



Quick Scan of
the Integrity Infrastructure of
Government Ministries

Ministry of Justice



Table of Contents

1	Introduction	4
2	Quick Scan Purpose and Methodology.....	5
2.1	Purpose	5
2.2	Methodology.....	5
2.3	Limitations	5
3	Integrity Infrastructure	6
3.1	Legal and Regulatory framework.....	6
3.2	Organisational Elements	7
3.2.1	Organisational Stability	7
3.2.2	Material and Human Resources.....	7
4	General Findings of the Ministry of Justice	8
4.1	A Comprehensive Legal and Regulatory framework.....	8
4.2	Organisational Stability	10
4.3	Material and Human Resources	11
4.3.1	Human resources	11
4.3.2	Material resources.....	13
5	Synopsis of Findings of the Executing Agencies	14
5.1	The Sint Maarten Police Force	14
5.2	The Immigration and Border Protection Services	14
5.3	The National Detective Agency	14
5.4	The Point Blanche Prison and House of Detention.....	15
6	Conclusions	16
7	Brief Recommendations.....	18
8	Annex A: Specific Quick Scan Findings of the Sint Maarten Police Force.....	19
8.1	The Legal and Regulatory Framework	19
8.2	Organisational Stability	20
8.3	Material and Human Resources	20
9	Annex B: Specific Quick Scan Findings of the Immigration and Border Protection Services	21
9.1	The Legal and Regulatory Framework	21
9.2	Organisational Stability	22
9.3	Material and Human Resources	22
10	Annex C: Specific Quick Scan Findings of the National Detective Agency	23



10.1	The Legal and Regulatory Framework	23
10.2	Organisational Stability	24
10.3	Material and Human Resources	24
11	Annex D: Specific Quick Scan Findings of the Point Blanche Prison and House of Detention ..	25
11.1	The Legal and Regulatory Framework	25
11.2	Organisational Stability	26
11.3	Material and Human Resources	26
12	Annex E: List of applicable Legal and Regulatory Framework	28
12.1	Ministry of Justice (applicable for the entire ministry).....	28
12.2	Sint Maarten Police Force (KPSM)	28
12.3	Immigration and Border Protection Services	28
12.4	National Detective Agency (Landsrecherche).....	28
12.5	Point Blanche Prison and House of Detention	28
13	Annex F: Organisational Chart of the Ministry of Justice	29



1 Introduction

There have been several studies¹ conducted in Sint Maarten regarding the status of integrity within the public sector. All these reports came to similar conclusions: that there is a need for improved integrity within Government.

It has been five to eight years since the publication of the above-mentioned integrity studies. And although the validity and recommendations of those studies are still of great importance, it cannot be assumed that the results of those studies are still fully accurate.

In order to gain an understanding about the current integrity infrastructure on Sint Maarten, the Integrity Chamber decided to conduct a Baseline Integrity Measurement in the form of a Quick Scan of the different ministries.

The Integrity Infrastructure Quick Scan (hereafter: Quick Scan) is a preliminary study within the various administrative bodies, conducted with the purpose of determining the risks, challenges and areas for improvement as it pertains to the completion, implementation, awareness, enforcement of, and compliance to the current integrity infrastructure.

This report outlines the results of the Quick Scan within the Ministry of Justice. Chapter 2 discusses the purpose, methodology and limitations of the Quick Scan. Chapter 3 discusses the integrity infrastructure and the organisational elements observed within the Quick Scan. In subsequent chapters, the results, and findings of the Ministry of Justice and certain specific executing agencies are presented, with lastly, the conclusions of the Quick Scan and brief recommendations.

¹ De Algemene Rekenkamer, *Nulmeting Sint Maarten, Stand van Zaken institutionele integriteitszorg 2014* (2014); Commissie Integer Openbaar Bestuur, *Doing the right things right* (2014); PriceWaterhouseCoopers, *Integrity inquiry into the functioning of the Government of Sint Maarten* (2014); Transparency International, *St. Maarten 2015, National integrity system assesment* (2015).

2 Quick Scan Purpose and Methodology

2.1 Purpose

The Quick Scan was formulated to gain a general understanding of what is in place as it relates to the current integrity infrastructure of the Government of Sint Maarten and the most significant bottlenecks and challenges. The goal is to be able to determine the priorities for improving the integrity infrastructure.

The integrity infrastructure consists of two aspects. The first direct integrity-related aspect includes all integrity-related legislation, regulations (policies and procedures) and moral codes or principles of the administrative body. The second indirect integrity-related aspect are all the additional elements necessary for the fulfilment of organisational objectives.

2.2 Methodology

The main tools or instruments utilized during the execution of the Quick Scan were interviews conducted with key stakeholders within the ministry. A topic list was used as a guideline to ensure consistency in the information requested and to obtain a sufficient impression of the status of the integrity infrastructure from the perspective of the respondent. However, the interview was set up in a manner that allowed the respondents to provide insight into their executing agency outside of the listed topics. The results of the Quick Scan represent this acquired information.

The Integrity Chamber met with the Minister of Justice, heads of the executing agencies, and policy advisors within the Ministry of Justice. Every respondent attended two meetings and were interviewed by two persons of the Integrity Chamber. This was done to ensure uniformity and sustainability within the process, and consistency during the data collection and analysis.

2.3 Limitations

A Quick Scan is inherently limited due to its reduced data, and therefore only provides the foremost challenges; it is not a comprehensive study. Furthermore, not all of the executing agencies within the Ministry were approached. This also results in reduced data due to the restricted number of respondents. Nonetheless, this approach was selected to acquire as much information as possible within a short period of time. While the information gathered by the Quick Scan is not comprehensive it provides vital information, as the most pressing and urgent needs are presented.

3 Integrity Infrastructure

An adequate integrity infrastructure within the administrative body is vital to personal and organisational compliance and integrity. It also fosters trust and solidifies social cohesion among citizens.

As previously mentioned, the integrity infrastructure consists of two (2) aspects, namely:

1. All legislation and regulations (policies and procedures), and moral codes or principles of the administrative body, (hereafter: the legal and regulatory framework); and
2. All additional elements necessary for the fulfilment of organisational objectives.

Several organisational elements have been recognized as necessary for an effective and efficient fulfilment of organisational objectives of the executing agencies; elements such as, the values and norms of the executing agency, the prevailing organisational culture, organisational stability, the reputation of the executing agency, the available material and human resources, involvement of the various stakeholders, etc.

Within the Ministry of Justice, the following top two (2) organisational elements were observed:

- Organisational Stability.
- Material and Human Resources.

Below the importance of the legal and regulatory framework and the organisational elements are detailed.

