



Criminal Justice System in Negara Brunei Darussalam

Public Officers' Law Seminar :
Understanding the Law
26th and 27th October 2016

Ratno Eddy Sophian Hj Zaidi
Legal Officer

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SCOPE OF PRESENTATION

- **Introduction to the Criminal Justice System**
- **Offences under the Penal Code Cap 22 involving Government Servants**



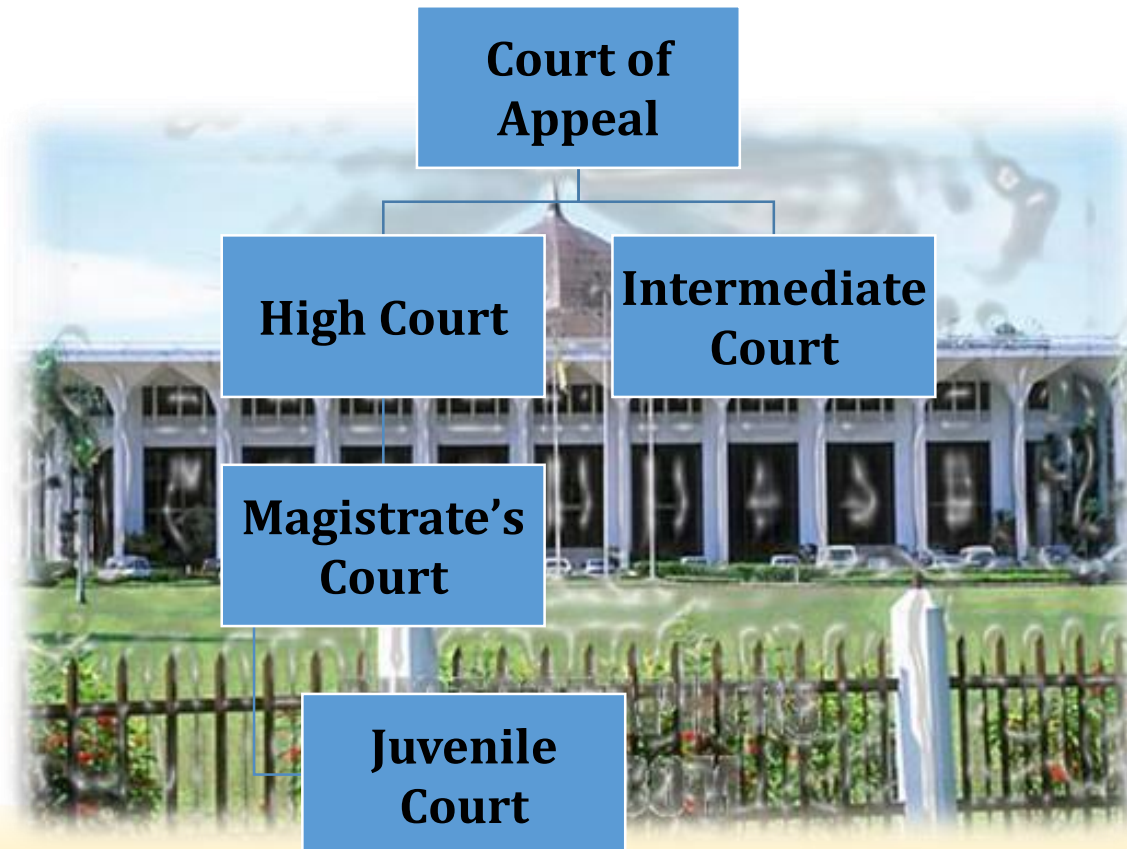
History of Civil Law in NBD

- Based on the UK Legal System
- Laws and Legal Procedures have similarity to India, Singapore. Malaysian Laws & Procedure and Commonwealth countries
- Legal Source:
 - Brunei Constitution
 - Laws of Brunei
 - Subsidiary Legislation
 - UK Legal System & Common Law



