

RECENT DEVELOPMENTS IN THE LAW ON CRIMINAL DISCLOSURE

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This article examines the amendments brought about by the Criminal Procedure (Miscellaneous Amendments) Act 2024 (Act 5 of 2024) and recent case law developments explaining the scope and timing of the Prosecution's and Defence's reciprocal disclosure obligations. The article also suggests implications for practitioners in discharging their obligations and advancing their cases, such as the incentive to set out the defence clearly and early to trigger the Prosecution's disclosure obligations, the consequences of non-compliance and taking advantage of sentencing discounts under Sentencing Advisory Panel's Guidelines on Reduction in Sentences for Guilty Pleas.

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I. Introduction

1 Criminal discovery in Singapore has come a long way, introducing “greater transparency and consistency to the pre-trial process”.² The introduction of the criminal case disclosure (“CCD”) process in the Criminal Procedure Code 2010³ (“CPC”), supplemented by legislative amendments and developments in

1 While the author is with the Attorney-General's Chambers, the views expressed in this article are her own.

2 Singapore Parl Debates; Vol 95, Sitting No 120; [5 February 2024] (Rahayu Mahzam, Senior Parliamentary Secretary to the Minister for Law); Singapore Parl Debates; Vol 87, Sitting No 3; Col 413; [18 May 2010] (K Shanmugam, Minister for Law).

3 2020 Rev Ed.

the common law duties of disclosure, has ensured that Singapore has “moved out of the dark ages”.⁴

2 This article examines the amendments brought about by the Criminal Procedure (Miscellaneous Amendments) Act 2024⁵ (“CPMAA”) and recent case law developments explaining the scope and timing of the Prosecution’s and Defence’s reciprocal disclosure obligations, and suggests implications for practitioners in discharging their obligations and advancing their cases.

II. Criminal case disclosure process

3 The statutory CCD procedure for cases in the State Courts and the General Division of the High Court (“General Division”) are respectively set out in Pts 9 and 10 of the CPC. In addition, common law disclosure obligations elucidated by the court in *Muhammad bin Kadar v Public Prosecutor*⁶ (“Kadar”) and *Muhammad Nabill bin Mohd Fuad v Public Prosecutor*⁷ (“Nabill”) now have a statutory basis in Pt 10A of the CPC, with further fine-tuning of their scope. The current CCD regime is examined below, with recent changes highlighted.

4 Singapore Parl Debates; Vol 87, Sitting No 3; Col 487; [18 May 2010] (Michael Palmer, Member of Parliament for Pasir Ris–Punggol). For developments over the years, see also Senthilkumaran Sabapathy & Ng Jun Chong, “From Adversarial to Collaborative Truth Seeking, the Past, Present and Future of Criminal Disclosure in Singapore” (2024) 36 SAcLJ 637 and Chen Siyuan, “Disclosure in Criminal Proceedings: Developments and Issues Ahead” (2022) 34 SAcLJ 51.

5 Act 5 of 2024. The amendments came into force on 14 February 2025.

6 [2011] 3 SLR 1205.

7 [2020] 1 SLR 984.

A. Criminal case disclosure conference

4 For cases where CCD procedures apply,⁸ the courts will convene a criminal case disclosure conference⁹ (“CCDC”) for the purpose of “settling” the filing of the Case for the Prosecution (“CFP”) and the Case for the Defence (“CFD”), any issues of fact or law to be tried, the list of witnesses, the statements, documents or exhibits which are intended by parties to be admitted at trial and the trial date. The judicial officer conducting the CCDC has the power to make orders that are necessary or ancillary to settling the abovementioned matters, such as issuing directions to parties on the timelines for filing and service, and orders to provide further particulars or information to fully comply with the requirements for the contents of the parties’ cases.¹⁰ The logical corollary of one party’s duty of disclosure is the other party’s right to seek such disclosure where it is not forthcoming.¹¹ There is no need to have recourse to the court’s power under s 6 of the CPC to adopt a procedure as the justice of the case requires, as under s 29(1) of the Interpretation Act 1965,¹² a written law conferring powers to do any act or thing shall be understood to confer powers that “are reasonably necessary to enable the person to do ... the act or the thing”, and the party who is owed such disclosure may seek further substantive orders from the

