CRIMINAL JUSTICE IN JAPAN 2014 edition

CRIMINAL JUSTICE IN JAPAN

2014 edition

UNAFEI

リサイクル適性Ⓐ
この印刷物は、印刷用の紙へリサイクルできます。

ISBN 978-4-87033-309-3

UNAFEI
UNITED NATIONS ASIA AND FAR EAST INSTITUTE
FOR THE PREVENTION OF CRIME AND
THE TREATMENT OF OFFENDERS

CONTENTS

CRIMINAL JUSTICE IN JAPAN

CHAPTER 1 STRUCTURE AND ORGANIZATION OF THE CRIMINAL JUSTICE ADMINISTRATION

I. POLICE

A. Overview

The police are the primary investigative agency in Japan. Police responsibilities under the Police Act include "protecting life, person, and property; preventing, suppressing, and investigating crimes; apprehending suspects; traffic enforcement; and maintaining public safety and order."

Actual police duties are executed by prefectural police organizations, while the national police organization undertakes: the planning of police policies and systems; control of police operations on national safety issues; and co-ordination of police administration.

As of 2013, the authorized police strength is 293,588 nationwide, of which 7,721 belong to the National Police Agency and 285,867 to the prefectural police forces.

B. National Police Organization

The National Public Safety Commission and the National Police Agency [hereinafter NPA] constitute Japan's national police organization.

1. The National Public Safety Commission

The National Public Safety Commission is an administrative board that exercises administrative supervision over the NPA. The Commission is composed of a Chairman, who is a Minister of State, and five members appointed by the Prime Minister to a five-year term with the consent of both houses of the Diet. While the Commission is under the jurisdiction of the Prime Minister, the Prime Minister is not empowered to exercise direct command and control over the Commission. The rationale for adopting such a structure was to establish democratic administration of the police and to ensure its political neutrality.

The Commission formulates basic policies and regulations, co-ordinates police administration on matters of national concern, and authorizes general standards for training, communication, forensics, criminal statistics, and equipment.

The Commission appoints the Commissioner General of the NPA and senior officials of prefectural police organizations, and indirectly supervises prefectural police organizations through the NPA.

2. The National Police Agency

The NPA is headed by the Commissioner General, who is appointed by the National Public Safety Commission with the approval of the Prime Minister. The Commissioner General, under the administrative supervision of the Commission, administers the Agency's operations and supervises and controls prefectural police organizations within the agency's defined duties. NPA duties include planning and research on police systems; the national police budget; police communications; training; equipment; forensics; and criminal statistics.

The National Police Academy, the National Research Institute of Police Science and the Imperial Guard Headquarters are attached to the NPA. The National Police Academy holds training courses for senior police officers. The National Research Institute of Police Science conducts a broad range of analysis, identification and research work that requires specialized knowledge and skills in biology, medicine and

other disciplines. The Imperial Guard Headquarters provides escorts for the Imperial Family and is responsible for the security of the Imperial Palace.

C. Local Police Organization

The Prefectural Public Safety Commission and the Prefectural Police Headquarters constitute the local police organization. Each of the 47 prefectures of Japan has one Prefectural Public Safety Commission and one Prefectural Police Headquarters.

1. The Prefectural Public Safety Commission

The Prefectural Public Safety Commissions are under the jurisdiction of elected prefectural Governors. The Commissions have three to five members who are appointed by the Governors with the consent of the prefectural assemblies.

The Commissions exercise administrative supervision over the prefectural police by formulating basic policies and regulations for police operations. However, they are not authorized to supervise individual investigations or specific law enforcement activities of the prefectural police.

Tokyo Metropolitan Police Department

2. Prefectural Police Headquarters

Prefectural Police Headquarters take charge of executing the actual police duties of protecting life, person, and property; preventing, suppressing, and investigating crimes; apprehending suspects; traffic enforcement; and maintaining public safety and order. The Prefectural Police Headquarters for Tokyo is called the Metropolitan Police Department and is the largest such prefectural headquarters in Japan.

Police stations are under the command of their respective Prefectural Police Headquarters, and as of 2010, there are 1,184 police stations nationwide. *Koban* (police boxes) and *Chuzaisho* (residential police boxes) are subordinate units of police stations, and as of 2010, there are 6,232 *Koban* and 6,847 *Chuzaisho* nationwide.

Police stations are under the command of their respective Prefectural Police Headquarters, and as of 2013, there are 1,173 police stations nationwide. Koban (police boxes) and Chuzaisho (residential police boxes) are subordinate units of police stations, and as of 2013, there are 6,248 Koban and 6,614 Chuzaisho nationwide[1].

II. PROSECUTION

A. Qualification

In Japan, judges, public prosecutors, and private attorneys have the same qualifications. To become a qualified lawyer in Japan, in principle, applicants must pass the National Bar Examination, complete a period of training, and pass the final national exam.

Previously, there were no eligibility requirements for the National Bar Examination, and the ratio of successful candidates was approximately 2 to 3 percent. After passing the National Bar Examination, candidates had to complete an 18-month apprenticeship at the Legal Training and Research Institute managed by the Supreme Court. At the end of the training period, legal apprentices had to pass a final examination to qualify as legal practitioners.

[1] The White Paper on Police 2013

Recently, the system was changed as a part of extensive judicial reform in Japan. That reform aimed to increase the number of legal practitioners to 50,000, one for every 2,400 citizens, by the end of 2018, compared with 21,000 in 2000. However the plan is currently being reconsiderd.

Under the new system, in order to become a qualified lawyer, candidates must first complete graduate level legal studies at an approved law school, and then pass the new National Bar Examination. The pass rate for the new Examination is substantially higher than that of its predecessor. In 2013, 2,049 candidates passed the Examination, and its pass rate was 26.8 percent. Following the Bar Exam, candidates must take a one-year course as a legal apprentice at the Legal Training and Research Institute, and then pass the final national exam. Law schools for graduate students were established from April 2004 and the new National Bar Examination started in 2006.

Judges or public prosecutors who resign their positions can become private attorneys, and most retirees from the judiciary and prosecution do in fact become private attorneys. Similarly, a private attorney also can become a judge or a public prosecutor. As of 2013, there were about 2,900 judges (including assistant judges), 1,800 public prosecutors and 34,000 private attorneys in Japan.[2]1

Ministry of Justice & Public Prosecutors Office

B. Organization

The Prosecutors Office consists of the Supreme Public Prosecutors Office (headed by the Prosecutor-General), eight High Public Prosecutors Offices (headed by a Superintending Prosecutor), 50 District Public Prosecutors Offices (headed by a Chief Prosecutor) with 203 branches, and 438 Local Public Prosecutors Offices. The different levels of public prosecutors offices correspond to comparable levels in the courts.

As of 2013, there were about 1,800 public prosecutors, about 900 assistant public prosecutors,[3] and about 9,000 prosecutor's assistant officers. Regarding the size of District Public Prosecutors Offices, the average office has about ten public prosecutors. The smallest has only five public prosecutors, and the largest has more than 200. Each office has a Chief and a Deputy Chief Prosecutor who supervise investigation, prosecution and trial. Thus, for example, in the smallest office, only three public prosecutors actually investigate and prosecute cases. In small offices, the public prosecutor who investigates and indicts a suspect is the same person who handles the trial. In contrast, in large offices, two different public prosecutors carry out these duties, working either in the Investigation Department (usually called the "Criminal Affairs Department") or the Trial Department.

[2] Ministry of Justice Statistics, 2013

[3] Assistant public prosecutors are selected by a special examination different from the National Bar Examination. Most of them are former prosector's assistant officers and court clerks. As a rule, they are assigned only to Local Public Prosecutors Offices.

C. Functions and Jurisdiction

Public prosecutors exercise such functions as investigation, instituting prosecution, requesting the proper application of law by courts, supervising the execution of judgments and other matters which fall under their jurisdiction. When it is necessary for the purpose of investigation, they can carry out their duties outside of their geographic jurisdiction.

D. Status (Independence and Impartiality)

Public prosecutors have a status equivalent to that of judges in terms of qualifications and salary. They are considered impartial representatives of the public interest, and their independence and impartiality are protected by law. Aside from disciplinary proceedings, they cannot be dismissed from office, suspended from the performance of their duties, or suffer a reduction in salary against their will, with limited exceptions[4].The Prosecutor-General, the Deputy Prosecutor-General and the Superintending Prosecutors are appointed by the Cabinet, and other public prosecutors by the Minister of Justice. Their retirement age is 63 (65 for the Prosecutor-General).

Prosecutorial functions are part of the executive power vested in the Cabinet,[5] and the Cabinet is responsible to the Diet in the exercise of its powers. As a member of the Cabinet, the Minister of Justice should have the power to supervise public prosecutors. On the other hand, prosecutorial functions have a quasi-judicial nature, inevitably exerting an important influence on all sectors of the criminal justice system, including the judiciary and the police. If those functions were subject to political influence, the integrity of the entire criminal justice system would be jeopardized. To harmonize these requirements, the Public Prosecutors Office Law Article 14 provides that "[the] Minister of Justice may control and supervise public prosecutors generally[65] in regard to their functions. However, in regard to the investigation and disposition of individual cases, he or she may control only the Prosecutor-General." The Minister of Justice cannot directly control an individual public prosecutor's investigation or disposition of cases.

Political independence and authority of the public prosecutor (Feature) – the shipbuilding scandal case

In 1954, the Special Investigation Department of the Tokyo District Public Prosecutor's Office, which had been investigating cases of corruption between the shipping and shipbuilding industries and key government figures, decided to arrest the Secretary-General of the Liberal Democratic Party (the ruling party at the time) on bribery charges. The Minister of Justice, who also belonged to the ruling party, then exercised his authority and instructed the Public Prosecutor General not to arrest the Secretary-General. As a result, the public prosecutor in charge of the case declined to arrest the Secretary-General, and consequently it led to the termination of the investigation. However the Minister's exercise of his authority caused public outrage when reported in the media, and the Minister was forced to resign.

[4] Public Prosecutors Office Law, Article 25. Exceptions are stipulated in Articles 22 (retirement age), 23 (physical or mental disability, etc.), and 24 (supernumerary officials).

[5] The Cabinet consists of the Prime Minister and the Ministers of State. Not less than half of the Ministers must be chosen from the members of the Diet (Constitution, Article 66 and 68).

[6] "Generally" means, for example, to set up general guidance for crime prevention, the administrative interpretation of laws and how to dispose of affairs related to prosecution to maintain their uniformity

III. COURTS

A. Structure

1. Introduction

Article 76 of the Japanese Constitution vests all judicial power in the Supreme Court and inferior courts. No tribunal, organ, or agency of the executive branch can be given final judicial power. All criminal cases are heard and determined in ordinary judicial tribunals. All courts in Japan are incorporated into a unitary national judicial system. There are five types of courts: the Supreme Court, High Court, District Court, Family Court and Summary Court. As of 2013 there were approximately 2,900 judges within these courts, including assistant judges, and there were about 800 Summary Court judges. Approximately 22,000 other officers work in the judiciary, including court clerks, stenographers, and bailiffs.

2. The Supreme Court

The Supreme Court, located in Tokyo, is the highest court in Japan and consists of the Chief Justice and fourteen Justices. The Supreme Court has one Grand Bench, consisting of all the Justices, and three Petit Benches, each consisting of five Justices.

The Supreme Court has appellate jurisdiction over *Jokoku* (final appeals) and *Kokoku* (appeals against rulings specially provided for in codes of procedures) as provided by law. See page 33 for the meaning of *Jokoku*, *Kokoku*, and *Koso*. It ordinarily hears a *Jokoku* appeal against a High Court decision on the following grounds: (i) a violation of the Constitution or an error in constitutional interpretation, or (ii) adjudication contrary to precedents of the Supreme Court or High Courts. The Supreme Court may also hear at its discretion *Jokoku* appeals against any case which involves an important point of statutory interpretation.

Article 81 of the Constitution empowers the Supreme Court, as the court of last resort, to determine the constitutionality of any law, order, rule or disposition. The Supreme Court exercises this power not by declaring constitutionality in a general way, but by rendering case-specific decisions.

3. The High Court

The eight High Courts are located in eight major cities in Japan: Tokyo, Osaka, Nagoya, Hiroshima, Fukuoka, Sendai, Sapporo and Takamatsu. Each High Court consists of a President and other High Court judges. High Courts have jurisdiction over *Koso* (appeals against judgment in the first instance rendered by District Courts and Summary Courts) as provided by law. Ordinarily, High Court cases are heard by a panel of three judges. However, insurrection cases, over which the High Court has original jurisdiction, are handled by a five-judge panel.

The Supreme Court Building

The Courtroom of the Grand Bench

4. The District Court

There are fifty District Courts, each located in the city seats of the respective prefectural governments. Each District Court's territorial jurisdiction encompasses the entire prefecture, except for Hokkaido, which is divided into four judicial districts because of its large size. District Courts have a total of 203 branch offices in major cities. District Courts have general jurisdiction over all cases in the first instance, except for those cases exclusively reserved for Summary Courts (crimes liable to fines or lesser punishment) and High Courts (crimes of insurrection). The majority of District Court cases are tried by a single judge. However, criminal cases involving possible sentences of death, life imprisonment, or imprisonment for a minimum period of one year or more should be handled by a panel of three judges, in general. Other cases deemed appropriate can also be handled by a three-judge panel. The former are called "statutory panel cases" and the latter "discretionary panel cases."

All District Courts and some of their branches hold *Saiban-In* trials (trials by a mixed panel consisting of professional judges and citizen judges) for certain offences designated by law. See page 29 for details of *Saiban-In* trials.

5. The Family Court

Family Courts and their branch offices are located in the same places as the District Courts and their branches. The Family Courts have jurisdiction over juvenile delinquency cases (involving persons under 20 years of age). Juvenile cases are handled by a single judge or a three-judge panel fully utilizing scientific reports prepared by Family Court probation officers and classification experts of juvenile classification homes.

6. The Summary Court

There are 438 Summary Courts throughout Japan. All cases are presided over by a single Summary Court judge. The Summary Courts' original jurisdiction is limited to: (i) crimes punishable with a fine or lighter penalties (petty fine or misdemeanour imprisonment without work); (ii) crimes punishable with a fine as an optional penalty; and (iii) habitual gambling, running a gambling place for the purpose of gain, embezzlement, and crimes related to stolen property. Summary Courts may not impose imprisonment without work or heavier penalty. However, with regard to theft, embezzlement, crimes related to stolen property, breaking into a residence, habitual gambling, and other minor offences prescribed by law, they may impose imprisonment with work for up to three years. Summary Courts also issue Summary Orders that impose a sentence of fine. A vast majority of relatively minor cases are disposed of by Summary Order Procedure. See page 24 for more details.

B. Judges

1. Appointment of Judges

The Justices of the Supreme Court are appointed by the Cabinet, except for the Chief Justice, who is appointed by the Emperor as designated by the Cabinet. The appointment of the Justices is reviewed by the people at the first general election of members of the House of Representatives following their appointment. Justices of the Supreme Court retire at the age of 70.

All lower court judges are appointed by the Cabinet from a list of persons nominated by the Supreme Court. Judges' tenure is ten years, and they can be re-appointed. Judges cannot be removed from office unless judicially declared mentally or physically incompetent to perform their official duties, or unless publicly impeached. No executive organ or agency can take disciplinary action against judges. This power is vested only in the Court of Impeachment, a legislative body composed of Representatives and Councillors drawn from the Diet. As one of the checks and balances systems among the three branches of government, the Court of Impeachment may dismiss a judge if he or she neglects his or her duties to a remarkable degree, or if there has been misconduct, whether or not it relates to official duties.

2. Categories and Qualifications of Judges

At least ten of the fifteen Justices of the Supreme Court, including the Chief Justice, must be appointed from among those with distinguished careers as lower court judges, public prosecutors, practicing lawyers or law professors. However, the remaining five Justices need not be qualified as lawyers, as long as they are learned, have an extensive knowledge of the law, and are at least forty years of age.

Lower court judges are divided into judges and assistant judges. Assistant judges are appointed from among those who have passed the National Bar Examination, completed training at the Legal Training and Research Institute, and then passed the final qualifying national examination. To be appointed a judge, one must have practical or academic experience of not less than ten years as a designated legal professional: an assistant judge, a public prosecutor, an attorney, or a law professor.

The assistant judge system aims to provide professional experience through on-the-job training before qualifying as a fully-fledged judge. For the first five years, the judicial authority of an assistant judge is restricted. He or she can serve as an associate judge of a three-judge panel, but as a single judge, can decide only limited matters such as detention at the investigation stage. After five years' experience, an assistant judge is qualified as a senior assistant judge to preside over a trial in a single-judge court. The majority of judges are appointed from among assistant judges. Judges assigned to the High Court must be judges or qualified senior assistant judges.

Summary Court judges are selected by the Selection Board for Summary Court Judge. Full qualification as a lawyer is not required. In practice, they are appointed primarily from among learned and experienced court clerks. Assistant judges, after three years' experience, can be appointed Summary Court judges.

IV. CORRECTIONS

A. Organization of the Correctional Administration

In Japan, the Correction Bureau of the Ministry of Justice provides both adult and juvenile correctional services. Under the Director-General of the Correction Bureau, there are eight Regional Correction Headquarters which supervise the correctional institutions. Correctional institutions can be divided into penal institutions (prisons, juvenile prisons,[7] and detention houses) and juvenile correctional institutions (juvenile training schools and juvenile classification homes).