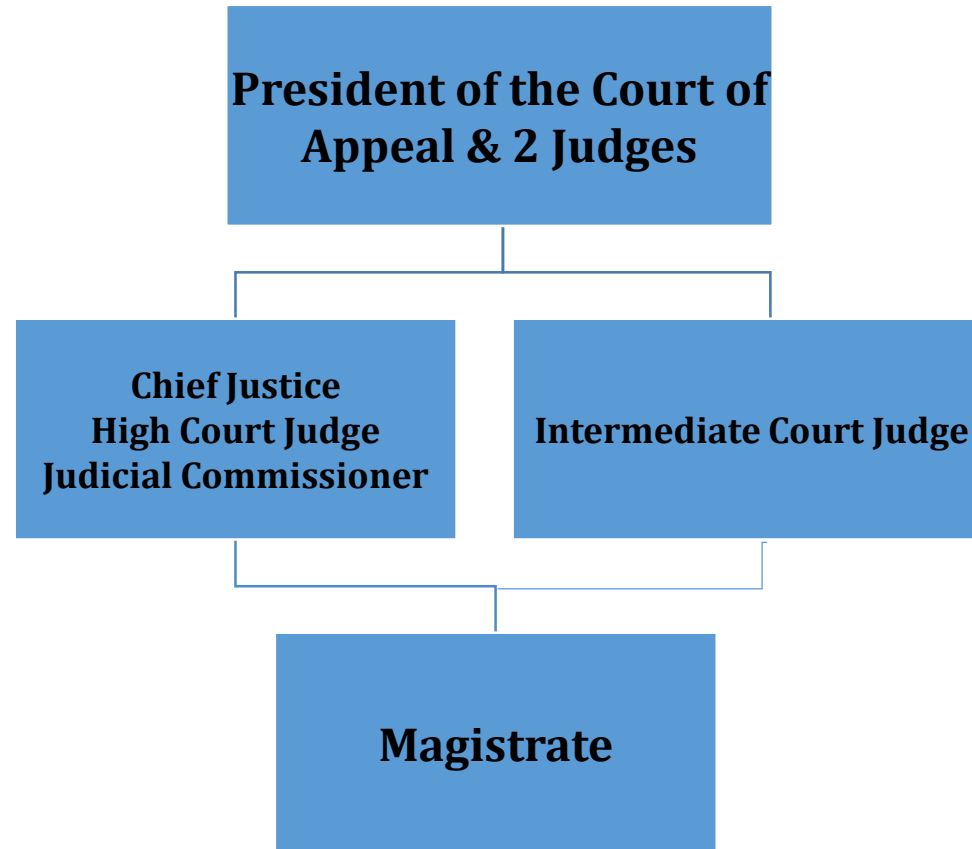


COURT STRUCTURE





MEMBERS OF THE JUDICIARY





JURISDICTION

HIGH COURT

- Cases carrying the Death Penalty – 2 Judges (Legal Aid)
- Capital Cases – All types of Penalty

INTERMEDIATE COURT

Similar Jurisdiction to the High Court

EXCEPT for sentences carrying more than 20 years imprisonment and death penalty or life imprisonment

MAGISTRATE'S COURT

Imprisonment not exceeding 7 years
Fine not exceeding B\$10,000





JURISDICTION OF THE JUVENILE COURT

- **Children and Young Person Act, Chapter 219**

- Creation of the Juvenile Court
- Provides Juvenile Court Procedure
- Requires the attendance of parents/guardian during court proceedings
- Definition of child means a person who have not attained 14 years. Young person is defined as a person over 14 but have not yet attained 18 years.
- '*Gag-order*' – not to publish the name of the victim to the public (media).
- Provides for detention in remand homes, approved schools or institutions, Counselling, Observation (probation), good behavior etc.



