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Direction Nationale de la Police de Suède
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THE TASKS OF THE POLICE BOARDS

ACQUISITIONS

It might be of interest somewhat to elucidate why one has chosen the construction as to the meaning of police authority which has now been written into the statutes that will become valid at the turn of the year - the law of what is intended by police authority etc and the new police instruction. As is well known it was the 1967 police investigative committee which presented the proposal to abolish the present advisory police councils and to replace them by police boards. The investigative committee considered it a rule for all public management that the citizens have so far-reaching an observation into the doings as is possible. Considering the kind of police activity and its import to the people in a police district the investigative committee found that it was not sufficient only to have an advisory organ but one should instead create an organ with decisive powers, a police board. The work tasks of the police board should, according to the investigative committee, in principle coincide with the tasks a local police commissioner now has. By that statement the investigative committee, however, in no way meant that the lay member boards primarily should take charge of all questions which today belong to the police commissioners and according to their own discretion delegate the tasks to the commissioners, something which is evident from the fact that one, on the one hand, told the plenary matters in five points, on the other hand, expressly declared that as a matter of course the police commissioner alone would have the responsibility of the operative management of the district and that police authority matters should be decided by the police commissioner or - after delegation - by some other official in the district.

During the work on the government bill we found that as to the meaning of police authority one could choose between two different, in principle, solutions.

Solution 1

The law (1964:317) about what is meant by a police authority is not changed.

Police authority = the police commissioner in the district unless other follows from law or other statute.

Police board = the police commissioner and 6 - 8 elected members

The tasks of a police board are comprehensively indicated by means of an enumeration (5 points) in the police instruction.

Address
Box 12256
S-102 26 STOCKHOLM

Telefon
08/24 10 60

Telegram
Rikspol Stockholm

Telex
18720 RPS STH S

51529

Solution 2

The law (1964:317) about what is meant by a police authority is changed.

Police authority = the police board of the district unless other follows from law or other statute.

The tasks of the police board (authority) in principle coincide with the tasks of a local police commissioner now. The decisions are made

on the hand by the board in plenary assembly in certain matters specially enumerated in the police instruction

on the other hand by the police commissioner alone (all other cases).

In the government bill solution no 2 was selected, as is well known. That was the solution pointed out by the police investigative committee and it also best agrees with the constructions that exist elsewhere when there is a lay member board involved. Perhaps it is nearest at hand here to compare to the county board, that is a government authority with a board that consists of the director general .. the county chief - and citizen representatives. But there was also a practical reason to select this construction. If one had decided not to change the law about what is meant by police authority one had had to carry out a very careful investigation of all the laws and statutes that impose tasks upon a police authority in order to see that there in no case is a task that comes under the enumeration of matters to be taken up in plenary assembly. The risk of there being any such case is perhaps dwindlingly small but it is present there all the same. The scanning of statutes that one thus considered it necessary to do in order to be able to choose solution no 1 would no doubt have taken a very long time to carry out. In order to verify that statement I can refer to the investigation made by Sjöholm in 1942 of the meaning of police authority and where it initially is said that the investigation has comprised all statutes included or remarked upon in the Skarstedt edition of the "Laws of the Swedish Realm", a large number of other statutes and ordinances included in the "Swedish Collection of Statutes", circulars and instructions issued by central civil service departments and others but that it in spite of this seems to be superfluous to point out that the survey does not pretend to be completely complete. By choosing, instead, solution nr 2 one could limit the investigation to the relatively small number of statutes that impose tasks upon the police commissioner or district police commissioner.

Thus, these were the reasonings that lay behind the changes of the law of what is meant by police authority proposed in the government bill. From January 1st 1973 thus is meant, by police authority, the police board of the district unless other follows from law or other statute. The construction here chosen means - and one has to keep that in mind - partly that one puts a sign of equality between police board and police authority and partly that one does not put a sign of equality between police board and lay member board. To the police board - the authority - are

transferred as is stated in the preliminary work, in principle, all the tasks which are now imposed upon a local police commissioner. The decisions are made by the board in plenary assembly in matters that fall under the enumeration in § 49 of the police instruction and in other cases by the police commissioner. Those tasks that are not transferred to the police board are such tasks that according to law or other statute now are imposed upon the police commissioner or local police commissioner.