3.1 Legal and Regulatory framework

In any democratic society, a comprehensive legal and regulatory framework is necessary. An ambiguous or incomplete legal and regulatory framework leads to organisations, employees, clients, and society on a whole, not being fully aware of their rights, duties, and obligations. When that is the case, the potential for integrity-related misconducts present itself.

Awareness of the applicable legal and regulatory framework is also key. Without awareness, employees will be unaware of their duties and obligations and will not behave or perform their duties in a manner consistent with the legislation, regulations, and values of the executing agency. Awareness is not only necessary for the employees, but for the clients/customers. This helps the promotion of organisational integrity.

Transparency and accessibility are also important to maintain a level of discipline and consistency. When information is not shared or properly explained it can lead to inconsistent behaviour. In addition, without awareness, taking the relevant and necessary measures would prove difficult in the case of non-compliance. Employees must continuously be reminded of the existence of and/or changes to the applicable legal and regulatory framework.

3.2 Organisational Elements

Legislation, regulations, and moral codes, however necessary, cannot be fully effective in reducing and preventing the risk for integrity misconduct if certain organisational elements are not in place. An organisation also requires having certain elements in place for the effective and efficient fulfilment of the organisational objectives of the organisation.

3.2.1 Organisational Stability

Organisational stability is an element that determines an employees' ability to execute their functions in an efficient and effective manner. It provides employees with a sense of confidence, security, and optimism during times of changes in the workplace, which, in turn, allows employees to remain calm and rational, and easily adapt to circumstantial changes. An unstable organisation, contrarily, has profound consequences for employees' behaviour and performance. Instability within a ministry or an executing agency can be caused by political instability, economic instability (e.g. COVID-19/Hurricanes) and frequent staff changes. Organisational instability can lead to an environment where misconducts can easily take place, in some cases unnoticed and/or without any consequences.

3.2.2 Material and Human Resources

Material and human resources form the basis for the effective and efficient operation of an organisation. Material resources are, for example, housing, IT hardware and software, vehicles, etc. Human resources are the availability of sufficient qualified, capable, and willing employees.

A lack of resources, both human and material, has major consequences for an executing agency. A lack of material resources can lead to uncertain and unhealthy work environments, while a lack of human resources can lead to an executing agency's inability to fulfil its tasks, due to a lack of capacity or sufficiently trained employees. This in turn can have a negative effect on integrity.

The most common cause of a lack of resources are financial constraints. However, this is not always the case. A lack of resources can also be a consequence of unavailability or inaccessibility of the resource, or even of inadequate decision-making, or delays in maintaining/repairing damaged material resources.

4 General Findings of the Ministry of Justice

For this Quick Scan, a general analysis of the Ministry of Justice took place. In addition, the Integrity Chamber approached the following four (4) executing agencies within the ministry:

- The Sint Maarten Police Force
- The Immigration and Border Protection Services
- The National Detectives Agency
- The Point Blanche Prison and House of Detention²

The interviews provided information on the integrity infrastructure, along with challenges occurring within the Ministry and the executing agency that cause or may cause integrity risks. Information was also gathered on the possible cause of the challenges and the way these challenges are solved, prevented, or otherwise dealt with. The respondents also provided the Integrity Chamber with the laws and regulations specific to the Ministry and the executing agencies.

This report and the findings of the Integrity Chamber are divided into the legal and regulatory framework and the awareness thereof, and the existing organisational elements that were found during the analysis of the data collected. In this chapter and in the following, the general findings of the Quick Scan within the Ministry of Justice, along with a synopsis of the findings per selected executing agency are discussed. The specific findings per executing agency can be found in the annexes.

4.1 A Comprehensive Legal and Regulatory framework

The information presented below should be read as follows: The **bold text** indicates the topic/summary by the Integrity Chamber of the information provided by the various respondents below.

The results of the Quick Scan revealed the following about the legal and regulatory framework of the Ministry of Justice in general:

- **The existence of a comprehensive legal and regulatory framework, with few key missing legislation and regulations and a diverse availability of integrity-specific infrastructure.** Within the Ministry of Justice, there is a comprehensive legal and regulatory framework in place. There is the National Ordinance Substantive Civil Servants Law, the Code of Conduct, the Employee Handbook, and regulations containing the legal positions, duties, rights, and responsibilities. However, key legislation, such as the function books of some of the executing agencies within the Ministry of Justice, are not yet in place. The incomplete function books are a serious threat to the integrity of the various executing agencies, as stated by respondents. Incomplete function books are mentioned as one of the main causes of lower salaries for employees. These employees may become more susceptible to bribes and other forms of corruption. The Ministry of Justice is,

² The Point Blanche Prison and House of Detention consists of a 'binnen-regime' (Point Blanche) and the 'buiten-regime' (Miss Lalie Juvenile Rehabilitation Center and the Philipsburg and Simpson Bay Holding Cells. Only the binnen-regime was analysed in this scan.

however, in the process of finalizing a function book that specifically caters to the employees of the Justice Ministry and the system of ranks specific to the Ministry.

Regulations that are missing include regulations concerning data usage, data protection and data sharing, along with other pertinent integrity-related regulations, such as regulations on integrity guidelines or rules, integrity trainings or workshops.

See Annex E for the current integrity-related legal and regulatory framework that is applied within the Ministry of Justice.

While integrity within the various executing agencies is seen as vital, integrity issues are not always immediately addressed. Many of the respondents stated that integrity is discussed only when there is a reason for it, e.g. at the start of employment, when there are irregularities or (rumoured) occurrences of misconduct, or other integrity-related issues on the work floor.

- **The LIOL as provisioned is not applicable to all the executing agencies within the Ministry of Justice.** The LIOL is the National Ordinance on the Structure and Organisation of the National Government³. The LIOL provisions the structure, tasks, and activities of the civil service. According to the LIOL, all executing agencies report directly to the Secretary-General for their tasks. However, in practice this is not always compatible with other laws and procedures. Law enforcement agencies receive instructions and report directly to the Attorney-General or the Minister of Justice. As specific information obtained during operations can be considered sensitive, its distribution is limited, to prevent the misuse of information.
- **The general governmental remuneration system does not take in account the circumstances of some of the executing agencies within the Ministry of Justice.** The Ministry of Justice is the only ministry with executing agencies that are authorized to carry weapons, such as the Sint Maarten Police Force. These executing agencies operate according to 'rank'. Some employees begin at the agency's lowest rank and based on their service and their years of experience, they can be promoted in rank and responsibility. However, the general remuneration system does not reflect the promotion within the ranks. This leads to frustration among employees.
- **Enforcement and compliance to the legislation and regulations is not consistent within the Ministry.** While legislation and regulations specific to law enforcement agencies are generally adhered to and complied with, respondents stated that general legislation and regulations are enforced in a less strict manner, or its enforcement is not a task of the executing agency or falls outside of the scope of the responsibilities of the agency. For instance, there is less enforcement and compliance to overtime or sick-leave regulations.
- **The respondents were not familiar with the previous integrity-related studies and their results.** The respondents further stated that they were unaware of the contents of the previous integrity related studies that took place within the period 2014-2016 and were also unaware of any other integrity studies conducted afterwards, with the exception of a current study being

³ Landverordening Inrichting en Organisatie Landsverheid (AB 2010, GT no. 6)

conducted of all of the police forces within the Kingdom. Lastly, they were unaware of any of the recommendations of the integrity studies being implemented within the Ministry. There is also a notable lack of risk-assessments occurring within the agencies which results in unawareness concerning their most vulnerable functions and infrastructure.

