



General review recommendations Sint Maarten

Sub-inspection 4:

**Bureau Internal Affairs of the Sint Maarten Police Force;
Police education in Sint Maarten;
Use of force by and against the police in Sint Maarten.**

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Client: Law Enforcement Council

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List of abbreviations

<i>Abbreviation</i>	<i>Meaning</i>
BavPol	Extraordinary police officer (<i>Buitengewoon ambtenaar van politie</i>)
BES	Bonaire, Sint Eustatius en Saba
BIZ	Bureau Internal Affairs Sint Maarten (<i>Bureau Interne Zaken Sint Maarten</i>)
BOA	Extraordinary investigative officer (<i>Buitengewoon opsporingsambtenaar</i>)
BPO	Basic police training (<i>Basis politie opleiding</i>)
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
CvK	Board of Chiefs of Police (<i>College van Korpschefs</i>)
HOvJ	Chief public prosecutor (<i>Hoofd Officier van Justitie</i>)
IBT	Integral Professional Skills Training (<i>Integrale Beroepsvaardigheid Training</i>)
JVO	Judicial Quadripartite Consultation (<i>Justitieel Vierpartijen Overleg</i>)
KPSM	Police Force Sint Maarten (<i>Korps Politie Sint Maarten</i>)
LRSM	National Detectives Sint Maarten (<i>Landsrecherche Sint Maarten</i>)
MvJ	Minister of Justice (<i>Minister van Justitie</i>)
OM	Public Prosecutor's Office (<i>Openbaar Ministerie</i>)
OMT	Operational Management Team (<i>Operationeel Management Team</i>)
ORV	Law Enforcement & Security Training Institute (<i>Opleidingsinstituut Rechtshandhaving & Veiligheidszorg</i>)
PA	Netherlands Police Academy (<i>Nederlandse Politie Academie</i>)
Raad	Law Enforcement Council (<i>Raad voor de rechtshandhaving</i>)
VROMI	Ministry of Public Housing, Spatial planning, Environment and Infrastructure (<i>Ministerie van Volkhuysvesting, Ruimtelijk Ordening, Milieu en Infrastructuur</i>)

Foreword

In 2020, the Law Enforcement Council in Sint Maarten launched a general inspection into the implementation of all recommendations made by the Law Enforcement Council through 2018¹. In view of the large number of recommendations, sub-inspections were chosen, each addressing a number of specific topics. You have before you the fourth sub-inspection. It examined the extent to which the recommendations regarding the police have been implemented. It concerns the recommendations from the following reports:

- *Bureau Internal Affairs of the Sint Maarten Police Department (BIZ; 2018: 6 recommendations);*
- *Police Education in Sint Maarten (2013: 11 recommendations);*
- *Police Education in Sint Maarten. A follow-up inspection (2017: 11 recommendations);*
- *Use of Force by and against the Police in Sint Maarten (2014:13 recommendations);*
- *Review inspection on the implementation of the recommendations on the use of force by and against the police in Sint Maarten (2019: 13 recommendations).*

This fourth sub-inspection shows that out of a total of 30 recommendations, 20 recommendations have been addressed, 4 recommendations have been partially addressed and 6 recommendations have not been addressed. Overall, it is reported that most of the recommendations have been addressed.

As with previous Law Enforcement Council inspections, the organizations and individuals involved cooperated constructively during the inspection. The Law Enforcement Council again thanks the individuals approached for their cooperation.

The follow-up and implementation of the recommendations not (fully) addressed or implemented has now taken almost 10 years. The Law Enforcement Council therefore assumes that this inspection will result in the recommendations, now being implemented expeditiously by the Minister of Justice. This is in view of the social importance they represent. The Law Enforcement Council will continue to periodically monitor the progress of the pending recommendations.

THE LAW ENFORCEMENT COUNCIL

Mr. E.R.A. Morillo, chairman,
Mr. M.R. Clarinda,
Mr. M.I. Koelewijn.

¹ This is in line with the Council's review period of (at least) 2 years. However, the Council may include in the sub-inspections as part of the general review the results of the review reports up to and including the year 2020, since these do not make any new recommendations, but rather evaluate the follow-up of recommendations made earlier.

Summary and recommendations

Summary

Introduction

In 2020, the Law Enforcement Council began a general inspection in Sint Maarten into the status of all recommendations made by the Law Enforcement Council to the Minister of Justice through 2018. Given the large number of recommendations made by the Law Enforcement Council to date, the Law Enforcement Council is working by means of sub-inspections, each addressing a number of specific topics. This report is the fourth sub-inspection. In this report, the Law Enforcement Council examined the extent to which recommendations from three reports have been addressed. These are the reports on the Bureau Internal Affairs of the Sint Maarten Police Force (BIZ; 6 recommendations), police education (11 recommendations) and the use of force by and against the police (13 recommendations). Regarding the aforementioned topics on police education and use of force by and against the police, the Law Enforcement Council conducted a follow-up investigation in 2017 and 2019, respectively, and this current sub-inspection is a second follow-up investigation. Regarding the BIZ, a follow-up survey was conducted for the first time through this inspection in 2023. The status of compliance with the recommendations is presented separately for each report.

The Bureau Internal Affairs

The follow-up of the recommendations regarding the BIZ has greatly improved compared to the situation in 2018. All six recommendations have been followed up. Where there were no written work and process descriptions, regarding communication, registration and prioritization and forms of consultation, this is now the case. The standard contents of an investigation dossier have also been determined and are now constructed accordingly. The fact that the work and process descriptions are now available in writing provides more insight into the work of the BIZ. The placement of a new BIZ coordinator has also provided the necessary continuity within the department. Furthermore, repairs have been made to the roof of the office and there are adequate materials and storage facilities.

The new BIZ organizational process - driven by the Board of Chiefs of Police - has played an important role in following up on some of the recommendations. The process focuses on training both BIZ employees and police force management to, among other things, promote integrity within the organization. However, raising and maintaining the level of integrity within the organization also requires a culture change within the organization.

The Council made regarding the BIZ a new recommendation to the Minister on the timeliness of decision-making in response to investigations.

Table 1: state of affairs follow up recommendations BIZ

Number	Recommendations Bureau Internal Affairs	Follow up 2023
	To the Minister of Justice	
A1	Provide work and process descriptions for the Bureau of Internal Affairs. Include at least communication, registration, prioritization and forms of consultation.	Followed
A2	Ensure timely succession of the head of the Bureau of Internal Affairs.	Followed
A3	Provide repairs to the roof of the Bureau of Internal Affairs.	Followed
A4	Provide adequate equipment and storage facilities.	Followed
A5	Determine what information should be present in a standard dossier and, based on that, ensure that the dossiers are complete.	Followed
A6	From a management perspective, ensure that there is greater visibility of the work of the Bureau of Internal Affairs.	Followed

Police education in Sint Maarten

In the area of police education, of the 11 recommendations, six recommendations have been addressed, two recommendations have been partially addressed and three recommendations have not been addressed. The three recommendations that have been addressed in 2023 concern the entry into force of the Police Force Sint Maarten (KPSM) Legal Status Decree, the establishment of selection standards and training requirements for the (candidate) extraordinary police officer and the establishment of a multi-year training plan by the KPSM.

The recommendations yet to be addressed relate to the Mutual Regulation containing quality, education and training requirements for the police of Curaçao, Sint Maarten and of Bonaire, St. Eustatius and Saba as well as the associated competency-based learning outcomes. These have not yet been formalized in local legislation and therefore the recommendation on this has been assessed as partially addressed.

Requirements about the educational level of the (candidate) aspiring officer are partly included in the KPSM Legal Status Decree. In addition, the training programs of the KPSM are realized through the quality impulse based on competency-based learning outcomes that the countries have jointly agreed upon. However, because the requirements have not yet been fully established in a national decree containing general measures, this recommendation is also assessed as partially addressed.

Furthermore, the Minister has not yet decided on the desirability of a police training school. However, the establishment of a Justice-wide Law Enforcement Institute is being discussed and explored by the ministry. The recommendation has been assessed as not addressed.

Furthermore, the financing of KPSM training is still not sufficiently guaranteed in the country's budget and the outdated provisions in the National Decree on Police Personnel Education have not been revised. The two recommendations in this regard were assessed as not addressed.

Table 2: state of affairs follow up recommendations Police education

Number	Recommendations police education	Review 2017	Follow up 2023
	To the Minister of Justice		
A1	Promote that both the mutual regulation concerning quality requirements, education and training requirements of the police of Curaçao, Sint Maarten and of Bonaire, Sint Eustatius and Saba as well as the competence-based learning outcomes will soon be established by national decree containing general measures.	Not followed	Partially followed
A2	Ensure that the Sint Maarten Police Force Legal Status Decree enters into force as soon as possible.	Not followed	Followed
A3	In accordance with the provisions of the KPNA Legal Status Decree, establish requirements regarding the level of training of the aspiring police officer and designate specific training tracks based on the competency-based learning outcomes.	Not followed	Partially followed
A4	Review within a reasonable time the more outdated provisions in the National Decree on Police Personnel Education.	Not followed	Not followed
A5	Make a decision within a reasonable time on the desirability of a police training school in Sint Maarten.	Partially followed	Not followed
A6	Formulate selection standards, education and training requirements for the training of the extraordinary police officer and training requirements and selection standards for the candidate extraordinary police officer.	Partially followed	Followed
A7	Guarantee funding for the training required for the KPSM in the country's budget for 2014 and subsequent years.	Not followed	Not followed
	To the Minister of Justice regarding the KPSM		
A8	Promote that the Sint Maarten Police Force establish a multi-year training plan in the near future.	Partially followed	Followed
A9	Promote the launch of basic police training in the near future.	Followed	-
A10	Encourage experienced police officers to participate in advanced training.	Followed	-
A11	Encourage cooperation with Curaçao and/or the BES regarding basic police training and advanced training.	Followed	-

Use of force by and against the police in Sint Maarten

Of the thirteen recommendations, eight were fully followed, three were partially followed and two were not followed. The two recommendations implemented in 2023 concern the establishment of the Police Complaints Committee and the viewing of the Integral Professional Skills Training (IBT) as a matter of course and obligation by officers.

The recommendations that have been partially followed concern the compiled tests that have not yet been formally established, however, officers are similarly tested through the aforementioned IBT. Furthermore, the National Detectives has not yet been deployed in all cases in which it is authorized. This is mainly due to the known lack of capacity at the National Detectives.

Regarding the three recommendations that have not been followed, the following. The Mutual Regulations on Police Equipment Curaçao, Sint Maarten and Bonaire, Sint Eustatius and Saba and the Mutual Regulation on Qualification requirements, Education and Training of the Police of Curaçao, Sint Maarten and Bonaire, Sint Eustatius and Saba have not been established by national decree containing general measures (see also the paragraph on police education). The lack of capacity at the Judicial Affairs Department of the Ministry is largely to blame for this. In practice, however, the foregoing has little impact on the day-to-day operations of the KPSM.

Furthermore, the physical fitness of police force members is not proactively and structurally promoted by the KPSM nor by the Ministry, this is due to budgetary constraints. Both refer to the IBT for this purpose. Furthermore, the weapons policy - whether to carry the service weapon off-duty - has still not been brought in line with legislation in this area.

Table 3: status of follow-up on recommendations on the use of force by and against the police

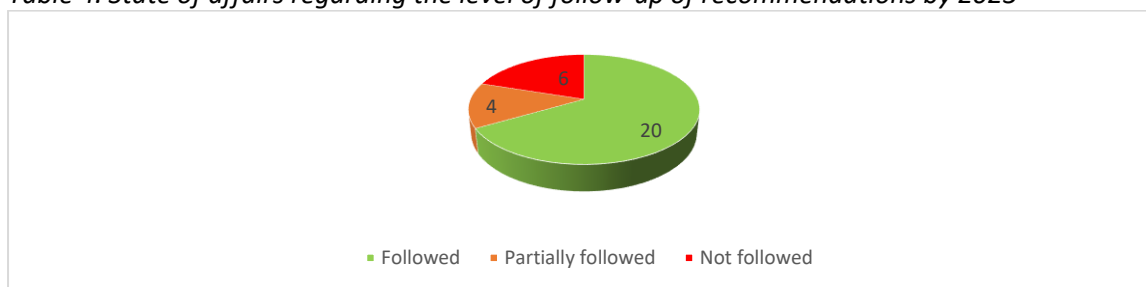
Number	Recommendations use of force by and against the police	Review 2019	Follow up 2023
	To the Minister of Justice		
A1	Promote that both the mutual regulations concerning equipping the police of Curaçao, Sint Maarten and Bonaire, Sint Eustatius and Saba and the mutual regulations concerning quality requirements, education and training requirements of the police of Curaçao, Sint Maarten and Bonaire, Sint Eustatius and Saba are established by national decree containing general measures.	Not followed	Not followed
A2	Establish the compiled tests in the near future so that all police officers are tested in the same manner and at the times required by law.	Not followed	Partially followed
A3	Ensure that the Police Complaints Committee is established in accordance with the law.	Not followed	Followed
A4	Engage the National Detectives in all cases in which it is authorized by law.	Partially followed	Partially followed
	To the Minister of Justice regarding the KPSM		
A5	In accordance with the law, give all police officers the opportunity to regularly refresh their knowledge on the laws and regulations on the use of force and their authority to use force.	Followed	-
A6	Promote that all members of the force attend the integral professional skills training at least 2 to 4 days per year to maintain their knowledge and skills on the use of force.	Followed	-
A7	Promote the physical fitness of police force members.	Not followed	Not followed
A8	Promote that all police officers see the integral professional skills training as a matter of course and obligation.	Partially followed	Followed
A9	In the short term, invest in the shooting skills of members of the police force.	Followed	-
A10	Pay attention during coaching, education and training on how to handle and avoid the use of unnecessary force, verbal abuse and excessive force by officers and the use of (verbal) force against officers.	Followed	-
A11	Continue to invest in mentoring.	Followed	-

Number	Recommendations use of force by and against the police	Review 2019	Follow up 2023
A12	Pay attention during coaching, education and training to the reporting and recording of the use of force by police force members.	Followed	-
A13	Bring the weapons policy of this KPSM in line with the legislation on this.	Not followed	Not followed

Overall state of follow-up 2023

This fourth sub-inspection shows that out of a total of 30 recommendations, 20 were fully followed, 4 were partially followed and 6 were not followed. Overall, it can therefore be said that most of the recommendations have been followed. The Law Enforcement Council notes in this report, as in the previous sub-reports, that where the organization, specifically the Sint Maarten Police Force (KPSM), is responsible for following up the recommendations, this has often been done within their capabilities. However, where the KPSM is dependent on the Ministry of Justice in particular for the follow-up of the recommendations, that follow-up is stagnant. The Council pointed out that failure to follow the recommendations could create the necessary risks for both the KPSM and the community. Table 4 shows the state of affairs regarding the level of follow-up on the recommendations in 2023.

Table 4. State of affairs regarding the level of follow-up of recommendations by 2023



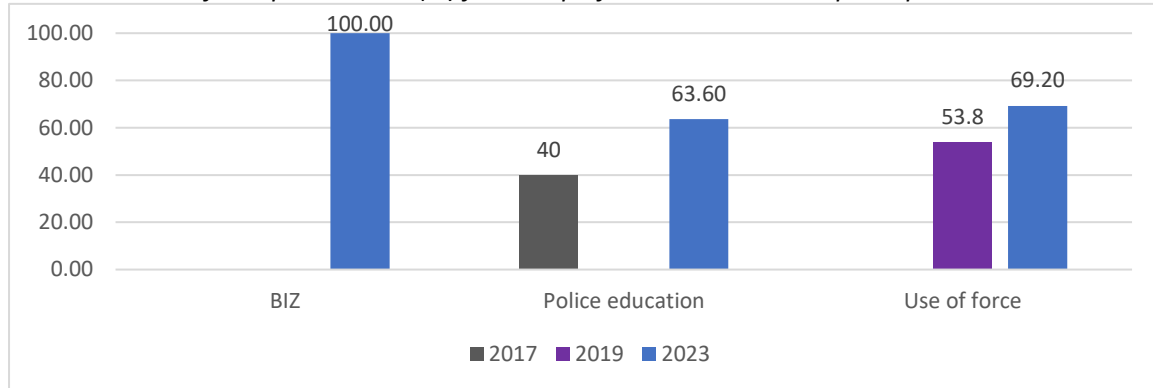
Overarching analysis

The bottlenecks that cause not all the recommendations to be followed concern in particular the lack of preconditions of a financial and human nature at the KPSM and the Ministry. This is also consistent with previous (sub) inspections by the Council. Of the total of 10 partially - and not - followed recommendations, one recommendation requires primarily financial action and the remaining nine recommendations require primarily non-financial actions. Furthermore, the Council found that the topics are inextricably linked, which means that not following the recommendations on one topic can have (negative) consequences for other topics.

In conclusion

As an indicator, the Law Enforcement Council has expressed the status of each report - and where applicable compared to the previous report - as a compliance rate and presented it visually in the table below.

Table 5. Status of compliance rate (%) follow-up of recommendations per report



Recommendations and monitoring 2024

Based on the above, the Law Enforcement Council made the following recommendations:

To the Minister of Justice:

- Implement the 10 recommendations of the Council not yet (fully) followed (see also Appendix 1) and make the necessary resources available in the shortest possible time span.

To the Minister of Justice regarding the BIZ:

- Ensure that consultation takes place among all stakeholders and arrangements are made to ensure that the competent authority makes the necessary decisions on pending internal investigations as soon as possible. And ensure that steps are taken so that decision-making on new investigations takes place within the established timeframe.

