
The State of Law Enforcement in Sint Maarten

In accordance with Article 33 of the Kingdom Act on the Law Enforcement Council, the Law Enforcement Council (hereinafter referred to as the Council) reports annually on the findings made in the previous year that transcend the nature of individual inspections and reports.

For the country of Sint Maarten, virtually all aspects of the national government have been dominated by reconstruction since October 10, 2010. Given its autonomous status, this applies in full to virtually all organizations in the justice chain.

The Council became operational in 2012. The inspections carried out in 2012 to date can therefore be considered in many areas as a baseline measurement with regard to the responsibilities of the Sint Maarten government, with the caveat that, on the other hand, the organizations in operation have resulted from operations under the Netherlands Antilles and the island territory of Sint Maarten, respectively.

For 2013, the Council has published a report on the state of law enforcement in the three countries that fall within the Council's remit.

The present state of law enforcement for 2014 relates only to Sint Maarten and the inspections that took place there. The report covers the period from January 1, 2014, to December 31, 2014.

In general, during all its inspections, the Council observed a dedicated commitment on the part of all those involved, despite the often-difficult situations faced by the organizations. The will and ambition to achieve a properly functioning justice chain at an acceptable level form the basis for achieving that objective. At the same time, the Council notes that the country of Sint Maarten and the organizations in the chain still have a long way to go to meet their own ambitions and to guarantee an acceptable and continuous level of performance. The Council considers it important to note that there should be no misconception about the fact that becoming a country is a very demanding process and that the transition phase, which started on October 10, 2010, is not yet complete.

In virtually all of its inspections, the Council found that there is still a backlog in the drafting, updating, and implementing of (implementation) legislation and policy in the area of law enforcement. In some cases, this delay has hindered and sometimes stalled the implementation process. The 2013 state of law enforcement already noted that not all organizational plans had been completed. This was still the case in 2014. The failure to prioritize the completion of the action plans is hampering the progress of certain organizations, such as the Sint Maarten Police Force.

In order to protect, among other things, the social and economic growth, security, and legal order of the country, as well as due to the fact that the island is generally unable to cope with an unlimited influx of foreigners, Sint Maarten has a restrictive admission policy. However, there appears to be a practice that contradicts this policy. This observation follows from the findings that there is insufficient active monitoring to ensure that foreigners without the right of residency leave the country voluntarily or, if necessary, are forced to do so. In order to deal with this situation consistently, it is necessary, among other things, to conduct a labor market study in collaboration with various ministries on the required quality and quantity of workers in Sint Maarten. The results of this study can be used to tailor labor market and admission policies. On this basis, an admission policy for foreigners can actually be implemented and enforced in the right way. As long as no insights are gained on which to base such a policy, Sint Maarten will continue to struggle with the uncontrollable negative consequences of this in various areas, including law enforcement.

Law enforcement involves various organizations and services that fall under the responsibility of the Ministry of Justice: the Public Prosecutor's Office, the police (investigative services), the National Detectives, Customs, the Coast Guard, the (probation service) the Sint Maarten Judicial Institutions Foundation, the Court of Guardianship, the Mental Health Foundation, the Turning Point Foundation, and detention facilities.

Each organization has its own capacity, which in most cases is growing. In many cases, the availability of information is limited. There are few or no statistics or other reliable figures on the basis of which organizations could (better) organize their policies. Good mutual communication and exchange of information could also contribute to this. In practice, it appears that initiatives are being taken, but that communication, cooperation, and information sharing between the various agencies still require attention. Law enforcement benefits from structural cooperation and an integrated approach to the different forms of crime, and this will need to be focused on in the coming years. The organizations in the law enforcement chain need the support of the government in this regard.

During visits to the various agencies, the Council observed that much progress was made in 2014 in terms of accommodation and facilities. This included the opening of a neighborhood police station and the conversion of the old police cells into (studio) interrogation rooms at the main police station in Philipsburg (expected completion date July 2015).

The National Detectives has relocated to a new building, where renovation work has also started. After delays, renovation of the Point Blanche detention facility began in 2014.

The renovation is expected to be completed in mid-2015, which will increase the number of detention places and improve security in and around the prison. In terms of available resources, the police and prison acquired a new fleet of vehicles in 2014. The above developments in 2014 contributed to the professionalization of the various services.