- **No integrity trainings since 2014.** The respondents recognized a need for regular integrity trainings and/or workshops. All the respondents indicated that integrity is a vital part of their agency, and there have been several initiatives taken to ensure integrity, however the execution of training activities to imbue the importance of integrity in the executing agencies is still limited. The last trainings specifically on integrity occurred in 2014.

4.2 Organisational Stability

The results of the Quick Scan revealed the following about the organisational stability within the Ministry of Justice in general:

- **Inconsistent governing.** Since 10-10-10, there has been a change in Government approximately every 14 months. This frequent change in Government has led to organisational instability, according to the respondents. Every sitting Government establishes their own governing program/goals which can change the priorities of the ministry. The frequent change also causes a lack of consistency in the objectives, and a lack of consistency in the performance of some of the core processes and procedures necessary for the effective functioning of the Ministry.
- **Inability to execute long-term plans.** The instability of Government also hampers the ability to plan and execute long-term goals by the Ministry. Plans that were previously agreed to or being worked on are often not followed through or put on hold. This has had profound consequences on employees' performance and behaviour, a lack of motivation, a lack of direction and lack of respect for leadership.
- **Lack of organisational cohesion.** There are various executing agencies within the Ministry of Justice. Although, these individual agencies work well together to ensure the achievement of certain goals, there appears to be a disconnect in the communication between the Ministry and these executing agencies, due to the frequent change in Government. Vital information, processes, and procedures are often not shared. Currently more effort is being made to operate within the existing procedures. For example, ensuring that any HR changes made within the various executing agencies are first advised upon and approved by the HR department, before it is adopted into the executing agency.

4.3 Material and Human Resources

The following information was obtained about material and human resources within the Ministry of Justice in general. This is a more detailed list, as the lack of material and human resources is observed as a daily limitation within the Ministry.

4.3.1 Human resources

- **Understaffing.** This is a prevailing concern. Understaffing hampers the effective and efficient execution of the tasks and objectives of the executing agencies. When there is understaffing, there is an increase in the workloads of the residual employees. This can lead to employees overextending themselves, which can cause burnouts and increase in sick leave. It can also make it difficult for employees to take vacation leave.
Understaffing can also lead to undesired behaviour, such as cutting corners, which can lead to bad working habits. It can also result in a lack of consequences as the primary concern is ensuring that there is sufficient staff, e.g. to complete a shift. In addition, understaffing has led to several persons performing multiple functions within the Ministry. Persons fulfilling multiple functions, may not be able to execute each function to the best of their ability, and the combination of functions can sometimes lead to a conflict of interest.
- **Vulnerable functions held for lengthy periods.** Some employees tend to occupy the same position for lengthy periods. The longer an employee occupies a certain position, the more knowledge that employee may have of the processes and procedures necessary to execute the function. However, that also means that the possibilities for knowing the loopholes within the procedures are greater, which can increase the risk of misconduct. In cases of vulnerable functions, the rotation of staff would lessen the risks of integrity-related misconducts.
- **Limited training opportunities.** Respondents stated that staff often do not have enough opportunities for refresher trainings and/or other trainings to improve or enhance their work. Training can provide knowledge of the latest developments or updates to the legal and regulatory framework. They can lead to better judgement and decision-making which in turn can lead to less misconducts.
- **Employees in “acting” or temporary positions for extended periods.** There are several employees placed in acting positions that are meant to be held for a temporary period. However, in many cases the positions are not filled, leaving employees in acting positions for extended periods. This long-term placement of employees into temporary positions can lead to uncertainty and leave the position vulnerable to possible political influence. As mentioned previously, having dual functions can also lead to one or both functions not being executed properly. In cases where the employees are simultaneously executing their acting function and their primary function it may also lead to a conflict of interest.
- **Employees displaying undesirable behaviour are difficult to remove or discipline.** The Ministry of Justice is responsible for safety and the public order of society. The employees should therefore always display integrous behaviour, as they are role models within the community. However, based on the information provided, there seems to be insufficient possibilities to



(permanently) remove employees from a position when undesirable behaviours are repeatedly displayed. While the possibility of administrative leave is utilized, the possibility for more severe sanctions, or even termination, is extremely difficult and can take years. There is also a perceived reluctance with making decisions pertaining to employee's behaviour. The department of HR previously applied the "no-work no-pay policy", particularly in cases of misuse of the Sick Leave Policy, however, they have stopped utilizing this possibility, unless such requests are signed by the Minister. This limits the authority of the heads of the various executing agencies to discipline employees.

- **Demotivated employees.** There is a lack of motivation among several employees. Different reasons for this were mentioned during the interviews. The general lack of material and financial resources, low salaries, limited possibilities for career growth, being unfit for a function, placement in temporary or acting positions, all serve as demotivators for employees. Demotivated employees are more likely to display undesirable behaviour.
- **Several role model and vulnerable functions.** Several functions within the executing agencies can be categorized as vulnerable and/or role model functions. Vulnerable functions are at a higher risk of bribery, misuse of authority, etc. This can lead to a higher risk of undesired behaviour and integrity misconducts. Acts of misconduct can taint not only the employee involved, but the entire executing agency. Employees with high integrity risks are often decision-makers, employees with frequent client contact, or with low salaries. The vulnerability increases in an environment with understaffing, and in an environment of non-compliance or non-enforcement.
- **Limited possibilities for reporting misconduct.** There is no specific procedure for reporting misconducts within the ministry, which is a requirement based on Article 84 of the LMA. There are currently also no appointed Confidential Advisors as provisioned in Article 82 and 83 of the LMA. The Integrity Chamber has recently published an advice on the implementation, role, responsibilities, and tasks of the Confidential Advisor. This advice can be found on the website⁴ of the Integrity Chamber.

