



The Pointe Blanche Prison and remand center, the Miss Lalie Center, Philipsburg police cells, and the Simpson Bay border hospice.

REPORT OF FINDINGS 2019

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Law Enforcement Council
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List of Abbreviations

CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
MLC	Miss Lalie Center
MOU	Memorandum of Understanding
NIPA	National Institute of Professional Advancement
Pointe Blanche Prison Council	Point Blanche Prison and Remand Center Law Enforcement Council

1 Preface

In 2013 and 2015, respectively, the Council published two inspection reports about the prison and remand center (*huis van bewaring*) at Pointe Blanche (Pointe Blanche prison). The Council published its report on the Youth Rehabilitation Center, called the *Miss Lalie Center* (MLC) in 2016.

Furthermore, from 2016 onwards, at the request of the Ministers of Justice of the Kingdom (Fourpartite Justice Consultations) and in connection with the monitoring of the recommendations made by the *European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment* (CPT), the Council conducted inspections of the detention system of St. Maarten. As a result, a total of three reports were issued in 2016 and 2017. The inspections included the Council's recommendations as well as those of the CPT.

Subsequently, the Council published two review reports regarding St. Maarten's detention system as well as the follow-up to recommendations issued by the CPT and Council in 2018.

Based on the last two review reports it was clear that little to no follow-up and implementation had taken place related to recommendations previously issued by the CPT and the Council. In fact, the situation had deteriorated. The prison was completely unsuitable for detention of persons and as a workplace. This meant that there were serious violations of (inter)national laws and regulations as well as standards. The Council, (once again) sounded the alarm. The Minister of Justice sent both review reports accompanied by his policy reaction, dated December 18th, 2018, to the Parliament of St. Maarten.

Since the content of all eight reports is still (largely) up-to-date and relevant, the Council decided to forego the issuance of a comprehensive report in 2019. The Council considers the reports to be both coherent and interrelated, and they not only repeatedly describe the deplorable state of the prison, but also stress the urgency of the problems - and therefore the need - to quickly take appropriate measures to ensure that detainees are no longer subject to circumstances characterized by both by the Council, the Institute for Human Rights¹ and the CPT as 'below minimum standards'.

Therefore, according to the Council, another comprehensive report would not add anything new. The Council therefore suffices in this report with a brief account of its findings from April and May 2019, along with a graphic representation of the implementation status of the recommendations. The Council advises the Minister of Justice to prioritize completion of the recommendations that have not yet been implemented within the shortest possible time.

In light of the missed deadlines and the degree of urgency, the Council urges the Minister to carry out the recommendations by no later than mid-2020. The Council hopes it will not have to exercise its authority ex Article 32 of the Kingdom Act on the Law Enforcement Council to inform the representative body of St. Maarten and the Kingdom Council of Ministers regarding this situation.

¹ The Netherlands Institute for Human Rights. Communication with regard to the execution of the judgment of the European Court of Human Rights in the case of Corallo v. The Netherlands (29593/17), February 14th, 2019.

In April and May 2019, the following four detention facilities were inspected by the Council: the *Miss Lalie Center*, the border hospice in Simpson Bay, the Philipsburg police cells and the Pointe Blanche prison. The emphasis is on the status on the level of follow-up of recommendations issued by the Council and CPT, as well as relevant developments.

As was the case with previous inspections by the Council, the organizations and individuals involved cooperated in a constructive manner during our visits. The Council, once again, thanks the persons who were approached for their cooperation.

THE LAW ENFORCEMENT COUNCIL,

mr. Th. P.L. Bot, Chairman,
mr. L.M. Virginia,
mr. M.R. Clarinda.

2 Findings at Pointe Blanche Prison and Remand Center

2.1 General

A new director, with extensive experience within the detention system, was appointed for a period of three years in March 2019. The director is responsible for the Pointe Blanche prison and remand center, the *Miss Lalie Center* and the personnel of the remand center stationed at the border hospice (Simpson Bay), as well as the police cells (Philipsburg).

Besides his 100-day plan, the director drafted a strategic business plan to which the final touches are being made. In addition, he (together with the staff and the Ministry) is continuously working on the complex problem taking place within the prison.

In terms of the Pointe Blanche Prison, the maximum total capacity is set at 86 detainees. This refers to 80 places for men and 6 for women. Detainees are still being held at prison facilities on Curaçao (6) and in the Netherlands (22).

Moreover, a project team was established to address the problems at the prison and the *Miss Lalie Center*. The project team, consisting of among others, the Minister of Justice, project leaders from both the prison and the MLC, as well as the director of the prison, meets on a weekly basis to determine the work required and to monitor progress.

In this (and subsequent) chapters, the Council briefly describes the state of affairs. Below, the Council discusses the most important findings and developments and provides the status for each recommendation along with the level of follow-up. To do this, the Council makes use of the following four-color system:

Red:	does not meet the required standards and expectations
Orange:	meets the required standards and expectations to a limited degree
Light green:	mostly meets the required standards though not completely
Dark green:	completely meets the required standards and expectations

2.2 Internal security

2.2.1 Preventing and controlling emergencies

Status 2019

Presently, the draft-emergency operations plan is being finalized by means of a last quality control check prior to the plan being adopted. Additionally, there is a draft contingency plan for the prison. According to the director, the plan has not been evaluated based on the 2017 hurricanes. Only after the most important work is completed, can a final plan be drafted. Currently, advice is being sought from the Fire Department. The contractor that was hired has repaired or replaced a large part of the alarm system. The actions that follow must go hand in hand with the renovation of the workshop and the chapel. The problem of the locks still exists.

