



General review Follow-up inspection recommendations Sint Maarten

**Sub-inspection 3:
Criminal investigation process
Combatting robberies
Criminal seizure
Forensic investigations**

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Forensic investigations**

Client: Law Enforcement Council

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Inhoudsopgave

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List of abbreviations

Abbreviation	Meaning
FO	Forensic Investigations (<i>Forensische Opsporing</i>)
IGP	Information Driven Police (<i>Informatie Gestuurd Politie</i>)
JVO	Judicial Quadripartite Consultation (<i>Justitiele Vierpartijen Overleg</i>)
KMar	Royal Netherlands Marechaussee (<i>Koninklijke Marechaussee</i>)
KPSM	Sint Maarten Police Force (<i>Korps Politie Sint Maarten</i>)
Lpg	National Ordinance Police Data (<i>Landsverordening politie gegevens</i>)
Lvo	National Ordinance (<i>Landsverordening</i>)
LRSM	National Detectives Sint Maarten (<i>Landsrecherche Sint Maarten</i>)
MvJ	Minister of Justice (<i>minister van Justitie</i>)
NFI	Netherlands Forensic Institute (<i>Nederlands Forensisch Instituut</i>)
OM	Public Prosecutor's Office (<i>Openbaar Ministerie</i>)
OvJ	Public Prosecutor (<i>Officier van Justitie</i>)
Council	Law Enforcement Council (<i>Raad voor de rechtshandhaving</i>)
SBIR	Foundation Management ICT Law Enforcement (<i>Stichting Beheer ICT Rechtshandhaving</i>)
SJIS	Foundation Judicial Institutes Sint Maarten (<i>Stichting Justitiele Inrichtingen Sint Maarten</i>)
SUR	Special Unit Robberies
VC	Progress Committee Sint Maarten (<i>Voortgangscommissie Sint Maarten</i>)

Foreword

In 2020, the Law Enforcement Council embarked on a general inspection into the implementation of all recommendations made by the Council up to and including 2018¹. Given the large number of recommendations, sub-inspections have been opted for, each dealing with one or more specific topics. You have before you the third sub-inspection report. This report examined to what extent the recommendations regarding four topics centered around the police have been followed. It concerns the recommendations made in the following reports:

- [*The criminal investigation process by the detective department in Sint Maarten*](#) (2013; 25 recommendations);
- [*The criminal investigation process by the detective department in Sint Maarten. A follow-up inspection*](#) (2016; 25 recommendations);
- [*Approach to combating robberies*](#) (2015; 8 recommendations);
- [*Criminal seizure in Sint Maarten*](#) (2014; 7 recommendations);
- [*Criminal seizure in Sint Maarten. A follow-up inspection*](#) (2019; 7 recommendations);
- [*Forensic investigations in Sint Maarten*](#) (2018; 10 recommendations).

This third sub-inspection shows that the majority of the recommendations have been followed. It also reveals that several basic preconditions have still not been met. In addition to following up on the recommendations, this also obstructs the intended improvement of the inspected topic, which are: the investigation process by the Detective department, combatting robberies, criminal seizure and forensic investigation. In this report one can read what is going well, where the obstacles are and where action is still required.

As was the case with previous investigations by the Council, the organizations and persons involved participated in a constructive manner in the inspection. Once again, the Council wishes to thank the persons who were approached for their cooperation.

The Council assumes that this inspection will result in the Minister of Justice, in cases where the recommendations have not been (fully) followed or implemented, now taking them up and implementing them expeditiously and providing resources to do so in the shortest possible time.

THE LAW ENFORCEMENT COUNCIL

M.I. Koelewijn, LL.M., chairman
L.M. Virginia, LL.M.

¹ This is in line with the review period of (at least) 2 years used 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 within the overall review, since no new recommendations are made in these, but the follow-up to earlier recommendations is evaluated.

Summary and recommendation

Summary

Introduction

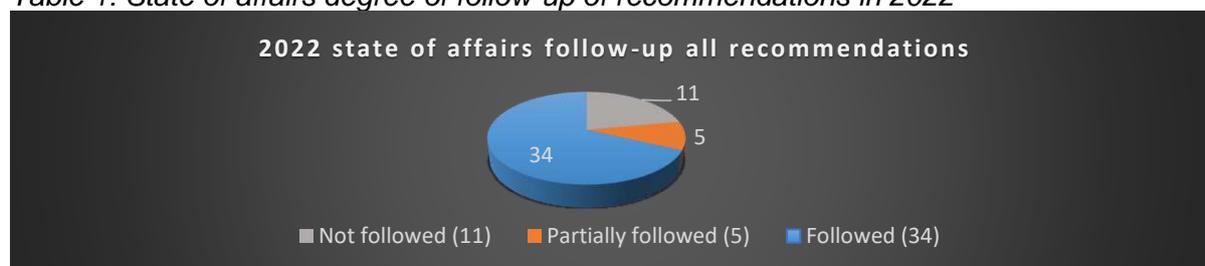
In 2020, the Law Enforcement Council (hereinafter the Council) in Sint Maarten embarked on a general inspection. In this context, the Council maps out the current state of affairs concerning all recommendations made by the Council up to and including 2018². Given the large number of recommendations made by the Council so far, the Council is working with sub-inspections, each of which deals with a number of specific topics.

The current report concerns the third sub-inspection³. In this report, the Council examined the extent to which the recommendations made regarding four topics were followed up. It concerns the reports on the investigation process by the Detective department (25 recommendations), combatting robberies (8 recommendations), criminal seizures (7 recommendations) and forensic investigation (10 recommendations). With regard to the aforementioned topics about the investigation process and criminal seizure, the Council conducted a follow-up inspection in 2016 and 2019 respectively, and the current sub-inspection is a second follow-up inspection. With regard to the two other topics (combatting robberies and forensic investigations), a follow-up inspection was conducted through this inspection for the first time in 2022.

Results follow-up

This third sub-inspection shows that of a total of 50 recommendations, 34 recommendations were fully followed, 5 recommendations were partially followed, and 11 recommendations were not followed. Overall, it can therefore be stated that the majority of the recommendations were followed. Also in this report, the Council observes that when it is up to the organization, particularly the Sint Maarten Police Force (KPSM), to follow up on the recommendations, this was often done within its powers. But when an organization depends on especially the Ministry of Justice to follow up on the recommendations, that follow-up stagnates.

Table 1: State of affairs degree of follow-up of recommendations in 2022



The state of affairs in a broader perspective

Despite the fact that more than half of the recommendations were followed, the Council notes in a broader sense that several basic preconditions have still not been met. As a result, this

² This in line with the review period of (at least) 2 years used 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 no new recommendations are made in these but the follow-up to earlier recommendations is evaluated.

³ Law Enforcement Council (2021). Overall review recommendations. Sub-inspection 1: Prevention youth crime, Miss Lalie Juvenile Rehabilitation Center, Juvenile Probation Service, Adult Probation Service; Law Enforcement Council (2022). Overall review recommendations. Sub-inspection 2: Crime Prevention Fund, investigation and prosecution policy of the Public Prosecutor's Office, Enforcement of fines for damages and dispossessions. The Public Prosecutor's Office in incident based investigation. Cooperation between Public Prosecutors' offices.

does not only impede the follow-up of the recommendations, but it also stagnates the intended improvements for the investigation process by the detective department, combatting robberies, criminal seizures and forensic investigations. The (structural) bottlenecks are already well-known: insufficient material, personnel and financial resources. In addition, there are bottlenecks in more specific areas; including in the area of updating the legal framework, regulating the legal status, reserving sufficient funds in the budgets and a financial mandate for the Department head. The lack of solutions for reserving sufficient funds for regular budget items such as trainings, for example, results in temporary solutions being found in practice. But this does not result in structural solutions, and that obstructs the continuity and creates other external dependencies. Consequently, this should not be the premise. The Council points out that if Sint Maarten wishes to have a professional and full-fledged police force and, by extension, solid law enforcement, investments must be made in the Sint Maarten Police Force (KPSM) (and in other local judicial departments). As a result, in this respect, the Council sees the solution in a more leading role for the Ministry of Justice than it has had so far. To do so, strengthening the staff of the Ministry is a prerequisite. As long as the Ministry does not assume this steering role, KPSM (and other judicial departments) will be hindered in its development and will not be able to fulfill its mission to the fullest, with possible negative consequences for the safety and the quality of life of the people who are in Sint Maarten. The Council therefore reiterates the importance of support at both the political and ministerial level to invest in the topics inspected and, by extension, to strengthen the criminal enforcement of the democratic rule of law. This support is a prerequisite for success.

Lastly

The Council is aware that the recommendations are often disparate, and that one recommendation may be less complex than the other. Nevertheless, the Council expressed the state of affairs per recommendation for each report in a percentage⁴. The percentage listed below is not a hard benchmark, but only has the function of an indicator to present the state of affairs per report in a more visual way.

Table 2: State of affairs compliance percentage follow-up recommendations per report

Compliance percentage Investigation process detectives department	Compliance percentage Approach to robberies	Compliance percentage Criminal seizure	Compliance percentage Forensic investigation
2016: 46%		2019: 71.4%	
2022: 68%	2022: 87.5%	2022: 78.6%	2022: 85%

Recommendation

Recommendation

In light of the preceding, the Council's recommendation to the Minister of Justice is as follows:

⁴ The compliance percentage as an indicator is calculated by assigning 1 point to each recommendation followed, ½ point to each recommendation partially followed and no points to a recommendation not followed. Subsequently, the number of points awarded is divided by the total number of recommendations and multiplied by 100 to arrive at the compliance percentage.

Implement the Council's recommendations for the areas that have not yet been (fully) addressed: the criminal investigation process, combatting robberies, criminal seizure and forensic investigation and make the necessary resources available in the shortest possible time.

In 2023, the Council will start periodic monitoring of the progress of the recommendations still to be followed. Below, the Council presents the state of affairs of follow-up on the recommendations for each report.

Table 3: State of affairs of follow-up recommendations

Criminal investigation process detective department

	Recommendation 2012	Follow-up 2016	Follow-up 2022
	To the Minister of Justice		
A1	Ensure that as soon as possible the development plan, the job-classification system and the placement plan for KPSM are adopted by National Decree, so that the police force can embark on the integration of the current KPSM personnel into the organization.	Not followed	Partly followed
A2	Release financial resources to enable the police force to fill critical functions in accordance with the placement plan.	Not followed	Not followed
A3	Ensure that the Legal Status Decree of KPSM's civil servants enters into force	Not followed	Not followed
A4	Ensure that as soon as possible the info desk occupies the accommodation intended for it and that the secure cable is laid.	Followed	-
A5	Implement as soon as possible the mutual arrangement processing of police information in national legislation.	Followed	-
A6	Ensure that twice a year the KPSM has access to all information referred to in Article 23 of the National Ordinance on Basic Administration Personal Data	No followed	No followed
A7	Then implement as soon as possible the required amendment to the National Ordinance Basic Administration on Personal Data to enable files to be linked and make agreements on an administrative level regarding data exchange.	Not followed	Partly followed
A8	Ensure that sufficient funds are available in the budget so that KPSM can make training of its staff a priority.	Not followed	Not followed
	To the Minister of Justice and the Sint Maarten Police Force		
A9	Make combatting juvenile delinquency and relational violence a key priority of the government policy in consultation with chain partners.	Followed	
A10	After adopting the draft development plan, in consultation with the police force, formulate a feasible development plan and corresponding staffing in relation to a realistic budget.	Not followed	Not followed
A11	Investigate with the police force whether documents can be drafted in the English language, which may facilitate the recruitment of aspiring police officers.	Followed	-
A12	Together with the police force make agreements about broader possibilities for the force in the area of finances and human resource management, so that the Chief of Police has more possibility to perform his statutory task with regard to the day-to-day management and daily administration of the police force than he currently has.	Not followed	Not followed
A13	Subsequently, make agreements with the police force about the goals to be achieved by the police and document them in a covenant.	Not followed	Not followed

Approach to robberies

No.	Recommendation 2015	Follow-up 2022
	To the Minister of Justice with regard to the Sint Maarten Police Force and the Public Prosecutor's Office	
A1	Encourage both the Public Prosecutor's Office as well as the Sint Maarten Police Force to provide more guidance within the current prioritization.	Followed
	To the Minister of Justice with regard to the Sint Maarten Police Force	
A2	Make sure the Special Unit Robberies obtains basic resources (including at least hard drives, laptops and official vehicles as soon as possible to be able to perform the work properly.	Followed

A3	Evaluate the current capacity of the Special Unit Robberies and ensure that the team is expanded to an adequate staffing formation.	Not followed up
A4	Review how the Special Unit Robberies can have permanent access or can make use of the required analyst(s).	Followed
A5	Evaluate the current approach to combating robberies by the Special Unit Robberies.	Followed
A6	If possible, ensure that an instruction on combating robberies is adopted, taking into account the results of said evaluation.	Followed up
A7	Provide a better registration of robberies in order to obtain an up-to-date insight into the nature and extent of the problem at any given time.	Followed
A8	Provide continuous training in forming files for the personnel of the Special Unit Robberies who have not yet followed this training.	Followed

Criminal seizure

	Recommendation 2014	Follow-up 2019	Follow-up 2022
	To the Minister of Justice with regard to the Sint Maarten Police Force and the Public Prosecutor's Office.		
A1	Involve the legally appointed custodian and the RST in the 'seizure' working group already established by the Sint Maarten Police Force and the Public Prosecutor's Office to find a permanent solution for the storage of vehicles and vessels.	Partially followed	Partially followed
	To the Minister of Justice with regard to the Sint Maarten Police Force		
A2	Adopt the KPSM function book and within a very short time come up with a solution to fill the position of administrator, so that the bottlenecks surrounding decentralized registration and storage of seized items can be solved.	Partially followed	Partially followed
A3	Subsequently, within a reasonable period of time, establish the process description about the seizure and implement it throughout the entire workplace.	Followed	-
A4	Make sure that the Public Prosecutor's Office is made aware of every seizure.	Partially followed	Followed
A5	Attach a list of seized and not returned objects to the criminal file in accordance with the law.	Followed	-
	To the Minister of Justice with regard to the Public Prosecutor's Office		
A6	Ensure that seized objects are processed promptly or as soon as the interest of criminal proceedings permits that.	Partially followed	Partially followed
A7	When destroying high-risk objects, perform the legally assigned supervisory tasks.	Followed	--

Forensic investigation

	Recommendation 2018	Follow-up 2022
	To the Minister of Justice	
A1	Make sure the forensic legislation is up to date. In any case, pay attention to the entry into force of the National Decree on Comparative Research of Cellular Material and the follow-up to the recommendations made on numerous occasions by the Council regarding the legal position, function book and job classification system.	Not followed
A2	Update the current plans.	Followed
A3	Promote structural collaboration with other investigative departments in Sint Maarten, within the Kingdom and/or elsewhere in the area of purchasing equipment, performing certain activities and jointly providing and following training courses, in order for them to be able to respond to the (rapid) developments in the disciplines and to obtain the resources and facilities actually required for the work.	Followed
A4	Ensure that licenses that are needed are purchased and renewed in a timely manner.	Followed
A5	Make sure that a decision is made in good time about the renewal of a contract with the NFI. Also verify if the contract can be entered into for a longer period.	Followed
A6	Ensure that NFI bills are paid on time and find a solution for the payment arrears. Make provisions in upcoming budgets.	Not followed
	To the Minister of Justice with regard to the Sint Maarten Police Force	

A7	Update the work instructions, work procedures and notes of the forensic investigation department. Pay particular attention to changes to the documents that benefit the communication, information provision and mutual expectations.	Followed
A8	Provide a solution with regard to the occupation of the digital investigation. To the Minister of Justice with regard to the National Detectives Sint Maarten	Followed
A9	Make sure that the National Detectives has access to reading equipment for digital data carriers.	Followed
A10	Draw up required work instructions, work procedures and/or notes with regard to the supporting activities of the digital analyst.	Not followed

1. Introduction

1.1 Introduction and rationale

Introduction

Since 2012, the Law Enforcement Council (the Council) has published more than 100 inspection reports. The Council examined the effectiveness, the quality of the performance of tasks and the management of the organisations of the judicial chain in Curaçao, Sint Maarten, Bonaire, Sint Eustatius and Saba, as well as the quality and effectiveness of the judicial collaboration between the countries.

Until now, monitoring has taken place when a follow-up inspection (review) is initiated after at least two years, and an annual overview has also taken place in the State of Law Enforcement. In 2020, the Council (also) started to intensify the monitoring of the implementation of recommendations in order to encourage follow-up on recommendations and to contribute to their implementation.

Rationale

Up to and including May 2022, the Council published a total of 55 inspection reports on a variety of topics in Sint Maarten, of which just over half of them were monitored so far in a follow-up inspection. The majority of the 19 review reports show that adequate follow-up of recommendations constitutes a bottleneck. The Council is therefore of the opinion that currently the most gains can be made in Sint Maarten by following up on all recommendations made by the Council in the period from 2011 to 2018⁵. Therefore, from 2020, the focus will be on an in-depth overall review of the follow-up of the recommendations previously made for each judicial organization. Subsequently, progress can be monitored on the basis of all the results.

Given the large number of recommendations, the overall review takes place in phases by means of sub-inspections. The current sub-inspection concerns the third sub-inspection on the following six (review) reports:

- [*The criminal investigation process by the detective department in Sint Maarten*](#) (2013; 25 recommendations);
- [*The criminal investigation process by the detective department in Sint Maarten. A follow-up study*](#) (2016; 25 recommendations);
- [*Approach to combating robberies*](#) (2015; 8 recommendations);
- [*Criminal seizure in Sint Maarten*](#) (2014; 7 recommendations);
- [*Criminal seizure in Sint Maarten. A follow-up inspection*](#) (2019; 7 recommendations);
- [*Forensic investigation in Sint Maarten*](#) (2018; 10 recommendations).

1.2 Research question sub-inspection

The research question in this inspection is:

To what extent do the Minister of Justice and the judicial organizations follow up on the recommendations of the Council?

⁵ This is in line with the review period of (at least) 2 years used 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 as part of the overall review, as these do not make new recommendations, but rather evaluate the follow-up of previously made recommendations.

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

To what extent has there been a follow-up of the recommendations made in the following (review) reports: *'The criminal investigation process by the detective department in Sint Maarten'*, *'The criminal investigation process by the detective department in Sint Maarten. A follow-up inspection'*, *'Approach to combating robberies'*, *'Criminal seizure in Sint Maarten'*, *'Criminal seizure in Sint Maarten. Followed up with a follow-up inspection'* and *'Forensic investigation in Sint Maarten'*?

1.3 Demarcation

This sub-inspection focuses on the recommendations in the (review) reports published in the period from 2012 to 2018⁶.

The Council examined to what extent its former recommendations were followed up. The Council clustered a number of reports and conducted a third sub-inspection on the state of affairs. It was decided to cluster a number of reports with regard to the police. The third sub-inspection concerns the (review) reports on the investigative process by the Detective department (2012/2016), the approach to combating robberies (2015), criminal seizure (2019) and forensic investigations (2018).

1.4 Assessment framework

The premise of this sub-inspection report are the recommendations as they were included in the aforementioned reports. *The criminal investigation process by the detective department in Sint Maarten 2012, review 2016*; *Approach to combating robberies (2015)*; *Criminal seizure in Sint Maarten (2014; review 2019)*, *Forensic investigation in Sint Maarten (2018)*. The Council assesses the follow-up of the recommendations formulated: these form the framework. Since a response from the Minister of Justice (MvJ) was only received for the Forensic Investigation Report, which broadly addressed the recommendations of the Council, this also forms part of the framework for that section.

1.5 Research approach and method

The Council developed a database that initially contains all reports and corresponding recommendations (until 2019). In addition, the Council included relevant information for each recommendation, including the category of the recommendation, which organization the recommendation primarily relates to, and whether or not a review inspection took place. Subsequently, all reports and recommendations relevant to this sub-inspection were mapped out for each organization.

Relevant data was also requested from the Public Prosecutor's Office, the National Detectives Sint Maarten, the Sint Maarten Police Force and the Ministry of Justice. By means of a written questionnaire, they were requested to describe the state of affairs regarding the (applicable) recommendations and, if applicable, to provide the corresponding documentation. This gave the Council insight into the state of affairs. An additional interview was also held with KPSM

⁶ This is in line with the review period of (at least) 2 years used by the Council. However, it is possible that the Council included the results of the review reports up to and including the year 2021 in the sub-inspections as part of the overall review, as these do not make new recommendations, but rather evaluate the follow-up of previously made recommendations.

and at the same time, the Council was given access to the new intranet system and dashboard of the KPSM.

