

LAW103: CRIMINAL LAW

Week 9.1: The Singapore Criminal Justice System & Process

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Learning Outcomes

By the end of today's seminar, students should be able to do the following tasks.

1. Distinguish the two models of Criminal Justice and explain which model applies to Singapore.
 2. Explain the general investigative powers of the police and law enforcement agencies.
 3. Identify the parties involved and explain the general procedure for criminal proceedings.
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Criminal Justice Process

Judge: State your name.

Me: Not Guilty

Judge: What?

Me: I had it legally changed.

Judge: You're Not Guilty?

Me: *moonwalks outta there*



The Criminal Justice Process

Chan Sek Keong, “The criminal process—the Singapore model”:

What is the criminal process? It is the aggregation of all the activities “that operate to bring the substantive criminal law to bear (or to avoid bringing it to bear) on persons suspected of having committed crimes.” It normally begins with the reporting of a crime to the police and ends with the final disposition of the case against the accused for the commission of that offence.

Herbert Packer's Models of Criminal Justice

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Crime Control Model

The repression of criminal conduct is by far the most important function.

Due Process Model

Primacy to an individual's rights as opposed to the rights of the community as a whole.

The Singapore Model (1996)

Chan Sek Keong, “The criminal process—the Singapore model”:

What we have is a model incorporating many features from both of Packer’s models. It is difficult to say where there is a proper balancing of the two interests, or where the scale is tilted.

Bench Trials vs Jury Trials

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Mr N. Govindasamy (MP): Mr Speaker, Sir, you may recall that I rose to speak against the Bill on its Second Reading. As a layman, I had certain misgivings ...

Sir, after having the benefit of hearing some jurors and having read the written representations from members of the legal profession as well as others, I have no doubt whatsoever that **the jury system has not worked and will not work properly in Singapore**. In fact, a member of the legal profession in his written submission admitted that if he had committed a crime, he would rather have a jury try his case in the hope that his counsel would either confuse the jurors sufficiently so as to cause them to disagree among themselves, or succeed in setting off an emotional chain reaction by appealing to their pity or sympathy irrespective of the justice of the case. On the other hand, he said, if he were not guilty, he would choose a Judge because, through his experience and training, he would have a greater ability to discern the truth. Sir, I cannot agree with him more after having heard how our, jury system actually functions in practice.

Investigations

Information About Offences

Criminal Procedure Code:

14.-(1) When information is first received at a police station about an offence, the recording officer must proceed in accordance with this section.

Q. What about 999 calls?

A. See s 2(1) for definition of “police station”.

Information Given in Writing

Section 14(2) If the information is in writing, the recording officer must –

- (a) if practicable, immediately mark on it **the date and time of receipt** at the police station and **the name and address of the person** who gave the information; and
- (b) **if the information appears to be signed by the informant, file it as a report.**

Information Given Orally

(3) If the information is given orally and the recording officer considers it **practicable to reduce it to writing immediately**, he must ensure that all of the following are recorded in a report:

- (a) the date and time of his receipt of the information;
- (b) the name and address of the informant;
- (c) the information given by the informant;
- (d) such other particulars as the nature of the case may require.

Information Report



SINGAPORE
POLICE FORCE



1 of 2
Report No. F/20170717/2058

POLICE REPORT (NP299)

Police Station Of Origin
Hougang N.P.C
60 Hougang Avenue 9 SINGAPORE 538775
Tel No: 1800-4890999

Date/Time Report Made 17/07/2017 11:05	Vide Report No.	Station Diary No. 26
Name Of Informant ZHOU	Address	
ID Type / ID No. NRIC NO	Contact No. Home/Office	Mobile
Nationality SINGAPORE CITIZEN	Email Address	
Occupation	Sex Female	Age
Institution/School Name	Date of Birth	Race Chinese
Date/Time Of Incident 15/07/2017 13:00 - 15/07/2017 14:15	Language	
	Location Of Incident 1 SENGKANG SQUARE COMPASS ONE SINGAPORE 545078 Outside Istudio outlet	

Brief details.

On 15/07/2017 at about 1300hrs, I was at the incident location when I noticed a female Chinese toddler aged about 3 to 4 years old, alone and crying. A few passers by then asked me to take her to the information counter. I was also concerned about her safety while assuming that she could have been lost as such I decided to take her to the counter. However as I was about to do so, a Chinese woman who was believed to be the toddler's mother, then came out from one of the stores and shouted at the toddler

Signature Of Officer Recording The Report:

F / Sgt ANNA ANTHONY

Signature Of Interpreter:
Not applicable

Officer In-Charge Of Case:
F / Ang Mo Kio Police Divisional Investigation Branch /
SI MUHAMMAD HELMI BIN MOHD KHALID
Contact No.: 64890999

Authentication Stamp



SINGAPORE
POLICE FORCE



2 of 2

POLICE REPORT (NP299)

CONTINUATION OF REPORT

Report No. F/20170717/2058

by her name. A few passers by then told me that the toddler's mother was there, as such I brought the toddler back to the mother who only asked why the toddler went away on her own but did not thank me.

