pellets from A's shotgun. After taking cover behind a stone edging, he fired at the Police Tactical Firearms Unit, which had positioned itself approximately 15 metres from the stone edging. There were repeated shouts of "armed police, put your hands on your head" or the like, to which A responded with shots that hit two of the officers of the Tactical Firearms Unit. Two officers from the Police Tactical Firearms Unit then fired several shots at A. One of the shots hit A in the head, rapidly resulting in his death. The Bureau examined 21 witnesses and four police officers as suspects. Forensic enquiries were

The commission that investigated the police's handling of the incidents of 22 July 2011 obtained statistics concerning police operations involving the use of firearms. The commission's analysis showed that, during the period 2004-2012, a total of 19 688 separate operations involving the use of firearms were recorded by Norway's police districts. The number increased by 44% from 2007.

*Source: Official Norwegian Report (NOU) 2012:14 Report of the 22 July Commission, page 325*

conducted, an expert autopsy was carried out and documentation was obtained from the police (including video recordings from the police helicopter that took part in the operation). All of the cases were dropped on the ground that no criminal offence was deemed proven.

In one of the other cases, life-threatening injuries were brought about by gunshot wounds in the thighs. The other 13 persons shot and injured by the police did not

*Continued*

## INVESTIGATION OF CASES INVOLVING POLICE SHOOTING

suffer life-threatening injuries. All except two cases concerned leg injuries. One person was hit in the stomach and one person was hit in the buttock and in the hand. Only one of these 15 cases concerned a planned armed operation. The police shot and injured two persons during an attempted robbery in August 2004. The case was first investigated by the former SEFO and then transferred to the Norwegian Bureau for the Investigation of Police Affairs. The police had obtained advance information regarding plans for armed robbery of a money transport on this day in DNB NOR's premises at Jessheim. The police were present when the perpetrators entered the building and, during the arrest, both robbers were hit by shots fired by the police.

In only one of the cases involving injury or loss of life as a result of the police's use of firearms had the officer who fired armed himself without first obtaining permission to carry a firearm. The police officer concerned had responded to a call for assistance over the radio communications system informing that the perpetrator was armed. The Bureau found that the call over the radio communications system provided a reason for carrying a firearm pursuant

to section 11 of the Firearms Instructions. The provision authorises individual officers to carry firearms when they are prevented from obtaining an order to carry firearms from their superior officer and the situation makes it necessary to do so. In the remaining cases, permission to carry a firearm had been given either in advance of or during the operation. Some of the cases concerned situations involving arrest of a suspect where the person concerned had been observed with a weapon or had already used a weapon (several cases concerned a turn-out in connection with a stabbing).

Other cases concerned arrest situations where, during an operation, officers became aware that the perpetrator had a weapon or was threatening to use a weapon. Several of the cases concerned the arrest of persons who, in the situation, appeared to be mentally unstable. A common feature of the cases is that shots are first fired after the police have shouted to make their presence known and, in several of the cases, have endeavoured for some time to persuade the perpetrator to give himself up.

Another common feature of all 15 cases

where officers were investigated for the use of a service weapon is that all of the cases were dropped on the ground that no criminal offence was deemed proven. The crucial factor is of course compliance with provisions of the Police Act and the Firearms Instructions concerning gradual escalation of use of the measure, and that the firearms must only be used as a last resort. In many of the cases, shots were fired because the police officer who fired felt that his life or the lives of other people were in danger.

In the view of the Bureau, two dead and 13 injured persons as a result of the police's use of firearms over a period of 10 years, is a relatively small number considering the number of police operations. It is reasonable to assume that there are many situations where in the circumstances the use of firearms would be in compliance with the Firearms Instructions, but where, for various reasons, the situation is not dealt with in this way (see separate box for statistics concerning orders to carry firearms and shots fired). The question is whether amendment of the firearms arrangements will affect how the police deal with such situations. ■

The Bureau has not imposed penalties on officers who have fired on persons during operations. However, a number of officers have been fined for careless handling of firearms during exercises. In 2013, an officer was fined for gross lack of judgment in the course of duty after firing five shots at the tires of a passenger car that the police were attempting to stop. The fine was not accepted and the case was considered by Oslo District Court, where the officer was acquitted. In its assessment of the case, the district court found that the police officer had failed to comply with the Firearms Instructions, but that his assessment was not so unjustifiable that it amounted to gross lack of judgment in the course of duty.



*In 2014, Police Superintendent Steinar Vee Henriksen was awarded the Police University College's prize for educational quality for his work on development of firearms training for police cadets. The Bureau has asked him to give an account of the development of the Police University College's weapons and tactics training during the last 10 years, and how the Bureau's decisions are used in teaching today.*

## THE BUREAU'S INVESTIGATION OF SHOOTING INCIDENTS

In the event of loss of life or serious injury, the Bureau is notified immediately. Some time may elapse before the Bureau's investigators arrive at the scene of the incident. The Bureau needs information that can rapidly enable it to make decisions concerning the investigative steps to be taken. An immediate request will therefore be routinely made for the duty log concerning the incident and the sound recording as well as a list of the officers who participated in the operation and persons with responsibility for making decisions during the operation. It must be clarified who is to secure and examine the scene of the incident. The Bureau will assess the need to request shielding of the officers who took part in the operation until they are examined. If it is unclear who fired, it may be appropriate to take samples of gunshot residues. Service weapons must be secured. A photograph of the weapon must preferably be taken before emptying and securing it following the correct procedure.

*"Both the quality and the scope of the Norwegian Police University College's training in weapons and tactics have shown positive development during the last 10 years. Instructor courses have been established with specialised modules for arrest technique, weapons and tactics, which have raised the expertise of instructors and tactical personnel in the police. The Operations Section at the Norwegian Police University College has also made considerable efforts to raise the quality of weapons training in the police, and the number of hours of weapons training in the Norwegian Police University College bachelors course has increased from 54 hours in 2007 to 102.5 hours in 2014. This is partly because of the introduction of pistols, resulting in the replacement of two days' training in revolver use by one week's training in pistol use. The pistol course also places considerable emphasis on weapon handling. In this connection, training in weapons and tactics focuses on keeping the use of force to a minimum, and safety for all parties has high priority.*

*In the training at the Police University College within the legal framework of the police's use of means of force,*

*situational training is carried out in a training simulator. Here, the cadets are shown video sequences where they are required to watch, understand, assess and act correctly in compliance with the Police Firearms Instructions and the Guidelines for Tactics and Weapons. The video sequences were developed in connection with the Police University College's simulator project, which produced entirely new teaching material. The basis for this project was the decision of the Bureau and the Director of Public Prosecutions based on legal assessments of the police's use of firearms in the course of duty. This documentation has formed the basis for many of the video sequences in the training simulator, and the decisions relevant to these are enclosed with the instructor manuals. In this way, the Police University College makes use of the active empirical data underlying these decisions to maintain a critical and development-oriented perspective for this training."* ■

# CASE PROCESSING AT TWO LEVELS

*The Bureau is both an investigative and a prosecutorial body. Its activities are governed by the Criminal Procedure Act, the Prosecution Instructions and directives issued by the Director of Public Prosecutions. Case processing is carried out at two levels. The Director of the Bureau does not participate in or issue detailed guidelines for the work of the investigation divisions.*

## THE INVESTIGATION DIVISIONS

### 1 | Receipt of a report or case

The Bureau receives reports of offences from private individuals, lawyers and police districts. In some cases, the Bureau opens a case on its own initiative, for example on the basis of media coverage. Pursuant to the Criminal Procedure Act, it is obligatory to investigate cases where a person dies or is seriously injured as a result of an act carried out in the performance of duty or while the person was in the custody of the police or prosecuting authority.

