



The State of Law Enforcement St. Maarten 2020
10 years of law enforcement

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Law Enforcement Council
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1. Introduction

The Law Enforcement Council (the Council) consists of three members who are appointed by royal decree.¹ The Council is charged with the general inspection of the effectiveness, quality, and management of the justice organizations on St. Maarten, Curacao, and the Dutch Caribbean. For St. Maarten, the organizations in question are the Pointe Blanche Prison and House of Detention (hereafter: the prison), the youth rehabilitation center known as the Miss Lalie Center (MLC), the Public Prosecutor's Office (*Openbaar Ministerie* hereafter OM), the National Detectives Agency (*Landsrecherche* hereafter LR), the St. Maarten Police Force (*Korps Politie Sint Maarten* hereafter KPSM), the Dutch Caribbean Coast Guard (*Kustwacht Caribisch Gebied* hereafter KWCARIB), the Immigration and Border Protection Service (*Immigratie- en Grensbewakingsdienst* hereafter IGD), the Foundation for Judicial Institutes Sint Maarten (*Stichting Justitiële Instellingen Sint Maarten* (adult probation; SJIS) and the Court of Guardianship (*Voogdijraad*; juvenile probation hereafter VR). Important other organizations involved in law enforcement are the Financial Intelligence Unit (*Meldpunt Ongebruikelijke Transacties* hereafter MOT), Customs, the Royal Netherlands Marechaussee (*Koninklijke Marechaussee* hereafter KMar), the Mental Health Foundation (MHF), the Turning Point Foundation (TPF), and Safe Haven. In addition, the Council is charged with the overall inspection of the quality and effectiveness of judicial cooperation between the islands.

The Council's vision is to contribute to the proper functioning of the justice institutions, the justice chain, and justice cooperation between the countries. To this end, the Council conducts independent, professional, and objective inspections. Reports and recommendations are presented by the Council to the Minister of Justice. Within six weeks, the Minister is required to send an inspection report, accompanied by his reaction, to Parliament in keeping with the Kingdom Act Law Enforcement Council (the Council Kingdom Act). Likewise, according to Article 33 of the Council Kingdom Act, the Council issues an annual report on the State of Law Enforcement (the State). The State, which is presented to the Minister of Justice and Parliament, contains a general overview of the developments within law enforcement, as well as findings that transcend individual inspections.

Up to and including 2020, the Council conducted 51 (review) inspections on a variety of social topics on St. Maarten (see [appendix 1](#)). In this document, we look back on 10 years of developments within law enforcement, based on previous States of Law Enforcement, 17 factors relevant to law enforcement, and the Council's findings of past years.

The State describes positive developments while also addressing the challenges facing the country of St. Maarten, the justice organizations, as well as the entirety of law enforcement over the past 10 years. The Council hopes that the description of developments provides useful insight into what has been achieved under the circumstances, as well as awareness of the bottlenecks; taken together, they can serve as a foundation for lifting law enforcement to the desired level.

The common thread in the narrative of the past 10 years is the dedicated efforts of all involved within justice, and for which the Council once again expresses its admiration.

¹ As of February 15, 2019, the Kingdom Council of Ministers appointed Ms. M.R. Clarinda as a member of the Council on behalf of St. Maarten.

In Chapter 2, the Council describes the developments through its previously published States, utilizing 17 relevant factors and the developments of 2020. Chapter 3 discusses cooperation, and in the final chapter, the Council reflects on the future.

2. Developments on St. Maarten

2.1 Introduction

As previously noted, this chapter looks back over 10 years of developments in law enforcement, in part based on information contained in previously published States, 17 relevant factors, and the Council's earlier findings. The organizations of Country St. Maarten were not the only ones undergoing development from October 10, 2010; the Council was also 'under construction' as of that date and became operational in 2012, including issuing its first report in May 2012 about the process of filing police reports (*aangifteproces*). Section 2.2 focuses on the recently published States, in which the Council reflects on the most important issues. Also, the Council describes the developments based on the 17 factors relevant to law enforcement on St. Maarten in Section 2.3. Finally, in this chapter, we specifically zoom in on 2020.

Reports 2012 and 2013

The following reports were published by the Council in 2012 and 2013:

Publication year	Subject of the Report	Organization	Minister's Response
2012	Process of filing police reports	KPSM	Yes
2012	Juvenile Probation	Court of Guardianship	Yes
2012	Support for victims	Various (including KPSM, OM)	Yes
2012	Criminal Investigation process	KPSM	Yes
2013	Detention Capacity	Prison System	Yes
2013	Border control on the movement of persons	IGD	Yes
2013	OM in incident-oriented investigation	OM	Yes
2013	Police Education	KPSM	Yes
2013	Adult Rehabilitation	SJIS	Yes

2.2 Developments based on the States of Law Enforcement 2014-2019

2.2.1 State of 2014

Structure

It has already been noted in the State of 2014, that almost every aspect of St. Maarten's national government administration was under development as of October 2010. Given the new autonomous status, the situation was also fully applicable to virtually every organization within the justice chain. Since the establishment of a Country is a very demanding process and the transition phase had not ended, the Council emphasized then that both the government of St. Maarten, as well as the organizations within the (justice) chain, had a long way to go to achieve their ambitions, as well as to guarantee an acceptable and

sustained level. In the beginning, the establishment of the various organizations focused mainly on personnel and material prerequisites such as capacity, housing, and facilities. For example, several departments moved onto their premises, staff were recruited, and, in 2014, the police received a new fleet of vehicles. For the prison, renovations to improve security in and around the prison was the focal point, but the problems proved to be greater than simply 'bricks, concrete, bars, and guards'. Over the years – in part due to the 2017 hurricanes - the challenges, unfortunately, went from bad to worse.

Structural cooperation, integrated approach, and supportive leadership

It was also noted that law enforcement not only benefits from structural cooperation, and an integrated approach to various types of crime, and that this should be pursued in the years to come, but that in order to be successful, the law enforcement organizations in the justice chain also need the support of the government administration.

Responsibilities of Parliament and the Minister of Justice

The 2014 State also reported on the plenary discussion of the Council's reports which took place in Parliament in 2014. The Council pointed out that given Parliament’s responsibilities and those of the Minister of Justice, as well as Parliament’s framing, monitoring, and budgeting role, a prerequisite for the development and preservation of law enforcement is constant engagement.

2014 Reports

In 2014, the following reports were published by the Council:

Publication year	Subject of the Report	Organization	Minister’s Response
2014	Criminal confiscation and seizure	KPSM	Yes
2014	Security and safety of detention	Prison System	No
2014	Security for persons in authority	Various (including VDSM, KPSM, OM)	No
2014	Enforcement of fines, damages and dispossessions	OM	No
2014	Admission and expulsion of foreigners	IGD	No
2014	Use of force	KPSM	No
2014	Review 1 process of filing police reports	Various (including KPSM, OM)	No

2.2.2 Observations of the Council

Supportive Leadership

In the years that followed, lack of support from the government administration proved to be a recurring theme; the Council noted in almost every (review) inspection that essential support was generally absent and continued to emphasize the need for it. The impact of the political instability of the past ten years - five National elections (2010, 2014, 2016, 2018 and 2020) and coalitions (2012-2014, 2014-2018, 2016-2020, 2018-2022, and 2020-2024; see [Appendix 2](#)) along with, among others, nine (interim) Ministers of Justice - was evident in the justice field. The many changes - often characterized by transitional periods and new/unique visions, different priorities, sundry staff changes and diverse approaches - have generally

contributed to a stagnation in the development of the various justice services, including law enforcement as a whole.

Responsibilities of Parliament and the Minister of Justice

Although the Council expressed the hope that the Council's reports would remain on both Parliament's and the Minister's agenda, this proved to be a 'one-off' discussion. The Council's 2012 and 2013 reports and one report from 2014, were presented to Parliament accompanied by a reaction. After that, the activity happened sporadically; in 2016 (1 report), in 2018 (5 reports), and 2020 (1 report). In recent years, the Council repeatedly pointed out that its reports were not submitted to Parliament as required by the relevant Kingdom Act. Furthermore, the Council is unaware whether Parliament opted for this approach. The Council previously outlined the responsibilities of each party and, specifically Parliament's role in framing, monitoring, and budgeting. Given that constant involvement is a prerequisite for the development and preservation of law enforcement, the Council re-emphasizes the importance in the current State.

2.2.3 State of 2015

(Im)possibilities

In the State of 2015, the Council specifically notes that the conditions under which the justice chain should operate and within which there should be space to meet expectations for development, offers few possibilities. For example, in its report "Selectivity in the Investigation and Prosecution Policy of the Prosecution Office?" the Council found (2015) that, among other things, eight factors cause St. Maarten's Prosecutor's Office to be less capable of selecting and directing the volume of cases than the legal framework requires. Concerning robberies, the Council noted in its report (2015) that despite the prioritization and the commitment to deal with this type of crime, the desired result cannot be achieved because the prerequisites for an effective approach to processing robberies are missing. Besides, there was still a lot that could be done in terms of prevention. In response to its inspection "Exchange of police and justice data within the Kingdom" (2015), the Council indicated that as long as structural improvement in the intelligence function within the judiciary is lagging, a major concern exists for the quality of law enforcement. The Council also addressed the lack of necessary and feasible investments, that could produce a more efficient and optimal use of the available capacity. Finally, the Council issued its main conclusion about the way the chain deals with addicts and persons with behavioral disorders, a lack of legal, administrative, and policy framework is decisive for the intake, treatment, and aftercare of the mentioned group. According to the Council, it is striking that, with regard to the follow-up of recommendations, more attention is given to the recommendations that can be complied with in the organizations, and that the follow up on recommendations that require attention from the leadership, lag behind.

Strengthening Law Enforcement

In anticipation of the integrated 'Masterplan Strengthening Law Enforcement in the Caribbean region of the Kingdom-*Versterking Rechtshandhaving Caribisch deel van het Koninkrijk*' (2015), the Netherlands

agreed to a protocol² with St. Maarten on May 24, 2015, related to the establishment of an Integrity Chamber and the strengthening of the law enforcement chain on St. Maarten. The latter briefly involved the strengthening of the KPSM (investigative capacity for high impact crimes), the Prosecutor's Office and the Common Court of Justice (in connection with an expected increase in cases due to intensification of investigative activities), strengthening of, and support by, the RST (focus on cross-border and subversive crime), strengthening of the National Detectives Agency (reinforcement program of the PG as a point of departure), intensification of regional cooperation (i.e. French side, surrounding countries, and the US), and strengthening the existing cooperation between IGD, customs, KPSM, KWCarib³ and the KMar (for combating human trafficking, human smuggling, and the fight against subversive crime (air) port).

2015 Reports

In 2015, the following reports were published by the Council:

Publication year	Subject of the Report	Organization	Minister's Response
2015	Review 1 juvenile probation	Court of Guardianship	No
2015	Approach to robberies	KPSM	No
2015	Prevention of juvenile delinquency	Various (including KPSM, OM)	No
2015	Exchange of police and justice data within the Kingdom	Various (including KPSM, OM)	No
2015	Treatment of persons with addiction or mental disorders in the criminal justice system	Various (including KPSM, OM, MHF, SJIS, TPF, detention system)	No
2015	Investigation and prosecution policy of the Public Prosecutor's Office (OM)	OM	No

2.2.4 Observations of the Council

(Im)possibilities

Over the years, the Council has had to constantly note and point out that the necessary prerequisites for the proper performance of tasks, are often lacking; most recently in its inspection of the National Detectives Agency in 2020 (see paragraph 2.4.2). As long as this remains the case, the organizations in question will not be able to, for example, adequately focus on prevention.

