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**INTERTWINING PUBLIC MORALITY, PROSECUTORIAL DISCRETION, AND
PUNISHMENT:
LOW CRIME AND CONVICTIONS IN SINGAPORE**

Zachary Reynolds

06/06/17

Introduction

We have all likely heard of Singapore's famously low crime rates. A point of well-deserved national pride, the small, island nation is committed to the safety of citizens and foreigners alike and consistently ranks as one of the safest cities in the world. To put this in perspective, an expatriate alumnus of the University of Chicago explained to me during my recent visit to Singapore¹ that he was never concerned for the safety of his teenage daughter regardless of from where, when, or how she came home at night. Murder? Singapore has one of the lowest rates worldwide at 0.2 per 100,000 in 2013.² Assault? Strictly controlled access to firearms makes deadly assault an extreme anomaly, and violent crime in general is virtually unheard of. In 2015, the total number of *reported* violent crimes was less than 4,500³ in a city with a population of over 5.5 million.⁴ By comparison, New York City recorded over 50,000 violent crimes in 2015⁵ with a population of 8.5 million.⁶ Such statistics highlight Singapore's success in the arena of violent crime, but the society's aversion to crime in other categories is equally astonishing.

Walking along the streets of Singapore, several observations, or the lack thereof, strike even the most casual tourist. There is no litter cluttering the streets. There are no beggars asking for

¹ I was one of nine University of Chicago Law Students to travel to Hong Kong and Singapore for two weeks as part of an international immersion program. The trip was intended to allow us to study politics, international law, and the legal systems of the two cities. Most significantly for this paper, during our time in Singapore I spoke with several law professors, students of criminal law, alumni, and citizens I met throughout the city. These conversations provided the inspiration and factual basis for this paper, and, while I have done my best to corroborate what I learned everywhere possible, some observations are the unique product of locals' perspectives that cannot be verified in any academic journal or statistical source.

² Jean-Luc Lemahieu and Angela Me, "Global Studies on Homicide 2013: Trends, Context, Data," *United Nations Office on Drugs and Crime*, Vienna (2014). Accessed June 4, 2017. http://www.unodc.org/documents/gsh/pdfs/2014_GLOBAL_HOMICIDE_BOOK_web.pdf

³ See Appendix A for detailed information about the various classes of crimes and amount of crime reported in Singapore between 2008 and 2015. I use the number 4500 because it reflects the total possible reported crimes involving injury or the threat of violence.

⁴ The World Bank, "Population Total Singapore, 2015," *Data.Worldbank*. Accessed June 4, 2017. <http://data.worldbank.org/indicator/SP.POP.TOTL?locations=SG>

⁵ See Appendix B for detailed information about the various types and amounts of crime reported in New York between 2009 and 2015.

⁶ Department of City Planning, "New York City Population Facts," *New York City: Department of City Planning*, (2016). Accessed June 4, 2017. <http://www1.nyc.gov/site/planning/data-maps/nyc-population/population-facts.page>

change. There is no graffiti marring public buildings. Vandalism is nonexistent. Signs prohibiting loitering are unnecessary because there do not seem to be any loiterers. No scent of tobacco or other more illicit inhalants assault one's sense. To an American, the differences are stark. Of course, a system exercising such strict social control involves many trade-offs, but on the whole the effect is undeniably pleasant. Continuing in the previous vein of comparison, Singapore reported fewer than 16,000 non-violent property crimes during 2015 contrasted with 130,000 in New York City over the same period.⁷ Statistics for misdemeanor offences like vandalism and littering are not as readily available, but the reputations and cleanliness of the relative cities speak for themselves.⁸ In 2016, for example, Singapore reported 135 days that were free from snatch theft, housebreaking, and robbery.

Not only are crime rates low, the way Singapore handles *reported* crimes leads to surprisingly few convictions. Although reliable statistics about how many people Singapore convicts each year are unavailable, my conversations with law professors, citizens, and expatriates suggest that the city avoids convicting a significant percentage of the criminal actors that enter the criminal justice system. One prevalent method of avoiding conviction is that public prosecutors may consent to “compound” many criminal offences. Compounding an offence (also called “composition”) is a process whereby the victim allows the accused to admit his guilt and offer prescribed restitution with the consent of the public prosecutor. Once an offence is compounded, the accused is effectively acquitted of the crime, all charges are dropped, and any investigatory activity ceases.

This paper will explore three reasons for Singapore's low crime rates and convictions. First, there is a strong sentiment of public morality that acts as a powerful deterrent to criminal activity. This sense of morality arises from a pervasive Confucianist ethic that emphasizes the importance of

⁷ See appendixes A and B

⁸ One particularly difficult aspect of this comparison is that Singapore does not use the misdemeanor/felony distinction employed in the United States. In compiling crime statistics, Singapore includes crimes such as vandalism and begging in its miscellaneous category. See the explanations of Singapore's crime categories in Appendix A

community responsibility and “right behavior” as well as the powerful vision for Singapore that its founder, Lee Kuan Yew, instilled in the society, and it manifests itself through the formation of citizen watch groups, creation of blogs and websites devoted to reporting unacceptable behavior of other citizens, and a strong aversion to shaming sentences. Second, prosecutors enjoy an immense amount of freedom with respect to how they chose to handle low level offences. The two most significant options prosecutors possess are first, all of their decisions with respect to instituting, conducting, or discontinuing proceedings for any offence are evaluated according to what is in the “public interest” or the “requirements of justice,” and second, prosecutors are allowed to compound offences, even for violent crimes like battery. Finally, Singapore imposes severe penalties on every level of offence, including the death penalty for numerous drug related crimes. Largely based on Lee Kuan Yew’s belief that sufficiently severe penalties would deter would-be criminal offenders and produce a law abiding public, Singapore judicially imposes corporal punishment as a sentence for a wide range of crimes. Even low-level offences like vandalism or purchasing fireworks can earn a perpetrator a caning sentence. Together, these three factors operate in an interdependent concinnity that produces the success of the Singaporean model.

In discussing these aspects of Singapore’s criminal justice system, this paper intends to give a broad sketch of these salient features based on anecdotal evidence and procedural requirements rather than a strict statistical analysis. Describing this unique and efficacious system without parsing out all its minutia will suffice for our purposes. Reasons for this are the difficulty in acquiring reliable numbers of how many *reported* crimes are compounded or dealt with in some other extra-judicial manner and the difficulty in measuring the influence of public morality in deterrence. More importantly, detailed analysis of each of these factors is beyond the scope of this paper, which only seeks to provide an overview of certain important aspects of Singapore’s system. In light of this, no discussion of the economics of crime in Singapore will ensue. Undoubtedly, Singapore’s relative

economic prosperity contributes to its diminished crime rates because of the high universal provision for the people's basic needs; however, such analysis would shift focus away from the criminal justice system itself.

Singapore believes that criminal justice is an internal or domestic concern and not a matter for international attention involving questions about human rights. Criminal law brands people whose conduct has earned societal condemnation. This attitude may seem strange given Singapore's concern for international law in most of its transactional regulations. However, whereas Singapore uses commercial regulations to become as attractive to foreign businesses and investors as possible, the city views criminal law as affecting the morality and efficiency of its own society and therefore of little concern to the rest of the world. This explains the nation's unwavering commitment to the death penalty and caning despite international pressure to abandon these allegedly archaic disciplinary measures. Singapore only allows international considerations to impact its criminal law to the extent that they effect the city's attractiveness to foreigners or concern societal efficiency. Thus, even such innocuous activity as chewing gum is harshly penalized because of the perceived blight on the city.⁹ Although the opinion that each country should rule its own citizens as it sees fit produces some results that may offend Western sensibilities, the clear effectiveness of those policies warrants a closer look to discover what can be learned from the Singaporean model.

⁹ Beginning in 1992, Singapore banned the importation of chewing gum when it became a massive public nuisance, especially because individuals were leaving so much gum on the Mass Rapid Transit (MRT) system that it interfered with the automatic doors and the efficient operation of the trains. Citizens are not supposed to be able to acquire gum except at a pharmacy with the permission of a doctor or dentist. Pharmacies must collect the information of everyone who purchases gum and may be fined for failure to do so. The ban on chewing gum is an extension of the littering laws. Anyone caught improperly disposing of gum may be fined between \$500 and \$1,000 USD for the first offence, up to \$2,000 for a second offence, and repeat offenders will be assigned a corrective work order (CWO). CWOs compel offenders to clean public places in brightly colored jackets, and sometimes the media is invited to cover the event in order to add shame.

1) The Deterrent Effect from Public Morality

Singapore's approach to public morality offers the most effective means of reducing crime rates and limiting convictions: a people who do not want to commit crimes. While external factors like the certainty of being caught or the severity of punishment can deter criminals, crime begins with a choice, and the stronger the internal compulsion to eschew that choice the less crime there will be. Singapore's population has a strong Confucianist ethic that is reinforced by Lee Kuan Yew's societal vision. Cumulatively, these factors contribute to a public morality that makes citizens extremely reluctant to commit crimes, willing to engage in public policing practices, and particularly sensitive to penalties that have a shaming element.

a) The Confucianist Ethic Inculcates a Sentiment of Communal Shame

Singaporean culture is heavily influenced by Confucianism¹⁰ because of its Chinese majority population.¹¹ Two core concepts of Confucianism are duty/shame and the primacy of relationships. Duties are a set of positive practices that everyone must observe and are largely defined by a person's relationships. For instance, children have a responsibility to care for their aged parents.

Unlike the individualized morality prevalent in Western culture, Asian identity is linked to the relationships the individual is involved in, which relationships define his responsibilities, allow him to make demands on others' behavior, and confer status based on membership and esteem within the group. Right behavior and individual identity are thus highly dependent upon the circumstances and relationships in which one is involved. This introduces a social component to Confucian morality whereby one's behavior is evaluated according to its conformity with the

¹⁰ "The Chinese majority in Singapore ensures the discourse as philosophical insight and popular values remains relevant, albeit with help from the state. And though not a formal political ideology of Singapore, the Confucian ethics discourse exists as a *de facto* national ethic." Terence Chong, "Asian Values and Confucian Ethics: Malay Singaporean's Dilemma," *Journal of Contemporary Asia*, Vol. 32, No. 3 (2002): 402. Accessed June 4, 2017. <http://www.olemiss.edu/courses/pol337/chongt02.pdf>

¹¹ The Singapore Department of Statistics reported that in 2014, Singapore's population was 76.2% ethnic Chinese. See Singapore Department of Statistics, "2014 Population in Brief," *Singapore: Singapore Department of Statistics* (September 2014). Accessed June 4, 2017. <https://web.archive.org/web/20150513031121/http://www.nptd.gov.sg/portals/0/news/population-in-brief-2014.pdf>

standards of society, and, more importantly, a breach of duty has implications not only for the individual but also every member of the group to which his identity is intrinsically tied. Furthermore, because law, especially criminal law, is an expression of societal standards of behavior, one has a duty to obey the law, and violations of that duty have ramifications for others one is associated with.¹²

Failure to fulfil one's duty is shameful, and that shame is shared by his social and familial relations. Thus, when one commits a crime and is punished for it, the individual feels shame and those in his social and familial circle are tainted by their association with the accused. Ostracization is often a consequence for transgression, both for the individual and his relations. Shame thereby has a redoubled effect because the individual's own sense of wrong-doing is compounded by his action's consequences for those he cares about. Parents of criminals, for example, are held socially responsible for not teaching their children better, and, in some Chinese societies, punishment for certain crimes could be meted out to relatives in addition to the culprit with severity correlated to the degree of relationship.¹³ Psychologists Olwen Bedford and Kwang-Kuo Hwang of the National Taiwan University describe the importance of guilt and shame in Confucianism as follows:

[Guilt and shame] help maintain a sense of personal identity, function as mechanisms of social control, and provide channels for processing stress or norm violation into self-punishment. Guilt and shame subtly shape behavior, often by causing people to behave so as to avoid experiencing them. It is unlikely that any society could be maintained without them.¹⁴

Shame thereby produces a strong deterrent effect because of the possibility of bringing shame and social punishment upon one's friends and family.

b) Lee Kuan Yew's Vision of Society Reinforces Public Morality

¹² See generally, Olwen Bedford and Kwang-Kuo Hwang, "Guilt and Shame in Chinese Culture: A Cross-cultural Framework from the Perspective of Morality and Identity," *Journal for the Theory of Social Behavior*, 33:2 (2003)

¹³ Bedford and Hwang, "Guilt and Shame in Chinese Culture," 134

¹⁴ *Ibid*, 127 (Internal quotation marks omitted)

Lee Kuan Yew¹⁵ sought to extend the traditional feeling of shame to a national level. Stop any citizen in the street and you can easily become embroiled in a conversation about the Founder's vision of a traditional, safe, and efficient Singapore taking a prominent role in the international arena. Lee Kuan Yew was a strong proponent of "Asian values" based on Confucianist principles that would produce a hierarchical society and a paternalistic, illiberal state. He believed that an "illiberal democracy" enabled the strong measures necessary to achieve rapid economic growth.¹⁶ History has largely vindicated his belief, and Confucianism is comfortably enshrined in Singapore's governing regime. While economic controls are at the heart of Lee Kuan Yew's paternalistic vision, Confucianism manifests itself in many aspects of society ranging from the importance and hierarchy of the family to education to clean and safe streets.

