

Annual Report Sint Maarten 2023



Openbaar Ministerie
Sint Maarten



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Word from the Chief Prosecutor

Dear Reader,

It is with due pride that I present to you, the Annual Report 2023.

The core task of the Prosecutor's Office Sint Maarten is to investigate and prosecute criminal offences, and that is what we did. In this report, you will read, among other aspects, about the criminal cases we have put before the court and rendered verdicts.

One of the cases that is still etched on my mind, is the horrific case of a young woman who was preyed on by an acquaintance who hid in her car. He severely beat her, stabbed her several times and cut her throat. By some miracle, she survived this attack, and the suspect was apprehended and brought to justice. What struck me, apart from the dedication of the police and prosecution team, was, above all, the resilience of this young woman and the way her community rallied around her.



Together with the Police Force Sint Maarten and our other partners, we have reached conclusions to a significant number of cases and have presented these in court to favorable verdicts. This can be tagged to intensified collaboration on intelligence. We will definitely continue this the coming years.

Additionally, OM and the Police Force Sint Maarten cooperated with the Koninklijke Marechaussee, Immigration, Customs and Coastguard via the Alpha Team. To strengthen the team and contribute to border protection, a prosecutor has the designation portfolio of the Alpha Team.

Emphasis was placed on ensuring the execution of sentences and corrective measures such as community service via the Probation Service. Several detainees were transported to other countries within the Kingdom of the Netherlands, to continue their sentences as a means of security for the prison and to create much needed cell space. Despite this, finding available places for detainees is a constant juggling act.

In 2023, we have also focused on awareness among students and schools to curb school-related fights and other violence cases.

Internally, the OM has a strong team that continues to work well together. We welcomed new colleagues over the past year and our administration team has been further strengthened with new additions. This strong team allowed us to detect and prosecute crime and forge sturdier links with our partners and the government.

Hieke Buist

Chief Prosecutor Sint Maarten



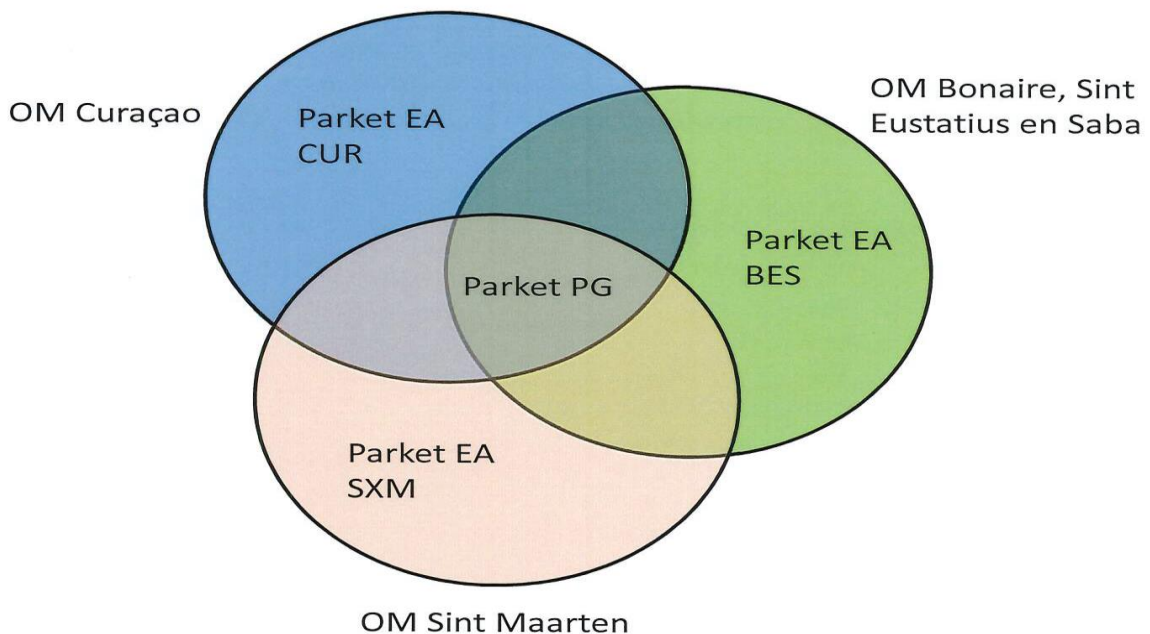
1 Role and Tasks OM

Before you is the Annual Report 2023 of the Prosecutor's Office Sint Maarten (OM). The report describes the main issues the OM has dealt with during the past year.