Concerning developments about the intelligence function, the Council refers to section 2.3.6 as well as the next chapter.

In 2019, the Council reviewed the report on the investigation and prosecution policy of the Public Prosecutor's Office and concluded that most of the recommendations had either not, or partially been implemented. In 2020, the Council started a general review on St. Maarten about the status of all the recommendations issued by the Council in its reports for the period 2012 to 2018. Given the large number of reports, the Council is conducting this general inspection using sub-inspections. Both sub-inspections 1

² https://www.eerstekamer.nl/overig/20150526/protocol_tussen_nederland_en_sint/document

³ Protocol on the deployment of personnel from the flexibly deployable pool of Royal Marechaussee between the Netherlands, Curaçao and St. Maarten for the period from January 1, 2011 to June 30, 2015 (January 19, 2012); Protocol on the deployment of personnel from the flexibly deployable pool of Royal Marechaussee between the Netherlands, Aruba, Curaçao and St. Maarten for a period from July 31, 2015 to December 31, 2019 (June 14, 2014); Protocol on the deployment of personnel from the flexibly deployable pool of Royal Marechaussee between the Netherlands, Aruba, Curaçao and St. Maarten for an indefinite period (January 23, 2019).

and sub-inspection 2 started in 2020, with the first sub-inspection being completed. The previously mentioned report on the OM is the subject of the second sub-inspection. The other reports cited will be reviewed at a later stage. The Council has repeatedly pointed out the chronic discrepancy between the follow-up of recommendations by the government administration versus the follow-up by the implementing organizations. This discrepancy continues to emerge in numerous reviews over the years.

Strengthening Law Enforcement

In 2016, the National Police assisted the KPSM, including following the 2017 hurricanes. This assistance ended in August 2020, almost 2.5 years later.

In the context of the reconstruction of St. Maarten, a 'Mutual arrangement strengthening border control' between St. Maarten and the Netherlands was agreed upon in 2017. Agreements were made on the implementation and strengthening of border control by the KMar and the Dutch Customs on St. Maarten. Furthermore, the St. Maarten Country Package also requires agreements regarding the reinforcement of border control. The St. Maarten entities involved in this cooperation are KPSM, Customs St. Maarten, and IBP (or IGD). In December 2020, the aforementioned "Mutual arrangement for the strengthening of border control" was extended for the period from January 1, 2021, to July 1, 2021. During the Ministerial Consultation of February 4, 2021, there was agreement between the countries involved for a 'Protocol on Strengthening Border Control in the Caribbean Countries of the Kingdom'⁴. The protocol aims to take measures around border control, and in so doing, contribute to counteracting cross-border/transnational organized (undermining) crime in the Kingdom by investing in the Caribbean countries of the Kingdom and improving interagency cooperation.

The Council notes that for most organizations, the intended strengthening has been started or achieved, however, this is not the case for the National Detectives Agency. In 2015, 2018 and 2019, the Council issued recommendations regarding the National Detectives Agency and noted in 2019, among others, that the improvement plan had not led to the desired result. For example, the Agency lacks capacity, resources and direction. In 2020, the recruitment of a new Head of the National Detectives was initiated. Given the National Detectives Agency's importance, and the fact that the Agency had, until then, always been incidentally included in the Council's inspections, the Council, under its annual plan, reviewed the National Detectives Agency in 2020 (see section 2.4.2).

2.2.5 State of 2016

Positive Developments

The State of 2016 builds on the States published in previous years, identifies positive developments, and includes an analysis of the Council's investigations from 2012 to 2016. The signing of a Memorandum of Understanding (MoU) with the United States Justice Department was a positive development for law enforcement in the Caribbean part of the Kingdom. This was done to promote cooperation through the exchange of information and the provision of physical resources and capacity for training and technical assistance. Also of note is the improved cooperation between the KPSM, RST, and OM. By investigating and prosecuting several large complex cases - using temporary, additional manpower - in a relatively short period, it became clear that strengthening directly impacts case processing time and resolution. The

⁴ <https://www.rijksoverheid.nl/documenten/rapporten/2021/02/18/tk-bijlage-protocol-versterking-grenstoezicht>

Council emphasized the requirement of continued support from the Kingdom and that St. Maarten could also implement (non-financial) changes to strengthen the law enforcement chain. Furthermore, in 2016, the IGD was once again placed under the KPSM.

Analysis of 17 factors and the normative framework

In its State of 2016, the Council also analyzed its inspections in 2016 and found that most of the recommendations can be traced to seventeen underlying factors that are both important for the proper functioning of the organizations and for the entire justice chain. These generic factors are characteristic of the problems that exist internally and that influence (the organizations within) the justice chain. At the time, the Council pointed out that there was insufficient awareness of, or insufficient account given to, the fact that the government bears administrative responsibility for the framework (legislation, policy, institution plans, financial management/mandate, and facilities), and the justice institutions bear organizational responsibility for implementation and general management. It was also indicated that these are interconnected vessels - both in a positive and negative sense. Over the years, the Council notes that there are still a lot of benefits to be gained. The justice (chain) 'vessels' continue to communicate insufficiently. Moreover, cooperation is indispensable, and many issues require an approach that transcends ministries and as such, remains a shared responsibility. By identifying the most crucial factors, the Council, therefore, wanted to contribute to the establishment of an improvement process based on an integrated (chain) approach, both within and outside the law-enforcement chain. The Council outlined a normative framework with generally accepted principles to achieve a properly functioning legal- and enforcement system, which could also serve as a tool to develop a vision. The Council also assessed and categorized the factors within the normative framework (neither of which contained an exhaustive overview). Furthermore, in its 2016 State, the Council analyzed the 17 factors and provided a schematic review (see [Appendix 3](#)). In section 2.3, the Council discusses developments based on these factors.

As far as the normative framework is concerned, the Council emphasizes the importance of cooperatively expressing a clear vision. The three pillars defined by the Council on which the functioning of law enforcement can be calibrated or recalibrated are rule of law, effectiveness, and efficiency. The chain of (criminal) law enforcement operates within the context of the Rule of Law. Citizens enjoy freedom, legal certainty and equality and the protection thereof. The structure and implementation of laws, rules and customs must be such that the government cannot and should not abuse its power. Therefore, the chain and the actors within it must at least comply with the following elements⁵ of the rule of law. These are:

Legal basis - the principle of legality Human rights Justice Independence & impartiality of justice; fairness Equal treatment. For the benefit of all: public interest Protection of personal information Accessibility of justice / Access to justice Integrity & counteracting corruption and nepotism Accountability & transparency Professionalism/expertise Trust and support Willingness to report Comprehensiveness Responsiveness Treatment Service orientation Feedback Checks & balances Parliamentary control Legal control Appeals Civil control Ombudsman Complaint mechanisms Complaint assistance, e.g. on-line helpline Alternative remedies: dispute resolution, mediation, arbitration Horizontal monitoring / Peer review

Furthermore, the chain benefits from effective functioning, meaning that people and resources must be deployed competently. Setting policy objectives and active management are important in this regard. Important components of effectiveness are:

5

Effectiveness of the chain Implementation and execution of the legal framework Policy goals Guidance Assurance Commitment Case volume: Quantitative standards Effectiveness (chances of being caught, etc) of various interventions Efficient use of resources (capacity, organization, finances) Reduction in the number of crime reports (broken down by type) Willingness to report high Investigation leads to prosecution and conviction Prevention leads to improved safety Subjective safety (perception of safety) is improved Safety monitor Qualitative standards Cooperation with other partners: - Private – NGOs – Churches – Citizens

Finally, the Council mentions efficiency, which benefits the organizations and the law enforcement chain. This is because processes run smoothly and quickly, and laborious and isolated actions are prevented. Processing times are benefitted along with legal certainty and justice. Moreover, it is productive and reduces costs. The components of efficiency are:

Diligence: smooth and fast processing times Legal waiting time; transfer time to another chain partner; treatment time Enforcement of court judgments Streamlined information-sharing within and outside the chain Case building Integration & distinction between standard cases and complex cases Distinction between juvenile cases and adult cases Settlement procedures (transactions, dismissals, Optimization of work processes Automation Digital declaration Digitalization of procedural documents and/or digital file Computerization Registration systems Data files Outsourcing Task specialization Process management

2016 Reports

In 2016, the following reports were published by the Council:

Publication year	Subject of the Report	Organization	Minister's Response
2016	Review 1 Adult Rehabilitation	SJIS	No
2016	Review 1 Investigation process criminal investigation	KPSM	Yes
2016	Surveillance and security of persons and goods	Various (including KPSM, OM)	No
2016	Review 1 Support for Victims	Various (including KPSM, OM)	No
2016	Prostitution policy and enforcement	Various (including Administrative Enforcement, KPSM, OM)	No
2016	PI legal status of detainees and personnel & organization	Prison System	No
2016	Juvenile correctional facility MLC	Prison System	No

2.2.6 Observations of the Council

Developments

The positive developments outlined are specifically related to cooperation. The Council also emphasized the importance of cooperation in subsequent years and indicated that as far as law enforcement was concerned, cooperation should always be the point of departure. In terms of the IGD, the Minister decided in 2020, a few years later, to once more position it as an independent service outside the KPSM. This transition is currently underway.

Normative Framework

Based on the developments of the past ten years and the findings from the Council's inspections, various components of the three pillars can be 'checked off' (rule of law, effectiveness, and efficiency). However,

it should also be noted that some of the components - including very important ones - still cannot be 'checked off'. It has not escaped the Council's notice that the persons involved remain committed despite the challenges. Nonetheless, the Council also indicates that, for example, (additional) commitment to efficiency will promote development, especially in finance. In 2016, the Council provided examples of tools that could be useful for making progress towards the realization of the three pillars and associated components. These are presented using the 'traffic light method', comparing previous surveys/measurements (e.g., "rule of law monitor"), benchmarking, peer review, rule of law dialogue and tools & toolkits. The Council determined that neither these nor any other tools, nor the normative framework were ever used.

2.2.7 State of 2017

Disaster

In the State of 2016, the Council assessed the functioning of law enforcement based on 17 factors as being mostly substandard, due to, among others, the lack of resources, capacity, and facilities. Unfortunately, the Council's conclusions for the period 2010-2016, are also entirely applicable for the year 2017, since there was an increase in the lack of resources resulting in direct repercussions for capacity and facilities. Although the structural issues were in place before 2017, and though initial steps were made in the first half of 2017, the vulnerability of law enforcement - which had been consistently pointed out in previous years - was, in the third quarter, once again exposed by the passage of the hurricanes. This effectively resulted in St. Maarten becoming a disaster area in one fell swoop, with the justice organizations being confronted with extreme situations in terms of the maintenance of public order and security. Despite not being prepared, they were still able to maintain public order by improvising, using very scarce resources, and cooperating with local and Kingdom partners. More broadly, it was concluded that the Country St. Maarten was not prepared: the necessary infrastructure, disaster- coordination, and -relief were far from optimal.

Finance

The State of 2017 also considered compliance with recommendations and (decision-making regarding) finances. The Council noted that in terms of follow-up, St. Maarten lagged far behind Curaçao and the Dutch Caribbean. The Council also indicated that within the framework of reconstruction, efforts were underway - on all sides - to formulate plans, but that the lack of capacity and resources remained problematic. The Council anticipated that the Country's financial situation would cause various limitations in the future. Given that law enforcement is an essential element of good reconstruction, the importance of the development of law enforcement should remain a consideration. Furthermore, the Council indicated that both before and after the establishment of the country, there was a recognition that St. Maarten was not capable of independently guaranteeing law enforcement, because of the lack of government attention, insufficient resources, and policymaking.

