

Annual Report Sint Maarten 2022



Openbaar Ministerie
Sint Maarten



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Word from the Chief Prosecutor

This is the Annual Report for the year 2022, and it has been my first year of serving as the Chief Prosecutor of Sint Maarten. I would like to express my gratitude to both my colleagues of the Prosecutors Office of Sint Maarten (OM) as well as to our partners in the judicial chain, who helped and supported me in getting to know our community and the organizations in the judicial sector. With this help and dedication, the OM can look back on a successful year, this annual plan will elaborate on this further.

As OM the development of our knowledge and qualities is an ongoing process in which we continue to invest in order to develop the organization as a whole. Such investments are necessary to keep working as a team and keep our beautiful island safe.

I am proud to say that the OM is part of Sint Maarten society, in a manner that the focus is not only on the criminal proceedings, but also on the prevention of crime and other methods to settle cases. To achieve this the OM has teamed up with different partners in, for example, the development of mediation in the criminal process.

Even though numerous cases have successfully been brought to trial, with court rulings sentencing the suspects to imprisonment, it has been a great challenge to execute these court rulings. Unfortunately, we have been forced to make difficult decisions as to which sentences can be executed and which not. It is of utmost importance for the safety of Sint Maarten as well as the effectiveness of the judicial chain that improvements are made within the prison system and thus the number of available prison cells.

Together with our partners within the judicial chain and the Government of Sint Maarten, the OM is committed to contribute to a safer Sint Maarten. However, without the people of Sint Maarten this is not possible. It takes an island to fight crime.

Hieke Buist

Chief Public Prosecutor Sint Maarten





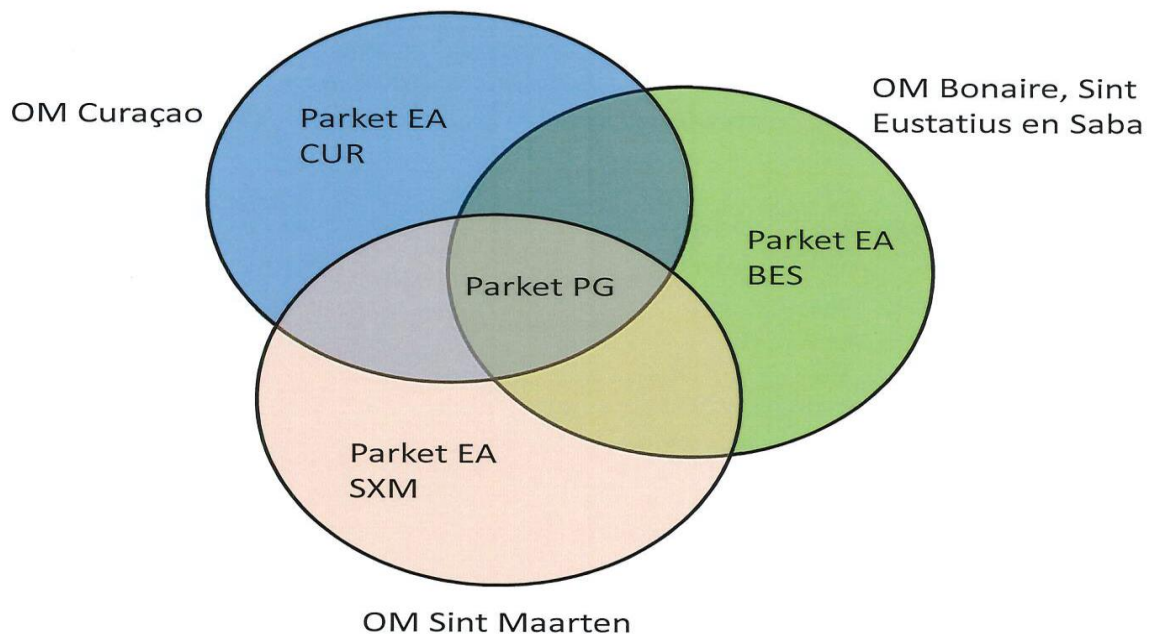
1 Role and tasks OM

Before you is the annual report 2022 of the Prosecutor's Office Sint Maarten. 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 OM can be divided into three parts: leading the detection of criminal offenses, prosecuting criminal offenses and supervising the implementation (execution) of criminal sentences. The Prosecutor determines if 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

2.1 Child molesters convicted

In July 2022, B.S., a child rapist, was handed a 17-year prison sentence. His accomplice, a former school secretary J.W., received a prison sentence of 13 years, exceeding the prosecutor's demand of ten years. The judge found evidence that J.W. was not a victim but a predator herself. Both persons were implicated in the repeated rape and assault of girls aged five to eleven in the home of B.S. and his wife, who is also a suspect in the case.



