



MAINTAINING PUBLIC ORDER DURING EXTRAORDINARY CIRCUMSTANCES IN SINT MAARTEN

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List of abbreviations

<i>Abbreviation</i>	<i>Meaning</i>
AC	General Commander (<i>Algemeen Commandant</i>)
APK	General Code of Police Regulations (<i>Algemene Politiekeur</i>)
BAVPOL	Extraordinary police officer (<i>Buitengewoon Agent van Politie</i>)
CASBES (landen)	Curaçao, Aruba, Sint Maarten, Bonaire, Sint Eustatius, Saba
COPI	Incident Site Command (<i>Commando Plaats Incident</i>)
CvK	Board of Chiefs of Police (<i>College van Korpschefs</i>)
ESF	Emergency Support Function
EOC	Emergency Operation Center
HUREX	Hurricane Exercise
HOOBO	Enforcement Public Order during Extraordinary Circumstances (<i>Handhaving Openbare Orde tijdens Buitengewone Omstandigheden</i>)
HOvJ	Chief Public Prosecutor (<i>Hoofd Officier van Justitie</i>)
IGD	Immigration and Border Protection Services (<i>Immigratie- en Grensbewakingsdienst</i>)
KMar	Royal Netherlands Marechaussee (<i>Koninklijke Marechaussee</i>)
MARNSDET SXM	Marine Corps Detachment Sint Maarten (<i>Korps Mariniers, Detachement Sint Maarten</i>)
KPSM	Police Force Sint Maarten (<i>Korps Politie Sint Maarten</i>)
KW	Dutch Caribbean Coast Guard (<i>Kustwacht Caribisch gebied</i>)
LIOL	National Ordinance establishment and organization of national government (<i>Landsverordening inrichting en organisatie Landsoverheid</i>)
LvU	(<i>Landsverordening Uitzonderingstoestand</i>)
MvJ	Minister of Justice (<i>Minister van Justitie</i>)
MOC	Maritime Operation Center (<i>Maritiem Operatie Centrum</i>)
MHKC	Naval Headquarters Curacao (<i>Marine Hoofdkwartier Curaçao</i>)

MIK	Maritime information hub (<i>Maritiem Informatieknooppunt</i>)
LIK	Local information hub (<i>Lokaal Informatieknooppunt</i>)
OM	Public Prosecutor's Office (<i>Openbaar Ministerie</i>)
P-G	Attorney General (<i>Procureur-Generaal</i>)
RBO	Disaster Management Organisation (<i>Rampen Bestrijding Organisatie</i>)
SGBO	Large- scale and Special Action Staff Structure (<i>Staf Grootchalig en Bijzonder Optreden</i>)
VKC	Volunteer Corps Curaçao (<i>Vrijwilligers Korps Curaçao</i>)
VKS	Volunteer Corps Sint Maarten (<i>Vrijwilligers Korps Sint Maarten</i>)

Foreword

The Council has included in its 2022 Annual Plan an inspection into the maintenance of public order. The Council believes that public order and its maintenance are essential for social life to proceed as normal. This is even more true during extraordinary circumstances, such as a disaster or crisis, because of the usually (severe) impact and consequences of such circumstances on society.

In recent years, Sint Maarten has been confronted with several instances of extraordinary circumstances, which have had a significant impact on public order, causing its disruption and requiring its enforcement. The Council's underlying inspection covers the period from 2017 to mid-2022 and is limited to the maintenance of public order during extraordinary circumstances (HOOBO) and the role of the Sint Maarten Police Force (KPSM). Extraordinary circumstances in themselves do not lead to a change in the enforcement of public order, but by their nature, magnitude and duration they do cause a change in the situation (environment) in which enforcement takes place.

As a result of this inspection, the Council concludes that the KPSM maintains public order under all circumstances based on its legal duties and powers and under the supervision of the Minister of Justice. However, the Council again notes in this inspection that the KPSM's human, material and financial capacity is inadequate and needs to be prioritized. The Council finds this concerning because it results in the KPSM being almost structurally dependent on assistance from local and/or Kingdom organizations in the HOOBO. The Council considers the current situation a threat to the functioning of the KPSM and the security of society as a whole during extraordinary circumstances.

The Council thanks the organizations and individuals involved for the constructive manner in which they cooperated with the inspection. The Council believes that the findings and recommendations of this investigation inspection will contribute to the various improvements and necessary investments that are required for the maintenance of public order on Sint Maarten and thus contribute to a safe living environment for the citizens, also and particularly during extraordinary circumstances.

THE LAW ENFORCEMENT COUNCIL

Mr. M.I. Koelewijn, chairman

Mr. L.M. Virginia

Mr. M.R. Clarinda

Summary and recommendations

Summary

The Law Enforcement Council has included several topics in its annual plan for 2022. One of the topics is an inspection into the maintenance of public order during extraordinary circumstances, and in particular the role of the Sint Maarten Police Force in this. Public order and its maintenance are essential for society to function as normal, and it is therefore crucial that the person(s) responsible for this are able to maintain public order. This is even more true in the case of extraordinary circumstances, because the impact and consequences are (can) be huge.

In recent years, Sint Maarten was confronted with several instances of extraordinary circumstances, which had a significant impact on public order, causing its disruption and requiring its enforcement for the protection of society. Considering the public order issues surrounding these crises and disasters, the Council has assessed the manner in which the Sint Maarten Police Force (KPSM) maintains public order during extraordinary circumstances (HOOBO), and the extent to which this functioning is in accordance with the applicable standards. The Council accomplished this utilizing the subject's legislation, regulations and policy, the (integral) approach, management, cooperation and equipment. The inspection covers the period from 2017 to mid- 2022.

Based on this inspection, the Council concludes that a valid legal framework for the HOOBO exists and provides a clear basis for the execution of duties, powers, and responsibilities within the framework of the HOOBO, mutual assistance and assistance between the countries of the Kingdom and cooperation with the French authorities and, where necessary international cooperation and coordination. However, the Council does note that parts of the laws and regulations in the area of disaster response/crisis management and enforcement are outdated or incomplete, which makes changing them necessary.

The Council concludes that the Minister of Justice (MvJ) is responsible for the HOOBO as the competent authority during extraordinary circumstances. The KPSM is, on the basis of the Emergency Support Function-5 or based on the 'triangle' (consultative body between the MvJ, the KPSM and the Public Prosecutor's Office), operationally responsible for law enforcement, security and traffic regulation. The KPSM has developed an integral approach through the 'Large-scale and Special Action Staff (SGBO) structure' that makes an important contribution to the operations and cooperation within the framework of the HOOBO.

The KPSM oversees the management of and cooperation with other (judicial) organizations involved in the HOOBO and the Council notes that almost all organizations, through the SGBO structure of the KPSM, are connected to each other and that there is regular mutual consultation, coordination, and training. The cooperation, assistance, and training between the countries of the Kingdom is also structurally arranged. However, there is still room and need for improvement of communication, coordination, and cooperation towards the Disaster Management Organization (RBO) and the Dutch Caribbean Coast Guard (KW) within the framework of the HOOBO.

The Council further shares the view of several organizations involved in this inspection that there needs to be more consideration for the fact that emergency personnel can also be victims of a disaster. Loss of personnel who are themselves victims amplifies already existing capacity shortages and adds to the already existing (work) pressure on the personnel who are working during a disaster/crisis.

In a broader sense, the Council is also concerned about the fact that the government has so far failed to arrange insurance (life and disability) for VKS members in the line of duty. In view of the importance of the assistance provided by the VKS and the risky nature of this work, the Council considers it a priority that the protection of these persons be properly regulated.

The Council considers the presence of sufficient capacity in terms of human, material, and financial resources of significant importance for the quality of the HOOBO. At the same time, the Council also acknowledges structural shortcomings in these resources within the KPSM and the local (aid) organizations that are important in cooperation and support for the HOOBO. In this inspection, the Council also notes that the structural shortage of resources cannot be remedied by last minute purchases or renting of resources during the final preparations in the event of, for example, a hurricane threat. Because the government often has insufficient (extra) financial resources for this at such times, and the KPSM does not have its own (operational) budget, this results in a (often serious) disruption of the operations of the KPSM. The Council has already recommended on several occasions the establishment of a financial mandate for department heads within government, including the chief of police. The Council concludes that the KPSM is therefore almost structurally dependent on assistance from local and/or Kingdom organizations during the HOOBO. This poses a major risk to the functioning of the KPSM and thus a threat to the security of society during extraordinary circumstances.

Recommendations

The Council recommends the following to the Minister of Justice of Sint Maarten:

	To the Minister of Justice
1.	Actively support, in cooperation with the other ministers responsible, the efforts of the Disaster Management Organization (RBO) and the Disaster Management Steering Committee to modernize and improve the existing disaster management structure.
2.	Initiate an evaluation and adaptation process for the General Code of Police Regulations (APK).
3.	Initiate consultations between the KW and the KPSM leading to better alignment and coordination regarding the implementation of the HOOBO on water and on land.
4.	Take the initiative, together with the Minister of General Affairs, to achieve general structural improvements in the conditions (resources, housing, training, allowances) in which the VKS must function. Promote, in particular, attention to the need to for taking out comprehensive insurance to cover the risks of disability and death of VKS personnel in the performance of their duties.
5.	Invest in the acquisition of, and maintenance of the resources necessary for the HOOBO by the KPSM and the other judicial organizations.
6.	Take the initiative to establish and institute policies that regulate an annual inventory of the available and unavailable resources at the judicial organizations necessary for (extra) deployment during the HOOBO.
7.	Ensure an adequate financial (buffer) budget for enforcement activities during extraordinary circumstances.
8.	Grant the chief of police a financial mandate to work with this (buffer) budget during extraordinary circumstances.
9.	Pay continued attention to strengthening the Ministry of Justice by at least filling critical positions.
10.	Strive to ensure that the Ministry fulfils its statutory duty as articulated in Article 15 of the LIOL.

1. Introduction

1.1 Introduction and rationale

Introduction

The Law Enforcement Council (Council) is charged among other things with the general inspection of the organizations of the judicial chain in Curaçao, Sint Maarten and the Netherlands as regards Bonaire, Sint Eustatius and Saba (hereafter: Caribbean Netherlands). Furthermore, the Council is charged with the general inspection of the quality and effectiveness of judicial cooperation between the countries. The Council has included a number of topics in its annual plan for 2022. One of the topics is an inspection into the maintenance of public order.

Rationale

Public order and its maintenance are essential for social life to proceed normally. The maintenance of public order is regulated in laws and regulations. Under the Kingdom Police Act, the Sint Maarten Police Force (KPSM) has among its duties the maintenance of public order and the provision of assistance.¹ The competent authority is the Attorney General (P-G) when the police act to maintain the legal order under criminal law² and the Minister of Justice (MvJ) when they act to maintain public order (and to execute the assistance duty).³ In both cases, general and special instructions can be given by the competent authority.⁴ In the event that the police force requires assistance in the context of maintaining public order, a request may be made⁵ and, for example, reserve police may be made available.⁶ The day-to-day maintenance of public order is thus carried out by the police through actual action.

In addition, there may also be extraordinary circumstances, such as a disaster or crisis, of such a nature that in order to maintain external or internal security⁷ and public order, for example, a state of emergency must be declared.⁸ Similarly, in the event of disasters, accidents and disruptions to traffic or communications (which are unrelated to other disruptions to internal security or public order), parts of the Coast Guard may be made available.⁹ Even in the case of extraordinary circumstances, it is primarily the police who actually maintain public order.

In recent years, Sint Maarten was confronted on several occasions with crises and disasters that have had an impact on public order, and caused its disruption and necessitated its restoration in order to protect the community. This included the large-scale disturbances of law and order following the passage of Hurricane Irma in 2017. In its State of Law Enforcement 2017, the Council reflected, among other things, on the extreme situations that occurred in the field of maintaining public order and safety.¹⁰ In that context, the Council stated:

¹ Article 7 Kingdom Act Police

² Primarily aimed at investigation, prosecution and trial

³ Article 16 and 17 Kingdom Act Police

⁴ Article 16 and 17 Kingdom Act Police

⁵ Article 38 Kingdom Act Police

⁶ Article 4 Landsverordening houdende regels inzake weerkorpsen.

⁷ Protecting the external security (defense) and internal (domestic) security of the state (Supreme Court ruling (ECLI:NL: PHR:2021:1136) and reference therein to "E.T.

Brainich von Brainich Felth, Staatsnoodrecht, diss. 1993, blz. 16.

⁸ Article 112 Constitution Sint Maarten

⁹ Article 18 Kingdom Act Coast Guard

¹⁰ Law Enforcement Council (2018). *State of Law Enforcement 2017*.

“The Council considers it important to reflect on a number of important developments that have occurred due to the passage of the hurricanes. The passage of the hurricanes, especially Hurricane Irma, has turned Sint Maarten into a disaster area within a few hours. In the hours and days that followed, extreme situations occurred in the area of maintaining public order and safety. The core of law enforcement was confronted with a situation for which it was completely unprepared. With a high level of improvisation and cooperation, the enforcement authorities have drawn up an approach required for such a special circumstance within a short time. With very limited resources, they were able to restore chaos and disorder after the necessary military and police assistance was provided from other countries. The Council therefore has a positive image of the ability of these organizations to work together on an ad hoc basis under such circumstances and to achieve results. This in itself is admirable. Unfortunately, the same cannot be said about the administrative government and its role in the disaster coordination. Country Sint Maarten has shown that it was completely unprepared for a disaster of this caliber. Despite the magnitude of the disaster itself, for which it is virtually impossible to be fully prepared, we can be. We can reasonably expect there to be infrastructure in place on which we can rely. Preparation, disaster coordination and assistance turned out to be far from optimal. Nevertheless, the competent body chose not to declare a state of emergency until a very late stage, four days after the disaster. Even though there was already reason to make use of this power before the hurricane. Although it is difficult to measure, the consequences for the legal order, the well-being of the population and damage to the economy have, in the opinion of many, been many times greater than if the necessary preparation had taken place and decisions had been made (in a timely manner).”