Because there are limited formal possibilities for reporting misconduct, various executing agencies utilize an informal process of misconduct reporting. Within this process, misconduct is reported directly to managers, with procedural steps varying per executing agency. This, however, does not cover situations where the misconduct involves a manager or when the manager and the employee have a strained working relationship, etc.

In the absence of a specific reporting procedure, the Minister is currently establishing an "Internal Affairs Committee", which will handle all complaints within and against the Ministry.

⁴ www.integritychamber.sx



4.3.2 Material resources

- **Improper housing and other facilities.** Some of the buildings being utilized are in need of repair or expansion. Some have not been fully repaired following the devastation of Hurricane Irma. Furthermore, there are a number of executing agencies that require more space to fulfil organisational objectives. Other facilities necessary for fulfilling primary and secondary organisational tasks are lacking. Examples include uniforms, impound space for vehicle storage or towing, and employee parking.
- **IT hardware and software.** The respondents complained of a lack of sufficient/reliable IT hardware (computers, telephones, etc.) and software (organisation-specific databases) for the effective execution of their tasks and objectives.
- **Transport.** Many of the respondents representing the executing agencies report lacking a suitable quantity of vehicles which are necessary for the effective execution of their tasks and objectives.

5 Synopsis of Findings of the Executing Agencies

This chapter provides a synopsis of the findings specific to the selected executing agencies.

A more detailed look at the challenges and limitations of the executing agencies and the observations of the Integrity Chamber can be found in Annexes A – D.

5.1 The Sint Maarten Police Force

The Sint Maarten Police Force has a comprehensive legal and regulatory framework in place, that details the mandate of the executing agency and the roles, and responsibilities of their employees. Respondents stated that after the reorganisation that took place because of 10-10-10, the executing agency seems to have fallen slightly behind in comparison to other Police Forces in the Kingdom. The agency, however, appears to actively strive to fill the gaps by emphasizing (in)formal processes and procedures, awareness of the current framework, active pursuit of the mandate given to the agency, and enforcement when faced with non-compliance.

Challenges faced by the Sint Maarten Police Force are understaffing, demotivated staff, incomplete regulations and a lack and shortage of proper housing and facilities. Some of these challenges are due to financial constraints. One of the integrity risks of the executing agency are the low starting salaries for junior officers which make them more vulnerable. This may lead to a need for them to perform (questionable) secondary activities for extra income or increase their risk for bribery or other unprincipled behaviour.

5.2 The Immigration and Border Protection Services

The Immigration and Border Protection Services does not have an extensive legal and regulatory framework, according to the respondents. While the framework that governs working processes is present and applicable, there are regulations lacking, that specifically determine the behavioural standards of the organisation. The agency, however, utilizes several informal integrity-related processes and procedures to avoid undesirable behaviour based on its organisational values. Procedures include temporary internal transfer within the executing agency. It has been stated that the agency has also taken the initiative to provide the staff with training in the applications of the laws governing the admittance and expulsion of applicants as well as on the guidelines.

Integrity risks that were mentioned include the lack of a functioning Compliance Department within the agency (an internationally recognized necessity), and employees in vulnerable functions that come into frequent contact with the public. These employees are the most susceptible to committing integrity breaches due to the lack of proper training and courses to upgrade their skills and knowledge.

5.3 The National Detective Agency

Respondents stated that the National Detective Agency has an extensive legal and regulatory framework. The executing agency not only adheres to general Ministerial or governmental provisions, but also quite a few agency-specific regulations. In addition, informal processes and procedures play a significant part in the working environment and behaviour of the employees.



Processes such as the 'Welcome Package', provide new employees with the prevailing framework. In that regard, the awareness of the framework plays an essential role. The awareness of integrity also plays a role during the three (3) month introductory mentoring process.

There are some material and human resource challenges within the executing agency that, if not addressed, can lead to integrity risks. Financial constraints play a significant role in the challenges that this agency is experiencing. There are challenges concerning proper housing (building is in need of repair), other facilities, transport and understaffing to name a few. Of all the challenges, the respondents stated that understaffing is the most pressing, as it sometimes leads to employees laying aside their primary functions to assist with other tasks or to assist in another department within the executing agency. As it is a small agency, this may lead to a conflict of interest when understaffing requires an employee or manager to execute multiple tasks and/or functions.

5.4 The Point Blanche Prison and House of Detention

The Point Blanche Prison and House of Detention consists of a "binnen-regime" (Point Blanche) and the "buiten-regime" (Miss Lalie Juvenile Rehabilitation Center and the Philipsburg and Simpson Bay Holding Cells). Only the "binnen-regime" was analysed for the purpose of this scan.

The Point Blanche Prison and House of Detention has a comprehensive legal and regulatory framework in place, with national, Ministerial, and agency-specific legislation and regulation, according to respondents. 10-10-10 has caused a sharp decline in the quality of the prison. The requests of the executing agency are not met, due to the varying priorities of the various Governments. This instability has had an adverse effect on the functioning of the agency, its processes, and operations and more specifically, the management and staff. Financial constraints are causing severe organisational challenges: there is understaffing (staffing capacity is at 70% while prison capacity is at its max), a lack of training and refresher courses (for staff as well as inmates), demotivated staff, vulnerable functions within the executing agency, improper housing and facilities, and lack of transport. The dilapidated state of the prison building has resulted in unhealthy and hazardous working conditions. These challenges can lead to a working environment that is prone to integrity risks.

Despite these challenges, the executing agency recognizes integrity as a vital component and an atmosphere of informal social control is encouraged within the agency.

6 Conclusions

The purpose of the Quick Scan was to determine what is in place as it relates to the integrity infrastructure as well as the most significant bottlenecks, challenges, and areas for improvement within the Ministry of Justice. The integrity infrastructure consists of the legal and regulatory framework within the Ministry, including the moral codes and principles, and the organisational elements (organisational stability and material and human resources) necessary for the fulfilment of the organisational objectives.

Legal and Regulatory framework

In observing the comprehensiveness of the legal and regulatory framework, it was determined that, barring the absence of a few key pieces of legislature and a specific framework detailing the manner in which integrity within the Ministry should be approached, the Sint Maarten Police Force, the National Detective Agency and the Point Blanche Prison and House of Detention all have a mostly complete legal and regulatory framework in place to fulfil their duties and objectives. In addition to the National Ordinance Substantive Civil Servants Law (LMA), there are various laws and regulations, such as Codes of Conduct, the Employee Handbook, and various agency-specific policies and procedures (see annexes). These regulations contain legal positions, duties, rights, and personal and organisational responsibilities. The missing legislation include the function books for the Ministry, regulations concerning data usage, data protection and data sharing, and regulations on integrity guidelines or rules. There is also a lack of integrity trainings and workshops, limited possibilities for reporting misconduct, and the absence of Confidential Advisors, as advised upon by the Integrity Chamber.