### 2 | Enquiries

The Bureau conducts enquiries to assess whether there are reasonable grounds for initiating an investigation. The complainant is often interviewed in order to obtain more information concerning the complaint. Documentation is obtained from the police, such as the duty log for an incident or the sound and video material from the custody facility. If there is a related criminal case against the complainant, the documents relating to the case are as a rule obtained.

### 3 | Investigation

The Bureau has the right to employ all lawful methods of investigation. In the Bureau's cases, evidence is primarily obtained by examining the complainant, witnesses and suspects. In some cases, there are grounds for search, arrest and remand in custody. In most cases, documentation will be obtained as part of the preliminary enquiries. Beyond this, it may, for example, be relevant to examine the scene of the incident, obtain medical assessments, seize telephones or computers and obtain logs of searches made in police records.

### 4 | Written recommendation to the Director of the Bureau

When a matter is regarded as adequately investigated, the case is sent to the Director of the Bureau with a recommendation written by one of the division's permanent lawyers or by one of the lawyers on assignment.

## THE DIRECTOR OF THE BUREAU

### 1 | Reasoned decisions in writing provided in all cases

The Director of the Bureau decides all of the Bureau's cases (except cases where the question of prosecution is decided by the King in Council or by the Director of Public Prosecutions). In all cases, including those dropped without investigation, a reasoned decision is provided in writing, stating the details of the report, the enquiries conducted by the Bureau, the facts of the case and a legal opinion concerning the matter. The decision is prepared by one of the lawyers at the office of the Director of the Bureau.

### 2 | Decisions not to prosecute

If there are no reasonable grounds to investigate whether a criminal offence has been committed in the course of duty, the case is dropped without investigation in accordance with section 224 of the Criminal Procedure Act. If the case is investigated and the evidence strongly contraindicates that a criminal offence has been committed, the case is dropped on the ground that no criminal offence is deemed proven. If the facts of the case cannot be sufficiently clarified, or if there is doubt concerning whether the objective or subjective conditions for criminal liability are met, the case is dropped owing to insufficient evidence.

### 3 | Decisions to prosecute

When the conditions for criminal liability are present, a writ prescribing an optional fine, a waiver of prosecution or an indictment is issued. In accordance with good prosecution practice, indictment is not to be issued unless one is convinced of culpability and that this can be proved in a court of law.

### 4 | Administrative assessment

If, through the report of an offence or in connection with the Bureau's investigation, factors come to light indicating that the case should be considered administratively, the Bureau is required to send the case to the chief of police concerned, the director of the relevant special body or other appropriate body (see section 34-7 of the Prosecution Instructions). For further information, see page 40.

### 5 | Notification of the parties to the case

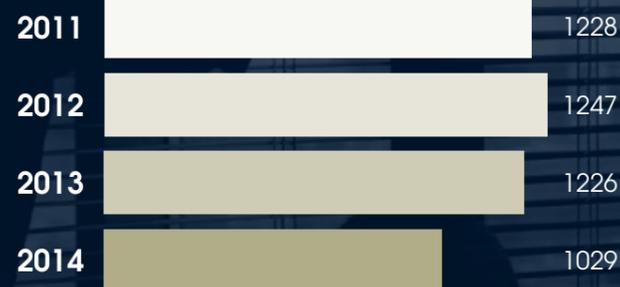
The decision must be sent to the parties to the case (as a rule the complainant and the reported officers) and the chief of police of the district concerned. If the case concerns the Norwegian Police Directorate's sphere of responsibility, it is sent to the Directorate. In matters submitted for administrative assessment, the Norwegian Police Directorate receives a copy of the decision.

### 6 | Appeal to the Director General of Public Prosecutions

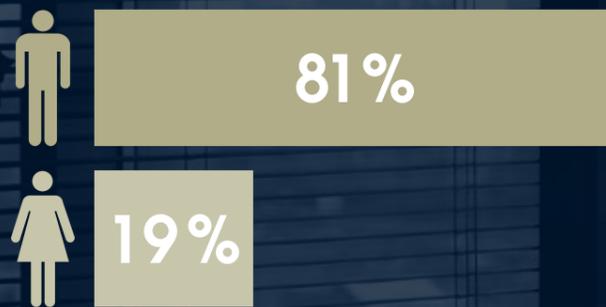
The decisions of the Bureau's can be appealed to the Director of Public Prosecutions.

# STATISTICS FOR 2014

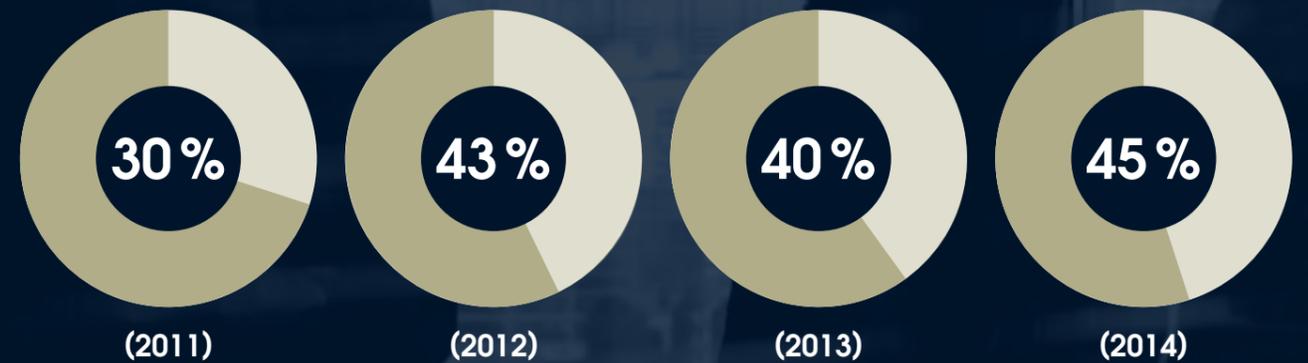
## RECORDED COMPLAINTS



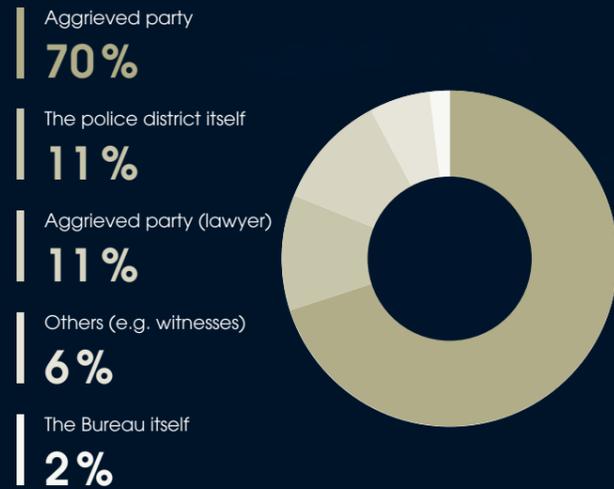
## COMPLAINANTS (distribution by gender)