The Council recommended an evaluation of the plans of all (cooperating) organizations within law enforcement and disaster coordination. And insofar as there were no plans, the Council recommended that they should be made. Other examples of extraordinary circumstances in the years that followed are the public order issues, the COVID pandemic from 2020 onwards and the large-scale unrest and riots in 2021 on the French side of the island (Saint Martin), partly caused by dissatisfaction with the handling of the impact of the hurricanes Irma and Maria and the consequences of these riots for Sint Maarten.

Not only as in the examples mentioned, but in all circumstances, it is important that those responsible are able to maintain public order. However, this applies even more in the case of extraordinary circumstances, because the impact and consequences are usually (or can be) significant. It is therefore important that the framework, responsibilities and implementation are clear during such circumstances.

In view of the public order problems pertaining to the crisis situations described above and potential new crisis situations, the Council considers it important to map and assess the maintenance of public order during extraordinary circumstances (HOOBO) by the KPSM.

1.2 Research question and sub-questions

The central question of this inspection is:

In what way does the KPSM maintain public order during an extraordinary emergency and to what extent is this functioning in accordance with applicable standards?

To answer the central question, the following sub-questions have been formulated:

- *What laws, regulations and policies form the basis of the maintenance of public order during extraordinary circumstances?*
- *How does the KPSM approach the maintenance of public order during extraordinary circumstances?*
- *In what way does steering take place when maintaining public order during extraordinary circumstances?*
- *To what extent is there cooperation in maintaining public order during extraordinary events?*
- *To what extent is there an integral approach by the KPSM in maintaining public order during extraordinary circumstances?*
- *To what extent does the KPSM have the necessary equipment to maintain public order during extraordinary circumstances?*

1.3 Scope

The inspection covers the period from 2017 to mid-2022. Given the primary mission of the police, under the responsibility of the MvJ, to maintain public order, the inspection focuses on the functioning of the KPSM. The maintenance of public order during extraordinary circumstances may, depending on the situation, involve various individuals and organizations within and outside the justice chain. This inspection focuses primarily on the functioning of the KPSM but also looks at the role of and cooperation with other organizations in relation to the functioning of the KPSM during the HOOBO.

Definitions

There is no official definition for the concept of public order and even the meaning often depends on the circumstances or the particular time period. For the purpose of this inspection, the Council understands public order to mean; *the peace and order within human coexistence, as it takes place in public spaces and events; it is a duty of the government to organize and maintain this peace and order.*¹¹ Disruption of public order means; *a disturbance of any significance to the normal course of events in or at the public space in question*¹² Maintenance means; *the preservation of the public order and peace within the community.*¹³

There is also no set definition for 'extraordinary circumstances' but the Council utilizes the following definition for this inspection; *'extraordinary circumstances are circumstances of such a nature that the external or internal security (of society) can no longer be maintained without extraordinary powers being made available in a declared state of emergency'*.¹⁴

Furthermore, the descriptions of a disaster, disaster response, crisis and crisis management are also important. A disaster is defined as *"an event causing a serious disruption of public safety, where the life, health and well-being of many persons, the environment or major material interests were seriously threatened or damaged and where a coordinated effort of services and organizations of different/different disciplines is required."*¹⁵ Disaster

¹¹ <https://thesaurus.politieacademie.nl/>

¹² HR 30 January 2007, AB 2007/131 (The Hague), with literature overview in the conclusion by A-G Knigge

¹³ <https://thesaurus.politieacademie.nl/>

¹⁴ Explanatory Memorandum (article 1) of the Landsverordening Uitzonderingstoestand

¹⁵ National Decree disaster plan

management refers here to "the set of government measures to protect the population aimed at limiting or mitigating the consequences of disasters and major accidents".¹⁶

A crisis is often defined as; a situation in which a vital interest of society is affected or is in danger of being affected. Crisis management is here understood to mean; *the whole set of measures and provisions, including preparations for them, which the competent authority takes in a crisis to maintain public order, possibly in connection with a power granted under another law in relation to a crisis.*¹⁷

The subject of maintaining public order is a broad one and covers both "normal" circumstances and "extraordinary" circumstances. In this inspection, the Council will focus only on the maintenance of public order during extraordinary circumstances, given its impact and often serious consequences. At a later date, the Council may also inspect the maintenance of public order during "normal" circumstances.

1.4 Assessment framework

To answer and assess the research questions, an assessment framework has been drawn up using applicable laws and regulations (detailed in Appendix 1) and policy, research reports and other relevant information, an overview of which is included in Appendix 2.

1.5 Research approach and method

This research was conducted using literature review and interviews with personnel from the Ministry of Justice, the Public Prosecutor's Office (OM), the KPSM, the Royal Netherlands Marechaussee (KMar), the Marine Corps Detachment Sint Maarten (MARNSDet SXM), the Volunteer Corps Sint Maarten (VKS), the KW, and the Disaster Management Organization of Sint Maarten (RBO).

This research was conducted in five phases:

- Orientation phase: exploratory interviews and global deepening of the subject for the purpose of determining the approach of the research.
- Desk research: literature review, elaboration of the theoretical/legal framework and preparation of the interviews.
- Data collection: conducting the interviews.
- Analysis and reporting: based on the main and sub-questions, analyzing the collected information and preparing the draft inspection report.
- Report research findings: the respondents were given the opportunity to react to the draft report, after which any comments were incorporated, and the final report was adopted by the Council and presented to the Minister of Justice.

1.6 Reading guide

After the introductory Chapter 1, Chapter 2 describes the legal framework relevant to the subject of maintaining public order during extraordinary circumstances. A full elaboration of the content of this legal framework at the Kingdom, regional and local levels. Furthermore, Chapter 2 addresses general insights regarding extraordinary circumstances. Chapter 3 discusses the research findings and deals successively with findings relating to laws and

¹⁶ Wet veiligheidsregio's, 2022, NL

¹⁷ Wet veiligheidsregio's, 2022, NL

regulations, (integral) approach of the KPSM and other (judicial) organizations, steering, cooperation and equipment. The findings of Chapter 3 form the basis for the analysis.

2. Background information

2.1 Introduction

In this section, the Council briefly describes the legal framework and provides general insights relevant to the topic of maintaining public order during extraordinary circumstances.

2.2 Legal framework

Sint Maarten has a series of (emergency) laws and regulations that are relevant to the execution of duties (enforcement activities), powers and responsibilities during the HOOBO. Especially worth mentioning in this context are the General Code of Police Regulations (*Algemene Politiekeur* (APK)), the National Ordinance on disaster management (*Landsverordening Rampenbestrijding*), the National Decree disaster plan (*Landsbesluit Rampenplan*) and the National Ordinance on the state of emergency (*Landsverordening Uitzonderingsstoestand* (LvU)). There are also laws and regulations that are important for mutual assistance and relief between the countries of the Kingdom and cooperation with the French authorities and the international cooperation and coordination that may be necessary. In Annex 1 of this report, the Council has included a full elaboration of the content of the legal framework. Moreover, where applicable, the Council discusses the legal framework in more detail in Chapter 3.

2.3 General insights regarding extraordinary circumstances

In section 2.2 reference has already been made to the LvU and the Sint Maarten Disaster Plan. The term extraordinary circumstance indicates a situation (disaster or crisis) in which normal social life cannot continue.

In the case of the proclamation of a state of emergency, the country is facing extraordinary circumstances that affect social life to such an extent that there is no longer or can no longer be a normal state of affairs. According to the explanatory memorandum of the LvU, the term "circumstances" should be read in conjunction with "require this in order to maintain external or internal security." For a state of emergency to be declared, the extraordinary circumstances must be such that external or internal security can no longer be maintained without the extraordinary powers made available in a declared state of emergency. In order to control this situation, the government will then need to have powers to deal with these extraordinary circumstances. The backdrops that give rise to a situation where it is desirable to declare a state of emergency may vary. There may be a natural disaster, but also social unrest and, in the most serious case, a terrorist or military threat or action from outside. The powers included in the LvU are first and foremost about limiting the fundamental rights of citizens. Every disaster is by definition a crisis, but there are many crises without disaster-like characteristics. Where appropriate, both require unambiguous administrative direction, (integral) decision-making and the utilization of specific powers.¹⁸

¹⁸ Evaluatie Wet veiligheidsregio's Nederland, 2020.

Disaster Plan

According to the Sint Maarten Disaster Plan, the disaster response organization (RBO) is under normal circumstances operationally a more or less 'dormant organization'. It can be activated in case of a disaster, a major accident or a reasonable fear of that one will occur, from one of the emergency centers of the already operational services (police, fire department or ambulance service). The main structure of the RBO, as well as the composition and duties of the command staff belonging to it, are laid down in the Disaster Plan Sint Maarten.

The Disaster Plan Sint Maarten further states that if the RBO is made ready, the set of activities carried out by the services and organizations can be seen as a system composed of about ten subsystems (Emergency Support Functions or ESF groups), each comprising one or more processes, led and coordinated by an Emergency Operations Center (EOC). The Disaster Management Staff consists of a Policy Team and an Operations Team. The Policy Team advises the Minister on the policy to be implemented and, in consultation with the Minister, establishes the main strategic objectives. An ESF group is a group of people composed of persons selected, not on the basis of their position, but on the basis of their expertise, but who possess the necessary (mandated) powers.

Each ESF group is responsible for keeping its sub-plan of arrangements for its organization up to date. Each ESF group has a coordinator who is responsible for the functioning of the group. This is applicable in both a preparatory and operational sense. Depending on the scale and type of incident, it is determined which persons and agencies involved in the disaster response should be alerted. This is done by or on behalf of the Prime Minister on the indication of the policy staff of the EOC. According to the Disaster Plan Sint Maarten, the Prime Minister has supreme command in case of a disaster or major accident, or a reasonable fear that one will occur. Those who participate in combatting the disaster or major accident shall be under his command.¹⁹ He shall be assisted by a disaster staff which he shall organize. The person in charge of the fire department is also charged with the operational management of disaster and major accident response, unless the Minister makes other provisions.

For the maintenance of public order, the MvJ is the competent authority under all circumstances. According to the disaster plan, the police regulate the use of all roads and ensure that certain areas are closed to unauthorized persons, and that access is granted to those who (must) perform a function at the disaster site. The police also regulate the guiding of assistance units. Similarly, they take care of enforcing any curfew. The chief of police is charged with the function of general commander of the police units and the chief of police is also the system manager for ESF-5. The ESF-5 group is in charge of the maintenance of public order, security and traffic regulation, and is also responsible, together with other agencies involved in the maintenance of public order, for the preparation of the sub-plans for the maintenance of public order and traffic regulation. ESF-5 is also responsible for coordinating at the tactical level the deployment and utilization of the capacity for the HOOBO.

Based on the Kingdom Police Act and the APK, among others, the police actually have three powers to effectively maintain public order. These powers consist of issuing orders, making

¹⁹ Article 8 of the Landsverordening Rampenbestrijding

demands, or use of force. Orders are given by police officers to prevent public order disturbances. If such an order is ignored, the police officer is authorized to forcefully remove a person if necessary.

In addition to the possibility of issuing orders, a police officer may maintain public order by means of a requisition. Finally, a police officer is authorized to use force in the performance of his duty if the objective cannot be achieved by other means. The use of force must be seen as a last resort, applied in accordance with the provisions of the official instructions, whereby it is important to act proportionally (to not use more force than necessary) and to use the right tool for the job.

3. Research findings

3.1 Introduction

In this chapter, the Council presents its research findings. The Council deals successively with its findings on the subjects of legislation and regulations, (integral) approach of the KPSM and other (judicial) organizations, management, cooperation and equipment. For each topic, the Council first mentions the standard against which it was assessed.

3.2 Laws and regulations

Norm: The legal framework is up to date and the necessary regulations, responsibilities, powers and bases and ranges are regulated, known and were applied.

Findings

Almost all interviewees indicate that existing (emergency) laws and regulations form the basis for the execution of duties (enforcement activities), powers and responsibilities for the HOOBO. They mention as most important laws and regulations in this context; the APK, the National Ordinance on disaster management (*Landsverordening rampenbestrijding*), the Sint Maarten disaster plan (*Rampenplan Sint Maarten*) and the LvU. Furthermore, they also mention the Penal Code and the Code of Criminal Procedure (*Wetboeken van Strafrecht en Strafvordering*). More specifically, the VKS mentions the National Ordinance on the reserve corps (*Landsverordening op de weerkorpsen*) and the VKS National Decree (*Landsbesluit VKS*) and the Coast Guard mentions the Inland Waterways Ordinance (*Binnenvaartverordening*). In relation to mutual assistance and aid between the countries of the Kingdom, the Charter of the Kingdom, the Constitution of Sint Maarten, the Kingdom Acts on the Police and the Coast Guard and the instructions regarding the deployment of the armed forces were mentioned. In addition, reference is also made to the protocol on the flexpool of the KMar. See Appendix 1 for the content of the legal framework.

