



POLITIHØGSKOLEN

Evaluation report

Evaluation of PST's and the
police's handling in connection
with the Kongsberg incident
on 13th October 2021



In memory of

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To the Director of Police and the Head of PST

On 4th November 2021, The Norwegian Police Directorate and the Police Security Service (PST) issued a mandate announcing that the Kongsberg incident on 13th October 2021 was to be evaluated. The evaluation was to be undertaken by the Norwegian Police University College and led by Assistant Chief of Police Steinar Vee Henriksen. The aim of the evaluation was to identify learning points from what had been well managed, and from what could have been managed better regarding PST's and the police's handling of tips and information prior to the incident as well as the police's operative management of it.

The commission hereby submits its unanimous report.

Oslo, 14th June 2022

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Mandate – evaluation of the management of the Kongsberg incident by the police and PST¹

Background and aim

On Wednesday 13th October 2021 at 6pm, police in the Sør-Øst [South-East] police district were informed that a man was shooting with bow and arrows in central Kongsberg. Five people were killed, and others injured, before he was apprehended by the police.

The evaluation is to be in accord with the Police Emergency Preparedness System I (PBS I), Chapter 16, which states that its purpose should be to learn as much as possible from what was done. The evaluation should concentrate on all aspects with a bearing on problem solving in the future. The evaluation should indicate whether the measures taken worked as intended. It should not replace any possible overall and/or cross-sectoral review, nor any possible investigation by the Bureau of Investigation into whether an employee of the police or the prosecuting authority committed a criminal act.

The aim of the evaluation is to identify things which can be learned about what worked well and what could have been done better in respect of:

- the handling of tips by the police and PST
- the management of information sharing prior to the incident by PST and the police, both between the police and PST and with other agencies, such as the health service.
- the operational management of the incident by the police

In sum, this should give the police knowledge about the ongoing work of preventing and combatting serious criminal acts and incidents.

Scope of the evaluation

The evaluation is to consider from the time the police first gained knowledge of, and possibly tips/concerns about, the perpetrator, up to his arrest by the police.

The evaluation should identify learning points based on the following:

1. Describe and assess how PST and the police handled tips they received prior to the incident.
2. Describe and evaluate how the police and PST handled and exchanged information between themselves and, where relevant, with the health service, prior to the incident.
3. Describe and evaluate crisis management by the police from the control room being informed, through to the perpetrator being apprehended by the police, including:
 - receipt of messages/management of 112-calls (triple alert system)
 - the sequence of events from the operation being launched to the arrest of the perpetrator, including decisions made throughout the assignment
 - cooperation internally in Sør-Øst Norwegian police district
 - planning and use of operative resources in Sør-Øst police district, and in conjunction with other police districts, national emergency resources, specialist agencies and PST

1 The mandate is reproduced as published on politiet.no.

- the evaluation should contain an independent assessment of any other learning points requiring mention. The evaluation should propose measures in response to the learning points identified (those not already addressed).

The evaluation should take into account:

- relevant material from the police and PST shedding light on the handling of information and the incident.
- relevant legislation.
- planning (PBS 1, 11, 111), written /established procedures, among which the PLIVO procedure, instructions, training materials together with any other relevant sources describing how the work is to be undertaken, including required response time. PST has its own planning. An assessment must also be made of how adequate these sources are, and suitable for the resolution of future incidents.
- follow up of the learning points from relevant incidents and exercises, among these the terror incident at the Al-Noor Mosque in Bærum, and the 22nd July terror attacks.

General provisions

The following provisions apply:

- the evaluation is to be conducted by the Norwegian Police University College (PHS).
- the evaluation commission must be able to manage classified information. They should produce an unclassified report suitable to be made public.
- if the evaluation commission identifies the need to make changes to the evaluation outside the mandate, this must be taken up with the client.
- the evaluation is to be completed six months from publication of the mandate.

Foreword

In the evening of 13th October 2021, the town of Kongsberg – and, via the media, the rest of the country – was shaken by a gruesome incident. A person, armed with a bow and arrows and a knife, attacked innocent people, both in the public space and inside residential buildings. Even though only 34 minutes elapsed from the police first being notified of the incident to the perpetrator being apprehended, he had in that time entered several residences in the quiet Hyttegata area and killed five people.

Following the arrest, it became clear that this perpetrator was Espen Andersen Bråthen, a person who, through both criminal and threatening behaviour and pronounced psychological difficulties, was known to the police locally. As a result of radical and threatening utterances and messages he was also registered with PST.

In accordance with the guidelines in the police emergency preparedness system, it was decided that the incident be evaluated from a learning perspective. On 4th November 2021, therefore, the Director of Police and the head of PST gave the Norwegian Police University College a mandate to assemble a commission to conduct this.

This commission has, in the course of its work, had conversations with many people, primarily in Sør-Øst police district and the Police Security Service, but also from the Police Directorate, the Norwegian Police University College, national emergency resources, traffic police as well as other emergency services. We have, throughout, been met with goodwill, in respect of providing us with both explanations and relevant documentation. From KRIPOS [the National Criminal Investigation Service], the commission received crucial assistance in extracting, systematising and preparing a clear figurative presentation of large amounts of electronic tracks and recordings arising from the operational efforts made on 13th October.

The commission wants to thank all those who have contributed. Any gaps in the material or deficiencies in the assessments made can, of course, be attributed only to the commission.

Substantive work on the report was completed on 3rd May this year.

Oslo, Bodø and Stavanger, 2nd June 2022.

Abstract

In the early evening of 13th October 2021, the man who would later be known to be the perpetrator, Espen Andersen Bråthen,² left his accommodation in Kongsberg. With him, he had a bow, a quiver with 60 arrows, a short sword and two knives. Along his way to Coop Extra, he fired arrows at a person, but missed. When he arrived at the building, he fired arrows at two people in the parking area belonging to the Coop shop and the off licence [Vinmonopolet]. The police control room received its first call at approximately 12 minutes past six. Two police patrols, totalling three officers, left Kongsberg police station. The incident, was, after a short time, declared an ongoing life-threatening violence situation (PLIVO). Meanwhile, the man had made his way into the Coop shop where he fired arrows towards several people. When the police arrived there was a confrontation during which the man fired arrows at the first patrol. The perpetrator escaped from the patrol via an emergency exit the patrol was unaware of and, outside in Myntgata, fired arrows at more people before making his way to Peckels gate where he attempted to gain entry to a residential property. The three police officers in Kongsberg chased him, first on foot and then in a patrol car. At the same time, Sør-Øst police district's control room had received a number of calls which prompted a rapid and comprehensive mobilisation of police forces from, among others, Sør-Øst police district, Oslo police district, the National Mobile Police Service and national emergency preparedness resources. The police patrols in Kongsberg were alone most of the time until the arrest. During the time the police were looking for him, the man used a sharp weapon to take the lives of five people in Hyttegata before he was arrested around 13 minutes to seven. Approximately 34 minutes elapsed from the first call to his arrest.

Bråthen's previous history of mental ill health and contact with the police had begun many years before the tragic events of 13th October 2021. His first encounter with the police was in 1998. In 2015 he was first registered in PST's system against a background of warnings that he was radicalised or becoming so. PST's judgement was that the police should follow him up with an interview of concern. In 2016, the police in Kongsberg conducted an interview with Bråthen's mother. The information she gave, according to the police, reduced these concerns about radicalisation. In 2017, Bråthen was again on PST's radar in connection with two identical videos he published on YouTube. The message in these was that he was a Muslim and had come with a "warning". PST asked the police in Kongsberg to interview him. But PST and the police in Kongsberg disagreed as to the legality of what Bråthen had said, and the police were reluctant to do anything about him until there had been a judicial assessment of the possible illegality of the content of the videos. PST's assessment concluded that Bråthen's statements in the videos were not illegal. PST repeated its request to the Kongsberg police, and, the same day, a police patrol conducted an interview with Bråthen on account of these concerns. They subsequently recommended that Bråthen should receive medical help. PST took the view that this lowered the level of concern, and again removed Bråthen from their radicalisation tracking. The day following the interview with the Kongsberg police, Bråthen attempted to seek out a government official in Oslo, for whom he had a warning.

2 The commission chooses, in the main, other than in Chapter 4, to refer to Bråthen as the perpetrator. This is because while there is no doubt that it is Bråthen who is the subject in the time before the Kongsberg incident on 13th October 2021. During this incident, however, there was, until the arrest, an unknown perpetrator (see Chapter 5).

This incident led to a comprehensive operational analysis of Bråthen's intentions and capability regarding the possible threat he posed. This analysis led to the recommendation that the police in Kongsberg should follow Bråthen's development in relation to extreme Islam. This recommendation was, however, never conveyed to the police in Kongsberg.

Both PST and the police assessed Bråthen as being mentally unstable and considered that he should be followed up by the health service. Bråthen had been admitted to a psychiatric hospital on many occasions and repeatedly been in the police's searchlight, for, among other things, threats and violence against his own parents. At times he had been banned from visiting local shops, and his parents, in Kongsberg. His last stay in a psychiatric institution had been in 2019. On that occasion he was discharged after 11 days, refusing both psychiatric help and medicine. In 2020 the police received two messages of concern about Bråthen with respect to violence and murder, respectively. These messages were registered in the police system. But the person logging them did not couple PST to the messages. How they were registered and commented on by the logger, reflects how the police in Kongsberg saw Bråthen: as mentally ill with a disturbed mind, an internet user and conspiracy theorist. Bråthen became more and more isolated, and, in the 14 months before the Kongsberg incident, had contact with neither family, police nor health service.

On 4th November 2021, the Norwegian Police Directorate and PST issued a mandate confirming that the Kongsberg incident on 13th October 2021 was to be evaluated. The aim of the evaluation has been learning and development for the police and PST. From this starting point, the evaluation commission has described and assessed the receipt of reports by the police and PST, and information sharing between themselves, and information exchange with the health service prior to the incident. The operational management of the incident by the police from when the first report was received until the perpetrator was arrested is described and assessed, as set out in the mandate. The commission has also formulated learning points about what was well done, and what could have been done better.

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1. Introduction

The Kongsberg incident of 13th October 2021 raised key questions regarding the possibility of preventing serious violent incidents committed by mentally ill people by the police and PST. In the media, questions were also asked about how a perpetrator could evade the police with the tragic consequences this led to in Kongsberg.

The incident in Kongsberg is the first PLIVO event which has been the object of a national evaluation, making it important to learn from this experience. The aim of this evaluation is to promote learning in PST and the police, not to ascribe possible guilt and responsibility. Through its investigations, the commission has found both what worked well, and what could be done better in the preventative work of the police as well as in the operational management of the incident. The report should therefore represent the beginning of a learning process, both for those directly involved and for the rest of the police organisation.

The commission has conducted a comprehensive data collection through interviews of people involved prior to the incident and in the operational management. These included employees of PST, the police, and the fire and ambulance services. In addition, the evaluation drew on electronic data and comprehensive documentation. To ensure the quality of their own work, the commission has also interviewed, and had regular contact with, staff in the police with expertise in the subject areas involved.

The evaluation has also taken into consideration the comprehensive paper-trail laid down by the different service personnel. Based on both the mandate and the documents, the commission developed assessment criteria to be used as a basis for the survey. Large parts of the commission's material are not publicly available and/or classified. All owners of information have given their written consent for its publication by the commission.

The evaluation commission has not had secretarial support and has therefore undertaken its own professional and administrative tasks.

The mandate

The commission will briefly outline some considerations around the mandate itself, which it seems natural to divide into two: the police's management in the years prior to the 13th October 2021 incident, and the police's management of the 13th October incident from receipt of the first message to the apprehension of the perpetrator.

Where the first of these is concerned, the goal of the evaluation is described as follows in the mandate:

The aim of the evaluation is to identify learning points from what worked well, and what could have worked better with thought to:

1. Describe and assess how PST and the police processed tips received prior to the incident.
2. Describe the management of information sharing about the perpetrator by the police and PST, between themselves and, where relevant, with the health services, prior to the incident.

In the mandate, the commission is asked to look at and assess the learning points in the July 22nd and Al-Noor reports. However, this is not relevant to the two points mentioned in the mandate. The Al-Noor report has already largely addressed the recommendations of the 22nd July report. As for the recommendations of the Al-Noor report, these were published on 29th June 2020. The period considered by this commission, regarding items 1 and 2 of the mandate, is essentially prior to the period covered by the evaluation report for the Al-Noor incident.

For the second part, concerning the operational management of the incident, the aims of the evaluation are set out in the mandate as follows:

Describe and assess management by the police from the control room first being notified of the incident through to the perpetrator being apprehended, including:

- the receipt/handling of 112 calls (triple alert)
- the sequence of events from the operation being launched to the arrest of the perpetrator, including decisions made throughout the assignment
- cooperation internally in Sør-Øst police district
- planning and use of operational resources in Sør-Øst police district, and in conjunction with other police districts, national emergency resources, specialist agencies and PST

The mandate itself provides a framework for learning and assumes that the commission will carry out an investigation of the incident until the moment when the perpetrator is arrested. This means that the commission has not had the opportunity to investigate Sør-Øst police district's crisis management in the time after the arrest. The commission considers this a limitation to the mandate. The operational action phase is not complete when the perpetrator is arrested, but potential learning points from the phase after the arrest have not been considered. As mentioned, the commission was also asked to consider the follow-up of learning points after the terrorist incident in the Al-Noor Mosque in Bærum and the 22nd July terror attacks. The commission has included relevant links to these events and exercises where relevant. However, the commission has not been able to follow up relevant learning points from other PLIVO incidents in Norway as no system is in place for a national collection of experience from such incidents.

Structure of the report

Following this introductory Chapter 1, Chapter 2 explains the framework and guidelines governing the work of PST and the police. Relevant legislation, instructions, the police emergency preparedness system and the organisation of Sør-Øst police district are presented. As the PLIVO procedure is not publicly available, the commission's account of it must necessarily be limited to general principles. A key theme in the report is the competence of emergency personnel in handling PLIVO incidents. With this in mind, the basic operational education at the Norwegian Police University College is presented, especially regarding training and the number of hours. As the goal of the report is learning, a section is dedicated to learning in the police. Here, experiential learning is presented as a theory of learning within organisations. Here as well, hindrances to learning in the police are also discussed. An important prerequisite for understanding the police's operational handling and interaction is knowledge of crises and situational awareness and decision-making: therefore, a section about these is included at the end.

Chapter 3 presents the way the commission set about gathering and analysing data, as well as the study's methodological limitations.

Chapter 4 describes and assesses the first two points of the mandate: PST's and the police's management of the tips they received and information exchange between them, and, where relevant, with the health service. The chapter begins with an introductory explanation of some relevant developments between 2014–2021, the period the survey covers.

Chapter 5 describes and assesses the third point of the mandate: operational management of the incident by the police from the first report about the incident to the arrest of the perpetrator.

Chapter 6 concerns the learning points and recommendations the evaluation has arrived at.

Chapter 7 presents the commission's conclusion of the evaluation.

2. Framework for assessment

The commission's mandate indicates that the actions of PST and the police relating to the Kongsberg incident must be both described and assessed. The evaluation will, as mentioned, assess these actions against documents, routines and practices indicating how actions ought to be taken. To form a basis for its assessment, the commission has, therefore, made use of legislation and instructions, procedures, doctrines, regulations, planning and training materials, together with research and theory illustrating the topics involved. It should be noted that the content of this chapter has been gathered not only to provide a basis for assessment, but also as self-standing contributions to learning about the different topics.

The chapter is structured in the following way: in section 2.1, following the legal framework, a detailed account is made of the duty of confidentiality and duty to act. Section 2.2 considers central aspects of police emergency preparedness and crisis management. In sections 2.3 and 2.4, PST and Sør-Øst police district will be presented briefly. In section 2.5, a brief account is made of police training and the training of emergency personnel, with an emphasis on PLIVO. In addition, the commission's investigation into Norwegian and Nordic police's experience of PLIVO is discussed. Section 2.6 describes learning within the police, emphasising experiential and organisational learning. The theoretical framework and research with an emphasis on situational understanding, decision-making, crises and crisis management are discussed in section 2.7.

2.1 Legal framework

2.1.1 Introduction

The commission's mandate is essentially twofold. From a learning perspective, we will consider the receipt of tips and information sharing by the police and PST prior to the incident on 13th October 2021, and crisis management from the receipt of the first notification of the event at approximately 6pm on 13th October 2021 until the arrest of the perpetrator roughly half an hour later.

Both of these issues make it natural to consider the relevant legal framework.

The first raises a legal issue at system level, namely the extent to which the rules concerning the duty of confidentiality in Chapters 5 and 6 of the Police Databases Act make it possible to share information both within the police service and with external agencies, and when this duty of confidentiality comes to represent a barrier to communication. The rules on professional confidentiality are central to the protection of personal data, which, in the police, is regulated by the Police Databases Act. This provides that, even if the rule on exemption from the duty of confidentiality in Chapter 5 of the Act provides an opportunity to share information, that exemption must be essential to the relevant police purpose, according to sections 4 and 5 of the Act. When information is shared with others with the aim of gaining additional information, the assessment as to necessity will naturally be affected by whether there is sufficient reason to assume that the recipient has both the opportunity (according to his duty of confidentiality), and is willing, to provide the additional information the police need to be able to fulfil their duties. The commission's informants have conveyed to us that the lack of opportunity to

obtain information from the health service, in particular, represents a significant limitation in preventative work aimed at those mentally ill persons exhibiting criminal behaviour. Although the commission's mandate only covers information handling by the police prior to the incident on 13th October 2021, it is therefore natural to give also a brief description of the health and social services' duty of confidentiality.

The second part of the mandate makes it natural to consider the police's duty to act, primarily at a tactical level – that is, for officers sent by the control room (OS) to the crime scene who, both from further messages from the OS and from their own observations, understood that this was a case of ongoing life-threatening violence (PLIVO).³

2.1.2 Duty of confidentiality as a barrier to communication

Starting points

During the last 10–15 years, different committees and commissions have looked at incidents in which people with known or suspected mental illness or socially avoidant or concerning behaviour have committed one or more murders. This has been the subject of two official reports, namely NOU 2010:3: *Drap I Norge i perioden 2004–2009* [Homicide in Norway in the period 2004–2009] and NOU 2012: 14 *Report from the 22nd July Commission*. But the topic was also central to the report of the evaluation commission appointed by the Police Directorate, the Police Security Service and Oslo police district, following the so-called Al-Noor case, (cf. the commission's report of 29th June 2020) and Report 5-2021 from the Statutory Commission of Inquiry for the Health and Care Service, *Hva kan vi lære etter et drap begått i psykotisk tilstand?* [What can we learn from a murder committed in a psychotic state?]

These documents deal, of course, with a wide range of issues, but a recurring theme is that they are, to a greater or lesser extent, all concerned with whether the legal framework constituting the different agencies' duty of confidentiality, leaves it possible for them to share their part of the relevant information, with the aim of forming an overall picture of the perpetrator which, to the greatest extent possible, could indicate the potential for danger and form a basis for preventive measures.

Particular attention was paid to this matter in NOU 2010: 3, where Chapter 11 in its entirety deals with it. The committee's final recommendation regarding the need for further study (p. 133) reads:

Some people, on the grounds of their mental illness, present a lasting or long-lasting threat. The threat can be general, but is, in some cases, directed toward specific people or groups of people, such as members of the Royal Family, members of the government or members of particular public bodies. For people with such illnesses and behaviours, the correct picture of the need for treatment and the need for specific protection measures (threat assessment) will only emerge when there is up-to-date information from both the health service and the police. According to current regulations, health personnel are not allowed to routinely convey

3 Both issues have previously been investigated and dealt with by committee member Tor-Geir Myhrer, respectively in NOU 2010: 3 *Drap I Norge i perioden 2004–2009*, Chapter 11, *Taushetsplikt, opplysningsplikt og -rett*, pp. 112–131, and in the article: *... dø om så det gjelder? De rettslige rammer for den individuelle handleplikten ved farlige politioperasjoner...*, in *Nordic Police Research*, 2015, pp. 34–74. Both the relatively short time frame given to the commission (six months from its appointment), and the partly time-consuming and complicating restrictions that came with the current Covid restrictions, have meant that the commission's report on the legal framework is, for reasons of efficiency, largely based on an edited, shortened and updated version of these works.

information to the police in this type of case. In the view of the committee, this problem complex should be investigated more fully.

The 22nd July commission's report, NOU 2012:14, states the following on page 395:

Legal ambiguity leads to insecurity. The commission considers the regulations governing PST's access to their database as being appropriate but sees a need for other agencies' confidentiality provisions to be reviewed, and for regulation regarding intelligence and IT to be put in place. The staff, in both PST and other agencies should be certain of the legal basis for gathering, sharing and entering information in a database, and for genuine and case-based collaboration with other agencies. It is therefore important that the Ministry of Justice contributes quickly to such legitimacy by providing clarifications or taking other initiatives as necessary.

In the Al-Noor report, the issue is addressed in section 5.6 "Principal learning points", especially under the sub-heading: "Lower threshold for sharing [of] personal information across agencies", where the specific recommendation is formulated as follows:

The possibility of closer cooperation between PST and the health and school services should be investigated, so that the threshold for disclosing confidential information in cases with a sufficiently serious concern about radicalisation is lowered.

The legal basis for the duty of confidentiality and the exchange of information between the police, municipalities and other agencies in cases concerning radicalisation and violent extremism should be revised to establish clear common guidelines for what information can and should be shared, when and by whom. This should happen in conjunction with the implementation of sound and strong control mechanisms to prevent misuse.

In Report 5-2021 from the Statutory Commission of Inquiry for the Health and Care Service, one of the recommendations is presented in this way:

When a psychotic patient may have a raised risk of violence, the psychiatric health service carries out a risk assessment. The aim is to put in place measures preventing violence. Often, the police have information regarding the patient's history of violence and criminal record. This information is particularly important for patients who are not already in long-term treatment in mental healthcare, for example patients who are electronically tagged or under other non-custodial restrictions. Forensic psychiatric reports also contain valuable information. Mental health services should, particularly when electing non-custodial measures, conduct risk assessments which include information from police and expert statements.

Point 2 of the commission's mandate consists of: "Describe the management and exchange of information about the perpetrator between PST and the police, and possibly also with the healthcare system [...] prior to the incident". When, as a background for this assessment, a review is made of the legal framework for such information exchange, it is clear from the above that this is a topic that has long received considerable, and partly critical, attention.

Further, it appears from the Police Directorate's threat report for 2021, page 17, that the issue is of both general and daily relevance. Their conclusion is as follows:

It is likely that more people with serious mental illnesses than formerly will commit serious acts of violence and pose a serious threat to both them and others. Mental health problems in combination with, among other issues, substance misuse, relationship difficulties or financial problems increase the danger of violence.

A field of conflicting values⁴

The legal framework for the exchange of information in this area remains challenging, despite the extent of the attention it has attracted over some considerable time. The problem relates, primarily, to there being quite large differences in that part of the rules governing duty of confidentiality which provides exceptions to that duty, in the form of either a right to speak/right to be informed or an obligation to speak/obligation to inform. To a certain extent, the problem also relates to the uncertainty about what is covered by these exemption rules, and about how far they extend. The disparity in how many, and how extensively, exceptions are granted from the duty of confidentiality naturally affects how absolute the duty of confidentiality is, and, therefore, the extent to which it amounts to a barrier to communication.

Exceptions to the duty of confidentiality encompass rules which establish a right to inform, in given situations, to certain recipients or for certain reasons. The extent of this right is largely a product of what the agency's primary task is, and where the centre of gravity of what is most valued lies. In this way, it can rightly be argued that the agencies attracting the greatest attention, namely the health service and the police, each in their own way, represent an extreme. The difference in the values and interests that the health service and the police are to safeguard and protect is made apparent if one compares clauses regarding purpose in the Health Personnel Act⁵ and the Police Act.

Even though high-quality health services hold great societal significance, the provision leaves little doubt that it is the interests of the individual patient that are central. If one turns to section 2 of the Police Act, one finds a list of seven points covering the duties of the police, but pride of place goes to section 2, number 1. Here it is made clear that the police are to:

protect persons, property and public goods and protect all legal activities, maintain public order and either alone or together with other authorities protect against anything that threatens the general security of society.

From this, clearly, society's need for security is central to the work of the police. Social services lie somewhere between these extremes, cf. the Social Services Act, section 1, conv:

The purpose of the law is to improve the living conditions of the disadvantaged, contribute to social and economic security, including giving the individual the opportunity to live and work independently, and promote the transition to work, social inclusion, and active participation in society.

It is probably correct to say that the Social Services Act has more of the health service's emphasis on the client than the police's emphasis on protection of society.

When advocating cooperation between different public agencies or wanting the agencies to exchange information to a greater extent, it is important to be aware of where the various agencies lie in this conflicting field. As well as this influencing the regulations the agency holds to, it will also have influenced their staff's attitude to the sharing of information.

⁴ As can be seen from NOU 2010: 3, p. 113, the term is taken from Rasmussen, 1997, Chapter 2.

⁵ Health Personnel Act, (1999). Act on Healthcare Personnel et seq. 2nd June 1999, No. 64.

The police's duty of confidentiality

As mentioned, the commission will, primarily, look at "management of information exchange about the perpetrator by PST and the police between themselves and, where relevant, with the health service, prior to the incident". The rules governing the police's duty of confidentiality, set out in the Police Databases Act, chapters 5 and 6, will not, generally speaking, constitute any hindrance to this exchange of information.

For the exchange of information *within the police*, the Police Databases Act, section 21, first paragraph, stipulates:

Members of the police and the prosecuting authority may be granted access (right to direct search) to information, or information may otherwise be made available to them, to the extent that there is an official need, and it is for purposes covered by this Act.

The Police Databases Act applies mainly to the processing of information for police purposes, defined in section 2, number 13, as follows:

Police purposes:

- a. the police's crime-fighting activities, including investigation, preventive work and law enforcement, and:
- b. the police's service and support function as well as keeping duty records.

In the context most relevant to the commission's work, the purpose of internal information exchange will be mostly preventive.

If, as part of crime prevention work, it is relevant to disseminate confidential information to agencies outside the police, the provisions of the Police Databases Act, section 27, second and third paragraphs, and section 30, first and second paragraphs, apply.

If the police find that in their preventive work it is necessary or appropriate to collaborate with the local district psychiatric centre (DPS), a psychiatric hospital, the social services or the school system, the Police Databases Act, section 27, second and third paragraphs, allows for the necessary information to be disseminated:

Nor does duty of confidentiality prevent information being given to:

....

2. Public bodies, in order to prevent law-breaking, or

....

Disclosure must in any case be proportionate to the specific circumstances, and special emphasis must be placed on whether the information is communicated to someone subject to a duty of confidentiality, how this recipient can be expected to use the information and whether the information is in some way unreliable or from an unreliable source.

In some cases, the preventive effect will be to provide, for example, the psychiatric health service with information increasing the possibility of performing its primary task, such as deciding on or extending the involuntary hospitalisation of a mentally ill person with pronouncedly violent and aggressive behaviour. In such cases, section 30, first

paragraph of the Police Databases Act provides a more apt basis for the dissemination of information.

The duty of confidentiality does not prevent information from being disclosed to other interested public bodies if this is needed to promote the recipient body's tasks under law or to prevent activities from being carried out in an unjustifiable manner.

The provisions of section 27, third paragraph, first sentence and fifth paragraph have corresponding applicability.⁶

The provision in section 30 of the Act is supplemented by section 9-6 of the Police Databases Regulations, which list the most relevant public bodies covered by the provision. In respect of the commission's mandate, it is the agencies in numbers 3, 7 and 8 which are relevant.

In accordance with the Police databases Act, section 30, information may be given to: [...]

3. agencies providing services under the Specialist Health Services Act

[...]

7. child protection authorities in connection with child protection services' conduct of their duties in accordance with the Child protection Act

8. the labour and welfare administration, including NAV, in connection with the performance of tasks pursuant to the National Insurance Act and the Act on Social Services in the Labour and Welfare Administration.

As mentioned in the introduction to this point, a special duty of confidentiality applies to information obtained by the police during investigation through wiretapping, eavesdropping and data capture, (see The Criminal Procedure Act, section 216, i). PST has a certain right to use such methods in its preventive work, see Police Act, section 17d, and a somewhat similar duty of confidentiality applies to this information following the Police Act, section 17 f. For the commission's purposes, it is sufficient to say that information covered by these provisions can be used neither internally nor externally in more general preventive work against serious violent crime. Only when the information indicates that a relatively serious act of violence is so imminent that it is a question of preventing or averting it, do the Criminal Procedure Act, section 216, first paragraph, letter f, and the Police Act, section 17 f, second paragraph, letter e, provide a legal basis for conveying the information.

Information classified under the Security Act⁷ is given its own regulations in the act's sections 4 and 5, which the commission does not explore.

Health service personnel's duty of confidentiality

It can be assumed that all relevant information about their patients held by health personnel is covered by the duty of confidentiality under Health Personnel Act, section 21. Disregarding cases where the patient agrees to the information being released to the police, it will be principally the Health Personnel Act, section 23, numbers 1, 4 and 6, and section 31 which contain the relevant provisions:

6 The reference to section 27, paragraph 5, concerns who makes the decision to release information, and how, primarily, this will happen.

7 Act of 1st June 2018 No. 24.

Section 23. Limitations to the duty of confidentiality

The duty of confidentiality according to section 21 does not prevent:

1. information being given to someone already familiar with it

[...]

4. that information is passed on when overriding private or public interests justify passing on that information,

[...]

6. that the information is passed on in accordance with rules laid down by law, or pursuant to the law, when it is expressly stipulated or clearly provided that the duty of confidentiality shall not apply.

[...]

Section 31. Information to the emergency services

Health personnel should notify the police and fire service if this is required to avert serious injury to the person or property.

The provision in section 31, entailing an obligation to provide information, is aimed, primarily, at the exchange of information in fairly acute situations, even before the formulation "to prevent", and can, to a very small extent, be used in a preventive context.

The exemption provisions in section 23 provide a right, but not a duty, to give information. Exceptions from the duty of confidentiality set out in section 23, number 6, will apply in cases where the police who have requested that a person be committed under the Mental Health Care Act,⁸ sections 3–6. It then follows from section 3-3a, fourth paragraph of the Act that "the authority that has submitted a request following section 3-6 may appeal decisions pursuant to this section to the Control Commission,⁹ and the police must also be able to give the information necessary both to be able to decide if they want to complain and to justify the complaint.

The significance of the exception to health personnel's duty of confidentiality in section 23, number 1, that this duty of confidentiality does not prevent "information being given to those already familiar with it", is that it opens the way for a "query and orientation function". In the case where the police already know of the patient's contact with mental health services and the main reason for that, it will not normally represent a breach of the health personnel's duty of confidentiality if they inform them that the patient is being discharged. Nor can there be anything in the way of other agencies being asked for information that may be significant for decisions the health service is to make. When the police themselves have requested that the patient be committed (see above), or, due to the person's violent behaviour, have helped in bringing him/her to a treatment centre within the mental healthcare service, the information that the person is a patient and has exhibited violent behaviour, will already be known to the police. A request to the police for additional information, for example about cases of violence under investigation, will therefore not reveal any new sensitive information

⁸ Act of 7th February 1999 No. 62.

⁹ See also the report from the National Commission of Inquiry for the Health and Care Service, 2021, 5-2021 p. 21.

The Health Personnel Act, section 23, number 4, can well be thought of as a ‘get-out clause’: this provision is a safety valve, meaning that communication can take place when a situation clearly requires it, even where the conditions under any of the specific provisions regarding the right, or duty, to provide information are not met. The duty of confidentiality for health professions is near absolute, that is, with few specific exceptions. Generally, it should, therefore, be possible for some situations to arise where the conflict between the duty of confidentiality and the need for communication must be resolved in accordance with the exemption offered by the Health Personnel Act, section 23, number 4. The nature of the provision makes it impossible to say exactly when it authorises communication. Nevertheless, it is possible to set down certain guiding criteria: it follows from the work preparatory to the legislation that “[t]he considerations towards permitting breaking the duty of confidentiality must outweigh the reasons for maintaining it; in general, this will concern emergency considerations.

Key factors in such an assessment will be whether communication takes place to avert a danger or damage to something worth protecting, that it takes place in a situation where it is safe to assume that the patient might otherwise have agreed, or the aim is to do well by the patient or prevent them suffering harm. It follows from this that the provision, to a large extent, predisposes to a great reluctance to provide information, but also to a considerable degree of variation in what the individual thinks (s)he can convey.

From a police crime prevention perspective, the legal regulation of health personnel’s ability to contribute information is less satisfactory. Moreover, two joint circulars from the Norwegian Directorate of Health and the Norwegian Police Directorate, have left it even more unclear. In the Directorate of Police’s (and the Health Directorate’s¹⁰) circular 2012/007 *Helsetjenestens og politiets ansvar for psykisk syke – oppgaver og samarbeid* [The health service’s and the police’s responsibility for the mentally ill – tasks and collaboration] this is addressed in point 5: *Communication between the health service and the police*, which gives a reasonably comprehensive account of the duty of confidentiality (pp. 6–10). This includes the Health Personnel Act, section 23, point 4. The circular only allows for a relatively limited access to information. A new joint circular from 2015, published by the Norwegian Directorate of Health alone as circular IS-9-2015, deals only with *Health Personnel’s duty of confidentiality – right and duty to deliver patient information to the police*. The guidelines given here, appear to be even more restrictive than those from 2012. However, the new circular does not restrict itself to the directives given in the joint circular from 2012. Nothing is said about whether the new circular amends, supplements or repeals the directives in the 2012 circular. But, as the 2015 circular (also edited in 2016) is both more recent and more specific, it must, based on general legal principles, be assumed that this is so. The circular’s point 1.5 summarises the right (and duty) to inform as follows:

1. Health service personnel should, on their own initiative, notify the police and fire service where it is necessary to do so to avert serious injury to people or property.
2. The health service may give information to the police in order that they can support the health service to notify next of kin.

10 From the Directorate of Health numbered IS-5-2012.

3. In a crisis or catastrophe, health service personnel are to release the names of patients under their care in order that the police have oversight of those missing and need not tie up resources in searching for persons already found.
4. Health service personnel have neither right nor duty to provide information to the police exclusively for the investigation/resolution of crimes.

It must therefore be possible to state, with some confidence, that at the system level there is not much room for information exchange addressing the need for prevention called for in the documents referred to above.

Social services' duty of confidentiality

Social services can also be in possession of information important for crime prevention. It follows from the Social Services Act [11], section 44, that the agency largely follows the rules of confidentiality contained in the Public Administration Act, sections 13–13b, but with certain special restrictions related to providing information to other public agencies.

The duty of confidentiality provision does, naturally, allow information to be disseminated in order that the social services' primary tasks be best fulfilled, and with the consent of the client. But when this is not the case, which is to say that social services themselves have no case that will benefit from the exchange of information, section 44, third paragraph of the Social Services Act entails a restriction on what otherwise applies: in the Public Administration Act, section 13b, first paragraph, number 6, the relationship between the duty of confidentiality and access to information is regulated as follows:

According to section 13, duty of confidentiality does not prevent:

6. that the administrative body notifies or provides information (cf. also number 5) about offences to the prosecuting authority or the relevant control authority, when it is considered desirable in the public interest, or prosecution of the offence is naturally related to the issuing body's tasks.

However, this more general access to communications following from the provisions of the Public Administration Act has been restricted in respect of social services, where it is stipulated that the "[i]nformation may only be given to other administrative bodies pursuant to Public Administration Act, section 13b, number 6, when this is necessary to further the tasks of the labour and welfare administration".

The significance of this restriction in the Social Services Act, section 44, third paragraph, is that the general right to inform other administrative bodies of offences in one's own administrative area, or when public interest so requires, does not apply to the social services. Outside of use for the primary purpose or with consent, communication to other administrative bodies can only take place when that communication is necessary to further the social service's tasks. It is far from given that contributions to crime and security related preventive work will be covered by social service's duty to "improve the living conditions of the disadvantaged, contributing to social and economic security, including that the individual be given the opportunity to live independently, and promote transition to work, social inclusion, and active participation in society" following the provisions in section 1 of the Act.

2.1.3 Legal framework for police officers' duty to act

Starting points

The legal framework for how the service should or can be delivered is hardly the most important factor in how the police act in any given situation. Within the framework set by the regulations, the following factors will normally have the greatest influence on the choice of solution:

- the equipment available to the officers
- the attitudes, training and skills of the officers involved
- the tactical guidelines drawn up for the type of task in question

But even if the police, in most situations, have considerable room for manoeuvre in how to resolve the assignment, the demands and choices made must still fall within the requirements, restrictions and permissions flowing from police regulations.

The legal basis for the police's duty to act

The police's duty to act is not established by any specific rule but is largely presumed to arise from their tasks in society. The police's duty to act can be thought of as being grounded in two different legal bases: partly, provisions on the duty to act applicable to citizens in general, but which may be delimited differently for police officers. And partly, special norms regarding the duty to act applicable only to the police. The ordinary citizen has, in Norwegian and European law, a legally enforceable duty to give assistance to his fellow man in danger. In situations dangerous to the helper, it may be appropriate to consider *the upper limit of the general duty to act* as constituting the theoretical *lower limit of the police's special duty to act*.

In Norwegian law, we currently have two general legal requirements regarding citizens' duty to act when others are in danger. The most general of these is found in section 287 of the Criminal Code of 2005 and makes no distinction as to the source of the danger. It is largely a continuation of section 387 of the Criminal Code 1902. The other is found in section 196 of the Criminal Code. This imposes a duty only in respect of danger arising from planned or ongoing criminal activity of specified kinds (as was the case in its predecessor in the Criminal Code 1902, section 139).

The provision in section 287 of the Criminal Code reads:

There will be punishment by fine or imprisonment for up to six months for anyone failing:

- a. to the best of their ability help someone plainly in danger of losing their life or being occasioned severe injury to their person or health, or
- b. reporting, or by any other means possible, averting fire, flooding, explosion or similar accident leading to danger to human life or significant injury to body or health.

Breach of this duty to provide assistance pursuant to the first paragraph will not be punished when the duty could not be fulfilled without exposing oneself, or others, to particular danger or sacrifice.

In a shortened and edited form, section 196 of the Penal Code stipulates:

A fine or imprisonment for up to one year will be imposed on anyone failing to report a criminal act [of the kind set out in point 2] or its consequences through notification or in any

other way, at a time when this remains possible and when it appears certain or very likely that the act is being, or will be, committed.

Breach of the duty to avert is not punished when

[...]

b) the duty could not be fulfilled without exposing himself, those close to him, or any innocent party to *danger to life, health or welfare*.¹¹

Neither the commission's mandate nor the information obtained provide the basis for any in-depth consideration of these provisions. It is sufficient to state that these provisions as a whole, in the view of the commission, express the following norm: when someone stands in danger of losing their life or suffering serious injury, the general duty to act requires that all possible steps having a reasonable chance of success without threatening physical injury be taken to prevent or resolve the situation.

The police's special duty to act

The legal regulation of the police's *special* duty to act is significantly weaker than that of the general duty to act. Despite this, it is clearly taken for granted. Concerning the duty to act in the Penal Code 1902 section 139, Skeie,¹² for example, says: "A policeman has an unlimited duty to avert; he must, if necessary, put his life at risk to prevent an offence such as those listed here and its consequences."

But the same is expressed in significantly more recent literature, in Bratholm and Matningsdal¹³ for example:

The individual – a policeman for example – has a special legal duty, going further than section 139, to avert a crime, and the provision on impunity in the second paragraph does not apply. This legal duty, in such cases, extends so far that the individual must, if necessary, put their life at risk.

Skeie's statement is from 1936, a time when we had only a formal and organisational police law, and where the police's rights and duties were little legislated. The provisions of the working environment legislation to ensure a safe working environment and the right and duty to avoid hazardous work were not yet accepted standards. Despite there being scarcely any 50-year period during which our society has undergone greater change than between the mid-1940s and the mid-1990s, it is reiterated without further discussion in the *Straffelovkommentaren* [Commentary on the Criminal Law] from 1995 that the police have a legal duty to act, placing their life in danger. By this time, the Working Environment Act of 1977 had long since put in place requirements for a safe working environment and the right and indeed duty to break off from dangerous work, (described below). Moreover, a new police act including legal regulation of the police's rights and duties was before Parliament. It is perfectly plain that, today, the police's duty to act requires a more detailed justification, and may have to be delimited differently, than was the case 70 years ago.

In interpreting the Penal Code sections 196 and 287, the following norm for the general duty to act was formulated earlier in the text:

11 The commission's italics.

12 Skeie, 1946, p. 626.

13 Bratholm & Matningsdal (eds.), 1995, p. 199.

When someone is in danger of losing their life or suffering significant injury, the general duty to act requires that those rescuing or preventive actions, with a reasonable expectation of succeeding and which do not threaten the rescuer with physical injury, be undertaken.

When determining the content of the police's special duty to act, two issues in particular present themselves: is the duty to act applicable at a lower level of danger for the "victims", particularly if the police's duty to act is set at a higher level of danger for the officers? It is natural to look first at what follows from national regulation and from human rights conventions in relation to a special duty to act for the police.

In connection with this, it is reasonable to take as a point of departure the rules that apply to the police organisation as such. The reason is, of course, that the duties incumbent on the police service will almost always be fulfilled through the efforts of the officers, who, by dint of their employment in the police, have undertaken and agreed to resolve the tasks associated with their position.

Although the Police Act of 4th August 1995, no. 53, is a substantive law regulating the rights and obligations of the police, it contains no coherent regulation of the police's special duty to act. Nevertheless, through a combination of several of the law's provisions of varying specificity, there is no doubt that such a special duty to act does exist. Section 1, second paragraph of the Police Act stipulates that the police's objective is to "be a part of society's overall efforts to promote and consolidate citizens' legal rights". As we can see from Auglend and Mæland,¹⁴ the term "rule of law" encompasses many different matters, but -

[A]t the heart of the term, however, is the protection of personal integrity and security, which is to say protection against physical attacks on the individual's life, health, and property. The right to be left in peace and not harassed by others is also an aspect of the rule of law. With their authority and capacity to act, the police are the public agency best placed to provide immediate and effective protection against such violations.

Or, as Professor emeritus Henning Jakhellin¹⁵ expresses it in his contribution to the 22nd July commission:

Society's need for security and emergency preparedness is the background to the establishment, through legislation, of agencies such as the police, the health service, the fire service, the defence forces and so on. These agencies have a duty to act to maintain society's functions, life and health, private and public property, etc.

Considering the wording in the Police Act, section 1, second paragraph, "a part of society's overall efforts for", the police do not stand alone in safeguarding citizens' legal security and safety. Section 2 of the Act, however, sets out in more detail what the tasks of the police are. The central provisions of the issue we are dealing with are section 2 of the Act, numbers 3 and 4. According to number 3, the police should "stop criminal activity" and, according to number 4, "offer citizens help and support in situations of danger".

Many of the instances triggering the police's duty to act involve serious criminal acts, and the requirement that police "stop criminal activity" is, in such circumstances, further

¹⁴ Auglend & Mæland, 2016, p. 261.

¹⁵ Jakhellin, 2012, p. 5.

specified in the police instructions (general service instructions for the police 22.06.1990 No. 3963) section 10.2, which stipulates that “[i]f a police officer encounters someone in the process of committing a criminal act, he is obliged to intervene without delay in order to stop the act or prevent it from being repeated”.

The task of providing citizens with assistance in dangerous circumstances is specified in section 27 of the Police Act. Crises and catastrophic situations, section 27 of the Police Act, third paragraph, first sentence “obliges [...] the police to take the necessary measures to avert danger and limit damage”. An obligation also included in the police instructions, section 12-2, second paragraph. But one must also assume that the duty to act is anchored directly in the Police Act, section 2, number 4. Compare, among others, Auglend and Mæland,¹⁶ where it is emphasised that “[e]mergencies and more or less acute *dangerous situations* represent the traditional and clear core area of the duty to help”, and that section 27 of the Police Act is a “further clarification” of this duty.

In the case of persons injured in accidents or criminal acts, a duty to act also seems reasonably clearly provided for in the Police Act section 12, third paragraph, on the right to enter houses or spaces to search for injured persons. There are also, in the police instructions, several provisions stipulating or presupposing a duty to act for the police, see section 8-3, section 8-4, second paragraph and section 10-3, first paragraph.

According to these provisions, the duty to act is most clearly and most concretely regulated in cases of fire, accident and disaster. This is probably because this is where there is the greatest need to establish that the police also have duty: these are situations where the duty to act for other public agencies such as the fire service, the health service and Civil Defence is equally clear. That there is no correspondingly clear regulation of the police's duty to act when people's lives or health are in danger due to ongoing violent criminality is probably largely an expression of the duty being obvious, and that the police are alone with it. It is this duty to act that forms the basis for the provision in point D 3.1. in the *Nasjonale prosedyre for nødrettenes samvirke ved pågående livstruende vold* [National procedure for the cooperation of the emergency services in ongoing life-threatening violence] (PLIVO):¹⁷

The police shall implement measures against the perpetrator(s) as quickly as possible, to neutralise them as soon as possible. This means that the first police unit on site is to find the best way forward and then engage without waiting for other police units. Any other police units arriving at the scene must also enter the HOT zone as soon as possible in order to neutralise the perpetrator(s). The actions taken must be proportionate to the current threat.

This regulation leaves no doubt that the police are required by national police legislation to have a special duty to act when citizens are in danger due to criminal acts, accidents, and natural events. What the regulation does not make clear is how far this duty to act extends. This is discussed in more detail below.

In strengthening the position of human rights in Norwegian law,¹⁸ the European Convention on Human Rights was made part of domestic Norwegian law. The Convention's article 2 (1) establishes the right to life. The primary purpose of this provision in the Convention is

¹⁶ Auglend & Mæland, 2016, p. 447.

¹⁷ Politidirektoratet et al., 2019.

¹⁸ Act of 21st May 1999 No. 30.6.

to set limits on states' right to take life (the negative obligation). However, the European Court of Human Rights (ECHR) has relied on the provision in article 2, in conjunction with article 1, requiring states to "guarantee to everyone within their jurisdiction" the rights and obligations of the convention, to impose certain (positive) obligations on states to protect the life of the citizen, even when the attack comes from other civilians. When the question of the police's duty to act in dangerous operations arises, it often relates to situations where someone commits, or threatens to commit, lethal or potentially lethal violence against one or more others. An obvious question here is what obligation the state's duty to protect the lives of citizens places on the police.

First of all, the positive obligation under article 2 of the ECHR requires suitable legislation and an effective enforcement apparatus. Each state must have legislation criminalising these acts, a police force to investigate violations, and courts to pass judgement.¹⁹ However, it is assumed that, in certain situations, there is also a duty, deriving from the convention, to implement operational (which is to say police) measures to protect the lives of citizens. In the cases that have come before the European Court of Human Rights, the threats have been significantly less acute than those belonging the present evaluation, but this means only that the ECHR's requirements for positive protection measures will be still clearer in the acute case under consideration here.

In the case *Osman versus the United Kingdom* in 1998, the European Court of Human Rights (EMD) stated:²⁰

Article 2 of the convention may also imply in certain well-defined circumstances a positive obligation on the authorities to take preventive operational measures to protect an individual whose life is at risk from the criminal acts of another individual.

The precondition for such an obligation to arise is

that the authorities knew, or ought to have known, at the time of the existence of a real and immediate risk to the life of an identified individual or individuals from the criminal acts of a third party and that they failed to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid that risk.

In those situations relevant to the commission, knowledge of an immediate or ongoing threat is obvious. There can be no doubt that states are obliged to deploy the available police force to protect the citizen or citizens who are exposed to the real and immediately life-threatening act. In such situations, the duty that follows from article 2 of the ECHR, (cf. article 1), hardly goes beyond that which already follows from and has been interpreted in the provisions of the Police Act (see above). But beyond this there is a limit to what can be deduced from, and anchored in, this positive obligation under article 2 of the ECHR. First, there is the question of what it is reasonable to demand in the situation, (see below). And, regarding the level of preparedness that must be established to deal with infrequent and unpredictable incidents, there are grounds to refer to the following statement in the *Osman* case (reiterated in later cases):

For the court and bearing in mind the difficulties involved in policing modern societies, the unpredictability of human conduct and the operational choices which must be made in terms

¹⁹ See Møse, 2002, p. 193.

²⁰ EMD-1994-23452.

of priorities and resources, such an obligation must be interpreted in a way which does not impose an impossible or disproportionate burden on the authorities.

Even though the question falls outside that of the individual duty to act, which is our main theme here, see Chapter 1 of the report, it must be assumed that article 2 of the ECHR (cf. Article 1), does not impose particularly strict or specific requirements on the police either in terms of intelligence or in general preparedness to meet infrequent and unpredictable events endangering human life and placing health at risk.

In its judgment reported in *Norsk Retstidende* [periodical of the Norwegian bar association] 2013 page 588, the Supreme Court summarised the positive obligation as follows:

In a number of decisions, the EMD has specified and developed the content and scope of, the security obligation. There may be nuances in what is said, based on, among other things, the type of case and over time. But some elements appear fairly consistent, and I have – considering the decision in NN's case – focused on the following four:

First: Police work is demanding and complex, the possibility of predicting developments is limited, and operational choices must be made within the framework of set priorities and resource-related frames. The Convention does not demand the impossible or disproportionate. And the state does not demand that each and every offence committed by a private person be averted. But there must be a response to the real and immediate risks the authorities are aware of, or should be aware of, taking those measures it is reasonable to expect based on the situation. I refer to *Osman v. The United Kingdom* (Grand Chamber judgment of 28th October 1998) (EMD-1994-23452) section 116, *Kontrová v. Slovakia* (judgment of 31st May 2007) (EMD-2004-7510), section 50, *Milanovic v. Serbia* (judgment 14th December 2010) (EMD-2007-44614), section 84 and *Dordevic v Croatia* (judgment 24th July 2012) (EMD-2010-41526), section 139.

Secondly: in a number of decisions, the EMD has emphasised that national authorities are best placed to assess the best way to react, cf. most recently, *Valiuliene v Lithuania* (judgment of 26th March 2013) (EMD-2007-33234) sections 76 and 85. Following the same practice, the states have, therefore, a certain degree of discretion with regard to the choice of means, in the sense that it is not a question of checking the authorities' choice against ideal criteria – the question is, rather, whether the measures taken were, all things considered, both adequate and proportionate.

The Supreme Court's summary clearly states that "there must be a response to *real* and *immediate* risk that the authorities are *aware of*". In the acute situation which is our subject here there is therefore no doubt that the authorities' – that is the police's – duty to act under Article 2 of the ECHR has also been established in authoritative domestic case law. What exactly the extent of this duty to act in acute situations is, on the other hand, is more diffuse. What is required is that there are put in place "the measures that, given the circumstances, it is *reasonable* to expect".

A complicating and limiting factor in connection with this is that the stricter the requirements for action set by the state, the more the primary, negative obligation in article 2 of the ECHR comes into play. Here, it is the state deliberately demanding that its officials put their lives in danger. This will demand of the state that it, through education, training and equipment, does what it can to protect the lives of its civil servants. For comparison, see Cullen, Williamson and Crawshaw:²¹

21 Cullen, Williamson & Crawshaw, 2007, pp. 119–120.

It is almost inevitable that defects in training, equipment, planning and command and control of police operations have led to loss of police lives. Deficiencies in these areas provide at least prima facie grounds for seeking remedy or redress through a human rights treaty body.

From a legal point of view, here we have a barbell principle: the more immediate and direct action we demand of the first unit on the ground to fulfil the state's positive obligation to protect the lives of citizens, the greater (negative) duty the state incurs to protect the lives of police officers through education, training, and equipment. There are no decisions from the European Court of Human Rights indicating in more detail how these are to be balanced. Legally speaking, therefore, we are back to square one: in cases where the lives and well-being of other citizens are threatened, how great a risk do we require police officers to take to come to their rescue?

Delimitation of the police's special duty to act

It is natural to start from what one might call *the lower limit*. The general duty to act arises only when a person is in a situation involving danger to life, danger of significant injury or the immediate risk of being exposed to other serious loss of integrity. In the earlier discussion, it was taken as a possible starting point that the general duty to act constituted a lower limit for the police's *special* duty to act. However, it must also be assumed that the police's special duty to act may also arise in the face of less serious violations and circumstances than those triggering the general duty to act. The topic here is the duty to act in dangerous police operations. Interventions in the event of less serious offences are hardly likely to be dangerous for the officers and therefore fall, strictly speaking, outside the topic. For the sake of completeness, however, a brief account is given also of this lower limit.

While the police's duty to act in "emergencies and more or less acute situations of danger" is considered to be "unconditional and immediate", in less serious situations and offences it is "both discretionary and vague", according to Auglend and Mæland.²² Beyond criminality, the Police Act, section 2, number 4, stipulates that the police are only obliged to provide assistance when it is "required and natural".

The result of that, however, is not that the police's special duty to act for less serious situations is only triggered when the offended person requests it. The morbidly jealous man who has physically attacked his partner because she talked to another man in the park is "only" guilty of bodily harm, in accordance with the Penal Code, section 271. A police patrol, observing the incident will, on the other hand, have a duty to intervene and stop the offence according to the Police Act, section 2, number 3, cf. the police instructions section 10-2.

On the other hand, it is not every request from a citizen that occasions a duty in the police. That the duty to help only arises when it is "required and natural", shows that other possibilities for help should be tried first. And, even if other assistance is not available, the police's duty to help must be reconciled with other duties and the resources available.

²² Auglend & Mæland, 2016, p. 448.

The most difficult and pertinent question relates to *the duty to act's upper limit*. It can occur in two different situations: one is where the officer(s) act entirely on their own in circumstances where rescue efforts must be made and there is danger to the person in question. This might be the case where the situation is so precarious that there is neither time, nor is it appropriate, to seek out an advance directive regarding it, or where the patrol is somewhere without coverage to contact liaison partners. This raises the question of the upper limit of the duty to act in its purest form: which risks are officers duty bound to expose themselves to? Or, as the presentation below shows, the question could be: what safety risk are they entitled to expose themselves to?

The other situation is that the officers act in accordance with an order given by one of their managers. In this case, a duty to obey arises from the police instructions, section 6-1, second paragraph, point one. This reads: "A police officer is obliged to obey orders from a superior unless the order is clearly assumed to be illegal or obviously does not concern the service".

The police instructions are supplemented on this point by the order instructions for the police,²³ the purpose of which is to set out the chains of command in the police service and associated organisational plans. They also stipulate the manager's rights and duties in making decisions and issuing binding instructions – orders – to subordinates within the law, regulations and job descriptions. The duty to obey in the police is a direct result of the force being organised as a hierarchical structure ranging from the authority to command to explicit subordination.²⁴

The duty to follow orders does not, however, apply to orders which are "clearly found to be illegal". In this, it is most natural to think of orders which are illegal given the circumstances. This may be against the public, in the form, for example, of the officer being ordered to commit a burglary to search for an object where the conditions for such a search are clearly not met. The illegality can also be directed internally such as when an officer is ordered to write a dishonest report. For the case in point here, however, there is a third type of "illegal" order which is relevant: namely where someone is ordered to perform an act of service more dangerous than that person is obliged to perform.

That which is presented below will show that the standardisation of the upper limit of the duty to act in the case of service actions involving danger to life or health is relative and discretionary and must be based on an overall assessment of several factors. It will therefore rarely be completely obvious which side of the border you find yourself on. In principle, however, the limit is the same whether the officials act on their own and must decide for themselves what the duty to act requires of them or have to take a stand on whether or not they are obliged to follow an order to take action.

There is no provision in the legislation generally authorising the right to refuse to perform hazardous work. On the other hand, the Working Environment Act section 2-3, second paragraph, letter c, contains a provision that "[t]he employee should break off the work if (s)he believes that they cannot continue without endangering their life or health."²⁵

23 Politidirektoratet 11th May 2010, cf Circular 2010/005.

24 See Auglend & Mæland, 2016, p. 530.

25 Act of 17th June 2005 no. 62 on the working environment, working hours and job security et seq.

This provision imposes a *duty* on the employee to break off work they believe to be dangerous to life or health. The purpose of the provision is that the employer or his proxy be notified of the danger and take a view on whether it is justifiable to allow the work to continue.²⁶ This duty was established first in 1977, and the provision in the current legislation is identical to the Working Environment Act of 1977 section 16, number 1, fourth paragraph. The right to not perform work possibly posing a health hazard is based in the law but has been considered so obvious it has been considered unnecessary to legislate it. Compare the statement in the Supreme Court's decision which is reproduced in *Norsk Retstidende* 1989, page 329, where, on pages 335–336 it says:

The provision in section 16, number 1, fourth paragraph, applies to the employee's duty to interrupt work when this entails danger to his or others' life or health. Intentional or negligent breach of this duty entails criminal liability under section 86 of the Act. The employee's right to refuse to perform work posing a health hazard is not enshrined in law. This right was assumed to be so clearly recognised in Norwegian working life that this was considered superfluous (cf. Ot. prp. No. 3 (1975–76), page 110, column 2). The wording of section 16, number 1, fourth paragraph, is therefore not automatically decisive when the extent of the employee's right of refusal is to be determined. The unlegislated right to refuse must, in addition to an assessment of the obligations that may result from the employment relationship, be assumed to be based on the views that more generally apply when deciding whether an otherwise unlawful act can be considered justified, including emergency considerations.

However, the rules on the right to refuse, and the duty to refuse, must be seen in context. The right to refuse must in any case extend as far as the duty.

When the common law right to not carry out work representing a possible danger to life or health extends at least as far as the duty, the provision in the Working Environment Act, sections 2–3, second paragraph, letter c, may immediately and without reflection form the basis for two conclusions: that the employer – including police management – has no right to initiate work tasks involving such a risk, and that the individual service person has a subjectively rooted right to refuse to perform the same. The presentation below shows that there is no basis for either of these conclusions.

The starting point is that the provision in the Working Environment Act, section 2-3, second paragraph, letter c, regarding the duty to break off work considered dangerous to life and health, and the associated right to refuse such work, limits the employer's right to control, and thus also the employee's duty of obedience. Even though the wording indicates that the right of refusal is an absolute and subjective right, both theory and practice show that it is, to a large extent, a question of both a relative and objectively rooted right.

The duty to not perform work possibly endangering life or health is relative in two senses. Firstly, the duty varies with the type of work. The Supreme Court expresses it as follows in the decision reproduced in *Norsk Retstidende* 1989 on page 336:

Despite the wording of the law and the manner of expression in the preparatory work for the law with regard to the unlegislated right of refusal, not every health hazard can provide a basis for refusing to perform work. Clearly, a number of professions require that the employee, in certain situations, expose himself to a not insignificant danger. A risk that falls

²⁶ For general consideration of the provisions of the Working Environment Act, see Fougner et al., 2018, pp. 108–109. For consideration of the provision in a police context, see the extensive treatment in Auglend, 2016, pp. 791–809.

within what follows from the employment does not give the employee a pure right to refuse to perform the work. In the public sector, in addition to the police, one can mention the fire service, the prison service and psychiatric nurses.

As Jakhelln indicates on pages 5 and 6 of his report to the 22nd July commission, "society's need for security and emergency preparedness forms [...] the background for the establishment of agencies such as the police, health service, fire service, defence forces, and so on, through legislation", and it is "these agencies which have a duty to act" to, among other things, ensure life and health. This must include "an implicit precondition for the agency's activities that a degree of danger be accepted, and that this degree of danger will vary – and have quite different levels – depending on the task in question".

The final part of the quote (Jakhelln, 2012) above points to the second relativity: within the occupations requiring employees to be exposed to danger, the size of the risk that must be accepted also varies with "which interests are to be safeguarded by the employee's efforts". In the case of a police effort made to save the lives or health of others, a greater risk to the crews must be accepted than if the goal were to save even substantial material assets.

The provisions of the Working Environment Act largely safeguard society's interest in a safe and justifiable working environment, and only to a lesser extent the interests of the individual employee. A natural consequence of this is that the delimitation of which risk can be accepted is made according to an objective standard and not according to the individual employee's subjective opinion. Regarding the objective nature of this norm, the Supreme Court stated in the decision in *Norsk Retstidende* 1989 (p. 336), "that after an objective assessment, there must be a danger which, based on the employment relationship and the circumstances in general, goes beyond what the employee should find himself in". The risk that the individual police officer in the given situation believes (s)he is obliged to expose him/herself to is therefore in principle irrelevant to management's right to control and the officer's duty of obedience. What, in a specific situation, falls within the danger that the service person must accept based on his/her position, will most often depend on a complex and difficult assessment. The objective side is shown by the fact that the Supreme Court, in the decision from 1989 (cf. p. 336 in *Norsk Retstidende* from the same year), stated that, "in principle it must be up to the superior to make" this assessment.

In situations where the police officer(s) act(s) on their own initiative, they must themselves, however, make the assessment. In his report to the 22nd July commission, Jakhelln writes:

In such circumstances, the officer himself must decide if the situation constitutes a greater risk than those associated with his police duties, based on the duty to act the position entails. Thus, the police officer must have a significant margin of discretion about whether the degree of danger exceeds what is justifiable based on the nature of the position and what the circumstances of the situation otherwise dictate.

The Supreme Court's decision from 1989 also clarifies (p. 336) a further couple of points related to the duty to act and the objective standard of conformity to the duty of obedience: that the employer has neglected obligations under the Working Environment Act does not in itself give the right to refuse to carry out the order, unless the neglect leads

to an increased level of risk which then gives the right to refuse. If the risk is within that considered justifiable, even if that risk could be reduced through the use of relatively limited means, this does not give a right to refuse to undertake the work (p. 337).

The duty to act that a police operation in crisis situations must hold itself within, and which the duty of obedience implies that the officers involved are obliged to participate in, has, beyond this, two limits: the operation must not contain elements representing a danger that is not acceptable under any circumstances. And, even where it does not exceed this limit, it must not, from out of an assessment of the specific situation, be regarded as patently unjustifiable. The first of these – a danger unacceptable in all circumstances – would include, for example, a situation in which the incident commander ordered an officer without smoke diving equipment and smoke diving experience to accompany and assist the fire service's smoke divers in retrieving people from a burning house. This limitation is not covered by the following: a danger that would not be acceptable in any circumstances, will, of course, normally be also "clearly indefensible". The further discussion will therefore concentrate on what lies in the fact that the risk must be justifiable.