The OM is charged with the criminal enforcement of the rule of law and with other tasks established by law. This main task of the Prosecutor can be divided into three parts: leading the detection of criminal offenses, prosecuting criminal offenses and supervising the execution (execution) of criminal sentences. The Prosecutor determines whether and for what offenses a person must appear before the criminal court. At the head of the Prosecutor's Office is the Chief Public Prosecutor.

At the head of the Prosecution Service is the Procurator General (PG), who is also the PG of Curaçao, Sint Maarten and the BES-islands. The Prosecutor's office of the PG is located in Curaçao and consists of various departments that support all prosecutors' offices in the Caribbean part of the Kingdom, with the exception of Aruba. In second instance or appeal, the Public Prosecution Service is represented by the PG, or on his behalf the Attorney General, who also works at the Office of the Attorney General at the Prosecutor's Office. In addition to that department, at the PG's prosecutor's office there is department responsible for the operations and management of all prosecutors' offices and a department responsible for the policy of the OM Carib.

The organization of the OM Carib is shown schematically in the table below:





2 High-Profile Cases

Sixteen years for stabbing former beauty queen

The Court of First Instance (Court) in Sint Maarten sentenced a man on July 19, 2023 to sixteen years imprisonment for brutally assaulting a young woman in July 2022. The defendant, the ex-partner of the victim, repeatedly stabbed her and left her critically injured on the roadside. He faced charges of attempted murder and aggravated assault for the heinous attack that occurred near Emerald Funeral Home. The Court sentenced him to a 16-year prison term due to the severity of the crimes committed. This sentence was appealed by the defendant.



Sentencing in Cooler Fete Shooting

In the case of a shooting, that transpired near the Festival Village after the 2022 'Cooler Fete' event, the Court handed down an unconditional sentence of four years in youth detention for attempted manslaughter and illegal firearms possession. This verdict was delivered on 13 September 2023. The incident left one person severely injured and the presence of a second person at the time of the shooting led to the two counts of attempted manslaughter and two counts of illegal firearm possession.

Great Bay Market Shooting

On 6 September 2023, the Court issued a seven-year prison sentence to the defendant, who was found guilty of attempting murder and firearm possession. This sentence comes as a result of his involvement in a shooting incident that took place outside the Great Bay Supermarket on the evening of November 28, 2022. The defendant had previously served time for a similar offense, and his sentence for this offence will commence immediately due to his pre-trial detention.

Thorium

After a lengthy extradition proceeding in the United States, two men convicted by the Court of Appeal in March 2022, for the 2018 fatal shooting outside adult entertainment club El Capitan in Sucker Garden, were transported to Sint Maarten in November 2023. They are detained in the Pointe Blanche Prison awaiting the ruling of the Supreme Court (Hoge Raad). These two convicts in the **Thorium** case have been arrested by United States law enforcement in September 2022 in Fulton County, Georgia.



Three minors sentenced for school-related fights

Three minors were sentenced for their involvement in a school-related fight in December 2023. Two victims, also minors, were severely beaten in the January 6, 2022 school-related fight. During this fight, one of the victims was stabbed in the hip. The minors were sentenced to community service, as well as a suspended juvenile detention of one month with a probation of two years. The 17-year-old must perform 60 hours of community service due to being a repeat offender. The 16-year-old and 18-year-old (a minor at the time) have to complete 30 hours of community service each. It is hoped that these verdicts serve as a warning and a deterrent to other school-related fights.



Cocky Turtle Shooting



A fifteen-year sentence for manslaughter was handed down on November 8, 2023 by the Court in the case of a fatal shooting at a pre-Carnival event at Cocky Turtle Beach Bar in the morning of March 26, 2023. The Court confirmed the demand of the OM for a fifteen-year sentence. This verdict comes as the Court found it proven that the defendant fired the shot that took the life of the 33-year-old father of seven who died two days after the shooting at St. Maarten Medical Center. The deceased never got to meet his youngest child, who was born after the shooting.