Responsibilities and powers

The Ministry of Justice indicates that the purpose of emergency legislation is to enforce special rules that are then needed. The responsibility for HOOBO lies primarily with the government of a country, i.e. the Minister of Justice. The powers of the Minister of Justice are linked to public order. The KPSM is responsible for the actual maintenance of public order. In an extraordinary circumstance, the police have the same powers they have under "normal" circumstances, but now the powers are connected to the extraordinary circumstance, according to the Ministry of Justice.

The OM indicates that in principle it has no role in the HOOBO based on the legislation and regulations. The OM can fulfill an advisory role with regard to the scope of the emergency powers granted for maintaining public order during extraordinary circumstances. With regard to imposing criminal sanctions, the OM has on the basis of the Kingdom Act Public Prosecution Service, a leading role and has been granted powers, under the responsibility of the chief public prosecutor (HOvJ) on behalf of the Attorney General (P-G).

One way the HOvJ fulfills this role is by participating in the so-called "triangle consultation" where the MvJ, the OM, and the chief of police consult with each other. The nature, impact

and duration of an incident are, according to the OM, factors that determine where and when the criminal enforcement role of the OM begins. The OM cites the example that a passing hurricane by itself need not lead to criminal law enforcement, but states that subsequent looting does. With regard to the criminal law enforcement of the legal order and mutual agreements on this between the OM and the Ministers of General Affairs and Justice, the OM states that the powers of all involved are necessary for enforcement. Especially mutual coordination and communication on this is of great importance, according to the OM, if, for example, the passing of the hurricane indeed leads to the need for criminal enforcement.

Interpretation and APK

The OM indicates that there is sometimes a lack of clarity regarding the interpretation of laws and regulations. This is the case, for example, with regard to the question of what exactly is meant by 'extraordinary circumstances' or with regard to the question of whether or not the use of the National Police Ordinance to establish a 'curfew' is possible. In practice, however, a solution is always found.

According to most interviewees, a curfew can be enacted under all circumstances, including during extraordinary circumstances. The Ministry of Justice indicates that although the APK is old, the basis for it has been thoroughly formulated. The Ministry has not received any signals that the outdated legislation and concepts create bottlenecks in practice for the HOOBO. Several interviewees from the KPSM, the OM and the fire department indicate that the APK is outdated or incomplete and/or makes no provision for the special situations of our modern day. One example mentioned is that during the COVID pandemic, there was a need for curfews by geographic area (neighborhood). Because the APK did not account for this, the far-reaching freedom-restricting measures of the LvU had to be invoked. In the opinion of a number of interviewees, this LvU should only be used if there is a real reason for it and not because 'lesser' legislation is not in order or up-to-date. Several interviewees also indicate that an evaluation of the existing (emergency) laws and the powers within the framework of the HOOBO is desirable.

Deployment and assistance

Interviewees from the disaster organization/fire brigade (RBO) indicated that (emergency) services were deployed during extraordinary circumstances. Emergency laws and regulations and the APK are then used as the basis for the deployment of and control of the emergency services. These interviewees further indicate that the course of events after the hurricanes in 2017 and during the COVID pandemic have revealed that (parts) of the legislation regarding disaster and crisis management on Sint Maarten need revision or adjustment. To this end several projects were initiated by the 'International Association of Dutch Municipalities' along with the government of Sint Maarten after the hurricanes in 2017.

These projects included the evaluation and updating of the crisis management structure and related legislation. Training was also organized for the government and police, fire and ambulance service and 'community representatives' in the area of crisis management, improving the information structure for crisis management and supporting psychological assistance around disasters. The findings of the aforementioned evaluation resulted in a new draft National Ordinance disaster management.

This draft was presented for feedback to the coordinators of several ESF' (5 to 7, 9 and 10) and the Disaster Management Steering Committee in 2022. This process is still in the 'feedback phase'. Part of the RBO's goal with the adjustments is to ensure that there is an 'intermediate step' before applying the LvU. Indeed, according to interviewees, applying the LvU is in many cases too heavy a remedy for Sint Maarten and carries the risk of abuse of power. Another proposed change in the concept is the option of an "informal EOC phase" in which preparatory actions can take place without first formally activating the EOC. The responsibility then remains with the respective Ministers.

A KW interviewee indicated that the KPSM and the KW have the same enforcement duties, with the understanding that the KW's is on the water and the KPSM's is on land and on the water. The KW operates in accordance with the legal powers listed in the Kingdom Act Coast Guard, the APK, the WvSr and the Inland Waterways Ordinance, according to the KW. Maintenance of public order at sea is under the responsibility of the Minister of Justice and enforcement of law and order at sea under the responsibility of the P-G. Members of the KW are also sworn in as extraordinary police officers so that they can also exercise powers on land if necessary. The method of requesting assistance and the actual request for assistance on land under the P-G of the KW to the KPSM is also regulated. In the case the KPSM wants assistance from the KW support point on Sint Maarten outside of its normal duties, a formal request must be submitted in accordance with the provisions of the document "*Dienst Voorschrift Kustwacht*" (DVKW). All requests from third parties for assistance from the KW units should be dealt with in accordance with the provisions of this regulation.

The VKS interviewees indicate that their organization's task is to assist the competent authority in maintaining public order and disaster relief. And that the (emergency) laws and regulations form the basis for the VKS's duties, powers, and responsibilities during operations in the framework of HOOBO. In case the VKS provides assistance to the police in the event of an extraordinary circumstance they do so under the responsibility of the KPSM (see further section 3.4).

The KMar indicates that their operations on Sint Maarten are based on the Statute, the aforementioned "Flexpool protocol" and the protocol on the strengthening of border control in the Caribbean countries of the Kingdom. During the provision of assistance to the KPSM within the framework of the HOOBO, the local (emergency) laws and regulations are leading for them (among others, the LvU, LV Disaster Management and the APK).

Furthermore, in addition to the local instruction on force, the instruction on force that applies to the KMar in the Netherlands also applies. In accordance with the law, the operations of the KMar must always have a "cross-border" character. The activities of the KMar on Sint Maarten under both normal and special circumstances take place under the authority of the Minister of Justice of Sint Maarten.

The aforementioned laws and regulations also regulate that all other activities of the KMar, including, for example, assistance within the framework of the HOOBO, must be requested by the Minister of Justice by means of a formal (military) request for assistance through the Governor. This request for assistance should detail what the expected activities will be.

The interviewees of the Marine Corps, Detachment Sint Maarten (MARNSDET SXM), indicate that they perform their duties, being the protection of the Kingdom, maintenance of the rule of law and the provision of assistance and support to the local authorities based on both Dutch (e.g., military criminal and disciplinary law) and Sint Maarten (emergency) laws and regulations. In the event military assistance of the MARNSDET SXM under the HOOBO has to be requested, this has to be done in the same formal manner as described above with the KMar.

3.3 (Integral) Approach

Norm: The KPSM has developed an (integral) approach specifically for the maintenance of public order in extraordinary circumstances. Established practices and procedures have been followed. And the information management is designed to provide support.

Findings

KPSM

During and after hurricanes Irma and Maria in 2017, according to several KPSM interviewees, it became apparent that the force at the time was insufficiently prepared for such large-scale events in terms of approach, division of duties and responsibilities. As a result, with support from the National Police, the Large Scale and Special Operations Staff (SGBO) structure was introduced within the KPSM. The SGBO operates under the competent authority and is a project organization (command structure) of the police. The KPSM is responsible for the operational handling and can be activated in case of conflict and crisis situations in the areas of public order, large-scale judicial investigation and public safety (disasters/crisis). On behalf of the Minister of Justice, the chief of police and the head of Basic Police Care (H-BPZ) are responsible for organizing, setting up, recording and updating this SGBO structure, according to the chief of police. According to the KPSM interviewees, the SGBO structure is based on the existing (emergency) laws and regulations and the policies based on them at KPSM, which are articulated in the (partial) plans and procedures.

SGBO structure

There are no set criteria dictating when a SGBO can be activated. In principle, a SGBO is activated at the direction of the chief of police to the management team. The content, impact and duration of the extraordinary circumstance play a determining role in the composition and functioning of a SGBO. The SGBO structure basically has the following primary police processes in controlling a crisis situation; law and order, detection, guarding and securing, victim registration and identification, mobility and intervention.

The aforementioned processes are represented within the SGBO by so-called "buttons" (connections or links) and are headed by a general commander (AC). In addition to the buttons responsible for their own process, there are also two buttons to support the entire process, namely the support and information buttons. The information prepared by the SGBO is produced by the 'information button' within the SGBO in support of the HOOBO.

The information button collects and analyzes all necessary information (from sister services, open sources, closed sources, among others) required for the operations of the HOOBO. The

chief of police then provides the information in the EOC (disasters) and/or the triangle (crisis). Within the EOC and/or triangle, this information is discussed and included in the overall picture. This can lead, for example, to decisions regarding enforcement measures in the area of public order or criminal law enforcement. During extraordinary circumstances, communication and information exchange remain a bottleneck. To speed up the exchange of information, someone from the SGB0 policy team therefore takes a seat at the EOC consultation and, where appropriate, communicates proposed measures during the consultation directly to the SGB0 policy team. There, based on capacity and resources, they can provide feedback, if necessary, to the ESF-5 coordinator present at the EOC.

Each connection has a head and a supporter and, depending on the connection, more members. The AC, chief information and chief support are always on standby, and a policy team is available to support the SGB0 when appropriate. There are currently 4 general commanders (AC) available for the SGB0 within the KPSM, and who is deployed is determined per incident. The various department heads within the KPSM are assigned in rotation as AC-SGB0. This rotation is not only intended to allow these people to gain different types of (work) experience but, given the personnel shortages, is also important for redundancy within the force.

According to several KPSM interviewees, the SGB0 structure, communication and exercise/training plays a very important and positive role in the KPSM's operations in the HOOBO. The SGB0 structure creates a clear and efficient work process, reinforces clear internal and external communication, is strongly solution-oriented and ensures strong and efficient organization during HOOBO operations. This encourages and motivates all involved, including when dealing with capacity issues, for example. It also increases staff involvement and gives people the opportunity to develop further by involving them and making them co-responsible. Furthermore, the introduction of the SGB0 structure has provided more structure to the previously often unstructured and unclear way of working during the HOOBO. The division of labor between the KPSM and the supporting organizations is also more clear. The resulting positive change in the way of working at the HOOBO as outlined by the interviewees, is, according to them, still a growth process but goes a little smoother each time. However, the interviewees also point out that there are factors at play that transcend the SGB0.

As such, the KPSM consistently runs into a lack of capacity and resources, and the interviewees are aware that the force is a relatively small organization with many limitations.

Interviewees indicate that the SGB0 structure is described and explained in detail on the KPSM intranet. It describes what the SGB0 is for, what the procedures are, how the organizational structure is set up and clearly indicates who has been assigned what duties and responsibilities. Because of these clear and transparent explanations and the practical experience employees have gained in the meantime, they feel involved in the SGB0 and the process is clear to everyone, according to the KPSM. However, there remains a point of attention according to interviewees, despite the fact that the information has been published internally and included on the intranet, not everyone within KPSM is familiar with the SGB0 structure other than the employees directly involved. KPSM management is aware of this and indicates that there is room for improvement. They also indicate that newcomers within the SGB0 structure are also trained in this.

Playbook

The KPSM has a number of fixed periods during which extraordinary circumstances may arise in the calendar year. These are in March (the Heineken regatta); in April (Carnival); the hurricane season from June to November and the start of the tourist high season in December. The SGB0 works with a basic playbook in which the primary police processes are incorporated. This scenario serves during the calendar year as a basis for the development of a scenario for a specific exceptional circumstance and partial scenarios per event (e.g., Covid, where different scenarios had to be anticipated). In theory, a plan can be prepared within a short time frame (about 24 hours). If the plan is drawn up for a specific extraordinary circumstance, the available capacity on the island is examined and agreements are made with the relevant organizations. The policy of the Minister of Justice is to operate in a multidisciplinary manner as much as possible and the KPSM tries to apply this. It is the AC who is ultimately responsible for preparing a playbook and the AC then presents the playbook with the various relevant sub-plans as an attachment to the chief of police. The aim in each case is to make it available as soon as possible so that the chief of police can take immediate action if necessary.

According to the KPSM, the hierarchy, organization, procedures, and information management established by the SGB0 structure, supported by the use of the risk management process, ensure that rapid, flexible and adequate action can be taken during changing situations that may occur or have already occurred. The various plans and procedures have already undergone various practical "tests" in recent years, were evaluated each year and adjusted if necessary, according to the KPSM. The experiences of the evaluations and the new insights thus obtained are also used as a basis for scenarios developed for SGB0 training sessions that take place regularly.

Ministry of Justice

According to interviewees from the Ministry, there is no policy or crisis organization from the Ministry regarding the maintenance of public order during disasters or crises.

The MvJ can and does issue instructions during extraordinary circumstances. There are no procedures for this, but in specific cases flagged by the chief of police and reported to the MvJ, the minister has issued directions under the HOOBO. The aforementioned is always done in proper consultation with the Minister. Interviewees indicate that in the current situation there are no laws and regulations regarding personnel management, cooperation, organization, and control in the framework of the HOOBO, among other things. However, the development of such laws and regulations and a comprehensive approach based on them by the Ministry is important for the HOOBO and for the legal protection of those involved and citizens. This is because such situations often involve powers and responsibilities that in turn can deeply interfere in the lives of third parties, according to these interviewees.