2017 Reports

In 2017, the following reports were published by the Council:

Publication year	Subject of the Report	Organization	Minister's Response
2017	PI Internal Security and Community Security	Prison System	No
2017	PI Dealing with Prisoners and Social Integration	Prison System	No
2017	Review 1 Border control of the movement of persons	IGD	No
2017	Review 1 OM Incident Oriented Investigation	OM	No
2017	Review 1 Police Education	KPSM	No

2.2.8 Observations of the Council

Reconstruction and finance

Whereas St. Maarten - and more specifically law enforcement - from 2010 to mid-2017 was all about the development of a new country that included predominantly new organizations with all that that entails, from the third quarter of 2017 to the present has been all about reconstruction. The hurricanes caused a great deal of damage to, among others, vehicle fleets and buildings. An example was the loss of fleet vehicles for various services and the need for temporary housing for certain organizations. The prison also suffered considerable damage and the MLC was temporarily closed. It is fair to state that much of what had been achieved was destroyed in one fell swoop, though the situation also provided opportunities to do things differently.

By virtue of several inspections, it was revealed that fundamental and essential facilities are not funded (with major consequences for organizations within law enforcement), and that those funding decisions take a long time.

The Council notes that since 2017, there has been an increased focus on cooperation. In the opinion of the Council, the level of assistance, in particular for the police, the prison, and the National Detectives Agency, the associated positive developments and also the directly evident consequences when assistance ends, demonstrates once more the necessity of continued collaboration to self-sufficiently perform the autonomous tasks. To date, St. Maarten has not succeeded in independently safeguarding law enforcement, and given 2020's extraordinary developments, the situation will remain challenging in the near term. The Council's appeal issued to the government in its State of 2017, to give law enforcement the attention it needs, and as such to put cooperation within the Kingdom first, was repeated in subsequent years. In this State, we repeat this appeal.

2.2.9 State of 2018

Continued Reconstruction

The State of 2018 reiterated that the normative framework and the previously listed factors, provide good guidance in the process of reconstruction and the establishment of a well-functioning law enforcement chain.

The year 2018 was entirely dedicated to rebuilding the country and its justice organizations and was characterized by numerous administrative consultations, slow decision-making, and an overall lack of financial resources. The *National Recovery and Resilience Plan* includes an emphasis on justice, public safety, and security. As for the year 2018, several important topics were highlighted by the Council, including border control, prison, youth, and support for victims.

Border control and prison

As previously stated, since the end of 2017, efforts have been made to strengthen border control where it pertains to persons and goods entering St. Maarten. In the context of human trafficking and smuggling, the focus in 2018 includes the agreement outlined in the *Memorandum of Understanding of Cooperation to Prevent and Combat Human Trafficking and Human Smuggling*, investigations by the specialist team and the *Alpha team* partnership. The Council also conducted inspections on the approach to human trafficking and human smuggling, as well as the methodology to combat drug crime and drug-related problems (both presented in early 2020).

In 2018, the Minister of Justice and the Dutch Representation on St. Maarten committed to a two-day working conference on the topics of border control and reconstruction of the local justice chain, resulting in two draft action plans for border control and the prison. In the second half of 2018, at the request of the Minister of Justice, the action plan '*A Secure Society: Building a Responsible and Sustainable Punishment Implementation System on Sint Maarten (2018-2023)*' was presented to St. Maarten by the Justice Institutions Department and endorsed during the Ministerial Consultation. Some of the other agreements made at the time proved not to be realistic for implementation within the agreed timeframe. Since 2016, the Council has reported annually to the relevant Minister about the compliance of recommendations issued by the *European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment* (CPT). Based on two review reports about the prison, the Council concluded in 2018, that the prison in its current state is completely unsuitable both in terms of humane detention and as a workplace. Throughout the years, the Council advocated that from both a national (Country of St. Maarten) and a broader Kingdom point of view, the prison must be made to comply with the (inter-) national laws and regulations and (CPT) standards as soon as possible. The Council anticipated active (as possible) roles for the Ministry (specifically the prison), Country St. Maarten, and the Kingdom.

Youth, victim support, ICT and other topics

Also, over the years, the Council has specifically focused on the topic of youth in its reports Youth Probation (2012/2015), Prevention of Juvenile Delinquency (2015) and the juvenile correctional facility known as the Miss Lalie Center (2016). The arrival of the juvenile rehabilitation center specifically for boys aged 12 to 18 in 2013, can be described as a milestone for St. Maarten. During the period from September 2017 to 2018, the Council had serious concerns about the MLC because of its closure during that period. There were negative consequences to the juvenile crime approach and the performance of tasks of the organizations involved. It sent a wrong signal to juveniles and potential offenders which needed to be addressed.

Furthermore, as was the case in previous years, the Council focused its attention on (the absence of) structural victim support, the problematic intake of victims, and ICT within law enforcement. The dependence on ICT systems and the lack of modernization remain important points of consideration. The Council drew attention to the St. Maarten's government lack of decision-making (business process

systems) and allocation of resources for adequate ICT. The previously mentioned Mutual regulation on border control (*Onderlinge Regeling Grenstoezicht*), and resources from the reconstruction fund meant that the organizations had renewed access to the ACTS systems in 2018. Furthermore, the Council pointed out that in 2018 the function books had still not entered into force and basic police training was restarted in the second half of 2018. The Council concluded that although 2018 was the year of reconstruction, in reality, the administration was not able to systematically improve law enforcement; there was attention for this. This attention was particularly focused on the police and the detention system, despite the other organizations also dealing with serious issues deserving of attention. The Council requested consideration for these issues as they are part of the chain. Finally, the Council noted that law enforcement is increasingly characterized by cooperation and assistance, both at the national, international, and Kingdom level. As an advocate of this, the Council could only applaud the development.

Notification Authority of the Council

In its 2018 State, the Council also pointed out that if changes were not effectuated, the Council's mechanism for conducting investigations and issuing recommendations for the prison would be exhausted. In this regard, the Council referenced the authority under Article 32 to notify the representative body of the country concerned and the Kingdom Council of Ministers if the Minister of Justice systematically fails to act on the Council's recommendations.

2018 Reports

In 2018, the following reports were published by the Council:

Publication year	Subject of the Report	Organization	Minister's Response
2018	Forensic investigation	Various (including KPSM, LR)	Yes
2018	Review 1 PI Internal security and community security	Prison System	Yes
2018	Review 1 PI Legal Status of Prisoners and Personnel & Organization	Prison System	Yes
2018	Review 1 Enforcement of monetary fines, damages and dispossessions	OM	No
2018	Dutch Caribbean Coast Guard	Coast Guard	Yes
2018	Internal Affairs Department	KPSM	Yes
2018	Collaboration public prosecutor's offices	OM	No

2.2.10 Observations of the Council

Perpetuation of problems

It is already known that the problems regarding, among others, capacity, (financial) resources and facilities, were sustained in subsequent years. Nevertheless, the commitment and dedication of those working within the judicial chain remains a constant positive factor.

Border Control

The Council indicated in paragraphs 2.2.3 and 2.2.4 that there has been an active effort to cooperate on border control in recent years.

Prison

In 2020, human rights remained at risk, but the Government of St. Maarten made a concrete commitment to the construction of a new prison and earmarked funds for this purpose. In collaboration with the Netherlands, the Minister of Justice is making a concrete commitment in 2020 to the United Nations Office for Project Services (UNOPS) to make this a reality. St. Maarten's and the Netherlands' assignment to UNOPS to conduct a preliminary study towards the development of a long-term plan for the detention situation on St. Maarten was included in the Country Package St. Maarten (Country Package) in December 2020 along with a deadline. The intended cooperation with UNOPS is currently in the preparatory phase, but work is being carried out towards signing an agreement. Furthermore, the Country Package includes an agreement by St. Maarten, in consultation with the Netherlands, to implement the agreements made regarding the 2018 improvement measures, release the necessary resources, and include them in the budget. A deadline for this has also been agreed upon.

Youth

With the reopening of the MLC in mid-2019, an important step was taken to - once more - send the right message to the youth. The lack of education at the MLC in 2020, was of particular concern. Although plans are in place, the Council is deeply troubled about this situation and urges that a solution is found. The issue of the youth requires an integrated and inter-ministerial approach to be truly effective; relying on reactive judicial action alone is insufficient. The Council notes that the organizations involved on the justice side are often not supported by the necessary (systematic) responsibilities, authorities, and *tools*. In 2020, the Council started a review inspection of all reports related to juvenile and adult probation. This first partial report - as part of the overall review - was made public in April 2021.

Notification Authority of the Council

In the context of the Council's authority to issue a notification regarding the systematic non-compliance with the recommendations on the prison, the Minister of Justice received a letter in mid-2020. In the letter, the Council indicated that it was withholding the decision on issuing said notification considering the special circumstances in 2020, pending the improvement plans announced by the Minister and pending a (detailed) plan to implement the recommendations on the prison. By the end of 2020, the Minister had appointed a Special Liaison to the Council as part of the follow-up to recommendations.

2.2.11 State 2019

Inspections related to the Societal Purpose

In its 2019 State, the Council states that law enforcement and the administration of justice are among the government's core functions to protect the safety of individual citizens and society, and specifically points to the added value of thorough supervision of judicial organizations' functioning. As such, given that the Council's inspections include a societal purpose, one of its general inspection principles is that inspection investigations should primarily focus on community service, as well as on risks within the judicial chain that could directly affect citizens.

Various developments

In 2019, the Council - as in the previous year - noted the sluggishness of reconstruction, the lack of (financial) resources, human capacity, administrative continuity, and decision-making, all of which impede the performance of tasks of the justice organizations. Positive developments which the Council mentioned are initiatives that contribute to the accessibility of (information about) law enforcement (for example, the use of videos and infographics), the reopening of the MLC (with the expansion of the placement age to 21 years), child-friendly court sessions and the digitization of internal operations (*prison database management system*; digitization of criminal files). The Council reiterated the usefulness and necessity of digitization, accurate and reliable data, and having a vision regarding the purpose of information gathering and registration. In addition, conferences and training sessions were organized on a variety of topics (Domestic Violence Conference, *Anti-Money Laundering Awareness and National Risk Assessment Conference*, ART Recertification Training, and a School Fights Task Force)

In 2019, several treaties, protocols and cooperation agreements were (re)concluded, and are listed in the table.

√ amended protocol on specialized investigative cooperation between the countries of the Kingdom √ amended MOU cooperation to prevent and combat trafficking in human beings and smuggling of migrants between the countries of the Kingdom the protocol on the deployment of personnel from the flexible deployment pool KMar √ the treaty establishing the Caribbean Customs Organization and on mutual administrative assistance in customs matters √ the protocol on the cooperation between the Immigration and Border Control Service Sint Maarten and the Sint Maarten Police Force √ the agreement to formalize the Sint Maarten Intelligence Center √ the memorandum of understanding for the exchange of information between the Customs organizations of Sint Maarten and Saint Martin.
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Furthermore, positive developments were evident in terms of strengthening border control and regional cooperation between the countries' police forces. Funds were made available to further strengthen police cooperation, including to improve police education. A new basic police training program was launched in the last quarter of 2019. Although 2019 included the signing of the KPSM's function book and staffing plan, an adjusted process was initiated in 2020 whereby function books for the entire justice chain were developed. The Council addressed this in a previous section.