The Immigration and Border Protection Services also has most legislation and regulation regarding work processes in place, however, some appear to be outdated and need to be reviewed and adjusted. Regulations meant to specifically determine behavioural standards are lacking.

Informal processes and procedures, based on the moral codes or principles of the executing agencies also make up the framework of the Ministry and play a vital role in ensuring proper behaviours that have not been formally established. However, as most of the integrity-related frameworks are based on moral codes or principles, they are less imbedded into the functioning of the executing agency than the formal framework. The executing agencies do address misconducts, however, this is on an ad-hoc basis when a (rumoured) misconduct takes place. All respondents indicated that integrity is important for their organisation, however the structural implementation is lacking.

Organisational Instability

Based on the interviews, organisational instability is being experienced within all the executing agencies. The frequent change in Government affects the long-term goals and objectives of the executing agencies, the understanding of the specific operations of the agencies, and leads to demotivation among employees. Economic and political instability, coupled with the varying



governing methods of the different ministers, has also led to an environment where misconducts can go unnoticed and/or take place without any consequences.

A shortcoming within the Ministry, also caused by frequent changes in Government/higher management, is the mostly autonomous workings of the executing agencies. As a result, legislation, regulations, and certain knowledge and experiences are not shared. When there is an overlap in tasks or duties of the agencies, not sharing pertinent information or work processes is inefficient.

Despite this lack of organisational cohesion between the executing agencies within the Ministry and the Ministry itself, the executing agencies individually try to cooperate when there is a need for each other's expertise/services.

Human and Material Resources

One of the biggest risks to the integrity of the organisation is the challenge being faced as it pertains to material and human resources. The respondents of all agencies complained of understaffing, limited training for employees, buildings in need of repair or a lack of proper housing and facilities, and lack of transport. These shortcomings have led to unhealthy work environments, the potential inability to execute and complete basic tasks, and uncertainty among employees. The employees of the executing agencies have, however, grown resourceful in finding ways to deal with these challenges so that the work can continue, and negative consequences can be avoided. Organisational resources are shared when possible and temporary internal transfers are utilized to avoid possible integrity risks. However, no matter how effective and resourceful these methods appear to be, they are only a temporary fix. An active plan is needed to resolve these challenges.

7 Brief Recommendations

The Integrity Chamber hereby offers the following brief recommendations to curb the most pressing integrity risks occurring within the executing agencies as it pertains to the following elements:

Legal and Regulatory Framework

- Allow for a governmental remuneration system that takes the circumstances of the executing agencies within the Ministry of Justice into account.
- Attach an explanation to the LIOL of the Ministry of Justice (adjust the explanatory memorandum of the LIOL) as necessary to reflect the actual working of the executing agencies within the Ministry to avoid agencies operating in conflict with the legal and regulatory framework.
- Ensure the continuous availability of the legal and regulatory framework for all executing agencies and employees in digital or physical form.
- Ensure awareness of integrity by the accessibility of the legal and regulatory framework and providing staff with frequent trainings and refresher courses.
- Facilitate discussions on integrity-related matters and integrate said discussions into the organisational culture.
- Appoint Confidential Advisors (see Integrity Chamber Advice on the Confidential Advisor May 2021).

Organisational Stability

- Work towards consistent management: allow the heads of the various executing agencies within the Ministry to establish a management program for the Ministry of Justice, that is not dependent on any one Minister, and will not be derailed in case of a change in Government.
- Establish and maintain organisational cohesion by forming small steering committees meant to stimulate cooperation between the agencies.

Material and Human Resources

- Lessen the various human resource deficiencies by reprioritizing staffing and training courses for employees, along with the possibility for staff rotation or transfer.
- Lessen the various material resource deficiencies by encouraging the sharing of organisational resources when possible.

8 Annex A: Specific Quick Scan Findings of the Sint Maarten Police Force

The information presented below should be read as follows: The **bold text** indicates the topic/summary by the Integrity Chamber of the information provided by the various respondents below.

8.1 The Legal and Regulatory Framework

The results of the Quick Scan revealed the following about the legal and regulatory framework of the Sint Maarten Police Force:

- **General and specific legislation and regulations are in place.** Legislation such as the “Rijkswet Politie”, applicable to all police forces within the Kingdom, and regulations pertaining to the policies, protocols, and procedures of the Police Force are in place. Once regulations are approved, they are made available to law enforcement officers via their mobile devices, according to respondents. There have also been components of compliance set in place. One such example is the Police Force Internal Affairs Department, which is tasked with investigating all complaints made against an officer, whether it was made internally or externally. See Annex E for the applicable legal and regulatory framework of the Sint Maarten Police Force.
- **Informal processes/procedures based on organisational values.** Within the executing agency, an environment of informal social control is encouraged. Respondents stated that employees are encouraged to observe and correct inappropriate working behaviours of their colleagues. There is also a briefing and debriefing that occurs before and after employee shifts, where regulations, the duties and obligations of the officers, and occurrences during their shift are discussed.
- **Performance reviews.** The performance and compliance of the Sint Maarten Police Force is reviewed by the “Voortgangsc committee” (Progress Committee); a committee established after 10-10-10. The “Raad voor de Rechtshandhaving” (Law Enforcement Council) also reviews the Sint Maarten Police Force.
- **There is firm enforcement of the legal and regulatory framework.** The respondents stated that the executing agency appears to be firm in its enforcement of the legal and regulatory framework and is particularly firm in its application as it pertains to conflict of interest due to secondary activities, especially for officers that are experiencing financial hardships. To prevent misconducts and other integrity-related issues, the executing agency frequently repeats the rules and ensures the presence and availability of regulations (processes, policies, procedures) meant to curb misconduct.

8.2 Organisational Stability

The results of the Quick Scan revealed the following about the organisational stability of the Sint Maarten Police Force:

- Changes since 10-10-10 have resulted in a less efficient Police Force. The Sint Maarten Police Force has a clear mandate. Before 10-10-10, the mandate of the Sint Maarten Police, its processes and procedures, were dictated by the former Netherlands Antilles. After 10-10-10, these responsibilities became a national responsibility, and a reorganisation of the entity took place, including changes to legislation after the country gained its autonomy. However, this reorganisation resulted in regulations (LIOL) that were not fully compatible with the execution of their objectives. This has produced a gap between the expectations from, and the working reality of the executing agency, in comparison to other national police forces within the Kingdom, according to the respondents. This gap is proving difficult to close. Agreement made within the Kingdom also indicated that the police forces within the Dutch Caribbean should be trained in the same fashion, so that they can work on the islands interchangeably. This is currently difficult because of lack of training and financial resources. The frequent change of government and Ministers with varying perspectives and goals, and new to the specific operations of the executing agency, exacerbate this situation. The effect of the above is stronger because of the long wait for the finalization of various organizational decisions.