The Ministry of Justice requested and received new proposals. The regular staffing of the shifts remains problematic (see also section 2.5). The generator has now been repaired, though the plans to construct housing for the generator house are on hold due to a lack of money.

Both the Fire Department and the Ministry of Public Housing, Spatial Planning, Environment and Infrastructure (Ministry of VROMI) were requested to carry out inspections for respectively, fire safety and the condition of the building. The inspection by the Ministry of VROMI took place in May 2019, and the report is pending. The Fire Department also carried out an inspection. Though the findings and various issues requiring attention were discussed, the director is still awaiting the official report. With the aid of the various inspections, up-to-date plans that meet safety requirements can be drafted. Moreover, the director has made agreements with the Fire Department to provide Emergency Response Training (*BHV-training*) for all staff members and certification for selected personnel.

The door to the entrance of the women's department now works properly. However, on occasion the door is kept open using a cloth, because the detention officer does not feel safe.

As a result of the aforementioned, the assessment of the recommendation regarding the prevention and control of emergencies was partially adjusted as shown in the figure below.

Council's recommendation

- Ensure that the institution is properly prepared for the prevention and control of emergencies. At least give attention to: establishing, implementing and practicing the emergency plan, training emergency responders, sufficiently staffing for shifts, and adequately functioning equipment.



2.2.2 Aggression control

Status 2019

A general policy or strategy to prevent and control violence, threats and intimidation has still not been drafted. The director states that there are relatively few cases of violence among detainees, because the hostility between detainees is taken into account when they are outside (open-air/exercise), conducting labor or participating in education.

However, the prison has a draft policy regarding cell inspections. In 2019, a number of cell inspections were conducted by prison staff with police present as *backup*. A cell inspection on the basis of a criminal investigation, is carried out by the police and the Public Prosecutor's Office. As a part of the improvement measures, agreements were made to prepare basic training for executive staff members in the area of security aimed at the prevention of violence, tactics for when dealing with violence and basic self-defense (and (taking) X-rays). The training has not yet started. See also section 2.5.1 about training.

There is no internal assistance team at the prison. A selection of suitable candidates was done but this group will be supplemented with new recruits, and all will be subject to the internal assistance team training.

The CPT recommendation addressed to the St. Maarten authorities regarding unauthorized violence has not been followed up.

The CPT recommendation regarding medical procedures for injured detainees consists of four elements of which three have not yet been followed up.

As a result of the aforementioned, a partial adjustment of the assessment for the first two recommendations regarding aggression control was made. The assessment of the remaining four recommendations (of which three from the CPT) remain unchanged.

Council's recommendation

<ul style="list-style-type: none"> Draft policy and actively implement it to prevent and control violence, threats and intimidation. Give specific attention to what is minimally required to actually implement the policy. 	2016	2018	2019
<ul style="list-style-type: none"> Conduct regular cell inspections to promote security within the prison. 	2016	2018	2019
<ul style="list-style-type: none"> Provide a well-equipped internal assistance team and sufficient financial resources to cover the costs associated with this task. 	2016	2018	2019

CPT recommendations

<ul style="list-style-type: none"> The CPT recommends that the Sint Maarten authorities deliver the clear message to prison officers that all forms of ill-treatment, including verbal abuse, are not acceptable and will be the subject of sanctions. 	2014	2018	2019
<i>*note: not addressed to the prison</i>			
<ul style="list-style-type: none"> The CPT reiterates its recommendation that the prison management of Pointe Blanche Prison develop a strategy to address the challenge of inter-prisoner violence, taking into account the above remarks. 	2014	2018	2019
<ul style="list-style-type: none"> 4 recommendations (REC): The CPT recommends that: 			

REC 1: measures be taken to ensure that the record drawn up after the medical examination of a prisoner – whether newly arrived or following a violent incident in prison – contains:

- (i) an account of statements made by the person which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment);
- (ii) a full account of objective medical findings based on a thorough examination;
- (iii) the doctor’s observations in the light of i) and ii) indicating the consistency between any allegations made and the objective medical findings.

REC 2: Recording of the medical examination in cases of traumatic injuries should be made on a special form provided for this purpose, with “body charts” for marking traumatic injuries that will be kept in the medical file of the prisoner. If any photographs are made, they should be filed in the medical record of the inmate concerned. In addition, documents should be compiled systematically in a special trauma register where all types of injuries should be recorded.

REC 3: The results of every examination, including the above-mentioned statements and the doctor’s opinions/observations, should be made available to the prisoner and, with the consent of the prisoner, to his or her lawyer.

REC 4: Further, the existing procedures be reviewed in order to ensure that whenever injuries are recorded which are consistent with allegations of ill treatment made by a prisoner (or which, even in the absence of allegations, are indicative of ill-treatment), the report is immediately brought to the attention of the relevant prosecutor regardless of the wishes of the person concerned.

2014	2018 (rec. 1)	2018 (rec. 2, 3 en 4)	2019 (rec. 1)	2019 (rec. 2,3 & 4)
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2.2.3 Drug prevention

Status 2019

No drug prevention policy exists. Drugs continue to be smuggled in, and the possible involvement of staff cannot be ruled out. There is no collaboration with the Turning Point Foundation, however, the director would very much like to cooperate. If the prison possessed equipment to detect contraband (such as mobile phones, razor blades etc.), the detention officers could work more efficiently and have more time to focus on drugs, according to the director.

