DISSUADING AND DETERRING ACTS OF CORRUPTION BY PARTIES IN THE CRIMINAL JUSTICE PROCESS (JUDGES, PROSECUTORS AND LAW ENFORCEMENT OFFICERS) – THE SINGAPORE APPROACH

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I. INTRODUCTION

This paper focuses on the steps which Singapore has taken to minimize the occurrence of incidents of corruption among its judges, prosecutors and law enforcement officials, and the safeguards are in place to ensure that, even if incidents of corruption occur, the effects on the criminal justice process are nullified.

However, even the best systems formulated by man are not fool-proof – incidents of corruption among law enforcement officers will, and have, occurred in Singapore. Strong action, in the form of court prosecution and deterrent sentences, has served to deal with such incidents as and when they happen.

This paper is divided into the following three aspects:

a. A brief survey of the remuneration packages for judges and prosecutors in Singapore;

b. Discussion on the independence of judges and prosecutors in the criminal justice system, and the procedural safeguards in place; and

c. Examination of the principles and procedural rules applicable to the prosecution of corruption cases in Singapore, with particular focus on cases of corruption involving law enforcement officers, and the doctrine of general deterrence, which guides the court in sentencing such offences.

II. A FAIR PAY PACKAGE TO TACKLE CORRUPTION

Before going into the remuneration schemes of judges and prosecutors, it is necessary to give a broad overview on the organizational structure of judges and prosecutors in Singapore. This will give context to the differences and similarities in the respective remuneration schemes.

All judges in the Supreme Court (made up of the Court of Appeal and the High Court) are appointed under the Constitution of the Republic of Singapore.[1]

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[1] Article 95(1) of the Constitution.

The Legal Service Commission[2] ("LSC") is a specialized commission under the umbrella of the Singapore Civil Service, and is the body which controls the appointment and posting of lawyers who join the public service and are deployed, *inter alia*, as[3]:

a. Judges in the State Courts (made up of the District and Magistrate Courts) (also known as "judicial officers"); or

b. Deputy Public Prosecutors ("DPP") in the Attorney-General's Chambers ("AGC").

All judicial officers and DPPs are civil servants under the charge of the LSC, and are collectively also known as Legal Service Officers ("LSO"), regardless of the department to which they are deployed.

A. Fair Remuneration Is One of the Principles Guiding the Pay Scales of Civil Servants

One of the principles which guides the setting of salary scales for the Singapore Civil Service is that civil servants should be remunerated fairly, with reference to the pay packages for similar work in the private sector. As recently as 2020, Prime Minister Lee Hsien Loong commented, in response of a question by American billionaire and philanthropist David Rubenstein at an online dialogue held on 28 July 2020 by United States think tank Atlantic Council, that "*it is best to pay the person according to what he is worth, and according to what he is contributing*". Elaborating further, PM Lee alluded to the risk that underpaid civil servants may engage in corrupt behaviour to make up for the difference[4]:

> If you don't do that, either you compromise on the quality of your civil service, or people will find ways to make up and compensate, camouflage forms of compensation, or you have a revolving door and you have something when you go out, after you retire, and that will lead to other kinds of big problems.

The principle above is applicable to the salaries for uniformed police officers, even though they are not part of the civil service. This is because they are nevertheless part of the public service, and their salaries are based off the civil service salary scales, with adjustments and allowances specific to the work they undertake (for example, additional allowances for investigation officers with the Police).

Non-uniformed enforcement officers, for instance, with the specialized branches in the Singapore Police Force, and enforcement officers with the Ministries, are salaried based on the civil service scales. Their salaries are thus also guided by the above principle, which has held true since Singapore's independence.

As the LSC is part of the civil service, the salary scales of LSOs are guided by the civil service principles, but with regular review and adjustments to ensure that the scales are

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[2] Constituted under Article 111 of the Constitution.

[3] Structure of the LSC can be found at <https://www.lsc.gov.sg/structure/structure-of-legal-service>.

[4] Kayla Wong (29 July 2020), "PM Lee: Pay public officials what they're worth, or people will find ways to camouflage compensation", *Mothership*. <https://mothership.sg/2020/07/high-government-pay-corruption-lee-hsien-loong/>.

competitive with lawyers in the private sector. For example, in 2000, following a review of the salary scales of LSOs, the following components were introduced[5]:

a. An additional Market Adjustment Component (MAC) which will enable the Legal Service to follow changes in market conditions more quickly;

b. Additional functional allowances for advocacy and night court duties. These are allowances for prosecutors handling litigation in court, and for judges who sit in court matters after office hours;

c. Additional "loyalty bonuses" over and above regular performance bonuses. This meant that LSOs who stay with the LSC for extended periods of time receive additional bonuses which are accumulated over the years.

