

## CHAPTER 7 REHABILITATION OF OFFENDERS

### I. PROBATION AND PAROLE

#### A. Overview

Both probation and parole are forms of community-based treatment of offenders and juvenile delinquents.

Probation is a court-imposed disposition that places the offender or juvenile delinquent under the supervision and assistance of the probation office, while allowing them to remain in the community. As long as they abide by the conditions of probation, probationers can avoid being committed to prisons or juvenile training schools.

Parole is the supervised early release of offenders and juvenile delinquents who have been committed to prisons or juvenile training schools. Parole decisions are made by Regional Parole Boards (see page 8), and parolees are also placed under the supervision and assistance of the probation office.

The probation office deals with the following four categories of individual:

- (1) juveniles placed on probation by the Family Court (juvenile probationers);
- (2) juveniles provisionally released from juvenile training schools on parole (juvenile parolees);
- (3) inmates released from prisons on parole (adult parolees); and
- (4) offenders who received a suspended sentence and were placed on probation by the sentencing court (adult probationers).

#### 1. Juvenile Probationers

The Family Court, after a juvenile hearing, may place a juvenile delinquent under a protective measure, and probation is one of the options available as a protective measure (see page 33 for more details). The legally prescribed period of probation for a juvenile probationer is until he or she reaches 20 years of age or for two years, whichever is longer. In 2009, the Family Court placed 26,172 juveniles on probation. This represents 17.6 % of the juveniles who were disposed of by the Family Court.

#### 2. Juvenile Parolees

A juvenile committed to a juvenile training school may be provisionally released on parole by a decision of the Regional Parole Board. Juvenile parolees are placed on probation during the period of parole, which is, as a general rule, until reaching 20 years of age. In 2009, 3,867 juveniles were paroled from juvenile training schools, accounting for 99.4 % of those who were released from juvenile training schools.

#### 3. Adult Parolees

An offender serving a prison sentence may be conditionally released on parole by a decision of the Regional Parole Board. The inmate must have served at least one third of the sentence (or ten years in the case of a life sentence) before he or she becomes eligible for parole. An adult parolee shall be placed on probation for the remaining term of the sentence (in the case of offenders paroled from life sentences, probation runs for life). In 2009, of the 30,178 inmates released, 14,854 (49.2%) were released on parole.

#### 4. Adult Probationers

Under certain circumstances, a sentencing court may suspend the execution of the sentence and place the convicted offender on probation. In Japan, adult probation is not a distinct sentencing option: it is only used as a measure complementary to the suspension of execution of sentence. The period of probation ranges from one to five years, corresponding to the period of suspension of the execution of sentence specified by the sentencing court. See page 31 for more details on suspension of the execution of sentence.

Of the 71,871 offenders sentenced to imprisonment in 2009, 42,569 (59.3%) had the execution of their sentences suspended, of which 3,622 were placed on probation.

### **B. Parole Procedure**

Screening for release on parole is a major duty of Regional Parole Boards. In Japan, an inmate or a juvenile committed to a juvenile training school has no right to apply for parole: the parole proposal must come from the head of the correctional institution in which the individual is accommodated. Alternatively, the Regional Parole Board may commence a parole examination on its own initiative.

#### 1. Parole Examination

When a parole examination is initiated, a board member visits the institution and interviews the individual in question. Later, three members of the board examine the case to evaluate whether the requirements for parole are met. The evaluation will consist of an examination of observations by the interviewer, information from the inmate or juvenile's institutional record and the probation office's report on the co-ordination of social circumstances. In addition, Regional Parole Boards are required to hear the opinions and feelings of the victims of the underlying offences, if requested.

The parole requirements for an adult parolee are that: (i) he or she has served at least one-third of a determinate sentence or ten years of a life sentence; (ii) he or she demonstrates repentance and the will to rehabilitate; (iii) there is no likelihood of reoffending; and (iv) society will accept his or her parole.

The parole requirements for a juvenile parolee are that: (i) he or she has reached the highest stage of treatment and release on parole is appropriate for his or her improvement and rehabilitation; or (ii) release on parole is specially necessary for his or her improvement and rehabilitation.