Articulating his vision in a speech given in 1966, Lee explained the importance of what he called "cultural ballast." By this term "he referred to the supposedly innate strength that comes from identification with one's cultural heritage."¹⁷ This heritage was meant to act as an inoculation from the cultural revolutions taking place in America during the 70's and 80's as well as produce social discipline, order, and cohesion. By seeking to unify Singapore around traditional Confucian values, Lee was at once solidifying his own position by legitimizing a hierarchical and stratified society and inculcating a sense of national pride. Society needed to be stable and orderly so that parents could raise children, business could be conducted efficiently, and the city would become increasingly attractive to foreign investors and tourists.

In order to attain this vision, crime had to be kept to a minimum. Lee instituted three means of achieving this goal. First, by engendering a strong sense of national pride, crime was not only

¹⁵ Lee Kuan Yew was Singapore's first Prime Minister after Britain relinquished its colonial rule. He governed the country for three decades and is credited with transforming Singapore from a third world to a first world country in a single generation. It is difficult to overstate the significance of his leadership or the ongoing influence of his ideas in Singapore culture and politics.

¹⁶ Michael D. Barr, "Lee Kuan Yew and the 'Asian Values' Debate," *Asian Studies Review*, Vol. 24, No. 5, (September, 2000): 312

¹⁷ *Ibid*, 317

shameful for the individual and his immediate relations, but for society as a whole. Lee attempted to extend the sense of community from close affiliates to the national identity. High crime rates would thus bring shame on the nation as a whole as well as jeopardize its international attractiveness as a place of business and tourism.

Second, Lee Kuan Yew initiated Singapore's educational campaign against crime. For example, throughout the city you will find posters with the slogan, "Low Crime Doesn't Mean No Crime." This phrase was popularized by the national television campaign series called "CrimeWatch," which exposes scams and shows landmark cases being solved by police in an effort to educate the public and display the effectiveness of Singapore's police force. Additionally, schools educate children about the harmful effects of drugs and cigarettes and the criminal penalties for their use.

Finally, Lee Kuan Yew believed that severe punishment was effective in deterring crime based on his experiences during the Japanese occupation of Singapore during WWII. Throughout Japan's occupancy, virtually no crime was committed in Singapore because of the harshness of the penalties. Lee sought to produce similar conditions in modern Singapore by maintaining substantial consequences for criminal behavior. Although Singapore is best known for its continuing use of capital punishment and caning, even its fines for mundane offences can be exorbitant. Eating or drink on an MRT, Singapore's subway system, carries a fine of \$500 SGD.¹⁸

Another important aspect of Singapore's criminal deterrence scheme is the pervasiveness of its law enforcement. Police are stationed in each residential area of the city, which allows for rapid response to reported crimes, and there is a high police/civilian ratio. Singapore is also very technologically advanced and has a high density of CCTV cameras set up. The city's population density further means that it is almost impossible to avoid detection during the commission of a

¹⁸ Approximately \$360 USD.

crime. Returning to the above MRT example, I once accidentally attempted to board an MRT with an open bottle of water. Seemingly out of nowhere, two officials appeared, politely requested I store the bottle in my bag, and were gone almost before I registered their presence. Put succinctly, criminals are extremely likely to be caught in Singapore, and it is important to every citizen that they be caught.

c) Citizen Reactions to Public Morality

The foregoing two factors develop a sense of public morality that makes citizens strongly crime adverse. This aversion manifests itself in two ways. First, citizens have created numerous public policing mechanisms. Second, criminal penalties that have a shaming element have an even stronger deterring effect.

i) The Creation of Public Policing Mechanisms

Singaporean desire to prevent and punish crime has resulted in the creation of numerous official and unofficial organizations devoted to policing activity. Some of these mechanisms involve working alongside official law enforcement. Others are privately run affairs that ensure socially unacceptable behavior (both legal and illegal) is sufficiently spotlighted to dissuade other would-be perpetrators. We will look at two examples of these organization. But even beyond these mechanisms, it is important to recognize that citizens of Singapore are generally willing to report suspicious or criminal behavior to the authorities. While this communal-policing attitude contributes to the effectiveness of law enforcement, an open question remains about the negative effects of such reporting on the trust between citizens and how this impacts their happiness and sense of community.

The first example of citizen policing is called Citizens on Patrol (COP). COP is a community policing program developed by Singapore law enforcement to enable citizens to help with police responsibilities such as patrols, handing out fliers, and offering crime prevention advice. Groups are

established in the various communities and neighborhoods around Singapore. Locals who become members receive some basic training and are alerted to the latest security concerns to better enable them to act as the “boots on the ground” for the police. With over 600 groups and 12,000 members, the program is quickly expanding.¹⁹ One of the more beneficial aspects of the program is its ability to strengthen the ties between the community and the police; citizens aware of suspicious activity in the neighborhood will often alert members of COP who then pass the information up the chain-of-command.

This type of program is far from unique. Over the last fifteen years numerous Safety and Security Watch Groups have been started. With each new program, citizens are given new opportunities to become involved in the law enforcement activity of their communities.

The second example of citizen policing mechanisms involves the running of online blogs and newspapers dedicated to spotlighting unsociable behavior. With 5 million citizen journalists and consumers,²⁰ STOMP (Straits Times Online Mobile Print) is an online publication devoted to reporting both tales of heroism and socially or legally reprehensible acts as captured by everyday citizens. STOMP features articles and videos capturing everything from illegal driving to socially abhorrent behavior such as putting one’s feet upon a seat on the MRT. While sometimes the website can help police to identify and respond to crimes, it often operates as a method of conveying social rancor on those unfortunate enough to be caught engaging in unacceptable acts.

The ramifications from this publicity can be quite far reaching. One recent article containing a video showing a couple’s verbal and physical abuse of an older man sparked an extensive internal investigation by United Overseas Bank when two of its employees were accused of being the couple in the clip. Other articles are used to follow up on broader social issues or to report on the results of

¹⁹ Singapore Police Force, “Community Programmes,” *Singapore Government*. Last updated February 2017. Accessed June 4, 2017. <http://www.police.gov.sg/community-programme>

²⁰ Straits Times Online Mobile Print, “About Us,” STOMP. Accessed June 4, 2017. <http://www.stomp.com.sg/about-us>

police investigation. Overall, publications like STOMP are effective at mobilizing public and police attention against those who transgress public morality.

ii) The Impact of Shaming Penalties

Singapore also uses shaming penalties as an additional means of deterring crime. One of the most potent in this class is the Corrective Work Order (CWO). This penalty requires second time litterers to spend a number of hours picking up litter in a public place. CWOs have two purposes. First, they force the offender to make amends. Second, they expose the offender to public humiliation.²¹ Although some doubt the effectiveness of CWOs, proponents argue that very few individuals who have been penalized with a CWO have repeated the offence.²² In addition to the public work, some offender's faces are posted on social media.

Given the culture's strong sense of shame, such penalties can be very effective because they expose the perpetrator to public humiliation. Compared to incarceration, which basically makes a criminal disappear from the public eye, sentences that have a public component are uniquely effective in Singapore. These sentences also encourage members of society to police their affiliates because shame is not limited to the individual actor.

In conclusion, Singapore's public morality causes its citizens to be strongly crime adverse and provides the government with several additional tools for its criminal justice system. This public morality arises from both the Confucianist ethic that focuses on community and shame and Lee Kuan Yew's vision for Singaporean society. Yet, Singapore does have some crime, and understanding how criminal activity is addressed within the criminal justice system is another important step in explaining Singapore's low crime and conviction rates.

²¹ Wing-Cheong Chan, "A Review of the Corrective Work Order in Singapore," *The British Criminology Conference: Selected Proceedings*, Vol. 5 (2003): 1. Accessed June 4, 2017. <http://www.britisoccrim.org/volume5/001.pdf>

²² Siau Ming En, "Authorities turn to public shaming, again," *Today Online*, last updated August 10, 2014. Accessed June 4, 2017. <http://www.todayonline.com/singapore/authorities-turn-public-shaming-litterbugs-again>

2) Prosecutorial Alternatives to Conviction

Prosecution is an expensive and time-consuming burden on any society, which encourages the development of alternatives. High conviction rates are similarly costly both in resources and reputation. Two options that Singapore employs to limit the burdens of criminal litigation are broad prosecutorial discretion and composition. Regarding the first possibility, public prosecutors have nearly unfettered prosecutorial discretion governed by the “public interest” with respect to whether and how they pursue litigation. The second option, compounding offenses, allows Singaporean prosecutors to authorize compensatory alternatives to prosecution between the victim and the accused. These two alternatives mean that a significant number of reported crimes never result in convictions.

a) Assessing the “Public Interest”

The office of the Attorney-General in Singapore has two primary functions: first, to be the primary legal advisor to the government,²³ and second, to act as the Public Prosecutor tasked with enforcing the criminal laws of Singapore.²⁴ In this second capacity, the Public Prosecutor is granted complete independence to fulfill his constitutional responsibilities by Article 35(8) of the Constitution of Singapore, which states: “The Attorney-General shall have power, exercisable at his discretion, to institute, conduct, or discontinue any proceedings for any offence.”²⁵ The Criminal Procedure Code (CPC) further stipulates that “[t]he Attorney-General shall be the Public Prosecutor and shall have the control and direction of criminal prosecutions and proceedings under this Code.”²⁶ This discretion likewise extends to prosecutions under the Penal Code or any other written

²³ In this capacity, the Attorney-General advises the various Government Ministries, defends the government against any lawsuits brought against it, and drafts legislation. *See* Bala Reddy, “The Rule of Law and the Role of the Public Prosecutor,” *Attorney-General’s Chambers, Singapore*, 2014. Accessed June 4, 2017. http://www.iap-association.org/Conferences/Annual-Conferences/18th-Annual-Conference-and-General-Meeting-Provisi/18AC_P1_speech_Bala_Reddy.aspx

²⁴ *Ibid*, 4

²⁵ The Constitution of the Republic of Singapore, Part V, Chap. 2, § 35(8)

²⁶ Criminal Procedure Code (Cap 68, 2012 Rev Ed) § 11(1). Hereafter “CPC § X”

law in Singapore.²⁷ The Code also empowers the Attorney-General to appoint Deputy Public Prosecutors and Assistant Public Prosecutors to act as his deputies in the performance of his duties.²⁸ These agents have the same broad discretion that belongs to the Public Prosecutor.²⁹ With the exception of unconstitutionality, which will be discussed below, the Public Prosecutor has complete discretion over when and how he exercises his prosecutorial powers. Even the courts are not allowed to interfere with a prosecutor's decision about whether or how to charge an accused.³⁰

There are four aspects of prosecutorial discretion in Singapore: whether to initiate prosecution, what charges to bring prior to trial, whether to amend the charges during trial, and whether to discontinue criminal proceedings.³¹ Additionally, Singapore allows for private prosecution of minor offences with the approval of a magistrate, which prosecutions a Public Prosecutor may decide to take over or discontinue.³² Because Singapore has mandatory minimum sentences attached to many of its crimes and different ways of handling rights of the accused, such as habeas corpus, depending on what law the accused is charged under, the grant of discretion is even broader than it first appears.