The general labour law framework must therefore be understood as meaning that it does not prohibit work entailing a risk to life and health. In such cases, however, it is required that protective measures be taken, and that the work is set up so that it is justifiable in the specific situation. How the police's duty to act in a dangerous situation can and should be fulfilled can therefore only be resolved by a concrete and discretionary assessment of all relevant circumstances in the particular case in question. Generally, however, it is possible to discuss three questions:

1. Who in the police operational organisation takes the decision about how to act? That is, who takes a position regarding justifiability?
2. Which considerations is it natural and correct to take into account in making the assessment?
3. Is it possible to formulate a norm indicating when the limits of justifiability have been reached?

Where the first point is concerned, as mentioned, the Supreme Court, in its 1989 decision, assumed that it "must be up to the superior officer to make" the decision on how the police's efforts in a dangerous situation are to be carried out. Naturally enough, the decision says nothing about who this "superior officer" is, and there has been significant change and improvement in quality in the management of the police's operational efforts since the court decision in the late 1980s. Organisation of the kind of police operation relevant here will follow the Police Emergency Preparedness System Part I (PBS I),²⁷ especially pages 135–136 and 156–161 (see section 2.2). Depending on the size and complexity of the incident, there will be three or four levels of management. In "normal" incidents, these levels will be the *chief of police*, the *control room supervisor* (head of the police control room) and the *incident commander* (the tactical and coordinating leader of the police force in the field). An incident of a kind and magnitude leading to the police district's staff

27 Politidirektoratet, 2020.

being set will see the *chief of staff* come into the management structure between the *control room supervisor* and the *chief of police*. As "superior" in the context discussed here, it is scarcely possible to consider anyone other than the incident commander (or the person occupying the incident commander role, (cf. PBS I, p. 156).²⁸ The incident commander leads during the assignment, and his tasks are, according to PBS 1, page 157:

The incident commander shall lead, coordinate, and ensure the quality of the handling of acute and planned assignments at tactical level, and is responsible for ensuring that the effort is coordinated in accordance with the police's overall priorities and decisions.

In PBS 1, page 148, the incident commander is described as "the police district's top leader at tactical level". That it is the incident commander who, in this context, is "superior" is supported by PBS II page 48, which states that during acute operations of the "shooting in progress" type, the "incident commander must attempt to use the most skilled crews in the frontline of the confrontation with the perpetrator(s)".

This agrees with what Jakhelln²⁹ stated in his report:

Furthermore, the starting point must be that the situation during an ongoing rescue operation must be assessed on an ongoing basis, and decisions must be made under strong time pressure if the situation develops dramatically. This ongoing assessment of the development, and thus also of the risk of continuing the rescue operation, will therefore have to be taken by *the rescue management* as it sees best, based on the rescue management's knowledge of the situation at all times. (Italics ours).

Given the requirements of professional competence, service experience and leadership qualities set for anyone who is to hold the role of incident commander, they, as the police district's leader in the operational area, will naturally occupy the role of "superior". At the same time, they want to be so close to the situation requiring the efforts of the police, that they can, as far as possible, quickly and continuously access information about the current situation.

With the distances and population distribution characteristic of large parts of Norway, it can easily happen that an immediate action must be initiated without the operation being led by any formal incident commander, as was the case in the Kongsberg incident. In this case, leadership on site falls to the person holding the highest rank, possibly the most senior in that rank, (cf. the police order instructions section 9 and PBS I, page 156). In such cases, it is natural that the officer occupying the role of incident commander will rely on the control room supervisor or, over the radio, the permanent incident commander. In practice, however, situations can easily arise where the officers must act alone, cf. above.

Regarding questions about the factors which must be included in the due diligence assessment, it is natural to start with the relationship between the level of risk and the obligation to make an effort. In our context the problem pertains to cases where police efforts are required because human lives or health are in danger due to ongoing violent crime. These are situations in which the relativity of the provision that work cannot continue if it entails danger to life or health – cf. the Working Environment Act, section 2-3, second paragraph, letter c – is at its most extreme. The duty to contribute relates to the

²⁸ Also Auglend, 2016, pp. 807–808.

²⁹ Jakhelln, 2003, p. 7.

police, a service which is obliged to expose itself to not insignificant danger, demanding that its officers submit themselves to the greatest permissible risk.

In respect of this, it is natural to ask questions about whether the incident commander *can require participation from all responding officers*. In other words: does exposing oneself to this considerable risk fall within what the ordinary response personnel with operational category 4 certification must accept? It is perfectly clear that this must be answered in the affirmative. Plans have been put in place in the police force for so-called immediate action for ongoing life-threatening violent acts. All personnel graduating from the Norwegian Police University College have received training in this, and the plans are reiterated regularly during the ongoing training that all operative personnel undergo annually. All officers also have weapons training, have access to and are trained in the use of protective equipment. Against this background it is not possible to argue that the danger, generally speaking, goes beyond what the ordinary operational crews must subject themselves to.

Even though all crews with operational certification have received training in this type of immediate action and are duty bound to act, their competence and experience varies widely. Response personnel (IP) are divided into categories (see point 2.5.2), where category 1 is best suited and trained to cope in such acute operations. Category 1 consists of the tactical units, while category 3 is officials in the police emergency units who have significantly more extensive training in such situations than the police's ordinary operational force, who make up category 4. As well as training and education varying between these categories, it is also the case that the most suitable crews are used in acute assignments when time permits. This means that these officers, in addition to a more, and to some extent significantly more, extensive training also acquire very valuable experience and joint training that the ordinary operational force in category 4 do not. This is, naturally, a disadvantage in situations where the police's duty to act requires immediate action but more experienced officers, due to time, distance, holiday arrangements or the like, are unavailable. It goes without saying that an effort of an acceptable standard can be planned differently when you have at your disposal a well-trained, experienced and perhaps also better equipped team from the police district emergency unit with IP3 approval than when using "random" officers with varying experience and limited joint training. Except in Oslo and the other large cities, there is every reason to suppose that when immediate action is required, the latter situation – of which the Kongsberg incident is an example – is, today, more likely than the former.

But even with well-trained crews, the preconditions for making a sound plan for the action in these situations are usually poor. There will be time pressure, a lack of secure and unambiguous information, and the situation planned for will not normally be stable, rather constantly changing. Even if the situation is stable, the buildings involved, terrain or the like may make gaining an overview difficult or impossible. When it comes to the time that could be used for planning or for obtaining additional information (for example maps, drawings or photos of the premises involved), guidelines in PBS II, page 47, state that in situations of the type relevant here, the police must "as soon as possible prepare to go directly into the action phase". This is reiterated in the PLIVO procedure described above. Often, the information the incident commander or first unit at the scene have access to is incomplete and, sometimes, contradictory. Witnesses who have been or are still exposed to threat are likely to be in a mental state such that their ability to observe

is affected. There have been cases where such witnesses have been sure that there were several perpetrators, while subsequent investigation establishes with certainty that there was only one. However, the limited time available, and the impossibility of verifying information means that the effort must be planned around this uncertainty. Often, it will also be the case that the situation planned for will have changed before the measures can be implemented, because, for example, an armed perpetrator has moved without firing a shot, or uses weapons making no sound, such as a knife, a stabbing or heavy weapon. This means that a considerable amount of discretion must be allowed the police in how they carry out their action, and for the eventualities needing to be considered.

It follows from this that any attempt to standardise the police's efforts in such dangerous situations will need to be relatively generally formulated. Whilst the police's efforts have to be planned on the basis of a number of uncertain factors, there is nonetheless one dominant consideration that must be emphasised in the interests of both those who are to be rescued and the safety of the crews: based on the available general plans, the available information and the quality and extent of the available resources, the action must be planned within such margins that it has a reasonable chance of succeeding.

A foolhardy plan with a happy outcome tends to be met with unreflective cheering. With a different outcome, however, the same plan is often regarded as "clearly unjustifiable on the basis of an assessment of the specific situation", to use the words of the Supreme Court from its judgement in 1989. From a legal point of view, it cannot be considered justifiable to base the effort on a plan assuming that the police have luck on their side, and that all uncertain factors will turn out to be to the advantage of the task force. Conversely, action cannot be avoided because there is a possibility that the officers do not emerge from it with their life and health intact.

2.2 The police's emergency preparedness and crisis management

This section describes guidelines for police organisation and leadership in crisis management, including principles of police emergency preparedness, organisation in the event of extraordinary incidents and crises, police education and operational training with emphasis on PLIVO, as well as Norwegian and Nordic police experience with PLIVO. In addition, an overview of international experience of and research into (albeit using different terminology) PLIVO events will be discussed. The PLIVO procedure is discussed briefly before the section concludes with a description of the police's organisation and management.

2.2.1 Principles of police preparedness work

The Department of Justice and Emergency Preparedness outlines four basic principles for the ministry's work with security and emergency preparedness:³⁰ 1) *The principle of responsibility* means that the organisation normally responsible for an area is also responsible for contingency planning and crisis management in that area. 2) *The principle of equality* means that the organisation used in handling crises is essentially the same as in a normal situation. 3) *The principle of proximity* means that all incidents, including crises, are handled at the lowest possible level in the organisation. 4) *The principle of collaboration* means that all public actors have, independently, responsibility for ensuring

30 Samfunnssikkerhetsinstruksen, 2017.

the best possible cooperation for the prevention of, preparedness for and handling of crises. These basic principles form the basis of the police's public safety and emergency preparedness, including the production of emergency preparedness plans such as the *Police's emergency preparedness system*.³¹

2.2.2 The police emergency preparedness system

The police emergency preparedness system (PBS) is a plan in three parts:³²

- *PBS I: Guidelines for police preparedness*
- *PBS II: Steering documents from the Police Directorate*
- *PBS III: The police districts' own planning*

PBS I provides the basic guidelines for police emergency preparedness and is publicly available. *PBS II* is the Police Directorate's steering documents providing guidelines for the police districts' own emergency preparedness plan, and these are not publicly available.³³ *PBS III* consists of the police districts' own planning, in which guidelines and directions from *PBS I* and *II* are adapted to local conditions. *PBS I, II* and *III* are published on the police's electronic platform for contingency planning, PBS Web, to which the police have access from police vehicles via login to the police network.³⁴

The guidelines in *PBS I* include the organisation and management of the police, emergency personnel and National Police Special Response department (NB) in the Oslo Police District. These are key to the police's ability to manage extraordinary situations and crises, such as PLIVO incidents. These factors will be discussed from the point of view of crisis management.

2.2.3 The PLIVO procedure

The experience of 22nd July 2011 and international experience of, among others, school shootings, exposed a need have preparedness in place for the management of such incidents. *Prosedyren for nødetatenes samvirke ved pågående livstruende vold* [Procedure for collaboration between the emergency services in the event of ongoing life-threatening violence] (PLIVO) was developed by the emergency services to ensure the necessary preparedness and inter-agency collaboration in the event of PLIVO incidents. In the police emergency preparedness system (see point 2.2.2), the procedure falls under *PBS II – Steering documents from the Norwegian Police Directorate*.

In order to ensure satisfactory collaboration between the emergency services in PLIVO incidents, extensive training is needed as PLIVO incidents are infrequent, and emergency personnel will therefore not be able to accumulate the necessary experience during their daily duties.³⁵ The 2019 PLIVO procedure is not publicly available, but elements of the content of this edition, approved for publication, are used in Chapter 5 in assessing the police's operational management of the Kongsberg incident.

31 Politidirektoratet, 2020, p. 26.

32 Politidirektoratet, 2020, p. 19.

33 NOU 2017: 9.

34 NOU 2017: 9, p. 54.

35 Politidirektoratet, 2020, p. 3.

2.2.4 Organisation and management of the police

Management levels for handling extraordinary incidents and crises at national level are divided into the following:³⁶

- political level: the government
- strategic level: Ministry of Justice and Emergency Preparedness
- operational level: Police Directorate
- tactical level: police districts

In the following, the presentation will be limited to national tactical level – organisation and management in the police districts. For a more detailed account at national level, please refer to *PBS I*³⁷ and, for example, the Armaments Committee's report.³⁸

In the police districts, police operational efforts are led at strategic, operational and tactical levels. Figure 1 shows these management levels when a staff is set, as happens when the management system has to be adapted in the face of extraordinary events and crises:

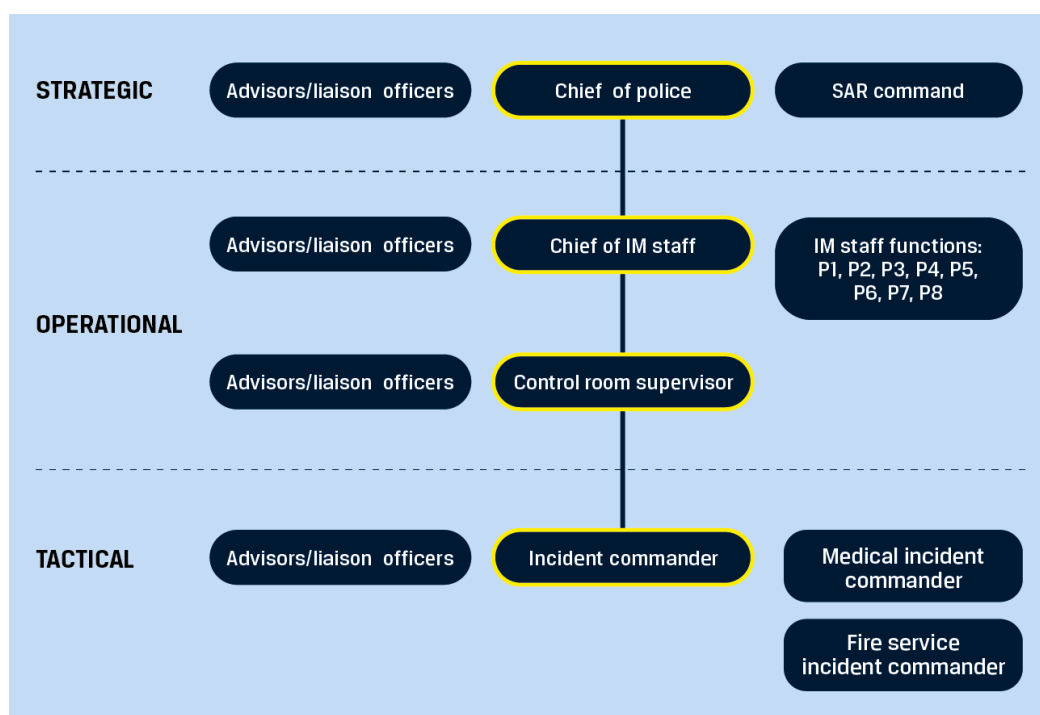


Figure 1: Directorate of Police, 2020, p. 40.

The *strategic level* is led by the chief of police and, in rescue operations (such as that following the mudslide in Gjerdrum in 2020), the rescue management including the chief of police, form the strategic management at the local rescue centre (LRS). The strategic level prepares the strategy and overall framework for the resolution of assignments.³⁹

36 Politidirektoratet, 2020, p. 30.
 37 Politidirektoratet, 2020.
 38 NOU 2017: 9.
 39 Politidirektoratet, 2020, p. 40.

The *operational level* is led by the chief of staff when a staff is set, and operational management involves planning and coordination of the police's efforts to attain the targets set at strategic level.⁴⁰ The staff forms the chief of police's management apparatus at this level and consists of function leaders ("P" functions) with responsibility for key subject areas within the police district. For a more detailed account, see PBS I. Staff is a management form set at the behest of the chief of police in incidents where strengthening the police's district management beyond its normal organisation is considered necessary to ensuring the effective management and coordination of the district's total resources. An alternative to setting a staff is to establish a reinforced line: maintaining the ordinary line management in which the control room supervisor leads at operational level, but the control room is provided with additional resources.

Figure 1 makes visible – to a certain extent – the management structure during ordinary line management (when the staff is not set). In normal circumstances, the control room supervisor is the police district's leader at operational level. The control room supervisor leads the work at the police district's control centre, where the assignment supervisor, following instructions from the control room supervisor, must contribute to leading and coordinating the assignment. In this, the assignment supervisor must ensure good communication with the incident commander and maintain good communication and cooperation with other collaborating actors. Communications officers handle all inquiries to the control room via telephone (including emergency calls to 112) and police radio. Incoming messages must be assessed, and where appropriate an assignment created in the police electronic duty record (PO),⁴¹ and that assignment managed and coordinated from the control room. In executing the assignment, the control room supervisor has decision taking authority in respect of the responding personnel.⁴²

Tactical level refers to the police response personnel at the scene of the particular incident. The police incident commander is the police district's overall leader at this level and has the authority to give orders to the other response personnel during the assignment. The incident commander leads and coordinates police efforts at the scene, collaborating with the control room and uses the most suitable emergency personnel for the assignment.⁴³ In incidents requiring interaction with the other emergency services, the incident commander has overall leadership in the response area, while the health- and fire service incident commanders lead their own personnel.⁴⁴ In the response area, the incident commander can appoint deputy-leader(s) with responsibility for various areas, for example, leader of an action, who must organise their task force and lead it under the supervision of the incident commander.⁴⁵

In incidents requiring coordinated management, there must be a permanent or temporary incident commander occupying the role, and for armed assignments, an incident commander must be appointed. Where a permanent incident commander is not available, the control room supervisor can appoint an officer to occupy that role for the duration of the shift or an individual assignment.⁴⁶ If no incident commander has been appointed, the

40 Politidirektoratet, 2020, p. 130.

41 For example, Evalueringsutvalget, 2020, p. 138.

42 Politidirektoratet, 2020.

43 NOU 2017: 9.

44 Politidirektoratet, 2020.

45 Politidirektoratet, 2020 p. 161.

46 Politidirektoratet, 2020.

senior officer in the police patrol, or among several patrols, takes the lead.⁴⁷ The great majority of police tasks are resolved in this way, without the direct leadership of a permanent or temporarily appointed incident commander. In the report of the 22nd July commission it appears, for example, from the commission's analysis, that 75 percent of police assignments were resolved by a single police patrol, and 90 percent by one or two patrols.⁴⁸

2.3 The Police Security Service (PST)

The Police Security Service (PST) is a separate police agency which, presently, draws its legal authority from the Police Act, section 16, third paragraph, number one, and the legislation's Chapter IIIa. Partly because PST does not fall under the Police Directorate but is rather directly under the Ministry of justice and Emergency Preparedness, PST is referred to a "a separate police agency" rather than as a specialist agency as is the case with, for example, KRIPOS and the national Mobile Police Service and others. In real terms, PST can be described as "a functional special directorate" which, within its professional field, has the same function and authority in relation to the police districts as the Police Directorate itself.

PST's tasks and organisation are regulated by the Police Act, Chapter IIIa and the instructions for the Police Surveillance Service (2005), laid down under the authority of the Police Act, section 29, first paragraph. The tasks PST is to (in the sense of having exclusive right to) undertake are currently regulated by section 17b of the Police Act, which reads:

The police security service shall prevent and investigate

1. violations of the Penal Code, sections 17 and 184, and the Security Act,
2. illegal intelligence activities,
3. proliferation of weapons of mass destruction and of equipment, materials and technology for the production or use of such weapons,
4. violations of the provisions of, or pursuant to, the Act on Control of the Export of
5. Strategic Goods, Services and Technology etc., the Sanctions Act, and
6. sabotage and politically motivated violence or coercion, or violations of the Penal
7. Code, sections 131 to 136 b, 145 or 146. Open investigation of such cases is,
8. nevertheless, carried out by the rest of the police, unless otherwise decided by the
9. higher prosecuting authority.

The police security service can, when requested, assist the other police in matters mentioned in the first paragraph, number 5, second sentence.

The Ministry can decide that the Police's security service be given responsibility in matters concerning organised crime, crimes against humanity, genocide, and serious war crimes.

This is not an exhaustive regulation of what are, or may be, PST's tasks. A certain level of supplementation appears in the instructions from 2005; it follows from these that PST is also responsible for bodyguard services. For the present evaluation, it is the interface

⁴⁷ Politidirektoratet, 2020, p. 160.

⁴⁸ NOU 2012: 14, p. 324.

with the task of preventing politically motivated violence – see section 17b, first paragraph, number 5 – which is most relevant.

When it comes to the regulation of the means and methods PST may use in the conduct of their duties, these are largely the same as for the police in general, regulated by the Police Act and the Criminal Procedures Act. In preventing or investigating more serious matters, however, PST is granted some special powers by the Police Act, section 17d, and in the Criminal Procedure Act section 222d, second paragraph. None of these special powers were relevant to PST's treatment of the case which is the subject of the present evaluation.

On PST's homepage, PST.no, the main tasks are described as follows:

Our primary tasks and responsibilities in PST are to prevent and investigate criminal acts against national security. We do this using a variety of means and ways of working. Collection of information about persons and groups who may pose a threat is central, plus the preparation of various analyses and threat assessments, investigation, and other operational measures, in addition to providing guidance.

In the present case, it is the task of collecting, registering and assessing information relating to persons or groups posing a threat of politically motivated violence, often referred to as "non-state actors". In recent years, this work has been aimed primarily at radicalised persons within the far right, or extreme Islam.

PST is organised from a head office, the Central Unit, which also represents PST in the Oslo police district. Attached to each police district is a PST district office, taking its professional management from the Central Unit. The chief of police is responsible for PST's activities in his/her district but is subordinate to the Head of PST. According to the cooperation plan for Sør-Øst police district, this arrangement serves two purposes: one is that a local presence helps PST to have ears and eyes in each police district. The other is that PST is better able to work in cooperation with the police districts.

Which cases are managed by the Central Unit and which by the PST offices in the police districts is determined by several factors. If the case is of such a nature and seriousness that covert measures may be used in prevention or during the investigation, it largely follows from the Police Act/Criminal Procedure Act that the case be dealt with by the Central Unit. It also follows from the Police Act section 17c, number 2, that cases requiring contact with liaison services abroad should be dealt with by the Central Unit. However, in addition to these statutory criteria, an assessment of the relationship between the nature of the case and the competence and capacity the district has at its disposal may also lead to the case being processed centrally. For the matter that has prompted the present evaluation, there was never any doubt that it should be handled by PST Søndre Buskerud, later PST Sør-Øst.

PST's activities have been evaluated several times,⁴⁹ and the findings, especially in the wake of 22nd July 2011, have resulted in major organisational changes. As developments in PST following 22nd July 2011 have been thoroughly described in the report of the Al-Noor commission it is recommended that anyone interested to study these changes does so there. Reorganisation within PST has not held particular significance for the

⁴⁹ Evalueringsutvalget, 2020, pp. 40–44.

evaluation of PST in this report. There are two reasons for this. First, assessments made of the information and the reports of concern received by PST were that Bråthen did not have any intention falling within PST's remit under the Police Act, section 17b, first paragraph, number 5, and were not followed up by PST as a potential terrorist threat. Nor has the Kongsberg 13th October 2021 incident itself been defined as terrorism and therefore does not fall within PST's area of responsibility.⁵⁰ The second reason is that PST's involvement in this case was largely restricted to the period mid-2015 to mid-2018. This period both precedes the Al-Noor incident in Bærum on 10th August 2019 and the subsequent evaluation report concerning it submitted on 29th June 2020. Any findings and remarks from the present commission relating to the organisation of PST would therefore only be, largely, of historical interest.

2.4 Sør-Øst police district

On politet.no, Sør-Øst police district is described in the following way: Sør-Øst police district is the third largest police district in the country by population and covers the geographic area of Vestfold, Telemark and Buskerud. The administrative and operational centre of Sør-Øst police district is in Tønsberg, and the police district has a total of 1650 staff. The police district stretches from Kragerø in the south to Hemsedal in the north.

Sør-Øst police district is organised into seven different functional units, three geographic operational units and three support units:

Geographic operational units:

- Geographic operational unit Buskerud
- Geographic operational unit Vestfold
- Geographic operational unit Telemark

Functional operational units:

- Joint unit for crime prevention
- Joint unit for intelligence and investigation
- Joint unit for operative services
- Joint unit for prosecution
- Joint unit for civil justice
- Joint administration unit
- Police Security Service (PST)

Support units (attached to the chief of police's Staff)

- Business management unit
- Communications unit
- HR and HSE Unit

Sør-Øst police district is led, in 2022, by Chief of Police Ole B. Sæverud

50 In connection with this, PST's handling of tips has been thoroughly evaluated by the Al-Noor commission, which proposed several learning points and made recommendations for changes to PST. In the mandate for the Kongsberg incident, the commission is asked to look after "[f]ollowing up of learning points after relevant events and exercises, including after the terrorist incident in the Al-Noor Mosque in Bærum and the 22nd July terror". For the evaluation of how PST (and the police) have received, handled and shared tips and information, the learning points from the Al-Noor incident are not applicable to our mandate, as PST's dealings with Bråthen in the Kongsberg incident were five years before the Al-Noor incident.

2.5 The police's education and training of operational personnel

2.5.1 The Police University College's training for response personnel

The Norwegian Police University College (PHS) is the core training institution of the police, offering a three-year bachelor's degree and a number of continuing and further courses.⁵¹ During the bachelor's degree, students at PHS acquire basic competence as operational personnel.⁵² The course's academic content follows from the PHS framework and subject plans, as well as teaching plans for individual lessons. Below follows a concise overview of the academic content of the operative training, by study year.

First year

Basic training and approval in the use of the telescopic baton and pepper spray, in connection with training in arrest techniques. In addition, an introduction is given to first aid and situational training. All exercises take place unarmed.

Second year

During the second year, which in its entirety is a practical year spent in one of the police districts, the students undergo a two-week camp where they are given a basic introduction to police operative service. This includes tactics, first aid, situational training and two days of training with the police firearm, the Heckler & Koch MP5. There is, in addition, a one-week course with the police's handgun, the Heckler and Koch P30L. The students also participate, to varying extents, in the police district's obligatory operative training for its personnel. Also exercises take place unarmed.

Third year

In the third year, students undergo approximately 12 hours of scenario training in a training simulator (geared primarily towards training in the police's Weapons Instructions). In addition, the students undergo a three-week camp with an emphasis on the conduct of armed assignments. This includes tactics, situational training and two and a half days of training for each of the police firearms, including police accreditation tests for each weapon.

Before the camp, the students complete digital training in PLIVO, and during the camp, one day of practical training in PLIVO, the academic content consisting of two lessons of 3.5 hours each. The first half is primarily training in tactics, the second consisting of PLIVO situations in which the students undergo situational training by going directly into efforts to neutralise a perpetrator engaged in a school shooting.⁵³

2.5.2 Response personnel and operational training

On successful completion of the bachelor's degree from PHS, the newly graduated students can be employed as response personnel in the police service. By this is meant service personnel who regularly/occasionally perform guard and emergency duties, including as bodyguards. These personnel are divided into four categories, dependent on the level of training and skills:⁵⁴

51 NOU 2017: 9.

52 Politidirektoratet, 2020.

53 Study plan re. PLIVO, at PHS.

54 Politidirektoratet, 2021, p. 41; NOU 2017: 9, p. 57.

- Response personnel 1: Personnel in the National Police Special Intervention Unit (BT). Thirteen weeks additional training plus 900 hours training annually.
- Response personnel 2: Personnel in the bodyguard service. Nine weeks additional training and 200–400 hours training annually. The bodyguard service has weapons accreditation and separate procedures.
- Response personnel 3: Personnel in the police districts' emergency units (UEH). A minimum of 3 weeks additional training and 103 hours training annually.
- Response personnel 4: Personnel with weapons accreditation. A minimum of the bachelor's degree from PHS and 48 hours training per year.

Response personnel in categories 1, 3 and 4 are accredited for the use of the police fire-arms and have these weapons in locked storage in police vehicles.⁵⁵ Response personnel carry out their annual training⁵⁶ based on a curriculum drawn up by PHS and commissioned by POD. The academic content consists of tactics, firearms training (including an annual accreditation test), first aid and more. In addition, response personnel train annually in the PLIVO procedure. PHS' curriculum for response personnel training for calendar year 2022⁵⁷ indicates that IP4s will train in the use of the pistol and MP5, arrest techniques, police tactics and health matters. In addition, six hours training in PLIVO in joint training with the other emergency services.

2.5.3 What experience do the police have of PLIVO?

The evaluation commission has conducted a questionnaire survey in all 12 police districts, with the aim of mapping the extent of, and experiences from, PLIVO incidents, from the procedure coming into effect in 2015 until mid-December 2021. This includes incidents defined, and read out over police radio, as PLIVO, but not necessarily actual PLIVO incidents. The police districts were sent five questions:

1. How many PLIVO assignments has your police district had since the procedure came into effect in 2015 and up to the present?
2. What is your police district's most important experience of these incidents?
3. How many of these assignments have resulted in a confrontation between the police and the other party?
4. How are these experiences documented, and, possibly, used, as learning within the police district?
5. Are these assignments reported to POD, and what information is sent to POD?

Table 1 shows the feedback from the police districts regarding Question 1.

55 NOU 2017: 9, p. 57.

56 See Sørensen, et al., 2022.

57 Curriculum for 2022, training of police response personnel. Politihøgskolen.

Police district	Number
Finnmark police district	0
Troms police district	0
Nordland police district	0
Trøndelag police district	0
Møre & Romsdal police district	0
Vest police district	5
Sør-Vest police district	1
Agder police district	0
Sør-Øst police district (including Kongsberg incident)	2
Innlandet police district	0
Oslo police district	5
Øst police district	2
Total	15

Table 1: Number of incidents defined as PLIVO in Norway 2015–2021.

Table 1 shows that the Norwegian police have managed a total of 15 PLIVO incidents, including the Kongsberg incident, since the procedure came into effect in 2015. Seven of the 12 police districts have had no experience of PLIVO. Of the five police districts who have such experience, three have had two incidents or fewer, and the others five incidents each.

The police districts with experience of PLIVO answered the additional questions 2–4. The overview below provides a summary of the police districts' feedback.

The police districts' most important experiences

One police district pointed to the speed with which PLIVO incidents propagate and end. Several emphasised the importance of such incidents being defined as PLIVO early, for the sake of situational awareness, mental preparation, disposition of resources and "change of pace". One district had the experience of the resources available when the incident arose being inadequate. Several highlighted clear leadership from the control room supervisor and the incident commander, communication discipline and the use of a separate voice group (i.e., communication channel) as being important factors. One police district, on the other hand, pointed out that their experience with PLIVO was that these incidents were far simpler and less extensive than the scenarios they had trained on. Other good experiences were that responding officers on site were able to confirm that personnel from the health and fire services could come forward to look after the injured, with the incident commander endorsing this judgement rather than taking it himself. This solution was considered adequate, as most of the incidents were more dynamic than static.

Confrontation between the police and the perpetrator

The police districts' feedback displays a wide range of experiences regarding confrontation between police and perpetrator. For example, one incident turned out not to be actual PLIVO; it involved a person with a replica firearm. In one incident, the perpetrator was overpowered by the public before the police arrived and, in another, the police's arrest of

the perpetrator was undramatic. Conversely, in several incidents the use of firearms had been threatened, and in one a taser was used against the perpetrator. None of the districts referred to PLIVO incidents during which the police had shot at the perpetrator.

Documentation and learning

The police districts gave mixed feedback on how PLIVO incidents were documented and used as a basis for learning: 1) One district emphasised debriefing of the personnel involved, and that these crews were happy to make presentations to others in the district. Evaluations were also occasionally carried out under the auspices of the incident commander and/or at operational level, without this following any established routine. 2) One district emphasised that follow-up of findings and learning points took place primarily at individual unit/section level, and that these experiences are also used in the compulsory operational training for response personnel. At the same time, it was pointed out that the incident leadership's section undertakes evaluations for its own function, followed up at internal training days. The control room reviews incidents at the end of shifts and during internal professional days, and collaborates with the incident leadership section, for exchanging experience. 3) The police district has its own group, which encourages the personnel involved to write down their experiences in separate forms, which are collected by the group and summarised in a separate evaluation report. These reports are made available to all on PBS web. In addition, there are arrangements for sharing experience between different sections, for example the control room and incident commanders, at training days. 4) The police district referred, generally, to a system having been established to use experiences from PLIVO in the training of response personnel and for sharing experience with the emergency services. Two districts each pointed out that no fixed routines had been established for the evaluation of PLIVO incidents for the police district as a whole and this was considered as being deficient.

Reporting to POD

Several of the police districts referred to the fact that during ongoing PLIVO incidents, situation reports were submitted to POD at the police's situation centre. In addition, incidents during which the police threatened to use or used firearms are routinely reported to POD. In contrast, several police districts pointed out that no separate reporting to POD has been established for experiences with, or outcomes from, PLIVO incidents as a basis for learning from experience.

2.5.4 Nordic police's experience of PLIVO

The evaluation commission conducted a survey similar to that in Norway among police in the Nordic countries. The following questions were posed:

1. Have the police a specific designation / procedure / a specific training concept for "ongoing life-threatening violence" (such as PLIVO)?
2. How many PLIVO assignments have police had between 2015 and the present?
3. What is the police's most important experience from these assignments?
4. How many of these assignments resulted in a confrontation between the police and the perpetrator(s)?
5. How were these experiences documented and possibly used for learning in the police?
6. How are these experiences gathered, and how are they, if at all, used at national level in the police organisation (for example, in police training or by the police directorate)?

Table 2 shows a compilation of the answers from Iceland, Denmark, Sweden and Finland. The number of the respective questions is in the left column.

	Iceland	Denmark	Sweden	Finland
1	The police have no fixed designation for incidents with ongoing life-threatening violence but have planning and train for such incidents.	The police use the term "initiated life-threatening and violent act (PLOV)".	The police use the term "ongoing fatal violence (PDV)". There are guidelines and plans, and training is undertaken to deal with such incidents.	The police do not have a separate name for incidents with ongoing life-threatening violence but use the term "implementation of the emergency plan" for the implementation of the procedures for such incidents.
2	0	Not available	Not available	2*
3	-	-	Need for training in mental preparation, need for speedy response and speed in confronting the perpetrator as well as creating opportunities for the police/others to influence the situation with regard to their training and their roles.	Most important factor is swift response and access to service weapons (the police are armed), meaning that the police could act immediately. Experience shows that acute incidents with "PLIVO" must be handled, first, by the police on the spot, and that specially trained personnel do not arrive quickly enough. It is important that all police officers are given good training in tactics/use of weapons.
4	-	No available overview of confrontations in PLOV events. Statistics are kept for the police's use of force, with annual reports published (poli-ti.dk).	Not available	The police fired shots at the perpetrator in both incidents (see below).
5	-	The police have fast routines for evaluating major incidents but have not had national evaluations of PLOV. The police districts evaluate efforts at such incidents, and learning points are conveyed to national level, including the Police School.	Documenting of general experience of the police's use of force happens according to fixed routines and is used in police training.	All events are recorded, and this information is available.

	Iceland	Denmark	Sweden	Finland
6	-	See point 5.	A national unit is responsible for monitoring special incidents such as PLIVO, with the aim that knowledge of such incidents is used for further development. The police also learn through extensive exchange of experiences and learning points from other countries/incidents.	The police can use ready-made material from investigations and court documents as a basis for developing their training. In the case of the largest incidents, police districts and national units such as the police academy can collaborate on development.

* These were two real PLIVO incidents in Finland: 1) Knife attack in a public place leaving two dead and eight injured. 2) Attack with a sword in a shopping centre resulting in one killed and nine injured, the perpetrator also starting a fire in the shopping centre. The emergency plan has also been implemented more than ten times since 2015, without this being defined as specifically PLIVO events.

Table 2: Experience of PLIVO in the Nordic countries

2.5.5 International research and experience from PLIVO

The library at the Norwegian Police University College, at the request of the evaluation commission, conducted a search for international research and experiences from PLIVO incidents, the aim being to provide a relevant information base able to contribute to a knowledge-based approach to PLIVO. The searches were performed in international databases using predefined keywords. The search results resulted in 931 references, which, after a screening process, were reduced to 259. The bibliography is attached in its entirety to the report (see Appendix 1).

2.6 Learning in the police

PBS I⁵⁸ states that the police is to be a “learning organisation”, and *experiential learning* has been promoted as a fundamental method for organisational learning aiming to develop all areas of the police’s activities. That the police as an organisation strives to be a learning organisation means learning from the problems and mistakes that arise and developing appropriate responses changing practice,⁵⁹ but also learning, and doing, what works well to ensure the continuation of good practice. That one learns from previous incidents – experiential learning – is characteristic and descriptive of an accountable police force.

The term “experiential learning” is composed of two commonplace concepts, “experience” and “learning”, to which most people can relate. They are words, the meaning of which is taken for granted. Unless one has a clear picture of what a term means in a given context, it can be difficult to talk *about* it. That the concept of “experiential learning” has an unclear meaning emerged from a study⁶⁰ of experiential learning as a concept and method in the development of crisis leadership and crisis management in the police. Researchers found that crisis managers had difficulty in explaining the concept of “experiential learning” talking instead about “evaluation”.⁶¹ The study also indicated that crisis managers at different levels (control room supervisor, chief of staff and chief of

58 Politidirektoratet, 2020, p. 214.

59 Walker & Archbold, 2018.

60 Hoel & Barland, 2021.

61 Hoel & Barland, 2021, p. 404.

police) had different understandings of how to learn from experience, and of the point of experiential learning.

When we have no shared understanding of what a concept means, it is difficult to talk about it, or we talk past each other.⁶² This can make it difficult to achieve effective experiential learning, resulting in the development and improvement of practice⁶³ and, especially, organisational learning.

The aim of this section is to present a theoretical basis for experiential learning so that we form a clearer picture of what it is, and what conditions it presupposes. In the following, we look more closely at the concept of “experiential learning” as set out in Dewey’s⁶⁴ pragmatic theory. Although it does not lend itself to being reduced to strategies, methods or formulas,⁶⁵ if experiential learning is to form a part of organisational learning it is necessary to understand its key characteristic features as learning theory. Finally, in relation to the case under evaluation, we point to organisational factors possibly hindering experiential learning in the police. But first, the background to the place of experiential learning in the police is presented.

2.6.1 Experiential learning in the police

In Norway, “experiential learning” as a concept and method of organisational development was launched in NOU 2009: 12 *Et ansvarlig politi: Åpenhet, kontroll og læring* [An accountable police force: Openness, control and learning] (Finstad commission). Experiential learning was understood as one of several internal control mechanisms in the police, at national level, to ensure that errors were corrected, and police practice based on knowledge-based learning. The report has played a significant role in the police’s understanding of the need to learn from experience, especially in cases where the force itself makes mistakes, to change and improve. A central finding of NOU 2009: 12 was that the police lacked a system ensuring that the organisation learned at national level. Therefore, one of the report’s recommendations was that the police, through experiential learning, learn from mistakes made in the pursuit of criminal cases. More specifically, the Finstad Commission⁶⁶ proposed that cases investigated by the Bureau for the Investigation of Police Affairs be, regardless of outcome, sent back to the police districts with a request that they learn from any errors in their own practice (routines, misunderstandings, etc.) uncovered by the investigation. In furtherance of this, the Finstad Commission further proposed that the Bureau of Police Affairs become a national competence centre for experiential learning as it constitutes a national “knowledge bank” regarding seeing unsatisfactory patterns in police practice.

NOU 2009: 12 became a cautious turning point for the Norwegian police’s acceptance of learning from their own mistakes and is therefore important for the agency. A weakness of the Finstad Commission’s description of learning is that it, like other organisations,⁶⁷ has little to say about *how* and *what* one is to learn from experience. It is also unclear which view of knowledge and learning forms the basis for experiential learning in NOU 2009: 12.

62 Hoel & Barland, 2021.

63 Rodgers, 2002.

64 Dewey, 2004; 2005.

65 Andresen, Boud & Cohen, 2000, p. 225.

66 NOU 2009:12.

67 Elkjær, 2004.

2.6.2 Theoretical considerations about experiential learning

Learning lies at the heart of all pedagogical literature. What learning is, how one learns, what learning requires, and what is learnt, are understood differently in different theories of learning, such as behaviourism, cognitivism, constructivism, and socio-culturalism. Although the definition of learning varies between these main educational schools, everyone agrees that learning is achieved when new knowledge provides lasting change in attitudes, skills, behaviours, ways of thinking, working habits or ways of reacting. In a pedagogical context, experiential learning is a method developed within pragmatic pedagogy. Experiential learning arose as a response to other forms of learning being perceived as being “excessively didactic, teacher-controlled, and involve[ing] a discipline-limited transfer of knowledge”.⁶⁸

In this context, we refer to the renowned American philosopher, pedagogue, psychologist, and pragmatist John Dewey, who about 100 years ago presented a theory of experiential learning that has received considerable recognition and remains relevant today. Dewey was concerned primarily with human actions or practices and the human need to find meaningful solutions to problems. He argued that knowledge is neither absolute nor carved in stone but can be fallible and amenable to being changed through systematic and methodical examination, reflection, and critical thinking. Hence the famous Dewey maxim “learning by doing.”

The commission draws on Dewey's theory, as he reminds us of the key factors required for learning to take place: that the whole individual be engaged (intellectually, emotionally and sensorily), that it is based on personal experience, and that the relationship between practical experience and reflection is what transforms the experience.

Dewey⁶⁹ contends that we live in a constant stream of experiences, to which we give little thought.⁷⁰ Things happens to, and around, people all the time, but not all experiences are meaningful, that is, we do not always *reflect* on them. Dewey calls such experiences primitive and undeveloped, different to having an “experience”. An experience is acquired: an experience that is complete and perceived as meaningful by the individual. Such an experience has two aspects: the active side is when we act, and the passive side is what happens to us when we act. The active and passive sides relate to each other. That is, an experience arises when the active side – what occurs – makes an impression on the passive side. An experience arises when our actions lead to a feeling of inconsistency, an imbalance or disjunction between the active and passive sides, or between our action and our experience of our action. Such experiences of discrepancy are required for learning, as the entire individual is brought into play or moved.⁷¹ This amounts, in Dewey's understanding of experience, to a transaction between the individual and the context. Both are continually influencing the other – and therefore experience is both a product and a process. However, the experience of discrepancy is linked to the emotional side of

68 Andresen, Boud & Cohen, 2000, p. 225.

69 Dewey, 2005.

70 The English language does not distinguish between the terms “*erfaring*” and “*opplevelse*”, adding adjectives to the term “experience” to express the degree of meaningfulness, for example “primitive” experiences or “cheap” experiences (Thiele, 2006) which we do not give much consideration to, and “complete” experience, expressing ‘fullness’.

71 Lindseth, 2015.

learning, as the body invariably forms part of the experience, and the embodied serves as a trigger for reflection.⁷²

Dewey's point is that a complete experience comprises both cognitive and emotional sides. That learning through one's actions has a cognitive aspect seems quite obvious, but that emotions and senses are also prerequisites for learning is less commonly understood. Dewey⁷³ writes that it is when we "suffer and feel the consequences" of the experience, that we find ourselves in a position to learn. But it is not enough to suffer and feel the consequences of one's own mistakes. Also necessary for learning through experience is a structured process of reflection, based on first-hand experience, in which one seeks to understand the connection between the experience and its consequence.

Reflection is required for learning. Rodgers⁷⁴ describes reflection in Dewey as 1) a process in which one seeks meaning, and which takes the learner from one experience to the next with a greater understanding of the connection between these and other experiences and thoughts. 2) a systematic, disciplined way of thinking, underpinned by methods of scientific investigation. 3) something that must be shared and collaborative. 4) calling for an approach acknowledging personal development in oneself and others. It requires both facilitation and learning-oriented leadership. Experiential learning is the result of a process.⁷⁵ Transformation of experience through reflection does not necessarily come by itself. It requires both facilitation and learning-oriented management.

Since Dewey's experiential learning arises from first-hand experience, which can be emotionally demanding, there is a danger that experiential learning will become subjective and affirmative of what is already known. If subjectivity is to be avoided, reflection must be challenged through other external sources, research and knowledge, as in point 2 above. The objective of experiential learning is a new understanding of, and changed attitude toward, the case in point. This demands of the person who is to learn an interest, a will and a sensitivity toward this matter in question.

2.6.3 Organisational learning

Dewey's presentation of experiential learning expresses confidence in man's inner ability to grow and learn.⁷⁶ From an organisational point of view, experiential learning has been highlighted as being needed to promote development, but also with a view to stabilising practice. Bjørkelo and Gundhus⁷⁷ write, in line with NOU 2009: 12, that experiential learning can contribute to developing professional standards and to strengthening the police's internal control of practice. Already here we see that the pragmatic, individual view and the organisational view of experiential learning are on a collision course. From a pragmatic point of view, one has confidence in the individual's inner capacity to learn and develop. This is supported by promoting a participatory, learning-centered approach emphasising construction of meaning. From an organisational point of view, experiential learning is to be used in the control of practice.⁷⁸ This represents a static and instrumental approach to learning. It can hardly be said to have its basis in the ideological function of

72 Elkjær, 2004, p. 420.

73 Dewey, 2004, p. 151.

74 Rodgers, 2002, p. 845.

75 Elkjær, 2004.

76 Miettinen, 2000, p. 54.

77 Bjørkelo & Gundhus, 2015.

78 See NOU 2009: 14.

experiential learning asserting that "learning is the process whereby knowledge is created through the transformation of experience".⁷⁹

From an organisational perspective, the individual's learning and development and high quality in the execution of tasks, must be considered two sides of the same coin. Learning organisations learn for change, but at the same time need to learn to stabilise and control. The question is: how can the police as an organisation, through experiential learning, reconcile faith in learning and development with standards and control of practice? (Answering this important question is outside the commission's mandate, and the issue will not be pursued further here).

In the literature about organisational learning, we find two perspectives shaping understanding of how organisations learn.⁸⁰ One is based on the traditional view of learning, where learning is the acquisition of knowledge, while the other is based on the socio-cultural learning perspective, which places "participation" at the centre of learning.⁸¹

The acquisition perspective emphasises learning as the acquisition and application of skills and knowledge through transfer of knowledge, such as when we listen to a lecture, read a book, procedure, instructions, or when a novice learns by observing the actions of an expert, then applying or adapting that knowledge to a new and different situation.⁸² Looked at this way, the expectation is that learning is the "replenishment" of more abstract knowledge, or that experiences "can be extracted" (see an example of this in PBS I, 2020, p. 216) from the individual's head. This perspective has been criticised for putting the individual's cognitive processes and abstract thinking at the centre, neglecting learning as a social phenomenon.⁸³

Learning as participation means that the individual, most of all, learns within a social and integrated environment. This is to say that learning is derived from specific practices and events occurring in a community of practice,⁸⁴ not in the individual's head. Learning will be influenced by the context within which it takes place. In this, it will be psychological and physical tools, structural resources, that enable interpretation and action in new situations.⁸⁵ Learning as participation shows that knowledge is situated through contextual experiences, and no context can be considered neutral. These experiences constitute the actor's structural resources and are both intellectually and physically rooted. Säljö⁸⁶ points out that these structural resources are crucial in identifying or "seeing" the decisive features of a situation and acting accordingly. A large and important part of the context is human relationships. Learning as participation therefore includes negotiation about community, power, social identity and meaning.⁸⁷

There are objections to this way of understanding learning and knowledge. One is that when knowledge is situated through experience, that knowledge will be contextual,

79 Kolb, 1984, p. 38, cited in Andersen, Boud & Cohen, 2000, p. 226.

80 Elkjær, 2004.

81 Sfad, 1998, cited in Elkjær, 2004.

82 Hager & Hodkinson, 2009.

83 Hager & Hodkinson, 2009.

84 Lave & Wenger, 1991.

85 Säljö 2003.

86 Säljö 2003, p. 153.

87 Lave & Wenger, 1991.

arbitrary, silent and local, making it difficult to “work with” the knowledge;⁸⁸ that knowledge barriers are created in the interaction between communities of practice.⁸⁹ Another is that what is learned (the learning content) in a community of practice, and how it is learned, is not sufficiently clear.⁹⁰

Both the acquisition and participation viewpoints convey something important for organisational learning, but in practice such a dichotomisation of how organisational learning takes place will be insufficient, because practice is more complex than theories can encompass. Therefore, Elkjær⁹¹ proposes a third approach to organisational learning in which Dewey’s theory of experiential learning brings together the acquisition and participation perspectives on experiential learning. Learning in practice will be about both traditional knowledge acquisition and learning in collaboration with others, maintaining the three conditions of experiential learning: that it be based on 1) first-hand experience (experienced event) that has 2) touched or moved us in one or another way (experience of discrepancy) and 3) reflecting collectively and systematically on the connection between the event and its consequences. In this process of reflection, the acquisition perspective is needed, as critical reflection absolutely calls for an intellect relating to external literature, theory, research and so on. That reflection has to relate to something external, something that lies beyond itself, is absolutely essential to avoid thinking going round and round in the same, internal loop, leading to thinking that only confirms pre-established understandings, attitudes and prejudices and perpetuates inappropriate practice routines and customs.⁹²

The organisational theorists Argyris and Schön⁹³ offer a similar understanding of this point. They describe learning being possible on three levels: single-loop learning, double-loop learning and deutero-learning. They argue that organisational learning which can go directly to the problem and correct errors without looking at possible underlying causes, cultural and value explanations, represents ‘single-loop learning’. Single-loop learning does nothing to change the norms and values on which practice is based, leaving the organisation free to do what it has always done. Single-loop learning corrects errors, while at the same time preserving practice, which is important if the aim is to stabilise and maintain the organisation’s current state.

Single-loop learning does not lead to *changes* in practice, new strategies or new methods. If the organisation is to learn in a way that brings changes to ways of doing things and new strategies, so that its theory of practice is altered, there must be “double-loop learning”. That is, one looks for the underlying causation of practices that are not good enough. At the heart of double-loop learning is the understanding that practice is socially constructed with its roots in the actors’ values, attitudes and workplace culture. Change requires that these are “dissolved” through the creation of a new understanding. Double-loop learning therefore involves the thoroughgoing and in-depth consideration of a specific first-hand experience through analysis of the processes underlying it and in what these are rooted (values, attitudes, customs, cultures). Beyond that, one must seek

88 Carlile, 2002.

89 Carlile, 2002.

90 Elkjær, 2004.

91 Elkjær, 2004.

92 Wackerhausen, 2015.

93 Argyris & Schön, 1996.

knowledge about the problem externally by going to literature, science and research, and, through external sources, trying to understand that which one wants to change.

As mentioned at the beginning of this section, learning is a term and a phenomenon easy to take for granted. But in organisational work, it should not be taken for granted that employees learn in a way that leads to improvement or stabilisation. What Argyris and Schön⁹⁴ call deutero-learning, or second-order learning, is important, meaning that an organisation have a conscious relationship with the way learning takes place and be able to facilitate the learning the organisation needs in the specific areas requiring improvement. Second order learning *is learning to learn* and is knowledge at the meta level. For leaders and others with responsibility for organisational learning, in particular, second order learning is absolutely essential to developing and adapting learning systems to the aim of the learning. From the perspective of lifelong learning, this is a skill needed not only by managers, but also by both new and more experienced employees, who should be able to learn to learn.

2.6.4 Difficulties with experiential learning in the police

Organisational learning is difficult, and studies have shown that it is extremely difficult to achieve in the police, as changing the strategies and values forming the basis of practice from out of individual experiences is demanding. There may be several reasons for this difficulty. In the following, the commission will refer briefly to some of the challenges regarding organisational learning in the police.

Reports, studies and research show that 13 years after the publication of NOU 2009: 12, the police still struggle with experiential learning. What comes up again and again in these various studies⁹⁵ is the absence of second-order learning and of an adapted learning system at individual and organisational levels; the absence of collective, reflective processes in which critical questions are posed about the values anchoring practice and the cultural features of the community of practice. These studies point to the preponderance of the instrumental approach over experiential learning. That is, what characterises experiential learning in the police is the acquisition perspective where one has an instrumental, static and controlling approach to learning,⁹⁶ and where the conditions for learning – personal experience affecting the intellect, emotions and senses – and reflection are absent. Evaluations⁹⁷ and studies⁹⁸ of the police in different professional fields, indicate that the police evaluate exercises and incidents, but are not good enough at following up their findings in order that there be collective learning from them. Evaluation is not the same as learning from experience. An evaluation is not in itself sufficient if practice is to be improved or developed, but it is a beginning, revealing problems, weaknesses, errors or shortcomings which one can go on to learn from if experiential learning is put into a system meeting its conditions, led by competent leaders (it being especially important that management is learning-oriented).

To avoid organisational learning being reduced to merely instrumental measures (even those may also be necessary), one should examine, to a greater extent, how values,

94 Argyris & Schön, 1996, p. 29.

95 Wathne, 2012; Hoel & Bjørkelo, 2017; Hoel & Barland, 2020; Edvardsen & Hoel, 2021.

96 See Hoel & Bjørkelo, 2017; Edvardsen & Hoel, 2021.

97 Hoel & Barland, 2017; Hoel, Barland & Lillevik, 2019.

98 Edvardsen & Hoel; Hoel & Barland, 2020; Wathne, 2012.

cultures, attitudes and the contexts around these affect communication and understanding, assessments and actions, in preference to resorting immediately to instructions, procedures and guidelines. Although such structural frameworks are necessary, they are not necessarily crucial to improving or changing practice, because practice actions are often influenced by professional identity, contextual circumstances, institutional logics and hierarchy.

Through social and historical processes, experiences are formed, which in turn develop institutions and the logic of the community of practice. A logic expresses assumptions guiding or steering practice: What matters? How do you spend your working day? How do you justify decisions? And are something you do not question?⁹⁹ An institutional logic is a shared way of thinking about practice and a collective understanding of how practice makes sense. Gundhus, Talberg and Wathne¹⁰⁰ describe institutional logics in the police as “justifications for, sets of values, assumptions and notions of what constitutes good police work”. From a participatory learning perspective, the institutional logic will constitute disjointed experiences, transformed into embodied experiences and tacit knowledge.

Within the same institution, such as the police, several communities of practice develop, based on historical and social processes, which, in turn, structure how the work is to be understood, managed and undertaken. Logics of meaning are created in each practice, and the relationship between practices is always a matter of negotiation regarding the boundaries between them.¹⁰¹ Boundaries between communities of practice act as barriers to collaboration. In practices where interaction between different communities of practice, such as PST and the police, police and healthcare, and intelligence officers and management, the actors’ different logics create barriers to appropriate collaboration, that is, working together towards a shared goal. Often these logics will reference different values for the services, such as when the intelligence logic of taking a lead role through good analyses meets the reactive, action-packed operational logic, or when police crisis management has to balance itself between the bureaucratic, rule-controlled command and control logic, and the pragmatic operational task management logic of breaking rules to achieve a goal.¹⁰² a feature of crises is that they cut across the boundaries of several spheres in society, such as police and healthcare and the private sector, such as oil companies. But more everyday matters, such as crime prevention work, also call for the collaborative efforts of several agencies. When, for example, the police and the health service are to cooperate, studies indicate¹⁰³ that the barriers to a common understanding lie in aspects of the institutional values of the respective organisations. That, for example, the healthcare system is governed by “care logic” and is primarily oriented toward looking after the individual, while the police are governed by “security logic”, oriented toward the protection of society. (See also point 2.2.2)

What has this got to do with experiential learning? Well, when actors over time experience that the interaction is difficult, these are experiences that “stick”, affecting how the other party is seen, without necessarily leading to the collective, critical reflection that might foster understanding of the other party, changing the interaction for the better. In such cases, where attitudes towards others are governed by historical and social processes

99 Thornton, Ocasio & Lounsbury, 2013; Reay & Hinings, 2009.

100 Gundhus, Talberg & Wathne, 2018, p. 199.

101 Wenger-Trayner & Wenger-Trayner, 2015, p. 17.

102 See Johannessen, 2017, pp. 47–50.

103 Bråthen, 2021.

(see, for example, point 4.5.3), the actors needing to collaborate should see these boundaries as representing a learning resource. Wenger-Trayner and Wenger-Trayner,¹⁰⁴ argue that “[s]uch an approach will directly confront the problem of crossing borders, and the potential tensions and conflicts between practices will be the sources that ensure accountability”.¹⁰⁵ Such an approach can lead to an altered shared understanding of each other's roles, and expectations of the other. This can also engender trust between the actors, which is absolutely essential for sound collaboration.¹⁰⁶ Overcoming limitations to practice is also a point made by the Al-Noor report¹⁰⁷ where the commission recommended that the police and PST adopt a shared language to support better collaboration in cases at the intersection between them. A language that the police and PST have in common is that of intelligence and concepts such as “risk and threat assessment”, “indicators”, “hypotheses”, “analysis” and “probability assessment.” But shared language does not necessarily have to have continuity of meaning across practice boundaries.¹⁰⁸ a good example of how former knowledge boundaries between the police and the health service have changed, and where the actors work towards a shared goal and hold shared responsibility, is that of the Mental Health Group in Oslo police district.¹⁰⁹

Other barriers to interaction arise from the hierarchical structure of the police. Collaboration across hierarchy can be difficult as the different levels have different responsibilities and tasks.¹¹⁰ a finding in Hoel and Barland's¹¹¹ study on experiential learning in crisis management was that strategic leaders and operations leaders had different understandings of what the outcome of learning should be. Strategic leaders believed that experiential learning should lead to bureaucratic, structural changes, such as new guidelines, procedures and measures, while operations leaders had a more pragmatic approach and expected experiential learning to give them a better understanding of the judgments made during an operation. Studies have shown¹¹² that when leading experiential learning in organisations in which cross-disciplinary collaboration is central, experiential learning must be facilitated through collective reflection across hierarchies and communities of practice, rather than internally in each individual “silo”. Stothard and Drobnjak¹¹³ have shown that learning in a hierarchical organisation is well served by a learning-oriented leadership, asking questions, listening and guiding. Such an approach will reduce the negative impact rank has on psychological equality, which can represent a barrier to learning. That equality and inclusion are important for learning also emerged from a study of the operations leaders' relationship to crisis management.¹¹⁴

The final difficulty with experiential learning in the police is linked to the Police Directorate's vision that the agency should be uniform, meaning that policing is to be practiced the same in all 12 police districts. The police reform initiated a process of making the police service uniform, with an even clearer hierarchical structure. Orders, decisions and focus areas were to be top down. The implementation of intelligence as the police's main

104 Wenger-Trayner & Wenger-Trayner, 2015, p. 18.

105 Commission's translation.

106 Moynihan, 2009.

107 Evalueringsutvalget, 2020.

108 Wenger-Trayner & Wenger-Trayner, 2015, p. 17.

109 See section 6.2: “A specialised police task”, for a more detailed description of the psychiatric group in Oslo police District.

110 See Johannessen, 2017.

111 Hoel & Barland, 2021.

112 Hoel & Barland, 2021.

113 Stothard & Drobnjak, 2021.

114 Hoel & Mehus, 2021.

strategy exemplifies this. The Intelligence Doctrine¹¹⁵ presents intelligence as a “managed” process: it is strategic management who decide what the police are to be aware of, and how the police should work.¹¹⁶

A top-down organisation can be the biggest obstacle to experiential learning when its aim is individual learning and development. An ideology of individual learning will aim to make, for example, crisis managers, control room supervisors and incident commanders capable of handling a crisis in a safe and independent way, whilst, at the same time, in accordance with a common goal. A top-heavy police organisation aiming at a unified organisation can quickly lead to the risk of police officers, when critical judgements need to be made, feeling insecure and sending the decision further up the hierarchy.¹¹⁷ Such practice is not only highly inefficient, it also leads to a lack of crucial experience in making important decisions. In the long run, it will create an inexperienced middle management. Lack of experience deprives police officers of the opportunity to develop their ability to reflect, an essential capability if the police want improvement and development through experiential learning.

2.7 Theoretical framework

This section deals with decision-making in an operational context: situational awareness, decision-making, risk, as well as crises and other serious incidents. These themes are central to crisis management, and situational awareness was, for example, a central theme in the evaluation of the terrorist incident at the Al-Noor Mosque.¹¹⁸ International research has pointed to several cognitive factors possibly affecting the performance of police response personnel during armed missions, but these seem not to be taken fully into account when planning actions, nor in any subsequent investigation.¹¹⁹ The following theoretical framework therefore represents a supplement relevant to the evaluation report’s learning viewpoint.

2.7.1 Decision making in an operational context

In a professional context, the range of decision-making can be considerable: from administrative decisions made based on an analysis of the issue in a safe and calm environment, to time-critical decisions in operational situations where the outcome may have major consequences.¹²⁰ Key in decision-making in operational situations is that decisions are made in a context. This context is the circumstances under which decisions are made, and in operational situations this may mean that important values such as life and health are under threat.¹²¹ When dealing with difficult operational situations, therefore, it is important that context be taken fully into account.¹²²

Naturalistic decision-making (NDM) is research within the field of decision-making seeking to create an understanding of how people take decisions in actual incidents.¹²³

115 Politidirektoratet, 2014.

116 See point 4.5.2: “Threat and risk assessment”, for a wider discussion about intelligence in the police.

117 See, for example, Hoel & Mehus, 2021.

118 Evalueringsutvalget, 2020.

119 Boulton & Cole, 2016, p. 291; Kavanaugh, 2006, p. 25.

120 Johnsen, 2018.

121 Eid & Johnsen, 2018.

122 Johnsen, 2018, p. 253.

123 Lipshitz et al., 2001.

Emphasis is placed on the importance of task and contextual factors. Hallmarks of the context for decision-making can be:¹²⁴

- unclear issues
- insecure and dynamic environments
- changing, ill-defined and competing objectives
- action- and feedback loops
- time pressure
- high level of risk
- many involved
- the organisation's aims and norms

Professionals need to be able to make decisions in situations with such characteristics. The NDM approach can be valuable for decision-making under time pressure, within occupational groups such as the emergency services, air traffic control, the armed forces and emergency medicine.¹²⁵

2.7.2 Situation awareness and shared situation awareness

Situational awareness refers to a person's awareness and understanding of dynamic information, related to the current work environment and tasks.¹²⁶ Situational awareness is of profound importance in dealing with extraordinary events and crises.¹²⁷ Situational awareness is sometimes treated as being synonymous with situation assessment, but situation assessment should rather be defined as the process leading to situational awareness.¹²⁸ According to this understanding, situation assessment represents a specific and focused assessment of the given situation,¹²⁹ and situational awareness is the result of this assessment. Endsley¹³⁰ defines situational awareness as "the perception of the elements in the environment within a volume of time and space, the comprehension of their meaning, and the projection of their status in the near future." This definition contains three levels building one on another: 1) discovery of important information from the environment, 2) compilation of this information into a correct understanding of the situation, and 3) prediction of what will happen next.¹³¹ Two key factors influence the process of developing situational awareness: 1) Task/system factors refer to the context in which the work tasks are performed, workload, complexity and stress all affecting situation awareness.¹³² For example, high levels of stress may affect cognitive processes, inducing tunnel-vision and reducing working memory,¹³³ and thereby how much information a person is able to take in. System factors refer to the way information is disseminated, directly between persons or via radio communication/PC screen, possibly affecting its dissemination. Johnsen¹³⁴ refers to such limitations as "filters", pointing to the fact that radio communication, for instance, involves short messages, and that relevant information, therefore, may be omitted. 2) Individual factors indicate that people, even with the same

124 Zsombok, 1997, p. 5.

125 Flin et al., 2008.

126 Wright & Endsley, 2017, p. 97.

127 For example, Evalueringsutvalget, 2020; Politidirektoratet, 2020; St. meld. 5 (2020–2021).

128 Sarter & Woods, 1991.

129 Flin et al., 2008.

130 Endsley, 1995, p. 36.

131 Johnsen, 2018, p. 253.

132 Endsley, 1995, p. 35.

133 Flin et al., 2008 p. 57.

134 Johnsen, 2018.

access to information, have different abilities in acquiring situational awareness. This is attributable to information processing being influenced by innate characteristics, training and experience, and to the possibility of the individual having preconceptions and goals influencing their interpretation of information from the environment.¹³⁵

Inadequate situational awareness can lead to human error in dealing with critical situations.¹³⁶ a study of the causes of errors in high-risk occupations showed that 67 per cent of errors related to inadequate acquisition of important information from the environment (level 1), 20 per cent related to lack of understanding of the situation (level 2), and 13 per cent were due to a failure to predict future developments (level 3).¹³⁷ In Jones and Endsley's study of errors related to situational awareness in aviation,¹³⁸ lack of discovery of, or misinterpretation of, important information (level 1) was again, at 76 per cent, the commonest cause of error. The reasons, among others, were lack of attention due to being distracted, and high workload.

