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Norwegian Bureau for the  
Investigation of Police Affairs



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*Both the police and society at large undergo continual change. It is important for the Bureau to maintain a level of professionalism that enables assignments to be dealt with thoroughly and efficiently and as independently as possible.*

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## FOREWORD

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In several of its annual reports, the Bureau has drawn attention to questions concerning deprivation of liberty and the use of police custody. This was also a major topic when the Bureau commemorated 10 years of operation in May 2015. In the annual report for 2015, we have chosen to draw attention to a number of other matters, such as the new penal provisions concerning errors in the performance of duty, firearms security and the conditions for emergency turn-outs.

In 2015, as in 2014, the Bureau devoted a considerable share of its investigation resources to a single case concerning suspected gross drug offences and gross corruption allegedly committed by an officer serving in Oslo Police District. The work has been demanding, among other reasons, because the facts of the case apply to events that took place over a long period. In October 2015, the Bureau found there to be sufficient information concerning the case to allow a prosecution decision. Owing to the seriousness of the offences, the question of prosecution was decided by the Director of Public Prosecutions, who ordered the Director of the Bureau on 6 February 2016 to indict the officer concerned. The main hearing at Oslo District Court is scheduled to commence in August 2016.

The Bureau's statistics for 2015 indicate an increase in the average processing time in cases decided. The Bureau's target is 150

days, but the average processing time in 2015 was 204 days. The increase from 2014 to 2015 was expected, and was brought about by the need to delay investigations and other processing in a number of cases owing to work on the above case and certain other resource-demanding investigations. Some time is expected to elapse before a return to normal.

In 2015, the Director of the Bureau appointed an internal working group that was assigned the task of assessing the Bureau's need for knowledge and other resources. One of the working group's recommendations is to provide for more competence-building measures. The basic staff of the Bureau should be sufficiently large to ensure that leave in connection with courses and other competence-building measures do not adversely affect day-to-day operations. Both the police and society at large undergo continual change. It is important for the Bureau to maintain a level of professionalism that enables assignments to be dealt with thoroughly and efficiently and as independently as possible.

The Bureau is often asked whether its portfolio contains trends or cases deserving special attention. In 2015, it is relevant to draw attention to the number of accidental shootings. These cases are discussed in more detail in a separate article in the annual report. Investigations have also been carried out into several cases where police officers have been



charged with abusing their powers to obtain sexual favours. The cases are of varying character, and it is difficult as yet to draw any other conclusions than that, in police training and management, it is important to make plain the ethical demands on police officers both on and off duty.

Finally, a little grumble. The Bureau makes decisions in many cases that attract considerable interest and media attention, and is mentioned every year in thousands of news items. In many of these news items, the Bureau is wrongly referred to as "police" and in some cases as "the police's own special Unit". Unfortunately, we have not succeeded in making it generally known that we are not a part of the police, but are an independent investigative unit under the Ministry of Justice and Public Security, and are outside the police.

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



*On 1 January 2015, the Norwegian Bureau for the Investigation of Police Affairs had been in operation for ten years. This was commemorated by an open seminar in Oslo on 29 May 2015 on the topic of police custody and treatment of detainees in police custody.*

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## THE 10TH ANNIVERSARY OF THE BUREAU

A total of 110 attendees were registered, including participants from the Ministry of Justice and Public Security, the Parliamentary Ombudsman for Public Administration, the Norwegian Criminal Cases Review Commission, the Norwegian Correctional Service Directorate, the National Civil Law Administration, the Norwegian Bar Association, the Norwegian Police Directorate, the Police Immigration Unit, the Police Districts and the Norwegian Red Cross. The press was represented by Dagsavisen, Juristkontakt and Politiforum.

**Speakers were:**

- Director of Public Prosecutions, Tor- Aksel Busch
- Director of the Norwegian Bureau for the Investigation of Police Affairs, Jan Egil Presthus
- Representative for and former President of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment (CPT), Latif Huseynov
- the lawyer, Bendik Falch-Koslung
- Head of Department at the Norwegian Police Directorate, Knut Smedsrud

The topic for the presentation given by Director of Public Prosecutions Tor- Aksel Busch was the importance of the Bureau's investigations, particularly those concerning deaths in police custody. In his presentation, Busch told that he had followed the Bureau's area of responsibility for 40 years, and had found the criticism to consist of three recurring elements. The first is the large number of cases dropped. The second is the considerable attention given to individual cases when there is no conviction (the Obiora case is an example of this). The third is the composition and organisation of the work. Busch told that the Office of the Director of Public Prosecutions has been comfortable with the current arrangement. Investigation demands knowledge and experience. It is possible to envisage a different form of organisation, but it is also necessary to take the resource aspect into account. The Bureau has decided to conduct itself transparently, is available for comment, and issues lengthier grounds than has been usual in the prosecution authority in Norway. This has given greater legitimacy to the decisions and to the arrangement.



In his presentation, the Bureau's Director, Jan Egil Presthus, took as his starting point the cases throughout the last 10 years where police officers and agencies have been convicted in connection with custody of persons. Many of the cases have distinct similarities, and questions were asked regarding whether the Police Districts were sufficiently capable of learning from their own and others' experience. Presthus told that the Bureau was aware that the fact that corporate penalties had been imposed so often – 18 times during 10 years – had given rise to internal questions in the police. However, in view of the manner in which responsibility and tasks are organised, corporate penalties are often appropriate. The error in the performance of duty, the qualified reprehensible act, is not a criminal act carried out by an individual but an error committed by a number of persons.

Latif Huseynov informed of the work of the CPT and its experience of the inspection carried out in Norway. In his presentation, Huseynov touched on previous criticism of the Norwegian authorities in connection with handcuffing to the cell wall of

detainees in connection with examination in custody. Comments on this were also given from the floor. Huseynov's assessment was that the organisation of the Norwegian Bureau for the Investigation of Police Affairs was appropriate, and that the combination of investigative responsibility and the power to instigate criminal proceedings provides the Bureau with the necessary authority. Huseynov found the Norwegian arrangement to be very good when compared with those of a number of other countries.

In his presentation, the lawyer Falch-Koslung told of the so-called Security Cell case. In a judgment of 2 June 2014, Oslo District Court concluded that the use of a security cell violates article 8 of the ECHR on several counts, as well as article 14. The appeal proceedings were scheduled for 26 May 2015, but the state decided on 6 May 2015 to withdraw the appeal. A consequence of the judgment is that, only a few hours after being placed in the cell, the use of police custody will always be in violation of article 8 of the ECHR unless solitary confinement is justified on the basis

of a specific and individual need. On expiry of the 48-hour limit laid down in the Police Custody Regulations, use of police custody is always in violation of article 8 of the ECHR because the statutory requirement is not met. Falch-Koslung expected that the police would as soon as possible make the necessary adjustments to comply with the District Court's judgment.

Head of Department Knut Smedsruds task was to give an account of the police's challenges in the light of the criticism made by the CPT, penal sanctions by the Bureau and the Security Cell judgment. Smedsrud chose to look ahead, and provided an account of several of the ongoing change processes in the police.

The Deputy Director of the Norwegian Bureau for the Investigation of Police Affairs, Guro Glærum Kleppe, summed up, opened the debate and coordinated questions from the floor. Questions concerning the state's implementation of the judgment in the Security Cell case were prominent.

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# POLICE ETHICS

*The Bureau has underlined the need for society to feel secure that police officers conduct themselves correctly in situations where they are alone with detainees or arrested persons.*

In 2015 and 2016, the Norwegian Bureau for the Investigation of Police Affairs was invited to speak at the Norwegian Police University College's ethics seminar for first-year students at the Stavren campus.

In its presentation, the Bureau focused on illustrating ethical issues in police work by means of real-life examples, i.e. cases dealt with by the Bureau.

Penalties are society's most extreme reaction. Not all breaches of ethics are of such a serious nature that they result in penalties. Breaches of ethics may also occur within the range between exemplary and punishable conduct. An act may give grounds for criticism and be deemed reprehensible even if it is not a criminal offence. Case law provides considerable scope for misjudgment and wrong assessment in the choice of actions and measures without this involving criminal liability.

A number of requirements regarding the conduct of police officers are laid down in the Police Instructions (General Instructions

for the Police Service), and these form part of the ethical basis of police work. Provisions of the instructions may also be of central importance in assessing whether there may be grounds for a penal reaction.

In its presentation for the students, the Bureau examined a number of issues, which were illustrated by examples from cases, including:

- Misuse of police records and breaches of confidentiality
- Internal communications, discipline in communications and focus on police assignments
- Personal conduct
- Relations with colleagues, concern, suspicion and reporting obligations
- Harassment, the police service as a sound and secure workplace for both men and women
- Conduct towards the general public and suspects

Particularly regarding conduct towards suspects, the Bureau underlined the need for society to feel secure that police officers conduct themselves correctly in situations where they are alone with detainees or

arrested persons. Customary practice in the police service must ensure a strict ethical code of conduct in such situations, regarding both necessary use of force and conduct otherwise. A recent Supreme Court judgment provided an example of the dividing line for criminal liability of improper remarks (see Norwegian Supreme Court Reports Rt. 2015, page 1170).

A police patrol arrested an 18 year-old drug-intoxicated woman who was suspected of robbing a petrol station employee. When the woman was apprehended and searched she resisted. Her behaviour was obstreperous and threatening, and she accused one of the officers of groping her. When she was being strapped into the seat belt in the police car, she bit one of the officers in the arm.

The woman continued to behave very aggressively during transport to the custody facility, and the patrol decided to video her behaviour with a mobile telephone. She then accused the patrol members of being paedophiles who intended to use the recording to masturbate to when they came home.

The woman then said to the officer sitting beside her in the back seat that people like him made her sick. The most senior officer in the patrol, who sat in front and drove the car, then said "Du er så lite fristende og appetittlig at det finnes ikke noe verre" ("You are so disagreeable and unpleasant that there's nothing worse"). When the woman later asked where her rucksack was, the most senior officer told her that they had thrown it in a refuse bin by the roadside. The woman then repeatedly asked whether this was correct, but was not given an answer. During an altercation with the woman while videoing her, the most senior officer also said "Du gjør ingen ting riktig. Alt du har gjort nå er feil." ("You do nothing right. Everything you have done now is wrong").

The most senior officer in the patrol (the defendant) was fined by the Bureau,

and the fine also applied to his conduct towards the young woman during transport. His remarks were deemed a violation of section 325 (3) of the Penal Code (1902) concerning improper conduct. He did not accept the fine, and the case was brought before the court. The officer was first convicted by the district court and subsequently acquitted by the Court of Appeal. When the case was heard by the Supreme Court, he was sentenced to a fine of NOK 5 000. The defendant was summoned to the hearing of the Supreme Court, and did not oppose conviction. The Supreme Court heard the case on 22 October 2015. The question was therefore also raised regarding whether the matter was also subject to the new Penal Code (2005), which entered into force on 1 October 2005.

The Supreme Court found the defendant's remarks to constitute a violation of the Police Instructions, and that there was therefore no doubt that the condition provided in section 171 of the new Penal Code (2005) concerning violation of official duties was met. It was moreover found that the offence must be assessed in the light of the sentiment regarding acceptable police conduct current in society at any given time; and the court found that, both in general in society and internally in the police, a more stringent view of this has prevailed during recent decades.

In connection with the specific assessment of the matter, the Supreme Court referred to section 5-2 of the Police Instructions concerning the requirement regarding order and self-control, and that officers must not allow themselves to be provoked by wounding or offensive remarks. Reference was also made to section 3-1, fourth paragraph, of the Police Instructions, which states that police officers shall be truthful, objective and impartial in the course of duty.

**The decision of the Supreme Court stated as follows:**

"However, as stated, breaches by police

officers, even of major norms for correct conduct, shall not automatically be subject to penalties. A close assessment must be made of the seriousness of the offences".

"A's remark to B, "You are so disagreeable and unpleasant that there's nothing worse" was insulting and was made to a young girl who was clearly unstable. It is true that it was a response to B's provocative remark concerning what she thought the police officers intended to use the recording for. However, as stressed in Norwegian Supreme Court Reports Rt-1984-581, there are specific requirements regarding police officers' ability to show self-control when subjected to provocation in the course of duty".

"Viewed in the context of the first remark, the second remark that "You do nothing right. Everything you have done now is wrong" is found to constitute continued harassment of B".

"The third remark, that they had thrown B's rucksack in a refuse bin, can only be characterised as a lie with no other intention than to make B even more agitated".

"Although B was aggressive and obstreperous, the police officers had the situation under control. She was handcuffed, and had been strapped into a seat belt in a police car. The situation was thus neither complicated nor particularly difficult, and it was unnecessary for A to make such rapid and complex decisions as are often demanded by police work. His remarks were made over time and served no practical purpose in the task in hand. On the contrary, the previous instances found that A's remarks were made in order to hit back at B, and "they contributed to an unnecessary escalation of the conflict in the car".

"In my view, A's conduct was improper and subject to section 325, first paragraph (3), of the Penal Code".

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## SHOOTING CASES IN 2015

**26 June 2015**

*Nordre Buskerud Police District*

At a petrol station, a police patrol intervened against two persons suspected of taking a motor vehicle without the owner's consent. One of the persons was armed, and fired a shot. A police officer then fired a shot at the person. The shot hit the person in the right hip.

