

ANNUAL REPORT 2021

Norwegian Bureau for the
Investigation of Police Affairs





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Foreword

My first whole year as director of the Bureau has passed quickly. It has been an eventful year for me, and for that matter for the Bureau too. All of our work, and my leadership, has of course been marked by a year of the pandemic. Like everyone else, we have made extensive use of working from home and meetings on digital platforms. We have also gained valuable experience of the new digital workplace. From now on, we will practice the hybrid work model, which will enable employees to work from home. Such digital working, knowledge sharing, establishing and developing social working relations demands continuous attention to how we work in such a new daily working life.

Working environment, quality, effectiveness and team spirit must not be adversely affected! During the brief period of reopening in November 2021, the Bureau succeeded in holding one physical gathering of Bureau staff. The governing theme of the gathering was “change and development”. The gathering was characterised by the great pleasure of meeting colleagues again coupled with the joy of meeting new colleagues whom one had only met digitally. The value of physical meetings in the new working day cannot be doubted.

In my foreword to the Annual Report for 2020, I described a number of developmental features that the Bureau would be working on in the time ahead, and much of this has now been carried out. Employees have been involved in making the changes by means of two working groups that have given thought to the form to be taken by the joint case reception and to how the Bureau is to be organised in the future. A demanding issue was the question of whether the Bureau’s investigation divisions in West Norway (Bergen) and Mid and North Norway (Trondheim) should be retained. The units are small, with, respectively, five and four employees. We concluded that it is important that the Bureau is located several places in the country, but not necessarily as small, independent units. The office locations are to be retained, but will be integrated in a single joint investigation division with management in Oslo. It was also agreed that we should establish a joint reception for all enquiries to the Bureau.

When people die as a result of police performance of duty, both the police and the Bureau are obliged to establish what can be learned from this.



From 1 November 2021, we therefore established the new Investigation Division and a new joint case reception in Hamar. Both divisions have their own managers. A detailed account of these changes is given on **pages 14–15 of the Annual Report. Here we also refer to our new functions as “senior investigation officers” and “Training Officer”.

In 2022, both the new divisions and the new functions will fall into place. It will be particularly important to establish a well functioning interface between the Case Reception Division and the Investigation Division. I look forward to this work!

May 2021 saw publication of the report of the committee set up to establish what can be learned by the police now that the Eirik Jensen case is at an end. It is a very sound and thought-provoking report. I am pleased that the chair of the committee, Ingeborg Moen Borgerud, has summed up the main points in this Annual Report.

The above-mentioned report refers to the need for risk acknowledgement in order to prevent corruption in the police. In the Bureau’s view, Norwegian police management must also acknowledge the risk that police employees abuse their positions in the police to engage in sexual activity with vulnerable persons. In 2021 too, the Bureau has investigated and prosecuted sexual offences and, in January 2022, we will prosecute a complex sexual offence case. Some of the cases concern behaviour towards colleagues. Later in the Annual Report, we have written about some of the cases that may be relevant for experiential learning and risk analysis in the police. We have moreover noted that the Police University College has established sound guidelines for preventing sexual attention and sexual harassment. The guidelines may absolutely serve as inspiration for many undertakings, and may prevent criminal offences.

In 2021 too, the Bureau has dealt with police shootings that have resulted in loss of life. The cases almost always give rise to public debate about police use of firearms. From time to time, the Bureau is criticised for failing to bring charges in the cases where the police have fatally shot people. We must always reflect on such criticism, which we also received during the past year.

When people die as a result of police performance of duty, both the police and the Bureau are obliged to establish what can be learned from this. Here there is room for improvement for us too. Our experience must be drawn upon, and result in actual changes and learning. The committee that investigated police oversight mechanisms in 2009¹ called attention to the importance of systems and procedures for knowledge-based experiential learning. In its thorough review, the *Bevæpningsutvalget*² [committee on arming of police] proposed a systematic assessment of situations where the police have made use of firearms in the course of duty. I am uncertain whether the latter has been sufficiently followed up but, through our investigations, the Bureau has considerable experience of all types of police shootings, and will willingly contribute to such work.

Police officers shooting at persons wielding knives is a development we see not only in Norway, but also in the other Nordic countries. A number of cases shed light on how this type of police assignment is handled. Common denominators for the cases are self-defence, short distance and use of several shots. Tactics and rules for creating distance are important. In this respect, should not the threshold for warning shots and aimed shots be the same?

1 Official Norwegian Report NOU 2009:12 *Et ansvarlig politi, Åpenhet, kontroll og læring* [A Responsible Police Force. Transparency, oversight and learning]

2 Official Norwegian Report NOU 2017:9 *Politi og bevæpning, Legalitet, nødvendighet, forholdsmessighet og ansvarlighet* [Police and Arming. Legality. Necessity, Proportionality and Responsibility]

Somewhat earlier warning shots might possibly help to create or maintain distance, so that the officers are not forced into self-defence situations where it is difficult to fire shots as a damage limitation measure. The intention of this is to minimise the risk of fatal police shootings.

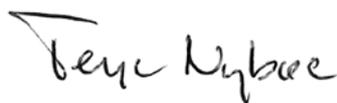
We also see a number of accidental shootings in the police. These are sometimes caused by a failure to comply with elementary rules for secure handling of firearms. Many of our decisions in these cases have been assessed pursuant to the Penal Code's provision concerning careless handling of firearms, and dismissed because the shot was not likely to cause a risk to the life and health of another person. In future, we will also assess these to a greater extent as professional misconduct.

During 2021, we have attended meetings with the managerial groups of several police districts. We will continue these valuable meetings, and will endeavour to accept invitations to participate in various contexts in the police and prosecuting authority.

In the same way, I look forward to developing cooperation with both the Police Directorate and the Police University College in our common interest for sound and confidence-inspiring performance of duty in the police and prosecuting authority.



It is possible to hear about the Bureau in greater detail in the podcast "Takk og Lov" [Thank goodness], where I took part in a conversation with Anine Kierulf.



Terje Nybøe
Director of the
Norwegian Bureau for
the Investigation of
Police Affairs





Sexual offences – typical cases for the Bureau

In the article on police corruption on page 17, reference is made to the need for risk acknowledgement in preventing corruption in the police. In the Bureau's view, Norwegian police management must also acknowledge the risk that police employees abuse their positions in the police to engage in sexual activity with vulnerable persons.

An examination of the cases prosecuted by the Bureau from 2005 to today shows that the Bureau has frequently prosecuted sexual offence cases. In the majority of these cases, there has been more than one aggrieved party. Compared with other cases, convictions in these cases constitute some of the most severe penalties in the Bureau's portfolio. In 2021, the hitherto severest penalty was imposed in such a case. In Vestfold District Court's judgment of 16 September 2021, an officer was sentenced to imprisonment for a period of two years and three months for, inter alia, four counts of abuse of an unequal power relationship in order to engage in sexual activity. The convicted person's appeal has been referred to the Court of Appeal for review, and the case is therefore not legally enforceable.

It is possible that sexual offence cases are not perceived as being in the core area of the Bureau's mandate. However, examination of the cases shows that they to a great extent concern unlawful acts



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carried out in connection with individual persons' encounters with the police. The sexual activity occurs as a result of abuse of the knowledge and position of the perpetrator as a police officer.

In addition to the fact that it is vulnerable individuals who are the aggrieved persons in these cases, such cases may be capable of weakening public confidence in the police.

In the following, accounts are given of some of the cases in order to illustrate matters that may be relevant for experiential learning and risk analysis in the police.

In Borgarting Court of Appeal's judgment of 2 November 2012, an officer (A) was convicted for, inter alia, engaging in sexual activity with two different aggrieved persons by abuse of an unequal power relationship. A was sentenced to imprisonment for a period of two years and to pay compensation to the two aggrieved persons. He was also deprived of the right to hold any position in the police in future. A's work included preventive work among children and young people. The judgment concerns several cases where, on various websites, A passed himself off as a young girl and in this way succeeded in making contact with vulnerable girls. A also worked on investigation of sexual offences. One count of the indictment concerned a person whom A had examined as the aggrieved party in a case concerning sexual activity with a person under 16 years of age. Both before and after the examination, under the guise of being a colleague of himself, he took contact with the aggrieved person (B) on a website. The contact revolved around A's sex initiatives, the criminal case where B was the aggrieved person and A's fondness for B. As "the colleague" he encouraged B to contact A, and stressed that it was safe because A was a police officer. B took contact with A and

said she was willing to meet him. A took her to a hotel, where he had sex with her. At this point in time, B was 16 years old.

In Eidsivating Court of Appeal's judgment of 2 December 2019, an officer (A) was convicted of, inter alia, engaging in sexual activity with a woman (B) by abuse of an unequal power relationship. A was sentenced to imprisonment for a period of one year and nine months and to pay compensation to B. In his position as a police inspector with responsibility for drugs and informant guidance, A had contact with B, who gave him information concerning the drug scene in the area where she lived. The majority of the Court of Appeal found it proven that A had engaged in sexual activity with B on three occasions, and that A was clearly in an unequal power relationship to B.

In some of the cases investigated by the Bureau, the convicted officer came in contact with the aggrieved person as a result of responsibility for following up persons exposed to threats or violence. In some cases, the contact was established after the aggrieved person had called at the police station to report an offence or had sought the help of the police for some other reason.

In a case decided by a legally enforceable judgment in 2021, the aggrieved person and the officer had not become acquainted through the police service, but the latter's training and experience as a police officer was accorded significance in the assessment of the question of guilt. In Eidsivating Court of Appeal's judgment of 20 October 2021, an officer was convicted for engaging in sexual activity by exploiting a person under 18 years of age in a particularly vulnerable life situation. The officer (A) called for the aggrieved person (B) at the upper secondary school where she was a pupil, then

Some of the sex offence cases that the Bureau has dealt with concern behaviour towards colleagues.



drove her some kilometres from the school and had sex with her in his car. The car was an unmarked police car, and the sexual intercourse occurred while A was on duty as a police officer. B was aware that A worked for the police and that the car where they met was a police car. At this point in time, B was 17 ½ years of age, and was also in a particularly vulnerable life situation. A had no official responsibilities in relation to B but, when assessing A's guilt, the Court of Appeal attached importance to the fact that A was an adult man who was trained as a police officer and had worked with a broad range of duties at a rural police station (including some participation in investigating sexual offence cases).

For half a year prior to engaging in sexual activity with B, he had carried out frequent and sexualised communication with her on Snapchat. He had seen the pictures she had posted on the website where they became acquainted. He told that he had known that she lived in an institution, a foster home or something similar, and thought of her as a "foster home child". When this was viewed in connection with other evidence, the Court of Appeal was in no doubt that A considered it likely that B was in a particularly vulnerable life situation. Nor was the Court of Appeal in any doubt that A considered it likely that he had obtained sexual activity by exploiting B in this situation.

For 16 years, the Bureau has observed that a number of the most serious criminal cases we have investigated have several features in common. Regardless of what the investigation concerns, e.g. corruption or abuse of position to obtain sexual activity, information ranging from old rumours to more tangible information sometimes emerges which has not been followed up or where documentation concerning the follow-up is lacking. The reasons why such information has

not been followed up have often been associated with the officer concerned, and are not necessarily related to the nature or content of the information. It is asserted, for example, that the officer concerned is a competent professional trusted to work independently, that he has a managerial position and is therefore difficult to control or that there are family or health considerations necessitating that he is able to decide over his own working day.

In the view of the Bureau, experience from the Bureau's portfolio shows that the scope of sex offence cases must not be reduced to apply to specific incidents or individuals. The risk is associated with the content of the social mission of the police. As a police officer, one has a formal knowledge and practical experience of people in vulnerable life situations, for example drug abusers and persons subjected to sexual abuse. This knowledge may be consciously or unconsciously misused when officers, as an integral part of their duties, have contact with persons who are easily exploited. Risk acknowledgement coupled with sound routines for follow-up of all information concerning undesirable behaviour will help in preventing similar cases.

Some of the sex offence cases that the Bureau has dealt with concern behaviour towards colleagues.

Some of the sex offence cases that the Bureau has dealt with concern behaviour towards colleagues. Cases considered by the Bureau in 2021, but as yet undecided, include sexualised acts vis-à-vis colleagues. In 2015, a police officer accepted an optional fine of NOK 15 000 for sexually offensive behaviour. 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



In 2021, the Police University College issued Guidelines on Combating Unwanted Sexual Attention and Sexual Harassment which, in the view of the Bureau, provide a sound framework for preventing and following up such behaviour.

jeg så nøden” [now I want it so badly] or something similar. In Gulating Court of Appeal’s judgment of 30 June 2017, an officer was sentenced to imprisonment for a period of nine months, deprivation of his position as a police officer and of the right to hold any position in the police in future and compensation for, inter alia, abuse of position to obtain sexual activity with two aggrieved persons. The officer was also indicted for sexually offensive behaviour towards a police cadet in practice at the same service location. At the District Court, the officer was convicted for this offence. The Court of Appeal acquitted the accused on this count, but nevertheless found grounds to give its opinion concerning the officer’s behaviour:

“The aggrieved person has told the Court of Appeal that she considered it “quite possible” that the accused believed that she “was game for” this kind of communication. This gives reason to doubt that the accused acted intentionally as regards the fact that the aggrieved person had not consented to the sexually offensive or otherwise indecent conduct. The subjective condition for penalties are in such case not fulfilled. This doubt must benefit the accused by his acquittal on this count.

