



The State of Law Enforcement Sint Maarten 2022
Strengthening the criminal enforcement of the rule of law

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Law Enforcement Council
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1. Introduction

The Law Enforcement Council (the Council) consists of a total of three members, all of whom are appointed by Royal Decree. Under the Kingdom Act on the Law Enforcement Council (Kingdom Act Law Enforcement Council) in the countries Sint Maarten, Curaçao and for the Netherlands, insofar as it concerns Bonaire, Sint Eustatius and Saba (BES-islands), the Council is charged with conducting general inspections with regard to effectiveness, quality and management of judicial organisations. In Sint Maarten, these organisations include: the Pointe Blanche Prison and House of Detention (hereinafter: the prison), the youth rehabilitation centre referred to as Miss Lalie Center (MLC), the Public Prosecutor's Office (OM), the National Detectives Agency (LSM), the Sint Maarten Police Force (KPSM), the Coast Guard (KW), the Immigration and Border Protection Services (IBPS), the Foundation Judicial Institutes St. Maarten (adult probation; SJIS) and the Court of Guardianship (juvenile probation; VR). Other important organisations involved in law enforcement are: the Bureau Unusual Financial Transactions (MOT), Customs, the Royal Netherlands Marechaussee (KMar), the Detective Cooperation Team (RST), the Mental Health Foundation (MHF), the Turning Point Foundation (TPF) and Safe Haven¹. In addition, the Council is responsible for the general inspection of the quality and effectiveness of the judicial cooperation between the countries.

For Sint Maarten, from 2011 up to and including 2022, the Council published 57 (follow up) inspections on a variety of social issues (see [Annex 1](#)). The Council conducts independent, professional and objective inspections. The Council presents the reports with recommendations on specific subject matters to the Minister of Justice. Subsequently, the Minister is required to forward the inspection report and his response to the Parliament of Sint Maarten within six weeks pursuant to the Kingdom Act Law Enforcement Council. In addition, on the basis of Article 33 of the Kingdom Act Law Enforcement Council, the Council publishes an annual report on the State of Law Enforcement (the State). The State contains a more general view of the developments in law enforcement and findings that go beyond the individual inspections. The State is presented directly to the Minister of Justice and to Parliament on an annual basis.

The focus of the last State (2021) was on developments related to the strengthening of the rule of law and law enforcement. Similarly, the Council's most recent inspection reports on cross-border crime and the inspections carried out in 2021 were discussed. In addition, the Council identified the positive developments within the Ministry of Justice in 2021.

The current State builds further on the strengthening of the rule of law and law enforcement and focuses largely on the criminal enforcement of law and order. Based on the developments in 2022 in particular, several highlights and bottlenecks, their consequences and the criminal enforcement of law and order is placed in a broader perspective. All of this played out during the aftermath of the Covid pandemic and on the road to a "new normal".

In Chapter 2, the Council describes developments in 2022. In this respect, especially the main highlights and bottlenecks of the various judicial organisations as well as other relevant developments are addressed. The Council also expounds on several relevant overarching themes. Chapter 3 contains a concluding remark.

¹ Depending on the subject matter, the Council will involve one or more organisations in its inspections. However, the Kingdom Act Law Enforcement Council does not confer any powers with regard to these organisations.

2. Developments in 2022

2.1 Introduction

This chapter describes the main highlights and bottlenecks for the Ministry of Justice and the judicial organisations in 2022. Subsequently, the Council will address the overarching themes arising from these, and other developments in 2022.

2.2. Main highlights and bottlenecks in organizations in 2022

2.2.1 Ministry of Justice

In 2022, the Minister of Justice focussed on personnel matters and on creating a structure for the Ministry of Justice. As such, the implementation of a personnel information system and the centralization of personnel files were initiated. Additionally, the HR personnel participated in a four-day workshop on the rights of civil servants and the advisory process. The shortage of personnel capacity within (the staff bureau of) the Ministry of Justice was almost entirely noticeable in 2022. Vacancies were posted for various (critical) functions, including for a Secretary-General (S-G), a Head of Judicial Affairs, a Head of HR and a policy officer, some of which have remained vacant. However, some functions were filled temporarily, such as that of the S-G and that of the Head of Judicial Affairs. However, at the end of 2022, a Head of Judicial Affairs and a Head of HR were appointed. The Justice function book was approved and adopted at the end of 2021. The intention was to have the function book enter into force at the end of 2022, however, to date this has not yet happened. Among other things, there are bottlenecks in terms of a solution for the payments that must be made retroactively. In terms of updating ministerial policies, the weapons policy published in September 2022 is worth mentioning. This policy contains the procedure and criteria about the application and possession of a weapon and its assessment. Furthermore, in accordance with the National Ordinance on the Police Action Complaints Committee, the external and independent committee for dealing with complaints about the police was adopted by National Decree.

Two conferences were organised by the Minister in 2022, namely the so-called Justice Week with the theme '*Justice with efficiency*' and the first annual '*Anti-counterfeiting and brand protection*' conference. In 2022, the Ministry also focussed on collaboration with several other ministries. For example, the Ministries of Justice; Public Health, Social Development and Labour (VSA); and Tourism, Economic Affairs, Transport and Telecommunications (TEATT) resumed the joint multidisciplinary controls, explicitly involving assistance from parties in charge of law enforcement. Moreover, the Ministries of VSA and Justice specifically focussed on illegal work. And the Ministries of Justice, VSA and TEATT) launched a pilot project to tackle the issues related to immigration and labour of foreign nationals. Furthermore, the Ministries of Justice and VSA reviewed the cooperation and possible coordination of employment for (former) prisoners. The ministry also launched a new television series entitled: 'HVB unscripted', which provides insight into and creates awareness about the lives of detainees.

In 2022, there was also attention (requested) for victims and minors. The victim support office did not get off the ground in 2022 either, despite the fact that several vacancies were posted. This is still experienced as a great loss. As a result of the Judicial Quadripartite Consultation (JVO), in 2022 a *Memorandum of*

Understanding 'working process border in case of evacuation of children during a natural disaster' was adopted by the Ministers of Justice. Equally, from the JVO's perspective, there is attention from the Ministers for topics such as migration policy, cross-border crime, exchange of information and data, administrative approach to undermining, strengthening border control and repatriation of undocumented migrants. In this respect, the countries established a working group for the administrative approach to undermining.² The assignment of the working group is to facilitate with the preparation of a problem analysis, to make an inventory of existing wishes and initiatives and to draw up plans of approach. Since 2022, each year, the Netherlands made a contribution of €1 million available for the administrative approach to undermining in the countries. Besides participation in the JVO, the cooperation between the Ministers is also reflected in the judicial tripartite meetings of the Ministers of Justice of Aruba, Curaçao and Sint Maarten, which started in 2022. These meetings focus, among other things, on the topics of police, prison, training (uniform curriculum) and forensic care.

In 2022, there were also developments in the field of electronic monitoring. At the beginning of 2022, the Minister of Justice signed a three-year contract, consisting of the lease of 20 ankle bracelets and a monitoring software system. This should contribute to alleviating the existing capacity problems at the prison (see also section 2.3).