**18 September 2015**

*Oslo Police District*

The police turned out in response to a report that a person had behaved in a threatening manner. In connection with the police's intervention against the person, a police officer fired a shot, which hit the person in the abdomen.

**26 September 2015**

*Hedmark Police District*

The police received a report of concern concerning a person. The report stated inter alia that the person was in possession of a firearm. When the police approached the person's home, the person was armed and fired a shot, which hit one of the police officers. The police then fired a shot at the person, who was killed instantly.

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# INVESTIGATION OF POLICE SHOOTINGS

In 2015, the Bureau investigated three incidents where the police aimed and fired at persons. Even when there are no grounds to suspect a criminal act, the Bureau is required to initiate investigations in cases where a person is killed or seriously injured as a result of actions carried out by the police in the performance of duty. When the police have used firearms as a means of force, the obligation to investigate has in practice been regarded as more extensive. It follows from the Director of Public Prosecutions' circular No. 3/2006 that, when assessing the seriousness of the damage, emphasis is to be placed on how it occurred and other circumstances. If the police have injured someone by the use of firearms, investigations have been initiated regardless of the seriousness of the injury. In some cases, the Bureau has investigated use of firearms by the police although no injury has resulted. This applies to incidents where potentially lethal force has been applied by aiming and firing at a person, but where the shot has failed to hit the target.

It follows from article 2 of the European Convention on Human Rights (ECHR) (Right to life) that the state is obliged to

ensure that an effective public enquiry is held when a person is killed as a result of the use of force by representatives of the state (the police). In several rulings, the European Court of Human Rights (ECtHR) has expressed its views concerning the requirements that are to be imposed on such enquiries. (See *Ramsahai v. the Netherlands*, No. 52391/99).

The Bureau's investigation of use of firearms by the police will aim to clarify whether, in specific circumstances, the conditions for firing a shot were met, including whether the specific use of force was a necessary and justifiable act in the course of duty. The assessment will then be carried out pursuant to the provisions of the Police Act concerning the right of the police to use force and pursuant to the provisions of the police's Firearms Instructions. Provisions concerning self-defence may also be relevant. In the investigation of the case, importance will be attached to comply with the requirements and standards that may be inferred from decisions of the ECtHR.

For internal help with several types of investigation assignment, including



In December 2015, Steinar Vee Henriksen and Sondre Wold from the Norwegian Police University College held a presentation for the Bureau's investigators and lawyers on firearms and firearm training in the police service. The Bureau was also shown some video sequences that are shown to students during training of observation, perception, assessment and correct conduct in situations involving use of firearms. Several of the video sequences are based on cases investigated by the Bureau.

shooting cases, the Bureau has defined standard operating procedures. During investigations, this helps to ensure that all necessary measures are considered and carried out in order to ensure that the best possible information is obtained concerning the case and that the correct procedures are followed in handling the case.

The Bureau is located at four places in Norway (Hamar, Oslo, Bergen, and Trondheim), and a hotline is manned outside normal office hours, but there is no standby arrangement for rapid response. As a rule, some time will therefore elapse before the Bureau can be in place at a crime scene or other location where police personnel or members of the public have been involved in or have witnessed a police operation. In the initial phase of the investigation of a shooting, the quality of the investigation is therefore to some extent dependent on local police conducting themselves in accordance with the directives given for this type of situation and that the specific orders of the Bureau are complied with.

It follows from section 34-5 of the Prosecution Instructions and the Director of Public Prosecutions' circular No. 3/2006 that the Bureau is to be notified immediately in the event of an incident requiring immediate attention. Until arrival of the Bureau's investigators, the police must secure the crime scene and take down the personal details of any witnesses. In order to obtain the best possible information concerning the case and maintain a high level of confidence in the investigation, it is important that the officers involved are kept separate until they have been examined by the Bureau. Firearms that have been

fired must be secured and impounded for further examination by the Bureau. On the orders of the Bureau, it may also be appropriate to secure clothing used by involved personnel or to secure GSR samples from the police officers' hands, etc. The overall responsibility for notification of the Bureau in connection with incidents requiring immediate attention and for ensuring compliance with other directives lies with the chiefs of police. The status of the person examined by the Bureau is decided on the basis of the person's role or responsibility in connection with the incident under investigation. Officers who have played a role that may entail an assessment of the criminal liability of their conduct by the Bureau are normally examined with the status of suspect.

When examining the involved police personnel, in addition to obtaining the best possible information concerning the facts of the case, importance is attached to clarifying issues associated with the training received by the personnel. In order to obtain detailed information on this, it may also be appropriate to record interviews with persons with local and national responsibility for training. Colleague support may normally be permitted during such interviews, but plays no active role in the interview.

Examination of aggrieved persons and witnesses is conducted in accordance with the provisions of chapter 8 of the Prosecution Instructions. Sound recordings are made of all examinations. Minutes are taken of the examination, and are submitted to the examined person for approval. The sound recording and the approved minutes are included in the case file, to which the representatives of the parties

have access. In addition to measures for immediate securing of evidence, initiation of on-the-spot investigations, examinations of witnesses, etc., the Bureau will ensure the best possible overview of other major sources of information. Data from the police's operative systems and sound log may form central evidence. An attempt will be made to clarify whether the course of events was wholly or partly recorded by surveillance cameras or private video recordings. Such recordings will be requested and seized as evidence.

In some cases, out of regard for clarification of the case, it may be decided to carry out a reconstruction. In the investigation of a shooting in 2015, the crime scene for the incident was photographed with 3D laser scanning in order to obtain the best possible clarification and documentation of the physical conditions at the location. In cases involving use of firearms by the police, the aggrieved person or his or her next of kin will be appointed counsel (see chapter 9b of the Criminal Procedure Act, in cooperation with the counsel for the aggrieved person, the Bureau will inform the aggrieved person and his or her next of kin on the contents and progress of the investigation, the decisions made and the possibility of appealing against these decisions.

Within the framework of the law, the Bureau seeks to maintain open and positive communication with the media. This applies both during the investigation and following resolution of the case. Prosecution decisions in cases concerning use of firearms by the police are normally published in anonymised form. ■

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# ACCIDENTAL SHOOTINGS

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- *All firearms are always loaded*
  - *Keep your finger off the trigger until the sights are aligned to the target*
  - *Do not aim at anything/anyone you do not wish to shoot at*
  - *Be sure of your target and what is behind it*
- 

In 2015, the Bureau investigated several cases where police employees fired shots unintentionally.

These incidents have been associated with the decision of November 2014 that operative personnel in the Norwegian police service shall temporarily carry firearms.

Questions have been raised by the media and by the police districts regarding what incidents shall be reported/notified to the Bureau. Provided that neither the Bureau nor the police have received complaints from other persons associated with the incident, it must be the police district itself that decides whether a potentially criminal offence has been committed, that should be brought to the attention of the Bureau. In response to an enquiry from the newspaper VG in August 2015 concerning accidental shootings, the Office of the Director of Public Prosecutions stated the following concerning which cases should be dealt with by the Bureau:

"If a shot is fired unintentionally, there will as a rule be grounds for examining whether this constitutes negligent violation

of the Penal Code's provisions concerning handling of firearms. This implies that the chiefs of police must report such types of case so that the Bureau can clarify whether a criminal act has been committed."

During 2015, the Bureau received a total of 15 cases from the police concerning accidental shootings following the decision on temporary arming of the police. A common factor in these cases is that the officer concerned forgot that the weapon was loaded, or that he or she omitted to ensure that the weapon was unloaded before pulling the trigger. In addition to training situations, etc., firearms are most commonly unintentionally discharged in connection with unloading or decocking.

All cases involve violation of the principles referred to during police training as the basic safety rules for handling of firearms:

- All firearms are always loaded
- Keep your finger off the trigger until the sights are aligned to the target
- Do not aim at anything/anyone you do not wish to shoot at
- Be sure of your target and what is behind it

In the case of incidents prior to 1 October 2015, criminal liability is assessed pursuant to section 352, first paragraph, of the Penal Code (1902) concerning, *inter alia*, careless handling of firearms. The provision applies when conduct is "likely to endanger the life or health of others".

Here it is sufficient that the conduct was objectively likely to endanger or injure another person. It follows from legal theory and practice that, in the use of firearms, it is required that the person or persons in potential danger were close enough to be at risk of injury. It is not required that the risk of injury be specified. The criterion of liability is negligence. Section 352 of the Penal Code (1902) is upheld in section 188 of the new Penal Code (2005).

In assessing the risk of injury associated with the shot, the Bureau has, *inter alia*, considered the type of ammunition used when the accidental shot was fired. Specifically, it has been assumed that the risk of overpenetration and ricochet is somewhat less when "short stop" ammunition is used.

During 2015, the Bureau fined four officers for violation of section 352, first paragraph, second sentencing alternative, of the Penal Code. A description of these cases has been included in the list of decisions to prosecute. Of the remaining cases, five were dropped in 2015 and, at the end of the year, six were still undecided.

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# MISUSE OF POLICE RECORDS

*Activity logs are important evidence in cases concerning misuse of police records.*

Each year, the Bureau handles many cases concerning suspected misuse of access to police records by police officers for non-official purposes.

Some such cases are brought to light by a suspected breach of confidentiality because persons outside the police service have gained access to information from police records. Through investigation of such cases, misuse of records is occasionally revealed that is assessed as criminal violation of official duties. Other cases are reported to the Bureau by the police owing to suspicion of employee's use of records.

When investigations into breach of confidentiality or misuse of police records are initiated, the Bureau procures activity logs that may show the suspect's use of the various records that he or she has access to. The ten years of the Bureau's operations has seen a development in the means of tracing use of the various systems and records. The potential for finding evidence in the form of activity logs has therefore varied over time.

Section 17 of the Police Records Act requires that use of data subject to the Act shall be traceable. By means of what is known as the SPOR programme, the Norwegian Police Directorate has initiated a major project for professional processing of data in the police service.

Part of the programme involves technical modifications that will ensure traceability and user administration for all central systems in a different way than has been done previously. Training and consciousness raising also play a part in SPOR. This work has raised an issue that the Bureau has often come across in examinations; that there has been acceptance at the workplace for searching the records for information without an official purpose.

The Bureau has imposed several fines and indictments for violation of official duties in connection with non-official searches in police records. In the view of the Bureau, clearer and more comprehensive legislation, training and consciousness raising should enable prevention of misuse brought about by a bad corporate culture

where use of records for non-official purposes has been accepted. When criminal use of police records is suspected, tracing data will provide important evidence that may help to disprove or confirm the suspicion.

One of the cases decided in 2015 concerned a civilian employee who, during a period of approximately six months, made three searches of three persons in the police's systems without an official purpose. In view of the small number of searches, the Bureau did not consider the offence to be serious enough to be subject to the Penal Code's provision concerning violation of official duties.

Following a complaint from the chief of police, the Director of Public Prosecutions decided that, on grounds of general deterrence, a penal reaction was necessary, and changed the dismissal of the case to an unconditional waiver of prosecution.

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# DEALING WITH REQUESTS FOR ASSISTANCE

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*The Bureau has dealt with cases where assistance has been provided to the child welfare authorities when taking children into care, and where the child welfare authorities have subsequently criticised the police's handling of the matter.*

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Each year the Bureau receives a number of complaints concerning use of force by the police in connection with assistance to other public agencies or to private individuals.

Some of the cases dealt with by the Bureau give reason to question whether the police have satisfactory routines for handling such requests, and whether rules laid down in the Police Instructions are complied with and are well enough known.

Rules concerning the police's handling of requests for assistance are provided in section 13-4 of the Police Instructions. If a request concerns assistance involving the use of physical force, the decision to provide such assistance must be made by the chief of police provided that this is possible given the time available and the situation (see the first paragraph, third sentence). In such cases, the police should normally demand a written request (see the first paragraph, fourth sentence). The authority of the chief of police may be delegated in local instructions.

In the view of the Bureau, it would in a

number of cases have been advantageous to ensure better documentation in connection with the receipt of a request for assistance, stating how it was received, who dealt with it and who made the decision to provide assistance. Auglænd et al. Politirett, page 680, point out that a written request provides the police with specific information regarding the type, contents, direction and scope of assistance required. This involves an expectation that the police will be responsible for planning how the task is to be carried out.

The Bureau has dealt with cases where assistance has been provided to the child welfare authorities when taking children into care, and where the child welfare authorities have subsequently criticised the police's handling of the matter. In one case, the child welfare authorities criticised the police for removing the child when the child welfare authorities were not present. Here, communications were clearly not good enough. A difficult question in police planning concerns the limits that apply to the use of force. When removing teenagers, the fear of violent reactions and absconding has on occasion resulted in the

use of handcuffs. The use of handcuffs must of course depend on how the situation unfolds. However, when assisting the child welfare authorities, it is questionable whether it is at all appropriate to use such an invasive measure as handcuffs.

In 2015, a police patrol used force against an asylum seeker who had occupied a church in order to carry out a hunger strike. The asylum seeker wanted to draw attention to his need for medical assistance. The vicar did not consider the sanitary conditions in the church to be good enough for someone to reside there. After the asylum seeker had stayed in the church overnight, the vicar therefore requested assistance from the police to remove him. The asylum seeker subsequently issued a complaint against the patrol for unlawful use of force. In its clarification of the case, the Bureau finds that the vicar's request was made orally in a telephone call to the police. The patrol officers who went to the church are in retrospect unsure as to whether the question of use of force was part of their dialogue with the senior operations officer. The assignment was entered in the duty

log, but the log contains no information on decisions concerning the use of force. In the Bureau's assessment, the request for assistance here implied that the use of physical force by the police might be appropriate, and that the request and circumstances otherwise implied that the chief of police or the person to whom he had delegated his authority should have made the decision. The Bureau also considers that, in the situation, a written request could have been demanded.