Based on the aforementioned, the assessment of the recommendation regarding drug prevention remains unchanged.

Council’s recommendation

- Ensure there is an up-to-date and applicable drugs prevention policy.

2016	2016	2018	2019
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2.3 Security of the community

2.3.1 Security features and surveillance

Status 2019

The sight lines have been restored and the camera system is mostly operational. The replacement of the fencing around the grounds of the prison will start shortly. Initial preparations, such as the first inspection by the company have been accomplished.

Hiring and deployment of outside security personnel has still not been discontinued. Employees of the Voluntary Corps St. Maarten are currently used. They carry out, among others, the first-line access control and operate the armed watchtowers. The contract regarding the use of the Voluntary Corps of St. Maarten expired at the end of May 2019. In July 2019, the Minister of Justice and the chairman of the Board of the Voluntary Corps of St. Maarten signed an agreement regarding the use of the Voluntary Corps of St. Maarten at the prison that runs until January 31, 2020.

Based on the aforementioned, the assessment of all five recommendations in the area of security systems and surveillance, including one recommendation from CPT, have been adjusted.

Council's recommendations

<ul style="list-style-type: none">• Ensure that the structural facilities, technical systems, procedures and measures to prevent escapes from the penitentiary function properly.		
2016	2018	2019
<ul style="list-style-type: none">• Ensure sufficient supervision of and in situations with enhanced security risks.		
2016	2018	2019
<ul style="list-style-type: none">• Discontinue the hiring and deployment of outside, unqualified and unauthorized security personnel for critical security posts.		
2016	2018	2019
<ul style="list-style-type: none">• Assess the choice and use of outside personnel, and use the specific requirements imposed on prison staff as well as the specific requirements related to the work they carry out.		
2016	2018	2019

CPT recommendation

<ul style="list-style-type: none">• The CPT recommends that a clear protocol for cell searches be drawn up, taking into account the above remarks.		
2014	2018	2019

2.3.2 Rights policy

Status 2019

The policy on rights/freedoms has not yet been completed. The director indicates, however, that there are many detainees serving long sentences at the prison.

The assessment of the recommendation regarding rights/freedoms remains unchanged.

Council's recommendation

- Evaluate the possibilities for granting rights/freedoms, and if necessary, draft (supplementary) policy.

2016

2018

2019

2.3.3 Conditional release

Status 2019

Communicating in a timely manner with detainees regarding their exact release date remains challenging because Court judgements are not always received on time. This problem has already been raised with the Court.

A new *prison database management system* was recently put in use by the prison. This represents a major milestone in terms of digitalization and efficiency. The system offers various functionalities including detainee administration, calculation of the release date for each prisoner and generating management information. The system will also be a benefit to other organizations in terms of the (timely) provision of information, according to the prison director.

In contravention of the law, the internal rules of the prison (house rules) have not yet been translated into Spanish and need to be updated. On arrival at the prison, each detainee receives a copy of the house rules, and are otherwise not actively informed.

The prison director states that the ankle monitors are ready for use. A decision needs to be taken by the Minister of Justice regarding the question as to where monitoring and response will take place. The director is a proponent of placing the monitoring at the prison or with the Corps because of the need for 24/7 staffing.

Based on the aforementioned, the assessment of the recommendations regarding conditional release have been adjusted.

Council's recommendations

- Ensure that the exact release date is communicated in writing to the detainee within a reasonable period of time.

2016

2018

2019

- Adjust the house rules in accordance with the provisions of the applicable Penal Code.

2016	2018	2019
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- Upon arrival, actively inform each detainee of the house rules and make sure that these rules are available to everyone.

2016	2018	2019
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- Ensure that the problems regarding the implementation of electronic surveillance are resolved.

2016	2018	2019
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2.4 Legal status

2.4.1 Lawful confinement

Status 2019

The JIS is no longer used. Section 2.3.3 already describes the commissioning of the new *prison database management system*, in which among others, the confinement process, registration and calculation of the release date is electronic.

The fact that judgements are not always received on time is also mentioned. The recommendation for the establishment of the process to determine or verify the identity of the detainee has still to be followed up.

Given the aforementioned, the assessment of two of the four recommendations (among which one from the CPT) regarding lawful confinement is adjusted. The assessment of the two remaining recommendations from the Council and the CPT remain the same as in 2018.

Council's recommendations

- Make sure that the prison can work with the JIS in the near term so that, among others, the confinement process, the registration and the calculation of the release date is improved.

2016	2018	2019
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- Ensure that all confinement documentation is available in a timely manner.

2016	2018	2019
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** Prison is dependent on a third party.*

- Establish the process for determining or verifying the detainee's identity, including the manner in which this takes place.

2016	2018	2019
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CPT recommendation

- The CPT recommends that all prisoners be accurately informed of their release date from prison as soon as possible after their admission to prison (...).

2016	2018	2019
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2.4.2 House rules

Status 2019

As previously stated, the house rules have not yet been drafted in the Spanish language. The aforementioned commissioning of the *prison database management system* will be beneficial to the intake process. It is now important to update the description of the intake process accordingly.

On the basis of the aforementioned, the assessment of the recommendations regarding house rules remains the same as previous years.

Council's recommendation

- Draft the house rules in Spanish.

2016	2018	2019
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- In the description of the intake process, attention is required regarding informing detainees and the registration thereof.

