

Part 93b
Consideration of complaints concerning police officers

Section 1019.-(1) Regional Public Prosecutors shall consider complaints of the conduct of police officers in service (complaints of conduct).

(2) The National Commissioner of Police shall provide assistance for the inquiry to the Regional Public Prosecutors upon request.

(3) The police may, on its own initiative, carry out urgent inquiry measures. The police shall notify the relevant Regional Public Prosecutor of such inquiry measures as soon as possible.

Section 1019a.-(1) Complaints must be filed with the relevant Regional Public Prosecutor. Any complaint of abuse of police authority during criminal proceedings can also be made orally to the court records during the criminal proceedings.

(2) The Regional Public Prosecutor may refuse to consider a complaint if filed more than six months after the occurrence of the matter complained of.

Section 1019b. The person complained of (the respondent) must receive a presentation of facts and have an opportunity to make a statement about such presentation. The respondent is not obliged to make a statement about the presentation.

Section 1019c. The respondent has the right to appear with a legal assistant. Section 23 of the Public Employees Act shall apply correspondingly to the reimbursement of fees payable by the respondent to his legal assistant.

Section 1019d.-(1) The respondent is not obliged to give evidence to the Regional Public Prosecutor if it is presumed that the respondent will incur criminal or disciplinary liability thereby.

(2) The Regional Public Prosecutor shall advise the respondent on the provision of subsection (1) hereof and on the provisions of section 1019b, section 1019c and section 1019i(1)(ii). Such advice must be given as soon as possible and prior to the first interrogation of the respondent. It must appear from the report that the respondent has received due advice.

Section 1019e.-(1) If evidence is given in court, cf. section 1019f, the court shall assign counsel to the complainant and the respondent.

(2) When deemed appropriate in other cases, the court may, at the request of the complainant or the respondent, assign counsel to the person in question. The Regional Public Prosecutor shall advise the person in question on his right to request assignment of counsel and see to it that such request is brought before the court. Section 1019f(2) shall apply correspondingly. Such advice must be given as soon as possible and prior to the first interrogation of the person in question. It must appear from the report that the person in question has received due advice.

(3) Counsel shall be assigned at no expense to the person in question.

(4) Copies of the material procured by the Regional Public Prosecutor in connection with the inquiry must be sent to counsel on a regular basis. Counsel may not hand over the material received to his client or to others without the consent of the Regional Public Prosecutor.

(5) Counsel is entitled to attend interrogations of his client both with the Regional Public Prosecutor and in court and has the right to ask additional questions of his client. Counsel must be notified of the time of interrogations and court hearings.

Section 1019f.-(1) The Regional Public Prosecutor may decide that evidence shall be given in court.

(2) If the complaint concerns abuse of police authority during the criminal proceedings, or during enforcement of a decision made under criminal law, evidence must be given before the district court before which the criminal proceedings are being or were being conducted or are expected to be brought. In other cases evidence must be given before the district court of the district in which the matter complained of occurred.

Section 1019g.-(1) The Regional Public Prosecutor shall appear in court hearings concerning the case.

(2) To the extent possible, the respondent must be notified of scheduled court hearings and have an opportunity to be present.

(3) The respondent is not obliged to give evidence if it is presumed that the respondent will incur criminal or disciplinary liability thereby. The court shall advise the respondent thereof.

(4) The case shall be tried under criminal procedure without the assistance of lay judges.

Section 1019h.-(1) The Director of Public Prosecutions shall hear appeals of decisions made by the Regional Public Prosecutors concerning complaints of conduct. The decision of the Director of Public Prosecutions on an appeal cannot be appealed to the Minister of Justice.

(2) The time limit for appealing decisions on complaints of conduct is four weeks after the complainant has received notification of the decision. If the appeal is lodged after expiry of this time limit, the appeal must be heard if the failure to observe the time limit may be considered excusable.

(3) The provisions of subsections (1) and (2) hereof shall apply correspondingly to decisions on access to documents under the Public Administration Act and the Freedom of Information Act.