2.2 Simpson Bay Shooter gets 12-year sentence

A man, L.C.B., was sentenced to 12 years in prison on March 23, 2022, for shooting a man in the leg in broad daylight in Simpson Bay, after firing eight gunshots in front of a restaurant on May 1st 2021. The victim and the defendant were seen exchanging gunfire on surveillance camera footage presented during the case hearing. After the defendant ran away he was pursued by the victim in his car, after which a collision followed. The victim continued his search and from a hiding spot in a yard the defendant shot the victim in his leg. The Public Prosecutor demanded a sentence of eight years in prison. The defendants' lawyer has announced an appeal against the "remarkably high sentence" stating that the sentence was not consistent with the level of punishment in similar cases.

2.3 11 years imprisonment for Dawn Beach shooter

The shooter responsible for the deadly Dawn Beach incident on May 8, 2021, has been sentenced to 11 years in prison by the Court of First Instance (Court). The perpetrator fatally shot the victim in the abdomen while he was seated in his car, which was fired upon multiple times. The verdict was issued in June 2022 and is currently under appeal.

2.4 Suspected stabber extradited to Sint Maarten

H.G.R. wreaked havoc with a knife in the "container bar" on February 14, 2021, stabbing one person to death and injuring two others. After the stabbing he fled the island but was eventually arrested and extradited to Sint Maarten in 2022, because of an international alert. This case will be dealt with in Court in 2023.



2.5 Tan Tan shooter gets 20-year sentence

On July 6, 2022, a twenty-year-old man was sentenced by the Court to 20 years in prison for the murder of a 21-year-old victim near the Tan Tan supermarket on A.Th. Illidge Road on April 20, 2021. The victim was found in a car with a gunshot wound to his abdomen and later passed away at the St. Maarten Medical Center due to his injuries. Additionally, the suspect was also convicted for the possession of an illegal firearm. Upon his arrest on July 9, 2021 he was found to be in possession of a Bryco Arm 38, caliber 380 automatic firearm, along with six rounds of ammunition.

2.6 Appeal Court sentences shooters to lengthy prison times

In March 2022, in the **Thorium** case, the Court of Appeal sentenced two men to twenty and eighteen years in prison for a fatal shooting that occurred outside the adult entertainment club El Capitan in Sucker Garden in December 2018. This verdict overturned the decision of the Court from 2020 that had allowed the men to go free. The Court of Appeal ordered the defendants to immediately start serving their sentence.

However, after the sentencing from the Court in 2020 the men had been released from prison and had left the island before the sentencing by the Court of Appeal. The Court had ruled that the suspects had acted in self-defense when shooting and killing one man and seriously injuring another. In September 2022, the two men were arrested by United States law enforcement, the extradition process is currently ongoing.



From acquittal to long prison sentences: Appeal Court rules manslaughter proven

ISLANDS | 31 MARCH 2022 | HITS: 8611



2.7 Boxing Day shooter sentenced to 18 years for attempted murder & manslaughter

In November 2022 the Court sentenced a thirty-year-old man to eighteen years imprisonment for shooting a pregnant woman in her belly on Boxing Day, December 26 2021. The woman's unborn baby did not survive the shooting, furthermore the victim also lost her uterus in the attack.

2.8 Court sentences three human smugglers to imprisonment

In December 2022 the Court sentenced three individuals for their involvement in human smuggling in 2021. M.C. was sentenced to six years in prison, for preparation and co-perpetration of human smuggling acts and money laundering related to two boats. J.P. was sentenced to five years in prison, for co-perpetration of human smuggling acts, money laundering related to the same two boats and possession of child pornography. P.H. received a prison sentence of three years for preparation and co-perpetration of human smuggling.