To you that will have to deal with the text of instruction in your daily work I do not think it will matter at all that one chose the solution described to the other, in any case not after that you have had time to get accustomed to the new definition of authority.

The restriction of plenary matters

Those matters that according to § 49 of the police instruction shall be decided upon in plenary assembly are the following:

1. Important questions about organisation and the work plan.
2. Suggestions as to estimation of outlays for the police force in the district and other questions of major economic importance.
3. Questions about appointments to positions in salary degree A 19 at the lowest.
4. Questions of major importance about information of police activities in general.
5. Other questions referred by the police commissioner to the plenary assembly.

The possibilities of the police commissioner to refer matters to decision in plenary assembly are limited

partly by the provision in § 49 article 2 ("If a case as said now involves the practising of police management it must not be taken up for decision in plenary assembly"),

partly by the provision in § 50 ("Police commissioner may refer a question to a plenary assembly only if it concerns the administration of the police force or general outlines as to the activities of the police").

The enumeration is exactly the same as that made by the police investigative committee. At the circulation process of the report of the investigative committee most circulation parties agreed that this restriction was suitable. In the bill the department head wholly agreed with the enumeration of the investigative committee of plenary matters and at the treatment in the Standing Committee on the Administration of Justice there was no objection on this point.

After having taken part of your circulation replies as to the report of the police investigative committee I know that quite a number of you agree with me when I say that as the plenary matters have been restricted there will be no considerable difference between the field of activities of the boards and that of the police committees. The difference is that the subject of appointments has been added. Another difference is, of course, that the citizen representatives are not to suggest to the police commissioner that a matter shall be decided upon in a certain way but that they, instead, shall decide upon the matter together with the police commissioner or perhaps - rather - issue a statement together with him to a superior authority; that is certainly what will be the case in most cases.

Then, as to the various articles in § 49 the basic thought is that a plenary matter primarily shall be characterized as in one way or another concerning the relationship between the police and the public. As to matters of organisation the preliminary texts mention that questions of division into police districts, the stationning of police forces in the police district and questions of decentralised handling of police authority matters shall be decided in plenary assembly.

As to questions of work plan the National Police Board settles the standard work plan and according to § 68 of the police instruction no essential deviation must be made from it without the consent of the National Police Board. Furthermore the work plan shall be confirmed by the county board according to § 67 of the police instruction. Thus, the boards have no considerable freedom of action in this respect and in practice their decisions upon matters concerning work plans will in most cases end up as recommendations to superior authorities.

Questions of economic requests and other questions of major economic importance - article 2 in § 49 - I am not going to comment upon closely. What should be considered "matters of major economic importance", you have, with your practical experience of the activity, much better qualifications than I have to take a stand to.

As to appointments the limit has been drawn at positions in, at the lowest, salary degree A 19, which thus means that the boards do not appoint to any positions, but that they issue statements in these matters. As I mentioned before, the very matter group appointments means a difference between the field of activities of the boards and that which now is valid for the police councils. The reason that one has proposed this arrangement is connected to the fact that the organ has changed its character from a municipal conference committee to a government authority. In a government authority - as the department head says in the bill - decisions in important appointment matters should not be reserved to the head of the authority but should be decided upon in plenary assembly.

As to questions of information - point 4 - I can point to the fact that the police investigative committee decided, in this respect, that citizen representatives should have the opportunity to take part of the points of view of the public on police activities by arranging meetings and by other means and, thus, that financial means should be put at their disposal for that reason. In the bill, however, no such proposal was presented and neither was the question taken up during Parliament handling.

Then, finally, I am going to touch upon two questions which, in a way, partly depend of each other, that is on the one hand the possibilities of the police commissioner to refer matters to decision in plenary assembly, on the other hand what shall apply in questions of operations.

The police commissioner can thus, according to § 49 article 5 refer a matter to decision in plenary assembly. His possibilities to do so are, however, limited, partly because of an express provision about the matter in § 50 and partly by the regulation in § 49 article 2 where it is said that matters that involve practice of police management must not be taken up for decision in plenary assembly.