Public Prosecutor's Office

In the context of the HOOBO, the OM comes into action only when the maintenance of public order turns into or merges with the criminal enforcement of law and order. Where appropriate, the chief of police and the HOvJ estimate in advance if and when the OM should be involved. This estimate is made based on the SGB0 structure at the KPSM and on experience with such situations. In normal circumstances there is also the triangle as a form of consultation

and for extraordinary circumstances the triangle can also meet ad hoc (preventively). During disasters, the EOC structure is used. The OM characterizes both the SGB0 and EOC structures as "logical" and the approach of the KPSM based on these structures as professional. Interviewees do find it important to ensure that those involved do not become too absorbed in the structure and its hierarchies and that there remains room for everyone's input and the unique characteristics of Sint Maarten's environment. The OM Sint Maarten has an internal crisis policy "operational plan hurricanes" and has a crisis team. There is also a crisis team OM-Carib, which the P-G chairs and which has certain duties, also in case of a crisis on Sint Maarten.

KMar

The KMar has a 'hurricane KMar' sub-plan that lays down policies governing the execution of KMar activities during the HOOBO. In principle, the operations of the KMar focus on cross-border duties, which means that anything beyond that falls under assistance. During extraordinary circumstances, the duty basically consists of ensuring registration (clearing passengers in and out) and security at the airport together with the Immigration and Border Control Service. The operations of the KMar in the framework of the HOOBO on the basis of assistance to the KPSM and the chief of police, in consultation with the KMar, determines the manner in which this is done. According to the KMar, in the current situation there is a well-designed integral and formal approach by the KPSM in the preparation, planning and operations in the framework of HOOBO. There is still room for improvement in effectiveness, including through more knowledge and experience transfer. The KMar does not have its own information facility within the framework of the HOOBO.

What is important is that the organizations involved should have the same systems within the framework of information exchange if the various services are to cooperate effectively, according to the KMar.

MARNSDET SXM

The MARNSDET SXM has three main duties on Sint Maarten, namely protecting the Kingdom, maintaining the rule of law and providing assistance to local authorities. The latter duty is the most common on Sint Maarten. The MARNSDET SXM has been working since 2020 with a permanent team for two years each time which is positive for continuity in local knowledge and experience and building local networks. In the event of an extraordinary circumstance and as long as the detachment here can handle it itself, it is examined locally which organizations, usually the KPSM, should be assisted. Based on an established (legal) request procedure that is followed in each case, the assistance provided by the MARNSDET SXM can consist of so-called "soft assistance" (assistance without specific additional powers of the military) or "hard assistance" (armed assistance, where the military is given powers in relation to the HOOBO). Those interviewed at the MARNSDET SXM point out that in order to properly perform the duties, even during extraordinary circumstances, sufficient capacity and resources are required at the KPSM.

As a result of the lack of this, improvisation is always needed. This also creates a lack of continuity in experience and knowledge, but at the same time the MARNSDET SXM also points to the improvements they see through the use of the SGB0 structure at the KPSM. The MARNSDET SXM, through the Royal Navy, has its own information facility that can also be

used to support the HOOBO. There is no established formal policy for sharing or exchanging intelligence but during extraordinary circumstances relevant information is shared via ESF-5/EOC. Also, the MARNSEDET SXM is part of the SGBO app group and the 'Intel hub' of the SGBO KPSM. In this way, available information from the MARNSEDET SXM and that of the KPSM come together.

VKS

The VKS was established to and is tasked with assisting the competent authority in the maintenance of public order, and assistance specifically during disasters. The VKS is a volunteer corps with a military hierarchy. The assistance provided by the VKS under extraordinary circumstances is characterized, among other things, by discipline, improvisational ability, knowledge of local culture and language, and is also of value from a cost perspective due to the voluntary nature of the VKS, according to one interviewee. Members of the VKS who provide assistance (during normal or extraordinary circumstances) to another organization are subject to the authority and care of this organization as well as the laws and regulations applicable to these organizations. The VKS are part of ESF-5 during disaster response and are often involved in consultations even before they are asked for assistance. Once the EOC has determined how they will be deployed, they will go from their departure location to their area of operation. Nowadays, members of the VKS are also placed in the House of Detention prior to a disaster or crisis. Recently, the VKS has been deployed primarily to assist the KPSM in maintaining public order and enforcing curfew after Irma and during the COVID pandemic.

KW

The KW indicates that this organization does not distinguish between maintaining public order during normal circumstances and during extraordinary circumstances, and that their existing infrastructure is also used during extraordinary circumstances.

The KW has a hurricane plan that describes the internal approach by the KW. No policy plan has been written for extraordinary circumstances other than disasters. The basic principle is that the primary duties mentioned in the Kingdom Act KW take precedence and that capacity and resources are deployed for maritime duty. Only if there is excess capacity can this be used on land when requested. It happens occasionally that in certain situations the KW is not included in mutual consultations or certain discussions when they could be of use, according to the KW. At the KW, it is a basic principle that staff cannot provide support for a particular duty if they are not trained to do so. However, the KW will always try to come up with a solution to a request as to how they can provide support. The KW has its own lines of information and communicates through military lines of communication and contacts. The KW shares a commander and location with defense units during extraordinary circumstances. The basic principle during operations is that information feeds the operation.

The line of communication during extraordinary circumstances, not being disasters, is through the Maritime Operation Center in Curaçao (MOC) of the KW, which is connected to the Naval Headquarters Curaçao (MHKC) of the Royal Netherlands Navy. In the context of extraordinary circumstances being disasters, the KW sits in ESF-5 and the Head of the Support Point Sint Maarten is contacted directly if deployment of the KW is required. The chief then informs the MOC and the Maritime information hub (MIK). The KW also has a Local information hub (LIK)

at the decentralized level, and it handles the flow of information between the KW and the chain partners.

RBO

According to the RBO, the current system of disaster response has been in place for 20 years, and it became clear after Irma and Covid that there are issues in the ESF structure that are inadequate or incomplete. Among other things, there should be more consideration of other types of disasters. Also, the roles and responsibilities of all stakeholders should be clear to all and should be implemented and executed. Furthermore, it is desirable that an EOC in a limited form can also operate informally without immediately formally activating the EOC. This allows an individual minister to continue to make decisions necessary in that particular situation and allows the EOC model to be used for other situations by individual ministers as appropriate. The strength of an EOC lies in single-headed leadership, communication, expertise and short lines of communication and the willingness of administrators to take advice and listen to motivation and input based on the expertise of ESF coordinators, according to the RBO. The strength of the EOC model is undermined if decision-making is based on political influences rather than what is needed in the context of disaster or crisis response. It further states that decision-making at the strategic and operational levels, both horizontal and vertical, suffers from a lack of communication. Information sharing and good mutual communication is crucial during extraordinary circumstances.

Despite the fact that every ESF coordinator has a duty to provide the RBO/national disaster management coordinator with the necessary information during extraordinary circumstances, this is still sometimes lacking, according to the interviewees.

The fire department has its own communication and information lines that can also be used during the HOOBO. Differences of opinion regarding the location of a joint control room and other organizational aspects, among others, have so far prevented the realization of the intended joint control room, in which the KPSM, the fire department and the ambulance service operate together.

3.4 Steering

Norm: In the context of maintaining public order in extraordinary circumstances, public order steering takes place. Steering is exercised by those authorized to do so. It is established and known how and by whom the steering takes place. If necessary, instructions are given by the competent authority. And regular consultations take place.

Findings

Based on practical experience and short, informal lines of communication, policies have been developed within the KPSM for directing and cooperating with other (judicial) organizations within the framework of the HOOBO. This takes place on the basis of the ESF-5 coordination function (disaster relief) or from the triangle situation (crisis situations).

The hierarchy in the execution of the HOOBO remains the same in all cases, even when external assistance is provided. The KPSM retains control at all times and multidisciplinary teams are used as much as possible. The line of accountability is as follows: chief of police - AC - head of operations - street team (KPSM + assistance). The multidisciplinary teams

function as much as possible on the basis of mutual consultation, working agreements and awareness of each other's experience and expertise, whereby the importance of good cooperation, communication and keeping an eye on each other should be paramount, according to almost all interviewees.

According to those interviewed at the Ministry of Justice, no specific policy has been developed to date regarding who is responsible for what in the case of the HOOBO. There is also nothing arranged in terms of evaluations with the Ministry in the case of an extraordinary circumstance. This, however, does take place between the KPSM and the Minister of Justice himself. In the opinion of those interviewed, it would be desirable if there were involvement from the Ministry in the evaluations. On this basis, the Ministry could then, for example, determine personnel and material needs and bottlenecks and act accordingly. According to the Ministry of Justice, the specific checks, and balances of the performance of duties that apply under normal circumstances also apply in principle to extraordinary circumstances. Based on the foregoing, it can be said that there is no steering of the HOOBO from the Ministry, according to the interviewees.

As indicated earlier, in the context of the HOOBO, the OM does not intervene until public order enforcement turns into, or merges with, criminal law enforcement. To that extent, there is no steering from the OM in the enforcement of public order, according to the OM. According to the OM, structural consultation and coordination does take place between the various chain partners and, if possible, also in preparation for a disaster/crisis.

This type of consultation provides structure in the approach and plays an important role in the coordination and determining where the boundaries are between only maintaining public order and where criminal enforcement will play a role.

The interviewee from the KMar indicates that the operations of the KMar within the framework of the HOOBO falls under the political responsibility of the Minister of Justice and the operational responsibility of the chief of police. The leadership of the KMar on Sint Maarten does keep a 'finger on the pulse' regarding the agreements made in the context of the performance of duties. And maintains contact with the 'military leadership' of the KMar organization, which in turn is connected to the Minister of Defense. This is, besides the responsibility of the KMar as an employer for its personnel, also because the operations of the KMar in this framework (HOOBO) concerns 'military assistance'.

According to those interviewed, the MARNSDet SXM does not have its own duty within the framework of the HOOBO and always performs assistance within this framework only in support of local partners. In most cases, this involves assistance to the KPSM. The personnel providing assistance fall under the (legal) responsibility of the chief of police and direct the staff in the case of assistance.

The VKS is the responsibility of the Minister of General Affairs. It is a foundation and has a board that exercises oversight based on a statute. The VKS has no military status but does follow the military hierarchy and has an internal disciplinary committee and disciplinary regulations to preserve internal order. The daily management of the VKS consists of the VKS Commander (major) and two officers (captains). In the case of deployment under the HOOBO,

the member of the VKS with the highest rank is responsible for the group and makes the members available to the superior of the organization to whom they provide assistance. The work of the VKS during the HOOBO takes place under the responsibility and authority of the organization to whom they provide assistance. The existing working relationship between members of the VKS and the KPSM is generally good according to interviewees from the VKS and the KPSM.

When the presence or action of the KW is required, they are steered in an operationally centralized manner at sea during extraordinary circumstances through the Maritime Operations Center (MOC). When units are deployed on land, the chief of police is responsible for coordination, but the KW remains in charge of personnel. On the water and on land, each KW group has a commander, and he then directs the group. The KW also has a responsibility to the Marines during extraordinary circumstances and then shares a commander and a camp (location) with the military during extraordinary circumstances.

Within the EOC, the fire chief is in charge at the tactical level and the prime minister at the strategic level. Due to the small scale of Sint Maarten, it happens that this overlaps, according to interviewees. The RBO is critical of the existing job descriptions, which should be evaluated and redefined. Furthermore, according to the interviewees, there is too often a lack of clarity about the roles and responsibilities of the various stakeholders and corrections are not made when necessary.

Interviewees from the RBO emphasize that such problems disrupt cooperation and steering and that it is crucial for mutual cooperation and the steering during extraordinary circumstances that such matters are properly arranged. In the area of disaster management, an agreement was signed by the Minister of General Affairs with the other islands in which it was originally agreed that the presidency would rotate. However, this rotation scheme did not get off the ground because the idea arose to make use of a kind of "external command system" during a disaster whereby the tasks to be performed/deployed of assistance at the site of the disaster would be directed from another island. Based on the experiences with this after Hurricane Irma, however, it has become clear that this is not the desired approach. The specific circumstances (e.g., loss of connections and lack of local knowledge) make it necessary for the command to be managed locally.

3.5 Collaboration

Norm: In the context of maintaining public order in extraordinary circumstances cooperation takes place. If required, an appeal is made to other (judicial) organizations. It is clear when and to whom an appeal can be made, regular consultations take place with stakeholders and optimal use is made within the chain.

Findings

There is regular consultation and coordination by the KPSM on the HOOBO with the other (judicial) organizations involved. This is also included in the policy of the KPSM. All interviewees point to the forces' structural shortage of people and resources and indicate that in most cases the force cannot do without assistance (cooperation) in the event of (large-scale) extraordinary circumstances. The interviews reveal that in recent years during

extraordinary circumstances such as, for example, the hurricanes in 2017 or the Covid pandemic from 2020, the KPSM has had to call on other (justice) organizations such as the VKS, the KMar and MARNSDET SXM. The type and extent of assistance depends on the type, impact and duration of the disaster or crisis, among other things. During extraordinary circumstances or the threat thereof, various scenarios were developed and elaborated on the basis of the SGB0 structure in which various police processes were described.