3 Highlights

With the lifting of pandemic restrictions and the return to "normal" life, criminal activities associated with free movement have resurged. Law enforcement has been monitoring cases of human smuggling, a surge in person-on-person violence and an increase of severe armed robberies and possession of illegal firearms. The Korps Politie Sint Maarten (KPSM) and the OM have carried out several actions and arrests to tackle these developments.



3.1 Shortage of detention space

The OM has been faced with the constant challenge of a shortage of prison and holding cells. This has affected the execution of several hundred of sentences, ranging from several months to years. This shortage of detention space has also led to the release of suspects in pretrial detention, including those arrested for human smuggling and other violent acts. Throughout the year the OM has communicated the consequences of this detention shortage to the Ministry of Justice. Unfortunately, difficult decisions needed to be made as to which sentences should be executed, resulting in a situation in which not all sentences are executed.

3.2 School fights

School-related fights have remained a concern for the OM. Young people involved in this type of violence have been dealt with based on the severity of the offense and whether it is a first incident or not. For first incidents, the OM has used the option of (T)OM zitting with community service to be completed, to ensure swift application of the law and prevent the clogging of the court system. The OM together with its partners in the JCO (Youth Case Committee) continues to prioritize addressing violence in and around schools and the early detection of activities that may lead to crime. Meetings and brainstorm sessions were held with school representatives and partners in the justice and education field to bring more attention to this topic. JCO partners have held a week-long "boot camp" for 15 youngsters, in which they were introduced to various elements of law enforcement and engaged in positive activities.

3.3 Relational violence

Throughout 2022 the OM has focused on addressing relational violence. This is a broader term than just domestic violence and encompasses any behavioral pattern in relationships that seeks to gain or maintain power and control over another person. On average, two to three cases per week encompass relational violence. The OM has been working on addressing this issue by



dealing with cases as quickly as possible to ensure justice is served swiftly. Also, extra attention has been given via (social) media on the outcome of these cases. Furthermore, together with the KPSM, the OM has given workshops on this matter and has incorporated this subject in the mediation training.

3.4 Restorative justice

The restorative justice initiative which is aimed at mediating domestic violence, was started up in September 2021 and has continued throughout 2022. Using this approach, ten cases, with varying degrees of severity, were addressed. This involved the restoration or reparation of both material and non-material damages to individuals affected by or involved in a criminal act. The offender and victim(s) were both involved in the process and the Court considered their participation in the mediation and the SJIS' (Foundation Judicial Institutes Sint Maarten) Safe Home Training when presenting cases. The OM together with the SJIS are the main operators on mediation and restorative justice. In 2022 mediators have been trained and flyers have been made in order to inform the public on the restorative justice initiative. The pilot has come to an end in December 2022, but throughout 2023 endeavors will be made to obtain funding to advance this project.



4 Policy and Strategy

4.1 Integrated approach

Adequate forensic psychiatric care

In the year plan 2022 we indicated our desire to contribute to forensic psychiatric care for detainees and repeat offenders. At the moment Sint Maarten does not have a psychiatric hospital nor the facilities to provide this care for people who have committed a crime and need such care. Although we did not succeed to fulfill all our plans, we have requested care by the Mental Health Foundation in two cases. Furthermore, meetings have been held within the justice chain in order to add in the development of this much needed care. Finally, the OM also closely follows the ongoing JVO discussions on this topic.

4.2 Communication

In accordance with the 2022 year plan, the OM persisted in informing the public of major cases and its other activities, through both conventional media channels and social media. A greater emphasis was placed on utilizing the professional platform LinkedIn to extend its reach to a wider audience. The communication between the OM and the public progressed throughout the year, as it aimed to provide accurate and transparent information without compromising ongoing investigations or other obligations. Although the creation of more visual content, such as videos, was not fully achieved, the OM addressed this gap by supplementing press statements with accompanying images. Overall, the OM endeavored to foster good information and maintain transparency to the public and media.