Shared situation awareness can be defined as "team members' ability to obtain and use information to develop a common understanding of the work tasks and the team environment".¹³⁹ Shared situational awareness differs therefore from individual situational awareness, as several actors must come together to form a common situational picture.¹⁴⁰ Achieving a common understanding of the situation among professional actors can present certain fundamental challenges. Individuals may have a different understanding of the same situation, based on individual experience, training and perspectives.¹⁴¹ Individual situational awareness and common situational awareness are also dynamic states, through ongoing perception of information, development of understanding and prediction of future evolution of the situation as the informational picture changes.¹⁴² This means that information exchange and common goals are absolutely central to forming and maintaining a common understanding of a situation.¹⁴³ On the other hand, it is not necessary that everyone receive all information. They must, however, be given sufficient information to be in a position to carry out their own work tasks.¹⁴⁴

Situational awareness and shared situational awareness imply that, respectively, individuals or several actors together, create an understanding of the situation based on a dynamic information base. Situational awareness is very important, being the key factor for subsequent decision-making and action.¹⁴⁵

2.7.3 Decision making

Decision making can be defined as the process of reaching a decision or choosing an alternative, sometimes called a choice of action, to meet the needs of a given situation.¹⁴⁶ Put simply, recent research advocates a two-system approach to decision-making, based on the idea that humans have two different decision-making systems (cognitive processes)

135 Endsley, 1995.

136 Johnsen, 2018.

137 Sneddon, Mearns & Flin, 2006, p. 255.

138 Jones & Endsley, 1996.

139 Salas et al., 2006, p. 8.

140 Nofi, 2000.

141 Stanton, 2016.

142 Nofi, 2000.

143 Johnsen, 2018.

144 Flin et al., 2008; Wright & Endsley, 2017.

145 Johnsen, 2018; Jones & Endsley, 1996.

146 Flin et al., 2008, p. 41.

governing decision-making.¹⁴⁷ These are referred to as analytic and intuitive strategies.¹⁴⁸ The analytic approach is conscious, controlled, capturing the decision-maker's attention, while the intuitive strategy is automatic and captures very little of the person's attention.¹⁴⁹ When managing demanding operational situations, depending on risk, time pressure and information about the situation, a decision maker may use four forms of decision making:¹⁵⁰

Creative decision-making can be used in new and unknown situations, where previous experience or planning offer no support. In other words, the decision-maker must be creative and find out on his/her own how best the situation can be resolved. This requires better time and thorough assessment of the prevailing circumstances, in a situation with little risk.

Analytical decision-making requires that there is sufficient information, from, for example, previous experience or planning, to permit assessment of various alternative actions. This means enough time and sufficiently small risk for the decision-maker to have the opportunity to make the necessary assessments.

Rule-guided decision-making means that the situation to be handled is identified, and that the decision-maker makes use of planning/procedure/checklists and the like in support of their decision-making. Following a learned procedure or quick use of checklists, decision-making can take place faster and in the face of higher risk.

Intuitive decision-making calls for experience from similar situations, where the decision-maker recognises similarities and can utilise earlier successful action alternatives. This is decision-making happening very quickly, often perceived as automatic, with little awareness of the decisions taken. Such decisions apply to critical situations with little time and high risk. In connection with this, reference can be made to a study of the operational decision-making of Scottish police officers.¹⁵¹ The study found that most situations required that decisions be made within three minutes. The fastest decisions were made in unknown high-risk situations, and these situations were considered the most stressful. In Norway, a study of the police's use of firearms also showed that decisions to shoot were often made in a very short time, and these situations provoked various forms of stress reaction.¹⁵²

Recognition-based decision-making

A model for decision-making within the NDM perspective is recognition-based decision-making (hereafter RPD).¹⁵³ RPD describes intuitive decision-making, in which decisions "for the most part take place unconsciously and based on a 'gut feeling' for the situation".¹⁵⁴ Most important is the recognition of similarities/similar elements in the situation. Recognition-based decisions are therefore experience-based¹⁵⁵ RPD can be presented as a model showing three variations.¹⁵⁶ 1) Simple recognition, meaning that

147 Sommer et al., 2020, p. 41.

148 Johnsen, 2018.

149 Kahneman & Klein, 2009.

150 Flin et al., 2008, p. 44; Sommer et al., 2020, p. 43.

151 Flin et al., 2007.

152 Henriksen & Kruke, 2020.

153 Klein, 1997.

154 Ross et al., 2005, p. 327.

155 Johnsen, 2018, p. 258.

156 Klein, 1998, pp. 24-27.

the decision-maker recognises the situation as “typical” and known from before. This involves understanding the objectives, what information is important, what can be expected, and what actions typically need to be taken to address the situation. In other words, a situation where the decision-maker has sufficient experience to make it easy to decide what to do. 2) Diagnosis of the situation. If the situation does not appear to be typical or known from before, the decision-maker must pay extra attention to imagining what it entails, and perhaps obtaining more information. The situation can be misinterpreted, detectable by a discrepancy between the situation and the decision-maker’s expectations of it. In such situations, these “deviations” can be dealt with by imagining which interpretation of the situation best fits the characteristics of the deviation.¹⁵⁷ 3) Evaluation of course of action. These may be situations seeming to be clearly definable, but the decision-maker is nonetheless uncertain as to the best course of action. This will often be the case in completely new situations.¹⁵⁸ Possible courses of action can be assessed through mental simulation, where one imagines what a procedure may entail, and whether other alternatives may be better.¹⁵⁹ In this, reference is made to a study of how experienced naval officers on American combat vessels made decisions under time pressure in the exercise of command and control. Their decision-making was consistent with RPD. Recognition-based strategies were used to identify 95 percent of the actions taken, and decision makers compared several action choices in only 4 percent of cases.¹⁶⁰ In short: RPD requires that the decision-maker has sufficient experience from situations similar to the situation in which decisions now have to be made. Such an experience base can be formed through training and professional experience.

The theoretical framework for decision-making in an operational context, situational awareness and decision-making is summarised in the model below:

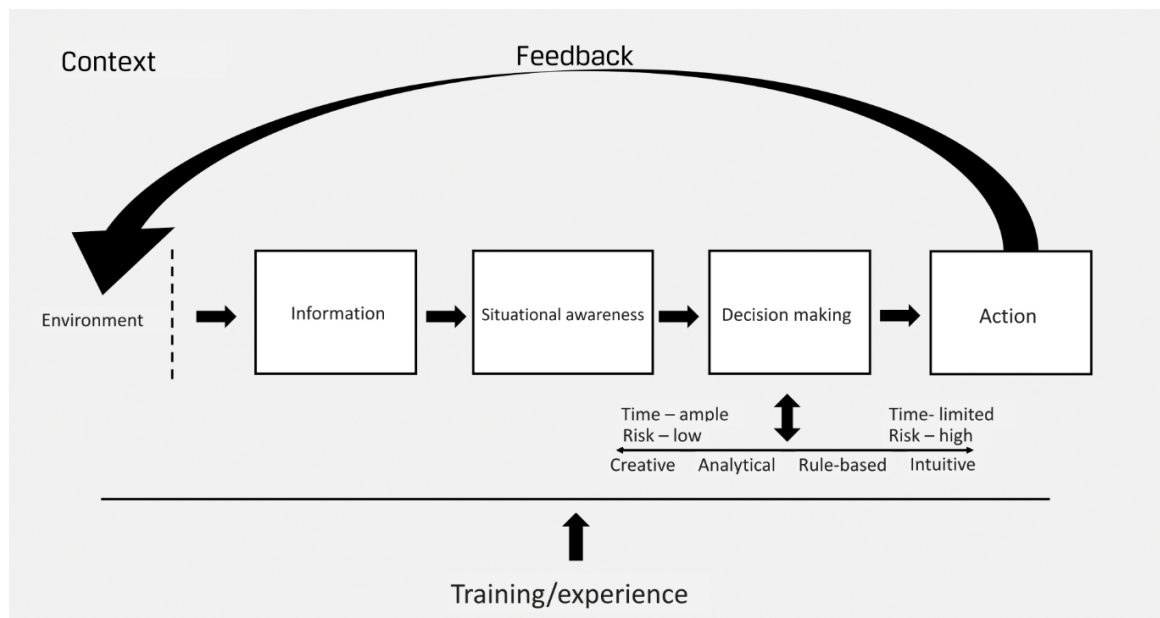


Figure 2: Decision making in an operative context (based on Endsley, 1995, p. 35; Flin et al., 2008, p. 44 and Johnsen, 2018, p. 252)

157 Klein, 1998, p. 26.

158 Johnsen, 2018, p. 258.

159 Klein, 1997, p. 285.

160 Kaempf et al., 1996, p. 220.

Decision-making takes place in a given context (the grey field), for example a PLIVO assignment which, in a hypothetical case, may lead to time pressure and an uncertain dynamic environment. The environment in which the decision-maker is situated yields information that must pass a "filter" before constituting the perceived information. This information forms the basis for individual/shared situational awareness, important to decision-making. Individual/shared decision-making can take various forms and be affected by risk and time pressure. The actions decided upon affect, in turn, the environment. The decision-making process is affected by the decision-maker's previous training and experience.

2.7.4 Risk

"Risk" is a concept commonly used in everyday life, likely in conjunction with probability and consequence. In everyday speech we use "risk" in the sense of danger, and as the potential or possibility for unwanted events or loss.¹⁶¹ In this report, however, there is need of a clearer and more precise description of the concept such that it can be used with a shared understanding.

Risk is about the future, about something we believe may happen, and that we should prevent. There will, however, always remain a residual risk. This means that we should also prepare emergency systems to deal with incidents we are unable to prevent.

Risk can be described, briefly, as the consequence of an event, with associated uncertainty.¹⁶² Aven and Renn discuss two social science definitions: 1) a situation or event in which something of human value (including people themselves) is at stake, and where the outcome is uncertain; 2) an uncertain consequence of an event or an activity with respect to something that people value.¹⁶³

The consequences of a serious incident are related to life and health, environment, material value and/or reputation.

As risk is about the future, it follows naturally that it is closely linked to uncertainty. The problem with the future is that we can have no exact knowledge of it. Whether an undesirable event will occur, or when and what its consequences would be is uncertain.¹⁶⁴ This uncertainty increases with incomplete and imprecise information and the corresponding weakness of the knowledge base on which the risk assessment is based. The uncertainty can be expressed as:

- probability
- strength of background knowledge
- surprises in relation to this knowledge.¹⁶⁵

It is natural to argue that uncertainty describes situations where the probabilities are unknown and determining a specific subjective probability or probability distribution is difficult, especially when the knowledge base is weak. A core task in risk management is

¹⁶¹ Aven, 2019.

¹⁶² Aven, 2019.

¹⁶³ Aven & Renn, 2009.

¹⁶⁴ NOU 2018: 17.

¹⁶⁵ NOU 2018: 17.

strengthening the knowledge base through systematic and targeted data collection to establish a well-founded risk assessment (hazard identification, risk analysis and risk assessment) as the basis for risk management.

2.7.5 Crises and other serious incidents

Accidents, crises and catastrophes are all serious incidents. A serious incident can be defined as *an incident that has caused, or which could have led to, personal injury, illness and/or injury to/loss of property, injury to the environment or third parties.*¹⁶⁶

The distinction between these different types of serious incident – accidents, crises and catastrophes – consists largely in their extent and the resources needed to counter them.

There are many definitions of crises, most covering crises at a general level. Rosenthal et al. offer a pertinent definition: “Periods of unrest and collective stress, disturbing daily life and the threatening core values and structures of a social system in unexpected and often incomprehensible ways”.¹⁶⁷

This definition incorporates key characteristics of crises such as stress, disruption, threats and incomprehensibility. A second definition by Rosenthal¹⁶⁸, points to the need for critical decision-making: “A serious threat to structures, values and norms in a social system which, under time pressure and uncertainty, makes it necessary to make critical decisions”.

The Vulnerability Commission¹⁶⁹ chaired by Kåre Willoch in 2000, elected to adopt a broad definition of the term “crisis”: “A crisis is an event with the potential to threaten important values and weaken an organisation’s ability to perform its societal functions”.

Crises – core characteristics

These definitions of crisis elaborate on what a crisis is with several key characteristics such as serious disturbances, threats to people’s milieu, things of value and reputation, time pressure, uncertain circumstances, need for critical decisions as well as demanding a response possibly going beyond the available capacity of the affected community. Further characteristics are that crises are events that seldom occur, that can have large and serious effects, that can generate significant psychological stress, and last but not least, where assessments and actions often have to take place quickly.

Crises therefore present several key challenges in gaining an up-to-date understanding of the situation as a basis for relevant and precise decisions (see point 2.7.2.).

Crises often represent unforeseen, unwanted, unimaginable and often unmanageable situations.¹⁷⁰ Most of us will agree that they are unwanted – things we want to avoid. But can we also argue that they are unexpected and unthinkable? It is reasonable to say that the killings in Kongsberg on 13th October 2021 and the terrorist attacks in Oslo and on Utøya on 22nd July 2011 surprised us. But should we be surprised by such attacks? It is to be expected that even peaceful and robust countries such as Norway will experience such events, in the future as well. Therefore, we must prepare ourselves for them. What about

166 NORSOK, 2003.

167 Rosenthal et al., 1989.

168 Rosenthal et al., 1989.

169 NOU 2000: 24.

170 Hewitt, 1983.

crises being unmanageable? If we consider them unmanageable, it leaves us little room for preparedness, training, and exercises. We should therefore assume that crises are manageable, and train and practice to deal with such undesirable events. The next crisis might not go as planned. It will very likely also surprise us. Nonetheless, training and exercises enable us to manage a range of events, and therefore also the next crisis.

Black swans and grey rhinos

Another way of distinguishing crises representing sudden and unforeseen events from crises representing known but neglected events is to distinguish between black swans and grey rhinos. A black swan is a random and unforeseeable event, considered unthinkable in advance, or beyond what is normally expected of a situation, but having potentially serious consequences.¹⁷¹ While a black swan crisis finds us completely unprepared, a grey rhino crisis is a highly probable but neglected threat with high impact. Such incidents are not random surprises but occur following a series of warnings and visible signs.¹⁷²

Phases of a crisis

Researchers divide crises into phases in many ways.¹⁷³ a frequently used phase division is the Federal Emergency Management Agency's (FEMAs) four standard phases (Mitigation, Preparedness, Response, and Recovery). Common to them all, although they have different names and number of phases, is that they contain all three basic phases shown in Figure 3 below.

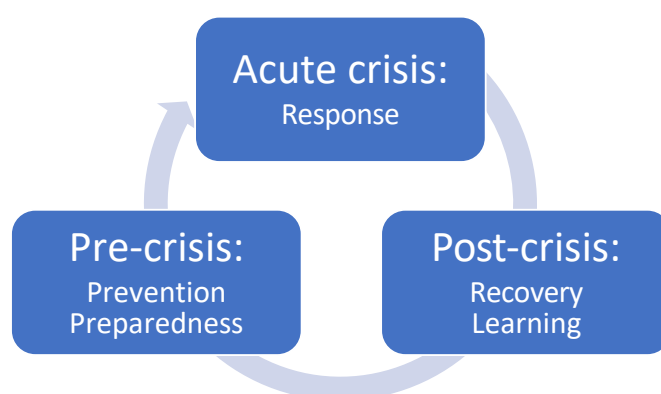


Figure 3: Phases of a crisis (Kruke, 2012).

Prevention and preparation (emergency preparedness) are the main activities in the pre-crisis phase. The crisis response to limit the consequences of the crisis, to alleviate the suffering of people affected by it and to reduce the impact on life, on health and well-being, on environmental issues, on material values, and, also, on reputation, constitutes the main activity in the acute phase. In the post-crisis, the important activities are recovery (Build Back Better) and learning, crucial to putting us in a position more robust than that which led us into this crisis.

171 Taleb, 2007.

172 Wucker, 2016.

173 For example Turner, 1976; Olson, 2000; Kruke, 2012, 2021.

The usual way of presenting these phases is as a linear process from pre-crisis phase via acute crisis to post-crisis phase. However, some researchers present the phase division as a circular process, as shown in figure 4.¹⁷⁴ The thinking behind this expanded concept of crisis, is that after a crisis we will always return to a new normal state, that is, to a new pre-crisis phase. This view regards crises as a continuous process¹⁷⁵ from a pre-crisis phase via the acute phase (what is normally considered the crisis) to the post-crisis phase. This does not necessarily have to mean that we return to the status quo, to the situation that led to the crisis. Hopefully, from out of learning about prevention, preparedness, and crisis management, we will arrive at a new more robust pre-crisis phase. Another aspect of understanding that we are in a pre-crisis phase looking ahead to the next crisis is that we are more aware of the weak signals indicating that something may be wrong, and that we are approaching an acute crisis.¹⁷⁶

Figure 4 shows the crisis phases in relation to a development in the direction of greater capacity rather than simply the status quo.



Figure 4: Phases of a crisis as a spiral representing time and level of competence (Kruke, 2021)

Crisis typologies

Another way of characterising different types of crises is with the help of typologies of crises. Here, we will present two typologies. The first of these distinguishes crises on the basis of how quickly they develop and end.¹⁷⁷ The other distinguishes crises based on their predictability and impact.¹⁷⁸

Speed of propagation and ending

A fast-burning crisis develops and ends quickly, while a late-burning crisis develops and ends late. A cathartic crisis develops late but ends quickly, while a long shadow crisis develops quickly but ends late.

174 For example, Olson 2000; Kruke 2012, 2021.

175 Kruke 2012, 2021; Roux-Dufort 2007.

176 Weick, Sutcliffe et al., 1999; Weick 2001; Weick & Sutcliffe, 2001.

177 Boin et al., 2001.

178 Gundel, 2005.

Predictability and possibility of being influenced

Conventional crises are easy to predict and influence. Unexpected crises are difficult to predict, but easy to influence. Insoluble crises are easy to predict, but difficult to influence. Fundamental crises are difficult both to predict and influence.

Such typology can be used to become better acquainted with, and to learn from, crises. If we consider the first typology and define the incident at Kongsberg on 13th October as a fast-burning crisis – occurring and ending quickly – it gives us little reason to look for inadequate preventive measures in the period leading up to the incident. If, however, we define it as a cathartic crisis, then it is a crisis developing over time and ending relatively quickly. This may leave more room for learning from the period prior to 13th October. If we define it as a long shadow crisis, we emphasise its psychosocial aftermath, which many may struggle with for a long time after 13th October.

If we then look at the other typology (predictability and possibility of being influenced), a key question is whether the incident at Kongsberg could have been anticipated. If we think that we should have seen it coming, we define it either as a conventional crisis (easily predictable and easily influenced), or as an insoluble crisis (easily predictable, but difficult to influence). If, on the other hand, we believe that the event was difficult to predict, we define it either as an unexpected crisis (difficult to predict, but easy to influence), or as a fundamental crisis (difficult to predict and influence).

It is natural to suppose that a crisis arising unexpectedly, and developing rapidly, will pose special challenges to both population and response personnel.

Crisis management

Dealing with a crisis differs from normal and stable everyday operations. We cannot expect the same level of sophisticated planning and decision-making normally seen in a stable society, in ordinary, rational planning processes.¹⁷⁹ In the initial phase of a crisis, the sensemaking or “what the hell is going on” phase,¹⁸⁰ people try to grasp what is happening. The same applies to members of the emergency services. In crises, we have to put in place decision-making strategies accepting that we do not have what we consider sufficient information to establish a good understanding of the situation, on the basis of which to make the best decisions. In this sense, planning and crisis response are two distinct disciplines.¹⁸¹ (See point 2.7.2.)

Common to all crises is that “the next crisis has never happened before.” What does this mean for our preparations for crisis response? We must prepare ourselves, position ourselves, to deal with the unexpected.¹⁸² In the acute phase, crisis response will, in many respects, consist of two sub-processes:

- 1) conduct / implementation of planned and trained structures from emergency preparedness during the pre-crisis phase
- 2) adaptation of the response to address the current situation

179 Banfield, 1959.

180 Boin et al., 2005.

181 Perry & Lindell, 2003.

182 Weick & Sutcliffe, 2001.

Crisis management in the acute phase will therefore be a test of the quality and relevance of our contingency planning, the dimensioning and training of personnel at the various levels of the response. Even given sound contingency planning, the purchase of relevant equipment, and training in the pre-crisis phase, adaptation to the crisis will always be needed. Flexibility and improvisation are therefore key in crisis response.¹⁸³

But, given the dynamics of the current situation, crisis management is also about critical decision-making under a high degree of uncertainty.¹⁸⁴ It is part of the nature of a crisis that not everything will go smoothly. Unforeseen events occur and must be dealt with. In his work on recognisable situations and the quality of crisis management, Weick brings in the concept of “*déjà vu*”.¹⁸⁵ This refers to a feeling of recognition giving a sense of control, even in an unexpected and rapidly evolving crisis. Naturalistic decision-making (NDM) and Recognition-Primed Decision (RPD) are models showing how decision-making in a crisis actually taking place, including recognition, where decision-makers use their own experience to identify a crisis situation, thereby finding sound and adapted responses. More on this in the section on decision-making.

The opposite of recognition, a totally unexpected situation, Weick calls a cosmological episode.¹⁸⁶ a cosmological episode arises when humans suddenly and profoundly feel that the universe is no longer a rational, orderly system.¹⁸⁷ These give a feeling of “*jamais vu*” – that one has never experienced anything like this before.

Crisis management and stress

Stress is a mental or physiological condition characterised by the subjective experience of being under pressure to an extent perceived as unpleasant, stressful or annoyingly overbearing.¹⁸⁸ More specifically, stress can be defined as a) external influences (stress stimuli /stressors), b) as physical or emotional reactions to external influences (stressful experiences) and c) as a response to the interaction between these external influences and our reaction to them.¹⁸⁹

Stress is a mental state resulting from a person’s subjective judgements. It is also a physiological condition, and the level of stress can be measured in the blood. Stress is often associated with stressful external events.

Psychologists Yerkes and Dodson have developed a graph in which they show that a person’s performance increases with physiological and/or mental stress, but only up to a certain point. When stress levels become too high, performance decreases.¹⁹⁰ See Figure 5:

183 Kruke & Olsen 2005; LaPorte 2007.

184 Kruke, 2012.

185 Weick, 1985.

186 Weick, 1985, pp. 51–52.

187 Weick, 1993, p. 633.

188 Snl.no, 2022.

189 Lazarus & Folkman, 1984; Selye, 2013; Ursin & Eriksen, 2004.

190 Yerkes & Dodson, 1908.

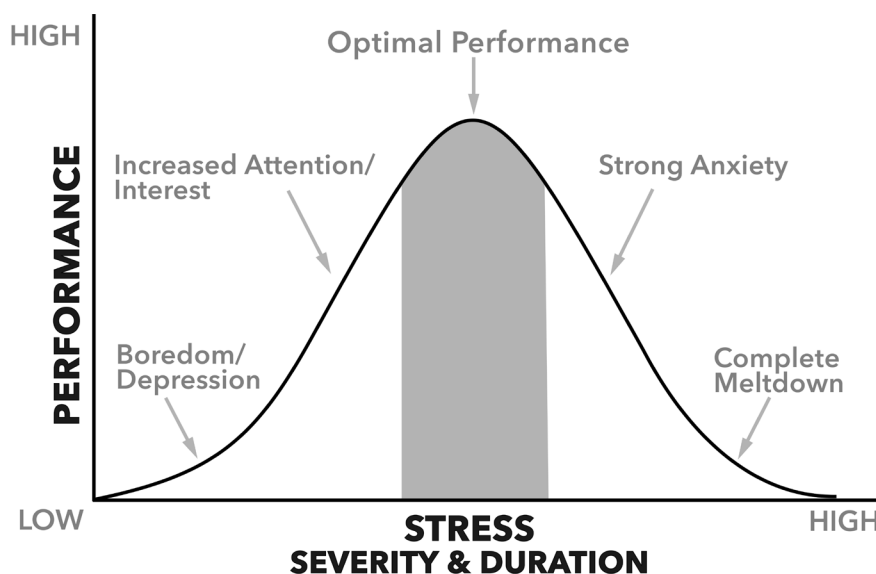


Figure 5: Stress and performance – after Yerkes & Dodson (1908).

Stress can, in certain situations, lead to impaired attention and reduced ability to concentrate. A stress reaction means that you lack the capacity to perform tasks beyond the routine. Integrated problem solving is complicated in such circumstances. A well-known phenomenon when stress increases is a narrowed field of attention – tunnel vision. Stress may also reduce the ability to communicate – leaving you unable to communicate with others as you are used to. Stress can also leave you being more sloppy than usual.

In their article on stress in relation to crisis management, Paton and Flin point to some specific stressors.¹⁹¹ Personal factors such as physical and mental state, fitness level, age and whether one has an active or passive character, affect stress, as do inadequate or incomplete information and inadequate situational awareness. Operational systems supportive of crisis managers have a positive effect on stress. The opposite is true if these systems are not supportive, or do not work. Training in the use of such systems can give a feeling of mastery, thereby helping to reduce stress. Cooperation, or lack of cooperation, in and between teams, and team composition will affect stress levels, especially in situations where actors and organisations are interdependent. Quality of communications is another stress factor – information sharing affecting understanding of the situation and thereby the quality of critical decision-making. Inadequate flow, and inadequate interpretation, of information leads to adverse events. In his description of “failure of foresight”, Turner uses the term “incubation phase” to refer to the phase during which latent errors accumulate.¹⁹² Latent errors are those going undetected. Accumulation of latent errors results in systems becoming increasingly vulnerable. An event will then trigger and reveal this vulnerability, and there will be a serious incident or crisis.

¹⁹¹ Paton & Flin, 1999.

¹⁹² Turner, 1976.

3. Methodology

In this chapter, the commission will report on and discuss key aspects of its methodological approach, including recruitment of informants, data and data collection, analysis, methodological strengths and limitations.

3.1 What is evaluation?

Norway has a strong tradition of conducting public evaluations of serious and critical incidents with the aim of learning. This is the case with this evaluation, which distinguishes it from an investigation in which one is most concerned with determining blame or responsibility for the error.

Evaluating entails giving a qualitative description and assessment of something. In evaluation theory a distinction is made between summative and formative evaluation. In the first, one evaluates with reference to the outcome and effect of an operation and who may be held accountable, while the purpose of formative assessment is process-oriented and intended to lead to an increased understanding of the underlying processes influencing the outcome.¹⁹³ Evaluation of the Kongsberg incident has been carried out largely as a formative evaluation, the purpose being to gain insight into, and understanding of, the underlying processes playing a significant role in the 13th October 2021 incident.

Good evaluation requires transparency. Starting from the stated aims of the evaluation, the commission prepared assessment criteria guided by PST and police guidelines, procedures and doctrines, previous national evaluations and relevant research. PST and the police were informed early on about the basis for the assessment and had opportunity to read and comment on the parts of the report affecting them. After being constituted on 17th October 2021 the commission has met weekly, in addition to several joint gatherings. The commission was not granted administrative support and has therefore undertaken its own administrative work. The police's chief health and safety officer was invited to participate in the commission's weekly meetings, as the work relates to important issues around the conduct of police work and associated framework.

3.2 Data collection

The commission has gathered information, especially from Sør-Øst police district, in the form of an inspection of the relevant area in Kongsberg, investigation evidence, interviews and technical data. In this, the police district has responded and facilitated in an exemplary way. In like style, PST has followed up the commission and arranged for information gathering by making available records and documents pertinent to the case. On behalf of the commission, KRIPOS has prepared sketches and pictorial material for the visual representations in the commission's report.

Before the commission began data collection, we held meetings with members of both the Al-Noor Commission and the Jensen Commission to hear their experience of the evaluations they conducted. This has been very useful for the progress of the work on the report as well as its quality.

¹⁹³ Ratcliffe, 2016, pp. 157–158.

This evaluation is based on information from interviews with a total of 80 core informants together with studies of documents (for example strategy documents, guidelines, intelligence products, procedures, plans and curricula), records and logs (PST), audio logs from the police's response on 13th October and informal advisory and consultative interviews with experts in specific disciplines. In the following we describe recruitment of informants together with the way data were gathered, handled and evaluated, and, finally, methodological considerations concerning the commission's evaluation.

3.2.1 Recruitment of informants

Recruitment of informants varied, with the "door openers" and "snowball" methods being used. The commission had a clear idea of who, initially, should be interviewed, especially regarding the police's operational efforts on 13th October 2021. When it came to the police's and PST's handling of tips and reports of concern, this took place several years earlier, and it was less obvious who should be interviewed to shed light on the matter.

The commission contacted key people in both the police and PST who served as door openers. They gave us both tips about, and the contact details of, other suitable informants. During the data collection, and as the commission became familiar with the details before and during the police response, information from informants pointed us toward other relevant informants. This is the "snowball method", described in Halvorsen as: "By one informant you are given the name of other informants that it may be relevant to interview. These in turn provides name suggestions to other equally relevant informants."¹⁹⁴ The commission found both methods helpful.

All the informants the commission has been in contact with have demonstrated goodwill in assisting with and facilitating interviews, and collection of other data needed by the commission: sharing documents such as local guidelines, job descriptions and e-mails between key players.

The informants come from all levels in the police; tactical, operational and strategic. They belong to the joint unit for crime prevention, the joint unit for investigation and intelligence, the joint operational unit, the geographical operating unit and the local police station at Kongsberg. Informants from PST, from PST Central Unit, and PST Sør-Øst police district have been interviewed.

3.2.2 Interviews

Drawing on the mandate, the commission produced two interview guides. One was used in the interviews about the police action on 13th October 2021, the other during interviews with PST and the police in Sør-Øst police district about the handling of messages of concern and tips between 2015 and 2020. All interviews were conducted during January and February 2022. In advance of their interview, each informant was sent information setting out the mandate for and the purpose of the evaluation, the assessment criteria and how information would be handled and stored (see Appendix 2). During the evaluation, the commission interviewed a total of 80 informants (see Appendix 3).

Most interviews were conducted at the informants' place of work. A few, where there were difficulties in finding a time when all the commission members could be assembled,

¹⁹⁴ Halvorsen, 2008, p. 164.

took place using the communication and collaboration platform Microsoft Teams. The interviews each lasted, approximately, 60–90 minutes. Either two or three members of the commission participated in each. In some, the commission's minute-taker took the minutes. In addition, with the consent of the informants, audio recordings of the interviews were made. These were used where the minutes were insufficient. The resulting detailed minutes were then sent to the informants by e-mail so they could confirm statements, make changes, add comments and clarifications. The informants returned the interview report after approving them.

The interviews began with the informants being allowed to talk freely about their involvement in the incident. This was followed by questions from the interview guide. The commission conducted various kinds of interview and conversation. Most interviews were individual, with a single informant. There were also several group interviews with relevant parties to gain insight into the framework conditions for crime prevention and preparedness: three of these taking place at the Norwegian Police University College. The first was with those responsible for the operational training, for bachelor level training and for ongoing- and further-training. The second was with instructors from several police districts who taught PLIVO on behalf of the Norwegian Police University College as the final operational segment of the bachelor's degree course. The third interview was conducted with representatives of the reference group for the PLIVO procedure: that is, representatives of the police, fire and health services. The commission conducted two interviews at the Directorate of Police with those responsible for, respectively, the police's operational force and PLIVO, and for crime prevention. The commission also interviewed a group with four members of the police's national emergency resources, all of whom had been involved in the Kongsberg incident. Finally, in connection with a simulation (see below), an in-depth conversation was conducted with a police patrol from Sør-Øst police district about their expectations and experiences in connection with armed assignments and the use of protective equipment.

The commission collected considerable amounts of information, which had to be assembled into the big picture of the incident (as discussed below). Later, as these pieces started to come together to form a meaningful whole, we needed follow up interviews with certain individuals to go in greater depth into certain topics.

In addition to the individual and group interviews, the commission has, throughout the process, been in dialogue with many professionals in the police service to get in-depth descriptions of directives, instructions, expectations and other matters concerning armed assignments, PLIVO, the use of protective equipment and other working methods in the police and PST. The commission has also had meetings with various people with a high level of expertise in psychiatry and the police's prosecution work with the mentally ill who commit serious crimes, as this level of expertise was lacking in the commission.

3.2.3 Document studies

The commission has conducted extensive searches and studies of legislation, directives, instructions, procedures, curricula and more, as a basis for the assessment of tips and reports of concern about Bråthen during the period 2015–2018, and the police response at Kongsberg on 13th October 2021. Regarding the investigation into what happened to the tips and reports of concern within PST and the police, the commission has reviewed

transcripts from various logs, registers and intelligence reports from PST, PST's Central Unit and PST in Sør-Øst police district. These documents contained classified information, which has been declassified and approved for publication.

3.2.4 Observations

Several commission members observed the teaching of PLIVO at the Norwegian Police University college. The course was held for third year students in connection with the bachelor programme's training camp in 2022, held at a disused school in Larvik. The course offered the possibility of seeing the didactic approach to this at generalist level, and more specifically how the college teaches tactics, use of protective equipment and situation training. There were also opportunities to observe discussions about the PLIVO procedure and expectations around involvement.

3.2.5 Simulation of arming and use of protective equipment

The commission was given the support of a police patrol in Sør-Øst police district in measuring the time required for arming and putting on protective equipment. This took place at the police course and training centre (JKØ) in Stavern. The patrol was given a simulated armed assignment: they were to arrive in vehicles, stop the vehicles in order to arm themselves, put on protective equipment and prepare for an emergency response. During this process, the patrol was also to listen to the police radio and respond to messages from a simulated control room. This was repeated twice. The first time, the patrol armed itself with weapons, put on a helmet and carried a shield. It took two minutes and four seconds from stopping the vehicle to be on the move again. The second time, the patrol was instructed to use all available protective equipment. They armed themselves, put on both helmet and heavy safety vest and carried a shield. It took three minutes and 40 seconds before they were fully armed and back under way. This finding contrasts the Armaments Committee's report,¹⁹⁵ where it was estimated that arming and clothing with heavy protective equipment would take less than 70 seconds. A conversation with a member of the Armaments committee confirmed that this investigation was carried out with personnel from the National Police Special Intervention Unit.

3.2.6 Electronic data

The commission has had access to a large quantity of written logs, audio logs and video recordings. These refer to people contacting the police emergency number 112, but also to communications held over the emergency network between the control room, patrols and the incident commander. In addition, we have had access to conference conversations between people ringing in on 113 and 112. These data have made it possible to establish a relatively precise timeline over when different events took place, what was logged, what was communicated and who communicated it. This gave us a sound basis for in-depth conversations in the interviews

3.2.7 Handling and storage of information

As mentioned earlier, the work has involved handling information not available to the public or classified. The commission has been careful about paraphrasing such information. Where information from documents without public access has been used, this is limited to information relevant to the evaluation. To quality control this now published

¹⁹⁵ NOU 2017: 9, p. 282.

information, the commission has given its owners an opportunity to read through and approve its use and publication.

Audio recordings of the interviews were stored on an encrypted hard-drive and in a protected folder on the police network, to which only the commission had access. Audio files such as those of the police radio logs were stored in the same folder. All sound files will be deleted on publication of the report.

3.3 Data reduction and analysis

It has been necessary to prioritise that which is to be included in the report. Data reduction has been needed¹⁹⁶ as has organising the data to form an overview from an enormous amount of information¹⁹⁷ and, in this way, highlight the findings the commission believes to be most relevant, given the mandate. Matters of lesser relevance have been omitted from the final report.

3.3.1 PST's and the police's management of tips, and information sharing between themselves and, possibly, the health service

To compile the description of how PST and the police handled tips and reports of concern as well as information shared between themselves and possibly also with the health service, the commission chose to base the analysis on the specific tips/reports of concern received by PST and the police. The commission decided to structure the data chronologically. Based on the information available about receipt of tips and information sharing, we noted what we found to have been done in each case, in order, knowing full well that with each tip or message of concern, there may have been parallel "measures" and information exchanges from PST and the police outside the formal channels to which the commission had access (see section 4.4). This concerns, particularly, the tips in 2017. As the picture filled in and the pieces fell into place, the work of reducing a comprehensive and detailed description began, without letting the whole get caught in the undertow. To that end, we used the assessment criteria we had already prepared. By assessing the different elements of the description in the light of these assessment criteria, the presentation became more focused on what the commission believes can constitute relevant learning points, not only for Sør-Øst police district, but for the entire police service. The commission worked with both the parts and the whole together, and in this process the assessment criteria were also sharpened and reformulated, providing an opportunity to make a clear assessment of the processes preceding the incident.

3.3.2 Data reduction; the police's operational response

The interviews, together with extensive document studies and electronic data, resulted in a very large collection of data. Blaikie and Priest¹⁹⁸ argue that data collection, data reduction and analysis often merge in a cyclical process. In this process, the data have been analysed, carefully assessed, and structured thematically with emphasis on the commission's mandate. In this way, the commission has reduced the amount of data to what is most relevant, given the mandate. This has resulted in a chronological presentation of the entire operational handling, based on real-time information from police radio and telephone logs.

¹⁹⁶ Blaikie, 2009.

¹⁹⁷ Jacobsen, 2005.

¹⁹⁸ Blaikie & Priest, 2019.

3.4 Strengths and weakness of the evaluation

Several factors have a bearing on the strengths and limitations of a report such as this, and in the following we consider these.

This evaluation can be thought of as a case study, where we investigate a specific incident in depth, which is to say that we consider several aspects of the same incident to shed light on the handling of the Bråthen case and the Kongsberg incident by PST and the police. A case study calls for a disciplined and reasoned account of what has happened,¹⁹⁹ but, at the same time, the commission acknowledges that the informants' descriptions as well as records and log entries represent informants' social constructions formed to create meaning from their experiences with the case/incident.²⁰⁰ The report's findings cannot, therefore, be said to mirror objective facts, but are rather created and shaped as a result of interaction with other actors – and this will, of course, include the members of the commission itself.²⁰¹

Who forms the commission, its composition, is not only significant for the learning points it finds, but also for how these findings are put to use with a view to learning.²⁰² a commission that is to evaluate a chaotic event, serves two organisational functions: one instrumental and one symbolic.²⁰³ The instrumental function concerns the relationship between the formal goals of the organisation and the structural framework ensuring these. The commission's instrumental function requires a genuine intention to find out what has happened, in order that future crises be prevented. Its symbolic function is to indicate to society that the organisation takes the incident seriously and is interested in learning from it to avoid similar incidents in the future. The point of this is to sustain the organisation's legitimacy among the public.²⁰⁴ The composition of the commission will play a part in the report's instrumental and symbolic value. Compositions comprising a high degree of symbolic value may have easier access to the necessary resources (data files, audio logs, registers) to be able to fulfil its instrumental function and therefore provide a full description and evaluation of what happened. But as Renå and Christensen²⁰⁵ further argue, a symbol-heavy commission will not necessarily have those qualities required to analyse the event in question.

This commission's composition will likewise have its strengths and weaknesses. It has been composed of members from differing backgrounds, from the police, the law and prosecution as well as pedagogy and the social sciences. A common denominator being that a majority of the commission has, or has had, a connection to the police and the prosecuting authorities.²⁰⁶ In this, reference can be made to Brown's²⁰⁷ discussion of the different positions in police research, depending on the researcher's affiliation to the police organisation.

199 Yin, 2014, p. 5.

200 Guba & Lincoln, 1989.

201 Guba & Lincoln, 1989, p. 8.

202 Renå & Christensen, 2019.

203 Renå & Christensen, 2019.

204 Renå & Christensen, 2019.

205 Renå & Christensen, 2019, p. 43.

206 Brown, 1996.

207 Brown, 1996, pp. 179–186.

- Inside – insiders. Police personnel who conduct research into the police
- Outside – insiders. Former police personnel who research the police
- Insider – outsiders. Civilian researchers employed by and researching the police
- Outside – outsiders. External researchers without ties to the police.

From an overall perspective, the commission members cover all the positions above. Association with the police naturally raises important methodological issues. Concerning this, Davies²⁰⁸ refers to there being both advantages and disadvantages for research into the police in light of this typology. In addition, it is argued that, for such collaborative research to be credible, researchers, in this case the commission members, must take a reflexive (conscious and open) approach and ask more general questions. The composition of the commission should be considered a strength as we represent differing and complementary positions, whilst it has worked together since it was formed.

The commission's members have the following professional backgrounds:

Steinar Vee Henriksen: Assistant Chief of Police at the Police University College, PhD in risk management and societal safety.

Torgeir Brenden: Police Inspector and section leader for emergency response, Oslo police district.

Linda Hoel: Associate Professor at the Police University College, Bodø division, PhD in professional practice studies

Bjørn Ivar Kruke: Professor of Risk Management and Societal Safety at the University of Stavanger.

Tor-Geir Myhrer: Doctor of Law and Emeritus Professor at the Police University College.

The Kongsberg incident has required a broad-based investigation because it involves very many professional areas both within and outside the police, such as mental health care. Even though the commission members fill each of Brown's research positions (see above), it has still not been possible for them to have expertise in every area this extensive case touches upon. To compensate for this, the commission has taken the opportunity to contact other professionals with many years' experience and expertise in key areas. Such consultation, seeking others' perspectives, advice, input and feedback on thoughts and reasoning, improves the quality of an evaluation.²⁰⁹

Another limitation of the evaluation is due to the timing of some of our investigations. The mandate indicates two main lines of enquiry for the evaluation. One goes from the moment the perpetrator is first mentioned in police records and forward to the police action on 13th October 2021, covers the receipt of messages and sharing of information between PST and the police and, possibly, the health service, before the incident. The commission's investigation is restricted to the period 2015–2021, its timeline covering approximately six years, and reaching back between seven and two years at the time the

²⁰⁸ Davies, 2016, p. 154.

²⁰⁹ Danmarks Evalueringsinstitut, 2016.

investigation was conducted. The second timeline extends from the first notification of the incident received by the control room until the perpetrator was arrested on 13th October 2021, covering 34 minutes, investigation of this taking place three to four months after the Kongsberg incident.

Investigation of a matter from several years earlier, is challenged by both organisational and human factors. Firstly, this derives from a comprehensive reorganisation of the Sør-Øst police district between 2015 and 2022, which led to police employees being given new roles and functions or no longer being employed by the unit. Several of the informants attached to functional units in Sør-Øst police district had not heard of the perpetrator before he was arrested or had only heard his name in connection with security briefings ahead of major events in the district. Secondly, human factors lead informants to remember events several years back in time less well, giving rise to faulty memories. The commission experienced, for example, that informants did not remember attending key meetings when the minutes showed them to have been present. Some informants were well prepared having familiarised themselves with the case by reading the police intelligence register, Indicia, and the police duty log, while other informants no longer had access to these and had to base their interview on what they remembered. In addition, not everything that had been done in the case could be traced, as assessments, decisions, measures and other points were not put in writing and archived.

The importance of the time that had passed to both organisational changes and human factors, such as faulty memory and lack of record-keeping, made the assessment more subject to misunderstandings and misinterpretations – this applies to both the informants and the commission.

Data collection along the other line of enquiry, covers the time from the first notification of the incident on 13th October 2021 to the arrest of the perpetrator. The commission has completely precise information about these 34 minutes in the form of electronic data, which is patently a strength in evaluating the police's actions. But it has also been necessary to conduct follow-up interviews and informal conversations to get to the facts of the matter.

4. Description of the reception of tips, and information exchange by PST and the police

This chapter describes and assesses PST's and the police's receipt of tips, information handling regarding Bråthen and information sharing between them and with the health service.

As most of the tips were received, and information sharing between PST, the police, and health took place, for the most part, in the period 2015–2018, this presentation will begin by mentioning some relevant developments during this period. Then follow the commission's interpretation, operational analysis of the mandate and assessment criteria on which the evaluation is based. Although the handling of the tips received and information sharing between PST and the police are closely linked, we have nevertheless chosen to separate the description of these, as does the mandate. Finally, we present an assessment of PST's and the police's reception of tips and their information sharing.

4.1 Developments during the period being evaluated

Evaluation of actions and behaviour must base itself on the rules and guidelines then applicable at the time the actions were performed, and on the knowledge of the actual situation that those involved had, or should have had, at that time. The evaluation must also take account of contextual factors at the time.²¹⁰ Items 1 and 2 of the mandate concerning receipt of messages and information sharing prior to the incident on 13th October 2021 must naturally be based on the standard that applied at that time. When, as in this case, the assessment period extends over several years, primarily 2015–2021, it is appropriate to account for certain relevant social, organisational and legal developments – not only to better understand the judgements and decisions made then, but also to better understand the recommendations and suggestions for learning issuing from the evaluation.

The following is a brief account of the developments the commission has found to be particularly relevant:

- the threat situation arising from radicalisation, extreme Islam. ISIS and the increase in the flow of asylum seekers between 2015 and 2018
- the introduction of radicalisation contacts in the police
- organisational changes resulting from local police reform
- increased legal emphasis on social protection relating to offences committed by the mentally ill

Both to better understand the significance of the developments described in this section, the presentation of the tips received, information shared and the management of these given in sections 4.3 and 4.4, it may be useful for the messages concerned and the measures taken in connection with Bråthen, prior to the incident on 13th October 2021, to be set out in a timeline. The commission has compiled such a timeline, which is shown below:

²¹⁰ Renå, 2019.

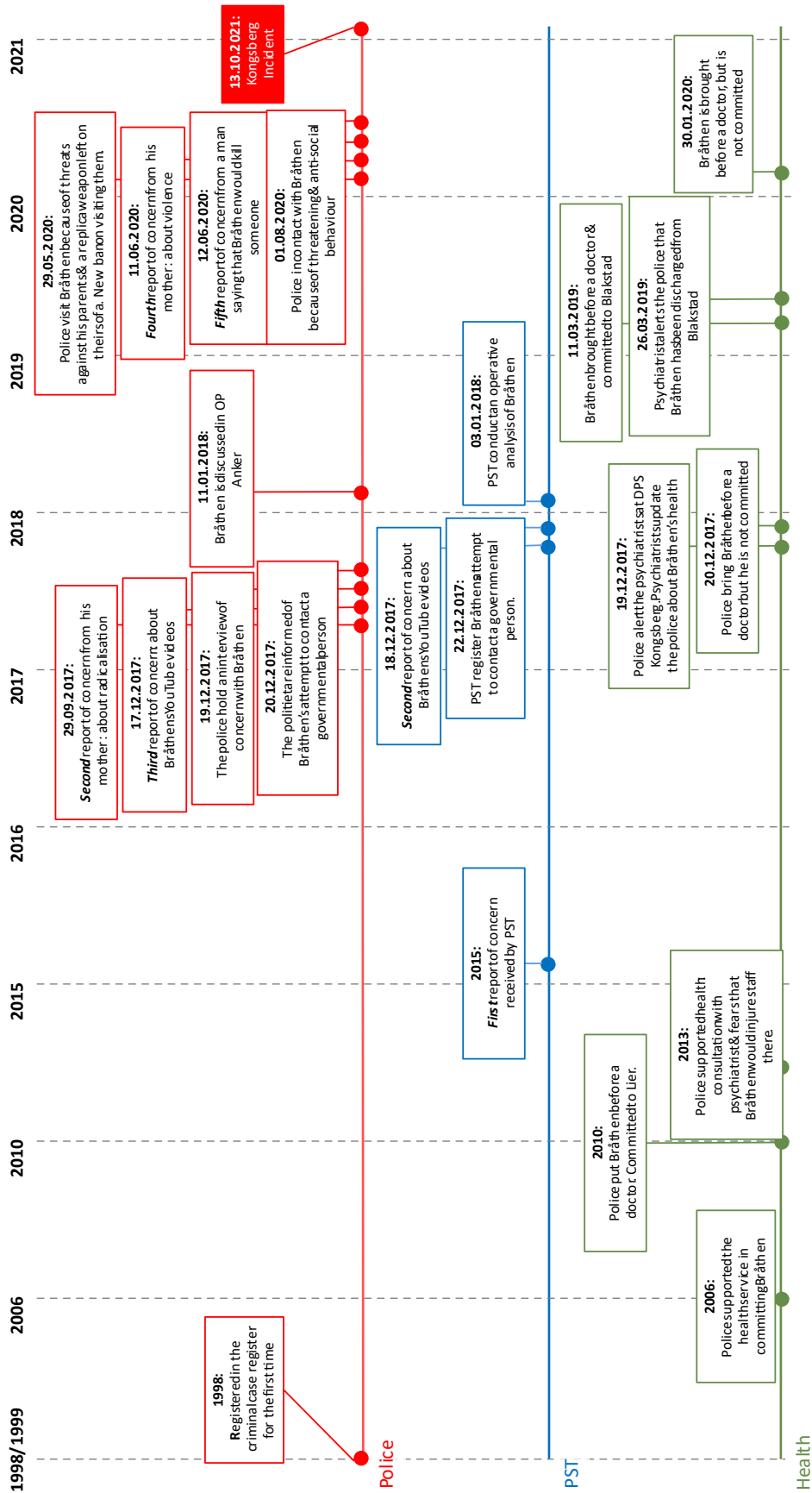


Figure 6: Timelines for PST's, the police's and the health service's involvement with Bråthen.

4.1.1 The threat situation

As will be seen in section 4.3, PST received the first message about Bråthen in 2015. Although this is not many years ago, this was a period in which knowledge of, and experience with, the threat posed by radicalised people was more uncertain than it is today.²¹¹ PST's national threat assessments from 2015, 2016 and 2017 contained the assumption that:

The largest and most important group of Islamist threat actors in Norway consists of people who are inspired by ISIS and, partly, also Al Qaida. Over the past year, ISIS, as a symbol and role model, has increased its support among Norwegian people who are attracted to or actively support extreme Islamist ideology.

It is further emphasised that:

PST considers the terrorist threat from extreme Islamism against Norway and Norwegian interests to have intensified at the beginning of 2014. The factors supporting that assessment are still current. During 2014, the negative development of the threat situation became clearer. The negative development is expected to continue in 2015.²¹²

It was further assumed that those most at risk of being radicalised in this way were people with poor education and a weak connection to working life, many of whom also carried convictions. The danger of radicalisation is described as a multi-ethnic problem, applying primarily to people born and raised in Norway. Geographically, PST considered the danger to be greatest for people living in Oslo and in the East Norway [Østlandet] area.

The description and assessment are largely the same in the assessments from 2015 to 2017, although the risk associated with radicalisation seems to decrease, as the radicalising environments become smaller – partly as a result of several of the most active having travelled to Syria. However, the national threat assessment from 2017²¹³ emphasises the internet playing a central role in the radicalisation of young people.

In parts of the period when the threat associated with the radicalisation of people raised and living in Norway was put on the agenda, there was also a short-term, but very large increase in the influx of refugees and asylum seekers to the country.²¹⁴ From around 500 people per month at the beginning of 2015, the number increased in October and November of the same year to around 8000. Although the flow of refugees from Syria and surrounding areas was relatively modest seen over a longer time period, in the autumn months of 2015 it accounted for around half of the refugees arriving in Norway. In connection with this increased flow in 2015, PST issued an additional threat assessment.²¹⁵ In this, it was deemed unlikely that ISIS and Al Qaida would make use of the Norwegian asylum system to send people with a pre-determined intention of violence to Norway. This assessment was based on intelligence and was therefore uncertain. The threat assessment might change rapidly.

211 Ellefsen, 2021.

212 Politiets sikkerhetstjeneste, 2015a.

213 Politiets sikkerhetstjeneste, 2017a.

214 Cf. Østby, 2015.

215 Politiets sikkerhetstjeneste, 2015b.

Regarding the long-term assessment, that a large contingent of refugees had come from this area, PST stated, in the same additional report:

In the longer term, it is possible that some asylum seekers may pose a terrorist threat to Norway. Among asylum seekers, there may be people who advocate an extreme ideology and who can contribute to radicalisation in their new country of residence.

Although the possibility of terrorist attacks from radicalised extreme Islamists is considered possible in the threat assessment for 2021, that is, with a probability between 40–60 per cent (as likely as unlikely), the commission assumes that the uncertainty today comes on the basis of markedly better information and experience than in 2015–2017, when this threat group was both relatively new and growing.

4.1.2 Radicalisation contacts in the police

Concerns about radicalisation, linked primarily to extreme Islamism and strongly right-wing radical groups, led the government to draw up, as early as 2010, the first “Action Plan to Prevent Radicalisation and Violent Extremism”, later revised in 2014 and 2020. In the 2014 edition, on page 7, radicalisation is defined as follows:

Radicalisation is understood here as a process in which a person increasingly accepts the use of violence to achieve political, ideological, or religious goals. A process of radicalisation leading to violent extremism is characterised by:

- a cognitive development towards an increasingly one-sided perception of reality, leaving no room for alternative perspectives.
- secondly, a further development where the perception of reality is experienced so acutely and seriously that acts of violence are seen as necessary and fair.²¹⁶

As measure 13 in this plan, it was decided to “[a]nchor responsibility for the prevention of radicalisation and violent extremism in the police districts”, described in more detail as follows (page 20):

Prevention coordinators are established in the relevant police districts, who are to be the point of contact in the event of concerns about radicalisation and violent extremism, provide advice and make wide-ranging inquiries to the appropriate authorities. The prevention coordinator should have knowledge of effective measures and available resources, conduct awareness-raising work and be the contact person for PST and local liaison partners. The prevention coordinator will play an advisory role toward police liaison bodies, SLT [coordination of local drug and crime prevention measures] and other local coordination structures. PST should maintain a close dialogue and follow-up of the local prevention coordinators and provide the coordinators with relevant training.

In connection with the local police reform (see point 4.1.3), a document was produced about frameworks and guidelines for the establishment of new police districts, describing the function of the prevention coordinator – which the Norwegian Police Directorate chose to refer to as radicalisation contact – as follows:

- responsible for the police district's plans for work countering radicalisation and violent extremism being kept up to date, harmonised and operationalised

²¹⁶ Justis- og beredskapsdepartementet, 2014.

- professional advisor to the head of the Joint Unit for Prevention/Joint Unit for Intelligence, Prevention and Investigation in questions and issues related to the field
- the police district's contact with internal and external actors and partners in the field
- responsible for skills development and quality assurance in the field in the police district.²¹⁷

Further, the radicalisation contact should:

- coordinate the police district's efforts in the field
- ensure uniform working methods against violent extremism are used in the police district, including that interviews are conducted with persons of all ages where extreme attitudes/acts are suspected

Søndre Buskerud – later Sør-Øst police district was one of the first districts to get a radicalisation contact. This was a new function needing to be incorporated into, and find its place and role in, the organisation. To a large extent, this coincided with the reorganisation resulting from the national police reform (see point 4.1.3). This has had special significance for the contact function, which is characterised by having overall responsibility at strategic level, whilst not being in the command line and not having its own resources. The person occupying the role is therefore dependent on good contacts in the operational units and a good understanding of the task from those who distribute the resources. The central radicalisation contact should have close contact with those designated local radicalisation contacts²¹⁸ at the police stations. For the commission, both central and local radicalisation contacts have had particular relevance in the period 2015–2018. It follows from the foregoing that both the function and the organisation within which it was to operate were, at that time, new and unready (see point 4.1.3).

4.1.3 National Police reform

As mentioned above, consideration of the receipt of tips and sharing of information in connection with Bråthen in the period 2015–2021 is especially relevant. This period falls almost entirely within the period of the implementation of national police reforms which were adopted in 2015 and reached formal completion in 2020.²¹⁹ The reforms meant that four relatively large police districts, Telemark, Vestfold, Søndre Buskerud and Nordre Buskerud, were merged into Sør-Øst police district. This meant that both new geographical operating units and new functional units were created. A natural consequence of this was that many people were given new tasks, partly tasks they had limited experience of. This meant, in turn, that, often, new routines had to be incorporated and new contact points established within the large, newly formed organisation.

Based on the evaluation of the corresponding Danish police reform in 2006²²⁰ and on Difi's [Agency for Public Management and eGovernment]/DFØ's [Directorate of Public

²¹⁷ Politidirektoratet, 2016.

²¹⁸ The local radicalisation contact in the Sør-Øst police district also has other functions, such as investigation and crime prevention in general.

²¹⁹ Justis- og beredskapsdepartementet, 2020.

²²⁰ Holmberg, 2018, pp. 229–231.

Administration and Financial Management] evaluations²²¹, there are grounds to think that such major reforms lead to a loss of effectiveness in the first years, and that one first regains the lost ground and begins to see the effects of reforms after a period of four to five years. In the case of the police reform, the loss of efficiency may have been amplified by it coming to some extent from above in the police organisation, therefore meeting considerable scepticism. Renå²²² writes that the reform, to a large extent, appears as "a politically steered reform process" leaving "little room for local adaptation and participation from managers and employees lower down in the police organisation."

When, during such a period of reorganisation, one is to consider the receipt of tips, sharing of information, and the follow-up in a specific case, it has to be kept in mind that the shortcomings uncovered maybe have resulted from the uncertainty and ambiguity resulting from the reform itself.

4.1.4 Increased recognition of society's need for greater protection against insane or mentally ill perpetrators

That people suffering a mental illness represent a risk in society, is an issue that, over a long period, has attracted an increased level of attention. In NOU 2010:3, a public committee looked at murders in Norway between 2004 and 2009. The grounds for the committee being established in 2009 are given on page 12:

The purpose in appointing the committee is learning, so that, if possible, measures can be implemented with a view to avoiding such tragic events in the future.

The committee was appointed as a result of there being, over a relatively short time, several tragic incidents where the perpetrator's mental illness/drug use was highlighted in the media coverage of the cases, including the so-called "Bodø murder" in December 2008 and the triple murder case in Tromsø in March 2009. This raised the question of whether failure of social provision could be contributory in such tragedies.

In the police's assessment of the level of threat 2021²²³, there is the following on pages 17 and 18:

Violent individuals with severe mental illness

It is likely that more people with serious mental illnesses than previously will commit serious acts of violence and pose a serious threat to both them and others. Psychological problems in combination with substance abuse, relationship difficulties or financial problems increase the risk of violence. Symptoms of suspected or diagnosed mental illness in the perpetrator are linked to a significant proportion of reported murders and attempted murders since 2016, between 30 and 45 percent of the total. Almost 60 per cent of the perpetrators in these cases were considered criminally incapable. In half of the cases, the perpetrator was under the influence of drugs at the time of the crime. Substance abuse increases the risk of violence in people with severe mental illness. The police and others in the field report an increase in cases of serious violence and threats perpetrated by people with serious mental illness. These use violence randomly against people in the public space and against people in their own circle of acquaintances. Their violence is described as both more serious and more wanton than before. It includes threats with weapons in public places, such as replica weapons, knives, swords and axes. The perpetrator is often well known both in mental health care and by the police. Although many are sometimes subject to control through

221 Justis- og beredskapsdepartementet, 2020.

222 Renå, 2018, p. 273.

223 Politidirektoratet, 2021b.

hospitalisation on a psychiatric ward, many will for long periods not meet the conditions for involuntary hospitalisation, even though family and friends have expressed their concern. The increase in cases of serious violence perpetrated by people with serious mental disorders may be related to the changes in the conditions for involuntary mental health care from 2017. People with severe mental illnesses who fall between the stools of various helping measures and agencies may have particularly aggressive and threatening behaviours negatively affecting the general security of society.

The trial following the terrorist attack on 22nd July 2011 revealed doubts and disagreements about the requirements that had to be in place in respect of a perpetrator's criminal capacity for that person to be sentenced. In addition, as shown above in the more general debate, there had long been an awareness of the risk posed to society by mentally ill perpetrators of violence. As a result of this, a broad-based committee, the Sanity Committee, was set up in January 2013, to look primarily at the requirements for criminal capacity, but which was also tasked with assessing the conditions for imposing special sanctions under criminal law, especially involuntary mental health care. The committee issued its recommendation in NOU 2014: 10: *Skyldevne, sakkyndighet og samfunnsvern*, [Criminal capacity, expertise and social protection], where the rules on special sanctions are dealt with in chapters 21–24. The proposal was followed up through Prop. 154 L (2016–2017),²²⁴ and the conditions for imposing a special sanction in the form of involuntary mental health care are dealt with in chapter 5 of the proposal.

Committal to involuntary mental health care can also be imposed on an offender who is insane according to section 20, second to fourth paragraphs, when he has committed repeated offences of a socially harmful or particularly troublesome nature, this special sanction is necessary to protect society against such offences, the danger of new offences of the same kind is particularly acute, and other measures have proven to be clearly inadequate.

