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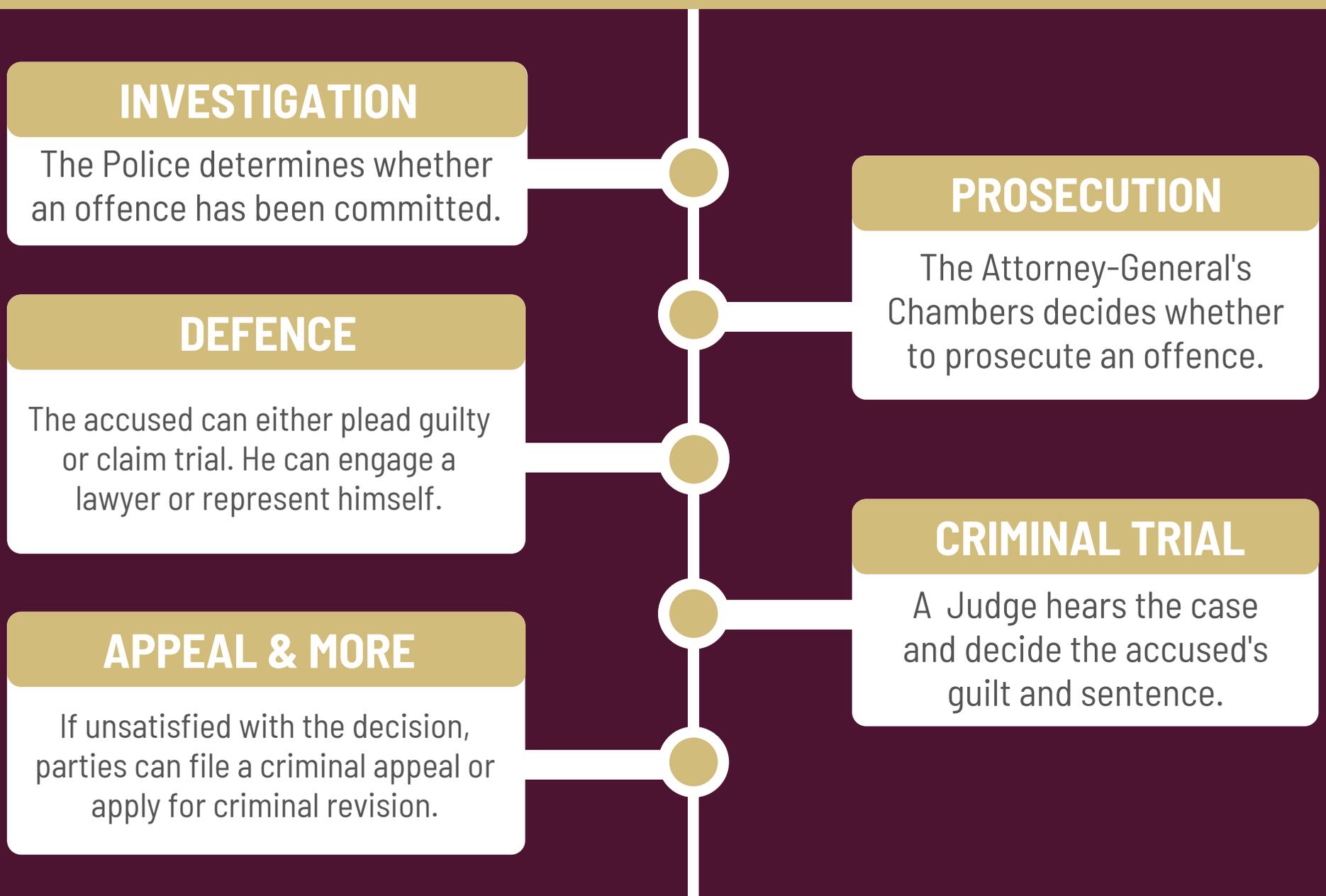