8 In the State Courts (see s 159 of the Criminal Procedure Code 2010 (2020 Rev Ed)), criminal case disclosure (“CCD”) procedures apply to offences which are specified in the Second Schedule to the Code and are to be tried in a District Court. Parties can also consent to the CCD procedures being applied to offences falling outside the abovementioned criteria. In the General Division of the High Court (“General Division”) (see s 211A of the Criminal Procedure Code 2010 (2020 Rev Ed)), CCD procedures apply to (a) offences that must be tried in the General Division; or (b) offences that are set out in the Second Schedule and that the Public Prosecutor designates the General Division to try. Similarly, parties can also consent to the CCD procedures being applied to offences to be tried in the General Division that fall outside the abovementioned criteria.

9 Criminal Procedure Code 2010 (2020 Rev Ed) s 160 (for offences tried in the State Courts) and s 212 (for offences tried in the General Division).

10 *Public Prosecutor v Li Weiming* [2014] 2 SLR 393 at [60]; *S Iswaran v Public Prosecutor* [2024] 4 SLR 1624 at [107].

11 Denise Huiwen Wong, “Discovering the Right to Criminal Disclosure: Lessons from Civil Procedure” (2013) 25 SAcLJ 548 at para 31.

12 2020 Rev Ed.

judicial officer conducting the CCDC, save that no order that is prejudicial may be made against a party in that party's absence.¹³

5 Should any party be dissatisfied with the decision of the judicial officer conducting the CCDC, no appeal is available.¹⁴ Instead, that party may seek criminal revision under s 404 of the CPC, but this is subject to the high threshold of "serious injustice".¹⁵

B. Case for the Prosecution¹⁶

6 The Prosecution has to file and serve the CFP within two weeks of the first CCDC.¹⁷

(1) Summary of facts in support of the charge

7 With the CPMAA amendments, High Court CFPs now require a summary of facts in support of the charge, to enhance consistency with this existing requirement for State Court CFPs.¹⁸ The requirements of the "summary of facts in support of the charge" has been examined in several recent cases.

8 In *Public Prosecutor v Li Weiming*,¹⁹ the offenders were charged with conspiracy to falsify accounts under s 477A read with s 109 of the Penal Code²⁰ for the issuance of an invoice under a fictitious subcontract. The offenders claimed that the summary of facts in the CFP did not contain sufficient facts and applied for further particularisation of the identity of the person allegedly

13 Criminal Procedure Code 2010 (2020 Rev Ed) s 160(2) (for offences tried in the State Courts) and s 212(2) (for offences tried in the General Division).

14 Criminal Procedure Code 2010 (2020 Rev Ed) s 374(5) .

15 *Public Prosecutor v Li Weiming* [2014] 2 SLR 393 at [71].

16 The contents of the Case for the Prosecution for offences tried in the State Courts and General Division are stipulated in ss 162 and 214 of the Criminal Procedure Code 2010 (2020 Rev Ed) respectively.

17 Criminal Procedure Code 2010 (2020 Rev Ed) s 161(2) (for offences tried in the State Courts) and s 213(1) (for offences tried in the General Division).

18 Criminal Procedure Code 2010 (2020 Rev Ed) s 162(1)(b) (for offences tried in the State Courts) and s 214(1)(aa) (for offences tried in the General Division); Singapore Parl Debates; Vol 95, Sitting No 120; [5 February 2024] (Rahayu Mahzam, Senior Parliamentary Secretary to the Minister for Law).

19 [2014] 2 SLR 393.