In connection with requests for assistance from agencies other than the enforcement authority, the police must check the legal basis for the request, etc. (see section 13-4, second paragraph, of the Police Instructions). When circumstances so indicate, the actual basis for the request must also be checked. It is important that the police are aware of this. The Bureau has considered a number of complaints concerning the legal basis for the police's assistance and the question of whether a request for assistance has been made by a person with the appropriate competence.

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# INTERNATIONAL COOPERATION IN 2015



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*The Bureau is frequently invited to participate in international fora.*

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**25th anniversary of the Council of Europe Committee for the Prevention of Torture (CPT) in Strasbourg**

On the invitation of the Council of Europe, two representatives from the Bureau attended a seminar that was held to mark the 25th anniversary of the Committee for the Prevention of Torture. The seminar took place on 2 March 2015 at the Council of Europe in Strasbourg.

The topic for the seminar was "The CPT at 25: taking stock and moving forward". The Committee for the Prevention of Torture wanted to use the occasion for expert debate on future challenges. The Bureau was invited to participate in a workshop entitled "Combating impunity in police and prison context." Investigative Prosecutor Helle Gulseth and Deputy Director Guro Glærum Kleppe participated in the seminar on behalf of the Bureau.

**International seminar on control of the police service in Kosovo**

In autumn 2015, the Bureau was invited to participate in a seminar in Kosovo, which took place 7–9 December at the Kosovo Police Service School outside the capital city of Pristina.

The seminar was held by the Geneva Centre for the Democratic Control of Armed Forces (DCAF) as part of the organisation's assistance to Kosovo aimed at reconstruction and securing of a functioning police service. Representatives from organisations corresponding to the Bureau from several countries participated in several panel debates with an active audience from the national police service, the Kosovo Police Service School and the control body of the police in Kosovo. The invited representatives were from Albania, France, Hungary, Ireland, Northern Ireland and the Netherlands as well as Norway. The Bureau was represented by Legal Adviser Kristine Schilling.

The topics for the panel debates were associated with experience and practice from the participating countries concerning the recruitment procedures of the police

service as well as control and investigation of this. The organisational structure, recruitment and human resources of the control bodies corresponding to the Bureau were also touched upon.

The police service in Kosovo plans to make further use of experience from the seminar with the continued assistance of the DCAF. In Norway's case, contact was established between a head of department in Kosovo responsible for women's role in the police and the head of the Equality and Diversity Committee in the Norwegian Police Federation, enabling Kosovo to obtain more information on Norway's experience of strengthening the role of women in the police.

**Presentation for foreign delegations in Norway**

In May 2015, the Norwegian National Authority for Investigation and Prosecution of Economic and Environmental Crime (Økokrim) invited the Bureau to hold a presentation for a delegation from Moldova and Romania with representatives from anticorruption bodies in these countries. Deputy Director Guro Glærum Kleppe gave a presentation of the Bureau's mandate and information on corruption cases that the Bureau has prosecuted.

In December 2015, the Bureau received a group of persons who took part in a study trip with the programme "Young Generation Will Change Ukraine". The participants were received in the Bureau's premises in Oslo, and were given a presentation of the Bureau's history, mandate and organisation.

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# NECESSARY FOR OR CONSIDERABLY FACILITATING PERFORMANCE OF DUTY

*Pursuant to section 2 (4) of the Regulations relating to pedestrian and vehicle traffic, the driver of an emergency vehicle or other vehicle may in the course of police duty derogate from the provisions of sections 4–9 of the Road Traffic Act when necessary or when such derogation considerably facilitates performance of police duty. This includes exceeding of speed limits.*

The Bureau frequently receives complaints concerning the traffic behaviour of police officers. A number of these cases have given cause to question whether police officers have a correct understanding of the condition “necessary for or considerably facilitating performance of duty” and whether practice of the provision complies with current directives.

In a ruling, the Supreme Court (see Rt. 1993, page 294) expressed its views on the right of the police to derogate from the provisions of the Road Traffic Act. The case concerned a police officer who had overslept and who, in order to reach a traffic control in time with special equipment, drove the distance as an emergency turn-out. The officer exceeded the speed limit over a distance of 10 kilometres. In its ruling, the Supreme Court stated:

“Although the speeding took place in the exercise of duty, it cannot automatically be deemed lawful. As stated in the ruling in Rt. 1990-666, the special provision in section 2 (4) of the traffic rules shall only apply in connection with “duty where

there may be particularly weighty reasons for disregarding the traffic rules, etc.”. Emergency turn-outs where normal speed limits are exceeded involve obvious hazards, and the right to such driving must be limited to cases of urgency.”

In its ruling from 2003, the Supreme Court referred moreover to the then current instructions for emergency turn-outs, and stated that, although the instructions cannot automatically be deemed decisive for interpretation of section 2 (4) of the traffic rules, they must be found to draw attention to essential factors for assessment of the types of situation covered by section 2 (4). Guidelines on emergency turn-outs are currently laid down in the instructions of 1 May 2009 from the Norwegian Police Directorate.

From its practice, the Bureau can refer to a number of district court judgments concerning speeding. On 4 October 2007, Jæren District Court passed judgment in a case where a driver was fined by the Bureau for driving at 81 kilometres per hour in a 70 kilometres per hour zone. He was driving a dog patrol, and was part of the

public order force at Stavanger police station. On the Saturday evening, he had assisted with an assignment at Klepp and was on his way back to Stavanger when he was stopped by a Central Mobile Police Force patrol. He was offered an on-the-spot fine, which he refused to accept because he believed the speeding to be authorised by section 2 (4) of the Road Traffic Act. The driver pointed out that resources at Stavanger police station were strained and that, with a view to avoiding breaches of the peace in Stavanger city centre, police presence had high priority. He had therefore driven rapidly from Klepp in order to report for duty in Stavanger as quickly as possible. Should a critical situation arise, the patrol's presence could be crucial to the life and health of the general public and colleagues. The district court found that this was not a case where there were particularly weighty reasons for disregarding the traffic rules, and that there had been no urgency. It was pointed out that other personnel were available on duty in Stavanger and that there had been no specific important assignment that could not have been dealt with by other officers. The situation at the police station

was normal with regard to pressure of work and requirements regarding priorities. The driver's ignorance of the law was found not to be excusable, and he was sentenced to a fine.

In February 2016, Nord-Troms District Court passed judgment in a case where a driver had been stopped by a Central Mobile Police Force patrol while driving at 96 kilometres per hour in an 80 kilometres per hour zone. The driver and a colleague were in process of assisting the child welfare authorities with transport of a young person who had previously been very obstreperous. The transport was over a very long distance. The driver pointed out that it was uncertain what the young person might get up to and, in view of the information the police had, there was a risk that a dangerous situation might arise. It was for this reason and owing to the conditions at the reception centre desirable to reduce the transport time. The district court found that these were not particularly weighty reasons for disregarding the traffic rules. The situation in the car was under control, and the young person was calm and slept for some of

the time. There were four adults in the car, including two police officers. Taken as a whole, the court found that the conditions of section 2 (4) of the traffic rules had not been complied with. The driver's ignorance of the law was not found to be excusable, and he was sentenced to a fine.

In the judgment it was pointed out that an emergency turn-out should have been decided by the Senior Operations Officer (see item 5.1 of the Norwegian Police Directorate's Emergency Turn-out Instructions). The judgment is not legally enforceable.

The Bureau has dealt with a few cases where officers have deliberately disregarded the traffic rules. An officer drove through a red light so that a colleague who was a passenger in the car would reach a bus stop in time to catch a bus. Another officer crossed a solid prohibitory line because he was hungry and wanted to buy some food at a snack bar. In both cases, the conduct was reported to the police by a member of the public. The police opened cases that were referred to the Bureau. The cases resulted in fines. ■

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*New penal code*

# NEW PROVISIONS CONCERNING OFFENCES COMMITTED IN THE COURSE OF OFFICIAL DUTY

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*The new penal code entered into force on 1 October 2015. In the new Penal Code, offences committed by public employees in the course of duty are regulated differently than in the old Penal Code. Many of the Bureau's cases are assessed in relation to these penal provisions. Does the new Penal Code involve any changes in what is subject to penalties?*

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In the new Penal Code, the central provisions for offences committed in the course of duty are section 171 concerning errors in the performance of duty, section 172 concerning grossly negligent errors in the performance of duty and section 173 concerning misuse of public authority. The provisions are placed in chapter 19, which contains penal provisions for the protection of and trust in public authority.

In the old Penal Code, offences committed by public employees in the course of duty were dealt with in both the second part concerning felonies and the third part concerning misdemeanours. Several of the provisions were rarely or never invoked. The new Penal Code has been tidied up editorially and linguistically to reduce the number of provisions and to give them a more up-to-date style of language.

It is stated in the travaux préparatoires (Proposition No. 8 (2007-2008) to the Odelsting, page 233) that the intention was also to make a number of amendments to the content. The Ministry points out that misdemeanours of public servants are in

principle breaches of the appointment contract, which the employer must respond to with private law sanctions.

However, public employees do not in all respects have the same status as employees in the private sector. Public trust that public authority is exercised in compliance with the rules may still be safeguarded by means of the Penal Code. The object of the provisions of the new Penal Code is that it is offences in the exercise of public authority that shall be subject to penal sanctions. A consequence of the wording of the provisions of the new Penal Code is that public employees who do not exercise or assist in exercising public authority fall outside the scope of the provisions. For the most part, this will not have any significance for cases that fall under the Bureau's mandate.

According to the wording of the new provisions, the definition of official duty will be a central factor in deciding whether a criminal act has been committed in the course of duty. In cases dealt with by the Bureau, this is not unlike the assessments previously made pursuant to section 324

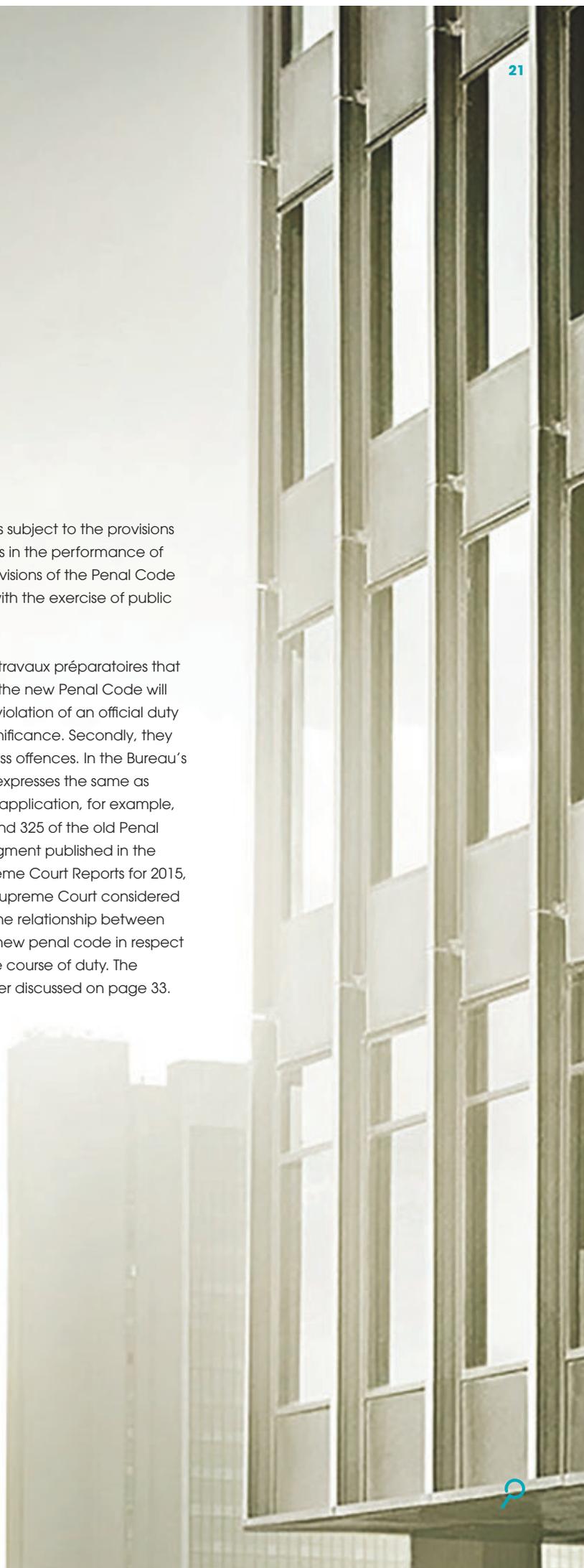
of the Penal Code concerning violation of official duties. The assessment pursuant to section 325 of the old Penal Code concerning gross lack of judgment in the course of duty was also primarily concerned with the norm for the official act concerned in the case. The question concerning criminal liability was dependent on the extent of deviation from this norm. In the Bureau's assessment, the new Penal Code does not therefore involve any essential changes in how most of the cases reported to the Bureau are to be assessed. There is nevertheless reason to point out that, as the police service is currently regulated in statutes, regulations and instructions, the manner and level of detail in the regulation of official duties is subject to somewhat random variation. In the Bureau's assessment, it would be an inexpedient and unintentional consequence of the wording of the new provisions if offences committed by police officers in the exercise of duty were not to be treated as criminal cases simply because official duty is inadequately described in the rules.