The Law Enforcement Council will continue periodic monitoring of the progress of the recommendations to be acted upon in 2024 and may include those under the three topics in this report.

1. Introduction

1.1 Introduction and rationale

Introduction

The Law Enforcement Council (the Council) issued more than 100 inspection reports as of 2012. Among other things, the Council examined the effectiveness, quality of task performance and management of the judicial chain organizations in Curaçao, St. Maarten, Bonaire, St. Eustatius and Saba, as well as the quality and effectiveness of judicial cooperation between the countries.

The Council provides independent information on the quality of law enforcement in Sint Maarten and makes recommendations on this in its inspection reports. These enable the Minister to take measures to improve the situation. By ensuring that the Minister follows up on these recommendations, the Council contributes not only to the quality of law enforcement, but also to the confidence citizens have in law enforcement.

Until now, monitoring of the follow-up of the recommendations took place when a follow-up inspection (review) was conducted after at least two years and was looked back on annually in the State of Law Enforcement. In 2020, the Council (in addition) started to intensify the number of follow-up surveys to evaluate how the Minister has followed up on previous Council findings and recommendations.

Rationale

The Council published a total of 60² inspection reports on a variety of topics in Sint Maarten through June 2023, more than half of which have so far been monitored in a follow-up inspection. Most of these follow-up reports reveal that adequate follow-up of the recommendations is a bottleneck. Therefore, the Council believes that the most added value can currently be gained in Sint Maarten by following up on all recommendations made by the Council up to and including 2018.³ The focus is therefore from 2020 on a general review (follow-up inspection) of the follow-up of the previously made recommendations per judicial organization. Then, based on all results, progress can be monitored.

Given the large number of recommendations, the general review takes place in phases through sub-inspections. This fourth sub-inspection covers the following five (follow-up) reports:

- *Bureau Internal Affairs of the Sint Maarten Police Department (BIZ; 2018: 6 recommendations);*
- *Police Education in Sint Maarten (2013: 11 recommendations);*
- *Police Education in Sint Maarten. A follow-up inspection (2017: 11 recommendations);*
- *Use of Force by and against the Police in Sint Maarten (2014:13 recommendations);*
- *Review inspection on the implementation of the recommendations on the use of force by and against the police in Sint Maarten (2019: 13 recommendations).*

1.2 Research question sub-inspection

The research question in this inspection is:

² The first sub-inspection as part of the general review erroneously reflected an incorrect total number of reports published by the Council. The total number of reports published through May 2020 was not 34 but 50 reports.

³ This is in line with the Council's review period of (at least) 2 years. However, the Council may include in the sub-inspections as part of the general review the results of the review reports up to and including the year 2020, since these do not make any new recommendations, but rather evaluate the follow-up of recommendations made earlier.

To what extent are the Minister of Justice and judicial organizations following up on the Council's recommendations from 2012 to 2019⁴?

To answer the central research question, the following sub-questions were formulated:

- To what extent have the recommendations made in the report: *'Bureau of Internal Affairs'*, been followed up?
- To what extent are the recommendations made in the (follow-up) reports: *'Police Education'* followed up?
- To what extent have the recommendations made in the (follow-up) reports: *'Use of force by and against the police'* been followed up?

1.3 Demarcation

This sub-inspection focuses on following up on the recommendations in the (follow-up) reports published from 2012 through 2019.⁵ The Council has clustered a number of KPSM reports and will conduct a fourth sub-inspection on the state of affairs.⁶ This fourth sub-inspection therefore covers the five aforementioned (follow-up) reports.

1.4 Assessment framework

The starting point of this sub-inspection are the cited recommendations as contained in the aforementioned reports *'Bureau of Internal Affairs (2018), (Follow-up inspection) Police Education in Sint Maarten (2013/ 2017)* and *(Review inspection) Use of Force by Police in Sint Maarten (2014/ 2019)'*. The Council will assess the follow-up to the recommendations formulated: these form the framework.

1.5 Research Method

A database containing all reports and associated recommendations was developed by the Council in 2020. In addition, the Council included relevant information for each recommendation including the category of the recommendation, which organization the recommendation primarily pertains to, and whether or not a review inspection had taken place. All reports and recommendations relevant to this fourth sub-inspection were then identified by organization. A written questionnaire was distributed to the KPSM, the National Detectives Sint Maarten (LRSM), the Public Prosecutor's Office (OM) and the Ministry of Justice. Relevant data and documents were also requested from the aforementioned organizations. In this way, the Council gained insight into the state of affairs. The Council further conducted in-depth interviews with the Public Prosecution Service, the Ministry of Justice and the KPSM.

Where applicable, the Council processed the newly gathered information and the documents provided by the organizations. The factual findings in the report were submitted to the organizations involved for review.

1.6 Reading guide

This report is structured in the following manner. After the introductory Chapter 1, Chapters 2 through 4 present the status of the Bureau of Internal Affairs, Police Education, and the Use of Force by and Against the Police, respectively. Each chapter contains its own analysis. The final chapter (5) provides an overarching analysis. The various chapters also include tables that visually present the state of affairs.

⁴ For its general review, the Council initially considers the follow-up to the recommendations in the reports from 2012 through 2018. The initial report on the use of force by police dates back to 2014, however, the results of the 2019 review report on this subject are also included in this inspection.

⁵ The initial report on the use of force by police dates back to 2014, however, the results of the 2019 review report on this subject are also included in this inspection. As indicated earlier, the Council may include in the sub-inspections as part of the overall review the results of the review reports up to and including the year 2020, as it does not make any new recommendations but has evaluated the follow-up of recommendations made previously.

⁶ The third sub-inspection also concerned the KPSM and the following (review) reports were clustered: Investigation Process Criminal Investigation, Approach to Robberies, Criminal Seizure, Forensic Investigation.

2. State of affairs recommendations Bureau Internal Affairs

Introduction

In 2018, the Council inspected the extent to which the Bureau Internal Affairs (BIZ) of the KPSM was functioning in terms of its mission statement.⁷ In the process, the Council looked at the organization, methods, and results of the BIZ. The inspection showed that the BIZ was extremely vulnerable because it only had two employees, both of whom were approaching retirement age. In addition, there were still gains to be made in further developing and securing the operations, including by drafting work and process descriptions and having a business process system. Furthermore, the BIZ operated under unfortunate physical conditions, such as a leaking roof and outdated equipment. In response to the findings, the Council made six recommendations. In accordance with the Kingdom Act Law Enforcement Council, the MoJ sent a policy response to the report to parliament. Where relevant, the Minister's response to the report's recommendations will be discussed.

Table 6. Recommendations Bureau Internal Affairs

Number	Recommendations Bureau Internal Affairs
	To the Minister of Justice
A1	Provide work and process descriptions for the Bureau of Internal Affairs. Include at least communication, registration, prioritization and forms of consultation.
A2	Ensure timely succession of the head of the Bureau of Internal Affairs.
A3	Provide repairs to the roof of the Bureau of Internal Affairs.
A4	Provide adequate equipment and storage facilities.
A5	Determine what information should be present in a standard dossier and, based on that, ensure that the dossiers are complete.
A6	From a management perspective, ensure that there is greater visibility of the work of the Bureau of Internal Affairs.

This current review looks at the status of follow-up on the six recommendations. The recommendations are described separately in the next section.

2.1 State of affairs Bureau Internal Affairs 2023

Below, each recommendation from 2018 is presented separately with the Minister's response to it. This is followed by the 2023 findings and their assessment.

To the Minister of Justice:

A1: Provide work and process descriptions for the Bureau of Internal Affairs. Include at least communication, registration, prioritization, forms of consultation, decision-making, monitoring progress, completeness of dossiers and deadlines. The recommendation was categorized by the Council in its database as "work processes".

Policy response 2018

In the aforementioned policy response, the MoJ indicated that there would be a concrete plan for drafting the work and process descriptions and for permanently embedding the staff's acquired expertise within the BIZ. It would therefore be important that the processes were described before the two employees retired. In particular, the description would then serve the consultation structure between the BIZ, OM and the LRSM. The plan would also be to recruit an intern to support this process.

⁷ Law Enforcement Council. (2018) *Bureau Internal Affairs Sint Maarten Police Force*:

Within the Sint Maarten Police Force (KPSM) the Bureau Internal Affairs (BIZ) is charged with, among other things, investigating in response to signals of non-integrity and abuse and/or violation of procedures and/or powers. Furthermore, the BIZ has tasks in the context of prevention, complaint handling and provides the management team of the KPSM with advice.

In addition, it was reported that the Board of Chiefs of Police (CvK) was striving to unify and digitize all Internal Affairs offices on the islands.

Findings 2023

The work and process descriptions of the BIZ have been put in writing by means of an interinsular protocol internal investigations of the Dutch Caribbean Police Force, Aruba Police Force, Curaçao Police Force and the KPSM.⁸ This work process is part of the reorganization of the BIZ that is taking place on the islands of Curaçao, Aruba, St. Maarten and the islands of Bonaire, St. Eustatius, Saba (BES islands) on behalf of the CvK under the theme of integrity. This means, among other things, that the corps will be trained in stages and that all the Bureaus of Internal Affairs will be formed through the same setup. The upgrading of the knowledge of officers, work processes, etcetera, is being done step by step.

To ensure that the needs of the KPSM are met during this process, the BIZ coordinator is part of a steering committee along with the other coordinators/heads of the various islands. The steering committee was established to achieve and facilitate a uniform working method. The goal of a uniform working method for the islands is that personnel of the islands can then better support each other. Several interviewees see this as a major advantage. The steering committee meets every three months and discusses cases and best practices. The KPSM indicates that within the process of reorganizing the BIZ, careful consideration is given to when and how the BIZ can grow into a full-fledged BIZ, in terms of people and resources. The BIZ coordinator indicates that expectations are high now that there is also more attention from various parties when it comes to handling citizen complaints. An important condition for growth is to expand the BIZ's formation. This is particularly important if a culture change within the organization is also desired, since it is expected that this will generate more work as a result.

The Ministry of Justice is not directly involved in the further internal organization of the BIZ but indicates that it would like to be more closely involved in this process in general and in the BIZ in particular. This is to gain more insight into the complaints procedure used, for example. The ministry does have insight into the disciplinary handling of the cases investigated. The OM is not directly involved in the initiated development of the BIZ. However, the OM is regularly approached in this context to contribute ideas and/or provide feedback on documents prepared by the KPSM. According to the OM, the KPSM is well on its way to re-structuring the BIZ. The OM's overall experience with the BIZ so far has been positive.

For the BIZ's reorganization process, a baseline measurement in integrity took place initially in 2021, after which, in 2022, the BIZ's internal investigator, the BIZ coordinator and two employees of the Investigation Division (as part of support in the absence of BIZ employees) were trained. The BIZ coordinator indicates that it is a great asset that the training has been rolled out on all the islands; according to him, this has proven to be very effective. The instructor is a specialist in the field of integrity and is open to giving advice on the new set-up of the BIZ. Furthermore, this instructor taught a specially developed course for the (police) management of the KPSM and the LRSM in 2023. The BIZ coordinator also participated in this course.

The aforementioned interinsular protocol for internal investigations contains work and process descriptions, working documents and the method of dossier compilation. In addition, the topics mentioned in the recommendation (communication, registration, prioritization, forms of consultation, decision-making, monitoring progress, completeness of dossiers and deadlines) are reflected in it. The work and process descriptions included in the new protocol form the basis for conducting investigations. They contain the roles of the various parties and the processes to be followed. Currently, the working documents are being drafted jointly. According to interviewees from

⁸ Protocol internal investigations: Interinsular protocol KPCN, KPA, KPC en KPSM.

the KPSM, these are in the completion phase and only the final layout remains to be decided. The BIZ has immediately started working according to the new process since the training, even though everything has not been finalized yet. Things are being handled better than in the past as a result, according to the BIZ. Several interviewees from the KPSM also indicate that the renewed processes have improved the BIZ's approach.

Assessment

The recommendation has been followed. The work and process descriptions containing the various relevant topics have been put in writing (A1). This is mainly due to the way the reorganization process has been handled. Expertise is also being brought in by exchanging best practices from all participating islands through the steering committee and hiring a specialist in the field to train employees. The Council is pleased that the BIZ is taking advantage of this reorganization process and that it is already bearing fruit. Based on the developments, the Council also expects that the processes will be permanently embedded in the organization.

A2: Ensure a timely succession of the head of the Bureau of Internal Affairs. The recommendation was categorized by the Council in its database as "capacity".

Policy response 2018

The MoJ indicated in his policy response that the intention was to recruit a new employee as soon as the head retired. There would be no appointment of a new head because there was no basis for that in the function book, according to the Minister. However, the Minister would work to establish a new function book formalizing the position of the head BIZ.

Findings 2023

The current BIZ coordinator succeeded the former head BIZ in mid-May 2020. This is in accordance with-and in anticipation of-the new draft function book that includes the position as such, according to the KPSM. The current coordinator does not fill the position full-time because he also has an ancillary function. In the current draft function book, the formation of the BIZ consists of a coordinator and an employee, according to the coordinator. The coordinator also indicated that in a previous draft, the formation consisted of three people.

The lack of capacity to do internal investigations is still a bottleneck within the BIZ. As a result, taking on new projects, such as the reorganization project, remains a challenge. This is also because, as indicated earlier, the coordinator has an ancillary function. The BIZ receives policy support from the policy department of the KPSM, which in turn receives temporary technical assistance from the Netherlands who has been assigned for the benefit of the entire Corps. In the past, due to lack of capacity, the BIZ occasionally called on the KPSM Criminal Investigation Department, for example to conduct an interrogation. This has not been the case in recent months. If the BIZ is understaffed, it may request support from colleagues from the BIZs of the other islands.

Additional

The BIZ coordinator indicates that in order to conduct internal surveys and monitor the quality of services, it is important that the BIZ continues to grow. The current BIZ employee will retire at the end of 2023. The application process for a new employee has not yet started. The BIZ coordinator indicates that there is a lot of interest in the position within the corps. Furthermore, the coordinator believes that if there is equal suitability, the corps could consider hiring a female internal investigator to fill the need if necessary. A person reporting, for example, in sensitive situations can then make his or her own choice about to whom to report.

Assessment

The recommendation has been followed. The head of the BIZ was succeeded in 2020 by a BIZ coordinator (A2). The Council does, however, ask attention for further staff growth of the BIZ. Furthermore, the Council believes that the ratio of (ancillary) tasks of the coordinator should also be included in this.

A3: Provide repairs to the roof of the Bureau of Internal Affairs. *The recommendation was categorized by the Council in its database as “facilities”.*

Policy response 2018

The MoJ states that the condition of the housing of the BIZ is undesirable. The police station is designated as a government office, the repair will be carried out through the reconstruction process in cooperation with the World Bank. Repair work on the roof of the police station would therefore begin in early 2019.

Findings 2023

The roof of the KPSM was completely repaired in 2021 and no longer leaks. However, there are complaints about the air quality in the office of the BIZ, among others. During the Council's inspection, the space was not accessible due to an inspection by experts on air quality in this regard. The KPSM, in collaboration with VROMI, has meanwhile prepared and presented a recommendation to the Minister for a thorough renovation of the building.

Assessment

The recommendation has been followed. The repairs to the roof (A3) have taken place. The Council does call urgent attention to the working conditions in the office/building because of the air quality. This requires prioritization given the high risks to employees.

A4: Provide adequate equipment and storage facilities. *The recommendation was categorized by the Council in its database as “facilities”.*

Policy response 2018

According to the MoJ, the BIZ already had modern, functioning personal computers and laptops. A filing cabinet was also said to be available for storing dossiers.

Findings 2023

The KPSM says it has sufficient supplies and file cabinets for the paper files. All of the files are also stored digitally in a folder on the KPSM's hard drive where only those authorized to do so have access. There has been a clean-up of the old(er) files that have also been scanned, creating more space for the physical storage of files. According to the BIZ, files are kept for 10 years. After that, they are destroyed or deleted from the BIZ's disk. Under the new interinsular protocol, based on archival legislation, the case files are removed from the archives and destroyed seven years after final decisions are made by order of the competent authority. If a case file cannot be considered for destruction because of interests at stake, such a decision to destroy will be postponed for one year and, if necessary, repeated annually.

Council inspectors reviewed the storage of paper and electronic files. A random sample of paper and electronic files was reviewed to determine the physical content and digital organization and storage. There is a file cabinet where the paper files are stored by year. The BIZ currently has enough space and there is also enough space to physically store files in the near future. On the hard drive, all

documents are organized in a specific folder first by alphabetical order of the person's last name and then by year within that person's folder for easy retrieval. All documents are gradually stored in the folder and scanned as needed. When the investigation is complete, the paper file is also scanned in its entirety in PDF.

Assessment

The recommendation has been followed. Adequate equipment and storage facilities are available for the BIZ (A4). However, the Council does call attention to ensuring that the current records policy of the BIZ is in line with the laws and regulations on the subject.

A5: Determine what information should be present in a standard file and, based on that, ensure that the files are complete. *The recommendation was categorized by the Council in its database as "work processes".*

Policy response 2018

The MoJ further indicates in his policy response that file formation is also part of the processes to be described. In addition, file formation would be addressed in the training course "Investigating in a more comprehensive case," and current and future employees will be trained in proper file formation.

Findings 2023

The contents of the research file are part of the descriptions in the aforementioned interinsular protocol. The steering committee has determined which documents should be included in the file by default. The internal investigator is the one responsible for collecting facts and he is also responsible for the completeness and quality of the case file.