2016	2018	2019
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2.4.3 Activities program

Status 2019

As of 2019, a number of activities will be offered at the prison, namely General Education Development (GED), English, Bible studies and music lessons. The computer room is fully equipped and was put into use during the week when the Council's inspectors visited. The sports teacher is back at work after being temporarily absent. According to the director, organizing activities remains challenging given the spatial limitations at the current prison location.

Two *memoranda of understanding* were signed. In April 2019, the Minister of Justice and representatives of the National Institute of Professional Advancement (NIPA), signed a memorandum of understanding (MOU). The objective of the MOU is to use the NIPA's expertise for the rehabilitation of prisoners through education and personal development. Short, construction-related courses will be offered such as carpentry, electrician, masonry and general maintenance. The prisoners who take these courses will also be used, as much as possible, to carry out repairs in and around the prison.

Moreover, representatives of the Ministry of Justice, the Ministry of Health, Social Development and Labor and the Foundation Judicial Institutes St. Maarten (SJIS), also signed an MOU in June 2019. This MOU is meant to facilitate various initiatives relating to training and employment opportunities for a specific target group, specifically persons with criminal backgrounds. The MOU focuses on knowledge, information sharing and training.

The prison library needs updating. A few new books were donated to the prison library via the Court in First Instance. At present, there is no cooperation with the library.² No reimbursement or other compensation will be provided in the event of a loss of work. This is not considered desirable because if there is a loss of work, this normally takes place for the sake of the safety of both staff and detainees, according to the director.

On the basis of the aforementioned, the assessment of the recommendations regarding the library and compensation remain unchanged from previous years. The assessment of the CPT recommendations regarding activities for detainees is adjusted.

Council's recommendations

<ul style="list-style-type: none"> Update the library by at least including up-to-date legal resources and research whether a partnership with the local library is possible. 	2016	2018	2019
<ul style="list-style-type: none"> Examine if it is desirable to establish policy regarding (financial) compensation for detainees in case of loss of work that is not their fault. If deemed desirable, then also establish the policy. 	2016	2018	2019

CPT recommendation

<ul style="list-style-type: none"> The CPT reiterates its recommendation that activities for prisoners be further developed, with a view to ensuring that all prisoners (including those on remand) can spend a reasonable part of the day (i.e. 8 hours or more) outside their cells engaged in purposeful activities of a varied nature: work, preferably with vocational value; education; sport; recreation/association. 	2016	2016	2018	2019
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² The local library suffered a great deal of damage from the hurricanes with an estimated loss of more than 80% of the books.

2.4.4 Accommodations and hygiene

Status 2019

New construction is not yet discussed, but in September 2019, the first (temporary) cell containers arrived on St. Maarten. The required preparations have been started in this matter. One of the biggest concerns was the prison's damaged roof. It has been repaired, and as such there are no more leaks. The repair of the so-called hostage cells is complete. There are, furthermore, sufficient cleaning products available, according to the director.

The problem of the locks not being resolved was mentioned in section 2.2.1.

Currently, up to two people are housed per cell.

The director is of the opinion, that with prevention, use of ankle monitors and alternative penalties, the overcrowding of the prison can be mitigated. However, this first requires policy from the Ministry.

Based on the aforementioned, the assessment of the five recommendations regarding accommodation and hygiene remain unchanged from the previous year. The chairs were already available in 2018.

Council's recommendations

<ul style="list-style-type: none">Encourage new construction to allow St. Maarten's prison to comply (more) with the applicable (inter)national laws, regulations and standards.	2016	2018	2019
<ul style="list-style-type: none">Ensure that the defects related to the locks of the cells are actually resolved in the very near term.	2016	2018	2019
<ul style="list-style-type: none">Make sure there are chairs in the cells.	2016	2018	2019

CPT recommendations

<ul style="list-style-type: none">The CPT recommends that cells of 10 m² do not accommodate more than two prisoners, and ideally that they only hold one prisoner. Further, the Committee would like to be informed of the state of repair of the prison following the renovation work, including as regards the association and exercise rooms.	2014	2018	2019
<ul style="list-style-type: none">The CPT recommends that the authorities of Sint Maarten adopt and implement a coherent strategy designed to combat prison overcrowding, taking due account of the relevant Council of Europe recommendations in this area, such as Recommendation			

R (99) 22 concerning prison population inflation; Rec (2000) 22 of 29 November 2000 on improving the implementation of the European rules on community sanctions and measures; Rec (2003) 22 on conditional release (parole); Rec (2006) 13 on the use of remand in custody; and Recommendation CM/Rec (2010)1 on the Council of Europe Probation Rules.

2014

2018

2019

2.4.5 Food and commissary

Status 2019

The kitchen looks clean and professional. During a previous inspection in 2018, it was established that the prison chose to hire six workers from outside the prison to work together with a number of detainees in the kitchen. Both the staff and the detainees continue to work in the kitchen. The kitchen now has a working oven. The non-functional ventilation system was repaired during the week of the Council's inspectors visit. The air conditioning has been repaired; two new units have been installed.

The assessment of the recommendation remains unchanged from the previous year.

CPT recommendation

- The CPT recommends that the current approach to employing outside workers in the kitchen be reviewed, with a view to replacing them with inmates, thus enabling more funding to be spent on food stuffs and as a result providing a more varied diet to prisoners.

2014

2018

2019

2.4.6 Social contact

Findings 2019

The payphone system is completely out of service. The director indicates that the responsible telecommunication provider responsible is unresponsive. Another attempt to contact them will be made, otherwise an alternative must be found. Calls can be made via the social worker.

The Simpson Bay border hospice is not yet in use. The telephone connection works. For more information, refer to Chapter 5.

