



SENTENCING

IN SINGAPORE



MINISTRY OF LAW
SINGAPORE

SENTENCING IN SINGAPORE

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01. INTRODUCTION

The goal of the criminal justice system is to enable justice to be served in each and every case. The Court will consider the unique facts and circumstances of each case and every offender before it, in deciding on an appropriate sentence.

When a person is found guilty by the Court, how does the Court decide what sentence to impose? What are the factors taken into account? What are the sentencing objectives? What is considered a fair and just sentence?

This Guide on Sentencing in Singapore aims to answer some of these questions, and promote greater awareness of the many factors considered by the Court in deciding on an appropriate sentence.

This Guide also aims to help readers better understand the criminal justice system and the sentencing process, including some principles and factors considered by the Court. This Guide does not bind the Government or the Courts, and does not constitute legal advice. Readers may wish to seek independent legal advice.

02. AN OVERVIEW OF THE CRIMINAL JUSTICE SYSTEM

The criminal justice system aims to achieve the following objectives:

- a. detect and prevent crime;
- b. ensure that persons accused of crime receive a fair trial and due process;
- c. ensure that the guilty are convicted; and
- d. ensure that punishments imposed on convicted persons are fair and just.

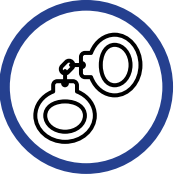


It comprises the following key players:



Parliament

Decides what behaviour to criminalise, and sets the range of penalties for offences, by making laws.



Law Enforcement Agencies (e.g. Police)

Investigate crimes, gather evidence, and make recommendations to the Attorney-General's Chambers (AGC) based on the evidence gathered.



The Attorney-General's Chambers (AGC)

Decides whether to prosecute the suspect and conducts prosecutions based on the public interest.

If the matter proceeds to the sentencing stage, the Prosecution will usually make recommendations to the Court on an appropriate sentence.



Defence Counsel

Represents and advises the accused person, and puts forth their version of events.

If the matter proceeds to the sentencing stage, the Defence Counsel may highlight mitigating factors for the Court's consideration, and counter-propose what the defence feels is an appropriate sentence.



Courts

Accused persons are presumed innocent until proven guilty. The Court determines whether an accused person is guilty or not based on the evidence presented. If the Court finds the accused person guilty, it will also decide on the appropriate sentence to impose.



Singapore Prison Service, Probation and Community Rehabilitation Service

Responsible for administering sentences imposed or orders granted by the Courts, such as overseeing the custody and rehabilitation of offenders in prison, or undertaking community rehabilitation of mainly youth offenders.



In most criminal cases, the court process begins with charges being tendered against an accused person in court. The accused person will then decide whether he wishes to: (a) admit to the charge; or (b) contest the charge.

- a. If the accused person decides to admit to the charge and the supporting facts, he will plead guilty and be convicted.
- b. If the accused person decides to contest the charge, the matter will proceed to trial, where the Prosecution will adduce evidence – e.g. by calling witnesses and tendering documents – to prove the charge against the accused. An accused person and his counsel will have the opportunity to question the Prosecution’s witnesses, and can also put forth evidence. Based on the evidence, the trial judge will decide whether the accused person is guilty or not guilty, and will convict or acquit the accused person accordingly.

After the accused person is convicted (either after pleading guilty or after a trial), the Court will decide on the appropriate sentence to impose.

03.

SENTENCING: HOW THE COURTS DECIDE ON AN APPROPRIATE PUNISHMENT

A. *What is a Sentence?*

A “sentence” is the punishment a court imposes on an offender after conviction, in accordance with the applicable law, and depending on the specific facts and circumstances of the case.



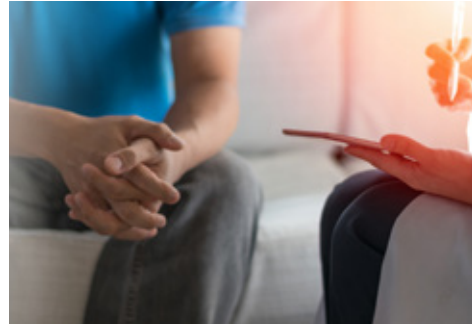
B. Sentencing Principles

In deciding on the appropriate sentence, the Court will usually take into account four key sentencing principles and decide how much weight to place on each principle in the context of the specific facts of the case.



Deterrence

The sentence should deter the offender from re-offending, and also deter others from committing the same offence.



Rehabilitation

The sentence should encourage the reformation of the offender. Generally, this principle is the dominant consideration for young offenders aged 21 and below.