Where relevant, the Council processed the newly gathered information and the documents supplied by the authorities. The factual findings in the report were submitted to all parties involved for their feedback.

1.6 Reading guide

This report is structured as follows. After the introductory chapter 1, the state of affairs is presented in chapters 2, 3, 4 and 5, and an assessment is provided of the 'Criminal investigation process by the detective department, the 'Approach to combating robberies', 'Criminal seizure', respectively and 'Forensic Investigations'. Each chapter also contains its own *overall* analysis. In chapter 6 an overarching analysis is provided. The various chapters also include tables that visually represent the state of affairs.

2. State of affairs recommendations investigation process detective department

Introduction

In 2012, the Council inspected the extent to which the investigative process by the Detective department in Sint Maarten was effective. In doing so, the Council reviewed the aspects of organization and design, management, information provision and results. The Council indicated that the positive developments contributed to the effectiveness of the force and more specifically to the investigation process. However, for the proper completion of the changes at the time, the Council considered the support of the government indispensable. The Council made 25 recommendations. In 2016, the Council assessed in a follow-up inspection to what extent the recommendations had been followed. Of the 25 recommendations, eleven had been followed in full, one had been partially followed and thirteen had not been followed. The response of the MvJ broadly addressed the recommendations.⁷ This response will be further discussed where relevant.

2.1 State of Affairs 2022 investigation process detective department

Subsequently, the Council elaborates on the recommendations. For each recommendation, the Council first presents the recommendation from 2012, then the state of affairs in 2016 and, if applicable, the Minister's response. In the end, the findings in 2022 and their assessment will be addressed.

To the Minister of Justice

Recommendation1 (2012): Ensure that the development plan, the job classification system and the placement plan for KPSM are adopted by National Decree as soon as possible so that the Police Force can embark on the integration of the current KPSM personnel into the organization. *The recommendation has been classified by the Council in its database in the category 'development plans and job classification system'.*

State of affairs 2016

The recommendation was not followed. Three years after the inspection by the Council, in 2016 the police force is still balancing between the old and the new structure. Although progress was made in the procedural handling of the development plan, the job classification system and the placement plan, the Council urges – as was the case in previous inspections – that the development plan, the job classification system and the placement plan for the KPSM still be adopted by National Decree in the near future.

Findings 2022

There is a development plan for the KPSM.⁸ The MvJ had a Justice Function Book drawn up. The national decree containing general measures regarding amendment of the Justice Organisation Decree in connection with the introduction of the Justice Function Book was

⁷ [KMBT_C364e-20170801210740 \(raadrechtshandhaving.com\)](https://www.raadrechtshandhaving.com/)

⁸ No response was received from the KPSM within the specified period to the request for further explanation on this matter.

approved and signed by the Governor and the MvJ on December 20, 2021, and subsequently published.⁹ The Ministry of Justice is currently working on amendments to the KPSM Function Book, before the entire Justice Function Book – after advice from the Council of Advice and subsequently signing by the Governor and the MvJ – can enter into force. The MvJ expected that this would be regulated before the end of 2022.

The KPSM initiated the preparation of the implementation of the Function Book by drawing up a draft placement plan for the KPSM. However, the integration of the personnel of the judicial services into the organizations and the drafting of the corresponding national decrees, including those of the police force, can only start after the national decree enters into force.

Assessment

The Council already noted in its State of Law Enforcement 2021 that the Function Book has been a point of contention for more than ten years, but that efforts have been made in recent years to finalize this important subject.¹⁰ Although progress has been made on the matter, after more than twelve years, the Function Book specifically for the KPSM has still not entered into force. The Council is of the opinion that given the time already lapsed, priority should be given to the entry into force as soon as possible. Especially considering the fact that the implementation of the placement plan for the police force depends on the entry into force of the Function Book. Since the necessary change was established by national decree, but the Function Book has yet to enter into force, the Council considers the recommendation to have been partially followed.

Recommendation 2 (2012): Release financial resources to enable the force to fill critical functions in accordance with the placement plan. *The recommendation has been classified by the Council in its database in the category 'Finance and Budget'.*

Policy response 2016

In the aforementioned policy response, the MvJ already indicated that it would not be possible to release financial resources to fill critical functions. The reason given was the deteriorating financial situation of the country in general and that of the Ministry of Justice in particular.

Findings 2022

During this inspection, the Ministry of Justice indicates that the financial situation has remained virtually unchanged, but that the intention is to address this specific recommendation by reserving the financial resources by including them in (the preparation of) the budget for 2023.

Assessment

The financial situation of Sint Maarten and more specifically that of the Ministry of Justice is an ever-recurring bottleneck in all inspections of the Council. This is also the case in this inspection. The problem does not only affect the filling of critical functions, but all functions. As early as 2016, the Council pointed out that this recommendation is closely related to the recommendation on the development plan, the job classification system and the placement

⁹ AB 2021, no. 78

¹⁰ Law Enforcement Council (2022). State of Law Enforcement (2021).

plan ([recommendation 1](#)) and that on the entry into force of the KPSM Legal Status Decree ([recommendation 3](#)). In this respect, the Council is also concerned, because the entry into force of the function book will also have significant financial consequences. A good solution will have to be found by the Ministry of Justice, which should also be reflected in the budgets for the coming years. The Council is of the opinion that, for example, drawing up a plan of approach could help to map out the approach concerning the financial consequences and to be able to implement it properly. Based on the foregoing, the Council considers that this recommendation – as in 2016 – was not followed.

Recommendation 3 (2012): Ensure the entry into force of the Legal Status Decree of KPSM's civil servants. *The recommendation has been classified by the Council in its database in the category 'Legal framework'.*

State of affairs 2016

The recommendation is not followed. The legal status of the members of the police force remained unchanged in 2016, seeing that the Decree on the Legal Status of the Sint Maarten Police Force had not entered into force. As was the case in previous studies - the Council urges to ensure that the decree on coming into force will be available within short.

Policy response 2016

In his policy response, the MvJ indicated that the KPSM Legal Status Decree was being amended at that time as a result of further consultation with the KPSM staff and the trade unions. Furthermore, the MvJ indicated that the draft would be presented to the Council of Advice within short, but the function book and placement plan had to be adopted first.

Findings 2022

The Council refers to [recommendation 1](#) for the findings on the function book and placement plan.

In its 2021 report¹¹ on the Sint Maarten National Detectives, the Council referred to an advice¹² from the Council of Advice on which legal position degree applies to the KPSM. It concerned the Decree on the Legal Status of the Netherlands Antilles Police Force 2000 and the Decree on the KPSM Legal Status. According to the Council of Advice, the KPSM Legal Status Decree is applicable. The Council of Advice concluded that the KPSM Legal Status Decree entered into force on 10 October 2010 and that the entry into force provision contained therein did not preclude this. In addition, the Decree on the Legal Status of the Netherlands Antilles Police Force is still in force. Therefore, the Council of Advice suggested the desirability to revoke the Decree on the Legal Status of the Netherlands Antilles Police Force. According to those interviewed at that time, the government was working on the revocation decree in question. At the time of this current inspection, no revocation decree for the 2000 Decree on the Legal Status of the Netherlands Antilles Police Force was published yet. During this inspection, the Ministry of Justice also indicated that the formal process for the amendments to the Decree on the Legal Status of the KPSM has been initiated. In its response, the Ministry further indicated that meanwhile, the new draft KPSM Legal Status Decree has been assessed by the Council of Advice.

Assessment

¹¹ Law Enforcement Council (2021). Inspection: Review of the Sint Maarten's National Detectives Agency.

¹² RvA no. SM/05-19-Lbham

For the function book and placement plan, the Council refers to the assessment in [recommendation 1](#).

Since the amendments to the KPSM Legal Status Decree are still in draft form, the Council considers that the recommendation – just as in 2016 – was not followed.

[Recommendation 4 \(2012\)](#): Ensure that as soon as possible the Info desk occupies the accommodation intended for it and that the secure cable is laid. *The recommendation has been classified by the Council in its database in the category 'Facilities'.*

State of affairs 2016 - followed up

The recommendation was followed. In 2016, for three years already, the information desk was located on the opposite side of the police station and the required secure connection cable was provided.

[Recommendation 5 \(2012\)](#): Implement the mutual arrangement on the processing of police data in national legislation as soon as possible. *The recommendation has been classified by the Council in its database in the category 'Legal framework'.*

State of affairs 2016 - followed up

The recommendation was followed. The mutual arrangement on processing police data has been incorporated in the National Ordinance on Police Data.

[Recommendation 6 \(2012\)](#): Ensure that twice a year, the KPSM has access to all data referred to in Article 23 of the National Ordinance Basic Administration of Personal Data. *The recommendation has been classified by the Council in its database in the category 'Information position'.*

State of affairs 2016

The recommendation was not followed. Until the first quarter of 2016, the KPSM did not have access to all the data referred to in Article 23 of the aforementioned National Ordinance, (Lvo), such as data on civil status or nationality, twice a year. For the possibilities regarding the exchange of police and judicial data within the Kingdom, the Council refers to its report on this matter.

Policy response 2016

In the policy response, the MvJ indicated that he considers that it is important that twice a year, the KPSM should have access to all personal data referred to in Article 23 of the National Ordinance on Basic Administration of Personal Data. Currently, the KPSM is supposed to be receiving a CD with this data once a year, but the goal is to receive it twice a year.

Findings 2022

The Ministry of Justice indicates that it was not yet realized that twice a year, the KPSM has access to the general and referral data mentioned in the National Ordinance Basic Administration of Personal Data¹³. The intention is that, rather than a cd with data, a systematic provision of data is provided by linking the systems between the civil affairs department and the KPSM Information Unit. However, this has not yet been realized for technical reasons. The Ministry of Justice still has to discuss this matter with the Ministry of General Affairs.

¹³ Referral data includes: information about the name and birth; information about the administration number; and information about the country in which the person is registered, the address in that country, and the date of registration.

Assessment

In its report from 2012, the Council already pointed out that the National Ordinance Basic Administration of Personal Data does not apply to the processing of personal data for the purpose of performing police duties, as referred to in Articles 5 and 11 of the Kingdom Act on Police of Curaçao, of Sint Maarten and of Bonaire, Sint Eustatius and Saba (see the report for more information). Any objections based on the protection of privacy, if necessary, can also be resolved through authorizations and agreements on which information is to be placed in which files, according to the Council. According to the Council, this is still relevant. Once again, the Council reiterates the importance of not only making the data available, but also linking files. Given the current state of affairs, the Council considers that the recommendation – just as in 2016 – was not followed.

Recommendation 7 (2012): Then implement as soon as possible the required amendment to the National Ordinance Basic Administration of Personal Data to enable the linking of files and make agreements at the administrative level regarding data exchange. *The recommendation has been classified by the Council in its database in the category 'Legal framework'.*

State of affairs 2016

The recommendation was not followed. The required change to the National Ordinance Basic Administration of Personal Data to enable files to be linked was not implemented in 2016. In addition, no agreements were made at the administrative level about data exchange.

Policy response 2016

The policy response states that the required change to the National Ordinance Basic Administration of Personal Data had not yet taken place, but that agreements had been made at administrative level about data exchange. According to the minister, this is because the link is related to the development of a business process system for the KPSM. In this context, the KPSM prioritized the ACTPOL system, because they had invested significantly in it.

Findings 2022

In the Judicial Quadripartite Consultation (JVO) of January 2021, it was agreed that the countries will jointly establish a Kingdom Act to regulate a harmonized level of protection of personal data, police, judicial and criminal record data within the Caribbean part of the Kingdom.¹⁴ At present, a project group is charged with this. The Ministry of Justice indicated that the desirable changes to the National Ordinance Basic Administration of Personal Data will be included in that context and that consequently, the National Ordinance Basic Administration of Personal Data will be updated in the not-too-distant future.

Furthermore, the Ministry of Justice indicates that the KPSM does not have access to the basic administration through a link. A covenant (*service level agreement*) was drawn up and signed in 2020 for the civil affairs department and the KPSM Information Unit for the systematic provision of data from the basic administration of personal data. The topics concern general provisions (e.g. definitions), provisions on the issuance (e.g. supply and purchase obligation), provisions on feedback (e.g. obligation to report back), provisions on communication and services (e.g. periodic comparison of files) and other provisions (such as

¹⁴ <https://www.rijksoverheid.nl/documenten/kamerstukken/2021/09/07/tk-periodieke-rapportage-rechtshandhaving-hoofdlijnen-jvo-juli-2021>

privacy). As indicated earlier, the linking of systems is not yet realized for legal and technical reasons. As indicated, the Ministry of Justice still has to consult with the Ministry of General Affairs on this.

Assessment

The recommendation is twofold, because it does not only have to do with a change in the law, but also with making of agreements. The amendment to the National Ordinance Basic Administration of Personal Data did not take place as yet. The Council is of the opinion that the Ministry of Justice should take concrete steps to ensure that the desired changes are incorporated. This is to ensure that the changes are actually taken into account by the project group. This part of the recommendation was not followed.

The Council is positive given the fact that agreements have been made at administrative level in the form of a covenant on data exchange. This part of the recommendation was followed. In view of the foregoing, the Council considers the recommendation as a whole to have been partially implemented.

Recommendation 8 (2012): Ensure that sufficient funds are available in the budget so that the KPSM can make personnel training a priority. *The recommendation has been classified by the Council in its database in the category 'Finance and budget'.*

State of affairs 2016

This recommendation was not followed. From 2014 onwards, in the budgets of Country Sint Maarten each time insufficient funds were allocated to make the training of KPSM personnel a priority and therefore structural. More than 2.5 years later, in 2016, the Council emphasized once more that basic police training must be accomplished within a short time, due to its positive impact on the growth and development of the force.

Policy response 2016

In the policy response, the MvJ indicates that there is not enough funds for the training of KPSM personnel. Furthermore, it is also reported that it was agreed through the JVO that investments would be made in regional police training. In order to facilitate joint police training under the Kingdom Act Police of Curaçao, of Sint Maarten, and of Bonaire, Sint Eustatius and Saba, the Netherlands offered the Quality Impulse for police education for a period of four years (2016-2019).

Findings 2022

In 2021, a training coordinator was appointed for the Ministry of Justice, who is responsible for a general training program for all judicial personnel.¹⁵ According to the Ministry of Justice, since 2022, developing courses and training programs, for example in the field of expertise and management capacities, has been spearheaded by the Ministry.

The training budget of KPSM is still very limited. The KPSM points out that every year, it submits a realistic budget, but that each year, this is cut by the Ministry of Justice. According

¹⁵ <http://www.sintmaartengov.org/PressReleases/Pages/Minister-of-Justice-Tours-Ministry-and-Introduces-Course-Coordinator.aspx>

to the KPSM, no consultation about this is held and no feedback is received. For example, throughout all these years, there has been a training budget of ANG 75,000 for a total of some 200 FTEs. That is insufficient to ensure professionalization of the organization, according to the KPSM. At present, the training activities developed by the KPSM are largely funded by the Netherlands through the Quality Impulse Police Education (for example the basic police training and the leadership training referred to as TOL-C training), the detective cooperation team (for example creating files and reading communication devices) and the Board of Police Chiefs. This board has been offered assistance by the Dutch Minister of Justice and Security to develop leadership within the different police forces at a strategic level. In addition, training courses are also provided within the framework of the Mutual arrangement on strengthening border control.

Assessment

As indicated before, the lack of finances is a major bottleneck that also has consequences for training courses within the KPSM. Although temporary solutions are found through other external channels of collaboration, this does not alter the fact that a structural solution still needs to be found for allocating sufficient funds for KPSM training programs in the successive budgets of the Ministry of Justice. This is necessary in order to be able to continue to invest in the professionalization of the force. The Council also suggests to the MvJ that for a general training program, financial resources, which are currently unavailable, must also be reserved. Based on the above, the Council considers that the recommendation – just as in 2016 – was not followed.

Recommendations to the Minister of Justice and KPSM

Recommendation 9 (2012): Make tackling youth delinquency and relational violence a key priority of the government policy in consultation with chain partners. *The recommendation has been classified by the Council in its database in the category 'Policy'.*

State of affairs 2016 - followed¹⁶

The recommendation was followed since both topics got the attention of the justice chain.

Recommendation 10 (2012): After adopting the draft development plan in consultation with the police force, formulate a feasible development plan and corresponding formation in relation to a realistic budget. *The recommendation has been classified by the Council in its database in the category 'Development plans and job classification system'.*

State of affairs 2016

¹⁶ In 2022, the Ministry of Justice and the KPSM indicate that juvenile delinquency and relational violence have been prioritized by the Ministry. Domestic violence protocols have been drawn up, partnerships have been launched and the Ministry of Justice is in the process of establishing a victim support office. Furthermore, courses and trainings are being provided to the KPSM and stakeholders and a video on domestic violence was made by the Public Prosecution Service and the KPSM. In the JVO at the beginning of 2022, Sint Maarten gave a presentation about the regional collaboration in the area of domestic violence, which will be further developed. In the context of the JVO, the possibilities for collaboration for the prevention of juvenile delinquency are also jointly explored through a working group. Furthermore, the consultations on youth cases between the Public Prosecution Service, the KPSM, the Court of Guardianship and the Foundation Judicial Institutes Sint Maarten are still taking place.

The recommendation was not followed. Apart from the fact that the draft development plan was not adopted, a feasible development plan and corresponding formation in relation to a realistic budget was not formulated in consultation with the police force either. The total number of actual FTEs of the KPSM decreased from 194 FTEs at the end of 2012 to 181 FTEs at the beginning of 2016. According to the General Measure of the Kingdom Government¹⁷, the minimum strength of the police force aimed at was not achieved at the beginning of 2016.

Policy Response 2016

In his policy response, the MvJ points out that the total formation of the police force that was considered necessary was already revised in 2014 and adjusted from 390 FTEs to 274 FTEs.

Findings 2022

As indicated earlier, a function book was adopted, but has not yet entered into force. According to the Ministry of Justice, by adopting the function book the recommendation has been realized.

The Sint Maarten Progress Committee (VC) indicates that in the (new) function book for the KPSM, the number of formation posts has been set at 332 FTE's and as such the number is almost in line with the number mentioned in the 2010 plan of action.¹⁸

The strength calculation of the police force takes place based on the Decree on the method to determine the minimum police strength.¹⁹ At present, the legally stipulated strength should be 249 executive police officers.²⁰ The KPSM's 2022 annual plan states that on 1 January 2022, the actual formation of the force is at 182 FTEs. And that the KPSM still has to grow considerably to achieve the desired strength. Among other things, efforts must and will be made to recruit and train new prospective police officers. The 4th class of the basic police training was completed with 18 qualified police officers and the 5th class – after some delay due to recruitment problems – started in 2022 with 15 persons.²¹

At the end of 2021, the Progress Committee requested the growth plan for the force for the next four years from the MvJ. Based on the growth plan, the minimum required strength for the force must be achieved. And as such, the plan also has to consider personnel turnover. A new growth plan was drafted for the next five years based on the new formation and that plan has been submitted to the MvJ for approval, according to the KPSM.²²

Assessment

The function book of the Ministry of Justice, including that of the KPSM, has yet to enter into force. This contains the total formation of the force. The staffing of the KPSM remains a matter of concern, according to the Council, because it fluctuates below or around 200 FTEs and consequently, the targeted minimum strength of the force was never achieved in 2022. The KPSM must continue to commit to multiple successive basic police training courses, the

¹⁷ <https://wetten.overheid.nl/BWBR0028559/2010-10-10>

¹⁸ Progress Committee Sint Maarten (2021). *Forty-second report to the ministerial consultations covering the period 1 July 2021 to 1 October 2021*.

¹⁹ Decree on the method to determine minimum police strength Curaçao, Sint Maarten and Bonaire, Sint Eustatius and Saba <https://wetten.overheid.nl/BWBR0028559/2010-10-10>

²⁰ Progress Committee Sint Maarten (2021). *Forty-third report to the ministerial consultations covering the period 1 October 2021 to 1 January 2022*. Progress Committee Sint Maarten (2021).

²¹ Progress Committee Sint Maarten (2021). *Forty-fourth report to the ministerial consultations covering the period 1 January 2022 to 1 July 2022*.

²² From the KPSM no feedback was received on the further explanation within the stipulated time.

Council can imagine, however, that finding suitably qualified persons will become increasingly challenging. That fact as well as the (natural) turnover have as a consequence that no substantial growth has yet taken place. According to the Council, the growth plan should therefore be realistic and should contain solutions for the targeted growth. The Council is of the opinion, that the MvJ should approve the plan as soon as possible. Furthermore, all of the above has significant financial consequences, for which a solution must also be found. Since the function book has not yet entered into force, the growth plan is yet to be approved and no concrete solution for the financial consequences has been found as yet, the Council considers the recommendation – just as in 2016 – as not followed.