As the custodian of the prosecutorial power, the Public Prosecutor is expected to enforce the criminal law in a manner calculated to benefit the greater good of society. In this endeavor, the

²⁷ *Ibid.*, § 12(1)

²⁸ *Ibid.*, § 11(2-5)

²⁹ For an outline of the Attorney-General's structure, see Appendix C.

³⁰ In *Law Society of Singapore v. Tan Guat Neo Phyllis*, [2008] 2 S.L.R.(R). 239 (H.C.) at [145], the Singapore High Court stated: "In relation to public prosecutions, Art 35(8) makes it clear that the institution, conduct or discontinuance of any criminal proceedings is a matter for only the Attorney-General to decide. This means that, except for unconstitutionality, the Attorney-General as an unfettered discretion as to when and how he exercises his prosecutorial powers. This also means that it is improper for the court to prevent the Attorney-General from prosecuting an offender by staying the prosecution." In *Thiruselvam s/o Nagaratnam v. Public Prosecutor*, [2001] 1 S.L.R.(R). (C.A.) at 32, the Singapore Court of Appeal stated: "The Prosecution has a wide discretion to determine what charge or charges should be preferred against any particular offender, and to proceed on charges of different severity as between different participants of the same criminal acts..."

³¹ Siyuan Chen, "The Limits on Prosecutorial Discretion in Singapore: Past, Present, and Future," *International Review of Law* 2013:5. Accessed June 4, 2017. <http://dx.doi.org/10.5339/irl.2013.5>

³² Francis Tseng, "Enhancement of the Rule of Law and Promotion of the Public Interest – The Role and Function of the Prosecution System in Singapore," *107th International Training Course Visiting Experts Papers*, Resource Material Series No. 53 (1997): 107

prosecutor is guided by whether the prosecution is in the “public interest” or not.³³ The “public interest” inquiry establishes an objective for the exercise of discretion and prevents the prosecutor from acting arbitrarily, yet casts a wide net in its own right. Only the Attorney-General possesses the necessary information to determine whether prosecution should be initiated or not, and because it is not necessarily in the public interest for every crime to be prosecuted, the threshold assessment before bringing charges is whether there is a reasonable prospect of securing a conviction given that the burden of proof in criminal cases is proof beyond a reasonable doubt.³⁴ Unless there is a reasonable chance to secure a conviction, it is neither fair to the accused nor worth the expenditure of limited judicial resources to sustain the rigors of a public trial.

In addition to the “reasonable prospect of conviction” test, the Public Prosecutor is also expected to take mitigating factors into consideration in determining whether to charge and which charges should be brought. “These grounds may include sympathetic considerations; the age or immaturity of the offender; the provocation or temptation provided by the victim; remorse or rehabilitation of the offender; low degrees of culpability, contribution to the offence or guilty intent; and voluntary disclosure of the offence and/or restitution on the part of the offender.”³⁵ Sometimes, warnings are issued in lieu of prosecution. Other times, offenders involved in the same crime may be

³³ In *Ramalingam Ravinthran v. Attorney General*, [2012] 2 S.L.R.49 (C.A.) at [53], the Singapore Court of Appeal stated: “The Attorney-General is the custodian of the prosecutorial power. He uses it to enforce the criminal law not for its own sake, but for the greater good of society, i.e., to maintain law and order as well as to uphold the rule of law. Offences are committed by all kinds of people in all kinds of circumstances. It is not the policy of the law under our legal system that all offenders must be prosecuted, regardless of the circumstances in which they have committed offences. Furthermore, not all offences are provable in a court of law. It is not necessarily in the public interest that every offender must be prosecuted, or that an offender must be prosecuted for the most serious possible offence available in the statute book. Conversely, while the public interest does not require the Attorney-General to prosecute any and all persons who may be guilty of a crime, he cannot decide at his own whim and fancy who should or should not be prosecuted, and what of fence or offences a particular offender should be prosecuted for. The Attorney-General’s final decision will be constrained by what the public interest requires.”

³⁴ In *Yong Vui Kong v. Public Prosecutor*, [2012] 2 S.L.R. 872 (C.A.) at [39], the Singapore Court of Appeal stated: “The AG has the responsibility to protect the integrity of the prosecutorial process, which is vital to public confidence in our criminal justice system and the rule of law. He has an obligation to exercise his prosecutorial discretion impartially. This entails (*inter alia*) that the AG should prosecute an accused person only if there is sufficient evidence to support the charge against him and, conversely, should discontinue a prosecution if he concludes, after reassessing the case against the accused, that there is no or little prospect of securing a conviction.”

³⁵ Tseng, “Enhancement of the Rule of Law and Promotion of the Public Interest,” 109

charged differently depending on how the prosecutor views each person's culpability. In yet other instances, the Attorney-General may refuse to initiate prosecution on the basis of non-evidentiary grounds such as political sensitivities or compassion.³⁶ The Attorney-General does not reveal the criteria used to determine who to prosecute or how to charge, which means the Public Prosecutor's decisions are practically unreviewable as long as they arguably satisfy the "public interest."³⁷ While the Public Prosecutor's power to drop charges or merely issue a warning gives prosecutors a lot of flexibility to handle crimes and contributes to Singapore's low conviction rate, it is not unlimited.

There are two important caveats on prosecutorial discretion that allow for judicial review of a prosecutor's decisions: first, discretion cannot be used in "bad faith" as an abuse of power, and second, the exercise of discretion cannot contravene constitutional protections and rights.³⁸ The former prevents the prosecutor from acting in an arbitrary manner; the latter ensures the rights of the accused are not violated by an exercise of discretion. Although judicial review of discretion exists, courts have been reluctant to use it. Reviewing discretion for "bad faith" is difficult because it would require the courts to compel the Attorney-General to explain the basis for his decisions, but any such public explanation would have the unintended consequence of notifying the public how prosecutors were handling different types of crimes, thereby allowing perpetrators to game the system. Additionally, "any prosecutor who somehow manages to institute proceedings in bad faith

³⁶ Chen, "The Limits on Prosecutorial Discretion in Singapore," 5

³⁷ In order to guarantee good and consistent decisions in cases involving serious crimes, especially those that could result in capital punishment, each case is reviewed by three senior DPPs who have an equal say in the recommendation. This recommendation is then given to the Head of the Division, who adds his suggestion and then forwards the entire file to the Attorney-General. However, lower level offences do not receive such careful treatment and are often decided solely by the DPP or APP handling the case.

³⁸ In *Law Society of Singapore v. Tan Guat Neo Phyllis*, [2008] 2 S.L.R.(R). 239 (H.C.) at [149], the Singapore Court of Appeal stated: "The discretionary power to prosecute under the constitution is not absolute. It must be exercised in good faith for the purpose it is intended, i.e., to convict and punish offenders, and not for an extraneous purpose. As the Court of Appeal said in *Chng Suan Tze v Minister for Home Affairs* [1988] 2 SLR(R) 525 at [86], all legal powers, even a constitutional power, have legal limits. The notion of a subjective or unfettered discretion is contrary to the rule of law. In our view, the exercise of the prosecutorial discretion is subject to judicial review in two situations: first, where the prosecutorial power is abused, i.e., where it is exercised in bad faith for an extraneous purpose, and second, where its exercise contravenes constitutional protections and rights (for example, a discriminatory prosecution which results in an accused being deprived of his right to equality under the law and the equal protection of the law under Art 12 of the Constitution)."

would probably not make it obvious at all,” and it would probably take a “fairly extreme incongruence between an accused person’s moral culpability and the charge he faces before the court is satisfied that there is something amiss.”³⁹ Reviewing discretion for constitutional violations is similarly difficult because the Singapore Supreme Court has held there is a presumption of constitutionality in the exercise of discretion that can only be overcome by prima facie evidence of a breach.⁴⁰ This standard is hard to meet,⁴¹ but the potential for judicial review encourages prosecutors to follow the legal limitations on their discretion. Despite these caveats, however, there are several laws that prosecutors may choose to bring charges under that are not subject to review and further explain why Singapore convicts so few people.

In most instances, Singapore’s law requires that arrests be carried out following the issuance of a warrant and that arrested individuals must be charged before a magistrate within 48 hours. However, some laws – the Internal Security Act (ISA), the Criminal Law (Temporary Provisions) Act (CLA), the Misuse of Drugs Act (MDA), and the Undesirable Publications Act (UPA) – allow for arrest without a warrant and permit preventative detention without trial.⁴² The ISA is employed primarily against suspected security threats, albeit rarely, and permits suspects to be detained for up to two years without a trial, which time may be extended by two year increments indefinitely.⁴³ For example, in 2011 the U.S. Department of State’s Human Rights Report noted that 15 suspected

³⁹ Chen, “The Limits on Prosecutorial Discretion in Singapore,” 11

⁴⁰ *Quek Hock Lye v Public Prosecutor* [2015] SGCA 7

⁴¹ For example, if a defendant wanted to show that a prosecutor’s charging decision violated Singapore’s constitutional equal protections of the law requirement, the Criminal Court of Appeals held that a prosecutor need only show that “the cases of all potential defendants to criminal charges, shall be given unbiased consideration by the prosecuting authority and that decisions whether or not to prosecute in a particular case should not be dictated by some irrelevant consideration...” in order to meet his burden under the equal protections clause. *Sim Min Teck v. Public Prosecutor* [1987] 2 SLR(R) 65 at [10] (Internal Citations Omitted).

⁴² U.S. Department of State, “2010 Singapore Report on Human Rights Practices,” *Bureau of Democracy, Human Rights, and Labor* (April 2011): 3-4. Accessed June 4, 2017. <https://www.state.gov/j/drl/rls/hrrpt/2010/eap/154401.htm>

⁴³ *Ibid*

terrorists were being held under the ISA, some since 2004. The ISA also prohibits detainees from challenging the substantive basis for their detention through the courts.