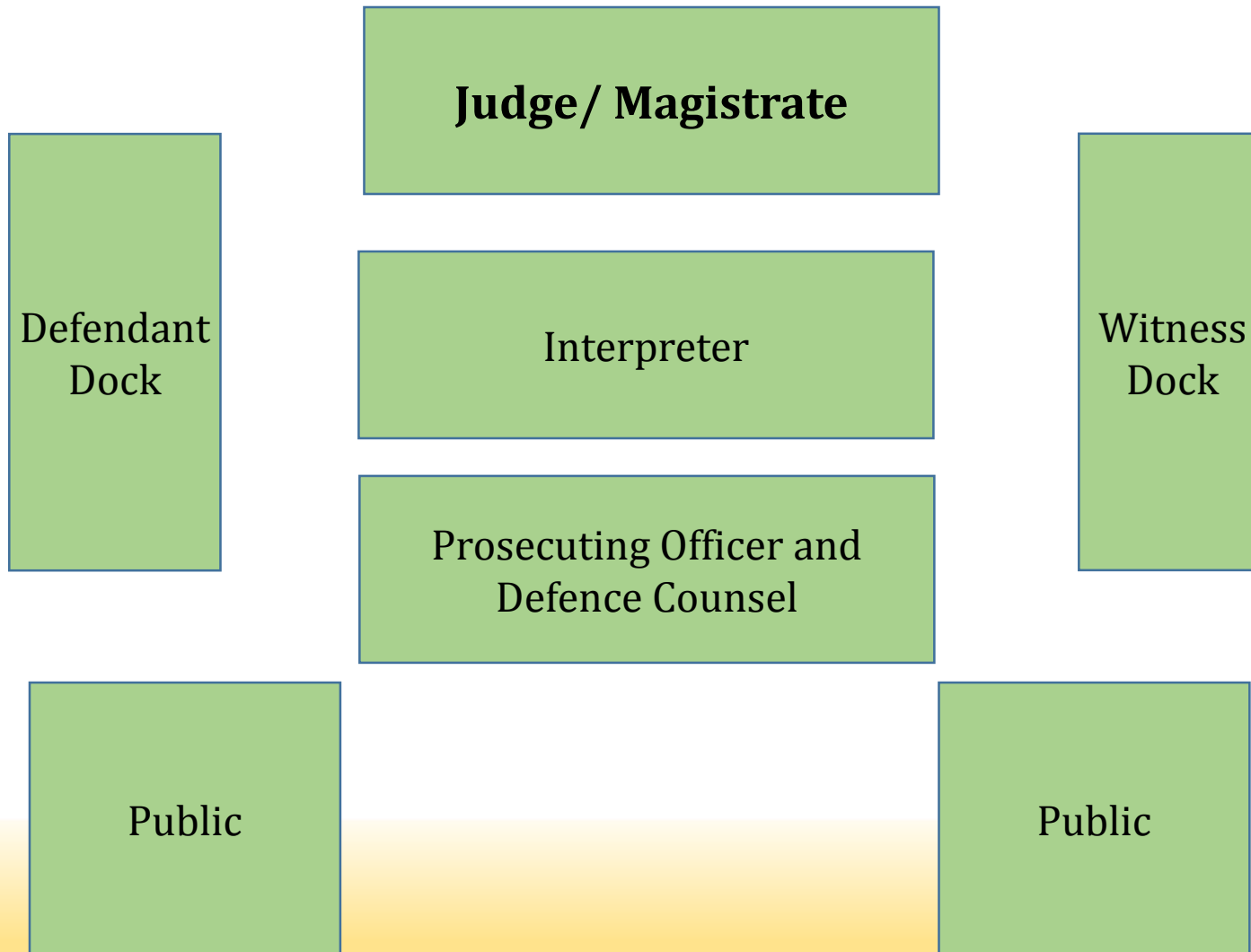
TYPES OF PUNISHMENT

- Death Penalty
- Life Imprisonment
- Imprisonment
- Whipping (exemption in certain circumstances)
- Fine
- Forfeiture of criminal proceeds
- Probation and Community Service
- Young Offenders