The Court of Appeal will nevertheless observe that the matter is censurable. Regardless of the internal banter that the officers indulged in among themselves, it is in the view of the Court of Appeal, entirely unacceptable of the accused to ask the aggrieved person, as a young cadet in practice, questions such as whether she had shaved her private parts and whether they should take a shower together.”

In 2021, the Police University College issued Guidelines on Combating Unwanted Sexual Attention and Sexual Harassment which, in the view of the Bureau, provide a sound framework for preventing and following up such behaviour.

Sexual offences are in a number of ways typical cases for the Bureau. Statistics show that the Bureau frequently receives such cases for investigation. There is a risk that police employees will misuse the knowledge and opportunities that they receive through their work in order to obtain sexual activity with vulnerable persons, and the Bureau must therefore expect to continue receiving such cases. Sexual offence cases require that the Bureau has the right competence and sufficient resources for sound and effective securing of evidence. In most of these cases there is extensive electronic evidence that must be secured and analysed. Examination of aggrieved persons, suspects and witnesses is of central importance, and requires the appropriate competence.

In the Bureau’s experience, a crucially important factor in clarifying such cases is that investigation of accusations against officers is conducted by an independent investigative body external to the police. In several of the cases, aggrieved persons, colleagues and other witnesses have stated that it had been out of the question to report the matter to the police and that it had been difficult to know how the information would be handled. Transparency and a thorough knowledge in the police and the general public of the Bureau’s cases and activities plays an important role in building confidence in the work of the Bureau, and is essential to ensuring that the Bureau receives information concerning matters to be examined or investigated by the Bureau.



Reorganisation of the Bureau

On 1 November 2021, the Norwegian Bureau for the Investigation of Police Affairs made a number of changes in the organisation.

A separate division was established in Hamar for joint case reception and preliminary investigations. The division is headed by Espen Krogh and staffed with three Special Investigators, three Investigative Prosecutors and two administrative consultants. The switchboard is also part of the reception.

All investigation resources are now gathered in a single investigation division with joint management of the offices in Oslo, Bergen and Trondheim. The division is headed by Liv Øyen, and her deputy is Helle Gulseth. In addition, the division consists of 14.5 special investigator posts, five Investigative Prosecutors and one administrative consultant.

The background for the changes is the need for a joint reception that can help to ensure correct selection of cases to be investigated, sound initial management of the cases and adoption of the same approach in all cases. The reception will decide all cases where there are no reasonable grounds to initiate investigations. In addition to the standby duty officer, the joint case reception will be the police district's first point of contact for enquiries.

The purpose of gathering all investigation resources in a single investigation division is to provide the Bureau with a better way of prioritising cases at any given time, regardless of where in the country the incidents occurred. This is more easily achieved when based on overall assessments and priorities. A single investigation division will help to ensure equal and adequate quality in all cases investigated.

We expect that these changes will also help to reduce the Bureau's case processing time, which has been a goal for some years.



Senior Public Prosecutor Trond Eirik Schea at the Office of the Director of Public Prosecutions attended a function marking the reorganisation of the Bureau

The organisation has now been given a more formalised professional structure. A Senior Investigator post has been established for each office. The Bureau has also established a separate Training Officer post. We became aware that many of the agencies we cooperate with did not realise that some persons entitled “etterforsningsleder” [senior investigation officer] were lawyers. These officers will therefore now have the title “påtalesaglig etterforsningsleder” [Investigative Prosecutor]. This clarification of the police and prosecution levels of investigation management is intended to contribute to development of the organisation and meet the requirements regarding quality and effectiveness.

We aim to establish sound cooperation between the Case Reception Division and the Investigation Division, so that we achieve adequate quality in all parts of work on criminal cases while ensuring a reasonable processing time.



Liv Øyen
Head of Investigation Division



Espen Krogh
Head of Case Reception Division



Police Corruption: Leadership, Risk Acknowledgement and Learning

In Borgarting Court of Appeal's judgment of 19 June 2020, the former police officer, Eirik Jensen, was sentenced to 21 years' imprisonment for gross corruption and aiding and abetting import of 13.8 tonnes of narcotic drugs. The indictment period was from 2004 to 14 November 2013.

There is no doubt that the case is very serious and capable of damaging public confidence in the police. The criminal offences were committed during an extended period when the convicted person was a senior police employee with responsibilities within criminal intelligence, informant handling and combating organised crime and criminal networks.

Many people, both within and outside the police, have questioned how this could have happened, and how it could have gone on for so long.

Evaluation committee

On 17 December 2020, the Police Directorate appointed a committee that was assigned the task of establishing what could be learned from the case by the police, with a particular emphasis on the responsibility of police managers to follow up relevant rules, particularly when matters are reported as censurable.



**Ingeborg Moen
Borgerud**

Lawyer and partner in
Arntzen De Besche
Advokatfirma AS

The Police Directorate appointed the following persons as members of the committee: Lawyer Ingeborg Moen Borgerud (chair), Senior Judge President Monica Hansen Nylund, Professor Emerita Liv Finstad, Head of Division Anders Kassman and Chief Administrative Officer Erik Christensen.

The committee obtained information from a number of written and oral sources. The committee's analyses and assessments are based, inter alia, on interviews with 30 current and former police employees and senior police officers, relevant instructions and documents as well as systematised studies and research throwing light on police corruption and culture, attitudes, leadership and learning in the police. The report *Police corruption. Leadership, Risk Acknowledgement and Learning* was submitted in May 2021. The committee pointed out that the fact that police corruption was possible and was able to persist for several years was due to failure of leadership and lack of risk acknowledgement in the Oslo Police District (OPD).

Failure to follow up reports of concern

During the period from 2004 to 2013, the convicted person's superior officers received a number of reports of concern regarding his performance of duty, including possible violations of the Informant Instructions and too close contact with criminals without this resulting in any investigations. Nor did the reports of concern result in any consequences for the convicted person's managerial roles or work with informants. In 2011, the convicted person, at his own wish, took up an advisory post in the Section for Organised Crime.

The fundamental failure was that, over a long period, reports of concern were not satisfactorily handled by the responsible management of the Oslo Police District. Allegations regarding

serious breaches of rules were not investigated, and were therefore disregarded. Off-duty conduct that was inconsistent with informant handling and covert police work was tolerated without further investigations.

The committee drew attention to the following:

- A number of employees who worked on informant handling submitted reports of concern to Jensen's immediate superior that he did not comply with the informant rules and that it was impossible to control his activities.
- The management of the National Criminal Investigation Service, which has national professional responsibility for handling of sources and informants, informed the management of the Oslo Police District several times that Jensen did not comply with the Informant Instructions and that it was problematical that professionally responsible officers did not have control of all the projects in which Jensen took part.
- Jensen was investigated by the Norwegian Bureau for the Investigation of Police Affairs on two occasions prior to 2013. Both reports were dismissed. However, the prosecution decisions contained information that it would have been natural for the Oslo Police District as employer to follow up.

There is no doubt that follow-up of reports of concern from employees regarding possible breaches of instructions is a management responsibility. Managers must ensure that the necessary investigations are made. This must be carried out in a responsible and documentable manner. This was not done by the convicted person's superior officers. Consequently, clear breaches of rules were disregarded and the problem was allowed to persist for several years. It is incomprehensible that senior police officers failed to follow up reports of concern and other

Many people, both within and outside the police, have questioned how this could have happened, and how it could have gone on for so long.



information, and that they turned a blind eye to reports that Jensen did not comply with the rules regarding informant handling. This applies particularly when the reports of concern were submitted by senior counsellors with professional responsibility for informant handling.

The committee has not succeeded in identifying any explicit reason for the failure of leadership, but has put forward a number of factors that may have played a role.

One of several possible explanations for the failure of leadership may be the perception that Jensen achieved good results, and that it was therefore best that he was not subjected to the rules. This can be associated with what is often referred to as “the war on drugs”, which from the 1970s gave rise to a culture where “hunting the haul” was an accepted driving force in the police fight against narcotics. Overlooking breaches of the rules may be viewed in the context of “noble cause corruption”, which entails that it was more important to succeed in combating drug-related and gang crime than to do so in compliance with the rules and the requirements of professional ethics. Particularly in connection with the combating of gang crime, the convicted person was a leading figure in police work, well known outside the police service, both in the media and by senior officials in the police and prosecuting authority and the Minister of Justice. He enjoyed the confidence of many people.

Culture, attitudes and leadership

When describing and explaining the failure of leadership, it is also appropriate to describe attitudes and culture. There is no doubt that culture, attitudes and leadership influence compliance and control of legislation, internal guidelines and instructions. Senior officers are major bearers of culture and role models responsible for stimulating and promoting desirable conduct by

following up and, if necessary, correcting that which is undesirable. However, there is not only one police culture and nor is there only one senior police culture. Cultures vary over time, from one police district to another and between the different units of one and the same police district. Although weakness and failure of leadership played a dominant role in the failure to control the convicted person’s performance of duty, senior police officers have also assumed responsibility.

Regardless of the circumstances associated with leadership, culture and attitudes drawn on when throwing light on corruption and other crimes committed by police employees, the focus on culture and system must never be used to excuse such crimes.

While considering explanations regarding culture and system, the personal responsibility of a police employee who commits a crime must never be played down or excused.

The police management platform

The failure of leadership is a clear breach of the police management platform, which ensures society that senior police officers must have the highest ethical standard and be role models. Today, the requirements regarding the competence of senior police officers are different and stricter than they once were. The current Chief of Police of the Oslo Police District seems to have adopted a proactive role aimed at building a culture for change and learning. However, the crucial matter is how the requirements regarding senior police officers are observed in practice. There is no guarantee that failure of leadership will not recur.

Inadequate internal control

The fact that the follow-up of reports of concern was inadequate and that the problem was allowed to persist for several years indicates a



Managers must ensure that the necessary investigations are made.

failure of the internal control. This was also pointed out by the Court of Appeal. Although internal control has been substantially improved in recent years, there is nevertheless reason to emphasise the importance of sound and effective internal control, particularly in areas where the consequences of breaches of instructions are great, such as in informant handling.

All managers and employees of the police service are responsible for safeguarding sound internal control within their areas of responsibility. The internal control must be adapted to the level of risk and the consequences of violations. Managers are responsible for identifying risk factors within their own area of responsibility, implementing risk mitigation measures and ensuring that the employees have the competence and capacity to carry out their tasks. Managers must follow up compliance with the rules, and assess whether internal control is functioning satisfactorily.

The balance between confidence and control

Confidence is an important value in the workplace; but a high level of confidence combined with a low level of control increases the risk of misuse. It is necessary to take sufficient precautions. Precautions include control, guidance and care, such as interest and care for the moral careers of police employees. The precautions that one takes are closely associated with risk acknowledgement. The challenge involves finding the responsible balance between confidence and control. This is one of the reasons why leadership in the police is a discipline that must be cultivated and developed.

Corruption – failure to acknowledge risk

The corruption Jensen has been convicted of is in many ways typical when viewed in the light of research and police corruption cases in other countries. Police corruption is difficult to detect,

and may persist for many years. It is often associated with informant handling, drug crime and gang crime. Failure of leadership is also a typical characteristic of what international police research refers to as police scandals. However, the responsible managers in the Oslo Police District never assessed that corruption might have occurred before late autumn 2013. The risk acknowledgement was lacking.

Some senior police officers were virtually certain that corruption and other crimes committed by police employees were only “individual cases”. Such a conception of reality fails to emphasise sufficiently that the risk of corruption in the police is real and ever-present. The risk of corruption is associated with the fact that the police hold exclusive information of great value not least to criminal networks and groups. All police employees may in principle leak or sell information, be tempted, cheated or threatened.

Although the corruption Jensen has been convicted of is in many ways a “typical” case of police corruption, it is to be hoped that it is rare. Norway is a stable and well-run state governed by law, and there is considerable public confidence in the police. This may indicate a low level of corruption in the Norwegian police, but there is very little research on the scope and nature of police corruption in Norway. The committee has therefore recommended the preparation of a national prevention strategy and the initiation of research to throw light on police corruption in Norway.

Informant handling

In order to combat crime, the police are dependent on information. This may come from persons associated with criminal groups, from so-called sources or from informants. Handling of sources and informants is one of the covert methods adopted by the police. The method is not regulated by law.



In the committee's assessment, both Oslo Police District's Informant Instructions and the Police Directorate's National Standard Instructions help to ensure sound legal safeguards and ethical quality in informant handling. The arrangement involving informant counsellors and senior counsellors is a particularly important element of the rules regarding informant handling. Moreover, establishment of a national informant register operated by the National Criminal Investigation Service is of major importance.