The CLA allows the Minister for Home Affairs to order preventative detention in one year increments with the concurrence of a public prosecutor. The Minister must provide a written statement of the grounds for the detention to the Criminal Law Advisory Committee (CLAC), which then reviews the case and makes a recommendation to the President, who may cancel, confirm, or amend the order. The President may later extend detention for additional periods of one year at a time. Individuals detained under the CLA may petition courts for a writ of habeas corpus, but only CLAC may review the substantive basis for their detention. The CLA is exclusively used in cases involving narcotics and organized crime, and, as of 2010, there were no reported uses for political purposes.⁴⁴ In 2008, 290 people were in detention under the CLA. Both the CLA and the ISA permit modified forms of detention such as curfews, residence limitations, travel restrictions, and restrictions on political activities and association.⁴⁵

Under the MDA, the director of the Central Narcotics Bureau (CNB) may commit suspected drug abusers to a drug rehabilitation center for a six-month period, which is extendable by a review committee of the institution for up to a maximum of three years. There is no review of the process. In 1998, nearly 5,000 people were detained under the MDA;⁴⁶ however, this number has since dropped to approximately 800 in 2010.⁴⁷

Collectively, the various options prosecutors can offer numerous alternatives to conviction. Whether they choose not to initiate proceedings for resource or political considerations, exercise leniency and let accused individuals off with a warning, or simply detain individuals for an indefinite

⁴⁴ Ibid, 5-6

⁴⁵ Ibid, 6

⁴⁶ Robert Winslow, "Singapore," *Crime and Society: A Comparative Criminology Tour of the World*. Accessed June 5, 2017. http://www-rohan.sdsu.edu/faculty/rwinslow/asia_pacific/singapore.html

⁴⁷ U.S. Department of State, "2010 Singapore Report on Human Rights Practices," 6

period of time, prosecutors' broad grant of discretion further enables Singapore to handle crime in an efficient manner and keep conviction rates low.

b) Compounding Offences

Composition was imported from the British common law via the Straits Settlement Criminal Procedure Code in the late 19th century, and it has been an integral component of Singapore's criminal justice system ever since.⁴⁸ Composition is a method of dispute resolution between the victim and suspected perpetrator of a crime whereby the accused offers the victim some form of compensation, typically monetary, and legal proceedings against the accused cease.⁴⁹ If an investigation was commenced, no further proceedings would be taken; if the accused was charged in court, the court must order a discharge amounting to an acquittal in respect of the accused.⁵⁰ While composition may occur at any time between the commission of a crime and the start of trial, once an investigation has begun, composition is only permitted with the consent of the Public Prosecutor or an authorized deputy⁵¹ on such conditions as he may impose.⁵² In this respect, composition is but another aspect of prosecutorial discretion.

Composition is carefully regulated by Singapore's Criminal Procedure Code (CPC), which maintains a schedule of compoundable offences that specifies what crimes are compoundable,⁵³

⁴⁸ Ryan David Lim and Selene Yap, "Composition: Legal and Theoretical Foundations," *Singapore Academy of Law Journal*, 27 SAclJ (2015): 462. Accessed June 5, 2017.

<http://journalonline.academypublishing.org.sg/Journals/Singapore-Academy-of-Law-Journal/e-Archive/ctl/eFirstSALPDFJournalView/mid/495/ArticleId/415/Citation/JournalsOnlinePDF>

⁴⁹ Compensation may also take the form of a sincere apology, a promise to cease from certain behavior, or the performance of a specific deed, such as a charitable donation.

⁵⁰ CPC § 241(4-5). *See also*, *Public Prosecutor v. Heng Tieng Yen* [2014] SGHC 265, in which a traffic fine was imposed despite the defendant having already compounded the offence due to a mistake. Upon discovering the error, the prosecution moved to set aside the judgment, and the court so ordered.

⁵¹ CPC § 242(5)

⁵² This is a significant change in the law since 2012. Prior to the 2012 revised edition of the Criminal Procedure Code (CPC), composition could only occur with the consent of the *courts* once the accused was charged for the offence. *See*, Lim, "Composition," 466. *See also*, CPC § 241(2)

⁵³ CPC Fourth Schedule: Offences that may be Compounded by Victim. *See* Appendix D for the schedule of compoundable offences.

regulates the amount of compensation,⁵⁴ and determines who must consent to composition (in addition to the prosecutor).⁵⁵ Additionally, the CPC authorizes other statutes to provide for composition and allows prosecutors to compound certain offences that do not involve specific victims, such as crimes against public property.⁵⁶ While composition is regularly used to deal with minor infractions such as traffic violations or public nuisances, the schedule regulating composition covers a broad array of crimes ranging from trespass to defamation to certain types of assault.⁵⁷

The option to compound an offence is banned in the American legal system⁵⁸ because crime is generally regarded as a wrong against society. “The offender and the victim are not normally allowed to come to an agreement to absolve the offender from criminal responsibility.”⁵⁹ In England, the act of compounding was itself a common-law crime for many years.⁶⁰ But when England began exporting its judicial system to Singapore, it laid the groundwork for the doctrine of composition enshrined in the CPC today.

In Singapore, the legislature has found that composition by private individuals is a valuable tool for providing restitution and expediency in the criminal justice system as long as it is governed by four underlying principles: (1) an agreement with the injured party, (2) the approval of the Public Prosecutor, (3) the public interest, and (4) the seriousness of the offence.

(1) The agreement must be formed with the wronged party because part of the value of composition is that it encourages restorative justice. This victim-centric approach encourages

⁵⁴ CPC § 242(1)

⁵⁵ See Appendix D

⁵⁶ *Singapore Parliamentary Debates, Official Report* (18 May 2010), vol 87 at col 415 (Mr. K Shanmugam, Minister for Law)

⁵⁷ See Appendix D

⁵⁸ Although perpetrators are allowed to make restitution to victims, no agreements between victims and perpetrators to not press charges are legally enforceable for public policy reasons. First, the prosecution of criminals should not be up to individuals. Second, a widespread practice of composition could lead to exploitation or bribery of alleged perpetrators and/or allow the wealthy to purchase their way out of crimes.

⁵⁹ K. S. Rajah, “Composition and Due Process,” *Law Gazette*, 2004. Accessed June 5, 2017. <http://www.lawgazette.com.sg/2004-1/Jan04-col.htm>

⁶⁰ Lim and Yap, “Composition,” 472

reconciliation because it allows aggrieved parties to reach a mutually acceptable exchange following a crime. (2) The Public Prosecutor's approval is important to protect the public interest, ensures the wealthy do not escape criminal sanction by paying off the poor, and flows logically from a prosecutor's power to decide which cases to bring to court. While approval should not be a mere rubber stamp, prosecutors should see that composition is not contrary to public policy and should even encourage the process as a means of freeing up judicial resources.⁶¹

(3) Perhaps the most critical factor in determining whether an offence should be compoundable is the extent to which the offence is of a public nature. For example, an assault has the nature of a private injury because it typically only effects the two individuals immediately involved whereas drug crimes are considered public in nature because of the societal threat they pose.⁶² Other crimes, such as rape or murder, are not compoundable because they are intrinsically of greater public concern. Offences that are statutorily compoundable according to the schedule are, *prima facie*, private in nature, but the particular circumstances of some compoundable crimes may lead a prosecutor to determine that there is a public element to the crime such that composition would be against the public interest and prosecution ought to be pursued.⁶³ (4) Along with the requirement that compoundable crimes be private is the requirement that they be minor. These requirements often look very similar. At one time, only misdemeanors were considered minor enough to be compounded, but the list has expanded to include many felonies today as well. In general, crimes that involve intent or more severe bodily injury are considered "serious" and are not compoundable.

⁶¹ Before the CPC revisions in 2012, the courts had to approve instances of composition. During this era, one court stated that "composition is not only not against public policy, but it is to be *positively encouraged*." *Public Prosecutor v Norzian bin Bintat* [1995] 3 SLR(R) 105 at [32] [emphasis added]. There is no reason to suspect that the desire to encourage composition has changed.

⁶² Lim and Yap, "Composition," 463

⁶³ *Ibid*, 467

Composition allows prosecutors to expeditiously handle a vast number of disputes without ever entering the courtroom. Yet because there is no criminal record when an offence is compounded, there is no way of knowing just how many cases prosecutors compound every year. The practice is both encouraged and widespread, however. A criminal law professor at NUS and criminal law students suggested during my visit that composition is common because they view it as an efficient means of handling disputes that frees up resources to focus on matters that are of greater public concern. From this perspective, composition is excellent public policy. Regardless of the merits of the system, compounding offences provides an alternative to prosecution that dramatically reduces the number of convictions in Singapore. When combined with the broader aspects of prosecutorial discretion outlined above, these options further explain the efficiency in Singapore's criminal justice system and why the nation appears to struggle so little with crime.

3) The Effect of Corporal Punishment

Singapore is one of the few remaining countries that still imposes capital punishment and continues to use judicially imposed corporal punishment.⁶⁴ Retaining practices inherited from British colonial rule, Singapore imposes a mandatory death penalty for several offences and orders caning for both citizens and foreigners in many others. For instance, in recent memory, Michael Fay was an American teenager sentenced to four strokes of the cane for vandalizing cars in Singapore.⁶⁵ The government claims that these sentences have a powerful deterrent effect, but critics of the system question its effectiveness and argue that such penalties are draconian and inhumane. This section is not meant to prove or disprove these claims; rather, it seeks to explain how and why corporal

⁶⁴ There are 33 countries that still use judicially imposed corporal punishment, most of which are located in Southeast Asia, the Middle East, and Africa. *See*, https://en.wikipedia.org/wiki/Judicial_corporal_punishment Accessed June 5, 2017.

⁶⁵ Michael Fay confessed to stealing road signs and spray-painting cars in Singapore in 1994. He was sentenced to a fine and six strokes of the cane. This sentence was later reduced to four strokes after the U.S. requested leniency.

punishment is used in Singapore (focusing primarily on the practice of caning) and show why certain unique aspects of Singaporean culture makes the practice valuable.

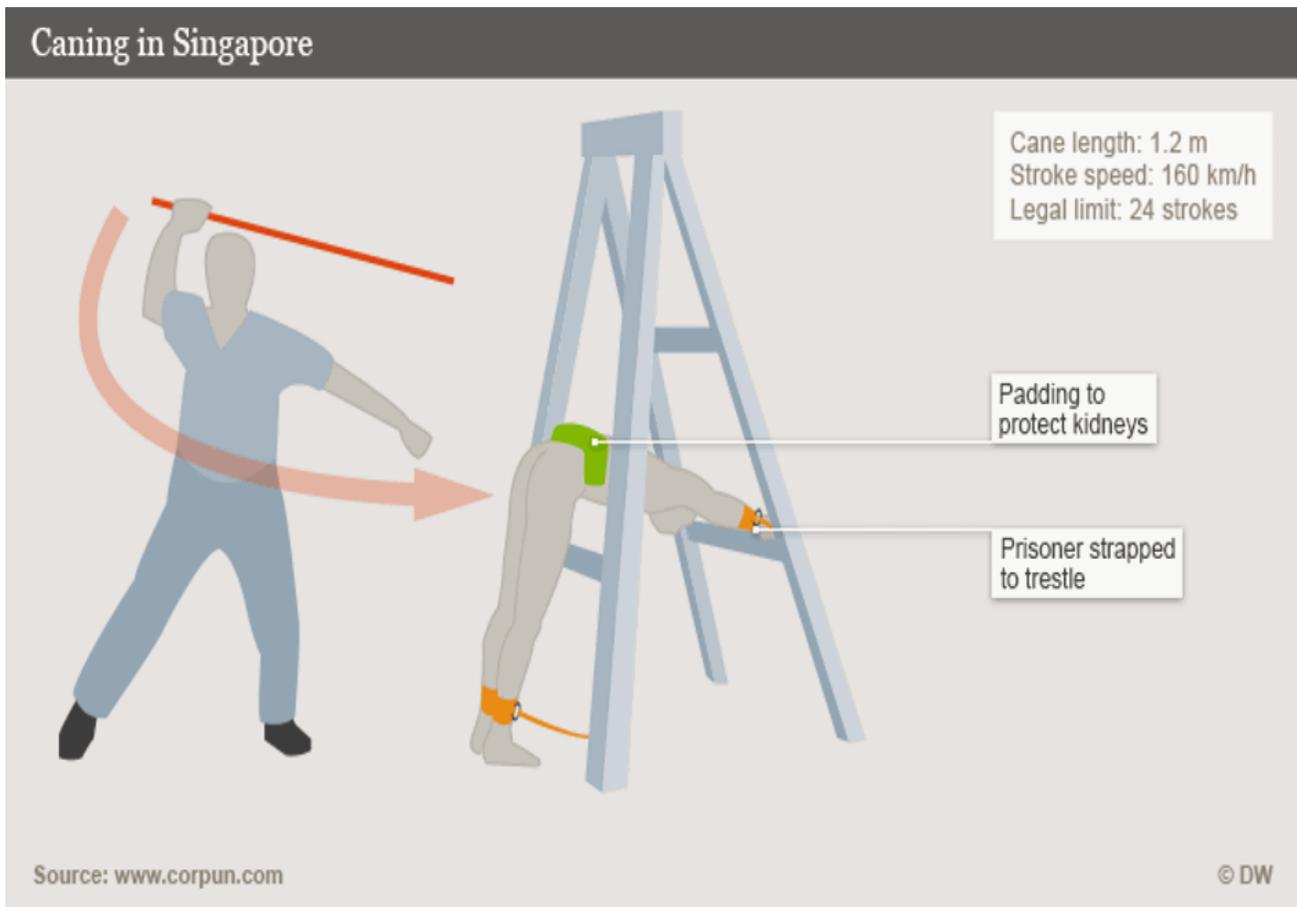
Caning may be imposed for a wide variety of offences. Many of these offences are violent in nature or involve injury to the victim of the crime. Caning is a *mandatory* sentence for approximately 30 offences⁶⁶ such as rape, drug trafficking, robbery, and immigration violations in which foreigners overstay their visas by more than 90 days. The sentence *may* be imposed for numerous other offences including kidnapping, assault, sexual abuse, extortion, and vandalism.⁶⁷ From January to October of 2015, “courts sentenced 1,257 persons to judicial caning, and authorities carried out 987 caning sentences, including on 373 foreigners.”⁶⁸ The number of sentences fluctuates widely from year to year.