## NO REASONABLE GROUNDS FOR INVESTIGATION (Number of cases dropped without investigation)



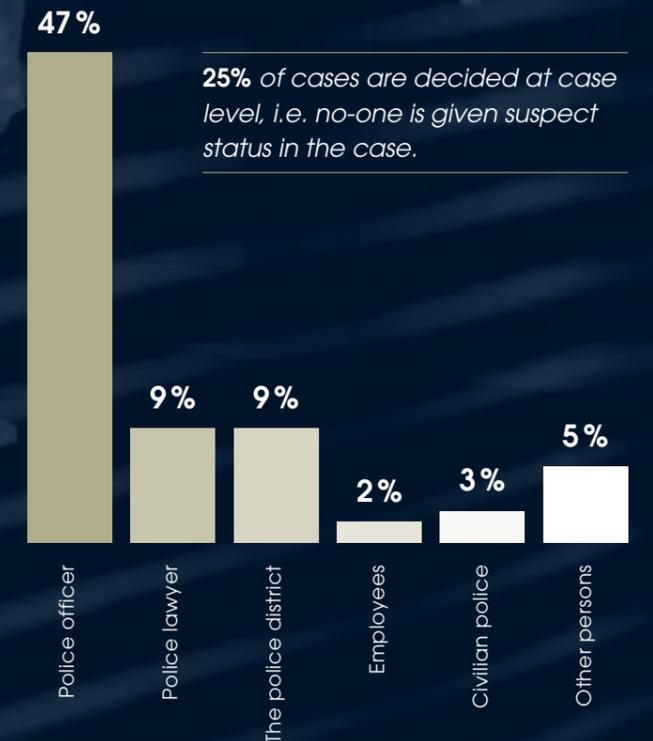
## WHO LODGES COMPLAINTS?



## NUMBER OF CASES (cases decided)



## WHO ARE COMPLAINTS LODGED AGAINST?



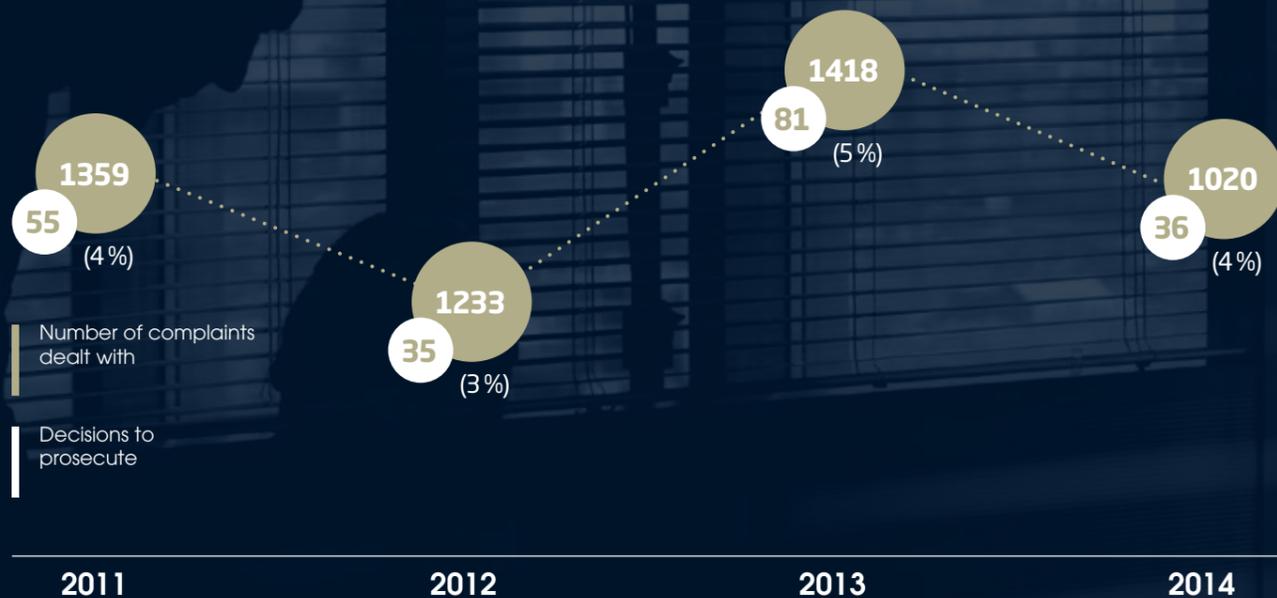
The question of whether investigation is to be initiated is discretionary. Pursuant to section 224 of the Criminal Procedure Act, a criminal investigation shall be carried out when, as a result of a report or other circumstances, there are reasonable grounds to investigate whether any criminal matter requiring prosecution by the public authorities subsists. Major factors in the assessment of whether there are reasonable grounds for initiating investigation include the probability that one or more criminal acts have been committed, the seriousness of any such criminal acts and a specific assessment of objectivity.

The Bureau has a low threshold for initiating investigations. The Bureau drops between 30% and 45% of cases without investigation partly because many complaints concern entirely lawful performance of duty and partly because some complaints are clearly subjective or groundless. The Bureau also receives complaints where the motive of the complainant is clearly to obstruct the work of the police in an ongoing investigation. Although a case is dropped without investigation, a number of enquiries have generally been made, and a reasoned decision is written.



# STATISTICS FOR 2014

## DECISIONS TO PROSECUTE



In 2014, 36 out of 1020 complaints considered resulted in an optional fine, indictment or waiver of prosecution (4%). A total of 22 persons were sentenced to penalties. No enterprises were sentenced to corporate penalties (for more information, see pages 32–35).

As prosecuting authority, the Bureau must decide cases in accordance with the frameworks that follow from legislation and case law. The law provides the police with extensive powers,

among these, the right to use force in carrying out their duties. Both the legislature and the courts have established that the police must be allowed a considerable margin of error before being made criminally liable for otherwise lawful performance of duty. In cases concerning use of force in connection with arrest, an officer may only be found criminally liable when his or her actions are deemed unnecessary and absolutely unwarranted. Criminal liability must be assessed in relation to the officer's perception of the situation at the time.

## ADMINISTRATIVE ASSESSMENTS (Cases referred to chiefs of police or directors of special bodies)



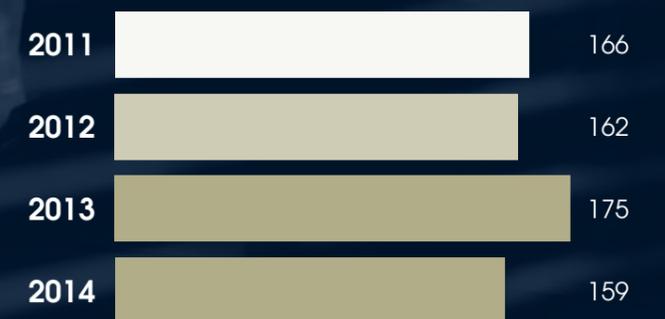
## APPEALS (the Director of Public Prosecutions)

**174** In 2014, the Director of Public Prosecutions considered 174 appeals against decisions made by the Bureau.

**172** In 172 of the cases, the Bureau's decision was upheld. In one case which was dropped owing to insufficient evidence by the Bureau, the Director of Public Prosecution changed the decision and issued a waiver of prosecution. In the second case the Director of Public Prosecution changed the decision not to prosecute based on insufficient evidence to a decision to drop the case on the ground that no criminal offence was deemed proven.