COURT LAYOUT





COMPOUND/COMPOSITION

- Some offences can be “compounded” under Section 224 of the Criminal Procedure Code
- Offences which can be compounded include Causing Hurt (Section 323), Mischief (427), Trespass (Section 447 & 448)
- The court will reprimand the defendant
- Effect of Compound is “Discharge amounting to an Acquittal”
- Compensation Order under section 382 Criminal Procedure Code Chapter 7



PUBLIC PROSECUTOR

- Prosecution on behalf of the PUBLIC PROSECUTOR
- Under the CPC Cap 7, the ATTORNEY GENERAL is also the PUBLIC PROSECUTOR
- Under the Constitution [Art 81(3)], absolute discretion to institute, conduct or discontinue criminal proceedings
- Prosecutorial powers and discretion to conduct prosecution to Deputy Public Prosecutors (DPP) under the CPC
- No jurisdiction in Syariah Court and Military Court unless otherwise provided



PROSECUTORIAL DISCRETION

The discretion to prosecute takes into account 2 factors:

1. Sufficient Evidence

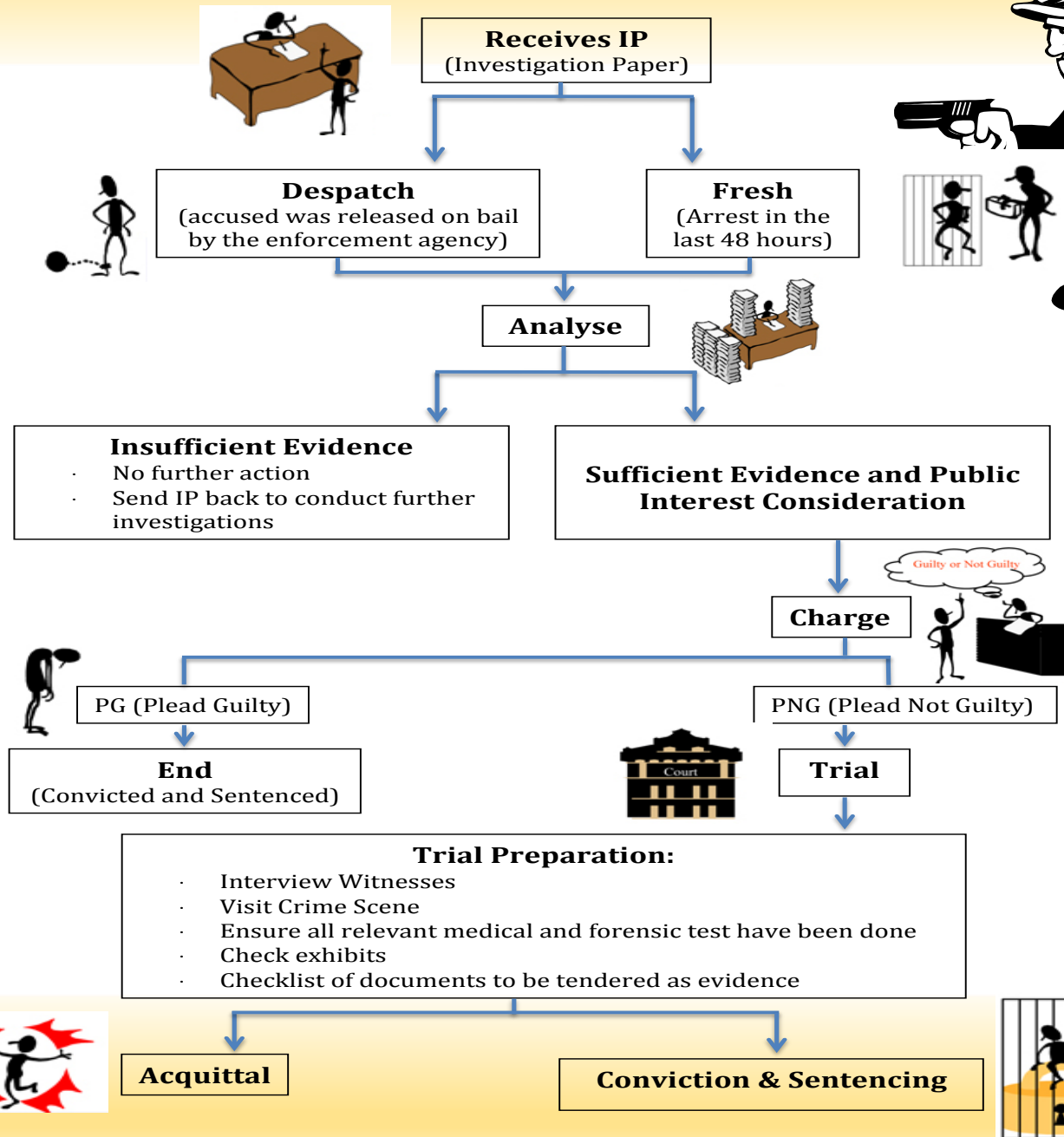
- satisfies all the elements of the offense