Based on this, supplemented with specific information and the available capacity of the force, the quantity and quality of the assistance required is determined. In the first instance, capacity is sought locally for assistance and only then is it scaled up within the Caribbean part of the Kingdom. According to the KPSM, to date, assistance has mainly been provided by the KMar, the VKS and the MARNSDET SXM and hardly any other judicial services such as the IGD, Customs or the KW have been called upon during the HOOBO operations. Nevertheless, this is possible in principle and their assistance can be important, just as the KPSM cannot do without the support of so-called "soft" organizations such as SJIS and the Court of Guardianship during extraordinary circumstances. Also, the use, under certain conditions, of the existing networks and contacts of the various buttons within the community can be important in the context of an SGB0 and at the HOOBO, according to the KPSM.

The chief of police as coordinator of ESF-5 encourages the other (judicial) organizations to draw up their sub-plans and the use of the SGB0 model among all of them. The chain partners were also involved in the SGB0 structure according to the KPSM. The buttons and their support form the 'first ring' in an SGB0. All 'guests' (for example, the OM, the KMar, and the MARNSDET SXM) are in the 'second ring'. The French authorities are not in the SGB0 structure, but the KPSM does have structural consultation with them, and on the basis of existing treaties, cooperation is formalized. In principle, the OM is involved early in the SGB0 because of the possibility of criminal law enforcement at some point during the HOOBO. Information exchange within the framework of the HOOBO with regional and local cooperation partners takes place through the Board of Chiefs of Police (CvK) and existing channels under the SGB0 structure, among others. To date, there is no joint control room of the fire department, the KPSM and the ambulance due to the fire department not being part of the control room to date.

The chief of police indicates that due to the good cooperation and communication in the CvK, matters such as mutual assistance in the HOOBO, training and regional cooperation, for example, are now structurally arranged. According to the chief of police, this is also due to the cooperation that the CvK receives from the Judicial Quadrilpartite Consultation (JVO) and from the relevant Ministers of Justice. Furthermore, agreements have been made from the CvK that if necessary, the Aruba Police Force (KPA) and the Curaçao Police Force (KPC) can each provide 20 men and the Dutch Caribbean Police Force (KPCN) 10 men. This has also been utilized during extraordinary circumstances in the recent past. The National Police and the forces on the other islands also use the SGB0 structure and there is an agreement with the National Police that, if necessary, a 'shadow SGB0' can be activated remotely. This is especially important if a disaster or crisis continues for a long time and the KPSM needs support to continue to function 24/7. Consultations are currently underway between the various forces to include a number of specific "Caribbean" elements. Furthermore, an

arrangement has been made regarding the islands of Saba and St. Eustatius. During extraordinary circumstances, these islands may, if the need arises, call upon the KPSM.

According to the Ministry of Justice, the support of the KPSM by other local services and the exchange of information during extraordinary circumstances is not formally arranged by or through the ministry, but through the Minister of Justice himself. Based on the existing (informal) networks that are (partly) the result of the small scale on the island and within the government, all involved can in practice find each other during both normal and special circumstances for information exchange and support. The interviewees from the ministry do point out the vulnerability of (informal forms of) cooperation if the "one-on-one relationship" is not good and nothing is recorded. The approach in practice is often hierarchical and if nothing has been laid down in writing or there is no policy, the minister must out of necessity "micro-manage". Within the Kingdom, including through the JVO and between ministers, there is good cooperation and there are many cooperative arrangements. This means that the countries (can) also call on each other in the event of an extraordinary circumstance, according to the Ministry of Justice. There is also cooperation and information exchange with the French authorities.

The OM emphasizes that with regard to the mutual coordination and demarcation of the exercise of powers, the chain partners must ensure through structural consultation and cooperation that they know how to find each other and that they know who, what powers are exercised and when. This is important to avoid chaos. The nature, impact and duration of the disaster/crisis is also important in this coordination, according to the OM. The OM's hurricane plan also includes the agreement with the Court that three days before a potential disaster, the OM and the Court work together to determine who is in pretrial detention and how to deal with them. They will also map out who is in Pointe Blanche prison at that time. The OM also points out the importance of keeping track of the (specific) powers and expertise of the various organizations and their role in their work when calling on local judicial services during the HOOBO. The cooperation and agreements with the French counterparts under normal and extraordinary circumstances is going well and falls under the Solicitor General as the head of the interregional Legal Assistance Center (IRC) of the OM.

The KMar indicates that the KPSM is responsible for the design and implementation of the current approach regarding cooperation in the HOOBO and that there is (overarching and coordinating) policy and structural consultation. There is also, as far as possible given the staff shortages everywhere, cooperation. Based on the cross-border nature of the operations of the KMar, there is good cooperation with the French Border Patrol and Immigration Service PAF (Police aux frontières) and cooperation at the police level with the French authorities has also been strengthened. Good relationships are important for cooperation during the HOOBO.

According to the MARNSDET SXM, in the event of an extraordinary circumstance and as long as the detachment here can handle it on its own, consideration will be given locally to which organizations assistance can be provided. Most assistance to date has been provided to the KPSM. In the event that the MARNSDET SXM needs more capacity from its own colleagues for assistance within the framework of the HOOBO, then they will be flown in. The bond and cooperation with the VKS are characterized by the MARNSDET SXM as good. They support each other with resources and training is done together. As a result of Hurricane Irma, it

became apparent that all islands have their own and different approaches. As a result of these learning moments and in the context of large-scale disaster response, a "Multi National Caribbean Coordination Center" was established by the United Kingdom, France and the Netherlands after 2017. Building on the UK's close defense cooperation with France and the Netherlands, the center is intended to serve as a liaison and coordination body that aligns international military activities and as a point of contact for participating countries and regional authorities.

The original intention was to deploy the VKS only in an emergency, but the VKS has been deployed structurally and almost daily for the past 10 years to overcome capacity problems within the justice system, according to the VKS. The VKS commander maintains contact with the chief of police, the marine commander and the director of the prison both on a daily basis and during extraordinary circumstances (ad hoc). This involves matters concerning the assistance provided by the VKS, joint exercises or other subjects of importance at that time.

When a member of the VKS provides assistance to the KPSM, especially if they do not have BAVPOL status, there should always be a KPSM general investigating officer with them. This is not always successful in practice, which is not a desirable situation. The VKS also has a special "response team" that forms the core of the VKS riot team. This team can provide special assistance to the police.

As mentioned earlier, the KW can also provide assistance during extraordinary circumstances. During Hurricane Irma, the Covid period and the riots on the French side, the KW was not approached for land-based assistance. Also, the authority of the Governor, at the request of the Prime Minister, in consultation with the KW Director, to make parts of the KW available to the government in case of extraordinary circumstances unrelated to other disruptions of internal security or public order has never been used (Section 18 of the Kingdom Act KW). In case the Support Point Sint Maarten cannot be deployed then the other support points can help with material or manpower. The KW is of the opinion that the basis for the division between maintenance of public order on water and on land is not clearly incorporated as such in the legislation and that it is important to have a clear division of responsibilities during a disaster or crisis.

Lack of clarity in this regard results in no one knowing exactly what their responsibilities are at the moment of an extraordinary circumstance, not communicating about it sufficiently, not being available and/or coming up with other, less obvious, solutions. Furthermore, cooperation with the French authorities is not currently well established, according to the KW. The existing operational protocol was concluded at the time between the KW Director and the French Caribbean Naval Forces Commander. Currently, efforts have been underway for some time to update this protocol by making better cooperation agreements on operational matters. However, the consultation has recently stalled because it should have been taken up at the political level (Ministry of Foreign Affairs) and this has not yet happened.

The RBO stresses that the improvements initiated at the ESF-5 in terms of coordination, planning and communication with this (important) ESF group should be consolidated and continued. Furthermore, interviewees emphasize that the mutual communication between the different ESF coordinators can and should be improved in the direction of the RBO in the

interest of better coordination. At kingdom level, there is a Regional Crisis Management Platform that coordinates all aid and support in times of cross-island, serious crisis situations. According to interviewees, there is currently a development towards a new cooperation and coordination relationship (Dutch Caribbean Coordination and Cooperation platform). The Representation of the Netherlands in the Caribbean part of the Kingdom is currently driving the adjustments to the aforementioned platform. Interviewees stress the importance of properly arranging cooperation and coordination for all forms of assistance and relief. Finally, according to the RBO, a possible triangle construction with Aruba, Curaçao and Sint Maarten is also being considered for cooperation, but for the islands, finances are a stumbling block. For the time being, disaster relief is an autonomous responsibility of the countries and the intention to do so is present, but the question of how best to achieve this is still a problem, according to the RBO.

3.6 Equipment

Norm: The KPSM is adequately equipped to maintain public order during extraordinary circumstances. The force has sufficient quantitative and qualitative personnel and the necessary financial and material means to be able to carry out the public order duty in extraordinary circumstances. Furthermore, training and/or exercises are organized periodically. All actors are familiar with their role in said enforcement.

Findings

People and resources

Almost all interviewees emphasize that the force works with the resources it has and, under all circumstances, does what it can.

The KPSM has a structural shortage of people and resources but, nevertheless, all interviewees believe that, in principle, it is capable of completing the operations of the HOOBO primarily on its own in the event of a disaster or crisis. How long the KPSM is able to do this and the impact of the operations of the HOOBO on the daily operations depends on and is determined by the type, size and duration of a disaster or crisis. In the current situation, however, the reality is that assistance must almost always be sought, especially so that the day-to-day operations can be maintained in a proper and structured manner under extraordinary circumstances.

The KPSM indicates that under current (normal) circumstances it already lacks sufficient financial, human and material resources to carry out its duties. This is all the more evident under extraordinary circumstances. The structural personnel shortages are currently exacerbated by a high outflow of experienced personnel from the force, according to the interviewees. The KPSM says it is coping with the shortages as well as it can by dealing creatively with existing capacity problems, working in an information-driven manner through the SGB structure and seeking cooperation with other organizations. The presence of external assistance plays a positive role in that this assistance temporarily and partially addresses the shortage of people and resources and determines how long the KPSM is able to sustain the HOOBO operations. However, the improvements brought about by the

introduction of the SGB0 structure were partially offset by structural capacity problems at the KPSM.

In the current situation, the KPSM and the Ministry of Justice indicate that they do not have the organization, logistics and resources to establish, maintain and maintain their own Mobile Unit, which could be deployed in the HOOBO, among other things. The KPSM does have a so-called "Flex team" that can be called up at any time and (temporarily) deployed in the maintenance of public order in daily operations. However, this is a small team, and its equipment is inadequate and outdated, according to several interviewees.

The fact that the force does not have its own (operational) budget and has to arrange each purchase through a bureaucratic and time-consuming procedure at various ministries is a disruption of the operational process, according to the KPSM.

The budget of the government in general, and therefore also that of the Ministry of Justice, has no separate budget item for financing resources for the KPSM that are necessary at the HOOBO. There is also no current insight or overview of the available and unavailable resources necessary for (additional) deployment at the HOOBO so that this often has to be purchased or rented at the last minute. The government's budget at such times often has insufficient (extra) financial resources for this. In practice, this means that an appeal must be made to the "civic mindedness" of entrepreneurs and others with the promise that the (or part of the) payment will be made at a later time. In practice, however, one also still frequently encounters the fact that the supplier in question indicates that the government is not paying or is paying too late or still has a debt. It happens that this unworkable situation is (unintentionally) aggravated by organizations from for example the Netherlands that come to assist on Sint Maarten. When these organizations enter the local market for the purchase or rental of goods, these organizations often do have financial means to pay immediately and then the choice for many entrepreneurs is quickly made.

According to the Ministry of Justice, despite the structural capacity problems, the KPSM is in principle able to fulfill the operations of the HOOBO during a disaster/crisis. However, the Ministry does not have (historical) information that can paint a picture of the impact of these capacity problems on the functioning of the KPSM during a disaster/crisis. The OM on Sint Maarten, by its own admission, has, aside from some personnel bottlenecks (open vacancies), sufficient capacity and resources to perform their criminal law enforcement activities during extraordinary circumstances.

In the opinion of the OM, the government on Sint Maarten is often insufficiently aware of the limitations in people and resources at the KPSM. The KMar and the MARNSDET SXM have sufficient financial, human and material means for the (possible) contribution/assistance to the HOOBO on Sint Maarten and sufficient logistics, means and equipment to sustain this for some time. The MARNSDET SXM emphasizes that the government must think carefully about what they want to achieve with the KPSM and what they want to convey to the population. If the government wants the KPSM to fulfill their responsibilities to everyone in extraordinary circumstances, they must also ensure that the KPSM has the resources to do so. Due to the capacity problems in the current situation and despite improvements through the introduction

and use of the SGBO structure, the quality, quantity and continuity of operations are points of concern and the KPSM will continue to depend on external assistance in the years to come.

The VKS has a number of bottlenecks that are important in performing their duties in general and for the rendering of assistance under the HOOBO in particular. To date, the government has failed to provide insurance (life and disability) for VKS members while performing their duties. Now that the VKS is (structurally) deployed especially at the KPSM and the prison, this poses risks for the employees, according to the VKS. Although the VKS has enough people in terms of capacity, the actual availability of the VKS workers depends on the personal situation of the individual.

In the current situation, the VKS lacks suitable vehicles, specialized weapons, and protective gear for personnel to carry out HOOBO activities. Also, there is not enough financial room for necessary training and the current facilities (housing) of the VKS are inadequate for housing, office and classroom space, storage, and maintenance, among other things, according to the VKS.