(Photos reproduced with courtesy of The Daily Herald Sint Maarten)



3 Highlights

Assistance with detention capacity

Lack of detention capacity, as in past years, continued to play prominently in 2023. To create cell capacity and improve safety in the prison, OM together with partners in Sint Maarten and the Netherlands managed to secure the transfer of 12 prisoners from the Point Blanche House of Detention to the Netherlands in May 2023. OM remains supportive of the plan for a new prison and has been part of various discussions aimed at making this a reality.

Larimar Sewage Agreement

The OM agreed in July 2023 to allow Windward Roads Infrastructure (WWR) to complete the remaining works of the new Dutch Quarter sewerage pump station and sewerage network upgrade. The US \$2 million fine to WWR is a form of restitution to compensate Sint Maarten for the company's role, via its former director and Chief Financial Officer, in the **Larimar** case conducted by the Central Team (CT).

Politician starts sentence

The OM reached a settlement in the **Larimar** dispossession case. The **Larimar** investigation started on March 2, 2017, and was conducted by the Recherche Samenwerkingsteam (RST) under the responsibility of the CT of the Attorney General's Office of Curaçao, Sint Maarten, Bonaire, Sint Eustatius and Saba. On May 15, 2020, the suspect was sentenced by the Court to five years' imprisonment for accepting bribes and money laundering. The accused enriched himself for years as a politician at the expense of the citizens of Sint Maarten. He started his sentence in January 2024.

Public Awareness: MPC Career Day & Court Open House

OM extended its community outreach in 2023 with participation in several activities. These included the annual career day held at Milton Peters College. This fair targeted high school students with OM encouraging those students to consider careers in the field of law, administration, and policy among others. To illustrate the transition from studies to practical application, an intern, who had a three-month stint with the office, was included in the presentation. Additionally, OM connected with the public at the open day planned by Sint Maarten Courthouse in December 2023.





Fine Collection Letters issued

OM processed and issued more than 2,000 letters informing people about payment of their outstanding fines dating back to 2019. Many of these fines had already become irrevocable with the consequence of people having pay up or face jail time. The letters have prompted some payment and the momentum will continue to recover outstanding fines in 2024.

March School Tour: Empowering Students Through Awareness

OM together with our partners, the Korps Politie Sint Maarten (KPSM), Probation Service and Turning Point, did a high school tour in March 2023. This initiative addressed critical issues students are facing today, equipping them with the knowledge and resources to navigate these challenges responsibly. Topics covered were drug and weapon possession, drug abuse, understanding sexual crimes, and school violence and zero tolerance policies. Eight high schools were included in the school tour. By engaging students in meaningful discussions and providing them with valuable resources, the team aimed to empower them to make informed decisions and contribute positively to their communities.



4 Policy and Strategy

4.1 Integral Approach

Commitment to forensic care

In the 2023 annual plan, the OM identified forensic care as a focus area. Although this is not a core responsibility of OM, it is vitally linked to the administration of justice. Forensic care is necessary for people with a mental or psychiatric disorder who have committed a criminal offense and in whom the risk is high that they will commit a criminal offense again if this disorder is not treated. During detention, these suspects and convicts need a different level of security and care, this also applies during the resocialization period.

Goal: Contribute to the implementation of forensic care in Sint Maarten

OM has participated in a number of meetings with the Ministry of Public Health, and other stakeholders, who are reviewing the "*Krankzinnigenwet*". There are ongoing discussions regarding issues that exist within the current legislation and how those issues can be addressed with changes and adjustments. The OM is an active participant in these discussions, however we are not steering this initiative.

Additionally, during the course of 2023, the OM collaborated with the Court, as well as, with the Mental Health Foundation (MHF) to initiate court hearings at MHF, rather than at the Courthouse. This initiative allows suspects, suffering from mental health issues, to be better accommodated during their hearings.

