

# Law 103\_603 Criminal Law

Gongahkia

Sem 1 Week 9

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## Required readings

- Criminal Procedure Code 2010
- Reference slides
  - Week 9.1

## General overview

- The legal process puts multiple *protective mechanisms* in place to prevent **arbitrary exercise of power** (*such as a sole police officer/ victim*) in the process of an investigation.
- Only those in **High Office** (*Attorney General*)

## Criminal Justice Process

1. Reporting of a crime
2. *Judge, Lawyer, everyone all shouts at each other*
3. Final disposition of the case against the accused for the commission of the offence (*send you go jail*)

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## 2 Models of Criminal Justice

Crime Control Model	Due Process Model
<i>The repression of criminal conduct is by far the most important function.</i>	<i>Primacy to an individual's rights as opposed to the rights of the community as a whole.</i>

Singapore adopts a **hybrid model** that incorporates both.

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## Jury trials vs Bench trials

1. Jury trials
  - *The Jury* makes findings of fact based on evidence, and they have to make their final decision **based on the law** (*ie. their decision cannot be purely subjective*).
  - The Jury **does not** need to explain their decision.
2. Bench trials
  - *Judges* provide the final verdict for a given case.
  - The judge **has to** explain their decision according to the law.

**Overseas**, there is greater skepticism towards those who hold power, due to...

- an impression that it is the elite ruling class who rise to positions of power (*like a Judge*), so **Jury trials** are preferred.
- This is more so a *political issue* of power held by the state, as opposed to whether a Jury trial actually holds the Jury accountable.

Singapore adopts a **Bench trial** model, though in the past, we have tested jury trials for a period (*they were shit*).

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## Power vs Permission

Power:

- ability to infringe on another's rights (*Police is able to coerce and compel individuals to comply with their investigation*)

Permission:

- a person gives you the permission (*within their set limits*) to infringe on their rights
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## Powers of investigation

- Power to require production of document/thing *s20, CPC*
- Power to require attendance *s21, CPC*
- Power to examine witness orally via interview *s22, CPC*
- Power to search and seize *s24-40, CPC*

*Note that even in this power, the Police are surrounded by limitations on their exercise of power.*

- **Section 2(1)** Police need to adhere to *Arrestable* (s16, cpc) vs *Non-arrestable* (s17, cpc) cases && note whether they require an **arrest warrant**
- **Section 21(1)** Police require a **written order** to compel a Witness' attendance at a public hearing, and police must **report to Magistrate** should said witness not attend (s21(2), cpc)
- **Section 22(1-3)** Police have limitations in their power regarding **power to examine witness**, and (s22(4), cpc) to ensure the witness is aware their **witness testimony** is legally binding (*with reference to s258(1), cpc*) > Great emphasis is placed on **oral testimony** in trials, since *cross-examination* is the **litmus test** for any oral testimony.
- Police have limitations on their power to **arrest without warrant** (s64, cpc), **arrest for non-arrestable offence** (s65, cpc), **arrest by private person** (s66, cpc)
- Police have limitations on their power to **detain an individual** without warrant (s68, cpc)

Additionally, there are further limitations on the proceedings of detainment of an individual.

- Release of arrested persons on bond or on bail (s85, cpc)
- **Cautioned statement** outlining the **offence** and **indication for defense** (s23(1), cpc)

Different *non-police* law enforcement agencies have different powers and provisions (**CNB, CPIB, ICA, Customs**).

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## Criminal proceedings

### Parties to criminal proceedings

- Public prosecutor (*pp lol*)
- Accused (*defense*)
- Private persons in a Magistrate's complaint (s151(1), cpc)

### General procedure

1. Initiating criminal proceedings s150, cpc

- *Note that this means criminal proceedings have been **initiated** once you receive that letter to come to court for failing to pay parking ticket.*

*Criminal proceedings against any person may be initiated pursuant to an arrest, a summons, an arrest warrant, a notice to attend court or any other mode for compelling the attendance of a person in court which is provided for under this Code or any other written law, as the case may be.*

## 2. Public prosecutor's limits on power

- s10, cpc: Prosecution of offences that require consent of **PP**
- s11, cpc: Attorney General is the **PP**
- **Article 35(8) of Constitution:** Attorney General is yielded the highest power to carry out any actions at their discretion

The Attorney-General shall have power, exercisable at his discretion, to institute, conduct or discontinue any proceedings for any offence.

- s11(5), cpc: Another person can be appointed as the **PP**

## 3. Limits on the extent on Bail

- s92(1), cpc: Person accused of bailable offence should be offered that option
- s93(1), cpc: Discretionary bail offered to person accused of non-bailable offence
- s95(1), cpc: No bail conditions offered to persons accused of certain offences