Highlights		Bottlenecks
Focus on HR related matters		Financial capacity
Collaboration Inter-Ministerial and within the Kingdom		Personnel capacity
Electronic monitoring		Entry into force of the Justice function book
Protocol evacuation minors		Victim Support Bureau

2.2.2 Public Prosecutor's Office

The initiative in the field of restorative justice which was launched in 2021 by the Public Prosecutor's Office and the Foundation Judicial Institutes St. Maarten, entitled: '*Domestic Violence and Mediation Project*', was continued in 2022. In 2022, several "mediation" skills courses and workshops were provided to people in the justice and social chain, including 14 police officers of the Sint Maarten Police Force. Furthermore, in 2022, the Public Prosecutor's Office focussed on investigating and prosecuting a number of specific cases and these resulted in several successful trials. The Public Prosecutor's Office also focussed on the collection of fines, by sending letters and having police controls according to their procedure. In 2022, the greatest bottleneck was the personnel shortage. The Public Prosecutor's Office in first instance had to wait a long time for replacement of a public prosecutor and almost all of 2022 (and up until now) the prosecutor's office does not have a policy officer. Meanwhile, the policy officers at the Solicitor General's office in Curaçao are called upon as much as possible. Similarly, the large shortage of staff at the police and the lack of cell capacity also have as a consequence that those in charge are forced to make difficult choices in relation to the (early) release of prisoners. And by extension, they are unable to enforce sentences. In addition, there is a good cooperation between the Public Prosecutor's Office and all chain partners.

² See for example <https://open.overheid.nl/documenten/ronl-9db66bc1-91f8-46e7-a1b9-2653fd730368/pdf>

Highlights		Bottlenecks
'Domestic Violence and Mediation Project' – Mediation Training		Personnel capacity
Successful investigation, prosecution and trials		Not being able to enforce sentences
Collection of fines		

2.2.3 Coast Guard

The Coast Guard formulated as its mission: "To provide maritime safety (*safety & security*) in the Caribbean through investigation, supervision (enforcement) and service." The vision of the Coast Guard is to fulfill its mission through independent 24/7 Intelligence-Driven Policing in the maritime domain from 2025 onwards. A 2022-2025 Coast Guard Judicial Policy Plan and a 2019-2028 Long-Term Plan for material and a long-term personnel plan have been drawn up. In 2022, new guidelines for the judicial tasks for the Coast Guard were also agreed upon for the improvement of exchange of information, sharing of knowledge and specializations. Because of the way in which the Coast Guard is organized, which is inter-island, it has its own function book 'in place'. In order to fulfil the envisaged 24/7 staffing, the Coast Guard launched a number of recruitment campaigns and will also continue to do so in the coming years. Investments are being made in the training of new staff, with specific attention to (the Dutch) language. However, the Coast Guard points out that recruiting personnel for Sint Maarten is more difficult compared to the other islands. The 'pond' in Sint Maarten is much more limited than elsewhere, because of the small scale and the more limited supply. The maritime border with the French side remains a bottleneck in terms of time, finances, efficiency and being able to pursue people who cross the border. Both sides are committed to making better collaboration agreements at operational level, however, this must first be tackled at political level.

Highlights		Bottlenecks
New guidelines		Small 'pond' for recruitment
Commitment to 24/7 Intelligence-driven Policing		Maritime border Sint Maarten – French side

2.2.4 Sint Maarten Police Force

In 2022, the Sint Maarten Police Force started using the information-driven dashboard 'Cognos'. The dashboard provides insight into crime figures and provides information regarding absenteeism, trainings and capacity management. It facilitates the weekly management and enables the KPSM to quickly and substantively generate a security situation and also to be able to communicate that. Subsequently, in mid-2022, the long-awaited detectives' module in Actpol was also put into operation. The Sint Maarten Police Force also focussed on writing and updating procedures and other documents. These can all be found centrally on the intranet of the Police Force. In addition, as far as equipment is concerned, the Police Force received new bulletproof vests.

During the year, several members of the Police Force as well as other staff members of judicial partners attended a number of courses, including 'permanent core manager', crisis management and a course for analysts. Information sessions on mental health were also provided to prospective police officers by, among others, the Mental Health Foundation. As was the case in the previous year, the Financial Economic Crime (FINEC) course was also organized in 2022 – this time in Bonaire – in which KPSM staff also participated. Furthermore, collaboration with the French side was focussed on through consultations on,

among other topics, a new police-station, reducing robberies and the fight against human trafficking and human smuggling. In addition, also in 2022 the Board of Police Chiefs (CvK) further built on strengthening this interregional collaboration by, among other things, placing several portfolios under different police forces. For example, in mid-2022, in accordance with its portfolio, the KPSM put into operation five audio-interrogation rooms for adults and one for minors, which are fully compliant with current standards. Many of the topics adopted by the Board of Police Chiefs, such as training courses, are made possible by funding from the (European) Netherlands. In the JVO of August 2022, the importance of having the local enforcement organisations in order was emphasized.

Subsequently, in 2022, attention was also paid to enforcement by the police on disturbance and criminal behaviour of young people in certain areas. In that context, on 2 September 2022, the 'Decree of the Minister of Justice designating an area of enhanced criminal enforcement in connection with disturbance and criminal behaviour by truant and loitering juveniles' (no. 410-2MB/JUS) entered into force, and is valid until 1 July 2023. This includes a combination of criminal surveillance, enforcement and preventive action.

In October, the decision to extend the work of the Sint Maarten Progress Committee in the context of monitoring the plans of approach for the Sint Maarten Police Force and the prison entered into force for two years.³

Based on the Amendment of the Protocol on specialized detective cooperation between the countries of the Kingdom ⁴, there is no longer a local RST office in Sint Maarten. However, also in 2022 a number of RST employees continue to work locally under operational direction of the Chief of Police in the serious crime division of the Sint Maarten Police Force.

Highlights		Bottlenecks
Systems: Dashboard 'Cognos' / detective module		Financial capacity
Update processes		Personnel capacity
Training sessions		Material capacity
Collaboration		Disturbance and criminal behaviour of young people
Audio-interrogation rooms		

2.2.5 National Detectives Agency

Although the Council wanted to identify both highlights as well as bottlenecks for the National Detectives Agency, this organisation experienced almost only serious bottlenecks in 2022. The National Detectives Agency is struggling with a capacity shortage on both managerial and operational level. Despite recruitment in 2022, no new Head has been appointed as yet and a number of positions remain unfilled. In practice, the capacity shortage leads to delays in cases, among other things, and failure to allocate investigations intended for the National Detectives Agency. The FTEs that should be delivered by the RST, as was agreed upon, are currently not being delivered. However, whenever possible, remote assistance is provided.

³ <https://zoek.officielebekendmakingen.nl/stb-2022-310.html>

⁴ Stc. 2019 no. 38964

The reduction in the budget of the National Detectives Agency results in not being able to follow training courses, not being able to recruit for (critical) functions and not being able to make necessary official trips. Furthermore, the difficult communication with the ministry and between departments and other ministries leads to, among other things, delays and sometimes incorrect or missing documents. Equally, the acquisition of funds (petty cash) and the payments of funds to third parties by the Ministry of Finance oftentimes take a long time, as a result of which, among other things, licenses cannot be renewed on time, goods are not received immediately, suppliers do not want to deliver (any longer), institutions do not want to provide training courses or problems arise with the security of the networks. In terms of equipment, the fleet of vehicles is in need of replacement and the attempts to purchase an external business processing system for the National Detectives Agency have not led to the desired result in 2022 either. The foregoing resulted in the National Detectives Agency itself developing its own 'in-house' business registration system, which was used in 2022.

Highlight		Bottlenecks
In-house developed business registration system		Financial capacity
		Personnel capacity
		Equipment capacity

2.2.6 Prison and MLC

House of Detention and prison

In the second half of 2021, following recruitment by the ministry, a programme team for the prison was established. In 2022, with the support of the Minister of Justice, the management team and the programme team drew up a prison action plan based on the action plan drawn up in 2018. The action plan contains an overview of the activities, measures and projects. The short- and long-term improvements are focussed on six topics, namely improving safety and security, buildings and grounds, personnel matters, prisoner care and activities, internal and external communication and business operations. However, since the end of 2022, the prison no longer receives assistance from the programme team, because the Minister no longer considered this desirable. The Minister is working to find another solution.

In terms of safety and security, in 2022, instructions were drawn up, 10 hand-held scanners were put into service, cell searches were initiated and two installations of security-systems (fire alarm and perimeter lighting) took place. As part of the security, further improvements (such as detection gates and walkie-talkies) and updates of documents need to take place. The prison also depends on payments by the Ministry of Finance to carry out projects.