Based on the aforementioned, the assessment of the recommendation related to social contact remains the same as previous years.

CPT recommendation

- The CPT recommends that the card phones at Pointe Blanche be repaired. Further, access to a telephone should be improved at Simpson's Bay.

2014

2018

2019

2.4.7 Access to care

Findings 2019

The findings regarding the mental health provider, the presence of the doctor and the absence of a dentist, remain, at the core, unchanged from previous years. However, Bible studies for all interested detainees have resumed.

In addition, there is no change in the situation regarding the recommendation for the preparation of a list of medication and the creation of an adequate environment for those prisoners suffering from a serious mental disorder.

Collaboration with the Mental Health Foundation (MHF) is present, but this is not yet at the desired (structural) level. The director would like to see the MHF involved in the psychological assessment as part of the intake (there is no description of this process, but the corresponding forms have been repeatedly shared). There is an agreement with the MHF that the prison's nurses will conduct the medical intake, and if necessary, the MHF will conduct its own intake. The MHF currently visits once or twice a week to treat patients and it is agreed that they will be called if needed. There are currently three prisoners with mental illnesses. Furthermore, the Ministry of Justice is exploring the possibility of establishing a forensic clinic in cooperation with the MHF. Representatives of the prison have been invited by the Ministry to *brainstorm* on this topic. It is often the case that prisoners are released without arrangements for after-care. The director held various meetings with representatives of the *Mental Health Foundation*. At the last meeting, the Minister of Justice and the director of Turning Point were also present. A MOU with the MHF will be signed soon.

The assessment of three of the four recommendations regarding access to care have remained unchanged. The assessment of the recommendation about mental healthcare has been adjusted.

Council's recommendation

● Determine whether a mental health provider can be employed.		
2016	2018	2019

CPT recommendation

● The CPT recommends that the presence of the doctor at the prison be increased to the equivalent of a half-time position. Further, provision should be made for a dentist to visit the prison once a week and for the dentist's surgery to be properly equipped.		
2014	2018	2019
● The CPT recommends that the authorities draw up a list of medication that should in every case be distributed by health-care staff (such as anti-psychotics, methadone and antiretroviral drugs) and to put in place procedures for the distribution of other medication that guarantees confidentiality. Further, the health-care service should ensure that the drugs chart, showing which prisoner was provided with which		

medication and when, is properly maintained, and that all missed medication dosages are recorded.

2014	2018	2019
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- The CPT recommends that the Sint Maarten authorities take the necessary steps to ensure that prisoners suffering from a serious mental disorder are cared for in an adequately equipped hospital environment. Further, it would like to receive details of the treatment afforded to the above-mentioned prisoner since the time of the visit.

2014	2018	2019
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2.4.8 Sanctions and measures

Status 2019

The recommendation was already followed up in 2018. This remained unchanged in 2019.

Council's recommendation

- Make sure that sanctions are always issued by a competent officer.

2016	2018	2019
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2.4.9 Complaint handling and supervision

Findings 2019

In the first half of 2019, changes took place within the Supervisory Committee (CvT). Four members left and there were two incoming members, including a new president. There have been meetings with the director, the monthly commissioner visits the prison every month and the last meeting of the CvT took place at the prison. In addition, in July 2019, the CvT presented its first half-year report to the Minister of Justice.

The complaint procedure has not been revised.

Based on the aforementioned, the assessment about the recommendation for biannual reporting by the CvT was adjusted. The assessment of the recommendation regarding the revision of the complaint procedure remains unchanged.

Council's recommendation

- Encourage the Supervisory Committee to report about its activities biannually.

2016	2018	2018	2019
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CPT recommendation

- The CPT recommends that the Sint Maarten authorities review the current system of complaints, (...).

2014	2018	2019
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2.5 Personnel and organization

2.5.1 Care of human resources

Findings 2019

As stated in the introduction of this chapter, there is a new director at the prison as of March 2019.

The draft function book for the prison was signed by the director and presently is being evaluated by the consultant. The director explained that short-term approval will not hinder future amendments of the function book. The vacancies for a head of operations and a head for the corrections unit remain unfilled.

A cautious start has been made in terms of cleaning up the personnel files. There is still no absenteeism policy. The director reports that absenteeism remains high. As a result, and also due to staffing shortages, overtime remains unchanged. The objective is to stop the overtime for managerial staff. Overtime for remaining staff members will be addressed when there is sufficient staff available.

Management indicates that the KPSM organized an Integrated Professional Skills Training for prison staff in 2019. Additionally, other training courses will resume and the possibility to acquire online courses is being evaluated. In June 2019, training started for about twenty newly recruited employees. A second group cannot start because of the lack of money. In the interim, steps are being taken to renovate the *Justice Academy*.

Given the aforementioned, the assessment of the recommendation regarding the personnel issues remains unchanged. The recommendation about increasing the number of staff members and training of personnel has been adjusted. The assessment of the recommendation regarding absenteeism is the same as previous years.

Council's recommendation

- Ensure clean-up of the personnel files in the foreseeable future.

2016	2016	2018	2019
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- Make sure there is a workable absenteeism policy.

2016	2018	2019
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CPT recommendations

- The CPT recommends that the Sint Maarten authorities take the necessary measures to increase the number of prison officers employed as well as to develop the capacity and role of prison officers, in the light of the above remarks. In parallel, the amounts of overtime should be reduced and the levels of, and reasons for, absenteeism tackled.

2014	2018	2019	2019
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- The CPT recommends that all prison officers be offered regular in-service training.