1. Penal Institutions

As of 2013, there were are a total of 188 penal institutions: 62 prisons, seven juvenile prisons, eight detention houses, eight branch prisons, and 103 branch detention houses.

Prisons, juvenile prisons, and branch prisons are institutions for sentenced inmates. They provide various correctional treatment programmes that facilitate rehabilitation and resocialization of offenders. There are eight women's prisons (including two branches)[8] and four medical prisons. The medical prisons are set up to function as special medical centres that receive inmates in need of special medical care. Ordinary medical care and hygiene for inmates are provided within general penal institutions.

Detention houses and branch detention houses are mainly for inmates awaiting trial, namely, defendants under detention and suspects under pre-indictment detention. Close attention is paid so that their rights, including the right to counsel and to a fair trial, are respected.

As of 31 December 2012, the total capacity of penal institutions was 90,681 (72,562 for sentenced inmates and 18,119 for unsentenced inmates), and the actual population was 67,008 (58,726 sentenced inmates and 8,288 unsentenced inmates).

[7] A juvenile prison is not a juvenile correctional institution. It accommodates juveniles sentenced to imprisonment and sentenced adult inmates under 26 years old.

[8] One of which accommodates both female and male inmates.

Fuchu Prison

Tachikawa Detention House

2. Juvenile Correctional Institutions

As of 2013, there were 51 juvenile training schools, 50 juvenile classification homes, two branch juvenile training schools, and one branch juvenile classification home. Juvenile training schools house juveniles referred by the Family Court and provide them with correctional education. Juvenile classification homes house juvenile delinquents placed under "protective detention" by the Family Court. During protective detention, an expert report on the juvenile's personality and disposition is prepared, which will assist the Family Court's decision-making.

Osaka Juvenile Classification Home

Kifunebara Juvenile Training School for Girls

B. Correctional Officials

As of 2013, more than 23,000 officials were working for the correction service. The majority of correctional officials in penal institutions are employed from among those who have passed the examination for correction service. Education officials in juvenile institutions are employed from among those who have passed a specialized examination. Classification specialists (psychologists) are selected from among those who have passed the senior-level examination for psychological services.

V. REHABILITATION

A. Organization and Function

The Rehabilitation Bureau of the Ministry of Justice is responsible for the overall administration of rehabilitation services, the main aspect of which is to provide community-based treatment to offenders. The Bureau handles planning and policy-making which are then implemented by the 50 Probation Offices and eight Regional Parole Boards throughout the country.

There are eight Regional Parole Boards that coincide with the jurisdictions of the High Courts are located. The main responsibilities of Regional Parole Boards are to make parole decisions for prison inmates and juveniles committed to juvenile training schools, and to revoke parole when the legal requirements for revocation are met. They also decide when to terminate an indeterminate sentence imposed upon a juvenile offender (see page 37). The number of board members varies in each region from three to fifteen, and board decisions are made by a majority vote.

'The front-line duties of community-based treatment are carried out by the Probation Offices, which are located in each of the 50 District and Family Court jurisdictions. Their main responsibilities include the following: (i) supervision of both adult and juvenile probationers and parolees; (ii) co-ordination of social circumstances, such as family relationship, residence, and job-placement, prior to release; (iii) urgent aftercare of discharged offenders; (iv) promotion of crime prevention activities in the community; (v) recommendation of volunteer probation officers; (vi) support for the victims of crime; and (vii) mental health supervision pursuant to the Act on Medical Care and Treatment for Persons Who Have Caused Serious Cases Under the Condition of Insanity.

The National Offenders Rehabilitation Commission is a council attached to the Ministry of Justice. The Commission's functions are to make recommendations to the Minister of Justice regarding pardons and to review the decisions of Regional Parole Boards upon a complaint filed by a probationer or a parolee.

B. Personnel

1. Probation Officers

Probation officers are full-time government officials who engage in community-based treatment of offenders, such as supervision of probationers and parolees, and other duties of the Regional Parole Boards and Probation Offices. The Offenders Rehabilitation Act (2007) requires them to have a certain degree of competence in medicine, psychology, pedagogy, sociology and other expert knowledge relating to rehabilitation of offenders. As of 2013, there were 1,351 probation officers nationwide.

2. Rehabilitation Co-ordinators

Rehabilitation co-ordinators are qualified psychiatric social workers, or other qualified persons, assigned to Probation Offices, who engage in mental health supervision and other responsibilities pursuant to the Act on Medical Care and Treatment for Persons Who Have Caused Serious Cases Under the Condition of Insanity. Rehabilitation co-ordinators do not handle ordinary probation or parole cases. As of 2013, there are 177 rehabilitation co-ordinators nationwide.

C. Volunteers and the Voluntary Sector

1. Volunteer Probation Officers

Volunteer probation officers are citizens commissioned by the Minister of Justice who co-operate with probation officers in providing various rehabilitation services to offenders. Their main activities are (i) to assist and supervise probationers and parolees; (ii) to co-ordinate the social circumstances of inmates; and (iii) to promote crime prevention activities in the community. They do not receive salaries: only a certain amount of their necessary expenses is reimbursed. As of 1 April 2013, 47,990 citizens were serveing as Volunteer Probation Officers.

Ceremony for Volunteer Probation Officers

2. Juridical Persons for Offenders Rehabilitation Services

A Juridical Person for Offender Rehabilitation Services is a form of non-profit organization established under the Offenders Rehabilitation Services Act (1995). They undertake one or more of the following activities: (i) operate Offender Rehabilitation Facilities (so-called halfway houses); (ii) provide temporary aid to offenders; and (iii) engage in "co-ordination and promotion services" related to rehabilitation of offenders. As of 2013, there were 165 Juridical Persons for Offender Rehabilitation Services.

(1) Offenders Rehabilitation Facilities (Halfway House)

Halfway houses in Japan are officially termed Offenders Rehabilitation Facilities. They accommodate probationers, parolees, or other eligible offenders and provide them with necessary assistance for their rehabilitation such as: (i) help in obtaining education, training, medical care, or employment; (ii) vocational guidance; (iii) training in social skills; and (iv) improving, or helping them adjust to, their environment.

There are 103 Offenders Rehabilitation Facilities nationwide. As of 2012, their total capacity was 2,340 and 6,380 offenders were admitted. The duration of stay for probationers and parolees in 2012 was as follows: one month or less (9.4%); more than one month to six months (83.0%); and more than six months (7.6%).

One hundred (100) of the Offender Rehabilitation Facilities are run by Juridical Persons for Offender Rehabilitation Services. The government supervises and provides financial support to such Juridical Persons and other entities that operate Offenders Rehabilitation Facilities.

Offenders Rehabilitation Facility (Halfway House)

(2) Rehabilitation Aid Association

As of 2013, 66 Rehabilitation Aid Associations exist throughout Japan. They provide offenders with temporary aid such as meals or clothing, and/or engage in "co-ordination and promotion services" for Offender Rehabilitation Facilities, Volunteer Probation Officer Associations, and other volunteer organizations. "Co-ordination and promotion services" include providing subsidies, textbooks for training, and tools and materials for crime prevention activities.

3. Others

There are other notable volunteer organizations or forms of volunteering in Japan, such as (i) the Women's Association for Rehabilitation Aid; (ii) Big Brothers and Sisters (BBS) Associations; and (iii) co-operative employers.

CHAPTER 2 THE CRIME SITUATION IN JAPAN

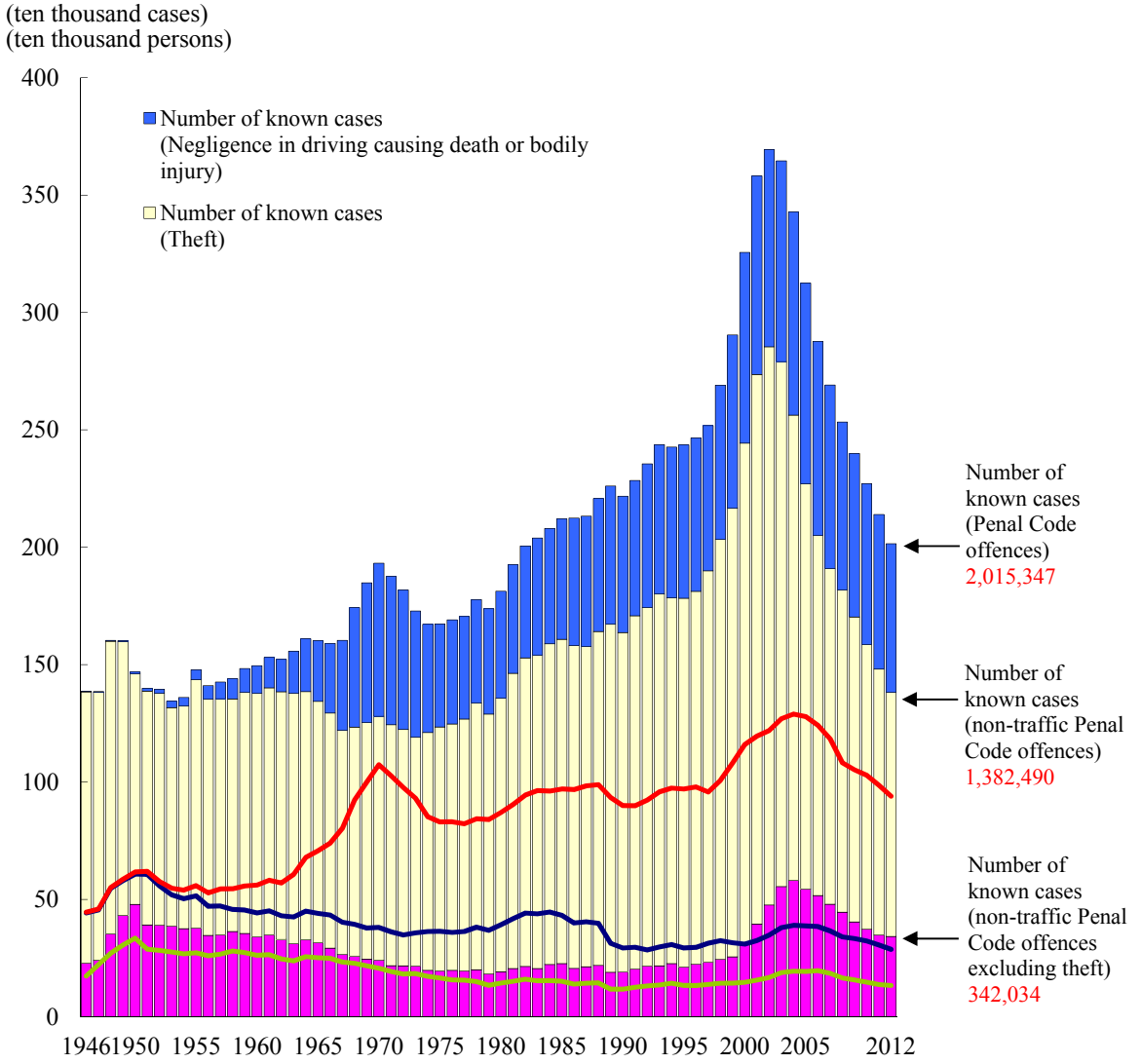
I. PENAL CODE OFFENCES

A. Trends in Penal Code Offences

Figure 1 shows the number of Penal Code offences known to the police, and the number of Penal Code offenders cleared by the police (the number of Penal Code offenders detected or identified by the police) from 1946 to 2012.

The number of Penal Code offences known to the police increased every year from 1996, marking a new post-World War II high each year, and peaked in 2002, when the number reached 3,693,928. However, from 2003, there was a continuous decrease and, in 2012, the number of Penal Code offences known to the police totalled 2,015,347, a 5.8 percent drop from the previous year.

Fig. 1 Number of known cases and persons cleared of Penal Code offences (1946-2012)



Note: 1. Until 1955, illegal behaviour by persons under 14 years of age is included.
2. Non-traffic Penal Code offences until 1965 mean Penal Code offences excluding negligence in the pursuit of social activities.
Source: Criminal Statistics by National Police Agency, White Paper on Crime 2013

Table 1 shows the number of Penal Code offences known to the police, the number of Penal Code offences and offenders cleared by the police, and the clearance rate of major offences in 2012. Of the Penal Code offences known in 2012, theft was the most prevalent, with 1,040,447 offences known, constituting 51.6 percent of the total. The second most prevalent offence was negligence in driving causing death or bodily injury, with 632,857 offences known, constituting 31.4 percent of the total. These two offences together accounted for approximately 83.0 percent of the total number of known Penal Code offences in 2012

The number of cleared Penal Code offenders, crossing the 1,000,000 mark in 1998, increased every year from 1999, marking a new post-World War II high each year, and peaked in 2004, when the number reached 1,289,416. However, the number of cleared Penal Code offenders has decreased every year since 2005, totaling 939,826 in 2012, a 4.7 percent drop from the previous year.

As for the age distribution of offenders cleared of non-traffic Penal Code offences (Penal Code offences excluding negligence in driving causing death or bodily injury etc.), those aged 60 or over accounted for 5.7 percent in 1993, but rose to 23.8 percent in 2012. Also, those aged 65 or over accounted for 16.9 percent in 2012.

With regard to the gender of offenders cleared of non-traffic Penal Code offences, male offenders numbered 226,925, composing 79.0 percent of the total, while female offenders numbered 60,431, composing 21.0 percent of the total in 2012.

Table 1. Number of Known and Cleared Penal Code Offences and Cleared Offenders and Clearance Rate of Major Offences (2012)

Offence	Known Penal Code Offences	Cleared Penal Code Offences	Cleared Penal Code Offenders	Clearance Rate	Balance over the Previous Year	
					Known Penal Code Offenders	Cleared Penal Code Offenders
Total	2,015,347	1,070,838	939,826	53.1%	Δ 124,378 (Δ5.8%)	84,770 (8.6%)
Murder	1,030	963	899	93.5%	Δ 21 (Δ2.0%)	Δ 8 (Δ0.8%)
Robbery	3,568	2,486	2,430	69.7%	Δ 105 (Δ2.9%)	55 (2.3%)
Theft	1,040,447	286,638	153,864	27.5%	Δ 92,680 (Δ8.2%)	118,124 (70.1%)
Fraud	34,678	20,264	10,977	58.4%	76 0.2%	9695 (91.7%)
Embezzlement	41,433	38,129	37,545	92.0%	Δ 8,935 (Δ17.7%)	Δ 8,158 (Δ17.6%)
Negligence in driving causing death or bodily	632,857	632,857	652,440	100.0%	Δ 25,770 (Δ3.9%)	Δ 47,260 (Δ6.9%)
Others	261,334	89,501	81,671	34.2%	3,057	12,322

Notes: 1. Figures in parentheses show the rate of increase or decrease. Δ indicates a decrease.
2. Figures in parentheses show percent change.
Source: Crime Statistics provided by the National Police Agency.

The clearance rate of Penal Code offences, which used to be about 70 percent, showed a marked declining tendency from 1988. In 2001, the clearance rate was the lowest since World War II: 38.8 percent for all Penal Code offences and 19.8 percent for non-traffic Penal Code offences. However, the situation has improved since 2002 and in 2012 it reached 53.0 percent for all Penal Code offences and 31.7 percent for non-traffic Penal Code offences.

B. Trends in Some Major Crimes

The number of murders known to the police, having been generally flat in recent years, was 1,030 in 2012. The clearance rate of murders remains steadily high and was 93.5 percent in 2012.

Known cases of robbery reached 7,664 in 2003, the highest on record since 1951. Since then the number decreased, with the exception of 2009. The number of known robberies was 3,569 in 2012, and the clearance rate was 69.7 percent.

With regard to theft, the number of known cases showed an increasing tendency and, in 2002, reached 2,377,488, the worst post war record. The clearance rate also decreased and, in 2001, declined to 15.7 percent which was the lowest in the post-war period. However, both the number of known offences and the clearance rate have improved, with offences totalling 1,040,447 in 2012 and a clearance rate of 27.5 percent for the same year.