The use of covert methods may result in greater difficulty in detecting criminal offences and other breaches of rules by the police than in other areas. Moreover, the rules regarding informant handling are exempt from public disclosure. Employment of the method must necessarily be covert, but it may be questioned whether the exemption from public disclosure is too wide-ranging as regards certain parts of the rules. In principle, police instructions and rules should be publicly accessible. Arguably, the greatest possible transparency regarding the rules is particularly important as regards non-statutory police methods and where no external control body has been established. These considerations must however be weighed up against the risk that the information may be misused by criminal groups, thus rendering police informant handling more difficult. The limitation of exemption from public disclosure of the rules for informant handling therefore raises more, and to some extent demanding, balancing of different considerations. The committee was not able to examine this question more closely during the short period it had at its disposal.

Recommendations

The risk of different forms of corruption in the police will always be present, and there is thus at all times a need for measures capable of preventing incidents of corruption. There will

always be persons capable of committing acts of corruption in connection with the performance of duty. It is therefore necessary to be continuously aware of the risk of corruption. As part of this awareness, one must also seek to identify measures that may prevent corruption in the best possible way.

The committee recommends, inter alia, that

- A national prevention strategy be prepared against police corruption. Risk acknowledgement is crucial for preventing police corruption. Risk acknowledgement requires that managers focus on corruption, and that they involve the employees in the risk assessments that are carried out.
- Information concerning possible violations of instructions and guidelines must be followed up and documented.
- In order to ensure follow-up of allegations regarding breaches of instructions or other conduct giving cause for concern, clear routines must be established for handling reports of concern.
- Continuous efforts must be made to ensure a sound, efficient, confidence-inspiring and documentable internal control within source and informant handling.
- Regular reports must be submitted to the Chief of Police concerning the control of source and informant handling and any findings that are made. Continuous assessment must be made of the adequacy of internal control measures.

The full report can be read here: <http://www.politiet.no/globalassets/dokumenter/pod/rappporter/rapportfraevalueringsutvalget.pdf>





Lawyers on assignment at the Bureau

– a legal safeguard and a supplementary resource

Lawyers on assignment inspire confidence and foster independence. They provide a corrective – an objective view from outside. Experience throughout the Bureau's 16 years has proved the value of lawyers on assignment as a supplementary resource.

Prior to the establishment of the Special Investigating Body for Police Matters (SEFO) in 1988, there were no specific arrangements or instructions for processing of complaints in cases concerning suspicion of unlawful acts committed in the course of duty by police employees or by the prosecuting authority. The exception was complaints concerning unlawful use of force. According to guidelines issued by the Director of Public Prosecutions in 1981, such cases were to be submitted to the Eidsivating Public Prosecuting Authority, where responsibility for the case was assigned to two specially appointed public prosecutors. For further information on prior history and the considerations that led to the organisational model we have today, see particularly Proposition No. 13 to the Odelsting (198687) concerning the Act relating to amendments to the Criminal Procedure Act (special investigative bodies). The main assessments and considerations that formed the basis of the arrangement were:

- the desire to maintain full confidence between the police and the general public
- establishment of an arrangement whereby investigations are both of a high qualitative standard and are carried out within a reasonable time



When the Bureau was established in 2005, there were 23 lawyers on assignment. In the intervening years, the number has been reduced to six, and the arrangement has found its form. It is our aim that lawyers on assignment will be more visible externally in future.

The aim of the arrangement was to achieve an efficient and impartial investigation, satisfactory both for the person reporting a breach of the law and for the official who is reported. The purpose of the investigative model was to counteract the danger of reduced confidence in the police and prosecuting authority resulting from a suspicion that the investigation was not of a sufficiently high standard.

The main purpose of the arrangement was to avoid any doubt that investigation of acts committed by officials of the police and prosecuting authority is of a standard equal to that of other investigations. Although, after a time, the requirement was introduced that at least one of the SEFO members should not have been an employee of the police or the prosecuting authority, it proved difficult, if not impossible, to inspire public confidence in the arrangement. The suspicion that the police investigated proved impossible to refute, and the arrangement had to be amended.

A control body is entirely dependent on confidence. Close relations between the controllers and the controlled may therefore give rise to doubts regarding the impartiality of the body, and thus its independence.

When the Norwegian Bureau for the Investigation of Police Affairs was founded in 2005, the purpose was therefore to establish an independent body that had the confidence of the general public.

Since the Bureau's core activity is investigation and prosecution of criminal cases, it is necessary to recruit investigators and prosecution lawyers with training and work experience from the police and prosecuting authority. Although several of the Bureau's employees also have work experience from outside the police, it is not

realistic to rely on obtaining such competence from outside the police.

Public confidence in the police is entirely dependent on the Bureau fulfilling recognised legal principles. In a confidence perspective, regard must therefore be paid, on the one hand, to dependence on high investigative competence, specialised police competence and prosecutory competence.

On the other hand, regard must be paid to independence and cultural distance from the police. It is here that lawyers on assignment have been allocated a major role.

Lawyers are independent and institutionally autonomous. Lawyers on assignment at the Bureau have both constitutional and competence-related preconditions for strengthening the Bureau's credibility in achieving the goal of "independence and confidence".

The above-mentioned cross-conditionalities are clearly expressed in section 341 of the Prosecution Instructions:

"The Bureau may engage persons in the form of assignments or appointments. Persons on assignment shall be subject to a quarantine period of two years from any previous appointment in the police or the prosecuting authority. In the case of appointments at the Bureau, the quarantine provision does not apply. Persons appointed or on assignment at the Bureau may not be simultaneously employed by the police or the prosecuting authority"

In order to ensure that lawyers on assignment have the necessary distance to the police and the prosecuting authority, a two-year quarantine period has been introduced. In order to counteract the danger that lawyers might lose

objectivity as a result of familiarity with the Bureau, assignments are limited to a period of four years with the possibility of a further four years.

What can lawyers on assignment contribute to the work of the Bureau?

The Finstad Committee (Official Norwegian Report NOU 2009:12), expressed it as follows:

“Persons on assignment play an important role in viewing cases from the outside and contributing other perspectives. They use the assignment to help in ensuring transparency regarding the work of the Bureau, and are expected to take an active and critical part in developing the arrangement. The Director of the Bureau regards it as particularly important that persons on assignment are actively drawn into work on cases concerning police use of force and possible violations of human rights”.

In our view, lawyers on assignment provide a corrective – an objective view from outside – of the Bureau’s execution of its responsibilities and of its cultural development. This will only be possible as long as it is facilitated by the organisation. We experience a broad understanding by the management and within the organisation that this is an essential factor for success.

The lawyers on assignment have been trained in critical thinking and in examining cases from different perspectives and angles. This may be of use in processing individual cases, as well as for organisational and cultural development at the Bureau.

The lawyers on assignment often have a broad experience of cases concerning intervention by the authorities against members of the public, and several have useful competence as defence

counsel, counsel for the aggrieved party and of other public supervisory agencies and control bodies. This may be of value to the Bureau in connection with case reception, investigation and prosecution work. The lawyers are experienced in contact with clients, and are thus well qualified for giving the Bureau a public face, particularly in relation to persons who report matters to the Bureau. In this way, the lawyers on assignment can also help to ensure greater transparency regarding the Bureau’s activities.

During the period from establishment of the Bureau to our reorganisation on 1 November 2021, the division offices in Bergen and Trondheim were headed by lawyers on assignment. The purpose of this form of organisation was to secure “the objective view from outside”, demonstrate cultural independence and promote perceptions of the Bureau’s independence. In 2005, 23 lawyers were associated with the Bureau. The number of lawyers rapidly proved too large, both for optimal utilisation by the Bureau and for the lawyers themselves. During the last ten years, there have been 10 lawyers on assignment at the Bureau. From 1 January 2022, the number of lawyers on assignment will be six. Since we now have a single Case Reception Division and one large investigation division, lawyers on assignment will no longer have a managerial function at the Bureau.

In order for the Bureau to make full use of the lawyers, it is particularly important that arrangements are made for a way of working whereby the lawyers are able to keep a relatively close track of activities and of the individual cases that the Bureau is dealing with at any given time. For practical reasons, the lawyers on assignment should therefore be directly attached to the various locations of the Bureau that are close to where the lawyers live and have their law practices, while arranging for lawyers to be able to

contribute at all levels of the Bureau. In order to avoid excessive travel, this may now be resolved by means of extensive use of digital communication and long-distance meeting platforms. To enable lawyers to be involved and familiarise themselves with the Bureau's activities and professional developments, and thereby contribute their competence, it is particularly important that they are also able to take part in professional and social events held under the auspices of the Bureau. The Bureau's new organisational model is found to be well suited to enabling lawyers on assignment to take part in all activities.

In our view, lawyers on assignment will be able to provide the Bureau with a broader and different competence than would otherwise be possible by appointment of (police) lawyers. In practical terms, lawyers on assignment can be involved in the initial phase of an investigation to help in planning and carrying out investigations, including contributing to discussions on structuring of cases and otherwise participating in discussions in the investigation group. It may often be relevant that the lawyer provides input at the point when assessments are still being made regarding whether or not to investigate a complaint. Lawyers on assignment should still prepare recommendations for prosecution decisions and, in some cases, as today, be delegated prosecuting authority for preparation of prosecution decisions. The lawyers' work in connection with the writing of prosecution recommendations and decisions should be made more publicly accessible than is the case today.

Information that a lawyer on assignment has participated in the assessment of whether or not to prosecute may strengthen the decision in a confidence perspective. Moreover, regard for transparency and public disclosure indicates that, in its prosecution decisions, the Bureau

should inform of any dissents in the question of prosecution.

Several of the lawyers on assignment have broad and long-standing procedural experience as counsel in civil cases and through practising as counsel for the aggrieved party and as defence counsel. The Bureau may make greater use of this competence than today by allocating prosecution assignments to the lawyers. Besides facilitating good utilisation of the Bureau's resources, this will, particularly in the most serious cases, also help to demonstrate and strengthen the Bureau's independent and important social missions.

In the light of the above, it is important to point out that lawyers on assignment participate in the Bureau in the capacity of independent contributors. Lawyers on assignment must therefore be particularly aware of this interpretation of their role in order to avoid any fading of "the objective view from outside". From the point of view of the Bureau, it is also particularly important that the lawyer does not become a general solution to all aspects of the Bureau's activities and execution of its responsibilities. During our time as lawyers on assignment, we never experienced this as a real problem, but it is nevertheless important to clearly address this challenge.

Experience has shown that the Bureau can only make use of the lawyers' competence and independent status if the lawyers themselves show interest and have the necessary flexibility of working.

Lawyers on assignment must be able and willing to give priority to work at the Bureau beside their law practice, and they must be dedicated to carrying out the social mission. Both the lawyers on assignment and the Bureau must, among themselves, find practical and predictable ways of working that pay regard to the Bureau's need to

make use of the lawyers as and when the needs arise; and the lawyers, for their part, must be able to reserve the necessary time. Although the Bureau's activities are to a great extent governed by events, we have good experience of finding dynamic and functional ways of cooperating.

The distinctive character of the Bureau's case portfolio indicates a particular need for professional and competence development in the field. The Bureau is almost solely responsible for administering this sector of criminal law, and all employees are given the opportunity to take part in such competence development.

From 2021, the Bureau has adopted a systematic approach to continuous competence development, both by giving designated employees responsibility for professional development and by providing separate programmes for annual competence development for all employees. It is important that the lawyers on assignment are also given the opportunity for competence raising in the fields covered by the Bureau's activities.

It is a self-evident condition that lawyers on assignment must have a thorough knowledge of the Bureau's social mission and specialist fields, but they must also acquire a good insight into the Bureau's culture and methodology. This is necessary in order to play an effective part in the Bureau's continuous execution of its responsibilities and, in view of the role intended for the lawyers, this may promote even greater transparency regarding the working methods and "inner life" of the Bureau.

Promoting justice and preventing injustice are central tenets for lawyers. As a lawyer on assignment at the Bureau, one has the opportunity to contribute to an important and engaging social mission. One helps to prevent misuse of force,



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Paal-Henrich Berle is a general practice lawyer in Bergen. Berle is Head of the Board of Inspection for Sandviken Hospital and a member of the Norwegian Directorate of Health's Resource Group for the Boards of Inspection. He is a member of the Norwegian Appeals Board for Health Personnel and the Norwegian Pharmacy Appeals Board. From 2010 to 2012, he was Head of Investigation Division West Norway at the Norwegian Bureau for the Investigation of Police Affairs, where he has, since 2020, been a lawyer on assignment. Berle was also a lawyer on assignment at the Special Investigating Body for Police Matters (SEFO). Berle has been Deputy Chair of the Norwegian Bar Association and chairs the Bar Association's Permanent Committee for Legal Education. He has also been a member of the Bar Association's International Legal Aid Committee. Berle holds a number of board appointments, inter alia, in non-profit institutions.

and to maintain public confidence in the police and prosecution authority. Work at the Bureau is varied and inspiring. There are opportunities to work with penal provisions and issues that one would not otherwise gain a thorough knowledge of. In addition, one makes the acquaintance of competent and dedicated employees at the Bureau.