#### 2. Parole Decision

When the panel of three board members finds that the requirements are met, they will make a parole decision specifying the date of parole, place of residence during parole, and special conditions applicable to the parolee.

#### 3. Pre-parole Inquiry by Probation Officers

Probation officers attached to Regional Parole Boards visit correctional institutions regularly for parole preparation. They collect information through interviews with inmates, case conferences with correctional officers, and examination of relevant correctional records. The result of this investigation is submitted to the Board, and a copy is also sent to the probation office to provide the field officer with the pertinent data on potential parolees.

### **C. Probation and Parole Conditions**

Probationers and parolees are required to abide by the general and special conditions of probation. A failure to comply may result in adverse actions such as parole revocations.

#### 1. General Conditions

The general conditions of probation are specified in the Offenders Rehabilitation Act. General

conditions are imposed on all juvenile and adult probationers and parolees alike, and they cannot be changed or withdrawn during the probation or parole.

The general conditions are the following: (i) maintaining a sound attitude towards life; (ii) responding to summons or interviews by professional and volunteer probation officers; (iii) providing relevant information when requested by professional and volunteer probation officers; (iv) residing at the designated or registered residence; and (v) obtaining the permission of the director of the probation office before changing residence or travelling for seven days or more.

## 2. Special Conditions

In addition to the general conditions, special conditions necessary for improvement and rehabilitation may be set for individual probationers and parolees. In the case of adult and juvenile probationers, special conditions are determined by the director of the probation office after hearing the opinion of the court. In the case of adult and juvenile parolees, special conditions are determined by Regional Parole Boards on the basis of proposals by the director of the probation office.

Special conditions are chosen from among the itemized list in the Offenders Rehabilitation Act. Unlike the general conditions, they may be added to, changed, or withdrawn during the probation or parole in accordance with changes in the circumstances of individual persons.

The examples of special conditions are: (i) prohibition of specific acts such as association with certain persons, going to certain places, reckless wasting of money for pleasure, and excessive consumption of alcohol; (ii) performing or continuing to perform certain acts such as engaging in work or attending schools; and (iii) attendance at certain treatment programmes specified by the Minister of Justice.

## 3. Life and Conduct Guidelines

The director of a probation office may, if necessary, establish individual guidelines for life and conduct that contribute to the improvement and rehabilitation of probationers and parolees. Unlike the probation conditions, non-compliance with the guidelines does not result in adverse actions against the probationer or the parolee.

# **D. Implementation of Probation and Parole**

## 1. General Framework

The purpose of probation and parole, as defined in the Offenders Rehabilitation Act, is to “ensur[e] the improvement and rehabilitation of the probationers and parolees” through “instruction and supervision” and “guidance and assistance.”

“Instruction and supervision” is implemented by (i) maintaining contact with probationers and parolees and keeping track of their behaviour; (ii) giving necessary instructions or taking measures to ensure that probationers and parolees comply with the general and special conditions of probation; and (iii) providing professional treatment designed to improve specific criminal tendencies.

“Guidance and assistance” includes (i) assistance in securing accommodation; (ii) assistance in receiving medical care; (iii) assistance in job placement and vocational guidance; (iv) improving and coordinating social circumstances; and (v) providing instructions on necessary life skills.

While the aim of “guidance and assistance” is to enable probationers and parolees to live an independent life based on their own responsibility, they may face acute financial difficulties that can hamper their improvement and rehabilitation. Under such circumstances, the director of the probation office may provide necessary “urgent aid” including medical care, meals, accommodation, clothes, and

travel expenses. In 2009, 5,513 probationers and parolees received such urgent aid directly from probation offices, and 5,439 through persons commissioned by the probation offices.



Interview by a Probation Officer

## 2. Intake Interviews and Treatment Plans

Individuals placed on probation or parole are required to report immediately to the probation office that has territorial jurisdiction over his or her place of residence. At the office, an intake interview will be conducted, and the probation officer will explain the framework of supervision, notify him or her of the conditions of probation, register his or her residence, and draw up an individualized treatment plan.