The Bureau has on a number of occasions applied section 325 (5) of the old Penal Code as the basis of a penal sanction. The provision applies to an officer who, while off duty, behaves in a manner which makes him unworthy of or has an adverse effect on the confidence or esteem necessary for his office. The contents of this provision have not been maintained in the new Penal Code. In future, acts for which assessment in relation to this provision was formerly natural are no longer

punishable unless subject to the provisions concerning errors in the performance of duty or other provisions of the Penal Code not associated with the exercise of public authority.

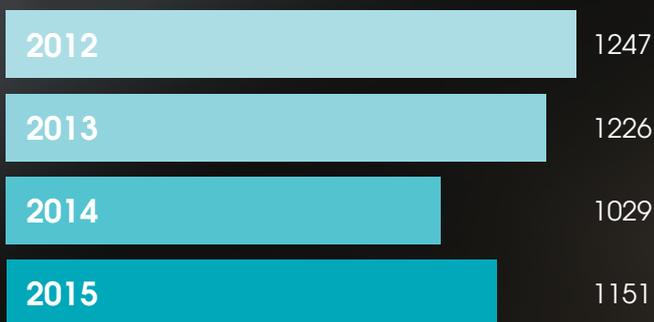
It is stated in the travaux préparatoires that the provisions of the new Penal Code will first apply when violation of an official duty has a certain significance. Secondly, they only apply to gross offences. In the Bureau's assessment, this expresses the same as was practised in application, for example, of sections 324 and 325 of the old Penal Code. In the judgment published in the Norwegian Supreme Court Reports for 2015, page 1170, the Supreme Court considered the question of the relationship between the old and the new penal code in respect of offences in the course of duty. The judgment is further discussed on page 33.

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# STATISTICS FOR 2015

## RECORDED COMPLAINTS



## COMPLAINANTS (distribution by gender)

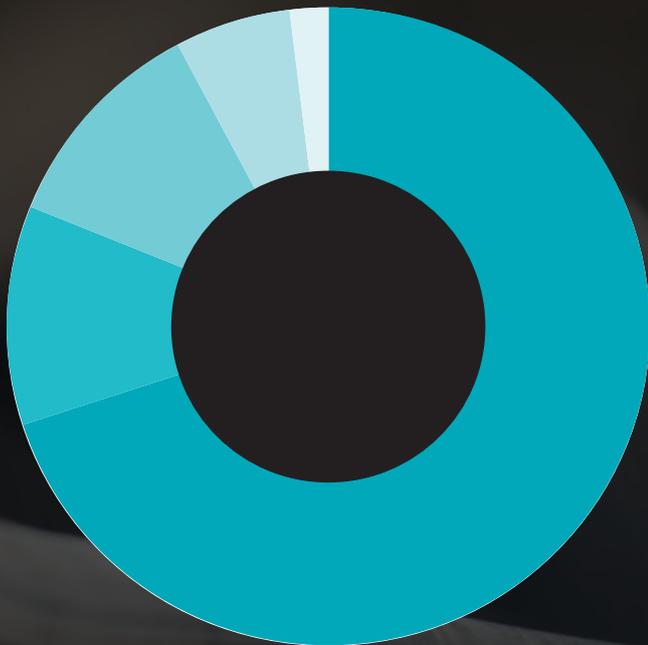


77%



23%

## WHO LODGES COMPLAINTS?



The aggrieved party

74%

The police district itself

11%

The aggrieved party via his/her lawyer

9%

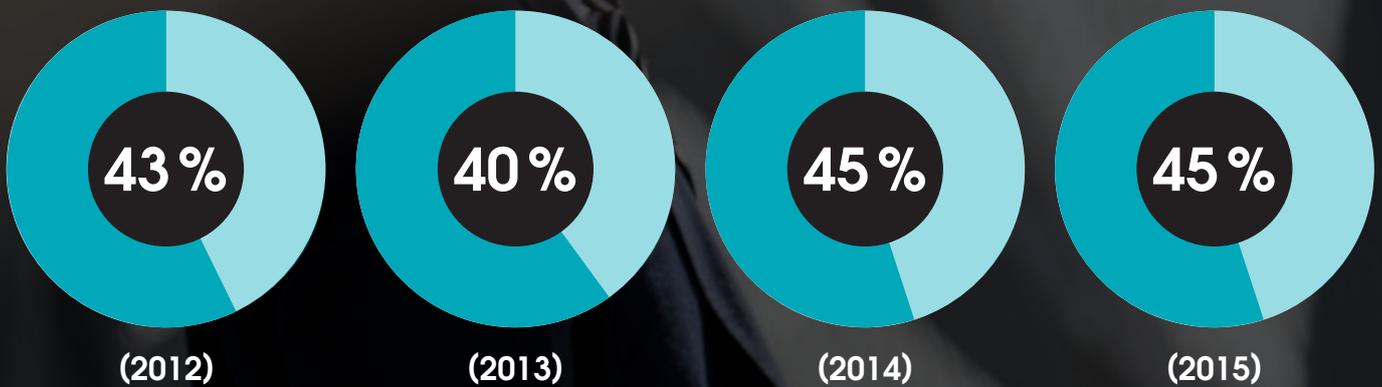
Others (e.g. witnesses)

5%

The Bureau itself

1%

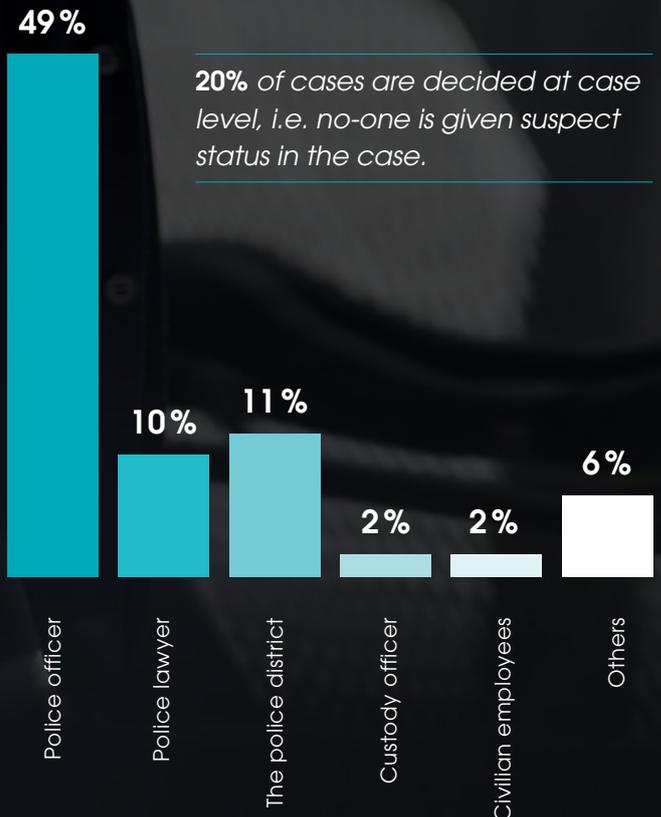
**THE BUREAU ITSELF** (The graphs show the number of cases dropped without investigation)



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 complaint 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 40–45% 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.

**WHO ARE COMPLAINTS LODGED AGAINST?**

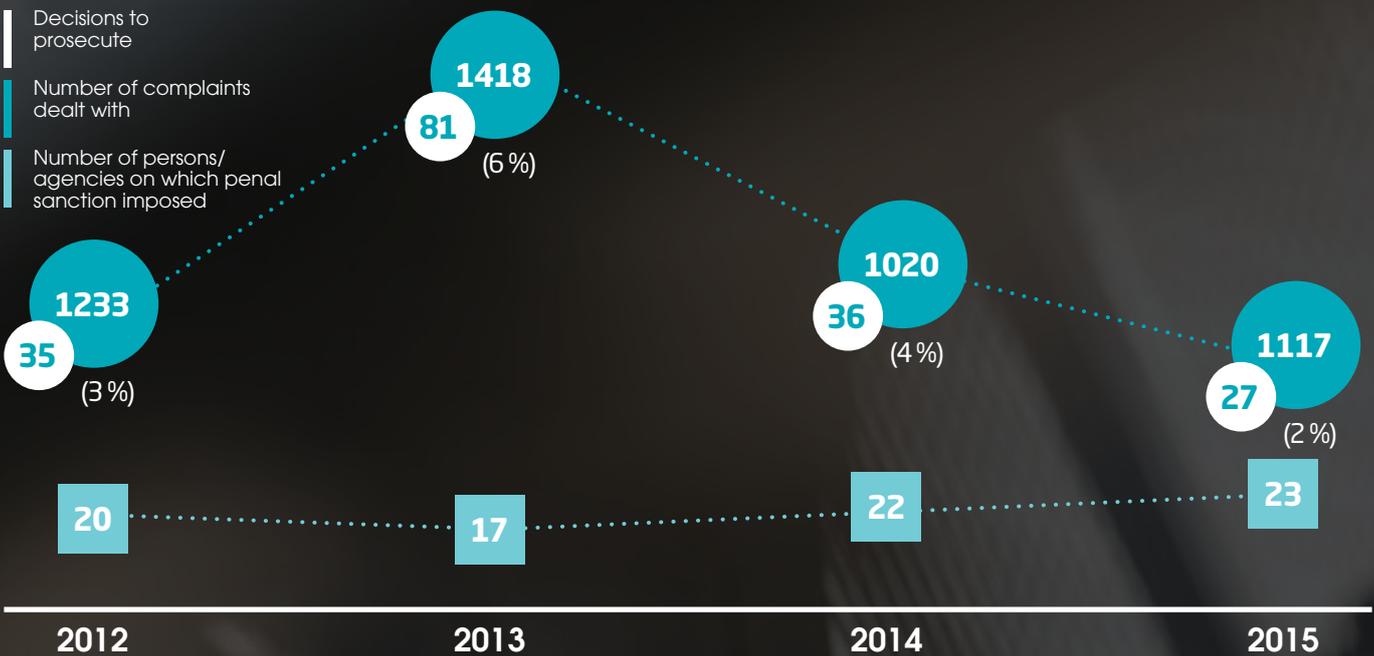


*20% of cases are decided at case level, i.e. no-one is given suspect status in the case.*



# STATISTICS FOR 2015

## DECISIONS TO PROSECUTE



In 2015, 27 of 1117 complaints dealt with resulted in an optional fine, indictment or waiver of prosecution (2%). A total of 21 persons and 2 agencies were sentenced to penalties. More detailed accounts of the cases are provided on pages 26–31.

As a prosecuting authority, the Bureau must decide cases in accordance with 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 wide margin of error before being made criminally liable for otherwise lawful performance of duty. In cases concerning the use of force in connection with arrest, an act may only be found criminally liable when it is deemed unnecessary and absolutely unwarranted. 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 (p. 36–37))



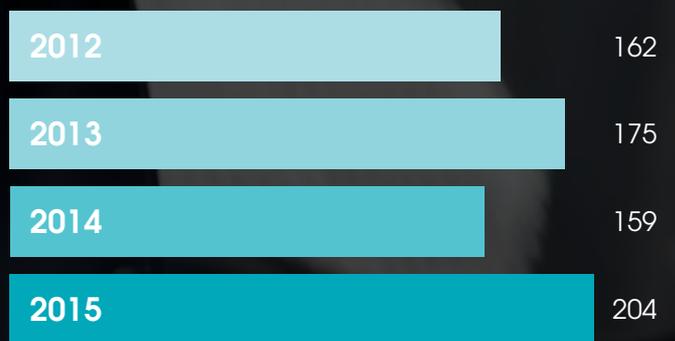
**APPEALS** (the Director of Public Prosecutions)

**149** In 2015, the Director of Public Prosecutions considered 149 appeals against decisions made by the Bureau.

**140** In 140 of the cases, the Bureau’s decision was upheld. In two cases that had been dropped by the Bureau, the Director of Public Prosecutions requested the Bureau to issue a waiver of prosecution. In one case, the Bureau was requested to impose a fine (optional penalty writ). In three cases in 2015, the Director of Public Prosecutions reversed the Bureau’s decision not to prosecute. In two cases dropped by the Bureau, the Director of Public Prosecutions ordered further investigation and, in one case, postponed processing of an appeal pending investigation of another ongoing case.

**19%** In 2015, 19% of cases decided were appealed.

**PROCESSING TIME** (days)



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



*In 2015, 27 out of 1117 complaints considered resulted in an optional fine, waiver of prosecution or summary judgment on confession. Penal sanctions were imposed on a total of 21 persons and two agencies.*

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# DECISIONS TO PROSECUTE 2015

## OPTIONAL FINES

### *Violation of the Road Traffic Act*

- On 6 May 2015, a police officer was fined NOK 5 000 for violation of section 31, first paragraph, cf. section 3, of the Road Traffic Act. During a turn-out, the police officer drove through a red light in a four-legged intersection. The blue light was activated, but the siren was not in use. The police officer drove at a low speed, but was not sufficiently attentive, and failed to stop for a passenger car that came from the right. The driver of the passenger car had a green light. The collision resulted in material damage to both vehicles. The fine was accepted.