Recommendation 11 (2012): Investigate together with the police force whether it is possible to draft documents in the English language, which may facilitate the recruitment of prospective police officers. *The recommendation has been classified by the Council in its database in the category 'Service and communication'.*

State of affairs 2016 - followed²³

This recommendation was followed. It is already possible for the members of the force to draft documents in the English language.

Recommendation 12 (2012): Make agreements together with the force on broader options for the force in the area of finances and human resource management, so that the chief of police gets more opportunity than he presently has to perform his statutory task with regard to the day-to-day management and daily administration of the force. *The recommendation has been classified by the Council in its database in the category 'Capacity'.*

State of affairs 2016

This recommendation was not followed. The MvJ did not make any agreements with the force regarding broader options for the force in the area of finances and Human resource management. The Council urges the MvJ to adopt the recommendation within short so that the chief of police gets more opportunity than he presently has to perform his statutory task with regard to the day-to-day management and the daily administration of the force. This will have a positive impact on, among other things, the lead times regarding criminal investigations.

Findings 2022

It is stated in the 2022 annual plan of the KPSM that a limited budget, no financial mandate and no clarity on the allocation of funds for the Ministry of Justice in the budget of the Ministry of General Affairs cause a lot of uncertainty. During the inspection, the KPSM pointed out that no agreements have yet been made in the area of finances and human resource management on behalf of the chief of police so that he will be able to improve the day-to-day management and actual administration of the force. To date, the chief of police has not received a financial mandate from the MvJ. According to the KPSM, however, having a mandate only makes sense if the budget corresponds to the actual needs of the force, which are not cut.

Not being able to have a financial mandate at one's disposal still has the same negative consequences for the investigation as at the time of the previous inspections, according to the chief of police. After all, it still happens that an advice must be submitted first through the

²³ In 2022, KPSM points out that the courses for prospective officers are only provided in the Dutch language by the Dutch Police Academy. The ministry adds in its response that in setting up its own training institute in Sint Maarten, it is considered desirable to also offer training courses in the English language.

bureaucratic mill of the government system, as a result of which too many people are aware of the costs that have to be made to gather information. For example, in the case of hearing witnesses in sensitive cases, this may entail risks for the staff. In the KPSM's opinion, there is insufficient knowledge about the complexity of a police organization among policymakers, as a result of which the need for certain measures, such as a mandate, is not recognized. According to the chief of police of Sint Maarten, the chief of police of the Caribbean Netherlands for example, has a mandate. In response, the ministry adds that the chief of police, just like other heads of department, has a financial mandate up to the amount of NAF 5,000.00.

As far as the recruitment of personnel is concerned, the force can operate (reasonably) independently when it comes to recruiting aspiring police officers, but in this respect, for an intended appointment, the advice, including, for example, the selection interviews conducted, must be submitted to the Ministry of Justice at all times. If the KPSM does not forward the desired documents, the advices and the agreements will be disregarded, according to the KPSM.

The Progress Committee also reported on the mandate bottleneck on numerous occasions. In its 44th progress report, the Progress Committee again points to the importance of mandating financial and personnel powers to heads of departments and more specifically to the KPSM.²⁴ The Progress Committee is of the opinion that the police force has its operational management in order and notes the obstruction of the performance of certain police tasks due to the official procedures to be followed. As a result, the Progress Committee advises the MvJ to draft a mandate, with the appropriate guarantees, for the chief of police in consultation with the Minister of Finance and the chief of police.

The implementation of improvements in the area of human resources and finances are among the points of attention of the Ministry of Justice for 2022. According to the Ministry of Justice, the appointment of a Director Human Resources and the filling of the vacancy for a controller for the Ministry of Justice will be a major contribution to this. At the end of 2022, a director for human resources was appointed.

Assessment

As early as 2012, the Council pointed out the significance of broader options for the force, and more specifically for the Chief of Police, in the area of issuing a mandate for finances and human resource management. This is for a more efficient performance of the statutory tasks with regard to the day-to-day management and daily administration of the force. Once again, the Council must conclude that the recommendations have still not been complied with. As is the case with the Progress Committee, the Council reiterates the importance of a (broader) mandate for all heads of departments, including that for the Chief of Police. Article 51 of the Kingdom Act on the Police of Curaçao, of Sint Maarten, and of Bonaire, Sint Eustatius and Saba offers the countries the possibility to set additional rules on management, financial accountability and reporting. Naturally, in this respect, the general accounting regulations shall apply. The amount of the mandate must be in proportion to the requirements and needs in the day-to-day practice in terms of leadership and the actual day-to-day management. At present, that is not yet the case. Given this state of affairs, the Council considers that the recommendation – as in 2016 – was not followed.

²⁴ Progress Committee Sint Maarten (2021). *Forty-fourth report to the ministerial consultations covering the period 1 January 2022 to 1 July 2022*.

Recommendation 13 (2012): Subsequently, make agreements (see recommendation 12) with the force about the goals to be achieved by the police and document them in a covenant. *The recommendation has been classified by the Council in its database in the category 'Enforcement and compliance'.*

State of affairs 2016

This recommendation was not followed. In 2016, no covenant was entered into in which agreements were made about the goals to be achieved.

Policy response 2016

In the policy response it is stated that in May 2016, the KPSM drafted an outline memorandum containing the goals to be achieved. The topics concern the formulation of the function book, the capacity problems and the resources and training courses.

Findings 2022

The KPSM informs that there is no specific covenant with the Ministry of Justice with agreements about the goals to be achieved by the police. However, each year, the KPSM submits an annual plan to the Ministry of Justice. The 2022 annual plan shows that it is based on the policy themes of the Ministry of Justice and those of the Public Prosecutor's Office. By means of critical success-determining factors, such as work safety, for example, the KPSM itself focuses on achieving the organizational goals. The KPSM indicates that the annual plans have never been officially approved by the Ministry of Justice.

The Ministry of Justice has announced that in 2022, it intends to make (performance) agreements about the goals to be achieved with departments' heads or management teams within the justice chain, including those of the KPSM.

Assessment

There is no covenant between the ministry and the KPSM in which agreements were made about the goals to be achieved. The Council expects of the ministry to at least realize its intention to make agreements about the goals to be achieved for the year 2023 and adopt them. The Council considers that the recommendation – as in 2016 – was not followed.

Recommendation 14 (2012): In consultation with the Public Prosecutor's Office and the police force, ensure that the agenda committee for the tripartite consultation is actually established so that the tripartite consultations become more efficient and effective. *The recommendation has been classified by the Council in its database in the category 'Work processes'.*

*State of affairs 2016 - followed*²⁵

The recommendation was followed, seeing that an agenda committee for the tripartite consultations has been established.

Recommendation 15 (2012): In consultation with the force, purchase an adequate mutation and criminal investigation information system as soon as possible. *The recommendation has been classified by the Council in its database in the category 'Business processes and ICT'.*

State of affairs 2016

²⁵ In response in 2022, the ministry indicates that the agenda of the tripartite consultation is drafted by the cabinet of the Minister of Justice.

The recommendation was not followed. In the first quarter of 2016, no decisions were taken concerning an adequate mutation and criminal investigation information system. The Council already emphasized the importance of an adequate mutation and criminal investigation information system in several inspections and made recommendations in this regard. In 2016, the preceding is still in full force and in effect.

Policy response 2016

The MvJ indicates that access to the Actpol mutation and criminal investigation information system was closed in June 2016 due to alleged non-payment by the country. While solutions were sought for this matter, Microsoft programs and templates were temporarily used for manual registration of the work.

Findings 2022

The KPSM's 2022 annual plan states that the roll-out of the digital police system Actpol started in 2019. The Ministry of Justice and the KPSM indicate that Actpol has been used by the Basic Police Care for several years now. The 2022 annual plan includes the intention that the Investigation division will also start using Actpol in the first quarter of 2022.

The KPSM indicates that the implementation of the Actpol detective module was put into use at the end of July 2022 after some delay due to problems with the ability to generate documents. Personnel have already completed training to be able to work with the system. A cleanup exercise also took place. At present, the system is a one-chain approach. This means that everyone is working in the same system. For example, the dispatch specifically directs the patrol, which subsequently processes a mutation in the system and which in turn provides information for the detectives. In this way, work is done according to the Information-Guided Policing (IGP) method. Another advantage of the Actpol system is that it is also linked to the PRIEM system of the Public Prosecutor's Office. As a result, the Public Prosecutor's Office also has more insight into the state of affairs now. For example, fines that have been handed out are now also sent digitally to the Public Prosecutor's Office, which works more efficiently, according to the KPSM.

Assessment

After almost twelve years, the KPSM finally has an adequate mutation and criminal investigation information system for both basic police care and the Detective department. Despite the considerable delay, the Council is very pleased that this milestone has been reached. Based on the foregoing, the Council considers that the recommendation was followed.

Recommendation 16 (2012): Invest in a well-secured mail network for the force in consultation with KPSM. *The recommendation has been classified by the Council in its database in the category 'Business processes and ICT'.*

State of affairs 2016 - followed

The recommendation was followed. The KPSM has a well-secured e-mail network.

Recommendations to the Minister of Justice with regard to the KPSM

Recommendation 17 (2012): Look for possibilities to improve the information flow between the national detectives and the general division, so that less information that is crucial to the investigation gets lost. *The recommendation has been classified by the Council in its database in the category 'Information position'.*

State of affairs 2016 - followed

This recommendation was followed since possibilities to improve the information flow between the detectives and the general division were sought and implemented.

Recommendation 18 (2012): Look for possibilities to improve the information flow between the national detectives and the general division, so that less information that is crucial to the investigation gets lost. *The recommendation has been classified by the Council in its database in the category 'Information position'.*

State of affairs 2016

This recommendation was partially followed. The ambitions, objectives and intended achievements formulated in the annual plan of the force are not entirely formulated based on SMART²⁶. Already in several inspections, the Council noted that since 2010, the force did not produce any annual reports. According to the Council, this is a shortcoming, since as a result, it will not be possible to (properly) verify in 2016 whether the goals and priorities set by the KPSM were achieved.

Findings 2022

In 2021, in the context of *Justice* week, a conference was organized by the Ministry of Justice mid-2021. The objective was the discussion of the annual plans by the management of the different justice departments. The KPSM indicates that it is in favor of a different approach to, among other things, the annual plans. At present, these are separate from the budget and the KPSM would like to see coherence between and coordination with the other annual plans of other departments. The recommendations of several organizations such as the Progress Committee and the Council should also be taken into account, according to the KPSM.

For the past six years, each year, the KPSM submitted an annual plan, with a so-called A3 annual plan during the last few years also. Annual reports are also prepared. The KPSM indicates that the ambitions, objectives and targeted achievements formulated in the annual plans are presented in SMART terms.

The latest annual plan (2022) consists of five chapters. In the first chapter, the critical success-determining factors are identified and elaborated, for example 'working safely' and 'expanding integrated cooperation'. These factors indicate which activities are necessary for the KPSM to achieve the goals of the organization. It is also indicated that every action in the annual plan can be traced back to improving the critical success factors. Subsequently, in successive chapters the topics that are important for 2022 are discussed, namely internal management, the sense of security, integrated cooperation and business operations. In addition, in each of the chapters, an explanation is given for each sub-topic, and subsequently, at the end of each chapter, the goals to be achieved are listed briefly and concisely in a frame. An example is the

²⁶ SMART: Specific, Measurable, Realistic and Time-bound.

integrity program, where work and process descriptions, the introduction of consultations and the roll-out of an integrity campaign are formulated as goals. Another example is the formulated actions for, for example, related cross-border crime, such as putting together a multidisciplinary team, executing action plans and conducting investigations into human trafficking and human smuggling. In the annual plan, the KPSM itself indicates that the goals are very ambitious, but that it is expected that, by strengthening collaboration with particularly the security partners, the KPSM can make a huge step in its further development.

Assessment

The Council sees potential in the proposal of the KPSM for a different approach or expansion of it in the preparation of annual plans and advises the Minister to take that into consideration. Seeing that in recent years, the KPSM has been working with an (A3) annual plan which focusses on presenting the formulated ambitions, objectives and intended performance in SMART terms, the Council considers the recommendation to have been followed.

Recommendation 19 (2012): Ensure that the personnel of the police force are informed about the formulated ambitions, objectives and performance. *The recommendation has been classified by the Council in its database in the category 'Annual plans and annual reports'.*

State of affairs 2016

This recommendation was followed. Each year, by means of a presentation, all members of the force are informed about the annual plan in question.

Recommendation 20 (2012): Introduce debriefing after the larger investigations, in a more structural way than is currently the case. *The recommendation has been classified by the Council in its database in the category 'Work processes'.*

State of affairs 2016 - followed up

The recommendation was followed. Structural debriefing takes place after major investigations.

Recommendation 21 (2012): Ensure that the planned training on information provision by the Financial Crime & Fraud Department goes ahead. *The recommendation has been classified by the Council in its database in the category 'Training'.*

State of affairs 2016

The recommendation was not followed. The information mentioned at the time by the Minister in his response letter was not related to the recommendation of the Council. The personnel of the general division did not receive any presentation or training with as subject information from the detectives of the financial crime and fraud department. In 2016, the Council - just like the KPSM - supports the importance of information and expresses the hope that the training or presentation on this matter will still take place.

Policy response 2016

In his policy response, the MvJ indicates that the KPSM operates on a information-driven basis and that the info desk gave a presentation on recording information.

Findings 2022

According to the KPSM, every year, the personnel is offered several courses, including specialised courses for the personnel of the financial crime and fraud department. An example of this is the Financial Economic Crime course ²⁷ provided in Sint Maarten in 2021. Although the approach of this specific course is broader, *awareness* (provision of information) formed part of it. The course was financed with funds from the Netherlands through the Regional Police Collaboration (Board of Police Chiefs) of which currently, the chief of police of Sint Maarten is the chairman. This year (2022) and next year, follow-up courses will be given in the same context.

In addition, basic data/intelligence training was provided for personnel at all levels within the organization for information provision. This course was also offered to partners such as Customs and the National Detectives. The focus of the course was how to deal with data, with extra attention being paid to the community police officers.

The inspectors of the Council were also given access to the *intranet* and the *dashboard* with which the KPSM works. The *intranet* was built in-house by the ICT department of the KPSM, because there was no budget to outsource this. After being sworn in, personnel gain access to the *intranet* with an email address and a login code. And work is carried out with authorizations. All protocols and work instructions are prepared internally by designated process holders and uploaded centrally on the *intranet*. These are updated every year, according to the KPSM. The chief of police notes that this is going well, but that in the beginning, it was a difficult process to implement the protocols and work instructions within the organization. This also applies to the awareness of colleagues of the need to increase the use of these documents. Among other things, the completed and current training courses were reviewed during the inspection by the inspectors.

Furthermore, it is the KPSM training coordinator who consults with the training coordinator for the justice ministry for the necessary synchronization of possible training courses.

Assessment

Since 2016, several training courses were held in which the topic on provision of information was a point of discussion. Based on the foregoing, the Council considers the recommendation to have been followed.

Recommendation 22 (2012): Pay attention to the training of personnel of the Central Dispatch so that less information which is important for the investigation gets lost. *The recommendation has been classified by the Council in its database in the category 'Training'.*

State of affairs 2016 - followed

The recommendation was followed. All personnel of the Central Dispatch followed a training course in which attention was paid to the information that is important for the investigation.

Recommendation 23 (2012): Provide planned information about information-driven work for the detective department as well. *The recommendation has been classified by the Council in its database in the category 'Information position'.*

State of affairs 2016 - followed

²⁷ <https://stmaartennews.org/finec-financial-economic-crime-dutch-caribbean-police/>

The recommendation was followed. Within the detective department, there is continuous information about information-driven work. In 2016, the Council noted that information-driven work requires an adequate mutation and investigation information system.

Recommendation 24 (2012): Draft rules on the registration, the retention periods and destruction of police data in accordance with the mutual arrangement for processing police data. *The recommendation has been classified by the Council in its database in the category 'Policy'.*

State of affairs 2016

The recommendation was not followed. After the entry into force of the National Ordinance on Police Data, no rules were established regarding the registration, the retention periods and destruction of police data. Given the focus within the force for police data, the Council expects that rules will still be established in accordance with the mutual arrangement for processing police data. In this respect, the Council notes that for the implementation of these rules, an adequate business process system for the detective department is indispensable.

Policy response 2016

Due to the entry into force of the National Ordinance on Police Data on July 26, 2014, rules were established on the registration, the retention periods and destruction of police data, the MvJ remarks in his policy response. The National Ordinance replaced the mutual arrangement.

Findings 2022

In the annual plan 2022 one can read that in 2021, the KPSM started a project for information management in a broad sense. The project focuses in particular on the retention periods in accordance with the National Ordinance on Police Data. The project is divided into three phases, with information older than five years being rendered inactive. The KPSM indicates that phase one is completed and the force is currently working on phase two. In addition, work is being done on a document containing a description of the project and indicating at what point which actions should be carried out to be compliant with the legislation on collecting, recording and processing of police data.

The KPSM announces that in the context of the National Ordinance on Police Data, in 2022, a project was run by an analyst from the force to determine which information by means of authorizations should be accessible to the different departments and it has been examined which information is to be placed or not behind a 'curtain'. For this purpose, a working protocol was also established, which is in the final phase. In the protocol, the LPG is the driving force and it is also intertwined in the Actpol system used, according to the KPSM. Consequently, this project is closely related to the implementation of Actpol. For example, in the system, the retention periods of the information are automatically generated. With regard to the destruction of data, the information automatically becomes inaccessible when the (retention) period has expired, for example, this applies to old information from Actpol. However, there are challenges involved, because information from, for example, old investigations that have not yet been completed should still remain available.

Assessment

Based on the entry into force of the National Ordinance on Police Data, the drafted working protocol with rules on the registration, the retention periods and destruction of police data and the implementation of the National Ordinance on Police Data in the Actpol system, the Council considers the recommendation as having been followed.

Recommendation 25 (2012): Look for cooperation possibilities with other agencies, such as SJIB, for setting up or making use of a studio interrogation room. *The recommendation has been classified by the Council in its database in the category 'Cooperation: chain'.*

State of affairs 2016 - followed²⁸

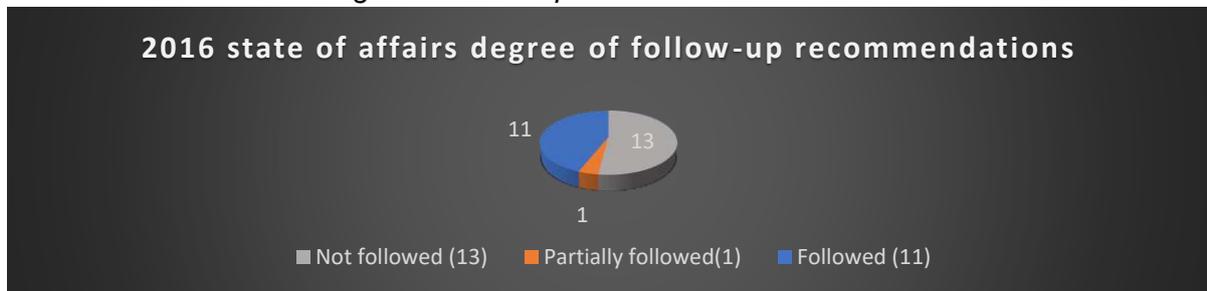
This recommendation was followed. The force has a studio interrogation room at its disposal.

2.2. (Schematic) overall analysis criminal investigation process

Introduction

In 2012, the Council made 25 recommendations in the context of the criminal investigation process, which was followed by a follow-up inspection in 2016. The follow-up inspection by the Council in 2016 found that eleven recommendations were fully implemented, thirteen recommendations had not been acted upon and one recommendation was partly followed. The total compliance percentage in 2016 was therefore at **46%**²⁹.