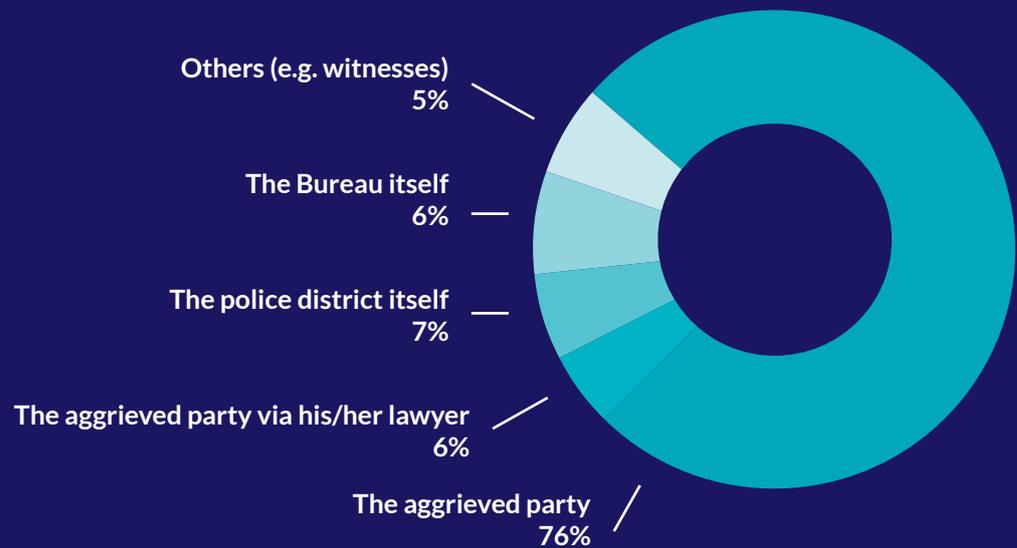
For us, work at the Bureau has been very meaningful, and has certainly given an extra dimension to our day-to-day work as lawyers.

Statistics 2021

Recorded complaints

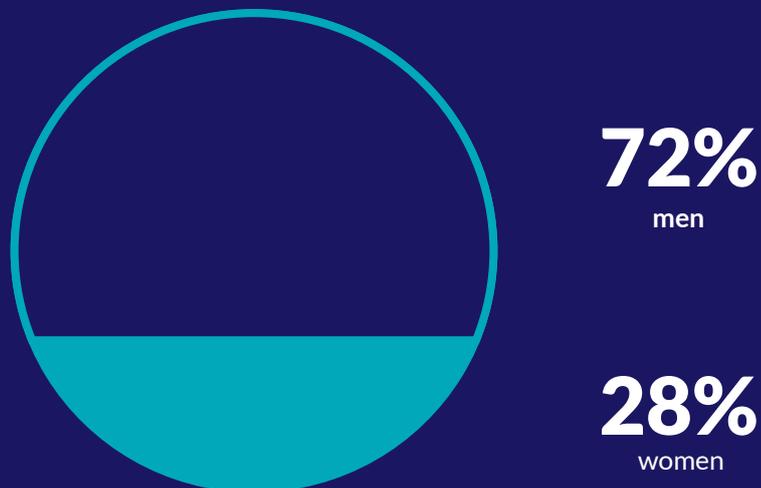


Who lodges complaints?

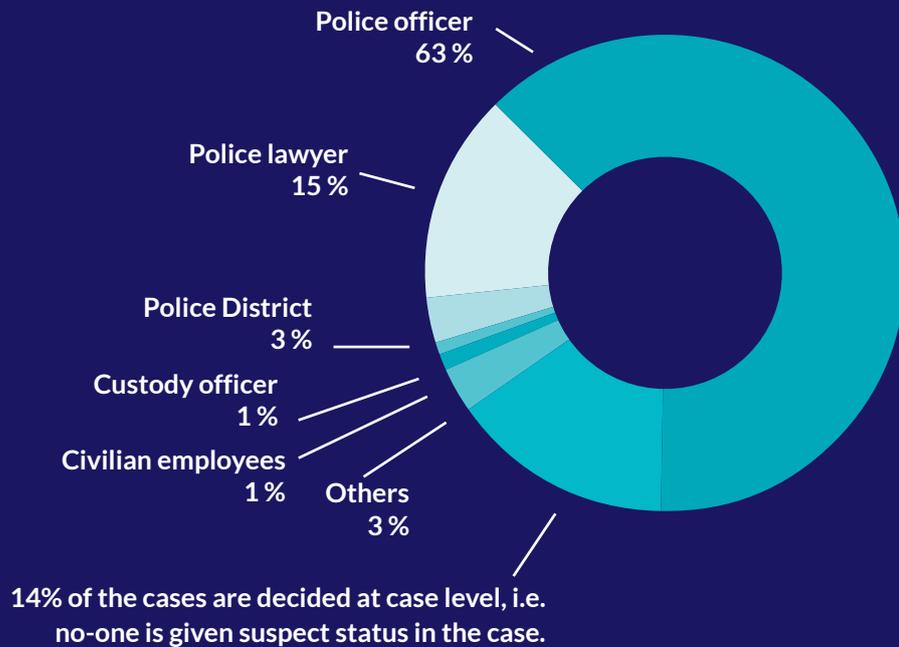


Complainants

Distribution by gender

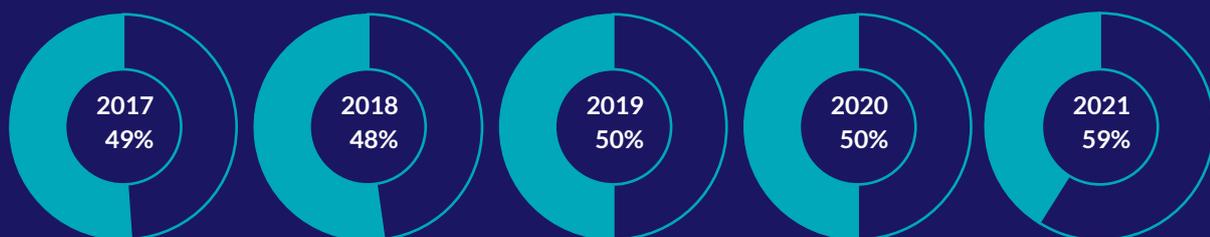


Who are complaints lodged against?

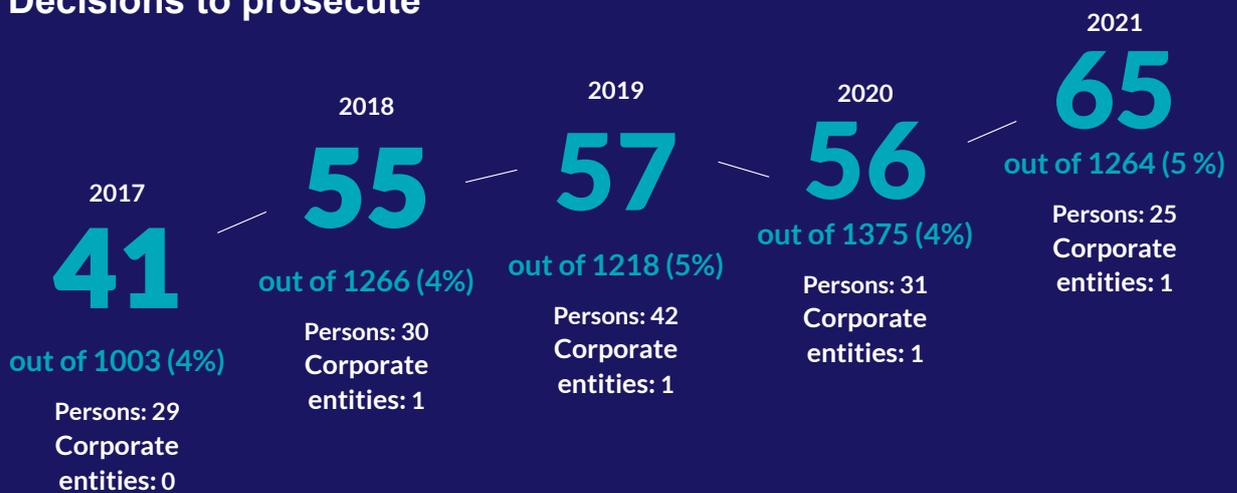


No reasonable grounds for investigation

Number of cases dismissed without investigation



Decisions to prosecute



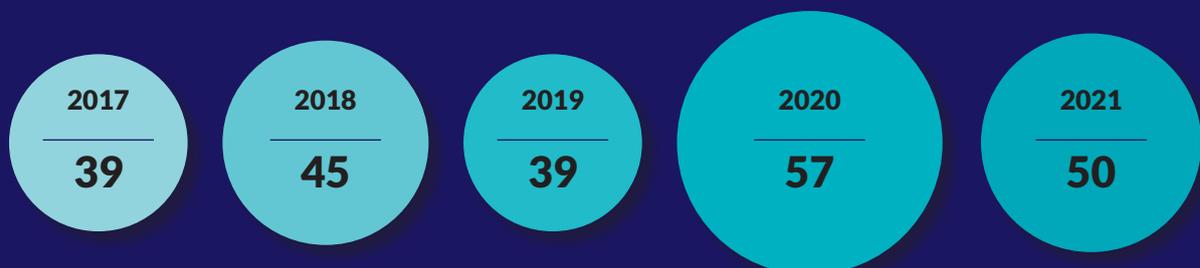
In 2021, 65 out of 1264 complaints dealt with resulted in an optional fine, indictment or waiver of prosecution (5%). Penalties were imposed on a total of 25 persons and one corporate entity, which was sentenced to a penalty.

See **pages 34–39 for a more detailed account of these cases.

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. Criminal liability must be assessed in relation to the officer's perception of the situation at the time.

Administrative assessments

Cases referred to Chiefs of Police or directors of special bodies



[Cases referred to Chiefs of Police or directors of special bodies]

For further information concerning cases referred for administrative assessment, see **pages 40–47.

Case Processing Time

Days



The Bureau aims at an average case processing time not exceeding 150 days.

Appeals to the Director of Public Prosecutions

In 2021, the Director of Public Prosecutions considered 150 appeals against the Bureau's decisions. The Bureau's decision was upheld in 139 of the cases.

In four cases the Director of Public Prosecutions reversed the Bureau's reason for dismissing the case. In six cases, initiation of investigations or further investigation was requested. In two of the above-mentioned cases, the Director of Public Prosecutions requested that the case be referred for administrative assessment by the police district (see

section 34-7 of the Prosecution Instructions). In one case, where a lawyer on behalf of his client appealed against the Bureau's rejection of access to the case, the Director of Public Prosecutions requested that the Bureau reassess the question of access. The Director of Public Prosecutions subsequently amended the Bureau's reason for dismissing the case from "owing to insufficient evidence" to "no criminal offence was deemed proven".

In 2021, 19% of prosecuted cases were appealed.

Decisions to prosecute 2021

Indictments

Sexual assault, abuse of position to obtain sexual activity and professional misconduct

On 27 May 2021, an officer was indicted for sexual assault of two women (see section 291 of the Penal Code (see section 292)) for having abused his position to obtain sexual activity with five women (see section 295 of the Penal Code), and for professional misconduct (see section 171 of the Penal Code).

The main hearing in the case is scheduled for 17 January to 25 February 2022 at Helgeland District Court.

Abuse of position to obtain sexual activity, influencing a participant in the justice system, professional misconduct and violation of the firearms legislation

On 16 February 2021, an officer was indicted for having abused his position to obtain sexual activity with three women (see section 295 of the Penal Code), for illegal conduct with respect to two of the women, (see section 157 of the Penal Code), three counts of breach of official duties (see section 171 of the Penal Code) and violation of the firearms legislation. In Vestfold District Court's judgment of 16 September 2021, he was sentenced to imprisonment for a period of two years and three months and to pay compensation to the women. The judgment has been appealed, and the appeal is scheduled for 5 May 2022.

Indictment in summary trial on full confession

On 2 July 2021, an officer was indicted for, on several occasions, providing confidential information from his place of work to family members and acquaintances (see section 209 of the Penal Code) and for, on a number of occasions, having videoed persons while in police custody (see section 171 of the Penal Code). The indictment also concerned unlawful storage of a firearm and ammunition and having a rifle without a permit. The case was decided by summary judgment on confession at Agder District Court on 18 November 2021. He was sentenced to a conditional term of 45 days imprisonment, a fine of NOK 20 000 and seizure of a firearm and ammunition.

On 6 September 2021, an officer was indicted for, on several occasions, providing confidential information from his workplace to family and acquaintances (see section 209 of the Penal Code), in that he, on several occasions, had videoed persons while in police custody, and had made searches in police records without an official purpose (see section 171 of the Penal Code). The case was decided on 27 October 2021 by summary judgment on confession at Vestfold District Court. He was sentenced to a conditional term of 40 days imprisonment and a fine of NOK 15 000.

Waivers of prosecution

On 9 November 2021, an officer was granted a waiver of prosecution for violation of section 172 of the Penal Code (see section 171 concerning professional misconduct). In the weapon room at the police station he had pulled the trigger of a pistol that he thought was empty of ammunition. There had been ammunition in the chamber, and a shot had been fired. He had held the pistol against the gun cabinet on one of the walls, which had then been penetrated by the projectile. He had not used the decocking facility that was placed in the room to enable safe firing.