2. Public Interest

- whether the circumstances justify a prosecution



CASE FLOW





PROSECUTION CHALLENGES

1. Investigation Stage
2. Charging Stage
3. Trial Stage



PROSECUTORIAL CHALLENGES

INVESTIGATION STAGE

- To ensure investigations such as evidence gathering complies to the existing laws and regulations such as Police General Order/ case precedent
- Example: Completed Investigation Diary, ID Parade was conducted properly, correct procedure during Statement Recording
- The Police should have knowledge and understanding of the law and investigations skills.



PROSECUTION CHALLENGES

CHARGING STAGE

- Perusing through evidence and the relevant law within a reasonable time.
- The attendance and cooperation of witnesses – when witnesses are absent, the evidence could not be produced
- Witnesses who are able to testify truthfully



PROSECUTION CHALLENGES

TRIAL STAGE

- Duration of Trial
- Location and Cooperation of Witnesses
- Witnesses who are willing to testify



OFFENCES UNDER THE PENAL CODE

CHAPTER 22

- Penal Code Chapter 22
- Main Act dealing with Criminal Law in Brunei Darussalam
- Introduced on 1st May 1952
- Amendments have been introduced to create new offences



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26th and 27th October 2016

OFFENCES INVOLVING GOVERNMENT SERVANTS



PERSONATING A PUBLIC SERVANT

- Section 170
- Penalty **imprisonment which may extend to 7 years and with fine.**



WEARING GARB OR CARRYING TOKEN USED BY PUBLIC SERVANT WITH FRAUDULENT INTENT

- Section 171
- Penalty imprisonment for a term which may extend to 3 years and with fine.



Two years' jail for impersonating a cop

QURATUL-AIN BANDIAL
BANDAR SERI BEGAWAN

A 33-YEAR-OLD local man was sentenced to two years' in prison by the Magistrate's Court yesterday for impersonating a high-ranking police officer.

Mohd Sambari Hj Abu Bakar posed as the Deputy Commandant of the Police Training Centre and misled a 23-year-old woman into believing he could secure her a post as a police recruit.

Mohd Sambari was convicted under Section 170 of the Penal Code and will begin serving his two-year sentence at Jerudong Prison immediately. The Brunei Times





FURNISHING FALSE INFORMATION

- Section 177
- Penalty “imprisonment for a term which may extend to 2 years, or with fine, or with both.”



OBSTRUCTING PUBLIC SERVANT IN DISCHARGE OF PUBLIC FUNCTIONS

- Section 186
- Penalty imprisonment for a term which may extend to 3 months, or with fine which may extend to \$2000, or with both.



