

# DSP



## Uniquely generic

*Summary of the research into the functioning of board domain VI (generic investigation) from a legal and practical perspective*

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# Summary

## Research on BOA's-VI

This summary describes the research into a highly diverse and substantial group of extraordinary investigating officers, also known as enforcement officers, (in Dutch: buitengewoon opsporingsambtenaren, BOAs) who operate within the domain of generic investigation (domain VI). In this report, they are referred to as BOAs-VI. Within this domain, various types of officials work with a wide range of tasks and powers. The group comprises more than 10,000 officials who together make a significant contribution to the investigation of criminal offences in the Netherlands. Domain VI functions as a residual category: it is intended for forms of deployment that do not fall under BOA domains I to V. The term BOA does not refer to a specific job position, but to the investigative authority granted to an official. In principle, a BOA-VI official performs their regular, non-investigative duties. Only when a reasonable suspicion of a criminal offence arises does the official act as an investigating officer. Certain powers, as well as coercive and liberty-restricting measures, may be granted to BOAs-VI. In addition, officials who are designated as BOAs (domain VI) may, for the performance of their regular duties, also possess other powers and/or coercive and liberty-restricting measures.

The research, conducted on behalf of the Scientific Research and Data Centre (WODC) by DSP-groep in collaboration with De Straffaak, focuses on answering the following central research question:

*“How does the BOA system in the domain of generic investigation (domain VI) function from a legal and practical perspective? What potential areas for change and/or improvement can be identified with a view to the further development of the domain? And to what extent is the current framework for granting the use of force authority and coercive means to BOAs in generic investigation (domain VI) legally tenable?”*

To answer the research questions, a combination of research methods was employed. The legal framework was examined through document analysis and interviews with relevant stakeholders. The study of practical implementation initially focused on a nationwide overview based on quantitative data and was subsequently narrowed to the four organizations employing the largest numbers of BOAs-VI: the police, the Customs Administration, the Custodial Institutions Agency/Transport and Support Service (DJI/DV&O), and the Royal Netherlands Marechaussee (KMar). More than 800 BOAs-VI were surveyed, and numerous (group) interviews were conducted. In addition, several interviews were held with stakeholders from other organizations to place the findings in a broader context.

## The BOA-VI system

The following section addresses the organizations in which BOAs-VI are employed, the applicable legal framework, and experiences with the exercise of powers.

### Organizations employing BOAs-VI

#### Police, Customs, DV&O and KMar

As of 1 March 2025, there were 10,683 active BOAs-VI, accounting for approximately half of all BOAs in the Netherlands. Four employers account for the vast majority of BOAs-VI: the police (6,202; 58%

of the total number of BOAs-VI), Customs (part of the Tax and Customs Administration: 2,574; 24%), DV&O (1,228; 11%), and the KMar (323; 3%). The remaining BOA employers each employ fewer than 100 BOAs-VI.

### **Efficient, effective and flexible deployment of personnel**

All organisations examined face labour market shortages, high workloads and capacity constraints. While each organisation has its own needs and reasons for deploying staff with BOA authority, the demand addressed by BOAs primarily appears to lie in the efficient, effective and flexible deployment of personnel with the necessary powers, both within and across organisations.

For the police and the KMar, where general investigating officers are also employed, this means that capacity can be used more efficiently by assigning certain tasks to staff with BOA authority where appropriate. As a result, general investigating officers do not need to be deployed for these tasks and can instead focus on other priorities. The Customs Administration, which does not employ general investigating officers, chooses to deploy BOAs in order to be able to act when criminal offences are identified during inspections. In such cases, BOAs may independently seize goods and draw up official reports, which customs officers without BOA authority are not permitted to do. This reduces the need to call upon cooperation partners (such as the police, who would otherwise need to attend the scene).

DV&O, which also does not employ general investigating officers, is the only one of the four organisations to have granted BOA authority to all of its operational staff, enabling broad deployment across different teams. This makes the service highly flexible and allows for rapid scaling up in the event of threats. DV&O performs a wide range of tasks for which police powers and use-of-force equipment are, according to DV&O, required to ensure staff safety.

In addition, DV&O supports other services, and the BOA status, combined with police powers and coercive means, facilitates participation in joint operations and transfer activities.