According to the BIZ, the case file previously included a recommendation from the BIZ on what action to take. However, this approach proved undesirable, and staff have now been trained to operate differently. The BIZ looks at and reports on the facts and circumstances under which the incident occurred. If necessary, an advice should be prepared by legal counsel. The KPSM does not currently have a legal affairs department. In practice, the BIZ prepares reports with advice with support from the policy department of the KPSM. The policy department indicates that in the future it is intended to separate the factual report from the advice. Should the file show that disciplinary action is needed, the Minister will be the one to make a decision on that. The BIZ and the employee involved receive a copy of the final decision for the file.

The number of paper files reviewed by the inspectors includes the written notice from the chief of police, the investigation order, statements, a report of findings and, if applicable, the Minister's decision. The protocol states that in the case of an exploratory investigation, the client/authority independently determines what follow-up steps are desirable based on the case file. If a desired follow-up step entails taking legal-status measures against a (police) official, that right and the effectuation thereof will fall solely to the competent authority. According to the protocol, the Legal Affairs Department (if such a department is available to the Corps) issues a recommendation in this regard to the Chief of Police. In the case of a disciplinary investigation, the consideration and imposition of a disciplinary punishment falls solely to the competent authority. If it becomes known that a (police) officer is under criminal investigation, the Chief of Police will consult with the Public Prosecutor's Office. If this coincides with an ongoing internal investigation, the chief of police decides whether the internal investigation will be interrupted or continued.⁹

Furthermore, an interviewee from the KPSM noted that because of the approach of the BIZ in the past, fewer cases were taken up than currently. And that the compilation of the file often did not

⁹ Protocol internal investigations: Interinsular protocol KPCN, KPA, KPC en KPSM.

prove sufficient at trial to achieve the desired result. Now there is a more structured approach by the BIZ, which translates into better file compilation than before.

Assessment

The recommendation (A6) is considered followed. The previously described reorganization process of the BIZ has ensured that attention has been paid to what data must be present in a standard file and that the files are complete. Indeed, the protocol describes what a file should consist of and who is responsible for what. Among other things, this has had a positive impact on the process surrounding internal investigations and advising in an internal investigation.

A6: From a management perspective, ensure that there is greater visibility on the operations of the Bureau of Internal Affairs. *The recommendation was categorized by the Council in its database as “business processes and ICT”.*

Policy response 2018

With regard to creating visibility on the operations of the BIZ, the MoJ points to the description of work and process descriptions. According to the MoJ, this will provide insight into what tasks the BIZ performs and in what manner. The aim would be to achieve this in 2019.

Findings 2023

As indicated earlier, the BIZ's operations and process descriptions are established. Furthermore, the chief of police is responsible for the work of the BIZ. Therefore, once a week there is a consultation between the BIZ coordinator and the chief of police where ongoing issues, but also general matters - for example personnel matters - are discussed. If necessary, ad hoc consultation between the chief of police and the BIZ coordinator is also always possible. The BIZ coordinator is also part of the operational management team (OMT). This is the operational consultation where all division heads meet. On an almost weekly basis during the OMT consultation, the BIZ coordinator provides a general update on the operations of the BIZ, such as the number of pending cases. Cases of use of force are also reported. In addition, a coordination meeting with the BIZ, OM and the National Detectives (LRSM) takes place every two to three months, unless there is an urgent case. The OM indicates that the LRSM portfolio holder participates in these and that the consultations go well.

The KPSM reports that a better understanding of the operations of the BIZ was also gained through an evaluation of the training provided for supervisors. The evaluation showed, for example, that the BIZ had also investigated issues that in principle could have been resolved by a manager instead of the BIZ. The BIZ also indicates that it is a bottleneck that sometimes cases come in that basically only require the attention and decision-making of the managers. The BIZ therefore believes it is important for managers to take on more of their role and offer a listening ear to employees. According to the KPSM, training all managers in such things as how to (better) manage employees will reduce the BIZ's workload in disciplinary investigations. This is because the BIZ also has the function of quality control (quality of service delivery to citizens), which it now does not get to do as much as desired.

Further, the BIZ explains that it also has unintended duties, as staff often also act as social workers and confidants. Staff regularly receive colleagues at the desk who are eager to vent their frustrations, for example about low salaries and not being promoted in a timely manner. The above can lead, for example, to financial frustrations and integrity violations by staff members. This has also emerged during a court case. According to the BIZ, steps are being taken by the KPSM to appoint a confidential advisor and it would be good if this person is outside the organization.

The KPSM indicates that it also aims to increase integrity awareness among staff. One way of doing this is through the BIZ. The training (integrity training) provided for the managers has generated enthusiasm among these employees. Gradual (positive) change has been observed. However, a culture change still needs to take place within the organization. For example, the approach to employees by managers has changed, notes one interviewee. They are now addressed differently and more use is also made of recording information, such as notes from meetings.

An interviewee from the KPSM does note that applying what has been learned in practice, for example during the daily management of tasks, is not yet optimal because it is sometimes difficult for individuals to let go of the old pattern. However, the new way of working is encouraged during team briefings, by consulting with the relevant manager or by observing the manager and making adjustments if necessary.

As indicated, the LRSM also attended the training attended by the managers. This provided more visibility to the LRSM in the operations of the BIZ and how the departments can facilitate each other when it comes to integrity issues. For example, in the absence of evidence in a criminal investigation by the LRSM, the investigation can be taken up disciplinarily by the BIZ, according to the BIZ.

In addition, the BIZ plans to hold individual interviews with employees to raise awareness and remind employees of their obligations and responsibilities in the context of integrity.

Additional

According to the BIZ, gathering knowledge about the relevant facts and circumstances need not always lead to a disciplinary investigation. Depending on the case, the BIZ may also choose to conduct consultations or use mediation. The BIZ also wants to do more in the area of prevention, culture change and coaching employees within the corps. The BIZ does indicate that this will not be easy and will require a lot of work.

The investigations recorded by the BIZ range from cases of misconduct, relationship problems, altercations, violent incidents and workplace incidents. There were 15 investigations recorded in 2021, 32 in 2022 and 9 investigations in 2023 (Jan-June).

Consequently, during the period of 2021-2023 (Jan-Jun), 56 investigations were registered by the BIZ. See Table 7 for the overview by year. Of the total 56 registered investigations, two are currently still pending.

Table 7. Overview of number of investigations registered 2021-2023 (Jan-Jun)

Year	Number of registered cases
2021	15
2022	32
2023 (jan-jun)	9
Total	56

Source: KPSM

The remaining 54 investigations were handled in the following ways: 29 investigations were settled by consultation or mediation; 4 cases were suspended; 3 investigations were settled after the exploratory investigation; 7 investigations resulted in dismissal; in 2 investigations, a fine was demanded; in 2 investigations, the individuals were referred for psychological treatment; 2 investigations were settled by the General Investigation Department; and 5 investigations were settled in another manner.¹⁰ The manner in which these investigations were handled in 2021, 2022

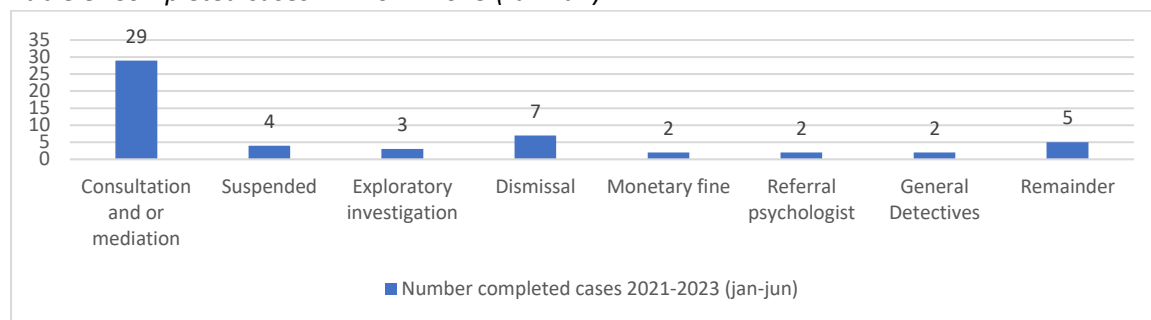
¹⁰ Interinsular Protocol on Article 10: The outcome of an exploratory investigation can never have a direct legal status consequence for a police officer. This has to do with the fact that an exploratory investigation is first going to yield facts in order to determine whether or not harm has actually occurred to the organization. The follow-up steps that can be taken after such type of investigation (with or without knowledge) are diverse. Based on the facts, it can be determined to do something (engage in conversation, conduct further investigation, initiate a disciplinary investigation, file a report, etc.) or leave it at the outcome.

and the first six months of 2023 is shown in Table 4. Furthermore, the BIZ coordinator indicated that the protocols of the KPSM were modified as a result of one of the cases.

The BIZ indicates that efforts are being made to complete the disciplinary investigations as soon as possible. However, there are still a number of investigations (4) that cannot yet be labeled as completed. This is because there is stagnation on the part of the Minister when it comes to making a decision in the disciplinary handling of the investigation. The delay lasts from several months to longer. This can have negative consequences for both those involved and the KPSM, according to the BIZ.

The KPSM indicates in its reaction that for two years there has been no decision by the Minister on the advices submitted to the Minister on the disciplinary handling of certain investigations. This is discouraging for both the BIZ and other employees of the KPSM. This is because it may create the impression that misconduct is not being punished. Not being able to settle investigations also means, for example, that the salaries of those involved must continue to be paid pending their disciplinary punishment, according to the KPSM.

Table 8. Completed cases BIZ 2021-2023 (Jan-Jun)



Source: KPSM

Assessment

The recommendation has been followed. From a management point of view, there is more visibility on the work of the BIZ (A6). Because the BIZ's work and process descriptions have been recorded, there is more insight into the BIZ's working method when conducting internal investigations for both the KPSM and the ministry. In addition, there are several consultation forms in which the BIZ participates, which also provides external visibility of the BIZ's operations. Furthermore, the Council sees the training of the managers of the KPSM and the LRSM as a good development, also given the limited capacity of the BIZ. The fact that most cases have been resolved by the BIZ through consultation or mediation also shows that there is room for managers to take on this role. Furthermore, the Council is pleased that there is an eye for self-reflection within the KPSM by, for example, adapting protocols for better service to citizens.

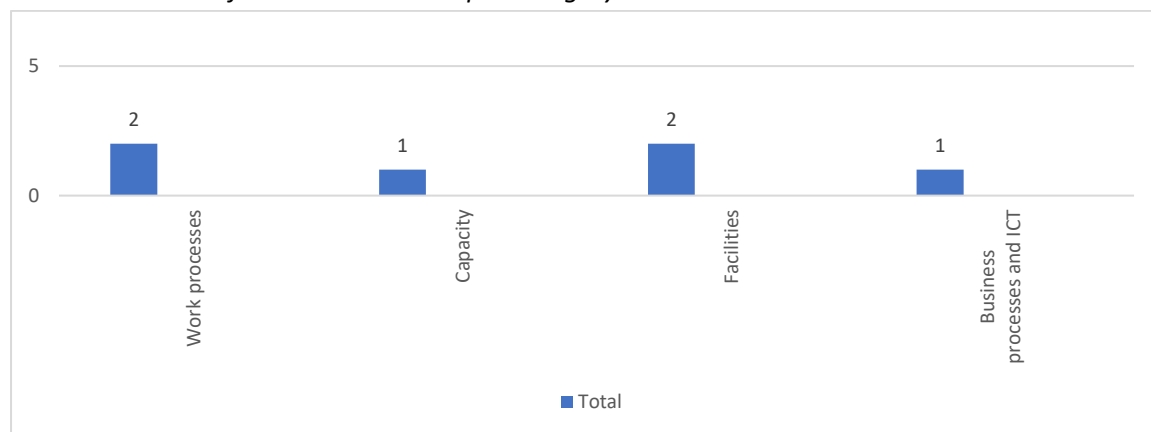
The absence or delay of a decision by the Minister in the disciplinary handling of an internal investigation is, in the opinion of the Council, a bottleneck. This is because not only does it have a negative impact on the lead time of the investigation, but also the person(s) involved are kept in the dark longer than desired and it sends the wrong signal to everyone that undesirable behavior is not being dealt with. The Council therefore believes that consultation should take place among all concerned and arrangements should be made to ensure that the Minister can make the necessary decisions as soon as possible regarding the pending internal investigations. Steps should also be taken to avoid this stagnation in the future and to enable decision-making within the established (legal) deadlines.

2.2. (Schematic) overall analysis BIZ

Introduction

This inspection in 2023 is the first review inspection of the level of compliance with the recommendations regarding the BIZ. The Council made six recommendations in 2018 and these recommendations have been broken down into categories by the Council at its discretion in its database to provide a bit more insight into the individual recommendations. The breakdown is intended to be indicative and is as follows: work processes (2), capacity (1), facilities (2), business processes and ICT (1) (see also Chapter 5). This is shown below in Table 8.

Table 8. Number of recommendations per category



State of affairs follow up 2023

As part of the general review, this fourth sub-inspection found that all six recommendations were addressed. Therefore, the compliance rate is **100%**¹¹ in 2023. 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 9. Degree of follow up recommendations BIZ 2023

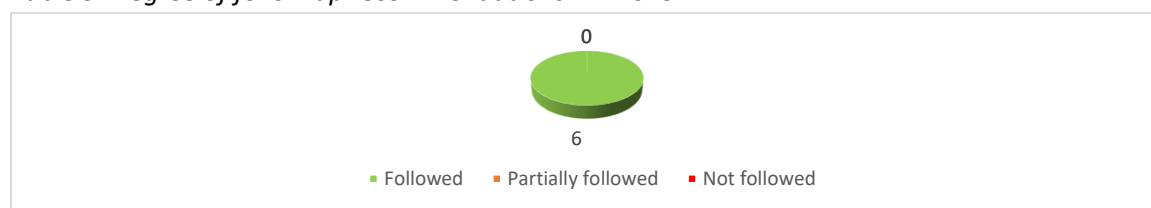
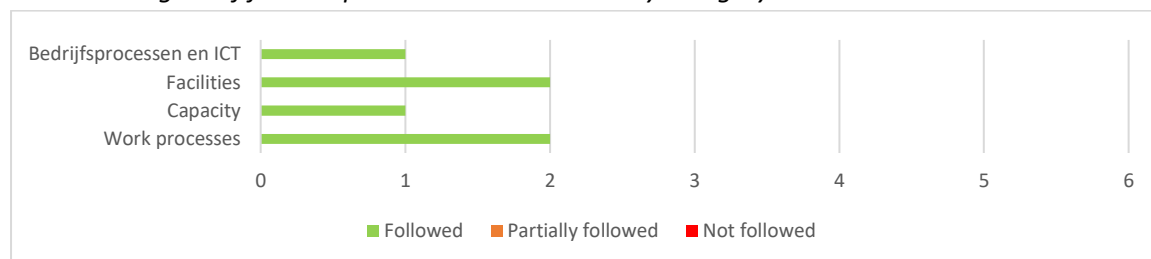


Table 10. Degree of follow up recommendations BIZ by category 2023



¹¹ 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.

It can be seen from the tables that all recommendations have been followed regardless of category. The Council further notes that there are four different categories of recommendations and that none of the recommendations have primary financial implications.¹²

Recommendations and monitoring

All 2018 recommendations have been followed, so monitoring of these is not applicable. However, the Council does trust that the organization process will be completed in the shortest possible time and that the BIZ will be enabled to continue to grow in terms of people and resources.

In addition, the Council considers it necessary to make a new recommendation to the Minister regarding the BIZ:

Ensure that consultations take place between all stakeholders and agreements are made to ensure that the competent authority takes the necessary decisions on pending internal investigations as soon as possible. And ensure that steps are taken so that decision-making of new investigations takes place within the established timeframe.

Below in the table, the Council presents the status of the follow-up of the recommendations for the report on the Bureau of Internal Affairs of the Sint Maarten Police Force.

Table 11. State of affairs recommendations 2023

Number	Recommendations Bureau Internal Affairs	Follow up 2023
	To the Minister of Justice	
A1	Provide work and process descriptions for the Bureau of Internal Affairs. Include at least communication, registration, prioritization and forms of consultation.	Followed
A2	Ensure timely succession of the head of the Bureau of Internal Affairs.	Followed
A3	Provide repairs to the roof of the Bureau of Internal Affairs.	Followed
A4	Provide adequate equipment and storage facilities.	Followed
A5	Determine what information should be present in a standard dossier and, based on that, ensure that the dossiers are complete.	Followed
A6	From a management perspective, ensure that there is greater visibility of the work of the Bureau of Internal Affairs.	Followed

¹² 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 dividing them into those that actually require primarily financial actions and those that primarily require non-financial actions. Based on the aforementioned database, the Council conducted this exercise in order to provide an initial picture.

3. State of affairs recommendations police education in Sint Maarten

Introduction

In 2013 and 2017, the Council published two reports, respectively an initial inspection and a follow-up inspection on police education in Sint Maarten. In the initial inspection, the Council looked at the laws and regulations, the planning, the organizations involved in police education, the cooperation, and the activities performed, and products offered on police education. Based on the results of the inspection, the Council made 11 recommendations to the MoJ. In accordance with the Kingdom Act Law Enforcement Council, the MoJ sent a policy response to Parliament in 2014. In this response, the Minister did not specifically address the Council's various recommendations. The ministry's austere budget was mainly highlighted and the planned developments in the establishment of the Justice Academy were broadly described and the benefits it would provide for ensuring police education.