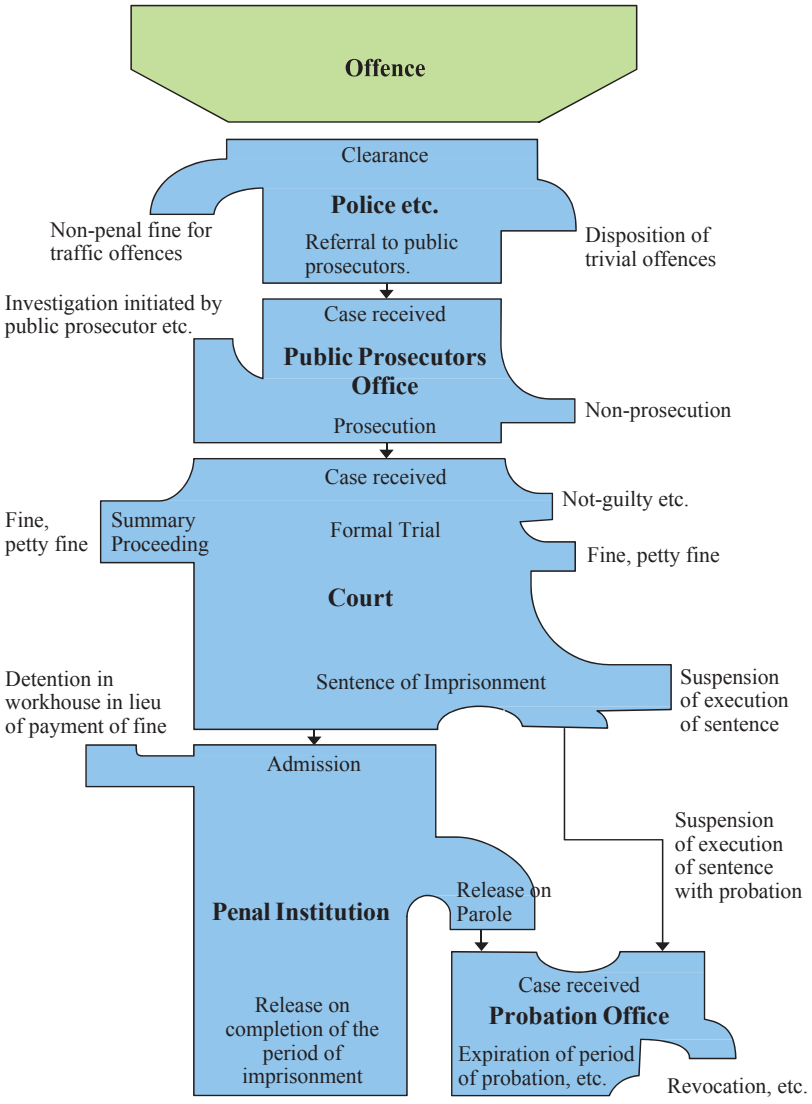
Concerning fraud, the number of known cases has increased significantly since 2002, reaching a record high of 85,596 in 2005, the highest total since 1960. However, since 2006 it has decreased every year and was 34,678 in 2012 (0.2 percent down over the previous year). The clearance rate reduced sharply from 1997 and recorded a post-war low of 32.1 percent in 2004. But the rate showed a recovery from 2005 and was 58.4 percent in 2012. In recent years, a major modus operandi in fraud cases has been "*Furikome Fraud*" – confidence tricks designed to induce bank transfers.

II. SPECIAL LAW OFFENCES

Recently, the total number of Special Law offenders newly received by the public prosecutors offices has generally been on a declining trend, and in 2012 totalled 491,278, which was a 5.0 percent decrease over the previous year. Of that number, Road Traffic Act violators accounted for 392,435 offenders (79.7 %), followed by violators of the Stimulants Control Act, who numbered 19,008 (3.9 %). The third largest group of offenders was violators of the Minor Offences Act, who numbered 10,387 (2.1%).

CHAPTER 3 CRIMINAL JUSTICE FLOW CHART

This chart shows the flow for criminal procedure for adult offenders in Japan.



Public Prosecutor Office

Persons newly received:	1,417,400
Indictment:	96,263
Summary Prosecutions:	347,702
Non-Prosecution:	861,137

Court

Guilty:	408,486
Capital Punishment:	10
Imprisonment with/without work:	61,480
(Suspension of execution of sentence of imprisonment):	(35,977)
Fine:	344,121
Misdemeanor imprisonment without work, petty fine:	2,873
Not guilty	82

Penal Institutions

Newly Admitted inmates:	24,780

Probation Office

(Newly received probation and Parolees)	
Persons under probation with suspension of execution of the sentence	3,376
Parolee from the penal institution	14,700

Notes: 1. Figures show the number of persons in 2012, including juveniles.
2. For figures under the heading "Public Prosecutors Office," if the same person is processed twice, the number is counted as two persons.
3. Figures under the heading "Court" refer to the number of defendants whose sentences were finalized.

Source: White Paper on Crime 2013.

CHAPTER 4 PRE-TRIAL CRIMINAL PROCEDURE

I. INTRODUCTION

Japan is a unitary state, and the same criminal procedure applies throughout the nation. The Code of Criminal Procedure of 1948 (hereinafter CCP), the Act on Criminal Trials Examined under the Lay Judge System, and the Rules of Criminal Procedure of 1949 are the principal sources of law.

II. CONSTITUTIONAL SAFEGUARDS

The Constitution of Japan has an extensive list of constitutional guarantees that relate to the criminal process. Article 31 provides that "no person shall be deprived of life, or liberty, nor shall any other criminal penalty be imposed, except according to procedure established by law," while Article 33 states that "no person shall be apprehended except upon warrant issued by a competent judicial officer which specifies the offence with which the person is charged, unless he is apprehended, the offence being committed." Further, as prescribed in Article 34, "no person shall be arrested or detained without being at once informed of the charges against him or without the immediate privilege of counsel; nor shall he be detained without adequate cause; and upon demand of any person such cause must be immediately shown in open court in his presence and the presence of his counsel." Article 35 provides for the protection of one's residence and property, stating "the right of all persons to be secure in their homes, papers and effects against entries, searches and seizures shall not be impaired except upon warrant issued for adequate cause and particularly describing the place to be searched and things to be seized, or except as provided by Article 33."

As for the trial proceedings, Article 38 provides that "no person shall be compelled to testify against himself," and that a "confession made under compulsion, torture or threat, or after prolonged arrest or detention shall not be admitted in evidence." It further provides that "no person shall be convicted or punished in cases where the only proof against him is his own confession." As for the protection of some of the basic rights of the individual who is facing a criminal trial as an accused, Article 37 provides that "in all criminal cases, the accused shall enjoy the right to a speedy and public trial by an impartial tribunal; he shall be permitted full opportunity to examine all witnesses, and he shall have the right of compulsory process for obtaining witnesses on his behalf at public expense; at all times the accused shall have the assistance of competent counsel who shall, if the accused is unable to secure the same by his own efforts, be assigned to his use by the State." According to Article 39, "no person shall be held criminally liable for an act which was lawful at the time it was committed, or of which he has been acquitted, nor shall he be placed in double jeopardy."

Finally, Article 40 provides that "any person, in case he is acquitted after he has been arrested or detained, may sue the State for redress as provided by law."

III. INVESTIGATIVE AGENCIES

The police are the primary investigative agency in Japan. Officers of certain other administrative bodies, such as narcotics agents and coast guard officers, have limited jurisdiction to investigate certain type of offences, whereas police officers have general jurisdiction.

The vast majority of criminal cases are investigated by the police and referred to public prosecutors. As the police do not have the power to make charging decisions, all cases investigated by the police, except for very minor offences prescribed by prosecutorial guidelines, must be sent to public prosecutors for disposition.

Japanese law does not permit private prosecutions, and public prosecutors have exclusive power to

decide whether or not to prosecute. Besides, they are fully authorized to conduct criminal investigations, and they actively supplement police investigation by directly interviewing witnesses and interrogating suspects. Prosecutors may also instruct police officers as they consider necessary during an investigation. Prosecutors can also initiate their own investigations; delicate or complicated cases such as bribery or large-scale financial crime involving politicians, high-ranking government officials, or corporate executives are often investigated entirely by prosecutors without any police involvement.

IV. INVESTIGATION PROCESS

A. Overview

Japanese police and public prosecutors, to the extent possible, conduct criminal investigations without resorting to compulsive measures such as arrest, searches, and seizures. Even for serious offences, they gather as much information as possible on a voluntary basis and carefully evaluate whether an arrest is necessary or if the investigation should continue without arresting the suspect. In 2012, 67.3 percent of suspects of non-traffic offences were investigated and processed without arrest.[9]

The procedure after arrest is as follows:

(1) When the police arrest a suspect, they must refer the suspect, along with supporting documents and evidence, to a public prosecutor within 48 hours; otherwise the suspect must be released.
(2) Within 24 hours after receiving the suspect, the prosecutor must do either one of the following: apply to a judge for a pre-indictment detention; prosecute the case; or release the suspect.
(3) If an application for pre-indictment detention is granted, a judge will issue a warrant, and the suspect will be taken into detention. Its duration is ten days, which may be extended for up to another ten days.
(4) The public prosecutor must prosecute the case within the authorized pre-indictment detention period. Otherwise, the suspect must be released. If the case is prosecuted, the pre-indictment detention is automatically converted to pre-trial detention.

B. Initiating a Criminal Investigation

A criminal investigation is initiated when an investigative agency becomes aware that a crime has been committed. Although there is no limit on what could trigger this, typical causes determined by law include (1) discovery of an offender in flagrante, (2) autopsy of a body following unnatural death, (3) accusation by the victim or another person, (4) agency request, (5) admission of guilt, and (6) police questioning.

(1) *Discovery in flagrante*
Cases where the perpetrator is caught in the act of committing a crime, or where a person may be clearly deemed to have just committed a crime.
(2) *Autopsy of a body following unnatural death*
When a body is discovered and the cause of death is deemed highly likely to have been a criminal act, or when such a cause cannot be ruled out, the investigative agency must conduct an external autopsy. This is a non-invasive examination to assess the condition of a body. If, as a result of the external autopsy, a need is seen to delve further into the cause of death, a medico-legal or forensic autopsy is generally carried out by a doctor, pending the issue of a court warrant.
(3) *Accusation by the victim or another person*
Cases where the victim of a crime reports the crime to an investigative agency and seeks criminal proceedings against the perpetrator. Also, in cases where a person other than the victim reports the crime to an investigative agency and seeks criminal proceedings against the perpetrator.

[9] White Paper on Crime 2013, Ministry of Justice, Japan.

(4) *Agency request*
Cases where an organization prescribed by law reports a crime to an investigative agency and seeks criminal proceedings against the perpetrator.

(5) *Admission of guilt*
Cases where the perpetrator admits having committed a crime to an investigative agency before the crime is detected.

(6) *Police questioning*
Police officers may stop and question any person when suspecting that the person has committed some kind of crime or is about to do so, judging from unusual behaviour or the surrounding circumstances, or when deeming the person to know something about a crime that has been or is about to be committed. If it is disadvantageous to the person to be questioned there and then, or if the questioning causes a traffic obstruction, officers may ask the person to accompany them to the nearest police station for questioning.

C. Arrest

As a general rule, a judicially issued warrant is required to arrest a suspect. Police officers designated by law and all public prosecutors are authorized to apply to a judge for an arrest warrant, and a warrant shall be issued if a judge deems that there exists sufficient probable cause to suspect that the person has committed an offence.

Japanese law does not recognize a class of offence, for which warrantless arrests are generally permitted. There are two exceptions to the judicial warrant requirement under the CCP, which are the following;

(1) *Flagrant Offenders*:
A flagrant offender (an offender who is in the very act of committing or has just committed an offence) may be arrested by any person without a warrant. When it appears evident that a person has committed an offence shortly before, and one of the prescribed legal criteria is met, such a person is also treated as a flagrant offender.[10]

(2) *Emergency Arrests*:
"When there are sufficient grounds to suspect the commission of an offence punishable by the death penalty, or imprisonment for life or for a maximum period of three years or more, and in addition, because of great urgency an arrest warrant from a judge cannot be obtained, a public prosecutor, a public prosecutor's assistant officer, or a judicial police official may arrest the suspect after notifying the suspect of the reasons therefor." [11]

When an offender is taken into emergency arrest, an application for an arrest warrant must be filed immediately. If the warrant is not issued, the suspect must be released.

D. Post-Arrest Procedure

Following an arrest, a police officer or a public prosecutor must immediately notify the suspect of the essential facts of the suspected crime, inform him or her of the right to counsel, and then offer an opportunity to present his or her explanation.

If the arrest was made by the police, the suspect, along with supporting evidence, must be referred to a public prosecutor within 48 hours, or the suspect must be released. After receiving the suspect, the public prosecutor must immediately inform the suspect of the essential facts of the suspected crime and offer further opportunity to present his or her explanation. This is an important step in the early stage of investigation as it is the public prosecutor's initial opportunity to interrogate the suspect.

Within 24 hours of receiving the suspect, the public prosecutor must either apply to a judge for a pre-indictment detention; prosecute the case; or release the suspect. The police are not authorized to apply for pre-indictment detention: the application must be made by a public prosecutor. If the suspect was arrested by a public prosecutor and not by the police, the application for pre-indictment detention must be made

[10] CCP Articles 212 and 213.
[11] CCP Article 210.

within 48 hours after the arrest.

A judge will then review the file, take a statement from the suspect, and decide on the prosecutor's application. A pre-indictment detention warrant shall issue if a judge deems that there exists probable cause to suspect that the suspect has committed the offence, one of the following conditions is met, and the judge does not consider it unnecessary.

(1) The suspect has no fixed residence;
(2) There is probable cause to believe that the suspect may conceal or destroy evidence; or
(3) The suspect has fled or there is probable cause to believe that the suspect may flee.

If these conditions are not met, the judge will deny the prosecutor's application and order the immediate release of the suspect. In practice, applications for pre-indictment detention are granted in most of the cases because public prosecutors carefully screen suspects to be detained.[12]

The duration of pre-indictment detention is ten days and, upon application by a public prosecutor, a judge may grant an extension for up to another ten days. Thus, the maximum length of pre-indictment custody is 23 days, including the initial 72 hours following the arrest. The public prosecutor must prosecute the case within the authorized period, or the suspect must be released.

During pre-indictment detention, many suspects are detained in police jails instead of detention houses. The Act on Penal Detention Facilities and Treatment of Inmates and Detainees allows such substitutions when approved by a judge.

E. Collection of Evidence

Evidence can be either one of two categories: statements and non-statements.

1. Taking Statements

When investigators take statements from witnesses and suspects, they will prepare a detailed summary of what has been said during the interview or interrogation. The summary will be read to or read by the interviewee for confirmation, and if agreed, it will be signed. Such written statements are admissible as evidence if the defendant consents to their use, or they fit in one of the hearsay exceptions provided for in the CCP. See page 32 for more details on the hearsay rule.

2. Interrogation of Suspects

Police officers and public prosecutors may ask suspects to appear in their offices for interrogation, and suspects under arrest or detention are obligated to comply. However, Article 38-1 of the Constitution guarantees the right against self-incrimination, and Article 198-2 of the CCP requires investigators to notify the suspect, in advance of the questioning, that he or she is not required to make any statement against his or her will. In order to be admissible at trial, confessions must be voluntarily made. In this regard, CCP Article 319-1 provides that "confession made under compulsion, torture or threat, or after prolonged arrest or detention, or which is suspected not to have been made voluntarily shall not be admitted in evidence."

Audio and video recording of interrogations

Details of statements made by suspects during questioning are compiled into written statements by investigating officers and used as evidence in trials. There, however, the admissibility of a confession made during questioning is often disputed, in that the confession may have been forced or induced by the investigating officer and not made voluntarily, among other reasons.

Therefore, in cases of homicide and other serious case subject to trial by lay judges, cases in which the suspect has a mental disorder, and cases in which the Special Criminal Investigation Department of a District Public Prosecutor's Office conducts the investigation, interrogations are now video recorded. These recordings are used as means of verification, in case the voluntary nature of a

[12] Only 1.4 percent of applications for detention were dismissed in 2012. (White Paper on Crime 2013, Ministry of Justice, Japan).

time the suspect enters the room to the time the suspect leaves.

3. Searches and Seizures

In order to lawfully search for and seize evidence, a judicially issued warrant is required. The only exception to this requirement is for searches and seizures incident to arrest. According to Supreme Court precedents, a serious violation of search and seizure rules may result in the inadmissibility of evidence so acquired.

Public Prosecutor's Interrogation (moot)

F. The Right to Counsel

The right to counsel is guaranteed by the Constitution and the CCP. Suspects may retain a counsel at any time at their own expense. Confidential communication is guaranteed, and suspects under arrest or detention are entitled to meet with their counsel and to exchange documents or articles without any officials being present.

Previously, court-appointed counsel was available only after indictment. However, a CCP amendment, effective 2006, expanded the rule: now, suspects held in pre-indictment detention for certain serious offences are entitled to ask for court-appointed counsel if they are unable to appoint one because of indigence or other reasons.

Furthermore, the Bar Associations operate the *Toban-Bengoshi* system, which was introduced in 1990. *Toban-Bengoshi* means "an attorney on duty," and when requested by an arrested person or his or her family, a *Toban-Bengoshi* will immediately visit the arrested person at the police station to provide legal advice. This first visit is provided free of charge.

G. Bail

Suspects under pre-indictment detention are not bailable. When they are indicted, their legal status changes from a suspect to a defendant, and from that point on, they become eligible for bail. Bail must be granted except when:

(1) the defendant is charged with an offence punishable by death, life, or a minimum term of one year's imprisonment;
(2) the defendant was previously convicted of an offence punishable by death, life, or a maximum term of more than ten years' imprisonment;
(3) the defendant has habitually committed an offence for which a maximum term of imprisonment of three years or more is prescribed;
(4) there is probable cause to suspect that the defendant may conceal or destroy evidence;
(5) there is probable cause to suspect that the defendant may harm or threaten the body or property of the victim or any other person who is deemed to have essential knowledge for the trial of the case or the relatives of such persons; or
(6) the defendant's name or residence is unknown.

Likelihood of reoffending is not a valid ground for denying bail. When granting bail, the court isrequired to set the amount of the bail bond. The court may also add other appropriate conditions, and in practice, bail is often subject to the condition that the defendant not contact co-defendants, witnesses, or victims.

A. Independent Investigation by the Public Prosecutor

For cases indicted directly by the Public Prosecutor's Office and cases in which the public prosecutor has initiated criminal investigation, the public prosecutor may sometimes carry out investigation independently without involving the police. This is called independent investigation, and typically concerns investigation in cases involving by economic crime or corruption. Special Criminal Investigation Departments established in Tokyo, Osaka and Nagoya frequently carry out independent investigations.