⁶⁶ U.S. Department of State, “Singapore 2016 Human Rights Report,” *Bureau of Democracy, Human Rights, and Labor* (2016): 2

⁶⁷ For a sample list of offences for which one can be caned and the permitted number of strokes, see Appendix E

⁶⁸ U.S. Department of State, “Singapore 2016 Human Rights Report,” 2

Singapore imposes several limits on sentencing individuals to be caned. First, only medically fit males between the ages of 16 and 50 may be sentenced to caning; all others may have up to an additional 12 months of prison time added to their sentences.⁶⁹ Second, the maximum number of strokes that may be given is 24 for adults and 10 for juveniles, regardless of how many charges the



individual is convicted of permit caning.⁷⁰ There is also a medical officer on hand who decides whether the punishment continues or stops depending on the condition of the recipient. However, once an individual has been sentenced to caning, clemency is very unlikely. In 2011, the U.S. State Department reported that “2,318 convicted persons were sentenced to judicial caning, and 98.9 percent of caning sentences were carried out.”⁷¹

⁶⁹ CPC § 325(1-2)

⁷⁰ CPC § 325(6)

⁷¹ U.S. Department of State, “2010 Singapore Report on Human Rights Practices,” 2

The cane itself must be 120 centimeters long, no more than 1.27 centimeters in diameter, and moistened and flexible to prevent fraying. The person administering the caning has been trained to induce significant amounts of pain and uses all the force he can apply. Typically, no more than three strikes are needed to pierce the skin, and scarring almost always results.⁷² Michael Fay reported of his own ordeal: “The skin did rip open. There was some blood. I mean let's not exaggerate, and let's not say a few drops or that the blood was gushing out. It was in between the two. It's like a bloody nose.”⁷³ Those who undergo more than three strokes often enter a state of shock, and the pain has been described as “unbearable.”⁷⁴ Medical treatment is given immediately after caning, but healing takes several weeks, during which time sitting, walking, and laying on one’s back is extremely painful. Despite calls from the international community to eliminate this practice, Singapore has rejected all such recommendations and continues to administer caning according to its laws.

One reason Singapore remains thoroughly committed to caning was expressed by Lee Kwan Yew when he introduced mandatory caning for vandalism in 1966: “[...] if (the offender) knows he is going to get three of the best, I think he will lose a great deal of enthusiasm, because there is little glory attached to the rather humiliating experience of having to be caned.”⁷⁵ Lee believed that a sufficiently severe punishment was most likely to produce maximum deterrence, and that such practices were necessary to maintain order and national values. Although modern research casts serious doubts on the claim that increasing the severity of punishments produces deterrence and

⁷² Johan von Mirbach, “The Invisible Scars Left by Strikes of the Cane,” *Deutsche Welle* (May 2015). Accessed June 5, 2017. <http://www.dw.com/en/the-invisible-scars-left-by-strikes-of-the-cane/a-18298970>

⁷³ “U.S. Student Tells of Pain of His Caning in Singapore,” *New York Times* (June 1994). Accessed June 5, 2017. <http://www.nytimes.com/1994/06/26/us/us-student-tells-of-pain-of-his-caning-in-singapore.html>

⁷⁴ World Corporal Punishment Research, “Descriptions of the Experience by Men Who Have Been Caned” (2011). Accessed June 5, 2017. <http://www.corpun.com/singfeat.htm#experience>

⁷⁵ Lee sometimes referred to caning as “three of the best” in connection to his school days when caning of pupils was called “x of the best,” where “x” stands for the number of strokes the child was to receive. World Corporal Punishment Research, “Humiliation and Deterrence,” (2011). Accessed June 5, 2017. <http://www.corpun.com/singfeat.htm#humiliation>

argues that certainty of punishment is more effective,⁷⁶ several aspects of Singaporean society make it likely that corporal punishment has a greater deterrent effect than such research would suggest.⁷⁷

As discussed in the first section, shame is a powerful motivating force in Singapore, and caning is one of the most humiliating punishments available. The sentence is always carried out privately behind prison walls, but many cases, especially those involving numerous strokes, are widely publicized and discussed. Officials make no efforts to hide the use of caning, and the penalty itself is humiliating because of the utter powerlessness of the recipient. Finally, those who have been caned often have permanent scars in their body that act as a daily reminder of their shame. Whereas imprisonment removes the individual from the public eye for a time, caning affords recipients no such luxury and can even expose them to greater social rancor.

Compared to other forms of punishment, caning is particularly effective in Singapore. One journalist in 1974 remarked, “In the Singapore context, caning is the most dreaded form of punishment.”⁷⁸ Consider the alternatives. Neither higher fines nor increased incarceration times would carry the same degree of social opprobrium or have such a lasting, physical impact on the perpetrator. While the punishment seems inhumane, it is worth pondering whether it is a valuable alternative to the standard punishments in the West. Caning limits the amount of judicial resources expended on each criminal, offers the possibility of a strongly retributive penalty that does not involve locking criminals away for significant portions of their lives, and, in cases such as drug offences, allows for a sufficiently severe penalty to be imposed that seems more proportional than

⁷⁶ For an example of such research, consider: Michael Tonry, “Learning from the Limitations of Deterrence Research,” *Crime and Justice*, Vol. 37, No. 1 (2008)

⁷⁷ The following comments on severity are not meant to denigrate the importance of certainty, an aspect of law enforcement that Singapore excels at. Above, I have already examined Singapore’s large and well-trained police force and the active role many citizens take in crime enforcement endeavors. Additionally, Singapore has an extensive network of cameras, high population density, and a well-publicized record of success in catching criminals. The chance of being caught for criminal activity in Singapore is very high.

⁷⁸ T.F. Hwang, “Caning – The Most Dreaded Punishment,” *Straits Times, Singapore* (1974). Accessed June 5, 2017. <http://corpun.com/sgju7409.htm>

the mandatory minimums the United States currently invokes. One way of approaching this topic is to ask yourself if you would rather spend five years in jail or receive five strokes of the cane.

The physical aspects of caning cannot be discounted. Unlike longer incarceration or steeper fines, corporal punishment has a direct and immediate impact on one's bodily well-being. When asking citizens in the street about the lack of drugs and vandalism in the city, many pointed to the caning penalties as not being worth such petty acts of crime. A law professor at NUS made a similar observation about crime in Singapore. He said there is so little crime because people are afraid: their neighbors will report them, certain activities will guarantee them the death penalty, and many others will leave them with painful, permanent stripes in their body testifying to their anti-social behavior. Caning also involves a substantial amount of psychological distress both before the penalty (in anticipation) and after (because of the humiliation of the experience). Although caning may not deter first-time offenders, when combined with the psychological aspects it creates an experience that one is unlikely to repeat.⁷⁹ There is even a local joke that Singapore girls find good husbands based on whether they have scars on their buttocks; those who had been caned were a good catch because they would not dare to break any further rules.

Before concluding this section, a brief note must be made regarding capital punishment in Singapore. A key component of Lee Kuan Yew's scheme of deterrence, Singapore remains committed to the death penalty despite mounting international pressure for the nation to abandon the practice. Since 1991, Singapore has executed more than 400 prisoners, including a significant percentage of foreign nationals,⁸⁰ but the rate of executions has dropped to less than ten people per

⁷⁹ Singapore has not released statistics on the impact of caning on recidivism rates, but I have been unable to find a single instance of an individual being canned on multiple occasions for different offences.

⁸⁰ Amnesty International, "Singapore, The Death Penalty: A Hidden Toll of Executions," *AI Index: ASA* 36/001/2004 (2004): 1

year since 2003, and fewer than five people annually since 2009.⁸¹ These numbers are somewhat suspect: some executions are reported in the press, but there is no way to verify how many executions actually take place because the Singapore government does not publish statistics on capital punishment. What remains clear is Singapore's belief that criminal justice decisions such as the death penalty are questions for the sovereign jurisdiction of each nation, and therefore the country feels no compunction to be transparent or accommodating regarding its use of capital punishment.

The death penalty may be imposed for a wide variety of offences in Singapore,⁸² but in recent years it has only be used for three types of offences that carry mandatory death sentences: murder, firearms, and drug trafficking offences.⁸³ The Internal Security Act requires the death sentence for certain offences involving firearms, and the Arms Offences Act also imposes a mandatory death sentence on anyone, including an accomplice, using or attempting to use a firearm or trafficking in arms. The most significant use of the death penalty, however, has been with respect to drug trafficking: approximately 70% of executions in Singapore are for drug related offences.⁸⁴ The Misuse of Drugs Act mandates the death penalty for roughly 20 offences involving the manufacture or trafficking of specified drugs,⁸⁵ and, as in the case of caning, clemency is extremely

⁸¹ "Capital Punishment in Singapore," *Wikipedia*, Table Compiled from Amnesty International Reports (2016). Accessed June 5, 2017. https://en.wikipedia.org/wiki/Capital_punishment_in_Singapore#cite_note-13

⁸² "Murder; waging or attempting to wage war against the government; offences against the President's person; attempted murder or endangering another person's life during an act of piracy; abetting or committing mutiny; fabricating false evidence leading to the conviction and execution of an innocent person; abetting the suicide of a child or "insane" person; the commission of certain offences in prison, if imprisoned for life and hurt is caused; kidnapping in order to commit murder; gang robbery with murder." Amnesty International, "Singapore, The Death Penalty," 11

⁸³ *Ibid*

⁸⁴ Arman Shah, "Explainer: Singapore's Controversial Death Penalty," *Coconuts in Singapore* (2016). Accessed June 5, 2017. <https://coconuts.co/singapore/features/explainer-singapores-controversial-death-penalty/>

⁸⁵ The Act sets out a schedule that stipulates the quantities and kinds of drugs that can be met with the death penalty. Additionally, the Act creates a rebuttable presumption that if certain quantities of drugs are found with a person, that person was engaged in an act of trafficking.

rare.⁸⁶ In 2012, Singapore's approach to the death penalty softened in two ways. First, courts now have the discretion to sentence the accused to life imprisonment with caning if he is convicted of murder but is not found to have intended the death. Second, the legislature revised the Misuse of Drugs Act to give courts discretion to sentence an accused to life imprisonment if the following two conditions are met: 1) the accused is only a drug courier, and 2) either the Public Prosecutor certifies that the accused has substantively helped the Central Narcotics Bureau to disrupt drug trafficking activities, or the accused proves he was suffering from an abnormality of the mind that substantially impaired his mental responsibility for committing the offence.⁸⁷ This reform was intended to limit the application of capital punishment in cases of low-level drug couriers.