Proportionate Punishment

The punishment must fit the crime, and the sentence should be commensurate with the offender's blameworthiness and the seriousness of the crime.



Prevention

The sentence should prevent the offender from causing further harm. This is the key consideration in sentencing offenders who pose a threat to public safety.

This principle is generally reflected in longer periods of incarceration to prevent offenders from further harming society.



C. *Types of Sentences*

The law defines the types of punishment (e.g. fine, imprisonment, caning) that the Court may impose for a specific offence, and the range of such sentences that may be imposed (e.g. fine of up to \$5,000). The Court will then determine what a fair sentence should be, taking into account the types of permissible punishment, and where the specific sentence should fall within the range of permissible sentences. For instance, the law prescribes that some regulatory offences (such as minor road traffic offences) may only be punishable with a fine of up to a certain amount. The Court will decide on the quantum of the fine, within the limit imposed by law. The different sentences include (in no particular order):



Imprisonment

The Court may sentence an offender to a period of detention in prison.



Fine

The Court may order the offender to pay a fine. In some cases, a fine may serve to deprive the offender of ill-gotten gains.



Community-Based Sentences (CBS)

For certain offences, the Court may sentence the offender to one or more types of CBS. More details may be found [here](#).



Caning

The Court can impose caning for serious offences, such as rape and armed robbery.



Death Penalty (DP)

For serious crimes (e.g. murder and trafficking in large amounts of drugs), the Court may impose the DP. Only the High Court or the Court of Appeal can impose the DP.



Corrective Training (CT)/ Preventive Detention (PD)

CT/PD is a separate regime from imprisonment and involves a long period of incarceration in prison.

It is a severe punishment that is generally imposed on recalcitrant offenders who commit serious offences, to prevent them from causing further harm to the public.





Probation

The Court may order the offender to be supervised by a probation officer in the community for a period between 6 months and 3 years.

Additional conditions such as community service requirements, electronic monitoring, or curfews may also be imposed. A breach of the probation requirements, or a commission of a further offence, may result in a revocation of the probation order and re-sentencing (e.g. imprisonment for offenders aged 16 and above).

Probation is more commonly ordered for young offenders aged 21 and below, though it is also available for adult offenders in certain situations.



Reformative Training (RT)

Offenders below the age of 21 may be sentenced to RT. Compared to probation, RT is a more severe form of punishment, as it requires the offender to be detained in a RT Centre for a minimum period of 6 or 12 months. After the detention period, the offender is subject to supervision in the community. The total period of detention and supervision may extend up to 54 months.

D. What are Community-Based Sentences?

Community-Based Sentences (CBS) were introduced in 2010 to give the Courts greater flexibility in sentencing.

- a. Generally, CBS focus on rehabilitation, though some types of CBS (e.g. the Short Detention Order) also seek to achieve deterrence.
- b. If an offender successfully completes CBS, the offender's criminal record will be rendered "spent" - in other words, the offender is deemed to have no record of that conviction. This facilitates the offender's rehabilitation and reintegration into society. However, if the offender commits fresh offences, the Court may still take into account his previous conviction in deciding the sentence to be imposed for the fresh offences.
- c. Breaches of CBS can result in a revocation of the CBS order, in which case the offender will be re-sentenced, possibly to an imprisonment term or a fine.



An offender may be sentenced to serve one or a combination of the following types of CBS.



A Court cannot impose CBS in certain situations (including when the offender is convicted of certain hurt/sexual offences), such as the following ([section 337 of the Criminal Procedure Code](#)):

- a. Where an offence attracts a sentence which is fixed by law, such as murder under section 302(1) of the Penal Code, which carries the mandatory death penalty;



- b. Where an offence has a specified minimum or mandatory minimum sentence of imprisonment or caning, such as aggravated outrage of modesty under section 354A(1) of the Penal Code, which carries a mandatory minimum sentence of 2 years' imprisonment and caning;
- c. Where the offence is specified in the Third Schedule to the Registration of Criminals Act - which includes offences such as voluntarily causing grievous hurt, outrage of modesty, rape, rioting, and sexual assault by penetration;
- d. Where a person had previously been sentenced to more than 3 months' imprisonment;
- e. Where a person had previously been sentenced to Preventive Detention or Corrective Training, or was previously detained or subject to Police Supervision under the Criminal Law (Temporary Provisions) Act;
- f. Where a person has been admitted at least twice to an approved institution for misusing drugs, or an approved centre for abusing intoxicating substances, or at least once to both institutions;
- g. Where the offence is punishable with a fine only; or
- h. Where the offence carries a maximum sentence above 3 years' imprisonment, such as aggravated outrage of modesty, rape, sexual assault by penetration, distribution of voyeuristic image or recording, causing hurt by dangerous weapons, and voluntarily causing grievous hurt.