2014	2018	2019	2019
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2.5.2 Communication

Findings 2019

The three-times-a-week briefings on Monday, Wednesday and Friday have been temporarily halted to allow rules to be drafted regarding management's expectations for participating staff. The director also intends to draft a communication plan. Furthermore, external communication between the management of the prison and other partners in the justice chain, including the CvT and the Ministry, has improved.

Based on the aforementioned, the assessment of the recommendation regarding establishing a communication structure remains unchanged. In light of the developments, the Council expects the recommendation will be followed in the near term.

Council's recommendation

- Make sure that a formal communication structure for both internal and external communication is established.

2016	2016	2018	2019
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2.5.3 Integrity

Findings 2019

The director indicates that he needs to check the status regarding drafting of an integrity plan.

The assessment of the recommendation about integrity is the same as the previous year.

Council's recommendation

- In the 2016 report, the Council stated that the prison needed an updated and established integrity plan. The Council previously issued recommendation on this matter and referred to them.

2016	2018	2018	2019
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2.5.4 Evaluation

Findings 2019

In view of all the aforementioned, it is indicated that evaluation is currently on hold.

The assessment of the recommendation about evaluation remains the same as previous years.

Council's recommendation

- Periodically evaluate the various aspects of the prison's functioning and, if necessary, amend policy and implementation on the basis of the results.

2016	2018	2019
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3 Findings Miss Lalie Center

3.1 Introduction

The *Miss Lalie Center* became operational in December 2014. This was after the CPT's 2014 visit. As such, there are no CPT recommendations about the youth rehabilitation center.

In 2016, the Council published the report entitled '*Juvenile rehabilitation center St. Maarten: a baseline study of the Miss Lalie Center*'. The baseline study was mostly positive about the institution, but there was room for improvement. In that report, the Council issued eight recommendations regarding the MLC.

Council's recommendations

<ul style="list-style-type: none">• Take care of the formal incorporation of the juvenile judicial institution within the government organization and establish the availability of sufficient resources. Let go of the pilot project approach.:	
2016	<i>2019 recommendation will be reviewed and assessed after opening</i>
<ul style="list-style-type: none">• Ensure that the staff is appointed in accordance with the applicable regulations. Manage a personnel policy and respect made agreements. Ensure that staff are qualified or will be qualified;	
2016	<i>2019 recommendation will be reviewed and assessed after opening</i>
<ul style="list-style-type: none">• Ensure a full educational curriculum;	
2016	<i>2019 recommendation will be reviewed and assessed after opening</i>
<ul style="list-style-type: none">• Ensure that the juveniles have a full day program and perform useful daily activities;	
2016	<i>2019 recommendation will be reviewed and assessed after opening</i>
<ul style="list-style-type: none">• Take care of an emergency plan. Educate the staff for emergencies and first aid. Provide safety training;	
2016	<i>2019 recommendation will be reviewed and assessed after opening</i>
<ul style="list-style-type: none">• Ensure that guarding personnel are adequately trained to ensure the safety and equipped for interaction with of the target group;	
2016	<i>2019 recommendation will be reviewed and assessed after opening</i>
<ul style="list-style-type: none">• Make sure that a (the) Supervisory Committee is in office. Take care of a procedure for complaints;	

2016	<i>2019 recommendation will be reviewed and assessed after opening</i>
<ul style="list-style-type: none"> Adjust the physical protection in such a way that no contraband can be thrown over the walls or may be shoved underneath the gates. Ensure a functioning detection gate and if possible, a scanner. 	
2016	<i>2019 recommendation will be reviewed and assessed after opening</i>

The building suffered a lot of damage from Hurricanes Irma and Maria in 2017 and has since been shut. The Ministry is currently working diligently to remodel and reorganize the institution. As such, during the Council's visit, it was (virtually) impossible to review whether the Council's 2016 recommendations were followed up. The Council has decided not to present a color in the table above. In the following section, the Council provides a brief account of its May 2019 visit to the MLC.

3.2 Findings

During the inspectors' visit to the MLC in May 2019, the institution was expected to reopen its doors in August 2019. The plans were in an initial phase. Phase one means work with a high priority, in other words, required for the reopening, were carried out first. This includes recruiting qualified personnel and putting security in order. Thereafter, the next phase could begin.

The staff that was already employed were not yet convinced that the facility could open within the time planned. The primary reason being that staff needed for critical functions (behavioral expert and social worker) still needed to be recruited. A vacancy for the behavioral expert for the MLC was (again) advertised with a closing date of July 19, 2019. In addition, they would have to acclimatize and familiarize themselves with the house rules and work practices. Furthermore, recruitment of new staff is generally challenging, because of the lack of a formalized function book. At the opening of the MLC, a maximum of 10 persons will be employed to work in two shifts. The staff remain hopeful that everything can be achieved in the shortest time possible.

The camera security system has since been upgraded from analog to digital, which will reduce system failures. Outside near the recreation field, the loose barbed wire has been repaired.

A maximum capacity for housing juveniles at the MLC will have to be determined. The facility was originally built to house 10 juveniles between the age of 12-18. While the sleeping quarters can, in principle, accommodate 20 juveniles, the recreational and educational areas are unable to facilitate this number.

The facility is also equipped with a kitchen where juveniles can prepare meals under supervision. The kitchen facilities require some repair, including air conditioning and sinks. The juveniles only have supervised access to the kitchen and no access to offices; those are equipped with security that requires a pass. The behavioral expert's office has a view of the recreation room in order to allow monitoring of activities. The visitation room is also physically monitored. Due to privacy rules, cameras are not allowed to be placed in that area. The rules for visitation are clearly visible to both the juveniles and their visitors.