The effectiveness of capital punishment in Singapore is deeply controversial, but it is undeniable that Singapore is one of the safest and most drug-free countries in the world. Regardless of its utility in reducing specific crimes, the use of the death penalty in Singapore contributes to the nation's regime of harsh penalties, and its wide publication adds to the general atmosphere of a crime adverse population. Singapore's use of the death penalty in cases of non-violent crimes, particularly drug offences, is highly legalistic, perhaps even opposed to genuine Confucianist teachings.⁸⁸ Nevertheless, it strongly reinforces the duty-ethic that pervades the community. From one perspective, capital punishment vindicates the belief that individuals have a high moral duty to one's country and associates to not commit crimes by extirpating members of the community who have most grossly violated their duty to the social order. Surveys show that an overwhelming

⁸⁶ One professor at the National University of Singapore reported that he could only find 6 instances of clemency since 1965, although prosecutors often exercised their discretion to charge individuals who were eligible for the death penalty in such a manner as to avoid the mandatory imposition of capital punishment.

⁸⁷ Attorney-General's Chambers, "Revisions to the Mandatory Death Penalty Regime" (2012)

⁸⁸ Confucius was generally against the death penalty in the same way that he was generally against law. Confucianism seeks to make people moral out of an internal commitment to virtue, not from fear of penalties, which is the result of law. Similarly, ruling by killing people is contrary to the notion that they are virtuous out of their own volition. *See, The Analects*, 12.19. Later developments by the legalist movement resulted in law becoming a quasi-Confucianist tool to compel morality.

number of Singaporeans support the death penalty,⁸⁹ which is unsurprising given the government's successful efforts to foster a culture of intolerance for criminal activity and respect for the rule of law. Moreover, the government maintains that individual rights and freedoms are only meaningful in the context of a stable social order, and, therefore, fewer crimes means more freedom for all.⁹⁰

Capital punishment also provides prosecutors with another powerful tool in light of their significant discretion in charging decisions. When combined with the 2012 reforms, the death penalty gives the prosecutor a lot of freedom to threaten the full force of the law in a public display aimed at general deterrence, while using their discretion to extract important information that leads to catching more drug offenders. Singapore also considers the number of lives lost to drug addiction a significant argument in favor of maintaining the penalty.⁹¹

Judicially imposed corporal punishment therefore seems to play an effective role in the scheme of Singapore's criminal justice system. Although it is impossible to isolate the impact of caning on Singapore's crime rates, its severity and humiliating aspect feature prominently in the minds of citizens and likely contributes to the population's overall aversion to crime. Moreover, recipients' desire to avoid incurring the penalty a second time helps keep Singapore's recidivism rates famously low. Similarly, Singapore's use of capital punishment contributes to the general fear citizens have of the coercive power of the state while adding to the power of prosecutors to extract information and threaten individuals. Cumulatively, Singapore has an institutional structure of harsh punishments, which reinforce cultural morality, tempered by discretionary relief for individuals who may be open to rehabilitation and prosecutorial tools to reduce strain on the system.

⁸⁹ Rahimah Rashith, "80% Singaporeans in Reach Survey Say the Death Penalty Should Be Retained," *The Straits Times* (2016). Accessed June 6, 2017. <http://www.straitstimes.com/singapore/80-per-cent-singaporeans-in-reach-survey-say-the-death-penalty-should-be-retained>

⁹⁰ Chan Sek Keong, "Rethinking the Criminal Justice System of Singapore for the 21st Century," *Attorney-General of Singapore* (2000): 30. Accessed June 6, 2017.

<https://www.statecourts.gov.sg/TBD/Documents/RethinkingCriminalJusticeSystem.pdf>

⁹¹ Shaffiq Idris Alkhatib, "Death Penalty 'A Powerful Deterrent,'" *The Straits Times* (2017). Accessed June 5, 2017. <http://www.straitstimes.com/singapore/death-penalty-a-powerful-deterrent>

Conclusion

The foregoing observations have highlighted several important aspects of Singapore's criminal justice system that allow the nation to effectively address and prevent crime. No one factor is dispositive; each feature interacts with the others to produce a comprehensive approach to crime. Without a cultural ethic that is so heavily influenced by shame and national pride, enforcement efforts would be less likely to succeed and corporal punishment would not be as powerful a deterrent. Without prosecutorial discretion, there would be fewer resources to devote to matters of true public concern and less incentive for citizens to scrupulously avoid certain crimes. Without corporal punishment, a powerful tool reinforcing public morality would be lost, and prosecutors would lose an important means of encouraging criminals to compound crimes or plea bargain. The concinnity of the system is even more perfect because it is simultaneously effective and achieves Singapore's goal of projecting an international image of little crime, safety, and efficiency.

There are, however, several potential dangers in the system. In order for the criminal justice system to operate as efficiently as it does, the government fosters a community where citizens are willing to report on one another, and severe penalties for crimes are constantly brought to individuals' attention. People can be afraid of each other and afraid of harsh sanctions. This atmosphere is likely one aspect of why Singapore ranked last in a Gallup poll measuring positive emotions in 148 countries in 2012 despite the small nation's high economic prosperity.⁹² Additionally, the wide latitude given to prosecutors to bring charges under laws that deny meaningful habeas corpus review and decide how/whether to charge people based on the "public interest" creates serious possibilities for abuse. Singapore's willingness to use severe corporal punishments like caning and execution also raises concerns about the potential for human rights

⁹² Jeff Clifton, "Latin Americans Most Positive in the World: Singaporeans are the Least Positive Worldwide," *Gallup* (December 2012). Accessed June 5, 2017. <http://www.gallup.com/poll/159254/latin-americans-positive-world.aspx#1>

abuse within its system. And because Singapore considers criminal law a matter of domestic concern, there is very little international oversight into any of these practices.

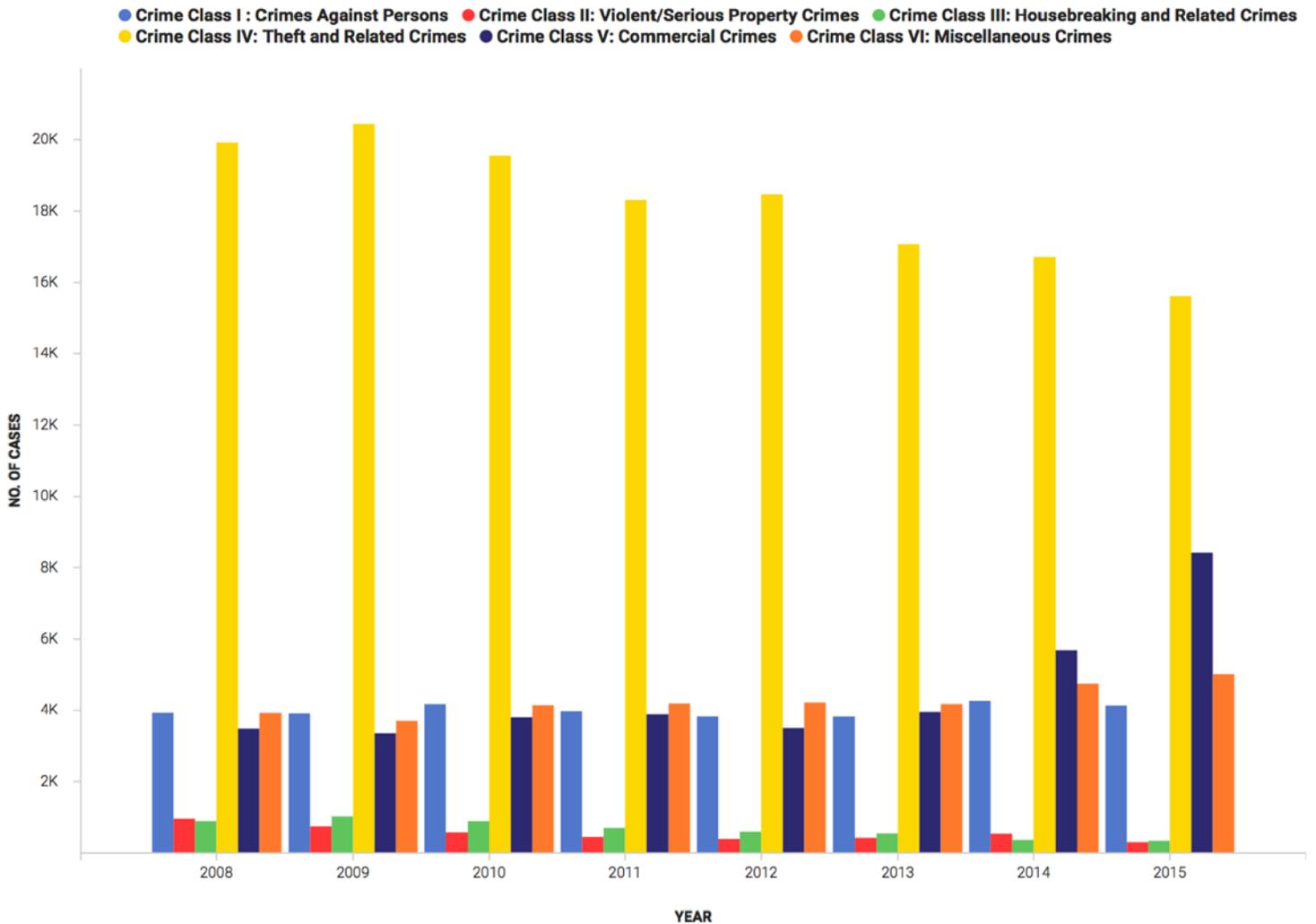
Yet, for all these potential problems, the system on the whole clearly works well. Japan, which is similarly renowned for its low crime rates, shares many similarities with Singapore's system: a strong Confucianist ethic and cultural aversion to crime, mechanisms for charging down offences that enable prosecutors and judges to exercise leniency, and harsh penalties for criminals, including a "cruel prison system" and the death penalty.⁹³ This suggests that the formal laws of the state may matter less than an institutional combination of well-publicized, harsh, and shameful punishments for offenders, with discretionary relief for those individuals amenable to rehabilitation.

In light of this, it is worth considering if there are any elements of the system that would be worth adopting in the United States. Compounding seems to be one possibility, particularly for low-level, nonviolent offences. Such a process could free up scarce judicial resources and introduce a much-needed element of restitution into American criminal law. Another possibility would be to grant individuals convicted of crimes the option of corporal punishment for certain offences during sentencing. This option could help reduce America's high incarceration rates, particularly with respect to drug offences, and may have a salutary impact on recidivism rates. It is, however, questionable whether corporal punishment would violate the cruel and unusual punishment clause of the Constitution. It is also questionable whether any components of Singapore's system would prove particularly effective if imported independently from the community ethic that makes Singapore's citizens so crime adverse. Public morality is unfortunately the most difficult thing of all to introduce and also the most dubious as to its viability. Perhaps the best option is to simply marvel

⁹³ Phillippe Pons, "How Japan Uses Low Crime Rates to Justify its Cruel Prison System," *World Crunch* (March 2013). Accessed June 5, 2017. <https://www.worldcrunch.com/culture-society/how-japan-uses-low-crime-rates-to-justify-its-cruel-prison-system>

at a system that has achieved such a high degree of compatibility between culture, law enforcement, and punishment.