Optional fines

On 19 January 2021, an officer was fined NOK 16 000 for violation of section 266 of the Penal Code concerning harassing conduct and section 171 concerning professional misconduct. He had over time contacted a woman despite the fact that she had clearly requested him not to contact her. Messages had also been sent from the officer's police address, where he had indicated that he would have to involve her employer in their dialogue. The officer had also made several searches for the woman in the police passport register without an official purpose for doing so. The optional fine was accepted.

On 7 April 2021, an officer was fined NOK 5 000 for violation of section 171 of the Penal Code concerning professional misconduct and section 271 concerning physical assault. During the arrest of a man who was suspected of violence, the officer had handcuffed the person concerned. He had then pressed the man's chest and head against the bonnet of the police car, while shouting abuse at him and giving him several hard raps on the cheek with his finger. The optional fine was accepted.

On 14 January 2021, an officer was fined NOK 10 000 for violation of section 171 of the Penal Code concerning professional misconduct. During a period of nine months, he had made a number of searches in the police case management system (BL) and in the police criminal intelligence system, Indicia for family members or persons with whom he has a personal relationship. He had no official purpose for making the searches. The optional fine was accepted.

On 28 June 2021, an officer was fined NOK 10 000 for violation of section 171 of the Penal Code concerning professional misconduct. He had for several years frequently searched several police records and systems for, among others, family members and their families, colleagues, friends, former girlfriends and other named persons without having an official purpose for doing so. The optional fine was accepted.

On 12 April 2021, an officer was fined NOK 5 000 for violation of section 171 of the Penal Code concerning professional misconduct. He had for several years searched the Data System for Immigration and Refugee Affairs (DUF), and had obtained access to information concerning his spouse, daughter, the sister of his daughter's spouse and two other family friends without an official purpose for doing so. The optional fine was accepted.

On 23 July 2021, an officer was fined NOK 8 000 for violation of section 171 of the Penal Code concerning professional misconduct. He had searched the police criminal intelligence system Indicia for information concerning a named person, and had read intelligence information recorded there without an official purpose for doing so. The optional fine was accepted.

On 2 March 2021, an officer was fined NOK 18 000 for violation of section 188 of the Penal Code concerning careless handling of firearms. While cleaning a firearm after firearms training, she had failed to check the firearm in compliance with current routines, and therefore had not detected a cartridge in the chamber. She had pulled the trigger and a shot had been fired. The projectile had passed a short distance in front of a colleague, who had been standing beside her at the cleaning bench. The projectile had struck an adjacent wall. The colleague had been struck by ricochet of metal and concrete fragments, and had sustained an injury to his lip. The optional fine was accepted.

On 2 September 2021, an officer was fined NOK 8 000 for violation of section 31 of the Road Traffic Act (see section 3). The officer had driven a marked police car without showing sufficient consideration, alertness and caution, in that he had fallen asleep and collided with the guard rail on the right-hand side of the road, resulting in material damage to the car. The optional fine was accepted.

On 3 June 2021, an officer was fined NOK 4 000 for violation of section 171 of the Penal Code concerning professional misconduct. He had made a search for his former girlfriend in the police database Agent 5.0 without an official purpose for doing so. The optional fine was not accepted.

On 1 September 2021, an officer was fined NOK 8 000 for violation of section 171 of the Penal Code concerning professional misconduct. As the prosecuting officer in a criminal case, he had issued a decision to arrest a suspect and had decided at the same time to search her home despite the lack of sufficient grounds for suspicion. He had also omitted to obtain a search warrant from the court despite the fact that the delay involved no risk. The optional fine was not accepted.

On 10 May 2021, an officer was fined NOK 8 000 for violation of section 31 of the Road Traffic Act (see section 3). The officer had been driving a marked police car. In an intersection, he had driven through a red light, and had used a blue light but no siren. He had driven at an excessive speed in view of the conditions, while at the same time operating the radio communications system in the car. He had failed to stop for a private car that had approached from the right through a green light. The passenger in the private car was injured, and both cars sustained material damage. The optional fine was accepted.

On 11 January 2021, an officer was fined NOK 10 000 for violation of section 188 of the Penal Code concerning careless handling of firearms. He had aimed a service pistol at a concrete wall in the garage at the police station, and fired a shot. A colleague had been struck by the ricochet of metal and concrete fragments. The colleague had sustained an injury requiring medical treatment. The optional fine was accepted.

Headlines from VG:

Bureau for the Investigation of Police Affairs to be asse

Professor: – Shut down the Bureau

Bureau investigates hash import by police

Bureau to establish whether the police acted unlawfully

Bureau investigates police leaks

Bureau: Believe police fired shots at bakery

Bureau: Dismissed case after police officer sounded the alarm

Bureau on the side of the police



On 22 June 2021, an officer was fined NOK 6 000 for violation of section 181 of the Penal Code concerning disturbance of the peace. He had been intoxicated and had failed to comply with an order to leave the establishment he was visiting, instead arguing with the proprietor about the eviction and the reason for it. He had threatened to throw the proprietor in the river or something similar. The optional fine was not accepted.

On 1 February 2021, an officer was fined NOK 8 000 for violation of section 28 of the Dogs Act for having omitted to prevent his police dog from attacking and injuring a person. He had allowed the dog to wander freely while he sat in his car and talked on his mobile telephone. The dog had run to a man and bitten him on the leg. The optional fine was accepted.

On 18 May 2021, a civilian employee was fined NOK 10 000 for violation of section 266 of the Penal Code concerning harassing conduct and section 171 concerning professional misconduct. During an ongoing quarrel concerning the right to a pair of training shoes, she had sent text messages to a woman and had, among other things, given an impression of being a police officer, so that the messages had been experienced as disagreeable and had given rise to anxiety and fear. She had also made several searches for the woman in the National Population Register, thus obtaining access to personal information concerning the woman without an official purpose for doing so. The optional fine was accepted.

On 14 June 2021, a civilian was fined NOK 8 000 for violation of section 31 of the Road Traffic Act (see section 3). A marked police car with a blue light had been driving behind her in an emergency turn-out. In front of her, a school car had been driving with a learner driver and an instructor. When the learner driver in the driving school car had slowed down to clear the road for the police car, she had driven into the opposing lane without ensuring that the road was clear behind her. She had therefore not seen the police car that had been in process of overtaking her. The police car had driven into her car, therefore also colliding with the driving school car. All the cars had sustained material damage. The optional fine was accepted.

On 27 October 2021, an officer was fined NOK 8 000 for violation of section 209 of the Penal Code concerning breach of a duty of confidentiality. He had taken a screen picture of a named person from the police photo register and had sent the picture to an unauthorised person with the text "This is (*name of person*) - I think he is the one you are looking for", or something similar. The optional fine was accepted.

On 4 November 2021, an officer was fined NOK 7 000 for violation of section 31 of the Road Traffic Act (see section 3). He had been driving in an emergency turn-out without the use of a blue light or siren. He had driven into the opposing lane in order to pass a private car that was standing still in the road in front of him. He had driven too fast, and had not managed to brake when the driver of the private car had begun to turn left over the road towards a petrol station. Both cars suffered considerable material damage. The optional fine was accepted.

On 2 December 2021, an officer was fined NOK 7 500 for violation of section 171 of the Penal Code concerning professional misconduct. He had made several searches in the police case management system (BL) without an official purpose. The optional fine was accepted.

On 9 December 2021, a civilian police employee was fined NOK 3 000 for violation of section 324 of the Penal Code concerning misappropriation. He had taken NOK 1 570 in cash from a cash box that was kept in the filing room. The optional fine was accepted.

On 16 December 2021, an officer was fined NOK 10 000 for violation of section 298 of the Penal Code concerning sexually offensive or other indecent conduct. While demonstrating on cadet A how to examine a patient for bleeding by sliding his hand up and down the inside of her thigh inside her trousers, he had exclaimed "It's clammy here!". When he had finished, he asked her "Do you feel raped now?". When she answered "no", he responded "Then I didn't do a good enough job" or something similar.

After cadet B had conducted a similar examination of A, the officer had asked her again if she felt raped. When she answered "no", he had turned to cadet B and said "Then you didn't do a good enough job either" or something similar. The optional fine was not accepted.

On 16 December 2021, an officer was fined NOK 10 000 for violation of section 31 of the Road Traffic Act (see section 3). He had been driving in a patrol and had been on the lookout for three persons suspected of burglary/theft. The persons had been observed attempting to cycle away, and the officer had driven off in pursuit. In attempting to stop them, he had driven onto the pavement. He had misjudged the distance to one of the bicycles, and had driven into the back of it. The cyclist had fallen off the bicycle, hit a concrete flower pot on the pavement and suffered a complex hip fracture. The optional fine was accepted.

CORPORATE PENALTIES

On 16 June 2021, South-East Police District was fined NOK 100 000 for violation of section 171 of the Penal Code. In April 2020, a man had been placed in custody for drunkenness. He had not been capable of looking after himself, and no decision had been made regarding how he was to be looked after.

On the first inspection, he had been snoring loudly and had had clearly visible respiratory movements. In the time between the first and second inspection, the man had stopped snoring loudly and his belly had ceased to move as obviously as before. This had not been detected on the camera surveillance although the change in his physical condition had continued over time and had been of a marked nature. The second inspection had also been carried out by observing him through the hatch in the cell door.

It had not then been obvious that he was breathing. Some minutes later, a torch had been shone on him through the hatch in the cell door in order to see him more clearly. The man had still been lying in the same position as when placed in the cell.

An attempt had been made to contact the duty officer without success. Not until several minutes later had the custody officer obtained the assistance of a patrol to examine the man in the cell. The man had then had pale blue lips and had been found to have suffered cardiac arrest. Life-saving measures had been started, and he had been sent to the hospital by ambulance. The man had been resuscitated at the hospital. The optional fine was accepted.

Administrative assessment 2021

Cases referred to the Chief of Police, director of special body or other appropriate body for administrative assessment.

In 2021, the Bureau referred 50 cases for administrative assessment. On what basis is a case referred for administrative assessment? It plays no decisive role that the case has been dismissed or that an optional fine has been imposed or that the case has resulted in indictment or waiver of prosecution.

The Bureau should refer a case for administrative assessment when something comes to light from the complaint or the investigation that makes administrative assessment appropriate. In some cases, there may be something to learn from the complaint itself. In other cases, details may emerge during the investigation requiring the Chief of Police to consider the need for improvements to training or procedures. There may also be circumstances involving individual officers that should be subjected to administrative assessment.

For publication in the Annual Report, we have selected some of the cases referred for administrative assessment. Summaries of all cases are available on our website.

Use of Snapchat and other social media

On several occasions, the Bureau has pointed out the necessity that the police management is aware of the use of social media by police employees. In 2021 too, the Bureau dealt with several cases that in different ways concern this topic. Some of these cases have resulted in penal reactions, and are

discussed in the articles on decisions to prosecute and on court cases. Some of the cases referred for administrative assessment are here discussed in more detail so that more people may benefit from experience of these cases.

EAST POLICE DISTRICT

A lodged a complaint against the Norwegian Police University College cadet B for breach of the duty of confidentiality in that B, in contact with C in a private Facebook/Messenger, had informed that A was involved in a “police case”, enclosing a picture of A’s Instagram profile. The case was assessed as a possible breach of the duty of confidentiality and professional misconduct.

In the Bureau’s view, B had, objectively speaking, breached the statutory duty of confidentiality, but was not guilty of gross negligence. On assessment of the question of guilt, emphasis was placed on the fact that B had acted in accordance with a conviction that the information was not subject to the duty of confidentiality. As regards A’s misconception of the legal provisions, emphasis was placed on the fact that B was a cadet, and that it could not be ruled out that there was a perception among certain officers that this type of information could be provided without breaching the duty of confidentiality. This part of the case was dismissed.

It was moreover the Bureau’s view that B had committed professional misconduct on a number of occasions by his chosen course of action and through the content of the communication on Facebook/Messenger. The Bureau found that his various errors did not separately or collectively constitute gross professional misconduct. There was nevertheless doubt regarding whether B had acted with a sufficient degree of guilt. Although B’s judgment could be questioned on a number

of points, the Bureau found these acts, at the most, to be negligent. In the assessment, emphasis was placed on the fact that B was a cadet under training, and that he had been over-enthusiastic in his performance of duty. Such oversights or carelessness must be very serious before being subject to penalties. This part of the case was also dismissed.

In the bureau's view, the case should be subjected to administrative assessment by the Chief of Police. The Norwegian Police University College and the Police Directorate were also informed of the case.

The case concerns restrictions on the types of information that the police may provide to private individuals in an initial phase of an investigation and the rules and purposes governing what investigations may be lawfully made by the police. The case also concerns the types of platform that the police should use in their work, while ensuring that this is carried out in a manner that promotes confidence. The case thus concerns central aspects of the obligation of the police to protect confidential information and the need to maintain confidence that the police handled information concerning involved parties correctly and with the appropriate level of confidentiality.

The Bureau pointed out that, in the administrative assessment, attention should particularly be attached to ensuring that cadets are made aware of the rules for duty of confidentiality and to ways in which information regarding criminal cases may be used in an investigation. It is equally important that cadets at the start of their practice period are made aware of the potential and limitations of investigation via social media, and that their own social platforms must not be used for investigation purposes.