### **Legislation and policy rules**

The formal statutory basis of the BOA system is laid down in Article 142 of the Dutch Code of Criminal Procedure. The legal framework is further elaborated in the Decree on Extraordinary Investigating Officers (*Besluit Buitengewoon Opsporingsambtenaar*), the Regulation on Domain Lists for Extraordinary Investigating Officers (*Regeling domeinlijsten buitengewoon opsporingsambtenaar*), and the Policy Rules for Extraordinary Investigating Officers (*Beleidsregels Buitengewoon Opsporingsambtenaar*). The specific powers of BOAs are regulated in the Dutch Code of Criminal Procedure and the Police Act 2012. The arming of BOAs is primarily regulated in the Regulation on Weapons and Ammunition and the Decree on the Arming and Equipment of Extraordinary Investigating Officers, which is to enter into force in the near future.

Persons who hold BOA authority perform a specific function within a particular organisation. In the context of that work, they exercise powers, and in some cases use use-of-force measures, for which a different statutory basis applies, such as the General Customs Act or the Penitentiary Principles Act.

### **Three conditions**

An official may act as a BOA only if three conditions are met:

1. There is a valid legal title granting investigative authority.
2. The official meets the requirements of reliability and competence.
3. The official has been sworn in as a BOA.

For BOAs-VI, investigative authority is almost always derived from a categorical designation, and only incidentally from an individual appointment granting investigative authority. A categorical designation is a decision taken on behalf of the Minister of Justice and Security by Justis, stipulating that persons employed in specific functions may be sworn in as BOAs. Where a categorical designation applies, the application for a certificate of appointment does not require an individual justification of the necessity of granting investigative authority to the official concerned, as this necessity is presumed on the basis of the categorical designation. Unlike in other domains, the investigative authority of BOAs-VI is not limited to the investigation of specifically designated criminal offences but is linked to the statutory regular duties assigned to the function. A BOA-VI may investigate all types of criminal offences that come to light in the course of performing those duties, provided that they are related to the tasks assigned to the functions.

The requirement of reliability entails that the BOA must be of irreproachable conduct, which is assessed, among other things, on the basis of a certificate of good conduct (VOG). The requirement of competence entails that the BOA has successfully completed the basic BOA examination and, where applicable, additional assessments. A BOA is sworn in for a period of five years. Thereafter, re-certification is possible, but only if the requirements of reliability and competence are again met.

### **Powers and use-of-force measures**

In the performance of investigative duties, a BOA-VI in principle has access to all investigative powers granted to investigating officers under the Dutch Code of Criminal Procedure, provided that their use is compatible with the performance of the assigned tasks. An important power is the drawing up of an official report (*proces-verbaal*) of a detected criminal offence. When acting as a BOA, an official may, in certain cases, exercise specific police powers, namely the use of force and the conduct of security searches and/or searches for detention and transport purposes. If police powers are granted, this happens through categorical designation.

Some BOAs-VI are equipped with use-of-force measures, including the short baton, the expandable baton, pepper spray, a service dog and/or a firearm, and/or with the liberty-restricting measure of handcuffs. Although there is no explicit legal basis for this form of allocation, these measures are in practice granted through categorical designations. For equipping BOAs-VI with use-of-force measures that qualify as weapons or ammunition within the meaning of the Weapons and Ammunition Act, a weapon authorisation order (*bewapeningsvoorschrift*) is required, in which the Minister of Justice and Security grants permission to carry the relevant weapons and/or ammunition. In order to be authorised to (continue to) use use-of-force measures, BOAs-VI must periodically meet the applicable competence requirements as laid down in the Regulation on the Testing of Use-of-Force Skills for Extraordinary Investigating Officers and Officers of Special Investigative Services (*Regeling Toetsing Geweldsbeheersing*).

When a BOA possesses powers and means on the basis of both their regular duties and their investigative duties, this constitutes a stacking of powers and means. Although, in terms of the activities actually carried out, it may sometimes make little difference which legal basis applies, different conditions may nevertheless have to be met and a different use-of-force instruction may apply. However, providing a comprehensive overview of all stacked powers held by BOAs-VI is not straightforward. The specific combination of stacked powers and means held by an individual BOA varies, among other factors, by employer and by function. As a result, there is considerable variation.





## BOAs-VI and their powers in practice

### Highly diverse tasks

BOAs operating in domain VI are primarily employed by the police, Customs, DV&O and the KMar. They do not primarily identify themselves as BOAs, but instead use job titles such as intake officer, research assistant, analyst, military personnel, customs officer, security officer, and so forth. For the performance of the regular duties associated with these functions, powers and means are often assigned. When, for example, supervision of compliance with the Weapons and Ammunition Act (KMar) or the inspection of containers (Customs) gives rise to a suspicion of a criminal offence, staff members may act on the basis of their BOA authority.

The specific tasks carried out by BOAs-VI in practice are highly diverse. A rough classification can be derived from the overview provided below. In practice, however, the range of tasks is even broader. This includes both more general management functions and highly specialised roles, such as radar traffic controllers.