20 Cap 224, 2008 Rev Ed.

defrauded, the reasons why the subcontract was fictitious, the roles of each respondent and the acts committed pursuant to the conspiracy. The Court of Appeal explained that the summary of facts should “provide adequate notice to the accused when read in the context of the entire [CFP]”,²¹ and ought to contextualise the charge by providing information on the alleged events that gave rise to the charge, and if relevant to establishing the charge, the identity of the persons involved and the degree of involvement. Generally, facts which do not go directly to proving the legal elements of the charge would not be essential facts “in support of the charge”²² required in the summary of facts, but whether there was adequate notice would ultimately be fact-specific and depend on the precise circumstances of the charge before the court.²³

9 On the facts, the Court of Appeal held that the summary of facts was sufficient to provide adequate notice to the offenders, because a general intent to defraud suffices for a charge under s 477A of the Penal Code,²⁴ and it was not a legal requirement for the summary of facts to state who was defrauded by the falsification of the invoice. Moreover, the offenders would not be taken by surprise at trial by reason of the absence of information on why the subcontract was allegedly fictitious, since a copy of the subcontract was provided in the CFP, and further details are matters of evidence that would be fully ventilated at trial.²⁵

10 More recently, in *Public Prosecutor v Maran Panyselbom*,²⁶ the offender claimed trial to three amalgamated charges²⁷ for cheating under s 420 of the Penal Code 1871²⁸ read with s 124(4) of the CPC, where the offender deceived his company’s director into

21 *Public Prosecutor v Li Weiming* [2014] 2 SLR 393 at [92]–[93].

22 *Public Prosecutor v Li Weiming* [2014] 2 SLR 393 at [93].

23 *Public Prosecutor v Li Weiming* [2014] 2 SLR 393 at [93]. See also *S Iswaran v Public Prosecutor* [2024] 4 SLR 1624 at [93]–[95].

24 Cap 224, 2008 Rev Ed.

25 *Public Prosecutor v Li Weiming* [2014] 2 SLR 393 at [95]–[96].

26 [2026] SGDC 147.

27 See also *Prakash s/o Mathivanan v Public Prosecutor* [2025] 4 SLR 1386 at [21] for a discussion on whether an amalgamated charge is sufficiently particularised.

28 2020 Rev Ed.

approving payments for suppliers' bank accounts, when these payments were in fact diverted to his and his wife's personal accounts. After the CFP was served, the offender applied for the Prosecution to disclose, for each of the payment transactions, the date of each transaction, the amount involved, the name of the supplier to whom the payment was to be made, and whether the supplier eventually received payment. The court held that the applicable test was not whether the details sought would assist the offender in preparing his defence, but whether their omission would leave him in genuine doubt as to the case he had to meet,²⁹ and whether the summary of facts afforded adequate notice of the factual premises of the Prosecution's case.³⁰ The function of the notice requirement is to ensure that an accused is not taken by surprise at trial, and does not require the Prosecution to furnish the accused with the *evidence* by which it intends to establish those facts, nor to provide details that would assist the accused in deciding how to respond to that evidence.³¹ The court also cautioned against the accused attempting to shape a defence around the Prosecution's evidence, as that would undermine one of the core imperatives of the CCDC regime.³²

11 On the facts, the court held that the summary of facts provided the context and factual basis of the amalgamated charges, with a clear account of the role the offender played, the method by which the deception was carried out, the manner in which his position within the company facilitated the offences, and the means by which he dishonestly induced the company into approving payments to him and his wife. The court found that the offender had adequate notice of the factual premises of the Prosecution's case and dismissed the offender's application for details of the transactions.³³

29 *Public Prosecutor v Maran Panysselbom* [2026] SGDC 147 at [3].

30 *Public Prosecutor v Maran Panysselbom* [2026] SGDC 147 at [14].

31 *Public Prosecutor v Maran Panysselbom* [2026] SGDC 147 at [14].

32 *Public Prosecutor v Maran Panysselbom* [2026] SGDC 147 at [18] and [22].

33 *Public Prosecutor v Maran Panysselbom* [2026] SGDC 147 at [12].