8.3 Material and Human Resources

The results of the Quick Scan revealed the following about the material and human resources of the Sint Maarten Police Force:

- **Challenges regarding material resources.** The Sint Maarten Police Force is currently experiencing the following challenges as it pertains to material resources: an incomplete function book and lack of proper housing (building in need of repair and expansion for additional classrooms) and other facilities (impound lots for towing/storage, parking for employees, uniforms, etc.). The negative effects of this are strongly noticed within the organisation.
- **Challenges regarding human resources.** The Sint Maarten Police Force is currently experiencing the following challenges as it pertains to human resources: understaffing and demotivated staff. The lack of these resources has proven to be a hamper the proper operation of the executing agency, and therefore the proper execution of their mandate. However, based on the information provided, a great risk to the integrity of the executing agency are the low starting salaries for junior officers. Junior officers are the most vulnerable within the agency due to the relatively high cost of living on the island. This leads to a need to perform remunerated secondary activities that may or may not be compatible with their function as a police officer. The effect of this situation does not seem to be fully recognized.

9 Annex B: Specific Quick Scan Findings of the Immigration and Border Protection Services

The information presented below should be read as follows: The **bold text** indicates the topic/summary by the Integrity Chamber of the information provided by the various respondents below.

9.1 The Legal and Regulatory Framework

The results of the Quick Scan revealed the following about the legal and regulatory framework of the Immigration and Border Protection Services:

- **General and specific legislation and regulations are lacking.** The Immigration and Border Protection Services has a framework governing working processes such as, the conditions for entry, residence, etc. In its analysis of current working procedures, the respondents determined that a revision of certain legislation and regulations, such as the current immigration admission conditions, are necessary, and they are currently working on producing new regulations. Regulations meant to specifically determine the behavioural standards of the employees of the Immigration and Border Protection Services are lacking, such as a Code of Conduct, specific to the needs of the executing agency.

The National Ordinance Substantive Civil Servants Law (LMA), the Code of Conduct for the Ministry of Justice, and other policies are also applicable to the Immigration and Border Protection Services. See Annex E for the applicable legal and regulatory framework of the Immigration and Border Protection Services.

- **Informal processes/procedures based on organisational values.** There are a number of informal processes being utilized within the executing agency, according to respondents. New processes that are deemed beneficial to the efficient operation of the agency are habitually established, introduced, and explained to the staff. Unofficial reporting procedures are also occasionally utilized. One such informal procedure is the possibility of a temporary internal transfer within the executing agency. This may be utilized in the case of a potential integrity risk. An employee may be transferred from one department within the executing agency to the other, if it has been determined that the current placement of the employee is an integrity risk or challenge to the employee and/or the agency. The informal processes within the executing agency are intermittently reviewed and updated to prevent (integrity) issues.
- **Awareness of the legal and regulatory framework and integrity plays vital, but limited, role.** Within the Immigration and Border Protection Services, awareness of the framework and integrity also plays a vital role during the entire application, selection, and training process, however the topic of integrity is not broached on a day-to-day basis, based on information provided in the interviews. It is however discussed, if there are rumours circulating, or if misconduct or other integrity-related issues have occurred. The initiative has also been taken to



provide the staff of certain departments within the executing agency with courses in law when necessary.

- **Compliance Department of the executing agency not functioning properly.** The Compliance Department, despite being a component necessary to ensure that the existing legal and regulatory framework is upheld and enforced, is not functioning to its capacity. Attention should be paid to this department, as non-compliance play a role in the occurrence of integrity issues or misconducts.

9.2 Organisational Stability

Results of the Quick Scan revealed the following about the organisational stability of the Immigration and Border Protection Services:

- **Organisational instability affecting the execution of long-term goals or objectives.** Each Minister has a different perspective on the country's immigration conditions which leads to inconsistent application and approval of immigration requests. This inconsistency often leads to applicants appealing decisions made by the Immigration and Border Protection Services.
- **Cooperation with other executing agencies within the Ministry.** The Immigration and Border Protection Services works collectively with other executing agencies within the Ministry as required (Sint Maarten Police Force and Point Blanche House of Prison and Detention). Within these processes, vital information, processes, and procedures, along with various material and human resources are shared, as necessary.

9.3 Material and Human Resources

Results of the Quick Scan revealed the following about the material and human resources of the Immigration and Border Protection Services:

- **Challenges regarding human resources.** The executing agency is experiencing the following challenges as it pertains to human resources: lengthy duration of the fulfilment of functions, the lack of properly trained staff, employees in long-term 'acting positions' and employees in positions that they are unfit for. Incomplete function books, demotivated staff due to limited career opportunities, and insufficient possibilities to remove/discipline employees displaying undesirable behaviour are also issues.
- **Functions executed by the same person for lengthy periods.** One of the greatest risks to the integrity of the executing agency appears to be employees that have been operating in vulnerable functions for a lengthy period of time and have daily contact with the public. These employees are the most susceptible to integrity misconducts, such as to bribery. Also, the longer an employee occupies a certain position, the more knowledge that employee has of the loopholes in processes and procedures. This increases the risk of misconduct within the agency.

10 Annex C: Specific Quick Scan Findings of the National Detective Agency

The information presented below should be read as follows: The **bold text** indicates the topic/summary by the Integrity Chamber of the information provided by the various respondents below.

10.1 The Legal and Regulatory Framework

The results of the Quick Scan revealed the following about the legal and regulatory framework of the National Detective Agency:

- **General and specific legislation and regulations are in place.** The National Detective Agency appears to have an extensive legal and regulatory framework in place. There is the National Decree governing the National Detective Agency, a Code of Conduct specific for the executing agency, the “Rijkswet Politie”, instructions from the Attorney-General, and procedures and policies provisioning the legal rights of the employee and the executing agency, as well as data, employee confidentiality, and other work procedures. There is also an Application and Selection committee that evaluates the integrity of applicants and the processes governing the use of the shared information database. A part of the selection process is the security screening by the National Security Service. According to respondents, the executing agency is also firm in its enforcement of the legal and regulatory framework, as (potential) cases of misconduct are immediately discussed and swiftly handled.
See Annex E for the applicable legal and regulatory framework of the National Detective Agency.
- **Informal integrity-related processes/procedures based on organisational values.** According to the respondents of the executing agency, there is also a culture of strong organisational norms that are not always in writing. These norms are shared during the three (3) month mentoring program at the start of employment. Further informal processes are also the informal reporting system in the case of suspected misconduct.
- **Awareness of the legal and regulatory framework.** As with the Immigration and Border Protection Services, awareness of the framework and integrity also plays a vital role during the entire application, selection, and training process. The National Detective Agency has created a “Welcome Package” for new employees that contain the National Ordinance, the Code of Conduct, and the other policies and procedures that govern the executing agency. It is also discussed with new employees what is expected of them in terms of integrity, and norms and values of the executing agency are communicated orally. Integrity is discussed on an ad-hoc basis and ‘one-on-one’ with a specific employee when necessary. It is also not a part of the current evaluation cycle, based on information provided in the interview.