B. Legislation on Extradition and International Assistance in Criminal Investigation

1. Extradition of Fugitives

The requirements and procedures for extraditing fugitives from Japan are provided in the Act of Extradition. The requirements for extradition are that the offence in question must not be a political one, that the offence must be punishable by death, imprisonment for life or for a long term of three years or more, that the principle of dual criminality is recognized, that there is good reason to believe that the person in question has committed the offence, and that the principle of reciprocity is guaranteed, among others. When the person in question is Japanese, he or she may in principle not be extradited to another country, but need to be punished by proxy. However, Japanese nationals may be extradited from Japan in line with extradition agreements. Japan currently has agreements with the USA and South Korea on the extradition of Japanese nationals.

Requests from other countries for the extradition of fugitives from Japan must be made through the Ministry of Foreign Affairs. Following review by the Minister of Foreign Affairs and the Minister of Justice, the request must be referred to the Tokyo High Court by the Tokyo High Public Prosecutor's Office. When urgent, the person in question may be placed under provisional detention.

When Japan receives a request from another country for the extradition of a fugitive, the request is granted in line with the requirements and procedures set forth in the Act of Extradition, as long as the principle of reciprocity is guaranteed, even if no extradition agreement exists with that country. Moreover, since this makes it possible to guarantee the principle of reciprocity with the other country, fugitives may also be extradited to Japan from countries with which no extradition agreement exists, as long as it is permitted under the law of the other country.

2. Assistance in criminal investigation

The requirements and procedures for assisting in a criminal investigation when a request for assistance has been received from another country are set forth in the Act on International Assistance in Investigation and Other Related Matters. The requirements for assisting in investigation are more relaxed than those for the extradition of fugitives; among others, they stipulate that the offense in question must not be a political one, that the principle of dual criminality should be recognized, and that the principle of reciprocity should be guaranteed.

Requests from other countries for Japan's assistance in criminal investigation must, in principle, be made through the Ministry of Foreign Affairs. Following review by the Minister of Foreign Affairs, the Minister of Justice then decides whether to instruct the Chief Public Prosecutor to gather the necessary evidence, or to send the request from the other country to the National Public Safety Commission and have the evidence gathered by the police. As well as discretionary investigation, the public prosecutor or judicial police may also carry out searches and other compulsory investigation, ask the courts to question witnesses, and so on.

Even when Japan has no agreement on assistance in investigation with the country concerned, it may be possible to assist in investigation through diplomatic routes when receiving a request for assistance in providing the evidence needed to investigate a criminal case in that country. This also means that, as long as it is permitted under the law of the other country, evidence necessary for criminal investigation may also be received from the other country.

Besides this, Japan currently has treaties or agreements on criminal assistance with the USA, South Korea, the People's Republic of China, Hong Kong, the EU and the Russian Federation. With each of these, requests may be made between the central authorities (in Japan, the Ministry of Justice and the National Police Agency) without going via diplomatic routes, and steps are being taken to increase the speed and efficiency of assistance in criminal investigation.

Finally, in cases other than those where evidence to be submitted to a court is gathered, the National Public Safety Commission exchanges the necessary information with the International Criminal Police Organization (Interpol).

V. DISPOSITION OF CASES

A. Responsible for Prosecution

1. Principle

Japan does not have a system of private prosecution or police prosecution, and there are no grand juries.

Public prosecutors have the exclusive power to decide whether to prosecute,[13] and this system is called"monopolization of prosecution." A court cannot try a case unless it is prosecuted by a public prosecutor.

2. Exception

There are two exceptions to the monopolization of prosecution: quasi-prosecution[14] and compulsory prosecution following a recommendation by the Committee for Inquest of Prosecution.

Quasi-prosecution applies to offences of "abuse of authority" by certain government officials.[15] A person who has filed a complaint or accusation for applicable offences, if dissatisfied with the public prosecutor's decision not to prosecute, may apply to a district court to commit the case to trial. In practice, very few cases are committed to trial. See page 25 for more details.

Committees for Inquest of Prosecution are lay advisory bodies, consisting of eleven randomly chosen citizens, that review non-prosecution decisions by the prosecutors. A Committee's recommendation was formerly purely advisory, but since May 2009, it has been given stronger legal effect under limited circumstances. See page 25 for more details.

B. Forms of Prosecution

There are two forms of prosecution: formal and summary.[16]

1. Formal Prosecution (Indictment)[17]

Formal prosecution is a request to hold a formal trial, and it is made by filing of a charging instrument called a *Kiso-Jo*.[18] The charging instrument must contain a clear description of the facts constituting the offence charged. In order not to prejudice the court before trial, no evidentiary materials may be attached to a *Kiso-Jo*.

(Speedy Trial Procedure)

At the time of the filing of a *Kiso-Jo*, with the consent of the defendant, the prosecutor may ask the court to try the case by the Speedy Trial Procedure. The Speedy Trial Procedure is applicable when the following conditions are met:

(1) The offence is not punishable by death, life, or a minimum of one year's imprisonment;
(2) The case is clear and minor; and
(3) The examination of evidence is expected to be completed promptly.

[13] CCP Article 247.
[14] In other words, "Analogical Institution of Prosecution through Judicial Action." (CCP Articles 262 to 269).
[15] See. e.g. Penal Code Article 193 (Abuse of authority by public officers).
[16] The traffic infraction fine system (Pecuniary Penalty against Traffic Infractions) is a procedure under which a person who commits certain minor offences in violation of the Road Traffic Law is exempted from criminal punishment by paying a sum of money fixed by law as an administrative disposition. However, if violators fail to pay that fine, they are to be dealt with under a regular criminal procedure and are subject to criminal punishment by the court.
[17] The word "indict" or "indictment" used here means "an public action in criminal matters bringing a case to be tried in an open court", unlike the one determined by the Grand Jury in the United States or cases to be tried in the Crown Court in the United Kingdom.
[18] CCP Article 256.

When the application is granted, the case will be tried by a simplified and expedited procedure. The court is required to set an early trial date and, to the extent possible, render its judgement within one day. When sentencing the defendant to a term of imprisonment, the court has to suspend the execution of the sentence. See page 35 for an explanation of suspension of execution of the sentence. The defendant may not appeal a judgment entered following a Speedy Trial on the ground that fact-finding was erroneous.

The Speedy Trial Procedure was introduced in October 2006 in order to enable prompt disposition of minor cases and early release of defendants. In 2012, a total of 1,544 defendants were sent for Speedy Trials, and the majority of the cases were for violations of the Stimulant Control Act, Immigration Control Act, and Road Traffic Act.

An example of a *Kiso-Jo* (translated into English) is included below:

Kiso-Jo (Charging Instrument)

The following case is hereby prosecuted.

14 May 2013

Tokyo District Public Prosecutors Office
Public Prosecutor, KOUNO, Ichirou (his seal)

To Tokyo District Court:

Defendant
Permanent Domicile: Yoshida 823, Kawami-cho, Tama-gun, Fukuoka Prefecture
Present Address: Room Number 303, 1-2-3, Akihabara, Chiyoda-ku, Tokyo
Occupation: None
Under Detention
HIGASHIYAMA, Haruo (The defendant's name)
17 April 1957 (The defendant's birth date)

Alleged Facts

At around 11 p.m. on 23 April 2013, on a street located in 2-4-7, Minami, Shibuya-ku, Tokyo, the defendant, with intent to kill, stabbed MORITA Toshikazu (24 years of age) in the chest with a knife, of which blade was about ten centimeters long, thereby causing the death of Morita, who died from blood loss attributable to the stab wound in the chest, at around 11:58 p.m. on the same day, at YAMADA Hospital located in 3-1-23, Takao, Meguro-ku, Tokyo

Charged Offence and Applicable Penal Statutes

Murder Penal Code Article 199

2. Summary Prosecution (Request for a Summary Order)

A public prosecutor may prosecute a case in the Summary Court and ask for a summary order, which is an order by a Summary Court sentencing the defendant to a fine not exceeding one million yen, or a petty fine. In order to file a summary prosecution, a written consent by the defendant is required. There will be no oral hearing or trial: a Summary Court judge will examine the case file sent from the prosecutor, and issue an order on that basis. A party dissatisfied with the order may, within 14 days, apply for a formal trial.

Summary proceeding is an important part of the Japanese criminal process. A vast majority of minor cases are disposed of by summary orders. In 2012, out of 1,421,514 suspects (including juveniles) disposed of by prosecutors, 347,702 (24.5%) were summarily prosecuted, whereas 116,412 (8.2%) were indicted for formal trials.[19][17]

C. Non-prosecution of Cases

1. No Offence Committed

A public prosecutor will naturally decline to prosecute if, after investigation, there are sufficient reasons to believe that no crime has been committed by the suspect.

2. Insufficiency of Evidence

Even if there is some evidence of guilt, public prosecutors will not prosecute unless conviction is very likely. The threshold varies among countries, and Japanese prosecutors are very careful and selective in screening cases. It is long established practice not to prosecute unless the prosecutor is almost 100 percent certain of a conviction. In Japan, it is considered an irresponsible exercise of the prosecutorial powers, entrusted by the people to the public prosecutors, to compel a citizen to defend him or herself against criminal charges without the prosecutor being convinced that the evidence is sufficient to establish guilt. As a result, the actual conviction rate is 99.9 percent.

3. Suspension of Prosecution

Japanese prosecutors have broad discretion whether or not to prosecute, and they are authorized to drop cases even when there is enough evidence to secure a conviction. This disposition is called "suspension of prosecution" and is provided for in Article 248 of the CCP, which reads "Where prosecution is deemed unnecessary owing to the character, age, environment, gravity of the offence, circumstances or situation after the offence, prosecution need not be instituted."

The concept of discretionary prosecution contrasts with that of compulsory prosecution, which requires prosecution to be instituted whenever a certain quantum of evidence exists. Discretionary prosecution enables flexible dispositions in line with the specifics of each case such as the nature and seriousness of the offence committed, characteristics of the offender, and the victim's feelings about the case. It is also a form of diversion that offers offenders an early opportunity to return to society and rehabilitate themselves.

The following is an illustrative list of factors considered by prosecutors in making charging decisions.

(1) The gravity of the offence and the harm caused thereby;
(2) The offender's character, age, criminal history, and risk of reoffending;
(3) The circumstances relating to the commission of the offence: for example, motive, provocation by the victim, existence of accomplices and the role played by the suspect; and
(4) Conditions subsequent to the commission of the offence: for example, whether the suspect assumes criminal responsibility, whether and to what extent restitution has been made, whether apologies have been made and the victim's feelings have been restored, whether civil settlements have been made between parties.

[19] White Paper on Crime 2013, Ministry of Justice, Japan.

Suspension of prosecution is broadly utilized in practice: of the 1,421,514 suspects processed by public prosecutors in 2012, prosecution was suspended for 789,392 (55.5%) suspects.[20]

D. Safeguards against Arbitrary Disposition

1. Internal Administrative Review

While public prosecutors exercise a quasi-judicial function, as officers belonging to the executive branch of government, they are required to consult with and obtain approval from their supervisors when making important decisions. This internal administrative review is called *Kessai* in Japanese. Depending on the gravity and/or the difficulty of the issues involved, multiple layers of *Kessai*, sometimes up to the Prosecutor General, may be required. This process ensures the reasonableness and consistency of the exercise of prosecutorial authority, and it provides an important learning opportunity for young prosecutors.

2. Committee for Inquest of Prosecution

Committees for Inquest of Prosecution are lay advisory bodies that review non-prosecution decisions by prosecutors. Every district has one or more Committees, and they consist of eleven lay people randomly selected from among the district's voters. Their purpose is to reflect popular will in the charging process.

Victims and certain qualified parties dissatisfied with a prosecutor's decision not to prosecute may request a review by the Committee. The Committee will make one of the following three recommendations: (i) non-prosecution is proper; (ii) non-prosecution is improper; or (iii) prosecution is proper. The last recommendation requires a super majority vote of eight out of eleven Committee members. Prosecutors generally have good reasons when they decline to prosecute, and during the five-year period of 2008-12, out of 9,368 cases decided on the merits, 8,688 (92.7%) have resulted in a recommendation of "non-prosecution is proper."[21]

The recommendation will be notified to the prosecution, and when the latter two recommendations are made, the prosecutors will reopen the case. Upon reinvestigation, they may reconsider their position and prosecute, or maintain their initial decision and not prosecute.

The Committee's recommendations were formerly purely advisory, but from May 2009, if the prosecutor's decision not to prosecute a particular case twice receives a recommendation of "prosecution is proper," a court will appoint an attorney, who will undertake the role of the prosecutor and file charges in accordance with the Committee's recommendation. The system is called "compulsory prosecution." According to past statistics, a recommendation of "prosecution is proper" is not very common: during the five year period of 2005-09, 53 (0.5%) out of 10,513 cases reviewed by the Committee resulted in this recommendation. As of January 2011, there have been four instances of compulsory prosecution.

3. Quasi-Prosecution

Quasi-prosecution is a procedure applicable to offences of "abuse of authority" by certain government officials. If a person who has filed a complaint or accusation of such offences is dissatisfied with the public prosecutor's decision not to prosecute, the person may apply to a District Court to commit the case to trial. This system is intended as a safeguard against unreasonable non-prosecution decisions by prosecutors. However, in practice, prosecutors do prosecute if the offence is serious enough and there is sufficient evidence. Accordingly, the number of cases committed to trial has been few.

[20] White Paper on Crime 2013, Ministry of Justice, Japan.
[21] Ibid.

E. Victim Notification Programme

Victims of crime have legitimate interest in knowing the outcomes of their cases. In 1999, the prosecutor's office introduced the Victim Notification Programme to keep victims informed of the progress and outcomes of their cases. Notification is not automatic. As some victims prefer not to be contacted, notice is given to only those who have asked for it.

Information notified under the programme includes the following:

(1) Disposition of the case (e.g. prosecution for formal trial, summary prosecution, non-prosecution or referral to the Family Court);
(2) Venue and time of the trial;
(3) The results of the trial (conclusion section of the judgment, status on appeal);
(4) The perpetrator's custody details, the indicted facts, summary of the reasons for non-prosecution, and other matters similar to those listed in (1) to (3); and
(5) The matters concerning the perpetrator after conviction is finalized:
- Name and location of the prison where the perpetrator is imprisoned.
- The possible schedule for release from prison (the scheduled date of release on completion of the sentence, parole) after the prison sentence becomes final.
- Treatment of the perpetrator in prison (updates are given around once every six months).
- The date when the perpetrator was actually released (release on completion of the sentence, parole).
- The date when suspension of execution of the sentence was revoked.
- The date when a decision was made for granting parole.
- The date when probation was commenced and the scheduled end thereof.
- Treatment during probation (updates are given around once every six months).
- The date when probation ended.

Victim protection measures

A. Providing notification to victims

1. In cases where a complaint has been made, the public prosecutor shall notify the complainant when a decision to institute prosecution or not to institute prosecution has been made, as well as the reason for non-prosecution when a case is not prosecuted.

2. In serious cases, such as where the victim has died, or where the public prosecutor has interviewed the victim, the public prosecutor notifies the victim or the family of the deceased victim of the disposition of the case, the date of the trial, the result of the trial and so on, if so desired by the victim.

3. The public prosecutor notifies the victim of the convicted offender's scheduled release date and the scheduled place of residence, if the victim wishes to have such notification, in case the victim desires to relocate in order to avoid contact with the offender.

B. Appeals against non-prosecution decisions

Appeals against non-prosecution decisions by the public prosecutor include

1. Request for review by a Committee for Inquest of Prosecution

A victim may submit a petition for review by a Committee for the Inquest of Prosecution consisting of 11 committee members selected at random from the general public based on the electoral rolls.

2. Request to commit a case to a court for trial

Through the procedure of quasi-prosecution, a person who files a complaint or accusation concerning an offence, such as abuse of authority by a public official, may be permitted, when appealing against a non-prosecution decision, to apply to the relevant District Court to commit the case to trial.

C. Victim participation at the trial stage

1. Victim participation system

Victims of crimes (the victim's spouse, lineal relatives and siblings in cases where the victim has died) may, among others, take part in criminal trials as victim participants. As victim participants, they may question witnesses and defendants and state their opinions on the facts of the case and the application of law, subject to the decision of the court. Participation is only permitted in cases of serious crimes such as homicide, grievous bodily harm or rape.

2. Statement of opinion

Victims may, among others, state their feelings about the harm they suffered and other opinions on the alleged case.

3. Measures to lessen the burden during trial

To lessen the burden on the victims as witnesses during questioning of witnesses, they may be (a) accompanied by family members or counsellors, (b) shielded from the defendant and observers, (c) seated in a separate room and questioned via video link.

4. Measures to protect confidentiality

There are procedures for protecting victim confidentiality in special matters, such as protecting the victim's name and other information.

5. Judicial compromise

There is a procedure for criminal settlement whereby the defendant and the victim may reach an agreement in a civil dispute related to a criminal case; the content of that agreement is noted in the trial record of the criminal case.

6. Restitution Order

When a victim has filed a claim for payment of compensation with a criminal court, the criminal court continues to review the civil dispute after reaching a judgement of conviction in the criminal case, and makes a decision on compensation.

D. Compensation for crime victims

1. Crime victim benefits

The "Act on Support for Crime Victims, etc. Such as Payment of Crime Victims Benefits" provides victims or families of deceased victims with crime victim benefits when compensation for damages is not received from the perpetrator. Eligible beneficiaries include victims who suffered serious injury or disability or surviving family of a person who died due to homicide or an intentional criminal act.

2. Benefit payment system for recovery of damages

The "Act on Recovery Payments to be Paid from Assets Generated from Crime" provides victims etc. with benefits for recovery of damages, using crime proceeds confiscated or collected as proceeds of equivalent value, including assets recovered with the assistance of foreign countries.