Furthermore, within the OM, awareness surrounding forensic care was raised through the development and utilization of the OM-wide '*Werkinstructie Krankzinnigen*'. This work instruction establishes a practical (basic) and uniform course of action at the prosecutors' offices within the OM Carib. For more information on this subject see to the annual report of the Parket PG.

Sustainable cooperation with supply chain partners

The 2023 annual plan identified the 'improvement of co-operation' within the chain partners as a priority. The OM cooperates integrally with its chain partners in the context of preventing (juvenile) crime.

The OM works with the various chain partners, such as KPSM, Coast Guard, Customs, Koninklijke Marechaussee and immigration to strengthen border control.

OM has helped with the handling of immigration issues as well as, the strengthening of border control by assisting a number of taskforces, whose main goal may be one of these issues. Guidance from the OM came in the form of input in the preparatory plans regulating this issue and the focus on the execution of those plans.



4.2 Communication

Visible Performance

Goal: Strengthen the visibility of OM in society.

Connecting and engaging the community of Sint Maarten has continued to improve through active communication avenues as garnered from interactions on various (social) media platforms and the forming of discussions within the public arena. The issuance of press statements, updates on social media, and frequent contact with press and the community regarding cases, verdicts, and related developments has helped to emphasize the role of OM as more than just an administrator of justice; but as an active and embedded part of the community.

Another aspect of connectivity is the rendering of requisitors partially in English especially in high impact and highly sensitive cases. The laying out of the crime is told in English in court with the more legal and technical aspects presented in the Dutch language for precision and legal correctness.

This connection has been further solidified community outreach initiatives, such as participation in and hosting of open houses, as well as reaching out to professionals and students through career fairs. Through these interpersonal contacts, the organization has been able to highlight its more 'human' side by showcasing the people at the core of the work, both judicially and operationally.

4.3 (Continued) Development of a Professional OM Organization

The OM considers cooperation between the other Parkets in eerste aanleg (PEAs) within the OM Carib and the Parket PG to be important and an important key to improving the organization.

Internal Cooperation

At the time of drafting the 2023 annual plan, OM was facing challenges in filling vacancies. To resolve this issue, a goal was set to strengthen the position of the OM on the labor market. Additionally, it was the aim to strengthen the recruitment power, so that the above challenge can be met as soon as possible.

This goal of this task of the OM Carib as a whole, not just PEA SXM by itself, has been successful in this outreach. This has resulted in PEA SXM welcoming four new employees.

Internal development

To improve the efficiency of the organization, a goal was set to establish work procedures for outgoing staff. This would allow open cases or ongoing projects to be transferred to other or new employees with ease. While a work procedure of this sort was not yet put down in writing, this is done in practice.

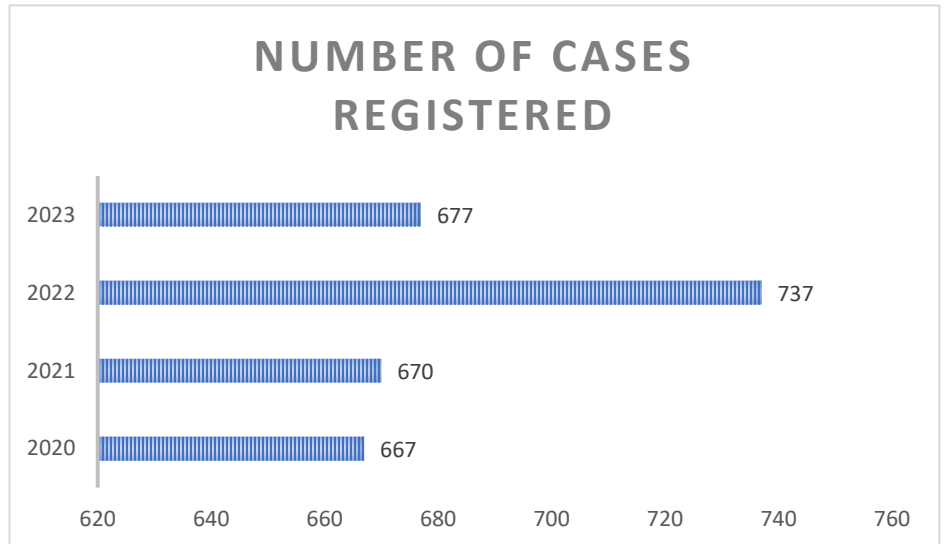
When prosecutors or legal secretaries are transitioning out of the organization, they typically share an overview of all the open cases files with the remaining staff. The Chief Prosecutor then discusses with the rest of the parket which portfolios and cases will be taken over and by who. This method of working allows for a smooth transition out for the employee leaving, as well as, for the employees who are staying.