AGDER POLICE DISTRICT

The Bureau investigated a suspicion against a custody officer (A) in Agder Police District for, inter alia, having sent unauthorised persons a picture and messages capable of identifying persons held in the custody facility. During the investigation, information emerged that a "negative culture" had developed among custody officers involving sending colleagues and/or unauthorised persons photographs and videos of incidents in the custody facility and/or of detainees or tasks associated with work as a custody officer.

A was convicted of the offences he was indicted for, and the case was discussed in the article on cases before the court. The information obtained during the investigation led to the investigation by the Bureau of three other employees of Agder Police District. These cases were all dismissed, but were referred to the Chief of Police for administrative assessment.

Bans on visits

In the Annual Report for 2020, there is an article on bans on visits, and the article on administrative assessments for 2020 provides accounts of a number of cases concerning bans on visits. In 2021 too, the Bureau investigated cases involving various topics associated with bans on visits, and some of these cases were referred for administrative assessment. Two of the cases concerned homicide, where the victim, prior to being killed, had contacted the police requesting a ban on visits by the perpetrator. Further information on these cases is provided here. The Bureau also referred one case to the Chief of Police in East Police District for administrative assessment concerning late submission to the court of cases concerning bans on visits. The Chief of Police in South-East Police District received for administrative assessment a case of deficient documentation on the processing of a request for a ban on visits.

SOUTH-WEST POLICE DISTRICT

The background for the case was that, in summer 2020, two persons were killed some weeks after they had both requested a ban on visits against the killer. The request for a ban on visits was received, but, pending a statement from the suspect, a final decision had not been made by the police.

The Bureau initiated investigations of police handling of the case with the aim of clarifying whether processing of the request for a ban on visits had been subject to professional misconduct, either by individual employees or in the overall processing by the police district.

The investigation provided no evidence that one or more officers had behaved in such a way that it could be characterised as clearly qualified deviation from a justifiable and proper course of action.

The Bureau also assessed the question of whether South-West Police District should be subjected to a corporate penalty. Although waiting to issue a ban on visits until the suspect has given a statement is in compliance with the current instructions and procedures in the police district, the Bureau found that the corporate entity could be criticised for, inter alia, inadequate procedures for processing bans on visits, both with regard to the person who, at any given time, has responsibility and is the prosecuting officer for the case and the communication between the joint reception for criminal cases and the local operational units. The Bureau's investigation also revealed that the resource situation and workload in the police district had contributed to the failure to give this case optimal processing, and had also contributed to the failure to provide more thorough and comprehensive processing of all the available information. The Bureau pointed out that the responsibility for this must lie with the management of the police district and not with the individual prosecution lawyer.

Not without doubt, the Bureau concluded that there were no grounds for imposing a penalty on the corporate entity. The case was nevertheless assessed as suitable for experiential learning, and was referred for administrative assessment,

although the Bureau was aware that, following the incident, the police district had changed its guidelines and made them clearer.

AGDER POLICE DISTRICT

In November 2020, the police district notified the Bureau that a woman (A) had been killed by her former boyfriend (B). Prior to being killed, A had reported B to the police for annoying behaviour and requested that a ban on visits be issued.

On the basis of the information from the police district, the bureau initiated investigations to establish whether employees of the police district or the police district as a corporate entity had acted unlawfully in connection with the handling of the request for a ban on visits.

The Bureau's investigation found that, neither at the time of the complaint nor subsequently during the investigation, did the police have knowledge indicating the issue of an immediate ban on visits as a risk reduction measure. On the basis of the knowledge the police had in the days prior to the killing, the Bureau did not find it proven that police employees should have carried out measures that could actually have prevented the killing. The Bureau concluded that police handling of the ban on visits, viewed as a whole, was justifiable and within the scope of performance of duty not entailing criminal liability. There was no evidence that any penal provision had been violated. The Bureau therefore found no grounds to consider penalising the police district as a corporate entity.

The case was nevertheless assessed as suitable for learning, and was referred to the police district for administrative assessment, although it was known that, subsequent to the case, the police district had drafted new internal procedures for processing bans on visits. It was pointed out that the investigation had established that training of new employees was not satisfactory. In conjunction with other issues associated with routines for processing requests for bans on visits that came to light in the case, this provided, in the view of the Bureau, a basis for learning from the experience of the case.

The Bureau drew attention to the fact that the case from South-West Police District referred to above had also been sent to the Police Directorate for administrative assessment, and that the two cases should be viewed in context.

Various questions concerning use of means of force

Each year, the Bureau deals with cases that in various ways concern the use of means of force by the police and the prosecuting authorities. Sound and correct documentation concerning the use of means of force is a topic that often arises in these cases. When the Bureau receives a complaint from a person claiming to have been subjected to unlawful acts carried out in the course of duty, investigations usually begin by requesting the police to provide documentation of the incident. Sometimes it transpires that no documentation exists or that documentation of the incident is deficient, including when means of force have actually been used. In some of the cases dealt with by the Bureau, the subject of the investigation is the question of whether the conditions for use of means of force were present and whether such use was decided by a person with the appropriate competence. In several annual reports, the Bureau has taken the opportunity to call attention to cases and issues that may be of interest to persons other than the parties to the case, and which provide a basis for learning for the police and the prosecuting authorities. Here, we have made a selection of cases referred for administrative assessment in 2021.

OSLO POLICE DISTRICT

Here, we have chosen to discuss a case that the Bureau referred for administrative assessment in 2020, and which was further investigated in 2021 in connection with appeal proceedings at the Office of the Director of Public Prosecutions.

The case was referred to the Chief of Police in the police district for administrative assessment as a personnel matter and for training purposes. The Bureau pointed out the importance of officers being familiar with the rules for making searches, personnel competence in connection with decisions to conduct searches and the importance of complying with the rules concerning such decisions.

The fact of the case was that A lodged a complaint against the police for unlawful search, harassment and threats after stopping his car. A also claimed that the police had unlawfully used force against him in order to make him unlock his mobile telephone with his fingerprint (biometric authentication).

The Bureau found no evidence that officer B had acted unlawfully by stopping and checking A. The police have the power to stop persons for control, and there was no information in the case to indicate that the control of A had been conducted in order to harass him, that he had been subjected to threats or that the officer lacked authority for seizure of his driver's licence. The breathalyser test had shown A to be under the influence of alcohol, and the signs and symptoms test had given reason to suspect the influence of other substances. This had later been confirmed by means of a blood test. Regarding the search of A and the car, the Bureau pointed out that the right of officers to decide to make a search is limited, and that the authority lies as a rule with the prosecuting authorities when there is no time to wait for a decision from the District Court. In the Bureau's view, it could be questioned whether there had in fact been time to confer with the lawyer on duty regarding the search, but did not find it proven beyond any reasonable doubt that B, by himself deciding to make the search, had acted unlawfully.

During the search of A, two mobile telephones had been found. A had allowed the police to see the contents of one of the telephones, but had refused to reveal the code for the other.

B stated that the fact that A had two telephones strengthened the suspicion of purchase, sale or storage of narcotic drugs, which was why the police had wished to examine the telephone. Information on the telephone would reveal the sale of narcotic drugs, and might enable the apprehension of other involved persons in the vicinity.

The Bureau emphasised that the case was primarily a road traffic case. The suspicion regarding intoxication was based on a signs and symptoms test rather than a saliva test, where

possible influence of narcotics intoxication would have been established with greater certainty and, on the basis of the information on the case, the suspicion appeared mainly to concern use of narcotic drugs. Nor had narcotic drugs been found on A or in the car. On the basis of the information the officers had at this time, there was in the Bureau's view, little to indicate a serious drug case where more persons could have been apprehended. Nor had A been formally charged or reported for a drug felony. The Bureau found it difficult to see that there had been just grounds to suspect A of storage, purchase or sale of narcotic drugs.

Use of force to unlock mobile telephones is regulated by the Criminal Procedure Act. Use of force must as a rule be decided by the prosecuting authorities. In the Bureau's view, there had been time to call the lawyer on duty in order to obtain a decision before using force against A by attempting to press his finger against the mobile telephone. The police had in any case seized the mobile telephone and any evidence that was stored on it.

Not all violations of the provisions of the Criminal Procedure Act entail criminal liability for grossly negligent professional misconduct. The Bureau dismissed the case owing to insufficient evidence and, following a complaint by A, the Director of Public Prosecutions requested the Bureau to further investigate some questions before the case was finally decided. The Director of Public Prosecutions agreed with the Bureau that there were no grounds for imposing a penalty in connection with stopping, control, breathalyser and signs and symptoms test or the decision to take A in for a blood test. It was B's decision to search A's mobile telephone and his execution of the search that the Director of Public Prosecutions wished further investigation of.

Following a further investigation, the Director of Public Prosecutions found that B had exceeded the framework for personal searches and had also misunderstood the conditions for forced biometric authentication. Because B had exceeded his authority, his assessment of the suspicion of purchase and sale of narcotic drugs, which the police lawyer had assessed as not

amounting to "just grounds for suspicion", had not been subjected to legality control by the prosecuting authorities. The Director of Public Prosecutions agreed with the Bureau that no just grounds could be seen for suspecting storage, purchase or sale of narcotic drugs.

The Director of Public Prosecutions found nevertheless no grounds for finding B guilty of gross negligence. The erroneous assessment of whether there were just grounds for suspecting purchase or sale of narcotic drugs could, according to the Director of Public Prosecutions, hardly be deemed in itself to be grossly professional misconduct. Nor was it assessed as a ground for finding that the errors, including deficiencies in the seizure report and (possibly) deficient reporting of the search of the mobile telephone and attempt at forced biometric authentication, collectively constituted such gross deviations from correct performance of duty that a penalty could be appropriate. In assessing the case, the Director of Public Prosecutions placed emphasis on the lack of formalised and clear guidance concerning the restrictions regarding personal searches, the premises for use of the authority for forced biometric authentication, requirements regarding consultation of a lawyer and unclear or inadequate communication regarding where and how negative searches are to be recorded.

The Director of Public Prosecutions therefore concluded that the case against B should be dismissed on the ground that no criminal offence was deemed proven. However, the Director of Public Prosecutions emphasised in the decision that this in no way entailed approval or acceptance of the assessment or the course of action.

Several deviations from the rules were pointed out, and it was regretted that the search had been conducted contrary to both substantive and procedural conditions. Nor had there, on several points, been provided satisfactory documentation regarding the forcible intervention. It was emphasised that the duty regarding precise reporting and report writing is indisputable.

The Director of Public Prosecutions agreed with the Bureau that the case was suitable for administrative assessment by the Chief of Police. It was

pointed out that the case contained several points for learning and improvement to be noted by both the police and the prosecuting authorities, not least in the light of the more general discussion concerning police use of means of force in less serious drug cases and review of the control of the legality of this.

TRØNDELAG POLICE DISTRICT

A lodged a complaint against the police for holding him in custody for 18 hours suspected of using narcotic drugs despite the fact that, shortly after being taken into custody, he had provided a negative urine sample. Nor had he received any assistance from an interpreter or lawyer, and had not been permitted to contact his boss or his embassy.

A and three other persons had been apprehended during the evening on suspicion of a drug offence. The grounds given for the arrest were use of narcotic drugs and the risk of damage to evidence. The investigation established that the arrest of A was upheld on grounds of a matter other than use of narcotic drugs. Shortly after A and his acquaintance were apprehended, the police found large quantities of hashish in a storeroom in the same block of flats. The prosecuting authorities considered there to be just grounds for suspecting that A was involved in this narcotics find, but A was never formally charged in this case.

Continuing to hold a person in custody on grounds of damage to evidence in a case concerning use of narcotic drugs, where a urine sample has been taken with a negative result, as a basis for possible suspicion in a different case is neither procedurally correct nor prosecutorially ethical. Use of means of force, such as remand in custody, is invasive for the person concerned. It is the responsibility of the prosecuting authorities to ensure that the use of a means of force is based on a correct reason, that the reason is made known to the person against whom it is directed, and that sufficient documentation is secured concerning the grounds and the decisions. In the Bureau's view, there was no correspondence between the decision to continue holding A in custody on grounds of using narcotic drugs and the actual grounds regarding the

possible risk of damage to evidence associated with seizure of drugs. This was professional misconduct. However, following an overall assessment, the Bureau concluded that the actions of the prosecuting authorities had not been highly censurable, and that there was no reason for strong reproach because the prosecuting authorities had continuously assessed the grounds for maintaining custody.

A person who has been arrested must be made aware that he has a right to request that his consular mission be notified and, if so wished by the arrested person, the police must immediately carry out such notification. At the request of the detainee, a lawyer must be notified without undue delay. In the custody log it was stated that A had been provided with a statement of rights. Nothing was recorded concerning the embassy or defence lawyer, neither that A had requested this nor that the topic had been raised by the staff of the custody facility. This was not further investigated by the Bureau since it was not probable that an unlawful act had been committed in this connection.

The case was dismissed, but was referred for administrative assessment. In the Bureau's view, the police district should review its procedures for documentation of its decisions by the prosecuting authorities and, in the case of a decision concerning means of force, the reason given should be stated. Trøndelag Public Prosecuting Authority was also notified in order to enable follow-up by its management.