Over the last decade, additional allowances and incentives have been added to the remuneration package for LSOs.[6] In contrast to the above, Judges in the Supreme Court are not under the civil service pay scales, but have their salaries and benefits set out clearly in statute and subsidiary legislation, namely, the Judges' Remuneration Act (Chapter 147) and the Judges' Remuneration (Annual Pensionable Salary) Order.

III. PROSECUTORIAL INDEPENDENCE AND PROCEDURAL SAFEGUARDS

Article 35(8) of the Singapore Constitution vests prosecutorial discretion wholly in the Attorney-General ("AG"),[7] who may exercise his discretion as he sees fit. This means that all prosecutions in court are overseen and controlled by the AG and his deputies, i.e. DPPs, who have been delegated with the power to exercise prosecutorial discretion.

Once the AG has exercised prosecutorial discretion:

a. The court will not interfere unless the discretion has been exercised unlawfully[8]; and

b. Though the prosecutorial power may be part of the powers under the Executive branch of Government, but, under existing constitutional practice, it is independently exercised by the AG and not the Minister (of Law).[9] As such, the Minister cannot interfere with the AG's exercise of discretion.[10]

The power to independently exercise prosecutorial discretion means that no other persons, whether or not in positions of power, may seek to overbear or override the AG's

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[5] The Honourable the Chief Justice's speech at "Investing in people in the new Legal Service", 30 June 2000, <https://www.supremecourt.gov.sg/news/speeches/investing-in-people-in-the-new-legal-service---speech-by-the-chief-justice>.

[6] Singapore Legal Service Commission, Organisational Excellence. <https://www.lsc.gov.sg/data/AR/2010/LSC/organisational-excellence-promotions.html>.

[7] Article 35(8) of the Constitution of the Republic of Singapore states: The Attorney-General shall have power, exercisable at his discretion, to institute, conduct or discontinue any proceedings for any offence.

[8] *Ramalingam Ravinthran v Attorney-General* [2012] 2 SLR 49, at [44].

[9] Ibid.

[10] *Gobi a/l Avedian and another v Attorney-General and another appeal* [2020] SGCA 77, at [50].

decision. This is an especially important safeguard when prosecution is mounted against a law enforcement officer, prosecutor or judge.

A. Safeguards Are Organic to the Processes Involved in the Exercise of Prosecutorial Discretion

When a file is referred to the AGC, there are multiple layers of checks to ensure that all cases which are prosecuted in court are properly and fairly assessed. Every matter in which a DPP gives the direction to charge the suspect in court, that direction will be scrutinized and countersigned by his or her supervisor.

For corruption cases, there are even more procedural safeguards to ensure fairness and consistency in decisions. There are multiple levels of assessment for corruption cases, which serve a vital purpose of avoiding and eliminating bias or partiality at any stage in the process.

To illustrate the various procedural safeguards in place, we follow the life of a hypothetical case, involving a police officer who had accepted a bribe, when it is sent to the AGC. All cases involving corruption are investigated by the Corrupt Practices Investigation Bureau ("CPIB"), and cases submitted by the CPIB will be assessed by a DPP at the AGC.

a. The CPIB makes the recommendation on whether prosecution is warranted for the case. This recommendation is supported by at least one superior officer of the CPIB.

b. The file is assigned to a DPP who is trained and experienced in handling corruption offences. If the DPP knows the police officer personally, whether as a personal acquaintance or in the course of jointly handling other cases in the past, the DPP will inform his or her supervisor of the conflict of interest. The DPP will be recused from handling the file, which will be re-assigned to another DPP. The need for this self-check for any potential conflict is briefed to all DPPs when they are appointed, and all DPPs will do this as a matter of course. This internal procedure acts as a safeguard for fairness – the case against the offender will be assessed fairly, without being skewed by friendship with the assessing DPP, or conversely, by bias against the offender possibly due to previous poor performance by the offender in a prior case.

c. The DPP assesses the case, in an impartial manner, for sufficiency of evidence, and also considers the public interest in deciding on the appropriate action to be taken against the offender.

d. The DPP's supervisor will critically examine the DPP's assessment of the case. If the supervisor agrees with the assessment, he or she will sign off on the file.

e. As all corruption cases which are prosecuted in court require the written consent[11] of a Chief Prosecutor,[12] the file will be circulated to the Chief Prosecutor.