4.3 Development of the OM organization

Internal (execution) processes

The execution of sentences and other forms of punishment are of great importance. The link between ACTPOL and Paga bo but (PBB) has gone live. This allows for fines to be entered directly into the PBB application system of the OM, which results in less work for the administration. Inter-ministerial consultations have been held between the Ministries of General Affairs, Finance and Justice on the process surrounding the collection of fines. One of the results which can be achieved quickly is the access to the registration at the Census office. This ensures that the OM can deliver the letters on the payment of outstanding fines to the correct address. The OM is awaiting a final decision on this matter.

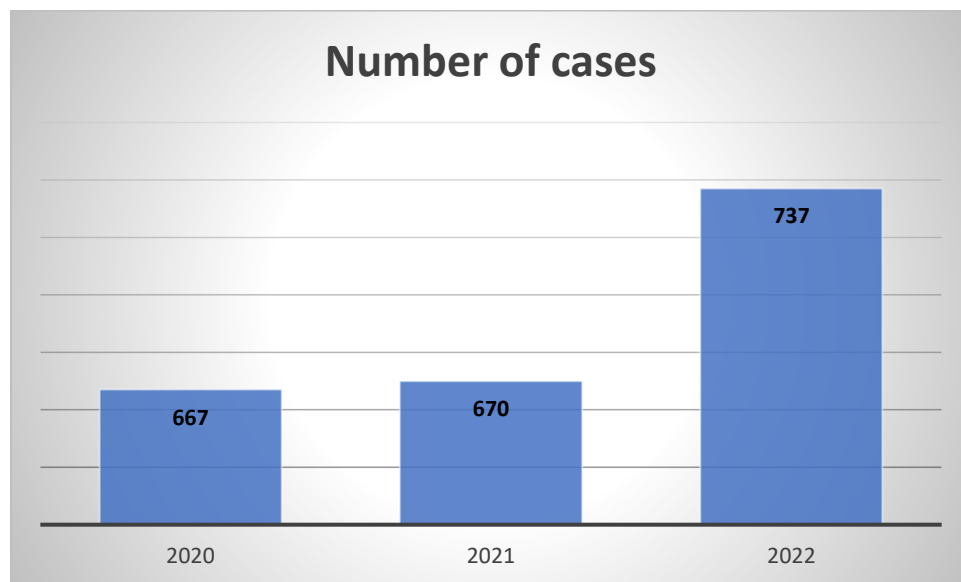
In addition to the interdepartmental consultation, the OM also started a trajectory with the Planning & Control Department of the ministry of Justice to improve the administrative process around the collection of fines. Finally, work has been done within OM CARIB to develop a new application for fines. Among other things, the new application makes it possible to directly view all outstanding fines. This will allow one letter to be sent with all outstanding amounts instead of separate letters for each case. It will be implemented during the course of 2023.



5 Results in numbers

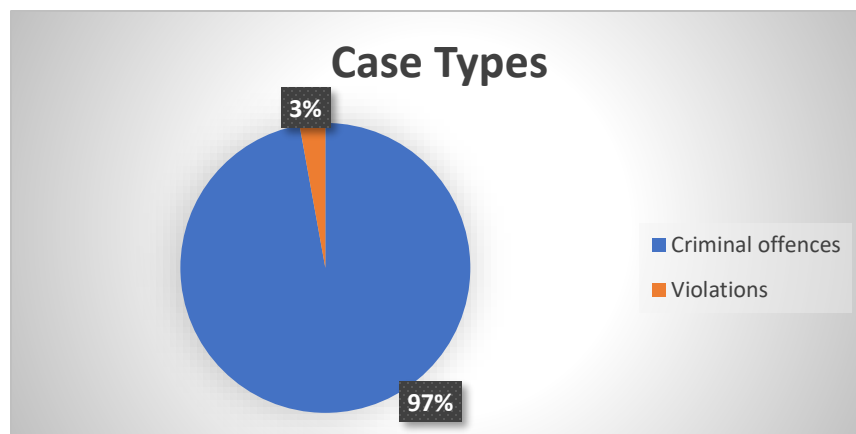
5.1 Influx of cases

In 2022 the OM registered 737 new cases, which is an increase of 10% in comparison to 2021. As of 2020 an increase in the amount of cases is seen, this cannot be attributed to a specific cause.