On the same day at about 1414hrs, my son received a Facebook screenshot from his friend which showed a post by an unknown Facebook user "David Voo", stating, "To all mothers shopping Compass One do lo ok out and beware of this lady. While I was walking ard here after work, I heard someone shouting for her kid's name in the istudio, at first I thought is just normal mother call her child...but as she keep repeating and lo ok anxious..I was curious so follow...and at near the escalator there I saw another plump lady which indicated below...holding a little girl..I saw her walking towards back the istudio shop, the next moment the little girl was back with her mum and this lady look lost n stand there like "mission failed. I'm not sure if this lady is fishy anot..but she gives me a feeling she is. She looks like prc...and she us still roaming ard here..so please watch your kids and do not be obese to your phone's or other things before it's too late...", together with a photo of me at the location with an arrow pointing towards me.

I wish to state that I did not try to kidnap the toddler and my only intention was to help her. I am therefore lodging this report to pursue this matter against above-mentioned Facebook user and to demand an apology from him.

This is the first time such an incident has happened.

Signature Of Officer Recording The Report:

F / Sgt ANNA ANTHONY

Signature Of Interpreter:
Not applicable

Officer In-Charge Of Case:
F / Ang Mo Kio Police Divisional Investigation Branch /
SI MUHAMMAD HELMI BIN MOHD KHALID
Contact No.: 64890999

Authentication Stamp

Signature Of Informant:

17/07/2017 11:05

Date/Time:
17/07/2017 11:05

Classification Of Case:

Powers of Investigation

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- Power to require production of document/thing: s 20, CPC
- Power to require attendance: s 21, CPC
- Power to examine witness orally (interview): s 22, CPC
- Power to search and seize: ss 24 to 40, CPC

Arrestable vs Non-Arrestable Cases

- Section 2(1) definition for “arrestable offence” and “arrestable case” vs “non-arrestable offence” and “non-arrestable case”
- See third column of the First Schedule to CPC:

FIRST SCHEDULE						
Sections 2(1), 9(2) and (3), 153(1) and (3) and 226(5)						
TABULAR STATEMENT OF OFFENCES UNDER THE PENAL CODE						
<p><i>Explanatory Notes. (1) The entries in the second and sixth columns of this Schedule, headed respectively “Offence” and “Maximum punishment under the Penal Code” are not intended as definitions of the offences and punishments described in the several corresponding sections of the Penal Code, or even as abstracts of those sections, but merely as references to the subject of the section, the number of which is given in the first column. In the case of many offences punishable by fine the maximum fine is limited by the Penal Code; such offences are in the sixth column marked*.</i></p> <p><i>(2) The entries in the third column of this Schedule are not intended in any way to restrict the powers of arrest without warrant which may be lawfully exercised by police officers.</i></p>						
1	2	3	4	5	6	7
Penal Code Section	Offence	Whether the police may ordinarily arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable of right or not	Maximum punishment under the Penal Code	By what court triable besides the General Division of High Court
CHAPTER III — PUNISHMENTS						
73	Enhanced penalties for offences alleged to have been committed against domestic workers	May arrest without warrant	Warrant	According as to whether the offence alleged to have been committed against or in relation to the person is bailable or not	Up to twice the punishment provided for the offence	Magistrate's Court or District Court
74A	Enhanced penalties for offences alleged to have been committed against vulnerable persons	May arrest without warrant	Warrant	According as to whether the offence alleged to have been committed against or in relation to the person is bailable or not	Up to twice the punishment provided for the offence	Magistrate's Court or District Court

Investigation Procedures

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- Non-arrestable cases: s 16, CPC
- Arrestable cases: s 17, CPC

Q. What are the differences?

See speech on classification of s 323, Penal Code:

<https://www2.wp.sg/criminal-law-reform-bill-speech-by-sylvia-lim/>

CPC Power to Require Attendance of Witnesses

21.-(1) In conducting an investigation under this Part, a police officer may **issue a written order** requiring anyone within the limits of Singapore, who appears to be acquainted with any of the facts and circumstances of the case, to attend before him, **and that person must attend as required.**

(2) If that person fails to attend as required, the police officer may report the matter to a Magistrate who may then, in his discretion, issue a warrant ordering the person to attend.

CPC Power to Examine Witness (Interview)

22.-(1) In conducting an investigation under this Part, a police officer, or a forensic specialist acting in the course of his duty as such in accordance with the written authorisation of the Commissioner under the Police Force Act (Cap. 235) and the lawful directions of the police officer or law enforcement officer he assists, may **examine orally any person who appears to be acquainted with any of the facts and circumstances of the case** ...

Limited Right to Remain Silent

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(2) The person examined shall be bound to state truly what he knows of the facts and circumstances of the case, except that he need not say anything that might expose him to a criminal charge, penalty or forfeiture.

Statement Must Be Recorded

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(3) Subject to subsection (5), a statement made by a person examined under this section **must be recorded** —

- (a) in writing; or
- (b) in the form of an audiovisual recording.

