



Judicial approach to relational violence in Caribbean Netherlands

A (follow-up) study into the judicial approach to relational violence and the follow-up of the recommendations from the report

'Contributions of the judicial parties to the approach to domestic violence in the Caribbean Netherlands' (2020)

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Law Enforcement Council
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Abbreviation list

ACTPol	Automation Consultancy and Technological Systems
BERRY	Bonaire, Sint Eustatius in Saba
BPZ	Basic Police Care (KPCN)
CN	Caribbean Netherlands
The Instruction	The Instruction Relational Violence 2017.01
DJFC	Ministry of Justice and Security - Directorate of Youth, Family and Approach Crime phenomena
DGRR and	Ministry of Justice and Security - Directorate-General for Administration of Justice Law enforcement
DGSenB Protection	Ministry of Justice and Security - Directorate-General for Punishment and Protection
DGPenV	Ministry of Justice and Security - Directorate-General for Police and Security Safety regions
FO	Forensic investigation
HOVJ	Chief Public Prosecutor
EN	European Netherlands
IVS	In custody
JenV	Ministry of Justice and Security
JICN	Correctional Institution Caribbean Netherlands
JVO	Judicial Four-Party Consultation (Netherlands, Curaçao, Sint Maarten, Aruba) JZZ
KB	Youth and Vice Cases (KPCN)
KMar	Police force manager
KMT	Royal Netherlands Marechaussee
KPCN	Corps Management Team
OM BES	Dutch Caribbean Police Force
PG	Public Prosecutor's Office, Public Prosecutor's Office Bonaire, St. Eustatius and Saba
SOJ	Attorney General
SRCN	Strategic Consultation on Justice
VRCN	Probation Foundation Caribbean Netherlands
VVC	Guardianship Council Caribbean Netherlands
VWS	Common Crime Unit (KPCN)
ZICN	Ministry of Health, Welfare and Sport
	Directorate of Care and Youth Caribbean Netherlands (VWS)

Foreword

If the signals are to be believed, relational violence in the Caribbean Netherlands is a serious social problem. Fortunately, visible initiatives are being taken from the government to tackle relational violence in the Caribbean Netherlands and to give it the structural attention it deserves.

The Council expects that a better awareness of what relational violence implies, in combination with targeted assistance and an adequate repressive approach, will lead to an increasing willingness to report to the social services and an increasing willingness to report to the police. An adequate repressive approach to relational violence can contribute to prevention because society then sees that transgressive behaviour does not go unpunished.

In this report, the Council focuses on the repressive approach to relational violence. This repressive approach is based on the 2017 Instruction on Relational Violence of the Attorney General of Curaçao, of Sint Maarten and of Bonaire, Sint Eustatius and Saba. In light of this indication, the Council formulated a number of recommendations in 2020 (in its report on the contributions of the judicial parties to tackling domestic violence in the Caribbean Netherlands) with regard to the judicial organisations.

This year, the Council examined the extent to which the recommendations from 2020. The Council did this on the basis of the theme of the Attorney General's instruction on relational violence. At the same time, insight was formed into the extent to which the judicial parties in the Caribbean Netherlands implement the instruction in their approach to relational violence.

For this study, the Council interviewed employees of the judicial organisations involved. Their involvement in the subject was great. The Council would like to thank them all for the pleasant discussions and for their contribution to this investigation.

THE LAW ENFORCEMENT COUNCIL Mr.

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

Summary, conclusions and new recommendations

Introduction

This research is about the judicial approach to relational violence in the Caribbean Netherlands. The Council for Law Enforcement (hereinafter: the Council) has investigated the extent to which the judicial parties in the Caribbean Netherlands implement the 2017 relational violence designation of the Procurator General (hereinafter: PG) of Curaçao, of Sint Maarten and of Bonaire, Sint Eustatius and Saba in their approach. On the basis of the theme of the relational violence instruction, the Council answers the question of the extent to which the recommendations from the Council's report

from 2020 on the contributions of the judicial parties to tackling domestic violence in the Caribbean Netherlands. This concerns the following judicial organizations: the Public Prosecutor's Office BES (OM BES), the Dutch Caribbean Police Force (KPCN), the Caribbean Netherlands Probation Foundation (SRCN) and the Caribbean Netherlands Guardianship Council (VRCN).

The terms relational violence and domestic violence are used interchangeably, but they have the same meaning for this report. The term domestic violence refers to (reactions to) the previous research. The present study speaks of relational violence, in accordance with the PG's instruction.

Results of the research

In 2017, the PG issued the 'relational violence instruction' to improve the actions of the Public Prosecution Service and the police in response to relational violence. The instruction sets rules on the investigation and prosecution of relational violence. The designation also sets preconditions for the implementation of local cooperation between the police and the Public Prosecution Service and other partners, such as the probation service. The preconditions provide insight into the judicial working method and into the local circumstances that are relevant for tackling relational violence.

One of the preconditions is that the cooperation between the Public Prosecution Service, the police and the probation service is further elaborated in written working agreements, which are then kept up to date. Another precondition is that the Public Prosecution Service reports to the Public Prosecutor on judicial cooperation at least once a year.

In 2020, the Council found that the BES Public Prosecution Service had not yet fulfilled these two preconditions. The Council then included these preconditions as recommendations to the BES Public Prosecution Service. In its present investigation, the Council notes that this has still not been fully followed up in 2024.

Furthermore, the Council notes that the approach to relational violence and the cooperation between the judicial partners with regard to criminal procedure is sufficiently in accordance with the instructions of the PG. However, the Council also describes bottlenecks that affect the effect of the designation. The Council believes that these bottlenecks deserve attention in the consultations between the BES Public Prosecution Service and the PG.

An important bottleneck concerns the capacity shortage within the Basic Police Care (hereinafter: BPZ) of the KPCN. The KPCN indicates that it cannot actually handle more reports of relational violence. However, the BPZ has an important role in tackling relational violence, because the BPZ is often the first to take note of a report or is on the scene when a report is made. Whether and how to act determines the further course of a report.

Another bottleneck is the (legal) inequality that can arise as a result of the considerations that the Public Prosecution Service BES has to make in order to reach a decision on police custody and/or pre-

trial detention. These considerations are sometimes different on Bonaire than on Saba and St. Eustatius.

Police custody on Saba and St. Eustatius means that police capacity is needed for the surveillance and care of the detainee. In the context of Saba and St. Eustatius, this means that fewer police officers will be working on the street.

There is no detention facility on Saba and St. Eustatius outside the limited police cells. A decision to pre-trial detention places the BES Public Prosecution Service with high costs, because suspects then have to be flown under police escort to the Caribbean Netherlands Correctional Institution (JICN) on Bonaire. This situation also makes considerable demands on the scarce capacity of the BPZ on Saba and St. Eustatius with regard to the surveillance, care and guidance of suspects.

It may result in suspects on Saba and St. Eustatius being sent away earlier than on Bonaire (under conditions). From the perspective of citizens on Saba and St. Eustatius, filing a tax return may therefore seem pointless. Although the Council realises that this is a bottleneck that can occur in the case of several crimes, the Council already emphasises its seriousness in this report. After all, victims of relational violence must be protected by law to feel safe (at home). The Council will address this in a broader context in the study 'Organisation of law enforcement on Saba and St. Eustatius' (annual plan 2024).

Settlement decision

At the time of the investigation, the Board had access to the business process system of the Public Prosecution Service BES. The inspection concerned an overview of public prosecutor's office numbers of relational violence-related cases in a certain period. At the request of the Council, this overview was provided in advance by the BES Public Prosecution Service.

The Council notes that the BES Public Prosecution Service did not always immediately take a decision to settle the case when a suspect was sent away. The relational violence instruction states that the public prosecutor ensures that a settlement decision is taken immediately, if possible. Moreover, relational violence is a 'priority offence', in which investigation and prosecution have priority. In the opinion of the Council, the files on relational violence should not remain 'on the shelf'.

Control

The Council notes that the Minister of Justice and Security's guidance on the 2020 recommendations has been insufficient. The measures announced by the minister in his policy response in 2020 have subsequently fallen out of sight at both the Ministry of Justice and Security (JenV) and the Public Prosecution Service BES and the KPCN. The KPCN and the Public Prosecution Service BES also underwent personnel changes during this period. Apparently, there was no transfer from both organizations to the measures announced by the minister from 2020.

Follow-up of recommendations from 2020

The diagram below shows the five recommendations from 2020 to the Minister of Justice and Security. The column next to it shows the Council's conclusion regarding the follow-up for each recommendation. ¹

¹ This overview provides a global picture. For the clarification, the Council refers to the text of this inspection report.

RECOMMENDATIONS	JUDGMENT
a. OM BES Lay down working agreements with the chain partners KPCN and SRCN on the approach to domestic violence in writing, in accordance with the PG's	Succeeded
b. OM BES Report to the PG on the collaboration at least once a year with the KPCN and the SRCN, in accordance with the designation of the PG.	Not followed up
c. KPCN In cases where a victim of domestic violence does not wish to report it, always contact the Public Prosecution Service BES, as prescribed in the PG instruction.	Partly followed up
d. KPCN In cases where a criminal approach can have far-reaching consequences for the victim, always consult with the BES Public Prosecution Service.	Partly followed up
e. KPCN, Guardianship Council, SRCN Improve the exchange of information with the chain partners and make use of the BES Legal Guide of the Ministry of Health, Welfare and Sport.	Succeeded

Explanation

- a. The working agreements with the chain partners KPCN and SRCN on cooperation in the event of relational violence were definitively formulated in August 2024, in accordance with the precondition set by the relational violence designation.
- b. To date, the Public Prosecution Service BES has not reported to the PG on the cooperation with the KPCN and the SRCN. Therefore, this recommendation has not been followed.

The Council has formulated a new recommendation on this subject with regard to the BES

Public Prosecution Service. c/d The recommendations to the KPCN have been partly followed.

The Council notes that the section

Investigation of the KPCN meets both recommendations. However, the first contact between a victim of relational violence and the police is often with the BPZ. The Council notes that the BPZ does not always recognise reports of relational violence as such. This is particularly common when a victim has no visible injury and/or no wishes to file a report, for example because a criminal approach can have far-reaching consequences. For example, reports of relational violence can fall between two stools.

The BPZ can also decide to mediate between victim and offender. In that situation, a report to the BES Public Prosecution Service is omitted. The Council is of the opinion that a sustained effort is needed on behalf of the BPZ on the part of KPCN in recognising relational violence and taking judicial action in the event of a report. The Council issued a new recommendation on this subject.

- e. The recommendation to the KPCN, the SRCN and the VRCN has been followed. The Council notes that the mutual exchange of information between the KPCN, the SRCN and the Guardianship Council is proceeding to everyone's satisfaction and that the BES Legal Guide of the Ministry of Health, Welfare and Sport (hereinafter: VWS) is now a guideline in this

regard.

Main conclusions

The Council draws the following two main conclusions:

1. The judicial parties act sufficiently in accordance with the PG's instruction on relational violence, but do not (yet) meet all the preconditions.
2. The majority of the recommendations have been (partially) followed: relational violence is receiving the attention it deserves more emphatically.

New recommendations

Based on the results of this investigation, the Council has made the following recommendations to the Minister of Justice and Security.² Because the implementation of the recommendations under 1 and 2 is the responsibility of the BES Public Prosecution Service and the KPCN respectively, the Council indicates this below.

1. OM BES	<ul style="list-style-type: none">• Ensure a chain-wide implementation of the established working agreements on tackling relational violence on Bonaire, St. Eustatius and Saba and for periodic evaluation.• As of 2024, report to the PG at least annually, in accordance with the PG's relational violence instruction. Include circumstances that occur in the context of the Caribbean Netherlands and that may influence the effect of the relational violence instruction.• Make sure that the cases of relational violence are recognizable as such and are assessed with priority. Agree on a deadline for this.
2. KPCN	<ul style="list-style-type: none">• Intensify and secure the development and maintenance of knowledge with regard to relational violence at the BPZ on Bonaire, St. Eustatius and Saba. Raise awareness about this theme, so that reports of relational violence are better recognized and acknowledged.• On Saba and on St. Eustatius, provide your own attention officer and/or <i>train-the-trainer</i> relational violence.
3. JenV	<ul style="list-style-type: none">• More than before, steer integrally on the follow-up of recommendations from the Board and coordinate this with the implementing organisations (control, internal supervision and accountability).