[11] Section 33 of the PCA states: "*A prosecution under this Act shall not be instituted except by or with the consent of the Public Prosecutor.*" In practice, this power has been delegated to the Chief Prosecutor by the AG.

[12] The Chief Prosecutor is the highest ranking DPP in the Crime Division of the Attorney-General's Chambers and is the head of the Division.

f. Cases involving high-profile public service officers, or particularly sensitive issues, are also circulated to the Attorney-General or one of the Deputy Attorneys-General for his attention and input.

g. Similarly, if at any of the above steps, the officer examining the case knows or is connected to the offender in any way, he or she will be recused from looking at the file, and it will be shunted to an officer of similar rank or seniority.

h. After the above stages are completed, the file is then sent back to the CPIB with directions on the action to be taken. If the direction is to tender charges against the offender in court, the DPP will also give instructions on the number and nature of the charges.

It bears noting that, where an investigation needs to be conducted against an officer of the CPIB, they do not "investigate their own". Instead, to "ensure an impartial and thorough investigation", the investigations will be handled by a specialist investigation department from the Police.[13]

B. Procedural Safeguards Are Present in the Judicial System

When an offender is charged, the case would have entered the court system. Even then, there are multiple safeguards in place to ensure that cases are adjudicated independently at all levels. The basic premise is that the judiciary in Singapore is independent from the Executive and Legislature. This separation of powers is enshrined in Article 93 of Singapore's Constitution.[14] As mentioned above, the judiciary in Singapore comprises the Supreme Court (made up of the Court of Appeal and the High Court) and the State Courts (made up of the District and Magistrate Courts). Parties to criminal cases tried by the State Courts have the right of appeal to the High Court.

Judges are not supposed to hear cases in which they are, or may be perceived to be, biased to or for any party.

a. For judges in the State Courts, this rule is statutorily encapsulated – a judge in the State Courts is not allowed to hear any proceedings in which he is personally interested, unless the parties agree *and* the Chief Justice gives his approval.[15]

b. For judges in the Supreme Court, the above principle, though not enacted in statute, is nevertheless stated and explained in the Judicial Code of Conduct – judges should recuse themselves from a case if they believe that "they will be unable, or be

[13] Bryna Singh (24 July 2013), CPIB assistant director facing 21 charges of fraud involving at least $1.7m, *Assistant director at CPIB alleged to have started siphoning CPIB funds from 2008, starting with an initial amount of $1,200*, AsiaOne, The Straits Times.:
<https://www.asiaone.com/print/News/Latest%2BNews/Singapore/Story/A1Story20130724-439467.html>
The matter was reported to the Commercial Affairs Department (CAD) of the Singapore Police Force, as the accused was a CPIB officer and the alleged financial impropriety could have amounted to a criminal offence. This was to ensure an impartial and thorough investigation. The Prime Minister appointed an independent review panel to investigate how this case happened, and to strengthen the financial procedures and audit system in CPIB to prevent a recurrence.

[14] Article 93 states: "*The judicial power of Singapore shall be vested in a Supreme Court and in such subordinate courts as may be provided by any written law for the time being in force.*"

[15] Section 65 of the State Courts Act (Chapter 321).

perceived to be unable, to judge impartially, unless the failure to hear any such case would necessarily result in irreparable injustice being occasioned to any of the parties in the case or any such other persons to whose interests the Judges in question may properly have regard".[16] Either of the formulations of the principle above would logically include recusal from hearing a case where the accused person is personally known to the judge.

Parties to a case may also apply for the judge hearing a case to recuse himself, on the basis that there is apparent bias, i.e. there are circumstances that gave rise to a reasonable suspicion or apprehension in a fair-minded person with knowledge of the relevant facts that the judge, was biased.[17] As such, the applicant does not need to show that the judge was in fact biased, but only needs to show that there was basis for reasonable suspicion or apprehension that the judge *could* be biased. The latter is a significantly lower standard than proving actual bias.