### Main tasks of BOAs-VI (non-exhaustive)

Police Circa 6200 boa's-VI	Customs Circa 2600 boa's-VI	DV&O Circa 1200 boa's-VI	KMar Circa 300 boa's-VI
			
<ul style="list-style-type: none"> <li>• Intake &amp; Service and Regional Service Centre Front-desk staff responsible for receiving and processing reports.</li> <li>• Control room Staff responsible for processing and forwarding incident reports; comparable to Intake &amp; Service.</li> <li>• Guarding and protection of persons and objects</li> <li>• Personal protection officers of the DKDB</li> <li>• Investigative support within local policing teams Previously referred to as research assistants.</li> <li>• Detainee transport Transporting detainees, for example to court hearings, and maintaining order in the courtroom.</li> <li>• DSI National Unit (arrest teams, surveillance teams) BOAs originating from the armed forces.</li> <li>• Police aviation personnel</li> <li>• Etc.</li> </ul>	<ul style="list-style-type: none"> <li>• Excise control focused on domestic supervision</li> <li>• Unknown Substances and Objects Cluster Mobile surveillance and inspections in the Netherlands and at airports.</li> <li>• Schiphol Passengers Checks of travellers and luggage without specific cause.</li> <li>• Schiphol Cargo Inspections of goods and storage (containers, freight, parcels); large drug seizures referred to HARC, smaller cases handled internally.</li> <li>• Ports &amp; coastal areas Supervision of goods flows in seaports and coastal areas; domestic excise controls; focus on vehicles and cargo.</li> <li>• Cooperation with the HARC team Joint operations with Customs, FIOD, the Public Prosecution Service and the Seaport Police targeting drugs.</li> <li>• Special Assistance Team Securing high-risk drug seizures.</li> </ul>	<ul style="list-style-type: none"> <li>• Transport of persons lawfully deprived of their liberty</li> <li>• Care of detainees</li> <li>• Court services / court-related duties</li> <li>• Maintenance of order at enforcement and supervision locations (e.g. COA Hoogeveen)</li> <li>• Transport of foreign nationals and transport for immigration detention</li> <li>• Services outside prison facilities relating to justice-involved persons</li> <li>• Deployment based on cooperation (e.g. with the KMar: Frontex)</li> </ul>	<ul style="list-style-type: none"> <li>• KMar Guarding and protection; guarding and protection of persons and objects, including at Schiphol Airport.</li> <li>• KMar detainee guards/caregivers Guarding and care of detainees; supervision in cell complexes.</li> <li>• KMar Investigation and Intelligence Investigative support and intelligence analysis; collecting and analysing data, interviewing witnesses, and supporting general investigations.</li> <li>• KMar OPSCENT Central command room of the KMar; processing reports, camera surveillance, supporting the Real Time Intelligence Centre, and handling digital reports (including authorisation/sign-off).</li> <li>• KMCGS (Corps of Military Controllers of Hazardous Substances) Supervision of compliance with regulations on the transport and storage of hazardous substances within Defence; inspections of military transports and storage facilities.</li> </ul>

Source: interviews at organisational level with the police, Customs, DV&O and the KMar

### **Majority of BOAs-VI apply investigative powers, but not all**

All BOAs-VI possess investigative powers by definition. These powers are exercised by the majority of the BOAs-VI surveyed in this study. However, investigative powers are not required for every task, nor at all times. Some BOAs-VI are engaged in investigative activities almost continuously, such as police BOAs responsible for taking statements and reports. Others require their investigative powers only on an incidental basis, for example when they encounter criminal offences in the course of performing their regular duties, such as customs officers conducting inspections.

There is also a group of BOAs, approximately one in ten, who indicate that they make little or no use of their investigative powers. This raises the question of whether it is necessary for these officials to possess investigative authority. Within the scope of this study, it is not possible to provide a general answer to that question.

A substantial proportion of BOAs are authorised, when acting as BOAs, to exercise police powers (use of force and search powers) and to deploy coercive and liberty-restricting measures. There is no central register of the number of BOAs who actually possess such means. Broadly speaking, BOAs-VI in desk-based roles (such as intake officers and research assistants) do not have access to use-of-force equipment.

### **Half of BOAs-VI are equipped with use-of-force measures**

Based on the research findings, we estimate that more than half of the BOAs-VI surveyed are equipped with use-of-force measures. These include, among others, the short baton, pepper spray and a firearm. In addition, this group also has access to handcuffs (a liberty-restricting measure). A smaller group is also authorised to deploy service dogs.