**22%** In 2014, 22% of cases decided were appealed.

## CASE PROCESSING TIME (days)



The Bureau aims at an average case processing time of no longer than 150 days.

## DECISIONS TO PROSECUTE IN 2014

### INDICTMENTS

#### *Use of illegal workers, etc*

• On 10 September 2014, a police officer was indicted for violation of section 108, second paragraph (c), of the Immigration Act in that she had provided incorrect information to the police in connection with an application for reunification with her spouse. She was further indicted for violation of section 108, third paragraph (a), of the Immigration Act in that she had provided accommodation and work in her home to two women of foreign nationality despite the fact that the women did not hold work permits. The officer was also indicted for violation of section 324 of the Penal Code concerning violation of official duties in that she had made a number of searches of police records without an official purpose. The indictment also concerned violation of section 325, first paragraph (5), of the Penal Code in that the officer, by providing incorrect information and using illegal workers, had conducted herself in a manner that would make her unworthy of or would have an adverse effect on the confidence or esteem necessary for her position in the police. The officer was also charged with three counts of human trafficking. These charges were dropped owing to insufficient evidence. The case was heard by Asker and Bærum District Court in

January 2015. The district court acquitted the police officer. The Bureau has appealed against the acquittal.

#### *False testimony*

• On 22 September 2014, the spouse of a police officer was indicted for violation of section 166 of the Penal Code concerning false testimony. The grounds were that, in an application for family reunification with the police officer, the person concerned had incorrectly informed that they lived together. The case has been postponed since the indicted person has no known address in Norway, and it has not been possible to serve the indictment on him.

#### *Gross fraud, etc.*

• On 18 December 2014, a civilian employee was indicted for gross fraud, theft, violation of official duties, conduct likely to weaken confidence in the police service and violation of the Firearms Act. The grounds for the fraud indictment were claims for overtime pay for periods when the official had not worked overtime. The theft indictment and the violation of the Firearms Act concerned the removal, among other items, of a baton and a canister of pepper spray from the workplace, which had been kept at the person's home without the permission of the chief of police. The indict-



ment also concerned violation of official duties for use of police records for non-official searches. The main hearing is scheduled for May 2015.

### FINES

#### *Violation of the Road Traffic Act*

• On 8 April 2014, a police officer (A) was fined NOK 10 000 for careless driving (see section 3 of the Road Traffic Act). While driving a non-uniformed police car towards a marked pedestrian crossing, he had failed to show sufficient consideration, alertness and caution, and had therefore been too late in noticing a pedestrian in the process of crossing the road at the crossing. He had collided with the pedestrian, who had been thrown onto the bonnet of the car, had hit the windscreen and then fallen on the ground. A did not accept the fine, and the case was considered by the district court as a summary judgment on confession. The district court upheld the fine and suspended A's driver's license for five months in conformity with the Bureau's request during the hearing. A appealed the judgment to the Court of Appeal, which disallowed the appeal.

• On 23 April 2014, a police officer was fined NOK 6 000 for careless driving (see section 3 of the Road Traffic Act). During a

turn-out, he had, in view of the conditions, driven too fast, had entered the opposing lane and driven into the left-hand side of a meeting car. The collision had resulted in material damage to both vehicles. The fine was accepted.

• On 13 June 2014, a police officer was fined NOK 6 000 for driving through a red light (see section 5 of the Road Traffic Act, cf. section 24 of the Regulations concerning public road signs, road markings, traffic light signals and directions) and for using a blue light in violation of section 14 (1) of the Traffic Regulations. The grounds were that she, as driver of a uniformed police car, had used a blue light and driven through a red light in order to overtake a bus that a colleague had wanted to catch. The fine was accepted.

• On 1 September 2014, a civilian was fined for violation of section 31, first paragraph, cf. section 3, of the Road Traffic Act. As the person concerned was about to drive out from a parking space and onto the road, he had collided with a police car, resulting in material damage to both vehicles. The fine, which was set at NOK 5 200, was accepted.

• On 18 September 2014, a police officer

was fined for careless driving (see section 31, first paragraph, cf. section 3 of the Road Traffic Act). While driving a uniformed police car, she had entered the opposing lane and created a hazardous situation. The fine, which was set at NOK 5 000, was accepted.

• On 18 September 2014, a police officer was fined for careless driving (see section 31, first paragraph, cf. section 3, of the Road Traffic Act). In a left-hand bend, he had veered into the opposing lane and collided with a meeting car resulting in damage to both vehicles. The fine, which was set at NOK 8 000, was accepted.

• On 1 December 2014, a police officer was fined NOK 5 200 for careless driving (see section 31, first paragraph, cf. section 3, of the Road Traffic Act). The ground was that he, while driving a non-uniformed police car, had failed to show sufficient consideration and alertness when making a left turn, so that he had collided with a cyclist coming in the opposite direction in a marked cycling lane. The fine was not accepted.

• On 18 December 2014, a police officer was fined for violation of section 31, first paragraph, cf. section 3, of the Road Traf-

*The following is a list of cases in 2014 where the Bureau decided to prosecute. The list contains indictments, fines and waivers of prosecution.*

*Continued*

## DECISIONS TO PROSECUTE IN 2014

fic Act. The officer had decided to make a U-turn. While turning to the left, he had collided with a vehicle that had been in process of driving past him on his left side, resulting in material damage to both vehicles. The fine, which was set at NOK 5 200, was accepted.

### *Breach of confidentiality*

- On 19 September 2014, a police officer was fined for violation of section 121, first paragraph, of the Penal Code for breach of the statutory duty of confidentiality. The ground was that the officer had logged into the police data systems and obtained information from the duty log that the police were investigating an address in his neighbourhood on suspicion of the sale of alcoholic beverages not cleared by customs. He had given this information to his wife. The fine, which was set at NOK 15 000, was not accepted, and the case is scheduled to be heard by the district court.

### *Drug offences*

- On 21 August 2014, a police officer was fined for two violations of section 31, second paragraph, cf. section 24, first paragraph, of the Act relating to medicinal products, etc. and one violation of section 324 of the Penal Code. The grounds were one count of use of hashish and cocaine, one count

of possession of a small quantity of hashish, and that he had made a search of police records without an official purpose. The fine, which was set at NOK 15 000, was not accepted, and the case was considered by the district court in January 2015.

- On 21 August 2014, in connection with the Bureau's investigation of a police officer for drug offences, a civilian was fined for violation of section 162, first paragraph, of the Penal Code. The ground was that he had obtained a small quantity of cannabis. The fine, which was set at NOK 5 000, was accepted.

- On 25 August 2014, in connection with the Bureau's investigation of a police officer for drug offences, his cohabitant was fined for violation of section 31, second paragraph, cf. section 24, first paragraph, of the Act relating to medicinal products, etc. The ground was that, on several occasions during a period of two years, she had used hashish and cocaine. The fine, which was set at NOK 5 000, was not accepted, and the case was considered by the district court in January 2015.

### *Bodily harm*

- On 1 April 2014, a police officer was fined for bodily harm (see section 228, first

paragraph, of the Penal Code). The ground was that he had hit a detainee with a clenched fist on the left side of the head. The fine also concerned violation of section 325 (3) of the Penal Code involving improper remarks made by the police officer while taking the detainee to the police station. The fine, which was set at NOK 12 000, was not accepted, and the case was considered by the district court. The district court acquitted the police officer for hitting the detainee, but convicted him of improper remarks. Both the police officer and the Bureau appealed the district court's judgment, and the case is scheduled for appeal at the Court of Appeal in April 2015.