3. Damage-recovery benefit system

The "Act on Damage Recovery Benefits Distributed from Fund in Bank Accounts Used for Crimes" pays damage-recovery benefits to victims of crimes such as fraud involving bank account transfers. It provides a procedure to nullify the perpetrator's deposits and distribute them as damage-recovery benefits to the victims.

CHAPTER 5 TRIAL PROCESS

I. SOME BASIC PRINCIPLES AND CHARACTERISTICS

A. Presumption of Innocence

Every defendant is presumed innocent until proven guilty. The standard of proof is "beyond a reasonable doubt": a preponderance of evidence as used in civil proceedings is not sufficient to sustain conviction. The burden of proof is on the public prosecutor. Unless the prosecutor establishes every element of the offence beyond a reasonable doubt, the defendant must be acquitted or may be convicted only of a lesser included offence.

B. Public Trials

Defendants have the right to a speedy and public trial by an impartial tribunal (Article 37-1 of the Constitution). Trial must be conducted and judgment must be announced publicly. Exceptions are permitted only under very limited circumstances.

The trial opens with the judge(s) and a public prosecutor in attendance. The defendant has the right and duty to be present. As a general rule, trials cannot open without the presence of the defendant, but this obligation may be exempted in certain minor cases. Moreover, when a defendant under detention refuses to appear without justifiable reasons and certain other conditions are met, the court may proceed without the presence of the defendant. For the presence of counsel, see D below.

Criminal Trial (moot)

C. Right to Remain Silent

The defendant has the right to remain silent: he or she may remain silent at all times, or answer some questions and refuse others. In practice, most defendants voluntarily answer questions asked by the defence counsel, the public prosecutor, and the court.

D. Right to Counsel

Defendants have the right to the assistance of competent counsel. If the defendant is unable to secure his or her own counsel, one will be appointed by the court. In Japan, the availability of court-appointed counsel is not limited to indigent defendants.

Trial proceedings cannot be held without the presence of counsel if: (i) the defendant is charged with an offence punishable by death, life, or a maximum term of more than three years' imprisonment; (ii) the case has been sent to pretrial conference procedure (see page 30); or (iii) the case is tried by the speedy trial procedure (see page 21).

E. Adversarial Procedure

The Japanese criminal trial is a hybrid of the European and Anglo-American systems, with much greater emphasis on the Anglo-American adversarial model. While the court maintains control over the proceedings, it is the parties, especially the prosecutor, that take the active and leading role in developing the facts of the case. The court cannot try a case unless prosecuted by the public prosecutor, and the defendant cannot be convicted of an offence greater than the one charged in the prosecutor's charging instrument.

F. No Arraignment

There is no system of arraignment as exists in the Anglo-American countries. A plea or admission of guilt by the defendant will not waive trial, and the prosecutor is still required to prove the defendant's guilt beyond a reasonable doubt.

G. Single Stage Procedure

Some countries divide the criminal proceeding into two stages: the determination of the defendant's guilt or innocence, and the sentencing. The Japanese criminal procedure is different, and like many countries in Europe, combines these two stages into one. Evidence relevant to the defendant's guilt and evidence relevant to sentencing will be heard during the trial, and a single judgment setting forth the facts found by the court and specifying the sentence to be served, or that which acquits the defendant, will be announced.

II. *Saiban-In* Trials

Saiban-In is a recently created word used to describe the "lay judges" who participate in *Saiban-In* trials. *Saiban-In* trial was introduced by the Act on Criminal Trials Examined under the Lay Judge System, which came into force on 21 May 2009. *Saiban-In* cases are tried by a mixed panel consisting of three professional judges and six *Saiban-In*.

Saiban-In are randomly selected for each case from among the voters through a procedure similar to jury selection in some other countries. *Saiban-In* collaborate with professional judges to decide on issues of facts and sentencing. Each *Saiban-In* and professional judge has equal voting power. Procedural issues and matters of legal interpretation are left to the professional judges.

Saiban-In trials will be held for (i) offences punishable by death or imprisonment for life; or (ii) intentional conduct resulting in the victim's death, for which a minimum term of one year's imprisonment is prescribed. Such offences include murder, robbery resulting in death or injury, rape resulting in death or injury, arson of an inhabited residence, and certain serious drug offences. *Saiban-In* trial is mandatory: defendants may not waive it and request a bench trial. It is estimated that approximately three percent of trials will be *Saiban-In* trials.

Court Room for *Saiban-In* Trial
(Photo provided by Supreme Court)

III. TRIAL PROCEEDINGS

A. Procedure before Trial

1. Introduction

In Japan, the charging power belongs exclusively to the public prosecutor, and a formal charge is presented in the form of a written charging instrument called *Kiso-Jo*, prepared by a prosecutor. The *Kiso-Jo* has to contain a clear description of the elements of the offence charged, and no evidentiary material may be attached to it. See page 21 for more details.

Criminal cases are tried by a judge, a three judge panel, or a mixed panel of three professional judges and six lay judges (*Saiban-In*), depending on the nature of the charge.

2. Disclosure

The public prosecutor and the defence counsel are required to disclose to the other party evidence they intend to introduce at trial. The pretrial conference procedure, which was introduced in 2005, provides for wider discovery.

-

Evidence disclosure prescribed in the Code of Criminal Procedure and current status of broad discretionary disclosure by public prosecutors at an early stage

Pretrial conference procedure involves two kinds of disclosure of evidence by public prosecutors in response to requests from the defendant or defence counsel. The purpose of these specific disclosures is to clarify the claims due to be made at trial, the evidence to be submitted, and the issues of the case.

(1) The first mandatory disclosure of evidence is required for specific categories of evidence under the Code of Criminal Procedure, such as exhibits, inspection reports, spot investigation reports, written statements of expert opinion, written statements of the defendant or others, etc. under two conditions: (1) when it is deemed important in order to judge the credibility of specific evidence offered by the public prosecutor; and (2) when it is deemed appropriate, considering of its necessity in preparing the defence and the possible harmful effects that could be caused by disclosing it. The purpose of this disclosure is to enable the defendant to determine a defence strategy once the prosecutor has indicted which evidence the prosecution will rely on at trial. (Article 316-15)

(2) The second disclosure is that the public prosecutor, upon the defendant's request, must disclose other undisclosed evidence that is deemed connected with the defence (for example, an alibi, claims that there was no intent to kill, claims of self-defence, etc.). When disclosing this evidence, the public prosecutor must deem the disclosure to be connected with the claims and necessary to the defence; the public prosecutor must also consider the possible harmful effects that would be caused by disclosing it such as personal or private information regarding the victim. This disclosure is required to identify key issues and evidence by having the public prosecutor make disclosure related to the claims, while making the defendant clarify evidence he/she will rely on. (Article 316-20)

Also, public prosecutors usually disclose evidence voluntarily at an early stage of the pretrial conference procedure even if the evidence does not fit into the above conditions. This is done in order to conduct productive court proceedings efficiently.

3. Pretrial Conference Procedure

After hearing the opinions of the parties, the court may set the case for pretrial conference procedure. Cases that will be tried by a *Saiban-In* court must be put to pretrial conference procedure. Through this procedure, the parties prepare and clarify their arguments and disclose evidence, and the court makes necessary rulings and advance planning for the upcoming trial.

In the pretrial conference procedure, the prosecutor and the defence counsel are required to disclose to the other party evidence they intend to introduce at trial. Moreover, the prosecutor is required to disclose certain categories of evidence to the extent they are relevant, even if he or she has no intention of using them at trial. The categories include the following: physical evidence; forensic analysis reports; recorded statement documents of prosecution witnesses; recorded statement documents of the defendant; and

investigative reports that show the date, time, location, and other details of the questioning of the suspect (the defendant). Further disclosure may be available under certain circumstances.

Parties are required to clarify the arguments and defences they intend to present during trial, and make offers of evidence to support them. Once the pretrial conference procedure has concluded, neither party is allowed to offer additional evidence unless it can be shown that the delay was unavoidable.

B. Trial

Trial can be divided into four stages: the opening proceeding, examination of evidence, questioning of the defendant, and the closing arguments.

1. Opening Proceeding

At the opening of a trial, the court will address the defendant and ask that he or she identifies him or herself. Next, the charge will be read by the prosecutor attending the trial. After that, the court will advise the defendant of his or her rights, and give the defendant and defence counsel an opportunity to make statements.

As explained earlier, the defendant has the right to remain silent and is not required to make any statement. In practice, however, most defendants make a statement and admit their guilt. In 2011, 90.3 percent of defendants processed in the District Courts admitted their guilt.[22][20]

2. Examination of Evidence

Examination of evidence begins with the prosecutor's opening statement, which outlines the facts he or she intends to prove at trial. Then, the prosecutor's evidence will be introduced. Real evidence will be displayed, testimony of witnesses will be heard, and documentary evidence will be read in full or be summarized. Admissibility of documentary evidence is limited. For more information, see section C on the hearsay rule.

Following the prosecutor's case in chief, the defence will present its evidence for rebuttal.

As regards the testimony of witnesses, the party calling the witness will first question the witness, and the other party will cross-examine. The party calling the witness is entitled to ask follow-up questions, and at the end, the court will ask supplementary questions if necessary. Under limited circumstances, witnesses may be allowed to sit in a different room connected to the court via video-link technology, and give their testimony from that room.

3. Questioning of Defendants

Following examination of other evidence, the defendant will be placed under questioning: first by the defence counsel, then by the prosecutor, and finally by the court. Japanese defendants are not questioned as witnesses. They are not placed under oath, and they may refuse to answer any questions at any time. Despite their right to remain silent, however, most defendants voluntarily answer questions. Despite their right to remain silent, most defendants voluntarily answer the questions.

4. Closing Arguments

When all the evidence is heard, the prosecution and then the defence will make their closing arguments. The arguments will cover issues of fact, law, and sentencing. Prosecutors make sentencing recommendations at the end of their closing arguments.

Starting in 2008, a system of victim participation was introduced in Japan. This system allows victims of certain serious offences and their bereaved families, with the approval of a court, to act as victim participants. Victim participants may also present their closing arguments.

[22] Annual Report of Judicial Statistics for 2012.

5. Victim Participation at Trial

All due respect should be given to the wishes of crime victims and their surviving families to take part in criminal trials of cases in which they have been victims. As such, their appropriate participation in criminal trials contributes to the restoration of their honour and their recovery from the damage suffered. To this end, a system of victim participation has been established and has been implemented since 1 December 2008. Under the system, victims and their surviving families acquire the status of "victim participants" in trial proceedings, with the court's permission, and directly engage in certain parts of the trial.

Victims who may participate, with the court's permission, are victims of alleged incidents involving an offence that led to death or injury through an intentional criminal act, the offences of indecent assault and rape, offenses of human trafficking, and others.

These victims may participate in the following manner with the court's permission.

- Being in attendance on the date of the trial
- Stating opinions on the prosecution of the case
- Questioning witnesses (usually related to sentencing)
- Questioning the defendant
- Stating opinions on facts and the prosecution

To protect victims, devices to shield victim participants from defendants and/or observers are installed, while persons deemed suitable may be permitted to accompany the victim participants. Also, victims of limited financial means may ask the court to appoint an official victim participant attorney.

C. **Rules of Evidence**

1. Hearsay Rule

Hearsay is an out-of-court statement not subjected to cross examination. Hearsay is inadmissible unless (i) the other party consents to its use; or (ii) it fits into one of the exceptions provided for in the CCP.

2. Hearsay Exceptions

(1) Consent

Consent is essentially a waiver of the right to confront and cross-examine witnesses. When these rights are waived, there is no further need to exclude the hearsay in question. In practice, consent is very widely used. As most defendants do not contest their guilt and their only interest is in sentencing, documentary evidence offered by the prosecutor, such as police reports, written statements of witnesses, and the defendant's confessions, are admitted with the defendant's consent. This practice enables speedy disposition of uncontested cases.

(2) An Example of Other Hearsay Exceptions: Written Statements taken by a Public Prosecutor

When a witness is unavailable to testify at trial, written statements taken by a public prosecutor andsigned by the witness may be admitted as a hearsay exception. Likewise, if the witness takes the stand but the testimony differs from previous statements, prior inconsistent statements taken by a public prosecutor and signed by the witness may be admitted as a hearsay exception, provided there is circumstantial guarantee of trustworthiness.

3. Confessions

Under Article 38-2 of the Constitution and Article 319-1 of the CCP, confessions are inadmissible unless voluntarily made. The objectives of the voluntariness requirements are generally understood as follows: (i) to exclude false confessions; (ii) to protect the rights of the accused, especially the right to remain silent; and (iii) to exclude illegally obtained confessions.Furthermore, under Article 38-3 of the Constitution and Article 319-2 of the CCP, a defendant cannot be convicted if the only incriminating evidence is his or her confession.

4. Exclusionary Rule

According to Supreme Court precedents, serious violations of procedural rules can result in the inadmissibility of illegally obtained evidence. The application of the exclusionary rule is decided on a case-by-case basis, and factors taken into consideration include: the situation under which the illegality occurred; the seriousness of the violation of the law; the intention of the investigating officers, and the need to prevent future illegality.

On the admissibility of written statements of victims, witnesses or defendants made in the course of investigation as evidence at trial)

Written statements are documents substituting for spoken statements made on the day of a trial, and they are hearsay evidence. In principle, therefore, they are not deemed admissible as evidence. However, even hearsay evidence may be deemed admissible if the defendant agrees, or when there is a high degree of necessity and credibility, as illustrated below.

One such exception is when the statement is a statement for the prosecution made by a victim or witness, and (i) the person who made the statement is deceased, mentally or physically impaired, of unknown whereabouts, or resides abroad, and is therefore unable to testify, or has refused to testify under oath, or (ii) when there are special circumstances in which a statement made during a criminal investigation should be trusted despite the fact that testimony substantially different from the statement was given in court. (Article 321(1)2) Such special circumstances include cases when there has been a pronounced decline in memory due to the passage of time or due to mental or physical impairment, or when the defendant or a person connected with the defendant is reluctant to testify in person, due to feelings such as fear of retaliation.

Similarly, a written statement made by a defendant during a criminal investigation may only be deemed admissible as evidence when (i) the content of the statement acknowledges a fact detrimental to the defendant, or, (ii) when it has been made under especially trustworthy circumstances that afford special credibility, and the statement has been made voluntarily. (Article 322(1))

D. Adjudication and Sentencing

As stated earlier, a single judgment that sets forth the finding of the court and specifies the sentence to be served, or that which acquits the defendant, will be announced at the end of the trial. In 2011, the acquittal rate was 0.14 percent in District Courts and 0.11 percent in Summary Courts. The acquittal rate for contested cases was 2.91 percent in District Courts and 3.82 percent in Summary Courts. See page 35,36 for more information on penalties, adjudication outcomes, and the sentencing distribution in Japan.

E. Length of Trial

In 2011, the District Courts and Summary Courts disposed of a total of 67,110 cases. Ninety three point one (92.1) percent of District Court cases were disposed of within six months of the initiation of prosecution, and 76.4 percent were disposed of during the first three months. Ninety eight point three (98.2) percent of Summary Court cases were disposed of within six months, and 90.7 percent were disposed of during the first three months. The average length required for the disposition was 3.0 months in District Courts and 2.01months in Summary Courts. District Courts held an average of 2.6 trial dates and Summary Courts an average of 2.2.[23]

The Act on the Expediting of Trials of 2003 provides that "the objective of expediting trials shall be to conclude the proceedings of the first instance in as short a time as possible within a period of two years."

A new trial procedure (Speedy Trial Procedure) applicable to certain uncontested cases was introduced in 2006 by an amendment to the CCP. See page 21 for more details.

[23] Ibid.

IV. APPEALS

Appeals are classified as *Koso* appeals, *Jokoku* appeals, and *Kokoku* appeals. The first two lie against judgments (*Hanketsu*), while the latter lies against decisions (*Kettei*) and orders (*Meirei*). When both parties waive the right to appeal or all avenues for appeal have been exhausted, the judgment becomes final and enforceable. Contrary to the Anglo-American system, it is not unconstitutional to afford a right of appeal to a public prosecutor against an acquittal.

A. *Koso* Appeals

A party who is dissatisfied with the judgment of the first instance can file a *Koso* appeal to a High Court. It is instituted by filing a written motion in the original trial court within 14 days after judgment. The ground for this appeal should be one or more of the following: (i) non-compliance with procedural law in the trial proceedings; (ii) an error in the interpretation or application of law which clearly influenced the judgment of the first instance; (iii) excessive severity or leniency in sentence; and (iv) an error in fact-finding in a guilty or not-guilty judgment. The High Court examines, in principle, only the written record of the case, including the documentary evidence examined by the court below, and considers the arguments of both the defence counsel and the public prosecutor. However, when deemed necessary, the High Court can examine additional witnesses or the same witnesses as examined by the trial court.

If there is no reversible error, the appeal will be dismissed. If there is reversible error, the High Court will vacate the judgment and remand the case to the trial court. If the High Court finds that a new decision can be made on the basis of the proceeding and evidence (including evidence examined at the appellate level), it may vacate the judgement below and, without remanding, enter its own judgement.

B. *Jokoku* Appeals

If unsatisfied with the High Court judgment, the parties can file a *Jokoku* appeal with the Supreme Court within 14 days after the judgment. The purpose of *Jokoku* appeal is to ensure proper interpretation of the Constitution and law. Therefore, the grounds for this appeal are limited to: (i) a violation of the Constitution or an error in interpretation or application of the Constitution; (ii) contradiction with Supreme Court precedent; and (iii) contradiction with High Court precedent, when no Supreme Court precedent exists.