Several improvements were made to the building and grounds. Among these, the gym, two airing spaces, the laundry room, the hairdressing room and the music room were repaired, painted and furnished. The prison has a maintenance team and a cleaning crew consisting of prisoners. The visitors' area is refurbished and a children's corner has been set up. A tent has been put up which temporarily serves as a chapel. The old chapel is used as a workspace on a temporary basis, also resulting in more jobs being created. The tender to convert the chapel into a workspace is still ongoing. Also on the women's ward, the outdoor area and the cell rooms have been renovated. The medical service area has been moved, but

improvements still need to be made. Two new isolation cells with airing space were also created. Moreover, in 2022, the planned construction of a new prison was also commissioned. In May 2022, the *United Nations Office for Project Services (UNOPS)*⁵ paid its first working visit to Sint Maarten, which was successful. Subsequently, - after suspending the project temporarily due to irregularities on the part of UNOPS, - the long-awaited agreement for the first phase in the context of the construction of a new prison was signed by Sint Maarten, the Netherlands and UNOPS in December 2022. Now the Host Country Agreement still has to be signed in order for UNOPS to start in Sint Maarten. Repairs (including the showers and toilets) and replacements (including mattresses) in the police cells have taken place, but a solution for the roof and the drainage still has to be found.

In terms of personnel / Human Resources analyses have taken place and a protocol on absenteeism is being worked on. In that respect, a pilot project was initiated. The shortage of staff still remains a major bottleneck. However, a number of prison guards, who completed their training years ago, were sworn in. In collaboration with the DJI Training Institute, a full-time DJI trainer was made available in 2022 and a basic course was started for all prison guards. In addition, the prison guards have new handcuffs and batons at their disposal. A number of other training sessions also took place, including a 'mediation' training of the social workers.

In terms of prisoner care and a daytime program for inmates, the prison is working on a prison administration system. However, new hardware is a prerequisite for its implementation. Providing adequate medical and psychiatric care remains a bottleneck. There are several options for a rehabilitation program, including Aggression Regulation Training (ART). Both areas will be further addressed in 2023. Certain parts of the daytime program are ongoing or completed. In this respect, attention is being paid to work, mental care, social care, development, recreation, airing, visits and sports, but these must also continue to be focussed on in 2023. Furthermore, the house rules have been updated and are available in several languages. In addition, 11 prisoners successfully completed the pilot programme '*Prison education program*'.

With regard to communication and the organisational structure, the latter can only be established once the function book comes into force, as staff can then be placed within the organisation in accordance with the functions. Currently, more regular internal consultations are held. The prison is also focussed on building and maintaining an external network. Furthermore, the prison directors' meeting was revived in 2022. With regard to the business operations, efforts were made to draw up an annual plan for 2022 and to strengthen the ICT. An assessment of the quality of the existing hardware and software took place and these will (have to) be renewed.

Although many developments have taken place in several areas in 2022, a lot still needs to be done in the run-up to the new building. This was also acknowledged by the Progress Committee in several progress reports on the prison which were published in 2022.

MLC Youth Rehabilitation Centre

Several chain partners are concerned about the MLC Youth Rehabilitation Centre. Although formerly minors could be placed in MLC on both civil as well as criminal titles, this has since been reversed to only

⁵ <https://www.unops.org/>

placements on a criminal title. Furthermore, in an effort to ease the pressure on the capacity in the prison, the MLC was also formally opened up to juveniles between the ages of 18 and 21. However, due to disturbance complaints about the MLC, in 2022, it was subsequently decided again not to place any juveniles above 18 in MLC. Several judicial partners also point out that there is still a lack of a balanced day program in the MLC and schooling is still not properly organized as yet. In 2022, the MLC had several vacancies, but it had sufficient pedagogical staff. In 2022, a 'Placement in an Institution for Juveniles' (PIJ) measure for the duration of two years was imposed by the judge in a criminal case. However, no institution in Sint Maarten has been identified that can enforce this measure. As a result, the preceding is a bottleneck for which no structural solution has been found as yet.

Highlights		Bottlenecks
Detention Centre and prison		
Collaboration Management Team and programme team		Personnel capacity
Several improvements		Programme team as of 1 January 2023
UNOPS Agreement		ICT
Training courses		
A number of equipment		
MLC (Youth Rehabilitation Centre)		
Pedagogical staff		Personnel capacity
		Balanced day program / schooling
		Disturbance young people 18-21
		Pij measure (Placement in an institution for juvenile offenders)

2.2.7 Immigration and Border Protection Services

In 2022, the Immigration and Border Protection Services received new uniforms and also presented a new logo. Similarly, the look of IBPS transportation has been changed. Furthermore, in the context of strengthening the IBPS, the Minister explored a new border control management system (Radex). According to the IBPS, the automated digital case system, which was put into operation in 2020, is functioning well two years later and provides more efficiency in operations. The 2019 educational curriculum had come to a standstill because of the Covid pandemic and has been picked up in phases since 2022. The IBPS evaluated the staff and the different layers to determine the needs. Special efforts will be made for the mastery of the Dutch language, among other things. The IBPS has also had vacant (critical) functions for some time already. In this respect, the IBPS still does not have a Head IBPS nor is there any management team at the moment. There is also a shortage of public servants for the mobile unit. The border hospitiun is currently being used for migrants; however, there is the desire for a more permanent use of the building, which would increase the effectiveness of the mobile team. With the assistance of the KMar (Royal Netherlands Marechaussee), the IBPS installed an '*intelligence center*'. The IBPS is also responsible for and involved in strengthening the border and also contributed to the aforementioned plan of approach. At present, it is a challenge to work at the airport with the current facilities, according to the IBPS. Working with '*biometrics*' in the future and the focus on information-

driven operation from the protocol strengthening border control should ensure that the IBPS can increasingly focus on its core activities.

Highlights		Bottlenecks
Equipment capacity		Personnel capacity

2.2.8 Court of Guardianship

It is the intention that the Court of Guardianship will fall under the responsibility of the Minister of Justice. This requires adjustments to the National Ordinance on Government Structure and Organisation (LIOL), the trajectory of which was also not completed as yet in 2022. As long as this is not formally regulated, the function book for the Court of Guardianship and the placement plan cannot be implemented.

In 2022, the Head of the Court of Guardianship was officially appointed to the position. Three employees were also hired in that year: two investigators of the Court of Guardianship and a juvenile probation officer. As a result, the Court of Guardianship is now up to strength with 3 FTE in terms of juvenile probation. When the function book goes into effect, the Court of Guardianship will be able to grow. In addition, in 2022, attention was paid to train employees, including 'mediation', safety planning, self-defense lessons and an introduction to Human Resource Management. New methods were also introduced. The method '*rapid response by child abuse or suspicions of child abuse*' was introduced to chain partners. In collaboration with the KPSM and the schools, the methods '*Handle with care*' (support for children experiencing violence at home) and '*Child check*' (a method to recognize child abuse or neglect based on parental characteristics) were also introduced in collaboration with the hospital, MHF and TPF. These methods will be implemented in 2023. Furthermore, the workplaces to perform community service are limited and there is a need for a taskmaster. The Court of Guardianship does not have a digital registration system either. The Court of Guardianship also experiences that the approval process for the necessary funds takes a long time. A working group for the reduction of juvenile delinquency was established at the initiative of the JVO. In this respect, Sint Maarten - with the assistance of the Court of Guardianship - has the lead in this.