² Pursuant to Article 30(3) of the Law on the Council for Law Enforcement of the Netherlands, the

Council addresses its recommendations to the Minister of Justice and Security.

Concluding remarks

- In its final consideration, the Council expresses the expectation that the Minister of Justice and Security will continue to deploy resources for the development and implementation of a chain monitor for the judicial chain in the Caribbean Netherlands. The Council would like to suggest that *Relational violence* can be used as a pilot with the monitor.
- Finally, the Council reiterates its concern with regard to the described bottleneck (for the KPCN and the Public Prosecution Service BES) regarding police custody and pre-trial detention that occurs on Saba and St. Eustatius, as a result of the lack of a detention facility there. The considerations that the BES Public Prosecution Service has to make for this are different with regard to suspects on Saba and St. Eustatius than on Bonaire. The Council takes this into account
bottleneck in 2024 in its investigation into the structure of law enforcement on Saba and St. Eustatius. The Council announced this study in its 2024 annual plan.

1. Introduction

1.1 Investigations by the Law Enforcement Board

The Council for Law Enforcement (hereinafter: the Council) is charged with the general inspection of the organizations of the judicial chain in Curaçao, in Sint Maarten and in the Netherlands with regard to Bonaire, Sint Eustatius and Saba. In doing so, the Council looks at the effectiveness and quality of the performance of tasks, management and judicial cooperation within and between the countries.

The Council makes the choice for the inspections based on the public interest and the interest of well-functioning law enforcement in the countries. In recent years, the Council has included recommendations in its inspection reports addressed to the relevant Minister of Justice (and Security) and/or to the relevant Minister of Justice for the benefit of the implementing organisations. With these recommendations, the Council aims to contribute to, among other things, improving the quality of the performance of tasks by the organisations involved.

In 2020, the Council set up a monitor to gain and maintain an overview of the follow-up to its recommendations. To this end, an overview has been drawn up in which the follow-up of recommendations is kept for each study. This provides an overview of, and insight into, the effect of the measures in response to recommendations. Information about the progress also provides input for the annual State of Law Enforcement. In addition, monitoring the follow-up of recommendations can contribute to risk-based supervision. Identified risks and/or bottlenecks may give rise to a follow-up investigation or a new thematic investigation.

1.2 Background

In 2019, in its investigation into the approach to domestic violence in the Caribbean Netherlands³, the Council looked at both the repressive approach by the police (the Dutch Caribbean Police Force, hereinafter: KPCN) and the Public Prosecution Service (hereinafter: OM BES) and the role of the judicial parties in the approach taken by the Ministry of Health, Welfare and Sport (hereinafter: VWS) in the context of an administrative agreement⁴ with the public entities of Bonaire, St. Eustatius and Saba.

In July 2017, the Procurator General (hereinafter: PG) of Curaçao, of Sint Maarten and of Bonaire, Sint Eustatius and Saba issued the 'instruction on relational violence' to improve the actions of the Public Prosecution Service and the police in response to relational violence. The Council's 2020 recommendations with regard to the judicial parties are directly linked to the designation of relational violence of the PG. These are the following recommendations:

With regard to the Ministry of Justice and Security:

- Consult with the Ministry of Health, Welfare and Sport about the desirability of a statutory reporting code for domestic violence for the Caribbean Netherlands.
- Investigate the desirability of a statutory regulation for a temporary restraining order in Caribbean Netherlands.

³ Contributions of the judicial parties to the approach to domestic violence in the Caribbean Netherlands; Law Enforcement Council, March 2020.

⁴ Administrative Agreement on Tackling Domestic Violence and Child Abuse in the Caribbean Netherlands 2017-2019.

With regard to the Public Prosecution Service BES:

- Lay down working agreements with the chain partners KPCN and SRCN on the approach to domestic violence in writing, in accordance with the instruction of the Procurator General (hereinafter: PG).
- Report to the PG at least once a year on the cooperation with the KPCN and the SRCN, in accordance with the PG's designation.

With regard to the KPCN:

- In cases where a victim of domestic violence does not wish to report it, always contact the Public Prosecution Service BES, as prescribed in the PG's instruction.
- In cases where a criminal approach can have far-reaching consequences for the victim, always consult with the BES Public Prosecution Service.

With regard to the judicial parties KPCN, Voogdijraad and SRCN:

- Improve the exchange of information with the chain partners and make use of the Legal Guide BES of the Ministry of Health, Welfare and Sport.

In May 2020, the Minister of Justice and Security emphasised in his policy response⁵ the enormous impact of domestic violence and child abuse on a victim. He also emphasized that the commitment of the relevant departments and local authorities is there to reduce domestic violence and child abuse and to limit the damage, so that adults and children can live and grow up in a safe environment. The Council's recommendations were therefore adopted by the ministries and implementing organisations involved and the minister expressed the wish and expectation that the follow-up would be tackled energetically.

1.3 Research objective 2024

With the present investigation, the Council has mapped out the extent to which the judicial parties are implementing the PG's instruction on relational violence.⁶ At the same time, the Council is mapping out the extent to which the recommendations from the 2020 report with regard to the judicial parties in the Caribbean Netherlands have been followed. These are measures announced in response to the recommendations and concrete actions that have subsequently been taken. Where results are not (yet) sufficiently visible and noticeable, the Council will identify the impeding factors.

The Council also identifies the extent to which, by whom and in what way the follow-up to these recommendations has been or is being managed. Various studies by the Council show that in practice guidance is an important factor in the actual follow-up of recommendations. Adequate management is therefore a precondition for the performance of the tasks of the organisation(s) concerned.

The Council will in any case include the following three aspects of management in the management question:

- 1) Control: introduction of (management) measures to ensure that the recommendation can be followed;
- 2) Internal supervision: is the progress of the follow-up of recommendations by the organisations involved monitored?
- 3) Accountability: accountability/reporting on results?

⁵ Reference 2893575, dated 14 May 2020

⁶ Instruction on relational violence (2017.01). Date of entry into force 1 July 2017

1.4 Demarcation

With this follow-up study, the Council focuses on the judicial, and therefore repressive, approach to relational violence in the Caribbean Netherlands. This concerns the recommendations with regard to the Public Prosecution Service BES, the KPCN, the SRCN and the VRCN.

The recommendations to the Ministry of Justice and Security focus (in part) on cooperation with the Ministry of Health, Welfare and Sport. In the now revised Administrative Agreement⁷, the State Secretary for Health, Welfare and Sport has made agreements with the three public entities about setting up and strengthening the approach to domestic violence and child abuse on Bonaire, Saba and St. Eustatius. The Council's preliminary investigation shows that (preconditional) steps are now being taken to bring the approach to relational violence in the Caribbean Netherlands in line with the obligations arising from the Istanbul Convention.⁸ This follow-up investigation by the Board is too early to form an opinion on the follow-up to this and it has therefore been disregarded.

1.5 The central question and sub-questions

1.5.1 The central question

The central question for this research is twofold and is as follows:

- To what extent do the judicial parties implement the PG's instruction on relational violence?
- To what extent have the recommendations with regard to the Public Prosecution Service BES, the KPCN and the judicial parties KPCN, VRCN and SRCN jointly from the 2020 report on the contributions of the judicial parties to tackling domestic violence in the Caribbean Netherlands been followed up?

In order to answer the first question of the central question, the following sub-questions have been formulated:

1.5.2 Sub-questions (I)

1. What does the judicial process after a report or report of relational violence look like in practice?
2. How will the cooperation between the judicial partners take shape?
3. How does the management of the judicial process in the event of relational violence take shape in practice?
4. To what extent do the relevant judicial organisations have the data and resources at their disposal?
that are necessary for the performance of their tasks in the context of relational violence?

The following sub-questions have been drawn up to answer the second question of the central question:

1.5.3 Sub-questions (II)

1. To what extent have measures been announced in response to the recommendations (intentionally)?
2. To what extent have these measures been introduced (exist)?
3. To what extent are these measures implemented (operational)?
4. To what extent, by whom and in what way is this managed (ad 1, 2 and 3)?

⁷ Administrative Agreement on Tackling Domestic Violence and Child Abuse in the Caribbean Netherlands 2021-2024

⁸ The purpose of that convention is to prevent and combat violence against women and domestic violence. The treaty entered into force on 1 March 2016 for the European Netherlands. In order for the treaty to also

apply in CN, further measures are needed, because a number of conditions of the treaty are not yet met in the Caribbean Netherlands.

1.6 Organisations involved

The Council has approached the following judicial organisations for information and interviews: the Public Prosecution Service BES, the KPCN, the SRCN and the VRCN.

Within the Ministry of Justice and Security, the Directorate of Youth, Family and Approach to Crime Phenomena (hereinafter: DJFC) of the Directorate-General for Punishment and Protection (hereinafter: DGSenB) is involved in the follow-up of the recommendations from the 2020 report in terms of policy. The Minister of Justice and Security is the police force manager of the KPCN and the Directorate-General for Police and Security Regions (hereinafter: DGPenV) is actually charged with its management by mandate. The Council conducted interviews with those involved in both departments.

1.7 Approach to research

In its 2023 Annual Plan, the Council announced that it will investigate the follow-up to the 2020 recommendations. To guide this, the Council submitted a written request to the Minister for Legal Protection in August 2023⁹, with the aim of being informed about the follow-up to the recommendations. DJFC responded to this in a letter dated 6 November 2023 on behalf of the Minister for Legal Protection.^{A 10}

The Council then drew up a plan of action and sent it to the organisations involved in February 2024. In March 2024, inspectors from the Council conducted in-depth interviews with the implementing organisations involved in the Caribbean Netherlands. The Council also spoke with a representative of DGPenV and had an informal and exploratory meeting with Advice and Reporting Point Guiami (Bonaire).¹¹ In May 2024, an interview took place with DJFC.

On the basis of the information collected, the Council has drawn up a draft report and submitted it to the organisations involved and to the Minister of Justice and Security, giving them the opportunity to respond.¹²

1.8 Assessment framework

The assessment framework includes:

- the recommendations with regard to the Public Prosecution Service BES, the KPCN and with regard to the judicial parties KPCN, VRCN and SRCN jointly, from the 2020 inspection report;
- the policy response of the Minister of Justice and Security to that report (Appendix I);
- the instruction on relational violence of the Public Prosecutor's Office (Appendix II).

1.9 Reading guide

In Chapter 2, the Council addresses the question of the extent to which the judicial parties implement the PG's instruction on relational violence. The Council does this along the theme of the designation. Based on this theme, the Council will simultaneously discuss the state of affairs with regard to the follow-up of the 2020 recommendations with regard to the Public Prosecution Service BES, the KPCN, the SRCN and the VRCN.

Chapter 3 discusses the management of the follow-up of the recommendations. These chapters contain the investigation findings, followed by the Board's opinion.

⁹ The Minister for Legal Protection was part of the Ministry of Justice and Security. Since the Schoof cabinet took office, the position of minister has been converted to State Secretary for Legal Protection.

¹⁰ Reference 4968648, dated 6 November

2023

¹¹ <https://www.meldpuntguami.com>

¹² Art. 30 of the Kingdom Act of the Council for Law Enforcement.

Chapter 4 contains the main conclusions from this research. New recommendations are then formulated. The Council concludes with a review in chapter 5.

The report has four appendices. Appendix I contains the policy response of the Minister of Justice and Security to the 2020 report. Appendix II is the PG's relational violence instruction, from 2017. Appendix III is the schematic representation of the work process relational violence in the Caribbean Netherlands. Annex IV contains an overview of the officials interviewed by the Board for this investigation.

2. Implementation of the instruction on relational violence in the Caribbean Netherlands

2.1 Introduction and definition

In this chapter, the Council describes the effect of the relational violence instruction in the practice of Bonaire, Saba and St. Eustatius and the follow-up to its recommendations from 2020. The Council does this on the basis of the themes from the instruction: Preconditions (2.2), Investigation (2.3), Prosecution (2.4). The Board describes the state of affairs of the investigation for each section and formulates its opinion for each section.