(2) *Statements of witnesses under s 264 that are intended by the Prosecution to be admitted at the trial*

12 The requirement for “statements of witnesses under section 264 that are intended by the prosecution to be admitted at the trial”³⁴ that is unique to High Court CFPs was recently examined in the case of *S Iswaran v Public Prosecutor*.³⁵ Therein, the offender unsuccessfully applied at a CCDC for an order that the Prosecution supplement the CFP with conditioned statements under s 264 of the CPC for every witness whom it intended to call at the trial. The offender then applied for revision under s 404 of the CPC for the court to call for and examine the record of the CCDC, and sought orders for the Prosecution to serve on the offender: (a) for all witnesses in the Prosecution’s list of witnesses who agreed to provide a conditioned statement, the conditioned statements of those witnesses; (b) a letter setting out the identities of the witnesses who did not agree to provide a conditioned statement and each of such witness’s reasons for not agreeing; and (c) draft conditioned statements which set out the evidence that the Prosecution intended to lead from the witnesses referred to in (b) at the trial.

13 The General Division examined s 214(1)(d) of the CPC, and observed that the Prosecution’s obligation to provide “the statements of the witnesses under section 264 [of the CPC]”³⁶ is qualified by the express words “are *intended* by the prosecution to be *admitted at the trial*”³⁷ [emphasis in original], and cannot be construed to mean that the Prosecution must obtain statements under s 264 of the CPC from all the witnesses that it intends to call to give evidence at the trial. Neither did the provision require the Prosecution to file and serve the statements under s 264 of the CPC for every witness that it intends to call at the trial, nor did it require the Prosecution to provide the drafts of such written statements where any such witness is not willing

34 Criminal Procedure Code 2010 (2020 Rev Ed) s 214(1)(d) .

35 [2024] 4 SLR 1624.

36 *S Iswaran v Public Prosecutor* [2024] 4 SLR 1624 at [32].

37 *S Iswaran v Public Prosecutor* [2024] 4 SLR 1624 at [32].

to provide a conditioned statement.³⁸ Accordingly, the offender's application was dismissed.³⁹

C. Case for the Defence⁴⁰

14 The court may fix a date for a further CCDC not earlier than seven days after the CFP is filed,⁴¹ and if the accused does not indicate an intention to plead guilty, the Defence must file and serve the CFD within two weeks after the further CCDC.⁴²

15 The key change brought about by the CPMAA is to mandate the Defence's participation in the CCDC process for CCDC-applicable offences. In the State Courts, with the deletion of s 159(2) of the CPC, the Defence may no longer opt out of the CCDC process. In the General Division, s 215(1) of the CPC now provides that the Defence "must" rather than "may" file and serve the CFD.

D. Supplementary bundles

16 Two weeks after the CFD is served, parties also have the following independent obligations:⁴³

(a) The Prosecution must serve on the Defence copies of the accused's remaining statements or transcripts of audiovisual recorded statements, documentary exhibits listed in the list of exhibits (except for intimate images, where arrangements to view will be made instead)⁴⁴ and accused's criminal records (if any, and upon payment

38 *S Iswaran v Public Prosecutor* [2024] 4 SLR 1624 at [32].

39 *S Iswaran v Public Prosecutor* [2024] 4 SLR 1624 at [130]–[133].

40 The contents of the Case for the Defence for offences tried in the State Courts and General Division are stipulated respectively in ss 165 and 217 of the Criminal Procedure Code 2010 (2020 Rev Ed).

41 Criminal Procedure Code 2010 (2020 Rev Ed) s 161(4) (for offences tried in the State Courts) and s 213(3) (for offences tried in the General Division).

42 Criminal Procedure Code 2010 (2020 Rev Ed) s 163(1) (for offences tried in the State Courts) and s 215(1) (for offences tried in the General Division).

43 Criminal Procedure Code 2010 (2020 Rev Ed) s 166(5) (for offences tried in the State Courts) and s 218(5) (for offences tried in the General Division).

