

Law 103_603 Criminal Law
Sem 1 Week 9
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Required readings

- [Criminal Procedure Code 2010](#)
 - Reference slides
 - [Week 9.1](#)
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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.

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*).

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**).

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