THREAT OF INJURY TO PUBLIC SERVANT

- Section 189
- Penalty imprisonment for a term which may extend to 5 years and with fine.



OFFENCES AGAINST THE BODY

- Section 323 (Voluntarily Causing Hurt- Imprisonment of up to 3 years and with Fine)
- Section 325 (Voluntarily Causing Grievous Hurt- Imprisonment of up to 10 years and whipping)
- Section 324/326 (Voluntarily Causing Hurt or Grievous Hurt with use of Dangerous Weapon- Imprisonment of up to 7 years and with whipping / 15 years and with whipping)



VOLUNTARILY CAUSING HURT/GRIEVOUS HURT TO DETER PUBLIC SERVANT FROM DUTY

- Sections 332 & 333
- Penalty imprisonment for a term which may extend to 5 years & with whipping (Grievous Hurt: 10 years & with whipping)



Local gets two-year sentence for assault on police officer

BANDAR SERI BEGAWAN

A LOCAL man was sentenced to two years' jail and two strokes of the cane yesterday after the Magistrate's Court found him guilty of assaulting a police officer with a knuckle duster during an anti-gambling raid in Tutong three years ago.

Hj Abu Bakar Hj Md Arshad, 45, was accused of voluntarily causing hurt to Police Constable Pek Seng Huat, 37, in an effort to deter the public servant from performing his duties.

The defendant's lawyer, Sheikh Noordin Sheikh Mohammad, said his client would be appealing the

court's decision and asked that Hj Abu Bakar be released on bail until the appeal could be heard by a higher court.

According to court documents, the assault occurred on October 26, 2013, during a police raid of a makeshift gambling den in Tutong.

The police constable who was assaulted sustained injuries that required stitches.

The defendant initially managed to escape custody but was arrested two days later. A total of 23 people were arrested during the anti-vice raid, with \$15,000 in cash seized.

The Brunei Times



DIFFERENCE BETWEEN HURT & GRIEVOUS HURT

■ Grievous Hurt

“Emasculation”

“Permanent Privation of sight of either eye”

“Permanent Privation of hearing of either ear”

“Privation of any member or joint”

“Destruction or permanent impairing of the powers of any member or joint”

“Permanent disfiguration of head or face”

“Fracture or dislocation of bone or tooth”

“Any Hurt which endangers life or which causes the sufferer to be during the space of 20 days, in severe bodily pain, or unable to follow his ordinary pursuits.”



DIFFERENCE BETWEEN HURT & GRIEVOUS HURT

■ Hurt

“Any Bodily pain or disease or infirmity not constituting Grievous hurt”

Medical Report (Police 9) should indicate class of injuries as examined by Medical Doctor



OFFENCES AGAINST PROPERTY

- **Common Theft** (Section 379- Imprisonment of up to 3 years and with fine)
- **Theft of Dwelling House/ Place used for Custody of Property** (Section 380- Imprisonment of up to 7 years and with fine)
- **Theft by Clerk/ Servant** (Section 381- Imprisonment of up to 7 years and with fine)
- **House-Breaking/ House Breaking by Night to commit Theft** (Section 454/ 457- 10 years/ 15 years and with whipping)
- **Robbery** (Section 392- Imprisonment of up to 30 years and whipping not less than 12 strokes)
- **Mischief** (Section 427- Imprisonment of up to 5 years and whipping not less than 2 strokes)



TRESPASS

- Criminal Trespass (Section 447)- Punishment which may extend to one year and with fine
- House Trespass (Section 448)- Punishment which may extend to three years and with fine
- House Trespass in order to commit offence punishable with imprisonment (Section 451)- Punishment which may extend to five years and with fine
- **If offence is theft-** the term of imprisonment may extend to 10 years



CRIMINAL BREACH OF TRUST

- Section 409
- Penalty imprisonment for a term which may extend to 10 years, and shall also be liable to fine.