The sleeping areas are located on the first floor. They are only accessible using an access pass. There are two units containing five rooms each with bunk beds. Every room is equipped with an intercom system. The new doors for the rooms have been received and installed in one wing. The other wing is being prepared. Some rooms still need to be painted. Also, each department has an emergency exit. On this floor there are also rooms available for a doctor and staff. The bathrooms inside the rooms were, in first instance, equipped with a door, but based on negative experiences with aggressive juveniles, the doors will not be replaced. Other options are being considered to provide the juveniles with privacy when using the bathroom.

The Minister of Justice provided stakeholders, including the Council, a tour of the MLC on August 21. Shortly thereafter, the facility was reopened and offers shelter to two minors. Staff will be recruited and hired as the facility slowly becomes operational.

The Council is planning an inspection.

4 Findings regarding cells at the main police station

4.1 Introduction

In recent years, more attention has been given to the fact that the detention system on St. Maarten fails to meet (inter)national standards. Following the ruling by the European Court of Human Rights of October 2018,³ additional attention was given to the dire circumstances within the detention system. Specifically, the concern is related to the cells at the main police station in Philipsburg. The Court held, among others, that there was a breach of Article 3 of the European Convention on Human Rights (prohibition of inhuman or degrading treatment) in those cells.

The main police station suffered extensive damage from Hurricanes Irma and Maria in 2017. As part of reconstruction, the main police station, including the police cells, underwent an initial renovation in 2019. The cells are painted, among other things, which gives a neater impression when entering the detention facility.

4.2 Detention conditions

4.2.1 Accommodations

CPT recommendations

The CPT recommends that urgent steps be taken to improve the conditions of detention at Philipsburg Police Station, in particular:	
<ul style="list-style-type: none">All detained persons should be provided with at least 4 m² of living space per person in multi-occupancy cells;	
2014	2019
<ul style="list-style-type: none">All detained persons should be provided with their own bed;	
2014	2019
<ul style="list-style-type: none">All detained persons should be provided with a sheet, pillow and towel from the moment they are accommodated in this facility, as well as with hygiene products and cleaning materials for the cell;	
2014	2019
<ul style="list-style-type: none">Ventilation and access to natural light should be improved;	
2014	2019
<ul style="list-style-type: none">All sanitary annexes should be partitioned up to the ceiling and leaking toilets and pipes repaired;	
2014	2019

³ [EHRM Corallo v. Kingdom of the Netherlands, no. 29593/17](#)

- All cells should be equipped with a call bell.

2014

2019

Findings 2019

The cells are different sizes and therefore have differing capacities. They are used to house between two and five detainees. During the inspection, five detainees were held in a single cell. One of the five did not have a bed, only a mattress. When asked he indicated he had made that choice himself. During the visit, there were several empty cells. The staff indicated that the requirement of 4 m² per person can be met depending on the total number of detainees. All detainees are provided with a mattress and blanket. After a brief interview with the inspectors, the detainees indicated they would like to have a pillow as well. According to staff members, detainees are provided with sufficient cleaning products. In principle, family and friends take care of hygiene products.

In general, the five detainees occupying one cell spoke positively about the facilities and the way they were treated. They were only critical about the lack of privacy when using sanitary facilities. In order to use the toilet or shower, they must first ask the staff to turn on the water. Furthermore, the sanitary facilities are not enclosed from the rest of the cell up to the ceiling. According to those present, there are no leaking toilets.

In contrast, there were five Spanish-speaking undocumented persons present; three women in one cell, of which one, at her own request, on a mattress, and two men in another cell. During a brief interview, partly translated by the staff, of the remand center they expressed their dissatisfaction to the inspectors. It concerned the length of their detention and contact with the outside world. For more, please refer to section 4.2.2.

The cell complex is staffed by two persons from the remand center, while the requirement is for three persons (two are concerned with the detainees and one stays at the central post). The workday is divided into three shifts. Because of security, two staff members have to be present to speak with the detainees. In practice, staff shortages cause the central to be unmanned regularly. The cells are not equipped with an intercom system. This means that detainees constantly must shout to get the attention of the two staff members. The safety of everyone in the cell complex is compromised because the camera system is not operational. Repairs of both the camera system and the intercom are expected shortly.

The open-air exercise area looks neat and clean. The detainees are allowed into this open area which has direct sunlight, twice daily. They are allowed a total of one hour of open-air time each day. Because of the staff shortage it is not possible to grant them more time, according to the staff. A maximum of five detainees may be in the area at one time. That is a safety measure. Cell inspections are conducted during the open-air time on an ad hoc basis, according to the staff.

Lights in the cells were off during the inspection. The detainees indicated that it was at their request, because the lights generate a lot of heat. They are turned on when specifically requested.

A strong smell associated with sewage (sometimes) is a nuisance for the staff and the detainees.

On the basis of the aforementioned, the assessment of four of the CPT's six recommendations were adjusted.

4.2.2 Maximum detention period

CPT recommendation

- Moreover, the CPT recommends that persons should not be detained at Philipsburg Police Station in excess of three days and in any event never longer than 10 days. The facility is totally inappropriate for holding remand and sentenced prisoners, and the CPT recommends that they be moved to alternative accommodation as soon as possible.