Highlights		Bottlenecks
Personnel capacity		Performance community service / No taskmaster
Several new methods of working		Digital registration system
Trainings		Dependence on finance

2.2.9 SJIS

In 2022, the SJIS focussed on providing new services and improving the methodologies used. Furthermore, efforts are being made to give, conduct or attend several types of training courses and to provide information sessions. These concern the two new services: *Safe Homes* (domestic violence behavioural interventions) and mediation skills. In paragraph 2.2.2, the Council already referred to the initiative of the Public Prosecutor's Office and the SJIS about 'mediation' training sessions. Other training courses were also attended (for example on morals) and an agreement was signed with the Probation Academy in the Netherlands to provide several training courses. In 2022, the SJIS also offered a number of (pilot) training sessions, including the Aggression Regulation Training and the de-escalation training session to teachers

(pilot). In order to create more awareness for the rehabilitation and integration process of ex-inmates in the society, an online panel discussion was organized by the 'Second Chance Task Force' (consisting of representatives of the SJIS, the prison and the Department of Labour and Social Affairs). The prison would like to see the SJIS more involved in the reintegration program of detainees by being involved throughout the entire detention period and by providing trainings. In the context of the (capacity) problems of the prison, the SJIS was also asked by the Public Prosecutor's Office whether it would be able to cope with an increase in the assignments to enforce suspended sentences. Although the SJIS has the knowledge and expertise in-house, because of the lack of sufficient capacity, the SJIS is not able to comply with these three requests. According to the SJIS, in 2022, the shortage of detention spaces will result in an increase in the demand for probation products and an increase in the workload. The SJIS has indicated that if an increase in subsidy is not forthcoming, it will no longer be able to bear the workload in a responsible manner. In that case, they may have to proceed to make agreements on the size / number of assignments per year and per product. In the same vein, the Foundation Judicial Institutes Sint Maarten is of the opinion that compared to other probation agencies within the Kingdom, not enough money is being invested in the local probation service. Especially considering the fact that it will still take years to build a new prison, the probation service should be strengthened. Despite the challenges in the past years, the SJIS has developed into a professional organisation with a wider range of services, products, programmes and projects than has been the case before. However, a financially healthy organisation and sufficient manpower is a prerequisite to be able to (continue to) meet the demand.

Highlights		Bottlenecks
Provision of new services		Financial capacity
Providing, arranging and attending training sessions		Staffing capacity
Improvement of methodology		
Awareness initiative for ex-prisoners		

2.2.10 Customs

Customs has a wide range of (core) tasks. In 2022, twelve new customs officials were sworn in. This was the first time that the customs authorities did the recruitment themselves and organized and carried out the training sessions from start to finish themselves. On account of the financial situation, permission to recruit an additional twelve new persons and five other positions was withdrawn. However, it will be possible to recruit 6 FTEs in 2023. At present, the formation consists of 33 FTE's, 27 of which are charged with physical control. Customs is currently not available 24/7 due to insufficient staff. As a result, choices have to be made and, it will not be possible to guarantee the enforcement of border control 24/7. In order to make control by customs possible on a 24/7 basis, a substantial increase in the number of FTEs will be required. A calculation was made indicating that, to do so a minimum of 72 FTE's will be needed. A result of the lagging behind of the customs' growth is that (part of) the agreements made in the context of strengthening border control cannot be complied with, for example the part about 'twinning'.

Earlier, the Council already referred to the conference on counterfeit products. At the end of 2022, customs launched its first anti-counterfeit campaign. With this campaign, customs aimed at raising the awareness and providing information to the society about these types of products. Customs also intensified its involvement in the control and confiscation of banned counterfeit products. This ensures

an increase of the operations for the existing capacity and Customs notices negative consequences for the quality, quantity and progress of official reports in this context. In 2021, the protocol ‘Strengthening Border Control of Caribbean countries of the Kingdom’ was signed and based on that, money was made available for the purchase of equipment and resources for the customs. In 2022, within the framework of the protocol, the aforementioned action plan was drawn up for the various judicial organisations. In anticipation of 2023, the Ministry of Justice has to cut its budget. Consequently, for Customs, this signifies that a number of critical functions cannot be fulfilled. Customs is authorised to recruit only half of the intended number of employees for physical control.

Highlight		Bottlenecks
Focus on counterfeit products		Staffing capacity
		Financial capacity

2.2.11 FIU

One of the (core) recommendations of the Financial Action Task Force (R.1) stipulates that countries are to conduct a *National Risk Assessment* (NRA) so that a risk-based approach can be applied to ensure that measures to prevent or mitigate money laundering and terrorist financing are proportionate to the risks identified. A national risk assessment can therefore be considered as the basis for setting policy priorities and allocation of resources. The aforementioned "Justice week" conference also served as orientation for stakeholders about this NRA. In 2022, Sint Maarten embarked on a National Risk Assessment to map out the risks in the aforementioned areas.

The FIU does not have sufficient possibilities to recruit human and material resources. The FIU points out that this affects the operational independence, since the FIU cannot properly execute its statutory tasks and authorities. In the event a country makes no or insufficient resources available to the FIU, it can be viewed as a way to reduce the effectiveness of the reporting bureau. There is a chance that this can have negative consequences in the event of a mutual evaluation of Sint Maarten. Furthermore, to spend the funds allocated, a bureaucratic process through both the Ministry of Justice and the Ministry of Finance must be followed. Consequently, the preparations for the transfer of funds and the actual transfer are slow and in so doing hinders business operations. The FIU points out that this is also the case with other organisations. The foregoing makes it difficult for the FIU to plan and leads to higher costs because compliance with a number of obligations is delayed unnecessarily. Although, there is a legal basis for implementing its own budget, according to the FIU, the government does not provide room for this. The FIU has indicated that it may be time to restructure the structure of public finances differently.

Highlight(s)		Bottleneck(s)
National Risk Assessment		Financial capacity
		Staffing capacity

2.2.12 Other relevant developments

The Royal Netherlands Marechaussee

The agreements made in the Protocol on 'Strengthening border control in the Caribbean countries of the Kingdom'⁶, which was signed in 2021, were partly further rolled out in the subsequent year. The aim is to jointly invest in border control, the police at the airport and control at the maritime border. In this respect, it was agreed that 71 FTE KMar will be deployed on the islands, 11 of which will be deployed in Sint Maarten. Each country had to draw up a plan of approach for a period of three years, which Sint Maarten complied with in 2022. The cooperation aims especially at strengthening the information position.

In addition, approximately 20 FTE KMar are being deployed in Sint Maarten via the protocol 'flexible deployment pool KMar'.

Crime Pattern Analysis

The first Crime Pattern Analysis (CBA) for Sint Maarten dates back to 2011. After that, the first biennial regional Crime Pattern Analysis was delivered at the end of 2019. In 2022, the update of the Regional Crime Pattern Analysis was released.⁷ The document states that the risks of corruption, money laundering and cybercrime have increased. The Council points out that a disruption of critical infrastructure due to cyber threats has major consequences. The latter also occurred in Sint Maarten, where both the electricity company GEBE and the Central Bank of Curaçao and Sint Maarten were targeted by cyber-attacks in 2022. Furthermore, said document also refers to online gambling-related crime, money laundering and human trafficking. It also states that, it would be important to continue to focus on focal points. The joint strengthening of the border control would contribute significantly to the fight against transnational crime. And increasing the countries' resilience could prevent further undermining. However, to do so, it is important that all parties involved play their part in the fight against crime.

National security risk analysis

In 2022, the Kingdom-wide National Security Risk Assessment 2022 was also released.⁸ It provides an overview of a wide range of threats with a possible disruptive impact in the Kingdom of the Netherlands. One of such threats concerns cyber threats. This report also focuses on risks in the Caribbean part of the Kingdom.