5 Results in Numbers

5.1 Influx of cases

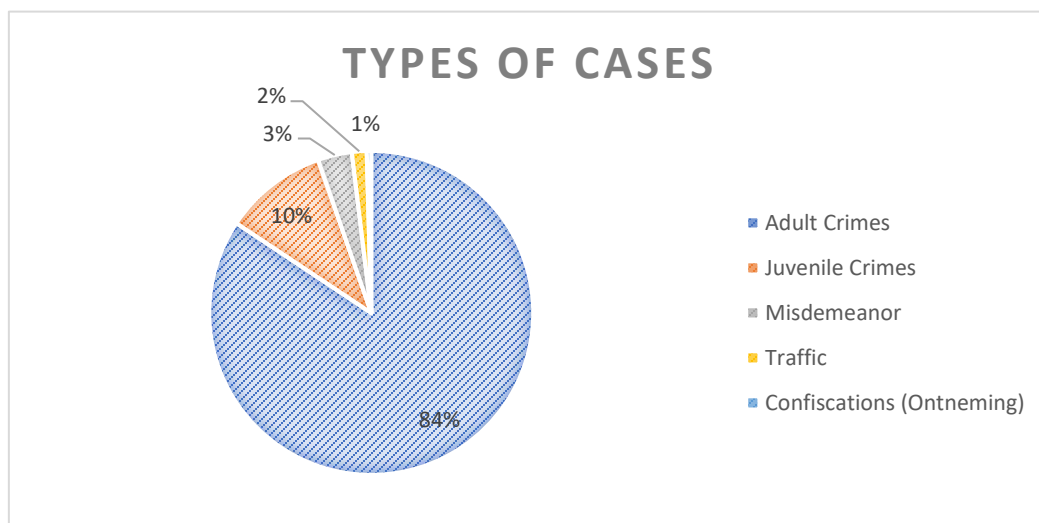
In 2023, the OM registered 677 new cases, a slight decrease in comparison to 2022. The OM is unable to attribute this decrease to any specific cause.