However, (d), (f) and (h) above do not apply to Mandatory Treatment Orders. Mandatory Treatment Orders may be imposed for prescribed offences with a maximum punishment of up to 7 years' imprisonment.

04. SENTENCING OF YOUNG OFFENDERS

Young offenders are those aged 21 and below at the time of the commission of the offence and at the time of sentencing.



When sentencing young offenders, the law generally presumes that the dominant sentencing consideration is rehabilitation.¹ There are two main reasons for this:



Young offenders may not have the full cognitive maturity of adults at the time of offending.

The law seeks to reform young offenders to ensure that they stay on the right path.



Young offenders are still in their formative years.

The chances of reforming young offenders tend to be higher, and they are generally more receptive towards a sentencing regime that guides them on the right path.

A. What are the Sentences Usually Imposed on Young Offenders?

Rehabilitative sentences such as Probation, RT and CBS are common sentencing options for young offenders. In deciding what sentence to impose, the Courts will consider the facts and circumstances of the offence, as well as the offender's propensity for reform.

Examples of cases where rehabilitative sentences were imposed on young offenders:

- a. **Case involving a young offender who committed theft in dwelling:**² A 20-year old offender who pleaded guilty to two charges of theft in dwelling was sentenced to probation for 18 months. The offence was relatively minor (shoplifting) and the offender was young.
- b. **Case involving a young offender who committed offences while under probation:**³ A young offender pleaded guilty to one charge of vandalism, one charge of theft and three charges of criminal trespass. At the time of offending, he was already

¹ [2018] 5 SLR 1289

² [2018] SGDC 170

³ [2015] SGHC 277



under probation for two offences committed on a prior occasion. He was initially sentenced to probation, but on appeal, the High Court sentenced him to reformatory training instead. While the High Court acknowledged the need for deterrence since the fresh offences were committed whilst the offender was under probation, it held that rehabilitation remained the main sentencing consideration since he was a young offender. Reformatory training was thus imposed as it satisfied both sentencing aims of deterrence and rehabilitation.

- c. **Case involving a young offender with a young family:**⁴ A 21-year-old offender was sentenced to a combination of CBS (a Day Reporting Order, a Community Service Order, and a Short Detention Order) for an offence of unlawful assembly. The offender had joined a group of five friends to attack a victim, who ended up suffering a cut below his eye. The High Court imposed CBS on the basis that rehabilitation was the dominant consideration. The offender was 20 years old at the time of the offence, and displayed good rehabilitative prospects as he remained crime-free after the offence, kept regular employment, had a young family that was intact with a supportive wife, and had secured a rental flat to provide a stable home for his family.

B. Is Rehabilitation Relevant for Young Offenders who Commit Serious Offences?

Under certain circumstances, other sentencing considerations such as proportionate punishment and deterrence may take precedence over rehabilitation⁵. This may happen in cases where:

- a. The offence is serious (e.g. it carries a severe maximum punishment under the law);
- b. The harm caused is severe;
- c. The offender is hardened and recalcitrant; and/or
- d. The conditions do not make rehabilitative options viable (e.g. the offender is unwilling to undergo the rehabilitative sentence).

⁴ [2019] SGDC 68

⁵ [2016] 1 SLR 334



For example, where a young offender has committed a serious offence such as rape, the Court may impose imprisonment and caning instead of a rehabilitative sentence (such as Probation or RT) because of the nature of the offence, and the severe harm caused.

Examples of cases where proportionate punishment and deterrence took precedence over rehabilitation:

- a. **Case involving a young offender who committed numerous serious offences:**⁶
A 17-year-old offender was convicted of robbery, rape and theft in dwelling. He committed the offences as part of a scheme devised by him and two co-offenders, in order to steal money from sex workers. The trio would request the services of sex workers at one of their residences, and while one posed as a customer, the other two would either extort money from the victim by pretending to be loan sharks, or steal money from the victim while she was showering. The offender was sentenced to a total of 7 years' imprisonment and 15 strokes of the cane. The Court decided that deterrence took precedence over rehabilitation given the gravity of the offences and the harm caused.