In the proposition (p. 122) these special reactions under the criminal law are described as follows:

The fundamental purpose of criminal law special sanctions is to protect society's citizens against future harmful actions. The scheme can be said to be based on a way of thinking about necessity or preventive emergency guardianship. Such arrangements have a long tradition in all Western legal systems.

It is also possible to see this as a system in which police and prosecutorial coercion and the mental health services bring together their powers and expertise aiming to protecting society, and also, thereby, the perpetrator from himself. It follows from the changes made in section 62 of the Criminal Code that the need for this combined effort has become greater than before. Although this special sanction is described as a preventive measure, it is nevertheless by its nature largely reactive as it requires the perpetrator to have already carried out actions which (taken together) are sufficiently serious.

As far as the commission has been able to ascertain, there has been no initiative aiming to bring about a corresponding change and development in practice or in the legal framework in terms of enabling a corresponding combined effort to be made at an earlier, purely preventive, stage. Given that prevention is the police's primary strategy,²²⁵ and that, from both an ethical and socio-economic perspective, prevention is preferable to

²²⁴ Justis- og beredskapsdepartementet, 2017.

²²⁵ See Politidirektoratet, 2018.

reparation, it is the commission's opinion that the increased recognition of the need for social protection should also have an impact at the purely preventive stage.

4.2 Interpretation and operationalisation of the mandate and assessment criteria

Interpretation

The aim of the commission's evaluation is to identify learning points on the basis of the following points:

1. Describe and assess how PST and the police handled the tips received prior to the incident
2. Describe PST's and the police's management of information sharing relating to the perpetrator prior to the incident both between themselves and, as applicable, with the health services.

The evaluation commission understands this as:

1. How did PST and the police handle the messages concerning Bråten received prior to the incident?
2. How was this information exchanged between the police and PST, and possibly with other actors including the health service, and used for possible preventive/risk-reducing measures?

Based on the wording of the mandate, the commission's interpretation represents a clarificatory broadening out of two points: although "tips" is a word carrying a number of meanings, in this context it is most often used in sense of the dictionary definition "(confidential) information, advice, (tipping) a wink". It would not be natural to call the information of concern about a person received by the police directly from a victim in connection with a call out and the arrest of a perpetrator "a tip". And although "handling" is a rather vague term, the second bullet point in the mandate seems primarily to concentrate on how the information received was shared with various actors. Information sharing is important, yet the commission sees it as having rather little value in and of itself. The central thing is what the information enables its recipient to do, and, not least, what is done with regard to serious violence. The commission has based its evaluation on this point of view.

The commission stresses that the mandate does not ask us to assess the police's preventive work, and therefore crime prevention as such is not covered by the report.

Operationalisation of assessment criteria

The first point:²²⁶ *How did the police and PST handle the messages received concerning Bråthen prior to the incident?* – was operationalised by the commission by means of the following assessment criteria:

226 See Mandate in the report's Introduction.

- Receipt, handling, following up and sharing of information about Bråthen is assessed on the basis of whether it was carried out in conformity with the then current planning, routines and guidelines at PST and Sør-Øst police district. In this, the following documents are relevant:
 - The Police Act 17b
 - 'Tips-reception' in PST', procedure for dealing with tips 2015–2017
 - Guidelines for the role of radicalisation contact, c/f Framework and guidelines for the establishment of the new police districts, 2016 (Police Directorate, 2016).
 - Mandate for Operation Anker, 2015 and 2017/2018
 - PST's Intelligence Doctrine 2014 and 2017
 - Police's Intelligence Doctrine 2014
- case management and measures in PST and Sør-Øst police district are evaluated on the basis of their being proportionate to the level of concern at the time.
- case management in PST and Sør-Øst police district is assessed on the basis of adequate record-keeping.

In respect of the second point:²²⁷ *How has information been exchanged between the police and PST, and possibly also with the health service, and been used in possible preventive/risk reducing measures?* – the following assessment criteria have been developed:

- information exchange between PST and the police is assessed against whether it has taken place in accordance with planning, routines and guidelines. In this, the Indicia Project's "Radicalisation and violent extremism in Søndre Buskerud police district", guidelines for the radicalisation contact and the mandate for Operation Anker 2015 and 2017/2018 are central.
- information exchange between PST and the police is assessed against the question of whether PST and the police had the same understanding of each other's duties and responsibilities.
- information exchange between PST/the police and other collaborating agencies (the health service) are assessed against their being subject to a high level of confidentiality and a high threshold for information sharing.

A key preventive measure is the inter-agency regional SLT scheme (co-ordination of local drug and crime prevention measures). SLT is a model which, primarily, is to coordinate local drug and crime prevention measures for children and young people. His age meant that Bråthen fell outside the "children and young people" category, and therefore, the commission has limited its assessment against the SLT model.

4.3 Description of the handling of messages received prior to the incident by PST and the police

The commission finds it appropriate to first present an overview of Bråthen's criminal activity. The picture is largely formed from interviews with police officers at Kongsberg

²²⁷ See mandate at the beginning of the report.

police station. There follows a chronological account of the reports of concern received by PST and the police between 2015 and 2020.

Kongsberg police's description of Bråthen

In 1998, when its name was still Kongsberg police station, Bråthen was first registered in the police system. There, the commission finds 33 entries in the criminal case register before 2020 in which Bråthen has the status of suspect, accused or convicted. Bråthen has convictions for six counts related to embezzlement, damage and minor drug offences. He has previously been accused, but not convicted, of incidents involving violence.

In 2010, however, Bråthen was apprehended and arrested for breaking windows and violence against the police in Kongsberg. He is said to have kicked and spat at the police when being apprehended and again on his way to the arrest. He also made death threats against the police. When police searched his accommodation in connection with this case, they found a sword, throwing stars and a meat cleaver. Bråthen was brought before a doctor and committed in the psychiatric division of Lier Hospital. Although there was some doubt about Bråthen's sanity, the case was dropped. Bråthen has been admitted to psychiatric hospital several times, the last being in March 2019.

Several of the reports held in the police database show Bråthen's tendency to use violence. However, police officers in Kongsberg believed that Bråthen: "Has no great history of being violent. He's only ever been threatening." As an officer put it.

Kongsberg police said that Bråthen had been seen largely as a problem for his parents, who found him threatening and violent. He could become angry and break things in the house. In June 2020, police were told that he was going around carrying an air-rifle and knives. That evening, when he left his parents, he had left behind a replica weapon on their sofa. Police in Kongsberg had most of their contact with him through this kind of incident. His mother was given a violence alarm, which she retained for more than two years (03.10.2017–31.10.2019). This alarm was never triggered. Bråthen was, on several occasions, banned from visiting his parents. The police said that his "only wish was to move home". They experienced Bråthen as having full control over when the visiting bans were lifted. As soon as the restraining order ended, Bråthen was back in his parents' living room.

Police described Bråthen as a youngster and then an adult man becoming gradually more and more isolated. He lost contact with friends from his youth, until in the end he only had contact with his parents, except when he was banned from visiting them. Police officers in Kongsberg, to whom the commission has spoken, describe Bråthen as being sometimes "an utter nuisance" for convenience stores, causing arguments, unpleasantness and unreasonableness. Bråthen could be "staring" and appeared to people as a "mumbling, angry" type of man. After threatening behaviour in several shops in Kongsberg he was banned from visiting them.

According to the police, Bråthen spent a lot of time online, but how extreme the content he saw is uncertain. The police saw Bråthen as being potentially violent, but not as extremely dangerous. A police officer saved the videos Bråthen published in 2017, as he thought that Bråthen "would one day go big", but primarily by using violence against his parents. The commission has asked police officers at Kongsberg if they were surprised by

what Bråthen did. Most say that they are not surprised by this, but rather by the fact that the incident on 13th October 2021 had the “scope and brutality” it had, as one put it.

The following describes how PST and the police processed tips received about Bråthen prior to the incident on 13th October 2021. The description follows the chronological order in which the messages were received.

4.3.1 First report of concern regarding radicalisation

One summer day in 2015 a PST staff member at PST Søndre Buskerud police district received the first message regarding Bråthen and radicalisation. The message is more an expression of concern than a tip.²²⁸

A private individual contacted the employee at PST Søndre Buskerud by telephone and spoke of his concern about Bråthen’s relationship with Islam. The person had come into conversation with Bråthen and was uneasy at what he had heard. The person said that Bråthen had converted to, or was in the process of converting to, Islam. Bråthen had also made statements relating to Islam that the ‘tipper’ found worrying, stating that he was paranoid schizophrenic and wanted to travel to the Balkans to study “peace”. The caller was worried that the purpose of the trip was other than to go to school. He described Bråthen as a man without a network, “contact-seeking and easily led/influenced”.

In accordance with tips handling procedure in PST²²⁹, the PST employee carried out an initial search in relevant databases, in the police electronic duty record and the police intelligence register, Indicia. These searches showed that Bråthen did not have a job and was known to the police, having several criminal cases registered to his name. In addition, it appeared in the police’s electronic duty record and Indicia that Bråthen had occasionally been in contact with mental health services from 2010.

Four days after the message of concern was received, the employee summarised the content of the telephone conversation, and together with details of the initial investigation and findings, he sent the document to ‘Tips-Threats’ under the heading “Tips on unstable person”. ‘Tips-Threats’ is a category in PST-net (Outlook). ‘Tips-Threats’ sent the document on to the archive with the following information: “Listed at PST Søndre Buskerud”. This was correct procedure, according to the guidelines for the receipt of tips in PST.²³⁰

A staff member in PST said that when the case was returned to PST Søndre Buskerud, further investigations were made including whether the information recorded was reliable. The case was left lying in the intelligence system.²³¹ The staff member said that, at that time, PST was preoccupied with intensive investigations into foreign jihadists and was

228 The mandate asks the commission to look at the receipt of “tips”, but “tips” is not a comprehensive description (PST handles these as information) and the commission’s analysis of the “tips” indicates that the citizens contacting PST and/or the police, are worried about Bråthen. Based on this, the commission chooses to refer to “tips”, in the rest of the report, as “reports of concern”.

229 Politiets sikkerhetstjeneste, 2015 [Restricted access].

230 Politiets sikkerhetstjeneste, 2015 [restricted access].

231 From PST, the commission has received the following description of what happens to tips that come in, but which do not necessarily lead to immediate measures: “PST can process tips in PST’s intelligence database after an initial assessment if the threat and/or concern potential of the information is unclear, and any new information is awaited. In these cases, the tip is considered necessary and relevant to register, provided that the tip is within PST’s remit and mandate. The information is covered and regulated by the rules in the Police Databases Act and is also particularly regulated in routines dealing with the processing of tips. The rules mean that there are special provisions for reviewing and deleting the information in order to take the individual’s privacy into account.”

under considerable pressure of work. As it was not an urgent case, it was worked on "between blows", as the staff member put it.

The staff member at PST who the commission has spoken to,²³² stressed that the initial investigation in 2015 gave no indication that Bråthen was set on politically motivated violence. He was on the margins, therefore, of being registerable as an object of their interest.

About a month after receiving the first report of concern, PST registered that Bråthen had been travelling in the Balkans, as the first report of concern had indicated that he planned to do. The PST employee considered this a holiday, as Bråthen had family in the area. PST considered that this new information still did not bring the case into PST's professional area. Nothing pointed towards extremism, rather the case followed "a clear psychiatric pattern", said a PST employee. As their assessment was that Bråthen did not pose a threat falling within PST's field of operations, the case not falling under the Police Act, section 17 b, first paragraph, number five, but that the information nonetheless was concerning, PST wanted the local police to follow up Bråthen.

In January 2016, six months after the first record of concern reached PST, a PST staff member approached the radicalisation contact²³³ and requested that the police conduct an interview of concern²³⁴ with Bråthen. This was registered in the newly established Indicia project: "*Radikalisering og voldelig ekstremisme i Søndre Buskerud politidistrikt*"²³⁵ ["Radicalisation and violent extremism in Søndre Buskerud police district"]. (How the exchange of information between PST and the police took place is discussed in section 4.4.)

An employee of PST Sør-Øst explained to the commission that the reason the tip was followed up only six months after it was received, was that they were working on a great many other and more volatile cases. This tip was not given priority as initial searches showed no sign of either intention or capacity, suggesting that he was a mentally ill or "unstable person", which was the heading PST gave the message.

4.3.2 Second report of concern related to radicalisation

On **29th September 2017** his mother came to the police station in Kongsberg because she was worried about Bråthen's conversion to Islam and his regular contact in recent years with imams in Oslo. She said that her son disavowed his parents' Western way of life, could be threatening and, in anger, had broken things in the house. She feared that he would physically harm them.

Despite there having been no violence, the mother's concern was registered in the police duty record as "domestic violence", and in Indicia the mother's report of concern was headed "radicalisation". It was registered in both the police system (PO) and in Indicia that Bråthen had a history of mental illness and intoxication, violence, and threats. In

232 In the description of the further case management of the 2015 tip, the commission bases itself on what employees in PST have said about PST's follow-up of the case, as we cannot find any written documentation regarding what PST Søndre Buskerud did after the case was archived and sent back to the regional office.

233 See point 4.1.2. for further description of the radicalisation contact.

234 The radicalisation contact requested that an interview of concern be carried out, but the template sent together with the request referred to it as a "clarification call".

235 The project: "*Radikalisering og voldelig ekstremisme i Søndre Buskerud politidistrikt*" was established in 2015.

Indicia, it was recorded that Bråthen was known to PST Søndre Buskerud from before. The commission has not been able to obtain documents indicating that the police handled the mother's report of concern (or tip) beyond registering it in the police system.

That same day, PST Søndre Buskerud captured the message in Indicia, and PST registered it in its journal system on **29th September 2017** on the grounds that the information might strengthen their knowledge about Bråthen's possible radicalisation process and attitude to Western values. The commission has not been able to see that this report led to Bråthen receiving any new or different assessment from PST. However, a staff member at PST told the commission that after this information reached PST, new assessments were made with regard to Bråthen's intention and capacity, but that such assessments were usually made orally at that time, and not documented.

4.3.3 Third report of concern connected to radicalisation

Three months later, **17th December 2017**, Bråthen published two videos on Facebook and YouTube. In the videos (in Norwegian and English versions) Bråthen conveyed the following message while filming himself: "I am a messenger. Is this really what you want? And for everyone who wants to make amends, then the time has come. Witness that I am a Muslim."

These videos shocked several people, and the same day they were published, the police received a third report of concern regarding Bråthen. A person who had seen the videos was quite scared by them and contacted the police in Kongsberg about the case. The police registered the report in their log as "Investigation case. (Muslim ???)", writing that the message had been forwarded to the "right unit" for further action. The commission has not been able to trace what the "right unit" was.

In all, the police and PST received five tips about the videos. Some of the tippers were mostly concerned about Bråthen's health, saying he needed help from the health service. Three of the tips were posted to PST. One tip, as mentioned above, was registered in the police duty record, and another was received by e-mail by a police officer at Kongsberg police station and registered in Indicia **18th December 2017**. In the following, these tips are combined to form "the third message of concern". Below is a description of how this was further processed by the police and PST.

The staff member in the Kongsberg police who received the e-mail, forwarded it to a police superintendent in the investigation and civilian section at Kongsberg police station (hereafter referred to as 'superintendent'), who in turn forwarded the message to the central radicalisation contact, to the crime prevention section leader and an employee at PST Søndre Buskerud.

Later in the evening of the same day, the police contacted Bråthen's mother to investigate the case further, and the conversation was registered in the police duty record on the evening of **18th December 2017**.

19th December 2017, at 10.48, PST created a case in its own intelligence register, and the relevant section at the Central Unit was linked to the case via a contact person. This

is confirmed in 'Tips Received' in PST, 2017.²³⁶ Preliminary investigations were made to assess Bråthen's intention and capacity. Both the intelligence journal and the commission's data show that PST considered several possibilities regarding handling Bråthen: first, arrest or imprisonment, second, that the Kongsberg police conducted an interview of concern and/or that he received health care by means of the police presenting him for an emergency psychiatric assessment.

Later that evening, a Kongsberg police patrol conducted an interview of concern with Bråthen (discussed in section 3.3.3), which was logged in Indicia. In conversation with the commission, a PST employee claimed that the patrol's meeting with Bråthen had lowered the level of concern.

The day after the patrol's interview with Bråthen, **20th December 2017**, however, Oslo police district logged a new incident in their duty record, that Bråthen had approached a government official with a note stating that he was a Muslim and had a warning for him. The police's conclusion was that Bråthen was mentally ill. He was therefore brought before a doctor, who judged Bråthen not to meet the conditions required for involuntary hospitalisation. Two days later, PST became aware of the event and logged it in their database. The Central Unit notified PST Søndre Buskerud, recommending that an intention and capacity assessment of Bråthen be undertaken.

The local police in Kongsberg were notified of the incident, and Bråthen was noted as a potentially dangerous person in Indicia, the intelligence register.

The operational analysis of Bråthen

As mentioned, an employee at the Central Unit requested that an intention and capacity assessment of Bråthen be carried out. A newly hired employee at PST Søndre Buskerud started writing such an operational analysis of him. The report was originally classified as secret.²³⁷

Through searches in various databases, the operational analysis compiles all information PST had. It described Bråthen's history and what PST knew about him. PST had not actively sought further information. This because the information they had about Bråthen was clearly not considered serious enough to legitimise PST accessing further information using statutory methods for preventive purposes. According to PST's own assessment, Bråthen was considered to fall essentially outside PST's mandate and remit (see Police Act, section 17 b, first paragraph, number 5).

The operational analysis was completed on 03.01.2018. It is ten pages long, and its conclusion is already clear on the first page: "Threat level: Low." The analysis refers to PST's report²³⁸ on solo actors and points to vulnerability factors often applying to them, such as isolation, lack of engagement with working life and mental illness, and to the internet having a central function in radicalising them. Bråthen is assessed against these factors, which PST recognised as applying to him. In conjunction with other information

²³⁶ Politiets sikkerhetstjeneste, 2017 [Restricted access].

²³⁷ When the commission asked PST for documents showing the case management, the Central Unit discovered that the operative analysis was too highly categorised in respect of confidentiality. This was a mistake Central Unit admitted and downgraded it to 'restricted'

²³⁸ Politiets sikkerhetstjeneste, 2017b.

PST had about Bråthen, it was considered possible that he was a potential lone terrorist, possibly posing a threat to government officials. This means that it was “as likely as unlikely”²³⁹ that Bråthen could both carry out terrorist acts alone and represent a threat to government officials. The operative analysis concluded with an unclassified (U) “recommended effect”:

- (U) It is recommended that Bråthen is followed up by project OP Anker²⁴⁰, focusing on an interdisciplinary approach
- (U) Further follow-up by the local radicalisation contact is recommended with a view to following his development in relation to Islam and, possibly, radical/extreme Islam.

Bråthen published the videos on 17th December 2017, at a time when foreign fighters, ISIS and radicalisation still commanded a priority security focus both in Norway and globally. PST saw the videos as a (poor) imitation of videos published by ISIS ahead of the killings they carried out. Nevertheless, PST concluded that it was unlikely that Bråthen was driven by ideology or had plans to carry out politically motivated violence, rather that he had mental problems and might have the capacity – in combination with low impulse control and possession of, and fascination for, weapons – to act on the basis of his illness, not ideology.

In conversation with the commission, several employees in PST described the operational analysis as both good and thorough. One said that “in this case we did more than we would’ve done in most other cases because it’s a borderline case. We probably wouldn’t have written an operational analysis on everyone, so to speak”. Several others in PST agreed that Bråthen received thorough consideration given the low risk they believed he posed with regard to extreme Islam.

4.3.4 Fourth report of concern related to the risk of violence

On **11th June 2020**, his mother contacted the police, as Bråthen had breached the restraining order. He had come to his parent’s house to tell them that he disagreed with the ban on visiting them. His mother told them that Bråthen was going around with an air rifle in a bag and had collected a knife which he took with him. When her son arrived, the mother sought refuge with a neighbour. She told police that she was afraid he would use the air gun on someone, that he was highly unstable and paranoid.

On the strength of this, armed police went to Bråthen’s address. The patrol that met Bråthen described him as calm, but mentally ill. He was therefore taken to the duty doctor. Following a search of his accommodation, the police took temporary possession of both an air gun and a cartridge gun, a machete-like knife, and a flick knife. Bråthen himself told the patrol where these were kept. The doctor assessed Bråthen as not being sufficiently ill to warrant committal to hospital, with which the police were not in agreement, and he was driven home.

Both the mother’s concern and the police action were registered in the police’s duty record, but not in Indicia

²³⁹ For a more detailed description of assessed threat levels, see Threat assessment PST, 2022.

²⁴⁰ OP Anker is a collaborative forum between PST and the police. For a detailed description see point 4.4.3.

During the morning handover the next day, the police superintendent at Kongsberg informed about the mother's concern, the breach of the restraining order, the subsequent action and that Bråthen had been presented to a doctor, but that the doctor had considered that Bråthen did not meet the conditions for involuntary admission. The presentation did not say that Bråthen was also considered relevant to PST, but the commission cannot rule out the possibility that PST was informed orally.

4.3.5 Fifth report of concern related to the risk of murder

The day after the report of concern from his mother, **12th June 2020**, a new entry regarding Bråthen was made in Indicia. A man came to Kongsberg police station and said that he was worried that Bråthen would kill someone in the near future. He had spoken to Bråthen the year before, who had spoken about a "new world and various conspiracy theories". He had now met Bråthen again and come into conversation with him. Bråthen had said that a new world war was coming and that he must learn sword-fighting and other kinds of self-defence. Bråthen had also said, with a knife in his hand, that he wanted to take someone's life.

When the police make an entry in Indicia, there are boxes for "comment" and "assessment". In this case, the person making the entry used them to describe Bråthen as an unstable person spending a lot of time on conspiracy theories online.

4.3.6 Brief summary – PST's and the police's receipt of tips regarding the case

The commission's investigation shows a flow of both messages and other information to PST, generating new investigations and intention and capacity assessments, although not all of these were written down in a report and/or logged (apart from the operational analysis in 2017/2018). PST's assessment in both 2015 and 2017 was that Bråthen was mentally ill and in need of health care, but they were, at the same time, concerned that there might also be political motivation behind his actions and statements.

Regarding the reports of concern received by PST, the police were involved, either through the radicalisation contact, as was the case in 2015, or by direct contact with police managers at Kongsberg police station, as was done in 2017. The commission cannot see that the radicalisation contact was included in the loop by PST in 2017, nor in 2018 or 2019, when Bråthen was discharged from Blakstad hospital

When tips and other information about Bråthen flowed into the police, we cannot see that they made further investigations or assessments regarding threat and risk. Only after receiving tips about the videos in 2017, did the police contact PST directly and have a conversation with his mother. According to PST, the conversation with his mother sufficed to reduce the level of concern.

4.4 Description of the police's and PST's handling of, and sharing of information prior to the incident, both between themselves and possibly also the health service

The following points describe PST's and the police's information sharing and collaboration regarding the five reports of concern received about Bråthen (see section 4.3).

4.4.1 First report of concern regarding radicalisation

In 2015, the function of radicalisation contact had newly been established in Søndre Buskerud police district (point 4.1.2). The radicalisation contact spoke of a “function established without clear orders or expectations” by the Police Directorate. He found himself with great freedom to shape the role and to develop his own portfolio. Collaboration with PST was experienced as being difficult and challenging, and routines could be established only after more experience had been gained. In the beginning, he found that PST, rather than acting as a partner, used the radicalisation contact as a way into various environments of interest to them, but not necessarily to the police.

The newly established radicalisation contact in Søndre Buskerud police district had been in post for about six months when the first report of concern regarding Bråthen was received by PST. At this time, he had weekly meetings with PST Søndre Buskerud. He does not recall Bråthen, in the wake of the first message in 2015, being mentioned in these meetings, whilst accepting the possibility that PST Søndre Buskerud did inform him about this. Exchanges of information at these meetings were usually verbal, with very little being recorded. That PST’s dialogue with the police was mostly also verbal, and that not much information was shared was confirmed by PST itself in a meeting with the commission.

When PST received new information about a trip Bråthen made in September 2015, which built on a tip they had received, PST asked the police, via the radicalisation contact, to conduct an interview of concern with him. A PST staff member reported this to the radicalisation contact, who in turn sent an e-mail²⁴¹ to the police superintendent at Kongsberg police station asking the police to carry out the conversation and explaining the basis for the request. Attached was a template for conducting the “clarification interview”. This was registered in the Indicia project “Radicalisation and violent extremism in Søndre Buskerud police district” by the radicalisation contact on **19th January 2016**. The commission’s investigation suggests that this was the first time Bråthen was referred to in the police system as a current Islamic extremist.

The e-mail correspondence²⁴² shows that the superintendent who received the request, forwarded it to his local prevention officer, who was the designated local radicalisation contact, asking if he could hold the conversation with Bråthen.

After five months (**13th May 2016**) the superintendent responded to the inquiry from the radicalisation contact by e-mail, writing that he had pressed the local prevention officer to carry out the conversation with Bråthen, indicating that the conversation had still not taken place five months after the request from PST. Both the radicalisation contact, and PST claimed that they repeatedly urged Kongsberg police to get the conversation completed. The commission has neither seen documentation of these reminders, nor have they been confirmed by the police at Kongsberg.

In conversation with the commission, the local preventive officer at Kongsberg said that he forwarded the inquiry from the police superintendent, asking a colleague at Kongsberg police station to carry out the interview. The commission’s investigations did not discover

241 In January 2022, the commission received the e-mail correspondence between the superintendent and the radicalisation contact from 2016 regarding the request for the interview with Bråthen.

242 E-mail received 2022.

if the interview happened, or who, in that case, conducted it. Most likely, is that the clarification interview with Bråthen was never carried out in 2016, as PST received no feedback regarding it either.

But, on 10th June 2016, the local prevention officer at Kongsberg held an interview of concern with Bråthen's mother. After the conversation, the officer decided that Bråthen "does not require [follow-up]", as several of his strong statements against the USA and the West were, according to his mother, most likely due to a bad episode of his illness. His mother was to keep an eye on things and inform the police if Bråthen said such things again. The police also knew that Bråthen's passport was with his parents. The police considered, therefore, that his "parents will have some control over his travel plans".

This assessment, according to PST, served to lower the threat level. Beyond this, no information was exchanged between the police and PST in the Bråthen case through formal channels until December 2017.

4.4.2 Second report of concern regarding radicalisation

The second report of concern about radicalisation was received by the police and came from his mother in **September 2017**. PST is mentioned in the Indicia report, but the commission is unsure whether PST became aware of the report, as there is nothing in writing about it. What the commission can say is that the report did not generate any further exchange of information or collaboration between the police and PST. The commission is also not aware that the police followed up the report of concern in any way.

4.4.3 Third report of concern regarding radicalisation

Following the report of concern in 2017 regarding the videos published by Bråthen on Facebook and YouTube on **17th December 2017**, a meeting was held on 19th December 2017 attended by the local PST, the superintendent at Kongsberg police station, the local prosecution lawyer, incident commander and control room supervisor.²⁴³ a PST staff member told the commission that PST held a briefing of their concerns about Bråthen and his development since the first tip came to them in 2015. At this meeting, PST raised the question of whether the police should arrest and possibly detain Bråthen and carry out an interview of concern with him about radicalisation. But when it turned out that the police at Kongsberg and PST Søndre Buskerud had differing views on the illegality of what Bråthen had published, the police said that they were reluctant to do anything in the case and asked for further information and for the view of the prosecuting authority on the statements in the videos. PST raised the issue of the illegality of the videos with its own lawyer at the Central Unit.

The lawyer assessed the videos as having no illegal content, describing the videos as "nonspecific threatening, but not containing an illegal threat".

The same morning as the Central Unit clarified that the statements in the videos were not actionable, the police at Kongsberg logged this in their duty record adding: "Further follow-up handed to PST".

²⁴³ Cf. e-mail from the police superintendent 19.12.2017.

The Central Unit wrote to PST Søndre Buskerud, saying that there was still a “strong wish” that local police contact and talk to Bråthen and possibly bring him before a psychiatrist. If this did not happen, the alternative was for a member of staff at the Central Unit to conduct the interview. But this should be avoided as, according to the Central Unit, it was “local police who “owned the case”. This was logged in PST’s intelligence database.

By this time, the police in Kongsberg, as mentioned above, had already dropped the case and handed responsibility for what should happen next in the case to PST (cf. the police duty record entry “further follow-up handed to PST”), as the content of the videos was not illegal.

A member of PST Søndre Buskerud described the “handover” of the case from PST to the police as follows:

There was no formal handover [of the case from PST to the police], but there had been a close dialogue with PST and local police in Kongsberg. Possibly an unusual amount of contact. Suddenly, PST was worried – even though it was considered unlikely that he was driven by extremism.

The commission regards the entries by PST and the police, respectively, as showing that the “parties” had differing expectations of each other, making different judgements as to what the “other party” had responsibility for.

As mentioned, the local police in Kongsberg did not want to conduct any conversation with Bråthen without more information and an assessment of the videos. But on **19th December 2017**, according to a staff member in PST, a request came to the control room supervisor at Søndre Buskerud to use a uniformed police patrol to conduct the conversation with Bråthen. Whether the managers at Kongsberg police station were involved in this decision, none of our informants knew or remembered. The PST employee told the commission that it was/is common practice to contact the control room supervisor with requests to carry out assignments on behalf of PST. Where the case is urgent or sufficiently serious, PST will take the assignment itself. In other cases, not reaching elsewhere in the organisation, they take the request to a higher level. However, in this case, it was a request the control room supervisor decided on.

After the above-mentioned meeting (19th December 2017), the superintendent contacted Bråthen’s psychiatrist at the district psychiatry centre (DPS) in Kongsberg asking whether Bråthen was being treated there. The psychiatrist replied with Bråthen’s diagnosis but said that he was not being treated, nor wanted treatment. The superintendent sent the psychiatrist both the English and Norwegian versions of the videos.

The police’s interview with Bråthen

19th December 2017, by agreement with the control room supervisor, a patrol leader at Kongsberg was called by an employee of PST Søndre Buskerud who wanted the patrol to pay a home visit to Bråthen that same evening. The patrol leader saw the video, and PST wanted the patrol to talk to Bråthen about it and see how things were at his home. The patrol leader understood it to be important for PST that the patrol went into Bråthen’s apartment, which would be problematic as there was no search warrant.

Based on his knowledge of Bråthen and his history, the patrol leader was unsure how Bråthen would react. Because of this, the patrol leader and his partner decided that they wanted reinforcements who could provide assistance if something should happen. Along with the patrol were an incident commander and two police officers. They agreed that the patrol leader and the colleague would conduct the conversation, while the others waited outside the flat.

At **6.12pm on 19th December 2017**, the three patrols drove out to Bråthen's flat. The patrol leader and his partner contacted Bråthen and asked to come into his flat. Bråthen asked to see the search warrant, which they didn't have. The patrol used a quarter of an hour to "talk their way into" the flat. The patrol leader told the commission that the flat was extremely tidy, and that Bråthen had baked a cake that day. An audio recording was made of the entire conversation, from first contact with the patrol until they left. The commission has listened to this recording, and we share the patrol's description of the conversation: it was calm and lasted half an hour. Publishing the videos was raised, and the reason for that, what reaction Bråthen had hoped for, about his social network as well as the importance of having contact with others.

Following the conversation, the patrol reported to PST, making the point that Bråthen needed health care more than anything. A short summary of the conversation was logged in the police watch duty record (PO): "Bråthen had allowed them in voluntarily and they had a calm conversation and he appeared to be coping. The apartment was very tidy. He understood why the police had come. He explained that he often watches religious videos on YouTube and was 'carried away' by them, but the idea behind posting the videos was a 'message of peace'."

The next day, (20th December 2017), the local radicalisation contact/prevention officer logged the Kongsberg PO message in the intelligence database Indicia. In addition, he logged having talked to the municipality about an outside contact, or alternatively the leader of the Islamic Cultural Centre, who could have a chat with Bråthen. Further, the officer logged that "treating psychologist at DPS (name and telephone number) has had access to all contact Espen [Bråthen] has had with the police since 2010 (both criminal record and PO messages)". Nothing whatsoever was logged about the threat, risk, intention and capacity of Bråthen, which the clarification interview had been requested to address.

What became of the message of concern in Operation Anker?

In 2017, the Indicia project: "Radicalisation and violent extremism in Søndre Buskerud police district", was replaced by Operation Anker (OP Anker), a joint project by the police and PST. In the police, OP Anker is organised so that each geographic operating unit has an OP Anker forum, led by the section leaders at the geographical operating unit in the district. This forum includes representatives from the intelligence service at the joint and geographical units, section leader prevention, prevention contact at the local police stations and representatives from the regional PST office. In addition, PST and the police at national level have an OP Anker forum.²⁴⁴

244 For more information about OP Anker at national level, see the Al-Noor Report (Evalueringssutvalget, 2020).

Following publication of the videos, Bråthen was a topic raised at OP Anker meetings in 2018 and 2019. The following description draws on information from records and minutes from OP Anker meetings where Bråthen was discussed, and interviews with police officers.

PST registered that an OP Anker meeting was held on **21st December 2017** at which Bråthen, because of the videos, was a topic. PST noted that a measure from the police was to send a report of concern to the municipality requesting further follow-up of Bråthen's health. However, in the minutes of that meeting, there is no mention of Bråthen. The first minutes of a meeting mentioning Bråthen are those from 11th January 2018, one month, that is, after the videos were published. It is not possible to see from these minutes that Bråthen had been a topic at the meeting of 21st December 2017, as PST registered.

11th January 2018 is the first OP Anker meeting the minutes of which mention Bråthen. The measures agreed at that meeting were to speak to the GP to hear about Bråthen's condition and medication and updating Indicia. Indicia was updated four days later, on 15th January 2018, with information about the incident in Oslo and noting that Oslo police district had opened a case against him. Finally, it was noted that Bråthen was "flagged".

The next OP Anker meeting where Bråthen was named was **18th January 2018**. Here, it was noted, briefly, that the measures from the earlier meeting had been carried out, as well as DPS [the District Psychiatric Centre] being notified.

On **22nd January 2018**, Bråthen was again a topic at the OP Anker meeting. The minute is short, a single sentence describing that there had been a (serious) incident between Bråthen and his parents, as well as that: "Must continue to be followed up by Kongsberg police."

Thirteen months pass before Bråthen pops up again in OP Anker based on health information. Written in the minutes of **28th March 2019** is that Bråthen's psychiatrist at Blakstad Hospital informed them that Bråthen had been discharged. The psychiatrist also said that he had first been committed, but this had later been changed to voluntary admission, and that Bråthen did not wish to take his medicine in future. The minutes end with: "Prevention officer²⁴⁵ at Kongsberg notified."

In the minutes of the OP Anker meetings of **4th April** and **2nd May 2019** the wording from the minutes of 28th March 2019 is repeated (see above). In other words, there had been no new information about Bråthen after he left Blakstad Hospital.

Regarding the operational analysis of Bråthen (see point 4.3.4), based on conversations with employees in PST Sør-Øst, there is reason to believe that its unclassified recommendations²⁴⁶ were presented at one OP Anker meeting in 2018. However, this is not minuted. A police employee who attended the OP Anker meetings, told the commission

²⁴⁵ The minutes include the first name of the crime prevention officer.

²⁴⁶ (U) It is recommended that Bråthen be followed up in the OP Anker project with a focus on an interdisciplinary approach. (U) Furthermore, follow-up by the local radicalisation contact is recommended with a view to following his development in the relationship with Islam and possible radical/extreme Islam.

that the police did not make any threat or risk assessments regarding Bråthen, nor was a threat assessment of Bråthen a topic at the OP Anker meetings.

4.4.4 Fourth and fifth reports of concern to the police

The police officer who entered the fourth message, in which Bråthen's mother contacted the police and was worried after Bråthen turned up at his parents' home with a weapon and in violation of the restraining order in the police duty record did not log the message in Indicia, nor did PST become aware of it.

The police officer who created the Indicia report regarding the fifth report of concern, that Bråthen might take a life, did not tag it as relevant to PST, and PST did not capture the report.

A PST staff member opined to the commission that "the police should have tagged PST", to draw attention to it being potentially "PST-relevant".

4.4.5 PST's and Kongsberg police's understanding of tasks and responsibilities

In the Bråthen case, in both 2015 and 2017 PST made analytical assessments of Bråthen showing him as neither radicalised nor having any political intention to commit violence. But that Bråthen was a possibly dangerously violent man, PST thought of as being clearly communicated to the police, even though it is not written down anywhere as "at that time it was mostly verbal communication and maybe not everything is in the minutes, unfortunately", as a PST staff member put it. As Bråthen did not trigger any of PST's indicators in relation to "planning, terrorism, increasing capacity and increase in violence", a PST staff member said to the commission that "then he is an object that it is natural for the police to follow up with mental health care." PST assumed that the police were following him up closely. As one PST employee said: "We thought he was definitely on the police radar." The commission finds that PST took the police's follow-up of Bråthen for granted, without attempting to have this confirmed.

A main finding regarding information exchange and collaboration between PST and the police is that PST felt confident that Bråthen was managed and followed up closely by the police in Kongsberg in cooperation with the health service. For example, a few weeks after Bråthen's attempt to contact a government official in Oslo (see point 4.3.4), the incident was discussed during a meeting between PST and Oslo police district at which several units/sections were represented. An employee from the Central Unit participating in that meeting said that "the case/Bråthen is being followed up by Sør-Øst police district". In mid-January 2018, the Central Unit noted that "[t]he police in Kongsberg have established collaboration with the health service in connection with Bråthen and the possibility of implementing measures against him will be discussed". One month later, PST Søndre Buskerud communicated to the Central Unit that: "Bråthen is being followed up closely by the police at Kongsberg police station who have a dialogue with GPs and psychiatrists".

However, the commission's investigation shows that the police in Kongsberg did not have a "dialogue" with the GP, nor was Bråthen "followed up closely" by the police, as PST asserted. The commission's investigation also shows that management at Kongsberg police station has had, for the past six years, an annual meeting with the management

at DPS where they collaborated anonymously about shared challenges. The police managers who attended cannot remember the difficulties presented by Bråthen ever having been addressed there.

As the commission understands it, PST thought that Bråthen was not a person who should be followed up by PST within their area of responsibility according to the Police Act, section 17b, first paragraph, number 5, but nevertheless wanted to be informed about incidents and developments related to him. This to complete the picture of him so that it could be decided if there was any basis for a new and changed assessment. Police in Sør-Øst do not seem to have grasped this need for information at PST. An employee of the police in Sør-Øst police district said: “[O]ne gets the impression that PST has not suspected radicalisation either. It is reflected in the measures taken: carry out conversations with Bråthen, the family and coordinate health.”

Asked by the commission if the description of the collaboration between the health service network and the police as ‘close’ can be supported, an employee at Kongsberg thought that it was not adequate to say that there has been a “close collaboration with health” (cf. PST’s quotes above). The information had been one-way, going from the police to health. The employee next to him explained that “no cooperation had been established between the police and health on how to handle Bråthen. We do not spar back and forth [with the health service].”

The officer also said that he “experienced there not having been a ‘close collaboration between the police at Kongsberg and health’ in the case”, as PST claimed in its records in 2017/2018. The police in Kongsberg had shared information about Bråthen only with DPS, the psychologist and the GP.

4.4.6 “Then it went quiet” 8th August 2020–13th October 2021

In the police, the prevailing view is that “no news is good news”. Whilst it may seem unnecessary to write about something that has not happened, the evaluation of PST’s and the police’s handling of the Bråthen case needs to contain a few words about the period between 8th August 2020 and 13th October 2021.

The last entry regarding Bråthen is in Indicia on 1st August 2020, and the last time the police were in contact with him was on 8th August 2020 in connection with complaints from neighbours. These were dealt with on the spot. Then everything fell quiet until 13th October 2021 when the tragic event hit Kongsberg town. In this 14-month period, no one in the police had contact with either Bråthen, his parents or the health service. With hindsight: considering all the reports of concern about Bråthen’s radicalisation, his vulnerable situation, the risk of violence and murder, his frayed mind, PST’s attention to and interest in him, Bråthen’s indulgence in religion, fascination with weapons indicating a possible solo terrorist and a potential threat to government officials, absence of friends and other social contact, restraining order against local shops and parents who feared him, repeated psychiatric admissions until 2019, the fact that Bråthen opposed health care, did not take medication, spent time on Islamic videos on YouTube, and that he was flagged as a dangerous person in police systems, it is reasonable to question this “quiet period”. Should someone have been concerned as long as nothing happened?

4.5 The commission's assessments

The commission's assessments are limited to what was done in the case on the basis of messages and information received. It is important to make clear that the commission has not been asked to assess the seriousness of the content of messages and information. The commission members are also not competent to do this.

A crucial aspect of the commission's assessment of tips and information handling and sharing is that all we are investigating happened several years ago. In conversations with the commission's informants, it emerged that a large part of what was deficient in 2015–2018 appears to work better today. Police reform has taken effect, and the police organisation in Sør-Øst has made progress, although most informants claim that there is still some way to go, especially in terms of intelligence, threat- and risk-assessment and "proactive"²⁴⁷ prevention. The police and PST in Sør-Øst both claim that information sharing and collaboration between them now has a clearer framework and structure and functions better. The same applies to PST's re-organisation and improvement of its own structures, including tip reception and handling (for a more detailed description of this work, see the Al-Noor report 2020).²⁴⁸

Against this background and given that the central aim of the evaluation is experiential learning, the commission has taken the view that an assessment of the reception and processing of information has little value in itself. The mandate is understood, rather, such that we should also look at how this information, from a possibly preventive perspective, was used in advance of the incident on 13th October 2021. This assessment concentrates mainly on what appears, today, to be most central to the case, and with which the commission believes there may still be difficulties in respect of crime prevention.

4.5.1 Assessment of how PST managed information about Bråthen received before the incident

The assessment takes the following plans, routines and guidelines set out regarding the receipt of tips by PST, guidance about managing tips 2015 and 2017, and PST's intelligence doctrine from 2014 and 2017, into account.

Management of tips 2015 and 2017

As part of an ongoing process of improvement following the July 22nd terror attack, PST re-worked and improved its guidelines for receiving tips in 2015²⁴⁹ and again in 2017²⁵⁰ (for further information regarding improvements made within PST in the wake of the 22nd July terror attacks, see Evalueringsutvalget, 2020). The guidelines, which are not in the public realm, describe routines and the processing of tips received.

- *The commission considers that, in 2015 and 2017, PST received, managed and followed up the tips and other significant information about Bråthen in line with then current guidelines and routines for receiving tips.*

247 The police in Sør-Øst police district claimed that prevention is characterised by measures being taken when something has happened. They call this reactive prevention. Proactive prevention will involve being ahead of any new incident.

248 Evalueringsutvalget, 2020.

249 Politiets sikkerhetstjeneste, 2015 [Restricted access].

250 Politiets sikkerhetstjeneste, 2017 [Restricted access].

Tips were handled quickly, and preliminary searches initiated promptly, as stipulated by the guidelines. However, the commission is concerned that it took *five months before PST took the matter further with the radicalisation contact, in January 2016*. There may be several reasons for this. One is that there may have been other more pressing tips and matters needing to be dealt with. The commission has no grounds for doubting this, as we know nothing of the caseload of PST Søndre Buskerud in autumn 2015. We do know that there was considerable activity in Islamist circles at that time, as indicated by PST's 2015 threat assessment. In addition, Bråthen appeared to be lacking clarity with regard to political intention, and the commission has noted the heading the PST staff member put on the tip: "Tips on unstable person". When the tip came, in summer 2015, he was still not considered as a matter for the police.

Threat and risk assessment in 2015

PST was issued its first intelligence doctrine in March 2014, just over a year before the tip in 2015. The intelligence doctrine²⁵¹ sets out the way PST is to work with intelligence as a process. As the doctrine is classified, what the commission can say about its content is limited but, in brief, the doctrine describes PST as an intelligence organisation and the characteristics of intelligence processes: how, ideally, working methods should ensure the quality of a systematic collection, analysis and assessment of information about actors and phenomena possibly posing a threat. The purpose of intelligence is that the assessment of threat should form a supportive basis for external and internal decision-makers.

PST's receipt and management of the tip in 2015 (and the videos in 2017) are characterised as *investigation case[s]*, the intention of which was to ascertain if Bråthen's actions and statements fell within PST's remit under the Police Act, Section 17 b. Given that the initial searches in 2015 indicated that Bråthen did not, the commission's assessment is that the intelligence doctrine's description of a controlled intelligence process is not relevant to the assessment of tip reception in 2015.

Measures – clarification interview

One of PST's important functions is to identify and clarify threats and concerns.²⁵² The 22nd July Commission's²⁵³ criticism of PST for being too little active, lacking in creativity and the will to identify new threats, indicates the need for the service to have the right will and attitude. The measures put in place to this end have an ethical dimension. Considering the threat posed by ISIS and foreign fighters at the time of the first tip, it may be appropriate to ask whether PST had reason to be more concerned than they say they were regarding Bråthen. This makes the assessment criterion as to whether PST's handling of the tip and information was "necessary and proportionate in relation to the seriousness of the case" pertinent. The tip in 2015 was not urgent, and the case was not sufficiently serious with regard to PST's remit. Given this, an initial database search is both necessary and proportionate to this (low degree of) seriousness.

The decision to initiate a clarification interview presupposes that there was a potential threat or concern about politically motivated violence and terror. In 2015, PST considered Bråthen not to pose a terrorist threat, but nonetheless asked the police to conduct such a conversation.

251 Politiets sikkerhetstjeneste, 2014, p. 11 [Restricted access].

252 Politiets sikkerhetstjeneste, 2017 [Restricted access].

253 NOU 2012: 14, p. 459.

- *The commission considers the request to the police in Kongsberg at the beginning of 2016 to conduct an interview of concern/clarification interview with Bråthen to be neither necessary nor proportionate considering the information available at that time, and the low degree of seriousness.*

The commission is also in doubt as to the aim of the interview, as this is not apparent from the data.

Risk and threat assessment 2017

A new version of the 2014 intelligence doctrine was released in 2017. As the changes hold no particular significance for the commission's assessment, we will not go into these in more detail. Regarding the tips in 2017, the intelligence doctrine did however become relevant, as PST, based on new information about Bråthen's actions, both the videos and his attempts to seek out an official, conducted an operational analysis of Bråthen.

- *The Commission considers that the intelligence doctrine's requirements for a controlled, structured analytic process and record-keeping were carried out in a satisfactory manner.*

Two days after the tip about the videos, PST received new information giving reason for concern about whether Bråthen might pose a threat to government officials and the nation's security. Although this judgement cannot be formed from a reading of PST's records, the commission has considered this concern for the use of resources on a more thorough analysis of the threat Bråthen could potentially pose, and the Central Unit asking PST Søndre Buskerud to prepare an operational analysis of him. So far as the commission can see, the work on the operational analysis is in accord with PST's intelligence doctrine of 2017.²⁵⁴

With thought to the intelligence doctrine's description of the intelligence process and intelligence product, the report appears to be thorough, systematically presenting the available data and information, which, in turn, is assessed in the light of both scientific knowledge and prevailing conditions. The analysis ends with a prediction and an unclassified recommendation of further follow-up.

The intelligence process involves dissemination of the intelligence product.²⁵⁵ The intelligence doctrine describes certain principles concerning the dissemination of intelligence products, among these, that the product be delivered to the decision-maker in a timely manner. The message should be clear and unambiguous, and there must be record-keeping as to internal distribution and external sharing. In this case, the intelligence report was to be disseminated both internally within PST and to the police. It would have been natural to disseminate the intelligence report to OP Anker.

- *The Commission considers that dissemination of the intelligence product has not been carried out in a satisfactory manner.*

²⁵⁴ Based on our reading, it seems that the information forming the basis of the operative analysis is the same that the commission has gained access to through PST's records, PO logs and the investigation material in the case. This means that the report does not contain information that the commission has not been made aware of.

²⁵⁵ Politiets sikkerhetstjeneste, 2017 [Restricted access].

As it has not proved possible for the commission to trace whether the intelligence product was disseminated to the police in Sør-Øst police district, it follows that it is not possible to assess the remaining principles for dissemination of intelligence products, cf. the intelligence doctrine.²⁵⁶

The commission wants to dwell on the content of the unclassified recommendation,²⁵⁷ as it appears to be unclear. The recommendation itself, that the local prevention contact should follow Bråthen's development in relation to Islam and any extreme Islamism is sound, but from the police's point of view it can appear to be of little use as the police, like PST, had neither authority nor capacity for a proactive follow-up of Bråthen. Whilst it is hardly up to the PST staff member performing the operational analysis to suggest how the recommendation should be implemented tactically by the police, it does seem reasonable to expect that recommendations from PST to the police are realistic in terms of what the police are able to do within the applicable legal framework. The commission considers that the police had the opportunity to register incidents in Indicia and tag PST in on the report, when the patrol had had contact with Bråthen, or when other reports came in about him. But this can scarcely be considered "following his development", as such a practice is too arbitrary and unstructured if the aim of the follow-up is to prevent a serious criminal act.²⁵⁸

4.5.2 Assessment of how the police managed information about Bråthen received prior to the incident

The assessment takes in the following plans, routines and guidelines laid down by the Police Databases Act, section 5 and the Police Act, section 6, the police intelligence doctrine 2014 as well as frameworks and guidelines²⁵⁹ for the establishment of the new police districts, regarding the radicalisation contact function.

Were the police's management and measures necessary and proportionate to the concerns at that time?

In aiming to prevent crime or other unwanted behaviour, the implementation of a large number of measures is a possibility.²⁶⁰ a comprehensive strategy for prevention will not consist exclusively of measures aimed at potential perpetrators, nor will it only consist of measures implemented by the police.²⁶¹ However, it follows from the commission's mandate that the evaluation can only include preventive measures that the police have implemented, initiated or participated in.

- *The commission considers the police's management and measures to be necessary and proportionate in relation to the concerns at that time (but not necessarily sufficient).*

In sections 4.3 and 4.4, the commission identified four preventive measures under the auspices of the police. These are explained here in more detail:

256 Politiets sikkerhetstjeneste, 2017 [Restricted access].

257 (U) It is recommended that Bråthen be followed up in the project OP Anker with an emphasis on an inter-disciplinary approach. (U) Furthermore, follow-up from the local radicalisation contact is recommended with a view to following his development in the relationship with Islam and possible radical/extreme Islam.

258 There is an ongoing discussion in the professional community as to whether intelligence products should contain recommendations (see Moen,2020).

259 Politidirektoratet, 2016.

260 Bjørge, 2015.

261 Bjørge, 2015.

Interviews of concern/clarification interviews: Following the information about possible radicalisation and conversion to Islam, and Bråthen's trip to the Balkans in 2015, the radicalisation contact in the then Søndre Buskerud police district requested that the crime prevention unit at Kongsberg police station conduct an interview of concern with Bråthen. As said in point 4.4.1, this did not happen, but the local crime prevention officer was in contact with Bråthen's mother. After Bråthen posted the videos in December 2017, a patrol from Kongsberg police station held an interview of concern with him. Clearly, this was not an initiative taken by the police but was rather a task that the police were being pressured into carrying out by PST, primarily to assess if Bråthen was capable of, and had the intention of, carrying out acts falling within PST's remit.

Violence alarm: The explanations given to the commission, show that the local police saw Bråthen, first and foremost, as possibly representing a threat to his parents. He visited them regularly, was threatening, violent and caused damage to their home. An important part of a comprehensive strategy to prevent crime is to protect vulnerable targets. As a measure in this direction, Bråthen's mother was, over a two-year period, equipped with a violence alarm. As stated in section 4.3, this alarm was never triggered.

Visiting ban: On several occasions, Bråthen was banned from visiting his parents, and, due to threatening behaviour, a similar ban was imposed on visiting some of the local shops in Kongsberg. Such a restraining order is, in a theory of crime prevention, a combination of creating "normative barriers to committing criminal acts" and aiming at "deterrence by means of threats and negative sanctions".²⁶² According to information received by the commission, these bans had, to an extent, the desired effect as far as they went. That is to say that Bråthen kept away from his parent's home for the duration of the bans, but no more than that. He went back to visiting them as soon as each ban was lifted.

Attempt at committal: After his attempt to make contact with a government official in December 2017, Oslo police district asked a doctor to assess whether Bråthen should be involuntarily hospitalised in accord with mental health legislation. The conditions for this were, however, found not to be fulfilled. After, on 11th March 2019, Bråthen had threatened to kill shop staff in Kongsberg, he was arrested, assessed, and involuntarily hospitalised. This was later changed to voluntary hospitalisation, and he was discharged on 26th March 2019. In 2020, police were notified of Bråthen's threatening behaviour toward his mother (cf. message of concern 4). Bråthen was arrested and again assessed for involuntary hospitalisation under section 3.3. of the Mental Health Care Act. The police, however, did not make a formal request for sectioning and were therefore unable to appeal when the necessary terms were not found to be present. In the language of crime prevention, involuntary hospitalisation represents a combination of rehabilitative (treatment) and incapacitative measures.

The commission considers the management and measures to be both necessary and proportionate, but this does not mean that they were necessarily sufficient. As the commission see it, the police had a reactive approach to prevention by taking measures only after incidents had occurred. An assessment of whether the police's handling and measures are necessary and proportionate to the concerns expressed must be seen in

²⁶² Bjørgo 2015, pp. 27 & 32.

the light of contextual and organisational factors, see point 4.5.4 Crime Prevention as primary strategy – organisation of the police.

Assessment of risk and threat

In 2014, an intelligence doctrine²⁶³ was implemented in the police. A core purpose of this was “a more systematic and knowledge-based approach to policing through strategies and measures suitable for preventing and combatting crime”.²⁶⁴ As with PST, intelligence is seen as a managed process providing police management with support in making decisions regarding priorities, strategies and focus areas, and it “includes the entire process of management, (management and prioritisation), collection, analysis and dissemination, where intelligence products are to be basis for making decisions about measures”.²⁶⁵ Intelligence is therefore more than gathering information in connection with investigation. It should also contribute to making sound risk and threat assessments, based on hypotheses, indicators, and an awareness of one’s own information needs.

Regarding the police’s handling of the messages of concern received and other information in the Bråthen case, the commission understands this to mean that the police in Kongsberg perceived that Bråthen was seriously mentally ill, posing, primarily, a threat to his parents (hence the measures mentioned above). Despite several reports of concern and police assignments related to Bråthen’s potential for violence, the commission has not been able to document that the police, either in Søndre Buskerud or at the local police station in Kongsberg, undertook any threat and risk assessment of Bråthen’s potential to commit violence.

- *The commission considers that the police’s ability to carry out, and the framework conditions for carrying out, risk and threat assessment regarding preventing violence by the mentally ill in the period 2016–2020 were limited.*

What one misses most of all is a more complete assessment of what risk Bråthen might pose, such as:

- what undesirable behaviour might one expect Bråthen to exhibit?
- which circumstances, events or developments might trigger such actions?

An assessment of these preconditions could have formed the basis for tailored preventive measures²⁶⁶ which the police and/or other agencies could have implemented to prevent or reduce the likelihood of these behaviours, possibly avoiding triggering factors coming into play.

In the Bråthen case, the commission’s investigations show that the police’s ability to undertake threat and risk assessments was limited, but the investigation does also indicate that this appears to be a general difficulty in Sør-Øst police district. There are several closely related reasons for this. Firstly, several informants told the commission that although the police district has come a long way in improving its intelligence, they

263 Politidirektoratet, 2014.

264 Moen, 2020, p. 177.

265 Politidirektoratet, 2014.

266 See Bjørge, 2015.

continue to work reactively, including in crime prevention. Several said that the police go directly to measures arising from specific incidents rather than preparing risk analyses based on forming hypothesis, assessment of informational needs and other indicators. Secondly, it also emerged that the district has very limited information gathering capacity. Thirdly, and perhaps most relevant to this case: a key principle for the intelligence process to be valued is that the need for information is indicated by the leadership through a "task dialogue" between the management (those defining the tasks) and those who are to undertake the intelligence work. In many ways, intelligence represents the classic "chicken or egg" question. Which comes first? Information or need for information? An officer explained that:

information goes both ways. Intelligence as a managed process means that "the management should come and tell us what they are worried about", but how will they know what they are worried about if nothing has been put before them? So, something has to start somewhere to get this ball rolling.

An example of this being difficult to achieve came to light when intelligence officers in Sør-Øst police district said that, in the wake of the Kongsberg case, they had told management that they wanted to make an analysis of mental health cases and cases registered in the police district between 2016 and 2021. The informants said that a certain amount of persuasion was needed before management in the district gave the go-ahead to obtain this information.

In other words, police leaders must acknowledge the need for information if the organisation is to work in line with the doctrine's expectations. But it will be difficult to criticise the police leadership in Sør-Øst for not being aware of a need for information about the police's work with mental health, as long as the Police Directorate have not identified mental illness and serious crime as an area within crime prevention about which the police need information.²⁶⁷

Although, in some cases very serious, crimes committed by mentally ill people have been a matter for concern (see point 4.1.4) for some time, it is difficult to find any indication that this has been considered a separate area within crime prevention. On behalf of the Ministry of Justice and Emergency Preparedness, the Norwegian Police University College's research department prepared, in 2018,²⁶⁸ an overview of the field of crime prevention. According to the report's preface, this included

summarising an overview of Norwegian research into crime prevention work. The aim was to highlight the work being done in the field and to make visible the most important challenges.

The report shows that mentally ill people who commit violence or threats are not, in the research, considered a separate group in need of crime prevention interventions, as is the case with, for example, children and young people, gang members and radicalised and violent extremists. On the victim side, too, violence perpetrated by the mentally ill

²⁶⁷ It is therefore symptomatic that only on 22nd January 2022 the Norwegian Police Directorate sent a letter, starting as follows, to the country's police districts: "The Norwegian Police Directorate has set up an interdisciplinary working group with the aim of reviewing the police's routines and working methodology in the face of challenges in the intersection of police and mental health care. In the first instance, the work is limited to the prevention of incidents of violence from individuals who are mentally ill and have an assumed potential for violence."

²⁶⁸ Runhovde & Skjevrek, 2018, p. 3.

does not appear to be identified as a risk factor requiring particular and special preventive efforts. This does not mean, of course, that problems of criminality related to the mentally ill are absent from crime prevention research, only that they are not seen as a separate field within crime prevention and crime prevention work. Prevention of substance abuse is often closely linked to the work with the mentally ill²⁶⁹ and, in connection with violent crime, the perpetrator's mental illness is highlighted as a factor associated with violence in close relationships and partner violence.²⁷⁰

It follows from section 1, second paragraph, section 2, number 2 and section 6, first paragraph of the Police Act that the prevention of unwanted, risky or criminal behaviour is a central element of the police's social tasks. Preventive strategies have long been central to the police's activities and have been their primary strategy since 2017/18.²⁷¹ Despite it having been recognised for quite a long time that mentally ill people who are also guilty of violence and threats represent a particular risk, it has, as far as the commission has been able to ascertain, still not been identified as an issue requiring special preventive actions, either centrally or locally in Sør-Øst police district. Despite the 13th October 2021 incident indicating the need to develop a preventive strategy towards this group, this was not recognised or prioritised by the police district's management.

Consequently, even if the commission believes that it should be a priority task, it cannot be expected that threat and risk assessments of these persons/this field will be carried out at local level.

Recordkeeping

It is considered an unwritten rule of good administrative practice that it be possible to see on what the administration, in this instance the police, have based their decisions and actions, or, possibly, lack of action.²⁷² In the present case, this applies, among other things, to recordkeeping regarding the tips and information the police received regarding Bråthen. The commission has assessed recordkeeping in respect of the police receiving reports of concern and of the measures taken.

- *The commission considers that the police's recordkeeping regarding the receipt of reports of concern and information in the period 2016–2020 was of varying quality.*

Of that which has been logged and registered regarding Bråthen in the police duty record and Indicia, most is well done, but some logging is sketchy and imprecise. Several entries include unclear terms and unclear assessments and comments, and, further, messages were logged in a way making it very difficult for PST to find them.

- *The commission considers the police's preventive measures to be satisfactorily recorded.*

The commission has not been able to discover how the police assessed the information from PST in 2016, logged it or argued that a conversation with Bråthen was not considered relevant. However, the preventive measures (see above) undertaken are adequately recorded in various systems.

269 Runhovde & Skjevraak, 2018, p. 140.

270 Runhovde & Skjevraak, 2018, pp. 208–211.

271 Politidirektoratet, 2018.

272 Graver, 2019, p. 291 & *Norsk Retstidende* 2012 p. 424, section 44.

4.5.3 Assessment of how information was shared between the police and PST, and possibly other actors such as the health service, and used for possible preventive/risk-reducing measures

Information sharing and collaboration are not necessarily the same. Exchange of information may be satisfactory in accordance with formal requirements, but the interaction, the way in which the information is shared and the reason for sharing the information may be found to be unsatisfactory and lacking in clarity by those involved. Although the mandate asks the commission to look at the "exchange of information", the assessment below will consider both, as the commission believes that good information sharing presupposes good collaboration.

Information sharing about Bråthen is assessed based on whether it has been implemented in accordance with the then current plans, routines and guidelines within PST and Søndre Buskerud, later Sør-Øst, police district, including the Indicia project "Radicalization and violent extremism in Søndre Buskerud police district", the framework and guidelines for the establishment of new police districts, including the role of radicalisation contact, and the mandate of OP Anker 2017/2018. The documentary material is compared to the informants' experiences as presented in conversation with the commission.

The commission's experience is that the police in Sør-Øst police district have, historically, found PST's information sharing to be deficient. That PST has previously acted "secretively", not sharing information with the police, is acknowledged by PST. Several PST staff said, in conversation with the commission, that since 2017 they have worked to become more open, toward both the police and society in general.²⁷³ An example of this is the terror indicator lecture now presented in all police districts, including Sør-Øst police district. The lecture presents PST's indicators and how these are used to assess risks and threats. In addition, PST Sør-Øst has, in recent years, worked to improve cooperation with the police. In 2021, the collaboration plan for PST Sør-Øst and Sør-Øst police district came into force.²⁷⁴ This is the first cooperation plan describing the mandate for PST and the police, local goals for collaboration, fixed meeting points between PST and the police, what is applicable in sharing classified information, and describing of areas of cooperation, joint measures, and division of responsibilities.