- On 2 September 2015, a police cadet was fined NOK 3 600 for violation of section 31, first paragraph, cf. section 5, of the Road Traffic Act, cf. section 8 of the Regulations concerning public road signs, road markings, traffic light signals and directions, for driving at 120 kilometres per hour in a 100 kilometres per hour zone. The cadet was on his way back to his service location after taking part in a day of training. Fellow cadets who were passengers in the car reacted to

the driving, and the officer in charge of practice for the cadets later learned of the incident. The report of the officer in charge of practice was referred by the police district to the Bureau, which initiated investigations. The fine was accepted.

- On 18 September 2015, a police officer was fined NOK 5 000 for violation of section 31, first paragraph, cf. section 3 of the Road Traffic Act. During a turn-out, the police officer drove through a red light at an intersection without showing sufficient care and attention. At the intersection, the police car collided with a passenger car that came from the right into the intersection. The driver of the passenger car had a green light. The collision resulted in material damage to both cars. The fine was accepted.

- On 7 October 2015, a police officer was fined NOK 3 600 for violation of section 31, first paragraph, cf. section 5 of the Road Traffic Act, cf. section 8 of the Regulations concerning public road signs, road markings, traffic light signals and directions, for driving at 96 kilometres per hour in an 80 kilometres per hour zone. The

speed measurement was carried out by a Central Mobile Police Force patrol. The police officer did not accept the fine and submitted in his defence that, pursuant to section 2 (4) of the traffic rules, he could drive faster than the permitted speed at the location. In the view of the Bureau, the assignment, which involved assisting the child welfare authorities with transport of an asylum seeker under 18 years of age, was not of such a nature that, pursuant to the traffic rules and Emergency Turn-out Instructions, that the transport needed to be driven as an emergency turn-out. The police officer was convicted by the district court. The case is not legally enforceable.

- On 20 October 2015, a police officer was fined NOK 5 000 for violation of section 31, first paragraph, cf. section 3, of the Road Traffic Act. The police officer was not sufficiently attentive, and drove round a roundabout into a passenger car that was standing on the road in front of him, and had stopped for other traffic. The collision resulted in material damage to both vehicles. The fine was accepted.
- On 23 October 2015, a custody officer was fined NOK 4 200 for violation of section 31, first paragraph, cf. section 5, of the Road Traffic Act, cf. section 8 of the Regulations concerning public road signs, road markings, traffic light signals and directions, sign number 330.2, left-turn prohibited. The custody officer had completed a prisoner transport, and was on his way back to his service location when, in violation of the signposting at the location, he turned left in order to drive over to a snack bar. Several witnesses observed the driving and notified the police. The police issued a report, which was referred to the Bureau. The fine was accepted.
- On 8 December 2015, a police officer was fined NOK 5 000 for violation of section 31, first paragraph, cf. section 3, of the Road Traffic Act. The police officer acted negligently when, during a turn-out, he drove too fast through a three-legged intersection and collided with a passenger

car that he should have passed on the left-hand side. The driver of the passenger car was in process of turning left out of the intersection. The blue light on the police car was activated, but the siren was not in use. The collision resulted in material damage to both vehicles. The fine was accepted.

#### ***Breach of confidentiality***

- On 7 May 2015, a retired police officer was fined NOK 7 000 for breach of statutory confidentiality, cf. section 121, first paragraph, of the Penal Code. The officer had had a love affair with a foreign woman with whom he had become acquainted through his work in the police. When the woman terminated the relationship, he sent an anonymous letter to the woman's brother. In the letter he told that the woman had previously had an abortion in her home country, and that she had entered into a sham marriage in Norway. The information he gave to the woman's brother he had gained knowledge of when he took a statement from her in connection with a criminal case. The fine was accepted.
- On 30 October 2015, a police officer was fined NOK 7 000 for breach of confidentiality (see section 121 of the Penal Code). He was to serve a summons in a case concerning enforcement of a claim and needed the defendant's telephone number. He rang the defendant's mother's husband to enquire about the number. In the course of the conversation with the mother's husband, he told what the claim concerned and how much the defendant owed. He also told that the defendant had other outstanding claims. The defendant subsequently issued a complaint against the police officer for breach of confidentiality. The fine was accepted.
- On 30 October 2015, a former police officer who worked for the police on pensioner terms was fined NOK 18 000 for breach of confidentiality (see section 121, first paragraph, of the Penal Code). The police officer was contacted by an acquaintance, who ran a business and wanted help in finding a hired car that had

disappeared. The police officer located the car and provided information concerning this. At the same time, he passed on several items of confidential information concerning the person who had used the car, including information concerning his dealings with the police and his role in an ongoing investigation. The fine was accepted.

- On 7 December 2015, a retired police officer was fined NOK 20 000 for breach of confidentiality (see section 121, first paragraph, of the Penal Code), and for using police records without an official purpose (see section 324 of the Penal Code). The Bureau found it proved beyond any reasonable doubt that, while still a police employee, he had provided data from a criminal case to an acquaintance, who had taken contact with him and requested data from the case concerned. The fine was accepted.

#### ***Careless handling of firearms***

- On 10 July 2015, a police officer was fined NOK 10 000 for violation of section 352, first paragraph, second sentencing alternative, of the Penal Code concerning careless handling of firearms. In the garage of the rural police station, he cocked his service weapon, aimed at the inside of the garage door and pulled the trigger. He did this without checking that there was no loaded magazine in the weapon. A shot was fired which penetrated the garage door, and passed over a car park and a road before hitting a caravan parked in front of a house approximately 40 metres from the police station. The fine was accepted.
- On 6 August 2015, a police officer was fined NOK 10 000 for violation of section 352, first paragraph, second sentencing alternative, of the Penal Code for careless handling of firearms. In a changing room/washroom at the police station, he fired a shot with his service weapon at a mirror in the washroom. Before pulling the trigger, he had not checked that the service weapon was not loaded. The bullet passed through the wall between the washroom and an



*Continued*

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# DECISIONS TO PROSECUTE 2015

adjacent toilet facility, then passed through the toilet facility before lodging in a copper pipe in the opposite wall. The fine was accepted.

- On 7 October 2015, a police officer was fined NOK 8 000 for violation of section 352, first paragraph, second sentencing alternative, of the Penal Code concerning careless handling of firearms. He placed his finger inside a police colleague's weapon holster and pulled the trigger of the colleague's service weapon. Before pulling the trigger, he had not checked that the weapon was not loaded. The bullet passed through the colleague's trouser leg and penetrated the floor. No-one was injured. The action was carried out in connection with a discussion concerning accidental shootings, and the police officer intended by his action to demonstrate a point to a number of colleagues. The fine was accepted.

- On 30 October 2015, a police officer was fined NOK 10 000 for violation of section 352, first paragraph, second sentencing alternative, of the Penal Code concerning careless handling of firearms. The police

officer was in the police station garage when he fired a shot with his service weapon which hit a fire extinguisher that was placed behind a police car. When he fired the shot, he had forgotten that the pistol was loaded with live ammunition. The fine was accepted.

#### *Sexually offensive behaviour*

- On 3 December 2015, a police officer was fined NOK 15 000 for violation of section 201 (b) of the Penal Code concerning sexually offensive behaviour and section 325 (4) of the Penal Code concerning improper conduct towards superiors or subordinates. The police officer had asked a female colleague to come into his office. When she did so, he locked the office door, pushed her up against the wall and placed his right hand on her hip while declaring "nå er jeg så nøden" (now I want it so badly) or something similar. The fine was accepted.

#### *Unlawful arrest*

- On 1 December 2015, a police lawyer, on the orders of the Director of Public Prosecutions, was fined NOK 10 000 for violation of section 325, first paragraph,

(1) of the Penal Code concerning gross lack of judgment in the course of duty. The police lawyer had decided that a person was to be arrested pursuant to section 175, cf. section 171, of the Criminal Procedure Act despite the fact that there was no legal basis for such a coercive measure. The Director of Public Prosecutions, in the premises for the decision to fine the police lawyer, pointed out that a person's refusal to make a statement to the police does not constitute a danger of destruction of evidence. The fine was not accepted.

#### **WAIVER OF PROSECUTION**

##### *Breach of confidentiality*

- On 22 June 2015, a police lawyer, on the orders of the Director of Public Prosecutions, was granted a waiver of prosecution for violation of section 121, first paragraph, of the Penal Code concerning breach of confidentiality. The police lawyer decided that documents in a criminal case could be loaned to a law firm. The documents contained information that was subject to the duty of secrecy pursuant to section 61a, first paragraph, of the Criminal Procedure Act. The criminal case concerned was not closed, and the

conditions for loaning out the documents pursuant to section 61c, first paragraph (8) of the Criminal Procedure Act, cf. section 16-5, second paragraph, of the Prosecution Instructions, were not met.

#### ***Violation of official duties***

- On 16 June 2015, a civilian employee of the police, on the orders of the Director of Public Prosecutions, was granted a waiver of prosecution for violation of section 324 of the Penal Code concerning violation of official duties. During a period of 7 months, the person concerned had on three occasions searched police records without an official purpose. The searches concerned a colleague, the colleague's cohabitant partner and a nephew.

#### ***Use of force***

- On 7 October 2015, a police officer was granted a waiver of prosecution for violation of section 228, first paragraph, of the Penal Code concerning bodily harm. The police officer intended to forcibly remove a person who had refused to leave a rural police station. He placed his hand against the person's throat and pressed his thumb and index finger against the person's larynx.

The police officer stated that this was a method he had learnt in connection with combat sport. The method helps to create a distraction. In the Bureau's assessment, the use of force in the situation was in excess of what was necessary and proportional. The Bureau attached importance to the fact that a police colleague was present, who could have assisted the police officer in removing the person concerned from the premises without using such invasive force. The officer has not accepted the waiver of prosecution, and has requested that the case be brought before the court.

#### **CHARGE – SUMMARY JUDGMENT ON CONFESSION**

##### ***Violation of the Road Traffic Act and violation of official duties***

- An officer was arrested at his service location suspected of driving under

the influence. A blood sample taken following the arrest indicated a 2.33 g/L blood-alcohol concentration. The Bureau charged the person of two counts of driving under the influence of alcohol during the same tour of duty. The person was also charged with violation of official duties for acting in violation of the prohibition against intoxication while on duty (see section 23 of the Police Act). At the district court (summary trial on full confession) the officer was sentenced to 36 days' imprisonment. Execution of the sentence was postponed with a probation period of two years subject to the condition that the person be under supervision for 10 months and that, during the supervision period, the person was to carry out a drink-driving programme as decided by the Probation Service. The person was in addition sentenced to a fine of NOK 30 000, and was disqualified from driving for three years with restoration of the driver's licence subject to a full driving test. Since the person had resigned his post in the police prior to consideration of the case by the court, no demand was submitted that the person be deprived of his post in the police.

#### **CORPORATE PENALTIES**

##### ***Oslo Police District – gross lack of judgment in the course of duty***

- A video recording that was made available on the Internet showed that police officers in Oslo, when searching a person, inserted telescopic batons into the person's mouth. The police informed the Bureau of the video recording. Questions concerning the video recording and the methods adopted by the police were also raised by OMOD (the Organisation against Public Discrimination) and the Equality and Anti-discrimination Ombudsman. The Bureau initiated investigations. The person searched by the police stated, among other things, that, in addition to the search, he had been subjected to racist and/or degrading treatment while being transported out of Oslo city centre following the search.

The police officers stated that they had been driving a non-uniformed patrol in

order to expose drug-related crime when they stopped two persons for identity checks. They then observed that one of the persons had pellets (drug packages) in his mouth. When the person refused to comply with the instructions of the police to spit out the pellets, one of the officers held his chin and pressed it down to extract the drugs. When the man resisted and attempted to swallow the pellets, he was brought to the ground to prevent him from swallowing. When he still refused to spit out the pellets, one of the police officers attempted to prevent him from swallowing them by inserting a collapsed telescopic baton some way into the person's mouth. At the same time, another police officer attempted to remove the drugs from the person's mouth using an extended telescopic baton. They were not successful in removing the pellets.

In the view of the Bureau, the use of a baton in the oral cavity was a physical examination pursuant to section 157 of the Criminal Procedure Act. The decision to perform such an examination must be made by a court of law or, if the purpose of the examination might otherwise be thwarted, by the prosecution authority. The Bureau otherwise pointed out that the baton is a striking weapon, which is not suitable for use in the oral cavity. The method adopted by police was deemed brutal and potentially harmful.

The police officers stated that, at the police station, there was no practice for apprehending suspects, writing reports and opening criminal cases if on searching in such situations no drugs were seized. They stated that they had for several years needed a method to remove drugs from the mouths of persons who attempted to swallow them. The matter had been brought up at the Norwegian Police University College, in the police district and at joint training sessions. However, no-one had followed up the issue, and the response had been that they must find their own solutions. It was further stated that the method involving use of a baton has been in use for a long time.



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# DECISIONS TO PROSECUTE 2015

The Bureau criticised the conduct of the officers, but did not find evidence for personal criminal liability. No evidence was found to support the allegation that the police officers' behaviour had been motivated by racism, and the case against the officers was dropped.

The Bureau considered that there were grounds to impose a corporate penalty.