## 3. Role of Probation Officers and Volunteer Probation Officers

Japanese probation officers are usually responsible for one or several local administration divisions, and they supervise all the cases within that division. In order to supplement their work, a volunteer probation officer [in this chapter, hereinafter VPO] will be assigned to serve as a day-to-day supervisor for the probationer or parolee. In many cases, the VPO lives nearby the probationer or parolee, which makes regular contact much easier.

After receiving the treatment plan and other relevant information, the VPO starts supervising the probationer or parolee. The VPO keeps in touch with the probationer or parolee and his or her family by means of mutual visits and interviews and submits a monthly progress report to the probation office.

While VPOs are entrusted with day-to-day supervision of ordinary cases, probation officers need to directly intervene in cases of high-risk or difficult individuals or in critical situations.

## 4. Day Offices

Probation officers regularly visit such venues as the municipal offices, public halls, or youth centres located in their respective areas of responsibility. These visits are called “Day Offices.” Probation officers interview probationers and parolees, visit their homes, counsel their families, and consult with VPOs and other related parties such as school teachers, employers, and community agencies, using “Day Offices” as their base. This practice facilitates direct casework by probation officers and provides VPOs with closer supervision and consultation.

## 5. Progressive Treatment

Probationers and parolees are classified into four grades in accordance with the results of their initial risk and needs assessments. The grade determines the required frequency of contact and the criteria for the measures against the bad conduct. Probationers and parolees are upgraded or downgraded depending upon the outcome of treatment.

## 6. Categorized Treatment

Categorized Treatment is a system designed to effectively treat probationers and parolees based on their particular problems. Treatment manuals are prepared for each category, and are taken into consideration in setting up treatment plans for individual probationers and parolees. Currently, there are 13 categories: Thinner-sniffing Offenders; Stimulant Drug Abusers; Offenders with Drinking Problems; Gang Members; Hot-rodgers; Sex Offenders; Mentally Disordered Offenders; Unemployed Offenders; Elderly Offenders; Junior High School Students; In-school Violence Offenders; Family Violence Offenders (including violence to partners and children); and Offenders with Gambling Addiction.

## 7. Treatment Programmes as Special Probation Conditions

Systematic treatment programmes designed to address specific criminal tendencies and designated by the Minister of Justice as such may be included as a special probation condition for probationers and parolees.

Currently, there are three designated treatment programmes: the Sex Offender Treatment Programme; the Stimulant Drug Offender Treatment Programme; and the Violence Prevention Programme. As they form part of the special probation conditions, a failure to participate can lead to adverse actions.

These programmes are based on cognitive-behavioural theory, and they consist of one introductory session and five core sessions. By participating in these programmes, probationers and parolees are expected to understand their biases in thinking, to recognize the situations in which they are likely to commit the offence, and to develop skills to cope in such situations. Notably, the Stimulant Drug Offender Treatment Programme includes compulsory drug testing (either urinalysis or a saliva test), and if the result is positive, it will be reported to the police unless the probationer or parolee voluntarily turns himself or herself in to the police.

The programmes for drug offenders and violent offenders are tailored for individual delivery, while the sex offenders programme can be delivered either individually or in group sessions.

## 8. Short -Term Programmes for Juvenile Probationers

Upon recommendation by the Family Court, juvenile probationers with relatively weak criminal tendencies may be placed on programmes called “Short-Term Traffic Probation” or “Short-Term Juvenile Probation.” While the duration of probation is legally no different from ordinary juvenile probation, these programmes operate on the assumption that probation will be terminated early if the juveniles fulfill certain requirements.

Short-Term Traffic Probation requires juvenile probationers to attend group sessions such as lectures and discussions, and to submit monthly reports on their daily lives. Those who have satisfied these requirements are ordinarily discharged from probation after three to four months. Juveniles placed on Short-Term Juvenile probation are required to submit monthly reports and to complete certain tasks assigned by the probation officer. These tasks are determined on an individual basis, and they may include community service, volunteer work at social welfare institutions such as special nursing homes for the elderly, or participation in various cultural, labour, or recreational programmes organized by rehabilitation volunteers. These activities are collectively called “community participation programmes,” and juvenile probationers and parolees not enrolled in Short-Term Programmes may also participate on a voluntary basis.