The Council's 2017 follow-up inspection focused on the question of how the Council's recommendations had been followed up. The status of follow-up on the 11 recommendations was as follows: three of the recommendations had been fully followed, three recommendations had been partially followed, and five of the recommendations had not been followed. For a detailed account of the content, the Council refers to the 2017 report.¹³

No policy response to the follow-up report was then formulated by the MoJ. However, in 2022, an overarching response was formulated in a letter by the Minister addressed to Parliament. This response did not address every recommendation, but focused on a number of recurring themes, including personnel policy and, within that, justice-wide education. For more information on the content, the Council refers to the letter¹⁴.

Where relevant, the Minister's response to the report's recommendations will be discussed.

Table 12. State of affairs recommendations police education 2017

Number	Recommendations police education	Review 2017
	To the Minister of Justice	
A1	Promote that both the mutual regulation concerning quality requirements, education and training requirements of the police of Curaçao, Sint Maarten and of Bonaire, Sint Eustatius and Saba as well as the competence-based learning outcomes will soon be established by national decree containing general measures.	Not followed
A2	Ensure that the Sint Maarten Police Force Legal Status Decree enters into force as soon as possible.	Not followed
A3	In accordance with the provisions of the KPNA Legal Status Decree, establish requirements regarding the level of training of the aspiring police officer and designate specific training tracks based on the competency-based learning outcomes.	Not followed
A4	Review within a reasonable time the more outdated provisions in the National Decree on Police Personnel Education.	Not followed
A5	Make a decision within a reasonable time on the desirability of a police training school in Sint Maarten.	Partially followed
A6	Formulate selection standards, education and training requirements for the training of the extraordinary police officer and training requirements and selection standards for the candidate extraordinary police officer.	Partially followed
A7	Guarantee funding for the training required for the KPSM in the country's budget for 2014 and subsequent years.	Not followed
	To the Minister of Justice regarding the KPSM	
A8	Promote that the Sint Maarten Police Force establish a multi-year training plan in the near future.	Partially followed
A9	Promote the launch of basic police training in the near future.	Followed
A10	Encourage experienced police officers to participate in advanced training.	Followed

¹³ Law Enforcement Council (2017). Police education in Sint Maarten. A follow-up inspection.

¹⁴ Ministry of Justice Sint Maarten (2022). Response Report Recommendations Law Enforcement Council.

Number	Recommendations police education	Review 2017
A11	Encourage cooperation with Curaçao and/or the BES regarding basic police training and advanced training.	Followed

This follow-up inspection looks at the follow-up of the first eight recommendations (A1, A2, A3, A4, A5, A6, A7, A8) on police education in Sint Maarten. These have not yet been (fully) followed. The recommendations are described separately in the next section.

3.1 State of affairs police education in Sint Maarten 2023

The Council discusses the recommendations below. For each recommendation, the Council first presents the state of affairs in 2017, followed by the findings in 2023 and the assessment thereof.

To the Minister of Justice

A1: Promote that both the mutual regulation concerning quality requirements, education and training requirements of the police of Curaçao, Sint Maarten and of Bonaire, Sint Eustatius and Saba as well as the competence-based learning outcomes will soon be established by national decree containing general measures. The recommendation was classified by the Council in its database in the category "legal framework".

State of affairs 2017

Both the Mutual regulation containing quality requirements, education and training requirements for the Police of Curaçao, Sint Maarten and Bonaire, Sint Eustatius and Saba and the competence-based learning outcomes (article 3.1, second paragraph Mutual regulation containing quality requirements, education and training requirements for the Police) had not been established by national decree containing general measures, in accordance with article 41 Kingdom Act Police. In its 2017 report, the Council reported that an entry into force decree had still not been secured for the Decree on the legal status of the Sint Maarten Police Force (LBHAM).

Report Council 2021

In its report "Review of the National Detectives Sint Maarten" (2021), the Council pointed to an advice of the Advisory Council¹⁵ on which legal status decree applies to the KPSM. It concerned the Decree on Legal Status of the Police Force Netherlands Antilles 2000 and the Decree on Legal Status of the KPSM. According to the Advisory Council, the KPSM Legal Status Decree is applicable. The Advisory Council concluded that the KPSM Legal Status Decree did enter into force as of October 10, 2010, and that the entry into force provision contained therein did not prevent this. In addition, the Decree on Legal status of the Netherlands Antilles Police Force is still in force. The Advisory Council therefore indicated the desirability of repealing the Decree on the Legal Status of the Netherlands Antilles Police Force, according to the report.

Findings 2023

The Ministry indicates that the establishment by national decree containing general measures of the entire aforementioned mutual regulation, and, in addition, the competence-based learning outcomes has not taken place. This is mainly due to the structural personnel shortage at the Ministry's Judicial Affairs Department. It is therefore also not in the planning.

¹⁵ Request for advice SM-05-19 LB draft National Decree containing general measures repealing the Decree on Legal Status of the Netherlands Antilles Police Force 2000.

The provisions of the Mutual regulation quality requirements, education and training requirements police can largely be found in the National Decree containing measures on the legal status of police officers of the Sint Maarten Police Force. The 'job requirements, skill standards etc.' as described in the Mutual regulation and the competence-based learning outcomes are not part of it nor can they be found in any other national decree containing general measures.

Several interviewees further indicated that the subject of mutual regulations is on the agenda of the Judicial Quadripartite Consultation (JVO) in June 2023. It involves two new mutual regulations, one of which is relevant to police training: the Mutual regulation on guidelines and minimum requirements for fitness and medical examinations for the police and the Mutual regulation on tests of arrest and self-defense skills in use of force and marksmanship for the police. According to the KPSM, the latter mutual regulation will regulate the Integral Professional Skills Training (IBT) for all police forces and ensure that all officers are trained in the same way and thus operate the same. These mutual arrangements are jointly adopted by the Ministers of Justice (and Security).

The Ministry indicates that should it be decided during the JVO that it is urgent to implement the relevant mutual regulations, more attention will be paid to this by the Ministry. The corresponding national decrees containing general measures, when drafted, should then follow the formal route through the Legal Affairs & Legislation Department of the Ministry of General Affairs and the Advisory Council. The legislative process could presumably take several months. In this regard, the KPSM notes that it is not usually approached by the Ministry for input at the beginning of a legislative process. The KPSM is only consulted along the way or afterwards. According to the KPSM, this is regrettable and inefficient. It has happened more than once that, as a result, input was not provided until the end of a process, causing the entire process to stagnate and take longer. Due to personnel changes within the Justice Department, this is gradually changing.

Furthermore, the KPSM indicates that even though the relevant mutual regulation and competence-based learning outcomes have not yet been (fully) established by national decree containing general measures, these mutual regulations are being acted upon and few bottlenecks are experienced.

Assessment

The recommendation has been partially followed, as the cited advice shows that the KPSM legal status decree already entered into force in 2010. Part of the provisions of the Mutual Regulation on Quality Requirements, Education and Training Requirements for Police have been included in that KPSM legal status decree. However, this does not apply to all provisions nor to the required competence-based learning outcomes. Thus, an LB HAM has yet to be drafted for some of the provisions on quality requirements, education and training requirements and competence-based learning outcomes. The attention that the JVO is now giving to the new mutual arrangements may also possibly ensure that momentum is created to follow the recommendation in its entirety.

A2: Ensure that the Sint Maarten Police Force Legal Status Decree enters into force as soon as possible. *The recommendation was classified by the Council in its database in the category "legal framework".*

State of affairs 2017

An entry into force decree had still not been issued. Furthermore, there was also no prospect of a concrete timetable for the effective entry into force of the decree.

Findings 2023

Report Council 2021

In its report "Review of the National Detectives Sint Maarten" (2021), the Council pointed to an advice of the Advisory Council¹⁶ on which legal status decree applies to the KPSM. It concerned the Decree on Legal Status of the Police Force Netherlands Antilles 2000 and the Decree on Legal Status of the KPSM. According to the Advisory Council, the KPSM Legal Status Decree is applicable. The Advisory Council concluded that the KPSM Legal Status Decree did enter into force as of October 10, 2010, and that the entry into force provision contained therein did not prevent this. In addition, the Decree on Legal status of the Netherlands Antilles Police Force is still in force. The Advisory Council therefore indicated the desirability of repealing the Decree on the Legal Status of the Netherlands Antilles Police Force, according to the report.

Assessment

The Council concludes that the recommendation has been followed. In this regard, the Council refers to its assessment of recommendation 1. The Advisory Council has indicated that the KPSM legal status decree has already come into effect as of 2010.

The Council has previously indicated in its other reports that it would be beneficial if the repeal decision for the KPNA 2000 legal status decree is given priority so that there is clarity on the legal status decree.

A3: In accordance with the provisions of the KPNA Legal Status Decree, establish requirements regarding the level of training of the aspiring police officer and designate specific training tracks based on the competency-based learning outcomes. The recommendation was classified by the Council in its database in the category "legal framework".

State of affairs 2017

No specific training programs had been designated based on the competence-based learning outcomes. The training programs under the quality impulse (see below) did meet these terms. The requirements on the level of training are included in the not yet in force 'Decree on the legal status of the Sint Maarten Police Force'; these are still in draft form.

Findings 2023

The requirements on the educational level of the aspiring police officer as mentioned in article 3.1 of the Mutual Regulation Containing Quality Requirements, Education and Training Requirements of the Police of Curaçao, of St. Maarten and of Bonaire, St. Eustatius and Saba have been included in articles 12 and 13 of the KPSM Legal Status Decree.

In practice, the KPSM has determined specific training programs for officers through the quality impulse. These training programs are based on competence-based learning outcomes agreed upon by the countries (Netherlands, Curaçao and St. Maarten). According to the evaluation of the Dutch Caribbean quality impulse (2020), the focus within the quality impulse is on competence-based education and working from jointly determined learning outcomes. As a frame of reference for the determination of the final learning outcomes, the Advisory Commission Education-Labor Market System was used. This is in line with the working method of the Police Academy, and with European standards and international training levels for vocational education.¹⁷

¹⁶ Request for advice SM-05-19 LB draft National Decree containing general measures repealing the Decree on Legal Status of the Netherlands Antilles Police Force 2000.

¹⁷ Boogaard, M. (2020). Evaluatie kwaliteitsimpuls politieonderwijs Caribisch Nederland.

The above applies to both basic police training (BPO) for aspiring officers and training in specialized areas. Through the various training programs the KPSM has designated for its personnel, the KPSM has focused on the specialties of vice, digital and forensic investigation. Theme-oriented efforts have also been made in leadership development or, among other things, the quality of the management of personnel.

The quality impulse that started in 2016 ends in its current form at the end of 2023 and the forces are jointly working on a new multi-year training plan that builds on this to (continue to) meet the needs of the forces. Funding for this has also been made available from the Netherlands.

Additional

The basis for the quality impulse includes the interchangeability of officers. The idea behind this, according to the KPSM, is that there is scarce expertise and scarce resources and that there will also always be a shortage of capacity on the various islands because of the small scale. Because of this, everyone needs to be trained in the same way so that they can work together. Therefore, employees of the KPSM are trained, also for example in the use of scarce resources, so that they know what the possibilities are in an investigation and can ask for help from another force or organization. The OM believes that the work of the forces is of high quality, this despite the lack of resources and personnel.

The KPSM explains that the way training programs are determined, in addition to the BPO, is through the JVO. During the JVO they plan ahead and determine overarching themes, (for example, cross-border crime). This then goes to the CvK who in turn fleshes it out and forwards it to the training coordinators of the forces. Organizationally, this sometimes presents challenges (including bottlenecks) because there are four countries and therefore four coordinators. For each theme, the coordinators consider which training courses are the best fit. Tenders are then requested, selections made, and proposals made to the CvK. After approval, the trainings are purchased. Dealings are done primarily with the Police Academy (PA) of the Netherlands.

This approach meets the needs of the KPSM. In fact, the KPSM initially committed to getting all agents up to par through the BPO. A fifth class is now underway. The training is broad and includes various elements, from neighborhood policing to criminal investigation. However, an interviewee from the KPSM noted that the training was conducted by the PA according to the requirements from European Netherlands. Local service regulations were not addressed, so this had to be addressed in practice. The PA was asked to have this included in the training by the local instructors responsible for the IBT.

Meanwhile, in-house training of staff by in-house specialists has also begun and the two available classrooms on the KPSM premises are used as much as possible. Sometimes instructors are also flown in. However, they often wait until a training course is held in the region so that only the travel and accommodation costs have to be paid. This is partly because due to the limited capacity of the KPSM, at most a handful of people can attend a training elsewhere at a time. This also leads to it sometimes taking longer to train everyone, according to the KPSM.

The KPSM works according to the HR cycle. Periodic interviews are held and in them employees can also indicate their training needs or preferences. If there are trainings then these are offered to those interested. They can then actively register if they would like to participate. Management, together with the KPSM training coordinator, draws up proposals for trainings and considers who is most likely to participate successfully. Furthermore, several KPSM interviewees indicate that the experiences with the various trainings given are good and that the trainings are also of good quality, for example the leadership training.

Moreover, the OM indicates that based on the needs of the KPSM, the OM also provides courses. For example, last year courses were given to officers on how to write an official report and also in

mediation. The KPSM keeps track of exactly what courses are given and who participates in them. Through this, there is insight into the numbers of police officers trained, among other things.

Assessment

The recommendation (A3) has been partially followed. The requirements regarding the educational level of the aspiring police officer have been drafted and included in the KPSM Legal Status Decree. Although competence-based learning outcomes and training programs are being implemented in practice, they have not yet been formalized locally. However, the ultimate goal is to ensure that officers are trained to a high standard, and this is achieved through the quality impulse.

Despite the good results in practice in this area, the Council still believes it is important that this be properly regulated by law and that the recommendation be followed up as soon as possible.

A4: Review within a reasonable time the more outdated provisions in the National Decree on Police Personnel Education. *The recommendation was classified by the Council in its database in the category "legal framework".*

State of affairs 2017

The Council noted that the provisions of the said national decree were unchanged. As a result, provisions are still in force that cannot be implemented in practice. However, developments could be observed in "quality impulse police education".

Findings 2023

The outdated provisions in the National Decree on Training of Police Personnel have still not been revised. This is largely due to the aforementioned continuing lack of capacity within the Ministry's Judicial Affairs Department. Although there are still obsolete provisions, according to the KPSM, this is overcome by the agreements in the field of training that are made with the Ministry of Interior and Kingdom Relations, the Ministry of Justice and Security, the PA and the CvK on the basis of the Kingdom Act Police, for example on the quality impulse which is extended for the coming years.

Assessment

The recommendation has not been followed. The outdated provisions in the National Decree on Training have not been revised (A4). The lack of capacity at the Ministry is again at the root of this. This does not appear to be a problem for the KPSM as they are able to make agreements and/or provisions on other bases or in other ways.

A5: Make a decision within a reasonable time on the desirability of a police training school in Sint Maarten. *The recommendation was classified by the Council in its database in the category "establishment plans and function house".*

State of affairs 2017

At that time, the Minister of Justice had publicly stated his desire for a justice training institute, which would include police training. The Minister of Justice had established a Board of Directors (BoD) for the Justice Academy. The BoD was charged with the day-to-day management of the Justice Academy, establishing a program council and directing the Academy's coordinator. At the request of the board, the Justice Academy coordinator, who is also a consultant, had written a proposal with several variants for formally embedding the Academy. It appeared that legislation had been prepared in draft form for several years and several opinions had been written for the formal embedding of the Academy. However, no decision had ever been made.

Overarching response 2022

The Minister indicated that steps were being taken to promote the intellectual growth of ministry personnel. For example, a training coordinator was appointed to design and coordinate processes for personnel development, education, and training. The Minister further indicated that after the appointment of the training coordinator, the establishment of the Law Enforcement Institute of Sint Maarten would be one of the follow-up priorities of the justice chain.

Findings 2023

While a desire has been expressed by the current Minister, no decision has been made regarding a police training school in Sint Maarten. The Justice Academy has not been operational for many years. The ministry indicates that there is still the idea for a project to develop a justice-wide training facility (called Law Enforcement Institute Sint Maarten). This project, according to the ministry, is in the preparation or development phase and an orientation is now taking place within that framework to see what is possible and where. The Minister is also in contact with the police training school Law Enforcement & Security Training Institute (ORV) in Curaçao for cooperation possibilities. In addition, in the tripartite consultations between Curaçao, Aruba and St. Maarten, there have been discussions about possibly making the various training programs in the countries comparable.

As indicated, a training coordinator was hired at the Ministry of Justice in 2021 for a period of three years to serve the entire ministry in terms of bringing about trainings. The intention is to appoint a permanent coordinator when the institute is established. According to the ministry, having its own institute is very important and the intention is for the Law Enforcement institute to become something similar to the ORV. For example, the training for the Extraordinary Investigating Officer (BOA), which is currently ongoing, will be able to be taught there government-wide. It is also the ministry's desire that basic police training and all other judicial training will be provided by the institute. The ministry believes that both basic training and so-called maintenance training (further training, refresher training, etcetera) should be arranged locally. This is in part to make refresher training more feasible because of, among other things, cost and indispensable capacity if persons were required to travel for this purpose. Specialized training, given its nature, could take place regionally and thus elsewhere.

In addition, finding a suitable location to conduct training is currently the biggest bottleneck. An example is given of a human trafficking/human trafficking training being organized where finding a suitable venue was a challenge. It is also planned to make use of practical trainers and practical supervisors ("train the trainers") rather than hiring permanent staff at the institute. This as a cost saving measure, the ministry stated.