44 Criminal Procedure Code 2010 (2020 Rev Ed) s 166(2A) (for offences tried in the State Courts) and s 218(2A) (for offences tried in the General Division).

of the prescribed fee) (collectively, the Prosecution's supplementary bundle ("PSB")).⁴⁵

(b) The Defence must serve on the Prosecution copies of the documentary exhibits in its list of exhibits that are within the accused's possession, custody or power.⁴⁶

E. Prosecution's obligation to disclose unused materials

17 The common law *Kadar* disclosure obligation⁴⁷ has now been codified,⁴⁸ whereby the Prosecution has a continuing obligation⁴⁹ to disclose unused material that:⁵⁰

- (a) is likely to be:
 - (i) admissible and is *prima facie* credible and relevant to the guilt or innocence of an accused, or
 - (ii) is likely to be admissible, but would provide a real (not fanciful) chance of pursuing a line of inquiry that leads to material that falls within the description in (i) above; and
- (b) either tends to undermine the Prosecution's case, or support the accused's defence as stated by the accused in the accused's statement(s), CFD or testimony in court.

18 In particular, s 221A(1)(a) of the CPC makes clear that "unused material" excludes the accused's written and audiovisual statements. This coheres with the rationale of *Kadar*⁵¹ to ensure that the accused has access to relevant and credible evidence probative of the accused's innocence that the accused might not even be aware of, especially since the accused would almost invariably have known of the accused's earlier statements (barring some loss of memory due to a medical

45 Criminal Procedure Code 2010 (2020 Rev Ed) s 166 (for offences tried in the State Courts) and s 218 (for offences tried in the General Division).

46 Criminal Procedure Code 2010 (2020 Rev Ed) s 166(4) (for offences tried in the State Courts) and s 218(4) (for offences tried in the General Division).

47 *Muhammad bin Kadar v Public Prosecutor* [2011] 3 SLR 1205 at [113].

48 Criminal Procedure Code 2010 (2020 Rev Ed) ss 221A and 221B.

49 Criminal Procedure Code 2010 (2020 Rev Ed) s 221D(1).

50 Criminal Procedure Code 2010 (2020 Rev Ed) s 221A(1).

51 *Muhammad bin Kadar v Public Prosecutor* [2011] 3 SLR 1205 at [113].

condition).⁵² The Prosecution must serve such unused material on the Defence together with the CFP for CCDC cases,⁵³ or before the commencement of trial for non-CCDC cases,⁵⁴ unless they are protected by laws on privilege, secrecy or the protection or non-disclosure of information.⁵⁵

E. Prosecution's obligation to disclose statements of material witnesses

19 The common law *Nabill* additional disclosure obligation⁵⁶ has also been codified,⁵⁷ whereby the Prosecution has a continuing obligation⁵⁸ to disclose the statements of any material witness who may confirm or contradict, in material respects, an accused's defence as set out in the accused's statement(s), CFD or testimony in court.

20 Of note, the definition of "material witness" in s 221A(2) of the CPC excludes prosecution witnesses.⁵⁹ Moreover, the timing of disclosure⁶⁰ has been amended to coincide with the service of the PSB⁶¹ rather than the CFP for CCDC cases, and after the accused had testified in court or elected not to testify in non-CCDC cases rather than before trial.⁶² This is in line with the sequential and reciprocal nature of the CCD regime.⁶³

52 *Xu Yuanchen v Public Prosecutor* [2021] 4 SLR 719 at [42]–[43].

53 Criminal Procedure Code 2010 (2020 Rev Ed) s 221B(3)(a).

54 Criminal Procedure Code 2010 (2020 Rev Ed) s 221B(4)(a).

55 Criminal Procedure Code 2010 (2020 Rev Ed) s 221B(5).

56 *Muhammad Nabill bin Mohd Fuad v Public Prosecutor* [2020] 1 SLR 984 at [36], [39] and [41].

57 Criminal Procedure Code 2010 (2020 Rev Ed) ss 221A and 221B.

58 Criminal Procedure Code 2010 (2020 Rev Ed) s 221D(2).

59 The statements of material witnesses could still be caught under the obligation to disclose unused materials under ss 221A and 221B of the Criminal Procedure Code 2010 (2020 Rev Ed): see s 221B(2) of the Criminal Procedure Code 2010 (2020 Rev Ed); and *Pigg, Derek Gordon v Public Prosecutor* [2022] SGHC 5 at [16].