We can add that police in Sør-Øst police district confirm that PST Sør-Øst has, recently, become better at sharing information, and partly also at sharing the grounds for the assessments they make. However, several in the police claimed that PST still has some way to go regarding transparency about information and assessments in specific cases with a bearing on the work of the police.

The main finding

The main finding is that PST and the police kept each other informed, but had different understandings of what the case was about/what should be prevented, hindered, or averted: radicalisation and terror, or mental illness and violence in close relationships?

²⁷³ An example of a more open PST organisation is the podcast Psst., which can be found both on PST's website Psst and on Spotify.

²⁷⁴ Sør-Øst politidistrikt, 2021.

- *In sum, the exchange of information from PST to the police is considered good, but the interaction between PST and the police is considered unsatisfactory with a view to creating a common understanding of shared preventive purposes.*

Specifically: records and registrations show that when new information about Bråthen flowed to PST's Central Unit, it was shared without delay with PST Søndre Buskerud, who, in turn, shared it with the police in Kongsberg "without delay" ("without delay" applies especially to information relating to the incident of the publication of the videos in 2017).

Communication channels between PST and the police were via the radicalisation contact in 2015, the Indicia project in 2016, through a face-to-face meeting with the police in Kongsberg in 2017 and an OP Anker meeting in 2017/2018. In addition, PST held the terror indicator lecture for the operational police at Kongsberg in 2019, using Bråthen as an example. As well as disseminating knowledge about radicalisation indicators and terrorist threats, PST wanted to make the police in Kongsberg aware of Bråthen as a person still in their sights and about whom they still wanted information. The lecture was an attempt to establish a "PST focus" among operational personnel at Kongsberg.

What most characterises the exchange of information and collaboration, as the commission experiences it, is a lack of understanding in the police for PST's need for ongoing information about Bråthen. The commission considers that even though Bråthen's mental diagnosis indicated that he could not be radicalised according to the definition of radicalisation (see 4.1.1), he could nevertheless constitute a threat to government officials and national security. In this sense, he remained a subject for PST.²⁷⁵

The commission's analysis shows that the exchange of information between PST and the police lead to two key difficulties (which the actors themselves do not address, but which the commission wishes to comment on):

- whose case was Bråthen?
- legal framework and ethical considerations regarding the interview of concern / clarification interview

Whose case was Bråthen?

When PST wanted the police to hold an interview of concern with Bråthen (both in 2016 and 2017) the question arises as to whose case Bråthen was.

The Bråthen case occupies a grey area between the mandates of PST and the police, and this appears to be demanding for both parties. Ever after the police in Kongsberg received information from PST in 2016 via the radicalisation contact, the commission finds that the police were dismissive of the concern about radicalisation, pointing rather to Bråthen being mentally ill and in need of follow-up from the health service. In 2016, there was an e-mail exchange between the radicalisation contact and police in Kongsberg, which the commission regards as a polarised communication. The radicalisation contact's concern about the possible radicalisation of Bråthen was countered by the police in Kongsberg saying this was about mental health (and implicitly *not* radicalisation).

²⁷⁵ See also Bjørge & Silkoset, 2017.

In the commission's view, this then also governed the police's handling of all incoming reports of concern and other information about Bråthen. As long as Bråthen had not done anything wrong in this respect, the police would not take any action. This becomes particularly clear in connection with the incident surrounding the publication of the videos in 2017. When Bråthen's statements were judged not to be illegal, the police in Kongsberg wrote in their duty record that "the case is returned to PST". At the same time, PST wrote in its journal that the police in Kongsberg "own the case" (and requested that the police in Kongsberg interview him). The exchange of information and the interaction between PST and the police were marked by them lacking a common understanding of what lay at the heart of the case. One might suppose that the radicalisation contact, in 2017, could have played a guiding role here. However, the commission finds that the radicalisation contacts have played a very limited role in the Bråthen case and have not functioned as intended, as a coordinator between the police and PST and other external agencies, to increase competence and to have an advisory role.

There may be several reasons for this. As already mentioned, the role of radicalisation contact was new at strategic level and for the entire district; the person occupying the role had to learn about new cultures, establish relationships and establish trust with colleagues in the police and PST. Despite the increased number of foreign fighters, radicalisation was a new and unknown field for the police, and the knowledge then less than today. Today, the radicalisation contact has been given a clearer role and works across the entire field of radicalisation. The commission therefore sees no reason to evaluate the 2017 version of the radicalisation contact role, which today appears to have been improved and further developed.

Operation Anker

In assessing how information sharing between PST and the police went, reference must be made to the meetings in Operation Anker. This assessment is based largely on the minutes from these meetings. Based on these, it is very difficult to see what was discussed regarding Bråthen during the meetings, what assessments were made, and how any preventive measures could be implemented. Operation Anker is an ongoing operation where incidents are to be recorded continuously including, when urgent, outside the regular weekly meetings. It has not been possible to discover if Bråthen was a topic ongoingly addressed in Operation Anker.

- *The commission considers Operation Anker's exchange of information with the Kongsberg police regarding Bråthen in 2017, 2018 and 2019 to be highly unsatisfactory.*
- *The commission considers Operation Anker's recordkeeping regarding information sharing in 2017, 2018 and 2019 to be most unsatisfactory.*

According to a member of staff at PST Sør-Øst, the recommendations of the operational analysis of Bråthen were conveyed to the police through Operation Anker. None of the minutes from Operation Anker meetings indicate that PST informed the police about the operational analysis of Bråthen or PST's (unclear) recommendation to "follow Bråthen's development in relation to Islam and any radical or extreme Islam." A member of staff of the police who attended the Operation Anker meetings when Bråthen was on the agenda, says that he "has never heard of" PST having prepared operational analysis about

Bråthen.” Furthermore, the commission’s investigations show that the recommendation never reached the police at Kongsberg. Nor can the commission see that whatever may have been raised at Operation Anker meetings had any impact on the Kongsberg police’s handling of Bråthen with regard to threat assessment and preventive measures.

The commission considers that the low quality of Operation Anker’s handling of Bråthen may have several causes. The obvious reason relates to the reorganisation Sør-Øst underwent between 2014 and 2018. Another is that Bråthen, with his complex challenges, was not necessarily a case that should have gone before Operation Anker. Some of the informants the commission has spoken to believe that Operation Anker went beyond its mandate in handling Bråthen’s case. But, as neither PST nor the police had any other forum in which to handle the Bråthen case, Operation Anker became the nearest and most obvious arena in which to take it up. This may indicate the need for an arena, in one form or another, where cases such as Bråthen, showing a complex pattern of disease, can be addressed and receive thoroughgoing consideration.²⁷⁶

Information sharing with the health service

Sharing information with the health service is a legal issue concerning the possibility of, in person-oriented preventive work, receiving information about patients and clients from the health service and social services.

- *The commission assesses the police’s exchange of information with the health service as being good*
- *The commission considers collaboration between the police and the health service as deficient.*

Regarding the limitations the duty of confidentiality imposes on information exchange, please see the discussion above (at point 2.1.2). It has long been known that these are challenging in police crime prevention police work (and, to a certain extent, procedurally in criminal investigation work). Regarding the exchange of information between, among others, the police and the mental health service, it is stated in NOU 2010: 3, page 133, under the title “Proposals for further investigation work”, that:

Some people, due to their mental illness, represent a lasting or long-term threat. The threat may be general, but in some cases is aimed at particular people or groups of people, such as members of the Royal Family, members of the government or those holding positions in various official bodies. In respect of people with such disorders and behaviours, a true picture of the need for treatment and the need for specific protection measures (threat assessment) will only emerge when there is updated information from both the health service and the police. According to current regulations, health personnel are not allowed to convey the information they hold routinely to the police in this type of case. In the committee’s view, this complex of problems should be investigated in more detail.

So far as the evaluation commission is aware, the possibility of permitting updated information called for and recommended here by the NOU committee has not been followed up. As stated above (point 2.1.2), and on the contrary, development seems, to a certain extent, to have gone backwards.

²⁷⁶ See section 6.2 for the commission’s recommendations and proposals regarding improved preventive efforts towards the mentally ill.

That the limited opportunities for information sharing between the police and the mental health service remain a major hurdle is confirmed by the interviews conducted with the commission's informants. When one steps away from information exchange generally and come down to information about individuals, both the local police and PST describe one-way communication: the police give their information to the health service while the Health Personnel Act's rules on confidentiality are understood and practiced such that very little information is given the opposite way. Taken together with it being regularly "emphasised that health personnel have the main responsibility for caring for and assessing mentally unstable persons,"²⁷⁷ this appears to lead to a certain degree of "capitulation" on the part of the police: when someone has been handed over to the mental health service and the police have given them their information, the person in question is considered the responsibility of the health service, not the police.

Conduct of the clarification interview

The police's "capitulation", as the commission experiences it, probably also relates to the police, where prevention is concerned, having little authority to take action against persons not wanting contact with, or assistance from, the police or other agencies.

- *The commission considers that the police conducting a clarification interview as part of their duties fell within a grey area, both legally and ethically.*

In this case, this is well illustrated by the incident surrounding the publication of Bråthen's videos in December 2017. As soon as the videos were considered not to be illegal, the right to arrest Bråthen and search his apartment, within the rules of the Criminal Procedure Act, lapsed. As PST, nonetheless, wanted an interview of concern with Bråthen, and for the police to search his apartment, the patrol had to persuade him and talk their way in (see point 4.4.3). Although this was done with considerable finesse and in a civilised way, there can be no doubt that significant symbolic force was used against Bråthen: two uniformed police officers are at the door and want to come in, and two more units are parked outside. As well as ethical concerns about exposing a mentally unstable person to such pressure, this raises more fundamental issues: the conduct of the police sits quite badly beside the right to privacy protected by both Article 102 of the Constitution and Article 8 of the ECHR. (In this instance, the police's visit was sanctioned by what was considered to be a lawful use of the freedom of expression protected by the Constitution Article 100 and ECHR Article 10.)

Collaboration concerning the clarification interview

The commission has doubts about PST's practice of pressuring the police to conduct interviews of concern/clarification interviews which PST itself does not have authority to conduct coercively. In conversation with the commission, informants have said that during the period being evaluated (2015–2018) they sometimes went to great lengths to obtain the information that PST needed in its task of clarifying threats and concerns. In this lies a recognition that, on behalf of PST, the Police Act was stretched too far, risking violating citizens' right to privacy.

However, the commission does acknowledge PST's dilemma in receiving the tips at a time of increased preoccupation with foreign fighters. PST's intelligence information, as well as

277 NOU 2010: 3, p. 194.

insight into Bråthen's capacity for committing violence, created a need to obtain information able to clarify the concern. It can also be said that when PST did not want to conduct the interview of concern with Bråthen itself, they showed an appropriate awareness of the legal framework for the service in this case and its limits. However, putting pressure on the police to hold a conversation with Bråthen based on the information and assessments then available, is considered by the commission as an attempt to stretch the police's legal framework

- *The commission assesses as positive that police management requested a judicial assessment where there was uncertainty as to criminality regarding the statements in the videos and showed restraint when there was no legal authority for police intervention.*

The commission finds that the police in Kongsberg set limits for PST in this case. The police is, and must be, a rules-based service. Although police actions can, in many cases, be based on the consent of the person affected, it is, as in the case of the Kongsberg police, positive that the police both asked for a judicial assessment of the statements in the videos and showed restraint where there was neither consent nor legal authority.

Wanting a more active and interventionist preventive effort from the police in respect of people with mental disorders and possibly violent and threatening behaviours will therefore, in a democratic state governed by the rule of law, demand that the police be granted legal authority for this, following ECHR Article 8 (2) "compliance with law" and the Constitution Article 113, and the commission's proposals.²⁷⁸

Good collaboration requires the parties to have a shared understanding of the terms used. Often, concepts are well established in a practice, but the meaning of a given concept in a field of practice, for example that of PST, is not necessarily the same in the field of practice of the police (see also point 2.6.4). The commission found on several occasions that the police and PST had different uses of a term. The clearest example of this is the use of the terms "interview of concern" and "clarification interview".

- *The commission considers that PST and the police lack clarity in their use of the terms "concern conversation" and "clarification conversation", leading to an uncertain understanding of the purpose of the conversation.*

The commission finds that the terms are used interchangeably, in both PST and the police. This despite interviews of concern and clarification interviews having to be assumed to have different purposes. A key point in the Al-Noor report²⁷⁹ was ensuring a common language for collaboration. This applies equally to the commission's assessment of collaboration between PST and the police regarding these terms.

Summary

Our findings show that PST and the police understood differently who had responsibility for (owned) the matter, what the responsibility entailed, and what, in fact, was done. The commission interprets this as revolving around "the case" of Bråthen. PST did certainly

²⁷⁸ See section 6.2 for the commission's recommendations and proposals for preventive efforts towards the mentally ill.

²⁷⁹ Evalueringsutvalget, 2020.

see a mentally ill person, but they also considered Bråthen a potentially dangerously violent person. The Kongsberg police seemed to see only someone who was mentally ill, a "pest and a plague" to other people, found to be threatening by his own parents. Nowhere in the data does it appear that at any time between 2015 and 2020 the police assessed Bråthen as undergoing a process of radicalisation, or as radicalised, representing a terror threat or a danger to national security.

Given the tremendously tragic outcome of this case it is, in retrospect, obviously desirable that more personalised preventive measures for Bråthen had been put in place. Although this would in no way have provided any guarantee that the incident of 13th October 2021 would not have taken place, the case does illustrate that changes should be considered in this area aiming to improving the possibilities for preventive measures. In the commission's view, such an improved preventive effort toward the mentally ill with violent behaviour will require legal, organisational and changes to routines/strategy.

Crime prevention as primary strategy – organisation of the police

Although crime prevention is now the police's preferred strategy, and therefore a task and responsibility for all police officers, irrespective of rank and role, it goes without saying that person-centred prevention measures of the kind discussed in point 4.5.2 cannot be resolved on such a general basis. Such measures will normally call for a fully worked through strategy; that the organisation be structured so that someone has prevention as a dedicated task, and the time and expertise to follow this up.

- *The commission considers that the local organisation of preventive work represents a limiting factor for proactive prevention aimed at the mentally ill with violent or threatening behaviour.*

The commission wishes to share some considerations regarding the function of the crime prevention lead at Kongsberg police station, since this function is also the local radicalisation contact there and is therefore mentioned on several occasions in the descriptions above.

At Kongsberg police station, crime prevention answers to the investigation section. In the commission's conversation with the crime prevention professional lead, it emerged that he experienced himself more as an investigator – with a focus on prevention. In smaller police stations, it is by no means uncommon that officers wear more than one hat, without necessarily having the competence and/or further training in each of these areas.

That there was no central or district-based prevention strategy is discussed at the beginning of 4.5.2. In the absence of such a strategy, following up was reliant on someone assuming the task locally. In this, the structuring and organisation of the primarily preventive service seems to be of crucial importance. The commission looks, particularly, at the organisation following the police reform in 2016, as it is primarily the measures after the year end 2017/2018 that are under consideration. Sør-Øst police district has a shared unit for prevention at level 1, located in Tønsberg. In each of the units in the three geographic districts Buskerud, Vestfold and Telemark, there is a crime prevention section headed by a section leader. Under the section, there are to a greater or lesser extent prevention units at local police stations. Kongsberg police station is one of eleven police stations in the Buskerud geographic district unit, and primary responsibility for

prevention falls on one person. This officer has prevention as a dedicated task as approximately 25 per cent of his post, while the other 75 per cent relates to investigation. This local organisational structure is important in two respects:

The absence of any strategy for prevention relating to the mentally ill naturally meant that no quotas, measures, or possible targets had been established for this activity. There was therefore very little possibility of being able to verify and document if any prevention work at all was undertaken in the relevant area. In his role as investigator, on the other hand, he was governed by parameters carrying considerable weight. Here, there were target figures, chasing up of arrears, case processing time and clear-up percentages. The possibility of this leading to the investigation tasks eating into the preventive quarter of the position is obvious. Although, according to preventive punishment theory,²⁸⁰ the preventive effects in the fight against crime are among the central justifications for reactive prosecution, it remains the case that these effects only occur when the police's primary preventive strategy has already failed. Both the absence of strategy and the structural organisation of the work discussed above illustrate the paradox that in terms of resources, organisation and management parameters, the secondary strategy is taken care of significantly better than the primary one.

This is well illustrated by what the local prevention officer told us about his contact with Bråthen. It turns out that he had no direct contact with Bråthen during these years but had logged and updated Indicia and managed Bråthen's parents, including conducting the interview of concern with them in 2016. He therefore knew Bråthen through the offences committed by him against his own parents. The only specific tasks the prevention officer had in relation to Bråthen were to undertake the conversation of concern (about radicalisation in 2016) and to do with the violence alarm for his mother. PST's recommendation deriving from the operational analysis – that the local radicalisation contact follow him up "with a view to following his development in relation to Islam and any radical/extreme Islam", was never conveyed to this prevention officer in Kongsberg.

The experience from this case specifically, the information given to the commission and the general debate about unpredictable/mentally ill, violent perpetrators therefore suggest that a more formal and binding collaboration should be established, primarily between the police and the mental health service, at the purely preventive stage. That is, before the perpetrator is carrying such a burden of criminality that (s)he is approaching the cusp of the criteria for being sentenced to involuntary mental health care according to the Penal Code, section 62.

4.5.4 General issues raised by the assessment of the handling of the Bråthen case by PST and the police.

Several of the specific issues the information in this evaluation has given us reason to address, arise from, or are closely related to, more general problematic areas. The commission thinks it helpful to provide a brief description of these. By and large, they relate to:

²⁸⁰ Gröning et al., 2019, pp. 50–54; Andenæs, 2016, pp. 81–98; Myhrer, 2011.

- the interface or demarcation between the responsibilities and tasks of the mental health service on the one hand and the police districts/PST on the other, when it comes to mentally ill people exhibiting threatening or violent behaviour.
- the interface or demarcation between PST on the one hand and the police districts' preventive work on the other toward persons with threatening or violent behaviour and with unclear or uncertain motives and intentions.

Figuratively, this problem area can be presented as below:

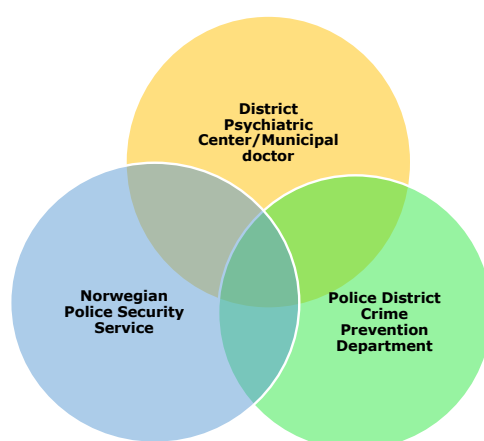


Figure 7: Interface between PST, the police and mental healthcare.

As the figure shows, but which there is every reason to stress, only a tiny minority of the mentally ill exhibit behaviour that brings them into contact with the police. Similarly, only a small proportion of the non-governmental actors harbouring a possible intention to perpetrate politically motivated violence will occasion closer clarificatory contact with the mental health system or the ordinary preventive service of the police districts. And for the police districts, it follows from the societal mission set out in sections 1 and 2 of the Police Act that the mentally ill with violent or threatening behaviour make up only a small part of the crime prevention field. These self-evident conditions are highlighted to emphasise that even with the best intentions of the various actors, possibly combined with changes to the legal framework, there may still be significant resource challenges related to following up those persons falling within the overlapping fields.

People with mental illness, and violent or threatening behaviour and who are suspected of maybe having a political motive or of being radicalised, are often referred to as "grey-area cases", or cases that "fall between all the stools". "Grey area" refers to an area where several people believe that they have *rights*, whilst "between all the stools" indicates that the case lies in an area where no one has *duties*. None of these terms touches on the core point of the overlapping field or fields in the figure above: in respect of a person who falls into this group, *two or all three of the specified actors have duties*. The lack of clarity and the difficulty lies in how these duties are to be shared, and how the different actors can cooperate with the others, to take care equally of the person concerned and society's need for protection.

The interface between mental health care and the police

Cooperation and the distribution of areas of responsibility between the police and the mental health service in relation to the mentally ill have, over several years, attracted attention in public reports, documents²⁸¹ and the media. This attention relates to two quite different questions.

One is the extent to which the police pursuant to the Police Act, section 2, number 6, can, and possibly also should, support the mental health service in dealing with or gaining access to the mentally ill undergoing treatment with the health service. This issue has no bearing on the matters currently being evaluated, and therefore is not pursued further.

The other question, somewhat more relevant to this evaluation, concerns what legal and practical possibilities exist for the police and the mental health service to work together to ensure the treatment of, and care for, mentally ill persons, while, at the same time, safeguarding society's safety when these persons commit (what would otherwise be) criminal acts or exhibit other highly anti-social behaviour. This interface, or area of collaboration, if we will, can be divided into three 'tracks':

- the criminal justice track
- the administrative track
- the self-determination track (autonomy track)

It follows naturally from the nature of the cases, that the interface and collaboration between the police and the mental health system have arisen mainly at the level of the various police districts. That the issue may also fall within PST's remit is, however, shown by Bjørgo and Silkoset, who refer to their own study on threats to politicians as follows:²⁸²

We further asked whether the respondents suspected that the person behind the most serious incident was mentally ill at the time the contact took place. Of those who answered this question (N=52), 31% answered 'yes', 42% 'no' and 27% 'don't know'. Those answering yes had the chance to explain what it was that made them suspect this. Common denominators were how the persons presented and expressed themselves, that they appeared incoherent or that the politicians had knowledge of the person's condition, for example by having learned this when they reported the incident to PST.

Bjørgo and Silkoset²⁸³ point to similar findings having been made in other countries.

The criminal justice track

The criminal justice track is where the interface and collaboration between the police (and prosecuting authority) and the mental health system are formalised and regulated to the greatest extent. However, there is no reason to go into detail about this here.

But, in summarising the provisions of the Criminal Code, sections 62 and 65 and the Mental Health Protection Act, chapter 5, Rosenquist²⁸⁴ gives an apt summary: "In terms of extent, such a special sanction in reaction can then be anything from a three-week

281 See, among others, NOU 2010: 3, Caps. 11 & 12, and Meld. St. 29 (2019–2020), p. 34.

282 See Bjørgo & Silkoset, 2017, p. 24.

283 Bjørgo & Silkoset, 2017, p. 40.

284 Rosenquist, 2009, p. 130.

stay in an inpatient institution and then a year of police clinical follow-up to hospitalisation for life with re-assessment every three years.”

Formerly, it was mentally ill people who had committed serious offences violating life, health or freedom, who, in response, were sentenced to involuntary mental health care. Through a series of changes during the last decade, however, the area of use has been expanded. Most recently with changes to the Penal Code, section 62, 21st June 2019 No. 48, which came into effect on 1st October 2020. This gave section 62, in part, the following content:

Committal to involuntary mental health care can also be imposed on an offender who is insane after section 20, second to fourth paragraphs, when he has committed repeated offences of a socially harmful or particularly troublesome nature, the special sanction is necessary to protect society against such offences, the danger of new offences of the same kind is pronounced and other measures have proven to be patently inappropriate.

With this extension now allowing the sentencing of even the not particularly dangerous but troublesomely insane offenders to involuntary mental health care, Gert Johan Kjelby's point of view in the article: *“En rettspolitisk vurdering av straffansvaret for alvorlig sinnslidende i norsk rett”* [“A judicial policy assessment of criminal responsibility for the seriously mentally ill in Norwegian law”],²⁸⁵ is even more apt today than when it was written:

But these rules would most certainly be superfluous if there was an offer for the insane under mental health care, which also took account of social protection. A sentence of committal to involuntary mental health care is therefore in many cases a pure overriding of mental health care – a “crowbar” into a psychiatric institution – because access to involuntary hospitalisation based on dangerousness is, according to the Act on Mental Health Care, not considered adequate to meet the need for special protection from prosecution.

The administrative track

What is referred to in the final quote in the previous point as “an offer for the mentally ill under mental health care”, is what is called the administrative track. This is regulated by the Mental Health Protection Act, Chapter 3, “Establishment and cessation of compulsory mental health care.” It is regulated by health legislation, and the decision is taken within the health service on a professional/medical basis. The police, however, will often play an important part in these cases. According to section 3-6, first paragraph of the Mental Health Protection Act, public agencies are duty bound to notify the healthcare system of persons in need of (involuntary) mental health care, and, according to the second paragraph of the provision, public agencies must, if necessary through the use of coercion, assist in presenting such persons for the necessary assessment. To a large extent, it is the police who do this.

But, often, the police can and should adopt a larger and more formal role. In many instances, the police have had contact, and often also problems, with the person in the time leading up to them being presented for an assessment regarding involuntary hospitalisation. That the examining doctor be given information about these experiences may be important in demonstrating that voluntary mental health care has been attempted or is out of the question (Mental Health Care Act, section 3-3 no. 1), and to make clear that

²⁸⁵ Kjelby, 2014, pp. 268–269.

the main condition for involuntary mental health care in section 3-3, number 3, of the Act is fulfilled:

The patient has a serious mental illness and involuntary mental health care is required to prevent the person in question, because of the mental illness, either:

- a. when their chance of recovery or significant improvement is significantly reduced, or there is a high probability that the person concerned will have their condition significantly worsen in the very near future, or
- b. represent an immediate and serious danger to their own or others' life and health.

But even if the police have notified, forcibly presented the person for assessment, and contributed important information, they are still not formally party to the decision made about involuntary mental health care. The police only become a formal party when a "request for involuntary assessment, involuntary observation or involuntary mental health care is brought forward" according to section 3-6, first paragraph, second sentence, of the act. Should such a request by the police for involuntary detention not be granted, the police have the right to appeal to the review board under section 3-3a, fourth paragraph of the act.

Where involuntary mental health care is agreed upon, it follows from the Act on Mental Health Care, section 3-5, first paragraph, that, as a general rule, this consists of "a 24-hour stay in an institution approved for this purpose", and that "the patient can be held against his will and, should (s)he leave the institution, be returned there, by force if necessary".

The absolutely fundamental aim of treatment from the health service is, of course, that the patient gets better! This, naturally, applies equally to those under involuntary treatment for their mental health. Section 3-7, first paragraph of the Mental Health Protection Act makes clear that no one can be subjected to forced mental health care if the conditions according to section 3-3 (see the quote above) do not continue to be met. In the third paragraph of this provision, it is also laid down that the person admitted in this way may at any time request that the involuntary admission be terminated. The person with professional responsibility for the treatment decides on such termination. If the police have acted formally from out of having adopted legal authority to take decisions on behalf of the person, they have the right to be notified of, and be given insight into, that decision and can appeal it to the review board, following section 3-7, fourth paragraph, but not otherwise.

If the person the police have requested to be subject to involuntary mental health care is either not admitted or, after a relatively short time is discharged, a complaint to the control commission is not successful, and the person also does not have a criminal history making involuntary mental health care via the criminal justice track applicable, further follow-up will take place in what is referred to below as the "self-determination track".

"Self-determination track"

Neither "self-determination track" nor "autonomy track" are commonly used terms but, when we go beyond the situations discussed above, they are quite apt.

Within medicine (and welfare law more generally) the principle of self-determination is a fundamental and central ethical value; see Kjørstad and Syse, 2012, page 476 and 2008, page 269. In the second of these is written:

The right to decide over – and for – oneself (autonomy) is recognised as a starting point for all people. In this, no exception applies to the mentally disabled, senile demented or others simply on the grounds of a medical diagnosis having been made.

Not infrequently a patient is discharged from involuntary mental health care under chapter 3 of the Mental Health Protection Act because medication and therapy have led to such a marked improvement in mental health that it is considered sufficient that the patient take his medication and be offered outpatient follow-up. However, as the patient is no longer subject to compulsion, the right to self-determination means that they are free to choose not to take the medication and to refuse outpatient follow-up.

Within the police service, talk of self-determination and autonomy is not commonplace. Here, the question is often approached from the other side – do the police have the legal authority to carry out a certain intervention. In the great majority of cases, this is a question of whether the police have sufficient authority in law²⁸⁶ to carry out the act, according to section 113 of the Constitution. For both investigative and operational policing, legislation contains a wide range of powers which, under certain circumstances, allow extensive interventions against individuals, for example under the Criminal Procedure Act, part four, on coercive measures and the Police Act, sections 7–10. Where, however, more general preventive work is concerned, the scope for intervention by the ordinary police is extremely limited.

But so long as the requirements for objectivity and due consideration in section 6, third paragraph of the Police Act are met, the police do not need any authority to go to the home of a person they are concerned about, aiming to have a conversation with them in order to establish how (s)he is. Whether this is successful depends, however, on the person's willingness to grant the police admission and to have the conversation. They are fully within their rights to slam the door and tell the police to get lost. Except in the case of possible juvenile criminals (cf. section 13, fourth and fifth paragraphs of the Police Act), the same requirement for voluntary participation and consent applies should the police summon the person for an interview at the police station.

The police's scope for carrying out preventive work towards this group of mentally ill people is limited by health personnel's duty of confidentiality according to the Health Personnel Act, section 5, preventing the police from being given information about treatment, expected progress, risk factors and so on, unless the patient actively consents to this in accordance with section 22 of the Health Personnel Act.

The mentally ill are very likely every bit as different from each other as the mentally healthy, but a feature common to some, for example the paranoid schizophrenics, is that they do not always relate rationally to their surroundings; including when it comes to advice, recommendations and wishes intended to be for their own good. When they are subject to coercion neither in the criminal justice nor the administrative track (see above), both the health and police legislation is formulated so that coercive corrective and

286 Auglend, 2016, pp. 164–166.

preventive measures can only be put in place once their behaviour becomes so outrageous that they can be forcibly committed in accordance with the Mental Health Protection Act, section 3-3 and/or are arrested and imprisoned under the Criminal Procedure Act with a view to punishment or involuntary mental health care under section 62 of the Criminal Code.

Interface between PST and the police

The interface between PST's and the ordinary police's areas of responsibility is legally and theoretically clear. PST's area of responsibility is positively regulated by section 17b of the Police Act, and about the group of non-state actors pertinent to the commission's mandate, it follows from section 17b, first paragraph, number 5, that PST is responsible for preventive activities and covert investigations related to sabotage, politically motivated violence and coercion, as well as the most relevant acts of terrorism as dealt with in chapter 18 of the Criminal Code. The commission's focus is on preventive work. Even though there may be some doubt about what exactly is covered by the terms "sabotage", "politically motivated violence and coercion" and "terrorist acts", such legal fine judgments will mostly be required in relation to acts being investigated and prosecuted. At the preventive stage, this uncertainty will mainly be linked to whether the person in question has the capacity and motivation for/intention to carry out actions falling within the PST's area of responsibility. A judgement that becomes particularly onerous in cases – of which the Bråthen case is an example – falling within each of the blue, green and yellow circles in Figure 7.

Where PST reaches the conclusion that it must primarily follow up the case, this can have quite large practical significance, and, in some cases, also legal significance.

Where this *legal significance* is concerned, it flows from the fact that PST is the only police unit allowed the possibility of using coercive measures for preventive purposes, following the Police Act, section 17d. The provision stipulates that this opportunity is limited in extent; it can only be used in the case of a well-founded suspicion of the most serious circumstances (and is not further considered here).

The practical meaning is linked to the core part of PST's activities being aimed at preventing unwanted behaviour within their area of responsibility.²⁸⁷ This governs both their methodological approach and their use of resources. If PST receives a report of concern, and the subsequent analysis of capacity, motivation and intention leads to the conclusion that one is facing a potential solo terrorist, the case will normally receive a completely different follow-up than if the conclusion is that it concerns a "lone wolf" with psychological problems and religious fantasies, with a certain capacity for violence, but a highly unclear intention. In the latter case, it will be returned to the police, in the sense that it will be the police district and the local prevention unit that will have responsibility for following up the person concerned. If, in addition, there is no sign of the person having been radicalised, (s)he will also fall outside the remit of the Operation Anker collaboration. In such cases, they will be followed by the local preventive unit in the local geographical operating unit. As far as the commission has been able to ascertain, there is no central preventive strategy aimed primarily at mentally ill people with violent or threatening behaviour. As the Bråthen case exemplifies, this, to a large extent, results in a reactive

²⁸⁷ See the commission's interviews with employees in PST, the Central Unit.

prevention strategy: the police only have contact with and worry about the person when they have committed (possible criminal) acts brought to the police's attention. For purely preventive purposes, the case will have to be followed up in what is described above as the "self-determination track", based on the consent of the person concerned, as described above.

The requirement to protect citizens' privacy and the aim of keeping surveillance in society to a minimum strongly indicate that the use of intrusive police measures for preventive purposes against persons at a time when they are acting within the general freedom of action and expression be limited. Ethically speaking, it is, though, quite difficult to accept that the possibility of preventing the murder of completely innocent people is so severely limited by the perpetrator's motivation not being assumed to fall under PST's remit.

5. The police's operational management of the incident

In this chapter, the commission will describe the police's operational management of the incident in Kongsberg, on 13th October 2021. The mandate²⁸⁸ stipulates that the commission describe and assess the police's operational management. This is limited in time from the moment the first call concerning the incident was received by the police control room to the moment of the perpetrator's apprehension by the police. In this, the mandate specifies that the following aspects be considered:

- receipt of messages / management of 112-calls (triple alert system)
- the sequence of events from the operation being launched to the apprehension of the perpetrator, including the judgements made in respect of resolution of the assignment
- cooperation internally in Sør-Øst police district
- planning and disposition of operational resources in Sør-Øst police district, and in collaboration with other police districts, national emergency resources, specialist agencies and PST

Due to the amount of information involved, the description and the assessment of the police's operational handling, respectively, will be presented in two separate sections. The chapter opens with the interpretation and operationalisation of the mandate in section 5.1. A descriptive representation of the incident is presented in section 5.2, and in section 5.3 the police's handling will be assessed in the light of legislation, instructions, procedure, guidelines, plans and relevant theory (see chapter 2).

5.1 Interpretation and operationalisation of the mandate

In this context, the police's operational handling means the police's overall effort to stop and apprehend the perpetrator. This mostly concerns the control room (operational level) and the police patrols (tactical level) in Sør-Øst police district. Other agencies such as national emergency resources, the traffic police, Oslo police district and the police situation centre will all, to varying degrees, be addressed, depending on their involvement in the incident. Additionally, the other emergency services – the fire and health services – will also be addressed given that the incident was defined as a PLIVO event.

5.2 Description of the police's operational management

This chapter describes the police's operational management of the incident, from the moment the control room in Sør-Øst police district first received notification of what was happening, to the apprehension of the perpetrator by the police. To make visible a real-time picture of the sequence of events, the presentation is based mainly on the audio log of the police radio communications during the incident. In addition, the police radio communications have been transcribed, and most are reproduced here verbatim so that the

²⁸⁸ See the report's Introduction.

actual communication is made clear. The description of the course of events is supplemented by audio logs of incoming and outgoing telephone calls at the control room, interviews with police service personnel, camera surveillance and data regarding the perpetrator's movements.

The commission has elected to give brief descriptions of the perpetrator's actions that led to the police response. In this chapter, the commission uses the term "perpetrator" instead of Bråthen, as the identity of the perpetrator during the Kongsberg incident was unknown until his arrest. In addition, there has been no final verdict in the case at the time of the evaluation report's submission. Also, management of the incident by the control room in Tønsberg and that of the police response personnel are described.

1. perpetrator in red text
2. the control room in blue text
3. the police patrols in green text
4. the commission's comments in black text

The description of the sequence of events includes messages on the police radio over police radio channel TG 1. In addition, reference is made to the communication channel BAPS1, which is a communication channel for interaction between the emergency services fire, health and police, used in parallel with TG 1. Messages over this channel start with "BAPS1". It is emphasised that the time of each message on the radio/telephone is that when the communication *began*. The communications are of varying length, from a few seconds to several minutes, and communication took place simultaneously on the telephone(s) and over several communications channels. Their presentation must therefore be read on the understanding that the messages frequently overlap one other in time and relate to each other.

Because the section is relatively extensive and detailed it begins, in point 5.2.1, with a summary of the description of the operational management. Then follow timelines for the perpetrator and the police respectively in 5.2.2. Points 5.2.3. to 5.2.8 describe the police's management taking the following themes: first message to the police, dispatch, confrontation in the shop, search for the perpetrator, arrest, other police patrols in Kongsberg during the arrest and PLIVO – collaboration between the emergency services.

5.2.1 Summary

Shortly after 18.00 on Wednesday 13th October 2021, the perpetrator left his accommodation in Kongsberg and had with him a bow, a quiver with 60 arrows, a short sword and two knives. In Peckels gate, he fired arrows at a person, who was not hit. At approximately 18.12 the perpetrator went into the garage of Coop Extra and the off licence [Vinmonopolet], where he fired arrows at two people. He continued to shoot arrows at a number of people in the Coop Extra shop and from its entrance out toward Nytorget

The police control room received the first call regarding the incident at 18.12.30 and issued the assignment to a police patrol circa 18.14. Circa 3 minutes later the incident was declared a PLIVO incident to all patrols in Sør-Øst police district, and extensive alerts were issued. There were two police patrols in Kongsberg at the time of the incident, with a total of three officers. The first patrol (L-32) arrived at Coop Extra/the off licence just

before 18.18, circa 3 minutes and 50 seconds after receiving the assignment. To arrive quickly, they drove to the scene without first donning heavy protective equipment. At the entrance, they met an off-duty police officer with an arrow in his back. This officer kept watch towards the garage entrance, whilst the patrol went in through the entrance to Coop Extra. The patrol called out to the perpetrator inside the building but received no response. Apart from two shop staff, whom they evacuated, they met no-one. It was quiet in the building until the perpetrator triggered the fire alarm. The perpetrator then shot arrows at the patrol who took cover and maintained observation. Their understanding was that the perpetrator was isolated inside the shop, and they had no information suggesting that there were other people there. The second patrol (L-209) arrived at the scene circa 4.5 minutes after the first, having stopped to put on protective equipment and arm themselves. This patrol was in telephone contact with the off-duty policeman who had been shot with an arrow.

From when the perpetrator went into the garage shared by Coop Extra and the off licence until he left Coop Extra via an emergency exit, he fired arrows at a total of 13 people in or by the building, hitting three of them. When the perpetrator left by the emergency exit, he fired arrows at a further 5 people in Myntgata, without hitting anyone. The police patrol by the entrance were not aware of the emergency exit and did not notice the perpetrator leaving by means of it at the other end of the shop. The perpetrator made his way from Myntgata to Peckels gate, setting down, on the way, the bow, quiver and arrows.

When the perpetrator left by the emergency exit, he was seen by a caller in a telephone conference with the emergency medical communication centre (AMK) and the police control room. This was communicated to the police patrols at the entrance, who launched a search for the perpetrator on foot, without finding him. After a short time, they received a new message from the control room that the perpetrator had been observed by Peckels gate 1b, and the patrols gathered in a patrol car and went after him. The control room passed on this message about the perpetrator having been seen by Peckels gate 1b to the patrols (L-209 / L-32) at circa 18.27. The patrols searched for the perpetrator for circa 13 minutes without receiving new information about him. During that time there were no calls to the control room offering new information about the perpetrator.

At Peckels gate 1B, the perpetrator, carrying a sword, tried to gain entry. He was unsuccessful and went further to Hyttegata. Between circa 18.25 to circa 18.46 the perpetrator took the lives of 5 people with stabbing weapons, indoors and outdoors at several addresses in Hyttegata. The houses in Hyttegata form a terrace, and it is not possible to see the rear (towards Numedalslågen) from the street. The perpetrator moved along at the rear and down towards Lågen, hidden from the street. He was first observed out in Hyttegata when he killed a person at the intersection of Apotekergata/Hyttegata. The first call to the control room from Hyttegata came seconds before 18.40.

L-32 and L-209 (a total of 3 officers) were the only police patrols in Kongsberg for about 21 minutes, from the control room issuing the assignment, until the first support patrol A-31 reported on the police radio at about 18.34 that they were in the area and preparing to become involved. Other support patrols, AV-31, J-44 and AE-04, arrived at Kongsberg from the opposite side of the river and ran over the bridge in Hyttegata. Patrols A-31, J-44, AE-04 and AV-31 arrived in Hyttegata between circa 18.44 and circa 18.45, and the

Kongsberg patrols L-209 and L-32 immediately after that. The police patrols began searching for the perpetrator and began first aid on a person lying at the intersection of Apotekergata/Hyttegata, and on a person found in a gallery in a courtyard.

Circa 18.46 patrol A-31 said over the radio that they had seen the perpetrator in Hyttegata and followed him into the courtyard of Hyttegata 18. The perpetrator threw a small sword at the police, who fired a warning shot during the arrest. From the perpetrator being seen by the police, until his arrest was announced over the radio just after 18.47, took 55 seconds.

From the control room receiving the first notification, to the perpetrator's arrest, the incident had a duration of circa 34 minutes, See the timeline below:

Timelines:

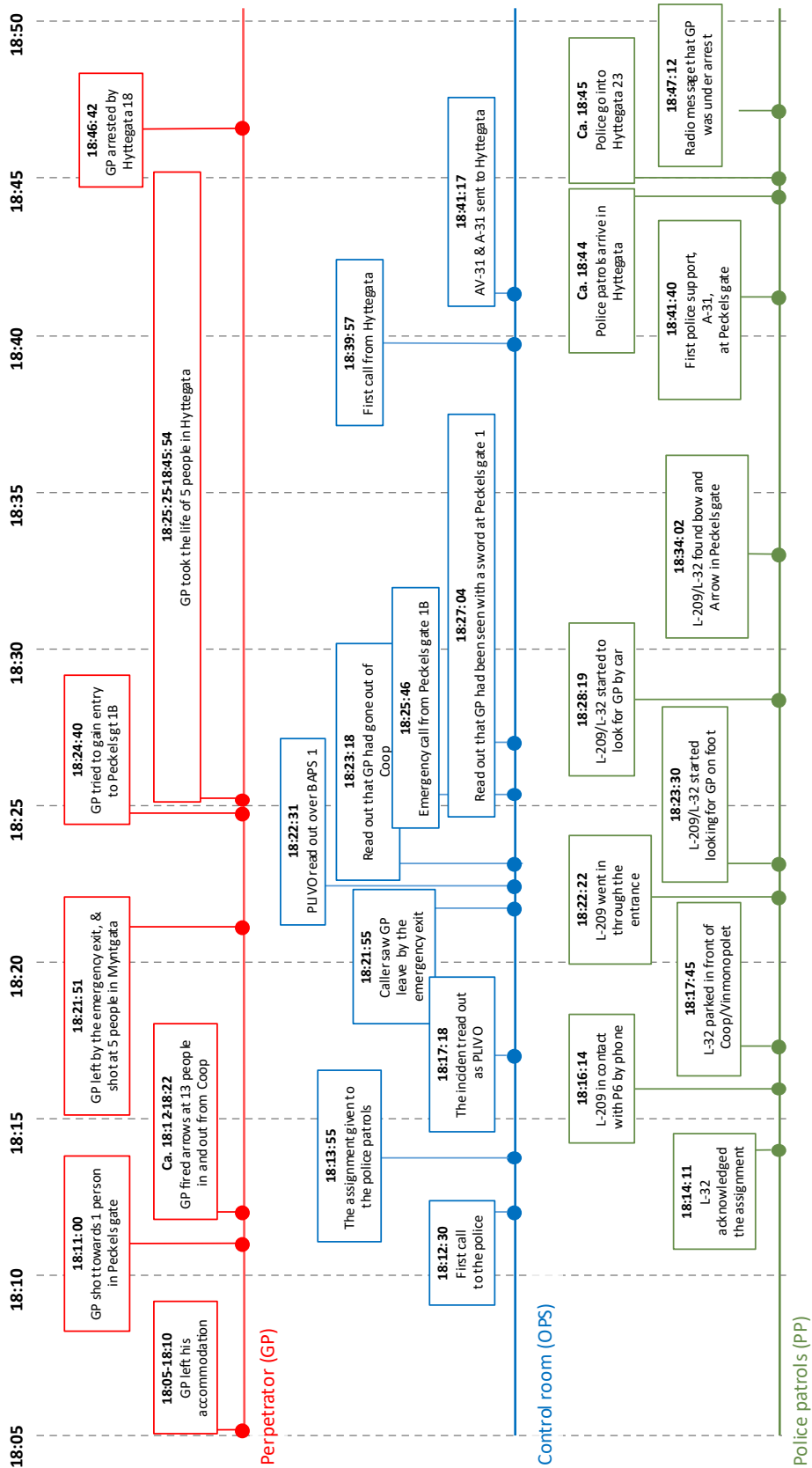


Figure 8: Timeline for the perpetrator and police during the incident.

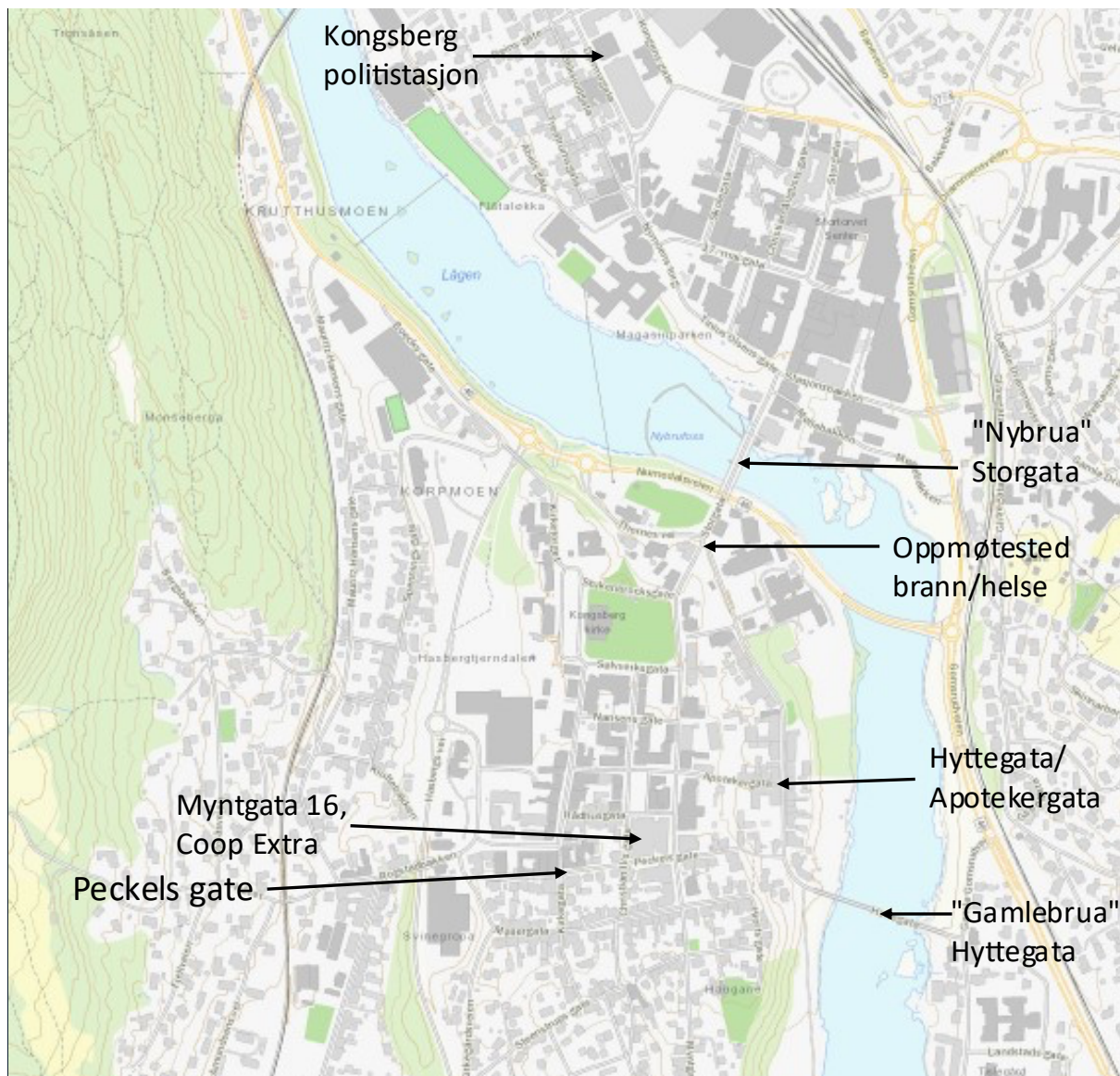


Image 1: Overview of the central area during the incident.

5.2.2 First call to the police

18.05–18.10 Between these times, the perpetrator left his accommodation in Kirkegata in Kongsberg taking with him a bow and quiver containing 60 arrows, a short sword and two knives. The perpetrator was wearing a white singlet, dark trousers and was in stockings feet. He went along Peckels gate towards Christian IV's gate.

18.10–18.11 At the Peckels gate/Christian IV's gate junction the perpetrator shot two arrows at a person, without hitting them. The perpetrator continued along Christian IV's gate and into the garage belonging to Coop Extra and Vinmonopolet.

18.11.55 In the garage, the perpetrator shot two arrows at two persons who ran out of the garage through the entrance to the Coop and out into Nytorget. One

of these persons rang the police emergency telephone (112), and this was the first notification of the incident to the police. This 112 call was received by the control room in Tønsberg at 18.12.30.

- 18.12.03 The perpetrator went into the Coop Extra shop via the entrance from the garage. There were two members of staff in the shop, near the tills, together with a customer. The perpetrator shot several arrows toward the till area, and the staff members ran into a post room, while the customer rang out of the shop. One of the staff members rang the police, and this was the second call to the police regarding the incident. The control room received this call at 18.13.16.²⁸⁹

At the time the perpetrator began firing arrows at people in Kongsberg, the control room in Tønsberg was manned by a control room supervisor, 3 assignment supervisors and a total of 7 communications operators (S). The control room was arranged with the control room supervisor and one 'S' on a podium behind 3 groups, each comprising one assignment supervisor and 2 'S's. Each of these led the police resources in one of the geographic divisions of Sør-Øst police district and used their own radio channel (Speech group – TG) for each geographic area.

- 18.12.30 First message to the police. The control room/communications operator 4 (S4) received a call on the police's emergency number 112. The caller said that a man was shooting at people with bow and arrows near Vinmonopolet in Kongsberg,

Over the course of 10–15 seconds S4 formed the impression that this situation was serious, from the intensity and insistency of the caller as well as the sounds in the background. S4 had experience from before of the injury potential of a bow and arrows. During the conversation, the caller said, among other things, that they were being "fired hard", and S4 heard a woman screaming. S4 snapped his fingers in the air to attract the attention of the others in the control room and enabled the "listen-in" function (allowing fellow operators to listen to the ongoing call). S4 registered the incident in the police's electronic duty record (PO) in 6 steps: 1) entering information on the caller, 2) entering the address, 3) choice of "nature of the event" (nature of assignment), 4) entry of time (when the incident happened), 5) entry of a brief description of the incident and 6) choice of prioritisation for the assignment. S4 entered the priority "alarm" which is the most serious and therefore the highest priority. From S4 answering the 112-call at 18.12.30, until the first information was logged in the newly created assignment in PO at 18.13.06, 36 seconds elapsed. Twenty-two seconds later the first patrol was called up on the police radio by the assignment supervisor (at 18.13.28).

The control room supervisor became aware of the incident when S4 snapped his fingers, as this is rarely done, and (s)he quickly accessed the duty record entering that the control room supervisor had seen the assignment. The control room supervisor was unsure what the situation was and considered whether it might involve a play bow and arrow, mental illness or a competition bow. On the other hand, the Kongsberg patrols were only a short distance from the incident, and the way the mission was mentioned

²⁸⁹ Document 05.05.07. Sør-Øst police district. Not publicly available.

and logged led them to understand that it was serious. The control room supervisor gave the order for the patrols to arm themselves, as the assignment "potentially [could] be dangerous for the public and the patrols".

The control room supervisor became aware of the assignment S4 created with the priority "alarm", and, at the same time, communications operator 1 (S1) received a call about the same (See 18.13.06), but S1 assessed the situation as being less serious than S4 had done. The control room supervisor could not, at first, see any dangerous weapon in the information about "bow and arrows" and asked S4: "Is it a genuine or dangerous weapon?" At the same time S4 had confirmation that the shooting was "hard".

Communications operator 2 (S2) sat at the desk next to the control room supervisor and became aware of the message received by S4, when he snapped his fingers. S2 listened to the conversation between S4 and the first caller and thought first that it was perhaps a person with arrows with suction cups on the end, but then heard a "swoosh" over the phone. He then said to those in the control room that he would take the radio.

Communications operator 3 (S3) was taking a break when the incident arose and was called back by the control room supervisor. When S3 came into the control room, there was silence in the room, and the communications operators were concentrating after a message had come in that someone in Kongsberg was shooting at others with a bow and arrows. S3 was told to concentrate on this assignment.

At the control room, during this watch, there was an incident commander (ILM) present listening to the police radio. ILM became aware of the incident when S4 snapped his fingers. ILM received the assignment and remained inside the control room, continuing to listen to the radio messages. Someone with a bow and arrows was not something (s)he had experience of but understood from the signals in the control room that this appeared to be serious.

18.12.56 Footage from the surveillance camera in the entrance to Coop Extra and Vinmonopolet shows the perpetrator, between 18.12.56 and 18.13.13 shooting a total of three arrows, from the entrance out towards Nytorget.

18.13.06 Second message to the police. Communications operator 1 (S1) took the second emergency call from Coop. A member of staff from Coop rang from the shop saying that there was a man with bow and arrows in the shop, and that the caller and another member of staff had locked themselves in a room.

S1 found this caller to be calm, and it sounded as though things were under control at the scene. S1's first thought was that it might be a man with a toy bow and arrows, and he considered logging it in PO with priority 2. S1, however, then saw that S4 had created an assignment for the same event with priority "alarm", S1 became uncertain: "What is it about this that I haven't got?" S1 broke off from his own entry and added information to the entry already created by S4. S1 then ended the conversation with his caller and readied himself to take further calls. After this, things happened very quickly, and S1 was a bit "put about" when they got more information about the dangerousness of the

incident. S1 was prepared for their being "good callers",²⁹⁰ but "that landslide of calls never came." This gave S1 the feeling of not being able to do the job he had imagined.

- 18.13.28 The control room called patrols L-209 and L-32, and incident commander AU-05, over police radio. All 3 patrols answered immediately.
- 18.13.35 S4 rang back to the first caller (from 18.12.30), as the first call had been broken off. S4 asked for a description of the perpetrator and whether anyone was injured.
- 18.13.36 Third message to the police. A person rang the control room from Nytorget and said that he had been shot at and those "those arrows could have gone straight through me." (See 18.12.56)
- S6 said that he took the call from the caller in Nytorget. The caller confirmed that these were indeed "sharp arrows", and that the caller had escaped unharmed from the scene.
- 18.13.43 Fourth message to the police. A woman who was stood outside Coop Kongsberg together with P6 rang the emergency number. She said that a man had shot at her with bow and arrow from inside Coop Kongsberg, but that she was uninjured.
- 18.13.55 Control room/assignment supervisor read out the assignment to the patrols: "Emergency dispatch to Kongsberg, Vinmonopolet, Myntgata 16, where there is notified a man with bow and arrows shooting at people. We have a number of messages about this."
- 18.14.11 L-32 acknowledged the assignment and asked: "04, L-32, will we be armed for this?"
- 18.14.11 Fifth message to the police. An unidentified caller notified about a person firing with a bow and arrow, the call was then interrupted without being answered.

When the control room in Tønsberg received the first emergency calls about the incident, police patrols L-32 (2 officers, P1 and P2) and L-209 (1 officer, P3) were the only police patrols in Kongsberg. At this time, L-32 was in the police garage and L-209 was on duty at Kongsberg police station after returning from another assignment in the district. In the garage, P1, P2 and P3 agreed among themselves that it was important to drive fast and get observations from the scene. It went unsaid, but all three understood that P3 was the leader of the two patrols.

In the garage, P1 and P2 armed themselves with pistol and MP5 machine-pistol respectively. They chose not to put on the heaviest protective equipment for the sake of arriving as quickly as possible at the scene and gaining control over the perpetrator. P1 and P2 had bulletproof helmets, heavy protective vests and a bulletproof shield in their patrol car.

²⁹⁰ See point 5.3.1, for a description of "good callers"

The police's incident commander, patrol AU-05 with the incident commander and P7 – was in Drammen police station when they received notification from the control room. The incident commander said that he received the message that there was a man with bow and arrows shooting at people in a shop in Kongsberg. Both the incident commander and P7 wondered what on earth this could be, and incident commander thought, at first, that the message might be exaggerated. They were, however, quickly given the order to be armed and headed towards Kongsberg. A short time after AU-05 had left the police station, they received a message to say that a person had been hit by an arrow, and then it became a PLIVO incident. This led them to appreciate its seriousness.

5.2.3 The call out

Patrol L-32 left the garage with sirens and blue lights. P1 and P2 could not remember the exact route they took, but believe that they drove over Nybrua, Klokkebakken, Myntgata and over Nytorget, and parked in front of the entrance to Coop Extra and Vinmonopolet.

Patrol L-209 had parked their car outside and left Kongsberg police station about 30 seconds after L-32. As P3 was driving after L-32, P3 was unarmed and had not put on more protective equipment (than a light safety vest, which P3 was already wearing). P3 had a bulletproof helmet, heavy safety vest and bulletproof shield in the car.

An off-duty policeman (P6), who had been out on patrol earlier in the day, was in the vicinity of Coop at 6pm. P6 was wearing uniform trousers and a civilian jacket. By Coop in Myntgata he saw a woman who seemed to him to be behaving strangely, and he made contact with her. She told him that there was a madman in the shop who had shot her in the back with a bow and arrow. P6 saw nothing untoward about her back and thought at that time that maybe it was a "play bow and arrows with suction cups or something like that". He followed the woman round the corner to the entrance to the Coop Extra and the Vinmonopolet and met a crying girl who came running. P6 saw an arrow on the ground and that it was a real arrow. P6 then rang P3 directly by mobile telephone (P3 reported on the radio at 18.16.30 that P3 had telephone contact with P6).

18.14.14 The control room read out over the radio: "Arming is granted for this assignment."

18.14.20 AV-31 reports to the assignment from Sande in Vestfold.

Patrol AV-31(dog handlers) with officers P4 and P5 had stopped at a field in Sande in Vestfold to exercise P4's service dog. They heard over the radio that there was a person at Kongsberg shooting at other people with a bow and arrows. P4 judged that there could be need to deploy a dog, and so they immediately got back in the car and drove as an emergency towards Kongsberg. Both P4 and P5, in the beginning, were unsure what on earth this could be, and thought that this could be well be to do with mental health. However, after a short time, they heard that a colleague had been shot in the back and understood that this was serious.

18.14.32 AE-04 reported to the assignment from Drammen.

Patrol AE-04 with officers P8 and P9 was in the garage of Drammen police station, together with AU-05, when they heard the message over police radio. They got into the car and drove towards Kongsberg, and when they were by Drammenshallen heard that P6 had been shot in the back with an arrow. Over the radio, the incident commander gave instructions on communication discipline and protective equipment, and P8 explained that they then understood that "this is real and may be something big."

Patrol A-31 with officers P12, P13 and P14 had completed an armed assignment and were at Gulskogen when they heard the message about a man with a bow and arrows who shot at people on Kongsberg. Their first impression was that this was not serious, and P12 said: "It was an odd message, didn't even take it seriously." A-31 began to drive towards Kongsberg and from the messages over the radio, eventually realised that this was serious, and began to drive with blue lights.

18.14.50 Control room: "And to L-209, L-32, the person is now inside the Coop in Kongsberg."

18.15.01 The incident commander, from AU-05, said over the radio that: "Here it'll be good to make an exception [to the main tactical rule] and confront this guy directly when we get there."²⁹¹ L-209 voiced their agreement over the radio.

18.15.16 The control room informed over the radio that there was a colleague in civilian clothes (P6) helping the public at the scene.

18.15.35 Control room informed over the radio that "the perpetrator has come out of Coop extra, towards the garage, description: overweight, and in a white singlet.

18.15.35 Control room rang AMK and informed them of a man shooting with bow and arrows. These were fired hard, there was a potential for danger, radio channel BAPS1 should be used by the emergency services, and the meeting point was the bridge by Storgata.

Whilst driving to the scene, L-209 received a phone call from P6 who was off duty and who found himself at Coop. P3 had already heard on the radio that he was at the scene, and therefore took the phone. P6 said that there was a dangerous man shooting with bow and arrows and that he himself went into Coop to "look see."

The security camera shows P6 going in through the entrance to Coop Extra/Vinmonopolet at 18.15.35.

18.15.52 The incident commander reminded of the importance of radio discipline.

18.16.14 The control room: "L-209, so he's at Nytorget, Nytorget, and has lots of arrows with him."

²⁹¹ See point 5.3.5, action in Hyttegata.

18.16.30 L-209 reported being in telephone contact with the officer on scene (P6).

18.16.56 L-32 requested priority over the radio, control room confirmed this.

During the telephone conversation with P6, as L-209 drove over the bridge, P6 said: "I'm hit", and: "P3, I have an arrow in my back." At this moment the level of seriousness increased for P3. P3 knew that L-32 was closer to the Coop, and read out the following message over the radio:

18.17.05 L-209 reported: "Colleague shot in the back with an arrow, I repeat, colleague shot in the back with an arrow. We must put our [protective equipment] kit on L-32." The radio log does not indicate that L-32 acknowledged this message.

After this, P3 stopped at Kirketorget to put on heavy protective equipment and to arm. At this time P3 did not know whether L-32 had put on theirs. At Kirketorget, P3 felt that there was a great deal to think about: the telephone conversation with P6 (which P3 put on loudspeaker without being able to catch all that was said), putting on protective gear and arming, and which tasks needed to be performed. P3 heard afterwards on the radio that L-32 were on their way into the shop and were being shot at.

During their emergency driving to the scene, L-32 heard the radio message from L-209, saying that there was telephone contact with P6, who had been shot in the back with an arrow. P1 found it extraordinary to hear that a colleague had been shot, and this information increased understanding that the perpetrator was a danger to others, and that the mission was more serious than first thought. P1 also heard that L-209 had stopped to put on protective equipment, but the patrol decided to drive directly to the scene without, despite this increasing the risk, as they knew it to be urgent. When they came to the scene, they stopped in front of the steps leading to Coop Extra and Vinmonopolet.