Zakat officer faces up to 10 years in jail for embezzlement

THURSDAY, JUNE 9, 2016



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BANDAR SERI BEGAWAN

A ZAKAT Fitrah collection and distribution officer is facing up to 10 years in prison and an unspecified amount in fines after pleading no contest to the charge of misappropriating over \$11,000 in Zakat funds five years ago.

Senior Magistrate Lailatul Zubaidah Hj Mohd Hussain yesterday allowed 49-year-old Junaidi Hj Duraman, assistant superintendent, Zakat and Fitrah Grade II, to be released on \$5,000 bail pending sentencing on June 15.

The misappropriation of funds was discovered after a bilal from Kg Pandan Mosque lodged a complaint with the Department of Islamic Religious Council (MUIB) Zakat Fitrah Collection and Distribution Unit (ZAKAT) and its off

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3 months jail for officer who pocketed \$12,000 in public funds

🕒 THURSDAY, SEPTEMBER 29, 2016



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DARREN CHIN
BANDAR SERI BEGAWAN

A FORMER government official who pleaded guilty to pocketing over \$12,000 in public funds last week was sentenced to serve three months' imprisonment for criminal breach of trust yesterday at the Intermediate Court.

It was previously reported that Tapak/Zamil Tingkah, 54, had previously been a tradesman with the Public Works

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CHEATING

- Cheating by Personation (**Section 416- Imprisonment of up to 3 years and with fine**)
- Cheating and Dishonestly inducing delivery of Property (**Section 420- Imprisonment of up to 7 years and with fine**)



Woman gets 30 months for cheating, forgery

FRIDAY, APRIL 22, 2016

BANDAR SERI BEGAWAN

A LOCAL woman was sentenced to 30 months in prison yesterday for multiple charges of cheating and using forged documents.

On April 16, Vivi Yanti Hj Mohd Jali, 30, pleaded guilty to all 18 charges of duping several people out of their money with the promise that she was able to secure various government tenders for them as well as multiple charges of using forged documents, namely Letters of Award and Tender Offer letters from government agencies that were addressed to the respective complainants.

The court document stated that between 2011 and 2014, the defendant duped six people on separate occasions and gained a total of \$29,380 by falsely representing herself to the complainants and using forged documents to support her claim.

During the proceedings yesterday, Presiding Senior Magistrate Hj Nabil Daraina PDH Badaruddin denied postponing the sentence pending appeal as the court wasn't convinced to grant the order after hearing arguments from both the prosecution and defence counsel.

Defence counsel Mohammad Rozaiman Abdul Rahman has indicated that they will be appealing against the sentence.

Vivi Yanti was ordered to serve the sentence with immediate effect.

The Brunei Times



FORGERY

- Section 463 & 465
- “Whoever makes false document, or part of a document, with intent to cause damage or injury to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any expressed or implied contract or with intent to commit fraud, or that fraud may be committed, commits forgery.”
- Punishment is **imprisonment which may extend to 5 years and with fine.**
- Section 468- Forgery for the Purposes of Cheating- **Imprisonment for a term which may extend to 10 years and with fine**
- Section 472- Making or Possessing Counterfeit Seal, Instrument- Punishable with **Imprisonment for a term which may extend to 10 years and with fine**



Senior gov't officer pleads guilty to stealing pre-signed cheques

Quratul-Ain Bandial

BANDAR SERI BEGAWAN

A SENIOR government officer yesterday pleaded guilty to stealing two blank pre-signed cheques and forging his name to steal close to \$100,000 from a woman's bank accounts.

Amirrudin Hj Junaidi, 45, originally denied the charges last year but entered a guilty plea yesterday at the High Court to stealing the cheques from the victim's home, forging documents with his name, and using the forged documents for the purpose of cheating.

According to previous reports, the defendant stole the pre-signed cheques from the victim's home while she was overseas and only

the house maid was present.