In its State of 2019, the Council also reflected on the lack of political stability and continuity of government policy, staff turnover, and the absence of political-administrative decision-making on urgent law enforcement matters. Insufficient priority is given to the area of security and security risks are handled too informally. Recommendations issued by the Council were only complied with to a limited extent.

In the thematic reviews conducted by the Council in 2019, the social problems facing St. Maarten were clearly evident. Poverty, unemployment, school dropout, psychosocial problems caused by (youth) trauma, abuse or domestic violence, inadequate supervision, insufficient awareness, knowledge, and social control, and (therefore) a limited social safety net, were found to be both cause and effect of various types of crime. A common thread among (almost all) these studies was that an exclusive criminal law approach does not provide a solution. A multidisciplinary, integrated approach is needed, which in St. Maarten, however, - partly due to the lack of inter-ministerial vision, consistent policies, and essential components - is difficult to get off the ground. The preceding has negative consequences not only for the development of the organizations but also for individual criminal cases and society's protection in general, which was of serious concern to the Council.

Support for Victims

After three (review) inspections (2012, 2016, and 2019), the Council has had to conclude that there is still no provision for victim support. The initiatives and plans of the past years have not led to any form of structural assistance for victims to date. This means that there has (systematically) been a lack of follow-up to the recommendations on this topic. One of the Minister of Justice's priorities for 2020, was domestic violence. In this context, plans have once again been drafted to establish (an office) for victim support. The Council reiterates the importance of having victim assistance on St. Maarten and the consequences the absence will have on confidence in law enforcement.

Money laundering and terrorism financing

The issue of combating money laundering and terrorism financing also received attention in 2018 through agreements made with the Caribbean Financial Action Task Force (CFATF). Parliament approved three of the six crucial laws, however, further anchoring of the recommendations in, among others, the Civil Code, the Penal Code, and the Code of Criminal Procedure was not addressed with sufficient vigor. In 2019, St. Maarten faced the possibility of the issuance of a public statement by the CFATF and, if there was a lack of progress, there was a proposal for placing St. Maarten on the Financial Action Task Force's (FATF) grey list, because the country had failed to implement or amend (in a timely fashion) the requisite legislation to combat money laundering and the financing of terrorism in accordance with the majority of the CFATF's core recommendations. The public statement was issued in 2019, but it was withdrawn in 2020, as St. Maarten completed the third round of assessments. Several recommendations still need to be complied with. In its 2019 State, the Council pointed out that effective combating of money laundering and terrorism financing is of great importance in the fight against (cross-border) crime and further noted the far-reaching (economic) consequences for the country of St. Maarten if the international requirements are not met.

Council Reports

The Council's reports are written in Dutch, with an English summary. Since 2019, the Council has been focusing on increased direct communication with citizens by also offering reports entirely in English. Also in 2020, the Council wrote the English-language report "Domestic Violence in St. Maarten". Finally, the Council looked ahead to 2020 and reiterated that St. Maarten could benefit greatly by following up on the recommendations because if this is not done, the intended improvement will fail to materialize. The Council further indicated that in 2020 it would like to intensify the monitoring of the implementation of the recommendations and stimulate the follow-up of the recommendations with an in-depth, comprehensive review.

In 2019, the following reports were published by the Council:

Publication year	Subject of the Report	Organization	Minister's Response
2019	Crime Fund	Various (including KPSM, OM, Minister of Justice)	No
2019	Review 1 Criminal confiscation and seizure	KPSM	No
2019	Review prison, MLC, police cells and border hospice Simpson Bay	Prison System	No

Publication year	Subject of the Report	Organization	Minister's Response
2019	Review 1 Investigation and prosecution policy of the Public Prosecutor's Office	OM	No
2019	Review 1 Use of force	KPSM	

2.2.12 Observations of the Council

Social function inspections

Throughout the years, the Council's inspections have concerned socially relevant topics in which the focus is on the public and the services provided to them. Among other things, the reporting process, victim support, security for persons in authority, treatment of persons with addiction problems or mental disorders in the criminal justice chain, and the surveillance and security of persons and goods have been the subject of (review) investigations on multiple occasions. Follow-up regarding the recommendations related to these subjects is therefore very important.

Support for Victims

Regarding the subject of victim assistance, the Council concludes that follow-up on the recommendations has (systematically) been absent. One of the Minister of Justice's priorities in 2020 is the subject of domestic violence. In this context, plans have again been drafted to establish (an office for) victim assistance. As in previous years, the Council reiterates the importance of having victim assistance on St. Maarten, and the consequences the lack of this assistance can have on confidence in law enforcement.

Money laundering and terrorism financing

The public statement by the CFATF was issued in 2019, then withdrawn in 2020, as St. Maarten completed the third round of assessments. Several recommendations still need to be complied with. The Council will conduct an inspection on this topic in the near future.

2.3 Developments based on 17 relevant factors

The 17 factors outlined in 2016 are still relevant. Indeed, from the developments and the Council's inspections in subsequent years, these factors repeatedly emerge. Time and again, the bottlenecks at play within or affecting the organizations or the justice chain can be traced back to one or more of these factors. The Council, therefore, identifies, for the 17 factors mentioned, the *highlights*, particulars, or bottlenecks that are still at issue based on its findings from 2016 and, where applicable, specifically for 2020. The Council notes that many of the factors listed are interdependent and affect each other. Therefore, some of the 17 factors (numbered in the 2016 report) are described together.

2.3.1 Legal framework (1), policy (2) and establishment plan, job matrix (14)

In almost every inspection, the Council finds that there is a backlog in developing, updating, and/or executing (implementation) legislation, policies and plans in the field of law enforcement. For example, after 10 years, not all development plans have been completed (prison and KPSM), the objectives of the development plans have not been achieved (e.g. prison and National Detectives Agency), draft legislation sits on the shelf (Draft National Ordinance containing rules for licensing sex businesses), there is no sound legal basis or formal structural embedded within the judiciary (Court of Guardianship), too little attention

is paid to policy, a general, clearly shared vision for law enforcement is still insufficiently developed, and there is still no applicable function book for every justice organization (all justice organizations). The Council emphasizes that 10 years have passed and that the tasks and authorities are still not defined by national ordinance, and that there is still no clarity on the position of the VR within the civil service of St. Maarten. On the other hand, in certain specific areas, there is certainly legislation (National Ordinance notification requirement of cross-border cash transports, the National Ordinance reporting point for unusual transactions and the National Ordinance combatting money laundering and terrorism financing, 2019), policy (internal policy plan 2019-2021 Probation Department), and several important protocols, MOUs, a regional crime situation analysis, and guidelines have been drawn up (domestic violence, 2017; confiscation, 2017; opium offenses, 2018; and criminal procedure for vice, 2019). In 2019, the 'Protocol on specialized investigative cooperation between the countries of the Kingdom' was amended and the RST has since consisted of central and decentralized teams. This resulted, among other things, in the placement of several RST officers within KPSM's "zwacri team" (major crimes) as support. In 2020, a steering committee and working group were established by the Minister to draft the function books for the various justice organizations. The legally prescribed procedure is currently being followed and the objective is to formalize the function books by mid-2021. The Council has repeatedly emphasized the essential importance of the proper completion of this process for the correct functioning of all organizations.

2.3.2 Facilities (3) and business processes and access systems (10)

St. Maarten was able to use shared facilities before attaining country status, but only to a limited extent thereafter, and a solution had to be found for the absence of many facilities. As far as facilities are concerned, basic capabilities for the proper performance of tasks are still missing, inadequate, or outdated, which has consequences for efficiency. This is the case with the National Detectives Agency and the prison (e.g., a rehabilitation program). The lack of adequate registration (systems) and the consequences thereof, are recurring bottlenecks. The (partial) absence of business process systems generate inconsistent systems within and between the departments, impedes an overall or total view, obstructs quantitative research or findings supported by figures, and hinders the generation of (reliable) management information. The preceding normally forms a good basis for, among other things, development of policy, but this is not possible at present. From a broader perspective, it also affects the credibility of law enforcement, because, for example, the registration of financial penalties and the enforcement of verdicts (continue to) show deficiencies. Almost no money is collected or is partially collected. A few organizations have recently put a business process system in place, specifically the SJIS (React, 2021), the IGD (Decos Join, 2019), the prison (prison database management system, 2019) and the OM (PRIEM). Some are still developing their systems such as the Court of Guardianship, and some services still do not (National Detectives Agency) or (KPSM) have (part of) an essential system. The Council has issued recommendations on this matter in several reports over the years. Examples of capabilities that have been achieved include camera surveillance with the accompanying protocol, digitization of criminal files by the Prosecutor's Office and the Court, a mobile shore radar and electronic surveillance. Over the years, electronic surveillance has not been a constant factor, mainly due to financial bottlenecks. In the first quarter of 2020, a cooperation agreement was signed between the Ministry of Justice, the Prosecutor's Office, the KPSM and the SJIS to resume the use of electronic surveillance.

2.3.3 Statistics, data, and crime situational analyses (4)

The first crime situation analysis for St. Maarten dates to 2011. Though there is an increasing awareness and recognition for the need for statistics, data and crime situational analyses, the overall availability of reliable statistics and data remains challenging, including in the justice area. Based on the investment in strengthening the cooperation between the police forces (among others through the Council of Police Chiefs), and the RST in the field of information and investigation, the need for a regional situational analysis on cross-border crime in the Caribbean part of the Kingdom has grown. In the previously mentioned 'Protocol on specialized investigative cooperation between the countries of the Kingdom', includes a biennial analysis of the crime situation of the countries to be drawn up. In the last quarter of 2019, the document '*Regional Crime Situation. Trends in the Dutch Caribbean 2020-2022*'⁶ was presented. It is a baseline study to provide a rationale for making choices (joint priorities in an investigation) when dealing with cross-border crime and crimes disruptive to the legal order.

2.3.4 Prevention activities (5)

Crime is becoming increasingly complex, and repressive action is not enough. In its reports, the Council mentions the need for general and special prevention about subjects such as juvenile crime, domestic violence, robberies, and ex-felons. Prevention is not exclusively a judicial task. It requires inter-ministerial cooperation par excellence. It strikes the Council that, in general, benefits can be had on the subject of prevention. The Council indicated earlier that a solid approach to prevention will not only result in positive effects for law enforcement, but a positive contribution to general social development is also possible.

2.3.5 Enforcement & Compliance (6)

In 2016, it was stated that the government had been working for a long time on a National Ordinance regulating administrative enforcement. In 2018, the National Ordinance on Administrative Enforcement entered into force. The Council indicated that overall, administrative enforcement will have a positive effect by improving the ability for compliance with regulations. However, the execution, implementation, and policies in the area of justice still need to be worked on. This applies, for example, to the topics of enforcement of the restrictive admission policy and enforcement of a prostitution policy. On November 16, 2020, the "Decision of the Minister of Justice to designate an area of intensified enforcement in connection with nuisance and criminal behavior by truant students and loitering youth" (no. 2020/1368) entered into force. This includes a combination of criminal law supervision, enforcement action and preventive action.