However, as the court of last resort, the Supreme Court is authorized, at its discretion, to reverse lower court decisions on the following grounds: (i) a serious error in interpretation or application of law; (ii) an extremely unjust sentence; (iii) a grave fact-finding error which is material to the judgment; (iv) any reason which would support reopening of procedures; and (v) punishment which has been abolished or changed or for which a general amnesty has been proclaimed after the rendition of the original judgment. The Supreme Court only examines the record of the case and never examines witnesses or defendants. When the Supreme Court concludes that there is no ground for reversal, it dismisses the appeal. If grounds exist, the Court will vacate the judgement below and either remand the case or enter its own judgement.

V. EXTRAORDINARY REMEDIES

Even after all avenues of appeals have been exhausted and the judgment has been finalized, it may still be set aside under very limited circumstances. There are two types of extraordinary remedies: *Saishin* (new trial) and *Hijo Jokoku* (extraordinary appeals).

A public prosecutor and a convicted defendant or his or her relatives may ask for a *Saishin* under limited circumstances, including when new evidence is discovered that clearly demonstrates that the defendant should be acquitted. The Prosecutor General may file a *Hijo Jokoku* appeal when it is discovered that a finalized judgment was in violation of law (for example, a fine exceeding the maximum amount authorized by law). *Saishin* or *Hijo Jokoku* may not adversely affect the position of the convicted defendant.

VI. PUNISHMENT

A. Categories

1. Overview

Principal punishments are classified, in descending order of severity, as death penalty, imprisonment with work, imprisonment without work, fine, misdemeanour imprisonment without work, and petty fine. Confiscation is a supplementary penalty, which may be imposed in addition to principal punishments. When items subject to confiscation cannot be actually confiscated, an order of collection of equivalent value may be imposed instead. The Special Narcotics Control Law and the Anti-Organized Crime Law both have special provisions designed to facilitate the confiscation of proceeds of crime.

2. Death Penalty

The death penalty is not unconstitutional in Japan, but it is very sparingly used. In practice, its application is limited to murder and robbery resulting in death. The total number of capital sentences rendered during the five-year period from 2007 to 2011 was 54. The death penalty cannot be imposed upon offenders who were under the age of 42 at the time of the offence. Executions are carried out by hanging.

3. Imprisonment

Imprisonment may be with or without work. The former involves obligatory work assignment while the latter does not. The length of imprisonment may be for life (the precise wording in Japanese law is "for an indefinite period"), or for a specific term. The maximum term authorized for a single offence is 20 years, but it can be extended up to 30 years under certain circumstances.

4. Fine, Misdemeanour Imprisonment without Work, Petty Fine

Fines range from ¥10,000 and upward, and the maximum amount differs for each offence. Misdemeanour imprisonment without work is confinement without work assignment for a period of one to 29 days, and petty fines range from ¥1,000 up to not more than ¥10,000. Persons unable to pay the full amount of a fine or a petty fine may, as a substitute, be detained in a workhouse in accordance with a daily rate fixed by the sentencing court.

B. Suspension of Execution of Sentence

The court, when sentencing a defendant to imprisonment not exceeding three years or a fine not exceeding ¥500,000, may suspend the execution of the sentence for one to five years if one of the following conditions are met: (i) the defendant has not previously received a sentence of imprisonment without work or a greater punishment; or (ii) the defendant has previously received a sentence of imprisonment without work or a greater punishment, but five years have passed since the completion of that sentence.

If the offender, during the suspension period, is convicted of another crime and sentenced to imprisonment without work or a greater punishment, unless circumstances especially favourable to the offender are shown and certain other conditions are satisfied, the suspension will be revoked, and the offender will serve two sentences consecutively. If the offender maintains good behaviour and the suspension period passes without revocation, the entire sentence will automatically lose its legal effect at the end of the suspension period, and the offender will no longer have to serve the sentence.

The sentencing court, when suspending the execution of a sentence, may place the offender under probation for the duration of the suspension.

Partial Suspension of Execution of Sentence

On June 13, 2013, the law was amended to introduce a partial suspension of execution of sentence. This made it possible to opt for a new punishment consisting of an imprisonment and a suspended sentence, compared to the previous system where the only possible options were to serve the whole of the sentence in a penal facility (full sentence) or to suspend execution of the whole sentence (full suspension of execution of sentence). By enforcing part of the sentence and suspending the rest of it, the aim is to make it possible to prevent repeat offending and encourage rehabilitation in society,

offenders are incentivized to rehabilitate because further violation of the law may result in reimprisonment. The suspension period lasts for a fixed period after the custodial sentence has been served.

C. Outcomes of Court Proceedings

1. Formal Trials

The following table shows the adjudication outcomes and the sentencing distribution of defendants disposed of in courts of first instance (District Courts and Summary Courts) in 2011. The total number of defendants was 67,110. Of these, 65,529 were convicted, 89 were acquitted, and the conviction rate was 97.6 percent. Of 62,796 defendants sentenced to imprisonment, 36,511 (58.2%) received a suspension of execution.[24][22]

Conviction	65,529			
	Death Penalty	10		
	Imprisonment with work	59,563		(100%)
		Life	30	(0.1%)
		more than 20 years to 30 years	47	(0.1%)
		more than 10 years to 20 years	307	(6.5%)
		more than 5 years to 10 years	1,123	(1.9%)
		more than 3 years to 5 years	2,627	(4.4%)
		1 year to less than 3 years	42,704	(65.1%)
		6 months to less than 1 year	10,896	(18.3%)
		less than 6 months	1,829	(3.1%)
	Imprisonment without work	3,206		
	Fine	2,740		
	Misdemeanour imprisonment without work and Petty Fine	10		
Acquittals	89			
Others	1492			

2. Summary Proceedings

In 2011, Summary Courts issued a total of 370,767 summary orders: 367,899 were for fines, and 2,825 were for petty fines.

D. Parole

Inmates serving prison sentences may by released early on parole. Parole decisions are made by Regional Parole Boards upon application by the warden of the correctional institution where the inmate is housed: the inmate him or herself is not entitled to apply for parole. Inmates must have served one third of their sentences (or ten years in the case of life sentences) before they become eligible for parole.

[24] Annual Report of Judicial Statistics for 2009. The Trend of Criminal Cases in 2011, Criminal Affairs Bureau of the General Secretariat of the Supreme Court. The figures are the number of the defendants disposed of at the court of first instance. They slightly differ from those in the Criminal Justice Flow Chart in page 14, which shows the number of defendants whose cases were finalized.

VII. COMPENSATION FOR INNOCENCE

A defendant detained and subsequently acquitted is entitled to receive state compensation. Likewise, state compensation is required when the prosecutor decides not to prosecute a suspect who has been taken into custody, and there are sufficient reasons to believe that no crime has been committed by the suspect. Furthermore, suspects and defendants may sue the state for damages if they can prove that the authorities, intentionally or negligently, inflicted unlawful damages.

VIII. SPECIAL PROCEDURES FOR JUVENILE CASES

The Juvenile Law of 1948 establishes a special procedure for juvenile cases. Juveniles are defined as persons less than 20 years of age, and the underlying philosophy of the law is that, for juveniles, education and rehabilitation are preferable to criminal punishment. While regular criminal cases are tried in District Courts and Summary Courts, juvenile cases are primarily dealt with in Family Courts.

The age of criminal responsibility in Japan is 14, and the following types of juveniles come under the jurisdiction of a Family Court:

(1) Juveniles, 14 years or older, who have committed a criminal offence;
(2) Juveniles, 13 years or younger, who have committed an act which would have been criminal except for the age requirement; and
(3) Juveniles who are prone to commit crimes or violate criminal laws in light of their character, behaviour, or surrounding circumstances.

Family Court proceedings begin when a juvenile case has been received from one of various sources. In practice, they mainly come from the police and the public prosecutors. The Family Court will first make an inquiry into whether a juvenile hearing should be opened, and in doing so, the court will assign the case to a family court probation officer, who will undertake a thorough social inquiry into the personality, personal history, family background, and environment of the juvenile. The court may also detain the juvenile in a juvenile classification home. The maximum period of detention is four or eight weeks depending on the circumstances, and during the period, a scientific assessment (classification) of the personality and disposition of the juvenile will be conducted by the classification home.

If, after the inquiry, the court determines that there are no grounds or it is inappropriate to open a hearing, the case will be dismissed without a hearing; otherwise, a juvenile hearing will be opened. The Juvenile Law requires that the hearing be conducted in a warm atmosphere. The hearing is not open to the public except for victims and their families, under limited circumstances and with permission of the court. Likewise, public prosecutors are generally not entitled to attend the hearing.

When the hearing is completed, the Family Court will either (i) place the juvenile under protective measures; (ii) refer the case back to prosecutors; (iii) refer the case to a child guidance centre; or (iv) dismiss the case upon hearing.

There are three forms of protective measures: probation, commitment to institutions established under the Child Welfare Act, and commitment to a juvenile training school.

Referral to public prosecutors takes place when the court determines that criminal punishment should be imposed. Juveniles aged 16 years or older who have committed an intentional act that resulted in the death of a victim must be referred to public prosecutors unless the court determines otherwise. Public prosecutors, as a general rule, are required to prosecute the cases referred to from the court. Such cases will be prosecuted and tried in almost the same manner as offences committed by adult offenders. However, juveniles are generally punished by indeterminate sentences (a ten year maximum), and capital punishment may not be imposed on juveniles who were under 18 years old at the time of their offence.

Cases will be dismissed upon hearing when the court determines that there are no grounds or that it is not necessary to make any particular disposition.

Assessment in a Juvenile Classification Home

CHAPTER 6 CORRECTIONAL SERVICE

I. INTRODUCTION

The administration of penal institutions and the treatment of inmates are regulated by such basic laws and regulations as the Act on Penal Detention Facilities and Treatment of Inmates and Detainees of 2005 (hereinafter the Act in Section II of this Chapter); the Ordinance on Penal Institutions and Treatment of Inmates (Ministry of Justice Ordinance, 2006); and by other directives issued by the Minister of Justice.

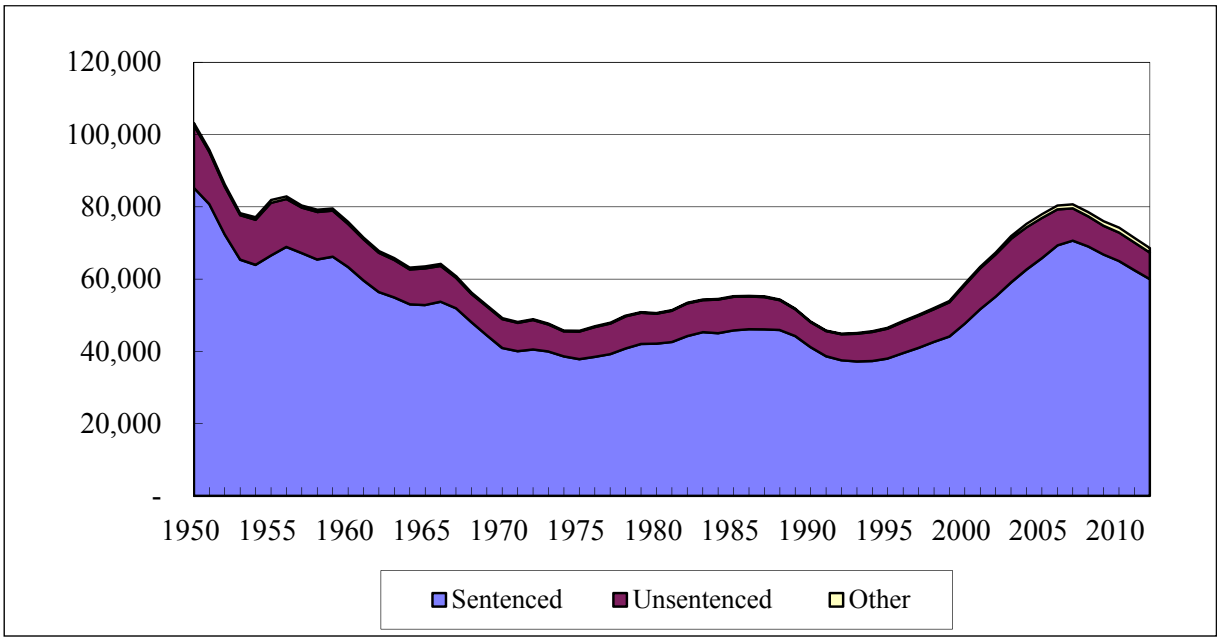
The Juvenile Law of 1948 and the Juvenile Training School Law of 1948 govern the administration of juvenile training schools and juvenile classification homes.

II. EFFECTIVE TREATMENT OF INMATES IN PENAL INSTITUTIONS

A. Trends in the Inmate Population in Penal Institutions

The average population of inmates in Japanese penal institutions generally decreased from the end of World War II to 1992, when it numbered 44,876; however, it rose steadily between 1993 and 2007, when it reached 80,684, and it exceeded the capacity of penal institutions between 2001 and 2006. Because of construction and renovation of penal institutions and the decrease of the inmate population since 2008, this overcrowding has eased. As of 31 December 2012, the total capacity of penal institutions is 90,681 (72,562 for sentenced inmates and 19,111 for unsentenced inmates), and the actual population is 67,008 (58,726 sentenced inmates and 8,282 unsentenced inmates).

Fig. 2 Trend in the Average Population of Inmates in Penal Institutions



B. Philosophy of the Treatment of Inmates

The Act stipulates basic principles on the administration of penal institutions and treatment of inmates as follows:

> *The purpose of this Act shall be to conduct adequate treatment of inmates ... with respect for their human rights and in accordance with their respective circumstances, as well as to achieve the appropriate management and administration of penal detention facilities (i.e. penal institutions, ...).*

As regards the purpose of treatment of sentenced inmates, the Act provides as follows:

Treatment of a sentenced inmate shall be conducted with the aim of stimulating motivation for reformation and rehabilitation and developing the adaptability to life in society by working on his or her sense of consciousness in accordance with his or her personality and circumstances. On treatment of unsentenced inmates, the Act provides as follows:

Upon treatment of an unsentenced inmate, special attention shall be paid to the prevention of his or her escape and destruction of evidence and to the respect for his or her right of defence, while taking into consideration his or her status as an unsentenced inmate.

C. Correctional Treatment of Sentenced Inmates

Correctional treatment of sentenced inmates consists of three main components: (i) work, (ii) guidance for reform, and (iii) guidance in school courses. In order to implement them effectively, the penal institutions conduct assessments of individual inmates, place them into separate groups, and determine the treatment guidelines for each inmate. In addition, various measures such as alleviation of restrictions, privilege measures, commuting to outside work, and day leave and furlough are provided.

1. Assessment for Treatment

Penal institutions conduct periodic assessment of inmates. The initial assessment takes place when their sentence has become final and binding. It is a comprehensive assessment and looks into various factors: physical and mental conditions; life history; academic background; employment history; membership of organized crime groups; criminal tendencies; family and life environments; aptitude for jobs or education; life and future plans; and any other relevant matters.

There are two stages to the initial assessment. The first half is conducted in the penal institution in which the inmate is accommodated at the time of the finalization of the sentence. The focus is on determining the most appropriate penal institution for the inmate. The second half of the assessment is conducted in the penal institution to which the inmate has been transferred. This is a more detailed assessment that looks thoroughly into the inmate's background.

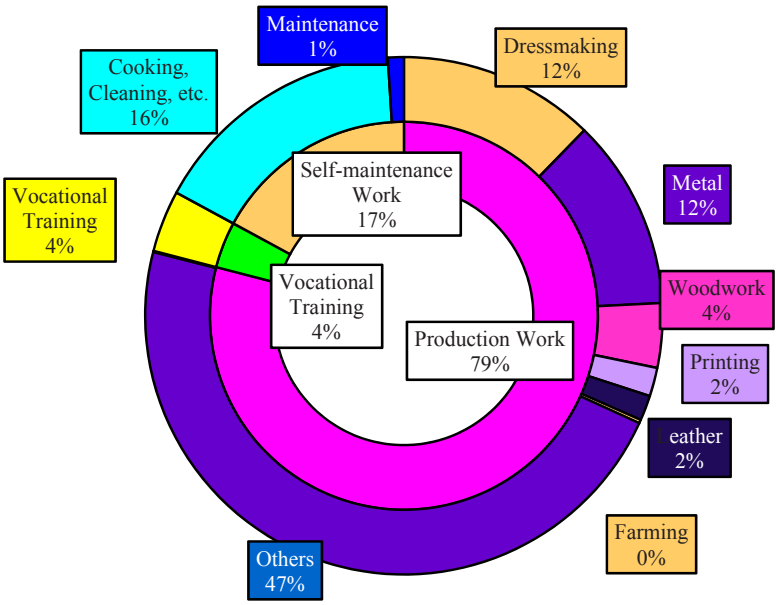
On the basis of those assessments, a treatment guideline, which provides the objective, the contents, and the methods of correctional treatment, will be determined for each inmate. The inmate's performance will be evaluated every six months and on an as-needed basis according to the treatment guidelines, which will be revised if necessary.

2. Prison Work

Inmates sentenced to imprisonment with work are obliged to engage in mandatory work assignments. Prison work is planned and organized so as to serve various objectives: facilitating social reintegration by providing vocational knowledge and skills; enhancing mental and physical health and the will to work; and encouraging inmates to become more conscious of their role and responsibility in community life.