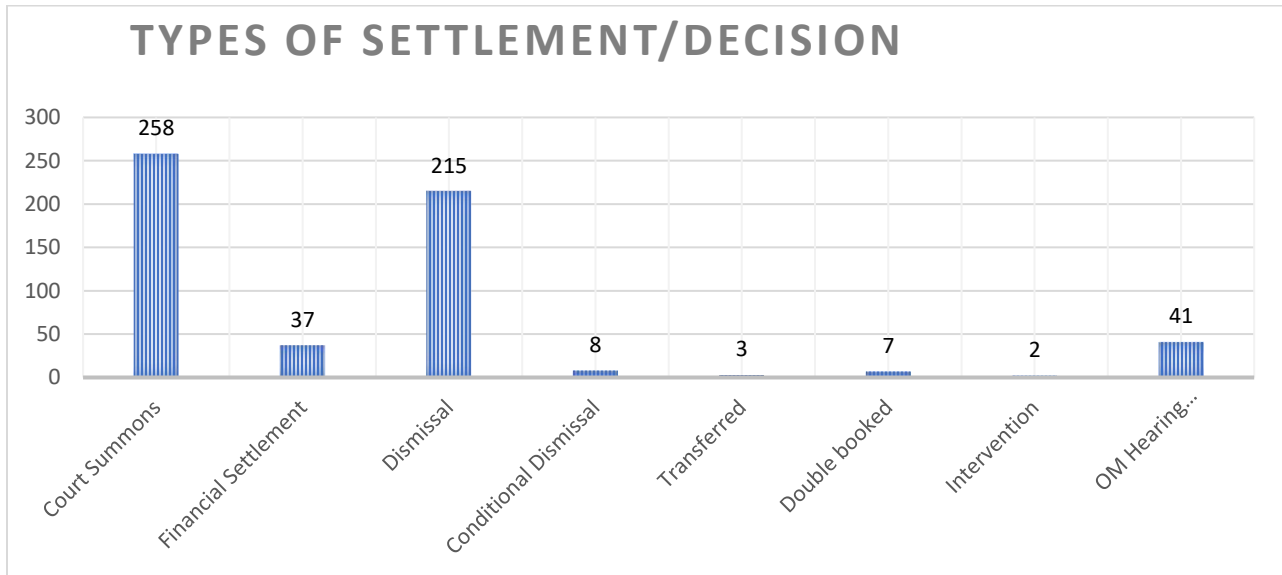


5.2 Crimes

The types and number of criminal offences committed during 2023 are divided among 571 adult crimes, 70 juvenile crimes, 23 misdemeanors, 10 traffic offences, and a total of three confiscations.

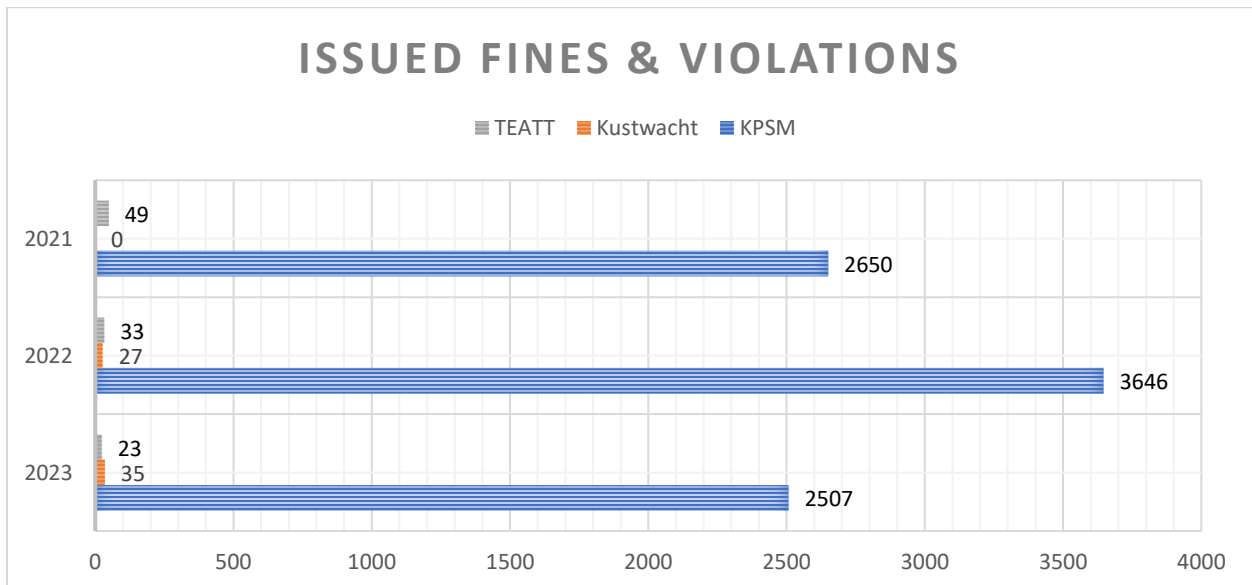
Of the crimes committed by adults throughout 2023, 45% of the cases were handled via a court summons, and 37% were dismissed. One of the most common reasons for dismissal was insufficient evidence to achieve a conviction.