2.3.6 Chain approach (7) and intelligence function (9)

Whereas in 2016 the Council found that chain collaboration, in practice, was virtually non-existent, in recent years the Council noticed an increasing realization that collaborative efforts are necessary to address increasingly complex issues related to the limits of the organizations' capabilities. The Council notes that as long as there are organizations that do not have the basic necessities to carry out their work, most forms of cooperation will fail to get off the ground or will remain vulnerable due to insufficient development or availability. At the Kingdom level, cooperation is evident in the JVO - where, twice a year, joint topics are discussed and cooperation agreements are made -, in the aforementioned strengthening of border control, in the form of the Council of Police Chiefs - which has been used by the various corps

⁶ [Regionale Criminaliteitsbeeldanalyse 2020-2021.pdf \(openbaarministerie.org\)](#)

in recent years - and, for example, the Quality Training Boost. At the national level, there are various initiatives for cooperation within the chain, such as the Task Force Forensic Care, the Youth Case Consultation and cooperation in the context of school problems. Furthermore, the Council notes increasing efforts into the subject of information (sharing) (*see also Chapter 2*), resulting in, among other things, the 'Intelligence Center Sint Maarten' (information hub), a 2019 partnership between KPSM, Interpol Sint Maarten, Financial Intelligence Unit (MOT), OM, National Detectives Agency, Customs, Dutch Caribbean Coast Guard and the Support Center St. Maarten, and the RST.

In 2018, Sint Maarten entered into a participation agreement with the Foundation Law Enforcement ICT Management (*Stichting Beheer ICT Rechtshandhaving*) (*see also chapter 2*), because *St. Maarten considers it desirable to promote optimal information exchange within the law enforcement chain of the country as well as with that of the other Caribbean islands of the Kingdom and to that end wishes to purchase specific services and products (equipment and software) from the Foundation*. For full formal participation of St. Maarten in the management organization, St. Maarten joined the Cooperation Arrangement ICT Law Enforcement Chain in 2019.⁷ The management organization designs, implements, manages, and maintains applications for various justice organizations such as the KPSM, the Coast Guard, the OM, the SJIS and the VR. In 2020, among others, this Foundation provided a presentation to the Minister on the 'Border Management System', the Foundation provided the SJIS with access to the REACT program free of charge, and the Foundation donated several computers to the prison. The Council notes that positive steps have been taken to improve intelligence, but that there is still a long way to go and constant work on information discipline, information sharing, and information systems is needed.

2.3.7 Work processes (8) and financial management and directive (11)

It is known that succession of government officials is subject to administrative changes and that this affects the continuity within both the organizations and the chain. The structural embedding of processes, procedures and knowledge has been initiated over the years, but this process has not yet been completed for the organizations, partly due to the financial situation. Work processes now exist at most organizations, but their systematic implementation still needs attention. Although much is still left to be done in setting up work processes between organizations, the situation is steadily changing. The established working process between the SJIB and the Turning Point Foundation is a good example. The Council has also repeatedly referred to the possibility of a management directive or accountability after the fact, which will not only benefit the overall efficiency but also, for example, the quality of the (police) investigations. To date, no changes have been noted in this regard.

2.3.8 Service & Communication (12)

The Council notes in various reports that communication is a subject that requires continuous attention, and the Council sees opportunities, in particular with regard to improving internal communication.

Within the justice chain, there is an increasing focus on service and communication towards the citizen, which enhances transparency. Several organizations have a communication plan and use *social media*. The OM and KPSM in particular - given their contact with citizens - regularly provide information and work with press releases. In the last quarter of 2019, both the OM and the KPSM launched a new website, followed by the Ministry of Justice in late 2020. The SJIS, for example, also informs its clients through written documents.

⁷ <https://zoek.officielebekendmakingen.nl/stcrt-2019-69263.html>; <https://wetten.overheid.nl/BWBR0031219/2020-09-15>

2.3.9 Annual plans and annual reports (13)

Creating annual plans and reports is still not a permanent process for some organizations within the justice chain. This even though it is the basis for an organization through, among others, having a vision and setting objectives; it provides *checks and balances*, transparency and it serves as a gauge for performance. In previous years, the Council still noted too many discrepancies as organizations did nothing or only produced plans or reports. In recent years, the Council noticed that increasingly documents are being produced consistently(er) by, for example, the KPSM (A3 annual plan), the OM, the KWCarib, the SJIS and the VR. It can also be noted that, for example, the National Detectives Agency did not have plans or reports in the first few years but that this has changed since 2019. Furthermore, the Council already indicated that there is still much to be achieved in the area of multi-year planning. In this respect, the Council sees a role for increased government involvement by, among others, setting a good example.

2.3.10 Capacity (15), human resources (16), training/professionalization (17)

With regard to personnel policy, the Council encouraged the development of a sound and consistent policy as early as 2016, because that can yield 'quick wins' in the areas of absenteeism, transfer, recruitment and retention. Since the staffing shortage was identified to be deficient at the time, the consequences were noticeable in remuneration and problems with advancement within organizations (*see also below*). At the prison, absenteeism is still too high resulting in excessive overtime. In addition, personnel decisions at organizations still take long. Furthermore, the organizations also must deal with integrity violations. There is some attention for the subject of integrity, for example by drafting an integrity policy, but it is a subject that should have constant attention. This is not always the case.

While in the first years of the country status there was still talk of a growing capacity within the organizations, currently this has mostly deteriorated into a pressing shortage in capacity both qualitatively and quantitatively. In addition, since the establishment of the country, several departments have attempted to catch up in terms of training, but over the years it has become evident that the shortage of funds directly impacts the quantity and quality of personnel (and the purchase of material resources required for the day-to-day performance of tasks), and therefore also the degree and speed of professionalization of the organizations. Nevertheless, the Council notes that, where possible, the organizations are trying to provide training to achieve the envisaged professionalization. In particular, the steady growth in capacity at the KPSM is worrisome to several organizations - including the Council. The basic police training course first started in 2016. This was in the context of regional law enforcement cooperation, referred to as the 2016-2020 Police Education Quality Boost. In 2020, the Progress Committee indicated that the situation at the KPSM was not as good as in its previous report, stating, among other things, "*the departure of the national police and the Covid virus has thinned the ranks of the police and there are few prospects for new personnel.*"⁸ In 2020, both recruitment and basic police training reached a standstill. The latter also applies to the recruitment and training of prison staff. The SJIS in particular is a standout in its development and professionalization efforts, through training, the establishment of policies and procedures, and the commissioning of the REACT system in late 2020 / early 2021.

Reality

⁸ Progress Committee (2020). 37th progress report.

The Council notes that concerning all 17 factors, many examples are available regarding what has been achieved for the organization and the chain through the efforts of those involved and, at the same time, there are many examples of aspects that remain pending. However, the developments (and the stagnation) must be viewed in terms of the reality in which is being worked. As long as the necessary prerequisites are not met and the necessary administrative priority is not given, it will be at the expense of the organizations' abilities and, as such, affect the needed progress of both the justice organizations and law enforcement in general. Therefore, in these terms, the organizations should not be judged. In previous years, the Council observed a dedicated effort by all involved, regardless of the situation.

Overall review

Upon completion of all the sub-inspections, the Council will review the 17 factors listed above, identify any new factors, and provide a graphical state of affairs on the components of the Council's normative framework and inspections.

2.4 Developments in the year 2020

2.4.1 Observations of the Council

As with the hurricanes in 2017, St. Maarten was rocked by the pandemic in the first quarter of 2020. Organizations - especially those related to public health - as well as citizens were under immense pressure and the shutdown of the economy caused everyone significant harm. This can be said about the entire world; however, it is also the case that the situation had further-reaching consequences for St. Maarten given, among others, its small scale, and its dependence on tourism. Due to the measures, specifically, the 'lockdown', certain organizations within the justice chain were limited and/or unable to carry out (all) their work and were also restricted and/or unavailable. Other organizations, such as the SJIS, turned out to be 'corona-proof' despite the physical limitations, because they had already taken the necessary steps. Digital possibilities and impossibilities, in particular, played havoc on many and forced all organizations to take another critical look at the options as well as to determine what could and should be done differently, including in the digital space. In addition, enforcement, in particular, required a great deal of effort from the police, who at that time already were being assisted by the Dutch National Police. The consequences of the pandemic once again put the vast differences between the justice organizations on display and proved once more how vulnerable the field of law enforcement is and the level of St. Maarten's dependence in terms of law enforcement ability to guarantee overall security. In addition, it was again made evident that as long as the justice organizations do not receive the necessary attention and are not supported through the availability of a vision, an integrated approach, guidance and resources, the situation will continue to be at the expense of the effectiveness of the organizations and the entire chain. The pandemic also made clear that solutions – considering the dire financial situation – can be found in intensive cooperation both within and between countries. The Council previously indicated that in recent years there has been an increasing focus on cooperation and hopes that all involved will be able to raise collaboration to such a level that it will be and remain beneficial to law enforcement.

2.4.2 2020: Inspections and follow-up requests of the Council

Below, the Council provides an overview of the inspections that were planned, initiated, or completed in 2020. The corona pandemic also impacted the Council's work. The reports concern, in no particular order:

Combating human trafficking and human smuggling

The Council conducted inspections in the countries related to the topic of human trafficking and human smuggling and specifically reviewed, the extent to which the approach to human trafficking and human smuggling is shaped within the Kingdom and if it contributes to preventing and combating these acts. Based on the findings of the inspection, the Council concluded that there was room for improvement in international and interregional cooperation to prevent and combat human trafficking and human smuggling. In the Council's opinion, great strides can be made through strengthening international and interregional cooperation.

In addition, the Council noted that the approach to human trafficking and human smuggling on St. Maarten required improvement. There was insufficient insight into the nature and scope of these crimes (both locally and inter-regionally/nationally) and the development of several crucial components to support an effective integrated approach has been stagnant for years. Particularly in the area of prevention and protection, St. Maarten's approach is considered to be inadequate. In the area of criminal law enforcement and cooperation, the Council did observe some positive developments, including the strengthening of border control.

Combating drug criminality

The Council also conducted inspections in the countries related to drug criminality. The Council looked at the extent to which the approach to dealing with drug crimes and drug-related problems was shaped in and between the countries within the Kingdom and how said approach contributes to combating and preventing the activities. The Council noted that the approach is focused on preventing international drug trafficking at the border. The Council noticed a positive development in terms of the strengthening of border control on St. Maarten, where organizations with a border control function became increasingly professional and pursued cooperation. Furthermore, the Council believed that the approach in St. Maarten could be reinforced by investing in the establishment and mutual alignment of priorities, policies and practices of the organizations involved. The Council also stated that there were various vulnerabilities in the logistical infrastructure (including in the security of the air and seaports). Based on the research results, the Council also detected a downward spiral, in which drug use and socioeconomic and psychosocial problems perpetuate each other. In the opinion of the Council, the lack of a prevention policy from St. Maarten's government is unacceptable. Furthermore, according to the Council, addiction care should be of high quality and accessible to everyone. The Council noted that this was not the case and that none of the ministries involved (Justice, VSA, OCJS) took the lead to better align the care and justice domains using inter-ministerial policy. The Council believes that a comprehensive, multidisciplinary approach is the only way to achieve real results.