The KPSM indicates that, because the quality impulse as previously mentioned in its current form will expire this year, a solution must be found for the way training is organized for the force. The training institutes in Curaçao and Aruba are developing initiatives to offer quality training within the region and the detective training that is now being offered is being used as a pilot for this. The goal of the countries is to ensure the provision of quality training in the region. The KPSM believes that because of the small scale of the countries, a training institute must be self-sustaining. Partly due to the scarcity of (qualified) teachers and students, it is often not sustainable to have multiple training institutes (on a large scale) on the different islands. Expertise of the teachers is also an important condition to guarantee the quality of the trainings, after all this is a requirement. Therefore, the CvK is banking on the institutes that are already there to guarantee this. The ultimate goal is that support from the PA is no longer necessary.

In addition to the above, it is important for each country to ensure that physical preconditions such as classrooms, sports, IBT and shooting facilities are in place so that trainers and instructors can be shared and deployed by the countries as needed. According to the KPSM, this way the countries can save money and at the same time guarantee the quality of education.

Assessment

Although this recommendation was assessed as partially followed by the Council in 2017, the recommendation is now considered not followed. No decision has been taken by the (current) Minister on the establishment of a police training school (A5). In 2017, the desirability for a training school had already been expressed, a building, staff and training were already in place and work was underway to formally embed it. The above is no longer the case, leaving the Minister and the ministry back at square one. Indeed, now the ministry is again in an orientation phase about the desirability of having its own training school. On top of that, opinions still differ as to whether Sint Maarten requires its own training school and whether it is feasible. The Council is in any case of the opinion that a decision about this must be taken by the Minister so that the direction is clear for all stakeholders and future investments in this area can be aligned with this. Crucial here is also that continuity is kept in mind.

A6: Formulate selection standards, education and training requirements for the training of the extraordinary police officer and training requirements and selection standards for the candidate extraordinary police officer. *The recommendation was classified by the Council in its database in the category "policy".*

State of affairs 2017

Beginning in October 2016, 26 individuals serving as extraordinary police officers (bavPoller) with the KPSM participated in the Basic Police Training program launched that month.

At the request of the Justice Academy board, the coordinator had developed a basic training program, Basic Law Enforcement and Safety and Security Training, with the full-time duration of six months. The program involved basic safety, security and law enforcement training, and thus the deployment was justice wide. Upon completion of the training, the participant could be appointed as a bavPoller, among other things, according to the coordinator. Admission to the training program was based on minimum set criteria that had to be met by the candidate bavPoller. The Justice Academy coordinator indicated that he had all the documentation required by law ready for the training to start the accreditation process with the Ministry of Education. However, the process stalled because a formal decision had to be made regarding the Justice Academy before proceeding.

Findings 2023

As indicated earlier, the Justice Academy is no longer operational and no decision has yet been made on the desirability of a police training program. Nonetheless, policies have been drafted on education and training requirements related to the training of the extraordinary police officer and training requirements and selection standards related to the candidate extraordinary police officer, which are now ready for publication, according to the ministry.

The extraordinary police officer is appointed by the Minister of Justice, after having consulted the attorney general and the chief of police.¹⁸ A government-wide retraining of 130 active bavPollers began (in the form of a pilot) on March 21, 2023. They now receive a boa course combining theory and practice, over a period of about 6 months. They first had to take an entry test, which showed that

¹⁸ Article 2 first paragraph National Decree on Extraordinary Police Officers reads as follows: The extraordinary police officer shall be appointed by the Minister of Justice, having heard the Attorney General and the Chief of Police. With his recommendation, the chief of police shall attach a completed form in accordance with the model attached to the national decree.

their command of the Dutch language was insufficient. According to the training coordinator, this is a bottleneck because the specific activities of the bavPollers are laid down in legislation in Dutch. Furthermore, the classes are all taught by local trainers with expertise and a high level of education. The ministry's training coordinator is responsible for training the trainers in the didactic side.

According to the ministry, this retraining was necessary because the bavPol training had started in 2017 after which people were placed in a department with the idea that follow-up training would take place within their own organization. However, this did not happen for the reasons mentioned above. Meanwhile, all bavPollers who then became part of the force have been trained through the BPO. Besides the bottleneck about insufficient command of the Dutch language among the bavPollers, the ministry mentions three other bottlenecks that require attention. First, bavPollers must be recertified every five years, but this has not yet happened. Second, according to this ministry interviewee, there are bavPollers who have been appointed by ministerial order for an indefinite period, when this is supposedly not legally possible. The KPSM indicates in its reaction that this is possible according to the Legal Status Decree. Third, the legislation is not clear about the duties and powers of bavPollers, according to the interviewee.

An inventory shows that the number of bavPollers within the Ministry of Justice is more than 200, but some of them are not active. For the rest of the government, the number is about 350, but not all of them are active there either. The Ministry of Justice aims to recertify the active bavPollers after they complete the boa course, then the rest will follow. However, new employees are also participating in the course because they need the course to perform their duties. This has been prioritized as it is important that the bavPollers are well aware of their duties and act in accordance with their authority. This is especially true when supporting the force. Indeed, it is crucial that the bavPollers transfer certain matters to the force given their limited powers. This does not always go well. Therefore, awareness is also being worked on, according to the ministry. In this regard, the OM indicates that the official reports originating from bavPollers could be improved in quality. Partly for this reason, the recertification with associated training is important.

The term (candidate) bavPollers is no longer used, but instead (candidate) extraordinary investigating officers is used, according to a ministry interviewee. The ministry explains that the legal basis for the boa is Article 185 of the Code of Criminal Procedure¹⁹ and that the boa is seen as an authority that has three categories rather than a function. The first is the basic category in which no weapons may be carried, then category 1 in which weapons may be carried, such as a baton, and category 2 (investigative powers) in which weapons may also be carried, including firearms. In other words, the category determines what kind of equipment the boa may carry. The IBT teachers at KPSM also teach category 1 and 2 boa. Which IBT is best for the basic boa is still being assessed, according to the ministry. The ministry indicates in its reaction that there is no special legal regulation in which boas are designated for enforcement or detection of certain crimes. Furthermore, there is also an exam committee for the boa course consisting of representatives from the Public Prosecutor's Office, National Detectives and KPSM.

Assessment

The recommendation is rated as follows. Policies have been formulated and adopted by the Ministry on the selection standards and education and training requirements for the (candidate) extraordinary police officer (A6) (or the more generally termed candidate) extraordinary investigative officers). The Council notes that extraordinary police officers are appointed by the Minister. The Ministry currently also uses the term boa in the pilot. Clear categories with corresponding powers have been defined for

¹⁹ Also charged with the detection of criminal offenses are those to whose vigilance, by or pursuant to special statutory regulations, the enforcement or care of compliance therewith or the detection of the criminal offenses referred to therein is entrusted, all insofar as such offenses are concerned and, to the extent provided for in such regulations.

the boa. The Council finds it positive that a start has already been made to provide individuals with the necessary knowledge. Only now it is important to offer this course structurally after the pilot, if successful, and to create more clarity about the purpose of the more general designation of boa, the duration of the appointment and possible certification period.

A7: Guarantee funding for the training required for the KPSM in the country's budget for 2014 and subsequent years. *The recommendation was classified by the Council in its database in the category "finance and budget".*

State of affairs 2017

Reservations for police training remained almost the same in the 2015, 2016 and 2017 budgets, respectively, as in 2014. Basic police training and several post-initial training programs could only get started through the quality impulse and its funding from the Netherlands, the force noted.

Findings 2023

The Council has already drawn attention to the structural budget problem in several reports. Including most recently in the report "*General review sub-inspection 3*," dated March 2023. In that report, the Council indicated that the financing of the trainings by the CvK (quality impulse) was a good temporary solution. In doing so, the Council did point out the danger of failing to find solutions to reserve sufficient funds in the national budget. It would hinder continuity and create other external dependencies.

The Ministry and KPSM indicate that in the current situation, the KPSM's trainings are largely funded through the CvK and that in the annual budget (2023) only an amount of ANG 75,000 is reserved for KPSM trainings.

Furthermore, the ministry indicates that because to date many KPSM trainings have been funded from the Netherlands (CoC), it is unclear at this time what the consequences would be if this external source of funding were to disappear. In any case, the ministry indicates that a lot of money is needed to catch up with the backlog of all services in terms of training, and only then can a budget be established for the maintenance of the training and knowledge acquired. However, the ministry points out that the catching up is currently being done with the money meant for the maintenance of the trainings followed and know how within the KPSM because there is not enough money set aside in the budget for trainings. According to the KPSM, the country contributes virtually nothing to police training and the budgeted amount is insufficient to train an entire force. In comparison, under joint training, an annual amount of about 700,000 euros is set aside through the CvK for the quality impulse for the four forces. Money is also made available for specific training programs, such as the aforementioned leadership training that took place this year. If the study sessions abroad are paid for at the country's expense, the training budget line item can be drawn upon.

Assessment

The recommendation has not been followed. Funding for training required for the force is not adequately guaranteed in the national budget (A7). As indicated earlier, the Council has previously expressed its opinion on this issue and calls attention to it again. This is because the structural lack of general preconditions, such as expertise at the KPSM to properly perform the tasks, can affect the confidence of citizens in law enforcement. A recommendation to this effect was recently made in a report by the Council (2023)²⁰:

²⁰ Law Enforcement Council (2023). Inspection Lead time: The steering, prioritization and monitoring of simple and complex criminal cases in Sint Maarten.

"Ensure that the preconditions (including capacity) of services are filled to meet the increasing need and enable them to (continue to) conduct investigations expeditiously."

This recommendation still applies unabated.

If the KPSM is to continue to grow and professionalize, it is essential that the training budget be increased in the country's budget in the coming years so that the country can eventually assume this responsibility itself.

Tot he Minister of Justice regarding the KPSM

A8: Promote that the Sint Maarten Police Force establish a multi-year training plan in the near future. The recommendation was classified by the Council in its database in the category "training".

State of affairs 2017

The KPSM has established a multi-year training plan. This plan is in draft form. However, a joint Caribbean police force training plan was prepared and presented to the JVO by the CvK in January 2017.

Findings 2023

As indicated earlier, the KPSM is working with the other forces to create a new multi-year training plan. Interviewees from the KPSM indicated that the training plan is always a multi-year plan because it is not realistic to complete training plans in one year. However, annual plans and annual reports for the KPSM are made each year and submitted to the Minister and the PG. In addition, since two years a working conference is organized by the Minister where the annual plan, annual report and proposed budget are presented by the KPSM and other judicial organizations. To date, the KPSM has not received any response from the ministry on the annual reports and annual plans. This while the ministry has also been advised by third parties to enter into discussions with the services based on the annual plans and annual reports, according to the KPSM.

Furthermore, interviewees from the KPSM indicate that due to the many staff changes within the ministry and the lack of capacity/continuity as a result, the ministry's role on this topic is minimal. However, as indicated, the KPSM does report on this issue to the ministry through its annual reports. In this regard, the ministry indicates that any multi-year training plan to be prepared by the KPSM is important in determining its financial needs. This issue and its coordination falls to the staff department and the training coordinator. However, according to ministry interviewees, there is currently (too) little communication between these parties.

As part of the quality impulse, the forces must jointly draw up a multi-year training plan. This was also done in 2017 for the period 2017 - 2023 and work is now underway again on a multi-year training plan for the next five years.

Assessment

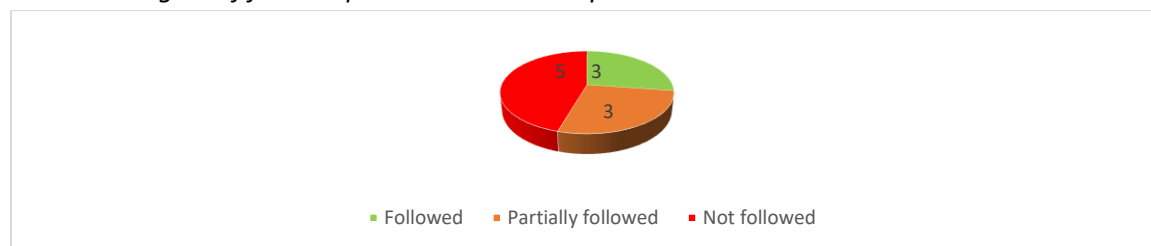
The recommendation has been followed. The force has a multi-year training plan. However, the force is not supported by the ministry in developing a multi-year training plan (A8). The Council believes that communication between the ministry and the KPSM could be improved and calls attention to this as in previous reports.

3.2 (Schematic) overall analysis police education

Introduction

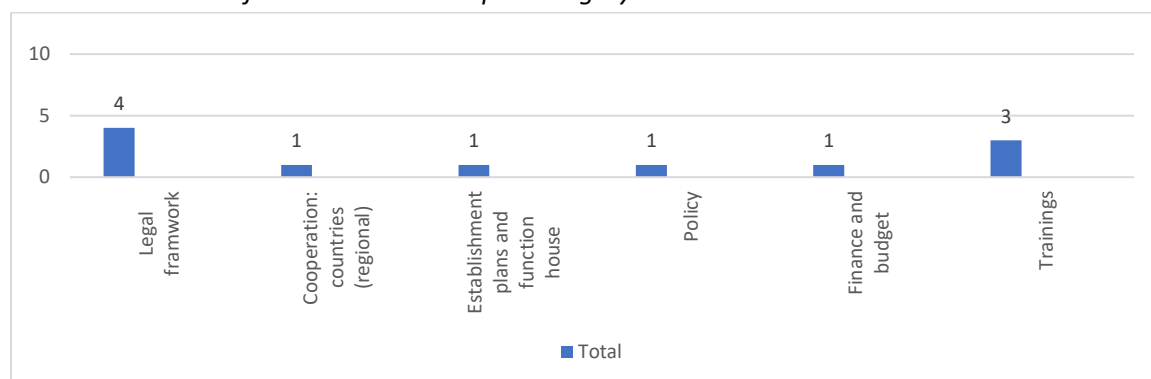
In 2013, the Council made 11 recommendations as part of its inspection into police education, which was followed by a review inspection in 2017. During the review inspection, the Council indicated that its review inspection indicated that three recommendations had been followed, three partially followed and five not followed. Therefore, the overall compliance rate was (approximately) **40.9%**²¹ in 2017.

Table 13. Degree of follow-up recommendations police education 2017



The 11 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. The subdivision is intended to be indicative and is as follows: legal framework (A1, A2, A3, A4), establishment plans and function house (A5), policy (A6), finance and budget (A7), training (A8, A9, A10), cooperation: countries (regional) (A11). Table 14 depicts this.

Table 14. Number of recommendations per category



State of affairs follow-up 2023

The state of affairs in 2023 is that of the 11 recommendations, six recommendations have been followed (A2, A6, A8, A9, A10, A11), two recommendations have been partially followed (A1, A3), and three recommendations have not been followed (A4, A5, A7). Therefore, the compliance rate is (almost) **63.6%** in 2023.

Below, in three tables, the Council presents the status of compliance with recommendations, a comparison of the status in 2017 and 2023, and the degree of compliance by category, respectively.

Table 15. Degree of follow-up recommendations police education 2023

²¹ 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.

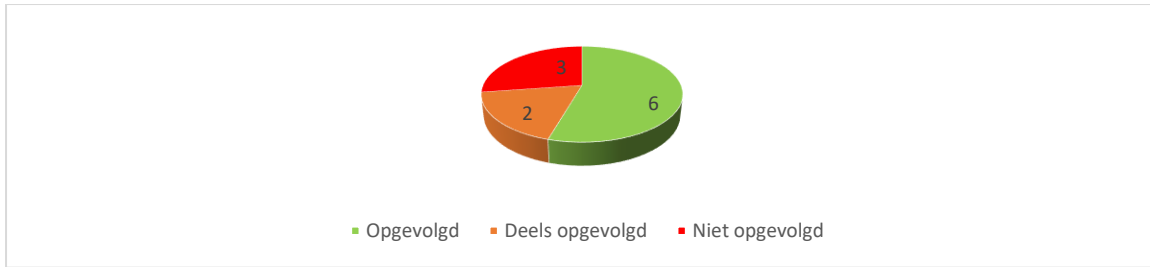


Table 16. Degree of follow-up recommendations police education 2017 and 2023

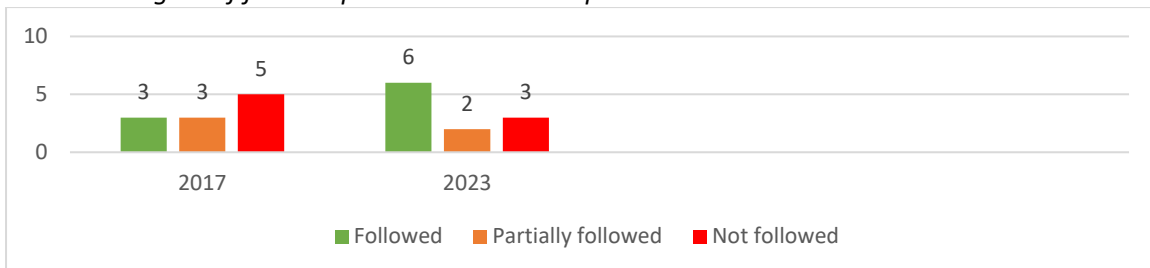
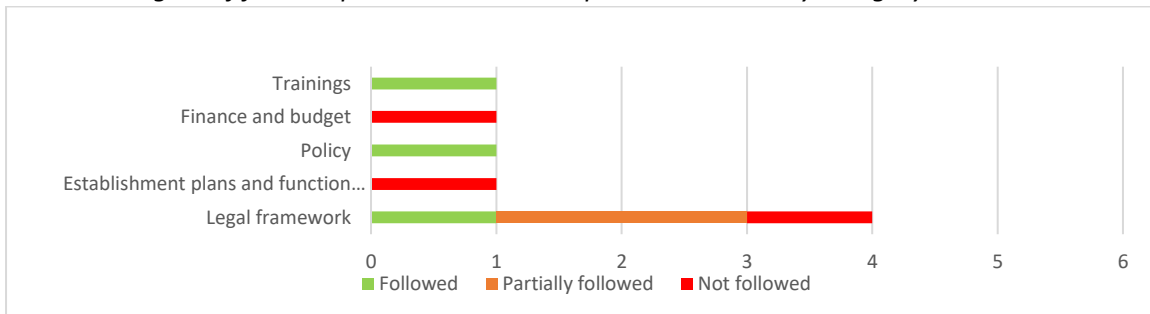


Table 17. Degree of follow-up recommendations police education by category 2023



It is evident from the tables that there has been good progress in the level of compliance with the recommendations given that the compliance rate has increased from 40.9% to 63.6%. However, the Council does note, as it did during its 2017 review inspection, that there is still stagnation of recommendations in the categories of legal framework (mutual regulations and outdated provisions) and finance and budget (training). Furthermore, there is even deterioration in the category of establishment plans and job descriptions (the desirability of a police training school). These are recommendations that require finances and especially capacity for follow-up. Previous Council reports have shown that the lack of finances and capacity, are bottlenecks to the follow-up of recommendations. The Council is also aware that these bottlenecks cannot be solved in the short term. However, the Council asks the Ministry to nevertheless seek a way to solve these problems in the shortest possible time.