Table 4: State of affairs degree of follow-up recommendations in 2016

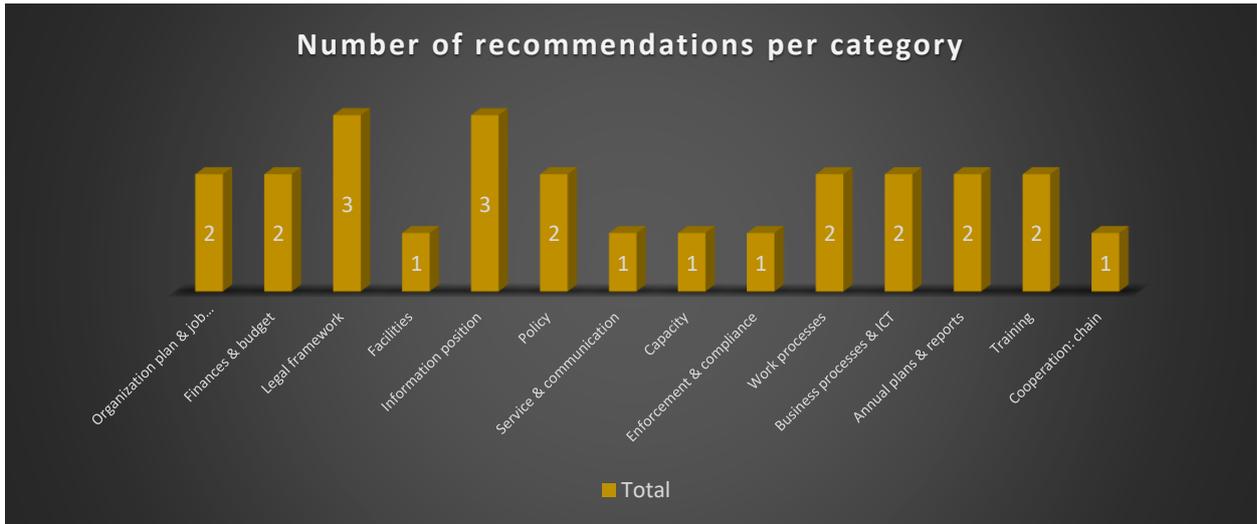


The Council subdivided the twenty-five recommendations at its own discretion in its database into categories in order to provide a little more insight into the individual recommendations. The subdivision is intended for indicative purposes and is as follows: developmental plans and job classification system (A1, A10), finance and budget (A2, A8), legal framework (A3, A5, A7), facilities (A4), information position (A6, A17, A23), policy (A9, A24), service and communication (A11), capacity (A12), enforcement and compliance (A13), work processes (A14, A20), business processes and ICT (A15, A16), annual plans and annual reports (A18, A19), training (A21, A22) and cooperation within the chain (A25). The preceding can be seen in the table below.

Table 5: Number of recommendations per category

²⁸ Since the second half of 2022, KPSM is the only police force within the Caribbean part of the Kingdom to have an audiovisual interrogation room. Around September 2022, all personnel attended a course for this purpose.

²⁹ The compliance percentage as an indicator is calculated by assigning 1 point to each recommendation followed, ½ point to each recommendation partially followed and no points to a recommendation not followed. Subsequently, the number of points awarded is divided by the total number of recommendations and multiplied by 100 to arrive at the compliance percentage.



State of affairs follow-up 2022

The state of affairs in 2022 is that of a total of 25 recommendations, sixteen recommendations were followed (A4, A5, A9, A11, A14 to A25), seven recommendations were not followed (A2, A3, A6, A8, A10, A12, A13) and two recommendations were partly followed (A1, A3). The compliance percentage in 2022 is **68%**³⁰.

Below in three tables, the Council presents the state of affairs regarding the follow-up to the recommendations, a comparison of the state of affairs in 2016 and 2022 and the degree of follow-up per category.

Table 6: State of affairs degree of follow-up recommendations in 2022

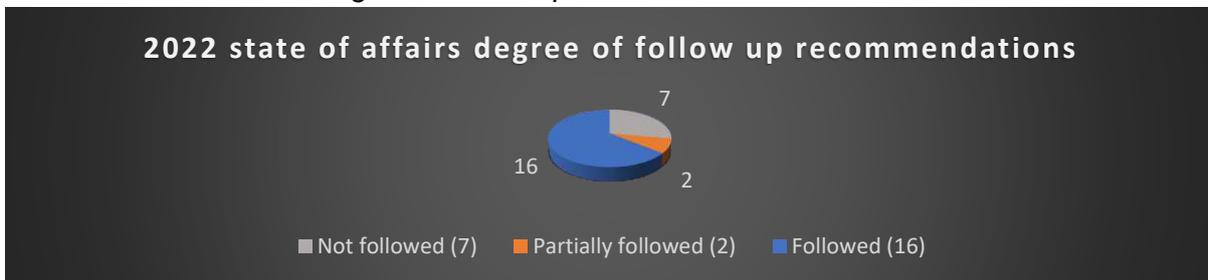


Table 7: State of affairs degree of follow-up recommendations in 2016 and 2022

³⁰ The compliance percentage as an indicator is calculated by assigning 1 point to each recommendation followed, ½ point to each recommendation partially followed and no points to a recommendation not followed. Subsequently, the number of points awarded is divided by the total number of recommendations and multiplied by 100 to arrive at the compliance percentage.

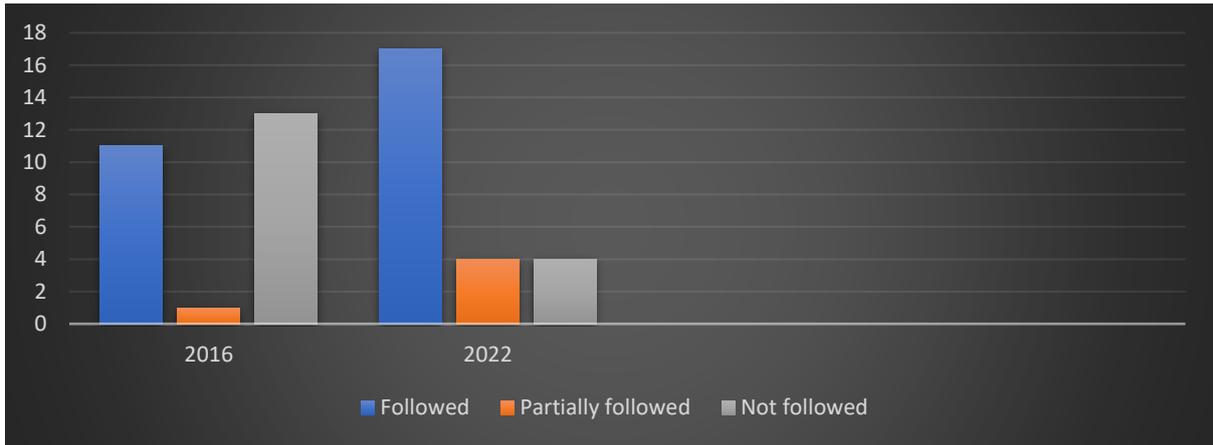
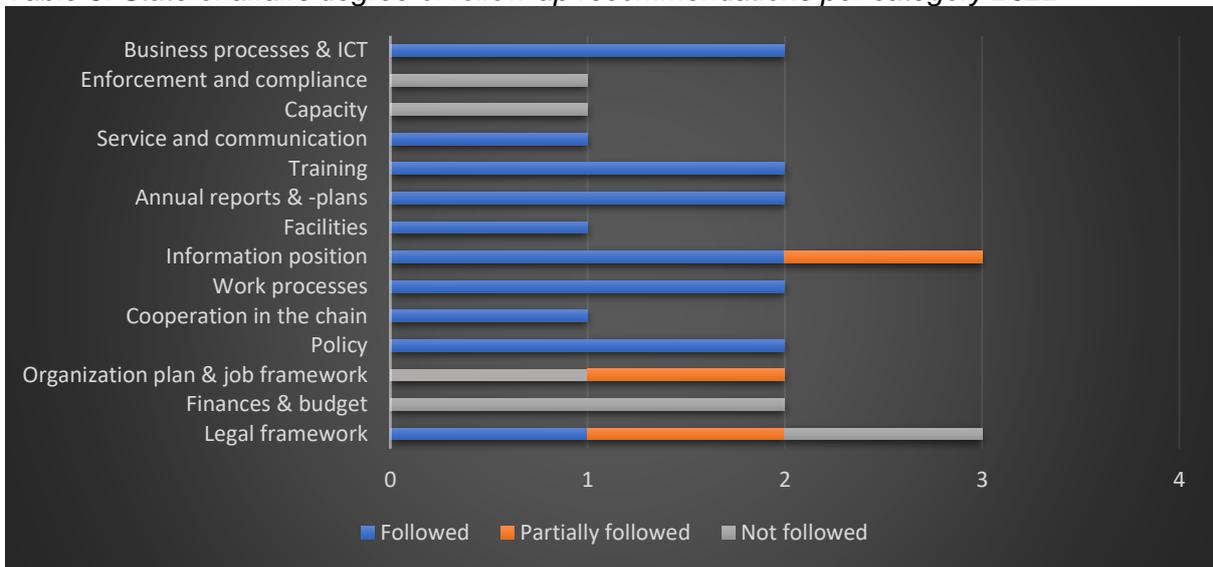


Table 8: State of affairs degree of follow-up recommendations per category 2022



It is evident from the tables that some progress was made in the degree of follow-up of the recommendations, given the fact that the compliance percentage has risen from 46% to 68%. However, several recommendations still require action. The Council notes that these concern different categories of recommendations. And that it concerns both recommendations with and those without financial consequences.³¹ The recommendations that are (partly) not followed concern the categories of enforcement & compliance (non-financial), capacity (financial), information position (non-financial), design plans & job classification (financial), finance & budget (financial) and the legal framework (non-financial). Several reports from the Council have shown that finances are a bottleneck for the follow-up of recommendations. Seeing that this concerns both recommendations with and those without financial implications, the Council is of the opinion, that at least the follow-up of the recommendations without financial consequences should be prioritized, while in the meantime a solution must be found for those with financial consequences. The Council can also imagine that a distinction may also be

³¹ The Council remains aware that the Country and more specifically the Ministry is faced with financial challenges. Although all recommendations (almost) always have financial implications, the Council is of the opinion that this can be distinguished for the purpose of following up the recommendations by classifying them into those that actually require primarily financial actions and those that recommendations that require non-financial actions. Based on the aforementioned database, the Council carried out this exercise in order to provide an initial picture.

made in the prioritization between the recommendations concerning the investigation process and those that are more related to the entire force.

Recommendation and monitoring

Based on the above, the recommendation of the Council to the MvJ is: *Implement the recommendations of the Council that have not yet been (fully) implemented and make the necessary resources available as soon as possible.*

In 2023, the Council will start periodic monitoring of the progress of the recommendations yet to be implemented in the context of the investigation process by the National Detectives.

In the table below, the Council shows the state of affairs regarding the follow-up of the recommendations for the investigation process of the Detective department.

Table 9. State of affairs follow-up recommendations investigation process detective department

	Recommendation 2012	Follow up 2016	Follow up 2022
	To the Minister of Justice		
A1	Ensure that the development plan, the job classification plan and the placement plan for KPSM are adopted by national decree soonest so that the force can embark on the integration of the current KPSM personnel into the organization.	Not followed	Partly followed
A2	Make financial resources available to enable the force to fill critical functions in accordance with the placement plan.	Not followed	Not followed
A3	Ensure the entry into force of the Decree on the Legal Status of KPSM officials	Not followed	Not followed
A4	Ensure that as soon as possible the info desk occupies the accommodation intended for it and that the secure cable is laid.	Followed	-
A5	Implement the mutual arrangement on processing police data in national legislation as soon as possible.	Followed	-
A6	Ensure that twice a year, KPSM has access to all data referred to in Article 23 of the National Ordinance Basic Administration of Personal Data.	Not followed	Not followed
A7	Then implement as soon as possible the required amendment to the National Ordinance Basic Administration of Personal Data to enable the linking of files and make agreements at administrative level regarding data exchange.	Not followed	Partly followed
A8	Ensure that sufficient funds are available in the budget so that KPSM can make personnel training a priority.	Not followed	Not followed
	To the Minister of Justice and the Sint Maarten Police Force		
A9	Make tackling youth delinquency and relational violence a key priority of the government policy in consultation with chain partners.	Followed	-
A10	After adopting the draft development plan in consultation with the police force, formulate a feasible development plan and corresponding staffing in relation to a realistic budget.	Not followed	Not followed
A11	Investigate together with the police force whether it is possible to draft documents in the English language, which may facilitate the recruitment of prospective police officers.	Followed	-
A12	Make agreements together with the force on broader options for the force in the area of finances and human resource management, so that the Chief of Police has more possibility than at present to perform his statutory duties with regard to the day-to-day management and daily administration of the force.	Not followed	Not followed
A13	Subsequently, make agreements with the force about the goals to be achieved by the police and document them in a covenant.	Not followed	Not followed

A14	In consultation with the Public Prosecutor's Office and the force, ensure that the agenda committee for the tripartite meetings is actually established so that the tripartite meetings become more efficient and effective.	Followed	-
Recommendation 2012		Follow up 2016	Follow 2022
15	In consultation with the force, purchase an adequate mutation and criminal investigation information system as soon as possible.	Not followed	Followed
A16	In consultation with KPSM, invest in a well-secured mail network for the force.	Followed	-
To the Minister of Justice with regard to the Sint Maarten Police Force			
A17	Look for possibilities to improve the information flow between the national detectives and the general division, so that less information that is crucial to the investigation gets lost.	Followed	-
A18	Make sure that the ambitions, objectives and intended achievements formulated in the annual plan of the force are SMART: specific, measurable, achievable, realistic and time-bound.	Partly followed	Followed
A19	Ensure that the personnel of the police force are informed about the formulated ambitions, objectives and achievements.	Followed	-
A20	Introduce debriefing after the larger investigations, in a more structurally than is currently the case.	Followed	-
A21	Ensure that the planned training on information provision by the Financial Crime & Fraud Department takes place.	Not followed	Followed
A22	Pay attention to the training of personnel of the Central Dispatch so that less information gets lost which is important for the investigation.	Followed	-
A23	Provide planned information about information-driven work for the detective department as well.	Followed	-
A24	Draft rules on the registration, the retention periods and destruction of police data in accordance with the mutual arrangement for processing police data.	Not followed	Followed
A25	Look for cooperation possibilities with other agencies, such as SJIS, for setting up or making use of a studio interrogation room.	Followed	-

3. State of affairs approach to combating robberies

Introduction

In 2015, the Council published the report "Approach to Combating Robberies in St. Maarten," in which the Council examined the approach to combating robberies by the KPSM and the OM in St. Maarten. Due to its high impact nature, robberies are prioritized and there is a dedicated team to combat them, the Special Unit Robberies (SUR). Despite the dedicated daily efforts of those involved, in 2015 the Council was concerned about the approach to fighting robberies, which was primarily incident-oriented and repressive. The Council's concerns related mainly to the preconditions necessary in practice. The Council further noted that especially in the area of prevention there was still very much to be gained. The Council indicated that through cooperation, especially between both the public and the private sector, an effective approach to combating robberies could be achieved in which a comprehensive package of not only temporary but also structural measures are deployed in both the preventive and repressive fields. Following the findings, the Council made eight recommendations. No policy response was formulated by the MoJ.

3.1 State of affairs 2022 approach to combating robberies

Below, the Council discusses the recommendations. For each recommendation, the Council first presents the state of affairs in 2015, followed by the state of affairs in 2022 and its assessment.

To the Minister of Justice regarding the Sint Maarten Police Force and the Public Prosecutor's Office

Recommendation 1 (2015): Encourage both OM and KPSM to provide more steering within the current prioritization. *The recommendation was categorized by the Council in its database as 'Policy'.*

State of affairs 2015

The SUR team leader is currently also lead foreman, which interferes with some of his duties such as having an overall view, steering and monitoring progress. Although this is mainly attributed to a lack of capacity, the lack of a specific job description and the current working method could also play a role, according to the Council. The Council was unable to determine whether steering by the OM has increased the effectiveness of the investigation, because the Public Prosecutor with this portfolio has not given tangible substance to this for 1.5 years. The Council therefore found it disturbing that for quite some time now, too little attention has been paid by the OM to the prioritized high impact crime robberies.

Findings 2022

In 2016, the Attorney General's Office released a document outlining the prosecution's vision for law enforcement in the coming years and how the OM intends to implement it.³² The focus for the years 2016-2021 includes high impact crime, which has a major impact on the sense

³² Office of the Attorney General (2016). *Perspective on combating crime 2016-2021*.

of security among citizens. The perspective guides the concretization of policy and actions in the annual plans. From 2021, the Sint Maarten Public Prosecutor's Office will focus on the (further) development of an integral approach and will also focus on prevention.³³ The topic of high impact crime is not specifically mentioned. In the 2022 annual plan, the KPSM, based on the priorities set from the tripartite³⁴, the KPSM indicated that the KPSM's focus this year would include combating high-impact crime, including robbery.

Specifically, the OM and KPSM both point to the monthly local steering committee to which they belong. Those present are: the chief public prosecutor, the coordinating criminal investigation officer, the officer responsible for the Criminal Intelligence Department (CID) and the assistant public prosecutor, and the police chief. During the meetings, cases are discussed, cases are prioritized and the progress of cases is monitored. This also applies specifically to SUR cases.

The KPSM states that a new operating procedure was adopted by the KPSM in 2015 for the SUR. During the Council's investigation into the judicial approach to illegal firearms trafficking and possession, the operating procedures of the SUR were also reviewed.³⁵ The SUR always takes up the most recent robbery first in order to secure traces. It then depends on the severity of the crime and the feasibility of the case (for example, whether or not there is an offender in sight) which case is taken up first. In terms of steering, it was indicated that there are short lines of communication between the OM and this small specialist team, resulting in daily contact with the relevant prosecutor. This cooperation is therefore assessed as good by both.

Furthermore, the OM indicates that there is continuous investment in cooperation with the police on the French side. This also applies to cooperation in dealing with robberies, which relates to concrete and current robberies in particular. The cooperation in robbery cases between the Gendarmerie and the KPSM and between the Public Prosecutors of both sides is characterized by the OM in Sint Maarten as good.

Assessment

The KPSM has a specialist team for dealing with robberies through which the handling of robberies has been prioritized. Particularly through the monthly local steering committee of the OM and the KPSM, the description of the working method by the KPSM and the short lines of communication between the two organizations, more structure has been put in place by both organizations in the steering of the cases. Based on the above, the Council assesses the recommendation as followed.

Tot the Minister of Justice regarding the Sint Maarten Police Force

<p>Recommendation 2 (2015): Dedicate basic resources (including at least hard drives, laptops and official cars) to the Special Unit Robberies as soon as possible in order to do the job properly. <i>The recommendation was categorized by the Council in its database as 'Facilities'.</i></p>
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³³ Public Prosecutor's Office Sint Maarten (2021). Annual plan 2021.

³⁴ The Triangle is the name that is being used to describe the consultation between the Minister of Justice, the chief public prosecutor and the chief of police.

³⁵ Law Enforcement Council (2021). *Inspection: Illegal firearms in Sint Maarten.*

State of affairs 2015

The Council believed that a specialist team needs sufficient (basic) resources such as external hard drives, sufficient laptops and official cars, especially if it has to fight high-impact crime such as robbery. The Council therefore recommended that the team be provided with the aforementioned permanent resources as soon as possible so that the SUR can properly perform their work.

Findings 2022

In its 2021 report on the issue of illegal firearms, the Council found that the SUR shares service cars with other departments and that they are adequate. And that the office has been properly refurbished and the team has all the minimum necessities to perform its work.

The KPSM also indicates that for a number of years the SUR has had all the basic necessities, including laptops, cars and hard drives, to do their job properly. A bottleneck remains the capacity of the team, according to the KPSM (see more [Recommendation 3](#)).

Assessment

Now that SUR has the basic resources in place, the Council rates this recommendation as having been followed.

[Recommendation 3 \(2015\)](#): Evaluate the current capacity of the Special Unit Robberies and ensure that the team is expanded with an adequate formation. *The recommendation was categorized by the Council in its database as 'Capacity'.*

State of affairs 2015

In 2015, the SUR team consisted of 8 members, including 4 Royal Netherlands Marechaussee (KMar) members and 4 investigators from the force. Given the caseload, the staffing - despite the great efforts of the team - was insufficient to properly handle the caseload, according to the Council. Therefore, according to the Council, the deployment of the team's staff had to be handled efficiently until sufficient capacity was available for the SUR.

Findings 2022

The aforementioned inspection into the judicial handling of illegal firearms trafficking and possession shows that there has been no specific evaluation of the capacity of the SUR. This still has not been done. It has been indicated by the KPSM that specific capacity is still allocated to investigate robberies. The SUR, with 1 team leader and 4 staff, is still short on capacity. Based on the number of robberies taking place, at least 4 to 5 additional FTEs would be needed for the team, according to the KPSM. There has been no expansion of the SUR through 2022. This will not be possible until the new function book for the KPSM comes into effect, according to the KPSM. In the meantime, however, the SUR can receive temporary assistance from detectives from the Major Crime Team if needed.