Use of firearms

In 2021, the Bureau decided two cases where the police had shot and killed during an assignment. The first decision concerned an incident in South-East Police District on 22 September 2020. The second decision concerned an incident in West Police District on 21 December 2020. Anonymised versions of both decisions can be found on the Bureau's website. The cases against the officers involved were dismissed, but were referred to the Chiefs of Police and the Police Directorate for administrative assessment. Particular attention was drawn to the need to draw on the experience of these cases to consider the police's way of dealing with assignments concerning persons who are mentally ill and who may potentially be a danger to themselves and others.

In 2021 too, the Bureau dealt with cases concerning accidental shootings. Three such cases were referred for administrative assessment, and accounts of them are given below.

AGDER POLICE DISTRICT

An officer (A) was fined by the Bureau for careless handling of a firearm. The fine was accepted. This case was also referred to in the article concerning decisions to prosecute. The accidental shooting was a result of A's failure to ensure that the pistol was not loaded when, after emptying the chamber on finishing training on the firing range, he had inserted his personal magazine and pulled the trigger in connection with dry fire practice. Without carrying out a press check of the pistol or informing his colleague (B) that he intended to carry out dry practice against the concrete wall, A had inserted the magazine and cocked the pistol. The height of the projectile's point of impact in the concrete wall had been such that B, who had stood close by, had been struck by fragments of metal and

concrete. Following the incident, B had been taken to the accident and emergency unit and had needed a stitch in his temple. B did not suffer a permanent injury as a result of the incident.

In addition to fining A, the Bureau referred the case to the Chief of Police for administrative assessment. The investigation established that there was nowhere designed for dry fire practice at the police station. It also came to light in the case that officers kept half-loaded pistols in the police cars, which is contrary to the police district's guidelines. The police district was requested to review procedures and training concerning handling of firearms.

NORDLAND POLICE DISTRICT

Following firing practice on the firing range, the correct check of the firearm (MP5) was not carried out, resulting in failure to discover a cartridge that remained in the chamber. When cleaning the firearm, the police officer pulled the trigger, thus firing a shot. The projectile passed close to another officer who stood cleaning his firearm, and struck the nearby wall. The colleague was struck on the lip by fragments of concrete or of the projectile, but was not seriously injured. The Bureau fined the officer who fired the shot. The case is referred to in the article on decisions to prosecute.

In the Bureau's view, the case revealed failure of the control routines, and the case was referred for administrative assessment of the procedures for unloading of firearms/double-checking routines.

In another case from the same police district, the Bureau chose to grant an officer (A) a waiver of prosecution for professional misconduct. A took two pistols from a police car into the weapon room at the police station. Alone in the room, he



Headlines from Dagbladet:

Bureau has dismissed all police cases for two years

- Too many indictments against police officers

Bureau called in after car drives off the road

Bureau called in

Headlines from Aftenposten:

11 police punished after accidental shootings – Very distressing

Police car lands upside down – Bureau alerted

Bureau alerted about police handling

Headlines from Nettavisen:

Secret police instructions to be probed

aimed one of the pistols at a cabinet and pulled the trigger. There was ammunition in the pistol's chamber, probably because the magazine had been left in during unloading, and a shot was fired. The bullet ended up in a thick concrete wall behind the cabinet.

The Bureau found that the officer had acted negligently by failing to check that the pistol was not loaded before pulling the trigger. Since the officer was alone in the weapon room and the pistol had been aimed at a cabinet with a thick concrete wall behind it, there was no risk that other persons would be struck by the projectile. The case was therefore dismissed in respect of the penal provision concerning careless handling of firearms likely to cause a risk to the life and health of another person. The case was assessed to be grossly negligent professional misconduct, since he had not ascertained that there was no ammunition in the pistol's chamber before pulling the trigger. Nor had he used the decocking facility that was placed in the room in order to

prevent possible danger to himself and/or other persons. The Bureau considered these circumstances collectively to constitute professional misconduct subject to penalty, but granted a waiver of prosecution since the decision entails a degree of amendment of the Bureau's prosecution practice. The decision was also referred to the Police Directorate for administrative assessment and appropriate notification to Chiefs of Police that the Bureau will to a greater extent consider the possibility of accidental shooting being deemed professional misconduct.

Court Cases 2021

ØVRE ROMERIKE DISTRICT COURT AND EIDSIVATING COURT OF APPEAL

– Abuse of an unequal power relationship, professional misconduct and breaches of confidentiality (written about in the Annual Report for 2020)

On 30 June 2020, an officer was indicted for engaging in sexual activity by exploiting a person under 18 years of age in a particularly vulnerable life situation (see section 295 (c) of the Penal Code), for having communicated sexually with the same aggrieved person for a long period via various social media while working as a police officer (see section 171 of the Penal Code concerning professional misconduct) and for, on several occasions, having provided information concerning the work of the police to his girlfriend at the time (see section 209 of the Penal Code concerning violation of the duty of confidentiality).

The main hearing in the case was held at Øvre Romerike District Court from 18 to 21 January 2021.

In Øvre Romerike District Court's judgment of 1 February 2021, the officer was convicted of violation of sections 295 and 209 of the Penal Code, but was acquitted of violation of section 171 of the Penal Code concerning professional misconduct, and was sentenced to imprisonment for a period of 10 months.

The officer appealed the judgment. In Eidsivating Court of Appeal's judgment of 20 October 2021, the accused was convicted of violation of section 295 of the Penal Code and of section 209 of the Penal Code, which had been decided by the District Court's legally enforceable judgment, to imprisonment for a period of seven months.

KRISTIANSAND DISTRICT COURT AND AGDER COURT OF APPEAL

– Physical assault and professional misconduct (written about in the Annual Report for 2020)

On 18 November 2020, an officer was indicted for violation of section 271 of the Penal Code concerning physical assault and section 171 of the Penal Code concerning professional misconduct.

The background for the incident was that a person charged with drug offences had been questioned at the police station. At one point during the interview, the accused had been asked the name of the user of a Snapchat account. The accused had written the user name on a slip of paper and placed it on the table in front of him. Shortly after the slip had been placed on the table, the accused had picked it up again and crumpled it up. The indicted officer, who had been an adviser during the interview, had risen from his chair, taken hold of the accused person and pressed himself against him while attempting to grasp his hands. The officer had then held an arm round the neck of the accused person and dragged him down onto the floor. In the view of the Bureau, this was disproportionate and unnecessary use of force in the situation.

The main hearing in the case was held at Kristiansand District Court 8–9 February 2021.

In Kristiansand District Court's judgment of 18 February 2021, the officer was convicted of violation of sections 271 and 171 of the Penal Code, and sentenced to a conditional term of 24 days imprisonment and an unconditional fine of NOK 20 000.

The officer appealed the judgment. In Agder Court of Appeal's judgment, the officer was unanimously acquitted of both offences. The judgment is legally enforceable.

AUST-AGDER DISTRICT COURT

– Physical assault and professional misconduct (written about in the Annual Report for 2020)

On 17 December 2020, an officer was indicted for violation of section 272 of the Penal Code (see section 271 concerning aggravated physical assault) and section 171 concerning professional misconduct.

The case was first dismissed by the Bureau owing to insufficient evidence, but this decision was subsequently reversed by the Director of Public Prosecutions, who found that the use of force applied by the officer to the patient at the accident and emergency unit was disproportionate and unnecessary.

The background for the incident was that the police had been summoned to assist medical personnel in controlling a patient since the patient was aggressive, was strongly under the influence of alcohol and was to be treated after cutting himself in the arm and also examined because he had claimed to have swallowed a broken light bulb. After the patient had failed to comply with an order from the police to sit down, the officer had pushed him down onto a stretcher and hit him several times in the face. The blows had resulted in a cut below his left eye that needed to be taped, bruising and swelling round his left eye, a bleeding sore in his mouth and a scratch on the right side of his forehead. In the view of the Bureau, the injuries inflicted on the patient may be deemed damage in the legal sense and the provisions concerning aggravated physical assault may therefore apply. Beyond the patient's failure to comply with the order to sit down and his use of abusive language, his behaviour had not been threatening or dangerous in a manner that would make the blows he received necessary and justifiable in the light of the situation as a whole, including the relative strength of

the officer and the patient, the patient's condition and the fact that another police officer and a security guard had also been present.

The main hearing in the case was held at Aust-Agder District Court 1–4 February 2021.

In Aust-Agder District Court's judgment of 9 February 2021, the officer was convicted of violation of section 272 of the Penal Code (see section 271) and section 171 of the Penal Code to a conditional term of 36 days and to an unconditional fine of NOK 15 000.

The convicted person did not appeal the judgment and the judgment is legally enforceable.

VESTFOLD DISTRICT COURT

– Abuse of an unequal power relationship, obstruction of justice, professional misconduct and violation of the Firearms Act

On 16 February 2021, an officer was indicted for four counts of abuse of an unequal power relationship (see section 295 of the Penal Code), two counts of obstruction of justice (see section 157 of the Penal Code), two counts of professional misconduct (see section 171 of the Penal Code) and two violations of the firearms legislation (see section 190 of the Penal Code and section 33 of the Firearms Act).

At the time the offence was committed, the officer worked as an investigator, and he was indicted for, on several occasions, abusing his position to obtain sexual activity with three women while he was working as an investigator on cases in which the women were involved, examined the women and received information from them concerning the local drug scene. The Indictment also concerned, inter alia, that he, on two occasions while he was under investigation

by the Norwegian Bureau for the Investigation of Police Affairs, had contacted two of the women and asked them to give false statements to the Bureau.

The main hearing in the case was held at Vestfold District Court 16–31 August 2021.

In Vestfold District Court's judgment of 16 September 2021, the officer was sentenced in accordance with the indictment to imprisonment for a period of two years and three months.

The officer has appealed the judgment and the Court of Appeal has referred the case to be heard. The judgment is therefore not enforceable.

Summary judgments on confession considered by the court:

VESTFOLD DISTRICT COURT – Breach of confidentiality and professional misconduct

On 6 September 2021, an officer was indicted for violation of section 209 of the Penal Code concerning breach of confidentiality and section 171 of the Penal Code concerning professional misconduct.

For a period of two years and six months, in breach of his statutory duty of confidentiality, the officer, who was a police sergeant, had repeatedly provided personal data to unauthorised persons. Among other things, he had sent to his former girlfriends and cohabitants pictures of criminal case documents, pictures and videos from assignments that he was involved in and pictures and videos of persons with whom the police for various reasons were in contact.

On several occasions, he had also photographed and/or videoed incidents and persons from assignments, which he had stored on his private Iphone, without having an official reason to do so. The officer had also, at the request of a former cohabitant, made searches in police records without having an official purpose for this.

The officer was also suspected of one theft from his place of work, but this was dismissed owing to insufficient evidence that the officer had acted for the purpose of gain.

The case was decided by summary judgment on confession at Vestfold District Court on 27 October 2021. In the court, the officer admitted to the breaches of the duty of confidentiality and to one count of professional misconduct. The other count of professional misconduct was withdrawn by the Bureau.

In Vestfold District Court's judgment of 27 October 2021, the officer was sentenced to imprisonment for a period of 40 days, which was made conditional pursuant to the provisions of section 34 of the Penal Code, and sentenced to pay an unconditional fine of NOK 15 000. The judgment is legally enforceable.

AGDER DISTRICT COURT – Breach of confidentiality and professional misconduct

On 2 July 2021, an officer was indicted for violation of section 209 of the Penal Code concerning breach of confidentiality, section 171 of the Penal Code concerning professional misconduct and section 190 of the Penal Code and section 33 of the Firearms Act for two violations of the firearms legislation.



This is from an ongoing case in Nordland. The picture shows Kaja Løhren Borg, Legal Adviser and Kari-Anne Hille Valla, Investigative Prosecutor in the Investigation Division.

PHOTO: With the permission of NRK/Frank Nygård

For a period of two years and nine months, in breach of his statutory duty of confidentiality, the officer, who was a custody officer, had repeatedly provided personal data to unauthorised persons. Among other things, he had sent messages and pictures/videos capable of identifying persons held in the custody facility as well as pictures of criminal case documents. On several occasions, he had also videoed persons in custody, inter alia, while they were in the cell, during medical examination and during examination by the police, and stored this in his private Iphone without an official reason for doing so.

Search of the officer's home revealed that he had a small-bore rifle without a permit from the Chief of Police and that he had several firearms and ammunition that were not securely locked away.

The officer was also suspected of misappropriation from his place of work, but the Bureau did not find it proven beyond reasonable doubt that the officer had committed misappropriation. This part of the case was therefore dismissed owing to insufficient evidence.

The officer admitted to the offences in the indictment, and the case was decided by summary judgment on confession at Agder District Court on 17 November 2021.

In Agder District Court's judgment of 18 November 2021, the officer was sentenced in accordance with the indictment to imprisonment for a period of 45 days, which was made conditional pursuant to the provisions of section 34 of the Penal Code, and was sentenced to pay an unconditional fine of NOK 20 000. He was further sentenced to confiscation of the weapons subject to the indictment.

The convicted person asked for time to consider the sentence. The judgment is therefore not enforceable.

Non-accepted optional fines considered by the court:

STAVANGER DISTRICT COURT

- Professional misconduct

On 6 May 2020, an officer was fined NOK 8 000 for violation of section 171 of the Penal Code concerning professional misconduct.