Recommendation and monitoring

With its follow-up inspection, the Council has provided insight into the status of implementation of the recommendations within the framework of police education in Sint Maarten. Based on the foregoing, the Council's recommendation to the Minister of Justice is: *Implement the five recommendations of the Council that have not yet been (fully) addressed and make the necessary resources available as soon as possible.*

In the table below, the Council presents the status of implementation of the recommendations for the Police Education in Sint Maarten report.

Table 18. State of affairs recommendations police education 2017 - 2023

Number	Recommendations police education	Review 2017	Follow up 2023
	To the Minister of Justice		
A1	Promote that both the mutual regulation concerning quality requirements, education and training requirements of the police of Curaçao, Sint Maarten and of Bonaire, Sint Eustatius and Saba as well as the competence-based learning outcomes will soon be established by national decree containing general measures.	Not followed	Partially followed
A2	Ensure that the Sint Maarten Police Force Legal Status Decree enters into force as soon as possible.	Not followed	Followed
A3	In accordance with the provisions of the KPNA Legal Status Decree, establish requirements regarding the level of training of the aspiring police officer and designate specific training tracks based on the competency-based learning outcomes.	Not followed	Partially followed
A4	Review within a reasonable time the more outdated provisions in the National Decree on Police Personnel Education.	Not followed	Not followed
A5	Make a decision within a reasonable time on the desirability of a police training school in Sint Maarten.	Partially followed	Not followed
A6	Formulate selection standards, education and training requirements for the training of the extraordinary police officer and training requirements and selection standards for the candidate extraordinary police officer.	Partially followed	Followed
A7	Guarantee funding for the training required for the KPSM in the country's budget for 2014 and subsequent years.	Not followed	Not followed
	To the Minister of Justice regarding the KPSM		
A8	Promote that the Sint Maarten Police Force establish a multi-year training plan in the near future.	Partially followed	Followed
A9	Promote the launch of basic police training in the near future.	Followed	-
A10	Encourage experienced police officers to participate in advanced training.	Followed	-
A11	Encourage cooperation with Curaçao and/or the BES regarding basic police training and advanced training.	Followed	-

The Council will continue periodic monitoring of the progress of pending recommendations in 2024 and may include those in the context of police education in Sint Maarten.

4. Status of recommendations on the use of force by and against the police in Sint Maarten

Introduction

In September 2014, the Council published the report entitled "*Use of Force by Police in St. Maarten. Research on the use of force by the police and use of force against the police*". The report answered the questions as to how the use of force by the police is regulated in Sint Maarten and to what extent there is use of force and disproportionate force by the police. In addition, the use of force against the police was addressed. The Council looked at the aspects of laws and regulations, powers, adequate knowledge, training, skills, testing, follow-up or investigation of complaints and reports and registration. Thirteen recommendations were included in the report.

In 2019, the Council conducted a follow-up inspection on the following-up of these 13 recommendations from the 2014 report. The status of follow-up of the recommendations was as follows: six recommendations had been fully followed, two recommendations had been partially followed, and five recommendations had not been followed up (see Table 19). For a more detailed explanation of the content, the Council refers to the report²².

As indicated earlier, an overarching response to the Council's reports was formulated by the MoJ in 2022. Where relevant, the Minister's response to the report's recommendations will be addressed.

Table 19. State of affairs recommendations use of force by and against the police 2019

Number	Recommendations use of force by and against the police	Review 2019
	To the Minister of Justice	
A1	Promote that both the mutual regulation on equipping the police of Curaçao, Sint Maarten and Bonaire, Sint Eustatius and Saba and the mutual regulation on quality requirements, education and training requirements of the police of Curaçao, Sint Maarten and Bonaire, Sint Eustatius and Saba are established by national decree containing general measures.	Not followed
A2	Establish the compiled tests in the near future so that all police officers are tested in the same manner and at the times required by law.	Not followed
A3	Ensure that the Police Complaints Committee is established in accordance with the law.	Not followed
A4	Engage the National Detectives in all cases in which it is authorized by law.	Partially followed
A5	To the Minister of Justice regarding the KPSM	
A6	In accordance with the law, give all police officers the opportunity to regularly refresh their knowledge on the laws and regulations on the use of force and their authority to use force.	Followed
A7	Promote that all members of the force attend the integral professional skills training at least 2 to 4 days per year to maintain their knowledge and skills on the use of force.	Followed
A8	Promote the physical fitness of police force members.	Not followed
A9	Promote that all police officers see the integral professional skills training as a matter of course and obligation.	Partially followed
A10	In the short term, invest in the shooting skills of members of the police force.	Followed
A11	Pay attention during coaching, education and training on how to handle and avoid the use of unnecessary force, verbal abuse and excessive force by officers and the use of (verbal) force against officers.	Followed
A12	Continue to invest in mentoring.	Followed
A13	Pay attention during coaching, education and training to the reporting and recording of the use of force by police force members.	Followed

²² Law Enforcement Council (2019). Review inspection on the implementation of recommendations on the use of force by and against the police in Sint Maarten.

Number	Recommendations use of force by and against the police	Review 2019
A14	Bring the gun policy of the KPSM in line with the legislation on this.	Not followed

This follow-up inspection looks at the follow-up of the seven recommendations (A1, A2, A3, A4, A7, A8, A13) regarding the use of force by and against the police in Sint Maarten. These recommendations have not yet been (fully) followed up. The recommendations are described separately in the following section.

4.1 State of affairs use of force by and against the police 2023

Findings

Below, the Council addresses the recommendations. For each recommendation, the Council first presents the state of affairs in 2019, followed by the findings in 2023 and the assessment thereof.

To the Minister of Justice:

A1: Promote that both the mutual regulation on equipping the police of Curaçao, Sint Maarten and Bonaire, Sint Eustatius and Saba and the mutual regulation on quality requirements, education and training requirements of the police of Curaçao, Sint Maarten and Bonaire, Sint Eustatius and Saba are established by national decree containing general measures. The recommendation was categorized by the Council in its database as “legal framework”.

State of affairs 2019

The mutual regulation on quality requirements, education and training requirements of the police had not yet been adopted by national decree, containing general measures. The cabinet of the Minister indicated that this mutual regulation, would be addressed and implemented only after the placement of police officers in accordance with the new function book.

Findings 2023

The Council refers to recommendation 1 in chapter 3 for the findings on the mutual regulation on quality, education, and training requirements of the police of Curaçao, Sint Maarten and of Bonaire, Sint Eustatius and Saba. The mutual regulation on police equipment of Curaçao, Sint Maarten and Bonaire, Sint Eustatius and Saba has not been established by national decree containing general measures due to the previously mentioned lack of capacity at the Ministry of Justice.

Assessment

The recommendation (A1) has been assessed as not followed in its entirety. For the mutual regulation on quality, education, and training requirements for the police of Curaçao, Sint Maarten and Bonaire, Sint Eustatius and Saba, the Council refers to the assessment of recommendation 1 in chapter 3. There it is indicated that part of this mutual regulation is included in the current KPSM legal status decree. The remaining provisions have yet to be adopted by national decree containing general measures. The mutual regulation on police equipment of Curaçao, Sint Maarten and Bonaire, Sint Eustatius and Saba has not been established by national decree containing general measures.

A2: Establish the Compiled Tests in the near future so that all police officers are tested in the same manner and at the times required by law. The recommendation was categorized by the Council in its database as “trainings”.

State of affairs 2019

During the January 2016 JVO, a draft of the "mutual regulation on tests over arrest and self-defense skills, use of force and marksmanship of the police of Curaçao, of Sint Maarten and of Bonaire, Sint Eustatius and Saba" was ready. Subsequently, during the July 2018 JVO, St. Maarten and the Netherlands agreed to further develop the draft. The process would resume after the JVO with a goal of completion in 2019. During the 2019 JVOs, the topic was not on the agenda.

Findings 2023

The compiled tests are still only in draft form; however, all police officers are already tested in the same manner through the IBT. As indicated, several interviewees from the different organizations indicated that the mutual regulation on tests over arrest and self-defense skills, use of force and marksmanship are on the agenda for the JVO to be held in June 2023.²³

Assessment

The recommendation is considered partially followed. The compiled tests (A2) have been drafted. However, all police officers are tested in the same manner through the IBT, and this accomplishes part of the objective. The Council expects the mutual regulations to be finalized soon.

A3: Ensure that the Police Complaints Committee is established in accordance with the law. The recommendation was categorized by the Council in its database as "work processes".

State of affairs 2019

It was reported by the Minister that the Complaints Committee had still not been established. This was due to a shortage of suitable and qualified candidates. Despite the above, the Ministry's aim was to continue its efforts to find suitable candidates to make the Complaints Committee a reality.

Overarching response 2022

In her policy response, the Minister recognized the added value, but also the urgent need for an independent body to handle complaints about the conduct of police officers and special police officers in addition to the already existing complaint mechanisms of the BIZ, the Ombudsman and the Court. The selection process for the first three members had been initiated and completed with the Attorney General. The process for appointing these members was underway, after which the public would be informed about how complaints could be filed with the committee.

Findings 2023

The Police Complaints Committee was established in December 2022. According to the ministry, this development gained momentum because the ministry received signals from various sources about the unsatisfactory handling of complaints by the BIZ.²⁴ The current composition of the committee consists of a chairman, two members and a secretary. The committee is still in the start-up phase and, for example, does not yet have a physical office. The committee can be contacted through the ministry's website, where a complaint can also be filed. Public awareness about the committee's procedures has yet to be raised. However, the ministry has already received the first (quarterly) report of the committee's work.

Further, the ministry indicates that there is good contact between the KPSM and the committee. The KPSM reports that it has recently met and consulted with the committee. However, there is no structural consultation yet. The KPSM cooperates fully with the committee and where possible, information is provided by the KPSM. Requests are handled expeditiously by the KPSM policy department. Several committee investigations have also shown that the KPSM has acted correctly in

²³ Tijdens het JVO van juni 2023 is besloten dat er door elk land een inhoudelijke toetsing dient plaats te vinden op de actualiteit van de regelingen inclusief de financiële gevolgen. Dit onderwerp wordt in het JVO van januari 2024 hervat.

²⁴ The Daily Herald. *New Committee To Hear Citizens Complaints About Police Violence*. 06-09-2021.

certain situations. This emphasizes the importance of working according to procedures, according to the KPSM.

The OM says it has not yet spoken with the members of the committee about, for example, their role and methods. However, the OM recently received a request from the committee for information about an ongoing investigation. Since the OM does not communicate externally about ongoing investigations, it is forced to communicate this to the committee as well. Furthermore, the OM indicates that citizens sometimes come directly to the OM to complain about the police. In these cases, the OM refers the case to the BIZ, which then takes up the case.

Additional

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) conducted an inspection on Sint Maarten (prison system, including police cells) last year. During the inspection, the use of force by the police was examined, among other things. The inspection revealed that the vast majority of (recent) detainees interviewed by the delegation during the visit did not complain about the way they were treated by police officers. However, there were a number of complaints where handcuffs were allegedly set too tightly by officers and one complaint where someone was allegedly kicked in the back during an interrogation. The CPT recommended that Sint Maarten authorities should reiterate to police officers that any form of mistreatment of detained persons is unacceptable and will be punished accordingly. Further, when it is deemed necessary to handcuff a person, under no circumstances should they be applied too tightly.²⁵

The KPSM notes that in such cases, the BIZ conducts an internal investigation into the facts. Moreover, attempts are made to pay more attention to such cases during IBT. According to the BIZ, during IBT attention is paid to the use of force (resources) and how to deal with it. Different themes and scenarios are discussed. In investigations into, for example, a shooting incident with bodily harm, the officer's (shooting) ability is also examined, and a standard check is made of when someone last participated in IBT.

In addition, all KPSM interrogation rooms are equipped with audio and video equipment and the KPSM can view images of the interrogation and also listen in. This is also in line with developments within the region. The KPSM is a learning organization and new best-practices will always emerge. If a topic is significantly updated then a new or updated protocol will be published on the KPSM intranet, according to the KPSM.

Police officers must report both the use of force and force used against them. See Table 17 for an overview of the number of recorded cases of the use of force by police from 2021 through June 2023. The chief of police indicated that, in his opinion, the use of force against police is often underreported. The term use of force includes verbal abuse, for example. Officers are therefore asked to register this in Actpol²⁶, but registration has yet to become routine.

All reports of use of force by and against the police are recorded and reviewed by the BIZ. However, a report might not always lead to an internal investigation. As a result, there may therefore be more reports of incidents of the use of force per year than the number of registered cases/internal investigations by the BIZ.

Furthermore, the BIZ coordinator has not noticed any real trends; he does note that new (younger) officers have a different attitude than older officers. But this produces little change in terms of the type and number of cases coming in. However, with the use of social media, incidents come to light

²⁵ CPT (2023). Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 10 to 25 May 2022.

²⁶ Business process system used by KPSM and other investigative agencies within the law enforcement chain in the Caribbean part of the Kingdom.

more quickly. Partly for this reason, he believes officers should also be made more aware of what they post on social media and what the consequences may be. The OM also states that they have not observed any trends in the use of force by police, this because relatively few incidents concerning the use of force occur.

An interviewee from the KPSM indicates that the impression is that there are not many incidents, in which force is used against the police. According to the BIZ, there are cases of the use of force against the police, but exact figures cannot be identified because they cannot be registered in Actpol in such a way that they can be easily retrieved. The KPSM is in talks with the company ACTS that built the system to find a solution to this.

Table 20. Number of registered cases of the use of force by police 2021-2023 (Jan-Jun)

Year	Number registered cases
2021	48
2022	51
2023 (jan-jun)	31
Total	130

Source: KPSM

Assessment

The Council's recommendation has been followed. The Police Complaints Committee has been established in accordance with the law (A3). The Council believes that this further enables citizens to be heard and that in this way confidence in the complaints system and the correct handling of reports by KPSM is strengthened. However, it is important that citizens are sufficiently informed about the different possibilities and that insight is given into the working methods of the organizations involved. The Council does wonder whether the threshold might be too high if those involved must contact the Complaints Committee through the ministry's website or have to submit a complaint through that website. It would be better to find another solution for this.

In addition, it is important that police officers in cases of force against them are given the opportunity to report this as well, that help is offered and that this is properly recorded. The Council encourages the KPSM to make quick work of this.

A4: Engage the National Detectives in all cases in which it is authorized by law. *The recommendation was categorized by the Council in its database as "enforcement and compliance".*

State of affairs 2019

The "Instructions for tasks and deployment of the National Detectives" describes the cases in which the National Detectives are deployed. Several general, cumulative basic principles apply to the deployment of the LRSM. When these starting points are met, however, it is not a given that the LRSM will always be deployed, as can be read in the instruction. One of the reasons for this is the available capacity. The deployment of the LRSM will always be decided on a case-by-case basis. In addition, the OM believed that the recommendation had been formulated too broadly, because it would mean that the LRSM would have to act in many cases, while there is not the capacity to do so. Furthermore, the LRSM had no insight into whether cases of the use of force with or without injury, other than from a firearm, were reported to the LRSM.

Findings 2023

The LRSM is not deployed in all cases in which the service has authority. Due to the continued lack of capacity (personnel/expertise), the LRSM still cannot be deployed in all cases, such as corruption cases. In its reaction, the OM indicates that it regrets that a Head LRSM has still not been appointed, this is partly one of the reasons for the lack of capacity. Two new employees were recruited and joined the LRSM last year. The OM does indicate that the LRSM is always deployed in shooting incidents. This

is because these have priority and for that reason take precedence over (long) running cases. Not every shooting incident has to lead to a case; this applies, for example, in incidents where no one is injured. If there is a victim of force, there is always an investigation.