The recommendations made by the Council in 2020 are based on the designation. In section 2.2, Preconditions, the Council also describes the follow-up of these recommendations to the BES Public Prosecution Service and to the judicial parties KPCN, SRCN and VRCN. The follow-up to the recommendations to the KPCN is described in section 2.3, Investigation.

The relational violence instruction 'sets rules on the investigation and prosecution of relational violence'. One instruction has been issued for the entire Public Prosecution Service, because it is the wish of the Attorney General that the criminal procedure policy at (and between) the public prosecutor's offices of the Public Prosecution Service Curaçao, the Public Prosecution Service Sint Maarten and the Public Prosecution Service BES is unambiguous as far as possible.

Definition

The clue speaks of relational violence. As with domestic violence, this is "*violence committed by someone within the victim's family or amorous relationship, regardless of where the violence is committed*".

The instruction indicates that "*it often concerns physical and/or sexual violence, with or without damage to property, in which the suspect and the victim are blood and/or marriage relatives of each other or have or have had an (extramarital) love relationship with each other or with the other half of a married couple and/or are (house) friends of each other*".

Both "*men, women and minors and/or the elderly*" can be victims or perpetrators of violence within the relational sphere.

Criminal law as an ultimum remedium

The instruction aims at uniformity and more effective and efficient action by the police and the Public Prosecution Service in response to relational violence. The tasks and powers of the probation service have been broadly included in the working method to be followed. Assistance 'to the perpetrator and victim' must be provided at the earliest possible stage. Preventing recidivism is important.

The BES Public Prosecution Service indicates that the seriousness of the problem means that relational violence in, and through, the chain has rightly been designated as a 'priority'. The BES Public Prosecution Service sees criminal law as an ultimate remedy to show from a social point of view that relational violence is not accepted.

2.2 Preconditions

The designation sets three preconditions, namely:

- A relational violence liaison officer must be appointed by the public prosecutor's office to coordinate policy on tackling relational violence;
- Achieving a dynamic approach to relational violence requires close cooperation between the Public Prosecution Service, the police and the probation service. The designation states that

that this cooperation is further elaborated in written working agreements and kept up to date;

- At least once a year, the liaison officer will report to the PG on the cooperation between the aforementioned services through the intervention of the Chief Public Prosecutor (hereinafter: HOVJ).

Contact officer OM (precondition 1)

The current investigation by the Council shows that the BES Public Prosecution Service still has a contact officer for relational violence, just like in 2020. The BES Public Prosecution Service indicates that this liaison officer directs the theme in the cooperation with the partners.

Working agreements chain and reporting obligation to the PG (preconditions 2 and 3)

The Council concluded in 2020 that the BES Public Prosecution Service did not meet the last two preconditions and subsequently formulated these preconditions as recommendations. The Council lists these below, followed by the Minister's response. This will be followed by the state of affairs in 2024.

<i>Recommendations 2020 with regard to the Public Prosecution Service BES.</i>
a. Lay down working agreements with the chain partners KPCN and SRCN on the approach to domestic violence in writing, in accordance with the instruction of the Attorney General (PG).
b. Report to the PG at least once a year on the cooperation with the KPCN and the SRCN, in accordance with the designation of the PG.

In his policy response, **the Minister of Justice and Security indicated** that:

- the BES Public Prosecution Service would take up the recommendation in cooperation with the KPCN and the SRCN in 2020 in the Strategic Consultation on the Justice Chain (hereinafter: SOJ), in which the approach to domestic violence would be put on the agenda and working agreements would be established;
- the BES Public Prosecution Service, in consultation with its chain partners (the KPCN and the SRCN), would report annually to the PG from August 2020 on the approach to domestic violence, in accordance with the PG's instruction. Preparations for this are said to have already started.

State of play 2024

Part a.

The Council put questions to the Minister for Legal Protection in August 2023.¹³ DJFC replied on behalf of the latter in November 2023 that the cooperation agreements between the BES Public Prosecution Service, the KPCN and the SRCN had not yet been recorded in writing. However, discussions had taken place to this effect. Due to personnel changes within the organizations, the results of these interviews have not been recorded. However, the Public Prosecution Service BES, the KPCN and the SRCN would soon record the cooperation agreements on the approach to relational violence in writing.

At the time of the present investigation, representatives of the BES Public Prosecution Service, the KPCN and the SRCN made a draft version of working agreements. There is now a final version that still has to be approved by the parties. The Council received this version via an e-mail message from the Public Prosecution Service BES¹⁴. This final version of the working agreements describes the current working method and cooperation regarding relational violence. In the interview in March, the BES Public Prosecution Service expresses the expectation that the working agreements will be signed by the

¹³ Reference 4968648, dated 6 November 2023

¹⁴ Mail OM BES, dated 22 August 2024. Working Agreements Relational Violence Caribbean Probation Foundation

Netherlands Police Force Caribbean Netherlands and Public Prosecutor's Office Bonaire St. Eustatius and Saba.

parties involved.

Part b.

In the same letter, the Council learns on behalf of the Minister for Legal Protection that at the same time as the cooperation agreements, it is agreed 'that KPCN and SRCN will report annually in accordance with the designation of the PG'.

At the time of the Board's investigation, the BES Public Prosecution Service indicated that it had not yet reported to the PG. According to the Public Prosecution Service, the PG did not ask for a report the other way around. The BES Public Prosecution Service intends to report to the PG for the first time at the end of 2024 on the progress of the approach to relational violence in CN and on the cooperation with the KPCN and the SRCN.

Information exchange in the chain (precondition 2)

In addition to the working arrangements and the reporting obligation, the second precondition emphasises the importance of close cooperation between the judicial partners. Commissioned by the Ministry of Health, Welfare and Sport, the BES Legal Guide was established in 2019. This contains information about the various aspects of sharing and recording information and about reporting relational violence. In 2020, the Council found that the judicial parties were making demonstrable efforts to properly fulfil the role of chain partner, but that further steps were needed in terms of the exchange of information. The Council formulated a recommendation on this subject, which is mentioned below, followed by the Minister's response. This will be followed by the state of affairs in March 2024.

<i>Recommendation 2020 with regard to the KPCN, the Guardianship Council and the SRCN.</i>
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Improve the exchange of information with the chain partners and make use of the Legal Guide BES of the Ministry of Health, Welfare and Sport.

In his policy response, **the Minister stated** that the BES Public Prosecution Service has a central role in the provision of information in the event of a criminal case. The BES Public Prosecution Service determines whether and if so with which chain partners contact should be sought and what information can be shared. If there is a substantial public interest, the KPCN can independently decide to share information with institutions and organisations. In accordance with the BES Legal Guide, this usually involves agencies such as Victim Support and, insofar as minors are involved, the VRCN.

The minister also indicated that an information officer has been recruited from the KPCN to further shape this information provision of the KPCN.

State of play 2024

The Minister for Legal Protection announced in 2023 that the BES Legal Guide is now being used in practice. He also indicated that this guide will be updated by the Ministry of Health, Welfare and Sport. The minister stated that, according to the KPCN, the exchange of information has been improved by the establishment of the Advice and Reporting Centre for Domestic Violence and Child Abuse¹⁵. In July 2024, the Council received the revised version of the BES¹⁶ Legal Guide via DJFC. The Ministry of Health, Welfare and Sport is organising digital information sessions through a network of train-the-trainers from the organisations involved, the Council has learned.

All interviewees within the KPCN, the SRCN and the Guardianship Council are positive about the mutual exchange of information; they get along well from an operational point of view. According to all, the BES Legal Guide on domestic violence and child abuse is now leading. KPCN sends the

¹⁵ Guiami on Bonaire

¹⁶ Legal guide BES-2024, Ministry of Health, Welfare and Sport

investigation file to the BES Public Prosecution Service and it is responsible for the exchange of information. The SRCN and the VRCN work on the basis of the file provided by the BES Public Prosecution Service and will sometimes request additional information from the Information Department of the KPCN. The KPCN is bound by the Police Data Act (hereinafter: WPG) and will provide data to the SRCN and the VRCN in accordance with the WPG. The KPCN is satisfied with the cooperation and open communication with the BES Public Prosecution Service. The BES Public Prosecution Service confirms that the sharing of information between the judicial partners involved.

The information officer who, according to the minister, was hired at the KPCN in 2020 to shape the provision of information on domestic violence in the chain, is unknown to almost all interviewees. The director of the SRCN can remember that this was a temporary position which was housed at the KPCN and the OM BES. The investigation shows that this initiative did not play a role with regard to the provision of information on domestic violence. This position of information officer no longer exists.^{A17}

2.2.1 Opinion of the Board

Contact officer OM (precondition 1)

The Council notes that the BES Public Prosecution Service meets the first precondition set by the relational violence instruction: the public prosecutor's office has appointed a relational violence liaison officer to coordinate policy with regard to tackling relational violence.

Working agreements chain and reporting obligation to the PG (preconditions 2 and 3)

The Council notes that the BES Public Prosecution Service meets the second precondition (chain working agreements), but not yet the third precondition (reporting obligation to the PG). In the opinion of the Council, this is problematic because the preconditions date from 2017. Moreover, the Council formulated recommendations on this in 2020 and the minister adopted the recommendations in his policy response.

The recommendation under a. to the BES Public Prosecution Service with regard to the recording of working agreements has been followed. There is now a final version of the working agreements. The Council is using this version as a source in the present investigation.

The Council notes that the recommendation under b. (reporting to the PG on cooperation with the KPCN and the SRCN) has not been followed. Contrary to what DJFC writes on behalf of the Minister for Legal Protection that 'KPCN and SRCN will report annually in accordance with the designation of the PG', the third precondition of the designation and the recommendation of the Council is that the Public Prosecution Service BES reports to the PG on judicial cooperation. The Public Prosecution Service BES has not reported to the PG to date. The Council takes note of the intention of the BES Public Prosecution Service to report to the PG in the last quarter of 2024 with regard to the cooperation with the KPCN and the SRCN.

The Council issued a new recommendation on the second and third preconditions (point 4.3).

Information exchange in the chain (precondition 2)

The Council concludes that the recommendation with regard to the KPCN, the VRCN and the SRCN has been followed. The Council is positive about the way in which the judicial partners know how to find each other at case level when exchange of information is necessary. The BES Legal Guide

¹⁷ See also the 2021 inspection report 'SRCN and resocialisation' with regard to the position of

information officer.

is now well known and forms an important guideline in the chain-wide approach to relational violence. The Council is positive about the information sessions on the revised version of the BES Legal Guide.

2.3 Detection

In this section, the Council describes the extent to which the investigation process in the case of relational violence meets what the instruction states in this regard. The Board also describes the state of play regarding the follow-up of the recommendations to the KPCN.

Arrest and recording of traces of violence

The instruction states that in a red-handed situation, a suspect is in principle arrested by the police. Then the investigation process is set in motion. If there is no red-handed situation, the investigation process will be initiated after permission from the Public Prosecutor.

This has been adopted as such in the working agreements between the BES Public Prosecution Service, the KPCN and SRCN and no distinction is made between Bonaire, Saba or St. Eustatius with regard to investigation.

The investigation shows that the Investigation Department does not have a structural presence on Saba and St. Eustatius. The Youth and Vice Affairs teams (hereinafter: JZZ) and Forensic Investigation (hereinafter: FO) aim to be on both islands for at least a week every month. On St. Eustatius, some police officers of the BPZ have received basic criminal investigation training and are certified to carry out investigative acts independently, also with regard to relational violence. According to those involved, this is always done in consultation with the Investigation Department on Bonaire. The team on Saba also intends to attract professionals with a focus on investigation for the first hours in cases with a detection indication.

Reporting, reporting and prosecution ex officio

The instruction states as a starting point that in cases of relational violence of which the police become aware, the victim will report it. If the victim does not wish to press charges, the case must be discussed with the officer or liaison officer, who 'looks at the possibilities for possible ex officio prosecution'.

The instruction then states that 'all reports of relational violence are submitted to an auxiliary officer for assessment'.

The working agreements between the BES Public Prosecution Service, the KPCN and the SRCN stipulate that as soon as a report is received by KPCN, the police force must report it to the Guiami Advice and Reporting Point on Bonaire or to the *Domestic Violence Coordinators* on St. Eustatius and Saba. Through them, the victim can be offered appropriate assistance, including a temporary placement elsewhere.