The control room supervisor said that he gradually received more information about the current situation, which taken together indicated that this could develop into a PLIVO incident. When the control room supervisor received the messages about "many arrows, shot hard, and our colleague being hit and having an arrow in the back", this was the information required to define a PLIVO. The control room supervisor had contact with S2 (who was sitting at the next desk) a few seconds before the control room supervisor said that "this is PLIVO". The control room supervisor then went around the control room, making it clear to everyone that he had defined the incident as PLIVO. This was taken up by the assignment supervisor who read out a shortened version of the checklist, as the first patrol was all but at the scene.

S2 had brief contact with the control room supervisor about the situation being a PLIVO incident before the control room supervisor took control of that.

S1 found that it "gathered momentum" after they received the message about the off-duty police officer (P6) having been shot in the back with an arrow. S1 then saw a brief interaction between the control room supervisor and S2 before S1 gathered that the control room supervisor was making it clear to everyone in the control room that the situation was PLIVO, and that they must act accordingly.

S3 heard PLIVO being announced by the assignment supervisor when S3 returned to his desk and opened up the electronic checklist for PLIVO.

S4 said that a brief PLIVO message was read out after four minutes (after the commencement of the assignment)

ILM found the PLIVO being read out surprisingly early on, that there was "extreme concentration and focus in the room", and that the control room supervisor was good at communicating with the assignment supervisor for updates and making notifications.

The assignment supervisor said that the PLIVO checklist card is always on their desk, to be immediately available should such an incident occur. When the control room supervisor asked the assignment supervisor to read out PLIVO to the patrols, the supervisor knew that L-32 was in the vicinity of Coop, and the perpetrator was in/by the shop. The assignment supervisor therefore chose to keep the reading of the checklist to a minimum, so as not to block the channel for L-32, which was almost at the scene.

18.17.18 The control room/assignment supervisor announced over police communications that the incident was PLIVO: "04 to patrols involved in the Kongsberg assignment, the assignment is defined as a PLIVO incident."

It is not recorded in the audio log from police communications that any patrols acknowledged having received this message.

18.17.30 L-32: "04 [control room], where is he [the perpetrator] now?"

18.17.34 L-209: "He's by Coop."

P1, P2 and P3 explained that they heard the message on the phone about PLIVO at different times. P1 thought that the PLIVO read out came after they had entered the shop, P2 explained that they received this message on the way into the store, and P3 heard PLIVO being read out on police radio quite soon after P6 had been shot. The PLIVO message itself did not make much difference to P3, as P3 had an understanding that this was already PLIVO from when P6 had been shot. P1 had the same experience, that they were in a PLIVO action before this was read out over the radio.

18.17.39 L-32 reported on the radio; "We are at Coop now, no-one is here (outside).

The security camera at the entrance to Coop Extra and Vinmonopolet shows L-32's patrol car as it passed the entrance area at approximately 18.17.26, and the same camera showed flashing blue light outside the entrance area at approximately 18.17.45 as L-32 parked in front of the entrance area.

From the time the control room announced the assignment at 18.13.55, until the first police patrol L-32 parked at the entrance to Coop and Vinmonopolet at approximately 18.17.45, the emergency response time was approximately 3 minutes and 50 seconds.

The response time,²⁹² from the time the control room responded to the first call until the first patrol was on site, was approximately 5 minutes and 15 seconds.

18.17.47 The control room read out a message in TGO, a voice group that sends the message in all individual police voice groups: "This is 04, 98-98 message. PLIVO in Kongsberg is read out, at Nytorget. PLIVO at Nytorget in Kongsberg. Over from 04."

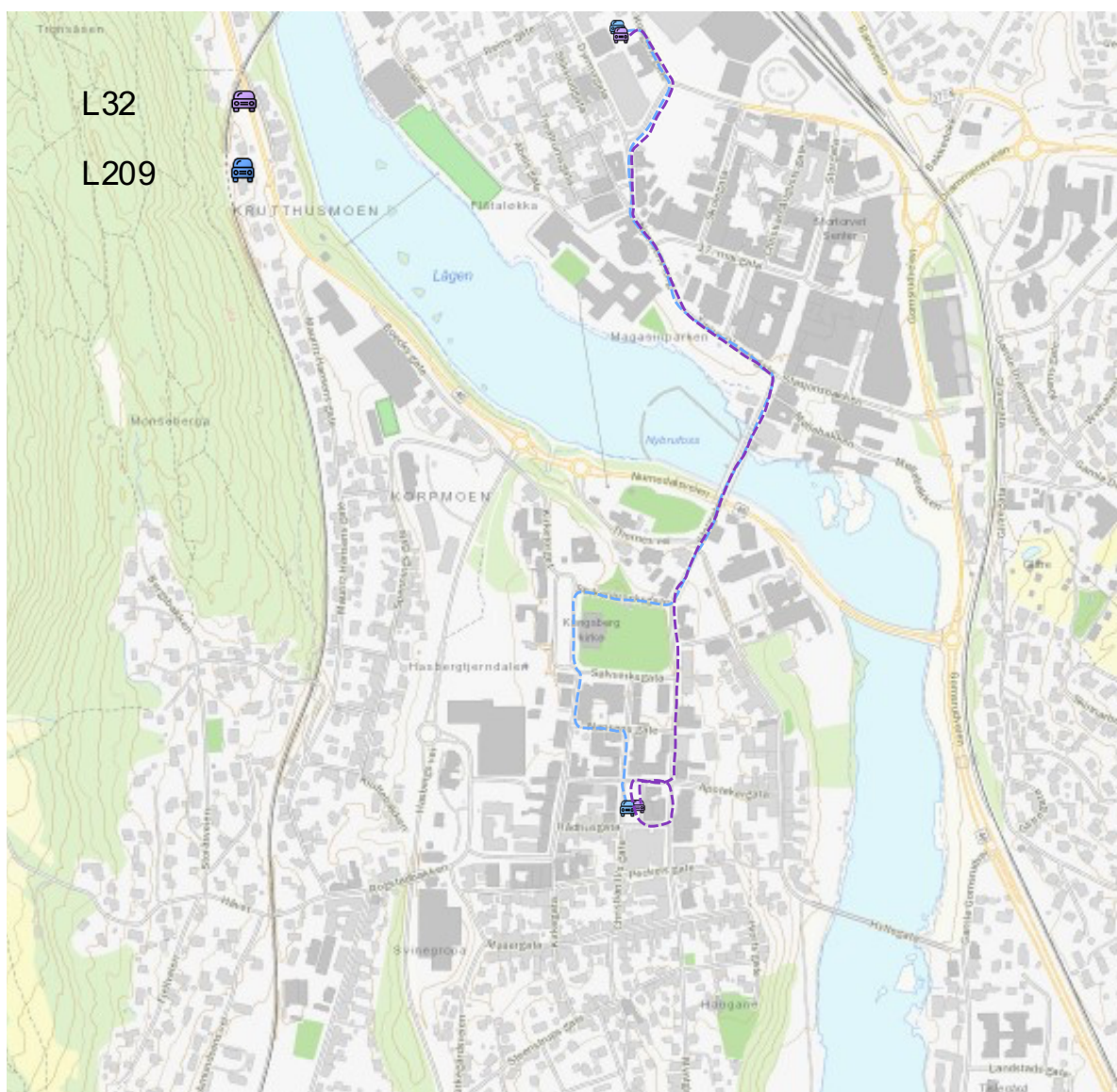


Image 2: The call-out of the Kongsberg patrols L-32 and L-209.

5.2.4 Confrontation in the shop

L-32 encountered P6 by the entrance to Coop Extra and the Vinmonopolet. P6 had a long, black arrow sticking out from his shoulder, and P1 experienced this as an "absurd image", at the same time as it reinforced his impression of this being a serious situation. P6

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seemed in good shape, telling P1 and P2 that the perpetrator was in the shop, and that he had been shooting at people.

P6 said that he saw the blue lights as L-32 approached and made contact with P1 and P2 in the area around the entrance. He told them that the perpetrator was in the building, and that he knew of no other injured persons. When P1 and P2 went in through the entrance, P6 had, he said, gone to keep watch over the other exit from the shop (toward the parking area).

18.17.48 The control room/S6 notified the police national emergency resources centre (NB) at Taraldrud in Nordre Follo municipality, and the call was received by NB-KO (situation centre at NB). At that time, NB had sent a helicopter to Trøndelag police district, and duty manager 2 was in telephone contact with Vest police district in connection with a possible hostage situation there.

Duty manager 1 at NB-KO took the notification from the control room at Sør-Øst police district. It seemed obvious to duty manager 1 that this was an ill-defined situation – a PLIVO incident – with a man shooting around with bow and arrows, with a police officer shot in the back. Duty manager 1 found it strange that an incident involving a man with a bow and arrows was defined as PLIVO and took a little time to ask himself if “this makes sense”. That the word “PLIVO” was used was nevertheless decisive. Duty manager 1 messaged everyone at NB: “Sør-Øst, PLIVO, man with bow and arrow, policeman shot in the back, start full mobilisation.” And this was implemented immediately at NB.

Duty manager 2 found it hectic initially at NB-KO, their job being to notify everyone. In addition, space was made ready for achieving a shared understanding of the situation: Sør-Øst police district's duty record (PO) was put up (on a large screen) on the wall, and police radio on loudspeaker. Duty manager 2 found that log entries in PO at Sør-Øst police district came thick and fast after what was said over police radio. NB-KO notified, among others: call-up of employees on standby at NB, control room supervisor at NB, the control room in Oslo police district, the police situation centre in the Police Directorate and the Norwegian Armed Forces' helicopter service at Rygge air station.

By coincidence, there were a lot of employees at work at NB when the message came from Sør-Øst police district, as many who were going to a night exercise were on their way there. A patrol from the National Police Bomb Squad was already on its way to an assignment in Asker. They reported driving directly to Kongsberg and were the first car patrol from NB to arrive in the town. In addition, the National Police Crisis and Hostage Negotiation Unit said over the radio that they were heading to Kongsberg. A team leader from the counter-terrorist unit (BT) heard the message from NB-KO whilst holding a teaching session and saw from Google maps that the estimated driving time to Kongsberg was one hour and 20 or 30 minutes. The team leader confirmed to the helicopter service that they would mobilise, and would have crews on board, including a sniper. At the same time, a vehicle with officers from BT was driving toward Kongsberg. An action leader from the counter-terrorism unit was to have held a night exercise with a section from the unit and was already at the emergency centre when duty manager 1 read out the message. The action leader went to NB-KO and said that the situation understanding changed during the assignment. Via police radio to Sør-Øst police district, the action leader got

the impression that the perpetrator was isolated inside a shop, shortly after the action leader arrived at NB-KO. When the action leader got into the car, there was a message that the perpetrator was "on the move", which led to an understanding that they had to send all available resources.

The following resources were sent from NB to Kongsberg: 1 helicopter and several car patrols, a total of 34 officers from the counter-terrorism unit, the National Police Bomb Squad and the National Police Crisis and Hostage Negotiation Unit. All these arrived in Kongsberg after the arrest. The helicopter flying into Kongsberg at approximately 19.02.



*Image 3. Entrance to Coop Extra and the off licence
(photo: Norwegian Police University College, 09.12.21).*

P1 and P2 moved forward towards Coop, until P1 stood a little in front of the post and P2 next to the red mailboxes to the right in Image 3. The security camera shows P1 and P2 coming in through the entranceway at 18.18.03 and shouting loudly: "Armed police, put down your weapon and show us your hands, or you will be shot." P2 went first, with P1 following closely behind through the entranceway where there is a closed steel door on the left [between the first and the second sliding doors].

18.18.10 L-32 reported: "We're in the Coop building, see the man." Seconds later, the cry of "Armed police" is heard on the radio.

As P1 and P2 passed the second sliding doors and turned left towards Coop Extra, the steel door was opened at 18.18.16, and two Coop Extra employees came out through the door. At this time, P1 and P2 were on their way in towards Coop and shouted: "Armed police!" Lie down, or you'll be shot," and: "Armed police!" several times. P1 and P2 moved forward towards Coop, until P1 stood a little in front of the pillar and P2 immediately next to the red mailboxes to the right in Image 4. At this time, no sound from the shop is heard via the security camera. P1 and P2 drew back some metres, to the second sliding door, and reported the following over the radio to the control room.



Image 4: From within the shared entrance after sliding door 2. The entrance to Coop Extra ahead and to the Vinmonopolet to the right (Photo: Norwegian Police University College, 09.12.21).

18.18.38 L-32 messaged: "04, L-32, complex location, perpetrator not making himself known. I think that we freeze it here and put resources in place." In the background, one can hear the police shouting: "Leave the building!" to the shop staff who had come out through the steel door in the entranceway behind them.

Both P1 and P2 explained that they found it difficult to gain an overview of the Coop shop premises, due to the distribution of the shelving racks. P1 described this as a "chaos of colours with little overview", and P2 gave a description of an "extremely difficult shop space" (see Image 4).

18.19.02 L-32: "The entrance is now white side. We have secured white (i.e., front) side and are looking into the Coop premises."

At this moment, P1 stood on the steps immediately in front of the first sliding doors in the entranceway. He and P2 had the open steel door between them, and, from the other sliding doors, P2 was looking towards Coop. From this vantage point, P2 looked in towards Coop and the exit towards the parking area (see Image 4).

At 18.19.11 is can be heard on the security camera footage that the fire-alarm sounds.

18.19.14 L-32 messages: "04, the fire alarm in the building has been triggered."

18.19.26 L-32: "We can't see the perpetrator. He is in the Coop shop."

18.19.14 The control room made a conference call to AMK and 110-central. The control room informed them that it was PLIVO, and that the police had not yet seen the perpetrator, that the fire alarm was triggered and that whether there were injured persons was unknown. The fire and ambulance services were asked to use communications channel BAPS1, and informed that the meeting point was the bridge.

18.19.37 The incident commander asked over the radio: "What about third parties? Are there any inside the building?"

18.19.43 L-32: "Repeat that last, L-32." AU-05: "Are there third parties on the premises?" L-32: "That's unclear as of now."

18.20.00 L-32 messaged over the radio: "We try to shout into the shop. There is no one coming out of the shop as of now, no customers." The control room/S2 answered immediately; "Received. It's unclear if anyone is in there. This is a PLIVO situation. If he [the perpetrator] is in there, we go into action."

S2 explained that they reminded L-32 that this was a PLIVO situation and that they must take action, as the procedure requires that. This was a reminder that S2 gave on their own initiative.

The control room supervisor said it was S2 who reminded the patrol that this was a PLIVO incident, and they should therefore go directly into action, but that they had reached the same conclusion themselves. At the same time, the control room supervisor made it clear that this should not be at any price, even though "we have a duty to act and must do something." In such an action, firearms must be used responsibly, to avoid the public being hit.

S4's view was that the patrol's message that they wanted to isolate the perpetrator led to S2, on his own initiative, reading out the reminder about PLIVO. This because one must be absolutely sure where the perpetrator is, and that the person is alone, if the perpetrator is to be isolated during a PLIVO incident. S4 assumed that the reminder was read out to 'play them in', and due to uncertainty as to whether the patrol remembered the PLIVO procedure.

ILM said that he reacted somewhat that L-32 (see 18.21.25) messaged that they would withdraw and got the impression that L-32 withdrew from the shop (building) to put on more protective equipment. ILM thought it was good that S2 reminded them about PLIVO. At the same time, ILM had expected the reminder to come from the control room supervisor or the incident commander.

18.20.25 L-32 asks on the police radio: "P3, this is P2". Position?" L-209 answered: "P3 has just put on extra protective equipment, is driving from Kirketorget now." L-32: "Yes, we must have support in here, and then we can act."

18.20.40 L-209 acknowledged: "Understood." L-32 messaged on police radio: "L-32 going into the shop."

The security camera shows that P1 and P2 moved forward from their position [from sliding door number 2 in the entrance area]. At this moment the fire alarm sounds, but there is no other sound. L-32 shouted loudly: "Armed police! Show yourself," as they made their way forward. When P1 and P2 passed to the right of the pillar [in the middle in Image 4], one of them said: "There he is" at which P2 goes down into a kneeling position with his weapon. About 1 second later, there is the sound of, most likely, an arrow hitting the wall behind P2, who quickly retreated a few metres taking cover behind the pillar together with P1.

P2, who went first during the advance, has explained that he suddenly saw a figure in a training top "something" in his hands, and it was difficult to see from the front what this was. P2 saw him "for a second maybe" at a distance of around 10 metres but could not see his face. This was the only time P2 saw the perpetrator. P2 heard a "swoosh" in the air and a bang when an arrow hit the wall behind him. He understood that this was dangerous. P2 was not able to take aim at the perpetrator before he disappeared from sight again. P2 knew from before that there were flats above the shop and that therefore it was necessary to be careful in firing shots in the building. A warning shot was also considered not appropriate.

P2 was fired at twice and found that "he just ducked out and ran away" very quietly. P2 found the situation unreal and had "never been in such danger before." P2 found the situation very different to training. P2's training experiences was from training indoors, where the other party gives up when they are threatened with firearms, there is communication between the police and the other party. Here, the perpetrator used a different weapon [bow and arrow] than P2 had trained on. Moreover, the situation inside Coop represented "a completely different opposition."

P1 said he never saw the perpetrator, although "maybe a silhouette" when he shot at them. P1 experienced the arrow being fired at them without warning. P1 said that they, in not knowing anything about the background, formed a good judgment in not shooting inside the shop to avoid hitting bystanders. P1 said that he had never before been on an assignment where he had been shot at. In relation to earlier PLIVO training, there were, in part, large differences, in that the training had been indoors, not a built-up area. In addition, the PLIVO training "had a coherent soundscape, here there was silence."

The security camera footage shows the perpetrator when he shot the first arrow at P1 and P2. He was in stockings feet and moved in a crouched stance between the shelving with the bow and arrow in his hand. An arrow was on the bowstring, pointing forward. The perpetrator looked around him as he moved about, jumped out from between shelving and a pillar to shoot the arrow and then moved quickly so that he was behind the next row of shelves.

18.20.42 AMK rang the control room and patched their caller into a conference call with the control room. The person who had rung was with another person who had been shot in the arm with an arrow. One minute and 13 seconds into the call the person shouted: "He's coming out now - nooooo!" and the conversation became unclear. Talking is heard in the background, and the operator at AMK tries to shout at the person through the telephone. The operator later comes back into contact with the caller and asks if it is a proper bow and arrow, which the caller says it is. The caller disappears from the call again, but then comes back and says that she is now inside. Three minutes and 35 seconds into the call (18.24.17) the caller says: "He's in Peckels gate now." Five minutes and 18 seconds into the call (18.26.00) the communications operator asks: "When you saw him, did he come out of the building and come towards you?" The caller answers: "Yes, he came out of the windows at the side of Extra, he opened the window-doors, if you know what I mean."

S6 took the conference call with AMK and the caller. He said that the caller stood together with a person who had been shot in the arm. During the call, the caller suddenly shouted: "Now he's coming out", and then they had no more contact with the caller for a while. It sounded as though she was running. By calling to the assignment supervisor in the room and entering in the duty record, S6 quickly conveyed to the assignment supervisor that the perpetrator had come out of the shop.



Image 5: Diagram of the entrance to Vinmonopolet and Coop Extra. The green markings indicate the staff's evacuation, blue markings 1 and 2 indicate the first patrol, L-32's, position the first and second times they were shot at. The red markings show the perpetrator's position when he shot, and his way to the emergency exit.

18.20.58 L-32 reported over the radio, from his position sheltering behind the pillar: "L-32, we have just been shot at with an arrow, and the arrow is very dangerous. He missed me, this is very dangerous.

18.21.09 L-32 repeated over the radio: "We are being shot at."

At 18.21.21 a new bang is heard on the security camera, presumably following the second arrow being fired at P1 and P2. Following this they retreated 2–3 metres to sliding door number 2 in the entrance.

Camera surveillance shows that the perpetrator went between two shelving-racks in the shop and moved out to the side of these as he, at 18.21.21, fired arrow number 2 at P1 and P2. The next second, the perpetrator went back in between the shelving.

- 18.21.00 The Police University College in Stavern, who were holding a course for emergency response personnel in category 3 (UEH), rang to the control room saying that they were sending UEH instructors to Kongsberg.
- 18.21.18 The control room /control room supervisor notified the duty chief of police in Sør-Øst police district.
- 18.21.25 L-32 reported: "Yes, there are arrows flying around our heads. We have to pull out."
- 18.21.33 L-32 called L-209 directly over the radio: "P3, this is P2, we need heavy shields here now."

Security camera footage shows that P1 and P2 withdrew from the corridor but remained standing in the entrance by sliding door 2, P2 keeping watch into the Coop and the exit to the garage. At 18.21.34 a new bang is heard on the surveillance camera; probably arrow number 3 being fired inside the building

- 18.21.51 The security camera shows the perpetrator opening the emergency exit at Coop Extra (see Image 6) and going out into Myntgata.

From the time the perpetrator entered the building through the garage circa 18.12 until he left the building via the emergency exit at 18.21.51, he fired arrows at a total of 12 persons in the building [including P1 & P2], and at one person outside the building (see 18.12.56). Three people were hit [including P6].²⁹³

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Image 6: The emergency exit from Coop Extra out towards Myntgata
(Photo: Norwegian Police University College, 09.12.21).

18.21.55 L-32 reported: "04. Two arrows fired at us by bow. And pure chance that we weren't hit. Over." The control room acknowledged immediately: "Received, 04."

At the time the perpetrator left through the emergency exit, P1 and P2 explained that their understanding of the situation was that he was confined in the shop building. P1 thought that the perpetrator represented no threat to anyone other than P1 and P2, and that "he will have to come past us to get out." P2 thought that he would have to pass through their field of view to come out. P1, P2, P3 and P6 all said that they had no previous knowledge of the emergency exit (out to Myntgata) from Coop. P6 explained that at this time he was in the Peckels gate/Christian IVs gate area, telling people to keep away. According to the map of the area, P6 could look towards the entrance to the garage facility [which has only one exit] from his position.

At the control room, S1 understood the perpetrator to be isolated in the shop. S1 said that "now we believed that he [the perpetrator] was isolated in the Coop, and that we had good control", until S1 took a call from Peckels gate (see 18.24.48) and became unsure if that was the same perpetrator. S3 thought that L-32 was trying to seal the building and that L-32 believed them to have control of the exit door.

Circa 18.22 After the perpetrator had gone out through the emergency exit, he shot arrows at 5 people in Myntgata, without hitting anyone. He then continued in between Myntgata 15 and Peckels gate 4b, and out again into Peckels gate between Peckels gate 2 and Hyttegata 30, and then further along Peckels gate, putting down and leaving, along the way, the bow and quiver of arrows and a knife sheath.²⁹⁴

18.22.12 The incident commander messaged over the radio; "Those going into the building must have everything of protective gear on, but do you have the impression that there are others in there?" L-32, who was standing in the entrance, answered: "No, we've had no contact with anyone else. There are two staff members who we've got out, and everyone else has been told to stay away."

Camera surveillance at 18.22.22, shows P3, wearing a heavy safety vest and helmet, entering the entrance area between door 1 and door 2 carrying a bulletproof shield. P1 leaves the entrance area to get a bulletproof helmet. P2 and P3 remained in the entrance area.

18.22.31 BAPS1: The control room reported: "This is police control room on BAPS1. We are notified of PLIVO at Coop in Kongsberg. That is Myntgata. Active shooter with bow and arrow. At least one person shot in the back with an arrow. Perpetrator seen in the Coop shop; I repeat in the Coop shop.

18.23.08 L-209 on the radio: "To the patrols, we have the white (front) side, but we must be careful, he can come out from other places."

18.23.18 The control room read out an important message: "Myntgata 16, to the rear of the building, red (i.e., left) side and people are being shot at there now." L-209 acknowledged the message at 18.23.32: "Myntgata. Understood." [See also the message at 18.20.42]

5.2.5 Search for an unknown perpetrator

Camera surveillance shows P2 and P3 running out of the entrance at 18.23.30. Immediately afterwards, P2, P3 and P1 run to the right in Rådhusgata towards Myntgata, and P1 and P2 are now equipped with bulletproof helmets and have with them a bulletproof shield. They round the corner to the right out into Myntgata, passing the emergency exit at number 16. At 18.25.20 they went round the corner into Peckels gate and were out of sight of the camera for around 2.5 minutes. During this time, P1, P2 and P3 had contact with P6 and a woman, who had neither seen the perpetrator nor had any idea what direction he had taken. P1 said that they were left standing with the feeling "what on earth has become of him?" P3 explained that when neither P6 nor the lady knew anything about time or direction, he thought it took "a very long time, an eternity." However, it wasn't long before they were notified of Peckels gate 1.

During the search for the perpetrator outdoors on foot, P1 said that "on the street, everything is completely normal". P1 shouted at people that they should find shelter, but

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they were completely unconcerned, giving the feeling that people in the street “haven’t grasped the seriousness of the situation”. P1 was sure that they would be shot at again, and the sight of the arrow in P6 left him fearful of being hit. P2 said something similar, that they shouted “keep away” at bystanders, and that they were “scared to death” of being shot. P3 also thought it was strange that there were people in the streets, but none of them gave any indication or information about where the perpetrator had headed.

- 18.23.43 BAPS1: The control room’s message to the ambulance: “Another person shot in Myntgata near Coop. There are two people shot with bow and arrow.” The ambulance acknowledges the message and confirms that they are by the bridge. The control room messages further that the person who has been shot, is to the rear of the Coop shop. The ambulance acknowledges and asks if they should stay where they are. The control room affirms that they should wait.
- 18.23.54 On the strength of surveillance footage it is thought that the perpetrator tried to enter Peckels gate 1b between 18.23.54 and 18.25.25. He had a knife or sword in his hand. The perpetrator then continued down Hyttegata.²⁹⁵
- 18.23.57 The control room/control room supervisor notifies the geographic manager for Buskerud [to which area Kongsberg belongs].
- 18.24.48 The control room messages on police radio: “L-209, the perpetrator has been seen in Peckels gate. Latest info from caller.”
- This message was read out over police radio whilst the control room was in telephone conversation with the caller (see telephone call received by the control room 18.20.42. Three minutes and 35 seconds into this conversation (18.24.17) the caller said: “He’s in Peckels gate now.” L-209 acknowledged the message: “Peckels gate. Understood. We are on the green (i.e., right) side of the building now [in Myntgata]. How far away are the nearest patrols?”
- 18.25.10 A-31 answered: “A-31 well along the way up, passing Langebru now.” The control room repeated the message from A-31 to L-209.
- 18.25.25 Surveillance footage shows what is assumed to be the perpetrator, in the courtyard [towards Numedalslågen] of the first address in Hyttegata 31, where he took the life of victim number 1 with a stabbing weapon.²⁹⁶
- 18.25.31 L-209 reported: “We have no idea where he is now, we are on the black (i.e., rear) side of the building [in Peckels gate] and staying put.”
- 18.25.38 The incident commander asked if the control room could request support from the helicopter. The control room answered that the helicopter, the

295 Document 05.05.07. Sør-Øst police district. Not publicly available.

296 Document 05.05.07. Sør-Øst police district. Not publicly available.

National Police Special Intervention Unit and the National Police Crisis and Hostage Negotiation Unit (KGF) were all notified and on their way.

18.25.46 Emergency call to the control room from Peckels gate 1b. The caller said that a person with "a knife in his hand" tried to open a window but ran away "two minutes ago". Later in the conversation it was said that the person had "a big sword or knife". Two minutes and 45 seconds into the call, the caller said that the perpetrator had gone towards the bridge and town centre.

S1 took the emergency call from Peckels gate 1b, and S1 became uncertain if this was the perpetrator.

S1 had some difficulties in understanding the caller, but understood that the perpetrator had left there, and that the caller thought that he had gone in the direction of the bridge. There are several bridges over the river, and S1 couldn't find the one the caller named. After this call, S1 found that a new "vacuum" arose. S1 waited by the telephones, but very few calls came, and this was very frustrating: "You have no idea what's going on and have no information to give." There was a period of time until calls began to arrive (from Hyttegata, see messages 18.39.57 and 18.40.51).

The control room supervisor explained that the control room received calls and observations of the perpetrator whilst he took himself out of Coop (and out into Myntgata), but that thereafter there was "a vacuum in which the control room received no information." The police were then looking for the perpetrator, with the control room dependent on receiving information. During this period, the control room supervisor worked with notifications and with preparing for a major operation.

The assignment supervisor explained that after the report from Peckels gate 1, that someone with a sword had tried to get into a flat, "it ends up with us not knowing where the perpetrator has gone". The assignment supervisor thought that they were dealing with a person who would be noticed, but no information came as to where he was, until the call from Hyttegata about "a man who has struck a woman who is lying down." (See 18.40.51).

S2 explained that when messages came from Peckels gate, S2 sent L-209 through Hyttegata to try to get observations of the perpetrator. L-209 drove through Hyttegata and reported that all was quiet there (see 18.31.41)

S3 said that when the message came about a man with a sword attempting to open a window in the neighbouring street (Peckels gate 1) there was a reorganisation because the perpetrator may have got himself out of the Coop. S3 found that "then there was a degree of chaos, because we didn't know, is it the same incident, none of the patrols saw him leave Coop." The patrol (L-209) then went looking for the perpetrator. The next location reference S3 spoke about was there being a report of a man hitting a woman in Hyttegata (see the message at 18.40.51).

ILM, who observed the sequence of events from the control room, said that "it was frustrating to stand there in the control room and finding oneself always working in arrears."

It was also difficult eventually to listen to reports to the control room about casualties, and that the police were not arriving before the next report of injuries.

The control room's telephone log shows that between the message from Peckels gate 1 at 18.25.46 and the first message from Hyttegata at 18.39.57 there is a period of 14 minutes and 11 seconds during which the control room received no new observations of or information about the perpetrator.

- 18.26.37 The incident commander went out over the police radio and said that "all protective gear must be used now, it's important, and it's also important that we get control of this guy as soon as possible." L-209 acknowledged the message from the incident commander: "Understood by L-209. We have no idea at all if he is in or out of the building now."
- 18.26.52 The control room read out over police radio: "Caller to 04 says that he has seen him [the perpetrator] leave through a window at the rear of, the black side of Extra (Coop), and Peckels gate is the latest observation."
- 18.27.04 The control room read out over police radio: "New important message. A man with a sword in his hand tried to open a window in Peckels gate 1b one minute ago." This message was read out at the same time as the caller from Peckels gate 1b was in telephone contact with the control room (see the call to the control room at 18.25.46). L-209 acknowledged receipt of the message about Peckels gate: "Peckels gate 1. Understood."
- 18.27.29 The control room informed L-209 that Peckels gate 1 is all the way down by the bridge, Hyttegata. L-209 requested clarification as to whether this was down towards Næringsparken and the bridge. The control room gave directions.
- 18.27.58 L-209 answered the control room: "Yes, understood." And it started to be a long walk carrying a heavy shield.
- 18.27.47 The control room/control room supervisor notified the police's situation centre (PSS) at the Police Directorate (POD). PSS kept an eye on the duty log (PO).
- 18.27.55 Surveillance footage shows P1, P2 and P3 rounding the corner back in Myntgata from Peckels gate, running back to the patrol cars.
- 18.27.55 Surveillance camera footage showed what was believed to be the perpetrator on the move from Hyttegata 31 down towards Numedalslågen. The perpetrator went down into the area by the river and northwards.

Patrol J-44 with officers P15 and P16 were occupied in an arrest in Notodden when they heard the PLIVO message being read out on communications channel TG3 at 18.17.47. They released the arrested person and drove towards Kongsberg. They read the duty record (PO) on their telephone, about a person shooting with bow and arrows, and a police officer shot in the back. They understood immediately that this was serious.

They changed their police radio to channel TG1, Kongsberg's channel, and heard the message from P3 that they (L-209) were on their way back to their vehicle to look for the perpetrator.

18.28.19 L-209 reported on the radio: "Suggestion from L-209 here, we can try using the car again to see if we can see the perpetrator."

18.28.31 The incident commander responded: "Yes, it's possible to consider using the car to try to stop him, possibly try to run him down."

P3 decided that they should use a patrol car, because they did not want to "be left behind" and walking with the shield was difficult. They agreed to gather in one car, and P1, P2 and P3 got into P3's patrol car (L-209). A message came that the perpetrator had been seen heading towards the town centre, and P3 was determined that he wouldn't reach there. P3 determined, therefore, that they should drive to the opposite end of Hyttegata and towards Peckels gate, to look for him. P3 was amazed that they couldn't see him, and that they received no information from elsewhere. It was frustrating.

P1 said that when they got in the car (L-209) again, they drove along Myntgata down to Hyttegata. When they came to Klokkebakken/Myntgata, they saw that the ambulance and fire brigade had lined up there, and they then drove the entire length of Hyttegata. During the search, they saw nothing of the perpetrator, saw no one injured, and no one contacted them. P1 found this very strange and frustrating, and he thought that the perpetrator had perhaps run away. They then drove up through a crossroads and could then see into an industrial area, the old bridge over to Tislegård and a pedestrian street which is Peckels gate. P1 said that all three felt under considerable time pressure. They then drove along Hyttegata, up Apotekergata, Myntgata and down Peckels gate, all without anyone contacting them. As they drove down Peckels gate, on the steepest part of the footpath, P1 saw that there was a bow on the ground, lacking its string, leaving it "straight". It was a good feeling that this weapon was seemingly defective. P3 asked if they should take the bow with them, but P1 said that they should leave it lying there. They continued down to Hyttegata before driving over the bridge to Tislegård, where everything was quiet. They drove along Gomsrudveien towards the centre, leaving it at REMA 1000 and up to Nybrua. At about this time the incident commander requested that someone look for injured people in Coop (see 18.36.33). As all was quiet, and no one was contacting them, L-209 answered the incident commander's message, saying that they were driving to Coop.

18.28.41 A-31 reported that they had driven past the Darbu exit and: "L (Lima), do you want us anywhere in particular?" L-209 replied immediately that they wanted A-31 to go directly to Peckels gate 1. A-31 acknowledged receipt of this message.

18.29.19 BAPS1: The incident commander called AMK. The ambulance service in Kongsberg answered the incident commander in BAPS1 at 18.29.41.

18.29.41 The control room reported: "L-209, last observation from Peckels gate 1b, along Peckels gate towards Kongsberg town centre."

- 18.29.51 BAPS1: The incident commander requested more ambulances and a helicopter from the ambulance service as there could be more injured. The ambulance service acknowledged, saying that they had been in contact with AMK who were sending all available resources. AMK broke in to say that they had four ambulances on the way.
- 18.29.52 The control room/control room supervisor notified UEH leader in Sør-Øst police district.
- 18.30.01 Patrol J-30 called the control room asking if callers were able to say if the perpetrator still had a bow and arrow.
- 18.30.16 The control room reported over the radio that the latest caller, from Peckels gate, had said that the perpetrator had a sword in his hand, unsure if this was the bow. Several patrols [not using their call signs] acknowledged receipt of the message.
- 18.30.23 The control room called back to a person who had not been able to get through by phone to the control room. The person in question was one of the first to be shot at by the perpetrator in Coop's garage and was told to seek refuge.
- 18.30.55 Camera surveillance shows the suspected perpetrator in the garden of Hyttegata 23 [after having made his way from Hyttegata 31 through the area along Numedalslågen].²⁹⁷
- 18.31.28 The control room read out: "L-209, so the last caller says that she didn't see where he went after Peckels gate, last observation then is Peckels gate 1b. Left there in unknown direction."
- 18.31.41 L-209 acknowledged the message: "Understood, he hasn't passed here toward the centre, we've driven the whole of Hyttegata, back and forth."
- 18.32.06 Security camera shows the presumed perpetrator by the workshop in the courtyard of Hyttegata 23, after which he disappears from view. The perpetrator then took the life of victim number two with a sharp weapon.
- 18.33.03 The control room read out an update: "04 with situation rapport Kongsberg, last known position is Peckels gate 1b. We are steadily receiving emergency calls and will tell the patrols when there is something new. It is a person, unknown, who has shot several with bow and arrows. Over, 04."
- 18.33.11 The control room/control room supervisor notified the chief of police in Sør-Øst police district.
- 18.33.25 The control room called back the person who had rung from Peckels gate 1b (see 18.25.46), asking for a description of the perpetrator.

297 Document 05.05.07. Sør-Øst police district. Not publicly available.

- 18.34.02 L-209 reported that the bow and arrows had been left lying on the ground down towards Hyttegata. The control room acknowledged this.
- 18.34.25 A-31 reported that they were by "Krona, Kongsberg", close by.
- 18.34.34 L-209 reported that they were driving over the bridge towards Tislegård school to check there, and then asked if it was possible for a patrol to go to Peckels gate 1 and start from there.
- 18.34.59 A patrol [which didn't use its call signal] reported on the radio: "Peckels gate 1b. Understood."
- 18.35.09 J-44 reported on the radio that they were circa 8 minutes from Peckels gate 1.
- 18.35.20 The control room/control room supervisor notified the chief of staff in Sør-Øst police district

The chief of staff said that the control room supervisor was asked if there was a need for more resources at the control room, but the supervisor replied that at the time "it's going OK". The chief of staff explained that, following the notification from the control room supervisor, he contacted an emergency preparedness planner to set up a Teams meeting with the people who make up the reinforced line. Reinforced line management is an intermediate stage between ordinary line management and a Staff. Among other things, its purpose is to quickly reinforce the control room with additional personnel, decision-making support and alerts, and Sør-Øst police district has its own instructions for this.²⁹⁸ The chief of staff did not have time to conduct the first Teams meeting with a reinforced line before the perpetrator was arrested. GDE-manager [geographic unit manager] Buskerud and the communications manager in Sør-Øst police district were notified of the need to manage considerable interest from the media.

- 18.35.21 A patrol [which didn't use its call signal] asked the control room to use Twitter to tell people to go home and stay indoors. The control room confirmed that this had been done.
- 18.35.35 A patrol (not using its call signal but believed to be L-209): "What we know then, is that he is probably still running around with a sword, the bow and arrows are presumably broken and lying where we spoke of." The control room acknowledged this message and repeated the description of the perpetrator as "an obese man in a white singlet, thought to have a sword in hand", and that this was a PLIVO incident.
- 18.36.09 The incident commander asked on the radio if anyone could say if all the injured had received help. L-209 replied that the only one they knew to be injured was P6, and that he had "gone down to the ambulance himself" with an arrow in his back." The control room answered that they did not have control over other injured people.

²⁹⁸ Sør-Øst politidistrikt, 2022b. Not publicly available.

- 18.36.33 The incident commander asked over the radio if someone could check Coop for injured people, as they didn't have control of the perpetrator, and this could therefore be a good moment for this. L-209 replied that they took the task.
- 18.36.51 The control room supervisor in Oslo police district rang the control room in Sør-Øst police district offering help with operational personnel in Category 3 (UEH) and a dog patrol. Oslo police district sent two patrols with IP3 (4 officers) and a dog patrol (1 officer). These arrived in Kongsberg after the arrest.
- 18.37.08 A-31 responded to incident commander's question (18.36.33). saying on the radio that they were in Peckels gate, putting on their kit and were "almost ready".
- P14 and P13 said that they drove to the area by Krona Kultursenter (by Peckels gate) and stopped to put on protective equipment. P14 said that P14 secured the patrol first, while P12 put on helmet, heavy protective vest (TTV) and took up an MP5 before they went on. P13 was, during this time, sitting in the vehicle keeping watch. P13 put on no more protective equipment than a light protective vest, which P13 was already wearing, and armed himself with a pistol. When they were ready, P13 drove the patrol vehicle to act as a shield in front of P12 and P14, who was to the rear. P14 also said to P13 that if the perpetrator came towards them, and represented a threat, "then run him down immediately."
- GPS position shows A-31 close to Peckels gate at 18.41.40.
- 18.37.35 A patrol (not using its call signal) asked the control room to repeat the description of the perpetrator. The control repeated the description as an overweight man, in a white singlet, thought to be carrying a sword.
- 18.37.45 L-209 began looking for injured at Coop
- Security cameras show L-209 going in through the entrance to Coop and the off licence at 18.37.45. During the search for injured persons P1, P2 and P3 separated, and left the building at 18.43.51, through the entrance to Coop and the off licence and the garage entrance.
- 18.37.51 BAPS1: The control room read out an update: "This is police 04 with an update on BAPS1, in relation to the PLIVO in Kongsberg. We are still looking for the perpetrator. We have found a bow and arrows in Peckels gate. It is an overweight man, white singlet, possibly carrying a sword, so we consider him to be still armed. Over. Police 04."
- 18.37.56 UP-213 reported that they were at Darbu and (coming to provide) support.

- 18.38.05 The control room rang AMK and asked for the telephone number of the person who saw the perpetrator coming out of [the emergency exit to] Coop (18.20.42)
- 18.38.08 UP-230 reported that they were passing Saggrenda on their way to Kongsberg. The control room acknowledged and informed the patrol that this was an active PLIVO.
- 18.38.30 L-32 (who were together with L-209) reported that they were at Coop.
- 18.38.42 Camera surveillance again shows the suspected perpetrator by the workshop in the courtyard of Hyttegata 23. The perpetrator disappears from sight between 18.39.02 and 18.41.20, and during this time it is assumed that he took the life of victim number 3 with a stabbing weapon in the area between Hyttegata 23 and the Hyttegata/Apotekergata junction. The perpetrator was observed by several witnesses and threw a knife at two of them in this area. The perpetrator then moved back into the courtyard of Hyttegata 23.
- 18.38.56 Patrol FS-36 reported that they were 20 minutes away.
- 18.39.57 The control room received a phone call from a person in Hyttegata. The caller said that a moment before they had heard shrieking outside. The control room asked if the caller could see anything outside, but they saw nothing.
- 18.40.08 The control room called L-209 saying that as soon as Coop had been searched, the police must go into the off licence, as this had been the first crime scene. UP-230 reported that they could drive to the off licence.
- 18.40.50 L-04 reported on the radio that they were passing Saggrenda.
- 18.40.51 The control room received an emergency call from a person in Hyttegata who said that there was a man hitting a woman in Hyttegata, and that there was screaming. When questioned by the control room, the caller said that the man had gone into a flat, the caller also saying that the police "are up here".
- It was S5 who took the emergency call, and S5 said that it didn't seem as if the caller knew what was going on. The caller was calm but dazed. S5 asked the caller to wait there and to show the police where the perpetrator had gone.
- 18.41.08 BAPS1: The fire service control room radioed the police control room without an answer. The call was repeated at 18.41.17, without answer. At 18.41.55 fire service control room called the police incident commander (AU-05). At 18.41.55 fire service control room called the police control room with "important message I BAPS1", without receiving an answer.

- 18.41.12 The control room was contacted by AMK and included in a conference call with a person who had rung from an address in Hyttegata. The caller screamed and said that there was an injured person lying in the middle of the Apotekergata/Hyttegata intersection, and that there was a man with two knives who had stabbed the person. The caller spoke, at the same time, with other people in the background at the scene and was told that the perpetrator had gone into "the gallery", and that [name of victim number 2] would be there. The caller said, during the call, that the police had driven by earlier, and that something had also happened "at the square". Three minutes and 21 seconds (18.44.33) into the conversation the caller said: "Here come the police", and the caller was asked to make contact with the police at the scene.
- 18.41.17 The control room read out a message: "AV (Av-31) and A-31 driving to Hyttegata 20, Hyttegata 20. There are reports of shouting and screams."
- 18.41.20 Surveillance camera again shows the supposed perpetrator in the courtyard of Hyttegata 23, and the perpetrator made his way further toward Hyttegata 19 [on the side nearest the river] at 18.42.18²⁹⁹
- 18.41.28 A patrol (which didn't use their call signal) messaged: "Help us with directions."
- 18.41.31 The control room acknowledged: Hyttegata 20. It's close to the starting point. Setting the assignment to Hyttegata."
- 18.41.47 L-209 reported to the control room that the Coop shop itself had been searched, and that no one was injured there. The patrol also reported that they didn't have access to the staff room.
- 18.42.00 The control room sent out a message via PAV (the police's alarm and notification system) to the neighbouring police districts Innlandet, Oslo and Øst about an ongoing PLIVO incident: "There is an ongoing PLIVO incident at Kongsberg in Sør-Øst. Man shot at several people and injured several others with a bow and arrow. Also, observation of a sword. National resources on the way. Assessed not to have a need for resources from neighbouring districts as of now, other than Oslo."
- 18.42.00 A person called from an address in Myntgata saying that a bow and arrow had been fired at Coop. It was unclear if the shooting was ongoing, and the call was broken off. The same person rang again at 18.43.17 and said that a friend had seen the shooting with bow and arrows, and that something had happened nearby. The control room informed the caller that, if they had no further information, the call must be ended, so that the police could answer other calls.

- 18.42.04 The control room acknowledged the message from L-209: "Received. We must get to Hyttegata 20, Hyttegata."
- 18.42.14 Patrol K-04 reported that they were driving to Hyttegata 20.
- 18.42.18 The control room acknowledged: "Received, there's a person on the ground outside, a man has struck a woman and has gone into a flat."
- 18.42.28 L-209 asked the control room if they should continue to search for the injured.
- 18.42.45 BAPS1: The air ambulance reported itself as being 17 minutes away.

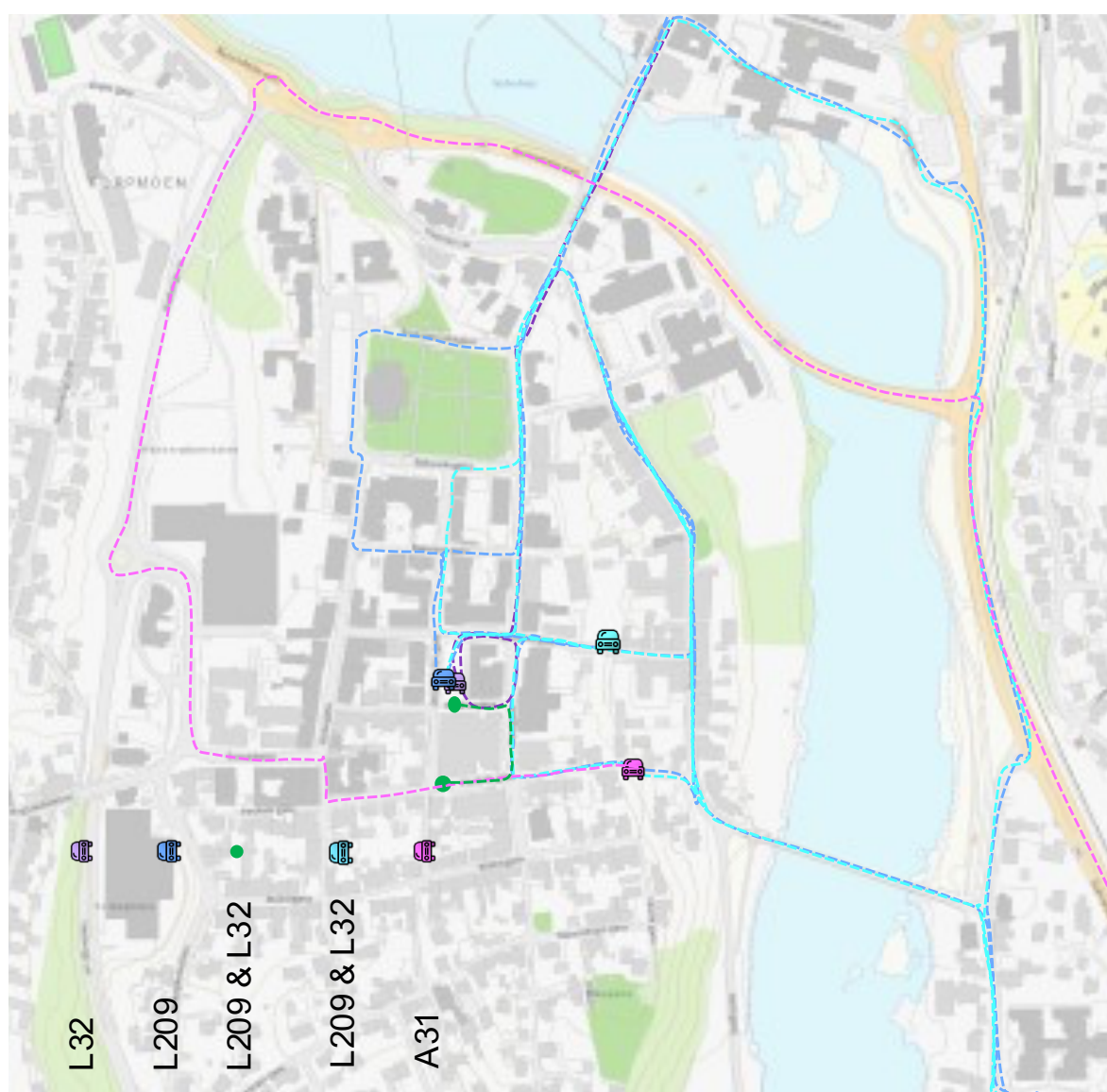


Image 7: Showing the search phases for L-32 & L-209 on foot (in green) and by car, together with A-31's route.

5.2.6 The arrest

18.42.55 The control room messaged to the patrols: "To the patrols, Hyttegata 34, Hyttegata 34, report of knife now, someone can meet the patrol and indicate the actual flat."

18.43.21 The control room messaged: "Two knives, Hyttegata 34, person with two knives."

A-31 replied immediately: "Very close now". GPS shows A-31 to have been in Peckels gate, in the block between Christian IVs gate/Myntgata, at 18.43.31.

18.43.40 AE-04 called the control room, which answered 1 second later, whereupon AE-04 messaged: "AV (31), AE04 running to the scene now, P8 is lead." The control room acknowledged immediately.

Patrol J-44 (P15 and P16)/P16 had written the address "Hyttegata" into their telephone and used, in addition, the police's mapping app to find their way. P16 explained that they were given directions to the opposite side of the river, to a footbridge (in the area Gomsrudvei/Hyttegata), where they parked their vehicle behind two other police patrols (AV-31 and AE-04). J-41 was wearing a police reflective vest, was armed with a pistol and took a plastic shield from the police vehicle with him. They ran over the bridge towards Hyttegata and ran ahead of the officers from patrols AE-04 and AV-31, who were wearing heavy protective equipment.

18.43.44 Security camera footage shows the presumed perpetrator behind Hyttegata 19.³⁰⁰

18.44.01 The control room messages position; "Last position, in in a building where it says "Gallery".

18.44.06 Patrol UP-230 arrived at the entrance to Coop Extra and Vinmonopolet.

Camera surveillance shows that P10 and P11 went in through the entranceway at 18.44.06, conducted a brief search of the entrance area before leaving again the same way as they came in, at 18.44.47. UP-230 then drove towards Hyttegata, arriving at the scene after the arrest.

18.44.13 The control room was rung by AMK and included in a conference call with a person standing at the junction of Apotekergata/Hyttegata. The person said that an injured person (victim number 3) was lying on the ground, and that the police were present. Two minutes and 2 seconds into the call (18.46.15) shouting is heard in the background: "He's there, I see him", and the caller says that: "They (the police) are after the guy who did it." The control room and AMK go on to discuss a safe way for ambulances to approach the scene, and that this must be cleared with the police on scene.

300 Document 05.05.07. Sør-Øst police district. Not publicly available.

- 18.44.15 Patrol (which doesn't use its call signal) requests that the patrols by the bridge work together.
- 18.44.28 L-209 messaged over the radio that they had completed their search (in Coop) and driven towards Hyttegata. The control room acknowledged immediately.

It is thought that patrol J-44 was the first police patrol to arrive in the Hyttegata area. P16 explained that P15 ran first with the plastic shield. When they arrived in Hyttegata, it was dark, chaotic, there were a number of bystanders and an ambulance with blue lights a little further up the street. P15 said that when they arrived in Hyttegata there were no other police patrols there, but that "there was an ambulance and some civilians". Both P15 and P16 said that they received information from the people there that the perpetrator had gone into a gallery in a courtyard. The gate into the courtyard was locked but P16 kicked it open. P15 had a shield and went first into the courtyard and shouted: "Armed police." P15 and P16 cleared the courtyard/garden and then turned their attention to the gallery, which was lit up. P15 went into the gallery first and found victim number 2 and completed a search for the perpetrator there. P15, together with other police officers, carried victim number 2 out to a police car [Maje] and drove "load and go" to Kongsberg hospital. P16 described how P16 followed P15 into the courtyard and that other officers followed behind them. They searched the courtyard, and P15 went into the gallery with P16 behind him. In the gallery, they found victim number 2 and P16 informed the other officers of that. Some of the police officers went out into the street again, and P15 and P16 completed the search for the perpetrator before carrying victim number 2 out to a police car and driving "load and go." P16 eventually heard from the radio that the perpetrator had been arrested

Patrol A-31 (P12, P13 and P14) was, according to GPS, in Peckels gate just beyond the junction with Hyttegata at 18.44.10. Security camera footage shows what is likely A-31 turn to the left into Hyttegata circa 18.44.20 and, at the same time, there are what are probably police service personnel on the bridge running towards Hyttegata. A-31/P12 said that when they arrived in Hyttegata, they became aware of the person (victim number 3) lying in the junction (with Apotekergata), and that P13 stayed there to offer first aid. There were people present who pointed to a gallery, the door to which stood open, P13 explained that when they came down Peckels gate and into Hyttegata, patrol AV-31 and AE-04 were in Hyttegata. P13 saw victim number 3 lying in the junction Apotekergata/Hyttegata and began giving first aid "as taught" with the help of some bystanders. At the same time, there were several pointing to the gallery. P14's account was like that of P12 and P13 about their arrival at Hyttegata, and that there were several people pointing in the direction of the gallery. P12 went through the entrance and into the gallery, where P12 found victim number 2 and attempted first aid before it was decided to "load and go", P12 then continued the search in the flat belonging to victim number 2, and then in the loft. P14 went through the entrance and into the courtyard together with P12 and remained standing in the passageway securing several doors. P12 heard the shout: "He's running here" from out in Hyttegata and ran out into Hyttegata and after Av-31.

Patrol AV-31 (P4 and P5) stopped after the tunnel before Kongsberg in order to put on their heavy protective equipment, and to arm themselves. The mapping app in the patrol

car showed the wrong way, so they drove over the new bridge before they had to turn around and drive back to the city side of the old bridge (the area Gamle Gomsrud vei/ Hyttegata). The bridge was blocked by two large stones, so they were forced to park on the other side of the river to Hyttegata. Patrols AE-04 and J-44 arrived at roughly the same time, and all of them ran over the bridge towards Hyttegata. P5 said that AE-04 (P8) assumed leadership of the action when they ran towards Hyttegata, and that they met another patrol (thought to be A-31) "at the junction on the other side" of the bridge. When they came to the junction Hyttegata/Apotekergata, there was an injured person (victim number 3) on the ground and a police officer (P13 from patrol A-31) by her side. P5 said that there were other officers who went into a place on the other side of the street (the gallery), P15 decided that there were sufficient of them and remained standing in Hyttegata. P4 said that when they arrived in Hyttegata, P4 experienced what looked like a [training] PLIVO scenario with a lot of noise, people shouting and an injured person. P4 also heard that there were several people shouting "in there, in there" towards a gallery/workshop, but thought, like P5, that there were enough police officers who had gone in and remained standing in Hyttegata.

Patrol AE-04 (P8 and P9)/P8 said that they arrived in Kongsberg at the same time at patrol AV-31. The mapping app in the patrol car indicated the wrong way, so they had to turn around before arriving on the city side of the old bridge (the Gamle Gomsrud vei / Hyttegata area). They ran over the bridge and P8 shouted: "I'm the leader." On the bridge they contacted a man, who turned out to be a bystander, before carrying on. As they came running up Hyttegata, they saw an injured person (victim number 3) lying on the ground at the junction of Apotekergata/Hyttegata, with P13 (from patrol A-31) offering first aid. P8 became aware that something was happening in the gallery, and they went in there. They found a badly injured person there (victim number 2). P8 went back out into Hyttegata and met P3 at the junction with Apotekergata. P8 tried to gain an overview over and control of the situation. At the same time as P8 was in contact with other police officers out in Hyttegata, P5 heard that something was happening further up Hyttegata, and P5 and several others ran after the perpetrator. P8 asked P3 to stay at the Apotekergata junction to secure the area should the perpetrator escape from the police and come back towards them. P9 said that they arrived in the area by the old bridge, as they had to turn around due to incorrect directions from the mapping app. They ran over the old bridge together with AV-31 and J-44. When they arrived at the Hyttegata/Apotekergata junction, they saw an injured person (victim number 3) on the ground. P9 then concentrated on the search for the perpetrator and entered the gallery together with several other officers. When they entered the gallery, they found victim number 2. P2 stayed there to attend to the victim, while P9 continued to concentrate on the search in the courtyard. When P9 heard the communication that the perpetrator had been arrested, P9 changed his focus from search to lifesaving first aid.

Patrol L-209 (P1, P2 and P3) heard, according to P2, the radio message about the observation in Hyttegata just before they had completed their search in the Coop shop. They ran back to the car and drove at speed towards Hyttegata. P3 said that the message about Hyttegata came just before they had finished the search, and P3 knew that a police patrol from Drammen was nearby. When they got to Hyttegata, P3 saw several familiar police officers, and it was a relief when P3 understood that they were no longer alone [as police in Kongsberg]. P3 nevertheless had a bad feeling at the sight of the injured person on the ground. P1 explained that they drove down Apotekergata, and when they got to

the junction with Hyttegata, P1 saw that a person was lying on the ground, and there were police on the scene.

Security footage shows that at 18.45.20 two vehicles drove down Apotekergata toward Hyttegata, one of which is believed to be L-209.

P2 and P3 went into the courtyard toward the gallery, where P2 started first aid for victim number 2. In Hyttegata 19, P3 was contacted by a witness who pointed up the street, and P3 therefore went back out into Hyttegata. P1, who was the driver for L-209, was in Hyttegata to manage the radio when he heard a scream further up the street.

- 18.44.30 The perpetrator tried to gain entry to Hyttegata 17b, where he was seen by a person living there who rang the police's emergency number at 18.45.02. The perpetrator then moved on to Hyttegata 17a.³⁰¹
- 18.44.42 A-31 reported: "A-31 at the scene. We don't see the perpetrator, one person is down, a person is down." The control room replied immediately: "A-31 by Hyttegata 31, we're sending an ambulance."
- 18.45.01 The incident commander messages on the radio: "Remember, all protective gear and helmet on everyone now."
- 18.45.02 A person rang the control room on the emergency number. The caller rang from an address in Hyttegata and wondered if the perpetrator was outside, as the perpetrator was at "the new building at Lågen". The control room told the caller to stay indoors and ended the call, as the informant had no information as to where the perpetrator now was.
- 18.45.05 BAPS1: The control room rang the ambulance service at Kongsberg. Ambulance service replied immediately.
- 18.45.08 A-31 reported: "He must be in the building here."
- 18.45.16 A patrol [which didn't use its call signal] reported: "Two patrols are by the bridge now, where are we needed, P8?"
- 18.45.16 Camera surveillance shows the perpetrator by Hyttegata 17a [on the side nearest the river] in the period 18.45.16–18.45.54, before he disappeared out of the picture. It is thought that the perpetrator then went into a flat and took the life of victims number 4 and 5 with a stabbing weapon, by the entrance to Hyttegata 17a. The perpetrator was seen by police in Hyttegata a little later (18.46.17).³⁰²
- 18.45.16 BAPS1: The control room messaged: "Patrol in Hyttegata 31, contact with a person who is on the ground, need the ambulance there." The ambulance service acknowledged immediately that they were on their way.

301 Document 05.05.07. Sør-Øst police district. Not publicly available.

302 Document 05.05.07. Sør-Øst police district. Not publicly available.

- 18.45.23 A-31 messaged: "A-31 going through the front door of (name of victim number 2's) gallery and workshop, that's where people around say he is. Over." The control room acknowledged this message; "Received, it's Hyttegata 31, marked 'Gallery'."
- 18.46.17 A-31 reported over the radio to the control room that they: "See the person [the perpetrator]."
- 18.46.33 A-31 reported over the radio that they must have more ambulances in Hyttegata.
- 18.46.40 The incident commander asked over the radio if more ambulances were needed in Hyttegata, and if it was safe for them to proceed there. A patrol [not using their call-sign] acknowledged immediately: "More ambulances to Hyttegata."
- 18.46.42 A sound, presumed to be the shot, was heard on the security camera.

It is thought that the following police patrols (to varying degrees) were inside the courtyard and gallery: J-44 [P15 and P16], AE-04 [P9 and P8 who went back out to Hyttegata], L-209 [P2 and P3 who went back out to Hyttegata], A-31 [P12 and P14]. At approximately the same time P1, P4 and P5 were stood at the Hyttegata/Apotekergata junction, and P13 was providing first aid to victim number 3 on the street. At a certain point, P1 and P5 heard screams further away in Hyttegata, and both saw the perpetrator. P5 shouted: "White singlet", and P5 and P1 pursued the perpetrator with P4 just behind them, to Hyttegata 18, where there is an entranceway leading into a courtyard. P5 said that it was dark in the entrance. P5 therefore stopped and shouted: "Armed police!" and several short commands to give the perpetrator an opportunity to give himself up. As P5 moved forward in the entranceway, the perpetrator suddenly appeared to his left, threw a large knife/sword at P5 and disappeared out of sight again. P5 followed him and saw the perpetrator by the doors to some flats. P5 was afraid that the perpetrator would go in through one of these doors, and fired a warning shot next to his legs (at 18.46.42 there is a bang on the security camera, believed to be this warning shot). The perpetrator "flinched" so much that P5 thought that he had run into the line of fire and been hit by the warning shot. The perpetrator gave himself up, lay on the ground and was arrested by P1 and P14.

P1 recounted the arrest in the same way as P5. P1 heard a scream in Hyttegata, saw the perpetrator a little further down the street and, with P5, pursued him to Hyttegata 18. P1 went in through the entranceway following P5, and the perpetrator threw something (large knife/sword) at them when they were roughly halfway in. They followed the perpetrator and saw him moving across the open space. P5 fired a warning shot, and the perpetrator reacted to that. P1 and P5 moved forward side by side, the perpetrator lay down on the ground and was apprehended by P1. At that time, P4 was with them in the courtyard.