Review border control

In 2014, the Council published the inspection report on the admission and deportation of foreigners (non-nationals) on St. Maarten, with a focus on employment requests. The review investigation revealed that of the six recommendations issued in 2014, two recommendations had been addressed, one recommendation had been partially addressed and the other four recommendations had not been taken up. The recommendation that was complied with related to the upgrade of a file registration and tracking system (Decos Join) with which, among others, all files can be easily traced thus providing improved insight into the type and quantity of the total inflow into and the number of non-nationals on St. Maarten. The recommendation that was partly followed up concerned investing in the knowledge of the employees to

be able to identify forged documents and the use of local knowledge as well as the investigation of possibilities of developing a database containing the most common documents from the most common countries of origin. Of the four recommendations that were not followed, two related to cooperating with the Ministry of VSA on a labor market study and, on that basis, drawing up a labor market- (responsibility of the Ministry of VSA) and admissions policy (responsibility of the Ministry of Justice) (recommendation 1), and ensuring that the (admissions) policy is implemented and enforced (recommendation 2). The third recommendation that was not followed concerned the drafting and publication of policies. The last recommendation that was not followed related to reconciling the requirements contained in legislation, policy, and the application form, and the practice for decision-making and removal.

Addressing domestic violence

This study was launched in November 2019 and the report was presented to the Minister in June 2020. The Council examined how cases of domestic violence are identified and handled by, and/or in collaboration with, the organizations in the justice chain and/or support services. The Council found that the policies, protocols, criteria and procedures needed to properly address domestic violence have not yet been finalized and/or are absent. The implementation of tasks and procedures in practice also needs improvement e.g., in the reporting and referral process. The Council recognizes the limitations faced by each organization however, the Council believes that the approach to domestic violence can be improved by organizations if (improved) knowledge about the various available interventions and those who can better coordinate them, were available. To encourage a more coordinated approach, common purpose, vision and consistency, and inter-ministerial policy is urgently needed. The Council has made ten recommendations in this regard.

Overall review

As indicated previously, the Council will intensify the monitoring of the implementation of recommendations from 2020 onwards in order to, among others, gain a better impression of the follow-up on recommendations, as well as to encourage and contribute to their implementation. The research approach for this monitoring is more extensive compared to previous specific review inspections. As a result, the reports are also more extensive.

First sub-inspection

The first sub-inspection of the St. Maarten branch was the first in a series of review inspections. A total of four reports were reviewed in 2020. These reports concern juvenile crime prevention (2015), juvenile rehabilitation center the Miss Lalie Center (2015), juvenile probation (2012 / 2015) and adult probation (2013 / 2016).

Second sub-inspection

The second sub-inspection in the series of review inspections in the context of the overall review concerns the following reports: 'The Public Prosecutor's Office in the incident-oriented investigation' (2013 / 2017), 'The enforcement of fines, damages, and dispossessions (2014 / 2018)', 'Selectivity in the investigation and prosecution policy of the Public Prosecutor's Office in Sint Maarten?' (2015, 2019), 'Cooperation of the Public Prosecutors' offices (2018) and 'The Crime Prevention Fund' (2019). The review started in late 2020 and is currently being drafted.

Assessing the National Detectives Agency

In 2020, the Council reviewed the St. Maarten National Detectives Agency. During the inspection the extent to which the National Detectives Agency can execute its tasks was reviewed and the following components were specifically examined: legislation and regulations, policy, (financial, human, and material) resources, cooperation and the results. The investigation reveals that the National Detectives Agency has invested and continues to invest too little in the aforementioned areas. Despite the plans to improve the service, ten years after the establishment of a National Detectives Agency for St. Maarten, several serious bottlenecks remain. The main objective, a fully-fledged service, has not been achieved. The situation is problematic on all fronts. There is a lack of policy, management, and leadership. The resources of the National Detectives Agency are not adequate to achieve the objectives; there is a structural lack of budget. In addition, the independence of the service is not sufficiently guaranteed. It has not escaped the Council's notice, however, that despite this, the staff of the service continue to make efforts to keep the organization operational and also to achieve results.

Response times

The preparation phase of this joint study began in 2020, however, the continuation of the study was not possible due to Corona restrictions. The Council anticipates the resumption of this inspection in late 2021 / early 2022.

Detention/request ORDs

At the request of the JVO, the Council has been monitoring the follow-up on recommendations issued by the Council and the CPT from 2016, and the Council continued its monitoring in 2020. In January 2020, the Ministers decided in the RFO to request that the Council conduct a comprehensive evaluation of the four Detention Mutual Arrangements. The Council agreed to the request and decided to conduct a joint inspection as part of the annual monitoring of the recommendations. The Ministers of the Netherlands and Aruba agreed to have the Council conduct inspections in their countries because the Council's monitoring scope does not extend to these countries. The inspectors prepared for the inspection in 2020. However, the Council was forced to suspend the implementation of the investigation due to the Covid-19 pandemic. Ministers and implementing organizations have been informed of this by the Council. The Council intends to carry out this inspection in 2021.

2020 and 2021 Reports

In 2020 and 2021, the following reports were published by the Council:

Publication year	Subject of the Report	Organization	Minister's Response
2020	Tackling human trafficking and human smuggling	Various (including KPSM, OM)	No
2020	Addressing drug crime and drug-related issues	Various (including KPSM, OM)	No
2020	Review 1 Admission and expulsion of foreigners (non-nationals)	IGD	No
2020	Domestic violence	Various (including KPSM, OM, VR, SJIS, Safe Haven)	Yes
2021	Overall review Sub-inspection 1	Various (including KPSM, OM, VR, SJIS, prison system)	No

Publication year	Subject of the Report	Organization	Minister's Response
2021	Assessing the National Detectives Agency	National Detectives Agency	No

3. Cooperation

In this chapter, the Council identifies several cooperation aspects within the Kingdom as a whole.

3.1 Collaboration

As stated in Chapter 2, the first years after the transition were characterized by development in which the countries and organizations mainly focused on their independent position. This applies to the Caribbean Netherlands, as well as the countries of St. Maarten and Curaçao.

Section 3 of the Kingdom Charter provides a legal basis for cooperation among the countries in the Kingdom. This allows the countries to provide assistance, cooperation and consult with each other. Although the countries must attend to their domestic affairs, the importance of cooperation must be recognized. After all, the small scale means that the resources and staff capacity of the countries comprising the Caribbean Kingdom are limited, and the distance between the European and Caribbean parts of the Netherlands also means, for example, that the Netherlands has an interest in intensive cooperation. The Kingdom Act on the Joint Court of Justice and the Kingdom Act on Public Prosecutor's for Curaçao, St. Maarten and Bonaire, St. Eustatius and Saba are striking examples of required forms of cooperation in the justice area.

Conversely, in the past five years, there have been several developments whereby cooperation between countries, particularly organizations, has explicitly been sought. The Ministry of Justice and Security in the Netherlands has also played an important role in this regard. For example, various initiatives are being launched under the leadership of the Council of Police Chiefs, which was created, in part, to support cooperation. Agreements have been made between the police forces regarding the exchange of scarce specialisms. The KPCN, for example, will focus on financial investigation. In addition, there is mutual coordination within the police training programs, and personnel training is organized within, and for all countries. Dispatch center operators on Bonaire have completed valuable internships with their colleagues on Curaçao and St. Maarten. In the ICT field, cooperation is found through the ICT Management Foundation, to which all countries are (again) members. Besides the quality boost that cooperation brings about, it ensures more mutual involvement and cooperation.

It also appears that with the other chain organizations, in terms of organizational development, that cooperation is always being considered. These organizations organize joint training courses for the staff on the islands. Here again, the development of quality and cooperation is stimulated.

The subject of cooperation is also a regular agenda item of the Four Party Judicial Consultations (**JVO** - *itself another form of cooperation*) between the justice ministers of the countries. At these consultations, collaborations (usually within various kingdom-wide working groups or other forms of cooperation) on the following (recurring) subjects are discussed:

- Combating cross-border crime, including human trafficking/smuggling;
- Border Control and Security;

- Coast Guard;
- Police cooperation and investigative cooperation;
- Information Exchange;
- Immigration Policy;

The Council inspected the execution of the Dutch Caribbean Coast Guard's investigative task in Curaçao, St. Maarten and the Dutch Caribbean. The Dutch Caribbean Coast Guard is a cooperative organization that has been entrusted with tasks in the areas of investigation, supervision, and service provision. The Coast Guard Kingdom Act contains the framework and the principles for the deployment of the Dutch Caribbean Coast Guard. The Council determined that the bottlenecks occurring within the organization were not the result of the legal design or organizational structure of the Dutch Caribbean Coast Guard, but rather how the countries cooperate and implement. Short-term improvements would therefore be achievable by focusing on this. The Council also notes that combating crime requires an integrated approach. Exchanging and combining information among various services are prerequisites. The ICC in Curaçao and the Intelligence Center St. Maarten are already doing that, and, through the participation of the Dutch Caribbean Coast Guard, the maritime component has also been given a role in information management.

In its inspection of the approach to drug crime and drug-related problems, the Council examined the national, interregional, and international laws and regulations, the policy, the type and scope of the drug problem and methods of tackling the problem in practice. The Council identified opportunities for improving the approach utilizing broader interregional and international cooperation, for instance. Given that drug-related crime is known to be a cross-border problem, the Council recommended improving the interregional and international intelligence function and intensifying cooperation to that end.

The Council believes that more can be gained in terms of cooperation between the Countries of the Kingdom. Given the possibilities and limitations of all countries within the Kingdom, it is advisable to make more use of the Charter. Joining forces between the countries could promote the functioning of the Kingdom. For example, the opportunities for consultation under Article 37 of the Kingdom Charter could be better utilized, thus making cooperation agreements on an equal basis possible under Article 38 of the Charter. The idea that the chain is as strong as its weakest link applies *mutatis mutandis* to the Kingdom. When one country fails, the Kingdom also fails. A clear example of this is the prison system. It is not the individual countries but the Kingdom, as a whole, that bears international responsibility for compliance with international standards.

Based on several findings and conclusions from the Council's joint investigations, the aspects of cooperation with regard to the intelligence function and the strengthening thereof as well as the exchange of police and judicial data within the Kingdom will be addressed further below in more specific terms.

3.2 Intelligence function

The various joint inspections conducted by the Council show that the intelligence function is generally poor. The sharing and exchange of data also plays a role in this regard.

The recent inspection on combating human trafficking and human smuggling shows, for example, that the intelligence function and information sharing remain structurally deficient in many aspects. The lack of a country-specific overview of the nature and extent of human trafficking and human smuggling hinders the creation of a common interregional (inter-insular) framework. Information is still not exchanged in a structured way and made available between the countries. The central team of the RST could perform a role in this, in consultation with the countries, enabling the countries to work together towards an interregional and international intelligence function. The systematic sharing of professional knowledge, best practices and research findings between the countries likewise need improvement.

3.3 Exchange of police and judicial data - legal framework

Articles 36, 38 and 40 of the Charter of the Kingdom of the Netherlands regulate interregional legal assistance within the Kingdom. Although article 39, paragraphs 1, 4 and 5 of the Police Ordinance imposes an obligation on the relevant police forces to exchange required police data, the exchange of police data between the forces is not optimal. Notwithstanding that article 39, paragraphs 1, 4 and 5 of the Kingdom Police Law places an obligation on the relevant police forces to exchange essential police data, the sharing of police data between the forces is sub-optimal. In the mutual arrangement between Curaçao, St. Maarten and the Netherlands regarding the processing of police data⁹, an implementation order was included to provide a legal basis for the mutual arrangement in the countries. In St. Maarten, this is provided for by the National Ordinance Police Data.

For data exchange between the countries, the countries must observe the set standards. For example, the Dutch article 5:3 of the Police Data Decree sets conditions for the transmission of police data. One of the conditions is that the transmitted police data is destroyed as soon as its intended purpose has been realized. Therefore, adequate management of police data is also important for the exchange of police data within the Kingdom. Data exchange may violate the right to privacy. This right is guaranteed inter alia by Article 8 ECHR. Adequate legislation is consequently important for data processing.