A smaller proportion of BOAs, in the context of their regular duties, are additionally equipped with other, heavier use-of-force measures (stacking of use-of-force measures), such as a rifle or a long baton.<sup>1</sup> Examples of this were mentioned by a KMar security officer at Schiphol Airport and a DV&O staff member responsible for transport to the Extra Secure Institution (EBI).

### **Safe task performance**

In the performance of their duties, BOAs-VI may encounter aggression and violence. For more than one third of the BOAs surveyed, this occurs on a daily or regular basis. Examples include uncooperative passengers/detainees/arrested persons/foreign nationals, or resistance during arrest or searches. BOAs working at DV&O in particular report frequent exposure to such situations. Several BOAs indicate that they experience an increasing hardening of society. At the same time, there is also a substantial group of BOAs who do not encounter aggression or violence, often those working in desk-based roles or in secured environments such as Schiphol Airport.

### **Acting beyond formal powers in specific cases**

There are clear indications that BOAs sometimes exercise their investigative powers in situations where this would not be legally permissible. This is consistent with the lack of clarity experienced by a proportion of BOAs-VI (approximately one in ten) regarding the exercise of their investigative authority. It should be noted that individual cases could not be assessed within the scope of this study. A review of case law conducted as part of the research did not identify any cases in which a BOA-VI was criminally prosecuted for their actions while acting as a BOA.<sup>2</sup>

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<sup>1</sup> As mentioned by a KMar security officer at Schiphol Airport and a DJI/DV&O staff member responsible for transports to the Extra Secure Institution (EBI).

<sup>2</sup> It should be noted that only limited information was obtained from (direct) supervisory authorities. Consequently, it cannot be stated with certainty that there are no issues, as investigations by the National Police Internal Investigations Department (Rijksrecherche) or the courts are initiated only in specific cases.

The extent to which these situations involved the use of force is unknown. It is known, however, that the number of occasions on which the National Police Internal Investigations Department (Rijksrecherche) has initiated an investigation into the use of force by a BOA-VI is negligible. Nevertheless, a proportion of the BOAs-VI surveyed also report uncertainty regarding the deployment of use-of-force measures.

### **Reliability and competence: screening and training**

To safeguard the reliability of BOAs, screening procedures are applied, among other measures. In order to obtain a BOA certificate, a screening is required that is appropriate to the function the individual will perform for the employer. In addition, organisations apply their own screening procedures. Police BOAs, for example, undergo the (broader) police screening, while BOAs of the KMar also undergo the (broader) screening of the Ministry of Defence, and so forth. The level and scope of screening depend on the function the official is to perform.

The competence of a BOA follows from the (mandatory training and) successful completion of the Basic BOA Competence Examination (*Boa Basisbekwaamheid*). Without having passed this examination, an official cannot be sworn in as a BOA. Renewal of the certificate of appointment (after five years) requires that competence be demonstrated again. Some organisations employing BOAs-VI provide additional training alongside the basic examination. Although Customs, DJI and the KMar have internal training institutes, BOAs are not (yet) trained there; instead, specific modules are provided. The basic training programme is procured from external providers through framework contracts, which, due to changing providers, results in a relatively inconsistent training provision. For this reason, the police launched their own BOA training programme in December 2025.

The study shows that the BOA training programme and the five-yearly BOA examination do not align well with day-to-day practice. BOAs employed by DV&O and the KMar in particular, but also those working for the police and Customs, indicate that the training insufficiently reflects their actual duties. The practical component, in particular, is strongly geared towards municipal BOAs operating in domain I. Almost all respondents express serious doubts as to whether a single, uniform training programme, especially one focused on domain I, is feasible, given the wide variety of tasks performed by BOAs-VI.

The five-yearly examination is experienced as burdensome and unrealistic. It is regarded as a largely pointless exercise that entails a risk of job loss, as failure to meet the examination requirements has consequences for the individual officer and may also lead to staffing and workforce-planning problems for the organisation. Moreover, it requires substantial capacity to subject large groups of staff to extensive examinations every five years. For this reason, the police have been granted an exemption and have opted for annual testing of operational knowledge. Other organisations likewise advocate for continuous assessment.

In addition to the BOA examination, BOAs-VI participate in a wide range of supplementary training programmes, including BOA-plus, integrated professional skills training (ITB), the Regulation on the Testing of Use-of-Force Skills (RTGB), use-of-force equipment assessments, firearms and radio operation, military regulations, arrest and self-defence skills, training on the Penitentiary Principles Act, physical fitness tests, emergency response (BHV), first aid (EHBO), and tactical operations. Respondents explicitly consider these additional training programmes to be relevant and valuable.