Statement Recording Requirements

(4) Where a statement made by a person examined under this section is recorded in writing, the statement must –

- (a) be **read over** to the person;
- (b) if the person does not understand English, be **interpreted** for the person in a language that the person understands; and
- (c) be **signed** by the person.

Q. What's the purpose for these requirements?

A. See s 258(1) of CPC.

Arrests

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- Police arrest without warrant: s 64, CPC
- Police arrest for non-arrestable offence: s 65, CPC
- Arrest by private person: s 66, CPC

Q. What are the differences?

Dealing with Persons Arrested Without Warrant

67. A police officer making an arrest without warrant shall, **without unnecessary delay** and subject to the provisions of this Code on bail or previous release, **take or send the person arrested before a Magistrate's Court.**

68.—(1) Unless the court orders otherwise under section 92(3)(a) or 93(3B)(a), no police officer shall detain in custody a person who has been arrested without a warrant for a longer period than under all the circumstances of the case is reasonable.

Detaining Persons Arrested Without Warrant

Sec 68(2), CPC: Such period **shall not exceed 48 hours** exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

Art 9(4), Constitution: Where a person is arrested and not released, he shall, without unreasonable delay, and in any case **within 48 hours** (excluding the time of any necessary journey), be produced before a Magistrate, in person or by way of video-conferencing link (or other similar technology) in accordance with law, and shall not be further detained in custody without the Magistrate's authority.

Release of Arrested Persons

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85. A person arrested by a police officer must not be released except **on his own bond** or **on bail**, or **by a written order** of a court or of a police officer of or above the rank of sergeant.

Powers of Other Law Enforcement Officers

Q. What about non-police law enforcement officers? Do they have similar powers? E.g. CNB, CPIB, ICA, Customs.

Cautioned Statement

23.-(1) If, during an investigation, a person (referred to in this section as the accused) is **charged with an offence** or informed by a police officer or any other person charged with the duty of investigating offences or charging offenders that he may be prosecuted for an offence, he must be served with and have read to him a notice in writing as follows ...

Criminal Proceedings

Initiating Criminal Proceedings

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150. 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.

Parties to Criminal Proceedings

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- Public Prosecutor
- Accused (Defence)
- Private persons in a Magistrate's Complaint: see s 151(1) of the CPC: Any person may make a complaint to a Magistrate.

Note: Some offences may only be prosecuted with PP's consent (e.g. see s 22 of Prevention of Human Trafficking Act 2014)

The Public Prosecutor

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- Section 11, CPC: The Attorney-General shall be the Public Prosecutor.
- Article 35(8) of the Constitution: The Attorney-General shall have power, exercisable at his discretion, to **institute**, **conduct** or **discontinue** any proceedings for any offence.
- Section 10, CPC: Prosecution of offences that require **consent** of the Public Prosecutor.

Authorised Persons to Conduct Prosecution

(5) The Public Prosecutor, the Deputy Attorney-General referred to in subsection (2), the Solicitor-General or a Deputy Public Prosecutor may authorise any person, on such terms and conditions as he thinks fit, to act for the Public Prosecutor in the conduct of a case or prosecution in court or in any part of such conduct.

Examples of Prosecuting Officers

Customs Act:

113. Prosecutions, in respect of offences committed under this Act, may, with the authorisation of the Public Prosecutor, be conducted by a senior officer of customs or any officer of customs specially authorised in writing in that behalf by the Director-General.

Releasing Accused Persons On Bail

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92.—(1) When any person, **except a person accused of a non-bailable offence** —

- (a) is arrested or detained without warrant by a police officer, or appears or is brought before a court; and
- (b) is prepared to give bail at any time while in the police officer's custody or at any stage of the proceedings before the court,

the person must be released on bail by a police officer in cases determined by the Commissioner of Police or by that court.

Non-Bailable Offences: Discretionary

CPC s 93.-(1) Subject to section 95(1), if any person **accused of any non-bailable offence** is arrested or detained without warrant by a police officer, or appears or is brought before a court, **he may be released on bail** by a police officer of or above the rank of sergeant or by the court.

Non-Bailable Offences: No Bail

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CPC s 95.—(1) An accused **shall not be released on bail** or on personal bond if —

- (a) he is charged for an offence **punishable with death or imprisonment for life**;
- (b) the accused is accused of any non-bailable offence, and **the court believes**, on any ground prescribed in the Criminal Procedure Rules, **that the accused, if released, will not surrender to custody, be available for investigations or attend court**; or
- (c) he has been **arrested or taken into custody under a warrant issued under section 10, 24 or 34 of the Extradition Act** (Cap. 103) or endorsed under section 33 of that Act.

Criminal Jurisdiction of the Courts

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- Magistrates' Courts: s 7, CPC
- District Courts: ss 8 and 9, CPC
- General Division of the High Court: s 15, SCJA

Reading of Charge

CPC, s 158. In a case to be tried in a **Magistrate's Court or District Court**, the following provisions apply:

- (a) when an accused is first charged in the court for an offence, a charge must be framed, read and explained to him;
- (b) the accused **must be asked whether he wishes to claim trial or plead guilty to the charge** unless either party to the case applies for, and the court grants, an adjournment without the plea being recorded;