There are currently already shortages of personnel and resources at the KW on Sint Maarten under normal circumstances and this is only going to be more pronounced under extraordinary circumstances. There is a commitment to both personnel (long term plan personnel) and equipment (long term plan equipment) in the coming years. The plans and funding to improve this situation are in place, now it needs to be implemented. The KW does not have specific equipment, personnel or training for extraordinary circumstances, the KW performs its tasks under all circumstances with the resources it has. The impact of extraordinary circumstances on daily operations depends on the nature and duration of these circumstances.

According to the RBO, the capacity issue at the KPSM is a situation that applies to all local organizations on Sint Maarten. The RBO does not have a clear picture to what extent the KPSM is adequately equipped to maintain public order during extraordinary circumstances. Investments in the fire department too often depend on political considerations rather than the importance to society of efficient and effective emergency response, the RBO believes. The resources available to the fire department are already insufficient under normal circumstances, let alone under extraordinary circumstances. Shortages of people and resources put pressure on the people at the (emergency) services during a crisis or disaster, and employees often have to work 16-hour days without relief. Clearly, this is not sustainable. The RBO also emphasizes that, in their view, too little attention is paid to the fact that emergency personnel can also be victims of a disaster. When a situation arises, this adds to the pressure on already understaffed personnel.

Training

According to several KPSM interviewees, the SGBO structure, communication and exercise/training plays a very important and positive role in the KPSM's operations of the HOOBO. There is an annual exercise of the SGBO structure within the framework of the CvK. Aruba is the portfolio holder, and the training is conducted by the National Police. The last training was in May 2022 and central in it was training of the "second button" and younger people from the force were also involved then. The training was given before the start of the hurricane season, so what was learned could be used immediately as a basis for the aforementioned hurricane preparedness and response plan and its updates. The available AC

at the KPSM have been educated and trained in recent years with the help of officers from the Dutch police and the police academy and have also gained experience, including during the COVID pandemic. The members of the so-called "Flex team" train regularly with each other under the guidance of the IBT (Integrated Professional Skills Training) instructors of the KPSM and with others such as, for example, members of the VKS or the Marines. In principle, the KPSM also participates in the HUREX (Hurricane Exercise training) every year.

The defense personnel who are here on the island also practice and, among others, the people from the COPI (Incident Site Command) participate in them. These exercises are mainly hurricane oriented, but other exercises are sometimes done as well.

The staff of the KMar on Sint Maarten has followed so-called assistance training in the Netherlands within the framework of the HOOBO and exercises are held once every two years on the basis of their own hurricane sub-plan. The KW indicates that the personnel of this organization practice structurally in terms of training, which also follows from the Kingdom Act KW. It is made clear that only the "normal" circumstances are practiced. The VKS members all train once a week on Sundays. There is also a special 'response team' that meets once a week on Tuesday evenings. Since the VKS members are volunteers and train mainly on Sundays, it is difficult to coordinate training sessions with other organizations.

The Ministry of Defense organizes a training/exercise in the Caribbean once every two to four years. The French and English armed forces units are then also invited to train with them. The French authorities also organize a training/exercise in the Caribbean once every two years. Then Dutch, American, Canadian and English military units are invited to train with them. In addition to the aforementioned exercises in which the MARNSDET SXM is involved, they organize an annual meeting for chain partners to provide information on how the marines operate. And a 'small' HUREX training of their own is organized by the MARNSDET SXM once every two years. Then the military from all the Caribbean countries within the Kingdom and the task force Sint Maarten train together. The Dutch military also train for their own (military) duties throughout the year in the region.

Virtually all organizations involved in the inspection indicate that they participate in annual disaster training (HUREX) on an incidental or structural basis with the main objective of improving the services' performance and cooperation. In context of ESF-5, trainings and exercises are also organized for and by (justice) organizations and 'tabletop' exercises also take place with the MARNSDET SXM, the fire department, VKS, the KMar and the KPSM, among others. It is indicated by several interviewees that the training sessions are getting better and better locally, and efforts are also being made to include, in addition to 'skills and drills', training on components of disasters and training on different scales. The unstructured nature of trainings and the initiative of (or lack of) various cooperation partners does remain a concern. The lack of capacity and resources at the KPSM is also a bottleneck, as because of these they do not always have people available to practice. The need for practicing situations other than hurricanes is mentioned by several organizations as an area for attention and improvement.

4. Analysis, conclusion and recommendations

4.1 Analysis & conclusion

4.1.1 Introduction

In this inspection, the Council examined the manner in which the KPSM maintains public order during extraordinary circumstances and the extent to which this functioning is consistent with applicable standards. In this Chapter four, the Council conducts an analysis, draws conclusions and answers the sub-questions and the central question. At the end of the chapter, the Council provides a number of recommendations.

4.1.2 Laws and regulations

What laws, regulations and policies underlie the maintenance of public order during extraordinary circumstances?

Laws and regulations

Based on this inspection, the Council finds that on Sint Maarten the already existing (emergency) laws and regulations form the basis for the duty execution (enforcement activities), powers and responsibilities during the HOOBO. In particular, the *Algemene Politiekeur*, the *Landsverordening rampenbestrijding*, the *Landsbesluit Rampenplan* and the *Landsverordening Uitzonderingstoestand* are frequently used in this context.

In addition, the Penal Code and Code of Criminal Procedure, the *Landsverordening op de weerkorpsen*, the *Landsbesluit VKS* and the *Binnenvaartverordening (KW)* are also important. The responsibilities and powers are known and applied by all involved. More specifically, for a call for mutual assistance and relief between the countries of the Kingdom, the Statute, the Constitution of Sint Maarten, the Kingdom Acts Police and Coast Guard and the instructions regarding the deployment of the armed forces are important. The Council also notes that the cooperation with the French side is based on existing treaties and that the international cooperation and coordination, which is sometimes necessary, is based on existing international treaties and (international) defense cooperation at Kingdom level.

The Council concludes that the applicable legal framework for the HOOBO is generally up-to-date and provides a clear basis for the execution of duties, powers, and responsibilities under the HOOBO. All organizations involved - and the KPSM in particular - are comfortable with it. However, the Council does note that the APK is outdated, and/or incomplete, and that as a result, other, more drastic, measures may have to be invoked in some instances because the APK does not make provisions for them. The Council believes that laws and regulations should be used only for the purpose for which they were drafted and not because a "lower" piece of legislation is not available, in order or up to date. This is all the more true when it comes to more sweeping laws and regulations, such as those that also occur under the HOOBO. On this basis, therefore, the Council believes that the APK should be updated to better meet current needs.

Based on this research, the Council has the impression that the course of events after the hurricanes in 2017 and during the COVID pandemic has shown that (parts) of the legislation on disaster response and crisis management on Sint Maarten are in need of revision or adjustment. The Council notes that several projects, including those aimed at evaluating and adjusting the crisis management structure and related legislation, have since taken place or have been initiated. The foregoing has, for example, resulted in a new draft of the National Disaster Management Ordinance and the Council hopes that the further course of this will be pursued expeditiously. Although this was not in response to the Council's recommendation mentioned in chapter 1.1. to evaluate the plans of all (cooperating) organizations within law enforcement and disaster coordination, the goal intended with this has been achieved.

4.1.3 (Integral) Approach

How does the KPSM approach the maintenance of public order during extraordinary circumstances?

To what extent is there an integral approach by the KPSM in maintaining public order during extraordinary circumstances?

Approach

The Council notes that the KPSM has not developed an (integral) approach for the HOOBO, which is not necessary. The KPSM has developed an integral approach for large-scale and special interventions, which is also used in exceptional circumstances. This so-called Large-Scale and Special Action Staff structure was introduced within the KPSM in 2017. This method and the procedures to be followed are laid down in so-called scenarios on the basis of which operations are carried out in practice.

On the basis of the inspection, the Council has the impression that the hierarchy, structure, working method and information management that has been established through the SGBO structure - supported by information-driven action and risk management - ensures that the KPSM can act and act quickly, flexibly and adequately during extraordinary circumstances. The Council also notes that the content, impact and duration of the extraordinary circumstance play a decisive role in the activation, composition and functioning of an SGBO. However, in general, the Council is of the opinion that the SGBO method has ensured that the KPSM has professionalized. This will not only benefit enforcement during extraordinary circumstances, but also other situations.

Furthermore, the Council notes that the prevailing view within the KPSM is that the SGBO structure creates a clear and efficient work process, strengthens clear internal and external communication and is strongly solution oriented. On the basis of the results of its inspection, the Council agrees with this view, because it results in a strong and efficient organization of the activities within the framework of the HOOBO, which also makes the division of duties between the KPSM of and with the supporting organizations clear. At the same time, however, the Council does note that - just as the Council has noted in previous inspections on other topics - the overall lack of capacity and resources at the KPSM is having a negative impact. The impact of the structural shortages in personnel and resources within the KPSM are felt primarily in the operational process (implementation phase) of the HOOBO, and the Council notes that this partially negates the aforementioned positive effects of the SGBO structure.

The Council sees that the HOOBO does not involve a coordinating and supportive approach and role of the Ministry of Justice despite the Ministry's objective to this end stipulated in the National Ordinance establishment and organization of national government (*Landsverordening inrichting en organisatie Landsoverheid (LIOL)*)²⁰. The Council is of the opinion that the involvement and support of a well-equipped Ministry of Justice is important with respect to, among other things, regulations and policies in the areas of equipment needs and procurement, training, cooperation, legal certainty and continuity. Indeed, these issues are important to (the HOOBO by) the KPSM. The investigation shows that the Ministry is not fulfilling the aforementioned legal duty. Therefore, the Council believes that the Ministry should take up its duty. The Council knows that some of the (critical) positions (including the position of SG, which position has been occupied by an observer for quite some time) within the ministry have not been filled. The Council already pointed out in its previous inspections that it is crucial to strengthen the Ministry of Justice and reiterates this in this inspection.

The Council is of the opinion that it is not necessary for the KPSM to make a distinction between a disaster and a crisis for the use of the SGBO structure. The structure is used for the benefit of both. The Council notes that it is the information line that differs, but ultimately offers the same result. In the event of a disaster, the EOC can be formally activated at national level and the SGBO structure provides information to the chief of police for the ESF-5. In the event of a crisis, the structure provides information to the chief of police for the triangle. The Council is therefore of the opinion that the information management by means of the SGBO is organized in such a way that it provides support in the context of maintaining public order in all extraordinary circumstances.

As far as the EOC is concerned, the Council sees opportunities, because the inspection shows that matters are not yet sufficiently or incompletely regulated in the current EOC/ESF structure. The Council sees that the power of an EOC can potentially be strengthened by focusing on a one-man leadership, communication, expertise and short lines of communication. Improving communication between ESFs during disasters with regard to decision-making at all levels could bring benefits to ESFs, including ESF-5 specifically, so that everyone is aware of each other's situation and thus improves coordination. This, in turn, benefits cooperation and management during (the enforcement of the) extraordinary circumstances.

4.1.4 Steering

How does the management of public order take place during extraordinary circumstances?

Steering

Who is responsible for the steering during the HOOBO is known and it is laid down in the law. The Minister of Justice is always responsible for the HOOBO during both a disaster and a crisis. The KPSM, represented by the chief of police in the EOC, is the ESF-5 coordinator and is responsible for law enforcement, security and traffic regulation in the event of a disaster. This is laid down in the disaster management plan.

²⁰ Artikel 15 Landsverordening inrichting en organisatie Landsoverheid

During a crisis, other than a disaster, the coordination and management of the HOOBO is in the hands of the triangle under the responsibility of the MvJ. The triangle brings together and coordinates the maintenance of public order and the rule of law at the strategic level (MvJ and OM) and operational level (KPSM). The Council also notes that at the operational level, on the basis of the ESF-5 coordination function (disaster relief) or from the triangle situation (crisis situations), the KPSM is in charge of the management of and cooperation with other (judicial) organizations within the framework of the HOOBO. The Council concludes that everyone is aware of how and by whom the management takes place. And that there are no bottlenecks within this framework.

Furthermore, the Council notes that, despite the statement in paragraph 4.2.2 about the Ministry's role in the LIOL, no specific policy has yet been developed within the Ministry of Justice about who is responsible for what in the context of HOOBO. The Council therefore believes that this policy should still be developed.

During extraordinary circumstances, the OM will only be responsible for directing the implementation if the maintenance of public order merges into or merges with the criminal enforcement of the legal order. The Council notes that in the phase of maintaining public order - depending on the situation - the OM is directly or indirectly involved in consultations, the exchange of information and the assessment of the moment of the intended transfer. In the case of the latter, the assessment by the OM and the chief of police is based on the information from the SGB0 structure.

The (assistance) activities of the KMar, the MARNSDET SXM and the VKS within the framework of the HOOBO fall under the political responsibility of the Minister of Justice and under the operational responsibility of the chief of police. The HOOBO on the water by the KW also falls under the political responsibility of the MvJ and is managed via the MOC. The MvJ may give instructions during extraordinary circumstances and the Council notes that this has been done where appropriate. On the basis of the inspection, the Council concludes that the cooperation in the form of assistance between the aforementioned organizations within the framework of the HOOBO is in principle based on mutual consultation, working agreements and respect for each other's identity, experience and expertise, which has a favorable effect on management.

Although not directly relevant to enforcement during extraordinary circumstances, the Council notes on the basis of the interviews that the mutual sharing of information and communication within the disaster response organization does not always run smoothly. If this is done by those responsible for it, it will be helpful for cooperation and guidance during extraordinary circumstances.

4.1.5 Cooperation

To what extent is there cooperation in the maintenance of law and order under extraordinary circumstances?