Furthermore, even within the judiciary itself, in so far as the State Courts have their own organizational structure and hierarchy (as opposed to court level hierarchy, which is that of superior courts having appellate jurisdiction over decisions of lower courts), there is independence of judges within the State Courts. In *Goh Kah Heng (alias Shi Ming Yi) v Public Prosecutor and another criminal motion* [2009] 3 SLR(R) 409, the accused person sought to have the trial heard in the High Court instead of the State Courts, as the Senior District Judge (heading the State Courts) was previously the Director of the Commercial Affairs Department ("CAD"). The accused person claimed that, as his case had been investigated by the CAD, there existed two fears: (a) that the trial judge would defer to the Senior District Judge because he was formerly the head of the CAD; and (b) as the Senior District Judge has the power to assess the trial judge's performance, the judge may not dare disagree with the views of the Senior District Judge. The High Court rejected the application, and commented that the individual judges were independent, make their decisions freely, and must not be afraid to express a view just because another judge may hold a different view.[18]

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[16] Judicial Code of Conduct for the Judges and Judicial Commissioners of the Supreme Court of Singapore <https://www.supremecourt.gov.sg/docs/default-source/default-document-library/(domestic-code-of-conduct)-version-for-uploading-(22-february-2019).pdf>, at page 7.

[17] *Manjit Singh s/o Kirpal Singh v Attorney-General* [2013] 2 SLR 1108, at [34]. The court also enunciated several principles on recusal –

(a) An application to a judge to recuse himself must be based on credible grounds.
(b) A claim that there is apparent bias on the part of a judge must be based on facts that are substantially true and accurate. The fact that an allegation of bias has been made against a judge is not enough; otherwise, a party could secure a judge of his choice by merely alleging bias on the part of other judges.
(c) In determining the application, the judge must have regard to the quality of the allegation. A judge would be as wrong as to yield to a tenuous or frivolous objection as he would to ignore an objection of substance.

[18] *Goh Kah Heng (alias Shi Ming Yi) v Public Prosecutor and another criminal motion* [2009] 3 SLR(R) 409, at [6]: The formation and expression of the court's opinion is a critical aspect of a judge's work. He is required by the oath that he takes to administer the law without fear or favour. It is a requirement to conduct his case impartially. It is also a requirement that he makes his decisions concerning the case freely and boldly. When "the interests of justice" are being considered, one must also take into account the ideal of independence of the judiciary. It is an ideal that means little if individual judges cannot be independent. A judge must not be afraid to express a view just because another judge holds a different view. Every judge is mindful by virtue of the oath of office that he has taken, that in reaching his verdict he does not take instruction from a superior judge except in the form of the binding authority of precedent cases; for he knows that when the trial starts, he is the boss.

IV. PRINCIPLES GUIDING THE PROSECUTION, ADJUDICATION AND SENTENCING OF CORRUPT LAW ENFORCEMENT OFFICIALS

This part of the paper examines the various principles which guide the prosecution and sentencing of corrupt law enforcement officials in Singapore. Thankfully, there have been no cases involving corrupt judges or prosecutors to date. It is anticipated that the same principles applicable to corrupt law enforcement officers will be equally applicable to corrupt judges or prosecutors.

As mentioned above, all prosecution for corruption offences will be under the Prevention of Corruption Act (Chapter 241) ("PCA"), and investigations are conducted by the CPIB. The legislative intent behind the enactment of the PCA was the "public service rationale" – the act was aimed to eradicate corruption, especially in the public service. This principle also guides prosecutorial decisions concerning corrupt law enforcement officers.

The "public service rationale" was developed with the protection of *Singapore's* public service in mind. Under the "public service rationale", the public interest at stake was that a public servant bears the duty to ensure the administration of Singapore, and if he was corrupt, this will affect the efficacy of public administration.[19] The threat that a corrupt public servant, whose duty was to ensure the administration of "this country", poses to the administration that the public of Singapore are dependent on, had been repeatedly emphasized by the courts. A succinct example of this pronouncement can be seen in *Chua Tiong Tiong v Public Prosecutor* [2001] 2 SLR(R) 515, at [17]: "… Dependent as we are upon the confidence in those running the administration, any loss of such confidence through corruption becomes dangerous to its existence and inevitably leads to the corrosion of those forces, in the present case the police force, which sustain democratic institutions." The "public service rationale" can also be simply stated as "the public interest in preventing a loss of confidence in Singapore's public administration".[20]