Policy review article 1 Kingdom budget chapter IV

At the end of 2022, the report on the policy review of Article 1 of Chapter 4 of the Kingdom Budget, entitled: 'strengthening the rule of law'⁹ was published. The aim of the article is: *'To promote good*

⁶ <https://www.rijksoverheid.nl/documenten/rapporten/2021/02/18/tk-bijlage-protocol-versterking-grenstoezicht>

⁷ Simone van der Zee commissioned by the RST (2022). *Memorandum policy plan regional criminal investigation cooperation. Update Regional crime pattern. Trends in the Dutch Caribbean 2022-2023.*

⁸ <https://www.rijksoverheid.nl/documenten/rapporten/2022/07/31/rijksbrede-risicoanalyse-nationale-veiligheid-2022>

⁹ DSP-group Mr. Nauta, Mrs. Piepers and Mr. Van Egmond (2022). *Strengthening the rule of law Policy review article 1 Kingdom Budget Chapter IV, Kingdom Relations.*

governance by providing a contribution to the strengthening of the rule of law of the countries of Aruba, Curaçao and Sint Maarten. This will take shape through collaboration in the field of security, law enforcement, border control and human rights and support for the countries of Aruba, Curaçao and Sint Maarten.'

To achieve the stated goal, based on the article, four policy instruments are being financed, which are the flex pool Kmar, the RST, the TBO approach and the overseas allowance of judicial officials. The instruments are mainly focussed on strengthening the criminal enforcement of the rule of law. See also section 2.3.1.

2.3 Over-arching themes in 2022

2.3.1 Strengthening the rule of law in Sint Maarten and imbalances

At the end of 2020, the mutual arrangement for the implementation of the Sint Maarten Country Package was signed by Sint Maarten and the Netherlands. The Country Package contains various measures, including measures to strengthen the rule of law. The aim is to contribute to strengthening this by at least focusing on strengthening border control, tackling financial and economic crime and improving the detention system. The agreements from the Country Package are further elaborated in the so-called implementation agenda, which is updated every three months. Measure H.1 concerns the agreement that, in the interests of stability of public order and security, Sint Maarten will not, until further notice, apply cuts that limit operational implementation capacity within the most vital sectors of the rule of law. In this respect, specific mention is made of the police, Customs, the National Detectives Agency, the Public Prosecutor's Office, the Court, the Coast Guard, the prison system and the National Security Service. The Council already indicated in its previous State for 2021 that it considers the agreements made as minimum requirements to improve the quality of the rule of law.

The fact that Sint Maarten is struggling with financial difficulties has been known for years, this was also the case in 2022. Despite the agreement made under measure H.1, cuts were applied within the Ministry of Justice in 2022 and consequently, also for the departments that fall under this ministry. It is expected that this will also be the case in 2023. The Council points out that if stability of public order and security is to be achieved, in any case this cannot be accompanied by cuts in implementation capacity. For, the cuts jeopardise the strengthening of the rule of law and thus the ability to guarantee safety and security in Sint Maarten. The ability of the different organisations to effectively perform the various essential judicial tasks is dependent on the capacity required to do so. After all, this is one of the most important preconditions for this. The moment that only minimal capacity is available and, for example, due to the budget cuts, it is impossible to recruit or to train personnel, not only the professionalization of the organisations will be jeopardized, but also the performance of vital tasks and risks to safety will be created. The tasks within the judiciary and the associated capacity are therefore so essential for the security of Sint Maarten that they cannot and should not be reduced. The Council therefore reiterates the importance of honoring the agreement included in measure H.1 by Sint Maarten and the major negative consequences for the most vital sectors (judicial organisations) and the safety of society, if this is not done. According to the Council, strengthening the rule of law cannot be achieved without prioritising and investing in the criminal enforcement of the rule of law.

Imbalances

Over the past years and in the coming years, financial and/or material investments have been made, including deployment by the Coast Guard (the countries contribute pro rata), the RST (by the Netherlands) and the KMar (by the Netherlands).

After the hurricanes in 2017, efforts were made to strengthen the border control in Sint Maarten (IBPS and Customs). In 2021, this was extended by means of a protocol to the 'Protocol on the strengthening of border control in the Caribbean countries of the Kingdom', in which Sint Maarten (KPSM, Customs, IBPS) also participate. Also in 2022, the organisations continued working on this. The objective of the protocol is to take measures in the area of border control to contribute to combating cross-border/transnational organised (undermining) crime in the Kingdom by investing in the Caribbean countries of the Kingdom and improving mutual collaboration between the agencies. In any event, the measures are understood to mean the operational deployment of the KMar and Customs of the Netherlands. In addition, the Coast Guard also contributes from its own independent tasks.

The collaboration basically includes the use of multidisciplinary teams and the transfer of knowledge through *twinning* up to and including the management layer. The Council points out that the lack of capacity among local organisations as well as the inability to recruit new staff on account of finances, hinder the execution of such concrete agreements to collaborate and *to twin*. As such, the intended goal cannot be achieved in essence. If nothing changes in this respect, it cannot be expected, or at least not in the medium term, that local agencies would be able to operate without some form of assistance at a certain time.

Furthermore, an imbalance can also be noted between investments on the one hand in the supra-island organisations, i.e.: the KMar, the Coast Guard and the RST, and, on the other hand, the lack of investments or no accompanying investments in local judicial organisations. Investments in the local organisations from government – and especially in the preconditions to be able to carry out the work – have been lagging behind for years, as a result of which ultimately a waterbed effect is created. The capacity and the resources of the KMar, the Coast Guard and the RST are increasing, which actually should lead to more investigation and enforcement results at the front end of the justice chain. This presupposes and therefore requires follow-up steps from the local chain partners within the justice chain. However, if the local organisations and chain partners such as the Sint Maarten Police Force, the National Detectives Agency, the Public Prosecutor's Office, the Court of Justice, the Foundation Judicial Institutes Sint Maarten and the prison do not grow along (any longer), this will lead precisely to bottlenecks in these subsequent links of the criminal justice chain, because they are not able to handle the 'supply'. The foregoing is also referred to in the aforementioned report on the policy review of Article 1. It states that:

*'The investments that the Netherlands are making in the law enforcement chain are of great added value. But the investments are not made in all links within the chain. This creates the risk of imbalance and congestion in one or more phases of the criminal proceedings. Without major investments in detention capacity, for example, there is the risk that prison sentences will be enforced even less than they are already being enforced currently. It is important that the overview is kept centrally and that from the total picture of the chain there is a continual review to what extent and in which areas the justice chain needs support in order to prevent congestion.'*¹⁰

¹⁰ DSP Group Mr. Nauta, Mrs. Piepers and Mr. Van Egmond (2022). Strengthening the rule of law Policy review article 1 Kingdom Budget Chapter IV, Kingdom Relations, Page13.

If insufficient attention is paid to the foregoing, the Council believes that the intended effect – strengthening the rule of law by strengthening the criminal enforcement of the rule of law and thus combating crime – cannot be achieved at all or sufficiently. That cannot and should not be the intention. The Council therefore welcomes the fact that the aforementioned topic was raised at the JVO in 2023.

2.3.2 Collaboration on national level and within the Kingdom

For some years already, in its studies and in several States, the Council has emphasized the development of increasingly intensive collaboration on different levels. This was also a highlight for the year 2022. Within the Kingdom, collaboration takes place through the JVO (Judicial Quadripartite Consultation), where different common themes that transcend the borders are discussed. These include topics such as migration, information and data exchange, sharing and processing, and legislation. Equally, at a regional level, collaboration is intensified. In this respect, the prison directors' consultation and the Board of Police Chiefs are good examples. Particularly, at the CvK's initiative, structural efforts are being made to intensify the collaboration between the four Police Forces and in several areas. In this way, securing and anchoring police collaboration in the Caribbean part of the Kingdom shall be increasingly achieved. The basic principle is that the different Police Forces are specializing themselves in order to be able to better assist each other. This is necessary given the fact that crime is becoming more and more transnational and complex. This requires a different and an integrated approach. The collaboration of the Police Forces reminds the Council of the common provision for the Police Forces referred to in the Kingdom Act on Police, by means of which it intended to make police officers, equipment and resources available to the Police Forces for at least the conduct of investigations. Although this provision did not get off the ground, its purpose seems to be largely achieved through the CvK. Also on national level, - partly due to the lack of capacity - judicial organisations are forced to collaborate more integrally, including in multidisciplinary teams. Examples of these include the Alpha team and the Asset Recovery team. However, the Council noted that participation by certain organisations does not take place or no longer takes place. For almost all judicial organisations it is that, as long as the preconditions to perform the work are not in order, the scarce capacity and resources must be used optimally.