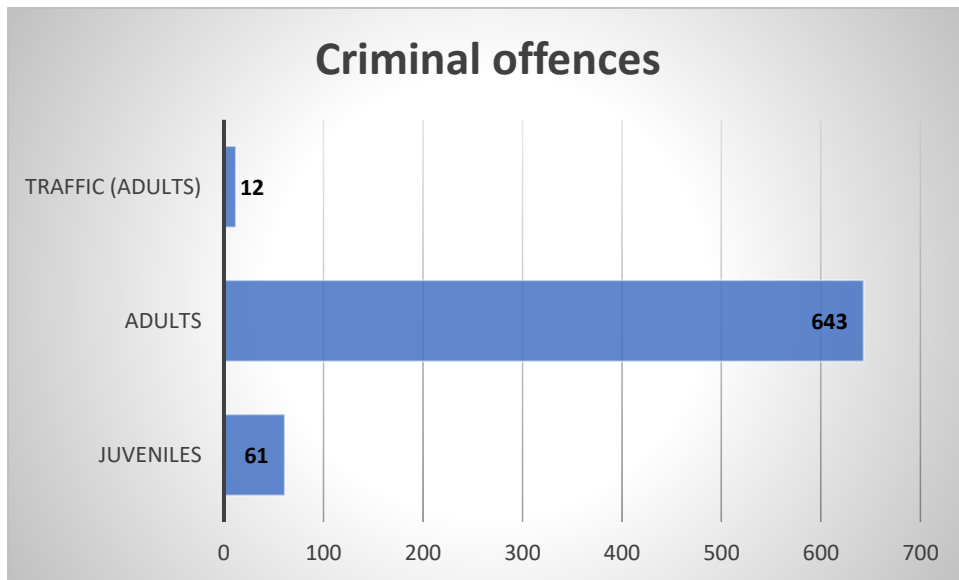
5.2 Crimes

The type of cases can be divided between criminal offences and violations. In total 716 criminal offences and 21 violations were committed in 2022.

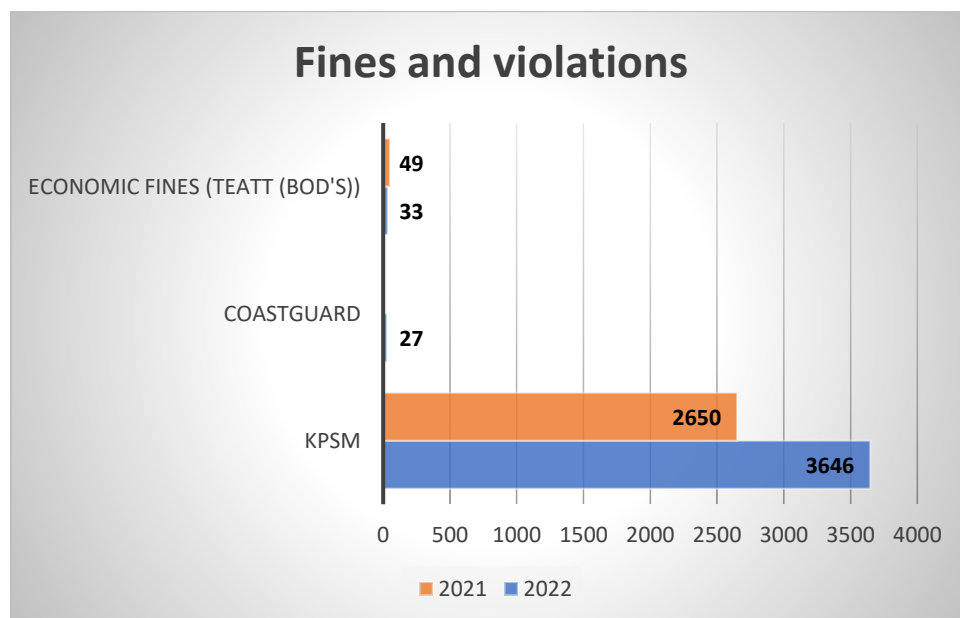




Of the abovementioned numbers 643 offences were committed by adults and 61 juveniles committed an offence. In addition, there were 12 traffic offences committed by adults.