### **Supervision**

A BOA-VI is subject to both a “direct supervisor”, who is closely involved in day-to-day practice, and a “supervising authority”, who operates at a greater distance. The direct supervisor may be the highest

authority within the BOA's employing organisation, or the highest authority of another organisation, such as the Chief of Police. The supervising authority is always a Chief Public Prosecutor. Both the direct supervisor and the supervising authority are designated in the categorical designation. They also provide advice on applications for categorical designations. In practice, supervisory tasks are often delegated.

In practice, the direct supervisor plays a central role both in advising on the allocation of police powers and use-of-force measures and in monitoring the exercise of investigative powers. When BOAs or their managers seek to "stretch" the scope of tasks, for example due to capacity constraints, they may be called to account by the direct supervisors. In certain cases, particularly within DV&O, this leads to discussions about the boundaries of deployment and powers.

The current supervision structure presents several challenges. First, there is tension between legal compliance and day-to-day assessment practices, as in organisations such as the police, Customs and the KMar, direct supervisors are often also the most senior managers. As a result, they supervise their own staff, giving rise to role and mandate ambiguity. Second, supervisory practices vary between supervising authorities, which means that BOAs may be assessed differently across units, for example within the police. Third, at Customs, formal supervision still lies with the Director-General of the Tax and Customs Administration, whereas it should be transferred to the Director-General of Customs (a position that did not previously exist).

Finally, BOAs employed by DV&O fall under the supervision of the police. According to DV&O, limited familiarity on the part of the supervising authority with the DV&O operational context may make it difficult to form well-founded judgements. This, they argue, can lead to lack of clarity, potential incorrect assessments of use-of-force reports, and discussions about legal compliance versus operational necessity.

## **Sustainability of the BOA-VI system and areas for future improvement**

The following section addresses the legal and practical sustainability of the BOA-VI system.

### **Legal sustainability**

The granting of investigative powers through categorical designations is, in principle, legally sustainable, as this method of allocation has a basis in an Act of Parliament. However, with regard to facility security officers employed by DV&O who are deployed to maintain order and security at specific locations of the Central Agency for the Reception of Asylum Seekers (COA), the legal basis for granting investigative powers is likely not fully sound. In these situations, the officers concerned perform tasks that fall outside the formal scope of their job description.

The manner in which police powers and coercive and liberty-restricting measures are granted through categorical designations is undesirable, as these powers and means are allocated to all officials to whom the designation applies. As a result, officials who do not require such powers and means for the performance of their duties nevertheless receive them. This is not in accordance with the criterion of necessity.

### **Legal unsustainability of the allocation of use-of-force measures**

The allocation of use-of-force measures through categorical designations is legally not sustainable for several reasons:

1. There is no statutory legal basis for the allocation of use-of-force measures through a categorical designation.

2. Weapon authorisation orders (*bewapeningsvoorschriften*) relating to use-of-force measures that qualify as weapons within the meaning of the Weapons and Ammunition Act often appear to be lacking. This is different with regard to specialist firearms, for which such authorisations do exist. Moreover, weapon authorisation orders do not cover ammunition, whereas this is required under the Regulation on Weapons and Ammunition.
3. Where weapon authorisation orders do exist, they are almost never published, making it difficult to establish whether a particular official is authorised to use a specific use-of-force measure.
4. There have been instances in which use-of-force measures have been allocated to BOAs-VI that may not legally be allocated to BOAs-VI.
5. No statutory requirements exist regarding the medical and mental fitness of BOAs to be granted police powers and/or to be equipped with a specific weapon.

### **Legal unsustainability of practical deployment**

The practical deployment of BOAs-VI for tasks other than those inherent to their function is legally not sustainable. A first point of concern is that the exercise of BOA authority must be necessary for the performance of the tasks assigned to the function, whereas practice shows that some BOAs perform tasks that fall outside this scope, such as maintaining public order at enforcement and supervision locations of the COA.

A second point of concern arises when a BOA-VI is deployed in support of an organisation other than their employer. In such cases, it is incorrectly assumed that BOA authority can be arranged by means of a cooperation agreement (covenant), whereas this does not provide a valid legal basis for the exercise of BOA powers.

### **Legal unsustainability of reporting of use-of-force incidents**

The framework governing the reporting of use-of-force incidents by BOAs-VI is also legally not sustainable, as the statutory and regulatory regime does not apply to all BOAs-VI. Although a practical solution has been adopted, namely reporting to the direct supervisor, who is also a deputy public prosecutor (*hulpofficier van justitie*), it is desirable that this legislative gap be addressed through statutory and regulatory amendment.