Interviewees within the BES Public Prosecution Service indicate that the cooperation with the Investigation Department of the KPCN is going well; the investigation process is in good consultation and it corresponds to what the instruction prescribes in outline. It is, as they say, '*core business*'. This also applies to the treatment of a suspect, declarant or witness regarding relational violence.

Interviewees from the KPCN say that when there is a report, a red-handed situation or a (possible) official prosecution, it is quickly forwarded to the JZZ department or the Unit Common Crime¹⁸ (hereinafter: VVC). From JZZ or VVC it is always

¹⁸ As a six-hour case, no Detention.

contacted the Public Prosecution Service BES.

The designation emphasizes the vulnerable position of child victims. The Public Prosecution Service BES and the KPCN indicate that in the case of the involvement of minors (as witnesses or victims), the care prescribed by the instruction is exercised. The Council sees this care reflected in the working agreements made. The VRCN says it comes into the picture when an investigation into a child protection measure is necessary. If a minor comes into contact with the police and the judiciary as a suspect, the VRCN has an advisory role in the criminal law framework.

Domicile

The instruction mentions the possibility of choosing domicile at the police station in the event of a report. This means that the address details of a victim are not mentioned in the police report. Interviewees at the KPCN and the BES Public Prosecution Service indicate that in the small scale of the islands, it is quickly known where someone lives or stays. Choosing domicile is not common, because according to them, it only makes sense when a victim decides to leave his/her home and stay on another island or in another country. The working agreements prescribe that domicile is chosen on the police station can only be done after consultation with the BES Public Prosecution Service and only when this is necessary for the provision of evidence. The instruction does not impose this restriction.

Mediation meeting

Article 5 of the Police Act of Curaçao, Sint Maarten and Bonaire, Sint Eustatius and Saba provides a basis for entering into a 'mediation meeting'. The instruction states that if a victim explicitly does not want to report the crime and there are insufficient grounds to prosecute the suspect ex officio, the police can enter into a conversation with the victim and the suspect to draw the attention of both to the possibilities of providing assistance. It is then desirable that the recording of such a conversation is registered 'for the purpose of file formation in cases of relational violence'.

Interviewees within the KPCN say that the barrio director at the KPCN¹⁹ is the one who usually takes the initiative for mediation and invites the perpetrator and victim to the station or to another safe location. Agreements are made back and forth and appropriate assistance is offered to both. This gives the barrio director an important role in tackling relational violence. The interviewees say that a formal mediation meeting does not happen often. A form of 'mediation' regularly takes place via emergency aid, when it is on the spot in the event of a report. The Public Prosecution Service BES indicates that it is important that the barrio director providing assistance, also escalates more often and faster towards Investigation.

The working agreements mention the option of mediation by 'both the BPZ employee and the community police officer'. A subsequent registration in Automation Consultancy and Technological Systems (hereinafter: ACTpol) is necessary. Coordination with the Public Prosecution Service BES is not mentioned.

BPZ

The BPZ has a crucial role in the (timely) recognition of relational violence, because as interviewees within the BES Public Prosecution Service and the KPCN indicate, "when relational violence is reported, BPZ is usually the first on the scene". Interviewees within the KPCN explain how the process is safeguarded from a report of relational violence:

¹⁹ The position of barrio director is comparable to the position of local police officer or neighbourhood director in

European
Netherlands.

There are six teams within the BPZ on Bonaire,²⁰ with a senior (watch commander) in each shift. On Saba and St. Eustatius, there is one team each. An interviewee from the Windward says: "*we are from the BPZ and act as a small team within the KPCN*". The senior is usually also an assistant public prosecutor (on duty). The intention is that at the end of each shift, all details and reports will be mutated into ACTPol by the agents of the BPZ. According to interviewees within the Public Prosecution Service BES and the KPCN, consistent mutation is not yet commonplace within the BPZ. The Council has expressed its concerns in several reports about a lack of registration discipline at the KPCN. Most recently, the Council did this in the State of Law Enforcement Caribbean Netherlands 2023.^{A 21}

The KPCN says that the watch commander is now emphatically steering towards consistent mutation after the end of each shift. As an additional filter on quality, all changes from the previous day are checked daily by a data administrator. A work order is created in ACTPol for the person who entered the mutation into the system, when it turns out that a mutation is incomplete or when it appears that not all required steps have been completed. A forgotten next step can be, for example, that there is still an appointment for the recording of a report must be made or that JZZ must be notified. As a result of the irregular shifts within the BPZ, it can take a while to complete a work assignment. At the end of each month, the BPZ chiefs receive an overview of all work assignments that have not yet been carried out, after which they still steer towards completion.

The chiefs of the BPZ on Bonaire, Saba and St. Eustatius meet regularly with the watch commanders to discuss guidelines, work agreements, mutations and work orders. In this way, the aim is to achieve a uniform working method in the teams.

Attention officer and train-the-trainer

The KPCN has appointed two attention officers for relational violence; one within the investigation from JZZ and one within the BPZ. There is also one *train-the-trainer* on relational violence. These are ancillary positions, for which special training has been followed. The attention officers give internal advice when requested. They act as a 'source of information', as it were. These officials work from Bonaire, but serve the KPCN as a whole. However, the current attention officer from the BPZ indicates that he has been appointed primarily for Bonaire. The *train-the-trainer* coaches the BPZ colleagues in how to deal with cases of relational violence, but it is indicated that he has not been to St. Eustatius, for example.

An interviewee within the KPCN indicates: "*If the knowledge is available to recognize relational violence, it is a win-win for all involved. Given the problem of relational violence, it would be good to have an attention officer in each team and one train-the-trainer per island. Then we not only train the new colleagues, but we also take care of the up-keeping the knowledge within the operation up to date.*"

Capacity KPCN

Interviewees from the Public Prosecution Service BES and the SRCN indicate that they are currently sufficiently equipped to meet their task. However, this remains a point of attention, according to the BES Public Prosecution Service.

²⁰ Per group (1:4) 1 watch commander (senior) and 4 professionals outside, in two patrols. On Thursdays and weekends 1:6, in three patrols. There is also a bario director in each group, but he does not work night shifts.

²¹ Law Enforcement Council. May 2024

All interviewees, on the other hand, emphasize that the KPCN is struggling with a serious capacity shortage. Inflow and outflow are not in balance with each other and the search for new people is becoming increasingly urgent. This is particularly noticeable within the BPZ, where regular services can no longer be run with the minimum staff. Emergency solutions are always needed to complete the schedules. As a result, colleagues structurally work overtime in order to be able to be deployed for the BPZ. Although this (it is emphasized) deserves appreciation, it is a worrying and increasingly vulnerable situation.

Executive professionals from the Investigation and Information departments participate in emergency assistance. Managers within the KPCN indicate that they put the experienced and less experienced colleagues together in one service as much as possible, so that they can learn from each other. This scarcity in capacity is felt on Bonaire, Saba and St. Eustatius. The BPZ on Saba and St. Eustatius was structurally supported by the KMar until 1 January 2024. This contributed to a stable line-up. The cooperation with the KMar has been stopped. This means that a structural rotation of personnel from Bonaire is now necessary. The police can still be reached on all three islands, but can no longer be deployed at all times, because sharp choices have to be made. This emergency is expected to continue until at least September 2025, when a new class of aspirants will be influxed. The new (BPZ) intake is young and inexperienced and needs time to mature professionally in so many facets.

The JZZ department is still at full strength, but assistance is also provided to the BPZ from JZZ. A limit to agility has been reached, according to the interviewees. In relation to relational violence, one interviewee indicates: *"Suppose that the willingness to report will increase in the future, then we as a force must also follow up on this. Relational violence is a priority offense. With the current capacity, this is a challenge; We can't really handle more reports of relational violence."* In the aforementioned 'State for Law Enforcement 2023', the Council expressed its concerns about exactly this development within the KPCN. The KPCN and JenV are in consultation about solutions for the short, medium and long term. This situation is being monitored by the Council.

Overleg OM-KPCN

In 2020, the Council concluded that there is no evidence that the police systematically contact the BES Public Prosecution Service in cases where a victim of relational violence does not wish to report it from the outset. And sometimes the police would even deliberately choose not to draw up an official report, in order to protect the victim from other types of problems. This resulted in the following recommendations:

<i>Recommendation 2020 on the KPCN.</i>
a. In cases where a victim of domestic violence does not wish to report it, always contact the Public Prosecution Service BES, as prescribed in the PG's instruction.
b. In cases where a criminal approach can have far-reaching consequences for the victim, always consult with the BES Public Prosecution Service.

In his policy response, **the Minister of Justice and Security indicated** that:

- the starting point for the KPCN is that it works according to the instructions of the PG, but that it is nevertheless possible that it is not possible to contact the BES Public Prosecution Service directly. Where this is the case, it is agreed that these consultations between the KPCN and the BES Public Prosecution Service will take place as soon as possible;

- the cases in which a criminal approach can have far-reaching consequences for the victim are discussed in the weekly consultation between the KPCN and the Public Prosecution Service BES. And when the situation requires it, emergency consultations take place.

State of play 2024

In his letter of November 2023, the Minister for Legal Protection indicates that there is always contact between the KPCN and the BES Public Prosecution Service in cases in which the suspected victim of domestic violence does not wish to report it. He also indicates that in cases where a criminal approach can have far-reaching consequences for the victim, according to KPCN, consultation with the BES Public Prosecution Service always takes place.

Interviewees within the KPCN indicate that in cases related to relational violence, action is taken in accordance with the instruction. According to interviewees within the KPCN, all reports of relational violence that lead to a report or a (possible) ex officio prosecution are discussed with the BES Public Prosecution Service as standard. As soon as there is a red-handed situation, a report or a decision to prosecute ex officio, the Investigation Department (JZZ or VVC) comes into the picture. The investigation process is initiated by JZZ or VVC, in coordination with the BES Public Prosecution Service. These teams maintain structural contact with the BES Public Prosecution Service about this.

At the same time, interviewees within the KPCN indicate that when a criminal approach has far-reaching consequences for the victim, mediation is usually used, assistance and aftercare and if it turns out that the victim does not wish to report the crime and has no visible injury, a short interview takes place. In those situations, reporting to the BES Public Prosecution Service is not necessary.

The BES Public Prosecution Service says it does not receive any questions from the BPZ about relational violence cases. It acknowledges that the first contact between a victim of relational violence and the police is often with the BPZ and that a report is not always recognized as relational violence. One of the focus officers indicates that this risk mainly occurs when no visible injury is found and no report is made. These are, they indicate, vulnerable moments in the work process. Interviewees within the BPZ also acknowledge this vulnerability. They emphasise that the control of mutation after the end of each shift, as described above, is increasingly effective at overcoming this vulnerability. It reduces the risk of reports going unanswered.

At the time of the investigation, the Board had access to the business process system of the Public Prosecution Service BES. The inspection concerned an overview of public prosecutor's office numbers of relational violence-related cases in a certain period. At the request of the Council, this overview was provided in advance by the BES Public Prosecution Service. The Council came across a report of relational violence, in which the police had arrested the suspect on other grounds than what the report was about. It was only during the assessment by the BES Public Prosecution Service that relational violence came to the fore (again).

Interviewees from the BPZ indicate that the Guiami Advice and Reporting Point on Bonaire has provided information in the past during briefings on Bonaire about recognizing signs of relational violence. This had a positive effect on the acquisition of insight into, and the recognition of, relational violence. Guiami was unable to provide personal information at all briefings, so not all officers in the emergency response on Bonaire were able to learn from this. The initiative has not been continued, while inexperienced officers regularly enter the BPZ. There was no similar initiative on Saba and St Eustatius.

The Public Prosecution Service BES indicates that the BPZ, as a generic police unit, must have knowledge of many themes. The BES Public Prosecution Service considers it important to have free space in action perspective for the assistant public prosecutors in the BPZ, because as the BES Public Prosecution Service says: "*that is inherent to how the police should (be able to) do their job*". The designation also gives the assistant public prosecutors an independent power when it comes to assessing cases.