On February 25, 2015, he managed to transfer \$60,000 from the victim's account into his own by writing his name as payee on one of the cheques and depositing it into the bank's cheque deposit machine.

On March 10, 2015, the defendant filled out the second pre-signed cheque with his name and the amount of \$40,000 and deposited into the bank's cheque deposit machine.

Both incidents were captured on CCTV.

However, there were insufficient funds in the victim's account to complete the second transaction and the bank contacted the victim's brother to inform him that

an additional \$17,000 was needed to complete the transfer.

The victim later told her brother she did not issue the cheques to the defendant and called the bank manager to investigate the matter further.

The checking account was originally a joint account shared by the victim and her late mother but was transferred solely to the victim's name upon her mother's passing.

The High Court adjourned the case yesterday to give the defendant, Amiruddin, time to prepare his mitigation before the sentencing hearing.

The case will appear before the High Court again on September 8.

The Brunei Times



SEXUAL OFFENCES

- Assault or Criminal Force to a person with intent to outrage modesty - Section 354
- Penalty **imprisonment for a term which may extend to 5 years and with whipping.**



Guilty of molesting a girl

BANDAR SERI BEGAWAN

A 19-YEAR-OLD man was found guilty by the Magistrate's Court yesterday of molesting and assaulting a 16-year-old girl in an incident that took place in Kampong Ayer on January 10 last year.

According to court documents, Mohamad Husamuddin Mohamad Yusra used criminal force to rub

his genitals against the victim. He then punched her left arm, slapped her face twice and strangled her. The defendant was charged under Section 354A of the Penal Code, which carries a maximum sentence of seven years' jail with whipping.

The defendant will appear in court again on September 10 to be sentenced. **The Brunei Times**



SEXUAL OFFENCES

- Word, Gesture or Act intended to insult the modesty of a woman-
Section 509
- Penalty **imprisonment for a term which may extend to 3 years and with fine**”



SEXUAL OFFENCES

- Sexual Grooming of Person under 16 - Section 377G
- Penalty **imprisonment for a term which may extend to 3 years, or with fine or with both**



9 years' jail, 6 lashes for sexual grooming offender

The charges were two counts of sexual grooming; two counts of sodomy; three counts of molestation; one count of lodging a false report; six counts of recording obscene images of the victims; one count of distributing the images and video among their school friends; and three counts of performing sexual acts in front of both victims, for the purpose of sexual gratification.

The case marks the first successful prosecution of a case involving “sexual grooming” – a term used to describe how online predators prowl the web for the purpose of engaging in sex with a minor – since new laws targetting sexual predators were introduced in 2012.

In delivering the sentencing verdict yesterday, Intermediate Court judge Hj Abdullah Soefri POKSM DSP Hj Abidin described Shahdon as a dangerous person and a sexual predator as the offence committed was pre-meditated and he had taken advantage of the boys for his sexual gratification





SEXUAL OFFENCES

- Rape - Section 375
- Penalty **imprisonment for a term which may extend to 30 years, and whipping**

10 years for teacher who raped student

🕒 THURSDAY, JULY 10, 2014



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SYAZWAN SADIKIN

BANDAR SERI BEGAWAN

A FIFTY-YEAR-OLD education officer has been sentenced to serve 10 years in jail after pleading guilty to raping his pupil.

In his verdict at the High Court Tuesday, Justice Dato Paduka Steven Chong said that a substantial starting point was justified in view of the aggravating factors, namely the violation of trust as a teacher; the wide age gap; the defendant preying on the youth and immaturity of the victim and grooming her for sex by showing her adult films and buying her gifts; and the repetition of sexual acts over a period of time.

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PENAL CODE & OTHER ACTS

- Can be accessed at www.agc.gov.bn
- Under “Services” Tab
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- “Acts” / “Orders”



QUESTION AND ANSWER SESSION

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ratno.zaidi@agc.gov.bn
2231200

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