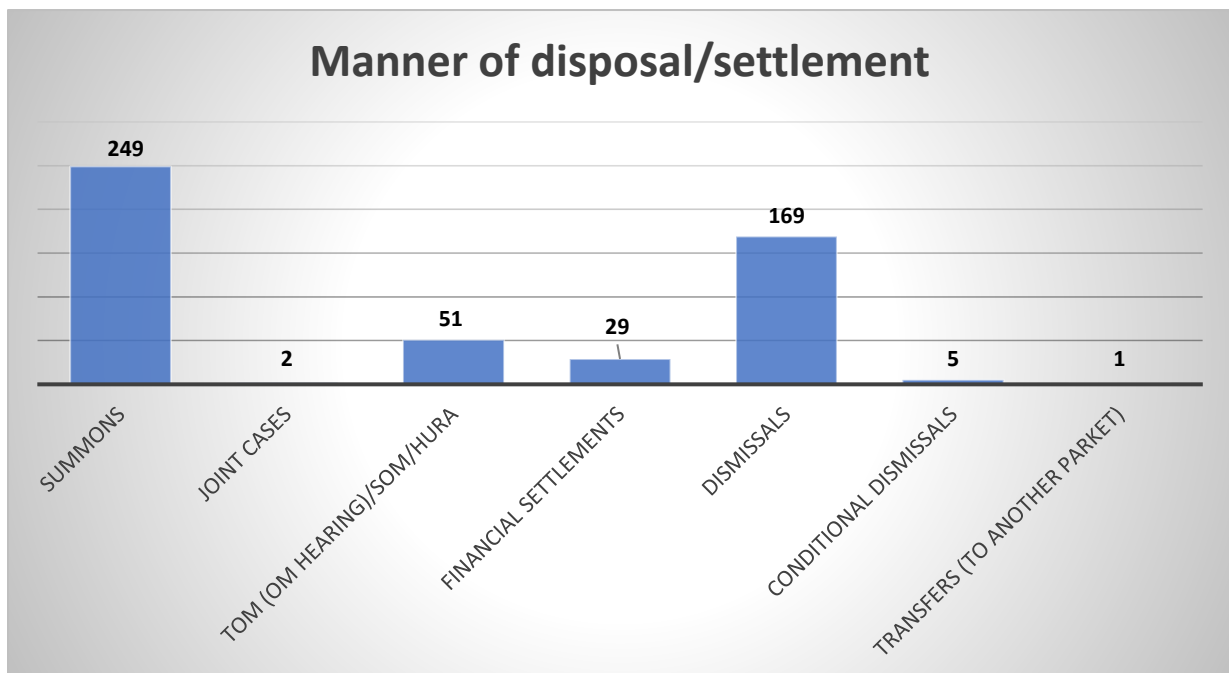
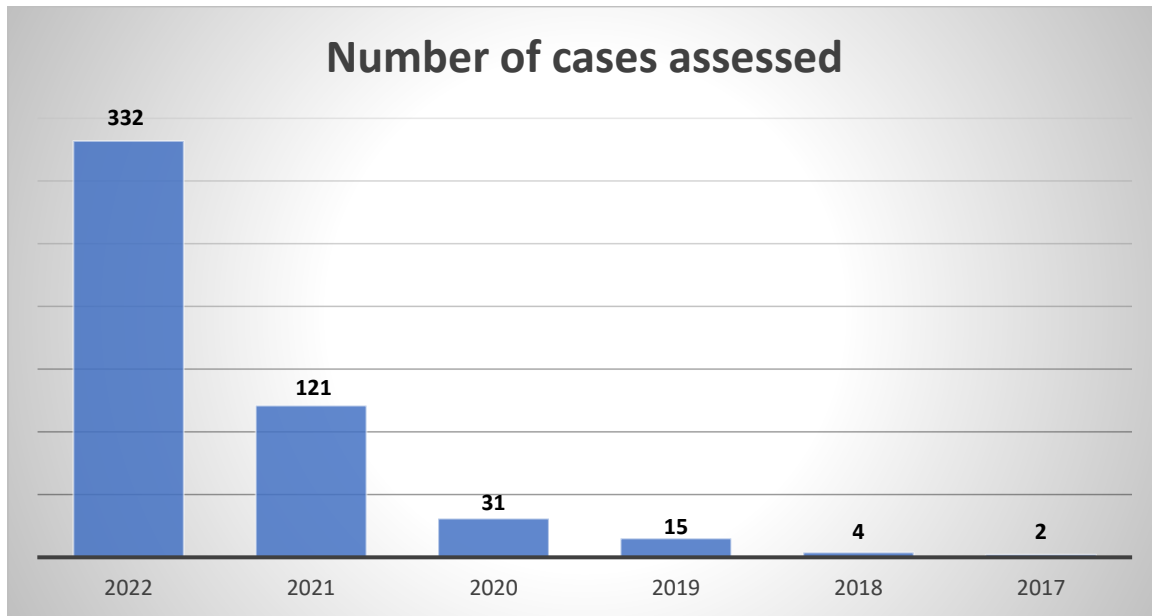
A total of 3.673 fines and violations were issued of which 3.646 were issued by KPSM and 27 by the Coastguard. Also 33 economic violations were issued. In comparison to 2021 there has been a significant increase in the number of fines and violations issued by KPSM.