It was found that the question of how personnel performing public order assignments should proceed so as to prevent suspects from swallowing drugs has been raised in various connections. In the view of the Bureau, the use by police officers of a baton in the oral cavity and the perception of this as a lawful method raised issues concerning the employer's control of and responsibility for use of force. The police must be expected to have an organisation and a management that ensures that duty is performed in compliance with statutes and guidelines. The Bureau found that the reporting obligation laid down in section 199, second paragraph, of the Criminal Procedure Act is only complied with in cases where

seizures or arrests are made, and that this is accepted practice at the service unit. Viewed on the basis of the police's overall intervention against A, the manner in which force was used and the duration of the search, the omission to submit a report in this case appears to qualify as reprehensible.

The Bureau's overall assessment was that the unauthorised examination of A's oral cavity by means of telescopic batons and omission to submit a report on the incident entailed violation of section 325, first paragraph (1), of the Penal Code concerning gross lack of judgment in the course of duty. The action was found to be a result of the police district's inability to control the performance of duty and to instruct on how duty is to be performed.

The police district was given an opportunity to express its views concerning the question of corporate penalties before the final decision was made. The police district stated that sufficient light had not been thrown on the case to impose corporate penalties, and requested that more investigative steps be carried out. In

accordance with the wishes of the police district, the Bureau then took statements from a number of further witnesses.

Following further investigations, the Bureau considered it proven that superior officers in the police district had been aware that operative personnel had experienced particular difficulties in intervening against persons concealing drugs in the oral cavity and in preventing swallowing in such cases. It was further considered proven that, in a number of cases over the years, various measures have been used to prevent swallowing, including insertion of objects into the mouth. Since the need to intervene against persons concealing drugs in the oral cavity seems to arise quite frequently, while such intervention is seen to raise specific issues relating to criminal investigation and police methods, the Bureau considered it to be the responsibility of superior officers to control how assignments should be carried out, the methods to be adopted, etc. It was deemed proven that a number of officers had used batons or other objects to force the mouth open and prevent swallowing, or had been familiar with such

methods. It was moreover a fact that in 2011 the method involving use of a baton was described in a report considered in connection with investigations and court proceedings. This provided a possibility for superior officers to control and intervene. In the Bureau's view, a responsibility for reaction to the use of unlawful methods must also lie with the prosecutory process. The police district was fined NOK 80 000. The fine was accepted. The person who had been searched complained to the Director of Public Prosecutions against the Bureau's decision to drop the case against the involved officers. Two officers complained to the Director of Public Prosecutions, inter alia, on the basis of the Bureau's processing time, media handling and omission to charge the person who had been searched for false testimony. The Director of Public Prosecutions did not pursue the complaints.

#### ***Hordaland Police District – gross lack of judgment in the course of duty***

- In November 2011, an 8-year-old girl (Monika) was found dead by her mother in their home in the municipality of Sund in Hordaland. Hordaland Police District initiated investigations, and dropped the case in August 2012 on the ground that no criminal offence was deemed proven, coding the case as suicide. In June 2014, the counsel for the aggrieved party on behalf of the girl's mother issued a complaint to the Bureau against Hordaland Police District. The complaint alleged that a dereliction of duty had been committed during investigation of the case. It was indicated in the complaint that the case documents had been reviewed by an experienced murder investigator, who had concluded in his report that there were clear deficiencies in the work of the police.

In connection with investigation of the complaint, the Bureau learned that an investigator in Hordaland Police District had reviewed the case on his own initiative, and that, in an internal report in January 2014, had proposed that the case be reopened. The investigator had delivered his report to the head of Section for Violence and

Sexual Felonies, who agreed that there was reason to question whether the decision to drop the case had been made on a deficient basis.

On 10 January 2014, a meeting on the case was held in the police district, attended by the persons who had participated in the investigations, including the prosecuting officer. Some days after this meeting, the prosecuting officer informed the persons who had attended the meeting and the senior prosecutor in the police district that the case was not to be reopened.

After discussing the matter with the head of the Section for Violence and Sexual Felonies and the chief superintendent of Bergen City Centre Police station, the investigator who considered that the case should be reopened then submitted a memorandum, stating more emphatically the arguments and assessments that he had expressed previously. The memorandum was sent by the station chief superintendent to the chief of police, who requested the senior prosecutor to follow up the matter in cooperation with the prosecuting officer and the station chief superintendent.

In a memorandum to the senior prosecutor of 31 March 2014, the prosecuting officer affirmed the case would have to remain dropped without changing the reason for dropping the case or the coding. The case then remained dropped until May 2014, when the Public Prosecutor, in a discussion with the prosecuting officer, recommended that the police district reopened it. The Public Prosecutor had then received an application for reopening from the counsel for the aggrieved party.

The Bureau considered that the decision to drop the case in August 2012 had been made without sufficient evidence that the case had been clarified or that a suicide had taken place. The handling of the case was clearly inadequate and incorrect.

The objections to the investigations and the decision, as submitted in January 2014

and subsequently, were firmly based on the facts of the case and gave reason for doubting whether requirements regarding quality had been met in the investigations and in the prosecutory process. Taken as a whole, the police district's processing of the objections raised was assessed as insufficient and unfit to assure the quality of the work carried out. The processing was inefficient and did not inspire confidence, thus involving a risk that a serious case wrongfully remained dropped.

The Bureau fined Hordaland Police District NOK 100 000 for gross lack of judgment in the course of duty (see section 325 (1) of the Penal Code). The premises for the ruling referred, inter alia, to the directive from the Director of Public Prosecutions concerning criminal case proceedings in the police districts, which states that high quality is an absolute requirement and that the chief of police is responsible for ensuring that all criminal proceedings are of high quality. In the view of the Bureau, the police district's inadequate processing of the Investigator's report, etc. was a qualified reprehensible circumstance resulting from errors committed by several persons. The case was also sent to the chief of police for administrative review in the police district (see section 34-7, second paragraph, of the Prosecution Instructions). The corporate penalty was accepted by Hordaland Police District.

In October 2014, the Director of Public Prosecutions appointed a working group assigned the task of reviewing Hordaland Police District's investigation of the case. The working group's report was submitted in February 2015, and is available (in Norwegian) on the website of the Director of Public Prosecutions (Riksadvokatembetet), [www.riksadvokaten.no](http://www.riksadvokaten.no). «Riksadvokatens publikasjoner nr 1/2015, Monika-saken i et læringsperspektiv».

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

# COURT CASES 2015

## **Nedre Romerike District Court**

### ***Drug offences***

A police officer was fined for two violations of section 31, second paragraph, cf. section 24, first paragraph, of the Medicines Act 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 was set at NOK 15 000. The police officer's cohabitant partner was also fined for violation of section 31, second paragraph, cf. section 24, first paragraph, of the Medicines Act. The grounds were that she, on a number of occasions during a period of two years, had used hashish and cocaine. The fine was set at NOK 5 000.

The fines were not accepted. In Nedre Romerike District Court's judgment of 6 February 2015, the officer was sentenced for use of hashish and cocaine and for the searches in police records to a fine of NOK 6 000. He was acquitted of possession of drugs. His cohabitant partner was sentenced in accordance with the indictment to a fine of NOK 6 000. The

convicted persons' appeal against the judgment was denied by Eidsivating Court of Appeal.

## **Sarpsborg District Court**

### ***Breach of confidentiality***

A police officer was fined for violation of section 121, first paragraph, of the Penal Code for breach of statutory confidentiality. The grounds were that he had logged into the police data systems and obtained information from the duty log that the police had an address in his neighbourhood under observation owing to a suspicion concerning the sale of alcoholic beverages not cleared by customs. He had given this information to his wife. The fine was set at NOK 15 000. The fine was not accepted, and the case was considered at Sarpsborg District Court. In the District Court's judgment of 24 February 2015, the defendant was sentenced to a fine of NOK 13 000. The judgment was not appealed.

## **Øvre Romerike District Court**

### ***Bodily harm***

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 was set at NOK 16 000. The fine was not accepted. In Øvre Romerike District Court's judgment of 23 April 2015, the defendant was acquitted. The Bureau's appeal against the judgment was denied by Eidsivating Court of Appeal.

#### **Borgarting Court of Appeal**

##### ***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 for providing 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 defendant was acquitted in Oslo District Court's judgment of 22 January 2015. The Bureau appealed the judgment and, in Borgarting Court of Appeal's judgment of 19 October 2015, the appeal was dismissed.

#### **Oslo District Court**

##### ***Gross fraud, theft, violation of an official duty, gross lack of judgment in the course of duty and storage of products that can be used as offensive weapons***

On 18 December 2014, a civilian employee of the National Police Immigration Service was indicted *inter alia* for gross fraud, theft from the workplace and violation of official duties. He was also indicted for violation of the Firearms Act. The Ground

for the fraud indictment was that he had submitted unjustified claims for overtime pay. The indictment for violation of official duties concerned searches in police records without an official purpose. When the case was heard by Oslo District Court, the defendant was acquitted on all counts by the majority of the court (lay judges). The professional judge considered the defendant to be guilty on all counts except theft. The Bureau has appealed against the acquittals, and Borgarting Court of Appeal has decided to retry the whole case. The case is scheduled for 19 and 20 May 2016 at the Court of Appeal.

#### **Eidsivating Court of Appeal**

##### ***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 Sør-Østerdal District Court's judgment of 26 March 2014, the then retired police officer was sentenced to 10 months' imprisonment 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 on 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 defendant and the Bureau appealed against the District Court's judgment, and parts of the appeal were accepted for hearing. In the judgment of Eidsivating Court of Appeal of 8 May 2015, the defendant was sentenced to 10 months' imprisonment, of which five months were made conditional with a probationary period of two years, as well as confiscation of firearms and ammunition.

#### **Borgarting Court of Appeal and the Supreme Court**

##### ***Bodily harm 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 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. When being examined in the custody facility, the woman jerked her head backwards, hitting the police officer in the face. The police officer 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 allegation of improper conduct concerned the police officer's conduct towards the woman during the transport to the police station. He said, among other things: "Du er så lite fristende og appetittelig at det fins ikke verre. Alt du gjør er feil." (You are so disagreeable and unpleasant that there's nothing worse. Everything you do is wrong.) In response to a question from the woman on what had happened to her rucksack, he untruthfully told her that it had been thrown away, and then failed to answer further questions from the woman regarding whether this was true.

The fine was not accepted and, in 2014, the case was brought before Oslo District Court. The police officer admitted to the circumstances described, but not to criminal liability. The district court acquitted the police officer for the allegation of bodily harm, with reference following examination of the evidence to doubt regarding whether or not the blow had been an unconscious reflex action. The police officer's remarks were judged by the court to be extremely offensive and, for this offence, he was sentenced to a fine of NOK 5 000.

The parties appealed the case to the Court of Appeal, which in 2015 acquitted the police officer on both counts. The Bureau appealed to the Supreme Court against the acquittal for improper conduct. The appeal concerned application of law. In the Supreme Court, the police officer was sentenced for improper conduct to a fine of NOK 5 000. The police officer was summoned to the proceedings and did not oppose the Supreme Court's passing of judgment. Further details of the Supreme Court's judgment are given in pages 6 and 7 of the annual report.

##### **Reference:**

HR-2015-2122-A – Rt-2015-1170.



# EMERGENCY TURN-OUTS 2015

19 January 2015

**Agder Police District**

Vehicle pursuit on a very slippery road. The police's uniformed patrol car drove at low speed into the pursued car after it had skidded, spun round and stopped partly off the road on the right-hand side. The leg of a person who was in process of removing himself from the pursued car was crushed between the vehicles and was seriously injured.

6 March 2015

**Midtre Hålogaland Police District**

The police turned out in response to reports that a person was perceived to be mentally ill and in need of assistance. When the police arrived, the person was assessed as psychotic and force was used to gain control of his hands and handcuff him before laying him on a bed. While lying on the bed, he suffered a cardiac arrest. The ambulance personnel succeeded in starting his heart. The person died in hospital three days later.

26 June 2015

**Nordre Buskerud Police District**

At a petrol station, a police patrol intervened against two persons suspected of taking a motor vehicle without the owner's consent. One of the persons was armed, and fired a shot. A police officer then shot at the person, hitting him in the right hip.

1 July 2015

**Hordaland Police District**

In the custody facility, a person contracted life-threatening injuries. The person was taken to hospital, where he died four days later.

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*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 an immediate response is called for. In 2015, the Bureau turned out and initiated on-the-spot investigations in nine cases.*

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**18 July 2015**

***Troms Police District***

A person who had been placed in custody for drunkenness died in the custody facility shortly after being placed there. Medical experts concluded that he died of poisoning.

**18 September 2015**

***Oslo Police District***

The police turned out in response to a report that a person had behaved in a threatening manner. In connection with the police's intervention against the person, a police officer fired a shot which hit him in the abdomen.

**26 September 2015**

***Hedmark Police District***

The police received a report of concern regarding a person. The report stated inter alia that the person was in possession of a firearm. When the police approached the person's home the person was armed and fired a shot which hit one of the police officers. The police then fired a shot at the person, who was killed instantly.

**20 November 2015**

***Nord-Trøndelag Police District***

The Bureau received a report that an officer at Namsos police station had unintentionally fired a shot (accidental shooting). The shot had hit a colleague in the leg, and the colleague had been sent to hospital for treatment.