10.2 Organisational Stability

Results of the Quick Scan revealed the following about the organisational stability of the National Detective Agency:

- **Instability in leadership.** Frequent changes in management creates instability in the executing agency. Management is responsible for establishing organisational norms and values. When norm and values differ per manager, it causes inconsistencies in organisational standards and affects the employee's ability to determine and adhere to acceptable work floor behaviour.
- **Cooperation with other executing agencies within the Ministry.** As it pertains to the collective workings of the various executing agencies within the Ministry, respondents reported the presence of organisational cohesion; that, when necessary, the various executing agencies within the Ministry were cooperative and that collective efforts were made in the fulfilment of Ministerial objectives. However, the agency also reported that cooperation with various executing agencies outside of the Ministry proved to be more difficult, especially when information was being requested.

10.3 Material and Human Resources

Results of the Quick Scan revealed the following about the material and human resources of the National Detective Agency:

- **Challenges regarding material resources.** The National Detective Agency is experiencing the following challenges as it pertains to material resources: incomplete function books, proper housing (building in need of repair) and facilities, transport, IT hardware and software. These challenges are caused primarily by the lack of financial resources.
- **Challenges regarding human resources.** The National Detective Agency is experiencing the following challenges as it pertains to human resources: understaffing, training and refresher courses for the staff, and the existence of vulnerable and role model functions within the executing agency. A great risk to the integrity of the agency is understaffing. There seems to be a lack of capacity, which results in there being inadequate employees to properly execute their tasks. This sometimes leads to employees laying aside their primary functions to assist with a certain task or to assist in another department within the executing agency. This presents the risk of a conflict of interest.

11 Annex D: Specific Quick Scan Findings of the Point Blanche Prison and House of Detention

The information presented below should be read as follows: The **bold text** indicates the topic/summary by the Integrity Chamber of the information provided by the various respondents below.

11.1 The Legal and Regulatory Framework

The results of the Quick Scan revealed the following about the legal and regulatory framework of the Pointe Blanche Prison:

- **General and specific legislation and regulations are in place.** The Point Blanche Prison has various regulations standardizing behaviour and promoting integrous values of the executing agency, such as, the House Rules for Convicts, “Bepaling gedetineerden”, employee instructions, and the reporting system for heads of executing agencies. There is a Code of Conduct specifically for the agency and the values of the agency (integrity, honesty, responsibility, etc.) are also displayed within the agency and serves as a daily reminder for employees. See Annex E for the applicable legal and regulatory framework of the Pointe Blanche Prison.
- **There are various reporting procedures in the event of misconduct or non-compliance.** Within the regulation detailing employee instructions, there is an obligation to report and a formal reporting procedure for employees that suspect integrity issues or potential misconduct. There is also a reporting system for heads of departments within the executing agency, where they are requested to write a report to the director. The director then communicates verbally and in written form with the employee. If needed, the report then goes to HR to finalize the consequences.
- **Informal processes/procedures based on organisational values.** There is the possibility for transfer to another department within the executing agency in the case of a potential integrity risk, according to respondents. There is also informal social control on the work floor and immediate consequences when dealing with possible integrity issues among the guards.
- **Awareness is essential yet limited.** A lack of integrity ensures a lack of control within the executing agency. Therefore, integrity, especially among the correctional officers, is essential. Though seen as vital to its operations, integrity is not discussed within the workplace as a general awareness measure and is instead discussed when there is a specific need or rumours of misconduct.
- **Ineffective HR processes.** While the enforcement of integrity issues or misconduct are swiftly handled within the executing agency, the necessary processing of paperwork necessary to enforce certain rules are sometimes processed very slowly. In the instance of a severe integrity misconduct, for example, an employee is immediately placed on administrative leave, however,

the manner in which the HR process is followed leads to understaffing, for as long as an employee is on administrative leave, the process for replacement cannot be initiated.

11.2 Organisational Stability

Results of the Quick Scan revealed the following about the organisational stability of the Point Blanche Prison:

- **Changes since 10-10-10 have resulted in a less efficient prison system.** As with the Sint Maarten Police Force, before 10-10-10, the mandate of the Point Blanche Prison and House of Detention, its processes, and procedures, were dictated by the former Netherlands Antilles. 10-10-10 brought with it national responsibility, a reorganisation of the executing agency and significant changes. The respondents reported a sharp decline in the quality of the prison since 10-10-10. The instability of government, and the various perspectives and decisions of the previous Ministers have had an adverse effect on the functioning of the agency, its processes, and operations and more specifically, the management and staff.
- **Efficient organisational cohesion.** Respondents depicted a high level of organisational cohesion within the various executing agencies of the Ministries, as well as with other executing agencies and departments within other ministries. The Department of Security of the Point Blanche Prison, for example, is responsible for the security of the prisoners. Due to a shortage of guards, the Vrijwilligers Korps Sint Maarten (VKS) provides additional help when necessary. The Customs Officers are used to conduct cell checks/searches, while the Police are used to transport prisoners pre-sentencing. Furthermore, there is the Court of Guardianship that visits clients that are being housed in the buiten-regimes. The Miss Lalie Juvenile Rehabilitation Center also provides the necessary reports/information to the Court of Guardianship. When a prisoner is released, the Point Blanche Prison provides the adult probation agency, Foundation Judicial Institutes St. Maarten (SJIS), with the necessary information for the proper execution of their tasks. There is also cooperation within other ministries. When the exterior of the prison needed to be cleaned, the ministry of VROMI sends persons to tend to the upkeep of the landscape.

11.3 Material and Human Resources

Results of the Quick Scan revealed the following about the material and human resources of the Point Blanche Prison:

- **Challenges regarding material resources.** The Point Blanche Prison and House of Detention Sint Maarten are experiencing the following challenges as it pertains to material resources: training and/or refresher courses for staff as well as inmates, proper housing (building destroyed by Hurricane Irma), facilities and transport.
- **Challenges regarding human resources.** The Point Blanche Prison and House of Detention Sint Maarten are experiencing the following challenges as it pertains to human resources: understaffing (the Point Blanche Prison is operating at a staff capacity of approximately 70%),



demotivated staff, incomplete function books, the existence of vulnerable and role model functions within the executing agency. This lack has severe consequences for not only the agency generally, but particularly the staff and clients (prisoners) at the executing agency. These challenges are primarily caused by a lack of financial resources.