According to the Council, it can also be noticed that the different organisations are increasingly moving towards information-driven work. Also, in order to better respond to the rapid (international) developments in the area of crime. Conditions to do so are up-to-date and reliable information and analyses, discipline in registering, making choices, optimally making use of persons and resources and achieving goals. In this respect, good (secure and stable) digital systems for information management are indispensable. This is still lacking in several judicial organisations.

Consequently, proper registration, reliable figures and in-depth studies are very important. Based on that, a strategy can be defined, subsequently, policy can be drafted, more concrete plans can be made, priorities can be established and concrete agreements can be made. With such an integrated approach, it is assumed that all judicial organisations work together towards the same goal. The Council has often noted, that there is still a lot of work to be done in the area of defining a strategy and the further roll-out based on that, proper registration, reliable figures and in-depth (scientific) studies. The regional CBA of 2022 also highlights a *data-driven approach* as one of the effective strategies to combat crime.¹¹

¹¹ Simone van der Zee commissioned by the RST (2022). *Memorandum policy plan regional cooperation criminal investigation. Update Regional crime pattern. Trends in the Dutch Caribbean 2022-2023 Pages. 20.*

The explanation provided is that it consists of collecting, analyzing and utilizing data from all possible data sources which then forms the basis for making well-informed choices in decision-making, strategic planning, and process improvement. The Council can only endorse such an approach. Besides a good information management and information sharing within and between the judicial organisations, the Department of Statistics in Sint Maarten (STAT) could possibly also play a role, according to the Council. An example is the victim survey in Sint Maarten. The last one dates back to 2008. The goal of such research is to measure feelings of insecurity; the types of crime taking place; as well as the victims' willingness to report a crime. STAT intends to include this survey again in its work programme in the future, so that a report can be made on recent developments about crime and victimisation. According to the Council, this could be a good start. Naturally, other figures that are also relevant to the justice chain can be collected or other topics can be researched.

2.3.3 Forensic care and implementation of measures

The topic of forensic care¹² and the TBS and PIJ measures have been on the agenda of the JVO for a number of years now. The lack of facilities in this respect in the Caribbean part of the Kingdom is a serious bottleneck. According to the Council, it affects the protection of society; which is a responsibility of Government as well as the interests of the convict who is entitled to an enforcement of the sentence which is appropriate for him. In its report on the four mutual arrangements regarding detention, the Council already indicated that it is aware that from within the JVO, the possibilities of a TBS and/or PIJ facility, jointly or not, in the Caribbean part of the Kingdom is being examined.¹³ At the time, the Council already expressed the expectation that the countries would come to a solution. For the time being, this solution is not yet available. Meanwhile, there are court rulings imposing such measures, as is indicated before, and there are also practical cases of persons with a mental or psychiatric disorder who come into contact with the criminal justice chain. The foregoing is creating major bottlenecks for enforcement in practice. The Council therefore calls explicit attention to this topic in this State.

2.3.4 Capacity shortage

Personnel capacity

The capacity issue runs like a red thread through almost all topics discussed in this State. In this State as well as in each of its studies, including in 2022, according to the Council, the capacity shortage and its negative effects across the entire board of the justice chain are repeatedly highlighted. There are still too many judicial organisations that are not up to strength.

In addition, there are not only many vacancies, but these vacancies also often concern critical functions and the 'pond' from which must be fished, is limited. If especially critical functions are not (cannot be) filled, this not only affects the performance of the work, but equally the available scarce capacity cannot be optimally utilized. This, in turn, results in the shortage of capacity again being felt. The shortage of capacity is therefore a negative vicious circle. The Justice function book is essential for setting up the organisations. It is therefore of importance that it enters into effect as soon as possible so that the

¹² Forensic care touches on criminal law and care. Forensic care consists of mental health care, addiction treatment and care for mentally disabled and is part of a (suspended) sentence or measure. See for example www.forensischezorg.nl.

¹³ Law Enforcement Council (2022). *Evaluation of mutual detention arrangements. Inspection research into the functioning of the four mutual detention arrangements.*

associated placement plans can also be implemented. In addition, finances remain a general bottleneck that continues to play a role here as well.

Cell capacity

In the aforementioned Country Package, the measures H.20 and H.21 of theme H 'Strengthening the rule of law' have to do with the prison. The first measure to improve the detention conditions implies that Sint Maarten, in consultation with the Netherlands, will implement the agreements made about the measures for improvement from 2018. If need be, Sint Maarten will release the necessary funds and include them in the budget. Partly due to the delay regarding the function book, Sint Maarten requested a postponement of measure H.20 until 1 July 2023. Furthermore, with the signing of the agreement with UNOPS, a major step has been taken to secure a new prison and by doing so, measure H.21 has been partially complied with. In practical terms, the shortage of cells remains very problematic. As a result, each time difficult choices have to be made, which are discussed in the so-called 'dispatch consultation' of, among others, the Public Prosecutor's Office, the SJIS and the ministry, when spaces have to be made, since oftentimes it concerns inmates with serious crimes on their record. Moreover, sentences that have become irrevocable cannot be enforced. This not only demotivates the investigative authorities, but also sends a negative message to the community and a wrong message to people who do not comply with the law. In the case of a shortage of cells, the ability to make good use of alternatives is equally important. In particular, electronic monitoring is then considered. However, this is not functioning optimally yet and cannot be used in cases of serious crimes. But even for the use of these types of alternatives, all of this is connected with each other. In the event electronic monitoring is used, cell capacity should also be readily available, if necessary.

2.3.5 Nature of judicial work versus bureaucracy

In its inspections, the Council already mentioned that the structure and organisation of government finances is creating bottlenecks for the justice chain. This bottleneck keeps on emerging again and again. The bureaucratic route to follow - often long - through the Ministry of Justice and the Ministry of Finance for decisions and related payments, is often difficult to reconcile with the urgency often required by the nature of judicial work in order to take decisions and make payments. This often results in major and diverse risks, including in the area of safety and security, which the judicial organisations cannot afford. The Council points out that it seems as if this unique position of the justice chain is not always or is insufficiently recognised in certain sectors of government, with all its consequences. It is essentially a completely different premise from which the judiciary operates, and therefore requires a substantially different approach, also in terms of payments. One of the possible solutions in that respect, which the Council put forward to lessen this undesirable dependence is that of a financial mandate for Heads of departments. In this manner, actions can be taken more quickly, if necessary, and accountability takes place afterwards in accordance with the corresponding procedures. However, the Council notes that, in practical terms, an appropriate financial mandate for Department Heads is still not being used. Once again, the Council is calling attention to this matter.

2.3.6 Administrative approach

It can be argued that a criminal justice approach alone cannot cope with the current crime problems. By joining forces, an integrated approach can be utilized, in which attention is also paid to the preventive side of certain problems. That is why it is also necessary to focus on an administrative approach¹⁴ besides a criminal justice approach. The Council notes that more and more attention is being paid to this aspect and that increasingly more consideration is given to an integrated approach, which also includes attention for administrative enforcement. This is reflected on both a national scale through the aforementioned multidisciplinary team (Justice, VSA, TEATT) as well as in a broader context within the Kingdom via the JVO in connection with the administrative approach to undermining. The Council welcomes this development and sees opportunities to involve the administrative enforcement more and more in the fight against crime.