2014

2019

Findings 2019

During the inspection, there were a total of fifteen detainees, including a number of undocumented persons, and one convicted prisoner in the cell complex. Three of the fifteen were women and the rest were men. The responsibility for informing detainees, for example about their stay, or providing access to a telephone rests, depending on the status of the detainee, with the police or the Immigration and Naturalization Service, according to the staff. When it comes to requesting medical attention, staff act immediately by calling a doctor.

Point of departure, according to the staff, is that detainees can remain for a maximum of ten days in the cells at the police station. During the inspectors' visit, (undocumented) persons were found to be present who had (far) exceeded that maximum. The undocumented persons, who were detained at the time of the inspection, indicated that they had been detained for a period of twenty-two days. This, according to them, without having been given any reason (despite repeated requests) nor contact with family or a lawyer. The staff that was present stated that the undocumented persons are the responsibility of the Immigration and Naturalization Service and requests have to be dealt with by that service.

Additionally, one convict was brought from the Pointe Blanche prison to the cell complex. He suffers from psychological problems and has been detained at the complex for a long time for his own safety. The convict is a nuisance as he causes lots of noise in an already noisy environment.

Based on the aforementioned, the assessment of the recommendation remained the same as in 2014.

4.2.3 Minors

CPT recommendation

- The conditions of detention at Philipsburg Police Station were totally inappropriate for

juveniles. The CPT recommends that alternative arrangements be made to hold juveniles in appropriate accommodation whenever it is considered necessary to deprive a juvenile of his or her liberty.

2014

2019

Findings 2019

A single police cell is kept open with space for three minors. In the State of Law Enforcement (2018), the Council stated the following:

“As of September 2017, and for all of 2018, the Miss Lalie Center was not operational. This meant that all juveniles spent, at most, a few days in the cell complex at the police station, after which they had to be released - despite often serious offences – due to the lack of youth-appropriate and (inter)nationally compliant facilities.”

As indicated previously, the MLC was reopened in August 2019 and now houses two underage boys. With the opening, minors can be housed appropriately in the event of detention. The assessment of the recommendation on minors has therefore been adjusted on the basis of the aforementioned.

5 Findings Simpson Bay border hospice

5.1 Introduction

The Minister of Justice, by ministerial order dated October 13, 2017,⁴ formally decreed that the entire building in Simpson Bay be designated as a house of detention and thereby no longer characterized as a border hospice. The building is currently in limited use. One of the main reasons for this is the lack of sufficient staff and because repairs are still needed.

One of the floors is being used as a training site for the prison guards/security guard recruits who were hired in June. In addition, the facility was used as a temporary emergency shelter to house a minor in August before being transferred to the MLC.

5.2 Findings

5.2.1 Accommodations

CPT recommendations

The CPT recommends that the necessary steps be taken to remedy the deficiencies outlined, for as long as Simpson Bay continues to be used for holding prisoners.

Deficiency outlined:

- However, there was little ventilation and the toilets, lined up in a row, provided no privacy as there was no door enclosing each cubicle.

2014

2019 recommendation will be reviewed and assessed after opening

- As for the regime, the women had access to an association room from 8 a.m. to 5 p.m., where they could watch television, and an effort had been made to initiate a series of activities such as anger management, Bible and English language classes for two and a half hours twice a week. Moreover, the women were not offered any outdoor exercise. Taken together this does not constitute a sufficient programme of purpose activities.

2014

2019 recommendation will be reviewed and assessed after opening

- The conditions of detention in the two dormitories on the second floor, which were accommodating male prisoners, were of a similar standard. Although they were

⁴Because of the damage caused by Hurricane Irma to the designated prison and remand center in Pointe Blanche a significant amount of detention capacity can no longer be used: as such there is an urgent need for replacement detention capacity; that this replacement detention capacity can be created in the building located on the parcel of land on Simpson Bay Road no. 1, cadastrally designated under certificate number 1/1997 (former border hospice); whereas in accordance with article 5, third paragraph of the National Ordinance principles of detention facilities, the Minister of Justice can determine, in the public interest, that those sentenced to a prison term can temporarily be housed at a remand center or detention center.

offered access to an outdoor exercise yard every day, they were not provided with any activities.

2014

2019 recommendation will be reviewed and assessed after opening

- While bearing in mind that holding prisoners at Simpson Bay is supposed to be a temporary measure (up to some four months at the time of the visit), it is nevertheless important that prisoners are provided with decent material conditions and that they are offered some purposeful activities. Further, they should all be offered at least one hour of outdoor exercise every day.

2014

2019 aanbeveling zal na opening geïnspecteerd en beoordeeld worden

- (The CPT recommends that the card phones at Pointe Blanche be repaired.) Further, access to a telephone should be improved at Simpson's Bay.

2014

2019 recommendation will be reviewed and assessed after opening

Findings 2019

The building does not function as a border hospice, no one is currently housed in this location. It is therefore impossible to review the CPT's recommendations. Although the building looks to be in pretty decent condition, it was clear that improvements and repairs needed to take place before the building could be put back into service. Examples include sanitary facilities, placement of fans and the repair of the camera and alarm system. Part of the required work has started.

The Council understood from the director that they were busy with plans for the temporary transfer of almost all prisoners at the remand center in Pointe Blanche to locations in Simpson Bay and Philipsburg for a period of two to three months. The reason for this is the complete renovation of all (remand center) cells in Pointe Blanche (including painting, application of epoxy and new locks). To do this, all cells need to be empty because of the paint fumes. The prisoners will themselves be deployed to carry out the work.

As soon as the location can be used as a border hospice, the Council will once again visit.

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