The Bureau found it proven that a Higher Executive Officer at the immigration section at South-West Police District had, during a period in January 2019, made several searches for family members, relatives and close friends in the Data System for Immigration and Refugee Affairs (DUF) without an official purpose for doing so.

The optional fine was not accepted. The main hearing in the case was held on 7 January 2021 at Stavanger District Court.

In Stavanger District Court's judgment of 13 January 2021, the officer was convicted of violation of section 171 of the Penal Code, and sentenced to a fine of NOK 9 600

The convicted person appealed the judgment to Gulating Court of Appeal, which disallowed the appeal, and Stavanger District Court's judgment is enforceable.

BERGEN DISTRICT COURT

- Careless driving

On 15 June 2020, an officer was fined NOK 8 000 for violation of section 31, first paragraph, (see section 3) of the Road Traffic Act concerning careless driving.

The Bureau found it proven that an officer while driving an unmarked police car had decided to begin an emergency turn-out. She had used neither blue light nor siren. The officer had made a U-turn on county road 5300 by placing her car partly in a bus bay on the right-hand side of the road then making a left turn over the opposing lane, which was separated by a double yellow prohibitory line. The officer had not been sufficiently aware that there had been a private car behind her to which she was obliged to give way. As she turned left, the private car had driven into her left side, resulting in material damage.

The optional fine was not accepted. The main hearing in the case was held on 1 February 2021 at Bergen District Court.

In Bergen District Court's judgment of 4 February 2021, the officer was convicted of violation of section 31, first paragraph (see section 3) of the Road Traffic Act and fined NOK 9 600.

The convicted person appealed the judgment to Gulating Court of Appeal, which disallowed the appeal, and Bergen District Court's judgment is enforceable.

Emergency turn-outs in 2021

OSLO DISTRICT COURT

- Careless driving

On 10 November 2021, an officer was fined NOK 5 000 for violation of section 31, first paragraph, (see section 3) of the Road Traffic Act concerning careless driving.

The Bureau found it proven that the officer, while driving a marked police car, had driven through a red light at a four-legged intersection without using a blue light or a siren. He had not been sufficiently aware of crossing traffic when turning left at the traffic lights so that he had collided with a private car driving in the opposing lane through a green light. Minor material damage had been caused to both vehicles as a result of the accident.

The optional fine was not accepted. The main hearing in the case was held on 11 May 2021 at Oslo District Court.

In Oslo District Court's judgment of 14 May 2021, the officer was convicted of violation of section 31, first paragraph, (see section 3) of the Road Traffic Act and fined NOK 5 000.

The officer appealed the judgment. In Borgarting Court of Appeal's judgment of 15 November 2021, the officer was acquitted. There was 6-1 dissent. The majority of the Court of Appeal found on the basis of an overall assessment of the situation and the relevant considerations that the officer had not breached the alertness requirement laid down in the basic rule provided in section 3 of the Road Traffic Act.

When a person has been seriously injured or lost his or her life as a result of acts performed in the course of duty by the police or the prosecuting authority, the Bureau turns out and initiates immediate investigations. There are also other cases where an immediate response may be called for. In 2021, the Bureau turned out in response to two cases of which brief accounts are given here.

EAST POLICE DISTRICT

East Police District reported that a patrol had fired shots aimed at a person wielding a knife in Sarpsborg town centre. The person had later been declared dead. A person wielding a knife had pursued another person, and said that he would kill the person. The Bureau has not yet decided the case.

OSLO POLICE DISTRICT

Oslo Police District reported an ongoing incident at Bislett in Oslo, where a person armed with a knife had been attacking persons in the area. A patrol at the location had reported that the person had been shot by the police. The person had been confirmed dead. The Bureau has not yet decided the case.

Organisation and Staffing

The 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's investigation activities are governed by the Criminal Procedure Act, the Prosecution Instructions and directives issued by the Director of Public Prosecutions. Case processing is carried out at two levels, one level for investigation and one level for overall management and final prosecution assessment. The Investigation Division with its Head of Division is located in Oslo, and has also offices in Bergen and Trondheim. The Case Reception Division with its Head of Division is located in Hamar.

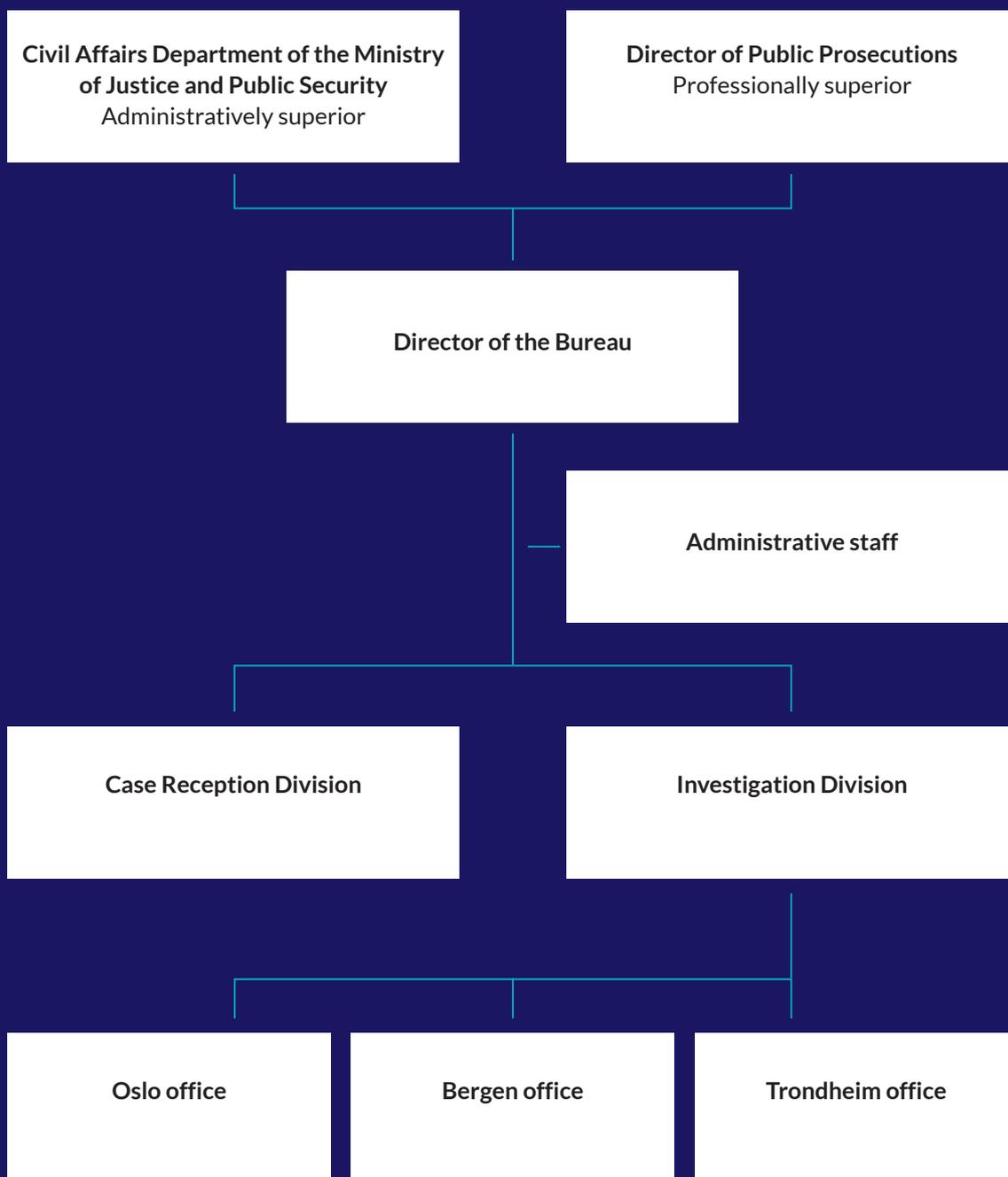
The Director of the Bureau, legal advisers and administrative staff are located in Hamar. The Director of the Bureau decides on prosecutions in all cases, but this may be delegated to another Bureau employee with a law degree/Master of Laws. The Director of the Bureau must not participate in or issue detailed guidelines for the work of the Investigation Division.

On 1 January 2022, the Bureau has 41 permanent and two temporary employees, of which 17 are Special Investigators, eight Investigative Prosecutors, two Legal Advisers, 11 administrative employees of which three work with ICT, as well as three permanently employed managers, a Director and an Assistant Director. In addition, six privately practising lawyers are engaged on assignment in processing criminal cases. All of these employees have varied and extensive work experience from private and public undertakings.

The arrangement involving lawyers on assignment is designed to emphasise the Bureau's independence and is intended to encourage transparency and confidence.

Special investigators in the Bureau are required to have an up-to-date and sound knowledge of investigation methodology. All special investigators currently hold degrees from the Police College/the Police University College, but several also have non-police occupational backgrounds and education. A certain preponderance of the lawyers have background from the prosecuting authority, but several have no such experience. These have their background from posts in central government and municipal administration, the private sector or work as lawyers.

Organisational chart



The Bureau's Management Group



Terje Nybø

Director of the Norwegian Bureau for the Investigation of Police Affairs



Guro Glærum Kleppe

Assistant Director, Norwegian Bureau for the Investigation of Police Affairs



Vigdis Thomassen Aaseth

Head of Administration, Norwegian Bureau for the Investigation of Police Affairs



Liv Øyen

Head of the Investigation Division



Espen Krogh

Head of the Case Reception Division.

Lawyers on assignment

In addition to the permanent employees, six lawyers are engaged on assignment in processing of cases by the Bureau. The assignment arrangement underlines the independence of the Bureau and fosters transparency and trust.

Mats J. Iversen Stenmark

Fend advokatfirma DA

Johnny Veum

The law firm Andenæs Aaløkken Veum Advokatfirma DA

Aashild Nyeng Wisth

The law firm Campbell & Co

Åse Berit Høistad Berger

Advokatene på Lilletorget

Andrè Lillehovde van der Eynden

The law firm Campbell & Co

Paal-Henrich Berle

Harris Advokatfirma AS

Articles from previous annual reports

2008

- Protection of Civil Society
- Use of Force during Arrest
- Performance of Police Duties – When is it Punishable?
- Frequent breaches of confidentiality
- High-Speed Vehicle Pursuits and Shunting
- Corruption is Harmful to Society
- Reports of Racism
- Police Use of Handcuffs

2009

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

2010

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

2011

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

2012

- The Police and the Public
- The Decision to Search
- Documenting Seizure, Search and Examination in connection with Committal to Custody
- Strip Search of Persons under Arrest
- Breach of the Duty of Secrecy
- The Detainee's Right to be Heard
- Correct Use of Handcuffs
- 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
- Custody – an Invasive Measure
- Complaints against Police Lawyers
- The Requirements of the Criminal Procedure Act regarding Report of Search
- Photographing/Videotaping 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

2015

- The 10th Anniversary of the Bureau
- Police Ethics
- Investigation of Police Shootings
- Accidental Shootings
- Misuse of Police Records
- Dealing with Requests for Assistance
- Necessary for or Considerably Facilitating Performance of Duty
- New Provisions concerning Offences Committed in the course of Official Duty

2016

- Complaints regarding Use of Force by the Police
- Domestic Violence
- The Release of Pictures and Video Recordings to the Media
- Knowledge of other Cultures
- Breaches of the Duty of Secrecy Committed by Providing Information to Family Members or Acquaintances
- Use of Body Cuffs on Persons in Police Custody

2017

- Police Use of Firearms
- Whistleblowing
- Unwanted Sexual Attention
- Unlawful Searches in Police Records
- Is that good enough policing?
- In Georgia, on Assignment from the Council of Europe
- Nordic Cooperation Meeting

2018

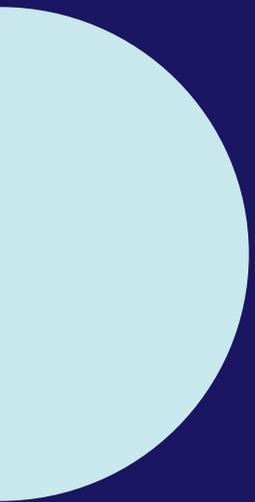
- Driving through Red Lights during Emergency Turn-outs
- Visit by a Delegation from Georgia
- Experiential Learning in the Police
- User Survey
- From Random Checks to Full Control
- Police Weapon Management

2019

- Police Encounters with Children and Young People
- Assistance to the Child Welfare Service – Use of Force against Children
- Police Officers' Authority to Decide to Make Searches
- Searches in Police Registers
- Police Officers' Use of Social Media
- The Responsibility of the Police Management for Methodological Development
- Compliance with Decisions of the Court

2020

- The crime prevention work of the police
- The Director of Public Prosecutions' reflections on the Bureau
- Press access to the Bureau's criminal cases
- Bans on visits
- Unlawful searches in various records
- Use of social media
- – Advice from the Director of the Bureau
- International cooperation
- No reasonable ground to investigate





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

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Bergen office
Office address: Slottsgaten 3, Bergen

Trondheim office
Office 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 by means of the given telephone number and email address.