Section 1019i.-(1) Any consideration of a complaint of conduct will be discontinued if:-

- (i) there is a basis for bringing a provisional charge against the respondent;
- (ii) the respondent is suspected of a criminal offence and demands a criminal trial of the complaint; or
- (iii) it is decided to examine the complaint under the rules of the Commissions of Inquiry Act.

(2) In the cases referred to in subsection (1)(i) and (ii) hereof, the Regional Public Prosecutor shall conduct the criminal proceedings concerning the complaint, cf. Part 93c. Consideration of the complaint of conduct will be resumed if no charge is brought or no person is convicted.

Section 1019j.-(1) The Regional Public Prosecutor shall notify the relevant Chief Constable and the National Commissioner of Police when consideration of a complaint of conduct is commenced. The Regional Public Prosecutor shall also notify the relevant Chief Constable and the National Commissioner of Police of decisions on complaints of conduct.

(2) No disciplinary investigation shall be commenced before the complaint of conduct is closed.

(3) The provision of subsection (2) hereof does prevent the person in question from being suspended or temporarily transferred to other work under the general rules of the service.

Section 1019k. On his own initiative, the Regional Public Prosecutor may initiate an inquiry under the rules of this Part.

Section 1019l. The Minister of Justice may lay down detailed rules on the consideration of complaints of conduct.

Section 1019m. The Minister of Justice may decide that an inquiry is not to be carried out according to the rules of this Part if grounds of national security or foreign powers so require.

Part 93c **Criminal cases against police officers**

Section 1020. Informations on criminal offences committed by police officers while on duty must be laid with the relevant Regional Public Prosecutor.

Section 1020a.-(1) The Regional Public Prosecutors shall institute investigations upon an information laid or on his own initiative when it may reasonably be presumed that police officers while on duty have committed a criminal offence subject to public prosecution.

(2) The Regional Public Prosecutors shall also initiate an investigation when a person has died or been seriously injured as a consequence of police intervention or while in police custody. The provisions of section 1019j shall apply correspondingly.

Section 1020b.-(1) When considering the cases referred to in sections 1020 and 1020a, the Regional Public Prosecutors may exercise the powers otherwise granted to the police.

(2) The National Commissioner of Police shall provide assistance for the investigation to the Regional Public Prosecutors upon request.

(3) The police may, on its own initiative, carry out urgent investigative measures. The police shall notify the relevant Regional Public Prosecutor of such investigative measures as soon as possible.

Section 1020c.-(1) The Regional Public Prosecutors are authorised to effect public prosecution in the cases referred to in sections 1020 and 1020a, unless under this Act or rules laid down pursuant to this Act such powers are granted to the Director of Public Prosecutions or the Minister of Justice. The prosecuting authority is granted power to withdraw charges.

(2) The Regional Public Prosecutors shall conduct the cases referred to in sections 1020 and 1020a before the district courts, the Maritime and Commercial Court and the High Courts.

Section 1020d. The court shall assign counsel for the defence when deemed appropriate, or when it follows from the provisions of Part 66.

Section 1020e. The court shall assign a victim advocate when deemed appropriate, or when it follows from the provisions of Part 66a.

(2) The victim advocate is entitled to inspect the material referred to in the second sentence of section 741c(2), irrespective of whether a charge has been brought.

(3) The provisions of Part 66a shall otherwise apply correspondingly.

Section 1020f. The Director of Public Prosecutions may decide that criminal proceedings comprising a plurality of counts or persons charged shall be conducted in their entirety by the Regional Public Prosecutor under the rules of this Part if such procedure is required due to one of the counts or one of the persons charged.

Section 1020g. The provisions of this Act governing criminal proceedings shall otherwise apply correspondingly.

Section 1020h. The Minister of Justice may lay down detailed rules on proceedings in the cases mentioned in sections 1020 and 1020a.

Section 1020i. The Minister of Justice may decide that a case is not to be considered according to the rules of this Part if grounds of national security or foreign powers so require.