Consistent with the strong emphasis placed on the need to protect Singapore's public administration from the scourge of corruption, there are provisions in the PCA which make it simpler for the Prosecution to prove corruption in cases involving public officers. The courts have also interpreted the provisions in a manner consistent with the objectives of the PCA. These developments are:

a. The presumption of corrupt intent for Governmental dealings, which shifts the burden to the accused person to prove lack of corrupt intent;

b. Expressly legislating that mere payors of bribes are <u>not</u> to be treated as "accomplices" whose evidence may be presumed to be less worthy of credit;

c. No requirement to prove an actual act was done by the public servant to benefit the giver of the bribe. It is sufficient to show that the bribe was to purchase the recipient's service generally;

d. Enhanced punishment for Governmental corruption; and

[19] *Public Prosecutor v Tan Kok Ming Michael and other appeals* [2019] 5 SLR 926, at [70] and [72].
[20] *Public Prosecutor v Ang Seng Thor* [2011] 4 SLR 217, at [33(a)].

e. The principle of general deterrence guides the courts in sentencing, coupled with comparatively severe sentences, for corruption involving law enforcement officers.

A. Presumption of Corrupt Intent for Governmental Dealings

Section 8 of the PCA presumes that gratification, given to or received by a public servant or in relation to any government department, was done so with corrupt intent. This section states:

> Where in any proceedings against a person for an offence under section 5 or 6, it is proved that any gratification has been paid or given to or received by a person in the employment of the Government or any department thereof or of a public body by or from a person or agent of a person who has or seeks to have any dealing with the Government or any department thereof or any public body, that gratification shall be deemed to have been paid or given and received corruptly as an inducement or reward as hereinbefore mentioned unless the contrary is proved.

The ambit of the presumption in section 8 is wide, as sections 5 and 6 of the PCA are the general provisions which all prosecutions for corruption come under. This presumption has been widely used in the prosecution of corrupt law enforcement officers and would likely be applicable in any corruption cases involving judicial officers or prosecutors.

The courts have interpreted the presumption in the following manner – when the Prosecution seeks to rely on the presumption in section 8, it bears the burden of proving three elements[21]:

a. a gratification was paid or given to or received by the accused person;

b. at the time of the payment, gift or receipt, he was in the employment of the Government or any department thereof or of a public body; and

c. the payment, gift or receipt was from a person or agent of a person who has or seeks to have any dealing with the Government or any department thereof or any public body.

Upon proof of these three elements the existence of the fourth element, namely, *that the gratification was paid or given or received corruptly as an inducement or reward for doing or forbearing to do an act in relation to the affairs of the Government or a department thereof or of a public body as the case may be*, is to be <u>*presumed*</u> until the contrary is proved.

In practice, the above means that accused persons who are:

a. public servants who received gratification from anyone who had or sought to have dealing with the Singapore government; or

b. persons who had or sought to have dealings with the Singapore government and gave gratification to a public servant,

[21] *Wee Toon Boon v Public Prosecutor* [1974-1976] SLR(R) 761, at [38].

had to prove, on the balance of probabilities, that the gratification was not received or given with corrupt intent on their part.

B. Mere Payors of Bribes Are Not "Accomplices" Whose Evidence May Be Presumed to Be Less Credible

In common law jurisdictions, it is a common principle of evidence that the testimony of a witness, who is an accomplice to the offence, is generally treated with caution, and/or requires corroboration from other sources before the court accepts the testimony as being credible. This usually means that the court would be hesitant to convict an accused person if the only evidence implicating him is the uncorroborated testimony of his accomplice. Section 25 of the PCA expressly removes the applicability of this presumption or principle, so long as the witness is merely a "payor" of the bribe.

Section 25 of the PCA states:

> Notwithstanding any rule of law or written law to the contrary, no witness shall, in any such trial or inquiry as is referred to in section 24, be presumed to be unworthy of credit by reason only of any payment or delivery by him or on his behalf of any gratification to an agent or member of a public body.

As to what is a mere payor, the courts have clarified that such a person is one who made the payment(s) to the accused person but did nothing more. Someone who goes beyond mere payment, perhaps by procuring the corrupt act, would not fall under this categorization.[22] This would mean, for example, that persons who gave bribes to public servants who asked for the bribe would not be considered as "accomplices". However, persons who offered and then gave bribes to public servants would be considered "accomplices", and their evidence would not come under the exclusion of the presumption.