Cooperation

In the context of maintaining public order in extraordinary circumstances, cooperation takes place almost structurally by necessity. Although the KPSM should primarily be able to maintain public order on its own during extraordinary circumstances, this is in fact not the case. This does not have to do with subject-specific factors, but with the basic preconditions for setting up the force, that are still not met. The KPSM's structural shortage of people and resources means that, in most cases, the force cannot do without assistance (cooperation) in the event of (large-scale) extraordinary circumstances. The Council has pointed out in several reports that if Sint Maarten aspires to a professional and fully-fledged force, investments need to be made in the KPSM as well as in other organizations.

Despite the aforementioned bottlenecks, the Council recognizes that almost all organizations involved in the HOOBO are linked to each other through the SGB0 structure of the KPSM and that regular mutual consultation and coordination takes place. The Council notes that the KPSM always plays and takes a central and leading role in this by using the SGB0 structure during extraordinary circumstances or the threat thereof to determine, among other things, the type and quantity of assistance required. The Council notes that because of the Ministry's legal role in the LIOL, mentioned earlier in this report, the Ministry of Justice has no formal role in organizing local support, cooperation and information exchange between the KPSM and the other organizations involved in the HOOBO. This whole process largely comes about through the existing (informal) networks on the island and within the government, and the involvement of the MvJ himself. Although the foregoing is handled in other ways, the Council believes that the Ministry of Justice should also fulfil its legal role on this issue. Partly in view of the Ministry's legal objective, the Council believes that not only should the process be formalized, but also that the Ministry should be involved in this process. The Council refers to its earlier recommendation in this regard.

Furthermore, the mutual cooperation, assistance and training between the countries in the Kingdom with regard to the HOOBO has been established and aligned. The Council sees that here, too, the SGB0 structure plays an important supporting role. It is thus clear when and to whom a call for assistance can be made if needed, and this also takes place. Assistance to the KPSM in this regard is mainly provided by the KMar, the VKS and the MARNSDet SXM.

In addition, the KPSM always has to call on the specific expertise and powers of other (judicial) organizations, which the KPSM does not have but needs, and which are relevant in the HOOBO. The inspection showed that the KPSM also recognizes and acknowledges the potential importance of assistance from these organizations, including the Court of Guardianship, SJIS, IND and Customs. The Council notes that through the SGB0 structure, a platform exists in which these organizations are also involved and assumes that, where appropriate, cooperation with the other organizations can proceed smoothly on the basis of this platform and the already existing cooperation in day-to-day practice.

The inspection reveals that there is a lack of clarity about the separation between public order enforcement on water and land because the basis as such is not clearly set out in legislation. In practice, this leads to problems in coordination and cooperation during the HOOBO. The Council believes this is highly undesirable because, during an extraordinary circumstance where haste is often required, this can lead, among other things, to limited or even no capacity for the HOOBO in certain parts of the country. The Council therefore believes it is necessary for the HOOBO to have a clear division of these responsibilities before a disaster or crisis, of which everyone is aware. The Council also believes that it is important to continue the improvement process started within the ESF-5 in terms of mutual coordination, communication and planning, as it will enhance cooperation.

Based on the inspection from the perspective of the judicial organizations, the Council characterizes the cooperation and information exchange between the French side of the island, and almost all organizations involved in this inspection, as good. Only the cooperation at political level as far as the KW is concerned is an exception in that the finalization of a protocol for cooperation has not been possible and should be re-initiated at political level. Given the interconnectedness of the two parts of the island and the potential impact of exceptional circumstances, the Council considers that good relations and cooperation with the French authorities are important for operations during the HBO. It would therefore be appropriate, in the Council's view, to focus on this.

4.1.6 Equipment

To what extent does the KPSM have the necessary equipment to maintain public order during extraordinary circumstances?

Equipment

Again, in this inspection, the Council sees that the general preconditions required for the force also play a negative role in this specific issue. The Council is of the opinion that the presence of sufficient capacity in terms of personnel and (financial) resources is very important for the quality of the entire operations of the KPSM, including the HOOBO by the KPSM. However, based on this inspection, the Council notes that under normal circumstances, the KPSM already lacks sufficient financial, human, and material resources to carry out its duties, and that these deficiencies are even more felt under extraordinary circumstances.

The Council sees that the KPSM is largely trying to compensate for these shortfalls by creatively dealing with the existing capacity problems, working in an information-driven manner through the SGB0 structure and seeking cooperation with other (military) organizations. The Council concludes that this situation makes the KPSM almost structurally dependent on assistance from the HOOBO. The Council believes that the presence of (external) assistance compensates (temporarily and partially) for the shortage of people and resources, in principle enabling the KPSM, with assistance, to independently complete the HOOBO operations in the event of a disaster or crisis. However, the Council also notes that the nature and scale of the exceptional circumstances together with the quality and quantity of (external) assistance will determine how long the KPSM is able to sustain these operations alone.

Neither the KPSM nor the MvJ have any up-to-date insight or overview regarding the necessity and availability of resources for (additional) deployment during extraordinary circumstances. The Council also notes that there is no budget item in the government budget to finance HOOBO resources and that the force does not have its own (operational) budget. Because in the current situation these resources often have to be purchased or leased at the last moment and the government often has insufficient (additional) financial resources for this at such times, this results in an often (serious) disruption of the operational process of the KPSM. The Council therefore believes that policy should be developed to ensure that there is an up-to-date understanding of the need for and availability of resources for deployment during extraordinary circumstances. On several occasions, the Council has already recommended securing a financial mandate for heads of service, including the chief of police. This recommendation also applies here.

Because of the KPSM's primary responsibility for the HOOBO, the Council considers the worrisome situation described above a threat to the functioning of the KPSM and the security of society as a whole during extraordinary circumstances. The Council is of the view that if the government wants the KPSM to fulfil their responsibilities to all in normal and in extraordinary circumstances, the KPSM should be given the means to do so. The Council has pointed this out in several inspections, and made recommendations regarding this. This continues to be the case here as well.

The Council also notes, on the basis of this inspection, that the capacity problems outlined for the KPSM is a situation that also applies to the other local (emergency assistance) organizations that are important in providing assistance and cooperating in the context of maintaining law and order during extraordinary circumstances. In this context, the Council refers in particular to the fire brigade, the VKS and the KW. However, the Council notes that there are advanced plans at the KW to improve its staff and equipment shortages. At the same time, the Council notes that the situation at the OM, the KMar and the MARNSDET SXM is better regulated, so that these organizations are sufficiently capable of fulfilling their own duties and assisting the KPSM during extraordinary circumstances.

The Council also shares the view of a number of organizations involved in this inspection that more attention should be paid to the fact that aid personnel can also be victims of a disaster, as well as to the consequences of the shortages of people and resources for those personnel in the (relief) organizations that carry out their work during extraordinary circumstances. Loss of staff who are themselves victims reinforces the already existing capacity shortages and increases the already existing (work) pressure on those staff who are working during a disaster/crisis. More broadly, the Council is also concerned about the fact that the government has so far failed to take out insurance (life and disability) for VKS members during the performance of their (assistance) work. In view of the risky nature of this work, the Council considers it urgent that the protection of these persons be adequately regulated.

4.2 Answering the central research question

In what way does the KPSM maintain public order during extraordinary circumstances and to what extent is this functioning in accordance with applicable standards?

The Council considers that public order and its maintenance are essential for social life to continue in a normal manner. This is all the more true in the case of extraordinary circumstances due to the usually (serious) impact and consequences of these types of circumstances on society.

The Council concludes that the KPSM maintains public order in all circumstances on the basis of its statutory duty and powers and under the responsibility of the MvJ. Extraordinary circumstances in themselves do not lead to a change in enforcement, but due to their nature, size and duration, they do cause a change in the situation (environment) in which the enforcement takes place. Based on past experience, the KPSM has set up an internal project organization (SGB0) which is responsible for the operational handling of the work during extraordinary circumstances. Under the influence of specific factors during extraordinary circumstances and factors not related to these circumstances, such as lack of capacity, the KPSM is forced to implement the HOOBO in collaboration with local and / or Kingdom organizations. This situation is of concern to the Council because it causes the KPSM to depend almost structurally on assistance with the HOOBO. The Council considers this situation to be a threat to the functioning of the KPSM and the security of society as a whole during extraordinary circumstances.

Furthermore, the Council notes that the legal framework, although incomplete or outdated in several specific cases, is in place and forms the basis for the operations under the HOOBO. The cooperation and management within the framework of the HOOBO is structurally organized and known to all parties involved. Once again, the Council notes that the staffing, material, and financial capacity of the KPSM is insufficient and requires improvement.

4.3 Closing remarks

Based on this inspection, the Council notes that the primary focus in disaster relief is on 'the protection of the population' and the maintenance of public order is a supporting element for this. In crisis management, the emphasis is on 'maintaining public order', in conjunction with other necessary measures or provisions that the type of crisis makes necessary. The Council also notes that every disaster is by definition a crisis, but that there are crises without disastrous characteristics and that both require unambiguous administrative management, (integral) decision-making and the use of specific competencies.

The Council considers that disaster management in Sint Maarten is relatively well organized and structured, but lacks (in a broader context than the maintenance of extraordinary circumstances) the presence of a crisis management system or an organizational structure for crises.

From the findings of the inspection, the Council detects a tendency in the current situation to use, or "lean" on, the existing disaster response structure during a crisis. The question of

whether this is the best solution (or not) was not part of this inspection, but the Council does believe it is important for the HOOBO in the future that a flexible and clear structure for both disaster response and crisis management be established and defined.

The Council would like to take advantage of this concluding remarks to point out several relevant studies in a broader perspective. Among others, the Council points to the "Future Outlook on Crisis Management" inspection by the Netherlands Institute for Public Safety (NIPV) from 2022 and the "Evaluation of the Security Regions Act" by the committee of the same name (CEWV) from 2020 mentioned earlier in this report. These studies take a critical look at the system of disaster response and crisis management in the Netherlands and come up with a series of recommendations for the future. Sint Maarten could potentially benefit from these.

Based on these studies, the picture emerges that contemporary crises are increasingly complex, transboundary and cross-domain, increasingly impact a large part of society and more often require political interpretation or response. In addition to crises, there can be "dormant" crises, and the dynamics of the crisis plays a role: a crisis can be rapid or slow, be extinguished and reignite. A current example of a borderless and protracted crisis is Covid-19. The Council also sees the need for an optimally flexible, learning, and agile government crisis organization that can act quickly and decisively in all situations administratively and operationally. The conditions for flexible and effective cooperation, according to the CEWV, are a good supply of information, the development and sharing of knowledge, the setting of standards, monitoring quality and funding. The CEWV report further emphasizes, among other things, network and crisis management, with a crucial role for crisis communication as being essential for future crisis management. The Council considers the above also of great importance in dealing with and overcoming the structural capacity problems of the organizations involved in the HOOBO on Sint Maarten.

Furthermore, based on the aforementioned studies, the Council concludes that the government is (increasingly) dependent on other parties and areas of expertise in crisis management. This is clearly visible in areas such as health, climate, extreme weather and cyber threats. The Council is of the opinion that it offers opportunities to see if the full involvement of citizens and civil society organizations, based on expertise and experience of volunteers, in the different phases of risk monitoring and crisis management is also possible on Sint Maarten.

The above is only an exhaustive enumeration of a few topics that are not only important for crisis management in the future but, in the opinion of the Council, also offer opportunities in relation to the structural capacity problems at the organizations involved in this inspection. The Council stated earlier in this report that strengthening the Ministry of Justice is an important condition for the proper functioning of the KPSM at the HOOBO, among others. The Council argues that the underlying research, as well as the cases mentioned in this concluding review, demonstrates that the Ministry of Justice has a duty and a role to play in the HOOBO and the necessary support and strengthening of the KPSM and the other judicial organizations involved, now and in the future.

4.4. Recommendations

The Council recommends the following to the Minister of Justice of Sint Maarten:

	To the Minister of Justice
1.	Actively support, in cooperation with the other ministers responsible, the efforts of the Disaster Management Organization (RBO) and the Disaster Management Steering Committee to modernize and improve the existing disaster management structure.
2.	Initiate an evaluation and adaptation process for the <i>Algemene Politiekeur</i> .
3.	Initiate consultations between the KW and the KPSM leading to better alignment and coordination regarding the implementation of the HOOBO on water and on land.
4.	Take the initiative, together with the Minister of General Affairs, to achieve general structural improvements in the conditions (resources, housing, training, allowances) in which the VKS must function. Promote, in particular, attention to the need to for taking out comprehensive insurance to cover the risks of disability and death of VKS personnel in the performance of their duties.
5.	Invest in the acquisition of, and maintenance of the resources necessary for the HOOBO by the KPSM and the other judicial organizations.
6.	Take the initiative to establish and institute policies that regulate an annual inventory of the available and unavailable resources at the judicial organizations necessary for (extra) deployment during the HOOBO.
7.	Ensure an adequate financial (buffer) budget for enforcement activities during extraordinary circumstances.
8.	Grant the chief of police a financial mandate to work with this (buffer) budget during extraordinary circumstances.
9.	Pay continued attention to strengthening the Ministry of Justice by at least filling critical positions.
10.	Strive to ensure that the Ministry fulfils its statutory duty as articulated in Article 15 of the LIOL.