- On 12 November 2014, an escort officer at a detention centre for foreign nationals was fined for violation of section 228, first paragraph, of the Penal Code. The ground was that he had slapped one of the detainees on the left side of his head and had then kicked him. The fine, which was set at NOK 16 000, was not accepted. The main hearing is scheduled for April 2015.

### *Violation of official duties*

- On 6 January 2014, a police officer was fined NOK 10 000 for violation of section 324 of the Penal Code. The ground was that, during the period from 5 May 2010 to 31 Ja-

nuary 2013, he had at his workplace repeatedly searched via the criminal intelligence system Indicia for information concerning a person with whom he had a personal relationship, without having an official purpose for making the searches. The fine was accepted.

- On 10 June 2014, a police officer was fined for breach of section 324 of the Penal Code concerning violation of official duties. On a total of 118 occasions from 2009 to 2013, the officer had, without an official purpose, searched in police records for information concerning an acquaintance. The fine, which was set at NOK 12 000, was accepted.

- On 12 September 2014, a civilian employee of the police service was fined for breach of section 324 of the Penal Code concerning violation of official duties. During a period of two months, she had made 272 searches in police records without an official purpose. The fine, which was set at NOK 8 000, was accepted.

### **WAIVER OF PROSECUTION**

#### *Gross lack of judgment in the course of duty*

- A police officer who was indicted for gross theft of a computer from his workpla-

ce was acquitted by Frostating Court of Appeal. The majority of the Court of Appeal did not find it proven that the indicted person had understood that he was not entitled to remove the computer. After removing the computer from the workplace, the police officer had become aware that it had been seized in a criminal case and contained pornographic material that was unlawful to be in possession of. However, he made no attempt to clarify the origin of the computer, and had not notified his employer that the computer had been removed from the police station and kept by an acquaintance of his. In the view of the Bureau, the failure to notify, etc. entailed gross lack of judgment in the course of duty (see section 325, first paragraph (1), of the Penal Code). Following acquittal of the police officer for theft by the Court of Appeal, the Bureau waived prosecution for this offence.

- The Director of Public Prosecutions requested the Bureau to issue a waiver of prosecution of a police lawyer for violation of section 325 (1) of the Penal Code concerning gross lack of judgment in the course of duty. The Bureau had dropped the case owing to insufficient evidence. The case had been appealed to the Director of Public Prosecutions who had found there to be grounds for issuing a waiver of pro-

secution. The police lawyer had had prosecutory responsibility for retrieval, use and storage of telecommunications data in respect of telephones belonging to two lawyers in connection with an investigation of leaks concerning the 22 July case. Despite the fact that the telecommunications data may have contained information subject to lawyers' duty of confidentiality, they had been examined by employees of the police district and partly processed in a police report that had later been used in connection with examination. Despite the Court of Appeal's decision that the seizure could not be upheld, the telecommunications data had been retained without applying legal remedies. ■

## COURT CASES IN 2014

*When the Bureau issues an indictment, the case is prosecuted in court by one of the Bureau's lawyers.*

### Frostating Court of Appeal *Gross theft*

A police officer was indicted for gross theft of a computer from a police station.

The computer was seized by the police during a search at the home of an acquaintance of the police officer. The acquaintance stated that he had received the computer from the police officer for assisting in removing the password protection. In the district court, the police officer was convicted of theft, sentenced to a fine of NOK 10 000 and ordered to pay costs. At the appeal proceedings in Frostating Court of Appeal, the court's majority concluded that it could not be deemed proven that the police officer, when removing the computer from the police station, had understood that he was not entitled to do so. He was therefore acquitted.

After delivering the computer to his acquaintance, the police officer had been informed that it contained unlawful pornographic material. However, the police officer had made no attempt to clarify the origin of the computer, and had not notified his employer that the computer had been removed from the police station. In the view of the Bureau, the failure to notify, etc. entailed gross lack of judgment in the cour-

se of duty (see section 325, first paragraph (1), of the Penal Code). Following acquittal of the police officer for theft by the Court of Appeal, the Bureau waived prosecution for this offence.

### Frostating Court of Appeal *Corruption, fraud, theft and violation of the Firearms Act*

While employed as an enforcement officer in the police service, the indicted person had requested a number of persons to provide him with money so that he could settle up with their most persistent creditors. None of the creditors had received money from the indicted person. When the indicted person had left the police to work as a financial adviser in the Norwegian Welfare and Labour Service, he had asked several users to transfer money to him so that he could settle their debts for them. He had also asked several users to transfer money to a financial advisory firm of which he was a co-owner. The indicted person had told the users that processing of cases in the public sector was slow, and that he could deal with their cases more rapidly and effectively through his firm. The indictment also concerned theft of an item in connection with a property sale as well as various violations of the Firearms Act.

In the judgment of Inntrøndelag District Court of 13 December 2013, the indicted person was sentenced to imprisonment for one year and six months. In the district court, he was acquitted for certain counts of the indictment, including allegations of corruption. Both the indicted person and the Bureau appealed against the district court's judgment.

In Frostating Court of Appeals judgment of 28 November 2014, the indicted person was sentenced to imprisonment for two years and ordered to pay compensation to four aggrieved persons totalling NOK 111 491. The judgment of the Court of Appeal has been appealed to the Supreme Court and is not legally enforceable.

### Sør-Østerdal District Court *Violations of the Firearms Act, etc.*

A police officer was indicted for several counts of unlawfully acquiring, possessing and storing firearms and ammunition. The indictment also concerned false statements and conduct likely to weaken confidence in the police.

In the district court the then retired police officer was sentenced to imprisonment for 10 months and confiscation of 125 firearms and various items of ammunition. He was, among other things, convicted of acquiring firearms without the permission of the chief of police, for possessing a number of firearms without permission and for storage of firearms in violation of the rules. The court acquitted the indicted person for a number of counts, including false testimony and for having 14 firearms registered on his firearms certificate despite the fact that they were not in his possession.

Both the indicted person and the Bureau appealed against the district court's judgment, and parts of the appeal have been accepted for hearing. The appeal is scheduled to be heard by the Court of Appeal in April 2015.

### Oslo District Court *Violence and improper conduct*

A police officer was fined by the Bureau for violation of section 228, first paragraph, of the Penal Code concerning bodily harm and for violation of section 325, first paragraph (3), of the Penal Code (improper conduct). The police had arrested a young

woman in connection with the report of a robbery. While being examined and confined in custody, the woman had jerked her head backwards, hitting the police officer in the face. The police officer had then struck the woman on the left side of her head. The Bureau's assessment was that the police officer's blow was a penal offence. The charge of improper conduct concerned the police officer's conduct towards the woman during the transport to the police station. Among other things, he had remarked to the woman, "Du er så lite fristen-de og appetittlig at det finnes ikke verre". "Du gjør ingen ting riktig. Alt du gjør er feil" ("You are so disagreeable and unpleasant that there's nothing worse". "You do nothing right. Everything you do is wrong"). He had also told her that the police had thrown away her rucksack, and refused to answer when asked whether this was true.

The fine was not accepted, and the case was heard by Oslo District Court. In the district court, the police officer admitted to the circumstances described, but not to criminal liability. The district court acquitted the police officer of the charge of bodily harm with reference to doubt following examination of the evidence regarding whether or not the blow had been an unconscious reflex action. The police officer's remarks in the police car were judged by the court to be extremely offensive and, for this offence, he was sentenced to a fine of NOK 5 000.