# CRIMINAL JUSTICE IN SINGAPORE:

A GLIMPSE INTO THE CRIMINAL PROCESS

# OVERVIEW

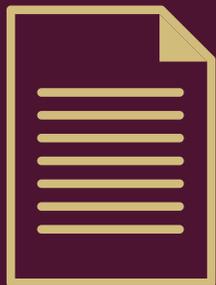
Most criminal offences are investigated and tried according to the **Criminal Procedure Code**. In this infographic, we delve into some issues that arise at various stages in the criminal process, which includes the following:



# THE POLICE

## INVESTIGATION

*There are statutory controls on the police's powers of investigation and arrest under the Criminal Procedure Code.*

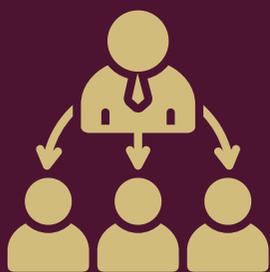


### **Some offences are arrestable in nature.**

An arrest can be made without the need for a warrant if the police has "*reason to suspect*" that an arrestable offence has been committed.

**A police officer may use all reasonable means necessary to make the arrest.**

However, the accused must not be restrained more than is necessary to prevent his escape.



### **Singapore has no independent external police oversight body.**

Instead, complaints and investigations are carried out by the Singapore Police Force itself.

**Adverse inferences may be drawn from an accused exercising their right of silence during police investigations.**

At trial, the Court may infer guilt from your refusal to give a statement.



# TO PROSECUTE OR NOT TO PROSECUTE?

Article 35(8) of the Constitution confers on the **Attorney-General (AG)** the prosecutorial power. Acting as the **Public Prosecutor (PP)**, the AG can exercise discretion to decide (1) whether to commence or discontinue proceedings against the accused, (2) the charges against the accused person and (3) whether to appeal against the sentence or acquittal of the accused.

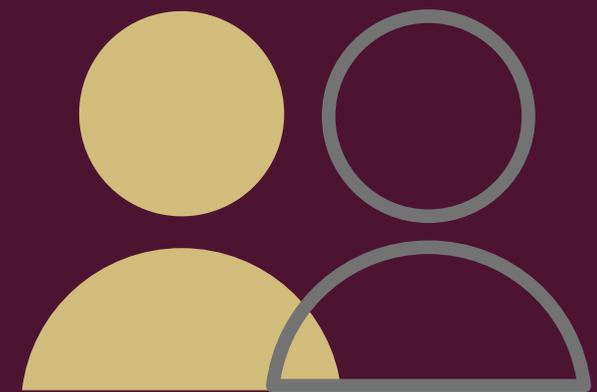
## REASONS FOR PROSECUTORIAL DISCRETION:

- 1 Different offenders and offences require different types of treatment. Factors such as youth or prior good conduct may **call for leniency** and outweigh the need for strict retributive justice.
- 2 Helps to **conserve government resources** by allowing AGC to concentrate on serious offences instead of every single offence, especially minor or petty ones.
- 3 Provides prosecutors with **flexibility** as guidelines cannot cover every single situation.

# THE EXERCISE OF PROSECUTORIAL DISCRETION

The Public Prosecutor should exercise prosecutorial discretion **independently, without succumbing to public or political pressure**. According to Justice Steven Chong, this is because the prosecutor's client is neither the Government nor the victim of a crime but society itself.

However, as the Attorney-General **simultaneously serves as both the Government's legal advisor** and the Public Prosecutor, Prof Walter Woon SC has observed that this may raise concerns about the Public Prosecutor's independence.



To address this, Prof Woon proposes **the separation of the Attorney-General's twin functions**: the Attorney-General should only perform the function of the Public Prosecutor while the role of the Government's legal advisor can be given to the Solicitor-General.

# THE PROSECUTOR'S ROLE AS MINISTER OF JUSTICE

PROSECUTION

"As a "minister of justice", the duty of the prosecutor is to assist the court to arrive at the correct decision. It is [not] the prosecutor's duty to secure a conviction at all costs..."