Suppose we first look at the regulation in § 49 article 2; then it is quite clear that the police commissioner can not refer a decision in a concrete operative question to the plenary assembly. So is directly clear in the text of instruction and so has been said at several places in the preliminary texts. Such a question is without the area of competence of the board and that applies certainly also if the question as such might be referred to one of the points 1 - 4 in § 49.

When it is a matter of a concrete operative question the picture thus well agrees with what was said, in connection with the government take-over, about the possibilities of the police committees to take part in the running of police activities. As you may remember it was then said that the councils were not allowed to take part in questions that belonged to the authority of the police commissioner. On the other hand there should be no obstacles to the councils to take up questions of a more general character, about the forms of police activity, as those are questions that to a considerable extent influence the relationship between the police and the public. Questions of patrol routes, supervision methods and other, similar, general questions of how the activities are arranged can thus become the object of discussion in a police council.

Has one, then, now intended that it should be possible to decide upon questions of this kind in plenary assembly in a police board? - Can the police commissioner refer such a matter to plenary assembly on the plea that it concerns general outlines for the activity of the police?

Well, to answer these questions demands that one goes back to the preliminary texts. Primarily one may say that if one gives this authority to the boards, it becomes possible to them, by means of several decisions in questions of this kind, in fact to limit the freedom of action of the police commissioner in concrete questions of operations. Such a development can, of course, not be accepted and nor is it indicated anywhere in the preliminary texts. If one had been ready in this field to change the authority of a police council to come with recommendations into an authority of the board to make decisions one would, according to my opinion, have made a clear statement about it in the preliminary text. There is, however, no argumentation in that direction. Furthermore, one must keep in mind that in many of the cases here concerned it is a matter of decisions that for obvious reasons shall be made on a central - not local - level. This was discussed very thoroughly in the police investigative committee and there there was complete agreement that the questions as a rule did not fit the local level but that they must be subject to treatment in the National Swedish Police Board. The investigative committee agreed, however, that there might exist certain general questions that taken by themselves could be treated on the local level and for that reason the statement was made - that according to my opinion is of the most considerable importance in this context - that there should be no obstacle to discussing in plenary assembly questions of a fundamental significance to police activity. The investigative committee thus in no way pronounced that the board should have authority to decide in this field but only indicated - in agreement with what is now valid for police councils - a possibility to take up essential questions to discussion. In the government bill the head of department wholly agrees with the opinion of the investigative committee.

Against this background the regulation in § 49 article 2 according to my opinion is a direct obstacle to the operative questions - concrete or of a general character - becoming subject to decision in plenary assembly in a police board. The operative area is thus completely reserved to the police commissioner and there he alone has the authority to decide. Thereby is said, too, that there is no room for the referring of any operative questions to plenary assembly for decision there.

The possibilities of the police commissioner to refer a matter to plenary assembly are thus restricted by two regulations - § 49 article 2 and § 50 - it will, probably, primarily be in matters concerning the administration of the police that the possibility to refer will be used.

There is - as I mentioned - a statement as to reasons, that the board can actualize questions of fundamental importance to police activities for discussion. Let me underline that it is said fundamental questions. Thus, the intention is not - no more than it was as to police councils - that the boards shall enter upon judgements of the acting of the police commissioner in concrete cases and allege criticism against him during these discussions. Inspection and scrutiny of his measures in service takes place, as is well known, in other ways.

Thus, it is primarily the police commissioner who shall see to it that the delineation becomes correct when it is a matter of business for the plenary assembly; a matter that can not be referred to the enumeration in § 49 must not be included in the agenda. Furthermore, the police commissioner must see to it that the delineation rules as to the right to refer matters to plenary assembly are correctly applied. If the citizen representatives were to take up e.g. a question of operations for discussion and declare that they want to decide the question, well, then the police commissioner must tell them that they step into his private preserves and that he cannot agree in making a decision as to the question together with them. I think it is of a great importance that these questions are treated with care. The intention of the police board reform has never been to any considerable extent to limit the present freedom of action of the police commissioners. If the rules are applied correctly so will never be the case.



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