2.3.7 Systematic failure to follow Council's recommendations and expansion of Council's tasks

Systematic failure to follow recommendation

If the Minister of Justice systematically fails to comply with the Council's recommendations, the Council can notify the represented body of Sint Maarten and the Kingdom Council of Ministers (Article 32 of the Kingdom Act Law Enforcement Council). Whether the Minister systematically fails to comply with the recommendations will be determined by the Council based on at least two follow-up studies as a result of an adopted inspection report. At present, there are several reports for which the Council conducted two follow-up studies. They had to do with the topics: investigation and prosecution policy of the Public Prosecutor's Office, Crime Fund, Victim Support, Criminal seizure and the prison. The Council notes that when it is up to the organisations or when it is (partly) in their power to follow the recommendations, oftentimes, this is done. But when the organisations are dependent on the Ministry, the follow-up stagnates more often. The Council therefore urges the Minister to continue to focus on the recommendations so that the intended improvements can be achieved.

Expansion of tasks

According to the National Ordinance Government Structure and Organisation (LIOL), the executive organisations of Customs and FIU fall under the administrative responsibility of the Minister of Justice. However, pursuant to Article 3 of the Kingdom Act Law Enforcement Council, the Council is not responsible for the general inspection of these two organisations. But the Kingdom Act Law Enforcement Council does indeed offer this possibility. As such, this will have to be regulated by national ordinance or by law.¹⁵ To date, no use has been made of this by the Minister. Considering the fact that both organisations are part of the justice chain, the Council therefore sees an opportunity to expand the Council's tasks in Sint Maarten. In such case, more targeted recommendations can also be made to improve topics relevant to these organisations. However, it is up to the Minister to determine the need for this.

¹⁴ Since 2018, Sint Maarten has a National Ordinance which is specifically aimed at administrative enforcement. See [National Ordinance laying down general rules on the administrative enforcement of legal regulations" \(National Ordinance on Administrative Enforcement\) | Local laws and regulations \(overheid.nl\)](#)

¹⁵ Article 3, first paragraph under c. Kingdom Act Law enforcement Council

Inspections by the Council in 2022

Inspections

Below, the Council provides an overview of the inspections initiated or conducted for 2022. The reports are in no particular order:

Detention inspections & monitoring CPT recommendations / ORD's request

At the request of the JVO, the Council has been monitoring the follow-up of the Council's and CPT's recommendations since 2016. In January 2020, the Ministers decided in the JVO to request the Council to conduct a comprehensive evaluation of the four Mutual Detention Arrangements (ORD's). The Council accepted the request and decided to carry out a joint inspection as part of the annual monitoring of the recommendations. The Ministers¹⁶ of the Netherlands and of Aruba agreed to have the Council carry out the inspection in their countries since the Council's area of supervision does not extend to these countries. Following its preparations in 2020, the Council embarked on the comprehensive inspection in 2021 and completed and presented it to the different Ministers of Justice in June 2022. The Ministers will formulate a joint response to the report. At the time this State was released, both had not yet been presented to the various representatives of the countries.

Leadtime: the prioritization, management and monitoring of (complex and simple) criminal cases

In this inspection, the Council examined the extent to which judicial organisations are equipped to deal with criminal cases within a reasonable period of time. The Council examined this based on the topics: prioritisation, the impact of the type of cases, the steering, monitoring and the bottlenecks. The Council conducted this research in 2022 and the report will be presented to the Minister of Justice in the second quarter of 2023.

Review Crime Fund

In 2021, the Council examined the extent to which the previously made recommendations were implemented in the context of the inspection "overall review of Council recommendations". At the request of the Ministers of Justice of Curaçao and Sint Maarten respectively, in 2021, the Council agreed to control and monitor the follow-up to the recommendations from the Council's report on the Crime Fund, taking into account the provisions of the Kingdom Act Law Enforcement Council and the protocol applicable to the Council's inspections. This means that in 2022 the Council conducted a second follow-up inspection to assess the state of affairs concerning the follow-up to the recommendations.

Maintaining public order

In view of the public order issues surrounding several crisis situations and potential new crisis situations, the Council considered it important to map out and assess the maintenance of public order by the KPSM during extraordinary circumstances. Based on the topics of legal framework and policy, organisation, task performance, information management, collaboration and steering, the Council examined how the KPSM maintains public order during extraordinary circumstances. And to what extent the functioning is in accordance with applicable standards. The Council conducted this inspection in 2022 and the report will be presented to the Minister of Justice in the second quarter of 2023.

¹⁶ The Minister of Justice and Security of the Netherlands; and the Minister of Justice, Security and Integration of Aruba.

Overall review: follow-up inspections in the form of sub-inspections

Since 2020, the Council is conducting an overall review concerning the status of the follow-up to its recommendations made from 2012 to 2018¹⁷. This overall review is conducted in sub-inspections, three of which were already carried out. The first sub-inspection carried out in 2020 concerned the topics youth and rehabilitation (Prevention of Youth Delinquency; the youth rehabilitation center, *Miss Lalie Center*; Youth and adult rehabilitation). The second sub-inspection conducted in 2021 had to do with a number of reports on the Public Prosecutor's Office and the Crime Fund (The Public Prosecutor's Office in the incident-based investigations; The enforcement of fines, compensation of damages and deprivations; The investigation and prosecution policy of the Public Prosecutor's Office in Sint Maarten; Collaboration between the Public Prosecutors' Offices; and The Crime Fund). The third sub-inspection conducted in 2022 had to do with a number of reports on the police in particular (Criminal investigation process of the detectives' department; Approach to robberies; Criminal seizures and Forensic investigations). In doing so, the inspection approach is more comprehensive compared to previous specific follow-up inspections. This also results in more comprehensive reports.

Presentation of reports and response to the Parliament

In the past years, in each State, the Council was compelled to point out the responsibilities of the Parliament and of the Minister of Justice. This is because for years, the reports of the Council in Sint Maarten have not been presented or not consistently to Parliament with a response, in accordance with the Kingdom Act Law Enforcement Council. Furthermore, it was also not known whether Parliament itself requested them. In 2022, this partly changed. In April 2022, the Minister of Justice presented a 24-page letter entitled: *'Response Report Recommendations Law Enforcement Council'* to the Parliament of Sint Maarten. In this letter, the Minister refers to her proactive approach to all the Council's recommendations made so far. These were mapped out and discussed with the various judicial organisations. In particular, the focus was on creating awareness and a shared responsibility. In view of the fact that the Council made many and wide-ranging recommendations in its reports up to that point, the Minister did not discuss each recommendation separately in the letter, the Minister instead addressed several recurring themes. Recent developments and expected results were also addressed in the letter. With the letter, the backlog of overdue responses to the reports to the Parliament had been addressed and from then onwards actions could be taken in accordance with the provisions laid down in the mentioned Kingdom Act Law Enforcement Council. Regrettably, this is not the case as yet. Of the four reports published after the aforementioned letter in April 2022, only one report (illegal firearms) with a reaction from the Minister of Justice was presented to Parliament. Subsequently, with respect to another report (mutual detention arrangements), preparations are being made for a joint response from the Ministers of Justice concerned, after which it can be presented together with the report to the various representative bodies. For the remaining two reports (money laundering & terrorist financing and sub-inspection 2) no response was formulated and the reports were not presented to Parliament. Seeing that the reports with responses are still not consistently presented to Parliament, the Council is again pointing to everyone's responsibilities in this respect and specifically to the framing, monitoring and budgetary role of Parliament.

¹⁷ This is in line with the review period of (at least) 2 years applied by the Council. However, it is possible that the Council will include the results of the review reports up to and including the year 2021 in the sub-inspections in the context of the overall review, since these do not contain any new recommendations but the follow-up to recommendations made previously ~~is~~ has been evaluated.