### **Areas for change and improvement in the further development of the domain**

The study identifies the following areas in which change or improvement is necessary or desirable:

- Insufficient clarity and translation of the legal framework into practice. This results in organisations, in some cases, assigning tasks to BOAs-VI for which the legal basis is inadequate. Managers may at times deal too creatively with this framework, and in some situations, it is unclear to BOAs whether they are permitted to exercise their powers.
- Staff members feel responsible for operational execution but are insufficiently aware of the associated legal powers. For approximately one in ten BOAs-VI, it is sometimes unclear whether a specific power may be exercised in a concrete situation. This results in a perceived grey area. Within organisations, there is also sometimes a lack of a clear and consistent line regarding what BOAs-VI are and are not authorised to do.
- BOAs-VI sometimes take on tasks that do not formally fall within their formal mandate in order to compensate for capacity shortages, and in doing so make use of their investigative powers, even though these powers are granted solely for the performance of tasks inherent to their function.
- In some cases, BOA authority is requested and deployed in order to gain access to use-of-force measures in the performance of regular duties. However, the use-of-force measures granted to BOAs-VI may only be used in the context of their investigative duties. Whether certain activities

qualify as investigative in nature is open to question for some tasks (for example, guarding and protection).

- The wide variation in tasks, activities, powers and means of BOAs-VI makes it difficult for both supervising authorities and direct supervisors to perform their supervisory role effectively.
- BOAs sometimes take on tasks that formally fall outside their powers. In particular, where this involves more than a limited interference with the fundamental rights of citizens or suspects, such actions are unlawful. This also applies to the exercise of use-of-force authority in those situations.
- When operating in public spaces, members of the public do not always understand what a BOA-VI is, or what a BOA-VI is or is not authorised to do. As a result, the public may see a uniformed official who apparently cannot act as a “full” law enforcement officer.
- Use-of-force reports should be assessed by an independent supervisory authority, rather than by the most senior manager, as is currently the case. At the same time, the supervising authority should have sufficient insight into the challenges BOAs face, or may face, in their daily work practice. Whether these two objectives, independent supervision and supervision informed by extensive practical knowledge, can be combined remains an open question.
- The general BOA training programme aligns poorly with the role of the generic BOA-VI, who performs a wide variety of tasks and applies investigative powers in highly diverse ways in practice.
- A smoother process for training applications, re-examination and re-swearing-in is explicitly desired.

## **Conclusion and recommendations**

### **Conclusion**

The foregoing sections have described how the BOA system in the domain of generic investigation (domain VI) functions from both a legal and practical perspective. The legal framework is formed by statutory and regulatory provisions, with the Dutch Code of Criminal Procedure as its foundation. The investigative authority of a BOA-VI is linked to the regular duties associated with their function. A BOA-VI may investigate all types of criminal offences that come to light in the course of performing tasks inherent to that function. In addition, adjacent legislation and regulations often apply, depending on the organisation for which the BOA works and the nature of their regular duties.

In practice, approximately 10,000 BOAs exercise investigative powers in the performance of a highly diverse range of tasks. These BOAs are primarily employed by the police, Customs, DV&O and the KMar, where they carry out their regular duties. The demand addressed by BOAs appears to lie mainly in the efficient, effective and flexible deployment of personnel with the necessary powers, both within and across organisations. A substantial but to us unknown number of BOAs-VI possess police powers, and it is estimated that around half are equipped with use-of-force measures. Some BOAs may (potentially) be confronted with aggression and violence and therefore require use-of-force authority in order to perform their duties safely.

The study shows that a number of legal and practical challenges arise. The legal framework, as such, needs improvement in several respects. The allocation of use-of-force measures is legally not sustainable. Furthermore, the method by which police powers and use-of-force authority are granted through categorical designations is undesirable, since these powers are conferred indiscriminately on all officials to whom the designation applies, contrary to the necessity requirement.

The translation of the legal framework into day-to-day practice is insufficient, resulting in situations in which it is unclear whether, and which, powers BOAs are authorised to exercise. In some cases, BOAs take on tasks that fall outside the scope of the duties associated with their function and, in doing so, apply powers for which they are not authorised in relation to those tasks. Supervision of the deployment of BOAs-VI and the exercise of their powers is, in certain instances, inconsistent and is not always carried out by an independent authority, but instead by the most senior manager within the organisation. In addition, both the training programme and the system of repeated examinations align poorly with the practical reality of BOAs-VI.

## **Recommendations**

The study results in the following recommendations, organized by theme.