In legislatively removing the application of the presumption, the Singapore Parliament recognized that the main evidence against the receiver of a bribe would most likely be from the giver of the bribe. Any reduction to the credibility of the giver's testimony would mean greater difficulties in proving the offence against the receiver. The court in *Tan Khee Koon v Public Prosecutor* [1995] 3 SLR(R) 404, at [57], explained the rationale for removing the presumption of unworthiness of credit, in the context of proving corruption offences:

> If, on the other hand, mere payors were treated as full accomplices, and required cautious treatment, it would be difficult to establish the guilt of the accused. *The evidence of the person who paid the money to the accused is often the best evidence of an offence being committed. To impose any greater burden than normal on the Prosecution in regard to such evidence would be to place an unjustified hindrance on the Prosecution.* [emphasis added]

C. No Necessity to Prove an Actual Act Was Done by the Public Servant to Benefit the Giver of the Bribe, and It Is Sufficient to Show That the Recipient Was "Bought Over"

The Singapore courts have accepted that corruption may take many forms. Acts of corruption may be as simple as a bribe to a police officer in return for avoiding arrest for an offence, for which the bribe is directly relatable to the act which the public servant is

[22] *Tan Khee Koon v Public Prosecutor* [1995] 3 SLR(R) 404, at [55].

forbearing to do. At the other end of the spectrum, it may be a long-term cultivation of a relationship with a law enforcement official with a constant flow of benefits and payments, in return for information at an opportune time in the future. The full gamut of such corrupt acts is recognized as offences under the PCA. By not imposing a requirement that any corrupt gratification be relatable to a specific benefit or act in return, it is thus easier to show that gratification to a public servant was corrupt in nature. We explore this aspect in greater depth in two cases involving corrupt police officers.

The court explained the concept of a public servant being "bought over" in the case of *Hassan bin Ahmad v Public Prosecutor* [2000] 2 SLR(R) 567, which involved an offender who started receiving money from a well-known illegal moneylender, known as Chua Tiong Tiong ("Chua"), from 1993, before he commenced training as a police officer. Over the course of more than five years, the offender continued to receive money from Chua, even as he rose up the ranks, becoming a senior police officer. The evidence showed that while the offender was a police officer, he had, on two occasions, acted upon Chua's request and made use of his official position in the police force to obtain information for Chua. The judge concluded that the offender had received the monies from Chua corruptly with the intention of being "bought over" by the latter.

On appeal, the court accepted that the public servant could be "bought over", effectively being on a retainer for services to be rendered to the giver as and when required. There was no need to link the corrupt payments to specific acts of the offender benefitting Chua. The court explained as follows[23]:

> the appellant would periodically receive sums of money from Chua, in exchange for which the appellant would perform favours as and when required. The method of payment was not transactional in the sense that the appellant would be paid a certain sum to do a certain favour. Rather, the arrangement was more akin to a monthly retainer for services from time to time. It was therefore *not necessary for the Prosecution to prove a nexus between each receipt and a particular act; it only sufficed to demonstrate that the payments were not made innocently, but to purchase the recipient's servitude.* This is the essence of being *"bought over" – that the recipient of the gratification be at the beck and call of the payor, prodded into action by his recollection of the payor's generosity even when no specific act was demanded at the time of payment.* [emphasis added]

There is also no requirement to prove that an actual act was done by the public servant to benefit the giver of the bribe. This is encapsulated in section 9(1) of the PCA, which states:

> Where in any proceedings against any agent for any offence under section 6(a), it is proved that he corruptly accepted, obtained or agreed to accept or attempted to obtain any gratification, having reason to believe or suspect that the gratification was offered as an inducement or reward for his doing or forbearing to do any act or for showing or forbearing to show any favour or disfavour to any person in relation to his principal's affairs or business, he shall be guilty of an offence under that section notwithstanding that he did not have the power, right or opportunity to do so, show or forbear or that he accepted the gratification without intending to do so,

[23] *Hassan bin Ahmad v Public Prosecutor* [2000] 2 SLR(R) 567, at [20].

show or forbear or that he did not in fact do so, show or forbear or that the act, favour or disfavour was not in relation to his principal's affairs or business.

The above principle was demonstrated in yet another case involving the infamous illegal moneylender Chua. The case of *Fong Ser Joo William v Public Prosecutor* [2000] 3 SLR(R) 12 involved an offender, a police officer, who received payments on two occasions from Chua, as an inducement to help enquire into police investigations which Chua was interested in. The court reiterated that "it was not necessary for the Prosecution to prove that the appellant's receipt of money from Chua was an inducement for a specific corrupt act or favour. It was sufficient for the Prosecution to show that the gratification was given in anticipation of some future corrupt act being performed".[24]

The court in *Fong Ser Joo William* further explained that it is the receipt of the gratification, together with the intention of the giver and the recipient, that is material. It is not even necessary to prove the actual act of showing favour.[25]

D. Enhanced Punishment for Governmental Corruption

In line with the "public service rationale" underpinning the PCA, in addition to making it easier to prove corruption in cases involving public servants or governmental bodies, the Act also provides for enhanced punishment where the corruption is in relation to contracts with, or work involving, the Government.