Annex 1 Elaboration of the legal framework

Statute for the Kingdom of the Netherlands²¹ and Protocol flexpool Royal Netherlands Marechaussee (KMar)²²

Statute

Pursuant to Article 34 of the Statute of the Kingdom, the King may, under specific circumstances and by Kingdom law, declare any part of the territory in a state of war or martial law. It may also provide that certain powers, including those relating to public order and the police, are transferred in whole or in part from civil authority to military authority (Article 34 paragraphs 1 thru 4). Pursuant to Article 36 of the Statute of the Kingdom of the Netherlands, the Netherlands, Aruba, Curaçao and Sint Maarten provide each other with aid and assistance. The Netherlands, Aruba, Curaçao and Sint Maarten can make arrangements between themselves (Article 38 paragraph 1).

Protocol on the deployment of personnel from the flexible pool KMar

The protocol - which has been entered into for an indefinite period - stipulates, among other things, that the operational deployment of the KMar employees from the 'flex pool' - which takes place under the competent authority of the country where the operations are carried out and is led by the head of the relevant operational department of the country -, As well as the way in which the employees handle information from the flex pool (in cooperation with the services), is done in accordance with the legal provisions there. The deployment of the flex pool is based on the execution of border-related police duties. One of the duties is the police duty at the airport and on the maritime borders and includes the maintenance of law and order, criminal law enforcement and the provision of assistance to those who need it.

Kingdom Act Police²³ and National Ordinance Police²⁴

Article 7 of the Kingdom Police Act stipulates that several areas of responsibility must be provided for the police force. This is, among other things, the provision for action to maintain public order and assistance. If the police act for the criminal enforcement of the rule of law or perform duties in the service of the judiciary, they are under the authority of the P-G (Article 16). In the event that the police act to maintain public order and to carry out the duty of providing assistance, they are under the authority of the MvJ (Article 17). The P-G and the MvJ respectively can give general and special instructions to the police officers for the performance of the aforementioned duties. If a police force needs assistance in maintaining law and order (and providing assistance to those who need it), Article 38 regulates the manner in which this is to be done. The MvJ, after consultation with the chief of police, sends a request to the competent authority of the police force of one of the other countries, which decides on this.

²¹ wetten.nl - Regeling - Statuut voor het Koninkrijk der Nederlanden - BWBR0002154 (overheid.nl)

²² Protocol on the deployment of personnel from the Royal Marechaussee flexible deployment pool, 24 januari 2019.

²³ <https://wetten.overheid.nl/BWBR0028079/2010-10-10/>

²⁴ <https://lokaleregelgeving.overheid.nl/CVDR301034>

National Ordinance Police

The MvJ can designate objects and services for which surveillance and security by the police is necessary in the interest of the security of Sint Maarten or relations with other powers, or in view of important interests of society. In the case of the implementation of a decision in the context of the foregoing, the MvJ shall ensure this insofar as it is carried out to maintain public order (Article 4 paragraphs 1 and (2)).

Kingdom Act Coast Guard²⁵

The Coast Guard (KW) is responsible for monitoring, detection and service duties, which are carried out in subordination to the competent authority (Article 2 paragraph 2). The supervisory and investigative duties are: general police duties (including operations to combat drug trafficking and smuggling), combating terrorism, border control, customs control, environmental and fisheries surveillance, and shipping control (including the movement and equipment of ships) (Article 2 paragraph 3). The service duties are; handling of emergencies, emergency and safety traffic, and relief and disaster relief (Article 2 paragraph 4) The KW carries out its duties in the inland waters and the territorial sea of, among others, Sint Maarten and in the adjacent zone and the other sea area in the Caribbean Sea, and the airspace above it (Article 3). Furthermore, the Governor of Sint Maarten is authorized in the event of disasters, accidents and disruptions in traffic or communications, which are not related to other disturbances of internal security or public order, to make parts of the Coast Guard available to, among others, the government of Sint Maarten. In other emergencies, this is not done in consultation with the Minister of Defence (Article 18).

Protocol for the Governor of Sint Maarten²⁶ and Instructions on the deployment of the armed forces²⁷

Protocol for the Governor of Sint Maarten

The Governor shall represent the Government of the Kingdom and shall safeguard the general interest of the Kingdom in accordance with the provisions of these regulations and in compliance with the instructions to be given by or pursuant to Royal Decree. He is responsible to the Government of the Kingdom (Article 15 paragraph 1).

Instructions on the deployment of the armed forces

De Gouverneur van Sint Maarten kan aan de regering van Sint Maarten de krijgsmacht ten behoeve van militaire bijstand ter handhaving van de inwendige veiligheid en de openbare orde ter beschikking stellen (artikel 1 lid 2).

By way of derogation from the provisions of Article 2, in the event of disasters, accidents and disruptions in traffic or connections, which are not related to other disturbances of internal security or public order, the governors are authorized to make parts of the armed forces available to the government of Aruba, Curaçao and Sint Maarten respectively (Article 3).

²⁵ <https://wetten.overheid.nl/BWBR0023731/2010-10-10>

²⁶ <https://wetten.overheid.nl/BWBR0028096/2020-04-01/0/informatie>

²⁷ <https://wetten.overheid.nl/BWBR0004185/2010-10-10>

Constitution Sint Maarten²⁸ and National Ordinance on Public Demonstrations²⁹ and National Ordinance State of Emergency³⁰

Constitution

By national ordinance, the exercise of the right to profess religion or belief outside buildings and enclosed places may be restricted for the protection of health, in the interest of traffic and to combat or prevent disorder (Article 9). This restriction also applies to the right of assembly and demonstration (Article 13). And the right of association may be restricted by national ordinance in the interests of public order (Article 12). The Constitution further provides that a national ordinance determines the cases in which, for the maintenance of external or internal security and public order, a state of exception to be designated as such by the national ordinance may be proclaimed; it regulates the consequences (article 112 paragraph 1).

National Ordinance on public demonstrations

Under this National Ordinance, the MvJ has a number of powers. The Minister can only exercise these powers for the protection of health, in the interest of traffic or prevention of disorder (article 2). One of the powers is to be able, under certain conditions, to order the immediate cessation and dispersal of the profession of religion or belief, meeting or demonstration.

National Ordinance state of emergency

In case extraordinary circumstances require it, in order to maintain external or internal security, the state of emergency may be declared by national decree on the recommendation of the Prime Minister (Article 1, paragraph 1). Maintenance of internal and external security also includes taking measures to end the situation that gave rise to the declaration of the state of emergency (Article 6).

National Ordinance establishment and organization of national government (LIOL) ³¹

Based on Article 15 of this land ordinance, the Ministry of Justice's objective is to create preconditions for the maintenance of security, order and peace, and the safeguarding of justice within society. Based on the foregoing, the MvJ is the competent authority for the maintenance of public order.

Penal Code (WvSr)³²

The WvSr contains provisions on both crimes against public order (Articles 2:49 to 2:97) and offenses against public order (Articles 3:11 to 3:37).

Code of Criminal Procedure (WvSv)³³

The WvSv contains a number of articles citing general public order as well as a title on judicial orders to maintain public order. Among other things, police officers are charged with the investigation of criminal offenses (Article 184 paragraph 1a).

²⁸ <https://lokaleregelgeving.overheid.nl/CVDR179884>

²⁹ <https://lokaleregelgeving.overheid.nl/CVDR154992>

³⁰ <https://lokaleregelgeving.overheid.nl/CVDR155808/1>

³¹ <https://lokaleregelgeving.overheid.nl/CVDR157703/3#d77953244e533>

³² <https://lokaleregelgeving.overheid.nl/CVDR671740/1>

³³ <https://lokaleregelgeving.overheid.nl/CVDR142469>

National Ordinance Disaster Management³⁴ and National Decree, containing general measures, to establish the Sint Maarten Disaster plan³⁵

National Ordinance on disaster management

A disaster is defined as an event causing a serious disruption of public safety, in which the life, health and well-being of many persons, the environment or major material interests were seriously threatened or damaged, and in which a coordinated deployment of services and organizations of various disciplines is required (Article 1 under a). The Minister of General Affairs is charged with preparing for disaster relief (Article 2 paragraph 1).

A national decree containing general measures requires, among other things, the establishment of a disaster plan that lays out in general terms how to act in case of disasters, with the aim of handling them efficiently (article 3 paragraph 1). The disaster plan must include for each type of disaster an overview of the services and organizations with a description of their duties and an overview of their personnel and material strength (article 3 paragraph 2 sub b).

National Decree, containing general measures, to establish the Sint Maarten Disaster plan (disaster plan)

The annex to the Sint Maarten disaster plan contains the actual contingency plan (article 1). The contingency plan consists of nine chapters: the introduction, the disaster plan, the system of disaster relief, the duties and powers, the disaster relief architecture, alerts and connectivity, the general plan for warning the population, the relocation and housing of the population, and education of the public, along with nine annexes (appendix). For the purpose of effective response to disasters or major incidents, preparatory work must be done by preparing sub-plans for the so-called Emergency Support Functions (ESF) groups. ESF-5 concerns public order, security and traffic regulation and has different duties (see further section 2.3). It was also indicated that the judicial component (criminal justice interests) determines the degree of input from the OM. And that the OM and the other judicial authorities (police) prepare a sub-plan for maintaining public order and a sub-plan for criminal investigation. The responsibility for maintaining public order rests with the police, under the responsibility of the MvJ, and the responsibility for the criminal investigation rests with the police and the public prosecutor.

National Ordinance on rules regarding reserve corps, National Decree on the approval of the Volunteer Corps Sint Maarten (VKS) as reserve corps, and Ministerial Regulation VKS for providing support to the KPSM

*National Ordinance on rules regarding reserve corps*³⁶

The Minister of General Affairs may place reserve corps at the disposal of the MvJ in assistance to the KPSM in maintaining public order and keeping the peace (Article 4, paragraph 1). The Minister of General Affairs may also place reserve corps at the disposal of competent authorities in the context of disaster relief (paragraph 2).

³⁴ <https://lokaleregelgeving.overheid.nl/CVDR206085>

³⁵ <https://lokaleregelgeving.overheid.nl/CVDR207446/1>

³⁶ https://repository.officiële-overheidspublicaties.nl/CVDR/CVDR141977/2/html/141977_2.html

In the event that military assistance is also provided in the aforementioned cases, the Minister of General Affairs, the regional commander³⁹ and the MvJ will consult on the provision if possible.

National Decree approval VKS as reserve corps³⁷

The purpose of the VKS is, by means of provision by the Minister of General Affairs, to assist the competent authority - i.e. the authority under which the VKS resorts during operational operations - in the maintenance of public order and peace and internal or external security, or in disaster relief (Article 2). The VKS is obliged to conduct itself under all circumstances in accordance with the directions of the Minister or the competent authority (Article 7 paragraph 1). The objective of the action of the VKS, as well as the necessary equipment and armament, is determined on a case-by-case basis by the Minister in consultation with the competent authority (clause 3). In the event of extraordinary circumstances, additional or different instructions will be determined on a case-by-case basis by the Minister of General Affairs in consultation with the competent authority (paragraph 5).

Ministerial Regulation VKS for providing support to the KPSM³⁸

This regulation instructs the association Volunteer Corp Sint Maarten, which has legal authority, to provide support to the KPSM in the implementation of the duty assigned to this force to maintain public order and peace (Article 1). In carrying out the said assignment, the VKS shall act in accordance with the directions given by or on behalf of the Minister of General Affairs.

National Ordinance Inland Waterways³⁹

In the National Ordinance on navigating in inland waterways requirements of soundness, competence, safety and public order are stipulated in articles 3 through 16.

General Code of Police Regulations (APK)⁴⁰

APK are measures to promote public order, peace, safety and cleanliness. At public celebrations, entertainments, parades, hurricane, fire and other extraordinary circumstances, everyone must submit to the regulations in the interest of public order, peace or safety on each occasion by the MvJ (Article 1).

³⁷ <https://lokaleregelgeving.overheid.nl/CVDR293991>

³⁸ Ministerial regulation instructing the incorporated association Volunteer Corps Sint Maarten to provide support to the Sint Maarten Police Force in the execution of the task assigned to this force to maintain public order and tranquility, <https://lokaleregelgeving.overheid.nl/CVDR143055>

³⁹ <https://lokaleregelgeving.overheid.nl/CVDR208027>

⁴⁰ <https://lokaleregelgeving.overheid.nl/CVDR207087>

Annex 2 Overview of policies, research reports and other relevant information

- Relevant annual plans and annual reports judicial organizations;
- Orde in de openbare orde (WODC, 2016);
- Orkaan Irma treft Sint Maarten en Caribisch Nederland, IFV, 2018;
- Veiligheid en rechtsorde in het Caribisch gebied (Adviesraad Internationale Vraagstukken, 2020);
- De meerwaarde van Public Order Management, IFV, 2021;
- Modernisering van het staatsnoodrecht, WODC/OU, 2021;
- Disaster governance on St. Maarten, J. de Hamer, 2019;
- Nationale veiligheid en crisisbeheersing, NCTV magazine, 15^e jaargang, nr.4, 2017;
- Onderzoek systeem van de rampenbestrijding op de BES-eilanden, Insp.J&V, 2018;
- Shock-responsive Social protection in the Caribbean, WFP, 2021;
- Partnership in recovery, VNG/VNG-international, 2021;
- Handboek crisisbeheersing voor de Caribische delen van het Koninkrijk;
- Bestuurlijke netwerkkaarten Crisisbeheersing (Nederlands Instituut Publieke Veiligheid);
- “Hoe doen de burens dat?”; (WODC, verslag van een zoektocht naar regionale ‘good practices’ voor rechtshandhaving en veiligheid in Caribisch Nederland, 2019).

Colophon

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