Assessment

The recommendation is still considered partially followed. In the report on the steering, prioritization, and monitoring of criminal cases,²⁷ it was already found that fewer cases are assigned to the LRSM due to lack of capacity. The current inspection also reveals that due to a lack of capacity, the LRSM is not deployed in all cases in which it has authority (A4). The Council has furthermore in previous reports, including in the report *“Review of the National Detectives Sint Maarten”* (2020), extensively reported on the serious bottlenecks the LRSM faces. The lack of capacity was also part of this. The Council then made several recommendations to address this. However, the LRSM remains an area of concern and the Council reiterated this in its *“State of Law Enforcement 2022”*. The Council therefore expects that the Minister will prioritize the recommendations on the LRSM in the near future.

To the Minister of Justice regarding the KPSM

A7: Promote the physical fitness of police force members. *The recommendation was categorized by the Council in its database as “trainings”.*

State of affairs 2019

According to the KPSM, personnel were encouraged as much as possible to work on their physical fitness, despite the fact that the KPSM did not have its own fitness center. It was intended that the Soremar building would provide for this, but due to the damage sustained by Hurricane Irma, this was no longer an option. The Belair fitness center supposedly had a "special rate" for Corps members, but participation was not mandatory. The rate was reportedly made known to corps members through the KPSM intranet. Within the corps, there are officers who do form teams on their own initiative and train together (for example, members of the arrest team).

Findings 2023

The physical fitness of corps members (apart from IBT) is not proactively encouraged by the corps. There are also no more agreements with gyms. An interviewee from the KPSM says it is important for officers to have good physical fitness, but that they are partly responsible for their own health and fitness. The younger agents often undertake activities on their own, such as running and working out. Further, the KPSM could look into what provisions could be made to take the physical fitness of officers to a higher level, according to the interviewee. Other KPSM interviewees feel that provisions in this area should be centrally arranged by the ministry.

The ministry has not made provisions to promote the physical fitness of corps members or other members of judicial organizations in general. The ministry does indicate that it attaches importance to this and that a more active role of the ministry in this regard is often discussed, also from the point of view of being a good employer. Interviewees from the ministry therefore do not rule out the possibility that the ministry will play a more active role in this area in the future. The ministry points to the IBT that takes place twice a year. In the future, efforts will be made to ensure that officers are structurally tested throughout the year and that physical fitness can also be worked on. The biggest bottleneck here, however, is the lack of finances.

Assessment

²⁷ Law Enforcement Council (2023). Inspection Lead Time: The steering, prioritization and monitoring of simple and complex criminal cases in Sint Maarten.

The recommendation is considered not followed. The physical fitness of corps members (A7) is not being promoted proactively and throughout the year by the KPSM. There is attention for the physical fitness of officers only at certain set times as part of the IBT. Despite the ministry's intentions, there are still no provisions from the ministry through which the physical fitness of officers can be worked on. Opinions differ as to who (officer, KPSM or ministry) ultimately bears the responsibility for maintaining the physical fitness of police officers. The Council believes that officers partly bear their own responsibility, but that given the nature of the job, the employer (ministry) should also facilitate this. The Council therefore calls attention to this in the Minister's future plans.

A8: Promote that all police officers see the integral professional skills training as a matter of course and obligation. *The recommendation was categorized by the Council in its database as "personnel policy".*

State of affairs 2019

All agents were required to participate in the IBT to keep their knowledge and skills up to date. In the opinion of one of the two IBT instructors, the majority of the agents saw the training only as an 'I have to' (obligation) and not also as a matter of course.

Findings 2023

According to the KPSM, the structural embedding of the IBT (twice a year) has ensured that the IBT is now ingrained in the force and that officers see the IBT as a matter of course and obligation. In fact, team leaders receive a list of names and the dates when their team members must participate. If a team member does not report that day, the IBT instructor notifies the team leader, and the team member is rescheduled. Attending IBT is important because IBT makes officers more resilient and can help de-escalate violence on the job.

The ministry says it is not aware of the participation and results of the IBT by the force. According to the KPSM, the IBT is reported annually in the annual report. No specific information is included on the results of the IBT tests, but, for example, on how many personnel were tested. In doing so, the force is said to comply with Article 7(6) of the "mutual regulation on quality, education and training requirements for police," according to the KPSM. The article states that in its annual report, the KPSM must provide an overview of the state of affairs regarding the tests referred to in Article 7(2) of the same mutual regulation (the test of use of force and the test of arrest and self-defense skills). This among other things in the interest of political accountability and supporting the work of the Council.

Assessment

The Council considers this recommendation to have been followed. The Council is positive about the embedding of the IBT, especially since it is now seen within the force as an obligation and taken as a matter of course by officers (A8). This development brings benefits. Indeed, the skills gained are conducive to the safety of both officers and citizens. The handling and better learning of the use of force may also eventually lead to fewer complaints of violent assaults. The Council therefore expresses the hope that the IBT will continue to take place on a structural basis.

A13: Bring the weapons policy of this KPSM in line with the legislation on this. *The recommendation was categorized by the Council in its database as "weapons policy".*

State of affairs 2019

The new (auxiliary) agents and agents in training did not have a service weapon while off duty. At the beginning of their shift, they collected the weapon from the watch commander/depot manager and

at the end of their shift it was returned. Officers with more experience (higher rank) were allowed to decide for themselves whether to return their service weapon after their shift.

Findings 2023

The KPSM's firearms policy - whether to carry the service weapon off-duty - is still not in compliance with regulations in this area. According to the Ministerial Regulation on Clothing, Arming and Other Equipment for Police, police officers are not allowed to carry or use a service weapon while off duty. The KPSM indicates that the unwritten weapons policy, as noted by the Council in 2017, is still being used within the organization. This practice has not resulted in any known incidents, according to the KPSM. A KPSM interviewee explained that most corps members feel that if they do not have a weapon with them off-duty, then they cannot intervene in an incident. This is from the point of view of their own safety. Furthermore, reference is made to the prevailing culture within the organization (and government-wide) that weapon bearers should always carry a weapon. One interviewee questions whether this is legitimate. A ministry interviewee further notes that this problem is indeed government-wide and gives the example of bavPollers who also want to take their weapon home with them because they are sometimes threatened.

According to the BIZ, it would be ideal if employees of the KPSM were provided with a safe to store their firearms, but the KPSM is unable to provide this due to lack of finances.

The Chief Public Prosecutor (HOvJ) was found not to be directly aware of the KPSM's weapons policy and whether it complies with legislation in this area. According to the HOvJ, this is an internal matter of the KPSM, which the KPSM itself must take care of. The HOvJ further indicates that there are risks associated with this course of action.

Assessment

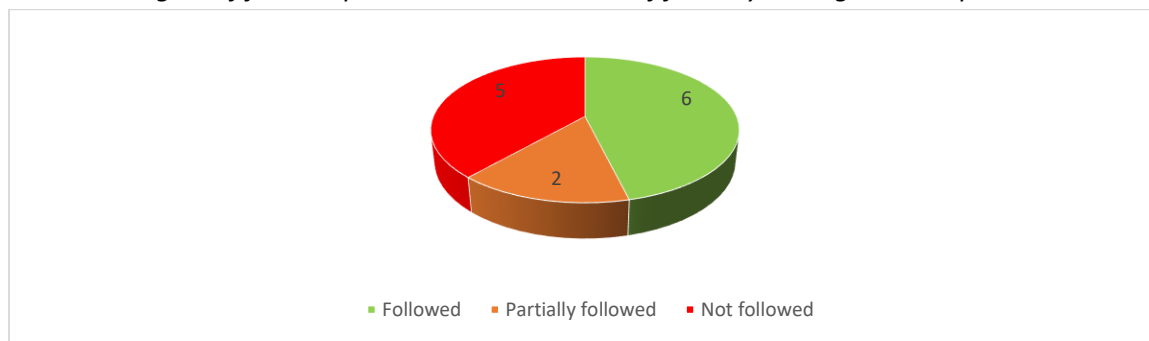
The recommendation has not been followed. The KPSM's (firearms) policy (A13) has still not been brought into compliance with the regulation on this matter. The Council believes that it should not come to an incident before the necessary measures are taken. The Council believes that the KPSM should pay due attention to this. The involvement of the Minister to address this government-wide - including in the context of security risks and possible feelings of insecurity - is also needed.

4.2 (Schematic) overall analysis use of force by and against the police

Introduction

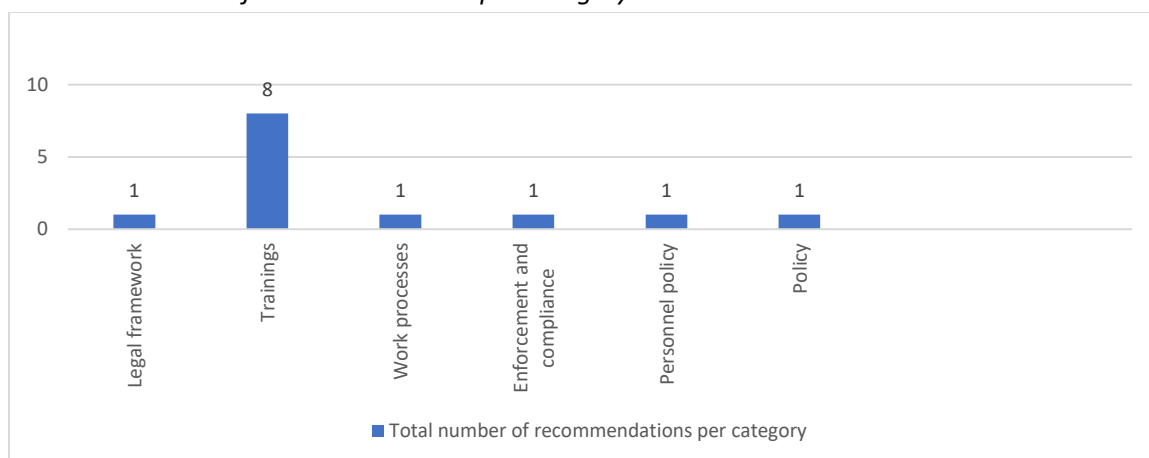
In 2014, the Council made 13 recommendations in the context of the inspection into the use of force by and against the police, which was followed by a follow-up inspection in 2019. The follow-up inspection in 2019 found that of the thirteen recommendations, six recommendations had been followed, two recommendations had been partially followed, and the remaining five recommendations remained to be fully followed. Based on the foregoing, the compliance rate was (virtually) 53.8% in 2019.

Table 21. Degree of follow-up recommendations use of force by and against the police 2019



These thirteen 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 intended to be indicative and is as follows: legal framework (A1), work processes (A3), training (A2, A5, A6, A7, A9, A10, A11, A12), enforcement and compliance (A4), personnel policy (A8), weapons policy (A13).

Table 22. Number of recommendations per category



State of affairs follow up 2023

The state of affairs in 2023 is that eight recommendations have been fully followed, two recommendations have been partially followed and three recommendations have not been followed. Therefore, the compliance rate is (almost) 69.2% in 2023.²⁸

Below, the Council presents in three tables, respectively, the status of follow-up on the recommendations, a comparison of the status in 2019 and 2023, and the degree of follow-up by category.

²⁸ Het compliance percentage als indicator wordt berekend door aan elke opgevolgde aanbeveling 1 punt, elke deels opgevolgde aanbeveling een ½ punt en aan een niet opgevolgde aanbeveling geen punten toe te kennen. Vervolgens wordt het aantal toegekende punten gedeeld door het totale aantal aanbevelingen en vermenigvuldigd met 100 om op het compliance percentage uit te komen.

Table 23. Degree of follow-up recommendations use of force by and against the police 2023

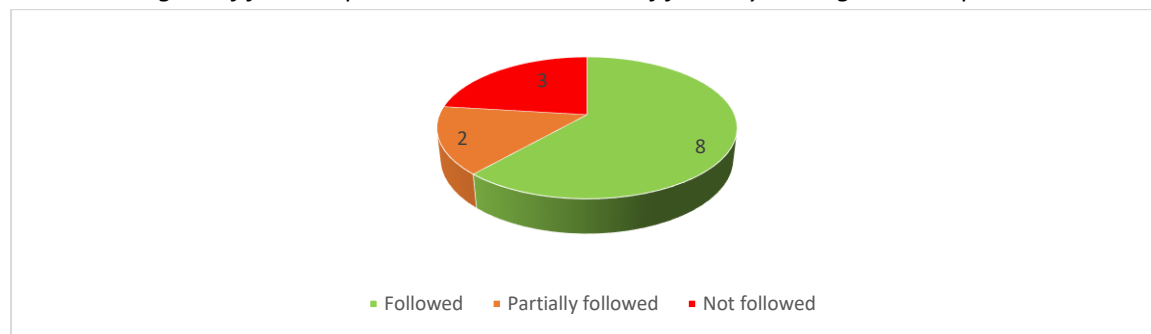


Table 24. Degree of follow-up recommendations use of force by and against the police 2019 - 2023

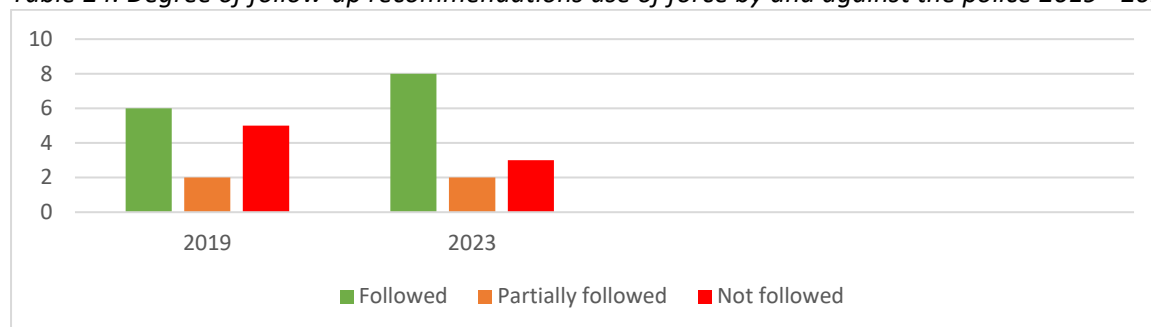
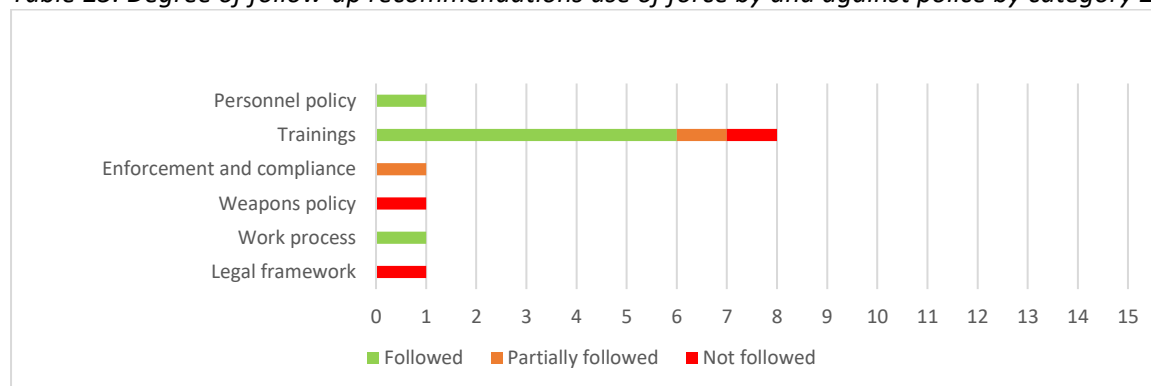


Table 25. Degree of follow-up recommendations use of force by and against police by category 2023



It can be gathered from the tables that progress has been made in the level of compliance with the recommendations, given that the compliance rate increased from 53.8% to 69.2%. The recommendations (partially) not followed all concern categories that are non-financial.

The Council again notes that the recommendation on the legal framework has not been followed. Furthermore, the recommendations on the KPSM weapons policy and training, and the enforcement and compliance of the LRSM are still areas of concern. Since these are all recommendations without primary financial consequences, the Council believes that a solution should be sought for these in the shortest possible time.

Recommendation and monitoring

With this inspection, the Council has provided insight into the status of the follow-up of the recommendations in the context of the use of force by and against police. Based on the foregoing, the Council's recommendation to the Minister of Justice is: *Implement the five Council recommendations that have not yet been (fully) followed up and make the necessary resources available as soon as possible.*

In the table below, the Council presents the status of the implementation of all recommendations for the report on the use of force by and against the police in Sint Maarten.