Both the Bureau and the police officer have appealed against the judgment, and the appeal is scheduled to be heard in May 2015.

### Oslo District Court *Careless driving*

A police officer was fined by the Bureau for careless driving (see section 31, first paragraph, cf. section 3, of the Road Traffic Act. He had been driving a uniformed police car in Oslo city centre and, when changing lanes to the left, had collided with a passenger car. The police officer did not accept the fine, and the case was heard by Oslo District Court. The court concluded that the police officer had acted negligently. He was sentenced to a fine of NOK 8 400 and ordered to pay costs amounting to NOK 3 000. The police officer's appeal against the district court's judgment was disallowed.

### Asker and Bærum District Court *Careless driving – duration of loss of driver's licence*

After having collided with a pedestrian at a pedestrian crossing, a police officer was served a writ by the Bureau prescribing an optional fine of NOK 10 000 for careless driving (see section 31, first paragraph, cf. section 3, of the Road Traffic Act). The writ also prescribed that the officer would forfeit his driver's licence for a period of six months. The police officer admitted criminal liability and accepted the fine, but opposed withdrawal of his driver's licence. In the hearing, also attended by the Bureau, the duration of the loss of the driver's licence was set at five months by the district court. The appeal by the police officer against the district court's ruling concerning the loss of his driver's licence was disallowed. ■



*In cases involving serious injury or loss of life as a result of actions carried out by the police or prosecuting authority in the course of duty, the Bureau turns out and initiates immediate investigations. There may also be other cases where immediate response is called for. The Bureau has a duty scheme so that it can be contacted 24 hours a day in the event of serious incidents. In 2014, the Bureau turned out and initiated immediate investigations in 10 cases*

## EMERGENCY TURN-OUTS IN 2014

11 January 2014

**Follo police district**

A person was seriously injured when driving off the road while being pursued by a police patrol.

16 January 2014

**Vestoppland police district**

The Bureau was notified that a person had shot himself when the police visited him at his home following a report of a domestic disturbance.

9 February 2014

**Salten police district**

A car driver died after colliding with a goods vehicle. Prior to the accident, the car driver had been pursued by a police patrol car.

18 March 2014

**Vestfold police district**

The Bureau was notified that a car driver had collided with two mopeds, and that the driver of one of the mopeds had been severely injured. When the accident occurred, the car driver was being pursued by a police patrol car.

31 March 2014

**Sunnmøre police district**

The Bureau was notified that a person had been injured during arrest. In a scuffle between the arrested person and an officer, the arrested person had been hit on the head with a telescopic baton and had received cuts that had needed to be taped at the hospital.

31 March 2014

**Agder police district**

A car driver died after colliding with a goods vehicle. At the time of the accident, the car driver was being pursued by a police patrol car.

22 June 2014

**Haugaland and Sunnhordland police district**

A person's arm was broken in connection with arrest by the police.

4 August 2014

**Nord-Trøndelag police district**

A woman who was lying asleep on the ramp outside the police garage door was driven over by a police car on its way out of the garage.

30 November 2014

**Haugaland and Sunnhordland police district**

The Bureau was notified that, during turn-out, a non-uniformed police car had collided with a passenger car on a roundabout. According to information received, the driver of the passenger car had suffered spinal fractures.

4 December 2014

**Rogaland police district**

The Bureau was notified that a person who earlier the same day had injured himself with a knife had absconded from the accident and emergency unit and forcibly obtained a car. During vehicle pursuit by the police, the person had driven into the sea at a deep-water berth. After approximately 15 minutes, divers had succeeded in rescuing him from the car and bringing him ashore. The person had died two days after the incident.

## INTERNATIONAL COOPERATION IN 2014

*In December 2014, an investigator from the Danish Police Complaints Authority (DUP), visited Investigation Division East Norway as an observer.*

**JOINT PROFESSIONAL SEMINAR WITH THE DANISH POLICE COMPLAINTS AUTHORITY**

To follow up previous Nordic cooperation, a joint Nordic professional seminar was held in 2014. The Bureau's Danish sister organisation, the Danish Police Complaints Authority (DUP), invited the Bureau's employees as well as persons from the Swedish National Police-related Crimes Unit to a professional seminar in Århus 3–5 June 2014. Among other things, the programme included exchange of experience concerning investigation of shooting incidents. Forensic pathologist Peter Juel Thiis Knudsen gave a talk on gunshot wounds. There was also a debate with invited panellists on the police's use of force in a human rights perspective. From the Bureau, the seminar was attended by a total of 12 persons from all three investigation divisions, the Director and the administration.

**OBSERVER FROM THE DANISH POLICE COMPLAINTS AUTHORITY (DUP)**

In December 2014, an investigator from the Danish Police Complaints Authority (DUP) visited Investigation Division East Norway as an observer. The Danish investigator participated in the performance of several tasks in order to gain an insight into how cases are processed and investigated by the Bureau.

**LECTURE AT THE HUMAN RIGHTS CONFERENCE IN LATVIA**

In autumn 2014, the Bureau was invited to hold a lecture at a conference on global, regional and national mechanisms for the prevention of torture and inhuman or degrading treatment. The seminar was held by the Latvian Centre for Human Rights on the occasion of the 25th anniversary of the European Committee for the Prevention of Torture. The conference was attended by employees of prisons and police custody facilities, human rights organisations and authorities with responsibility for police and prison services. The Bureau's representative held a lecture on experience of investigating incidents occurring in police custody in the light of the requirements of international conventions concerning independent investigation. ■

# ADMINISTRATIVE ASSESSMENTS IN 2014

## DEATHS IN POLICE CUSTODY / NOTIFICATION OF FAMILY

### Rogaland police district

A police officer was reported for gross lack of judgment in the course of duty in connection with notification following a death in the custody facility. The report stated that the police had posted a message about the death on Twitter and had provided detailed information to the press before notifying the family of the deceased. The person who reported the matter told that he had been notified by the police during the afternoon that his father had been taken into custody for drunkenness, and that he would be looked after. Approximately six hours after being notified, the complainant read in an article on the Internet that a man the same age as his father had been arrested for intoxication and had later been found dead in the custody facility. He found it completely incomprehensible that the police in this situation had notified the press before notifying the family of the deceased, particularly in view of the fact that the police had been in contact with him earlier the same day concerning his father's situation. He regarded it as extremely censurable that the information to the media had been so detailed that the relatives of the deceased had easily been able to identify the deceased. The reported police

officer told that it was the operations centre that had posted a message on Twitter that a person had been found dead in the custody facility. The posted message was as follows: "A person has died in the custody facility in X. A message will shortly be given to the media". The message resulted in interest from several news media.

It is known that, after notification of the press, several hours had elapsed before the police in accordance with current routines had formally notified the family concerning the deceased. In the Bureau's assessment, it was unfortunate and censurable that the police had given detailed information concerning the incident to the press before ensuring that the family of the deceased, with whom they had already been in contact concerning arrest of the man, were notified of the death. In the situation, there had been no reasons for informing the public before the family of the deceased.

Although there were grounds for criticising the procedure adopted by the police, grounds were not found for criminal liability. The case was dropped on the ground that no criminal offence was deemed proven. The chief of police was requested to follow up the incident administratively.