With the entry into force of the General Data Protection Regulation (*Algemene Verordening Gegevensbescherming* AVG) in 2018, the landscape for the protection of (personal) data has changed. In the Netherlands, the Wpg expired, but in the Caribbean Netherlands the Wpg BES still applies. In both Curaçao and St. Maarten there is a legal regulation for this purpose entitled the *Landsverordening bescherming persoonsgegevens* (Personal Data Protection Ordinance). Besides the AVG there is a separate Police and Justice Data Protection Directive. In the Netherlands, as of January 1, 2019, this directive has been implemented in the Police Data Law (Wpg) and the Judicial and Criminal Records Law (Wjsg). When the AVG and the Directive were created, insufficient consideration was (apparently) given to the data exchange between the European part of the Kingdom and the Caribbean part of the Kingdom. In practice, this raises many questions and problems in the exchange between the territories, both among the countries and with regard to the Netherlands, between the European and the Caribbean Netherlands.

⁹ National Gazette of July 23, 2010, No. 11337

In the Four Party Judicial Consultations (JVO), the topic of data exchange is regularly discussed. In light of the entry into force of the AVG and the implementation of the Directive in terms of police and justice data, the Council has followed the decision-making process since mid-2018. In July 2018, consequently, only after the entry into force of the AVG, it was decided that the possibilities for harmonization within the Kingdom would be explored. After intermediate reviews via various working group recommendations, it was finally decided in the JVO of January 2021 to establish a project group for harmonization of personal data protection to further define such harmonization, and to speed up its implementation. This project group is working on a proposal for a Kingdom Act. With regard to the sharing of police and justice data, it was decided to seek an interim solution that would allow sharing between countries until a legal framework is established.

While the Council observes that there are developments in the field of data exchange within the amended legal regimes, the Council also notes that clarity on a solution for use in the field is still pending. Given the extensive process that preceded the entry into force of the AVG and the Directive, it is remarkable that the required attention was not devoted to this issue within the Kingdom before the entry into force. This, even though article 39 of the Kingdom Police Act contains explicit provisions on the subject.²² This might have averted, or at least limited, the current problem. For the investigative services, the issue therefore currently represents an unnecessary limitation and consequently a risk to the performance of their duties. Given the limitations and risks, it is also remarkable that the decision to seek an interim solution was only taken two years after the Directive came into force. The Council, therefore, voices its expectation that the interim solution adopted by the JVO of January 14, 2021, will be in place before the end of this year.

3.4 COHO and strengthening the rule of law

The proposed Kingdom Act seeks to establish the Caribbean Reform and Development Agency. It aims to achieve, among other things, administrative reforms, sustainable public finances, and a stronger economic structure.

The Advisory Division of the Council of State (hereinafter: the Division) advised on the COHO. The Division appreciates the intentions expressed in the draft Kingdom Act to provide aid and assistance to the Caribbean countries. The Division considers it appropriate to use the instrument of a consensus Kingdom Act. This captures the essence of the consensus Kingdom Act, which says that the countries endorse the desire and need for reform. However, the Division believes that despite political compromise, the autonomy of the countries and the requisite restraint on the part of the Kingdom government are important factors in this.¹⁰

For the justice chain, it is important that agreements to strengthen the rule of law were made in the country package. The Council considers these agreements between the countries as minimum requirements to improve the quality of the Rule of Law. The quality of governance and the democratic rule of law is primarily the responsibility of each country. Accordingly, each country must ensure that the quality of governance and the democratic rule of law are guaranteed.

¹⁰ Advice RvS, reference: W04.20.0408/1/K

4. Future challenges

In its first sub-inspection within the framework of the overall review, the Council states the following with regard to the ongoing developments and their consequences: *St. Maarten, in the past 10 years, both by choice (constitutional changes) and through disaster (hurricanes and pandemic) has been mainly dominated by change, development, recovery and reconstruction. In this regard it can be noted that society is constantly (more) subject to change and thus marked not only by improvements but also by ever-increasing complexity, problems, flexibility, and interdependence. The aforesaid therefore, more than ever, demands an integrated approach and requires strong organizations that can contribute effectively to law enforcement not just on their own but especially as part of the chain.*

In the Council's opinion, the foregoing is a good illustration of the fact that, given the complexity with which law enforcement is faced, cooperation is the key. As such, the Council notes that cooperation has, in recent years, been increasingly pursued, which is a very good development. This is also necessary considering the changing nature of crime, including cybercrime, financial crime and cross-border forms of criminality. Moreover, among other challenges, the digitalization and the associated essential investments, the requisite quality, the intelligence function, and overall efficiency within the chain is a challenge for both St. Maarten, and in particular, the justice chain. The Council expresses its hope that lessons have been learned from the past 10 years and that all parties involved will (continue to) use this acquired experience for the benefit of law enforcement. The Council looks forward to the future developments.

LAW ENFORCEMENT COUNCIL

Mr. L.M. Virginia, chairman,
Mr. M.R. Clarinda,
Mr. Th.P.L. Bot.

Appendix 1 : Published reports of the Council for St. Maarten

Reports 2012-2021

Publication year	Subject of the Report	Organization	Minister's Response
2012	Process of filing police reports	KPSM	Yes
2012	Juvenile Probation	Court of Guardianship	Yes
2012	Support for Victims	Various (including KPSM, OM)	Yes
2012	Criminal investigation process	KPSM	Yes
2013	Detention Capacity	Prison System	Yes
2013	Border control on the movement of persons	IGD	Yes
2013	OM in incident-oriented detection	OM	Yes
2013	Police Education	KPSM	Yes
2013	Adult Probation	SJIS	Yes
2014	Criminal confiscation and seizure	KPSM	Yes
2014	Security and safety detention	Prison System	No
2014	Security for persons in authority	Various (including VDSM, KPSM, OM)	No
2014	Enforcement of fines, damages and dispossessions	OM	No
2014	Admission and expulsion of foreigners	IGD	No
2014	Use of force	KPSM	No
2014	Review process of filing police reports	Various (including KPSM, OM)	No
2015	Review juvenile probation	Guardian Council	No
2015	Approach to robberies	KPSM	No
2015	Prevention of juvenile delinquency	Various (including KPSM, OM)	No
2015	Exchange of police and justice data within the Kingdom	Various (including KPSM, OM)	No
2015	Treatment addiction or mental disorders in the criminal justice system	Various (including KPSM, OM, MHF, SJIB, TPF, detention system)	No
2015	Investigation and prosecution policy OM	OM	No
2016	Review Adult Rehabilitation	SJIS	No
2016	Review Investigation Process Criminal Investigation	KPSM	Yes
2016	Surveillance and security of persons and goods	Various (including KPSM, OM)	No
2016	Review Support for Victims (first review)	Various (including KPSM, OM)	No
2016	Prostitution policy and enforcement	Various (including Administrative Enforcers, KPSM, OM)	No
2016	PI legal status of detainees and personnel & organization	Prison System	No
2016	Juvenile correctional facility MLC	Prison System	No
2017	PI Internal Security and Community Security	Prison System	No
2017	PI Dealing with Prisoners and Social Integration	Prison System	No

Publication year	Subject of the Report	Organization	Minister's Response
2017	Review Border Control of Movement of Persons	IGD	No
2017	Review OM Incident Oriented Detection	OM	No
2017	Review Police Education	KPSM	No
2018	Forensic Investigation	Various (including KPSM, LR)	Yes
2018	Review PI Internal Security and Community Security	Prison System	Yes
2018	Review PI Legal Status of Detainees and Personnel & Organization	Prison System	Yes
2018	Review Enforcement of fines, damages and dispossessions	OM	No
2018	Dutch Caribbean Coast Guard	Coast Guard	Yes
2018	Internal Affairs Office	KPSM	Yes
2018	Collaboration prosecutors office's	OM	No
2019	Crime Prevention Fund	Various (including KPSM, OM, Minister of Justice)	No
2019	Review Criminal confiscation and seizure	KPSM	No
2019	Review prison, MLC, police cells and border hospice Simpson Bay (second review)	Prison System	No
2019	Review Investigation and Prosecution Policies Prosecutor's Office	OM	No
2019	Review Support for Victims (second review).	Various (including KPSM, OM)	No
2019	Review Use of Force	KPSM	No
2020	Tackling human trafficking and human smuggling	Various (including KPSM, OM)	No
2020	Addressing drug crime and drug-related issues	Various (including KPSM, OM)	No
2020	Review Admission and Expulsion of Foreigners	IGD	No
2020	Domestic violence	Various (including KPSM, OM, VR, SJIS, Safe Haven)	Yes
2021	Overall review Sub-inspection 1	Various (including KPSM, OM, VR, SJIS, prison system)	No
2021	Assessing the National Detectives Agency	Landsrecherche	No

Appendix 2: Justice priorities in St. Maarten's 2012-2020 government programs

Government Program	Priorities for the justice system
A Foundation of Hope for Our Country	
	<i>Safety & security</i>
	<ul style="list-style-type: none"> • Bring the police organization to an optimal level of performance, through improved management systems, exchange programs, training and recruitment; • Establish programs for victims of crime; • Provide entrance level training for law enforcement personnel; • Expand youth care and youth facilities; • Focus on re-socialization programs and projects; • Implement the police upgrading plan; • Formalize Alternative to Incarceration programs (community work; electronic monitoring); • Promote collaboration between agencies with similar objectives; • Formalize traffic policies to improve road safety; • Upgrade immigration and border control systems.
2012-2014 Working For The People	
	<i>Public safety & security</i>
	Solving crime - (...) This government will continue to work towards improving the capacity and resource of the Police Force.
	Youth crime - (..) government plans to build a youth correctional facility. The establishment of a separate woman facility is also currently being looked into.
	Sports development - This government recognizes the important role which sport plays in the life of the individual and as such intends to design a structure that meets the needs of all. (...)
	Voluntary Corps of St. Maarten VKS - (...) Government is working on establishing various rules and regulations for the corps, as well as creating the Foundation VKS that will be charged with the management of the finances and materials of the VKS. (...)
	Immigration - (..) Government will continue to restructure the Immigration Service in order to provide the necessary adjustments, which will lead to quality immigration service delivery and effective border control. In the area of policymaking, government is presently designing new policies to reflect St. Maarten's current needs (..).
	Integration - Integration of persons living and working on the island for a long time is currently one of government's focal points within the Immigration Service. (...) With these modifications counterbalancing negative side-effects will be critical. Stricter enforcement of admission and expulsion regulations will come to the forefront. Stricter border control will also be exercised (...). Technology will also play an instrumental role (...). A greater emphasis on control and law enforcement, in order to better serve the community, will make St. Maarten a more progressive and secure place for all residents.
	Combating Drug & Human Trafficking - (...) Government will dedicate itself to being a partner in the fight against this form of organized crime, which threatens public order and safety on St. Maarten. This will be realized through the Ministry of Justice and its various services, such as the Customs Department and Immigration Border Control. (...)
	Financial Intelligence Unit (MOT) - (...) Government will, through the Financial Intelligence Unit (MOT), report unusual transactions in compliance with the rules of the Financial Action Task Force (FATF). (...)
2014-2018 Ready to work for you	
	<i>Ministry of Justice</i>
	IMMIGRATION AND BORDER CONTROL <ul style="list-style-type: none"> • Implement an extensive and in-depth review of the immigration function based on a continuous review of the need for non-locally available labor • Ensure that the immigration policy accommodates the employment of qualified locals first, while providing foreign labor where not locally available h Investigate the possibility of offering a temporary, short-term work and residence permit system • Establish clear, unbiased immigration policies for permits, renewals, and amendments h Improve the time factor on procedures for application review and response by simplifying and reducing the level and detail of the bureaucratic process involved in the granting of work and residence permits