Assessment

The current capacity of the SUR has not been evaluated. The Council believes this should still be done. Nor has the team been expanded with an adequate formation. It has already been pointed out in Chapter 2 that the MoJ's goal is to have the function book take effect this year. The Council hopes that continued prioritization thereof will lead to this, which will also benefit the expansion of the SUR's capacity. Based on the foregoing, the Council assesses the recommendation as not followed.

Recommendation 4 (2015): Consider how the Special Unit Robberies can have permanent availability or use of the necessary analyst(s). *The recommendation was categorized by the Council in its database as 'Personnel Management'.*

State of affairs 2015

Because the team did not have its own permanent analyst(s), the team relied on 1 tactical analyst who served the entire force. As a result, the SUR team was not structurally information-driven and analysis could not take place at any given time. It was the Council's view that consideration should be given as to how the SUR could permanently have or utilize the necessary analyst(s).

Findings 2022

From the aforementioned inspection into illegal firearms and the interview with the KPSM, it appears that the SUR has at its disposal the analysis capacity of two analysts from the info Unit of the KPSM. The analysis capacity within the info unit consists of two KPSM employees (1 strategic and 1 operational), one from the RST and one from the KMar (both operational analysts). Depending on the need, the SUR can call on the analysts and get the requested analyses, according to the KPSM. For example, an analysis request was made for mapping the robberies in the St. Peters neighborhood and included mapping the type of clothing worn by the perpetrators, the type of weapons used and the type of phones used. The SUR - like the other detective departments - does not have access to other investigations. In contrast, the analysts do have such access, so they (can) make connections from a helicopter view.

The KPSM further notes that the analyst capacity on Sint Maarten is stable and that the KPSM is ahead of the other islands in terms of intelligence. This translates into the fact that all departments within the KPSM can direct their questions to the info unit and that the info unit has a quick response time. The chief of police indicates that a question is usually answered within a day. According to him, this is not only because of the increased capacity, but also because the (search) systems have now been upgraded. The info unit also gets involved in cases and is nowadays also able to create reconstruction videos, for example, for the purpose of court cases.

Since it is difficult to recruit analysts, efforts will be made to create and fully train an analyst team of lateral entrants within the region. A market-based salary to retain these people will still be a challenge, the KPSM said.

Assessment

There has been both qualitative and quantitative investment in analyst capacity within the corps. This benefits the SUR, among others. On this basis, the Council rates the recommendation as followed.

Recommendation 5 (2015): Evaluate the current approach to combating robberies by the Special Unit Robberies. *The recommendation was categorized by the Council in its database as 'Enforcement and Compliance'.*

State of affairs 2015

The Council indicated in 2015 that the current approach of the SUR combined with the large number of robberies and the current capacity of the team resulted in the preliminary actions being performed in each case and the administrative processing of each robbery. But also indicated that because of this approach many cases (with no perpetrator in sight) remained on the shelf in practice and the total of these cases continued to increase. Based on this, the Council concluded that what was intended with the prioritization of robberies, investigating and solving (almost) all robberies, did not appear to be feasible in practice at that time.

Findings 2022

According to the KPSM, the SUR's approach had already been evaluated after the Council's inspection in 2015. Subsequently, a new methodology called "An Approach Beyond Robberies" was also drafted in 2015 for the SUR.³⁶ In addition to a definition of a robbery and problem formulation, the document includes a description of the approach and additional measures (including information position and prevention).

Assessment

Now that the evaluation of the working method has taken place and the working method has been adjusted, the Council assesses the recommendation as having been followed. Just as in its 2015 report, the Council believes that monitoring and interim evaluation of the working method will continue to ensure that the team can respond well to developments with regard to robberies and perpetrators and that, where necessary, adjustments can therefore be made in a timely manner.

Recommendation 6 (2015): Where possible, ensure that - taking into account the results of that evaluation - an instruction on the approach to combating robberies is adopted. *The recommendation was categorized by the Council in its database as 'Policy'.*

State of affairs 2015

All robberies have priority 1 and are investigated in practice. According to the Council, it will benefit the SUR's approach to combating robberies if there is an instruction on the approach to combating robberies.

Findings 2022

The findings for recommendation five also apply to this recommendation.

³⁶ Sint Maarten Police Force (August 2015). An approach beyond robberies.

Assessment

The assessment for recommendation five also applies to this recommendation. The Council also rates this recommendation as followed.

Recommendation 7 (2015): Ensure better registration of robberies in order to have an up-to-date understanding of the nature and extent of the problem at any time. *The recommendation has been classified by the Council in its database under the category 'Statistics'.*

State of affairs 2015

The Council's investigation found that registration was done piecemeal, which did not facilitate a clear view of the problem. The Council felt that this could be done more efficiently with a detective information system that was lacking at the time, which the Council previously recommended. Furthermore, the Council favored mapping the different categories of robberies in favor of monitoring and agreeing on more specific targets. This could also benefit the approach to combating robberies, because greater insight into the nature and extent of robberies means that the approach can be more targeted and better tailored.

Findings 2022

All robberies are recorded by the SUR in the case screening system and WORD files. The info unit also has access to the information and can provide insight into the information required by the SUR at any time. As stated in the previous chapter, the search module in Actpol will be in operation by mid-2022. It is intended that the registration of the entire search will take place centrally in it, which is now being worked on (see further [recommendation 15](#) in chapter 2.1).

Assessment

Now that the new detective module in Actpol is in use, registration for all detective departments will be centralized. This also applies to registration by the SUR. Based on the above, the Council rates this recommendation as followed.

Recommendation 8 (2015): Arrange for training in file formation for those Special Unit Robberies staff who have not yet taken this course. *The recommendation was categorized by the Council in its database as 'Training'.*

State of affairs 2015

The knowledge and training of team members is generally sufficient for combating robberies. In the area of file creation, the Council felt there was still room for improvement. The Council felt it would have added value for the (distribution of) daily work of the team if the other three of the total of eight members were also offered the opportunity to take a course in file formation.

Findings 2022

As indicated earlier, the SUR currently consists of one team leader and four staff members. The KPSM indicates that after 2015, two employees of the SUR successfully completed a file formation course. Furthermore, in 2022, one more employee of the SUR completed the course.

Assessment

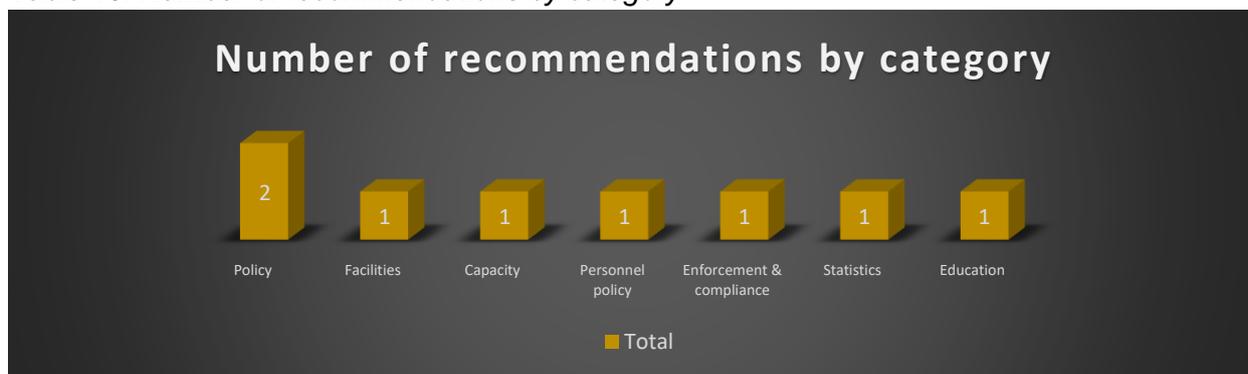
Additional training in file formation has taken place for a total of three SUR employees. As a result, all current employees have now completed the course. Based on the foregoing, the Board assesses this recommendation as having been followed.

3.2 (Schematic) overall analysis approach robberies

Introduction

In 2015, the Council made eight recommendations in the context of the approach to combating robberies. This inspection in 2022 is the first follow-up inspection of how well the recommendations have been followed. At its discretion, the Council has divided the recommendations into categories in its database to provide a bit more insight into the individual recommendations. The breakdown is intended to be indicative and is as follows: policy (A1, A6), facilities (A2), capacity (A3), human resources (A4), enforcement and compliance (A5), statistics (A7) and training (A8). The foregoing is shown in the table below.

Table 10: Number of recommendations by category



State of affairs follow-up 2022

This sub-inspection found that out of a total of eight recommendations, as of 2022, seven recommendations had been addressed (A1, A2, A4, A15, A6, A7) and one recommendation had not been addressed (A3). See Table 14. The compliance rate is **87,5%**³⁷ in 2022.

Below the Council presents in two tables, respectively, the status of the follow-up of recommendations and the degree of follow-up by category.

Table 11: Status of degree of follow-up on recommendations in 2022

³⁷ The compliance percentage as an indicator is calculated by assigning 1 point to each recommendation followed, ½ point to each recommendation partially followed and no points to a recommendation not followed. The number of points awarded is then divided by the total number of recommendations and multiplied by 100 to arrive at the compliance percentage.

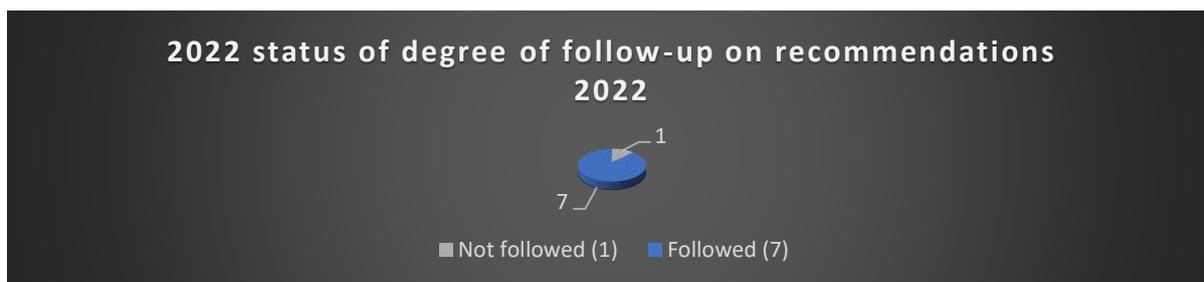
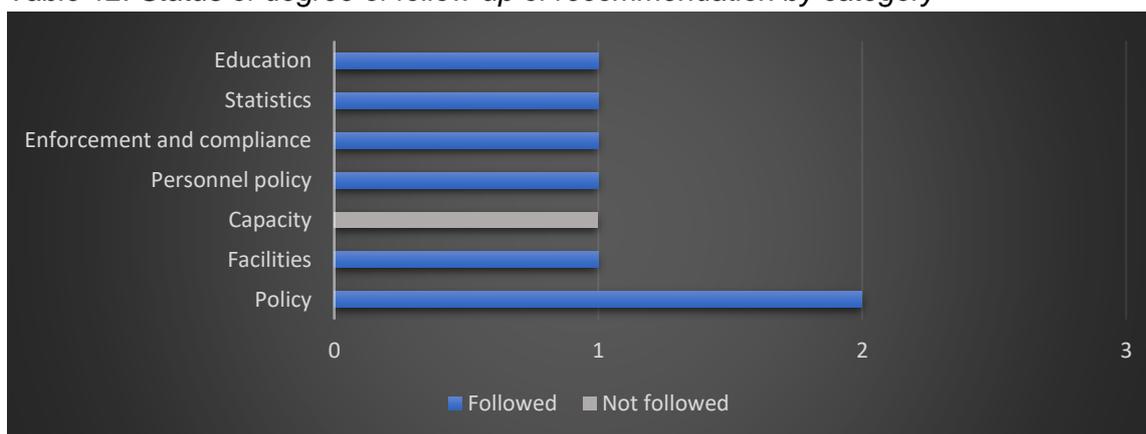


Table 12: Status of degree of follow-up of recommendation by category



It follows from the tables that all but one recommendation has been addressed. The Council notes that the recommendation falls into the capacity category. And that it is a recommendation with financial implications. Now that the MoJ has prioritized the entry into force of the function book, this and the evaluation of the capacity of the SUR will, in the opinion of the Council, have to lead to the fact that the SUR can be expanded with an adequate formation. This is still needed given the high impact of this form of crime and the need to combat it in an effective manner.

Recommendation and monitoring

Based on the foregoing, the Council's recommendation to the Minister of Justice is: *Implement the Council's recommendations that have not yet been taken up (in full) and make the necessary resources available as soon as possible.*

In 2023, the Council will start periodically monitoring the progress of the outstanding recommendations in dealing with robbery.

In the table below, the Council presents the status of the follow-up of the recommendations for the report on the approach to combating robberies.

Table 13: State of affairs follow-up recommendations approach to combating robberies

Number	Recommendation 2015	Follow-up 2022
	To the Minister of Justice with regard to the Sint Maarten Police Force and the Public Prosecutor's Office	

Number	Recommendation 2015	Follow-up 2022
A1	Encourage both the Public Prosecutor's Office as well as the Sint Maarten Police Force to provide more guidance within the current prioritization.	Followed
	To the Minister of Justice with regard to the Sint Maarten Police Force	
A2	Make sure the Special Unit Robberies obtains basic resources (including at least hard drives, laptops and official vehicles as soon as possible to be able to perform the work properly.	Followed
A3	Evaluate the current capacity of the Special Unit Robberies and ensure that the team is expanded to an adequate staffing formation.	Not followed up
A4	Review how the Special Unit Robberies can have permanent access or can make use of the required analyst(s).	Followed
A5	Evaluate the current approach to combating robberies by the Special Unit Robberies.	Followed
A6	If possible, ensure that an instruction on combating robberies is adopted, taking into account the results of said evaluation.	Followed up
A7	Provide a better registration of robberies in order to obtain an up-to-date insight into the nature and extent of the problem at any given time.	Followed
A8	Provide continuous training in forming files for the personnel of the Special Unit Robberies who have not yet followed this training.	Followed

4. State of affairs recommendations criminal seizure

Introduction

In 2014, the Council published its first report on the subject of criminal seizure. In that report, the Council assessed the procedure for managing seized objects. And to what extent the security and transparency of the management of these objects was ensured. Some progress had been made in areas such as process description and the handling of high-risk seized objects. Bottlenecks were in areas such as the management of low-risk seized objects and the lack of an appropriate storage facility. The Council made seven recommendations. The MoJ wrote a response in reaction to them. In 2019, the Council published a follow-up report on the extent to which the seven recommendations had been followed. This included the aforementioned response at the time. The Council also assessed what bottlenecks (if any) were experienced in the area of criminal seizure after the hurricanes. In that follow-up report, the Council concluded that of the seven recommendations, three had been fully followed and four had been partially followed. At the time, the Council expressed optimism that most of the partially followed recommendations could still be fully implemented in a relatively short period of time. No policy response to the follow-up inspection was formulated by the MoJ.

4.1 State of affairs 2022 criminal seizure

Below, the Council discusses the recommendations. For each recommendation, the Council first presents the 2014 recommendation and then the state of affairs in 2019. This is followed by the findings in 2022 and their assessment.

Recommendations to the Minister of Justice regarding the Sint Maarten Police Force and the Public Prosecutor's Office

Recommendation 1 (2014): Involve the legally designated custodian and the RST in the 'seizure' working group already established by the Sint Maarten Police Force and the Public Prosecutor's Office to find a permanent solution for the storage of vehicles and vessels. *The recommendation was classified by the Council in its database under the category 'Cooperation: chain.'*

State of affairs 2019

This recommendation was assessed as partially followed in the follow-up inspection in 2019, because a permanent solution for the storage of vehicles and vessels had not yet been found. The idea of establishing a sole storage facility for both administrative and criminal seizures was considered a good idea by the Council partly from the perspective of small scale, limited human, material and financial resources and cooperation. A broader inter-ministerial consultation (Ministries of Justice; Public Health, Social Development and Labor; Housing, Spatial Planning, Environment and Infrastructure; and Tourism, Economy, Traffic and Telecommunications) took place on the subject, which did not involve the RST or the legally designated custodian (Registrar). The Council, however, believed that the legally appointed custodian should also be involved in the consultations.

Findings 2022

On the basis of the Amendment to the Protocol on specialized investigative cooperation between the countries of the Kingdom³⁸ there is no longer a local branch of the RST of its own on Sint Maarten, but a number of RST employees now work locally under the operational direction of the Chief of Police at the serious crime department of the KPSM. The seized goods are then handled within the KPSM. With this new situation, the RST is no longer separately involved in the seizure working group.

The KPSM indicates that the said seizure working group is meeting and that the working group currently consists of the legally designated custodian, being the Registrar of the Court of First Instance and also the leader of the working group, the Prosecution, the KPSM and the bailiff of the Prosecution. A draft attachment protocol called 'Seizure Protocol. Agreements chain partners Sint Maarten' has been drawn up (May 2021) and a letter of notification has been prepared for the MoJ, according to the KPSM. The protocol contains agreements and actions regarding seized goods and indicates which steps should be taken by which entities in handling them. The goal of the protocol is clarity and a unified approach.

A list of seized goods is now sent weekly to the custodian by the KPSM. Het vinden van een permanente oplossing voor een geschikte bewaarplaats is nog steeds een knelpunt. Finding a permanent solution for a suitable storage facility is still a sticking point. Finding a suitable storage facility and the lack of a leader of the whole until recently is still due to a lack of finances. It is the intention that the custodian (Registrar) will also pull the project on creating a seizure storage facility for Sint Maarten.

Furthermore, a plan has been drawn up by the KPSM to remodel the Soremar building at Colebay to house a common control room, the camera surveillance control room, the police school (with dojo), a forensic laboratory and a storage facility for seized items of the KPSM. Consultations have already taken place between the ministry's training coordinator, the architect and the KPSM, according to the KPSM.

Assessment

Now that detectives from the RST are part of the local force, they no longer need to be separately involved in the working group, making the part of the recommendation that deals with this irrelevant.

The Council considers it a good development that the custodian has taken up his legal role and is not only part of the seizure working group, but is also its leader. It is also a good development that cooperation is taking place to arrive at a solution for the storage of large goods. The Council does note that a solution has been years in the making and that it is now important to reach a structural solution as soon as possible. The Council expects that due to the new developments, the draft seizure protocol will be established within a maximum of a few months. And that in those months the necessary finances will also be identified, and the necessary budget reservations made, so that implementation can then begin. Based on the above, the Council assesses the recommendation - as in 2019 - as partially followed.

Recommendations to the Minister of Justice regarding the Sint Maarten Police Force

³⁸ Stc. 2019 nr. 38964

Recommendation 2 (2014): Adopt the KPSM function book and come up with a solution for filling the position of administrator very soon, so that the bottlenecks around decentralized registration and storage of seized objects are solved. *The recommendation was classified by the Council in its database in the category of 'Organization Plans and Function House.'*

State of affairs 2019

This recommendation has two parts and was assessed as partially followed in the follow-up inspection. By appointing an administrator, management has been centralized. The function book was not yet in place in 2019.

Findings 2022

As already mentioned in chapter two at [Recommendation 1](#) the function book has been adopted but has not yet taken effect.

Assessment

The part of the recommendation on the appointment of an administrator had already been followed up in 2019. Since the function book has not yet come into effect, the Council has to assess the recommendation - as in 2019 - as partially followed.

Recommendation 3 (2014): Within a reasonable period of time, establish and implement the process description on seizure across the entire work floor. *The recommendation was categorized by the Council in its database as 'Work Processes'.*

State of affairs 2019 - followed

This recommendation was assessed as followed in the follow-up inspection. A process description on seizure has been prepared and implemented by the KPSM.

Recommendation 4 (2014): Promote that the OM is informed of every seizure. *The recommendation was categorized by the Council in its database as 'Work Processes'.*

State of affairs 2019

This recommendation was assessed as partially followed in the follow-up inspection. It could not be determined with certainty whether the OM was informed about every seizure. However, communication between the KPSM and the OM had been assessed as good. Given the good communication on the subject of seizures, the Council believed it would be a good idea if the OM and the KPSM had consultations on how best to gain visibility into the provision of information to the OM.

Findings 2022

The OM and KPSM have not had specific discussions after 2019 on how best to gain visibility into the provision of information to the OM. However, the KPSM does indicate that the OM is currently notified about every seizure through a notice of seizure.³⁹ Furthermore, the aforementioned draft seizure protocol specifically includes in the process description of seized

³⁹ No response on the further explanation of this has been received from the OM within the deadline.

objects as process step 2 that the OM is informed about the seizure as soon as possible. This by not only (physically) submitting the notice of seizure to the Prosecutor, but also checking it by the Prosecutor. It remains to be seen how this will work in practice once the concept is adopted.