- b. **Case involving a young offender who committed sexual assault and attempted rape:**⁷ The offender was 20 years old at the time of offending. He met the victim while drinking in a club, and persuaded her to rest at a hotel. When the offender brought the victim into the room, he sexually assaulted her by digitally penetrating her and attempting to rape her. Two weeks later, while on bail, the offender committed an offence of riotous behaviour. A day before he turned 21, the offender pleaded guilty to and was convicted on three charges (sexual assault by penetration, attempted rape, and behaving in a riotous manner), with two other charges taken into consideration for sentencing. Although he was found suitable for reformatory training, the District Judge took the view that reformatory training was not suitable, and imposed an imprisonment term with caning. This was because the nature of the offence and manner of offending were sufficiently serious and heinous as to displace rehabilitation as the dominant sentencing principle notwithstanding his young age. On appeal, the High Court agreed with the District Judge's observations, and enhanced the sentence to 8 years and 6 months' imprisonment and 6 strokes of the cane, in view of the grave circumstances of the assault as a whole.

⁶ [2020] SGCA 61

⁷ [2017] 3 SLR 933



05. SENTENCING OF ADULT OFFENDERS

Adult offenders are those above the age of 21.

Where an offender is aged 21 and below at the time of the offence (but above 21 at the time of sentencing), the Court may be inclined to consider rehabilitative sentences on the basis that the offender lacked maturity and experience at the time of the offence by virtue of the offender's young age.



A. Are Rehabilitative Sentences Available for Adult Offenders?

For adult offenders, the principles of deterrence and proportionate punishment should generally be given more weight than rehabilitation.

Reformatory Training is not available as a sentencing option for adult offenders. CBS may be imposed so long as the requirements are satisfied. While Probation is available as a sentencing option for adult offenders who commit certain offences, it is only imposed in exceptional cases, such as where the offender demonstrates an extremely strong propensity for reform, or where there are other exceptional circumstances that warrant probation.⁸

⁸ [2020] SGHC 82



The Courts will usually consider the following factors when determining an offender's rehabilitative potential:⁹

Propensity for Reform



Whether the offender has demonstrated a **positive desire to change**.

For instance, the Courts will consider whether an offender shows genuine remorse, such as by cooperating with and surrendering to the authorities, pleading guilty, or making compensation for the offence. The Courts will look at the totality of the offender's conduct when assessing his desire to change.



Whether there are conditions **conducive to helping the offender turn over a new leaf**.

This factor is relevant to all offenders, regardless of social status or family background. This may include considerations such as family support or social support.



Risk factors (e.g. association with negative peers, bad habits such as drug use).

Nature/Gravity of Offence



However, even if the offender has demonstrated an extremely strong propensity for reform, the Court must ultimately still consider the nature and gravity of the offence, to determine whether to **retain the emphasis on deterrence and proportionate punishment**.

The Courts have taken the following approach towards factors commonly raised in sentencing.

⁹[2020] SGHC 82





Educational Qualifications

The Courts do *not* equate good educational performance with high propensity for reform.

Offenders with higher educational qualifications will not be automatically assessed as having greater rehabilitative potential.

Instead, what matters is the offender's willingness to change or improve. This is regardless of whether the offender is in University, ITE, Polytechnic, Junior College, or not in the school system at all.

Academic performance is only relevant if a link can be drawn between the offender's achievements and his rehabilitative potential (e.g. if it shows the offender's determination to turn his life around and change for the better).

Case examples:

- **Case involving a university student who committed outrage of modesty:**¹⁰
A 22-year-old offender had outraged the modesty of a woman by touching her thigh on an MRT train, and thereafter following her out of the train and touching her buttocks. Although the offender had a good educational background and a supportive family, and had voluntarily sought help from a psychiatrist after the offence, the High Court overturned the original sentence of probation and instead sentenced the offender to 2 weeks' imprisonment. The High Court decided that deterrence was the key consideration for an adult offender who outraged a victim's modesty, especially where this occurred on the public transport network. Further, there was insufficient evidence that the offender had an extremely strong propensity for reform, or that there were exceptional circumstances to warrant a rehabilitative sentence.
- **Case involving a university student who committed serious sexual offences:**¹¹
A 22-year-old offender had sexually penetrated a 13-year-old minor on three occasions in 2017. The sentence of 24 months' imprisonment was increased to 33 months' imprisonment on appeal. The High Court said that deterrence and retribution were the key considerations. The High Court noted that the offences were serious, the offender had not demonstrated a positive desire for change, and there was no direct nexus between academic achievement and turning away from crime. The High Court also stated that baseless submissions which disparage the character, integrity or morality of the victim to to shift blame to the victim may attract an uplift in punishment, as they demonstrate a lack of remorse.