Section 7 of the PCA states:

A person convicted of an offence under section 5 or 6 shall, where the matter or transaction in relation to which the offence was committed was a contract or a proposal for a contract with the Government or any department thereof or with any public body or a subcontract to execute any work comprised in such a contract, be liable on conviction to a fine not exceeding $100,000 or to imprisonment for a term not exceeding 7 years or to both.

E. General Deterrence Applies for Sentences in Corruption Cases Involving Law Enforcement Officers

Even where the corruption is not in relation to contracts with the Government, but nevertheless involves public officers, the courts have held that general deterrence is the dominant sentencing consideration. This is especially so where law enforcement officers are involved. Correspondingly severe sentences have thus been imposed for such cases. This sentencing approach is completely consistent with the strong emphasis placed on the need to protect Singapore's public administration from the scourge of corruption.

Sentencing based on the principle of general deterrence aims to educate and deter other like-minded members of the general public by making an example of a particular offender.[26] Among the categories of situations which the courts have held that general deterrence assumes significance and relevance is in respect of *offences against or relating to public institutions, such as the courts, the police and the civil service.*[27] This form of

[24] *Fong Ser Joo William v Public Prosecutor* [2000] 3 SLR(R) 12, at [24].
[25] Ibid., at [26].
[26] *Meeran bin Mydin v Public Prosecutor* [1998] 1 SLR(R) 522, at [9].
[27] *Public Prosecutor v Law Aik Meng* [2007] 2 SLR(R) 814, at [24(a)].

deterrence applies both to members of the public (who need to be deterred from offering bribes to public servants), and the public servants themselves.

1. Deterring Persons from Corrupting Law Enforcement Officers

Members of the public in Singapore are deterred from offering bribes to law enforcement officers. Such offences generally attract imprisonment sentences, even if the amount of the bribe offered is small. The following cases illustrate this point.

In *Public Prosecutor v Lim Teck Choon* [2009] 2 SLR(R) 577, the offender was placed under arrest by Sergeant Pah for dangerous driving. While waiting for the escort vehicle, Sergeant Pah and the offender conversed with each other, during which the offender exclaimed abruptly, "Why want to do this? Be enemy? You should let me go. We can be friends. Next time you come to Malaysia I would take care of you. Still got good things". The offender also made a gesture with his hands, which signified money. The court held that for corruption offences which involve government servants, the norm is a custodial sentence. Where there is a voluntary attempt to bribe a police officer without solicitation, there is "no doubt that a custodial sentence is warranted".

There are two reasons for this strong sentencing stance[28]:

a. First, the significance of deterrence as a sentencing consideration is particularly high for this genre of offences. It is crucial that the present ethical fabric and the integrity of the police force be scrupulously maintained. The public (Singaporeans and foreigners alike) must understand that offences of this nature, if allowed to take root, will quickly become endemic and be extremely difficult to, once again, bring under control, if not eradicate. It is not unimportant that such offences also undermine the proper administration of justice.

b. Second, the fact that such offences usually involve the giving of some consideration in exchange for the receipt of an advantage or benefit usually militates against the meting out of just a fine. Simply imposing a fine, particularly on the well-heeled, may not adequately deter those contemplating such a course of conduct in future.

The above principles were also present in the case of *Public Prosecutor v Chew Suang Heng* [2001] 1 SLR(R) 127, where the offender was arrested on suspicion for the offence of loitering for illegal gambling. While the offender was being brought to the police station in the police car, he told the police officers that he would give them $1,000 if they let him go. The offender repeated his offer and was warned that it was an offence to bribe police officers. Regardless, at the police station, the offender took out a $1,000 note and again attempted to bribe one of the police officers. The police officer refused the bribe and arrested the offender for trying to bribe him. The court held that attempting to bribe a law enforcement officer and interfering in the proper course of police investigations is a serious offence, and that "corruption offences involving law enforcement officers or other public servants attract harsher penalties and custodial sentences as compared to similar offences committed in commercial dealings and in the private sector".[29] The court also emphasized that a deterrent sentence for such offences is justified, due to the public interest in stamping out bribery and corruption in the country, especially in the public service.

[28] *Public Prosecutor v Lim Teck Choon* [2009] 2 SLR(R) 577, at [19].
[29] *Public Prosecutor v Chew Suang Heng* [2001] 1 SLR(R) 127, at [9].