P4 said that he heard the scream from Hyttegata, saw that P5 ran down the street, and followed him. P4 noticed that a person ran into Hyttegata 18. When P4 came into the courtyard, he saw the perpetrator and was ready to release the police dog to attack him,

but then a warning shot was fired which had an immediate effect on the perpetrator. P4 then used the dog to protect P1 whilst P1 apprehended the perpetrator.

18.46.54 BAPS1: The control room called the ambulance service in Kongsberg. Ambulance answered immediately and received the message from the control room that more ambulances were needed at Hyttegata 31 as quickly as possible.

18.47.12 AV-31 messaged over the radio; "Control of the perpetrator." The control room acknowledged: "A-31 reports control of the perpetrator, repeat, control of the perpetrator. Received 04."

During the ongoing police action in Hyttegata, S2 learned that officers had arrived at the scene, including running across the bridge, and this gave S2 the feeling of there being the resources needed to take control of the area. S2 himself experienced having control of the situation, as there were skilled colleagues in Hyttegata giving good and concise reports on what was happening.

The assignment supervisor said that the police were quickly on the scene in Hyttegata, and more patrols arrived. The control room received a report that there were injured people in the street, and that the perpetrator had entered the gallery. The police entered the gallery and found several injured. The police then arrested the perpetrator, as he tried to run away.

S1 said that the police drove to the scene where at least one person was found dead. S1's experience was that there was a lot of back and forth at the site, where there was, among other things, a gallery, and it was somewhat unclear what had happened. More patrols arrived, and S1 found it chaotic with no control over where the perpetrator was. It seemed to S1 like a coincidence that the perpetrator was discovered and arrested.

S3 heard that the patrol (L-209) which was searching for the perpetrator had gone back to Hyttegata, and that several police officers came across the bridge in Hyttegata. S3 heard that the police entered "the gallery". The experience was that it was chaotic with many messages on the radio, and it was difficult "to have a picture of where the patrols are at all times." In addition, the lack of information about the perpetrator's whereabouts, and there being only a few police patrols at the scene, contributed to the situation being perceived as chaotic.

5.2.7 Other police patrols in Kongsberg during the arrest

The following patrols were in/near Kongsberg when the perpetrator was arrested:

UP-213 parked by the bridge (Hyttegata/Gamle Gomsrudvei). They crossed the bridge on foot and were approximately halfway up the hill before Peckels gate when they reported hearing on the radio that the perpetrator had been arrested.

UP-240 arrived in Kongsberg just after the AV patrol. They parked in the middle of the bridge in Hyttegata and ran from there. When they were in Hyttegata, just before they

reached the first victim, they heard a warning shot and then heard that the perpetrator had been arrested.

UP-230 were on the E134 between Kongsberg and Notodden. (In the log at 18.38). They drove straight to the Vinmonopolet, before going on to Hyttegata when they heard about the injured. UP-230 assisted with securing and assisting the ambulances. After the arrest and the acute phase, they helped to search buildings.

J-30 arrived circa 2 minutes after the arrest. They parked by the old bridge and came up to Hyttegata.

K-04 stopped in Myntgata/Apotekergata. They heard shouting and went towards Hyttegata. They then heard that the perpetrator was under control.

AE-71 parked in Gamle Gomsrudvei/Hyttegata and went on foot along Hyttegata. As they ran up the hill seeing people and injured in front of them, they were notified that the perpetrator had been arrested.

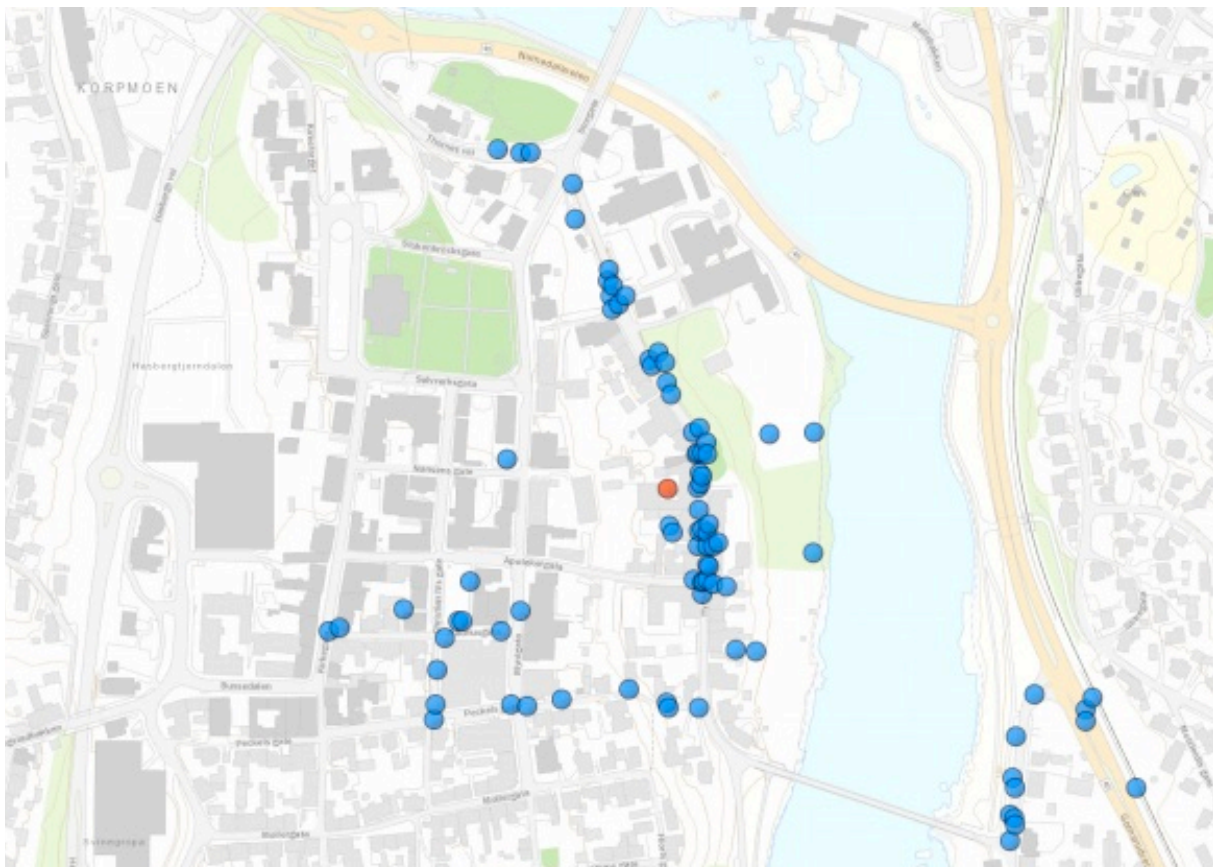


Image 8: Shows 87 police radios (blue fields), between 19.17 and 19.22. This includes both radios in police vehicles and handheld units. The red field makes the place of the arrest

5.2.8 PLIVO – collaboration with the emergency services

The control room supervisor at AMK said that the first telephone call they received from the police was a notification of a person with a bow and arrows shooting at people in Kongsberg. Control room supervisor AMK was surprised by the weapon, but otherwise it was fairly common for the ambulance service to support the police. Circa three minutes after this came the triple-alert (notification of health service, fire service and police) about PLIVO. At the same time, AMK received an emergency call which served to reinforce the PLIVO notification, and they sent available resources. They received a designated meeting point (Nybrua by Storgata), but the police never defined any "HOT zone" (see point 5.3.3.). They received notification that the perpetrator had left the shop, but no information about which direction he had taken. No information came in BAPS1. Both the fire brigade and the ambulance service attempted to contact the police incident commander but received no answer. Control room supervisor AMK found it uncomfortable to have personnel in the area without knowing where the perpetrator had gone. There were no police at the meeting point, where there was chaos. It was a heart in mouth moment – sending resources in without knowing if the personnel's life and health were in danger. In addition, control room supervisor AMK found there to be a lack of information, and not very good place descriptions. Incident commander health (ILH, incident commander for the ambulance personnel) had to decide between waiting at the meeting point and driving in to try to save lives. ILH decided to drive in [to Hyttegata]. There, as well, there was no one present at the meeting point to receive new health resources.

ILH left the ambulance station when they received the first message that a person with bow and arrows was shooting at people in the Coop shop. It is roughly one minute's drive to the place defined as the secure meeting place. On the way, ILH received the message about PLIVO. AMK began to summon more resources, and ILH set the radio to BAPS1: "It was completely dead." There was no information for either health or fire services. ILH knew that there were few police in Kongsberg. When ILH arrived at the meeting point together with the fire service, they decided to block off the area to incoming traffic. They also asked people at the scene to move away from the area. At one point, an ambulance was given an assignment inside the "HOT zone", which later turned out to be for one of those killed. And, at one point, the fire service called the police on BAPS1 with an "important message" but received no response. After a while, the police called for assistance from the health service on BAPS1. ILH then decided that they must drive in and help the injured, and three ambulances drove to the scene. They drove to Hyttegata from Myntgata and came across two injured people lying in the street. As ILH and a colleague got out of the car, the colleague heard a shot. They met the police near the injured, but the police disappeared as soon as the paramedics arrived. This left the impression of being left without security, and a number of people felt unsafe.

The duty manager at 110-central (VLB) said that they received a triple alert about PLIVO on the phone from the police control room. At the same time, they received an automated fire-alarm from Coop Extra in Kongsberg. VLB confirmed that they had received a fire alarm from the scene and notified the correct fire station following PLIVO procedure. VLB found that while they received some information in the triple alert, it was very quiet on BAPS1. Incident commander fire (ILB) wanted to call in 3 teams at once, and these were then sent out. The fire service based itself on the lower side of the bridge, close by Hyttegata. During the incident, they received an emergency call on 110, where the caller saw that the perpetrator was stabbing people. This call was immediately transferred to

the police control room. The 110-centre received the position of the caller, which was passed on to the fire crews, and they received a clear description of the direction in which the perpetrator was moving. The 110-centre also received calls from residents above the shop in Myntgata, where the fire alarm went off. The residents were anxious about what was happening, and 110-central did not know if there was a fire or not. VLB made contact with the police control room, which told them that there was no fire and that the residents should stay inside. Eventually, the fire service was told that the perpetrator had been arrested and that they could return.

Incident commander fire (ILB) said that he was called on the radio by the person on-call at approximately 18:20. There was a report of PLIVO, a man shooting with bow and arrows at Coop Extra on Vestsiden, and several people were said to have been injured. ILB had knowledge of bow and arrows from before and knew how dangerous they could be. He was given a meeting point over the radio and assigned BAPS1 as the channel. ILB drove towards the meeting point and, at 18.24, received an instruction to drive forward quietly without using blue lights and siren. The first crew from the fire service arrived at the meeting point in Myntgata/Hyttegata at 18.28. There was no one from the police at the meeting place, and they received neither information nor response to calls on BAPS1. Fire- and health-services agreed to block traffic and pedestrians from entering the area. They found that they had to make themselves very clear to people to get them understand the seriousness of the situation. The fire brigade also implemented measures for their own safety in case the perpetrator were to come at them. ILB drove from the meeting point to pick up his daughter, who was in the danger area, and then to the Coop store to check if there was any fire there. He went into the shop, checked the fire alarm panel and ascertained that there was no fire. Camera surveillance from Coop shows that ILB was in Coop between circa 18.51 to circa 18.54. When ILB returned to the meeting point, the incident commander from the police had been in contact with the fire service's call-out manager before the incident commander had driven further down Hyttegata. Personnel from the fire service assisted the ambulances in Hyttegata after the perpetrator was arrested. They were dispersed and assisted with defibrillators and other first aid equipment. The fire brigade was prepared for injuries from arrows but encountered both stab wounds and murder. These made a strong impression on those who found themselves involved. ILB found the police incident commander's command post in Hyttegata and made contact with ILH and the incident commander here.

5.3 Assessment of the police's operational management of the incident

In this section, the commission will assess the police's operative management of the incident, based on the descriptions presented in section 5.2. According to the mandate, the commission must, in addition to describing the police's operational handling, also provide an assessment of it. As for the description in section 5.2, the assessment is limited in time from when the police control room received the first notification of the incident, until the perpetrator was apprehended by the police. The following elements must be included in the assessment:

- receipt of messages/handling of 112-calls (triple alert)
- the sequence of events from the assignment being read out, until the perpetrator was apprehended, including the choice of solutions throughout the assignment

- internal cooperation in Sør-Øst police district
- planning and disposition of operational resources in Sør-Øst police district, and in collaboration with other police districts, national emergency resources, special agencies and PST

The mandate also requires that the evaluation contain an independent assessment of any learning points worthy of mention: the commission has included some assessments and learning points.

In section 5.2, the police's operational handling was understood as the police's overall effort to stop and apprehend the perpetrator. To anchor the assessment in the mandate, and highlight prioritised focus areas, the commission will make use of the following evaluation criteria:

- was the police's operational management conducted in accordance with the PLIVO procedure and relevant emergency planning, laws, instructions and guidelines?
- was the police's operational management characterised by appropriate information flow, notifications, interaction and leadership?
- was the police's collaboration with the other emergency services characterised by appropriate information flow, notifications, cooperation and leadership?
- were the police's efforts reflective of experience from training and from other acute situations?

When assessing the operational management of the incident at Kongsberg on 13th October 2021, the commission will use as a basis the relevant documents within the police service regulating and providing guidelines for the flow of information, collaboration, decisions and actions within the agency. This includes the police's emergency preparedness system I, II and III (PBS I, II and III), the PLIVO procedure, legislation, instructions, regulations and subject booklets. Many of these documents are not publicly available, and the elements of their content referenced here are therefore reproduced with the permission of the Directorate of Police, the Norwegian Police University College and Sør-Øst police district, respectively.

The assessment of the police's operational management is structured as follows: 1) reception of messages and notifications, and resource mobilisation, 2) the call-out phase, 3) the action in the shop, 4) the search phase, 5) the action in Hyttegata, 6) collaboration, coordination and management, 7) information flow and situational awareness, 8) material and equipment, 9) operational decision-making and 10) PLIVO and experiential learning.

The commission has consistently emphasised learning and development. The assessments appearing in this section must therefore be seen in connection with the learning points and recommendations for improvement found in Chapter 6.

5.3.1 Receipt of messages and notifications, and mobilisation of resources

The control room supervisor is normally the police district's leader at operational level, and the assignment supervisor contributes at the control room to leading and coordinating the execution of assignments.³⁰³ Communications operators at the control room handle all inquiries by telephone and police radio as well as creating, and following up, assignments in the police's electronic duty record (PO). The guidelines³⁰⁴ do not contain detailed instructions about how message reception and other tasks at the control room should be carried out. These are, however, more fully elaborated in Sør-Øst police district's own planning for the control room. These plans do not include a general checklist for the receipt of message, but the checklist *Mass injury – possible PLIVO*³⁰⁵ contains specific suggestions for question, advice for callers, an overview of notifications and a detailed reading of PLIVO. This is also suitable for the *National triple-alert procedure*.³⁰⁶ Correspondingly, the *PLIVO procedure*³⁰⁷ contains a separate measures card which, among other things, describes information harvesting and priorities.

- *The commission considers that message reception in the control room was carried out and logged quickly and efficiently. The operators were good at obtaining information, asking follow-up questions, reassuring and giving advice to callers.*

For the control room in Tønsberg, there were, principally, four phases during which they received incoming calls (messages) containing new information about the ongoing incident in Kongsberg: 1) when the incident arose around Coop Extra/Vinmonopolet (the call-out phase), 2) when the perpetrator went out of the emergency exit to Myntegata (the action phase in the shop), 3) from Peckels gate 1b (the search phase) and 4) from (the action in) Hyttegata. There was considerable variation in the messages and workload in the control room during these various phases. There was a lot of information and use of police radio during phases 1, 2 and 4, while in phase 3 it was relatively quiet, both on the radio and with regard to new information from the public. In order to communicate relevant information during emergency incidents, the control room depends on "good callers" ringing in. Reference is made to Lundgaard's study³⁰⁸ of the police's control rooms, which emphasised that callers to the control room are absolutely crucial to the work:'

Callers from the scene of the accident/in the crisis area are usually the ones who give the control room initial and basic information about a serious incident. This means that the communication, and the relationship, between the caller and the operator at the control room will be decisive in the police's initial assessment of the situation, and thereby govern the police's response, as well as that of fire and health. A good caller has eyes at the scene – they see what is happening, answer questions and the operators can guide them.³⁰⁹

1. The first message to the police was received in the form of a call to the emergency number (112) received by the control room in Tønsberg.

The communications operator quickly realised that the situation was serious. The operator reacted calmly, asking follow-up questions, quickly summoned the attention of the

303 Politidirektoratet, 2020. See also chapter 2 of this report.

304 Politidirektoratet, 2020.

305 Sør-Øst politidistrikt, 2022a. Not publicly available.

306 Politidirektoratet et al., 2019.

307 Politidirektorat et al., 2019. Not publicly available.

308 Lundgaard, 2019, pp. 156–165.

309 Lundgaard, 2019, p. 161.

control room and used 36 seconds to create the assignment, giving it the priority "alarm", the highest, requiring an immediate response. The second message was received at approximately the same time as the assignment was logged, but the communications operator this time had a different understanding of the situation and first thought to create an assignment with priority 2 – something to be followed up but without the need for an immediate response. The caller was, unlike the first, calm and answered questions about where the perpetrator was and if there were injuries. The first patrol was called up 22 seconds after the assignment was logged. Six seconds after this the control room received the third message from a shaken caller, but the communications operator received information from the caller calmly, asked follow-up questions, got confirmation that the perpetrator had been at Nytorget, advised the caller to warn others and to ensure his own safety, giving the caller positive feedback. A short time later the control room supervisor defined the incident as PLIVO and people at the control room put in place the planning for PLIVO incidents.

- *The commission considers it to have been a good decision to set a high priority³¹⁰ in the initial phase of the incident even though there was uncertainty as to what the incident was.*

2. When the perpetrator left via the emergency exit of Coop Extra, the control room was holding a conference call with AMK and someone who had called them.

The caller saw the perpetrator come out, and there was screaming and a pause in the communication of a little over one minute. Telephone contact was maintained, with repeated attempts to regain the attention of the caller. About 30 seconds after the perpetrator came out, it was entered in the PO log³¹¹ that this caller saw the perpetrator shooting at people in Myntgata. This was broadcast over the communications network after a further 40 seconds. Circa three minutes and 30 seconds into the conversation, the caller said that the perpetrator was in Peckels gate (the only information as to the direction he had taken). The caller was asked further questions and asked to keep away from danger. In emergency situations, the control room must ensure that the public receive quick and suitable help "in cooperation with the other emergency reporting centres (110 and 113)".³¹²

- *The commission finds the sharing of information from AMK to the control room, with the telephone conference with the caller, to have been extremely good.*

The collaboration between AMK and the control room ensured rapid inter-agency sharing of information and help from the emergency services. However, vital information, such as that the perpetrator was out of the shop, must be conveyed to the patrols at the scene with high priority. That it took 40 seconds, after being logged, to forward this information to the patrols, appears to be unnecessarily long in such a time critical situation.

- *The commission assesses that time critical information in this situation was shared too late. The commission questions whether the routines for logging information so that it can be taken up by another operator, and then communicated to the patrols, are time-efficient enough in highly dynamic situations.*

310 Arguments in favour of prioritising assignment. See Lundgaard (2019, p. 187).

311 Sør-Øst police district's electronic log. Not publicly available.

312 Politidirektoratet, 2020, p. 120.

3. The control room received an emergency call from Peckels gate 1b just before 18.26. The caller said that a person with a knife in his hand had tried to open a window, but then left "two minutes ago". Towards three minutes into the conversation, the caller said that the person had gone in the direction of the bridge leading to the town centre. No further information emerged about the perpetrator's movements during this conversation. Communication difficulties between the communications operator and the caller doing this conversation led to the need for repeated follow-up questions with which the operator attempted to gather important information, leading to delay in the flow of information. A similar difficulty was also pointed to by the evaluation commission after the terror attack on the Al-Noor Mosque in 2019.³¹³

After the information from this call was disseminated there followed circa 13 minutes without new information about the perpetrator until the first notification came of screaming in Hyttegata.

4. The control room received the first call from Hyttegata some seconds before 18.40. After a period of silence, the number of incoming messages now increased, and there was a great deal of communications traffic. The caller had heard screaming a minute earlier, could see nothing outside and was asked to stay indoors. A second caller had seen a man strike a woman, and a third caller came via tele-conference with AMK. This caller seemed highly affected by the situation. The communications operators at AMK and at the control room tried to keep speaking calmly, asking short, concise questions on the precise address, about whether the person lying at the scene was injured, and asking the caller to indicate to the police the direction the perpetrator had taken. As the call went on, the caller became calmer and better able to answer questions. The fourth caller was also in a telephone conference call with them, AMK and the control room. The caller to AMK stood with the person lying on the ground at the Apotekergata/Hyttegata junction, and the control room received confirmation that police were at the scene. The fifth caller came from someone in Hyttegata who was asked: "Do you know where he is right now?" When the caller answered "No" the operator told her that: "Then I need to end the call." This prioritising of callers was referred to by the communications operators, as they were concerned to find "good callers" who could provide sound, relevant and timely information during the incident. Based on the audio logs, the commission can see that it has sometimes been challenging to achieve fast and high-quality information collection. The commission also finds here appropriate and good cooperation between the communications operators at AMK and the control room and with callers where some obviously found themselves in very challenging situations. The communications operators managed to calm them down, give them advice and to get important information. In addition, it was expedient for the control room to establish clear priorities for continuing the conversations with callers or not, depending on the information they were able to contribute. The reception of messages appears to have been generally good, set against elements of the content of local planning and the PLIVO procedure. In addition, it appears that the control room managed the callers in a way that, given all the circumstances, contributed to fast and sound information gathering.

313 Evalueringsutvalget, 2020.

Alerts and mobilisation of resources

The control room supervisor is to provide notifications, adhere to the PLIVO procedure and checklist for the South-East police district³¹⁴

- *The commission finds that the control room of the Sør-Øst police district swiftly made appropriate alerts in line with the planned procedures.*

In the Kongsberg incident, the control room supervisor delivered several of the alerts himself, delegating others to liaison operators. The following alerts were issued by the control room of the South-East police district up to the arrest:

1. National Police Special Response Department
2. triple-alerting of fire- and health-service
3. Deputy Chief of Police in Sør-Øst police district
4. Geographic manager for Buskerud
5. the police's situation centre in The Police Directorate
6. Manager for police special response unit in Sør-Øst police district
7. Chief of Police in Sør-Øst police district
8. Chief of Staff in Sør-Øst police district
9. notification of other police districts via the police alarm and alert system (PAV)³¹⁵ of an ongoing PLIVO incident in Kongsberg

The local planning in Sør-Øst police district³¹⁶ refers to a list of actors the notification of whom can be considered but indicates no priority among them. It is therefore assumed that notifications are made according to professional judgment, adapted to the individual situation. Several of these notifications were made quickly. For example, national emergency preparedness resources were notified 30 seconds after PLIVO was read out over police radio in Sør-Øst police district. The commission also notes that the chief of staff in Sør-Øst police district was notified.

The police district has its own staff instructions³¹⁷ differentiating normal operation, reinforced line management and management once a staff has been put in place. It was agreed between the control room supervisor and the chief of staff that, at that time, the control room was managing the incident. The chief of staff called in to a meeting about reinforced line management, but they did not manage to hold the meeting before the arrest.

- *The commission finds that this was a sensible decision and in accordance with the plan, to be able to quickly strengthen operations at the control room, if necessary, by calling in a reinforced line.*

The notifications mentioned resulted in a massive mobilisation of resources. National Police Special Response department resources sent out personnel in both a helicopter and several car patrols, at the same time as the military helicopter was notified and moved to the National Police Special Response department to maintain national helicopter

314 Politidirektoratet, 2020 & Sør-Øst politidistrikt, 2022a. Not publicly available.

315 Politidirektoratet, 2020.

316 Sør-Øst politidistrikt, 2022a. Not publicly available.

317 Sør-Øst politidistrikt, 2022b. Not publicly available.

emergency preparedness. At the same time, a PAV message³¹⁸ ensured assistance from neighbouring police districts, not only for handling the incident itself, but also for maintaining preparedness in Sør-Øst police district, which committed considerable resources to the incident in Kongsberg. The commission finds that the mobilisation of resources during the incident represents an example of increased preparedness after the establishment of the police's national emergency centre, and increased collaboration and coordination between the police districts. It also represents increased preparedness in the police, as the mobilisation came from, among other things, training activities and personnel who were off duty. This is in line with the findings and recommendations of the 22nd July Commission.³¹⁹

5.3.2 The call-out phase

The patrols L-32 and L-209 (from Kongsberg police station) and incident commander AU-05 (from Drammen police station) received the assignment circa 18.14 and received the order to be armed moments later. Guidelines and Weapons Instructions for the police³²⁰ indicate that the control room supervisor can issue an arming order in the event of an armed assignment. The incident commander leads and coordinates the response in the event of several patrols being involved, basically following an initial plan for their disposition to locate, observe and isolate a perpetrator.³²¹ Sør-Øst police district's planning includes a dedicated checklist³²² for incident commanders on armed assignments. In addition, the planning framework³²³ refers to a general rule specifying that a perpetrator believed to be dangerous to the police must come out into an area where the police have control. *The Police University College's subject booklet on police tactics*,³²⁴ which forms part of the academic basis for operational training of police emergency personnel, refers to the same main rule for police tactics. This main rule, however, contains exceptions, for example in situations where there is a danger to the life and health of other people.

As regards the police's use of protective equipment during armed assignments, this is regulated by the Weapons Instructions for the police:³²⁵ "When an order to arm has been given, protective equipment must be available and used, unless the nature of the duty dictates otherwise."

- *The commission's view is that there seems to be a discrepancy between the Weapon Instructions for the police's provision regarding the use of protective equipment and actual practice in the police. The commission finds that the patrols made qualified assessments concerning the use of protective equipment but took a disproportionately large risk by not wearing heavy protective equipment after they had received information about an increased level of threat in the assignment.*

Patrol L-32 armed themselves in the garage at Kongsberg police station but were initially unsure of what to make of the situation, given that the perpetrator was using bow and arrows. They were wearing light protective vests and did not put on more protective

318 PAV: the police's alarm and notification system.

319 NOU 2012: 14.

320 Politidirektoratet, 2020, p. 122: Våpeninstruks for politiet (2015).

321 Politidirektoratet, 2020, p. 158.

322 Sør-Øst politidistrikt, 2022c. Not publicly available.

323 Sør-Øst politidistrikt, 2022d. Not publicly available.

324 Politihøgskolen, 2020, p. 6. Not publicly available.

325 Våpeninstruks for politiet, 2015, see section 3-1, number 3.

equipment in the form of heavy protective vests and helmets before they headed out as the first patrol. This was a decision they made with L-209, to be able to come to where they could observe and control the perpetrator as swiftly as possible. Professor Myhrer³²⁶ makes mention of the provision on the use of protective equipment during armament missions:

If officers have time to arm themselves, they also have time to put on any available protective equipment. There is therefore no exception related to situations arising suddenly. The duty to use available protective equipment in emergency situations is, on the contrary, close to absolute.

On the basis of this understanding, L-32 did not act in accordance with Weapon instructions for the police when they moved out armed, but without using available protective equipment. L-209 neither put on protective equipment nor armed before the call out. Instead, L-209 decided that L-32 would drive first, and that L-209 would stop closer to the scene to arm and put on protective equipment, depending on how the assignment turned out. During the call out, L-209 received a call from an off-duty colleague who had been shot with an arrow. L-209 therefore stopped on the road to arm and put on protective equipment. This led to L-209 arriving at the scene circa four minutes and 30 seconds after L-32. Regarding this, reference is made to the wording in the previous edition of weapon instructions for the police:³²⁷ "Protective equipment is used when an order to arm has been given, unless the *nature of the assignment* dictates otherwise" (commission's emphasis). In the view of the commission, this wording leaves more room for police service personnel to assess the use of protective equipment in individual cases than does the current wording with the *nature of the assignment* (emphasis added by the commission).

How is this understood in the police? A leader and manager at the Police University College told us that, during the bachelor's training, the wording of the Weapons Instructions is put to the students – all protective equipment is to be worn during armed assignments. Instructors from the police districts, who teach PLIVO for PHS, said that they convey no absolute requirement for the use of protective equipment. Absolute requirements are also not communicated during operational further education, such as UEH (IP3) courses, where what is communicated is that the police can to a large extent make their own situational assessments regarding the use of protective equipment, for example when securing dog handlers in forested terrain. Experience from the instructors' police districts was that different assessments regarding protective equipment are made, especially in armed assignments where time is short, and the perpetrator armed with a stabbing weapon. It was also pointed out that protective equipment, as well as protecting officers, is important in increasing the probability of being able to carry out the assignment even if one were to be hit. Staff in the Police Directorate said that there are set requirements for protective equipment: it must be used. At the same time, they said that officers must make an assessment in each individual case. If there is visual contact with a perpetrator, it would not be natural to pull back to put on protective equipment: instead, you maintain contact. This was exemplified in the following way: "If you drive into a situation, you cannot drive around the block to put on protective equipment. Here you have to differentiate." It was also conveyed that a procedure needs to be sufficiently generic and flexible

³²⁶ Myhrer, 2020, p. 88.

³²⁷ Våpeninstruks for politiet, 1989.

that the scope for personal assessments is not taken away. Against this background, practice from various parts of the police service suggests a more situational adaptation to the use of protective equipment than the absolute requirements contained in the weapon instructions for the police.³²⁸

- *The commission finds that the patrols made qualified assessments for the use of protective equipment, prioritising less safety for themselves to arrive more quickly and stop the perpetrator. At the same time, the commission is of the opinion that the first patrol, after receiving news of a policeman who had been shot and having seen that person with an arrow in his back, equally took a disproportionately large risk in not using more protective equipment.*

The commission also wishes to point out that the choices made regarding the use of protective equipment may have had an impact on the resolution of the assignment. By failing to put on protective equipment, the patrol arrived faster and were able to confront the perpetrator more quickly. However, without protective equipment, they were less able to neutralise the threat posed by the perpetrator when they were fired at. At the same time, the commission can say nothing about what the perpetrator might have done in the time the patrol would have used to put on the extra protective equipment. The commission cannot, therefore, conclude what the outcome would have been if the patrol had made other choices regarding the use of protective equipment.

A further key aspect of the call-out phase concerns judgements about, and planning for, the action phase. During the call-out phase, the incident commander, over police radio, established that: "Here, it's OK to make an exception [...] and directly confront this guy when we arrive." This judgement was made while the incident commander was on his way from Drammen, before the incident was defined as PLIVO, and while the patrols L-32 and L-209 were called out from Kongsberg police station to Coop Extra/Vinmonopolet. It was also before it became known that an off-duty officer had been shot with an arrow. With this, the incident commander took an important decision for the patrols at Kongsberg, that they could deviate from the main rule of police tactics safeguarding life and health as set out in the police district's planning.³²⁹ The incident commander's decision was taken on the basis of limited information, whilst he was far away from Kongsberg.³³⁰

- *The commission finds that it was appropriate for the incident commander to take a clear lead by making a quick and important decision, for the first patrols, on the procedure for resolving the situation.*

L-32 had a call-out time of approximately three minutes and 50 seconds from when they first received the assignment at Kongsberg police station, until they parked by the entrance to Coop/Vinmonopolet.³³¹ The patrol has not been able to give a detailed account of the route they took before they stopped at the scene. Based on their explanations, GPS and camera surveillance, it appears that the patrol first drove across Nytorget and then drove around the block (Rådhusgata, Myntgata, Apotekergata), before they again drove into Nytorget and parked in front of the entrance. This may appear to be an

328 Våpeninstruks for politiet, 2015. See section 3-1, number 3.

329 Sør-Øst politidistrikt, 2022c. Not publicly available.

330 Regarding appointing a leader on scene, see point 5.3.6.

331 Requirements for response time at Kongsberg; 80% of priority 1 and alarm missions within 12 minutes. (Communication with Sør-Øst police district 29.3.22).

unnecessary detour during a time-critical incident, in which the police are expected to drive directly to the scene. On the other hand, the control room read out three different locations for the perpetrator to the patrols during the call out (see point 4.2.3):

18.14.50 "And to L-2029, L-32, the person is now in Coop in Kongsberg."

18.15.35 "The perpetrator has left Coop Extra, in the direction of the parking area: overweight and in a white vest."

18.16.14 "So he's on Nytorget, Nytorget, and he has lots of arrows with him."

The last location information the control room gave for the perpetrator, before the first patrol arrived at the scene, was Nytorget. Given this, the commission assumes that the first patrol drove over and around Nytorget, which would be an appropriate approach for locating the perpetrator, as the latest information was that the perpetrator was out and about in this area. In addition, they received a message from L-209: "He is at the Coop", when they were in the area.

L-209 followed almost the same route from Kongsberg police station but drove via Kirketorget in order to arm and to put on extra protective equipment and arrived at Coop Extra/Vinmonopolet about four minutes and 30 seconds after L-32. The commission is not aware of the existence of police planning that says anything about how the police should prioritise driving routes during time-critical incidents. The question of driving routes and navigation was discussed by the commission following the terror attack on the Al-Noor Mosque.³³²

- *The commission finds that the patrols chose appropriate emergency routes. They drove via the supposedly shortest driving routes according to the latest location information received for the perpetrator, resulting in a rapid emergency response.*

5.3.3 The action in the shop

The control room first issued an assignment with an order to be armed, but this was defined as a PLIVO incident as the first patrol L-32 arrived at Coop.³³³ The PLIVO-procedure³³⁴ is a shared national collaboration procedure for the police, fire and health emergency services for management and cooperation during PLIVO incidents. The procedure defines PLIVO incidents as:

A PLIVO incident is an ongoing situation where one or more perpetrators commit – or are in the process of committing – life-threatening violence with weapons/dangerous objects against several innocent people. The police must act directly to neutralise the perpetrator(s) to save lives and limit injury. The fire and health services must [according to this procedure] actively assist with lifesaving measures as required, where the police do not have sufficient resources to both search for and neutralise the perpetrator(s), and at the same time evacuate life-threateningly injured people from the area.

³³² Evalueringsutvalget, 2020. See chapter 6.

³³³ The police's emergency response systems define an extraordinary incident as "an incident that is so extensive or serious that the police must organise, manage and use their resources in a different way than normal" (Politidirektoratet, 2020, p. 24).

³³⁴ Politidirektoratet et al., 2019, p. 4. Not publicly available.

The police control room supervisor will decide if an incident is PLIVO, and the control room supervisor or the incident commander will decide on the actions to be taken.

A central feature of PLIVO is collaboration between the emergency services. Among these, the police control room and incident commander have key roles for, among other things, management, information dissemination, definition of zones and form of action. This is so the fire and health services can in the safest possible way – according to the circumstances – enter the relevant area and perform their primary tasks. At the same time, the procedure points out that the emergency services' management will always have to be adapted to the available resources, and particularly to the police's access to resources. Sør-Øst police district's planning³³⁵ complements the PLIVO procedure containing, among other things, detailed and locally adapted overviews for measures, notifications and initiation of PLIVO.

The police's incident commander is responsible for defining risk-zones during a PLIVO-action:

HOT-zone is the area with the highest risk and where the perpetrator is thought to be.

WARM-zone is the area of lower risk and (roughly searched or secured by the police).

COLD-zone is the area so far from the possible threat that there is no need for security measures.

Such zones were not established during this action. We will come back to this in point 5.3.6.

For emergency response police officers, PLIVO means that they are to put measures in place against the perpetrator at the earliest possible moment if (s)he represents a threat to third parties. PLIVO incidents are acute events during which the police are armed, and their actions are governed by the police's *Handbook for Emergency Personnel*:³³⁶

The police [must] do everything possible to stop the perpetrator(s) as quickly as possible, so that innocent third parties are spared injury as far as possible. The police must therefore prepare themselves as quickly as possible to go directly into the action phase.

The police must therefore depart from the ordinary responses laid out in *Police Tactics*³³⁷ and accept a higher level of risk in order to stop the perpetrator. This actualises the police's duty to act, which is described in detail in point 2.2.3. From there:

based on the available general plans, the available information and the quality and range of the resources to hand, the effort must be planned with such margins that it has reasonable chance of success.

The PLIVO procedure³³⁸ also takes in the police's duty to act, about which is stated that it:

335 Sør-Øst politidistrikt, 2022a. Not publicly available.

336 Politidirektoratet, 2008. Not publicly available.

337 Politihøgskolen, 2020, p. 6. Not publicly available.

338 Politidirektoratet et al., 2019. Not publicly available.

always be based on a concrete evaluation of the current situation, taking into account the available information, the equipment available and the capabilities of the personnel involved.

The procedure also makes clear that in situations of unacceptable risk the police must choose a different approach.

- *The commission finds that the first patrol went into direct action, in accordance with the PLIVO procedure. That they chose to freeze the situation and wait for more resources, the commission finds to have been an appropriate decision, given the patrol's initial choice of protective equipment.*

The first police patrol, L-32, learned about PLIVO when they were already at the scene. At the entrance to Coop Extra/Vinmonopolet they encountered an off-duty police officer with an arrow in his back. This officer kept watch over the garage area while L-32 made their way in through the entrance. The patrol reported that they "see the man" on their way in, did not meet any other people, received no response when they shouted that there were armed police, and were able to evacuate two shop employees. They then reported that the situation was unpredictable, and that they proposed freezing the situation and waiting for the second patrol, L-209, which was nearby. The perpetrator, who was now out of sight, then triggered the fire alarm. Responding to a question from the incident commander over the radio, the patrol answered that they were unsure if anyone else was in the shop, after which a communications operator in the control room acknowledged with: "Received. Unclear if anyone is in. This is a PLIVO situation. If he [the perpetrator] is there, we'll go into action." L-32 then asked for the support of the other patrol, which was nearby, before they ventured further into the premises, towards the Coop shop. On the way in, they were twice shot at with arrows. When the perpetrator was not shooting at the police, he kept himself hidden in the shop. After the patrol had been shot at for the second time, they messaged over the radio: "Yes, there are arrows flying around our heads. We need to pull out." The patrol then took cover in the entranceway to the premises,³³⁹ where they kept watch towards both Coop and the exit towards the garage facility, and asked L-209 to bring shields. L-209 arrived at the entrance a short time later with bulletproof shields/protective equipment. The perpetrator was by now out of the shop. L-209 pointed out that they needed to be careful because he could come out elsewhere. Seconds later, the control room informed them that a person was shooting at others in Myntgata.

By going directly into action, the patrol contributed to the evacuation of two shop employees, covered both exits with the help of their injured colleague and attracted attention by calling out to the perpetrator. They then wanted to freeze the situation in the entranceway to wait for further resources (see Image 5). Regarding this, a key question is how the PLIVO procedure's wording "the police must make direct efforts to neutralise the perpetrator(s) in order to save lives and limit damage"³⁴⁰ is to be interpreted in this particular context. The PLIVO procedure does not contain any specific elucidation of terms. If we assume that "to neutralise" means that the police must go into direct confrontation with the perpetrator without information about others present, the patrol should have continued to advance until it contacted the perpetrator. Conversely, "no longer constitutes a threat" can be interpreted as meaning that methods other than

³³⁹ See Image 5.

³⁴⁰ Politidirektoratet et al., 2019. Not publicly available.

direct confrontation can also be used to “neutralise” the perpetrator: isolating, for example, the perpetrator so that he or she cannot pose a threat to others. Representatives of the Police Directorate, the reference group for PLIVO and instructors in PLIVO at the Norwegian Police University College (PHS) has not put forward any common and uniform understanding of how the wording “to neutralise” is to be understood. Regardless of our understanding of the term, the aim remains to “save lives and limit damage”. At this point in time, the patrol had no observations of people other than the perpetrator, no one responded to their calls, and further, the patrol reported over the radio that they were uncertain whether there were other people inside the premises. They also had the situation understanding that the perpetrator was isolated in the shop, and that he would have to pass their observation point, from their advanced position in the entranceway, to come out. In these circumstances, a relevant question is whether the patrol should have maintained the form of action laid down by the PLIVO procedure or chosen another method according to the main rule of police tactics,³⁴¹ by getting the perpetrator to come to them. The incident was defined as PLIVO, but at this time there was no information that violence was being practiced against other people.

The commission finds that the first patrol went directly into action, in accordance with the PLIVO procedure. They managed to evacuate staff and made calls in accordance with weapons instructions for the police.³⁴² That they elected to freeze the situation and await reinforcements, under those circumstances, the commission finds to represent an appropriate and proportionate solution, given the decision the patrol had made earlier concerning protective equipment.

- *The evaluation commission considers that important tactical guidance for patrols should be given from the incident commander, possibly the control room supervisor/ assignment supervisor*

When the patrol wanted to “freeze” the situation, they were reminded by the communications operator at the control room that it was PLIVO, and that: “If he [the perpetrator] is inside, we will take action”. In this, the communications operator emphasised the perpetrator’s presence in the store as a decisive factor for the patrol to continue taking action. The police have a special duty to act (see point 2.2.3), and in PLIVO actions the police must accept a higher level of risk according to the PLIVO procedure.³⁴³ After requesting assistance from the other patrol (which was nearby), the patrol continued its advance towards Coop and was fired upon. The patrol found itself in a situation where the fire alarm had been triggered, the premises were hard to read, the perpetrator hidden and moving silently on stockinged feet, able to move quickly forward and shoot at the police. The police clearly had a duty to act in such a situation. On the other hand, the procedure also stipulates that the duty to act “must always be based on a concrete assessment in the individual situation”, and in situations with unacceptable risk the police must choose another procedure. Based on the PLIVO procedure’s description that it is at operational and tactical leadership level that PLIVO will be defined, and the form of action decided, the evaluation commission takes the view that it is not up to a communications operator alone to order the patrol to take action. This was an instruction that should primarily have been given by the incident commander – as the leader at tactical level – or the

341 Politihøgskolen, 2020, p. 6. Not publicly available.

342 Lovdata.no, 2022d. See section 4-2.

343 Politidirektoratet et al., 2019. Not publicly available.

control room supervisor or assignment supervisor. In this, the police incident commander explained that: "If he [the perpetrator] is alone, he might as well get on with it [...]. Then we could have gone away from PLIVO and followed the disposition order and main rule, but no one could tell if he was alone, or if there were injured people there." The patrol chose, all the same, to act before they had received the requested assistance and, in the circumstances, were outmanoeuvred by the perpetrator. In view of the given situation, the commission is critical that action had to be taken before the patrol had received the necessary assistance. Admittedly, the patrol had left itself in a difficult situation with insufficient protective equipment, but when they met the resistance they did, the commission finds that it was an appropriate police tactical assessment to freeze the situation pending assistance from the other patrol, L-209.

- *The commission is of the opinion that the police acted in line with the PLIVO procedure by taking action against the perpetrator, and that it was appropriate to act jointly, as the resources in Kongsberg were not sufficient to control the perpetrator in the shop.*

A key question is whether or not the first patrol, L-32, could have stopped the perpetrator inside the shop. This was the only time, before the arrest, that the police had contact with the perpetrator. The police officer who went first saw the perpetrator "perhaps for one second" at a distance of approximately 10 metres before they were fired upon the first time and had insufficient time to aim his weapon at him. Given that the perpetrator had shot arrows at several people and shot at the police, using firearms was permissible.³⁴⁴ There again, the use of firearms would require the police to have a free field of fire against the person concerned, and the Weapon Instructions for the police provide guidelines for warnings to the other party and assessment of the danger to third parties, where circumstances permit. The perpetrator, however, remained hidden and shot another arrow at the police before leaving using the emergency exit. With the perpetrator out of sight, one possibility could have been to fire warning shots to, if possible, make him surrender. The patrol chose not to fire warning shots indoors, due to the uncertainty around there being flats on the floor above, and the busy street at the opposite end of the shop premises. At this point, the patrol also had a situational understanding³⁴⁵ that the perpetrator was isolated within the shop, and that they had control of what they thought were the only two exits. None of the police emergency personnel taking part in the operation in the store was aware of the emergency exit through which the perpetrator escaped. Regarding this, planning in Sør-Øst police district³⁴⁶ does mention emergency exits from buildings: "NB! Use the evacuation maps that are often found posted on walls." Emergency exits are thus a known topic, included in the police's planning. However, the PLIVO procedure³⁴⁷ stipulates that when isolating perpetrators, "external security of the building must only be established when there are sufficient police personnel in the HOT-zone." In this situation, it was not reasonable to expect that L-32 had time to assess this, nor was there sufficient capacity to both confront the perpetrator and, at the same time, cover the building from the outside. The commission finds it expedient and proportionate to have not shot inside the shop. The patrol was, all the same, outmanoeuvred by the resistance they encountered, and the perpetrator escaped from the police. Given the

344 Våpeninstruks for politiet, 2015. See sections 4-2 & 4-3, and the Police Act 6B.

345 See point 2.7.2. in the report.

346 Sør-Øst politidistrikt, 2022a. Not publicly available.

347 Politidirektoratet et al., 2019. Not publicly available.

resources available during the action in the shop, the commission believes that the emergency personnel cannot be blamed for the perpetrator escaping the shop via an emergency exit.

5.3.4 The search phase

Several relevant aspects of the search phase will be assessed. First, the patrols chose to search for the perpetrator on foot, then to gather in one patrol car. The patrols also implemented a proactive strategy in choosing driving routes. Finally, the decision not to pick up the perpetrator's weapon is assessed.

But first: The commission is not aware of concrete guidelines about how a search for a suspected dangerous perpetrator should be carried out. However, the commission points out that "in the case of a PLIVO incident, separate principles for planning and the efforts made apply."³⁴⁸ The PLIVO procedure³⁴⁹ indicates that the action phase continues until the police have control over the perpetrator(s), and that the principles for defining zones also apply to outdoor PLIVO actions. There follows a definition of zones as "large crime scenes", where there may be many injured over a larger area, but no concrete guidelines are given for carrying out searches. The local checklist for PLIVO in Sør-Øst police district³⁵⁰ also refers to zoning but gives no recommendations as to how emergency personnel should conduct a search phase. Brief guidance for undertaking and advancing the search for a perpetrator is to be found in the *Norwegian Police University College's subject booklet about police tactics*,³⁵¹ where, among other things, points such as taking the area into consideration are mentioned.

- *The commission considers that the search for the perpetrator was carried out in an appropriate manner, given that there was only one patrol (with three officers) available in Kongsberg for much of the search. Lack of information about the perpetrator's movements made the search difficult.*

The control room notified the patrols (L-32/L-209) over the radio that people were being shot at in Myntgata. The patrols then moved forward together, around the building and on foot, but without locating the perpetrator. During this search they received a further radio message regarding an observation in Peckels gate, without them being able to locate him. After approximately five minutes of searching on foot they received notification of a new observation, this time at Peckels gate 1b and "further along Peckels gate toward the town centre." They then returned to their patrol vehicles, all got into L-209's vehicle and began a search in this. The patrol drove up and down Hyttegata, and then adjacent streets and in an extended area around Hyttegata (see Image 7).

The two patrols, totalling three officers, were the only available police resources in Kongsberg. That the patrol chose to use their vehicle rather than searching on foot meant that they could move more quickly and cover a wider search area. Searching by car also meant that they avoided carrying a heavy shield during a longer search on foot. The vehicle could also, as the incident commander suggested, be used to run down the perpetrator. The decision to conduct a search by car created the opportunity to search a

348 Politidirektoratet, 2020, p. 165.

349 Politidirektoratet et al., 2019. Not publicly available.

350 Sør-Øst politidistrikt, 2022a. Not publicly available.

351 Politihøgskolen, 2020. Not publicly available.

larger area, while the decision to gather in one car reduced the possibilities of searching in an even larger area. However, a joint patrol constituted the possibility of a more robust response in the event that they located and confronted the perpetrator. Taking the perpetrator's actions into account, the decision to gather in one car is therefore considered appropriate.

- *The commission considers that the route driven was reasonable given the information available.*

Regarding the choice of driving route in the search, there are no guidelines against which to compare the priorities. It is a reality, however, that the patrol, when it switched to a search phase by car, was lagging by some minutes behind the last concrete observation of the perpetrator. They had two choices in starting the search. They could either start the search at the last observed location of the perpetrator, or they could only try to get ahead of him. They chose the second of these. The patrol chose to drive along Myntgata to the end of Hyttegata (see Image 7), and from there in the direction of Peckels gate 1b, which was the last reported sighting of the perpetrator. This seems to be an appropriate approach, given that it had been several minutes since the perpetrator had left that address, and the patrol's aim was to prevent him from heading towards the centre of Kongsberg. During the search, the patrol made no observations of the perpetrator. They were neither contacted by the public nor received any new information from the control room. The joint patrol carried out the search phase alone and, based on their knowledge of the area, in areas where they considered it most likely to encounter the perpetrator. All be emphasised that no instructions came from the control room or incident commander as to where or how the patrol should carry out the search, before the incident commander asked for a patrol to search for casualties at Coop.

What about the bow and arrows observed in Peckels gate?

- *The commission is critical of the decision to leave the bow and arrows in the street, after these were found in Peckels gate.*

During the search, the patrol found the perpetrator's bow and arrows in Peckels gate. They left these there as the bow seemed to be broken. Admittedly, the bow did appear to be defective as the string was off, but leaving a weapon, which could perhaps have been made functional again, during an ongoing PLIVO operation, the commission finds inappropriate.

5.3.5 The action in Hyttegata

After the perpetrator was seen in Peckels gate a search for him ensued for about 13 minutes, without any new information coming in about his movements. After this quiet period the control room received several calls from Hyttegata. At this point, also, several police patrols began to arrive in Kongsberg. Assessment of the action in Hyttegata is structured in the following way: arrival in Hyttegata, management of the action in Hyttegata, action in the courtyard/gallery, PLIVO and first aid and the arrest of the perpetrator.

Arrival in Hyttegata

After there having been just a single joint patrol in Kongsberg during the action in the shop and during the search phase, more police patrols began to arrive. Between circa 18.43.30 and 18.45.00 seven patrols arrived in Hyttegata. On arrival the police patrols met several people standing beside an injured person lying on the ground at the junction of Apotekergata/Hyttegata.

Management of the action in Hyttegata

The situation in Hyttegata was complex: police patrols were arriving, an injured person lay in the street, members of the public tried to help the injured person and signalled to the police, who came running, about where they thought the perpetrator might be. There were, in other words, many things requiring attention at the same time.

- *The evaluation commission is of the opinion that a manager at tactical or operational level should have appointed a leader for the action in Hyttegata until the arrival of the incident commander.*
- *The commission finds that the emergency personnel on site took the lead, sought out work assignments and prioritised in accordance with the rehearsed PLIVO procedure.*

In the event of incidents calling for coordinated management, response management is to be undertaken by a permanent or designated incident commander.³⁵² The police incident commander leading the tactical level during the incident but was on call from Drammen and arrived in Hyttegata only after the arrest. In such circumstances, police guidelines refer to the assignment being led by another senior official until the incident commander can take over the management.

The incident commander was on their way, but the commission finds that (s)he, as leader at tactical level, could have appointed a deputy. On the other hand, the control room, which had maps and thereby the positions of the patrols, had the opportunity to assist the incident commander in appointing a deputy leader and coordinating the effort.

No deputy leader in Hyttegata was explicitly appointed pending the arrival of the incident commander, either by the incident commander or by the control room. However, the opinion of the commission is that the responding officers themselves identified and undertook the necessary tasks. In addition, a police officer, from one of the patrols arriving in Kongsberg, took the initiative and took leadership of the action. This is a deputy leadership function that ought to be appointed by, and under, the incident commander. The action leader should lead his task force under the coordination of the incident commander. The PLIVO procedure provides guidelines for the action leader to lead the search for the perpetrator(s), and the Norwegian Police University College's subject booklet on police tactics outlines similar work tasks for deputy leaders as are found in the police's guidelines (PBS I). In Hyttegata, the action leader relied, among other things, on the contents of a checklist to regain control of the situation.³⁵³ The action leader also held back emergency personnel in Hyttegata while the perpetrator was pursued by the police in case he escaped the pursuit and come back towards them.

³⁵² Politidirektoratet, 2020.

³⁵³ Nakos.no, 2022.

The action in the courtyard/gallery, first aid and PLIVO

The first patrols arriving in Hyttegata encountered people helping an injured person lying on the ground at the crossroads between Apotekergata/Hyttegata. They shouted and pointed in the direction where the perpetrator had gone into a courtyard. The officers first on the scene went straight into action in the courtyard and the gallery, without offering first aid to the person in the street. In the gallery, the police found another injured person. The general service instructions for the police (Police Instructions) indicate that:

[w]hen a policeman comes to the scene of a criminal act, he should first help or arrange help persons who have been injured, or otherwise set in motion everything possible to avoid others being injured.³⁵⁴

The order of priority is, however, different according to the PLIVO procedure, according to which the police must give priority to taking direct action to neutralise a perpetrator; "primarily [one] should prevent more people from suffering life-threatening injuries, as well as providing life-saving medical treatment to those already injured." Here, there were sufficient police resources available, so that first aid could be carried out both on the person in Hyttegata and on the person in the gallery, at the same time as searching for the perpetrator. The commission finds that this represents appropriate and good prioritisation, as the resources allowed this. From it being reported over the radio that that the police had seen the perpetrator in Hyttegata, until it was further reported that he was apprehended, 55 seconds elapsed.

Arrest of the perpetrator

- *The commission considers the police's arrest to have been effective, conducted appropriately and proportionately.*

During the ongoing action, the police in Hyttegata became aware of a scream further up the street. They saw the perpetrator when he came out in Hyttegata after having attacked victims 4 and 5. The PLIVO procedure requires that the police go directly into action against the perpetrator(s). Neither the procedure itself nor the checklist for PLIVO in South-East police district provide detailed guidelines as to how a direct confrontation with a perpetrator should be undertaken. This is briefly discussed in the course booklet about police tactics, where it is pointed out that the way in which the police are to address the other party depends on the situation. In situations in which weapons are likely to be used the provisions of the Police Act and Weapons Instructions for the police also apply. When the perpetrator was seen in Hyttegata, the officers immediately began to run after him. He ducked into an entry leading to the courtyard of Hyttegata 18. At the entrance, the police shouted to the perpetrator several times with, amongst others, "Armed police!" after which the perpetrator threw a short sword at them. The officers continued into the courtyard area, saw the perpetrator by some flats and fired a warning shot to stop and apprehend the perpetrator. Upon arrest, a suspected perpetrator dangerous for the police, should in principle come to the police according to the police's main rules of police tactics. This is to increase the level of safety of those involved. Conversely, such an approach increases the risk that the perpetrator could evade arrest, this risk being emphasised by him having remained concealed throughout the incident and having offered active resistance as the police approached. They followed an exception from this

354 Politilinstruksen, 1990.

main rule and acted directly against the perpetrator in accordance with the PLIVO procedure. This led to a swift arrest.

5.3.6 Collaboration, coordination and leadership

Collaboration can be thought of as cooperation or interaction between two or more parties in activity with each other. National preparedness and civil defence work, as well as interaction and coordination, draw on the basic principles of responsibility, equality, closeness and cooperation.³⁵⁵

In the police districts, it is the control rooms that should lead and coordinate police efforts, and the control room supervisor leads and coordinates the work from the control room. The assignment supervisor following instructions from the control room supervisor, leads and coordinates assignments, including maintaining good communication with the police's incident commander/other designated commander and ensure good communication and cooperation with other collaborative actors.³⁵⁶ There are comparable guidelines in the local instructions for Sør-Øst police district.³⁵⁷ The communications operators handle all inquiries made by telephone or from other actors to the control room and log assignments in the police district's duty record (PO). At tactical level, it is the police's incident commander who leads the police operation as well as leading and coordinating the work between the emergency services.³⁵⁸ The PLIVO procedure³⁵⁹ is of particular importance precisely because of collaboration, coordination and the management of PLIVO incidents:

In PLIVO incidents, the police control room and the police incident commander have a crucial role in ensuring the creation of the most agreed-upon picture of the risks that may have to be faced in the situation. In concrete terms, this means that the control room must, from the first, read out joint messages to all emergency personnel, clearly stating the risks they are facing. Similarly, the police incident commander must communicate directly with the incident commanders from the fire and health services to clarify the risks and patterns of action at the scene. The police incident commander must provide good and regular situation reports regarding contact, as this provides a good understanding of the situation for all involved.

Sør-Øst police district's checklist for PLIVO³⁶⁰ addresses triple alert and the use of a joint voice group together with the emergency services. This is also dealt with in the Joint Communication Regulations for Nødnett [Emergency Network],³⁶¹ where triple alert routines, furthering of emergency messages from the public, information sharing, and the establishment of a common situational understanding are described. These routines correspond to the PLIVO procedure.

The following assessment of collaboration and coordination is structured according to the central collaborative actors involved.

Collaboration and coordination at the police control room

- *The commission finds that the control room supervisor made important decisions quickly and exercised clear leadership.*

355 Justis- og beredskapsdepartementet, 2012.

356 Politidirektoratet, 2020.

357 Job descriptions control room supervisor, assignment supervisor and communications operator. Not publicly available.

358 Politidirektoratet, 2020.

359 Politidirektoratet et al., 2019. Not publicly available.

360 Sør-Øst politidistrikt, 2022a. Not publicly available.

361 Politidirektoratet et al., 2021.

- *The commission considers that management and coordination internally at the control room were sometimes limited.*
- *The commission finds that the control room supervisor/assignment supervisor neither communicated nor updated a common understanding of the situation internally at the control room.*
- *The commission considers that the assignment supervisor and the operators behaved calmly and in a controlled way both on the phone and on police radio, helping to reassure both patrols and callers.*

The control room supervisor defined the incident as PLIVO, made this clear to everyone, and one of the three groups at the control room, with responsibility for the geographical area Buskerud, was assigned to handle the PLIVO incident in Kongsberg. They used their own communication channel for the police, and in addition, a shared communication channel for collaboration between the emergency services (fire, ambulance, police, collaboration – BAPS). The control room supervisor was clear and decisive, making, for example, quick decisions about arming orders and defining the incident as PLIVO. The control room supervisor made himself present, distributing and prioritising work tasks.

One assignment supervisor and three communication operators mostly handled the incident, while the assignment supervisor/communications operators from the other two groups helped, taking telephone calls and reading out PLIVO over their communication channels. During the incident, there was a quiet and focused working environment in the control room. When there was important information, needing to be conveyed quickly, attention was drawn within the room, for example by snapping fingers. When it came to the radio traffic from the assignment supervisor/communications operators to the patrols, it appeared, generally, to be calm and precise.

In contrast, leadership during the assignment appears somewhat more deficient. Responsibility for police radio was shared between the assignment supervisor and a communications operator. Plans were actively deployed, and operators followed up important tasks on their own initiative. However, no person was made responsible for following up BAPS. In addition, it appears there was little planning for, and assignment of, new work tasks for the patrols, which would have had to be done to be proactive regarding the development of the assignment. Regarding internal collaboration in the control room toward establishing a common understanding of the situation, the commission has not found any specific measures regarding this. The police's duty record was kept jointly, but nothing was written in the log nor was any shared understanding of the situation communicated verbally in the control room. Nor was it read out over police radio. The commission finds this to be deficient, and points to, for example, the police's Staff and Leadership Development Programme³⁶² which emphasises the importance of establishing a common understanding of the situation. This is also the practice between the control room and incident leadership in the Oslo police district.³⁶³ Promoting common understanding of the

³⁶² Police staff and management development program, Norwegian Police University College.

³⁶³ Routine for emergency management in the Oslo police district, where the incident commander reads out his understanding of the situation over the radio.

situation was also a point for improvement for the control room in the report following the terrorist attack on the Al-Noor Mosque.³⁶⁴

Collaboration and coordination between the police's control room and the patrols

- *The commission finds that no common understanding of the situation was established / read out between the control room and the patrols.*
- *The commission is of the opinion that attention to communication discipline meant that important communication routines, such as acknowledgement of receipt of important messages, were not followed to the required extent.*
- *The commission believes that the control room should have focused more on thinking about scenarios, distribution of tasks and coordination of the resources on their way to Kongsberg.*
- *The commission has found that the flow of information between the control room and the patrols was fast and efficient.*

Cooperation between the control room and the police patrols was largely, until the resolution of the incident (the action in Hyttegata), limited to the police patrols in Kongsberg. During the incident, the dissemination of information was based largely on the occasional, rather few (emergency) telephone calls to the control room in Tønsberg, which processed the calls and passed the information to the patrols over police radio. This included ongoingly rapid receipt and processing of telephone calls to the control room. For example, it took just 36 seconds from the first call until the assignment was logged in PO. Important information was, generally, quickly passed on to the patrols. After the logging mentioned above, it took 22 seconds until the patrols and the incident commander were called over police radio. In the main, there was also a rapid flow of information, from message receipt at the control room to readout over police radio. The commission finds that the interaction between the control room and the patrols, in terms of rapid information flow, was good.

The most important means of communication throughout the collaboration was the police radio. In this context, good communications discipline was emphasised by several people. Joint regulations for the emergency network deal with communications discipline in connection with maintaining free capacity in the emergency network,³⁶⁵ and the police can manage this through actions in which they take a lead. The key is to limit communications traffic on the network, so that those involved can access important information. For example, the incident commander reminded about communications discipline over the police radio during the call to the Kongsberg patrols, and the assignment supervisor chose to curtail the reading of PLIVO, both to get the message through before the first patrol arrived at Coop, and to keep the radio channel open for them. The commission will, nonetheless, raise the question of whether this attention to communications discipline can have led to restrictions to the flow of important information. The first patrol at the scene in Kongsberg certainly did ask for communication priority during their call out, but they did not acknowledge the receipt of important communication messages such as that

³⁶⁴ Evalueringsutvalget, 2020, p. 152.

³⁶⁵ Politidirektoratet et al., 2021.

a colleague had been shot with an arrow, that they had to put on protective equipment or that they had received the message defining the incident as PLIVO. In a time-critical phase, there are sound arguments for keeping the connection open to traffic, so patrols can quickly convey important information from the scene. On the other hand, there were only two police patrols in Kongsberg, and the information conveyed is considered by the commission to be very important. Some more communications traffic should therefore have been manageable.