2.3.1 Opinion of the Board

Reporting, reporting and prosecution ex officio

The working agreements state that in the event of a report of relational violence, the KPCN will notify the Guiami Advice and Reporting Point on Bonaire or the *Domestic Violence Coordinators* on St. Eustatius and on Saba. In this way, the victim can be offered appropriate assistance, whether or not in combination with a temporary placement elsewhere. The Council notes that this meets what the instruction prescribes, namely that assistance to the perpetrator and victim must be provided at the earliest possible stage.

At the same time, the Council notes that **according** to the working arrangements, domicile at the police station is only possible if this is necessary for the provision of evidence. The instruction does not impose this restriction. A victim of relational violence can therefore be offered a temporary placement elsewhere from social services, but cannot opt for domicile at the police station when reporting if this is not necessary for the provision of evidence. The Council ruled that this restriction does not meet the desire to be able to take criminal action more often in the event of reports of relational violence.

ABOUT BES, JZZ and BPZ

The Council notes that the BES Public Prosecution Service and the Investigation Department (JZZ or VVC) of the KPCN act in accordance with the relational violence instruction. The Council also notes that within the BPZ, a vulnerability is found in the recognition of relational violence, as a result of which reports of relational violence can fall between two stools. BPZ has set up a process that can overcome vulnerabilities in the acquisition of relational violence: if reports are consistently mutated and checked, adjustments can be made to the follow-up of a report of relational violence. The Board has repeatedly expressed its concerns about the lack of registration discipline at the KPCN, but notes from the interviews that there is now a daily check on mutations and mutations. However, this does not guarantee the process of relational violence.

The Council is aware that the bar is high for the professionals within the BPZ and that they must have knowledge of many (social) themes. Nevertheless, the Council considers it important that all police officers who may be confronted with relational violence professionally are well aware of the process and understand the impact relational violence can have on a victim. To this end, insight must be gained into what the BPZ department needs to be able to act adequately in the event of reports of relational violence. In the opinion of the Council, established and implemented working agreements can serve as a guideline in the performance of tasks. But the information provided by the Guiami Advice and Hotline during the briefings is also a 'quick win' to pick up again. Perhaps in addition to or instead of information, investments can be made in recurring digital briefing items. The officers on Saba and St. Eustatius also benefit from this.

Saba in Sint Eustatius

In the opinion of the Board, it is important that there is investigative expertise within the BPZ in order to be able to act adequately when a crime is found. On Saba and on St. Eustatius,

it is crucial, because the Investigation Department of KPCN is not present there as standard. The Council praises the fact that the BPZ department on Saba and St. Eustatius, despite the scarcity in capacity, is investing in the task emphasis on investigation. This also benefits the investigation process in tackling relational violence.

The Council considers it advisable to appoint a (private) attention officer and/or a *train-the-trainer* to Saba and St. Eustatius. The current attention officers and the *train-the-trainer* relational violence mainly concentrate on Bonaire. According to the Council, this is undesirable. They also work demand-driven. An extension of the task emphasis to Saba and St. Eustatius will reduce the *span of control* of the current officials on Bonaire and it will benefit the internal work process with regard to relational violence on Saba and St. Eustatius.

Capacity

The KPCN indicates that it cannot actually handle more reports of relational violence capacity. The Council is of the opinion that the problem of the scarce capacity at the KPCN should not only be an urgent topic of discussion with the police force manager, but also in the recurring consultations between the BES Public Prosecution Service and the PG. It is a circumstance that affects the effect of the relational violence instruction. The Council will closely monitor developments surrounding the capacity problems and the risks they entail.

Overleg OM-KPCN

The Board notes that with regard to the 2020 recommendations to the KPCN, both recommendations have been partially implemented. In cases where a victim of relational violence does not wish to report it, the KPCN does not always contact the BES Public Prosecution Service. And in cases where a criminal approach can have far-reaching consequences for the victim, the KPCN does not always consult with the BES Public Prosecution Service.

The Board concludes from the interviews that cases of relational violence that are known to the Investigation Department of the KPCN are handled in accordance with the instruction and in consultation with the Public Prosecution Service BES. However, not all reports of relational violence end up at the Investigation Department via the BPZ. The Council notes a vulnerability in the BPZ in the acquisition of insight into, and the recognition of, relational violence. As a result, reports can go unanswered. This also applies to reports that can have far-reaching consequences for a victim. As a result, it cannot be said that the police now systematically contact the Public Prosecution Service BES when reports of relational violence are reported.

The BPZ can decide to mediate towards assistance instead of pushing for a report, when a criminal approach can have far-reaching consequences for the victim. The Council notes that the BPZ does not always coordinate this with the BES Public Prosecution Service or with the Investigation Department. Moreover, the working agreements do not prescribe this.

The instruction itself also leaves room for a mediation meeting when a victim explicitly does not want to report and there are insufficient grounds to prosecute the suspect ex officio. Both the designation and the working agreements point to the importance of a subsequent mutation in ACTpol. However, in order to conclude that there are no grounds for an ex officio prosecution, the Council is of the opinion that *prior* consultation with JZZ and/or the BES Public Prosecution Service is necessary.

2.4 Prosecution

In this section, the Council describes the extent to which the prosecution process in the case of relational violence meets what the instruction states in this regard.

Police custody

In accordance with the instruction, during a police custody order, the assistant public prosecutor and the public prosecutor must consult with each other about the choice of either an arraignment before the examining magistrate, or a deportation with a summons or an invitation to a public prosecutor's hearing. This is reflected in the working agreements.

On Saba and St. Eustatius, there is no detention facility outside the limited police cells. A suspect may stay in a police cell for a maximum of 10 days. Interviewees indicate that a decision to detain police custody means that the scarce police capacity may have to be used for surveillance purposes. According to interviewees from various organizations, partly because of this, it is decided earlier on Saba and St. Eustatius - and unlike on Bonaire - to send the suspect away under conditions.

Early help by the probation service

The assistant public prosecutor notifies the probation service of the detention of a suspect of relational violence. In principle, the public prosecutor makes the request to the probation service for advice. The instruction speaks of a maximum period of 4 days for an early aid report. This period has been included in the working agreements.

Interviewees within the SRCN indicate that they are informed in time to be able to meet the task.

Pre-trial detention

In the current study by the Council, almost all interviewees mention a recurring bottleneck that occurs on Saba and on St. Eustatius. Interviewees indicate that the considerations that the Public Prosecution Service BES has to make regarding pre-trial detention on Bonaire are different than on Saba and on St. Eustatius.

In the event of a decision to pre-trial detention on Saba and St. Eustatius, a suspect must be flown to the Correctional Institution Caribbean Netherlands (hereinafter: JICN) on Bonaire. Sometimes a commercial flight is available for this purpose and sometimes a charter is necessary. During the (expensive) flights, scarce police capacity must again be deployed to escort the suspect(s). Subsequently, once on Bonaire, the examining magistrate may have the rejects the request for detention, after which a suspect must be returned to Saba or St. Eustatius. The BES Public Prosecution Service indicates that if this is not possible on the same day, it is necessary to book an overnight stay for the suspect.

The deployment of two supervisors, the KPCN indicates, is compared to the already small formation of the KPCN on Saba and St. Eustatius, an enormous challenge in terms of scheduling to be able to carry out this task. In addition, transport movements are costly and are borne by the TO BES.

It is the reality, according to the interviewees, that in contrast to suspects on Bonaire, they are more likely to be sent away on Saba and St. Eustatius under conditions, in order to avoid the high costs and the deployment of scarce police capacity. Interviewees cite that what happens behind the front door is even more often considered strictly private on Saba and St. Eustatius than on Bonaire.²² The willingness to report relational

²² The Council briefly addresses this point in its final considerations.

Violence is minor, especially when one has the feeling that a suspect will soon be released.

Priority

The Board states in paragraph 2.3 that at the time of the investigation it had access to the business process system of the BES Public Prosecution Service.

When a suspect is sent away, the instruction states that ideally a settlement decision should be taken immediately.

The Council's (file) investigation shows that relational violence cases relating to suspects who are not or no longer in pre-trial detention are not always dealt with as a priority. Especially when it comes to 'first offenders', it can take several months before an assessment by the BES Public Prosecution Service takes place. The files end up on a regular pile of cases that have to be assessed by the Public Prosecution Service BES.

2.4.1 Opinion of the Board

With regard to **the detention and pre-trial detention** of suspects of relational violence, the Council notes an inequality on Saba and on St. Eustatius compared to Bonaire. Suspects may be sent on Saba and St. Eustatius earlier than on Bonaire, under conditions. The Council considers that this is pre-eminently a circumstance that should be discussed with the PG, because it affects the effect of the designation.

Both the KPCN and the Public Prosecution Service BES are presented with a *fait accompli*. The KPCN has no choice but to make scarce capacity available for surveillance, security and care; capacity that cannot now be used 'outside'. The Public Prosecution Service BES faces high costs associated with transport movements. The Council already expressed concerns about this in 2022 in the investigation into the operation of the four mutual detention arrangements.^{A 23}

Also seen from a citizen's perspective, this dilemma deserves urgent and solution-oriented attention in the judicial chain. For a victim of relational violence on Saba or St. Eustatius, it may feel as if reporting is less useful. The Council believes that it is important that a solution is found for this. Although the Council realises that this is a bottleneck that can occur in the case of several crimes, the Council already emphasises its seriousness in this report. After all, victims of relational violence must be protected by law to feel safe (at home). The Council will address this in a broader context in the study 'Organisation of law enforcement on Saba and St. Eustatius' (annual plan 2024).

Priority

The Council notes that when a suspect is sent away, the BES Public Prosecution Service does not always take a decision to settle the case immediately. Relational violence has been designated as a priority offence²⁴ and deserves priority in both investigation and prosecution. The criminal files on relational violence must be recognizable as a 'priority' from the moment they are compiled, for example by means of a stamp. This prevents cases of relational violence, completely against the working agreements, from remaining 'on the shelf' at the BES Public Prosecution Service.

²³ Evaluation of mutual regulations on detention. Inspection investigation into the operation of the four mutual detention arrangements. Law Enforcement Council, June 2022.

²⁴ The police and the BES Public Prosecution Service give priority to tackling relational violence.

3. Control

In this chapter, the Council describes the extent to which guidance has been given to the follow-up of the recommendations from the 2020 inspection report and the measures promised by the Minister in response to this in the policy response. The Council has spoken with the (mandated) police force manager (hereinafter: KB) of the KPCN and with employees of the DJFC department of the Ministry of Justice and Security and reports under 3.1. The Council has also discussed this with the Public Prosecution Service BES, the KPCN and the SRCN and reports under 3.2. Under 3.3, the Council gives its opinion on the course of the management of the follow-up to the recommendations and measures announced by the Minister.

3.1 KB and DJFC

In the run-up to the 2020 policy response to the Council's previous inspection report, the KB approached KPCN for input.²⁵ KPCN then drew up a response.²⁶ The Council has taken note of KPCN's response. The Minister's policy response was partly based on this input.

The KB indicates that the management of the recommendations has been given a boost by setting up the regular discussions between the Council, the KB and the KPCN. The KB also indicates that the subject of relational violence has been regularly on the agenda of the KPCN's KMT since 2020, where the police force management discusses the approach to relational violence with all department heads.

DJFC indicates that the KPCN, the BES Public Prosecution Service and the SRCN were consulted in 2020 for the purpose of the policy response. The KPCN and the Public Prosecution Service BES would have indicated that the working agreements are in the making 'to improve policy and operational cooperation'.

DJFC also indicates that the Council's 2020 report and the minister's policy response have been coordinated between the relevant departments within the ministry (DGSenB, DGRR, DGPenV). Consultations also took place with the Ministry of Health, Welfare and Sport to promote an integrated approach to relational violence in the Caribbean Netherlands.

In the period between the drafting of the Minister's policy response in 2020 and the inventory of the state of affairs (at the request of the Council) in August 2023, there was no contact from the Ministry of Justice and Security with the judicial organisations about the progress made in following up on the recommendations. The Ministry (DJFC) refers to the Public Prosecution Service BES, which is in charge of the criminal approach and should have supervised compliance with the cooperation agreements with and between the chain partners, as they have been designed in the context of the criminal approach to domestic violence and child abuse in the Caribbean Netherlands.