60 *Muhammad Nabill bin Mohd Fuad v Public Prosecutor* [2020] 1 SLR 984 at [53].

61 Criminal Procedure Code 2010 (2020 Rev Ed) s 221B(3)(b)(i).

62 Criminal Procedure Code 2010 (2020 Rev Ed) s 221B(4)(b).

63 Singapore Parl Debates; Vol 95, Sitting No 120; [5 February 2024] (Rahayu Mahzam, Senior Parliamentary Secretary to the Minister for Law).

III. Practical implications

21 There are at least three implications that these recent developments may have for practitioners.

A. *Incentive to set out defence clearly and early to trigger Prosecution's disclosure obligations*

22 First, given that the Prosecution's obligations to disclose unused materials and the statements of material witnesses apply to material that supports the accused's defence as stated in the accused's statement(s) to the relevant law enforcement agency, CFD or testimony in court,⁶⁴ defence counsel should advise the accused to set out the defence clearly and early to benefit from these disclosure obligations, as any defence that cannot be reasonably ascertained would be disregarded.⁶⁵ Defence counsel may also advise the accused in non-CCDC cases to elect to opt in for the CCD procedures (provided the Prosecution also consents), as that will enable the accused to obtain disclosure of unused materials and statements of material witnesses at an earlier juncture.

B. *Consequences of non-compliance*

23 Second, the courts expect parties to take their respective disclosure obligations seriously, and there may be severe consequences for non-compliance.

24 If the Prosecution fails to serve the CFP or PSB or does so inadequately, the court may draw adverse inferences or order a discharge not amounting to an acquittal.⁶⁶ When a trial or an appeal begins, there is a presumption that the Prosecution has complied with its disclosure obligations.⁶⁷ However, the presumption may be displaced if the Defence satisfies the court

64 Criminal Procedure Code 2010 (2020 Rev Ed) ss 221A(1)(d)(ii) and 221A(2).

65 Criminal Procedure Code 2010 (2020 Rev Ed) s 221A(3). See also *Roshdi bin Abdullah Altway v Public Prosecutor* [2022] 1 SLR 535 at [152].

66 Criminal Procedure Code 2010 (2020 Rev Ed) s 169 (for offences tried in the State Courts) and s 221 (for offences tried in the General Division).

67 *Soh Guan Cheow Anthony v Public Prosecutor* [2017] 3 SLR 147 at [97].

that there are reasonable grounds for belief that there has been a breach, and the Prosecution must then establish to the court's satisfaction that its disclosure obligations are fulfilled. The Prosecution should evaluate its position having regard to the contentions raised by the accused, and should disclose if there are any doubts. If disclosure is resisted, the court will examine the material and evidence tendered and decide if disclosure should be ordered.⁶⁸

25 The breach of the Prosecution's obligations may lead to the reversal of a conviction if there was a miscarriage of justice that renders the conviction unsafe,⁶⁹ a retrial before a different judge,⁷⁰ or the taking of further evidence and allowing counsel to further cross-examine a witness on areas of inconsistencies.⁷¹ In ascertaining the appropriate consequence, the court will examine the effect of the breach on the evidence against the accused, how the breach prejudiced the accused, whether steps can be, or have been, taken to remedy the prejudice caused, and the causes of the breach, including the conduct of the Prosecution. This balancing exercise will ensure fairness not only to the accused, but also to the victims, especially when the charge is serious.⁷²

26 Moreover, given that CFDs are now compulsory for CCDC cases, defence counsel should advise the accused that non-compliance may lead to the accused being cross-examined on why the CFD was not filed or served, and the court may draw adverse inferences against the accused.⁷³ Moreover, the Prosecution would not need to serve the PSB on the accused,⁷⁴ and

68 *Lee Siew Boon Winston v Public Prosecutor* [2015] 4 SLR 1184 at [184].

69 See *Public Prosecutor v Wee Teong Boo* [2020] 2 SLR 533 at [138]; *Lim Hong Liang v Public Prosecutor* [2020] 5 SLR 1015 at [24]; and *Muhammad bin Kadar v Public Prosecutor* [2011] 3 SLR 1205 at [120].

