

Summary, conclusions and new recommendations

Introduction

This report treats the study on 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 have implemented the '2017 Instruction on Relational Violence' issued by the Attorney General of Curaçao, Sint Maarten and Bonaire, Sint Eustatius and Saba (hereinafter: **PG**). With the Instruction on Relational Violence as reference, the Council answers the question to what extent the recommendations from the Council's 2020 report on the contributions of judicial parties to tackling domestic violence in the Caribbean Netherlands have been given follow up. This relates to the following judicial organizations: the Public Prosecutor's Office BES (OM BES), the Dutch Caribbean Police Force (KPCN), the Caribbean Netherlands Probation Service (SRCN) and the Caribbean Netherlands Guardianship Council (VRCN).

The terms relational violence and domestic violence are used interchangeably, but they have the same meaning with respect to 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 instructions.

Results of the study

In 2017, the PG published the 'Instruction of Relational Violence' to improve the actions of the Public Prosecutor and the police in their response to relational violence. The instruction sets out rules on the detection and prosecution of relational violence. The instruction also sets preconditions for the implementation of local cooperation between the police and the Public Prosecutor and other partners, such as the probation service. The preconditions provide insight into the judicial operational method and into the local circumstances that are relevant for the approach towards relational violence.

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

In 2020, the Council noted that the Public Prosecutor had not yet given substance to these two preconditions. The Council then included these preconditions as recommendations to the BES Public Prosecution Service. In its current investigation, the Council notes that this has still not been fully complied with in 2024.

Furthermore, the Council notes that the approach to relational violence and the cooperation between the judicial partners in the field of criminal procedure is sufficiently in line with the instructions of the PG. However, the Council also describes bottlenecks that affect the effectiveness of the instruction. The Council believes that these bottlenecks deserve attention in the consultations between the Public Prosecutor's Office BES and the PG.

An important bottleneck concerns the lack of capacity within the Basic Police Care (hereinafter: BPZ) of the KPCN. The KPCN indicates that it cannot handle more reports of relational violence. However, the BPZ has an important role in the approach towards relational violence, because the BPZ is often the first to take note of a report or is on the spot after a report is made. Whether and how is acted will be decisive for the further course of a treating the report.

Another bottleneck is the (legal) inequality that can arise as a result of the considerations that the Public Prosecutor has to make in order to reach a decision about detention and/or pre-trial detention. These considerations are sometimes different on Bonaire when compared to Saba and St.

Eustatius. A detention on Saba and St. Eustatius means that police capacity is needed for the surveillance and care of the person in police custody. In the context of Saba and St. Eustatius, this means that fewer police officers will be working on the streets.

Apart from the limited police cells, there is no detention facility on Saba and St. Eustatius. A decision to pre-trial detention places the Public Prosecutor for high costs, because suspects then have to be transported (by air) under police escort to the Correctional Institution Caribbean Netherlands (JICN) on Bonaire. This situation also puts considerable demands on the scarce capacity of the BPZ on Saba and St. Eustatius with regards to the surveillance, care and guidance of suspects.

It may result in suspects being sent away earlier on Saba and St. Eustatius than on Bonaire (under certain conditions). From the perspective of citizens on Saba and St. Eustatius, filing a police report may then seem pointless. Although the Council is aware that this is a bottleneck that can arise in the case of several and other crimes, in this case the Council emphasizes its seriousness already in this report. After all, victims of relational violence must be protected by law in order 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).

Decision on the matter

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

The Council notes that the Public Prosecutor did not always take a decision on the release of a suspect, immediately. The Relational Violence Instruction states that the Public Prosecutor ensures that, if possible, a settlement decision is taken immediately. Moreover, relational violence is a 'priority offence', in which investigation and prosecution should have priority. In the Council's opinion, the files on relational violence should not be left *'on the shelf'*.

Control

The Council notes that the Minister of Justice and Security's response to 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) as well as the Public Prosecutor and KPCN. In addition, the KPCN and the Public Prosecutor have undergone personnel changes during this period. Apparently, there has not been a file transfer of the 2020 measures announced by the minister either organization.