## 9. Comprehensive Job Assistance Scheme

Secure employment is essential to social reintegration and rehabilitation of offenders and juvenile delinquents. To improve their employability and provide job placement assistance more effectively, the Ministry of Justice and the Ministry of Health, Welfare and Labor recently agreed to strengthen their co-

ordination in the provision of services. For example, Public Employment Security Offices will provide support in preparing for employment while the offender is still in prison. To ease the anxieties of potential employers, trial employment programmes and employer fidelity bonds schemes are provided as well.

In 2009, of the 6,371 probationers and parolees who enrolled in the job assistance scheme, 2,089 secured employment through it.

#### 10. National Centre for Offenders Rehabilitation Project

Some prison inmates and juveniles in juvenile training schools, despite their willingness to change and the progress they have made while in a correctional institution, may still not be eligible for parole for lack of an appropriate place to return to. They may have no family, friends, or employers willing to accept them, and may also be rejected by Offenders Rehabilitation Facilities (halfway houses) operated by the private sector. National Centres for Offenders Rehabilitation have been established to provide temporary accommodation, coupled with intensive supervision and job placement assistance by probation officers, for such offenders and juveniles. These Centres create opportunities for early release on parole, and ensure that these offenders and juveniles are not released into community without appropriate probationary supervision and support. As of 2010, four such Centres are in operation, and their total capacity is for 58 parolees.



Numata-cho National Centre  
for Offenders Job Training and Employment Support

### **E. Termination of Probation and Parole**

Depending on the performance of the probationer or parolee, probation or parole may be terminated early (see page 42-43 for the regular period of each type of probation and parole), or in “failure cases,” adverse actions such as parole revocations may be taken.

#### 1. Measures for Good Conduct

Juvenile probationers are discharged early when the director of the probation office finds it no longer necessary to continue the probation. For juvenile parolees, the decision on early discharge is made by Regional Probation Boards upon proposal by the director of the probation office.

Probation for adult parolees runs for the remaining term of the sentence, and there is no early discharge from probation.<sup>23</sup> This means that offenders paroled from life imprisonment will be on probation for life, which can be terminated only through pardon. As for adult probationers, the period of probation

23. Offenders paroled from indeterminate prison sentences may be discharged early from probation. However, in Japan, indeterminate sentencing is applicable only to juveniles, and its use is limited.

corresponds to that of the suspension of execution of sentence as specified by the sentencing court, and cannot be shortened. However, the Regional Parole Board, upon proposal from the director of the probation office, may provisionally cancel the probation, in which case, the probationer will be treated as if not under probation.

2. Measures against Bad Conduct

When a juvenile probationer does not comply with the conditions of probation, the director of the probation office may issue warnings. If the juvenile still does not comply and the degree of non-compliance is serious, the director may apply to the Family Court for a decision to commit the juvenile to a juvenile training school.

In the case of juvenile parolees who do not comply with the conditions, the Regional Parole Board, upon proposal from the director of the probation office, may apply to the Family Court for a decision to recommit the parolee to a juvenile training school.

If an adult parolee does not observe parole conditions, the Regional Parole Board, upon proposal from the director of the probation office, may revoke parole. When parole is revoked, the parolee is confined in the correctional institution for the whole length of his or her parole period.

When an adult probationer does not comply with the conditions and the circumstances of non-compliance are serious, the director of the probation office shall submit a proposal in writing to the public prosecutor, who will then apply to the court for a decision to revoke the suspension of the execution of the sentence.

**F. Outcome of Probation and Parole**

The number of probation and parole cases terminated in 2009 is shown in Table 2 below. The number of successfully completed cases (i.e. the probation or parole period passed without any adverse action being taken, or probation or parole was terminated early for good conduct) and the number of cases in which reoffending took place are included as well. The figures do not add up to 100% because some of the cases of reoffending, especially cases of minor offences, did not result in adverse actions being taken. The five year recidivism rate for offenders placed on probation or parole in 2004 (i.e. the rate of those who reoffended by the end of 2009) is shown in Table 3.