Government Program	Priorities for the justice system
	<ul style="list-style-type: none"> • Implement the use of advanced technological systems for smoother running's of the immigration, visa and border control procedures • Implement an effective data processing system at points of entry in order to achieve proper immigration controls by keeping in depth details on stated place of residence on Sint Maarten • Develop fair, regular and consistent immigration controls to be executed in a humane manner while protecting the rights of those being controlled • Improve coordination with Saint Martin authorities to combat cross-border crime (falls under the Governor) • Identify these instances and, until this matter can be rectified legally, work and residence permits should be issued • Work with Kingdom authorities in reviewing the Dutch language requirement for naturalization h Strengthening the Customs department with, among other things, training and increase of manpower. • Ensure that high risk flights are always checked for the control of illicit goods • Strengthen cooperation between Customs and immigration & Border Control • Together with PJIA better facilitate and improve the facilities for passengers with challenges in immigration (holding area) • Reinstating the Simpson Bay Facilities as a holding center for undocumented individuals • Combat human trafficking h Implement joint border control at PJIA/ the Franco Dutch treaty • Introduce Police Cooperation Treaty • Finalize demarcation of Sea borders h Improve the immigration information system to create facts for policy decisions • Higher police visibility in various districts. More police vehicles.
	<p>POLICE FORCE</p> <ul style="list-style-type: none"> • Formalize the Justice Academy • Support the recruitment efforts of the police force h Recruitment of (auxiliary) police officers • Focus on youngsters not in school between the ages of 17 - 19 as being primary recruits for the police force • Establish salaries and benefits (i.e., health and physical programs) to build a strong police force • Train and upgrade the police force for the improvement of the force • Provide debriefing services for police force such as counseling to alleviate the stress levels in the workplace • Implement a program where Government can make police available for hire to businesses thereby providing better protection for the business and the public while earning additional revenue for Government which will allow for the employment of additional members to the police force
	<p>CORRECTIONAL FACILITIES AND JUDICIAL PROCESS</p> <ul style="list-style-type: none"> • Gather data on juvenile delinquency and school dropouts to assist the appropriate ministries in dealing with juvenile delinquency • Advocate increased sentences for spousal and domestic abuse, along with greater support for victims and the institutions that offer assistance, such as championing the causes of organizations such as Safe Haven • Create reintegration programs for the youth after serving time or out of school • Finalize the expansion and renovation of the Pointe Blanche Prison • The privatizing of the prison must be studied. The coalition will establish a review committee consisting of Government representatives, business, the church and the prison to study this option • Support and expand the existing rehabilitation and probation department by utilizing psychological analysis, discipline, and close coordination with the prison on prisoner behavior, training etc. • Motivate the judicial process to: Foster a get tough on crime attitude
	<p>Youth Delinquency</p> <ul style="list-style-type: none"> • Finalize the (Miss Lalie) Youth Detention and Rehabilitation Facility for youth offenders • Establish Youth Community Service policy for first offenders/ Expand possibilities for alternative punishments • Prevent crime amongst youth through crime prevention programs • Provide for rehabilitation programs and guidance for (youth) offenders
	<p>House of Detention</p> <ul style="list-style-type: none"> • Research possibility of prisoners contributing to their incarceration costs • 'Finalize the upgrade and expansion of Point Blanche prison to meet international standards' • Continue improvement of the House of Detention. Complete all phases
<p>2016-2020 Stability for prosperity</p>	
	<p><i>Public safety</i></p>

Government Program	Priorities for the justice system
	Implement ordinances and policies to address safety Initiative <ul style="list-style-type: none"> • Address legislation and policy to strengthen safety and security (Justice) • Evaluate penalties for criminal acts (Justice) • Review law and policy within the judicial and legal sector (GA, Justice) • Finalize and implement legislation and policies in the Social Development sector (VSA). • Improve health safety (VSA, VROMI)
	Improve the efficiency, effectiveness and quality in the justice chain Initiative <ul style="list-style-type: none"> • Optimize the operations of Prison (Justice). • Strengthen the Police force (Justice) • Strengthen the Customs department (Justice) • Review and formalize the organizational structure of the Ministry of Justice (Justice) • Upgrade the operational management of the Ministry of Justice (Justice) • Increase resources within the law enforcement (Justice) • Tackle illegal immigration and human smuggling and trafficking (Justice)
	Strengthen Safety and Security Initiative Ministry <ul style="list-style-type: none"> • Promote and protect the rights of the child ECYS, Justice, (USA) • Mitigate crime and improve safety in the community (Justice) • Reduce youth crime justice, (ECYS) • Ensure a safe and positive learning environment for all students (ECYS)
	Enhance safety facilities and resources Initiative Ministry <ul style="list-style-type: none"> • Upgrade and expand safety and security facilities within Justice (Justice) • Upgrade and expand fire department facilities and equipment (GA) • Utilize Voluntary Corps Sint Maarten (GA)
2018-2022 Building a Sustainable Sint Maarten	
	<i>Safety & security</i>
	Improve safety facilities and resources <ul style="list-style-type: none"> -Upgrade the facilities within the justice chain (Justice) -Modernize the Prison system (Justice) -Upgrade the fire department with new equipment and expand the facilities (GA) -Supply the police with proper tools and equipment (Justice) -Ensure the restoration and improvement of street lighting NRPB, (VROMI) Improve pedestrian safety and reinstall & upgrade road signs (VROMI)
	Strengthen the Justice chain <ul style="list-style-type: none"> -Review the organizational structure and personnel within the Ministry of Justice (Justice) -Address immigration policy and procedures (Justice) -Address Coast Guard improvements (Justice)
	Protecting industries and communities <ul style="list-style-type: none"> -Develop a National Safety and Security plan (Justice) -Mitigate youth delinquency and dropout (ECYS, Justice, USA) -Manage the parallel imports and counterfeit market (TEATT) -Be more safety smart (Justice, GA) -Set up an emergency response and evacuation program for the government administration building (GA)
2020-2024 Building a Strong, Unified, and Multi-Pillar Nation	
	<i>National Security Measures</i>
	Legislation - Internal & Kingdom Relations & Regional Collaboration <ol style="list-style-type: none"> 1. Vetting and ratifying of the National Development Plan. 2. Regional collaboration on various issues e.g., custodial/prison, medical/ health/ 3. Establish an internal committee for the continuous review of existing legislation to update legislation where needed 4. Review all organic laws 5. Review the Kingdom Laws 6. Establish a partnership with the Legislative Academy in the Netherlands (Wetgevingsacademie). 7. Review the Electoral law and policies
	Records & Information Management - Human Resources (Personnel) <ol style="list-style-type: none"> 1. Revamping personnel

Government Program	Priorities for the justice system
	<ol style="list-style-type: none"> 2. Upgrade the information management process to ensure that all documentation is synchronized, thereby guaranteeing a smooth flow of information. 3. Integrate information systems to provide better service to businesses and the community. 4. Further development of e-government. 5. Improve the public administration system by simplifying and streamlining the bureaucratic processes, making them more user-friendly and easier for the average person to understand. 6. Improve Government productivity by establishing standards and deadlines by which services and information provided to citizens must be met.
	<p>Immigration-related</p> <ol style="list-style-type: none"> 1. Improve the immigration information system to create facts for policy decisions 2. Investigate the possibility of offering a temporary, short-term work and residence permit system 3. Establish clear, unbiased immigration policies for permits, renewals, and amendments 4. Improve the time factor on procedures for application review and response by simplifying and reducing the level and detail of the bureaucratic process involved in the granting of work and residence permits 5. Together with PJIA, better facilitate and improve the facilities for passengers with challenges in immigration (holding area) 6. Re-instating the Simpson Bay Facilities as a holding center for undocumented individuals 7. Ensure that the immigration policy accommodates the employment of qualified locals first while providing foreign labor were not locally available 8. Implement an extensive and in-depth review of the immigration function based on a continuous review of the need for non-locally available labor
	<p>Border Control related</p> <ol style="list-style-type: none"> 1. Develop National security plan - border control & Immigration/ residency matters. 2. Improve coordination with Saint Martin authorities to combat cross-border crime (falls under the Governor) 3. Work with Kingdom authorities in reviewing the Dutch language requirement for naturalization 4. Strengthening the Customs department with, among other things, training and increase of manpower 5. Strengthen cooperation between Customs and immigration & Border Control 6. Combat human trafficking 7. Implement joint border control at PJIA/ the Franco-Dutch treaty 8. Finalize demarcation of Sea borders 9. Introduce Police Cooperation Treaty 10. Higher police visibility in various districts. More police vehicles
	<p>Other relevant matters of high priority</p> <ol style="list-style-type: none"> 1. Diplomat in Trinidad & Tobago ref. Caribbean Financial Action Task Force (CFATF)/ money laundering 2. Mitigating youth delinquency 3. Prison - building a new one

Appendix 3: Schematic review of 17 factors in 2016

Qualifications
Complies
Complies to a large extent
Could be better
Must do better
Does not comply

General

Legal Framework

General				
		Inspections Council	Rule of Law	Effectiveness
1.	legal framework			

Policy

General				
		Inspections Council	Rule of Law	Effectiveness
2.	policy			

Facilities

General					
		Inspections Council	Rule of Law	Effectiveness	Efficiency
3.	facilities				

Security & Crime Overview, Prevention, Enforcement & Compliance

III.4 Statistics, figures and crime overview

Safety & Crime, Prevention, Enforcement & Compliance			
		Inspections Council	Effectiveness
4.	statistics, figures and crime overview		

Prevention activities

Safety & Crime, Prevention, Enforcement & Compliance			
		Inspections Council	Effectiveness
5.	prevention-activities		

Enforcement and Compliance

Safety & Crime, Prevention, Enforcement & Compliance					
		Inspections Council		Statutory- heath	Effectiveness
6.	enforcement & compliance				

Chain Approach

Organization					
		Inspections Council			Effectiveness
7.	chain approach				

Work processes

Organization					
		Inspections Council			Efficiency
8.	work processes				

Intelligence function

Organization					
		Inspections Council		Effectiveness	Efficiency
9.	intelligence function				

Business processes and access systems

Organization					
		Inspections Council		Effectiveness	Efficiency
10.	business process and access systems				

Financial management and mandate

Organization					
		Inspections Council		Effectiveness	Efficiency
11.	financial management and mandate				

Service and Communication

Organization				
		Inspections Council		Effectiveness
12.	service & communication			

Annual plans and annual reports

Organization					
		Inspections Council		Effectiveness	Efficiency
13.	annual plans and annual reports				

Human Resources

III.14 Furnishing plans and job house

Human Resources							
		Inspections Council	Statutory-heath		Effectiveness		Efficiency
14.	financial management and mandate						

Capacity

Human Resources							
		Inspections Council	Statutory-heath		Effectiveness		Efficiency
15.	capacity						

Human Resources

Human Resources							
		Inspections Council	Statutory-heath		Effectiveness		Efficiency
16.	human resources						

Training

Human Resources							
		Inspections Council		Effectiveness		Efficiency	
17.	training						

Colophon

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