### **Necessity**

- Assess, as an employer, for which functions currently performed by BOAs-VI investigative powers are genuinely required, and for which functions police powers and associated means are necessary. For some functions, investigative authority may not be required, or certain police powers and use-of-force measures may be dispensable.
- Examine for which functions the BOA arrangement constitutes a necessary and sustainable solution. A key question in this regard is which problem is being addressed through the deployment of BOAs-VI, and whether that problem could be addressed in a different manner. In some cases, it may be more appropriate to invest in general investigating officers, possibly for exclusively specialist tasks (such as the ESI within the police).
- Consider whether it is desirable to revise the capacity of BOA-VI organisations, so that these organisations no longer require, or require less, support from BOAs “from outside”, that is, BOAs employed by other organisations.
- Acknowledge that the BOA-VI domain is intended to function as a residual category, and that it is striking that such a residual category comprises more than half of the total BOA workforce (10,683 out of approximately 20,000 BOAs).

### **Legal issues**

- Facilitate a dialogue between DV&O, the direct supervisor, the supervising authority and the Ministry of Justice and Security to discuss the findings of this study regarding the legally unsustainable deployment of BOAs-VI in specific cases, as well as any possible exceptions that may be considered permissible on the basis of a designation by the Minister or the supervising authority.
- Examine how BOA authority can be arranged in situations where staff with BOA authority are made available to, or deployed in support of, an organisation other than their employer.
- One of the reasons for applying for BOA authority is to gain access to use-of-force measures. Examine whether amending the organisations’ own regulatory frameworks could provide a (longer-term) solution for enabling the use of such measures by operational organisations such as Customs and DV&O, given that these organisations consider these powers necessary for the performance of their tasks.

### **Information provision and transparency**

- Examine how the system can be explained more clearly to both stakeholders within domain VI and audiences outside domain VI. In doing so, address the relationship between tasks, powers and means, including stacked powers, and the diversity resulting from this arrangement.
- Ensure the availability of an accessible information system that provides insight into the number of BOAs who possess police powers and coercive and liberty-restricting measures.

- Publish weapon authorisation orders, so that it is transparent for which weapons the Minister of Justice and Security has granted authorisation.

### **Supervision**

- Facilitate discussions and intervision (peer review) between direct supervisors, managers and BOAs to address the appropriateness of powers and means in relation to task performance.
- Consider how direct supervision can best be designed so as to ensure both an independent assessment and sufficient practical insight into day-to-day operations.

### **Training**

- Consider a more efficient organisation of training and training hours, in light of the current limited alignment between the BOA training programme and re-examination requirements and the need for more practice-oriented training. This may also include reflection on the scope of powers.

Additional recommendations and further points of attention are set out in the main body of the report.

## **Reflections on the future of Domain VI**

The study contains several findings that are relevant to the future of domain VI. The reflections set out below may contribute to the further development of the system:

### **Consider not designating all current BOAs-VI as BOAs and replacing part of the BOAs-VI workforce with general investigating officers.**

Various groups of BOAs and their employers (including DV&O and the police) are encountering the limits of what is possible within the current BOA system. There is a desire to deploy certain groups of BOAs more broadly, while the existing restrictions linked to task descriptions increasingly prove to be constraining.

This calls for a solution that does not fit within the current system. After all, the essence of the BOA system lies in the existence of limited investigative authority. These limitations are introduced either by linking investigative authority to the tasks associated with a specific function (domain VI) or by designating specific offences that may be investigated (domains I–V). Granting unrestricted investigative authority does not align with this system and may result in uncertainty as to when investigative powers may be exercised.

Where it is considered desirable for, for example, DV&O staff or police staff to be authorised for a broader range of tasks, it would be more appropriate to work with general investigating officers with a limited task portfolio. This could follow the example of the police's ESI model, but, unlike the ESI, with the possibility of armament where necessary. Such an approach would require a more extensive training programme than the BOA training, while still not necessitating completion of the full police training programme.

It should be noted that investigative authority must always be arranged on the basis of the Dutch Code of Criminal Procedure. It is not possible to establish such authority solely through sector-specific or internal legislation.

### **Consider regulating armament within organisations' own statutory frameworks, thereby reducing the need for BOA authority for part of the BOAs-VI.**

Operational organisations such as Customs and DV&O experience a gap in their own use-of-force powers in the course of their duties and currently fill this gap through the BOA domain VI construction. While this may function as a short-term solution, it raises the fundamental question of

whether this is also a desirable arrangement in the long term. This, too, calls for a solution that does not fit within the current BOA system. Such a solution may be found in amending the organisations' own regulatory frameworks, including those of the police, Customs, DJI and the KMar.