Appendix A: Overall Crime Cases Reported by Crime Classes in Singapore⁹⁴



⁹⁴ Statistics compiled by the Ministry of Home Affairs and the Singapore Police Force based on the Annual Statistical Reports on Crime in Singapore. The data covers the years January 1, 2008 to December 31, 2015. Created February 25, 2016. Last updated February 6, 2017. Accessed June 4, 2017. https://data.gov.sg/dataset/overall-crime-cases-crime-rate/resource/efc3dd2a-8779-46be-b8c7-882712d49451?view_id=30f429e2-cbaf-49e5-a9a8-93d4fac353e4

Breakdown of statistics for 2015:

| | | |
|------|---|--------|
| 2015 | Crime Class I : Crimes Against Persons | 4,139 |
| 2015 | Crime Class II: Violent/Serious Property Crimes | 299 |
| 2015 | Crime Class III: Housebreaking and Related Crimes | 340 |
| 2015 | Crime Class IV: Theft and Related Crimes | 15,615 |
| 2015 | Crime Class V: Commercial Crimes | 8,426 |
| 2015 | Crime Class VI: Miscellaneous Crimes | 5,020 |

Explaining the Six Classes of Crimes

Singapore's system of classifying crimes is somewhat different from that used in the West. Whereas the United States first divides crimes by felony and misdemeanor, crimes in Singapore are classified as either seizable or non-seizable. The Criminal Procedure Code (CPC) § 429(19) clarifies that this distinction should be construed as arrestable vs non-arrestable offences. Essentially, non-seizable offences are those that have criminal elements – they are penal offences punishable by law – but the police have limited powers of investigation in such crimes and cannot make an arrest without a warrant. The victim must decide whether he will pursue the case in court. If he chooses to do so, he must file a Magistrate's Complaint with the Subordinate Courts, and the Magistrate will then decide whether the case is worth pursuing. Non-seizable offences are covered by Class VI group C. Examples of non-arrestable offences are voluntarily causing hurt and defamation. Arrestable offences are those that crimes for which a police officer can make an arrest without a warrant. The third column of the First Schedule of offences in the CPC specifies which offences are in which category.

Seizable offences are divided into six classes.⁹⁵ Class I includes crimes against persons, such as murder, causing grievous hurt, intimidation and rape. Class II encompasses violent property crimes including extortion, robbery, and armed robbery. Class III covers housebreaking and related

⁹⁵ USA International Business Publications, "Singapore Diplomatic Handbook," *Int'l Business Publications* (2007): 52

crimes like theft of motor vehicles, theft in dwelling, and cheating. Class IV contains theft and related crimes, such as purse-snatching and arson. Class V comprises commercial crimes including fraud, forgery, and cybercrime. Class VI is divided into three groups: Group A includes “other” seizable offences, Group B includes seizable offences not treated as crimes, and Group C covers non-seizable offences.⁹⁶ Class VI includes crimes like violations of the penal code in matters of public safety and violations of special criminal ordinances, particularly those related to drugs, firearms, gambling, vagrancy, vandalism, and petty crimes.

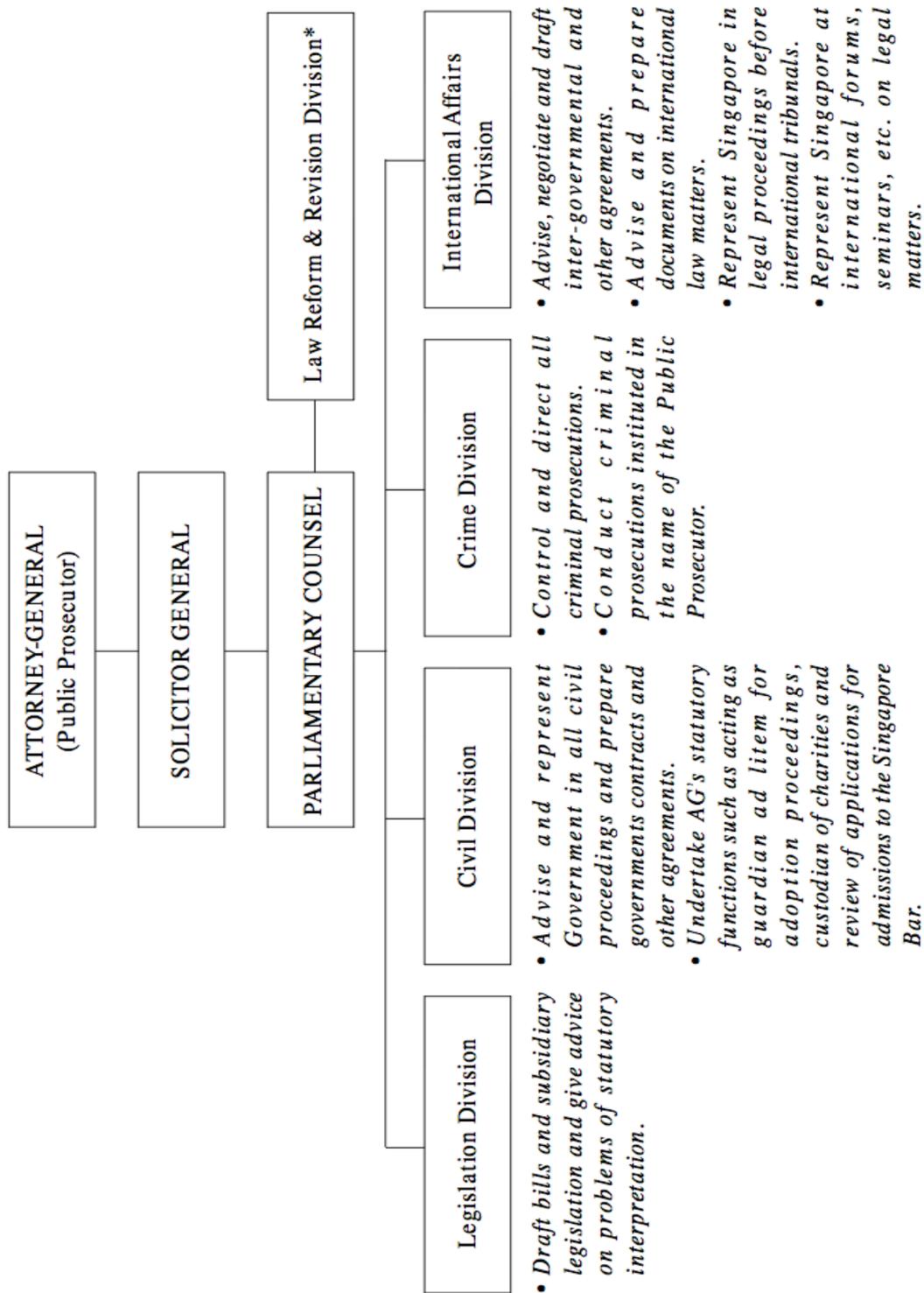
⁹⁶ Mahesh Nalla, “Singapore,” *World Factbook of Criminal Justice Systems*. Accessed June 5, 2017. <https://www.bjs.gov/content/pub/pdf/wfbcjss.pdf>

Appendix B: Major Crimes in New York City, 2009-2015⁹⁷

| Borough | Year | Total | Violent crime total | Murder | Rape* | Robbery | Aggravated assault | Property crime total | Burglary | Larceny | Motor vehicle theft |
|----------------|------|---------|---------------------|--------|-------|---------|--------------------|----------------------|----------|---------|---------------------|
| Citywide Total | 2009 | 188,357 | 46,357 | 471 | 832 | 18,597 | 26,457 | 142,000 | 18,780 | 112,526 | 10,694 |
| Citywide Total | 2010 | 188,104 | 48,489 | 536 | 1,036 | 19,608 | 27,309 | 139,615 | 17,926 | 111,370 | 10,319 |
| Citywide total | 2011 | 191,666 | 51,209 | 515 | 1,092 | 19,773 | 29,829 | 140,457 | 18,159 | 112,864 | 9,434 |
| Citywide total | 2012 | 195,753 | 52,993 | 419 | 1,162 | 20,201 | 31,211 | 142,760 | 18,635 | 115,935 | 8,190 |
| Citywide total | 2013 | 194,355 | 52,384 | 335 | 1,112 | 19,170 | 31,767 | 141,971 | 16,606 | 117,931 | 7,434 |
| Citywide total | 2014 | 185,191 | 49,444 | 333 | 1,070 | 16,581 | 31,460 | 135,747 | 15,916 | 112,107 | 7,724 |
| Citywide total | 2015 | 179,948 | 50,088 | 352 | 2,244 | 16,946 | 30,546 | 129,860 | 14,098 | 108,376 | 7,386 |

⁹⁷ Statistics compiled by the New York State Division of Criminal Justice Services and the New York Police Department. The data covers the years January 1, 2009 to December 31, 2015. Last updated August 31, 2016. Accessed June 4, 2017. <http://data.newsday.com/long-island/data/crime/new-york-city-crime-rate/#assault>

STRUCTURE OF ATTORNEY-GENERAL'S CHAMBERS



⁹⁸ Tseng, "Enhancement of the Rule of Law and Promotion of the Public Interest," 116

Appendix D: Singapore Schedule of Compoundable Offences⁹⁹

Fourth Schedule

Offences that May be Compounded by Victim

Part I

Offences Under the Penal Code (Cap. 224)

| <i>First Column</i> | <i>Second Column</i> | <i>Third Column</i> | <i>Fourth Column</i> |
|----------------------|----------------------|---|---|
| <i>Item No.</i> | <i>Section</i> | <i>Offence</i> | <i>When Compoundable/By Whom Compoundable</i> |
| Chapter V – Abetment | | | |
| 1. | 109 | Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment | Compoundable by the victim if this Code or any other written law under which the offence is committed provides for the offence abetted to be compoundable by the victim |
| 2. | 110 | Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor | Ditto |
| 3. | 111 | Abetment of any offence, when one act is abetted and a different act is done; subject to the proviso | Ditto |
| 4. | 113 | Abetment of any offence, when an effect is caused by the act abetted different from that intended by the abettor | Ditto |
| 5. | 114 | Abetment of any offence, if the abettor is present when offence is committed | Ditto |
| 6. | 115 | Abetment of an offence punishable with death or imprisonment for life, if the offence is not committed in consequence of the abetment | Ditto |
| 7. | 115 | If an act which causes harm is done in consequence of the abetment | Ditto |