Table 26. State of affairs recommendations use of force by and against the police 2019 – 2023

Number	Recommendations use of force by and against the police	Review 2019	Follow up 2023
	To the Minister of Justice		
A1	Promote that both the mutual regulations concerning equipping the police of Curaçao, Sint Maarten and Bonaire, Sint Eustatius and Saba and the mutual regulations concerning quality requirements, education and training requirements of the police of Curaçao, Sint Maarten and Bonaire, Sint Eustatius and Saba are established by national decree containing general measures.	Not followed	Not followed
A2	Establish the compiled tests in the near future so that all police officers are tested in the same manner and at the times required by law.	Not followed	Partially followed
A3	Ensure that the Police Complaints Committee is established in accordance with the law.	Not followed	Followed
A4	Engage the National Detectives in all cases in which it is authorized by law.	Partially followed	Partially followed
A5	To the Minister of Justice regarding the KPSM		
A6	In accordance with the law, give all police officers the opportunity to regularly refresh their knowledge on the laws and regulations on the use of force and their authority to use force.	Followed	-
A7	Promote that all members of the force attend the integral professional skills training at least 2 to 4 days per year to maintain their knowledge and skills on the use of force.	Followed	-
A8	Promote the physical fitness of police force members.	Not followed	Not followed
A9	Promote that all police officers see the integral professional skills training as a matter of course and obligation.	Partially followed	Followed
A10	In the short term, invest in the shooting skills of members of the police force.	Followed	-
A11	Pay attention during coaching, education and training on how to handle and avoid the use of unnecessary force, verbal abuse and excessive force by officers and the use of (verbal) force against officers.	Followed	-
A12	Continue to invest in mentoring.	Followed	-
A13	Pay attention during coaching, education and training to the reporting and recording of the use of force by police force members.	Followed	-
A14	Bring the weapons policy of the KPSM in line with the legislation on this.	Not followed	Not followed

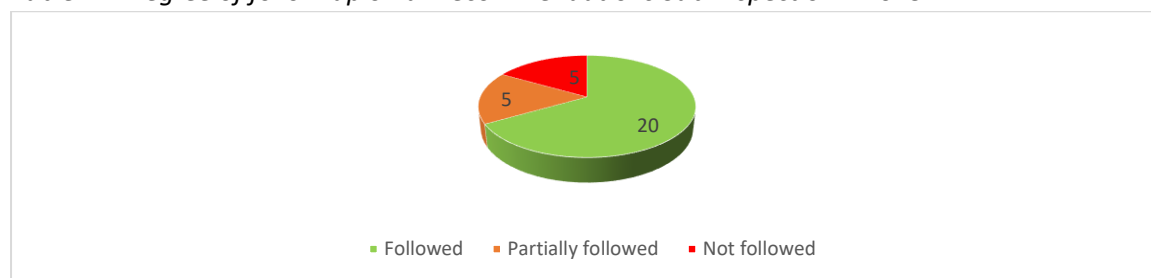
The Council will continue its periodic monitoring of the progress of pending recommendations in 2024 and may include those related to the use of force by and against the police.

5. Overarching analysis

Answering the main question

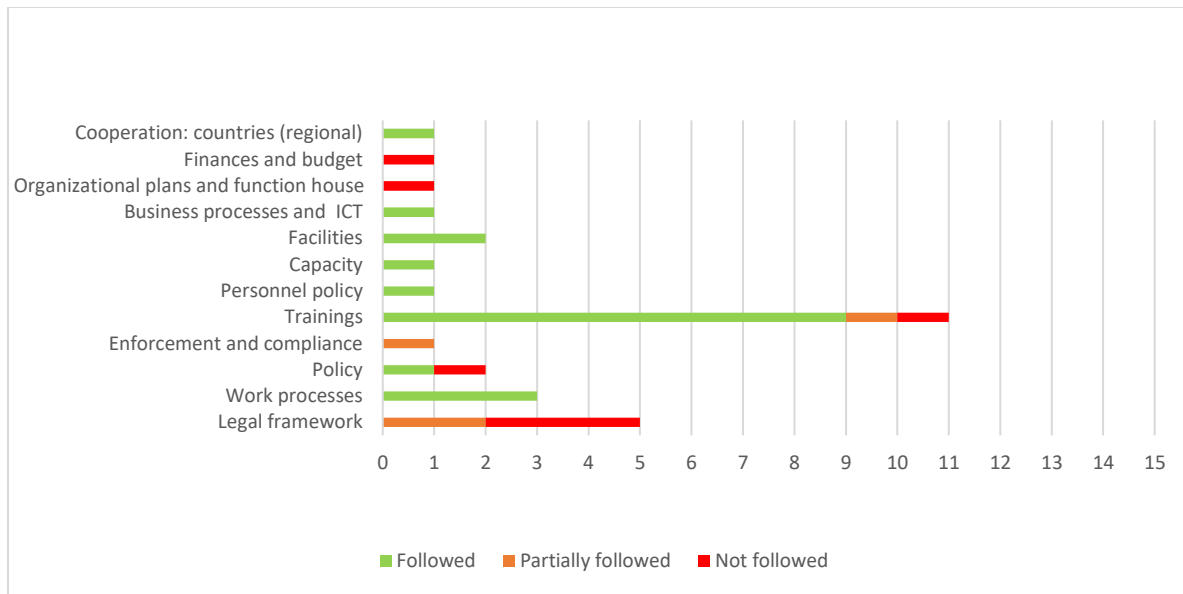
In this fourth sub-inspection, the Council looked at the extent to which the recommendations made on the three topics have been addressed. These are the reports on the Bureau of Internal Affairs (6 recommendations), Police Education (11 recommendations), and the Use of force by and against the police (13 recommendations). This fourth sub-inspection shows that out of a total of 30 recommendations, 20 recommendations have been followed, 4 recommendations have been partially followed, and 6 recommendations have not been followed. Overall, therefore, it can be said that the majority of the recommendations have been followed up. The recommendations that were followed mainly concern the BIZ (all 6 followed up). The remaining recommendations that were followed concern police education (6 followed up) and the use of force by and against the police (8 followed up). The recommendations rated as "not followed up" or "partially followed up" concern police education (3 not and 2 partially followed up) and the use of force by and against police (3 not and 2 partially followed up). Based on the above, the Council concludes that the intended progress has been achieved on the topic of the BIZ. The task now is to focus on following up the outstanding recommendations. In the table below, the Council shows the state of affairs in the degree of follow-up for all three topics collectively.

Table 27: Degree of follow-up on all recommendations Sub-inspection 4 2023



The recommendations still partially and not followed up concern recommendations in the categories: finances and budget (1), organizational plans and function house (1), training (2), enforcement and compliance (1), policy (1) and legal framework (5). Below, the Council's table shows the status of the level of follow-up on all recommendations by category.

Table 28. Degree of follow-up on all recommendations sub-inspection 4 by category 2023



Overarching picture

The KPSM - as in the aforementioned sub-inspection 3 - also plays the leading role in this fourth sub-inspection. A number of well-known bottlenecks also recur in this last sub-inspection. By extension, the Council therefore also refers to the earlier report. The bottlenecks in this review mainly concern the lack of preconditions of a financial and personnel nature at the KPSM. However, the ministry is also struggling with these bottlenecks, which means that the follow-up of the recommendations for which support from the ministry is necessary continues to stagnate. Indeed, the ministry's lack of commitment - including in the area of support and steering - is largely due to a lack of capacity/staff as well as continuity. The latter due to numerous staff changes. The Council previously made recommendations in this regard for improvement.

The Council initially focused its inspection on the subject of police education because it believes that a professional force in accordance with current laws and regulations requires properly trained officers. To achieve this, police education must be designed to produce competent and professionally trained personnel. Therefore, not only must the training needs of aspiring officers be met, but also those of existing officers. Although there is now a basis for police education for both basic police training and specialized training, it is dependent (financially and in terms of expertise) on third parties (e.g., PA and CoC). This creates risks and it is necessary that the Country manages this itself. However, the CoC has been a lifesaver for the KPSM and has enabled it to grow gradually, despite the aforementioned lack of certain preconditions. However, more is needed to further professionalize the KPSM and retain the existing knowledge within the organization. In order to do this, the Country must find a way to make a significant and continuous contribution to this cause.

The intended knowledge and continuous refreshment thereof can make a difference in, for example, how police officers make arrests and thereby reduce the use of force by police officers, as well as the use of force against police officers. Indeed, the inspection into the use of force by and against police officers shows that the structural training of officers through the IBT plays a crucial role in maintaining officers' competence in this area. And it can carry over into other topics. For example, this in turn could lead to the BIZ receiving fewer incident reports and having to conduct fewer investigations. In addition, this could also create space for the BIZ to carry out other tasks related to prevention, quality and integrity.

The new organization process of the BIZ, which falls under the integrity program of the CoC and is funded from there, has certainly contributed to the fact that the recommendations on the BIZ, despite being officially addressed to the Minister, have all been followed. The Council, like all interviewees, is

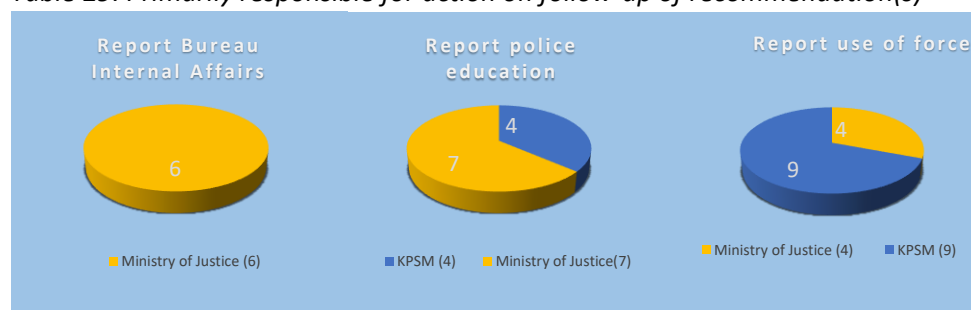
positive about this. However, certain preconditions (especially personnel) are needed before there is a fully functioning BIZ.

The above shows that the topics are inextricably linked and that failure to follow the recommendations on one topic may in turn have (negative) consequences on other topics. The Council also points out that not following the recommendations may pose the necessary risks for both the KPSM and the community. Therefore, the Council again encourages the Minister to follow up the recommendations that have not yet been (fully) followed up.

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

In accordance with the Kingdom Act Law Enforcement Council, all recommendations are formally addressed to the Minister of Justice and the Minister is required to submit the inspection report presented to him, along with his response, to parliament. 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 organization(s) concerned themselves. This is shown below for the 'partially' and 'not followed' recommendations per report.

Table 29. Primarily responsible for action on follow-up of recommendation(s)



Financial implications of follow-up recommendations

As in previous reports, lack of finances and capacity is a frequently cited reason why recommendations have not been followed. The Council is certainly aware that the Country, and more specifically the Ministry of Justice, faces 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 those that require primarily financial actions and those that primarily require non-financial actions. Based on the aforementioned database, the Council conducted this exercise to provide a first impression. Based on this, it can be concluded that out of a total of 10 partially - and not followed recommendations, one recommendation primarily requires financial action, and nine recommendations primarily require other non-financial actions. The foregoing is presented below in a table format.

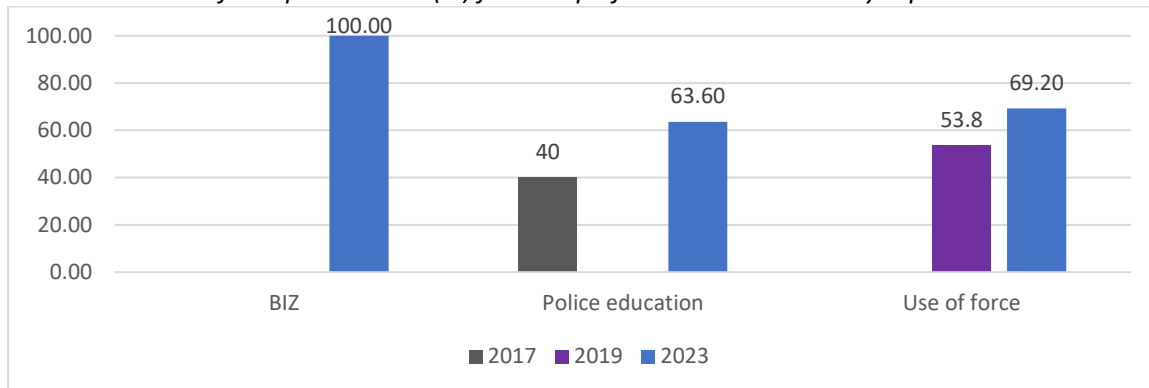
Table 30. Number of recommendations per report categorized by recommendations with primary financial action vs. primary non-financial action



In conclusion

Finally, the Council is aware that the recommendations are often disparate and that some are less complex than others. Nevertheless, the Council has expressed the status of each recommendation in a percentage for each report.²⁹ The percentage mentioned below is not a hard criterion, but only has the function of an indicator to show in a more visual way the state of affairs per report.

Table 31. Status of compliance rate (%) follow-up of recommendations by report



The Council has already recommended in Chapters 2 through 4 that the Minister of Justice implement the 10 recommendations that have not yet been (fully) followed and make the necessary resources available for that purpose (see Annex 1). As indicated in the various chapters, starting in 2024, the Council will continue the periodic monitoring of the progress of not yet followed recommendations. Due to the large volume, the Council will have to prioritize in this regard.

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. The number of points awarded is then divided by the total number of recommendations and multiplied by 100 to arrive at the compliance percentage.

Annex 1: Status of recommendations by report

2023 State of affairs recommendation report Bureau Internal Affairs					
Subject recommendation	Category recommendation ³⁰	Primary financial action/ primary other non-financial action ³¹	Follow up 2023	Primarily responsible for action ³²	State of affairs > 2024
1. Work and process descriptions	Work processes	Primarily non-financial	Followed	MoJ	
2. Follow up head BIZ	Capacity	Primarily non-financial	Followed	MoJ	
3. Roof repairs	Facilities	Primarily financial	Followed	MoJ	
4. Sufficient equipment and storage facilities	Facilities	Primarily financial	Followed	MoJ	
5. Completeness dossiers	Work processes	Primarily non-financial	Followed	MoJ	-
6. Overview of tasks	Business processes and ICT	Primarily non-financial	Followed	MoJ	
Total Compliance %³³			100%		%

2023 State of affairs recommendations report Police Education in Sint Maarten						
Subject recommendation	Category recommendation ³⁴	Primary financial action/ primary other non-financial action ³⁵	Review 2017	Follow up 2023	Primarily responsible for action ³⁶	State of affairs > 2024
1. Mutual regulation quality requirements, education and training requirements	Legal framework	Primarily non-financial	Not followed	Partially followed	MoJ	
2. Decree on the legal position of the police force	Legal framework	Primarily non-financial	Not followed	Followed	MoJ	
3. Determine the educational level of aspiring police officers	Legal framework	Primarily non-financial	Not followed	Partially followed	MoJ	
4. Revise provisions for LB police training	Legal framework	Primarily non-financial	Not followed	Not followed	MoJ	
5. Make a decision on the desirability of the Sint Maarten police school	Organization plans and function house	Primarily non-financial	Partially followed	Not followed	MoJ	
6. Establish formal selection standards education and training requirements BAVPOL	Policy	Primarily non-financial	Partially followed	Followed	MoJ	
7. Safeguard financing trainings	Finances and budget	Primarily financial	Not followed	Not followed	MoJ	
8. Establish multi annual trainings plan	Trainings	Primarily non-financial	Partially followed	Followed	MoJ, KPSM	
9. Start basic police training	Trainings	Primarily non-financial	Followed	Followed	MoJ, KPSM	
10. Let experienced employees take part in trainings	Trainings	Primarily non-financial	Followed	Followed	MoJ, KPSM	
11. Stimulate cooperation Curaçao and BES regarding training	Cooperation: countries (regional)	Primarily non-financial	Followed	Followed	MoJ, KPSM	

³⁰ As an indication, the recommendations have been divided into categories by the Council at its discretion in its database to give a little more insight into the individual recommendations.

³¹ 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.

³² 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.

³³ 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.

³⁴ As an indication, the recommendations have been divided into categories by the Council at its discretion in its database to give a little more insight into the individual recommendations.

³⁵ 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.

³⁶ 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.

2023 State of affairs recommendations report Police Education in Sint Maarten						
Total Compliance % ³⁷			40,9%	63,6%		%

2023 State of affairs recommendations report use of force police						
Subject recommendation	Category recommendation ³⁸	Primary financial action/ primary other non-financial action ³⁹	Review 2019	Follow up 2023	Primarily responsible for action ⁴⁰	State of affairs > 2024
1. Mutual arrangements	Legal framework	Primarily non-financial	Not followed	Not followed	MoJ	
2. Establishing compiled tests	Trainings	Primarily non-financial	Not followed	Partially followed	MoJ	
3. Establishing complaints committee	Work processes	Primarily non-financial	Not followed	Followed	MoJ	
4. Utilizing National detectives	Enforcement and compliance	Primarily non-financial	Partially followed	Partially followed	MoJ	
5. Kennis wet-regelgeving korpsleden verfrissen	Trainings	Primarily non-financial	Followed	Followed	KPSM	
6. Minimum number days IBT	Trainings	Primarily non-financial	Followed	Followed	KPSM	
7. Promote physical condition police force members	Trainings	Primarily non-financial	Not followed	Not followed	KPSM	
8. IBT Obligation	Personnel policy	Primarily non-financial	Partially followed	Opgevolgd	KPSM	
9. Invest in shooting skills	Trainings	Primarily non-financial	Followed	Followed	KPSM	
10. Handling force	Trainings	Primarily non-financial	Followed	Followed	KPSM	
11. Invest in mentorship	Trainings	Primarily non-financial	Followed	Followed	KPSM	
12. Registration of use of force	Trainings	Primarily non-financial	Followed	Followed	KPSM	
13. Weapons policy	Policy	Primarily non-financial	Not followed	Not followed	KPSM	
Total compliance %⁴¹			53,8%	69,2%		%

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.

³⁸ As an indication, the recommendations have been divided into categories by the Council at its discretion in its database to give a little more insight into the individual recommendations.

³⁹ 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.

⁴⁰ 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.

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.

Colophon

Law Enforcement Council

Juancho Yrausquin Blvd 26, Unit 2G | Philipsburg | Sint Maarten

info@rrh-sxm.org

www.raadrechtshandhaving.com

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