2. Law Enforcement Officers Who Solicit or Receive Gratification also Receive Deterrent Sentences

When law enforcement officers solicit or receive gratification from suspects or persons under investigation, this is an extremely serious offence, as it undermines the integrity of the badge of authority which is held by the officer and betrays the public's trust and confidence in the officer and his agency. The courts have consistently taken the view that such cases require a healthy dose of general deterrence in calibrating the appropriate sentence.

In the case of *Pandiyan Thanaraju Rogers v Public Prosecutor* [2001] 2 SLR(R) 217, the offender was a senior officer in the Singapore Police Force who corruptly accepted gratification of $2,000 from one "Manjit" as an inducement to render assistance to Manjit in his police case involving assault (in which Manjit was a victim). The offender gave his name card to Manjit and told the latter to contact him if he encountered any problems with police matters. On a subsequent occasion, the offender asked Manjit for a loan of $2,000, to which Manjit acceded. This was despite the fact that the offender knew that Manjit was suspected to be an illegal moneylender and that, as a police officer, he was not permitted to take a loan from such persons.

The court also commented that the sentences for corruption offences involving police officers were consistently higher than those for non-police officers.[30] This was because "crimes involving corruption on the part of police officers are extremely grave in nature and are viewed severely by the courts". The aggravating feature in this case was the fact that the offender undermined the integrity of his office for his personal benefit and, in the process, betrayed the public's trust and confidence in the police force.

It does not matter whether the gratification is monetary in nature, or in other forms (for example, sexual favours). The courts have nevertheless imposed deterrent sentences on police officers who obtain such gratification from persons in return for tampering with investigations.[31]

3. Deterrence Is Also Relevant Even When the Corruption Does Not Affect Members of the Public

Even when the corrupt gratification did not involve police–public relationships, but other aspects of police work, the courts have also dealt with such incidents severely. This is because it is also important to protect the integrity of the police force from being undermined, both from without and from within.

In the case of *Public Prosecutor v Tay Sheo Tang Elvilin* [2011] 4 SLR 206, the offender (a police officer) corruptly gave gratification to four of his fellow police officers as inducement for forbearing to report him to his supervisor for misappropriating a wallet containing a stack of $50 notes and a carton of cigarettes which were found during an unscheduled raid. The court held, at [20], that:

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[30] *Pandiyan Thanaraju Rogers v Public Prosecutor* [2001] 2 SLR(R) 217, at [49].

[31] For example, see "Investigating officer jailed for obtaining sexual gratification from women involved in his cases", Channel News Asia, 23 September 2020, where a police officer obtained sexual gratification from women he was investigating for various offences. Deterrence was a factor in his sentence of two years' imprisonment <https://www.channelnewsasia.com/news/singapore/spf-investigating-police-officer-jailed-sex-women-suspects-13137766>.

> Although the respondent's corrupt conduct did not involve solicitation of gratification from members of public, this did not mean the integrity of the police force was not being seriously undermined. Corruption within the police force is no less serious than corruption involving the solicitation of gratification by a police officer from members of the public, and both have the effect of publicly undermining the integrity of the police force. Indeed, if anything, it is even more disturbing. If police officers such as the respondent who engage in corrupt activities within the police force itself to cover up their wrongdoings are left unchecked, the abuse of trust and confidence placed in the police force could … result in enforcement agencies, in general, having diminished legitimacy and public acceptance.

Furthermore, the court also noted the aggravating factor of the offender being senior in rank to the recipients of the bribes, and he was setting a bad example to his junior officers by "drawing them into the web of corruption".

V. CONCLUSION

Singapore has taken a holistic approach in ensuring that corruption among judges, prosecutors and law enforcement officers is minimized. We are gratified that the efforts over the decades appear to have paid off, to a certain extent – there have been no cases of corruption involving prosecutors or judges in Singapore. This approach starts with a fair pay package for judges, prosecutors, and law enforcement officers, in which the need to prevent corruption is already one of its guiding principles.

On the ground, as cases are handled by the various departments and agencies, there are multiple levels of procedural safeguards to ensure that cases are not mishandled, or worse, manipulated by officers who have a personal interest in the case. Finally, even the best systems are not fool proof. Where cases of corruption arise among law enforcement officers, they are dealt with severely, to deter other officers from engaging in corrupt activities. Deterrent sentences are the norm, guided by the need to protect public administration from being undermined.