At the same time, the interviewees from the Ministry (DJFC) indicate that internal consultations are being held about how to follow up more effectively in the future on the files from the Caribbean Netherlands, including the recommendations of the Council.

In the letter to parliament of 26 September 2023 (response to the recommendations from the State of Law Enforcement 2022), the Minister of Justice and Security indicates that he will take concrete measures to improve the control from the Ministry of Justice and Security on the follow-up of recommendations from the Council.²⁷ In the progress letter of 12 February 2024 of the CN policy agenda (2021-2025), the Minister indicates that from now on one directorate within the department will be appointed as the leader of a

²⁷ Kamerstukken 2022/23, 29279, nr.5.

²⁵ The KB sent an email to the KPCN dated 10 March 2020.

²⁶ KPCN's policy response to the report of the Law Enforcement Board, dated 26 March 2020.

²⁷ Kamerstukken 2022/23, 29279, nr.5.

subject on which the Council has made recommendations.²⁸ This directorate also monitors the progress of the subject and remains responsible within the Ministry until the action points have been completed and/or have been structurally implemented and this has been confirmed in writing to the Council. The other directorates, insofar as they are involved in the theme, are informed about the progress during the monthly coordinators' meeting.

3.2 KPCN, OM BES and SRCN

The Council asked questions to the KPCN and the Public Prosecution Service BES in February 2024. The KPCN cannot recall the extent to which it was informed by JenV about the 2020 report at the time. The force is also unable to reconstruct whether, and if so how, input was provided on the minister's policy response. The reason given by the force is that the current members of the police force leadership and their policy support started after 2020. The two focus officers were appointed in 2018, but they cannot remember being questioned for this input.

The KPCN says that it cannot reconstruct how it was subsequently informed about the measures announced by the minister in the policy response to the report, nor whether agreements were subsequently made.

The KPCN indicates that the recommendations have been included in the overall overview of recommendations of the Board. This overview will be discussed during the regular discussions between the KPCN and the Council. With regard to the internal management of the follow-up of the recommendations, the KPCN indicates that the Head of Investigation is responsible and that the current working method is entirely in accordance with the recommendations and the instruction.

With regard to the working agreements, the KPCN refers to the BES Public Prosecution Service, which is in charge of determining the working agreements.

When asked, the Public Prosecution Service BES cannot say with certainty whether, and to what extent, it has provided input on the minister's policy response. This would be due to the personnel changes at that time. The current HOVJ, the policy officer and the contact officer for relational violence were in

2020 not yet employed by the Public Prosecution Service BES. They have not been able to find any information about the above. The Public Prosecution Service BES indicates that although the follow-up of the recommendations has fallen out of sight, this does not apply to the theme of relational violence.

The BES Public Prosecution Service indicates that there has been no contact with the Ministry of Justice and Security until 2023 about the progress on the recommendations on relational violence. At the time of the announcement of the current investigation by the Board, the HOVJ steered internally (within the public prosecutor's office) at the accelerated pick-up and implementation of the 2020 recommendations. The contact officer of the Public Prosecution Service BES has coordinated with the KPCN and the policy officer has coordinated the recommendations with the Ministry (DJFC).

With regard to monitoring the follow-up of the recommendations, the SRCN refers to the regular discussions with the Council. The SRCN has not had any contact with the ministry about this.

3.3 Opinion of the Board

The Council notes that the KPCN and the BES Public Prosecution Service are involved in the development of the policy response, but that both organisations cannot retrieve this in their own records. They point to the personnel changes, where this was probably not transferred. The Board notes that in several inspection reports it has pointed out the inadequate transfer of files in the

²⁸ 12 februari 2024. Directie Europese en Internationale Aangelegenheden (DEIA)

event of personnel changes. Again, the Council stresses that changes in personnel are a

²⁸ 12 februari 2024. Directie Europese en Internationale Aangelegenheden (DEIA)

professional transfer is important for the continuity of the business operations of the organisations. This will also benefit the internal management of the follow-up to the Council's recommendations.

The measures announced by the Minister of Justice and Security in 2020 have fallen out of sight at both the Ministry of Justice and Security and the Public Prosecution Service BES and the KPCN. The Council notes that there has been no guidance from the minister on the follow-up of the recommendations, after he had asked the organisations for input in 2020. It was not until September 2023, when the Council requested information for its follow-up investigation, that the implementing organisations were questioned by the minister about the state of affairs. After that, the Public Prosecution Service BES, the KPCN and the SRCN took up the recommendation regarding the working agreements.

In the policy response to the 2020 report, the Minister of Justice and Security made commitments to the House of Representatives about the follow-up of recommendations. The minister is therefore responsible for this. Although the BES Public Prosecution Service has control over compliance with the cooperation agreements, but the minister is and remains responsible for following up on the recommendations and must have insight and coordination of the results in the follow-up of recommendations, as also indicated in the aforementioned letter to parliament of 26 September 2023. The minister (DJFC) himself also indicates that it should have followed up more effectively on the Council's recommendations.

The Council's request (in September 2023) on the state of affairs regarding the follow-up to the 2020 recommendations coincides with the publication of the letter to parliament from September 2023 in response to the recommendations from the State of Law Enforcement 2022. The Council concludes that the Minister is also of the opinion that the management of the follow-up of the recommendations must be improved. The Council welcomes the Minister's intention to designate a single directorate as the leader of a subject on which the Council has made recommendations and which have been adopted by the Minister. The Council is of the opinion that the Minister of Justice and Security should make more concrete agreements in consultation with the judicial organisations about what is expected of each other in the follow-up to the Council's recommendations. The Council emphasizes that the following aspects of management should be taken into account: control, internal (quality) control and accountability.^{A 29}

²⁹ See explanation in paragraph 1.4; Objective follow-up research 2024.

4. Main conclusions and new recommendations

In this chapter, the Council answers the research questions, partly on the basis of the sub-questions. The Council then sets out its main conclusions and concludes with new recommendations.

4.1 Answer to the 1st research question

Research question 1: *To what extent do the judicial parties implement the PG's Relational Violence Instruction?*

In Chapter 2, the Council describes the main points of the judicial process after a report of relational violence and discusses the cooperation between the BES Public Prosecution Service, the KPCN, the SRCN and VRCN. The Council notes that the approach and judicial cooperation are sufficiently in line with the relational violence instruction.

In the opinion of the Council, it is important that the approach to relational violence is viewed in the light of local circumstances. The scarce capacity at the KPCN and the operational choices that result from it are part of these local circumstances. This also applies to the bottlenecks that arise on Saba and St. Eustatius in the decision to detain suspects and pre-trial detention. The Council considers that these are pre-eminently circumstances that should be discussed with the PG, because it affects the effect of the designation and thus the approach to relational violence in the Caribbean Netherlands.

Main conclusion 1: The judicial parties act sufficiently in accordance with the PG's relational violence instruction, but do not (yet) meet all the preconditions.

The Council notes that the PG's relational violence designation is leading in the judicial approach to relational violence in the Caribbean Netherlands.

It will not be until 2024 that the local cooperation between the BES Public Prosecution Service, the KPCN and the SRCN will be further elaborated in written working agreements, one of the preconditions. It is now important to formalize, implement and keep these agreements up to date.

The Council believes that it is also important to consult with the PG soon about judicial cooperation on relational violence. The bottlenecks described (in Chapter 2) deserve attention in this discussion, because they affect the effect of the 2017 instruction.

The Council expresses its concern about the capacity shortage at the KPCN. He also expresses his concern about the (legal) inequality that can arise if the BES Public Prosecution Service is forced to come to a different decision than on Bonaire when considering whether to detain police custody or pre-trial detention on Saba and St. Eustatius.

4.2 Answer to the 2nd research question

Research question 2: *To what extent have the recommendations (2-4) from the report from 2020 on the Judicial Parties' Contributions to Addressing Domestic Violence in the Caribbean Netherlands?*

RECOMMENDATIONS	JUDGMENT
1. OM BES Lay down working agreements with the chain partners KPCN and SRCN on the approach to domestic violence in writing, in accordance with the PG's	Succeeded
2. OM BES Report to the PG at least once a year on the cooperation with the KPCN and the SRCN, in accordance with the PG's designation.	Not followed up
3. KPCN In cases where a victim of domestic violence does not report always wish to do so contact the Public Prosecution Service BES, as prescribed in the designation of the PG.	Partly followed up
4. KPCN In cases where a criminal approach can have far-reaching consequences for the victim, always consult with the BES Public Prosecution Service.	Partly followed up
5. KPCN, Guardianship Council, SRCN Improve the exchange of information with the chain partners and make use of the BES Legal Guide of the Ministry of Health, Welfare and Sport.	Succeeded

In Chapter 2, the Council has formulated its opinions on the follow-up to the recommendations made by the Council in 2020. In Chapter 3, the Council discussed the management of the follow-up to the recommendations. In response to the recommendations, measures have been announced by the Minister of Justice and Security in his policy response. The KPCN and the BES Public Prosecution Service provided input on this policy response, but the measures subsequently fell out of sight at the Ministry of Justice and Security and the implementing organisations. There was no control over the introduction and implementation of the measures. It was only in 2023, when the Council announced the current investigation, that the Ministry of Justice and Security inquired with the implementing organisations about the state of affairs in the follow-up to the recommendations.

Main conclusion 2: Most of the recommendations have been (partially) followed: relational violence is given the attention it deserves more emphatically.

The Board concludes that two recommendations from the 2020 report have been implemented, two recommendations have been partially implemented and one recommendation *has not* been implemented. The process of relational violence is getting the attention it deserves more emphatically.

During the Board's investigation, the working arrangements between the chain partners OM BES, KPCN and SRCN on the joint approach. This has led to a final version.

The BES Public Prosecution Service has not yet reported to the PG in accordance with the instruction. The BES Public Prosecution Service has indicated that this meeting with the PG will take place for the first time in the fourth quarter of 2024 and then at least annually.

The Council notes that, in principle, all cases known to the Investigation Department (JZZ/VVC) of the KPCN are discussed with the BES Public Prosecution Service. This also applies to cases in which a victim of relational violence does not wish to report it or for whom a criminal approach has far-reaching consequences. However, a report is still insufficiently, or insufficiently timely, recognized by BPZ as relational violence and forwarded to the Investigation Department. As a result, reports of relational violence can fall between two stools. BPZ can also decide to mediate between victim and offender, without prior consultation with the Investigation Department or the Public Prosecution Service BES.

In the opinion of the Council, insight is needed into what the BPZ needs in order to be able to act adequately as soon as a victim of relational violence comes forward. Even when this is red-handed or without visible injury and also when the willingness to report is not (yet) there or is no longer there.

The Council notes that the mutual exchange of information between the KPCN, the Guardianship Council and the SRCN is going well and that the BES Legal Guide is a guideline in this regard.

4.3 Recommendations

Based on the results of this follow-up investigation, the Council has made the following recommendations to the Minister of Justice and Security.³⁰ Because the implementation of recommendations under 1 and 2 is the responsibility of the BES Public Prosecution Service and the KPCN respectively, the Council indicates this below.

<p>1. OM BES</p>	<ul style="list-style-type: none"> • Ensure a chain-wide implementation of the established working agreements on tackling relational violence on Bonaire, St. Eustatius and Saba and for periodic evaluation. • As of 2024, report to the PG at least annually, in accordance with the PG's relational violence instruction. Include circumstances that occur in the context of the Caribbean Netherlands and that may influence the effect of the relational violence instruction. • Make sure that the cases of relational violence are recognizable as such and are assessed with priority. Agree on a deadline for this.
<p>2. KPCN</p>	<ul style="list-style-type: none"> • Intensify and secure the development and maintenance of knowledge with regard to relational violence at the BPZ on Bonaire, St. Eustatius and Saba. Raise awareness about this theme, so that reports of relational violence are better recognized and acknowledged. • On Saba and on St. Eustatius, provide your own attention officer and/or <i>train-the-trainer</i> relational violence.

³⁰ Pursuant to Article 30(3) of the Law on the Council for Law Enforcement, the Council addresses its recommendations to the Minister of Justice and Security.

3. JenV

- More than before, steer integrally on the follow-up of recommendations from the Board and coordinate this with the implementing organisations (control, internal supervision and accountability).