Assessment

It has been promoted that the OM be notified about each seizure, as it is indicated by both the OM and the KPSM that this is currently done in writing. The Council therefore assesses this recommendation as being followed.

Recommendation 5 (2014): In accordance with the law, attach a list of seized unreturned items to the criminal record. *The recommendation was categorized by the Council in its database as 'Work Processes'.*

Stand van zaken 2019 - opgevolgd

This recommendation was assessed as followed in the 2019 follow-up inspection. Consultations take place between the KPSM and the OM regarding seized items, the KPSM routinely adds the notice of seizure to the criminal file, and the OM usually makes a decision on it within two weeks.

To the Minister of Justice regarding the Public Prosecutor's Office

Recommendation 6 (2014): Ensure expeditious disposal of seized items or as soon as the interests of criminal justice permit. *The recommendation was categorized by the Council in its database as 'Enforcement and Compliance'.*

State of affairs 2019

This recommendation was assessed as partially followed in the 2019 follow-up investigation. Efforts are being made by both the OM and KPSM to arrive at a process that promotes the expeditious handling of seized items. For example, the OM worked on its own process description and used a checklist for each case, which included the seizure. Furthermore, the cleanup of overdue seizure files had been initiated for cases up to September 2017.

Findings 2022

The KPSM reports that the process to achieve expedited handling of seized items is ongoing. As indicated by [recommendation 1](#) those involved are in the process of drafting a seizure protocol. And in particular, finding a proper storage facility plays an important role. No permanent solution has yet been found for that, as indicated earlier.

The OM indicated that the Covid pandemic period was also used to clean up overdue files.⁴⁰

The Prosecutor's Offices of the countries of Curaçao, Sint Maarten and Bonaire, Sint Eustatius and Saba, referred to by the OM as OMCarib, also established a working group to come up with a general process description for a seizure storage facility in each of these countries. The document addressed the legal obligations and responsibilities and the implementation of the

⁴⁰ No response on the further explanation of this has been received from the OM within the deadline.

process within the local context, the OM said. It also incorporates best practices from the prosecutor's office in first instance BES in developing this process description. The document is in the draft phase, according to the OM. Among other things because the differences in legislation in the countries must be checked. Furthermore, there must still be coordination with the chain partners, such as the legally designated custodian who has a role with regard to seizure. According to the OM, the development of a general process description for seizure storage facilities does not stand in the way of the fact that in daily practice the aim is to ensure that seized objects are handled as quickly as possible.

Assessment

As in 2019, the OM and the KPSM are working to establish a process that promotes the expeditious handling of seized items. With this process still ongoing, the Council assesses this recommendation - as in 2019 - as partially followed.

Recommendation 7 (2014): When destroying high-risk items, perform the oversight task assigned by law. The recommendation was categorized by the Council in its database as 'Enforcement and Compliance'.

State of affairs 2019 - followed

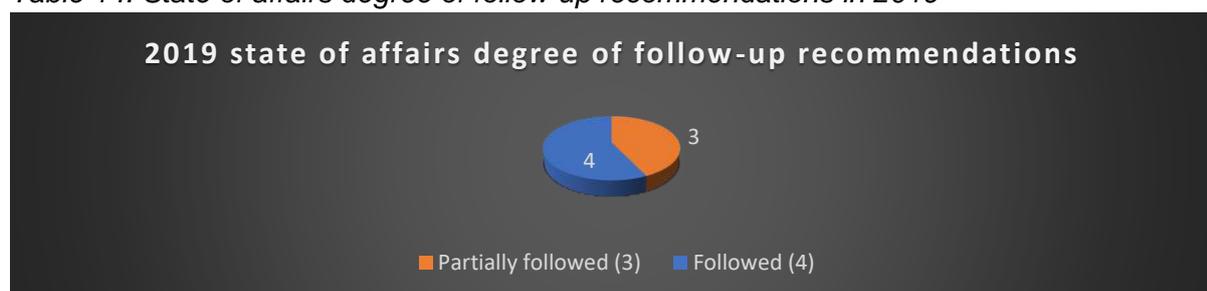
This recommendation was assessed as followed in the 2019 follow-up inspection. When destroying seized narcotics, the OM performs its legally assigned supervisory task according to the procedure.

4.2 (Schematic) overall analysis criminal seizure

Introduction

In 2014, the Council made seven recommendations in the context of criminal seizures. During the follow-up inspection in 2019, the Council indicated that four recommendations had been fully followed and three had been partially followed. Therefore, the overall compliance rate was **71,4%**⁴¹ in 2019.

Table 14: State of affairs degree of follow-up recommendations in 2019



The seven recommendations have been subdivided into categories by the Council at its discretion in its database to provide a bit more insight into the individual recommendations. The subdivision is meant to be indicative and is as follows: cooperation: chain (A1),

⁴¹ The compliance percentage as an indicator is calculated by assigning 1 point to each recommendation followed, ½ point to each recommendation partially followed and no points to a recommendation not followed. The number of points awarded is then divided by the total number of recommendations and multiplied by 100 to arrive at the compliance percentage.

establishment plans and function house (A2), work processes (A3, A4, A5) and enforcement & compliance (A6, A7). The foregoing is shown in the table below.

Table 18: Number of recommendations per category



State of affairs follow-up 2022

The state of affairs in 2022 is that out of a total of seven recommendations, four have been followed (A3, A4, A5, A7) and three are still partially followed (A1, A2, A6). The compliance rate is **78,6%**⁴² in 2022.

Below, the Council presents in three tables, respectively, the status of follow-up on recommendations, a comparison of the status in 2019 and 2022, and the degree of follow-up by category.

Table 15: State of affairs degree of follow-up recommendations in 2022

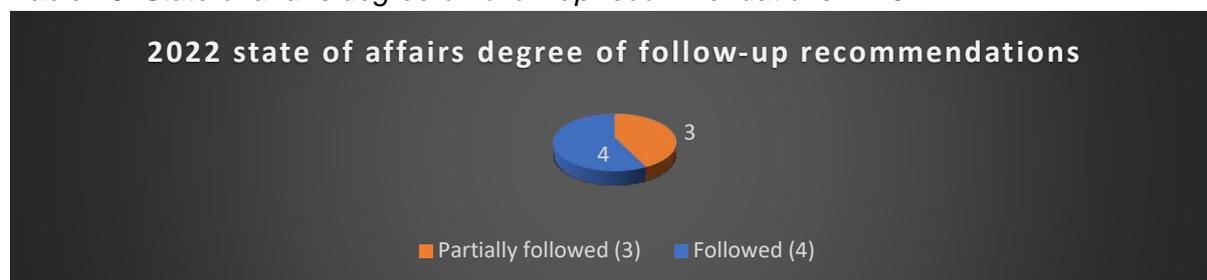


Table 16: State of affairs degree of follow-up recommendations 2019 and 2022

⁴² The compliance percentage as an indicator is calculated by assigning 1 point to each recommendation followed, ½ point to each recommendation partially followed and no points to a recommendation not followed. The number of points awarded is then divided by the total number of recommendations and multiplied by 100 to arrive at the compliance percentage.

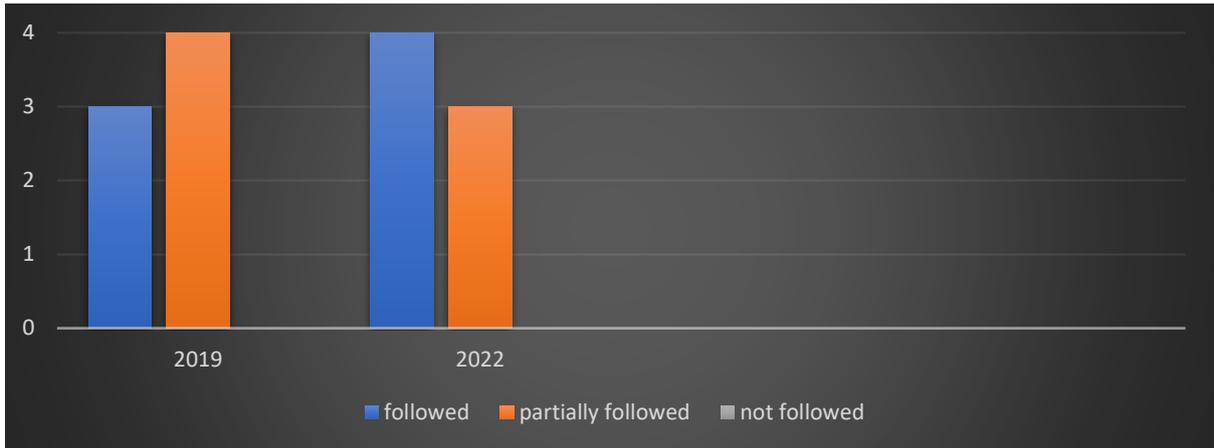
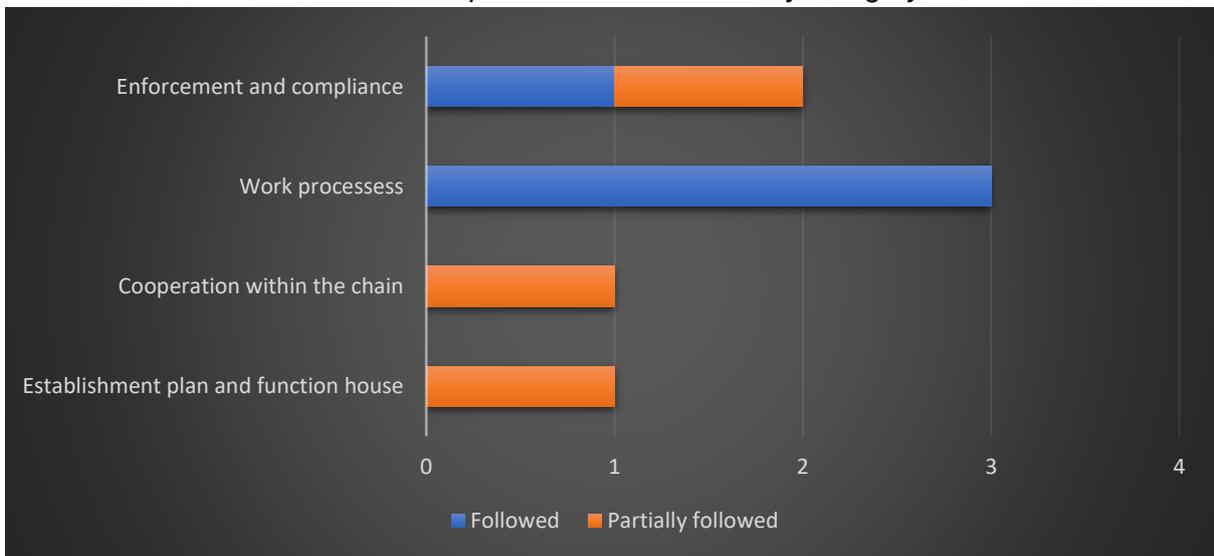


Table 17: State of affairs of follow-up of recommendations by category 2022



It follows from the tables that there has been some progress in the degree of follow-up of recommendations, as the compliance rate has increased from 71.4% to 78.6%. There are still three recommendations for which there has been no progress since 2019, as they are still partially followed. Here too, action is still needed. The Council notes that these are different categories of recommendations. And that they concern both recommendations with and without financial implications. The recommendations partially not followed concern the categories cooperation: chain (financial), establishment plans & function house (non-financial) and enforcement and compliance (non-financial). In particular, the Council believes it is time to achieve a permanent solution to the storage issue. As in the previous chapter, the issue of storage includes both recommendations with, and recommendations without, financial implications. Here too, the Council believes it is obvious that in any case the follow-up of the recommendations without financial consequences should be prioritized, while in the meantime a solution should be found for those with financial consequences.

Recommendation and monitoring

Based on the foregoing, the Council's recommendation to the Minister of Justice is: *Implement the Council's recommendations that have not yet been (fully) taken up and make the necessary resources available in the shortest possible time.*

The Council will begin periodic monitoring of the progress of the pending recommendations in the context of criminal seizure in 2023.

Below in the table, the Council presents the status of the follow-up of the recommendations for the criminal seizure report.

Table 18: state of affairs recommendations criminal seizure

	Recommendation 2014	Follow-up 2019	Follow-up 2022
	To the Minister of Justice with regard to the Sint Maarten Police Force and the Public Prosecutor's Office.		
A1	Involve the legally appointed custodian and the RST in the 'seizure' working group already established by the Sint Maarten Police Force and the Public Prosecutor's Office to find a permanent solution for the storage of vehicles and vessels.	Partially followed	Partially followed
	To the Minister of Justice with regard to the Sint Maarten Police Force		
A2	Adopt the KPSM function book and within a very short time come up with a solution to fill the position of administrator, so that the bottlenecks surrounding decentralized registration and storage of seized items can be solved.	Partially followed	Partially followed
A3	Subsequently, within a reasonable period of time, establish the process description about the seizure and implement it throughout the entire workplace.	Followed	-
A4	Make sure that the Public Prosecutor's Office is made aware of every seizure.	Partially followed	Followed
A5	Attach a list of seized and not returned objects to the criminal file in accordance with the law.	Followed	-
	To the Minister of Justice with regard to the Public Prosecutor's Office		
A6	Ensure that seized objects are processed promptly or as soon as the interest of criminal proceedings permits that.	Partially followed	Partially followed
A7	When destroying high-risk objects, perform the legally assigned supervisory tasks.	Followed	--

5. State of affairs recommendations Forensic investigation

Introduction

In 2018, the Council inspected the extent to which forensic investigation (FO) played a role within the general investigation in Sint Maarten. The Council examined the topics: laws and regulations, policies and plans, FO operations, methods and results. The inspection revealed that the FO plays a major role within the KPSM. Other investigation services such as the National detectives in Sint Maarten do not have an FO; those services only have digital expertise. Both the forensic investigation department and the digital investigation department are important supporting departments for the force. It was indicated that the focus should primarily be on bringing and keeping the departments up to standard so that the daily support needs of the organization(s) can be met. Although attention had been paid to the development and professionalization of the departments over the past few years, challenges emerged, particularly in the areas of staffing, training and (financial) resources and facilities. The Council made ten recommendations. The MoJ's policy response outlines the recommendations and - like the Council at the time - briefly addresses the subject of cybercrime. Where relevant, this policy response will be discussed.

5.1 State of affairs 2022 forensic investigation

Below, the Council discusses the recommendations. For each recommendation, the Council first presents recommendations from 2018, followed by the state of affairs in 2018 and, if applicable, the policy response to them. This is followed by the 2022 findings and their assessment.

To the Minister of Justice

<p>Recommendation 1 (2018): Ensure that legislation in the forensic field is up to date. In any case, pay attention to the coming into force of the National Decree on the Comparative Examination of Cellular Materials and follow up on the recommendations made more than once by the Council with regard to the legal status, function book and job classification system. The recommendation was categorized by the Council in its database as 'Legal Framework'.</p>

State of affairs 2018

The Council indicated that as far as DNA is concerned, work is being done to achieve legislative changes to optimize efficiency with respect to the comparison of DNA within the Kingdom. Privacy is also taken into account. For the rest, according to the Council, it was desirable to evaluate the current legislation and if necessary to adjust it in view of the developments.

Policy response 2018

The policy response stated that in the draft of the new Code of Criminal Procedure, the special investigative powers have been supplemented to include the power of the OM and the police to conduct covert investigations in computerized works. The aim was to submit the proposed law to Parliament for approval no later than the second quarter of 2019. Furthermore, the MoJ reports that the National Decree on Comparative Investigation of Cellular Material (AB 2013, GT. No. 169) has been amended and will enter into force by separate national decree. Reference is also made to the Mutual Regulation on Comparison of DNA Profiles between the

Netherlands, Aruba, Curaçao and Sint Maarten which entered into force on September 1, 2017.⁴³ The MoJ also indicated that the Council's recommendations on the function book and job classification system, among others, have his particular attention.

Findings 2022

The Ministry of Justice indicates that there is currently a general lack of legislative capacity at the Ministry of Justice, making the preparation or drafting and updating of legislation a bottleneck for the Ministry of Justice. Therefore, legislation in the field of forensic and digital investigation has not yet been reviewed or acted upon where necessary. There does exist since 2017 the Mutual Arrangement for comparison of DNA profiles between the Netherlands, Aruba, Curaçao and Sint Maarten. The new Code of Criminal Procedure has not yet entered into force. It is awaiting its consideration in Parliament. The processing date is not yet known. However, the National Decree on Comparative Investigation of Cellular Materials was amended in 2015 to enable the automated mutual comparison of DNA profiles between the countries of the Kingdom.⁴⁴ This National Decree amending the National Decree on Comparative Cellular Materials entered into force in 2018.⁴⁵ The KPSM indicates that the national decree works well.

For findings on the legal status of the KPSM, the function book and the job classification system, please refer to [recommendation 1](#) and [recommendation 3](#) in chapter 2.

Assessment

The Ministry of Justice has not reviewed legislation in the forensic field to bring it up to date where necessary. The new Code of Criminal Procedure is still in draft form. However, the National Decree on DNA has been amended and entered into force and a mutual regulation on the same subject has been established. Although steps have been taken regarding the recommendations on the legal status of the KPSM, the function book and the job classification system, these recommendations are still not completed. Based on the above, the Council rates the recommendation as not followed.

Recommendation 2 (2018): Update the current plans. <i>The recommendation was categorized by the Council in its database as 'Policy'.</i>

State of affairs 2018

The Council indicated that the current organization plan did not reflect developments within the forensic investigation and digital investigation departments. In the current plan there is a dichotomy between these departments, while in practice both departments - in accordance with the revised organization plan - fall under incident-oriented investigation. These changes had not been formalized. The policy response did not address this issue.

Findings 2022

⁴³ <https://wetten.overheid.nl/BWBR0040318/2017-09-01/0>

⁴⁴ AB 2015, no. 14.

⁴⁵ AB 2018, no. 54.

The revised organization plan has not yet been formalized. As a result, in practice the organization of the departments is still different than in the current organization plan. Starting in 2018, the KPSM focused on describing or updating and digitizing all internal plans, working procedures and working regulations where necessary. All documents are stored centrally on the intranet. The Council's inspectors have also had access to these as previously indicated. The KPSM Annual Plan 2022 indicates that in cooperation with the Ministry of Justice, among other things, all recommendations of the Council, the Ombudsman and various Progress Committees will be transformed into protocols. The protocols have been translated into both Dutch and English and can all be found centrally on the KPSM intranet (see also findings below at [recommendation 7](#)). The Ministry of Justice indicates that the ministry and KPSM believe that the (organization) plans are currently up-to-date.

Assessment

Now that the KPSM has generally described or updated plans, work rules and operating procedures for all departments, including for the forensic investigation division, the Council assesses this recommendation as followed.

Recommendation 3 (2018): Achieve structural cooperation with other investigation services on Sint Maarten, within the Kingdom and/or elsewhere in the area of purchasing equipment, performing certain activities and jointly offering and following training, so that one can respond to the (rapid) developments in the professional fields and have the actual resources and facilities needed for the operations. *The recommendation was categorized by the Council in its database as 'Cooperation: chain'.*

State of affairs 2018

The inspection reveals that there is a great willingness and also need for cooperation. Although cooperation takes place, it is often ad hoc. There is no structural cooperation in the area of jointly purchasing equipment and/or jointly offering and following training courses. The Council believes that the small size of the departments, the financial difficulties of the KPSM and other organizations and the often pricey purchase of resources and facilities necessitate seeking more structural cooperation with other departments on the island and/or in other countries within the Kingdom.

Policy response 2018

The MoJ indicates that in the field of forensic and digital investigation, the KPSM is already taking full advantage of cooperation opportunities with other investigation services, the Netherlands Forensic Institute (NFI) and the police forces of the other countries. The KPSM itself has four FO investigators, a digital investigation investigator, two dactyloscopists and a laboratory specialist. Furthermore, a refresher course on Crime Scene Management is provided annually. In case certain investigations cannot be conducted by the KPSM, for example, due to the lack of certain software, cooperation is sought with the NFI, the RST or another force.

Findings 2022

Through the Board of Chiefs of Police, of which the chief of police is chairman, there is a structural commitment to cooperation in various areas, including forensic and digital investigations, according to the Ministry of Justice and the KPSM. The KPSM's 2022 annual plan details cooperation in terms of the strategic agenda. The purpose of the strategic agenda is to intensify and secure structural cooperation between the police forces within the Kingdom while maintaining the responsibilities of the individual countries, according to the KPSM. To this end, structural financial resources are being made available from the Netherlands. The focus is on dealing with cross-border crime and the themes in the cooperation are training, information coordination, and professionalization of the police forces, the document reads. Specifically, structural cooperation includes joint procurement of resources and training. Specialist training, including in the field of forensic investigation, is provided by the Netherlands Police Academy, among others. Council inspectors viewed a digital excel file of the KPSM that includes current and completed training courses.