5.3 Processing of old cases and settlements

In 2022, the OM assessed 505 cases of which the oldest case which has been assessed stems from 2017. Two cases from 2017 were assessed (the smallest number), with the most cases being from 2022.





5.4 Paga Bo But

Apart from the OM, it is possible for people to pay their fines at different locations on the island with different administration procedures. For this reason, it is not possible to provide an overview of the Paga Bo But revenue at this moment. The OM will continue to work on adding to an adequate overview of these proceeds in the 2023 Annual Report.



6 Management and annual accounts

6.1 Personnel

After the Covid-19 crisis it was business as usual for the Prosecutor's Office Sint Maarten. In 2022 the OM has tried to fulfill all the open positions in its formation, however certain essential positions could have not been filled, such as that of the policy officer. During 2022 the OM was understaffed due to the long-time sickness of two people and vacancies within the administration department not being filled. Also, the replacement of Public Prosecutors took longer than anticipated leading to the understaffing in that department as well. Even through the challenges of understaffing the office worked as a team to handle all the cases, but it has been a challenge to fulfill all our ambitions for 2022. Last but not least, a new prosecutor in training from and for Sint Maarten has been recruited, the prosecutor in training is currently in Curaçao and the Netherlands for the completion of the course and will be joining the team in the course of 2024-2025.

6.2 Financial statement

The statement of budget and realization of the Prosecutor's Office Sint Maarten in Netherlands Antilles guilders (NAf.) as of December 31 2022 are stated below. The figures refer to the financial year 2022. The annual figures are taken from the audited 2021 financial statements.

Public Prosecutor's Office of Sint Maarten	Budget 2022	Actual 2022	Variance 2022
Description	NAF.	NAF.	NAF.
Total	3,977,300	3,771,480	205,820
Personnel Expense	2,831,800	2,627,416	204,311
Salaries and benefits	2,379,954	2,153,264	226,690
Pension and social premiums	235,373	202,620	32,753
Other (hired) personnel	141,000	190,399	-49,399
(Other) personnel expense	75,400	81,134	-5,734
Housing Expense	595,000	573,085	21,915
Transport Expense	141,200	87,782	53,418
General Expense	409,300	443,547	-34,247
Depreciation expense	0	39,649	-39,649



In total there is an underutilization of the budget of NAf. 205,820. A summary of the main deviations is provided hereafter.

Personnel expenses

Regarding personnel expenses there was an underutilization of permanent staff costs due to the fact that the formation was not fully filled during 2022. In addition, vacation pay was budgeted for 2022, but due to the agreements made in the context of country package, the right to vacation pay was not paid out. Resulting in a total of NAf. 204,311 underutilization.

Housing expenses

There was a relatively small underutilization on housing expenses of NAf. 21,915 and on the lease expenses there was NAf. 61,029 less realized than budgeted.

General expenses

In 2022 NAf. 71,244 more was spent on travel and accommodation expenses than budgeted as during the development of the year plan 2022 it was not yet known in what manner travel would be possible, as the end of the Covid19 pandemic was not foreseeable. The other general expenses were NAf. 25,302 lower than budgeted.



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