3. In conclusion

Strengthening the rule of law requires, among other things, strengthening the criminal enforcement of the rule of law. This can only be achieved with the needed attention and investments in it. The current State examined especially the developments regarding the main highlights and bottlenecks of the individual judicial organisations in 2022, but also looked at more overarching themes that emerge as a result and have an impact on the entire justice chain. The Council also focussed on the responsibility of everyone for such strengthening of the rule of law and made a strong appeal. In light of the ever increasingly complex, changing and often cross-border crime, it can be noted that the pressure on the judicial organisations in Sint Maarten is continually growing because of the partial or complete lack of essential prerequisites such as financial, personnel and material capacity required for the execution of tasks. The lack thereof makes it increasingly necessary to deal efficiently with the limited capacity and increasingly leads to more intensive (inter)national and kingdom collaboration and the growing importance of research and reliable information gathering and sharing as a basis for choices and prioritisation. The Council considers closer collaboration in itself a good development, especially in view of the associated investments thus far. However, as is the case with several other chain partners, the Council is concerned about the lack of investments in the local judicial organisations. Especially when compared to supra-national organisations. Although all justice workers are committed on a daily basis, failure to make the necessary investments is hindering the professionalisation of several organisations. If Sint Maarten wants to have a professional justice chain and thus law enforcement that can fight crime together with other relevant partners, substantial investments must be made. If this does not happen, it will be at the expense of the effectiveness of law enforcement and consequently, safety and security in Sint Maarten will also be compromised. Therefore, in the current State, the Council calls for special attention to be paid to this issue and points out the associated risks if this does not happen. Furthermore, the Council notes that the criminal enforcement of the rule of law is also one of the links in the bigger picture. Therefore, attention should also be paid to both an administrative approach and to prevention in order to achieve a (more) comprehensive network in the fight against crime through an integrated approach.

The Council expresses the hope that law enforcement in Sint Maarten will receive the support of those responsible for this in order for them to be able to (continue to) focus on the common goal, which is making Sint Maarten as safe as possible. As always, the Council looks forward to upcoming developments.

THE LAW ENFORCEMENT COUNCIL

M.I. Koelewijn, LL.M., chairman

L.M. Virginia, LL.M.

Annex 1: Published reports of the Council in Sint Maarten

Reports 2012-2022

Publication year	Subject of Report	Organisation(s)	Individual response MoJ
2012	Reporting process	KPSM	Yes
2012	Juvenile probation	Court of Guardianship	Yes
2012	Victim support	Several (e.g., KPSM, OM)	Yes
2012	Criminal Investigation process Detectives Department	KPSM	Yes
2013	Detention capacity	Prison System	Yes
2013	Border control of movement of persons	IBPS	Yes
2013	Public Prosecutor's Office in incident-based investigation	Public Prosecutor's Office	Yes
2013	Police education	KPSM	Yes
2013	Adult probation	SJIB	Yes
2014	Criminal seizure	KPSM	Yes
2014	Security and safety detention	Prison System	No
2014	Security of State officials	Several (e.g. VDSM, KPSM, OM)	No
2014	Enforcement of fines, compensation of damages and deprivations	Public Prosecutor's Office	No
2014	Admission and expulsion of foreign nationals	IGD	No
2014	Application of force	KPSM	No
2014	Review reporting process	Several (e.g. KPSM, OM)	No
2015	Review juvenile probation	Court of Guardianship	No
2015	Approach to robberies	KPSM	No
2015	Prevention of juvenile delinquency	Several (e.g. KPSM, OM)	No
2015	Exchange of police and judicial data within the Kingdom	Several (e.g. KPSM, OM)	No
2015	Treatment of persons with addiction or behavioural disorders criminal justice chain	Miscellaneous (e.g. KPSM, OM, MHF, SJIB, TPF, detention system)	No
2015	Investigation and prosecution policy	Public Prosecutor's Office	No
2016	Review Adult Probation	SJIB	No
2016	Review Criminal Investigation process Detectives Department	KPSM	Yes
2016	Surveillance and security of people and objects	Several (e.g. KPSM, OM)	No
2016	Review Victim Support (first review)	Several (e.g. KPSM, OM)	No
2016	Prostitution policy and enforcement	Several (including Administrative Enforcement Officers, KPSM, OM)	No
2016	PI legal status of detainees and personnel & organisation	Prison System	No
2016	Juvenile Correctional Facility MLC	Prison System	No
2017	PI Internal safety and social security	Prison System	No
2017	PI Dealing with prisoners and social integration	Prison System	No
2017	Review Border control movement of persons	IBPS	No
2017	Review Public Prosecutor's Office Incident-based investigation	Public Prosecutor's Office	No
2017	Review Police Education	KPSM	No
2018	Forensic investigation	Miscellaneous (e.g. KPSM, LR)	Yes

2018	Review PI Internal Safety and Society Security	Prison System	Yes
2018	Review PI Legal Status of Detainees and Staff & Organisation	Prison System	Yes
2018	Review Enforcement of Fines, Compensation of Damages and Deprivations	Public Prosecutor's Office	No
2018	Coastguard	Coastguard	Yes
2018	Bureau Internal Affairs	KPSM	Yes
2018	Collaboration Public Prosecutor's Offices	Public Prosecutor's Office	No
2019	Crime Fund	Several (including KPSM, OM, Minister of Justice)	No
2019	Review Criminal seizure	KPSM	No
2019	Review prison, MLC, police cells and Simpson Bay border hospitiium (second review)	Prison	No
2019	Review Investigation and Prosecution Policy Public Prosecutor's Office	Public Prosecutor's Office	No
2019	Review Victim Support (second review)	Several (e.g. KPSM, OM)	No
2019	Review Application of force	KPSM	No
2020	Approach to human trafficking and smuggling	Several (e.g. KPSM, OM)	No
2020	Approach to drug-related crime and problems	Several (e.g. KPSM, OM)	No
2020	Review Admission and expulsion of foreign nationals	IBPS	No
2020	Domestic violence	Several (including KPSM, OM, VR, SJIB, Safe Haven)	Yes
2021	Overall review Sub-inspection 1 Prevention of juvenile delinquency; Youth Rehabilitation Center Miss Lalie Center; and Juvenile and Adult Probation	Several (including KPSM, OM, VR, SJIB, prison system)	No
2021	Screening of the National Detectives Agency	National Detectives Agency	No
2021	Overall review Sub-inspection 2 Crime Fund; Investigation and prosecution policy of Public Prosecutor's Office; Enforcement of fines, compensation of damages and deprivations; The Public Prosecutor's Office in the incident-based investigation; and collaboration between Public Prosecutors' offices	Several (including OM, LR, KPSM, ministry of Justice)	No
2022	In the letter dated 4 April 2022, the Minister of Justice presented a general response to the Council's recommendations to Parliament. Here, general issues were addressed.		
2022	Evaluation of mutual detention arrangements	Several (e.g. PPG/OM, Justice Ministries, prison)	Pending ¹⁸
2022	Illegal firearms	Several (including OM, KPSM, Justice Ministry, customs, KW)	Yes
2022	Money laundering and terrorist financing	Several (e.g. PPG/OM, KW, KPSM, Justice Ministry, Customs, MOT)	No
2022	Second follow-up inspection Crime Fund	Ministry of Justice	No
	Ongoing investigations		
2023	Overall review Sub-inspection 3 Investigation Process Detectives Department; Approach to robberies, Criminal seizure; and Forensic Investigations	Several (including KPSM, OM, LR and Justice Ministry)	Presented to the Minister of Justice on 16 March 2023
2023	Processing time: the prioritization, management and monitoring of (complex and simple) criminal cases	Miscellaneous (KPSM, OM, LR)	Will be presented Q2
2023	Enforcement of law and order during extraordinary circumstances	Various (including KPSM, Ministry of Justice)	Will be presented Q2

¹⁸ This inspection was conducted at the request of the Ministers of Justice (and Security) of Aruba, Curaçao, The Netherlands and Sint Maarten. The Ministers intend to formulate a joint response.

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