Follow-up of recommendations from 2020

The diagram below contains the five recommendations from 2020 to the Minister of Justice and Security. In the column next to it, the Council's conclusion on the follow-up is stated for each recommendation.¹

RECOMMENDATIONS	COUNCIL NOTE
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¹ This overview provides a global view. For the interpretation, the Council refers to the text of this inspection report.

a. Public Prosecution Office BES Establish working agreements with the judicial chain partners KPCN and SRCN on the approach to domestic violence in writing, in accordance with the instruction of the PG.	Succeeded
b. Public Prosecution Office BES Report to the PG at least once a year on the cooperation with the KPCN and the SRCN, in accordance with the instruction of the PG.	Not followed up
c. KPCN In cases where a victim of domestic violence does not wish to file a report , always contact the Public Prosecution Office BES, as prescribed in the PG's instructions.	Partially followed up
d. KPCN In cases where a criminal approach may have far-reaching consequences for the victim, always consult with the Public Prosecutor.	Partially followed up
e. KPCN, Guardianship Council, SRCN Improve the exchange of information with the 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 partners KPCN and SRCN on cooperation in the event of relational violence have been definitively formulated in August 2024, in accordance with the precondition set by the Relational Violence Designation.
- b. To date, the Public Prosecutor has not reported to the PG about the cooperation with the KPCN and the SRCN. Therefore, this recommendation was not complied with. The Council has formulated a new recommendation on this subject with regard to this effect.

C/d The recommendations to the KPCN have been partially implemented. The Council notes that the KPCN's Investigation Department complies with both recommendations. However, the first contact between a victim of relational violence and the police is usually with the BPZ. The Council notes that the BPZ does not always recognize reports of relational violence as such. This is particularly the case when a victim has no visible injuries and/or does not wish to press charges, for example because a criminal approach can have far-reaching consequences. This could result in reports of relational violence fall through the cracks.

The BPZ may 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 KPCN needs to make a sustained effort to recognize relational violence and to take legal 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 up. 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 (hereafter referred to as: VWS) has become a guideline in this regard.

Key takeaways

The Council draws the following two main conclusions:

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

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 lies within the operations of Public Prosecution's Office BES and the KPCN respectively, the Council indicates this below.

1. Public Prosecution Office BES	<ul style="list-style-type: none"> • Ensure chain-wide implementation of the established working agreements on tackling relational violence on Bonaire, St. Eustatius and Saba and periodic evaluation. • From 2024 onwards, report to the PG at least annually, in accordance with the PG's designation of relational violence. Include circumstances that occur in the context of the Caribbean Netherlands and that may influence the effect or effect of the designation on relational violence. • Make sure that the files on relational violence are recognizable as such and are assessed as a priority. Agree on a deadline for this.
2. KPCN	<ul style="list-style-type: none"> • Intensify and safeguard the of knowledge with regard to relational violence at the BPZ on Bonaire, St. Eustatius and Saba. Increase awareness around this theme, so that reports of relational violence are better recognized and acknowledged. • On Saba and St. Eustatius, designate a local officer with and/or <i>train-the-trainer</i> relational violence.
3. JenV	<ul style="list-style-type: none"> • More than before, manage integrally on the follow-up of the Council's recommendations and coordinate this with the implementing organizations (management, internal supervision and accountability).

Concluding remarks

- In its concluding remarks, the Council expresses the expectation that the Minister of Justice and Security will continue to deploy resources for the development and implementation of a

² Pursuant to Article 30(3) of the Law Enforcement Council Act, the Council addresses its recommendations to the Minister of Justice and Security.

chain monitor for the judicial chain in the Caribbean Netherlands. In this regard, the Council would like to suggest *using relational violence* as a pilot in the monitor.

- Finally, the Council reiterates its concern with regard to the described bottleneck (for the KPCN and the BES Public Prosecutor regarding detention 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 Prosecutor has to make for this purpose are different with regard to suspects on Saba and St. Eustatius than on Bonaire. In 2024, the Council will include this bottleneck in its investigation into the structure of law enforcement on Saba and St. Eustatius. The Council announced this study in its 2024 annual plan.