## DEATH IN SECONDARY CUSTODY FACILITY – DEFICIENT EQUIPMENT FOR CELL MONITORING

### Agder police district

An intoxicated person suspected of a drug offence was arrested late in the evening by the police and taken into custody. Owing to the condition of the arrested person when placed in the cell, it was decided to implement intensified supervision with inspection every half hour. When, during the night, the arrested person said that he was feeling unwell, he was taken to the accident and emergency unit. On examination at the accident and emergency unit no indications were found that the arrested person could not remain in police custody, and he was returned to the custody facility. At approximately 05.00 hours, it was discovered that the arrested person was not breathing. A resuscitation attempt was initiated and medical personnel were summoned. The arrested person was later confirmed dead. In the pathologist's report, the death was assumed to have been caused by mixed poisoning, partly as a result of heroin consumption.

During the Bureau's investigation of the incident, it was found that some of the cell inspections conducted before midnight had not been entered in the log by the person conducting them, but by a person who was on duty later. This was assessed by the Bureau as censurable. The investigation left some uncertainty with regard to the length of time that the deceased had been sitting asleep in the same position before he was found to have stopped breathing. The Bureau pointed out with reference to the letter of 28 April 2009 from the Norwegian Police Directorate to the chiefs of police that the custody log must be used actively to enable subsequent documentation of observations and assessments made in connection with the inspections.

Video surveillance of the cells functioned, but the recording functionality had not

worked for 10 years. The keycard system that could have confirmed entry and exit from the custody facility was also partly defective. Since the custody facility was a secondary custody facility and therefore not subject to the same requirements regarding communications and security as central custody facilities, maintenance of the equipment had not been given priority. The Bureau pointed out in its assessment that the custody facility in question, although defined as a secondary custody facility, had approximately 1200 detentions a year. The defensibility of failing to repair damaged equipment could therefore be questioned. Grounds for criminal liability were not considered. In view of the seriousness of the case, the chief of police was requested to review the case administratively.

## DECISIONS REGARDING AUTOPSY – NOTIFICATION OF THE FAMILY OF THE DECEASED

### Sør-Trøndelag police district

A mother reported the police in connection with a decision by the police that her deceased daughter was to be subjected to an autopsy (see section 13-2 of the Prosecution Instructions). The mother had been present at the death of the daughter, who had been chronically sick. Shortly after the death, the deceased person's general practitioner had told the police that the deceased was known to be sick and that it was not surprising that she had died. The mother pointed out in the report that she had not been notified by the police that an autopsy had been requested. She had only been informed of this by the undertaker.

The Bureau took a statement from the police lawyer who had requested the autopsy. The lawyer told that, when making the request, he had been of the opinion that the death had occurred suddenly and unexpectedly. He could not remember whether the report concerning the matter had been finished at the time he wrote the autopsy request. The lawyer told that he

had no role in notifying the family of the deceased. He had assumed that this had been done. The autopsy request signed by him stated that the family had been notified.

It was not clear from the police documentation and the police lawyer's statement what information was available when the autopsy request was issued. On the basis of the provisions of chapter 13 of the Prosecution Instructions concerning expert autopsy and the nature of the case, there were no grounds for concluding that the police lawyer had acted in a manner that could result in criminal liability.

In accordance with section 13-3 of the Prosecution Instructions, before conducting an autopsy, the family of the deceased should be notified and given the opportunity to state their views. In its assessment of the case, the Bureau found that it is the responsibility of the police to ensure that the family of the deceased is notified, and that it is to the police that the family of the deceased must state its views on the question of autopsy. It was not stated in the police's duty log or in the report concerning the matter that the family of the deceased had been notified that the police would request an autopsy.

Although section 13-3 of the Prosecution Instructions does not require notification of the family of the deceased, the provision clearly indicates that this should be done in situations where conditions so permit. It is also the Bureau's assessment that the police must ensure documentation that notification has been given, and that the family of the deceased have been given the opportunity to state their views. Although there was reason to criticise the procedure adopted by the police, the fact that the police had not acted in accordance with the provision of section 13-3 of the Prosecution Instructions was not assessed as resulting in criminal liability. The case was

*Experiential learning – referral of cases to chiefs of police or directors of special bodies for administrative assessment.*

*Continued*

## ADMINISTRATIVE ASSESSMENTS IN 2014

dropped on the ground that no criminal offence was deemed proven.

The Bureau requested that the case be reviewed administratively, and pointed out that it could be questioned whether sufficient information had been obtained concerning the case when it was decided to request an autopsy. It was further pointed out that it was not deemed that the matter had been dealt with in accordance with the provision of section 13-3 of the Prosecution Instructions. The case was viewed as providing a basis for experiential learning. The mother of the deceased appealed to the Director of Public Prosecutions against the Bureau's decision not to prosecute. The Director of Public Prosecutions upheld the decision not to prosecute and endorsed the decision that the case should be followed up administratively by the police district.

### TURN-OUT AND PURSUIT THROUGH ROAD WORKS

#### Salten police district

An asphaltting company reported a Central Mobile Police Force patrol for speeding and careless driving through an area of road works. The patrol had been pursuing a motorcyclist who had been driving at high

speed and refusing to stop. In the view of the company, the police had acted in a manner that had endangered the lives of the asphalt workers. The road works had been well signalled and there had been manual traffic direction at the point of entry to the area. Passage through the area had only been permitted in single file escorted by a pilot car. The highest permitted speed in the area had been 50 kilometres per hour. When the patrol car had passed the road works sign, it had been driving at approximately 140 kilometres per hour. While driving through the road works, its speed had varied and at the highest had been 130 kilometres per hour.

The driver of the patrol car told that his assignment was to stop serious traffic offenders, and he had therefore not wished to give up pursuit of the motorcyclist. In his view, the pursuit was conducted in a manner that did not endanger other people's lives.

The Bureau took a number of statements, and obtained from the patrol and from one of the construction vehicles video recordings showing parts of the driving. The engineering firm of Rekon AS was requested to review the case in order to provide a

basis for assessing risk factors, including the patrol's possibility of stopping in order to avoid hitting obstacles on the road. Rekon's report did not give grounds for completely setting aside the risk assessment of the driver of the patrol car.

On the basis of the result of the investigation, the Bureau considered there to be reasonable doubt regarding whether the driver of the patrol car had driven carelessly. However, it was the Bureau's view that, when weighing up between the need for the patrol to resolve its task and the regard for traffic safety, the patrol should have given up pursuit. Regard for those working in the area should have been ascribed greater weight than the possibility of stopping a speeding motorcyclist. The Pursuit through the road works had entailed a risk of injury, and was not considered a proportional measure for stopping and arresting the motorcyclist. For the driver of the patrol car, the case was dropped pursuant to section 31, first paragraph, cf. section 3, of the Road Traffic Act and section 325 (1) of the Penal Code owing to insufficient evidence. The case was forwarded to the director of the Central Mobile Police Force for administrative follow-up. The Central Mobile Police Force officers involved in the case told that they had not been aware in advance that there were extensive road works in the area concerned. The Bureau asked whether such knowledge should not be a factor in the planning of the video car service.

### LONG CASE PROCESSING TIME - REPORT OF RAPE

#### Salten police district

A woman who had reported a rape to the police subsequently reported a police officer for allowing her case to lie unprocessed. From the date that the woman had given a sound and video recorded statement to the police officer, almost eight months had elapsed until the summary of the police interview had been made available to her for review. The woman told



that she had experienced the use of time by the police as a considerable strain, that she had gradually lost confidence in the processing and felt that her case had been given low priority.