**5 December 2015**

***Midtre Hålogaland Police District***

A police patrol pursued a driver who was suspected of driving while intoxicated. The driver drove off the quayside into the water, and drowned.

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# ADMINISTRATIVE ASSESSMENTS 2015

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*In 2015, the Bureau referred 56 cases to chiefs of police or directors of special bodies for administrative assessment.*

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## **Midtre Hålogaland Police District**

### *It is important to be precise in the use of words and expressions in the duty log*

The police turned out to control and assist a person, who subsequently died. It was recorded in the police duty log that the police "hadde vært nødt til å sitte på personen" (had been obliged to sit on the person). What was meant was that it had been necessary to stay and look after him. The wording was misunderstood, resulting in a request from the Norwegian Board of Forensic Medicine for an additional statement concerning the cause of death.

## **Hordaland Police District**

### *Call to the operations centre - inadequate log-keeping*

A 15 year-old boy who had been subjected to attempted rape called the police's emergency number three times without the police understanding what had happened and without an entry being made in the duty log. The operators regarded the matter as trivial. The Bureau expressed criticism and pointed out that the operators had asked no questions to obtain more

details concerning the background for the call. The police district stated that the incident had already resulted in improvements to training and changes in routines.

## **Sør-Trøndelag Police District**

### *Call to the operations centre - inadequate log-keeping*

One afternoon, a person called the operations centre and told that a friend of his was at a certain shopping centre in the town, and he was anxious that the friend had slashed his wrists. The operator regarded the report as dubious, and it was not followed up by the police. Nor was any note taken of the report. Approximately one hour after the report was received, the person that the report concerned was arrested by the police in an armed operation. Prior to this, he had stabbed two persons with a knife. The Bureau expressed understanding that the police do not have the capacity to log all reports, and that it is necessary to assess each case. However, in view of the contents of the report concerned, more control questions should have been asked, and the report should have

been logged.

#### **Gudbrandsdal Police District**

##### ***Seized items and lost property that should have been destroyed were taken from the police station***

A police officer with responsibility for analysing seized computerised data (telephones and PCs) had, on his own initiative, taken seized items and lost property home with him with the intention of using the material for experimental and learning purposes in order to increase his competence in his police work. When tidying at home, the items were mistakenly thrown away, landing on a refuse tip, where they were later found and passed to a journalist. The officer concerned had never received permission from superior officers to take the seized items/lost property home with him.

#### **Østfold Police District**

##### ***Long processing time in rape case***

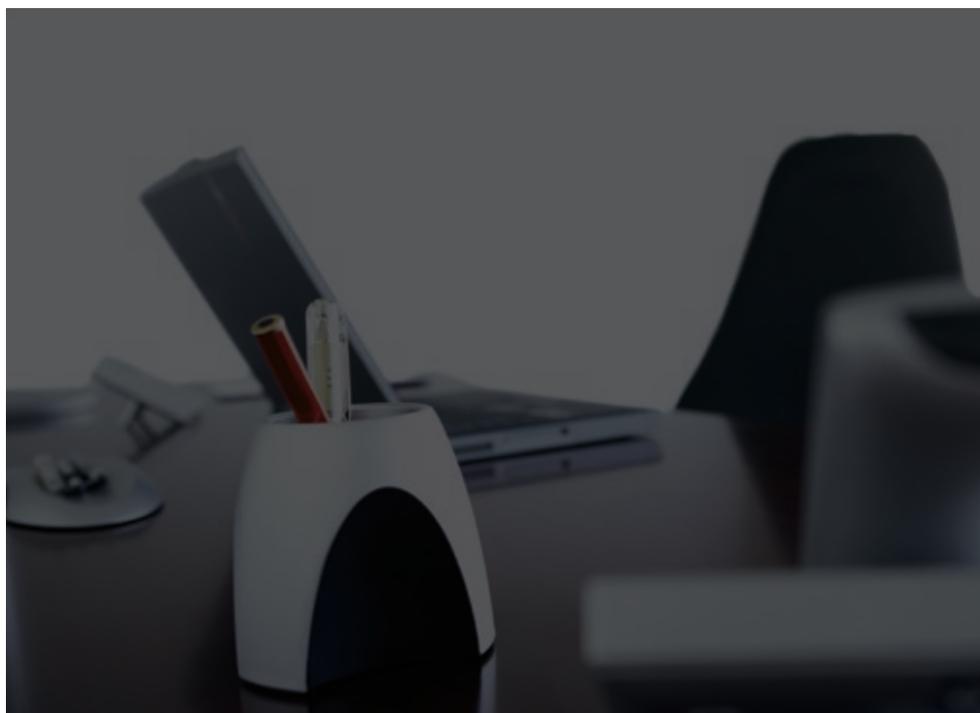
An aggrieved party in a rape case issued a complaint against the police for using almost 21 1/2 months to reach a decision to drop the case. The case had been dropped by the wrong prosecuting authority and for periods no further measures had been taken in the case. When the aggrieved person complained about the dropping of the case, the complaint was referred to the Public Prosecutor so late that the time limit for reversal of the decision had expired.

Pursuant to the Director of Public Prosecutions' directive, investigation of serious sexual offences is a priority area. The Bureau requested the police district to review its procedures for dealing with this type of case. The police regretted that the case had not been given priority.

#### **Vestfold Police District**

##### ***Conduct of own affairs***

A police officer drove with a colleague to a school to check whether the daughter of the police officer's girl friend had been collected by her father, although, according to the girl friend, the father's access to the child had



been discontinued. The girl friend (the child's mother) was at the school. When the father appeared, the police officer asked his younger colleague to take contact with the father. A senior officer was also summoned. The police officer explained that he wished to prevent a confrontation between the girl friend and the child's father. In the Bureau's view, when asking his younger colleague to take contact with the father, the police officer had failed to comply with section 5-3 of the Police Instructions on not invoking police authority in one's own affairs. His conduct was not deemed to be a violation of section 124 of the Penal Code.

#### **The police's general services**

##### ***Testing of vehicles***

In connection with assessment of procurements to the police service, a number of vehicles were tested. When the vehicles passed through automatic controls at excessive speeds, they were reported by the Automatic Traffic Control Centre. The vehicles had been temporarily approved as emergency vehicles, but the Automatic Traffic

Control Centre had not been notified. The Bureau pointed out that, pursuant to the Norwegian Police Directorate's instructions, testing of vehicles is not a purpose that can be defined as an emergency turn-out. In the Bureau's assessment, test driving did not qualify for derogation from the provisions of road traffic legislation. In the case of the police officers selected to drive the cars, the testing was deemed to have been planned and communicated in such a manner that they were given a clear understanding that the speeding was permitted. For this reason, there were not found to be reasonable grounds for initiating investigations against the drivers for the individual speed violations. The Bureau criticised the police's general services for carrying out the tests, and proposed that routines and rules be reviewed. The Norwegian Police Directorate was informed concerning the case.

For descriptions in Norwegian of more cases referred for administrative assessment in 2015, see the Bureau's website: [spesialenheten.no](https://spesialenheten.no) ■



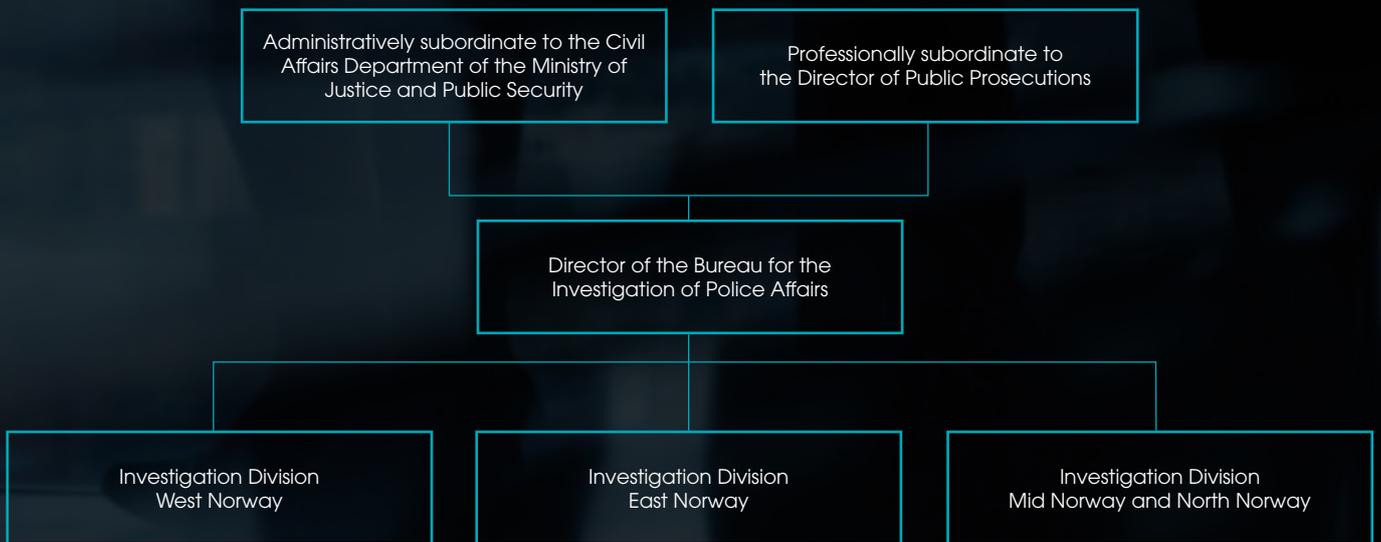
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*The Bureau's*

# ORGANISATION AND STAFFING

**T**he Norwegian Bureau for the Investigation of Police Affairs was founded 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 16 are investigators. In addition, 12 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.



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## *Who works at the Bureau?*

# THE DIRECTOR OF THE BUREAU

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*The Bureau has two organisational 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.*

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**T**he 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.

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.

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.

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 pages 36 and 37.

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



### Jan Egil Presthus

#### *Director of the Bureau since 2005*

Law degree from the University of Oslo, 1986. Experience from the Ministry of Justice and the Directorate of Immigration, as a police lawyer and head of the Criminal Investigation Department in Asker and Bærum Police District and as Chief Municipal Executive of the municipality of Tynset.



### Guro Glærum Kleppe

#### *Deputy Director since 2011*

Law degree from the University of Oslo, 1999. Experience from the Legislation Department of the Ministry of Justice and as a Legal Adviser for the Director of the Bureau since 2007.

### Rune Fossum

#### *Legal Adviser since 2012*

Law degree from the University of Oslo, 1989. Experience from Lofoten & Vesterålen, Moss and Hamar Police Headquarters and Hedmark Police District, Deputy Judge at the Office of the District Stipendiary Magistrate in Sør-Østerdal.

### Camilla Lie

#### *Legal Adviser since 2012*

Law degree from the University of Oslo, 2002. Experience as a lawyer at the law firm of Ro Sommernes, Deputy Judge at Øvre Romerike District Court and as a Senior Adviser at the office of the Parliamentary Ombudsman for Public Administration.

### Mona Skaaden-Bjerke

#### *Legal Adviser since 2013*

Master of Laws from the University of Oslo, 2006. Experience as an Assistant Lawyer at the law firm of Campbell & Co AS and as a lawyer at the Norwegian Public Roads Administration.

### Kristine Schilling

#### *Legal Adviser since 2014*

Law degree from the University of Oslo, 1995, and LL.M. degree from the University of Kiel, 1996. Experience as an Assistant Lawyer, Deputy Judge, lawyer with own legal practice and as an Acting District Court Judge at Bergen District Court.

### Monica Pedersen

#### *Adviser (processing of criminal cases) since 2005*

Experience as a medical receptionist at Volvat Medical Centre and Ullevål Hospital and as an executive officer at Borgarting Court of Appeal.

### Eva Rustad Sleffen

#### *Higher Executive Officer (processing of criminal cases) since 2007*

Experience as a secretary from Asker and Bærum Police District, the Norwegian Police Security Service and as General Manager of Hobbyhuset AS.

### Mie Willumsen

#### *Higher Executive Officer (processing of criminal cases) since 2008*

Experience from AS Regnskap & Revisjon and as a secretary at the Office of the Director of Public Prosecutions.

### Malin Sandsbråten

#### *Executive Officer (processing of criminal cases) and administration since 2014*

Experience from the Office of the County Governor for Hedmark as a trainee in commercial subjects and as an Executive Officer at the Directorate of Defence Buildings.

### Vigdis Thomassen Aaseth

#### *Adviser (finance and personnel) since 2005*

Civil Service Administration and Financial Management from the Norwegian Business School. Experience from various private companies and the Norwegian National Rail Administration.

### Hilde Elvsveen

#### *Higher Executive Officer (payroll and accounts) since 2011*

Experience from Regnskapskontoret AS, Møller Bil AS and Einett Regnskap AS and from the Norwegian Government Agency for Financial Management.

### Hanne Brenden

#### *ICT Adviser since 2009*

Computer engineer from Bergen University College, 1997. Experience from Hedmark Central County Hospital and Sykehuset Innlandet.



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*Who works at the Bureau?*

# THE INVESTIGATION DIVISIONS

**T**he 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.

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.

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 have been 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.

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.