– CJ Sundaresh Menon,  
*PP v Wee Teong Boo*  
(2020) SGCA 56

Prosecutors are also known as "ministers of justice" because they **owe a duty** to the court and to the wider public to ensure that only the guilty are convicted, and that **all relevant material is placed before the court to assist it in its determination of the truth** even if such materials are not favourable to the Prosecution's case.

This rule was established in the case of **Muhammad bin Kadar v PP** where the Court of Appeal found that the Prosecution had failed to provide the accused's lawyers with vital items of evidence until very late in the proceedings.

# THE PUBLIC PROSECUTOR

PROSECUTION

How does sentencing work?

Sentencing lies in the hands of the Judge, but the **Prosecution and Defence** assist the Court in arriving at a fair and appropriate sentence.

## 4 PRINCIPLES GUIDING THE SENTENCING PROCESS:

### **Retribution:**

the punishment should be proportionate to the crime (i.e. serving "just desserts").

### **Deterrence:**

the punishment should discourage the offender & other potential offenders from committing similar crimes.

### **Rehabilitation:**

focuses not on punishing but reforming the offender.

### **Prevention:**

incapacitation restricts an offender's freedom and prevents them from committing future crimes.

# CONSTITUTIONAL RIGHT TO ACCESS TO COUNSEL

DEFENCE

Under **Article 9(3)** of the Singapore Constitution, every individual is granted the right to consult and be defended by a legal practitioner of his choice after he has been arrested.



An accused person cannot exercise this right immediately after arrest. Instead, in **Jasbir Singh v PP**, the Court of Appeal stated that an arrested person will be granted access to a lawyer **within a reasonable time**.

What constitutes a reasonable time is determined by **balancing the person's right to legal representation** with the **public interest in enabling the police to carry out investigations** effectively and expeditiously. In **Jasbir Singh v PP**, the arrested person was allowed access to counsel two weeks after the arrest.

**In addition, the law does not require that public authorities inform accused persons of their right to counsel.**

# ACCESS TO JUSTICE FOR THE POOR

Individuals facing criminal charges who are unable to afford legal counsel may seek assistance from legal aid schemes such as the Law Society's **Criminal Legal Aid Scheme (CLAS)**. Those charged with capital offences - offences where the penalty may be death - are assigned free legal counsel under the **Legal Assistance Scheme for Capital Offences (LASCO)**.

According to Prof Gary Chan, while Singapore has been fairly proactive in enhancing justice, there is still **room for improvement**. For example, Singapore has not done away with hearing and other courts fees.



Furthermore, while **government funding for CLAS has increased substantially** over the years, such schemes still require individuals pass both the **Means and the Merits Test**. To qualify under the Means Test, one's disposable income and assets cannot be more than **\$10,000 each**, over the past year. Such a high threshold **automatically disqualifies a large number of potentially needy applicants**.

# FIND OUT MORE

- Gary Chan, *"Access to Justice for the Poor: The Singapore Judiciary at Work"*:  
<https://digitalcommons.law.uw.edu/cgi/viewcontent.cgi?article=1490&context=wilj>
- Gary Chan, *"Prosecutorial Discretion and the Legal Limits in Singapore"*:  
<https://journalsonline.academypublishing.org.sg/Journals/Singapore-Academy-of-Law-Journal/e-Archive/ctl/eFirstSALPDFJournalView/mid/495/ArticleId/520/Citation/JournalsOnlinePDF>
- Jack Tsen -Ta Lee, *"Reforming the Right to Legal Counsel in Singapore"*:  
[https://ink.library.smu.edu.sg/cgi/viewcontent.cgi?article=3053&context=sol\\_research](https://ink.library.smu.edu.sg/cgi/viewcontent.cgi?article=3053&context=sol_research)
- Walter Woon, *"The public prosecutor, politics, and the rule of law"*:  
<https://www.straitstimes.com/opinion/the-public-prosecutor-politics-and-the-rule-of-law>



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