- **The Point Blanche Prison is at max capacity.** While the Point Blanche Prison in the past housed 120 prisoners, due to UNICEF regulations, the Government was advised to reduce the number of prisoners per cell. The prison therefore houses 80 prisoners at max capacity. When the prison reaches max capacity, prisoners are sent to Curacao, the Netherlands, or are granted an early release. The max capacity status of the Point Blanche Prison, in combination with understaffing and demotivated staff, is a serious challenge that may result in an executing agency that is unable to perform their organisational objectives effectively and efficiently. Additionally, the possibility of early release, in an effort to alleviate the prison capacity, is in itself, an obstruction to the goals and objectives of the Ministry of Justice.
- **High integrity risks associated with these challenges.** Firstly, the dilapidated state of the Point Blanche Prison buildings, has resulted in unsafe, unhealthy, and hazardous working conditions. This has not only affected the staff and resulted in understaffing and demotivated staff, but it has also had an effect on the prisoners, their health and behaviour. Secondly, the lack of educational or social help, trainings and/or programs, for the staff and prisoners, are an integrity risk. Staff are not regularly updated or educated on the newest methods or developments as it pertains to integrity, contraband or the effective execution of their functions. Respondents stated that staff are also not provided with the necessary social or psychological help necessary to enable them to cope with the pressures of a very demanding position. On the other hand, a lack of educational or social help, trainings and/or programs, even the lack of a chapel, allow for bored and more challenging prisoners that may seek to fill their time with illicit activities. And with the Point Blanche Prison being at max capacity, along with a staffing rate of 70%, the increased potential for misconduct grows daily. The understaffing is exacerbated by the fact that three prison locations need to be staffed (Point Blanche Prison, Police station and Youth Detention (MLC).

12 Annex E: List of applicable Legal and Regulatory Framework

Below is a list of the current integrity-related legal and regulatory framework that is applied within the Ministry of Justice and the specific executing agencies.

12.1 Ministry of Justice (applicable for the entire ministry)

- The National Ordinance Substantive Civil Servants Law (LMA)
- Gedragscode ambtenaren Sint Maarten
- Integriteits-en geheimhoudingsverklaring
- Code of Conduct Ministry of Justice May 5, 2014

12.2 Sint Maarten Police Force (KPSM)

- Rijkswet politie van Curaçao, van Sint Maarten en van Bonaire, Sint Eustatius en Saba
- Integriteits- en geheimhoudingsverklaring
- Code of Conduct KPSM
- Besluit Rechtspositie KPSM
- Ambtsinstructie KPSM

12.3 Immigration and Border Protection Services

- Code of Conduct according to the LMA
- LBHam Organisatie, taken en bevoegdheden Immigratie
- Geheimhoudingsverklaring
- Screening vertrouwensfunctie
- Rechtspositieregeling politie 2000
- Rijkswet politie - Art 10 - Buitengewoon agent van Politie

12.4 National Detective Agency (Landsrecherche)

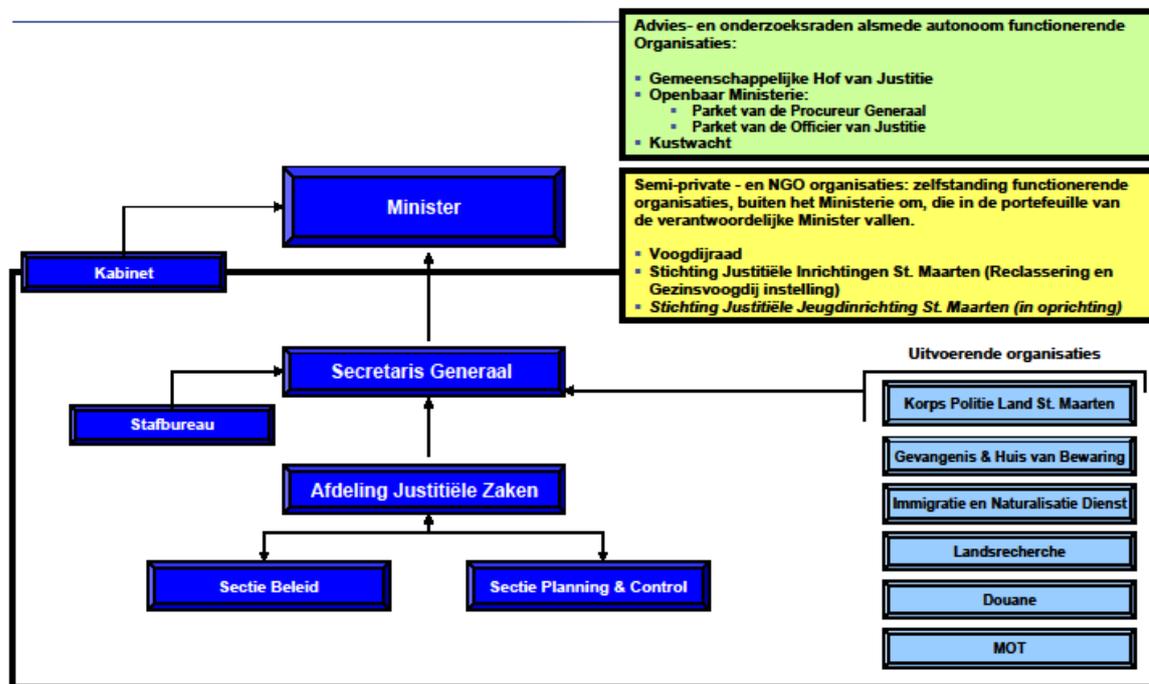
- Code of Conduct Landsrecherche
- Besluit Rechtspositie KPSM
- LBHam Organisatie, taken, en bevoegdheden Landsrecherche
- Aanwijzing Taken en Inzet Landsrecherche

12.5 Point Blanche Prison and House of Detention

- Article 43 LMA, deel van het handboek sectie D Integriteit 2016
- Prison Measures, National Decree Containing General Measures August 6-1999
- Kernwaarden Omgaan Met Gedetineerden
- Rules of the Prison
- House Rules of the Prisoners
- Screening Procedures Gedetineerden
- Straf Sancties Gedetineerden
- Celvisitatie Formulier
- Procedures Urine Controle
- Rules During Visiting Hours

13 Annex F: Organisational Chart of the Ministry of Justice

Algehele organisatiestructuur van het Ministerie



7

Source: The Ministry of Justice of Sint Maarten