**Table 2. Probation and Parole Cases terminated in 2009**

2009	Juvenile Probation*	Juvenile Parole	Adult Parole	Adult Probation
<b>Total</b>	<b>17,104</b>	<b>4,060</b>	<b>15,634</b>	<b>4,576</b>
Successfully completed	14,387 (84.1%)	3,377 (83.2%)	14,645 (95.3%)	3,320 (70.4%)
Cases of reoffending	3,194 (18.7%)	878 (21.6%)	91 (0.6%)	1,340 (29.3%)

\* Excluding special Short-Term Programmes for juvenile traffic offenders.

**Table 3. Five year Recidivism Rate 2004-2009**

2004-2009	Juvenile Probationers	Juvenile Parolees	Adult Parolees	Adult Probationers
Recidivism rate	17.0%	23.1%	6.2%	31.4%

## **II. AFTERCARE OF DISCHARGED OFFENDERS**

Offenders released from custody but not subject to probation or parole may still need some form of aftercare support from the government. Examples of such offenders include (i) inmates released after serving the full term of their prison sentences; (ii) defendants who received “suspension of execution of sentence without probation” (see page 31); and (iii) suspects released by prosecutors with “suspension of prosecution” (see page 22).

The Offenders Rehabilitation Act authorizes the director of a probation office to provide “urgent aftercare” to such discharged offenders, either directly or by commissioning appropriate persons to do so, when applied for by eligible offenders, to the extent necessary for their improvement and rehabilitation. Aftercare services that may be provided include medical care, meals, accommodation, clothing, education and training, travel expenses, vocational guidance, and referral to Public Employment Security Offices or Public Welfare Offices. The maximum period of aftercare is six months in principle but may be extended for up to another six months.

## **III. PARDONS**

Pardon is an action of the executive branch that officially nullifies punishment or other legal consequences of a crime. Though not a measure for offender treatment in itself, pardon can function as a stimulus and encouragement for behavioural change. It is particularly significant for offenders released on parole from life sentences, for they will be placed on probation for life unless the underlying sentence is remitted by a pardon.

The authority to grant pardons to specific individuals belongs to the Cabinet. Upon recommendation by the National Offenders Rehabilitation Commission, the Minister of Justice asks for a Cabinet decision granting a pardon, which is then attested by the Emperor.

## **IV. MEASURES FOR CRIME VICTIMS**

In 2007, rehabilitation services launched four measures for crime victims in relation to offenders’ rehabilitation. The four measures are (i) victim input into the parole process (victims may express their opinion regarding parole); (ii) communication of victims’ sentiments (victims may ask the probation officer to convey their sentiments to probationers and parolees); (iii) victim notification (certain information about probation and parole is notified to victims); and (iv) counselling and support.

As of 2010, 66 probation officers and 108 VPOs are assigned to work exclusively on victim support measures.

## **V. MEDICAL HEALTH SUPERVISION**

The Act on Medical Care and Treatment for Persons Who Have Caused Serious Cases under the Condition of Insanity provides for medical care and treatment of individuals who committed acts that would constitute offences such as murder, rape, robbery, arson, or injury (or attempts thereof) but who, for reasons of insanity or diminished capacity, were acquitted, received a reduced sentence with suspension of its execution, or were not prosecuted. Under the act, the court may commit such persons to a designated medical facility or order them to receive outpatient treatment at same.

Persons ordered to undergo outpatient treatment are placed under medical health supervision by a probation office. The purpose of the supervision is to ensure that the person continues to receive necessary medical treatment. Other responsibilities of the probation office include co-ordination of social circumstances and co-ordination of various institutions and organizations involved in the care and treatment of the person. These responsibilities are undertaken by rehabilitation co-ordinators (see page 9), and not by ordinary probation officers.

## VI. CRIME PREVENTION ACTIVITIES

Various efforts are undertaken by the rehabilitation authorities to: (i) raise public awareness of the importance of offender rehabilitation; (ii) improve social environments; and (iii) engage communities in the prevention of crime. As part of such efforts, an annual crime prevention campaign, called “Movement Toward a Brighter Society,” is organized under the leadership of the Ministry of Justice. The campaign is carried out through the year, but in the campaign month of July, an extensive public relations programme is launched to advocate “the power of the community that prevents crimes and juvenile delinquency and helps offenders’ rehabilitation,” which is also the subtitle of the campaign.



Campaign for Junior High School Students