**The need for BOAs will remain.**

The need for a proportion of the current BOAs-VI will continue to exist, even if the considerations outlined above result in a reduction in the number of BOAs-VI. Many officials may encounter criminal offences in the course of performing their duties. It is desirable that they are able to act independently, without having to call in other investigating officers, while it may be neither necessary nor affordable or practically feasible for them to be appointed as general investigating officers. A relevant question is whether BOAs-VI should continue to fall within the current domain VI in the future, or whether the domain structure applicable to this group should be reconsidered, possibly in favour of a different organisational arrangement. After all, a defining characteristic of BOAs-VI is that their investigative authority is not linked to the investigation of specifically designated criminal offences, as is the case in domains I to V, but rather to the tasks associated with their regular function. This distinction is sufficiently significant to justify, at a minimum, the existence of a separate domain.

**There is no necessity to amend the system, nor to reorganise it into separate domains per employer.**

A relevant question is whether the current BOAs-VI should continue to fall within the existing domain VI in the future, or whether the domain structure applicable to them should be reconsidered, or replaced by a different type of arrangement. A defining characteristic of BOAs-VI is that their investigative authority is not linked to the investigation of specifically designated criminal offences, as is the case in domains I to V, but is instead connected to the tasks associated with their regular function. This constitutes a sufficiently relevant distinction to justify, at a minimum, the existence of a single, separate domain.

Although, as demonstrated in this study, the legal framework is flawed in several respects and requires improvement and adjustment, a revision of the domain structure in itself does not offer a solution to these shortcomings. While there is considerable diversity and fragmentation in terms of tasks, employers and supervisory arrangements, from a legal perspective this diversity does not in itself constitute a reason to revise the domain. Dividing the system into multiple domains, for example by placing BOAs employed by one or more of the larger organisations into separate domains, may be legally desirable only if there are substantive grounds for applying different rules to certain groups of BOAs-VI than to others. Such grounds have not emerged from this study.

**Diversity, and the resulting perceived fragmentation and complexity, does constitute a genuine bottleneck that calls for action, regardless of the direction of future development.**

As described extensively in this study, there are multiple challenges related to the operational practice of BOAs-VI. Key elements include the wide diversity of tasks, uncertainty regarding the exercise of powers, fragmented and complex legislation and regulations, and the resulting difficulties in exercising effective supervision and control. At a minimum—as set out in the recommendations—this calls for an ongoing dialogue between policy and practice, both within and between organisations, with sustained attention to tasks, powers, training and supervision.

## Concluding remarks

The designation of BOA domain VI, generic investigation, already indicates that BOAs operating within this domain may perform a wide range of tasks. In practice, this encompasses a broad spectrum of activities carried out by approximately twenty government organisations. BOAs are considered necessary by organisations, by BOAs themselves and by supervisory authorities in order to enable organisations to perform their tasks more efficiently and more safely. BOA authority often has clear added value, particularly where it is foreseeable that an official may encounter criminal offences in the course of their duties. This makes it possible, for example, to draw up an official report and seize objects without having to call in a general investigating officer, and in some cases also to apply use-of-force measures.

The study has provided insight into the complex and fragmented structure of the BOA-VI system. A key conclusion is that both the clarity of the legal framework and its translation into practice leave much to be desired, and that the construction of domain VI is, in several respects, both legally and practically unsustainable. Given that the exercise of investigative and use-of-force powers may constitute a far-reaching interference with the fundamental rights of citizens, a carefully designed statutory framework is required, as well as transparent registration, enabling it to be established which powers and means have been granted to an individual BOA.

The Ministry of Justice and Security at this very moment is working on an in-depth review of the BOA system. The current BOA-VI system has evolved since 2010 and, through a series of agreements, designations, additional powers and amended task descriptions, has resulted in a legal construction to which many “patches” have been applied. While BOAs-VI make a relevant contribution to the safety domain, there are at the same time fundamental debates and structural bottlenecks that need to be addressed. As the police increasingly focus on their core tasks, the resulting enforcement gap, currently filled in part by BOAs-VI, is expected to grow further. We should not underestimate the value of BOAs-VI, nor should we opt for yet another temporary fix. Instead, a more fundamental and sustainable solution is required in answering the question that now lies before us: “Where do we go from here?”

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### **Wat we doen**

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### **Meer weten**

Neem vrijblijvend contact met ons op voor meer informatie of om een afspraak te maken. Bezoek onze website [www.dsp-groep.nl](http://www.dsp-groep.nl) voor onze projecten.