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**INVESTIGATION DIVISION EAST NORWAY**

The investigation division is responsible for cases involving employees in the following police districts: Oslo, Innlandet, South-East, East and Agder. In addition, the division has responsibility for cases involving employees at the office of the Director of Public Prosecutions, the Public Prosecutors in Oslo, Hedmark and Oppland, Vestfold and Telemark, and Agder, the National Authority for Prosecution of Organised and Other Serious Crime, the National Bureau of Crime Investigation (Kripos) and the National Authority for Investigation and Prosecution of Economic and Environmental Crime (Økokrim).



**Liv Øyen**

*Head of Investigation Division East Norway since 2009*

Law degree from the University of Oslo, 1998. Experience from the Correctional Services Department/Central Prison Administration at the Ministry of Justice, Fjordane Police District and Oslo Police District.

**Knut Wold****Investigative Prosecutor since 2006**

Law degree from the University of Oslo, 1992. Experience as a police lawyer at Skien Police Headquarters, Assistant Lawyer at the law firm of Haugland, Glimsholt og Torgrimsby ANS, Deputy Judge at Sør-Østerdal District Court and Executive Officer at the Ministry of Justice, the Ministry of Children and Family Affairs, the Norwegian Animal Health Authority and the Norwegian Food Safety Authority.

**Helle Gulseth****Investigative Prosecutor since 2011**

Law degree from the Universities of Bergen and Oslo, 2000. Experience as an Assistant Lawyer/lawyer/partner at the law firm of Drevland & Grape DA, three years working as a legal adviser on assignments for the Ministry of Justice in Afghanistan and Moldova.

**Marit Oliver Storeng****Investigative Prosecutor since 2011**

Law degree from the University of Oslo, 2007. Experience as operational support in the Correctional Service at Oslo Prison and as an Adviser at the Correctional Service's northeast region.

**Olav Kjetil Moe****Investigative Prosecutor since 2015**

*(temporary)*

Law degree from the University of Bergen, 2007. Experience as an executive officer and police lawyer at Hordaland Police District, Deputy Judge and Acting District Court Judge at Fjordane District Court.

**Espen Krogh****Special Investigator since 2005**

Graduated from Norwegian Police University College, in 1995. Experience from Oslo Police District.

**Camilla Nilsson****Special Investigator since 2005**

Graduated from the Swedish National Police Academy in 1993. Experience running a one-person enterprise, as a project manager in a private company and from Stange and Hamar Municipality. Police officer at Norrmalspolisen Stockholms PD and Länskriminalen Stockholm

**Jens Ørbæk****Special Investigator since 2005**

Graduated from the Norwegian Police College in 1989. Experience from Asker and Bærum and Hedmark Police Districts.

**Øivind Frøisland****Special Investigator since 2009**

Graduated as a pre-school teacher in 1993 and from the Norwegian Police University College in 1997. Experience as head of department at a day-care facility in the municipality of Nesodden, from Follo, Romerike and Hedmark Police Districts and from the National Bureau of Crime Investigation (Kripos).

**Gyda Hoberg****Special Investigator since 2009**

Trained as a tax auditor. Experience as a tax auditor at Oslo/Hedmark County Tax Assessment Office, Special Investigator at the National Authority for Investigation and Prosecution of Economic and Environmental Crime (Økokrim), Head of Division at Hedmark County Tax Assessment Office and Head of Section at Tax Norway East.

**Bao Thai Ly****Special Investigator since 2011**

Graduated from the Norwegian Police University College in 2001. Experience from Agder, Nordre Buskerud, Oslo and Follo Police Districts.

**Pål Hoff Johansen****Special Investigator since 2013**

Graduated from the Norwegian Police College in 1983. Police experience from Follo and Moss, the National Authority for Investigation and Prosecution of Economic and Environmental Crime (Økokrim), the Tax Crime Unit in Oslo and Akershus and Gjensidige Forsikring.

**Yvonne Hasler Garthe****Special Investigator since 2014**

Graduated from the Norwegian Police University College in 2000. Experience from Kragerø police station and Oslo Police District.

**Espen Østerud****Special Investigator since 2015**

Graduated from the Norwegian Police University College in 2000, Master of Justice, Queensland University of technology, 2005. Experience from Romerike and Oslo Police Districts and the National Authority for Investigation and Prosecution of Economic and Environmental Crime (Økokrim).

**Raymond Thorsen****Special Investigator since 2016**

Graduated as general teacher in 1997, graduated from the Norwegian Police University College in 2000. Experience from Hurum Rural Police Station, Drammen Police Station and the National Bureau of Crime Investigation (Kripos).

**Wenche Kristin Fredriksen****Higher Executive Officer (office support) since 2014**

Experience from Kongsberg Police Headquarters and the National Authority for Investigation and Prosecution of Economic and Environmental Crime (Økokrim).

**Ada Cathrine Thjømøe****Lawyer on assignment since 2016 – Lawyer at the law firm of Mageli ANS, Hamar since 2012**

Law degree from the University of Oslo, 2003. Experience from the Office of the County Governor for Oslo and Akershus, Assistant Lawyer at Bøsterud & Co. Assistant Lawyer and lawyer at the law firm of Lund & Co DA and as Deputy Judge and Acting District Court Judge at Hedmarken District Court.

**Morten Engesbak****Lawyer on assignment since 2016 – Lawyer/partner at the law firm of Stabell & Co, Oslo since 2010**

Law degree from the University of Oslo, 2000. Experience as Assistant Lawyer and lawyer at the law firm of Advokatene Bohinen, Dahl & Midsem and as a lawyer with own legal practice. Permanent counsel for aggrieved parties at Oslo District Court and Borgarting judicial district since 2011.

**Bjørn Rudjord****Lawyer on assignment since 2016 – Lawyer/partner at the law firm of Elden DA, Oslo since 2000**

Law degree from the University of Oslo, 1993. Experience from Vestoppland and Oslo Police Districts, Deputy Judge at Fredrikstad District Court and Acting Public Prosecutor at Oslo Public Prosecutors.

**Mats J. Iversen Stenmark****Lawyer on assignment since 2016 – Lawyer at the law firm of Stenmark, Oslo since 2016**

Law degree from the University of Oslo, 2005. Experience from the Ministry of Justice and the National Authority for Investigation and Prosecution of Economic and Environmental Crime (Økokrim), Assistant Lawyer at the law firm of Arntzen de Besche, Deputy Judge at Eiker, Modum and Sigdal District Court and at Alstahaug District Court. Acting Judge of the Court of Appeal. Law Clerk at Borgarting Court of Appeal and Research Fellow at the Faculty of Law, Institute of Public Law at the University of Oslo.

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**Director of the Norwegian Bureau  
for the Investigation of Police Affairs**

Annual Report  
2015

**INVESTIGATION DIVISION WEST NORWAY**

The investigation division is responsible for cases involving employees in the following police districts: Møre and Romsdal, West and South-West. In addition, the division has responsibility for cases involving employees at the Public Prosecutors in Rogaland, Møre and Romsdal, Sogn and Fjordane and Hordaland, and official acts carried out abroad.



**Ellen Eikeseth Mjøs**

*Lawyer on assignment and Head of Investigation Division West Norway since 2011 – Lawyer and partner at Sentrumsadvokaten in Bergen since 2010.*

Law degree from the University of Bergen, 1996. Experience as a research fellow at the Faculty of Law, University of Bergen and from Hordaland Police District. Permanent counsel for aggrieved parties at Bergen District Court and Gulating Court of Appeal since 2011.

**Kathrine Knapstad Larssen**

*Investigative Prosecutor since 2011*

Law degree from the University of Bergen, 1998. Experience as Deputy Judge at Brønnøy District Court and as a Lawyer at the law firm of Kyrre ANS.

**Anita Rundsveen**

*Special Investigator since 2005*

Graduated from the Norwegian Police College in 1988. Experience from Fana Rural Police Station, police officer in Hordaland Police District, the Norwegian Police Security Service and the Central Mobile Police Force.

**Kjetil Torgersen**

*Special Investigator since 2008*

Graduated from the Norwegian Police College in 1984. Experience from Telemark and Hordaland Police Districts. Peace observer in Hebron, 2002.

**Tine Landro Sjøflot**

*Special Investigator since 2012*

Graduated from the Norwegian Police College in 1991. Experience from Hordaland Police District, insurance investigator at Vesta Forsikring AS, Special Investigator at the Norwegian Bureau for the Investigation of Police Affairs 2008–2011.

**Randi Kaalaas**

*Special Investigator since 2015 (temporary)*

Graduated from the Norwegian Police University College in 2002. Experience from Hordaland Police District.

**Eirik Nåmdal**

*Lawyer on assignment since 2013*

*– Lawyer at the law firm of Turid Mæland, Bergen since 1998*

Law degree from the University of Bergen, 1998. Experience as seminar tutor at the Faculty of Law, University of Bergen. Permanent Defence Counsel at Bergen District Court and Gulating Court of Appeal since 2014.

**Karsten Krüger Engedal**

*Lawyer on assignment since 2016 – Lawyer at the law firm of Kyrre ANS, Bergen since 2012*

Law degree from the University of Bergen, 2001. Experience from Helgeland and Hordaland Police Districts.

**Åge Gustad**

*Lawyer on assignment since 2016 – Lawyer at the law firm of Advokatene Holmen, Visnes, Todal, Gussiås and Gustad, Kristiansund since 2015*

Law degree from the University of Bergen, 1999. Experience from the Directorate of Immigration, Nordmøre and Romsdal Police District, Head of Department at the National Police Immigration Service, Deputy Judge and Acting District Court Judge at Nordmøre District Court.

## INVESTIGATION DIVISION MID NORWAY AND NORTH NORWAY

The investigation division is responsible for cases involving employees in the following police districts: Finnmark, Troms, Nordland and Trøndelag. In addition, the division has responsibility for cases involving employees at the Public Prosecutors in Troms and Finnmark, Trøndelag and Nordland.



### Halvor Hjelm-Hansen

*Lawyer on assignment and Head of Investigation Division Mid Norway and North Norway since 2013 – Lawyer and partner in the Law firm of Erbe & Co DA, Trondheim since 2008*

Law degree from the University of Oslo, 1989. Experience from the Ministry of Foreign Affairs and the Ministry of Transport and Communications, police lawyer at Sør-Trøndelag Police District, head of the Norwegian Police Security Service's division in the Sør-Trøndelag Police District and Acting Public Prosecutor at Trøndelag Public Prosecutors.

### Per Martin Utkilen

*Investigative Prosecutor since 2016*

Law degree from the University of Oslo, 1995. Case management at the Norwegian Business School (BI), 2012. Experience from Fjordane, Ringerike and Sør-Trøndelag Police Districts and as a lawyer at SpareBank 1.

### Terje Storrø

*Special Investigator since 2005*

Graduated from the Norwegian Police College in 1987. Experience from Helgeland and Sør-Trøndelag Police Districts.

### Toril Olsson

*Special Investigator since 2008*

Graduated from the Norwegian Police College in 1977. Experience from Oslo and Sør-Trøndelag Police Districts.

### Kristin Hauge Bardal

*Special Investigator since 2015*

Foundation course in Criminology, 1996. Graduated from the Norwegian Police University College in 1999. Experience from Inn-Trøndelag, Nord-Trøndelag and Sør-Trøndelag Police Districts, the National Bureau of Crime Investigation (Kripos) and as an insurance investigator at Gjensidige Forsikring.

### Kai Stephansen

*Lawyer on assignment since 2013 – Lawyer/partner at the law firm of Strand & Co, Trondheim since 2010*

Law degree from the University of Oslo, 1995. Experience as head of health and social services in the municipality of Selbu, Execution and Enforcement Commissioner in Trondheim. Assistant Lawyer at the law firm of Strand & Co since 2008.

### Roy Hedly Karlsen

*Lawyer on assignment since 2016 – Lawyer/partner at the law firm of Bjerkan Stav since 2014*

Law degree from the University of Tromsø, 1997. Experience as Assistant Lawyer and Lawyer at the law firm of Berg & Spjelkaviknes, Oslo. Lawyer at the law firm of Wlig, Hohle, Knudsen, Brevik and Lawyer/partner at the law firm of Advokatene Christian Wlig & Co.

### Magnhild Meringen

*Lawyer on assignment since 2016 – Lawyer/partner at the law firm of Advokatene på Storkaia DA, Kristiansund since 2007*

Law degree from the University of Oslo, 1998. Experience from the Ministry of Health and Social Affairs. Head of Gjemnes National Insurance Office. Head of department at Ytre Nordmøre municipal tax assessment office and as an Assistant Lawyer at the law firm of Advokatene på Storkaia DA.



*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
  - 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/Videoring Police Performing their Duties
- Police Management

## 2014

- 10 years since the Bureau was established
- Approval of Overtime
- Custody/Incidents involving Persons in Police Custody
- Police Methodology and Methodological Development
- Notification of Complaints
- «The police do not answer my enquiries»
- Misuse of Police Records
- Assistance to the European Committee for the Prevention of Torture (CPT)
- Prevention of Torture
- Investigation of Cases involving Shooting by Police



### **The Norwegian Bureau for the Investigation of Police Affairs**

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### **Investigation Division East Norway**

Visiting address: Grønnegata 82, Hamar

Visiting address: Kirkegata 1-3, Oslo

### **Investigation Division West Norway**

Visiting address: Slottsgaten 3, Bergen

### **Investigation Division Mid-Norway og North Norway**

Visiting address: Kongens gate 30, Trondheim

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)**