Given the expensive investments needed to professionalize the police forces and the small scale of the islands, the Board of Chiefs of Police has also agreed that each force specializes in a particular area. For example, the chief of police of the Dutch Caribbean Police Force is in charge of the forensic investigation portfolio. However, because the possibility of opening two forensic laboratories over time is being considered (one for the Windward Islands and one for the Leeward Islands), the chief of police of the Curaçao Police Department also has forensic investigation in his portfolio. Within the specialties, levels are applied. All corps must be at the basic level (1) and only the portfolio holder specializes to level 2 (training) or 3 (equipment). However, because level 3 is often an expensive and scarce exercise, the help of the RST is then sought for this purpose.

Besides forensic investigation, the KPSM also has vice and the broader subject of intelligence in its portfolio. However, intelligence is not considered a specialty and is therefore not classified by levels. Based on the agreements in the RST protocol, an inter-insular node will also be established in which all islands will participate to strengthen the information positions of the investigation services.

Assessment

External cooperation by the KPSM is mainly regionally oriented. Through the Board of Chiefs of Police in particular, there is cooperation between the police forces in the area of purchasing equipment, performing certain operations and jointly offering and taking training courses. Similarly in the field of forensic investigation. The Council assesses this recommendation as followed.

Recommendation 4 (2018): Ensure that required licenses are purchased and renewed in a timely manner. *The recommendation was categorized by the Council in its database as 'Business Processes and ICT'.*

State of affairs 2018

The Council believes that in those cases where the necessary resources and facilities have been purchased, care should be taken to ensure that the opportunities that do exist are fully

utilized. This was not the case, which compromised bringing and keeping the departments up to standard. Purchasing needed servers and paying for licenses, among other things, should therefore be a priority for the Ministry of Justice. Indeed, failure to do the latter had direct negative consequences for investigations.

Policy response 2018

The MoJ indicates that the chief of police will ensure that existing software licenses are renewed in a timely manner and that any new necessary equipment or software is purchased. This to be done within the financial capabilities of the KPSM.

Findings 2022

The Ministry of Justice indicates that the KPSM ICT officer has a monitoring role in the attention to and renewal of needed licenses. The limited budget does always remain a challenge, according to the Ministry of Justice. The KPSM indicates that the necessary licenses are updated, renewed and paid for, however, this is mainly made possible through the regional police cooperation or through the Board of Chiefs of Police.

Assessment

The Council pointed out in Chapter 2 that despite temporary solutions through other external cooperation avenues, a structural solution still needs to be found for allocating sufficient financial resources in successive budgets of the Ministry of Justice. This also applies to this type of issue. Now that the necessary licenses have been procured or renewed, the Council assesses this recommendation as followed.

Recommendation 5 (2018): Ensure a timely decision on the renewal of a contract with the Netherlands Forensic Institute (NFI). Also consider whether the contract can be entered into for a longer period. *The recommendation was categorized by the Council in its database as 'Cooperation: countries (regional)'.*

State of affairs 2018

The inspection reveals a number of bottlenecks with respect to cooperation between the KPSM and the NFI. The bottlenecks are beyond the scope of the KPSM, however, they have a direct impact on concrete investigations of the KPSM. During the Council's investigation, the contract with the NFI had expired and was not renewed until later. The short duration of the contracts was perceived as a bottleneck. It could be solved by giving a mandate to the chief of police or by entering into a multi-year contract.

Policy response 2018

The policy response indicates that the Council's recommendation regarding the contract with the NFI will be taken to heart.

Findings 2022

On October 7, 2021, a service agreement was signed between the Ministry of Justice and the NFI. The term of the agreement commences on January 1, 2019 (retroactively) and if no written extension is agreed upon, it ends by right of law on December 31, 2023. The Council

advises the Minister to make timely efforts to renew the service agreement in 2023 so that there is no gap as in the case described above.

Assessment

The service agreement has been extended for a period of five years. A multi-year contract has been entered into. Based on this the Council assesses the recommendation as having been followed.

Recommendation 6 (2018): Promote timely payment of NFI accounts and find a solution to payment delays. Make provisions in upcoming budgets. *The recommendation was categorized by the Council in its database as 'Finance and Budget'.*

State of affairs 2018

The Council noted late payment of accounts from the NFI, which affected KPSM investigations. The Council therefore stressed the importance of timely payment of accounts and timely renewal of contracts. A small force like the KPSM cannot be expected to have all the possible expertise and related equipment at its disposal and it is all the more important to nurture cooperation with the NFI.

Policy response 2018

The policy response indicates that the Council's recommendation regarding payments to the NFI will be taken to heart.

Findings 2022

The service agreement also contains an article called financial provisions. These include agreements on billing and payment. Timely payment of the NFI's accounts is still a bottleneck because of Sint Maarten's financial situation, according to the KPSM. The budget (about NAF 100,000 per year) is often exceeded. Indeed, it is difficult to know in advance what kind and how many investigations will be conducted, according to the KPSM. The KPSM indicates that although the Ministry of Justice always tries to release funds, the process often takes too long because the budget is not sufficient. The arrears have not yet been paid. The Ministry of Justice indicates that the Council's recommendation to make a provision in the budgets is taken into account when preparing the 2023 budget. In its reaction, the Ministry of Justice indicates that the amount will be in the KPSM budget.

Assessment

Timely payment of the NFI is still a bottleneck. No solution has yet been found for the payment backlog. No provision has yet been made in the budgets up to 2022 since the Council's recommendation. Therefore, the Council believes that this should be the case for the 2023 budget. The Council assesses the recommendation as not followed.

To the Minister of Justice regarding the Sint Maarten Police Force

Recommendation 7 (2018): Update the work regulations, operating procedures and departmental notes for forensic investigation. In doing so, be particularly mindful of

modifications to the documents that enhance communication, information provision and mutual expectations. *The recommendation was categorized by the Council in its database as 'Work Processes'.*

State of affairs 2018

The Forensic Investigation Department operates in accordance with various work regulations, operating procedures and departmental notes. The Council is in favor of updating these to include the topic of communication to promote working practices. It would be a good step to further (more extensively) describe in the aforementioned documents the desired steps about communication moments, information provision and delivery and mutual expectations in the process. According to the Council, this will improve working methods and working relations. The policy response did not address this issue.

Findings 2022

The KPSM, as indicated earlier in [recommendation 2](#), has focused from 2018 on describing or updating and digitizing all internal work procedures and work regulations where necessary. Accordingly, in 2022 the KPSM will draw up an organization plan for both internal and external communication.

For forensic investigation, the foregoing means that the documents have been updated where necessary and the same work regulations (e.g., "cases in files" and "firearms to be examined by the NFI"), procedures (e.g., "DNA sampling witness" and "DNA sampling suspect"), the document with the roles, duties and powers and a template for the logbook in the context of forensic investigation are still being used. The "Cognos" dashboard was developed and created by KPSM at its request, and the company ACTS built it and the Foundation for ICT Law Enforcement Management funded it. It is fed from ACTPOL, the Lpg and the trainings. The dashboard provides insight into crime rates and provides information related to absenteeism, training and capacity management. The dashboard shows, for example, that training now takes place almost weekly. According to the KPSM, it is an extremely good tool for facilitating weekly management, even down to the employee level. The dashboard will also enhance the KPSM's ability to generate and communicate a security picture quickly and substantiated. Information-driven policing will take even more shape as a result, as both team leaders and community officers will be able to be more information-driven. The dashboard is now running at KPSM as a pilot, and if successful, it will be introduced at the other forces. This, like most developments, is unfortunately not made possible from the regular budget as it should but is made possible in part by the Regional Police Cooperation and funding from (European) Netherlands, according to the KPSM. The above contributes not only to the HRM cycle, but also to uniformity. It brings the necessary structure within the organization.

Assessment

In recommendation 2, the Council already pointed out that all documents are stored centrally on the intranet. This benefits communication and mutual expectations, among other things. Now that the KPSM has generally described or updated work regulations and work procedures for all departments, including the forensic investigation department, the Council assesses this recommendation as having been followed.

Recommendation 8 (2018): Provide a solution regarding the staffing for digital investigation.
The recommendation was categorized by the Council in its database as 'Capacity'.

State of affairs 2018

The Council believes that the factual situation with respect to the department is untenable. For more than six months, the KPSM has had only one permanent digital detective at its disposal. The Council believes that this person is disproportionately burdened, and that this situation is indicative of the vulnerability of the already small department. Although technical assistance was provided temporarily, the Council felt that a more permanent solution needed to be sought. The policy response did not address this issue.

Findings 2022

The KPSM indicates that the vacancy in the digital investigation department has already been filled through internal advancement and the new employee has also been provided with training.

Assessment

In 2018, the Council was concerned about the staffing of the digital investigation department because of the two FTEs, one was absent for an extended period of time. This made the department vulnerable. Now that the vacancy has been filled, the staffing is back to 2 FTEs structurally, the Council assesses the recommendation as followed.

To the Minister of Justice regarding the National detectives

Recommendation 9 (2018): Make sure the National detectives has digital data carrier readers.
The recommendation was categorized by the Council in its database as 'Business Processes and ICT'.

State of affairs 2018

Although the Council is in favor of cooperation, the Council believes that a service such as the National detectives should be well-equipped, given the type of investigations they conduct and in order to minimize the risk of disclosure of pending investigations. A temporary solution regarding the reader has been provided, however, the Council believes that a permanent solution can be provided.

Policy response 2018

The MoJ indicates that the LRSM now has readers for digital data carriers.

Findings 2022

In its report on the LRSM, the Council noted that the LRSM does not have its own reader but has a reader on loan from the RST.⁴⁶ The LRSM indicates in its reaction that the LRSM has had its own reader since June 15, 2022. In 2019, an in-house forensic workstation was also purchased that, among other things, can be used to perform analysis and to which hard drives can be attached.

⁴⁶ Law Enforcement Council (2021). Inspection: review of National detectives Sint Maarten.

Assessment

After a temporary solution for the reader, the LRSM has had its own equipment since mid-2022. As a result, the Council assesses the recommendation as followed.

Recommendation 10 (2018): Establish required work regulations, work procedures and/or departmental notes regarding the supported work of the digital analyst. *The recommendation was categorized by the Council in its database as 'Work Processes'.*

State of affairs 2018

The LRSM does not have documents describing its working methods. The Council believes that this should be provided.

Policy response 2018

The MoJ indicates that in the short term four positions at the LRSM will be opened including that of digital detective. Drafting work procedures for digital investigation will be part of this position, among others. It is further indicated that work is underway to update the formation plan and function book of the National detectives.

Findings 2022

The issue of lack of capacity and expertise within the LRSM continues. Although a number of vacancies have been opened, including that of head LRSM, they have not yet been filled. The position of digital detective is also still vacant. The LSM indicates that a draft document called "Methodology for Handling Mobile Evidence" was prepared by the LRSM digital analyst in April 2019. The acting head LRSM intends to discuss and finalize the document internally so that it can be formally introduced as a working method. Otherwise, no other work regulations, work procedures and/or notes have been prepared on the supported activities of the digital analyst.

Assessment

For the problems concerning the lack of capacity and expertise within the LRSM, the Council has already drawn attention in several reports.⁴⁷ The Council therefore refers to the relevant reports and recommendations in this regard. A digital detective has not been appointed, so not all the necessary working regulations, working procedures and/or notes on the supported work of the digital analyst have been drawn up. The Council welcomes the fact that despite the above, a start has been made on drafting the necessary documents. It is now important to formalize this as soon as possible, so that it is clear to all concerned in what way work is being done. However, since all the necessary work regulations, work procedures and/or notes have not been drawn up, the Council assesses the recommendation as not followed.

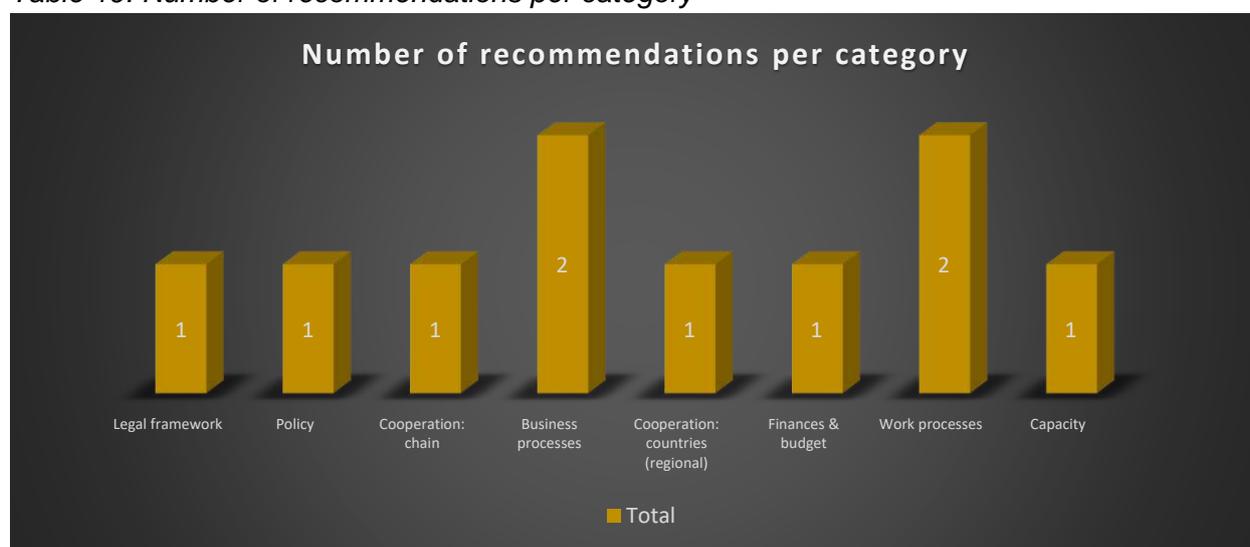
⁴⁷ See in particular Law Enforcement Council (2021). Inspection: review of National detectives Sint Maarten; Law Enforcement Council (2021). Overall review recommendations. Sub-inspection 2: Crime-fighting fund; Investigation and prosecution policy OM; Enforcement of fines damages and seizures; The OM in the Incident-oriented Investigation; Cooperation between prosecution offices OM.

5.2 (Schematic) overall analysis forensic investigation

Introduction

In 2018, the Council made 10 recommendations in the context of forensic investigation. This inspection in 2022 is the first follow-up inspection on the level of compliance with the recommendations. At its discretion, the Council has divided the recommendations into categories in its database to provide a bit more insight into the individual recommendations. The subdivision is intended to be indicative and is as follows: legal framework (A1), policy (A2), cooperation: chain (A3), business processes and ICT (A4, A9), cooperation: countries regional (A5), finance and budget (A6), work processes (A7, A10) and capacity (A8). The above is shown in the table below.

Table 19: Number of recommendations per category



State of affairs follow-up 2022

This sub-inspection found that out of a total of 10 recommendations, seven recommendations were followed by 2022 (A2 to A5, A7, A8, A9), and three recommendations were not followed (A1, A6, A10). The compliance rate is **85%**⁴⁸ in 2022.

Below the Council presents in two tables, respectively, the status of the follow-up of recommendations and the degree of follow-up by category.

Table 20: State of affairs degree of follow-up in 2022

⁴⁸ The compliance percentage as an indicator is calculated by assigning 1 point to each recommendation followed, ½ point to each recommendation partially followed and no points to a recommendation not followed. The number of points awarded is then divided by the total number of recommendations and multiplied by 100 to arrive at the compliance percentage.

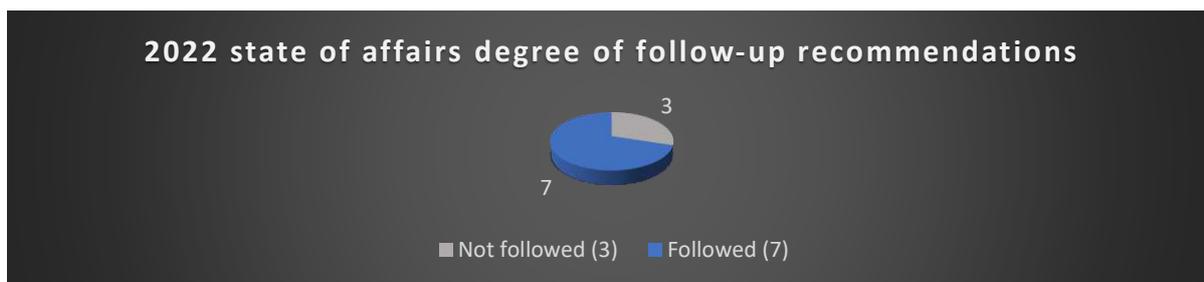
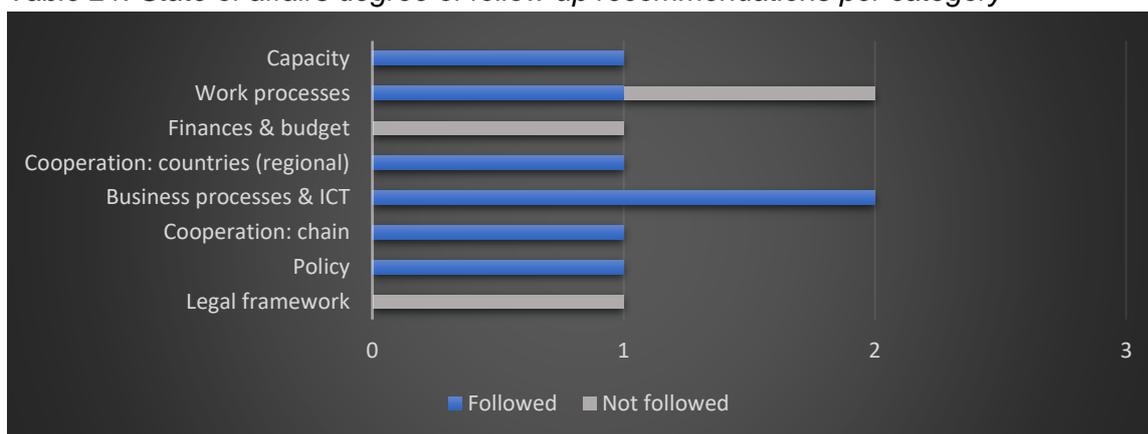


Table 21: State of affairs degree of follow-up recommendations per category



It follows from the tables that all but three recommendations have been followed up. The Council notes - as in the previous chapters - that a number of recommendations require work. The Council notes that the recommendations yet to be followed up concern different categories. And that they concern both recommendations with and without financial consequences. The (partly) unfulfilled recommendations concern the categories legal framework (non-financial), finance & budget (financial) and work processes (non-financial). In several of the Council's reports, finance emerges as a bottleneck for following up recommendations. Since it concerns recommendations with and without financial consequences, the Council believes it is obvious that in any case the follow-up of the recommendations without financial consequences should be prioritized, while in the meantime a solution should be found for those with financial consequences.

Recommendation and monitoring

Based on the foregoing, the Council's recommendation to the Minister of Justice is: *Address the Council's outstanding recommendations and make the necessary resources available as soon as possible.*

The Council will start periodic monitoring of the progress of the pending recommendation in forensic investigation in 2023.