Prison work in Japan is divided broadly into three categories: production work, vocational training, and self-maintenance work. Figure 3 shows the types of prison work, and the numbers of sentenced inmates and workhouse detainees assigned to each work type.

Fig. 3 Ratio of sentenced inmates etc. working in prison industry



(as of the end of 2012)

Inmates engaged in prison work receive incentive remuneration. It is not a wage paid according to the amount of work, but an incentive paid for the purpose of encouraging work and providing inmates with funds to prepare for life after release. The average remuneration paid monthly to one sentenced inmate in FY 2012 was 4,838 yen.

Sentenced inmates usually work within penal institutions, but those who satisfy the necessary conditions may be permitted to commute to a business establishment outside without the supervision of penal institution staff.

Vocational Training

3. Guidance for Reform

Guidance for reform is provided in order to encourage sentenced inmates to take responsibility for their crimes, and to acquire the knowledge and lifestyle necessary for adapting themselves to life in society. There are two types of guidance: general guidance for all sentenced inmates and special guidance for inmates with certain difficulties.

General guidance is provided through lectures, interviews, and other available measures, and it aims (i) to make inmates understand the circumstances and feelings of crime victims; (ii) to let them develop a regular lifestyle and a sound perspective and point of view; and (iii) to make them understand information for life planning after release and develop a law-abiding spirit and behaviour.

As for special guidance, the following six programmes are currently provided: guidance for overcoming drug addiction; guidance for withdrawal from an organized crime group; reoffending prevention guidance for sex offenders; education from the victim's viewpoint; traffic safety guidance; and job assistance guidance.

Group Work

4. Guidance in School Courses

Many sentenced inmates lack sufficient educational attainments to lead a productive life. For such inmates, penal institutions provide guidance in elementary school and junior high school courses, which include Japanese language courses and mathematics courses. Inmates who have not finished compulsory education may have a chance to study and to take junior high school equivalency examinations. For inmates whose progress in studies has been deemed particularly conducive to smooth re-entry into society, guidance in high school or university courses may be provided.

D. Complaints Mechanism

Inmates are allowed to file various forms of complaints, as follows.

1. Claim for Review and Reclaim for Review

An inmate who is dissatisfied with the measures taken by the warden of the penal institution, such as restriction on correspondence and disciplinary punishment, may file a claim for review with the Superintendent of the Regional Correction Headquarters. Inmates dissatisfied with the Superintendent's determination may file a further claim for review with the Minister of Justice.

2. Report of Cases

An inmate who has suffered an illegal or unjust act by a staff member of the penal institution may report the case to the Superintendent of the Regional Correction Headquarters. The Superintendent of the Regional Headquarters shall confirm whether or not the case occurred and notify the inmate of the findings. If dissatisfied with the results, the inmate may report the case to the Minister of Justice.

3. Filing of Complaints

An inmate may file a complaint with the Minister of Justice, the inspector, or the warden of the penal institution with regard to any treatment he or she has received. The inspector is appointed by the Minister of Justice to conduct on-the-spot inspections at each penal institution at least once a year to ensure that the penal institution is appropriately administered.

E. Penal Institution Visiting Committee

Each penal institution has a Penal Institution Visiting Committee, a third party committee composed of a maximum of ten members appointed by the Minister of Justice. The Committee studies the administration of its corresponding penal institution by visiting it and interviewing inmates, and provides its opinion to the warden. This system serves to ensure transparency in the administration of penal institutions, contribute to its improvement, and enhance the partnership between the penal institutions and the community.

F. Act on the Transnational Transfer of Sentenced Persons

Japan has ratified the Council of Europe's "Convention on the Transfer of Sentenced Persons". The Convention has been signed by a total of 64 countries including Japan, the United States of America, Canada and the Republic of Korea, as well as the member states of the Council of Europe (47 countries). Besides this, Japan has also signed transnational transfer agreements with Thailand and Brazil.

As regards domestic law, there is the Act on the Transnational Transfer of Sentenced Persons (2002). The agreement of both countries involved, the Justice Minister's judgement of appropriateness and the consent of the person subject to transfer are all required for a person to be transferred under this law.

III. EFFECTIVE TREATMENT OF JUVENILES IN JUVENILE TRAINING SCHOOLS

A. Overview

1. Structure of Juvenile Training Schools

A juvenile training school is a correctional institution that provides correctional education to juveniles committed to it by Family Courts. Commitment to a juvenile training school is one of the three forms of protective measures that can be taken by Family Courts (see page 37). As of 2013, there are 51 juvenile training schools and two branch juvenile training schools. In 2012, a total of 3,498 (3,206 male and 292 female) juveniles were newly admitted.

There are four types of juvenile training schools categorized by the age, level of criminal tendency, and mental or physical conditions of the juveniles: primary, middle, special, and medical. The type of school to which a juvenile will be committed is specified in the decision of the Family Court. Except for medical juvenile training schools, each school accommodates males or females exclusively.

Juvenile training schools offer long-term and short-term programmes, and the latter is further divided into general short-term programmes (maximum term of detention: generally, six months) and special short-term programmes (maximum term of detention: four months). The maximum term of detention for the long-term programme is, as a rule, two years. Primary and middle juvenile training schools provide both long-term and short-term programmes whereas special and medical juvenile training schools offer long-term programmes only.

2. Outline of the Treatment Process

There are five components to the correctional education provided in juvenile training schools: (i) living guidance; (ii) vocational guidance; (iii) academic education; (iv) health and physical education; and (v) special activities. In order to implement them effectively, the treatment process is divided into the orientation stage, the intermediate stage, and the pre-release stage.

During the orientation stage, an individualized treatment plan (ITP) that sets the goals, contents, and methods of correctional education is drawn up for each juvenile. In doing so, reports prepared by juvenile classification homes and family court probation officers (see page 37) are taken into consideration. In accordance with the ITP, educational activities are fully implemented during the intermediate stage, and educational treatment designed to facilitate reintegration into society is provided in the pre-release stage.

As a general rule, commitment to a juvenile training school is until the juvenile offender reaches 20 years of age, but that may be extended under certain circumstances. In practice, the majority of juveniles are released early on parole by a decision of the Regional Parole Board, in which case he or she will be placed on probation by the probation office.

B. Correctional Education

As stated above, there are five components to correctional education: living guidance, vocational guidance, academic education, health and physical education, and special activities.

1. Living Guidance

Living guidance is the centrepiece of correctional education. Through various methods such as one-to-one or group counselling, essay guidance, diary guidance, and role lettering, it addresses: (i) problems in the juvenile's way of thinking, attitude, and behaviour that could lead to delinquency; (ii) problems in the juvenile's predisposition and emotions; (iii) enrichment of sentiments; (iv) life habits, law-abiding and self-controlling attitudes, and relationships with others; (v) problems in the juvenile's relationship with family and friends; and (vi) career selection, life planning, and social reintegration. As part of living guidance, "Education from the Viewpoints of the Victims," which aims at deepening juveniles' understanding on the feelings and suffering of their victims, is implemented in every juvenile training school.

2. Vocational Guidance

Vocational guidance is offered to foster the will to work and to equip juveniles with skills and knowledge necessary in vocational life. As part of vocational guidance, vocational training is available for welding, woodcraft, civil engineering and construction, construction machinery, agriculture, horticulture, office work, nursing services and other subjects. In 2012, 46.6 percent of released juveniles had obtained qualifications or licences related to their vocational guidance course, and 52.0 percent had obtained qualifications and licences unrelated to their vocational guidance course.

3. Academic Education

Academic education is provided to juveniles who have not completed compulsory education (elementary and junior high school level). Senior-high-school level education is also provided to qualified juveniles who need and wish to receive it. Supplementary education to equip juveniles with basic scholastic ability needed for daily life or to prepare them for their return to school is provided as well.

4. Health and Physical Education

Health education provides guidance on health care and disease prevention, including guidance on a balanced diet, the harm of illicit drugs, and prevention of sexually transmitted diseases. In physical education, various sports activities are organized to enhance physical strength, concentration, patience, compliance with rules, and co-operativeness.

5 Special Activities

Special activities include voluntary activities, extramural educational activities, club activities, and recreation. Volunteer work and study tours are conducted as extramural educational activities. Volunteer visitors, chaplains, members of the Women's Association for Rehabilitation Aid, and members of BBS (Big Brothers and Sisters Movement) associations offer support for such activities.

C. Medical Care

Ordinary medical care is provided by the medical section of juvenile training schools. Juveniles in need of special medical care are treated in one of the two medical juvenile training schools. Juveniles can also receive treatment in hospitals outside of the school when necessary.

Group Work in a Juvenile Training School

CHAPTER 7 REHABILITATION SERVICES

I. PAROLE

A. Overview

The parole system is a form of community-based treatment of offenders, and it aims to prevent reoffending and promote reformation, rehabilitation and smooth social reintegration.

When a person sentenced to imprisonment with or without work shows signs of substantial reformation, the person may be released early on parole by a disposition of the Regional Parole Board after that person has served one-third of the sentenced term or 10 years in the case of life imprisonment (See Penal Code (Article 28)). More concretely, according to an ordinance issued by the Ministry of Justice, parole can be granted to inmates (i) who are deemed to have a sense of remorse for the offence they committed and are deemed to be willing to reform and rehabilitate themselves, (ii) have no likelihood of repeating an offence, and (iii) it is thus deemed reasonable to place them under parole supervision for their own reformation and rehabilitation and (iv) the general sentiment of society approves of that decision.

Parole decisions are made by Regional Parole Boards upon application by the warden of the correctional institution where the inmate is accommodated; inmates are not entitled to apply for parole. 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's institutional record and 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.

2. Parole Decision

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

3. Pre-parole Inquiry by the 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 its copy is also sent to the probation office to provide the field officer with the pertinent data on potential parolees.

4. Coordination of Social Circumstances

Coordination of social circumstances means that a probation officer or a volunteer probation officer ascertains the status of a place where an inmate of a correctional institution is due to live (for example, by meeting the guarantor preferred by the inmate after discharge), arranges social circumstances such as housing and a place of employment, and works to create an environment suited to improvement and rehabilitation. This coordination starts soon after the inmate enters the correctional institution, and is implemented continuously until the point of discharge from the institution. The progress of coordination is periodically reported to the Director of the Probation Office, the Regional Parole Board and the correctional institution. Social circumstances are taken into account in treatment within the institution, reviews for parole, and supervision after release on parole. Every year, coordination of social circumstances is initiated anew for more than 50,000 inmates.

II. PAROLE AND PROBATIONARY SUPERVISION OF ADULT OFFENDERS

A. Overview

Both parole and probationary supervision are forms of community-based treatment of offenders. Probation is a court-imposed measure 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 or parole, probationers can avoid being committed to prisons or juvenile training schools.

Parolees are the early released 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 on supervision and assistance of the probation office.

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

(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).

This section describes the status of the probation/parole supervision of adult parolees and probationers (The next section will describe the treatment of juvenile probationers and parolees).

1. 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 parole supervision for the remaining term of the sentence (in the case of offenders released on parole from life sentences, probation runs for life). In 2012, of the 27,463 inmates released, 14,700 (53.3%) were released on parole.

2. Adult Probationers

Under certain circumstances, a sentencing court may suspend the execution of the sentence and may place the convicted offender on probation. In Japan, adult probation is not an independent sentencing option: it is only used as a measure complementary to the suspension of execution of sentence. The period of probation or parole ranges from one to five years, corresponding to the period of suspension of the execution of sentence specified by the sentencing court (See page 35).

Of the 60,847 offenders sentenced to imprisonment in 2012, 35,514 (58.4%) had the execution of their sentences suspended, out of which 3,282 were placed on probation.

B. Probation and Parole Conditions

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

1. General Conditions

The general conditions of probation or parole. 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 probation or parole.

The general conditions are the following: (i) maintaining a sound attitude towards life; (ii) responding to summonses 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; (iv) 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 probationers, special conditions are determined by the director of the probation office based upon the opinion of the court. In the case of 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 probation or parole in accordance with changes in the circumstances of each person.

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 school, 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 probation or parole.ers and parolees. Unlike the probation conditions, non-compliance with the guidelines does not result in adverse action against the probationer or the parolee.

C. Implementation of Probationary and Parole Supervision

1. General Framework

The purpose of probation or 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 or parole, 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 independent and responsible lives, 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 2012, 6,378 probationers and parolees received such urgent aid directly from probation offices, and 6,444 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 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 or parole, 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 ("probation district") , and they supervise all the cases within that division. In order to supplement their work, a volunteer probation officer (in this chapter, hereinafter "VPO"; see page 9) 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 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 office, public hall, or youth centre located in the area of their respective areas of responsibility ("probation district") and station all day. 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. 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 effectively 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: Solvents Abusers; Stimulant Drug Abusers; Offenders with Drinking Problems; Gang Members; Hot-Rodders; 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 child abuse); and Offenders with Gambling Addiction.

7. Treatment Programmes as Special Conditions

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

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

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

8. 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, Labour and Welfare agreed to strengthen their coordination 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-bond schemes are provided as well.

In 2012, of the 7,921 probationers and parolees who enrolled in the job assistance scheme, 2,684 secured employment.

9. National Centre for Offenders Rehabilitation Project

Some inmates, 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 Offender Rehabilitation Facilities (halfway houses) operated by the private sector. National Centres for Offender Rehabilitation have been established to provide temporary accommodation, coupled with intensive supervision and job placement assistance by probation officers, for such offenders. These Centres create opportunities for early release on parole, and ensure that these offenders and juveniles are not released into the community without appropriate supervision and support. As of 2013, four such Centres are in operation, and their total capacity is 58 parolees.

Ibaraki National Centre for
Offenders Job Training and
Employment Support for Parolees

10. Community Settlement Support Centers

When offenders are released from a correctional institution, some have difficulty in living independently, owing to old age or disability, or they have nowhere to live after release. Probation offices undertake special coordination enabling these former inmates to enter social welfare facilities etc. in collaboration with prefectural Community Settlement Support Centers established by the Ministry of Health, Labour and Welfare. Several hundred former inmates complete special coordination every year. Just under half of them are elderly, just under 30 percent have intellectual disabilities, around 20 percent have mental disorders, and just under 10 percent are physically disabled. Meanwhile, more than half of all former inmates are linked to welfare facilities as a result of special coordination.

11. Self-Reliance Support Homes

Probation Offices may entrust the provision of accommodation facilities for probationers or parolees, livelihood guidance aimed at independence (independence preparation support), and, whenever necessary, the provision of meals, to private corporations, groups and other businesses registered in advance with the probation offices, besides juridical persons for offenders rehabilitation that operate offenders rehabilitation facilities (halfway houses). These accommodation facilities are known as Self-Reliance Support Homes, and can take various forms, including facilities managed by a business, detached homes, and apartments. As of 2013, more than 200 bodies are registered as Self-Reliance Support Homes. For FY 2013, the actual number of probationers and parolees accommodated is more than 1,200, and the total over time is more than 76,000.

12. Social Contribution Activities

Social contribution activities have been implemented since FY 2011 as part of the treatment involved in probation/parole supervision, thereby helping offenders to acquire a sense of self-efficacy and develop greater moral awareness, and the ability to adapt to society through continued participation in social activities which benefit their local communities, including cleaning activities at public places and volunteer activities at welfare facilities.

D. Termination of Probation and Parole.

Depending on the performance of the probationer or parolee, probation or parole may be terminated early (see page 47 for the regular period of each type of probation. and parole), or in "failure cases," adverse action such as parole revocation may be taken.

1. Measures for Good Conduct

i) Adult Parolees

Parole supervision for adult parolees runs for the remaining term of the sentence, and there is no early discharge from parole supervision.[25] This means that offenders released on parole from life imprisonment will be on parole supervision for life, which can be terminated only through pardon.

ii) Adult Probationers

As for adult probationers, the period of probation 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 the proposal of the director of the probation office, may provisionally cancel the probationary supervision, in which case, the probationer will be treated as if not on probation.

2. Measures against Bad Conduct

i) Adult Parolees

If an adult parolee does not comply with the conditions of probation or parole, the Regional Parole Board, upon the proposal of the director of the probation office, may revoke parole [26]. When parole is revoked, the parolee is confined in a correctional institution for the remaining term of his or her original sentence.

ii) Adult Probationers

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 [27].

[25] Offenders paroled from indeterminate prison sentences may be discharged early from parole supervision. However, in Japan, indeterminate sentencing is applicable only to juveniles, and even then is rarely applied.
[26] Article 75 (1), Article 75(2), Offenders Rehabilitation Act.
[27] Article 26-2(2), Penal Code, Article 79, Offenders Rehabilitation Act.

E. Outcome of Probation and Parole

The number of adult probation and parole cases terminated in 2012 is shown in Table 2 below. The number of successfully completed case (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 including as well. The figures do not add up to 100 percent because some of the cases of reoffending, especially cases of minor offences, did not result in adverse action being taken.

Table 2. Probation and Parole Cases Terminated in 2012

2012 Total	Adult Parole	Adult Probation
Successfully completed*	14,215 (95.1)%	2,526 (68.2%)
Terminated due to reoffending	72 (0.5%)	1,163 (31.4%)
Total	**14,948**	**3,703**

* The probation or parole period passed without any adverse action being taken.

III. PAROLE AND PROBATIONARY SUPERVISION OF JUVENILES

A. Overview

Both parole and probationary supervision are forms of community-based treatment of offenders.

This section describes the status of the parole and probationary supervision of juvenile parolees and probationers.