In 2014, the lack of adequate registration (systems) also became apparent. Although the cabling for the police force's information unit has been laid, the Immigration and Border Protection Services has increasingly improved its administrative processes, and the ACTS applications for the Immigration and Border Protection Services and basic police services have been reinstated, there is still no business process system in place at the KPSM, the National Detectives, the Court of Guardianship, the prison, and the SJB. As a result, systems within and between services are not compatible with each other, which hinders the formation of an overarching or comprehensive picture of the areas of activity of the criminal justice chain. Quantitative research and findings based on figures are often impossible. Nor can complete (reliable) management information be generated. This is noticeable throughout the chain and can be seen, for example, in the discrepancies between the annual reports of the various agencies. However, the inspections also revealed that the registration of financial sanctions and the practice of enforcing judgments are seriously flawed. This undermines the credibility of the legal order and the justice system. The above therefore requires urgent attention.

Although various services have begun to catch up in terms of training, the shortage in quantity and quality (backlog in training and lack of expertise) of personnel and the associated lack of necessary funding for basic police training, for example, were the predominant issues in almost all of the Council's inspections.

In 2014, a lot of work was done to make progress in tackling youth crime, with the opening of the youth rehabilitation center, the Miss Lalie Center, as a milestone. In addition, the National Ordinance on Child Abuse Reporting was introduced and the Ministry of Justice has plans for a Judicial Care Service. In 2015, the Council will conduct two inspections, 'Review of Youth Rehabilitation' and 'Tackling Youth Crime', to examine the theme of youth in more detail.

Furthermore, the topics of reporting, provision of information, and victim support deserve extra attention. In almost all cases, neither the persons reporting the crime nor the victims appear to be informed about the decisions taken in their cases and, therefore, about their legal options. If they were informed in a timely and adequate manner about the progress of the case in which they are involved, this could have a positive influence on their willingness to report crimes and their confidence in law enforcement.

In 2014, no provision was made for victim support.

The Council's first follow-up inspection in 2014 into the implementation of the recommendations regarding the reporting process in Sint Maarten shows that most of the recommendations have not been implemented or have been implemented insufficiently.

From 2012 to the end of 2014, the Council completed sixteen inspections. Of these, seven reports have already been presented to Parliament by the Minister of Justice. In 2014, Parliament held a plenary meeting to discuss a number of the Council's reports.

¹ ACTS has developed various applications, including ACTPOL (the business process system used by the general division of the KPSM). And the Border Management System (ACTBMS) for registration and border control.

The Law Enforcement Council is an inspection body established by Kingdom law (Netherlands Government Gazette 2010, no. 338). The Council has its own legal status and is responsible for the general inspection of organizations belonging to the justice chain. The general inspection of justice cooperation between countries is also one of the Council's tasks.

The Council expresses its hope that the Council's reports will remain on the agenda of Parliament and the Minister so that both can continue to fulfill their responsibilities optimally. The setting of policy, monitoring, and budgeting role of Parliament is of great importance. Law enforcement will benefit from the continued involvement of public authorities.

Inspections already completed in Sint Maarten in 2014

Below, the Council provides an overview of the inspections it carried out in 2014.

These are listed in no particular order:

- Criminal seizure in Sint Maarten
- Security and safety in detention facilities in Sint Maarten
- The security of public officials in Sint Maarten
- The Public Prosecutor's Office in incident-oriented investigation in Sint Maarten
- Sint Maarten welcomes you! Inspection into the admission and expulsion of foreigners in Sint Maarten, focusing on applications related to work performance.
- Use of force by the police in Sint Maarten. Inspection into the use of force by the police and use of force against the police.
- The reporting process in Sint Maarten. A follow-up inspection.

Ongoing and planned inspections in Sint Maarten in 2015

At the time of drafting the state of law enforcement, the Council has a number of inspections in preparation or in progress for Sint Maarten for the year 2015.

These are, in no particular order:

- Cross-border crime²;
- Investigation and prosecution policy Public Prosecutor's Office Sint Maarten;
- Exchange of police and judicial information within the Kingdom;
- Approach to combating robberies in Sint Maarten;
- Youth probation (review-inspection);
- The arms policy in Sint Maarten;
- Prevention of youth crime;
- The treatment of persons with psychiatric disorders and addiction problems in the criminal justice system.

The Law Enforcement Council,

LL.M. G.H.E. Camelia, chairman

LL.M. F.E. Richards

LL.M. T. Bot

Law Enforcement Council, 24 april 2015

² This inspection was initiated in 2013.

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