70 See *Lim Hong Liang v Public Prosecutor* [2021] 5 SLR 626 at [70]; and *Lim Hong Liang v Public Prosecutor* [2020] 5 SLR 1015 at [19].

71 See *Pigg, Derek Gordon v Public Prosecutor* [2022] SGHC 5 at [31]–[32].

72 *Lim Hong Liang v Public Prosecutor* [2021] 5 SLR 626 at [22].

73 Criminal Procedure Code 2010 (2020 Rev Ed) ss 163(3) and 169 (for offences tried in the State Courts) and ss 214(3) and 221 (for offences tried in the General Division).

74 Criminal Procedure Code 2010 (2020 Rev Ed) s 166(3) (for offences tried in the State Courts) and s 218(3) (for offences tried in the General Division).

the accused would only receive statements of material witnesses after the accused has testified in court or elected not to testify.⁷⁵

C. Taking advantage of sentencing discounts under Sentencing Advisory Panel's Guidelines on Reduction in Sentences for Guilty Pleas

27 Third, timely pre-trial disclosure enables parties to evaluate the merits of their respective cases and decide whether a reduction or withdrawal of the charge is warranted or whether early guilty pleas should be entered.⁷⁶ In so far as this information enables the accused to elect to plead guilty at an earlier stage, the accused may benefit from a greater percentage of reduction in sentence under the Sentencing Advisory Panel's Guidelines on Reduction in Sentences for Guilty Pleas.⁷⁷

IV. Conclusion

28 Pre-trial disclosure has shifted the dynamics of the trial process from a purely adversarial model to a truth-seeking one,⁷⁸ with prosecutors as ministers of justice.⁷⁹ The Prosecution's role is to assist the court in coming to the correct decision, with a duty to disclose all material that is *prima facie* useful to the court's determination of the truth, even if it is unhelpful or even detrimental to the Prosecution's case.⁸⁰ Likewise, defence counsel, who are also officers of the court, are under a fundamental duty

75 Criminal Procedure Code 2010 (2020 Rev Ed) s 221B(3)(b)(ii).

76 See *S Iswaran v Public Prosecutor* [2024] 4 SLR 1624 at [40]; *Public Prosecutor v Li Weiming* [2014] 2 SLR 393 at [26]; Singapore Parl Debates, Vol 87, Sitting No 3; Cols 449–450 [18 May 2010] (Christopher De Souza, Member of Parliament for Holland–Bukit Timah); Melaine Chng, “Modernising the Criminal Justice Framework: The Criminal Procedure Code 2010” (2011) 23 SAcLJ 23 at para 37.

77 Sentencing Advisory Panel, “Guidelines on Reduction in Sentences for Guilty Pleas” (effective from 1 October 2023) <<https://isomer-user-content.by.gov.sg/350/2f415fd5-b1ea-44ac-bf37-09761baa3ba9/guidelines%20on%20reduction%20in%20sentences%20for%20guilty%20pleas.pdf>> (accessed 26 August 2026).

78 See Senthilkumaran Sabapathy & Ng Jun Chong, “From Adversarial to Collaborative Truth Seeking, the Past, Present and Future of Criminal Disclosure in Singapore” (2024) 36 SAcLJ 637.

79 *Muhammad bin Kadar v Public Prosecutor* [2011] 3 SLR 1205 at [109].

80 *Muhammad bin Kadar v Public Prosecutor* [2011] 3 SLR 1205 at [109].

to assist in the administration of justice, and must present the accused's case and behave in a manner which reflects the legal practitioner's paramount duty to the court, which takes precedence over the duty to the accused.⁸¹ The developments in the common law, and the recent legislative amendments in the CPMAA, are welcomed, as they provide clarity on how prosecutors and practitioners are best able to advance the public interest and the accused's interests respectively, and assist the court in its search for truth.

81 Legal Profession (Professional Conduct) Rules 2015 rr 4 and 14.