The commission finds it, all the same, difficult to specify clearly what information has to be conveyed, and which messages ought to be acknowledged. It goes without saying that this will depend on the situation. At the same time, and with such important information being conveyed, the commission is of the opinion that the first patrol should have prioritised acknowledging receipt of the messages, so that the control room and others knew that they had received this critical information. Also, either the control room or the second patrol in Kongsberg could have requested an acknowledgement from the first patrol not responding to important messages. The commission also thinks that the police radio could have been used to a greater extent during the search phase, for example for the allocation of resources, the distribution of tasks to patrols approaching Kongsberg, and the dissemination of an updated understanding of the situation.

Collaboration and coordination between the control room and the police incident commander

- *The commission finds that the collaboration and coordination between the control room and the incident commander were deficient.*

As mentioned, the control room leads and coordinates the police's efforts, and this includes good communication with the police's incident commander/leader at tactical level. In addition, the incident commander leads the police patrols participating in the mission and coordinates and leads the overall effort together with the other emergency services³⁶⁶ The control room handed the task to the incident commander, who was at Drammen police station while the patrols were in Kongsberg. It was not explicitly stated, but for the incident commander and among the patrols in Kongsberg there was an understanding that patrol L-209 was the leader in Kongsberg. The incident commander was on call-out to Kongsberg when the incident took place and arrived at about the same time as the arrest. During the call-out, the incident commander had his own driver, but they were not driving the usual incident commander's vehicle and therefore lacked equipment that the incident commander would normally have with them, such as extra communications equipment, command boards and iPad/PC. In this, collaboration and coordination between the control room and the incident commander are central, as can be visualised in the figure below:

366 Politidirektoratet, 2020.

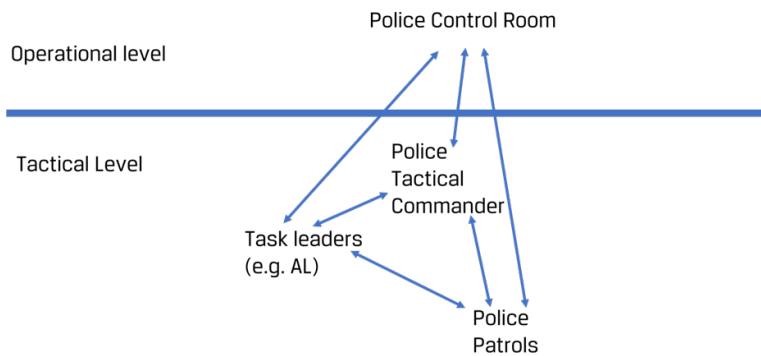


Figure 9: Lines of communication between operational and tactical levels.

The model visualises the lines of communication between key players at tactical level (the response personnel) and the control room (operational level). The lines of communication show that the police incident commander is in a key position and must lead the activity at tactical level. As the incident commander was in a situation where technical aids consisted of police radio and mobile phone, this resulted in limited opportunities to use police systems such as maps and duty records, thereby leading the patrols involved in the assignment. The incident commander issued instructions over police radio for the use of protective equipment and requested a search for injured persons in the shop. It does seem, however, from the radio traffic that there was a lack of coordination and guidance for the patrols in Kongsberg, and for those patrols on call out making their way to Kongsberg. During the search phase, there was a period when there was less pressure of work for the incident commander and the control room. The commission finds that this phase could have been usefully used for information sharing, collaboration, coordination, planning, allocation of resources and updating the other emergency services on BAPS. Unlike the incident commander, the control room had several tools and computer systems available to generate a more up-to-date picture of the situation. For example, mapping displaying an overview of the other patrols making their way to Kongsberg. The control room provided good information over the radio, but it seems that the control room helped the incident commander to only a limited extent with the management and coordination of the police's resources. This is underlined by the fact that, during the incident, before the incident commander arrived in Kongsberg, there was no telephone contact between the incident commander and anyone in the control room. The commission thus finds that the collaboration and coordination between the control room and the incident commander were deficient, especially regarding planning for the arrival of considerable police resources, distribution of work tasks for them and coordination with the fire and health services. Correspondingly, it seems that the clarification of who was to lead the police effort in Kongsberg until the incident commander supervisor arrived was inadequate. In contrast, it appears that the police patrols themselves chose driving routes, found work tasks, took leadership, and collaborated in the effort in Hyttegata.

Collaboration and cooperation between the police and the other emergency services

- *The commission finds that the police's collaboration and coordination with the other emergency services did not comply with the PLIVO procedure.*

- *The commission finds that the control rooms for fire, ambulance and police services practice their natural function only to a limited extent during their annual PLIVO exercises.*

In PLIVO incidents, collaboration between the emergency services is key. The PLIVO procedure³⁶⁷ sketches out the distribution of roles, and procedures, where the police control room must read out messages over the radio to ensure situational understanding. The police incident commander must communicate with the fire and health incident commanders to clarify risks and patterns of action, including zoning, and must provide regular situation reports over the radio to ensure situational awareness.³⁶⁸ When collaborating, a separate communication channel (BAPS) is used on the emergency network. During the incident at Kongsberg, the emergency services deployed BAPS1 for radio communications. At approximately 18.19, the control room made a triple alert about the PLIVO incident via a telephone conference call to the health services control room (AMK) and the fire service control room. This was less than 2 minutes after the patrols at Kongsberg were notified over the radio, and approximately one minute and 30 seconds after PLIVO was notified to everyone in Sør-Øst police district. The emergency services were instructed to use BAPS1 and were given a meeting point. This was followed up in BAPS1. Subsequently, the control room made only two updates in BAPS1 until the arrest: a call for an ambulance with information about an injured person behind Coop, and an update. It appears as if the task of looking after BAPS was not sufficiently clarified in the control room, nor between the control room and the incident commander. It was a communications operator who read out information in BAPS on his own initiative. There was no communication either between the incident commander police, incident commander fire and incident commander health in BAPS1 before the arrest of the perpetrator.

The commission finds that the police did not define zones during the Kongsberg incident leaving collaboration according to the PLIVO procedure deficient.

The police incident commander did not, during the incident, specify the zoning required under the PLIVO procedure.³⁶⁹ With regard to this, the police pointed out that the incident was different to what they were familiar with, with a perpetrator moving widely outdoors. This will, naturally, make it more difficult to define zones. Nevertheless, the purpose of the zones is to ensure that members of the other emergency services do not enter areas in which the risk is too great, without the support of the police. For this reason, it is important for collaboration that zones be defined, or, as a minimum, safe areas, or areas where fire and health should not enter be delineated. Here, one possibility could be to use a broad definition of the HOT zone, and a corresponding approach to define a safe meeting place. That the police did not provide clarification of risks and patterns of action, that situational updates were lacking, that calls from the emergency services in BAPS went unanswered, is very unsatisfactory. An explanation for this may be that the public safety answering points undergo very little training in their function during PLIVO exercises. This appears to be unsatisfactory in terms of adequate preparation.

367 Politidirektoratet et al., 2019. Not publicly available.

368 Politidirektoratet et al., 2019. Not publicly available.

369 Politidirektoratet et al., 2019. Not publicly available.

5.3.7 Information flow and situation understanding

The police's emergency preparedness systems³⁷⁰ use the terms "extraordinary incident" and "crisis".³⁷¹ Extraordinary incidents are characterised by the police's resources being stretched due to the complexity and severity of the event. A crisis is referred to as "an unwanted event with a high degree of uncertainty and potentially significant consequences for those affected, whether it is individuals, organisations or society".³⁷² According to PBS I, PLIVO events are classified as extraordinary events. There again, based on these characteristics, it is also reasonable to describe PLIVO events as crises, events characterised by uncertainty, stress, the need for information flow and critical decisions.

- *The commission finds that communication and the creation of a shared situational awareness can be demanding in the midst of rapidly developing and dynamic events. This requires clear communication and a clearly expressed situational awareness.*

The Kongsberg incident can be described as a fast-burning crisis, characterised by it both propagating and ending quickly³⁷³, an acute PLIVO incident ending with the arrest of the perpetrator. The incident developed quickly and was clearly characterised by uncertainty, time pressure and stress. Handling such a crisis will be demanding for whoever is in charge. Boin et al.³⁷⁴ characterise the first part of a crisis as the "what the hell is going on" phase. A central challenge in dynamic crises is to find out what is happening, and then to convey that understanding to those who need it, by means of a good flow of information. The goal is to establish a common understanding of the situation between the actors involved at tactical and operational level to optimise decisions and use of resources. In Kongsberg, it was important to establish a shared understanding between the police control room and the police emergency personnel, and also important partners in the health and fire services. In the Kongsberg incident, much of the information about the perpetrator's actions and movements was conveyed by callers to the police control room in Tønsberg (also to the 110 and 113 centres). Several of the callers had critically important information, with observations of the perpetrator in real time, needing to be communicated quickly. The flow of information between callers in Kongsberg and communications operators at the police control room in Tønsberg was essential, so the control room could establish a situational understanding of the ongoing incident. Endsley³⁷⁵ defines situational awareness as "the perception of the elements of the environment within a volume of time and space, the understanding of their meaning and the projection of their status into the near future." Here, this meant that the communications operators were able to obtain important information from the callers, understand its significance and thereby try to predict how the situation might develop (see point 2.7.2). The control room then quickly relayed information to the police patrols at Kongsberg, to the incident commander and to the patrols on call out, making their way to Kongsberg.

A difficulty for the control room is that the information received is conveyed to them by others,³⁷⁶ and the central thing is then their ability to grasp the situation. The control room received a caller's retelling of his own observations, or patrols' communication of

370 Politidirektoratet, 2020, p. 24.

371 Politidirektoratet, 2020.

372 Politidirektoratet, 2020, p. 25.

373 t`Hart & Boin, 2001.

374 Boin et al., 2005.

375 Endsley, 1995, p. 36.

376 Lundgaard, 2019, p. 146.

information interpreted by the patrol. There are several complicating factors in this process: communication took place from the sender to the recipient by messages and via telephone and police radio. The sender was the source and issuer of a message,³⁷⁷ and several factors can affect their ability to communicate. The sender coded their message, and the recipient decoded it. This is understood as the sender's ability to communicate/way of communicating and the formulation of the message, as well as how the recipient can arrive at an understanding of the message. This depends on the sender's communication skills and the receiver's stance toward the message and ability to communicate. Knowledge related to the information being communicated, and the social system within which the communication takes place are important and will affect the ability to communicate. In addition, the culture of the current social system/society will affect the communication between sender and receiver. The callers to the control room were, to varying extents, able to communicate about the situation in which they found themselves. Some were calm and answered questions with precision, while others were in acute danger while communicating. One key informant even had difficulty in communicating at all, as the person in question was running away/trying to hide during the telephone conversation. Some callers had to be calmed down by the communications operators so that they could establish sufficient communication to get the information they needed. The communication between people ringing in and communications operators was marked by operators' way of communicating being decisive to extracting relevant information from callers. It is the commission's impression that the operators at the police control room acted calmly and professionally. And it was information from the callers that made progress possible in the search for the perpetrator during the incident. This is emphasised by, excepting the confrontation in the shop, it being information from callers that gave the police the information they could act on.

Alongside rapid dissemination of information, the establishment of situational awareness is an important factor (see point 2.7.2). During the Kongsberg incident, the first two reports to the police created widely different understandings of the situation among the communications operators. Both callers said that there was a man with a bow and arrows in the shop. The crucial information from the first caller was that the man shot, and "shot hard". In addition, the frame of this call was that the caller was distressed, and there was noise in the background. The second caller, conversely, was calm, and there was no background noise. As regards the communications operators' knowledge of the messages, the first communications operator had himself seen the damage that bows and arrows can cause, while the communications operator who took the second call thought at first that it must be a toy bow and arrow. Overall, two communications operators developed different understandings of the situation based on the information provided by different callers, about the same ongoing incident.

- *The commission is of the opinion that information about an ongoing and dynamic incident, having to be communicated via the control room, results in lost time and means that the police must think proactively to keep ahead of developments.*

There is, however, a loss of time in this process, a loss of time which becomes more important the more dynamically the event develops. A central aspect of the Kongsberg incident, a fast-burning crisis, was the dynamics of the course of events. The perpetrator

377 Engen et al., 2021.

carried out acts of violence both indoors and outdoors and moved on foot, and to a large extent in hiding, in the streets and open spaces of Kongsberg. A decisive factor in stopping the perpetrator was the establishment of rapid communication and information exchange. Callers found themselves caught up in a situation involving the perpetrator and then called the control room. Communications operators answered the phones, assessed the information and logged this in the police duty record (PO). The PO was then used for the messages to be sent out to the patrols over the radio. In some cases, communications operators called for attention in the room while the conversations ongoing, so that others in the control room could listen in to the conversation and take necessary steps. This was, nonetheless, a process which, to a certain extent, entailed a loss of time, from the time of the caller's observations until this information, via the control room, reached the patrols at the scene. In dynamic and fast-developing crises, minutes and seconds become critically important to stopping the perpetrator. On some occasions, the rapid development of the situation led to the police being left behind. An example illustrates the dynamics and challenges for information flow and situational awareness. When the perpetrator left the shop by the emergency exit, he was observed by a caller already in a conference call with AMK and the police control room. The caller shouted into the phone: "Someone is coming out now [...]", before the call was interrupted for just over a minute, during which the perpetrator shot arrows at several people. There then followed incoherent communication, during which the caller said, approximately 2 minutes and 30 seconds after the perpetrator came out, that: "He is in Peckels gate now". By this time, the perpetrator had shot arrows at five people and moved down to the area of Peckels gate 1b. In this example, the caller was clearly in a difficult position and can in no way be blamed for not having been able to convey what had happened. The police control room maintained the telephone contact as well as possible and received the necessary information. This nevertheless resulted in a loss of time for important information to be disseminated to the patrols inside the building, who only received information about what was happening, over the radio, about one minute and 30 seconds later. The commission cannot see what other methods the communications operators could have used to obtain and pass on information to the patrols at the scene more quickly. The commission takes the view that dissemination of information in an ongoing incident, where the caller's information must be disseminated via the control room, inevitably results in loss of time. The police patrols, who were unaware of what was happening in the street at the opposite end of the building, can hardly be criticised for not reaching the perpetrator on foot, taking this time delay into account.

5.3.8 Equipment

Evaluation of the Kongsberg incident has identified certain issues relating to equipment, highlighted by the informants during interviews. The commission cannot see that these issues have influenced the outcome of the incident, nor can it specifically say whether any of the issues pointed out are linked to user error. These topics will, therefore, be touched on briefly under the headings of protective equipment, maps in vehicles and access to hand-held radio terminals.

Protective equipment

- *The commission believes that more holistic solutions should be considered, combining uniform, police radio and protective equipment, so as to shorten the time used in putting on protective equipment.*

A few of the response personnel found that the fastening of the helmet came loose when they attempted to use it which led to one of them conducting the operation without wearing a helmet. Another subject is the time it takes to don protective equipment. The commission conducted a test of this (see point 3.2.5). In this, the commission observed, that the heavy protective vest has a design making it difficult to put on quickly. At the same time, equipment had to be detached from the uniform before it could be put on.

Navigation software in police vehicles

- *The commission finds that the police's navigation application MAPS needs to be improved.*

Many of the police's response personnel said that they did not use the navigation part of the police application MAPS, as this is thought of as unstable and too slow in delivering information during call out. A few said that they did use this application, but that it failed at a critical point as they were approaching Kongsberg. Police officers used Google maps instead for navigation. The Al-Noor evaluation³⁷⁸ indicated the need for a good navigation system, well suited to call out situations. In keeping with the Al-Noor commission, the Kongsberg commission sees the need for the police's navigation system to be improved, so that it is both more reliable and user-friendly during emergency calls.

Handheld radio terminals

- *Increased availability of hand-held radio terminals for police emergency personnel should be considered.*

Most of the police officers at the Kongsberg incident had a hand-held radio terminal at their disposal. Several pointed out the need for additional hand-held radio terminals to be accessible to be able to simultaneously listen and transmit both in a police speech group and in BAPS for collaboration during a PLIVO action. The commission considers this to be relevant to collaboration between the emergency services, including during everyday incidents.

5.3.9 Operational decision-making

A model for decision-making in an operational context was described in point 2.7.3. Here, that model will be illustrated through some examples from the operational management of the Kongsberg incident. This section does not form part of the formal assessment but is intended to create a better understanding of decision-making during crises.

Before we attempt to shed light on the examples, it is important to refer to the context in which those directly affected, the police response personnel and the emergency services, found themselves at the time of the incident at Kongsberg. It is reasonable to argue that the incident was a quick-burning crisis, difficult to handle. There was great uncertainty at the beginning, about what was happening, what it meant that there was a bow and arrows involved, and about the perpetrator's movements.

378 Evalueringsutvalget, 2020, p. 159.

This was an incident that was difficult to foresee,³⁷⁹ and it developed quickly.³⁸⁰ Such a dynamic and fast-burning crisis entailed difficult challenges for the parties concerned. It is reasonable to suppose that those involved in the incident experienced this as a crisis, characterised by uncertainty, stress, a real threat and there being a need for critical decision-making at several levels. Rosenthal³⁸¹, in his definition of crises, points to the need for critical decision-making: "A serious threat to structures, values and norms in a social system which, under time pressure and uncertainty, makes it necessary to make critical decisions."

Crises can, as described in Chapter 2, be divided, broadly, into three different phases:

1. pre-crisis phase: prevention and emergency preparedness
2. acute crisis phase: critical decision making, especially to protect life and health
3. post crisis phase: restitution and learning

Two activities are central to the pre-crisis phase: prevention and preparation. While prevention involves managing the risks surrounding us, emergency preparedness involves establishing resources and capacities sufficient to manage those risks we are unable to avoid: the residual risk. Thinking of the incident in Kongsberg, we can argue that the pre-crisis phase was the time when key actors such as health and social services, the police and PST collaborated to prevent the incident. This is exemplified by the barriers on the left in the diagram below. If we have good barriers, we generally have little vulnerability. The strength of the barriers is assessed regarding:³⁸²

- effectiveness and capacity when they work as intended (functionality)
- integrity/reliability, i.e., the likelihood that they will work in any given situation

Factors affecting the strength of the barriers, conditions influencing risk, can be competence, collaboration, availability of resources, priorities and so on.

The pre-crisis phase is also when the emergency services can dimension the necessary preparedness to handle such incidents, through emergency equipment and training of emergency personnel in their respective functions and practicing collaboration between the emergency services. In the Kongsberg incident, however, prevention was insufficient, and the pre-crisis phase transitioned quickly into the acute crisis.

379 Gundel, 2005.

380 Boin et al., 2001.

381 Rosenthal et al. 1989, p. 10.

382 Aven, 2007, p. 46.

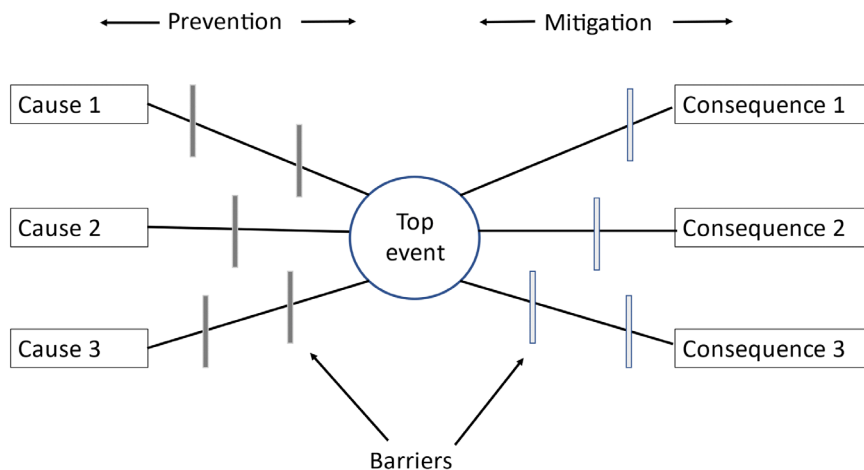


Figure 10: Simplified bow-tie diagram.

The evaluation commission has noted some barriers affecting the preventive work, related to the work of the police, the healthcare system and PST in the run-up to the incident (see chapter 4). The Kongsberg incident was a tragic incident where lives were lost, even while society made use of the resources and capacities that had been prepared to deal with such incidents. These resources and capacities constitute the impact-reducing barriers on the right in the diagram. At the heart of the time after the incident on 13th October 2021, the post-crisis phase, lie restitution, stress management and grief work for those directly and indirectly involved, including personnel from the emergency services. It is during this phase that professional actors can extract lessons, from the preventive work in the pre-crisis phase and from the operational handling, where points identified for retention and points for improvement must be used to prevent and deal with similar incidents.

In the following, examples from the call-out phase: choice of protective equipment, the confrontation in the shop, communication between the control room and the first patrol in the hop, as well as the action in Hyttegata and the arrest will be highlighted using points from the model below.

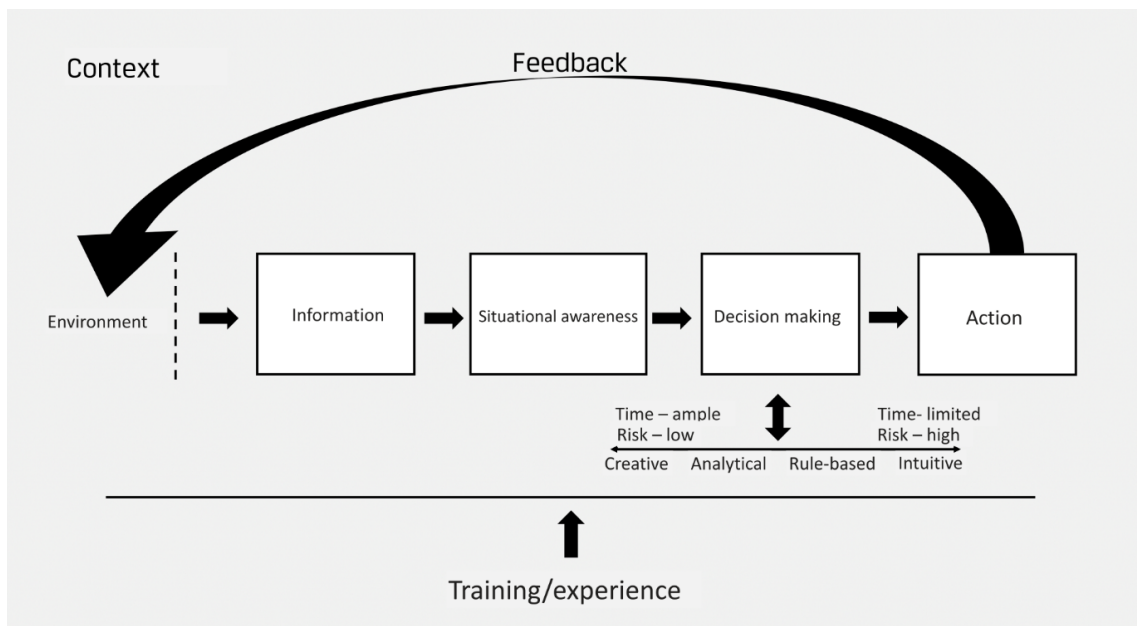


Figure 11: Decision making in an operative context (based on Endsley, 1995, p. 35; Flin et al., 2008, p. 44 and Johnsen, 2018, p. 252).

In brief, an extraordinary event such as PLIVO plays itself out in a context/environment. Emergency personnel finding themselves in this context will receive information from their surroundings. This information passes filters, such as, for example, being only information in the form of sound via a radio connection. The filtered information forms the basis for the development of a situational understanding, which can be defined as “the perception of the elements of the environment within a volume of time and space, the understanding of their meaning and the projection of their status into the near future.”³⁸³ Specifically, this means that we: 1) discover important information in the environment, 2) assemble this information into an understanding of its meaning, and 3) predict what will happen next. In everyday speech, we call this the “shared understanding of the situation” meaning that everyone involved in an incident agrees on how the situation should be understood. Evaluations after crises, such as 22nd July 2011³⁸⁴ and the Al-Noor incident³⁸⁵ in 2019, show, on the other hand, that it is extremely difficult to achieve a shared understanding of the situation, especially in a dynamic incident.

Choice of protective equipment and the confrontation in the shop

The first message given to the Kongsberg patrols (L-32 and L-209) over the police radio, contained information about a man with a bow and arrows shooting at others. They had no previous experience of assignments involving a bow and arrows, and this is assumed to have characterised their initial understanding of the situation, in that they were unsure what they were facing. This led to a decision by the first patrol (L-32) not to wear heavy protective equipment before moving out of the garage. Nor did they put on this equipment after receiving information about a colleague who had been shot with an arrow and seeing this with their own eyes shortly afterwards. The commission is not able to conclude why the patrol came to this decision, but the responding officers explained that they

383 Endsley, 1995, p. 36.

384 NOU 2012: 14.

385 Evalueringstutvalget, 2020.

prioritised a quick response to stop the perpetrator. In addition, officers from the patrol stressed that experience from training and real-life assignments was that the perpetrator would immediately give themselves up when confronted by armed police. On the contrary, they found themselves in the shop where an unknown perpetrator was hiding, moving silently, triggering the fire alarm, and firing arrows at them, and they experienced resistance they had no prior experience of. For this reason, the officers recognised little of the situation, based on previous experience. Given little time and the high risk in an unknown situation, it is fair to say that it was quick intuitive decisions leading the patrol to seek cover and pause their advance. The patrol also described a stressful situation with hearing and sight both affected. This can limit the ability to receive and process information, and thereby influence situational understanding and decision-making. This shows how situational awareness and decision-making can be affected by both initial information, training and experience as well as stress. A (shared) understanding of the situation in turn forms the basis for individual/joint decision-making which can take various forms and may be influenced by risk and time pressure. The actions decided upon, in turn, affect the surroundings. This decision-making process is influenced by the decision-maker's previous training and experience.

Communication between the operations centre and the patrol

The significance of precise dissemination of information is seen clearly in the communication between the control room and the first patrol in the shop. Messages from the first patrol that "we're freezing here", "we've secured the white side [front of the building] and are looking into the Coop building" and "we don't see the perpetrator, he's in the Coop building" were received by the control room. This information lent itself to a situational understanding that the patrol had pulled out and were outside the building. However, the situation was that the patrol, for tactical reasons, had withdrawn only a few metres and was still inside the building with both (known) exits secured. Based on this limited information, it is fair to say that the patrol and the control room had, at this time, different understandings of the situation. Inadequate and imprecise information can therefore lead to an incorrect understanding of the situation and decisions taken at the control room not reflecting the actual situation at on the ground.

To what extent can situational awareness and decisions be influenced by a dynamic context? In such an incident, everyone involved, at both tactical and operational level, must make many decisions based on limited and partly outdated information, and under great time pressure. Decisions will therefore probably be characterised by both rule-based and intuitive (including recognition-primed) decision-making. The importance of a good grasp of the rules, instructions and procedures will strengthen rule-driven decisions. At the same time, experience through training and actual events will bolster the possibility of making good, intuitive decisions, as the possibility of recognition from previous situations increases in line with the amount and variety of training. Last but not least, shared situational awareness, even in a dynamic situation, can be fostered by good communications procedures, including confirmation of received messages and reading out situational awareness over police radio.

Action in Hyttegata and the arrest

In contrast to the first radio messages, which at times led to differing situational understandings, the action in Hyttegata was an example of the supporting patrols having a clearer situational understanding of what they were facing. It is true that a situational

understanding was not read out over the radio, but the patrols coming to Kongsberg after a longer emergency response time had received a lot of information, including via police radio, and had more time in which to form an understanding of the situation. Upon arrival at Hyttegata, the scene comprised several police patrols, bystanders shouting and pointing in the direction of where the perpetrator had gone, and an injured person on the ground. Police response personnel have described this, based on their previous experiences from PLIVO training, as like entering a training scenario. In comparison to the first patrol in Kongsberg's experience in the shop, it is fair to say that these patrols experienced a greater degree of recognition. During the arrest, as in the confrontation in the shop, there was little time and high risk. On the other hand, the commission finds that the context of the arrest, with an unknown perpetrator armed with a large knife/short sword trying to get away and throwing his weapon at the police, is better suited to promoting recognition derived from the training police response personnel had undergone, than what the patrol in the shop experienced. A high degree of recognition can support intuitive and recognition-based decision-making, leading to quick decisions and relevant action alternatives being more apparent to response personnel. This is underlined by the rapid apprehension within 55 seconds from observation to completed arrest, despite the active resistance of the perpetrator. This emphasises the importance of realistic and relevant (training) experience in handling such incidents.

5.3.10 PLIVO and experiential learning

The police's emergency preparedness systems present experiential learning as a decisive strategy for learning in the police. Organisational learning is described as "learning takes place when a police district learns from what individual employees or groups have learned, while systemic learning takes place when many police districts learn from what one police district has learnt".³⁸⁶

Regarding experience from and learning about PLIVO, the Norwegian Police University College and the national reference group for PLIVO will ensure further development of the procedure. This follows guidelines from the Police Directorate, the Directorate for Civil Protection and Emergency Planning and the Directorate of Health,³⁸⁷ in which it stands that:

[a]djustments to or revision of the PLIVO-procedure may result from changes in the law, regulations, areas of responsibility, tasks or experiential learning based on previous exercises and events. Experiences from incidents abroad should also be considered.

This placing of special emphasis on experiential learning from exercises and actual events, including international experience, and systematic experiential learning means having established routines in place for learning from experience.³⁸⁸

- *The commission finds that the police's information gathering, as a basis for systematic experiential learning from PLIVO, is highly deficient. This limits the possibilities for a more knowledge-based approach to PLIVO*

³⁸⁶ Politidirektoratet, 2020, p. 215.

³⁸⁷ Routine for revision of national procedure for emergency services cooperation with ongoing life-threatening incidents (PLIVO).

³⁸⁸ Politidirektoratet, 2020, p. 214.

The commission's investigation shows that police districts in Norway do not conduct any regular systematic experience gathering and learning from PLIVO, nor are experiences gathered by the Police Directorate. The Nordic countries have different strategies for gathering experience and learning from PLIVO/comparable events (see point 2.5.4). Interviews with PLIVO instructors from the police districts revealed uncertainty about the information base from which the PLIVO procedure derives. The Norwegian Police University College has not put in place an established system for gathering information about PLIVO, not in continuing- and further-education, nor in simulation training in the bachelor's training. The national reference group for PLIVO gathers experience, but not following any established approach. One informant said that this gathering of experience often depends on the initiative of individuals, on oral experience sharing, and is arbitrary in nature. Informants from the Police Directorate said that they generally make use of the prosecution decisions of the Bureau for the Investigation of Police Affairs, but do not have a system for gathering experience from either national or international PLIVO incidents. It therefore appears that the police lack established routines for obtaining information about PLIVO. This is emphasised by the Armaments Committee's recommendation from 2017:³⁸⁹

The committee recommends a systematic evaluation of situations where the police have used firearms in service. Such an evaluation will be important for raising the quality of the police's work.

The commission is not aware that the Armaments committee's recommendation has been followed up but supports it. Access to documented experience is an important step in providing the basis for experiential and organisational learning in the police.

389 NOU 2017: 9, p. 14.

6. Learning points and recommendations

6.1 Learning from learning points

The purpose of this evaluation report has been to investigate the Kongsberg incident with the aim of promoting learning in PST and the police. The commission has described and assessed PST's and the police's receipt of information, information-sharing and collaboration, and the police's operational handling of the incident. The report has revealed several aspects of practice that the commission considers to be good, but also things that can be improved.

Learning is a process through which one seeks to acquire new knowledge providing lasting change in attitudes, skills, behaviours, ways of thinking, working habits and ways of reacting (see section 2.6). The commission has found learning points but learning so that practice is changed in these areas is largely a question of how learning is initiated, managed and implemented. The commission reminds us that experiential learning is more than taking account of something that has happened. Experiential learning is a structured process through which the experience is processed into new knowledge. Experiential learning presupposes certain conditions: that it is personally experienced, affects the whole individual, and involves a collective reflection which transforms experience into new knowledge.³⁹⁰ The purpose of this reflection is to look for meaning through understanding the contexts in which practice takes place. Reflection should function as a systematic way of thinking and be rooted in scientific research methodology. In addition, reflection should take place in community, across hierarchy, rank, and communities of practice. Finally, learning should take place within a context where one's own personal development and that of others are recognised.

To facilitate good learning processes, one should know what the limitations of learning in the police are. Some of these limitations are discussed in section 2.6. The commission's proposals for learning points and recommendations have not taken these limitations into account, but it is expected that both those who will lead the learning and those who will learn, will reflect on and discuss which limitations apply, and what these mean for the learning that is to take place.

The evaluation deals with many professional topics, and even more could have been taken up. Here, however, the commission has given priority to promoting those learning points found to be most relevant to the content of the mandate, as the commission has interpreted it:

1. How did the police and PST handle the messages about the perpetrator received prior to the incident?
2. How has this information been shared between the police and PST, and possibly other agencies such as the health service, and been used for possibly preventive/risk-reducing measures?

³⁹⁰ Dewey, 2004; 2005.

3. description and assessment of the police's crisis management from the first notification of the incident to the control room until the perpetrator was apprehended by the police, including:
 - reception of messages/management of 112 calls (triple alert system)
 - the course of events from the assignment being issued, to the arrest of the perpetrator, including the decisions toward a resolution made throughout the assignment
 - collaboration within Sør-Øst police district
 - planning and disposition of operational resources in Sør-Øst police district, and in collaboration with other police districts, national emergency preparedness resources, specialist agencies and PST

In the mandate, the evaluation commission is also asked to present its independent assessment of other learning points needing to be considered. The commission has therefore included several topics able to contribute to learning in the police. In addition, the evaluation proposes measures for following up the learning points identified.

Section 6.2 deals with learning points related to PST's and the police's receipt of messages, information exchange and collaboration. Section 6.3 presents the learning points from the police's operational handling of the incident. In both, learning points are divided into points to be retained and points requiring improvement. This is predicated on the premise that learning can be promoted by both positive experiences and by experiences indicating that service performance could have been better.

The learning points identified here are not in themselves learning, but rather a basis for learning and organisational learning in PST and the police. Full integration of these learning points will only have taken place when they have been put into practice and changes in how PST and the police undertake their work have taken place. In addition, suggestions for recommended follow-up of the learning points have been included in both sections.

6.2 Learning points and recommended follow-up of PST's and the police's reception of messages, information sharing and collaboration

Points for retention

- The police requested a legal basis for conducting a clarification interview on behalf of PST and a judicial assessment of the possible illegality of the content of the two videos published by Bråthen.
- PST's regional office conducted professional training for police emergency personnel in the districts.
- The police provided regular information updates to the health service about Bråthen's behaviour and development

Points for improvement

- The Police Directorate must follow up the Al-Noor Committee's recommendation that a basic training for the police's radicalisation contacts be developed, especially with regard to collaboration.

- As a contact person between PST and the police, the radicalisation contact should have special responsibility for ensuring that PST and the police have a shared understanding including use of the terms “interview of concern” and “clarification interview”.
- As contact person between PST and the police, the radicalisation contact should have special responsibility for ensuring that when PST requests a clarification interview, this falls within legal frameworks and satisfies ethical considerations.
- PST and the police should better understand their own and the other’s role in the joint work of prevention.
- The radicalisation contact should have the task of clarifying and following up responsibilities and tasks between PST and the police, in cases lying at the interface between them.
- The radicalisation contact should ensure that PST’s recommendations on follow-up and measures are realistic and attainable and are understood by the crime prevention unit in the police.

The learning points above are not meant as criticism of the radicalisation contact, rather the commission sees the function as having the potential to play a greater and clearer role in initiating and leading learning in collaboration between PST and the police. The radicalisation contact has a pivotal role in interaction between PST and the police, which, despite the different purposes of their services, work towards a common preventive goal. The commission supports the Al-Noor commission’s recommendation that the Police Directorate offer the radicalisation contacts basic training. In addition to emphasising knowledge of the phenomenon of radicalisation and extremist violence, basic education must address organisational learning. The radicalisation contact must be enabled to take responsibility for planning and leading experiential learning in this field. Operation Anker can be a forum for such experiential learning. The radicalisation contact should regularly raise difficult grey area issues, with a view to PST and the police learning about each other’s understanding of their own role, tasks and perceived responsibilities, and expectations of the other party. Paying such attention to learning will move the boundaries of practice (see section 2.6) from being a constraint impeding interaction, to a learning resource which, in being confronted and challenged, ensures that one arrives at responsible practice. The radicalisation contacts must also be positioned more clearly and strengthened in the police districts.

- The police should ensure that there are sound routines for where information is registered and who is its recipient (PST, for example).
- PST and the police should work further to clarify the characteristics and indicators determining under which designation an incident is registered, to ensure a common understanding of what the case concerns.
- The police must improve their competence in, and prioritise, the conduct of risk and threat assessments as part of their preventive work.

- The Directorate of Police must ensure that the police's preventive service for the mentally ill with criminal or problematic behaviour is established as a distinct field within crime prevention. And that in this, authorisations are organised and given legal weight making it possible to carry out a better preventive service.
- The commission proposes that the Police Directorate considers making the Oslo Police District's Mental Health Group a national competence centre.

Recommendations and proposals for improving preventive measures in relation to the mentally ill

The commission considers that a problematic finding in this case relates to the police's lack of opportunity to carry out preventive work directed at the mentally ill displaying a tendency toward violent behaviour. As this is a complex topic affecting several spheres and agencies, the commission wishes to present a more thorough account of our recommendations and proposals for how the police's preventive efforts in this area can be strengthened.

The term "mentally ill with violent or threatening behaviour" already makes clear that preventive work must take place collaboratively between the mental health service and the police. Both the person's mental state and behaviour can lead to them dropping out of working life and having little social contact. This indicates that efforts and measures from the social and welfare services may also be required.

Based on the interviews the commission has conducted, it appears that the police, through their response to incidents and investigation of possible criminal offences, as well as making representations for assessment of involuntary hospitalisation and so on, have quite good knowledge of which persons within their area fall into the group requiring follow-up from mental health care and the police, and possibly social services. The commission recommends that these people be registered, and that formal cooperation be established between the relevant agencies in respect of them, entailing both rights and obligations, see below.

If such cooperation is to work, it is a necessary precondition that it is not hampered unnecessarily by a duty of confidentiality.

The aim of the commission's proposal is to create the possibility of a risk-reducing follow-up lying between treatment based on coercion (according to the Mental Health Care Act section 3, or compulsory mental health care according to the Penal Code, section 12) and follow-up based on consent from the mentally ill and fully voluntary. From experience, it will vary, both from person to person and over time, whether the mentally ill person will voluntarily submit to such a follow-up. It is therefore proposed that a special coercive legal basis in the Police Act, described in more detail below, be introduced.

The task of dealing with the mentally ill displaying criminal behaviour will, within the police, require special knowledge of health and social legislation and aspects of criminal law, and resources (perhaps time most of all) for following up. In conclusion, it is argued, therefore, that at police district level this task should be centralised to some extent, and that a national competence centre be established.

Formal collaboration

In that the commission's mandate and professional competence in this field does not extend beyond outlining what measures the experience of the Kongsberg incident can provide a basis for further investigation of, there has been no reason to describe in detail how formal work related to this risk group should be carried out. Purely tentatively, the commission envisages that within a suitable geographical area, a formal collaboration be established using the template of the SLT [Coordination of Local Drug and Crime Prevention Measures] scheme, where it will meet with representatives from the police and the health and social services. If such a formal collaboration is to have the necessary preventive effect, a precondition must be that one can discuss and assess the risk associated with a particular individual. It must therefore be a prerequisite that those participating from the various agencies/institutions have the necessary insight and skills to carry out a more detailed risk assessment of those to whom the collaboration applies, as well as to initiate the measures necessary to have a preventive and risk-reducing effect. Through the interviews, the commission has received information that such collaborative forums have been established in several places but lack special and adapted legal and organisational frameworks.

Based on the experiences informants in the Kongsberg case have shared with the commission, it is likely that the work of such a collaborative forum will need to be both *event-driven* and based on *fixed routines*. Event-driven will naturally be that for a person covered by the collaboration, events that trigger a certain concern or at least a new assessment of the risk are registered. It may be, for example, that the person has wrecked or moved away from the home (s)he has been allocated by social services, that agreements about consultations and medication with the health service have not been complied with, or that the police have been notified that the person has acted threateningly towards shop staff or caused trouble when drunk. Even if such incidents are not registered, the commission's view is that it should also be considered whether mentally ill persons with violent or threatening behaviour should be followed up routinely at regular intervals. The aim of this should be to discover whether the "silence" represents a worry-filled isolation that may potentially "explode" in strongly undesirable behaviour.

Information sharing

As described in more detail at the beginning of point 2.1.2, the duty of confidentiality of the police and health personnel respectively represent, to a considerable degree, extremes. The police's duty of confidentiality is to a fairly large extent relative in the sense that it has many exceptions allowing the dissemination of information to a wide range of purposes and recipients. In contrast, health personnel's duty of confidentiality is relatively absolute, with the social and care service's duty of confidentiality lying somewhere in the middle.

The difference in their social missions means that there have to be significant differences in the degree to which it is possible to disseminate confidential information. It is therefore of considerable importance that the need for information exchange in such a formal collaboration as described above does not occasion a general erosion of the health personnel's duty of confidentiality. Conversely, however, in the case of mentally ill person with violent or threatening behaviour, personnel associated with the health and care services, in addition to being available to the patient/client, also have a socially protective responsibility. In more acute situations, the duty to fulfil this socially protective responsibility is sanctioned in the Penal Code, section 196. A duty of disclosure is also established

for health personnel by section 31 of the Health Personnel Act. However, these legal instruments do not provide a right (or obligation) to disclose in the more general preventive setting relevant to formal collaboration. The commission therefore proposes that a separate exemption from the duty of confidentiality be granted to the actors in this collaboration, in respect of the patient and client group the collaboration applies to. A draft has been prepared using the Police Database Act, section 27, fourth paragraph, and the Danish Code of Judicial Procedure, section 115, as a template and might, for example, read:

The duty of confidentiality pursuant to [the various actors' statutory duty of confidentiality] does not preclude the provision of information to other public bodies or institutions that are part of formal preventive work related to mentally ill and criminally charged persons when this is considered necessary to prevent serious crime and protect society.

The proposed provision contains three key limitations: It will only apply

- to actors when engaged in a formal collaboration
- in respect of patients/clients who are registered for such collaboration
- as long as the consideration of risk-reducing preventive work so dictates

Legal basis for coercion

A recurring theme in the conversations the commission has had with informants has been that the police have few tools or measures relevant to the group of mentally ill people with violent or threatening behaviour when their actions have not been so serious or extensive that they are sentenced to involuntary mental health care, cf. the Penal Code, section 62.

This formal collaboration will be a relevant and new tool. Although this collaboration will largely consist of helping and facilitating measures towards the relevant group of people, experience indicates that those concerned will not necessarily perceive it as such or value the follow-up. In some cases, the mental illness will also mean that the person in question refuses contact with the police, the social services and the health service for completely irrational reasons. In these circumstances, the commission proposes that it be considered whether it is possible to supplement and further develop the coercive measures set out in the Police Act, section 12, third paragraph, and section 13, fourth and fifth paragraphs, and for example consider adopting a new sixth paragraph in the Police Act, section 12 with content such as:

Where the police have a formal preventive collaboration with other public bodies or institutions regarding mentally ill and criminally charged persons, the police can

- a. require the person to attend preventive interviews, and, if necessary, bring in the person in question for this, or*
- b. if necessary, demand or give themselves access to the person's home to ascertain whether there is a need for preventive or remedial measures*

A specialised task for the police

Dealing with mentally ill people with violent or threatening behaviour in a preventive capacity requires specialist knowledge that may be difficult to acquire at any particular place of work. The commission refers here to the description given by the Mental Health Group in Oslo police district in their project report from 2018, pages 15–16:

In the Mental Health Group's preventive work, we find ourselves outside the criminal court and inside an area unknown to most people with a background in the police and prosecution authorities. Internal training in health legislation has therefore been essential.

Legislation central to our preventive work:

- The Mental Health Care Act (rules for the specialist health services, including rules on the hospitalisation and treatment of patients, including use of coercive, comprehensive regulations)
- The Patient Rights Act (rules on consent competence, patients' right to health care in the specialist health service, right to access medical records)
- The Health Personnel Act (rules on duty of confidentiality for health personnel)
- The Health and Care Services Act (rules on municipal health and care services; including rules on use of coercion against drug addicts and the intellectually disabled)
- Regulations on the right to health and care services for persons without permanent residence in the realm (rules on the right of an asylum seeker to health care)
- Guardianship Act (rules for public appointment and the role of the guardian)
- Public Administration Act (district and settlement)

To achieve a sound external collaboration, the actors must find it attractive to collaborate. The collaboration only becomes useful when the actors understand both their own and the others' role in the shared task; to take care of mentally ill citizens at the individual level, and, at the same time, protect society against those same citizens.

It is also important to know each other's legal framework; possibilities, restrictions and rules around duty of confidentiality. Most actors are large public bodies from both national and local government. In addition, we also collaborate with private service providers.

To understand procedure in preventive work concerning the individual, knowledge of the administration's tasks, instruments and structures is necessary.

Being anchored centrally will ensure that the service person(s) acquire the necessary competence, and that there will be a greater degree of stability in whom the partners meet. Both are important to creating a foundation for the mutual trust the proposed collaboration requires. Equally important is that a certain centralisation is necessary so that the task be given its own dedicated resources and is therefore not displaced by other tasks.

Although the actual knowledge required in this work must be taken up and disseminated by and from local service locations, the commission believes that responsibility for follow-up and participation in the formal collaboration should not be lower in the organisation than at geographical unit (GDE) level. Whether it should be centralised as a separate functional unit at district level must be decided based on the district's size and general organisation.

Through its work since its establishment in 2016 (and its predecessor *Between All Chairs* [MAS] in 2013–2015), the Mental Health Group in Oslo Police District has built up considerable expertise in the field. They already conduct significant external supervision and lecturing activities, see the report from 2018 pages 49–50. The commission proposes that the Police Directorate consider making the group a national competence centre.

6.3 Learning points and recommended follow-up of the police's operational management

This section presents learning points as points for retention and points for improvement regarding the police's operational handling of the Kongsberg incident. In addition, recommended measures for following-up these learning points. The learning points place particular emphasis on the management of PLIVO incidents, and are presented in a thematically; operational level, tactical level, planning, instructions and procedure, and learning in the police. The commission finds that learning points can be used by control rooms during morning meetings/training days and during compulsory training for emergency response personnel. More specifically, the commission finds that the Police Directorate and the Norwegian Police University College should make systematic use of the learning points, in steering documents and education such as, for example, function-oriented management for incident commanders, as well as control room supervisors and assignment supervisors.

6.3.1 Operational level

Points for retention

- Control room supervisor exercises clear leadership and distributes work tasks at the control room.
- Control room supervisor makes rapid decisions regarding arming and PLIVO
- Notifications as per planning are quick and comprehensive, ensuring rapid flow of information and support.
- Control room notifies the chief of staff and assesses calling in a reinforced line and possibilities of supporting the control room
- Situation-appropriate (and abbreviated) reading of PLIVO for time-critical events.
- Emphasis on communications discipline and prioritisation of important messages over police radio.
- Control room answers the phone quickly and receives messages well.
- Communications operators calm callers to ensure good information collection
- Communications operators uses signals in the room to quickly attract the attention of others in the control room to important messages.
- Communications operators prioritise calls to actively seek out crucial information.
- The control room is calm and reassuring over the radio.
- The control room is laid out appropriately, given its physical constraints, with separate groups handling the various geographical areas in the police district.
- The control room has a calm and controlled working environment, despite the challenging circumstances.
- The control room makes active use of relevant planning.
- Sør-Øst police district has well-developed and readily available planning for PLIVO.

Points for improvement

- The police control room and the 110 centre are located on the same floor in the Sør-Øst police district, but the layout is poorly designed with regard to collaboration.
- The police's control room, and the other emergency call centres, should practice PLIVO in their own areas, and in their normal environment.
- The control room should read out the situational understanding over the radio, repeating this whenever there are changes.
- The control room should assure itself that the patrols have received critically important information.
- The control room should consider choosing an on-scene leader until the incident commander arrives.
- The control room should ensure follow-up of BAPS and the other emergency services.
- The assignment supervisor should occupy a withdrawn role to fulfil the leadership function
- The control room should work with and communicate with the incident commander to ensure the leadership and coordination of police resources.
- The control room should use any available time for proactive planning, in conjunction with the incident commander.
- The control room, in time-critical incidents, put out important information over the radio in parallel with logging it.

Recommendations

The commission finds that the operational level in the Kongsberg incident was challenged in three areas in particular: management, resource allocation and collaboration. The commission recommends that the emergency call centres (110, 112 and 113) be trained as such in their daily duties during PLIVO exercises, so that they gain experience in managing large incidents with considerable resources. This will strengthen the control room's ability to establish a common understanding of the situation and make the most efficient and safest use of the combined resources.

The commission also believes that managers at the operational and tactical level should work together closely routinely, and practice management of suitably dimensioned events, to establish good routines. This includes establishing a shared understanding, as well as management and collaboration during incidents where the police district commands large resources. This is necessary for the appropriate disposition of such resources, through the rapid organisation of the response. Absolutely essential, is the interaction between the incident commander and the control room, in which the manager at tactical level must work closely with the operational level, which has the means to provide an overview of the incident.

6.3.2 Tactical level

Points to be retained

- The incident commander issued swift notifications regarding the first patrol's way of proceeding with the assignment. For example, making clear an exception to the main rule of police tactics.
- The incident commander emphasises the safety of bystanders and prioritises the search for any possible injured.
- Quick response and pronounced willingness to act from the emergency response personnel.
- The response personnel are proactive in the search phase, searching outside and inwards towards the last observation.
- Emergency personnel look for what needs to be done work tasks and take a lead at the scene.
- Response personnel act in accordance with PLIVO procedure.

Points to be improved

- The incident commander should appoint deputy-leaders to manage and highlight the different work tasks/functions on site and should prepare for the creation of the incident commander's command post (ILKO).
- The incident commander should follow up the other emergency services according to the PLIVO procedure or ask the control room to undertake this task.
- The incident commander should collaborate closely with the control room, to establish a shared understanding of the situation, planning and allocation of resources.
- Response personnel should acknowledge receipt of important messages over police radio and strive for precise radio messages.
- Response personnel should continuously assess the use of protective equipment, to safeguard their own safety and their ability to carry out the necessary actions.
- Weapons left behind during ongoing PLIVO incidents must be secured.

Recommendations

The commission finds that the tactical level, especially, was challenged with regard to management, planning and allocation of resources. The police's incident commander / leader at tactical level has a very important role during the acute phase and in the subsequent operational phase. It must be stressed that there were very limited police resources in Kongsberg throughout most of the assignment, although extensive police resources eventually arrived. The commission recommends that the police's incident commander, as leader at tactical level, trains with incidents involving large resources from both the police and other collaborating agencies. It is also recommended that the incident commander function is strengthened in large-scale incidents, where other police districts' resources and the National Police Special Response department assist. For

example, the 22nd July commission indicated a need for up-scaling and the correct dimensioning of the control rooms, but the commission cannot see that the tactical leadership level has been given the same attention. The commission recommends that consideration be given to the establishment of a national preparedness for incident command, in collaboration with the National Police Special Response department, to assist and liaise with the local incident commander, with leadership support at incidents where the National Police Special Response department assist. This should be a function with good expertise and experience of major incidents and of collaboration with the National Police Special Response department, which can be called out along with resources from there. This function will be able to relieve the local incident commander and provide decision-making support, so that the incident commander in interaction with the control room, and possibly Staff, can exercise proactive planning to a greater extent.

6.3.3 Planning, instructions and procedures

Points to be retained

- A well-developed and established planning system in Sør-Øst police district. For example, a detailed and practical PLIVO measures checklist.
- Sufficiency of legislation, instructions, guidelines and procedures dealing with key aspects of PLIVO.

Points to be improved

- The PLIVO procedure should be revised to clarify key concepts, for example what it means to “neutralise” a perpetrator.
- The PLIVO procedure should be revised, with regard to a more flexible approach to atypical incidents.
- Amendments to the Weapons Instruction’s absolute provision for the use of protective equipment should be considered.
- A fixed system for data collection should be established, which can be used as a basis for learning from experience and further development of the PLIVO procedure (see also 6.3.4).

Recommendations

The commission finds that the police in general, and Sør-Øst police district in particular, appear to have sufficient plans, instructions and procedures for handling PLIVO incidents. The commission recommends, however, that the Police Directorate initiate a change and/or clarification of the wording in the Weapons Instructions for the police, regulating the use of protective equipment. Specifically, the commission believes that allowing assessment of the use of protective equipment in given situations is needed, while at the same time, there seems to be a need to tighten up practice. The commission also suggests that the Reference Group for PLIVO be given the task of revising the PLIVO procedure, clarifying key concepts and adapting the procedure to less typical incidents such as the Kongsberg incident. Regarding this, it is recommended that the reference group, in collaboration with the Norwegian Police University College, establishes a fixed system for data collection

about national and international PLIVO incidents, to provide an improved data basis as a starting point for experiential learning.

6.3.4 Learning in the police

Points to be retained

- Training in handling PLIVO incidents is part of the Norwegian Police University College's bachelor degree program.
- Annual joint training with the other emergency services in PLIVO in the police districts.
- Largely relevant and realistic PLIVO training, contributing to recognition in real events.

Points to be improved

- The police should establish a permanent national system for data collection as a basis for learning from experience, for PLIVO and incidents where the police have used firearms (see point 6.3.3).
- PLIVO training for emergency personnel must be conducted in differing environments, both indoors and outdoors
- The Police Directorate should set aside research and development funds for the evaluation of crisis management, following the arrest of a perpetrator.
- More systematic joint training and exchange of experience should be established within PLIVO between the tactical and operational levels, as well as in conjunction with health and fire.

Recommendations

The commission refers to the Armaments Committee's recommendation of systematic evaluation of incidents where the police have used firearms, to promote experiential learning in the police. The commission finds the police still lacking a satisfactory system for the collection of these data. It is therefore recommended that the Police Directorate commissions the Norwegian Police University College to establish and manage such data collection from incidents where the police have used firearms, and for all PLIVO incidents. The commission's view is that the Norwegian Police University College, as the police agency's central educational and research institution, is a suitable place to ensure that information is used as a starting point for learning in the police. In addition, the commission recommends that the crisis management after the arrest in the Kongsberg incident be evaluated, for further learning.

7. Conclusion

The purpose of the evaluation is to identify learning points about receipt of tips and information sharing prior to the incident and the operational handling of the incident. These will provide the police with important knowledge about the further work of preventing and combatting serious criminal acts and incidents.

Collaboration in preventive work

Is the Kongsberg incident unique? It is possible to answer both yes and no to this question. The incident at Kongsberg on 13th October is obviously unique. But does this mean that this incident could not have happened in another Norwegian town? Individuals at the boundary between mental illness and violent criminal behaviour are by no means unique. There will always be a risk associated with their violent inclinations and capacities. This means that collaboration between the health and social services, PST and the police in the work of prevention is important for risk recognition and management. The underlying question is what level of risk society is willing to tolerate. How much risk can society live with? The commission cannot determine what the specific answer to this question is. In such cases, the powers that be must take a position on what kind of regime for confidentiality the health and social services should be subject to in the future, what kind of authority the police should be given for preventive purposes, and where the limit lies for PST's area of interest.

It is reasonable to suppose that the more complete the information from the health service and the police, the better the preventive measures that can be put in place. It will not, however, eliminate the risk of adverse events occurring. There will always be a residual risk, even with good preventive work. But as pointed out already in NOU 2010: 3, page 133:

for people with such disorders and behaviours, an accurate picture of the need for treatment and the need for specific protective measures (threat assessment) will only emerge when there is updated information from both the health service and the police.

This quote from 2010 also reflects the situation prior to the incident in Kongsberg on 13th October 2021. The commission wonders why no more has been done with this issue during the intervening years.

The significance of a shared situational awareness

The commission's evaluation reveals some key challenges with regard to information sharing and collaboration in both prevention and operational response. In the pre-crisis, preventive, phase, a difficulty is that a common understanding of who has what responsibility and which tasks in following up the perpetrator when that person falls under both PST's remit and that of the ordinary police, is lacking. Another complicating factor is information exchange and interaction with the healthcare network. The various agencies register information about the perpetrator in their respective systems, but without ensuring the necessary, mutual, flow of information. This collaboration is marked by a lack of sufficient confirmation that there is a shared understanding.

When it comes to operational efforts, the police patrols' response displays a great willingness to take action as soon as the assignment was read out and notified. An extensive task force was therefore mobilised from large parts of central Østlandet. The perpetrator was quickly apprehended after the quality of the response was increased by the presence of many patrols in Hyttegata.

That said, the operational handling of the incident on 13th October 2021 shows a lack of information flow and collaboration from the police to the other emergency services. This despite the PLIVO procedure being a collaborative procedure. The commission finds that collaboration at operational level is not sufficiently provided for in training exercises. There were also difficulties vertically with information flow and collaboration, between the control room and the police's operative crews at tactical level. In practice, this meant that the police's response personnel largely managed their own efforts.

The perpetrator took the lives of five people in Kongsberg. According to our assessments, it is not a given that insufficient interaction between the police and PST had a decisive influence on the person's actions on 13th October 2021. The deficiencies in the collaboration during the operative phase probably did not affect the outcome either.

Response time and quality of response

Over the years, there has been a great deal of discussion in the police about response times. The experience of the operational response at Kongsberg shows that we must distinguish between response time and response quality. It took only a few minutes before the first patrol was at the scene and confronting the perpetrator. There was, however, insufficient manpower to both isolate and confront him. The first patrol delivered all that one could have expected of them, given the resources available initially. Limited availability of resources was therefore decisive in the perpetrator not being stopped earlier.

Learning from the Kongsberg incident

The commission has interviewed those involved in preventive work and those involved in the operational response. The informants have conveyed valuable experiences, and the commission has formulated these into learning points (points both to be retained and points to be improved on). Based on the commission's findings of inadequate routines forming a basis for structured learning in the police, it is important that these costly experiences be used in the further work of preventing and combatting serious criminal acts and incidents.

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Appendices

1. Overview of informants interviewed.
2. Information letter to informants.
3. Reference overview of research into PLIVO and other topics.

Appendix 1. Overview of interviews

Number of persons	Organisation	Type of interview
38	Sør-Øst police district Police personnel	Individual interviews
7	PST Staff from the Central Unit and PST, Sør-Øst police district.	Individual interviews
8	Mobile police UP-personnel	Individual interviews
12	Norwegian Police University College Instructors and managers	2 group interviews
4	Fire- and Health service emergency personnel	Individual interviews
4	National Police Special Response department Emergency response personnel	1 group interview
4	Police Directorate Staff	2 group interviews
3	Norwegian Police University College, Reference group, PLIVO	1 group interview
Total 80		

Appendix 2. Information letter to informants

Evaluation of the Kongsberg incident, 13th October 2021

To:

PST, the Central Unit
 PST, regional office in Sør Øst police district
 Sør Øst police district
 Police Directorate
 The Norwegian Police University College

Evaluation of the police's and PSTs management of the Kongsberg incident

The Norwegian Police Directorate has established an evaluation commission which, in accordance with the Police's emergency preparedness system, part 1 (PBS1) (Directorate of Police, 2020), Ch. 16 and in a learning perspective, will evaluate the tragic incident in Kongsberg on the 13th October, in which five people were killed.

With this letter, we want to inform you about the commission's composition, mandate, purpose, criteria for the evaluation, the evaluation process and how information given to the commission will be treated.

The Commission's mandate

The mandate was published by the Police Directorate on 4th November 2021, on the police website www.politiet.no. The aim of the evaluation is to identify learning points about what functioned well and what could have gone better with reference to:

- The police's and PST's handling of tips
- The police's and PST's management of information sharing prior to the incident, both between The police and PST and with other agencies, such as the health service.
- The police's operative management of the incident.

The evaluation commission wishes to conduct interviews with police employees who have had responsibility and tasks relating to the handling of tips, sharing information internally and inter-agency prior to the incident, as well as those active in the police's operational management of the incident.

Composition of the commission

Head of the Evaluation Commission: Steinar Henriksen, Assistant Chief of Police, Police University College.

Tor-Geir Myhrer, Doctor of Law and Emeritus Professor at Police University College.

Linda Hoel, Associate Professor at Police University College.

Torgeir Brenden, Section Leader, Incident Command, Oslo police district.

Bjørn Ivar Kruke, Professor of Risk Management and Societal Safety, University of Stavanger.

Purpose of the evaluation

In accord with the Police's Preparedness System 1 (Police Directorate, 2020), the police must learn from the experienced gained in connection with critical incidents so to create a more secure society. The commission has neither the task of investigating or clarifying any unclear points with regard to the actual sequence of events, nor of apportioning or placing any blame or responsibility. The only purpose of the commission is to see if there is learning to be taken from the incident, about both what worked well and what could be better. In respect of this, the commission is dependent on the insight from the experience of individuals, in order to adequately shed light on PST's and the police's management of the incident in question.

The assessment criteria for the evaluation will, primarily, be the legislation, instructions, guidelines, procedures and checklists for the tasks concerned. In addition, the commission will follow up learning points from earlier evaluation reports, as well as research in the different subject areas.

Data collection and treatment of the data

Conversations with police officers who can shed light on the evaluation will largely take place in weeks 2 and 3. It is possible that follow-up conversations may be required. We ask that the content of these conversations consist of unclassified and declassified information. Conversations dealing with information not in the public realm will be recorded as sound files. The sound file will be used to write a summary which will be sent back to the informant to be read through and agreed. The sound will be deleted as soon as the commission has delivered its report. The information gathered will be stored in a password protected file in politinett, to which only the commission have access.

The commission's deadline for completing the report is 4th May 2022.

Should you have questions about the evaluation, these can be sent to our e-mail account: evalueringsutvalget@pfs.no

All members have the appropriate security clearance.

Regards

Steinar Henriksen
Leader of the commission

[This translation from Norwegian has been prepared for information purposes only]

Appendix 3. Bibliography: International research into PLIVO events and other relevant topics

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