5. Concluding remarks

In this concluding remarks, the Council would like to draw attention to the following:

Linen monitor

The Council knows from previous studies that the Strategic Consultation on Justice (SOJ) is currently developing a chain monitor for the judicial chain with the Ministry of Justice and Security: overarching imaging and strategic analyses on various themes is considered a dot on the horizon. The Council notes that with regard to *relational violence*, it is not yet possible to arrive at a chain-wide insight and a chain-wide approach on the basis of figures from the chain. The judicial organizations in the Caribbean Netherlands warmly welcome a more strategic management of the priority theme.

The Council expects the Minister of Justice and Security to continue to deploy resources for the development and implementation of a chain monitor. The Council would like to consider using *relational violence* as a pilot in that monitor.

Law enforcement on Saba and St. Eustatius

The present study reveals a (legal) inequality that may arise as a result of the considerations that the Public Prosecution Service BES has to make when deciding on police custody and/or pre-trial detention. These considerations are different on Bonaire than on Saba and St. Eustatius.

There is no detention facility on Saba and St. Eustatius outside the limited police cells. In the event of police custody on Saba and St. Eustatius, police capacity is needed to monitor and care for the detainee. This capacity cannot then be used 'outside'.

A decision to pre-trial detention places the BES Public Prosecution Service with high costs, because suspects then have to be flown under police escort to the Caribbean Netherlands Correctional Institution (JICN) on Bonaire. This situation also makes a disproportionate demand on the scarce capacity of the BPZ on Saba and St. Eustatius with regard to the surveillance, care and supervision of suspects. It may result in suspects on Saba and St. Eustatius being sent away earlier than on Bonaire (under conditions). From a citizen's perspective, this situation is not acceptable and can lead to the fact that filing a tax return on Saba and St. Eustatius seems pointless.

This bottleneck does not only occur in relational violence, but also in other (violent) crimes. The Council realizes that the KPCN and the BES Public Prosecution Service have been presented with a *fait accompli* in this regard. The Council refers to its 2022 report on the operation of the mutual detention arrangements.³¹ The Council also ruled that the deployment of employees of the KPCN of St. Eustatius and Saba for the transfer of detainees to Bonaire was a heavy burden for the limited police staffing of these islands. The Council also ruled that with regard to the (reimbursement of the costs of) the outward and return journey, a procedure was necessary, precisely to prevent the Public Prosecution Service BES from continuing to provide for payment of these costs.

³¹ Evaluation of mutual regulations on detention. Inspection investigation into the operation of the four mutual detention arrangements. Law Enforcement Council, June 2022.

In previous thematic inspection investigations, the Council noted that the implementation within and the functioning of the chain on Saba and St. Eustatius differ from each other compared to Bonaire. In his 2024 annual plan, he announced that he would investigate the structure of law enforcement on Saba and St. Eustatius. The bottleneck described is included in this.

Attachments:

I: Policy response to the report 'Contributions of the judicial parties to the approach to domestic violence in the Caribbean Netherlands'.

II: Indication of relational violence of the PG, 2017

III: Schematic overview of the work process of tackling relational violence

IV: Overview of interviewed officers



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To the President of the House of
Representatives of the States General
P.O. Box 20018
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Date 14 May 2020

Subject Policy response to report of the Law Enforcement Council 'Contribution of judicial parties to the approach to domestic violence in CN'

*2 With regard to the
Public Prosecution
Service BES:*

a. Make working agreements with the chain partners of the Dutch Caribbean Police Force (KPCN) and the Caribbean Netherlands Probation Foundation (SRCN) on the approach to

With this letter, I present to the House of Representatives, also on behalf of the Minister for Legal Protection and in accordance with Article 30 of the Kingdom Act on the Council for Law Enforcement, the report of the Council for Law Enforcement

'Contributions of the judicial parties to the approach to domestic violence in the Caribbean Netherlands'. In this letter, I will mention the recommendations and discuss the measures that have been and will be taken. For a presentation of the facts, I refer you to the report.

Pursuant to the Law Enforcement Council (hereinafter referred to as the Council), the Law Enforcement Council (hereinafter referred to as the Council) is charged with the general inspection of the organisations of the judicial chain in the Caribbean Netherlands (Bonaire, Sint Eustatius and Saba), in Curaçao and in Sint Maarten. Since the end of 2019, the Council has examined the state of the approach to domestic violence in the Caribbean Netherlands and what contributions the judicial parties make to this. The research was carried out on Bonaire, Saba and St. Eustatius.

Recommendations

In its investigation, the Council looked at both the repressive approach by the police and the Public Prosecution Service (OM) and the role of the judicial parties in the approach that the Ministry of Health, Welfare and Sport (VWS) has agreed with the public entities of Bonaire, St. Eustatius and Saba (BES) in the context of an administrative agreement. Based on the study, the Council makes the following recommendations.

1 With regard to the Ministry of Justice and Security:

- a. Consult with the Ministry of Health, Welfare and Sport about the desirability of a statutory reporting code for domestic violence for the Caribbean Netherlands.
- b. Investigate the desirability of a legal regulation for a temporary restraining order in the Caribbean Netherlands.

Attachment

1

When answering, please state the date and our reference. Would you like to address only one case in your letter?

domestic violence in writing, in accordance with the instruction of the Procurator General (PG).

b. Report to the PG at least once a year on the cooperation with the KPCN and the SRCN, in accordance with the PG's designation.

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Protection Directorate
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3 With regard to the KPCN:

a. In cases where a victim of domestic violence does not wish to report it, always contact the Public Prosecution Service BES, as prescribed in the PG's instruction.

b. In cases where a criminal approach can have far-reaching consequences for the victim, always consult with the BES Public Prosecution Service.

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4 With regard to the judicial parties KPCN, Voogdijraad and SRCN:

Improve the exchange of information with the chain partners and make use of the BES Legal Guide of the Ministry of Health, Welfare and Sport.

Policy response

Domestic violence and child abuse are a serious problem not only in the European part of the Kingdom, but also in the Caribbean Netherlands. Domestic violence and child abuse have major and often lifelong consequences. Children and adults who are abused often suffer medical, social and psychological consequences. The commitment of the relevant departments and local authorities is to reduce domestic violence and child abuse and to limit the damage, so that adults and children can live and grow up in a safe environment.

In its investigation, the Council notes that the approach to domestic violence in the Caribbean Netherlands has made a promising start. For example, judicial parties, especially KPCN, have made positive contributions to information and awareness activities in the Caribbean Netherlands. The domestic violence pilot project of my ministry has also provided an important boost for the implementation of the agreements of the Administrative Agreement 2017-2020, which was concluded between the Ministry of Health, Welfare and Sport and the public entities. The Council also notes that there is a number of points improvement is needed. All organisations and ministries involved embrace the recommendations made by the Council. I will discuss it in more detail below.

Statutory reporting code for domestic violence for the Caribbean Netherlands

The responsibility for tackling domestic violence and child abuse in the Caribbean Netherlands has been assigned to the Ministry of Health, Welfare and Sport, the local authorities and my ministry. The authorities involved are working closely together on this important subject. In the Administrative Agreement 2017-2020 approach domestic violence and child abuse, which the Ministry of Health, Welfare and Sport has concluded with the public entities of Bonaire, Saba and St. Eustatius, it is included that it will look at possible gaps in the current legislation in the Caribbean Netherlands regarding domestic violence and child abuse. In response to this, the Ministry of Health, Welfare and Sport has commissioned a legal guide describing the legal powers of professionals in the Caribbean Netherlands with regard to reporting domestic and child abuse. The guide also describes a step-by-step plan for acting in the event of a suspicion of domestic

violence or child abuse. In 2020, the Ministry of Health, Welfare and Sport and my ministry will make an analysis of the way in which and the extent to which the approach to domestic violence and child abuse can be provided with a further legal basis. We will also investigate the desirability of a legal reporting code for domestic violence for the Caribbean Netherlands.

year and a half,
this

The Temporary Restraining Order Act

The introduction of the Temporary Restraining Order Act may contribute to tackling domestic violence and child abuse in the Caribbean Netherlands. In the European Netherlands, a multi-year preparation process was carried out before the Temporary Restraining Order Act came into force. During this process, an implementation advice was drawn up and pilots (in a voluntary framework) were carried out. At the end of 2018, it was proposed to the public entities on the BES islands to prepare the introduction of the Temporary Restraining Order Act in the same way and to draw up an implementation advice together with them. I will ask the public entities for a speedy response to this proposal.

Working agreements OM BES

The BES Public Prosecution Service, in collaboration with KPCN and SRCN, will take up the recommendation this year in the Strategic Consultation on the Justice Chain, in which the approach to domestic violence will be put on the agenda and working agreements will be made.

REPORTING ON BEES

The BES Public Prosecution Service, together with the above-mentioned chain partners, will annual report to the PG on the approach to domestic violence, in accordance with the PG's instruction. Preparations for this have already started.

No report in case of domestic violence

The starting point for KPCN is that it works in accordance with the instructions of the PG. However, it is possible that the Public Prosecution Service cannot be contacted directly. Where this is the case, the agreement is that this consultation between KPCN and the Public Prosecution Service will take place as soon as possible.

Consultation KPCN-OM BES

In accordance with the current working method, cases in which a criminal approach can have far-reaching consequences for the victim are discussed in the weekly consultation with the Public Prosecution Service. If the situation requires it, there is always an emergency meeting between KPCN and the Public Prosecution Service.

Judicial parties KPCN, Guardianship Council and SRCN:

In the case of a criminal case, the BES Public Prosecution Service has a central role in the provision of information. The BES Public Prosecution Service determines whether and if so which chain partners should be contacted and what information can be shared. If there is a substantial public interest, KPCN can independently decide to share information with institutions and organizations. As the BES Legal Guide indicates, in most cases this concerns agencies such as Victim Support and, insofar as minors are involved, the Guardianship Council. In the short term, an information officer will be recruited from KPCN. In the next

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further shape the provision of information to KPCN. The provision of information in the context of this investigation is part of this.

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Finally

I am pleased that a promising start has been made with the approach to domestic violence and child abuse in the Caribbean Netherlands. The Council's report is clear about what needs to be done to further tackle domestic violence and child abuse in the Caribbean Netherlands.

improve. It is now important to persevere and to take up the recommendations energetically. During my regular consultations with the justice partners, progress in tackling domestic violence is also discussed. The points mentioned in this response will also be included here.

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The Minister of Justice and Security,

Ferd Grapperhaus

Indication of relational violence (2017.01)

Legal character

Instruction in accordance with Article 5 paragraph 4 of the Public Prosecution Service Act

Sender

Attorney General of Curaçao, of Sint Maarten, and of Bonaire, Sint Eustatius in Saba

Recipient

Chief Public Prosecutor of Curaçao
Chief Public Prosecutor of Sint Maarten
Chief Public Prosecutor of Bonaire, St. Eustatius and Saba

Registration number

2017.01

Date of entry into force

1 July 2017

1. Summary

It is the wish of the Attorney General that the criminal procedure policy in and between the Public Prosecution Service Curaçao, Public Prosecution Service Sint Maarten and Public Prosecution Service BES is unambiguous as far as possible. That is why it has been decided to issue one designation for the entire Public Prosecution Service Carib.

This instruction sets rules on the investigation and prosecution of relational violence. Preconditions are formulated for the implementation of local cooperation between the police and the Public Prosecution Service (OM) and other partners such as the probation service.

2. Definition

The term "relational violence" makes it clear that violence does not only take place within a home. It concerns violence that is/is committed by someone within the victim's family or amorous relationship, regardless of where the violence is committed.



Relational violence often involves physical and/or sexual violence, with or without damage to property, in which the suspect and the victim are blood and/or marriage relatives of each other or have or have had an (extramarital) love affair with each other or with the other half of a married couple and/or are (house) friends of each other. This concerns men, women and minors and/or the elderly who may be victims or perpetrators of violence within the relational sphere. Child abuse, partner abuse and parental abuse are forms of relational violence.

In this instruction, the term "offender assistance" includes treatment of and training and courses for offenders.

3. Purpose of the designation

The purpose of this instruction is to create uniformity and more effective and efficient action by the police and the Public Prosecution Service in response to relational violence.