¹⁰ [2020] SGHC 82

¹¹ [2021] SGHC 18



Social Status

The Courts do not consider a person’s social status in sentencing. Everyone is equal in the eyes of the law.

The Courts are not concerned with the offender’s social status, wealth or other indicators of privilege and position in society. The law applies equally to all offenders.

Case examples:

- **Case involving the grandson of a well-known local businessman:**¹² the offender was convicted for obtaining sexual services from an underaged female. During sentencing, he argued that he ought to be given a nominal fine, and put forward various testimonials attesting to his “good character and social standing”. However, the Court imposed a 12-week imprisonment term and held that there were “no exceptional circumstances warranting a departure from the sentencing norms”. The Court also emphasised that the sentence must provide “strong deterrence to discourage people from engaging in commercial sex with minors”.
- **Case involving the son of a senior lawyer:**¹³ the offender was sentenced to 16 weeks’ imprisonment for breaching his National Service (“NS”) liability under the Enlistment Act by remaining overseas to complete two degrees and work at a multinational company, instead of returning to Singapore to serve his NS. He voluntarily surrendered to the authorities when he was 26 years old. When sentencing him, the Court emphasised the principles of universality and equity – that NS obligations apply to all eligible Singaporean males and that an individual cannot cherry-pick when he serves NS.
- **Case involving the daughter of prominent local businesspersons:**¹⁴ the offender was convicted in court of three drug-related charges (consumption and possession of drugs) and one charge of driving without due care or attention. She was sentenced to a total of 22 months’ imprisonment, a fine of \$1,000 and disqualification from driving for 18 months. She appealed to the High Court for a lower sentence. The High Court dismissed the appeal.

¹² [2012] SGDC 319

¹³ [2017] SGDC 17

¹⁴ [2018] SGDC 292





Disciplinary action

The fact that an offender may lose his job, be expelled, or face separate disciplinary proceedings is *not* considered by the Courts, as a person who breaches the law must expect to face the consequences that follow under the law.

Case examples:

- **Case involving a doctor:**¹⁵ the offender cheated his patients by deceiving them into believing that they were suffering from various diseases and that they required treatment from him. Although he would be dealt with professionally by the Singapore Medical Council after the conclusion of his criminal case, the High Court did not regard this as a relevant factor, and instead said that “a doctor who cheats his patients ... must expect to be dealt with according to law as well as the disciplinary rules of his profession.”
- **Case involving an army regular:**¹⁶ the offender was convicted of drink-driving. Another charge of dangerous driving was taken into consideration for sentencing. The High Court rejected his argument that he should not be given an imprisonment term as this would cause him to be discharged from the army. The High Court said that a person who breaches the criminal law should expect to face the consequences that follow under the law.

There could be cases where rehabilitation takes priority in the sentencing of an adult offender due to exceptional reasons. For instance, probation was imposed on a 25-year-old offender who suffered from kleptomania (i.e. an impulse control disorder involving a recurrent failure to control and resist impulses to steal objects).¹⁷ She had shoplifted and was sentenced to probation. While on probation, she was abruptly terminated from her employment. Thereafter, she committed theft again, in breach of her probation. The High Court imposed a fresh probation term and explained that for adult offenders who committed offences while suffering from a psychiatric disorder which contributed to the offence, rehabilitation was generally the primary consideration. The High Court said that the approach of rehabilitating such offenders would “advance the greater public interest in helping” such offenders, so as to prevent reoffending. The High Court also said that this did not mean that all offences committed due to a psychiatric disorder would result in rehabilitation being the foremost consideration. The High Court explained that while there would be serious offences where rehabilitation would be of little significance, the offences associated with kleptomania are usually not too serious.

¹⁵ [1990] 1 SLR(R) 53

¹⁶ [2017] 5 SLR 755

¹⁷ [2008] 1 SLR(R) 824



06.

MINISTERIAL STATEMENT ON THE REVIEW OF SENTENCING FRAMEWORK FOR SEXUAL AND HURT OFFENCES

In sentencing an offender, the Courts pay close attention to the specific facts and circumstances of each case, as sentencing is a fact-sensitive exercise. At the same time, the Courts are guided by the sentencing range and options that are specified by the law, as well as sentencing principles, such as the principle that all offenders are equal before the law, regardless of their social status and academic qualifications. Ultimately, the Courts seek to do justice in each case.

In March 2021, Mr K Shanmugam, Minister for Home Affairs and Minister for Law delivered a [Ministerial Statement on the Review of Sentencing Framework for Sexual and Hurt Offences](#).



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