5.3 Violations

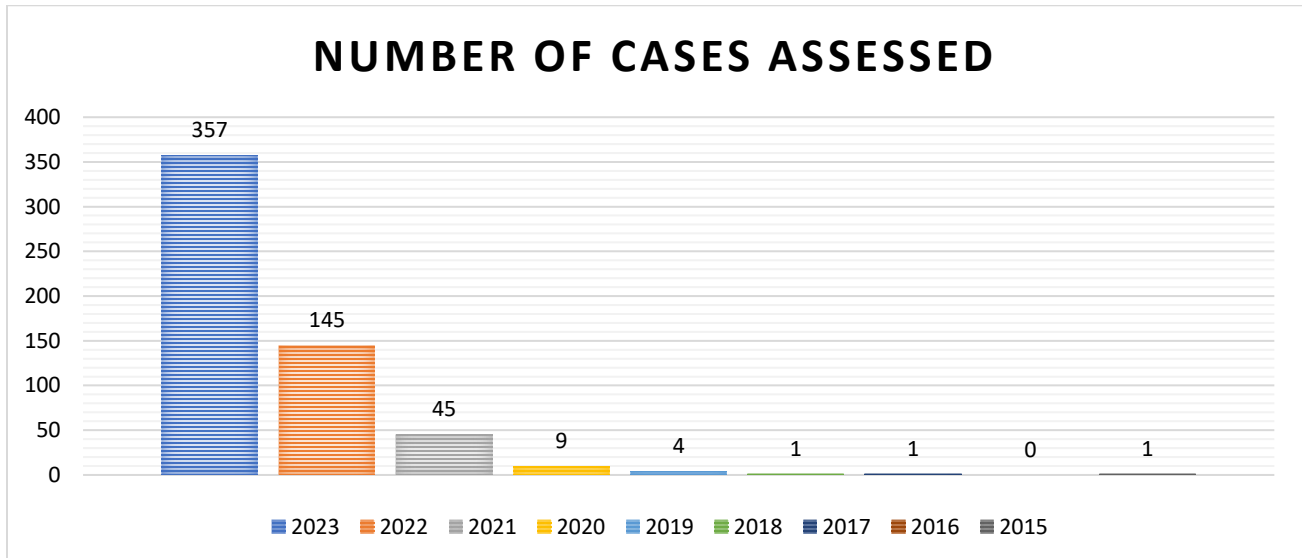
A total of 2,565 fines have been issued this year. Of which 2,507 were issued by KPSM, 35 by the Coast Guard, and 23 by the Ministry of Tourism, Economic Affairs, Transportation and Telecommunication (TEATT). In comparison to 2021 and 2022, there has been a decrease in the number of fines and violations issued by KPSM.





5.4 Processing of old cases and settlements

In 2023, the OM assessed 563 cases of which the oldest case stemmed from 2015. The assessment of such older cases is a result of cleanup operations done by the OM. The majority of cases handled by our office were from 2023. This year has seen a slight increase from 2022, during which OM assessed 505 cases.



5.5 Paga Bo But

Of the 2,565 fines issued in 2023, 811 were settled and a total amount of Naf. 92,299.98 was collected by the OM. Active enforcement of unpaid fines continues to be a challenge for the OM.

Apart from the OM, it is possible for people to pay their fines at different locations in the country with different administration procedures. For this reason, the revenue reflected in this report may vary from the actual revenue collected during the year.

5.6 Performance Indicators

For 2023, the following performance indicators have been established:

	<u>Indicator</u>	<u>Results</u>
- New criminal offences:	550	654
- New (traffic + BOD) violations/fines:	4000	2565
- Dismissals	13%	---
- Asset Recovery:	Naf. 150.000, -	---

With the registration of 654 new criminal offences, the OM has exceeded the pre-determined indicator of 550. The performance in regards to the new fines has not met the established



indicator. When looking back over the years, it is clear that the indicator is usually not met. This may be explained by the current police capacity, but it may also be that the indicator is set too high for Sint Maarten. Since this indicator is set in coordination with the Prosecutor's Office of the PG, it may be necessary to reevaluate this.

With regards to the number of dismissals and asset recovery, OM is currently unable to provide a full report because the required information was not available at the time of writing.



Contact Information

Address

Emmaplein 1
P.O. Box 432
Philipsburg, Sint Maarten

E-mail

parket.stmaarten@omcarib.org

Telephone

+1 (721) 542 2243 / +1(721) 543 0109

Social media

Website: www.openbaarministerie.org

Facebook: @OMSXM

LinkedIn: <https://www.linkedin.com/company/openbaar-ministerie-curacao-sint-maarten-bonaire-sint-eustatius-saba>