The police officer apologised for the dilatory processing of the case, which he said was unfortunately not unusual. During the period concerned, there had been several violent rapes, and he had had a considerable burden of work. Since the woman's report concerned an offence that had occurred three years previously, her case had been given lower priority. The police officer pointed out that he had other time-consuming responsibilities. As well as being the sex crimes coordinator, he worked turns of duty for the uniformed branch and was a driving instructor. The senior prosecutor told the Bureau that the chief of police and the management group were aware that the unit to which the police officer was attached had for some time had too limited resources.

In its assessment of the case, the Bureau drew attention to the Director of Public Prosecutions' circular of 8 November 2013 to

public prosecutors and chiefs of police, which states that rape cases are to be given priority and, when there is a shortage of resources, are to be given precedence. The Director of Public Prosecutions' circular of 16 October 2009 on sound and video recording of statements states that summaries of interviews should be presented to the person interviewed within two weeks of the interview at the latest.

In the view of the Bureau, the result of the investigation did not provide grounds for such strong criticism of the police officer that his conduct could be found subject to penalty. The chief of police was requested to follow up the case administratively. ■

The bureau's  
**ORGANISATION  
AND STAFFING**



The Norwegian Bureau for the Investigation of Police Affairs was established on 1 January 2005 for the purpose of investigating cases where employees of the police or prosecuting authority are suspected of committing criminal offences in the course of duty. The Bureau is not part of the police, but an independent body administratively subordinate to the Ministry of Justice and Public Security and professionally subordinate to the Director of Public Prosecutions.

The Bureau has 36 permanent employees, of which 17 are investigators. In addition, 11 persons are engaged on assignment. The Bureau is organised on two levels, one level for investigation and one level for overall management. The Director of the Bureau, who has overall responsibility for activities and decides on prosecutions in all cases, is located in Hamar. The Bureau has three investigation divisions, which are located in Hamar/Oslo, Trondheim, and Bergen.

## THE BUREAU'S MANAGEMENT GROUP



**Jan Egil Presthus**  
Director of the Norwegian Bureau for the Investigation of Police Affairs.



**Guro Glærum Kleppe**  
Deputy Director of the Norwegian Bureau for the Investigation of Police Affairs.



**Liv Øyen**  
Head of Investigation Division East Norway.



**Halvor Hjelm-Hansen**  
Head of Investigation Division Mid Norway and North Norway. Lawyer on assignment.



**Ellen Eikeseth Mjøs**  
Head of Investigation Division West Norway. Lawyer on assignment.

## PERSONS ON ASSIGNMENT

*In addition to the permanent employees, 11 persons are engaged on assignment in processing of cases by the Bureau. The assignment arrangement underlines the independence of the Bureau, and fosters transparency and trust. Engagements on assignment are made for three years at a time, and may not be held for more than two periods, i.e. a maximum of six years.*

**Ronald Eriksen Brevik**  
Lawyer and partner in Riisa & Co.

**Eirik Næmdal**  
Lawyer in the law firm Turid Mæland.

**Audun Lillestølen**  
Lawyer and partner in the law firm LYNX.

**Kai Stephansen**  
Lawyer and partner in the law firm Strand & Co.

**Trond Eirik Aansløyken**  
Lawyer in Kindem & Co.

**Tor Erik Heggøy**  
Partner and lawyer in the law firm Tenden.

**Tone Bergan**  
Specialist in psychology at the University of Bergen.

**Odd Rune Torstrup**  
Lawyer in the law community Torstrup og Grøsfjeld.

**Jørn Mejdell Jakobsen**  
Lawyer in own law firm.

## BRIEF NOTES ON SOME OF THE BUREAU'S EMPLOYEES



**Terje Storø**  
Special Investigator from 2005

Graduated from the National Police Academy in 1987. Experience from Helgeland police district and Sør-Trøndelag police district.



**Kristine Schilling**  
Legal Adviser from 2014

Law degree from the University of Oslo, 1995, and LL.M. degree from the University of Kiel, 1996. Experience as assistant lawyer, deputy judge, lawyer with own legal practice and as acting district court judge at Bergen District Court.



**Vigdis Thomassen Aaseth**  
Adviser – finance and personnel from 2005

Degree in Civil Service Administration and Financial Management from the Norwegian Business School. Experience of clerical and accounting work for various private companies and as an executive officer at the Norwegian National Rail Administration.



**Knut Wold**  
Investigative Prosecutor from 2006

Law degree from the University of Oslo, 1992. Experience as an assistant lawyer, junior police prosecutor, deputy judge and as an executive officer in the Ministry of Justice, the Ministry of Children and Family Affairs, the Norwegian Animal Health Authority and the Norwegian Food Safety Authority.



**Hanne Brenden**  
ICT Adviser from 2009

Holds a college degree in engineering from Bergen University College from 1997. Experience as an ICT consultant at Hedmark Central Hospital and Sykehuset Innlandet HF.



**Anita Rundsveen**  
Special Investigator from 2005

Graduated from the National Police Academy in 1988. Experience from the Norwegian Police Security Service, the Central Mobile Police Service and Hordaland police district.

## ARTICLES FROM PREVIOUS ANNUAL REPORTS

### 2008

- Protection of Civil Society
- The Bureau Tries a Case through Three Judicial Instances – Use of Force during Arrest
- Performance of Police Duties – When Is It Punishable?
- Frequent breaches of confidentiality
- High-Speed Vehicle Pursuits and Shunting
- Corruption Is Harmful to Society
- Reports of Racism
- Police Use of Handcuffs

### 2009

- Detaining in Custody – Incidents Involving Persons in Police Custody
- Corporate Penalties
- Processing Time
- The Swedish National Police-Related Crime Unit
- Can Criminal Offences in the Police be Prevented?

### 2010

- The Police Operations Centre
- The Police's Duty of Activity when a Person is Deprived of their Liberty
- Misuse of Register Data
- The Use of Blunt Physical Force by the Police
- Sexual Involvement between Police Officers and Parties in Criminal Cases
- The Duty to Register Crime Reports

### 2011

- Deprivation of Position by Court Judgment
- Documenting Decisions in Criminal Cases
- Police Corruption in Norway
- The Conduct of Police Employees
- The Use of Police Signature in Private Contexts
- Incidents during Detention

### 2012

- The Police and the Public
- The Decision to Search
- Documenting Seizure, Search and Examination in connection with Committal to Custody
- Strip Search of Persons under Arrest
- Breach of the Duty of Secrecy
- The Detainee's Right to be Heard
- Correct Use of Handcuffs – Seeing the Unique in the Usual
- Police Action against Foreign Beggars
- The Duty of the Police to Inform
- The Duty of the Police to Deal with Dangerous Situations

### 2013

- Analysis of Cases Concerning Use of Force
- Information Leaks from the Police to the Media
- Discipline in communications
- Status in Interviews with the Bureau
- Arrest - et inngripende tiltak
- Custody – an Invasive Measure
- The Requirements of the Criminal Procedure Act regarding Report of Search
- Photographing/Videoing Police Performing their Duties
- Police Management

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The divisional offices are staffed by investigators who are often out on assignment. Visitors should therefore make appointments in advance. All the divisions can be contacted on the given telephone number and e-mail address given above.

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