Part 93d **Police complaints boards**

Section 1021.-(1) A police complaints board consists of an attorney as chairman and two lay persons appointed by the Minister of Justice for a period of four years reckoned from the first day of a month of January. Members can be re-appointed once.

(2) Members of police complaints boards may continue the consideration of a pending case after their period of office, provided that it is deemed appropriate due to considerations of efficient exploitation of board resources and it is anticipated that the complaint will be decided within a short period.

(3) The attorney shall be appointed upon nomination by the Council of the Danish Bar and Law Society, four persons being nominated for each office, two of whom must be female and two male.

(4) The lay persons shall be appointed upon nomination by the county councils, Copenhagen City Council, Frederiksberg City Council and Bornholm Regional Council, each council nominating six persons residing in the relevant county or municipality, three of whom must be female and three male.

(5) The lay persons cannot be members of a local or county council or of Parliament while members of a police complaints board. The provision of section 70 shall otherwise apply correspondingly.

(6) The attorney shall carry on business and the lay persons shall reside in the district of the relevant police complaints board.

(7) A person turning 70 years of age within the period referred to in the first sentence of subsection (1) hereof cannot be appointed member.

(8) The Minister of Justice shall appoint a substitute for each member among the persons nominated pursuant to subsections (3) and (4) hereof and under the same rules as the member in question.

(9) The Minister of Justice shall lay down detailed rules on the number of police complaints boards and the distribution of complaints among them, and on the nomination of members and their remuneration.

Section 1021a.-(1) The Regional Public Prosecutor shall promptly notify the police complaints board of complaints and informations to be considered under Part 93b or Part 93c.

(2) The police complaints board may indicate to the Regional Public Prosecutor that, according to the board, an inquiry should be commenced under the rules of Part 93b or investigation under the rules of Part 93c.

Section 1021b.-(1) Copies of the material procured by the Regional Public Prosecutor in connection with the inquiry of the cases referred to in Part 93b and the investigation of cases referred to in Part 93c must be sent to the police complaints board on a regular basis. The police complaints board may not hand over the material received to anybody else without the consent of the Regional Public Prosecutor.

(2) The Regional Public Prosecutor shall otherwise inform the police complaints board on a regular basis of all material decisions made in connection with the inquiry or investigation.

Section 1021c.-(1) The police complaints board may request the Regional Public Prosecutor to make specific additional inquiry or investigative measures.

(2) If the person charged or the Regional Public Prosecutor in a case that is being considered under Part 93c objects to the board's request for additional investigative measures, such request must be submitted to the court for decision. Section 694(2) shall apply correspondingly. Upon request, court decisions shall be made by order.

Section 1021d. The Regional Public Prosecutor shall prepare a report to the police complaints board on the outcome of the inquiry under Part 93b or the investigation under Part 93c. The report must contain a review of the course of the inquiry or investigation and the actual circumstances of importance to the decision in the case as well as an assessment of the weight of the evidence brought forth. The report must state how the case should be decided according to the Regional Public Prosecutor.

Section 1021e.-(1) The police complaints board shall inform the Regional Public Prosecutor how cases conducted under Part 93b or Part 93c should be decided according to the Board.

(2) The decision must state whether it is in conformity with the opinion of the police complaints board.

(3) The decision must be forwarded to the person who filed the complaint or laid the information.

Section 1021f.-(1) The police complaints board can appeal the Regional Public Prosecutor's decision to the Director of Public Prosecutions. The decision of the Director of Public Prosecutions on an appeal cannot be appealed to the Minister of Justice.

(2) The time limit for appeals under subsection (1) hereof is four weeks after the police complaints board has received notification of the decision. If the appeal is lodged after expiry of this time limit, the appeal must be heard if the failure to observe the time limit may be considered excusable.

Section 1021g. The Minister of Justice may lay down detailed rules on the activities of the police complaints boards, including of the interaction between the Regional Public Prosecutors and the police complaints boards.

Section 1021h. The Director of Public Prosecutions shall prepare an annual report to Parliament and the Minister of Justice on the consideration of the cases referred to in Part 93b and Part 93c. This report must be made public.