When combating relational violence, it is very important to prevent recidivism. Assistance to the perpetrator and victim should be provided at the earliest possible stage. Offender assistance should focus on restoring the blurring of norms in the offender and learning skills to prevent recidivism. The help to the victim should often be aimed at restoring norms and at skills that contribute to strengthening the victim's self-confidence and breaking down dependency ties. Although no rules can be laid down for the probation service in the context of a Public Prosecution Service designation, this instruction does include some main lines for the working method to be followed in consultation with the probation service, based on the existing tasks and powers of the probation service.

4. Vulnerable position of child victims

Children can also be abused and threatened. In view of their vulnerable position, the police and the Public Prosecution Service must take into account the following when investigating and prosecuting relational violence against minors:



- the differences in legal starting situations (the position in reporting the crime yourself versus reporting on behalf of the victim);
- the dual dependency of minors (legal and social) versus the often single dependency relationship of adult victims (social only), and
- the diagnostic (im)possibilities in medical research into injury.

5. Preconditions

The public prosecutor's office appoints a relational violence liaison officer at the public prosecutor's office to coordinate policy with regard to tackling relational violence.

Achieving a dynamic approach to relational violence requires close cooperation between the Public Prosecution Service, the police and the probation service. This cooperation will be further elaborated in written working agreements and will be kept up to date. At least once a year, the liaison officer will report to the Procurator General on the cooperation between the aforementioned services through the intervention of the chief public prosecutor.

6 Detection

6.1 Arrest and recording of traces of violence

In a red-handed situation, a suspect is in principle arrested by the police. The police secure the traces and interview the witnesses. Physical injury and destruction are photographically recorded as much as possible – with the victim's consent.

When securing the traces, it is also important that the injury is described as clearly as possible with a view to a correct interpretation. With a view to recording and analysing injuries to living people (victim and suspect), it is desirable to request support from **the Forensic Pathologist, who can be reached via +5999 4345100.**



The Forensic Pathologist can possibly give instructions about the structure of the forensic file, with special attention to the standard securing of weapons and the reconnaissance of the crime scene. In his absence, please contact the technical investigation department, which can also provide support with the forensic aspects of the investigation of relational violence.

If there is no red-handed situation, the police will proceed to track down and arrest the suspect after obtaining permission from the public prosecutor. If pre-trial detention is not permitted for the offence(s) established, the suspect is summoned to the police station.

6.2 Declaration

The basic principle is that in cases of relational violence of which the police become aware, the victim will report it. If the victim does not wish to report the crime, the case is discussed with the officer or liaison officer who looks at the possibilities for a possible ex officio prosecution.

All reports of relational violence are submitted to an assistant public prosecutor for assessment. If relational violence becomes aware, the police will inform the victim about the criminal proceedings, and the police will persuade the victim as much as possible to report the crime and, in the case of harassment, to file a complaint.

The examination of the suspect and/or declarant and/or witness is focused on who, what, where, with what, in what way, when and why (the seven Ws). As a rule, restraint must be exercised with regard to the hearing of children. In view of the conflicts of loyalty that may arise, children are only heard as witnesses if this is really necessary for the provision of evidence. If necessary, the Public Prosecution Service will coordinate this with the partners. In addition, it must always be considered whether the child may also be a victim of child abuse.



When drawing up an official report on relational violence, the checklist from Appendix 1 can be used. The report states whether the victim wishes to have a restraining order or restraining order imposed on the suspect and that he/she wishes to be kept informed of the criminal proceedings.

The police point out to the declarants the possibility of choosing domicile at the police station. The police ensure that the address details of a victim are not mentioned in the police report. The address details are never included in the official report if the victim is at a hiding address; This also applies to the address details of minor children who have been placed at a different address. In such cases, the police will provide a postal address for the victim.

If the victim indicates that he/she wishes to stop the investigation or prosecution, this is reported in an official report of findings in which the reasons for doing so are discussed. This official report will be added to the file. If a victim indicates at a later stage that he or she wishes to withdraw the report, it must be explained that this is not legally possible, but that the victim can write a letter to the public prosecutor with his or her own opinion on the desirability of criminal prosecution. Even if the victim qualifies the report in such a letter or indicates that he does not want the suspect to be punished, prosecution remains indicated in principle.

In the case of complaint offences, the complaint can be withdrawn within 1 month, which leads to the loss of the power to investigate and prosecute.

6.3 Detention

During the police custody, the assistant public prosecutor consults with the public prosecutor about the question of whether the suspect should be brought before the examining magistrate, or should be sent away with a summons or invitation to a public prosecutor's hearing. In principle, the public prosecutor makes a request to the probation service to issue an opinion. In the event of a repeat offence, the suspect is in principle brought before the examining magistrate.



The assistant public prosecutor informs the probation service of the suspect's detention. It is indicated that it is a relational violence case.

In the event of suspension of pre-trial detention, special conditions in the form of a restraining order or contact order and participation in offender assistance are in principle demanded. Electronic monitoring is also possible.

6.4 Early assistance by the probation service

In response to the report, the probation service will take the necessary steps to draw up an early assistance report within 4 working days after they have been detained. This report assesses the risk of recidivism and the suspect's ability to influence the offence, as well as a report on the possibilities for offender assistance, the continuation of the relationship with the victim and any children, the necessity of imposing special conditions and advice on a sentence to be imposed.

6.5 Police task pursuant to Article 5 of the Police Act of Curaçao, Sint Maarten and Bonaire, Sint Eustatius and Saba

If the victim explicitly does not want to report the crime and there are insufficient grounds to prosecute the suspect ex officio, the police can enter into a conversation with the suspect and the victim to draw the attention of both to the possibilities of providing assistance. It is desirable that the recording of such a conversation is registered for the purpose of compiling files in relational violence cases. Article 5 of the Police Act of Curaçao, Sint Maarten and Bonaire, Sint Eustatius and Saba provides a basis for entering into such a conversation.



7 Prosecution and pre-trial detention

If a suspect has been taken into custody, the assistant public prosecutor contacts the public prosecutor in order to discuss the (further) approach to the case. The public prosecutor verifies whether there is relational violence.

In principle, relational violence cases are summoned if there is serious injury, recidivism, alcohol and/or drug use and/or assault with the use of a weapon. Only cases of relative seriousness can be

- in consultation with the chief public prosecutor - at a HURA or TOM hearing.

If the public prosecutor is of the opinion that deportation can take place, he will ensure that a decision to settle the case is taken immediately, if the case lends itself to it.

In all cases in which a settlement decision has been taken, the report or advice of the probation service is consulted. The report or advice shall at least include an assessment of the risk of recidivism and the suspect's influence, offender assistance options, contact with the victim and any children, the necessity of imposing special conditions or a contact and/or restraining order and advice with regard to a possible punishment to be claimed.

If there are serious objections and grounds for pre-trial detention, the suspect will be brought before the examining magistrate. If suspension of pre-trial detention is indicated, the Public Prosecution Service promotes the imposition of special conditions such as participation in offender assistance or probation counselling and/or a restraining order or a restraining order. The Public Prosecution Service ensures that the victim, the police and, if applicable, the probation service are informed in good time of the decision of the examining magistrate or the council chamber.



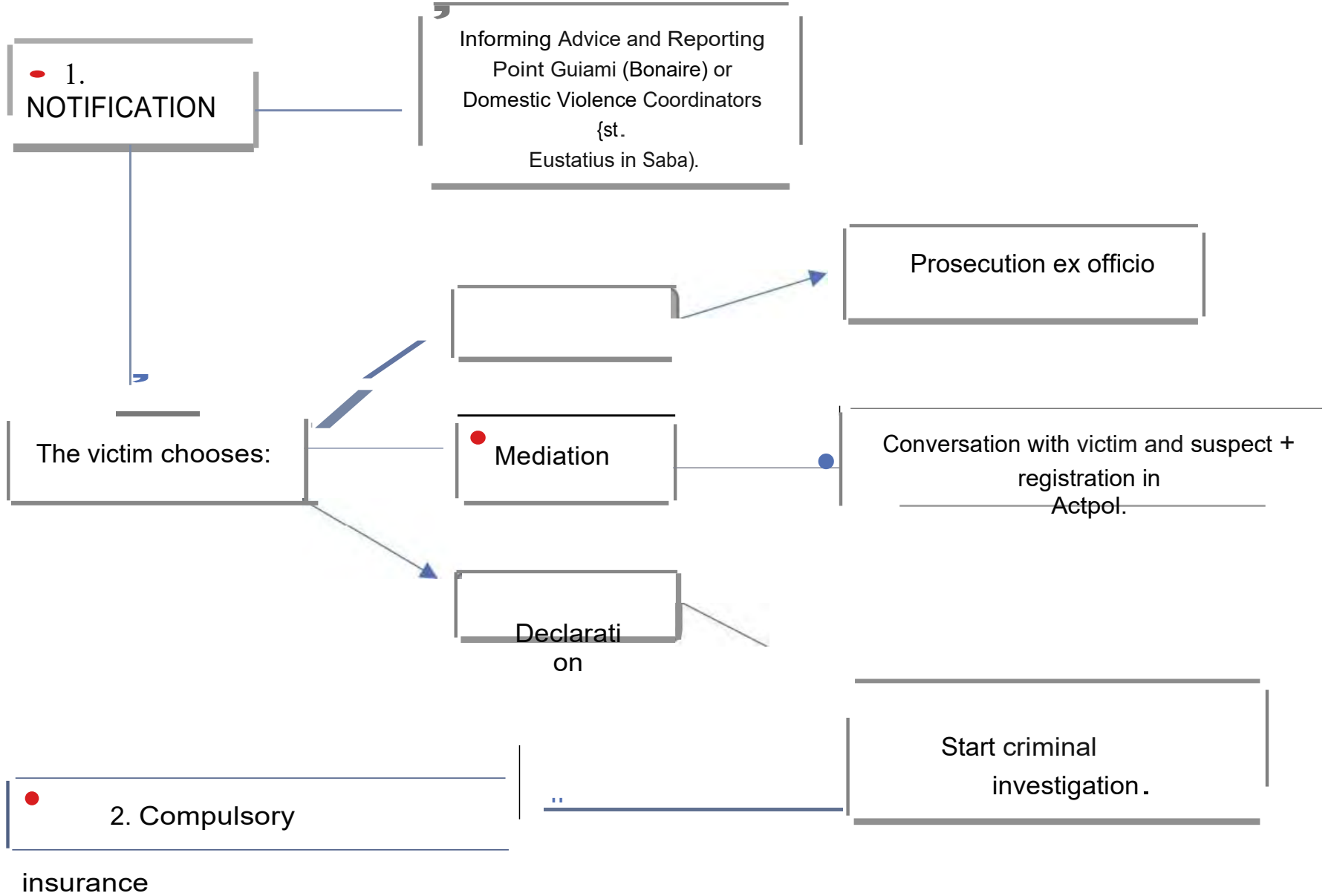
If it turns out that the accused has not complied with the special condition(s), the case will be brought to a hearing without delay for substantive treatment (in the case of a conditional dismissal) or for the execution of the conditional part of the sentence (in the case of a suspended sentence).

8 Transitional law

This designation is valid from the date of entry into force. This instruction replaces the 2006 Curaçao Violence Guideline and the Domestic Violence and Honour-Related Violence Guideline of the Netherlands Public Prosecution Service (2010A010).

Mr. A.R.E. Schram
Attorney General

Willemstad, July 1,
2017



3. Share IVS with SRCN.

4. Suspension of provisional custody.

5. Conservation treatment on session.

Annex IV: Overview of interviewees

JenV:

- Police force manager
- Director DJFC
- Senior Policy Officer DJFC

TO:

- Chief Public Prosecutor, Public Prosecutor's Office BES
- Public Prosecutor, also Portfolio holder for domestic/relational violence

KPCN:

- Chief of Police
- Deputy Chief of Police/Head of Operations
- Head of Investigation
- Deputy Head of BPZ
- Safe BPJ Saba
- Head BPZ Sint Eustatius
- Chief Tracing
- Barrio director, also Attention Officer Domestic/relational violence

SRCN:

- Director/director
- Policy Advisor Operations
- Probation officers Sint Eustatius in Saba

Guardianship

Council:

Director