⁹⁹ CPC Fourth Schedule: Offences that may be Compounded by Victim

| | | | |
|--|-----|--|----------------------------|
| 8. | 116 | Abetment of an offence punishable with imprisonment, if the offence is not committed in consequence of the abetment | Ditto |
| 9. | 116 | If the abettor or the person abetted is a public servant whose duty it is to prevent the offence | Ditto |
| 10. | 117 | Abetting the commission of an offence by the public, or by more than 10 persons | Ditto |
| 11. | 118 | Concealing a design to commit an offence punishable with death or imprisonment for life, if the offence is committed | Ditto |
| 12. | 118 | If the offence is not committed | Ditto |
| 13. | 119 | A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence is committed | Ditto |
| 14. | 119 | If the offence is punishable with death or imprisonment for life | Ditto |
| 15. | 119 | If the offence is not committed | Ditto |
| 16. | 119 | If the offence is punishable with death or imprisonment for life but is not committed | Ditto |
| 17. | 120 | Concealing a design to commit an offence punishable with imprisonment, if the offence is committed | Ditto |
| 18. | 120 | If the offence is not committed | Ditto |
| Chapter XV — Offences relating to religion or race | | | |
| 19. | 298 | Uttering any word or making | Compoundable by the person |

| | | | |
|---|--------|--|---|
| | | any sound in the hearing, or making any gesture, or placing any object in the sight of any person or causes any matter however represented to be seen or heard by that person, with intention to wound his religious or racial feeling | whose religious or racial feeling is intended to be wounded |
| Chapter XVI — Offences affecting the human body | | | |
| 20. | 323 | Voluntarily causing hurt | Compoundable by the person hurt |
| 21. | 334 | Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation | Ditto |
| 22. | 335 | Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation | Ditto |
| 23. | 337(a) | Causing hurt by a rash act which endangers human life, etc. | Ditto |
| 24. | 337(b) | Causing hurt by a negligent act which endangers human life, etc. | Ditto |
| 25. | 338(a) | Causing grievous hurt by a rash act which endangers human life, etc. | Ditto |
| 26. | 338(b) | Causing grievous hurt by a negligent act which endangers human life, etc. | Ditto |
| 27. | 341 | Wrongfully restraining any person | Compoundable by the person wrongfully restrained |
| 28. | 342 | Wrongfully confining any person | Compoundable by the person wrongfully confined |
| 29. | 352 | Assault or use of criminal force otherwise than on grave | Compoundable by the person assaulted or to whom force |

| | | | |
|--|--------|--|--|
| | | and sudden provocation | was used |
| 30. | 354(1) | Assault or use of criminal force to a person with intent to outrage modesty | Ditto |
| 31. | 355 | Assault or use of criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation | Ditto |
| 32. | 358 | Assault or use of criminal force on grave and sudden provocation | Ditto |
| 33. | 374 | Unlawful compulsory labour | Compoundable by the person compelled to labour |
| Chapter XVII — Offences against property | | | |
| 34. | 426 | Mischief | Compoundable by the private person who suffers loss or damage |
| 35. | 427 | Mischief, and thereby causing damage to the amount of \$500 or upwards | Ditto |
| 36. | 447 | Criminal trespass | Compoundable by the person in possession of the property trespassed upon |
| 37. | 448 | House-trespass | Ditto |
| Chapter XXI — Defamation | | | |
| 38. | 500 | Defamation | Compoundable by the person defamed |
| 39. | 501 | Printing or engraving matter knowing it to be defamatory | Ditto |
| 40. | 502 | Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter | Ditto |
| Chapter XXII — Criminal intimidation, insult and annoyance | | | |
| 41. | 504 | Insult intended to provoke a breach of the peace | Compoundable by the person insulted |
| 42. | 506 | Criminal intimidation except where threat is to cause death | Compoundable by the person intimidated |

| | | | |
|---|-----|---|---|
| | | or grievous hurt, etc. | |
| 43. | 509 | Uttering any word or making any gesture intended to insult the modesty of a woman, etc. | Compoundable by the woman insulted |
| Chapter XXIII — Attempts to commit offences | | | |
| 44. | 511 | Attempting (where no express provision is made by the Penal Code or by other written law) to commit offences punishable with imprisonment or fine or with a combination of such punishments (other than imprisonment for life), and in such attempt doing any act towards the commission of the offence | Compoundable by the victim if this Code or any other written law under which the attempted offence is committed provides for the attempted offence to be compoundable by the victim |
| 45. | 511 | If the attempted offence is punishable with imprisonment for life | Ditto |

Part II
Offences Under Miscellaneous Offences
(Public Order and Nuisance) Act (Cap. 184)

| | | | |
|-----|----------|---|---|
| 46. | 11(1)(a) | Nuisance — affixing or causing to be affixed any advertisement, etc., or writing, defacing or marking on any building, wall or fence being private property | Compoundable by the owner or the occupier of the private property |
| 47. | 11(1)© | Nuisance — obstructing or causing trouble or inconvenience to any person bathing at any place set aside as a bathing place | Compoundable by the person obstructed, etc. |
| 48. | 11(1)(g) | Nuisance — setting on or urging any dog or other animal to attack, worry or put in fear any person | Compoundable by the person attacked, worried or put in fear |
| 49. | 12(1)(b) | Offences relating to animals — allowing animal to stray upon, or tethers or pickets any animal on land in | Compoundable by the owner or lawful occupier of land |

| | | | |
|------------------|--|--|--|
| | | the possession of any private person | |
| 50. | [Deleted by Act 17 of 2014 wef 15/11/2014] | | |
| 51. | [Deleted by Act 17 of 2014 wef 15/11/2014] | | |
| 52. | 17 | Penalty for depositing corpse or dying person in any private place | Compoundable by the owner of the private place |
| Part V — Touting | | | |
| 53. | 32 | Touting for business | Compoundable by the person solicited |

Part III
Offences Under Protection From Harassment Act 2014

| | | | |
|-----|---|---|---|
| 54. | 3 | Intentionally causing harassment, alarm or distress | Compoundable by the victim within the meaning of section 3 of the Protection from Harassment Act 2014 |
| 55. | 5 | Fear or provocation of violence | Compoundable by the victim within the meaning of section 5 of the Protection from Harassment Act 2014 |
| 56. | 7 | Unlawful stalking | Compoundable by the victim within the meaning of section 7 of the Protection from Harassment Act 2014 |

Appendix E: Offences for which Judicial Caning is Available in Singapore¹⁰⁰

Note: Where a minimum number of strokes is stated, caning is mandatory for that offence.

Drugs offences

| Minimum strokes | Maximum strokes * | Offence | Legislation | Year enacted |
|-----------------|-------------------|--|--------------------------------|--------------|
| 2 | 15 | Trafficking of a minimum quantity of drugs | S5 and S33 Misuse of Drugs Act | 1973 |
| 5 | 15 | Unauthorised import or export of drugs | S7 and S33 Misuse of Drugs Act | 1973 |
| 3 | 12 | Repeat consumption of specified drugs | S33A Misuse of Drugs Act | 1998 |
| 5 | 15 | Unauthorised manufacture of drugs | Misuse of Drugs Act | 1973 |

Robbery and other property offences

| Minimum strokes | Maximum strokes * | Offence | Legislation | Year enacted |
|-----------------|-------------------|--|------------------|---|
| 12 | 24 | Piracy | S130B Penal Code | 1993 |
| 12 | 24 | Robbery | S392 Penal Code | 1871; mandatory (6 strokes) 1973; increased to 12 |
| 12 | 24 | Voluntarily causing hurt in committing robbery | S394 Penal Code | 1871; mandatory (6 strokes) 1973; increased to 12 |

Weapons and explosives offences

| Minimum strokes | Maximum strokes * | Offence | Legislation | Year enacted |
|-----------------|-------------------|--|---|--------------|
| 6 | 24 | Unlawful possession of arms or ammunition | S3 Arms Offences Act | 1973 |
| 6 | 24 | Trafficking in arms | S6 Arms Offences Act | 1973 |
| 6 | 24 | Possession of corrosive or explosive substance for the purpose of causing hurt | S3 Corrosive and Explosive Substances and Offensive Weapons Act | 1973 |
| 6 | 24 | Using a corrosive or explosive substance or offensive weapon | S4 Corrosive and Explosive Substances and Offensive | 1973 |

¹⁰⁰ This list is an excerpt from a complete list of offences for which judicial caning is available. The complete list is available from the World Corporal Punishment Research at <http://www.corpun.com/sgjur2.htm> Last updated in 2011. Accessed June 5, 2017.

| | | | | |
|---|---|--|----------------------------|------|
| | | | Weapons Act | |
| 1 | 6 | Sale, transport, delivery, distribution or import of fireworks | S4 Dangerous Fireworks Act | 1988 |
| 1 | 6 | Second or subsequent offence of discharge of fireworks | S6 Dangerous Fireworks Act | 1988 |

Immigration offences

| Minimum strokes | Maximum strokes * | Offence | Legislation | Year enacted |
|-----------------|-------------------|---|-------------------------|--------------|
| 3 | 24 | Entering or remaining in Singapore without a valid pass | S6, 11A Immigration Act | 1989 |
| 3 | 24 | Illegal overstayers for a period exceeding 90 days | S15 Immigration Act | 1989 |

Offences relating to financial affairs

| Minimum strokes | Maximum strokes * | Offence | Legislation | Year enacted |
|-----------------|-------------------|--------------------|-------------------------|------------------------------|
| 1 | 24 | Extortion | S383 and 384 Penal Code | 1954, made mandatory in 1984 |
| 3 | 18 | Harassing borrower | S28 Moneylenders Act | 2005 |

Sexual offences

| Minimum strokes | Maximum strokes * | Offence | Legislation | Year enacted |
|-----------------|-------------------|---|---------------------|--------------|
| Nil | 24 | Rape | S375+ Penal code | 1871 |
| 12 | 24 | Voluntarily causing hurt or putting person in fear of death or hurt in order to commit rape; or statutory rape of a woman under 14 years of age | S376 Penal Code | 1871 (1984) |
| 1 | 24 | Assault or use of criminal force to a person with intent to outrage modesty in a lift or against any person under 14 years of age | S354A(2) Penal code | 1984 |
| Nil | 24 | Sexual penetration without consent | S376 Penal Code | 2007 |
| 12 | 24 | Sexual penetration of a minor | S376A Penal Code | 2007 |

Public order offences

| Minimum strokes | Maximum strokes * | Offence | Legislation | Year enacted |
|-----------------|-------------------|---|-----------------------|--------------|
| Nil | 24 | Rioting | S146 + 147 Penal code | 1973 |
| 3 | 8 | Vandalism (writing, drawing, painting marking or inscribing on any public or private property without permission and stealing destroying or damaging any public property) | S3 Vandalism Act | 1966 |

Offences against the person

| Minimum strokes | Maximum strokes * | Offence | Legislation | Year enacted |
|-----------------|-------------------|---|-----------------------|--------------|
| Nil | 24 | Culpable homicide not amounting to murder | S299 + 304 Penal Code | 1860 |
| Nil | 24 | Attempt to murder | S307 Penal Code | 1973 |
| Nil | 24 | Attempt to commit culpable homicide | S308 Penal Code | 2007 |
| Nil | 24 | Assault or criminal force in committing or attempting to commit theft of property carried by a person | S356 Penal Code | 1871 |
| Nil | 24 | Voluntarily causing hurt by dangerous weapons or means | S324 Penal Code | 1973 |

Kidnapping offences

| Minimum strokes | Maximum strokes * | Offence | Legislation | Year enacted |
|-----------------|-------------------|---|-----------------------|--------------|
| Nil | 24 | Kidnapping | S359+363 Penal code | 1958 |
| Nil | 24 | Kidnapping or abducting in order to murder | S364 Penal Code | 1958 |
| Nil | 24 | Kidnapping or abducting with intent secretly and wrongfully to confine a person | S365 Penal code | 1958 |
| Nil | 24 | Knowingly receiving ransom | S4 Kidnapping Act | 1961 |
| Nil | 24 | Knowingly negotiating to obtain ransom | S5 (1) Kidnapping Act | 1961 |
| Nil | 24 | Hostage-taking | Hostage-taking Act | 2010 |

* Note that the maximum number of strokes of caning, unless fixed in the particular Act imposing the punishment, is 24 strokes by virtue of S229(1) of the Criminal Procedure Code