Table 22: state of affairs recommendations forensic investigation

Recommendation 2018	Follow-up 2022
To the Minister of Justice	

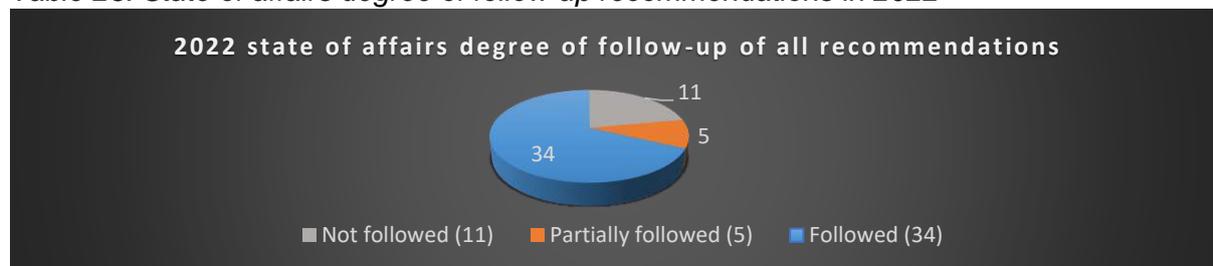
A1	Make sure the forensic legislation is up to date. In any case, pay attention to the entry into force of the National Decree on Comparative Research of Cellular Material and the follow-up to the recommendations made on numerous occasions by the Council regarding the legal position, function book and job classification system.	Not followed
A2	Update the current plans.	Followed
A3	Promote structural collaboration with other investigative departments in Sint Maarten, within the Kingdom and/or elsewhere in the area of purchasing equipment, performing certain activities and jointly providing and following training courses, in order for them to be able to respond to the (rapid) developments in the disciplines and to obtain the resources and facilities actually required for the work.	Followed
A4	Ensure that licenses that are needed are purchased and renewed in a timely manner.	Followed
A5	Make sure that a decision is made in good time about the renewal of a contract with the NFI. Also verify if the contract can be entered into for a longer period.	Followed
A6	Ensure that NFI bills are paid on time and find a solution for the payment arrears. Make provisions in upcoming budgets.	Not followed
	To the Minister of Justice with regard to the Sint Maarten Police Force	
A7	Update the work instructions, work procedures and notes of the forensic investigation department. Pay particular attention to changes to the documents that benefit the communication, information provision and mutual expectations.	Followed
A8	Provide a solution with regard to the occupation of the digital investigation.	Followed
	To the Minister of Justice with regard to the National Detectives Sint Maarten	
A9	Make sure that the National Detectives has access to reading equipment for digital data carriers.	Followed
A10	Draw up required work instructions, work procedures and/or notes with regard to the supporting activities of the digital analyst.	Not followed

6. Overarching analysis

Answering the main question

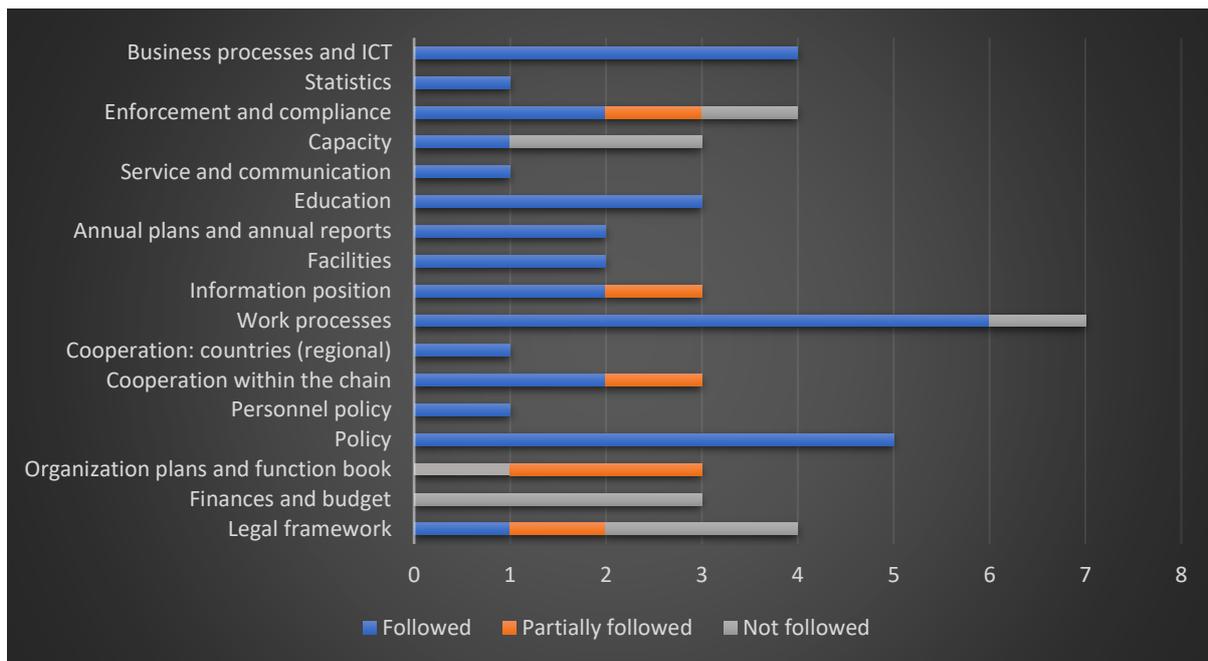
This third sub-inspection shows that out of a total of 50 recommendations, 34 recommendations have been fully followed, 5 recommendations have been partially followed and 11 recommendations have not been followed (see the relevant chapters for a breakdown by report). On the whole, therefore, it can be said that the majority of the recommendations have been followed. This applies more specifically to almost all recommendations on the approach to robberies (7 out of 8 followed). The remaining recommendations followed concern the criminal investigation process (16 out of 25 followed), criminal seizure (4 out of 7 followed) and forensic investigation (7 out of 10 followed). The recommendations assessed as "not followed" or as "partially followed" also cover all four topics. These include the criminal investigation process (7 not followed and 2 partially followed), approach to robberies (1 not followed), criminal seizure (3 partially followed) and forensic investigation (3 not followed). Based on the foregoing, the Council concludes that progress has been made, particularly in the areas of the approach to robberies and forensic investigation. In the table below, the Council shows the state of affairs in the degree of follow-up.

Table 23: State of affairs degree of follow-up recommendations in 2022



The recommendations still to be followed-up are on the subjects of enforcement and compliance (2), capacity (2), information position (1), work processes (1), cooperation (1), organization plans and function house (3), finances and budget (3) and legal framework (3). Below, the Council presents in the table the state of affairs in the degree of follow-up of all recommendations by category.

Table 24: State of affairs degree of follow-up all recommendations by category in 2022



The state of affairs in a broader perspective

In almost all of the subjects inspected by the Council to date, the KPSM played a central role to a greater or lesser extent. This could not be otherwise given the broad tasks of the KPSM as the "guardian" of overall and individual safety. The KPSM is therefore often the spider in the web on numerous issues. The mission of the KPSM, mentioned among other things in the KPSM's 2022 Annual Plan, reads as follows:

'KPSM contributes to the safety and livability of the people living, working or staying as tourists on Sint Maarten. KPSM is developing into a fully self-supporting, professional force, capable of organizing and executing the necessary police work at a high level.'

The authority of an organization is related to professionalism.⁴⁹ It can be said that the more professional the KPSM is, the more authority the force will have. The Council has repeatedly pointed out that for professionalism, several preconditions must be met. There must therefore be continuous attention to this and continuous investment in this regard. Not only to reach a level of professionalism but also to maintain it. This third sub-inspection also reveals that several basic preconditions are still not being met. This not only hinders compliance with the recommendations, but in so doing also hampers the intended improvement of the subject being inspected. In this case, improvements for the investigation process by the criminal investigation department, in the approach to robberies, in criminal seizure and forensic investigation. The (structural) bottlenecks are those already known namely insufficient material, human and financial resources. There are also bottlenecks in areas such as updating the legal framework, regulating the legal status and reserving sufficient funds in the budgets. Again, the Council notes that where it is up to the organization, being the KPSM in particular, to follow up on the recommendation, this has often been done. However, where an organization depends on the Ministry of Justice in particular to follow up on the

⁴⁹ Annika Smit, Police Academy (october 2011). The professionalization of the police. An exploratory study as a basis for authority, position and performance, pg 9.

recommendations, that follow-up stagnates. The Council continues to point out the importance of both political and ministerial support in investing in the issues inspected and, by extension, strengthening the criminal enforcement of the democratic rule of law.

The Ministry of Justice therefore plays a central role in creating the preconditions and in steering the implementation of the recommendations to improve the inspected subjects. The Council therefore believes that the Ministry of Justice must (take on) a (more) leading role in this than it has up to now.

Personnel strengthening of the Ministry is a prerequisite for this. The Council already pointed out the importance of filling critical positions within the ministry. As long as the Ministry does not take up this guiding role, the KPSM (and other local judicial services) will be hindered in its development and will not be able to fulfill its mission to the fullest, with possible negative consequences for the safety and livability of all the people on St. Maarten. The Council reiterates that if the country of Sint Maarten wants a professional and full-fledged corps and by extension a sound criminal law enforcement of the democratic rule of law, investments in the KPSM (and other local judicial services) must be made.

The Council further notes that in particular the continuing lack of a financial mandate for heads of service, and more specifically in this follow-up inspection that for the chief of police, remains a serious bottleneck. A financial mandate would enable the chief of police to better direct the day-to-day leadership and actual day-to-day management of the force. The Council therefore reiterates the importance of this.

Furthermore, it strikes the Council that although not ideal, the lack of finances does not prevent the search for other, temporary solutions. Among other things, this can be seen clearly in the area of organizing training for the force. Through the Board of Chiefs of Police, arrangements have been made for the various corps to continue their professionalization efforts in this way. Although it is a good temporary solution in the opinion of the Council, the Council also points out the danger of not finding solutions to reserve sufficient funds for regular budget items such as training. It hinders continuity and creates other external dependencies, which is obviously not the intention.

The Council also pointed out in various studies and the State of Law Enforcement that cooperation is increasingly sought by KPSM but also by other organizations given the increasingly complex issues of crime fighting. These collaborations are also intensifying. This is also evident in this sub-inspection. As the Council often reiterates, it is in favor of cooperation and can only continue to encourage it. However, support from both the ministry and politicians remains an indispensable factor.

Responsibility for following up on recommendations

In accordance with the Kingdom Act Law Enforcement Council, all recommendations are formally addressed to the MoJ. For some recommendations, follow-up depends primarily on action by the Ministry of Justice (the Minister of Justice). For others, follow-up depends primarily on action by the organization(s) concerned under the responsibility of the Minister. This is shown below for the recommendations per report.

Table 25: Primarily responsible for action on follow-up of recommendation(s)



Financial consequences follow-up recommendations

Already in previous sub-inspections, the Council pointed out that a lack of finances and capacity is a frequently heard reason, why recommendations have not been acted upon. The Council remains aware that the Country and more specifically the Ministry are facing financial challenges. Although all recommendations (almost) always have financial implications, the Council believes that this can be distinguished for the purpose of following up the recommendations by classifying them into recommendations that actually require primarily financial actions and recommendations that primarily require non-financial actions. Based on the aforementioned database, the Council conducted this exercise to provide an initial picture. Based on this, it can be concluded that out of a total of 50 recommendations, eighteen require primarily financial actions (e.g., agreements on expanded opportunities for the force in the areas of finance and personnel management; see Appendix 1) and 32 require primarily other non-financial actions (e.g., updating legislation or drafting necessary work instructions, work procedures and/or memoranda; see Appendix 1). The foregoing is presented below in a table format.

Table 26: Number of recommendations per report categorized by recommendations with primary financial action vs. primary non-financial action



In conclusion

The Council is aware that the recommendations are often disparate and that some are less complex than others. Nevertheless, for each report, the Council has expressed the state of

affairs for each recommendation as a percentage⁵⁰. The percentage mentioned below is not a hard measure but only has the function of an indicator to show in a more visual way the status of each report.

Tabel 27: State of compliance rate of follow-up on recommendations by report

Compliance percentage Criminal investigation	Compliance percentage Approach robbereis	Compliance percentage Criminal seizure	Compliance percentage Forensic investigation
2016: 46%		2019: 71.4%	
2022: 68%	2022: 87.5%	2022: 78.6%	2022: 85%

The Council has already recommended to the MoJ in chapters 2 through 5 that the recommendations not yet (fully) followed be implemented and that the necessary resources be made available for this purpose. As indicated in the various chapters, the Council will also continue the periodic monitoring of the progress of the not yet followed recommendations in 2023.

Recommendation

The Council reiterates again its recommendation as contained in the previous chapters: *Implement the recommendations of the Council not yet (fully) followed for the topics: the criminal investigation process, the approach to robberies, criminal seizure, and forensic investigation, and make the necessary resources available in the shortest possible time.*

⁵⁰ The compliance percentage as an indicator is calculated by assigning 1 point to each recommendation followed, ½ point to each recommendation partially followed and no points to a recommendation not followed. The number of points awarded is then divided by the total number of recommendations and multiplied by 100 to arrive at the compliance percentage.

Appendix 1: Status of recommendations by report



2022 State of affairs recommendations report Criminal investigation process in Sint Maarten						
Subject recommendation	Category recommendation ⁵¹	Primarily financial action/ primarily other non-financial action ⁵²	Follow-up 2016	Follow-up 2022	Primarily responsible for action ⁵³	State of affairs > 2023
1. Adoption of organization plan, job classification system and placement plan	Organization plans & job classification system	Primarily financial	Not followed	Partially followed	Ministry of Justice	
2. Critical functions functions	Finances & budget	Primarily non-fin.	Not followed	Not followed	Ministry of Justice	
3. Entry into force of legal status decree KPSM	Legal framework	Primarily non-fin.	Not followed	Not followed	Ministry of Justice	
4. Housing infodesk	Facilities	Primarily non-fin.	Followed	-	Ministry of Justice	
5. Implementation mutual arrangement	Legal framework	Primarily non-fin.	Followed	-	Ministry of Justice	
6. Decision personal data	Information position	Primarily non-fin.	Not followed	Not followed	Ministry of Justice	
7. Amendment of national ordinance	Legal framework	Primarily non-fin.	Not followed	Partially followed	Ministry of Justice	
8. Sufficient funds training	Finances & budget	Primarily financial	Not followed	Not followed	Ministry of Justice	
9. Spearhead of government policy	Policy	Primarily non-fin.	Followed	-	Ministry of Justice + KPSM	
10. Organization plan and formation	Organization plans & job classification system	Primarily financial	Not followed	Not followed	Ministerie v. Justitie + KPSM	
11. Papers in the English language	Service & communication	Primarily non-fin.	Followed	-	Ministry of Justice + KPSM	
12. Mandate	Capacity	Primarily financial	Not followed	Not followed	Ministry of Justice + KPSM	
13. Agreed goals and covenant	Enforcement & compliance	Primarily non-fin.	Not followed	Not followed	Ministry of Justice + KPSM	
14. Establishment of agenda committee	Work processes	Primarily non-fin.	Followed	-	Ministry of Justice + KPSM	
15. Mutation and detective information system	Business processes & ICT	Primarily financial	Not followed	Followed	Ministry of Justice + KPSM	
16. Secure mail network	Business processes & ICT	Primarily financial	Followed	-	Ministry of Justice + KPSM	
17. Information stream	Information position	Primarily non-fin.	Followed	-	KPSM	
18. Annual plan SMART	Annual plans & annual reports	Primarily non-fin.	Partially followed	Followed	KPSM	

⁵¹ As an indication, the recommendations have been divided into categories by the Council at its discretion in its database to provide a bit more insight into the individual recommendations.

⁵² Although all recommendations (almost) always have financial consequences, the Council believes that for the purpose of following up the recommendations, a distinction can be made by dividing them into recommendations that actually require primarily financial action and recommendations that primarily require non-financial action.

⁵³ In accordance with the Kingdom Act Law Enforcement Council, all recommendations are formally addressed to the Minister of Justice. For some recommendations, follow-up depends primarily on action by the ministry (the Minister of Justice). For others, follow-up depends primarily on action by the relevant organization(s) themselves.

19. Information over annual plan	Annual plans & annual reports	Primarily non-fin.	Followed	-	KPSM	
20. Debriefing	Work processes	Primarily non-fin.	Followed	-	KPSM	
21. Information retrieval training	Education	Primarily financial	Not followed	Followed	KPSM	
22. Training Central Post	Education	Primarily financial	Followed	-	KPSM	
23. Information driven training	Information position	Primarily non-fin.	Followed	-	KPSM	
24. Police data regulations	Policy	Primarily non-fin.	Not followed	Followed	KPSM	
25. Cooperation opportunities	Cooperation:chain	Primarily non-fin.	Followed	-	KPSM	
Total compliance %⁵⁴	-	-	46%	68%	-	



2022 State of affairs recommendations report Approach to combating robberies					
Subject recommendation	Category recommendation ⁵⁵	Primarily financial action/ primarily other non-financial action ⁵⁶	Follow-up 2022	Primarily responsible for action ⁵⁷	State of affairs > 2023
1. Steering within prioritization	Policy	Primarily non-fin.	Followed	KPSM + OM	
2. Basic resources SUR	Facilities	Primarily financial	Followed	KPSM	
3. Evaluation capacity SUR	Capacity	Primarily non-fin.	Not followed	KPSM	
4. Analyst(s)	Personnel policy	Primarily non-fin.	Followed	KPSM	
5. Evaluation approach	Enforcement & compliance	Primarily non-fin.	Followed	KPSM	
6. Instruction on approach	Policy	Primarily non-fin.	Followed	KPSM	
7. Better registration	Statistics	Primarily non-fin.	Followed	KPSM	
8. Refresher training on file creation	Education	Primarily financial	Followed	KPSM	
Total compliance %⁵⁸	-	-	87.5%	-	

⁵⁴ The compliance percentage as an indicator is calculated by assigning 1 point to each recommendation followed, ½ point to each recommendation partially followed and no points to a recommendation not followed. The number of points awarded is then divided by the total number of recommendations and multiplied by 100 to arrive at the compliance percentage.

⁵⁵ As an indication, the recommendations have been divided into categories by the Council at its discretion in its database to provide a bit more insight into the individual recommendations.

⁵⁶ Although all recommendations (almost) always have financial consequences, the Council believes that for the purpose of following up the recommendations, a distinction can be made by dividing them into recommendations that actually require primarily financial action and recommendations that primarily require non-financial action.

⁵⁷ In accordance with the Kingdom Act Law Enforcement Council, all recommendations are formally addressed to the Minister of Justice. For some recommendations, follow-up depends primarily on action by the ministry (the Minister of Justice). For others, follow-up depends primarily on action by the relevant organization(s) themselves.

⁵⁸ The compliance percentage as an indicator is calculated by assigning 1 point to each recommendation followed, ½ point to each recommendation partially followed and no points to a recommendation not followed. The number of points awarded is then divided by the total number of recommendations and multiplied by 100 to arrive at the compliance percentage.

2022 State of affairs recommendations report Criminal seizure						
Subject recommendation	Category recommendation ⁵⁹	Primarily financial action/ primarily other non-financial action ⁶⁰	Follow-up 2019	Follow-up 2022	Primarily responsible for action ⁶¹	State of affairs > 2023
1. Seizure-work group	Cooperation: chain	Primarily financial	Partially followed	Partially followed	KPSM +OM	
2. Establishment function book	Organization & function house	Primarily non-fin.	Partially followed	Partially followed	KPSM	
3. Establishment process description	Work processes	Primarily non-fin.	Followed	-	KPSM	
4. Seizure notification	Work processes	Primarily non-fin.	Partially followed	Followed	KPSM	
5. List seizures	Work processes	Primarily non-fin.	Followed	-	KPSM	
6. Prompt handling	Enforcement & compliance	Primarily non-fin.	Partially followed	Partially followed	OM	
7. Execution legal task	Enforcement & compliance	Primarily non-fin.	Followed	-	OM	
Total compliance% ⁶²	-	-	71.4%	78.6%	-	

2022 State of affairs recommendations report Forensic investigation in Sint Maarten					
Subject recommendation	Category recommendation ⁶³	Primarily financial action/ primarily other non-financial action ⁶⁴	Follow-up 2022	Primarily responsible for action ⁶⁵	State of affairs > 2023
1. Up-to-date legislation	Legal framework	Primarily non-fin.	Not followed	Ministry of Justice	
2. Update plans	Policy	Primarily non-fin.	Followed	Ministry of Justice	
3. Structural cooperation	Cooperation: chain	Primarily financial	Followed	Ministry of Justice	
4. Purchase licences	Business processes & ICT	Primarily financial	Followed	Ministry of Justice	
5. Contract NFI	Cooperation: countries (regional)	Primarily financial	Followed	Ministry of Justice	
6. Outstanding payments NFI	Finances & budget	Primarily financial	Not followed	Ministry of Justice	
7. Update documents	Work processes	Primarily non-fin.	Followed	KPSM	
8. Staffing DO	Capacity	Primarily financial	Followed	KPSM	
9. Reading equipment LR	Business processes & ICT	Primarily financial	Followed	National detectives	
10. Draft documents	Work processes	Primarily non-fin.	Not followed	National detectives	

⁵⁹ As an indication, the recommendations have been divided into categories by the Council at its discretion in its database to provide a bit more insight into the individual recommendations.

⁶⁰ Although all recommendations (almost) always have financial consequences, the Council believes that for the purpose of following up the recommendations, a distinction can be made by dividing them into recommendations that actually require primarily financial action and recommendations that primarily require non-financial action.

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Total compliance% ⁶⁶	-	-	85%	-	
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Colophon

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