1. Juvenile Parolees

A juvenile committed to a juvenile training school may be provisionally released on parole by a decision of the Regional Parole Board. The parole procedure is as same as for adults. (See page 46). However, the requirements for parole for juvenile-training-school residents differ from those for adult offenders: (i) the juvenile 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 necessary for his or her improvement and rehabilitation.

2. Juvenile Probationers

The Family Court, after a juvenile hearing, may place a juvenile delinquent on protective measures, and probation is one of the options available (see page 37). The legally prescribed period of probation or parole. for a juvenile probationer is until he or she reaches 20 years of age or for two years, whichever is longer. In 2012, the Family Court placed 22,614 juveniles on probation. This represents 19.0 percent of the juveniles whose cases were disposed of by the Family Court.

Juvenile parolees are placed on parole supervision during the period of parole, which is, as a general rule, until reaching 20 years of age. In 2012, 3,241 juveniles were paroled from juvenile training schools, accounting for 99.4 percent of those who were released from juvenile training schools.

B. Probation and Parole Conditions

Probation and parole conditions for juveniles are the same as those for adult probationers and parolees (see page 48). However, systematic treatment programmes as special conditions (see page 50) are not yet provided to juvenile probationers and parolees (see the next section).

C. Implementation of probationary and Parole Supervision

Implementation of probationary or parole supervision for juvenile probationers and parolees are basically the same as that for adult probationers and parolees. The general framework of probationary and parole supervision (see page 48), the methods of intake interviews and treatment plans (see page 49) and the roles of probation officers and volunteer probation officers (see page 49) are the same as those for adult probationers and parolees. Day offices (see page 49), progressive treatment (see page 49), categorized treatment (see page 50) and comprehensive job assistance schemes (see page 50) are applied to juvenile probationers and parolees as well as adult probationers and parolees. Regarding the National Centre for Offenders Rehabilitation, one centre is established exclusively for juveniles (Numata-cho National Centre for Offenders Job Training and Employment Support). Community Settlement Support Centers (see page 51) are also utilized for juvenile-training-school residents. Some Self-Reliance Support Homes (See page 51) accept juvenile probationers and parolees.

On the other hand, systematic treatment programmes as special conditions are not yet imposed on juvenile probationers and parolees. Probation offices may sometimes administer these treatment programmes with the juveniles' consent, but they are not obliged to participate in these programmes as conditions of probation or parole. or parole.

Numata-cho National Centre

for Offenders Job Training and Employment Support

Implementation measures important for juvenile probationers and parolees are described below.

1. Short -Term Programmes for Juvenile Probationers

Upon recommendation by the Family Court, juvenile probationers with relatively low criminal tendencies may be placed in 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 usually 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 "social participation activities" as described below.

2. Social Contribution Activities/Social Participation Activities

Social contribution activities have been implemented to juvenile probationers and parolees as well as adult probationers and parolees (See page 54).

Social participation activities have been implemented mainly for juvenile probationers and juvenile-training-school parolees with the aim of fostering a appropriate socialization and enhancing their ability to adapt to society. Frequently implemented activities included "participating in cleaning and environmental beautification activities", "participating in nursing care for the elderly, etc. and volunteer activities", and "participating in creative activities, hands-on experience, and various classes, etc."

3. Treatment of Juveniles Who Have Committed Heinous/Serious Offences

Juvenile probationers and juvenile parolees who commit heinous/serious offences such as homicide, in many cases, have problems related to their predisposition and complex serious problems with family relationships, etc. They are therefore placed at the highest level of progressive treatment with the intensive involvement of probation officers to help them develop the ability to adapt to society and to encourage them to apologize to their victims by providing them with an atonement guidance programme.

4. Measures for Guardians

Probation offices provide the guardians of juvenile probationers and juvenile parolees with instruction or advice until the juvenile probationer or juvenile parolee reaches 20 years of age, thus ensuring that they provide the appropriate supervision through understanding of their living conditions etc. and rectify their behaviour that could obstruct their improvement/rehabilitation. Probation offices also make information available that contributes to solving problems pertaining to their delinquency by holding meetings of guardians etc.

D. Termination of Probation and Parole

Depending on the performance of the probationer or parolee, probation or parole may be terminated early (see page 56 for the regular period of each type of probation or parole. and parole), or in "failure cases," adverse action such as parole revocation may be taken.

1. Measures for Good Conduct

i) Juvenile Probationers

Juvenile probationers are discharged early when the director of the probation office finds it no longer necessary to continue the probation.

ii) Juvenile Parolees

For juvenile parolees, the decision on early discharge is made by Regional parole Boards upon the proposal of the director of the probation office.

2. Measures against Bad Conduct

i) Juvenile Probationers

When a juvenile probationer does not comply with the conditions of probation, the director of the probation office may issue official 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.

ii) Juvenile Parolees

When a juvenile parolee does not comply with the conditions of parole, the Regional Parole Board, upon the proposal of the director of the probation office, may apply to the Family Court for a decision to recommit the parolee to a juvenile training school.

E. Outcome of Probation and Parole

The number of juvenile probation and parole cases terminated in 2012 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 percent because some of the cases of reoffending, especially minor offences, did not result in adverse action being taken.

Table 2. Probation and Parole Cases Terminated in 2012

2012 Total	Juvenile Probation*	Juvenile Parole
Successfully completed**	13,194 (84.5%)	3.024 (82.2%)
Terminated due to reoffending	2,940 (18.8%)	851 (23.1%)
Total	**15,613**	**3,681**

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

** The probation or parole period passed without any adverse action being taken, or probation or parole was terminated early for good conduct.

IV. 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 sentences without probation (see page 35)"; and (iii) suspects released by prosecutors with "suspension of prosecution (see page 24)."

The Offenders Rehabilitation Act authorizes the director of 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.

V. PARDONS

A pardon is an action of the executive branch that officially nullifies punishment or other legal consequences of a crime. Though pardons are not measures for offender treatment, they 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 parole supervision 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.

VI. MEASURES FOR CRIME VICTIMS

In 2007, the Rehabilitation Bureau launched four measures for crime victims in relation to offenders' rehabilitation. The four measures are (i) system for hearing the victim's opinions during parole examination (victims may express their opinion regarding parole); (ii) system for conveying the victim's feelings on probation and parole (victims may ask the probation officer to convey their sentiments to probationers and parolees); (iii) victim notification system (certain information about probation and parole is notified to victims); and (iv) victim consultation and support service. As of 2013, 68 probation officers and 106 VPOs are assigned to work exclusively on victim support measures.

VII. 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 of 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.

Persons ordered to undergo outpatient treatment are placed under the medical supervision of 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 coordination 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.

VIII. 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 engage communities in the prevention of crime. As part of such efforts, an annual crime prevention campaign, called “Movement Towards 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 is the subtitle of the campaign.

Campaign for Junior High School Students

APPENDICES

Appendix 1 Number of known cases, crime rate, number of cleared cases, clearance rate, and number of offenders cleared of Penal Code offences (1946-2012)

Year	Known cases		Crime rate		Cleared cases		Clearance rate	
	Penal Code offences	Non-traffic Penal Code offences	Penal Code offences	Non-traffic Penal Code offences	Penal Code offences	Non-traffic Penal Code offences	Penal Code offences	Non-traffic Penal Code offences
1946	1,387,080	1,384,222	1,831	1,827	803,264	800,431	57.9	57.8
1947	1,386,020	1,382,210	1,775	1,770	697,585	693,845	50.3	50.2
1948	1,603,265	1,599,968	2,004	2,000	811,907	808,619	50.6	50.5
1949	1,603,048	1,597,891	1,960	1,954	925,996	920,855	57.8	57.6
1950	1,469,662	1,461,044	1,766	1,756	999,709	991,107	68.0	67.8
1951	1,399,184	1,387,289	1,655	1,641	974,330	962,455	69.6	69.4
1952	1,395,197	1,377,273	1,626	1,605	949,754	931,863	68.1	67.7
1953	1,344,482	1,317,141	1,546	1,514	954,261	927,012	71.0	70.4
1954	1,360,405	1,324,333	1,542	1,501	952,797	916,804	70.0	69.2
1955	1,478,202	1,435,652	1,656	1,608	1,011,086	968,626	68.4	67.5
1956	1,410,441	1,354,102	1,564	1,502	898,852	842,659	63.7	62.2
1957	1,426,029	1,354,429	1,568	1,490	909,603	838,210	63.8	61.9
1958	1,440,259	1,353,930	1,569	1,475	904,966	818,715	62.8	60.5
1959	1,483,258	1,382,792	1,601	1,493	925,878	825,511	62.4	59.7
1960	1,495,888	1,378,817	1,601	1,476	958,629	841,718	64.1	61.0
1961	1,530,464	1,400,915	1,623	1,486	1,019,963	892,547	66.6	63.7
1962	1,522,480	1,384,784	1,600	1,455	1,022,512	885,465	67.2	63.9
1963	1,557,803	1,377,476	1,620	1,433	1,045,417	868,207	67.1	63.0
1964	1,609,741	1,385,358	1,656	1,426	1,107,374	885,168	68.8	63.9
1965	1,602,430	1,343,625	1,631	1,367	1,069,617	812,996	66.7	60.5
1966	1,590,681	1,293,877	1,606	1,306	1,051,608	756,230	66.1	58.4
1967	1,603,471	1,219,840	1,600	1,217	1,077,103	692,913	67.2	56.8
1968	1,742,479	1,234,198	1,720	1,218	1,205,371	697,407	69.2	56.5
1969	1,848,740	1,253,950	1,803	1,223	1,269,193	675,183	68.7	53.8
1970	1,932,401	1,279,787	1,863	1,234	1,362,692	710,078	70.5	55.5
1971	1,875,383	1,244,168	1,784	1,183	1,321,242	690,027	70.5	55.5
1972	1,818,088	1,223,546	1,690	1,137	1,294,920	700,378	71.2	57.2
1973	1,728,741	1,190,549	1,584	1,091	1,226,520	688,328	70.9	57.8
1974	1,671,965	1,211,005	1,512	1,095	1,157,495	696,535	69.2	57.5
1975	1,673,755	1,234,307	1,495	1,103	1,152,479	713,031	68.9	57.8
1976	1,691,247	1,247,631	1,495	1,103	1,186,664	743,048	70.2	59.6
1977	1,705,034	1,268,430	1,493	1,111	1,160,113	723,509	68.0	57.0
1978	1,776,843	1,336,922	1,543	1,161	1,219,618	779,697	68.6	58.3
1979	1,738,452	1,289,405	1,497	1,110	1,214,992	765,945	69.9	59.4
1980	1,812,798	1,357,461	1,549	1,160	1,266,526	811,189	69.9	59.8
1981	1,925,836	1,463,228	1,633	1,241	1,333,121	870,513	69.2	59.5
1982	2,005,319	1,528,779	1,689	1,288	1,392,598	916,058	69.4	59.9
1983	2,039,209	1,540,717	1,706	1,289	1,427,813	929,321	70.0	60.3
1984	2,080,323	1,588,693	1,729	1,321	1,494,553	1,002,923	71.8	63.1
1985	2,121,444	1,607,697	1,753	1,328	1,546,626	1,032,879	72.9	64.2
1986	2,124,272	1,581,411	1,746	1,300	1,533,511	990,650	72.2	62.6
1987	2,132,617	1,577,954	1,745	1,291	1,566,739	1,012,076	73.5	64.1
1988	2,207,380	1,641,310	1,798	1,337	1,548,235	982,165	70.1	59.8
1989	2,261,076	1,673,268	1,835	1,358	1,360,128	772,320	60.2	46.2
1990	2,217,559	1,636,628	1,794	1,324	1,273,524	692,593	57.4	42.3
1991	2,284,401	1,707,877	1,841	1,376	1,231,062	654,538	53.9	38.3
1992	2,355,504	1,742,366	1,891	1,399	1,249,428	636,290	53.0	36.5
1993	2,437,252	1,801,150	1,951	1,442	1,359,712	723,610	55.8	40.2
1994	2,426,694	1,784,432	1,937	1,425	1,410,106	767,844	58.1	43.0
1995	2,435,983	1,782,944	1,940	1,420	1,406,213	753,174	57.7	42.2
1996	2,465,503	1,812,119	1,959	1,440	1,389,265	735,881	56.3	40.6
1997	2,518,074	1,899,564	1,996	1,506	1,378,119	759,609	54.7	40.0
1998	2,690,267	2,033,546	2,127	1,608	1,429,003	772,282	53.1	38.0
1999	2,904,051	2,165,626	2,293	1,710	1,469,709	731,284	50.6	33.8
2000	3,256,109	2,443,470	2,565	1,925	1,389,410	576,771	42.7	23.6
2001	3,581,521	2,735,612	2,813	2,149	1,388,024	542,115	38.8	19.8
2002	3,693,928	2,854,061	2,898	2,239	1,432,548	592,681	38.8	20.8
2003	3,646,253	2,790,444	2,855	2,185	1,504,436	648,627	41.3	23.2
2004	3,427,606	2,563,037	2,682	2,006	1,532,459	667,890	44.7	26.1
2005	3,125,216	2,269,572	2,446	1,776	1,505,426	649,782	48.2	28.6
2006	2,877,027	2,051,229	2,249	1,604	1,466,834	641,036	51.0	31.3
2007	2,690,883	1,909,270	2,102	1,491	1,387,405	605,792	51.6	31.7
2008	2,533,351	1,818,374	1,978	1,420	1,288,720	573,743	50.9	31.6
2009	2,399,702	1,703,369	1,874	1,330	1,241,357	545,024	51.7	32.0
2010	2,271,309	1,586,189	1,774	1,239	1,182,809	497,689	52.1	31.4
2011	2,139,720	1,481,093	1,674	1,159	1,121,495	462,868	52.4	31.3
2012	2,015,347	1,382,490	1,580	1,084	1,070,838	437,981	53.1	31.7

Note: 1. Until 1955, illegal behaviour by persons under 14 years of age is included.
2. Until 1965, non-traffic Penal Code offences mean "Penal Code offences excluding negligence in the pursuit of social activities."
3. "Rate per population" means the number of persons cleared per 100,000 capita of population aged 14 or over, by sex.

Source: Criminal Statistics by National Police Agency, and population data by the Statistics Bureau, Ministry of Internal Affairs and Communications

Year	Number of offenders cleared							Total population (thousand)
	Penal Code offences	Non-traffic Penal Code offences						
			Male		Female		Female rate	
			Number	Rate per population	Number	Rate per population		
1946	445,484	442,579	408,760	1,776.6	33,819	127.3	7.6	75,750
1947	459,339	455,097	419,348	1,673.2	35,749	131.4	7.9	78,101
1948	550,540	546,991	502,122	1,957.3	44,869	161.6	8.2	80,002
1949	585,328	579,897	526,292	2,006.9	53,605	189.6	9.2	81,773
1950	616,723	607,769	553,491	2,066.2	54,278	188.5	8.9	83,200
1951	619,035	606,686	555,390	2,031.7	51,296	174.7	8.5	84,541
1952	575,852	557,521	510,603	1,829.1	46,918	156.7	8.4	85,808
1953	547,550	519,707	476,198	1,675.8	43,509	142.9	8.4	86,981
1954	539,789	503,063	461,989	1,588.7	41,074	132.0	8.2	88,239
1955	558,857	515,480	475,813	1,603.2	39,667	124.9	7.7	89,276
1956	527,950	470,522	438,532	1,443.7	31,990	98.5	6.8	90,172
1957	544,557	471,600	439,750	1,418.3	31,850	96.2	6.8	90,928
1958	545,272	457,212	425,217	1,342.1	31,995	94.7	7.0	91,767
1959	557,073	454,898	422,962	1,314.3	31,936	93.1	7.0	92,641
1960	561,464	442,527	408,592	1,264.5	33,935	98.2	7.7	93,419
1961	581,314	451,586	414,875	1,251.1	36,711	103.7	8.1	94,287
1962	569,866	430,153	388,152	1,139.6	42,001	115.7	9.8	95,181
1963	606,649	425,473	377,319	1,078.5	48,154	129.4	11.3	96,156
1964	678,522	449,842	398,659	1,113.7	51,183	134.6	11.4	97,182
1965	706,827	440,563	390,839	1,071.6	49,724	128.5	11.3	98,275
1966	740,055	433,545	387,074	1,043.0	46,471	118.1	10.7	99,036
1967	802,578	402,738	358,596	951.4	44,142	110.5	11.0	100,196
1968	923,491	393,831	348,258	911.7	45,573	112.6	11.6	101,331
1969	999,981	377,826	332,769	859.3	45,057	109.9	11.9	102,536
1970	1,073,470	380,850	333,344	853.7	47,506	114.6	12.5	103,720
1971	1,026,299	361,972	313,738	795.7	48,234	115.0	13.3	105,145
1972	976,706	348,788	301,380	750.6	47,408	110.8	13.6	107,595
1973	931,329	357,738	306,605	755.0	51,133	118.2	14.3	109,104
1974	852,372	363,309	305,048	742.9	58,261	133.2	16.0	110,573
1975	830,176	364,117	302,685	722.1	61,432	138.6	16.9	111,940
1976	830,717	359,360	292,084	689.1	67,276	150.2	18.7	113,094
1977	822,319	363,144	294,225	686.5	68,919	152.2	19.0	114,165
1978	843,538	381,742	308,756	712.2	72,986	159.4	19.1	115,190
1979	840,333	368,126	298,691	680.3	69,435	149.8	18.9	116,155
1980	869,844	392,113	317,888	719.5	74,225	158.8	18.9	117,060
1981	904,643	418,162	339,216	757.3	78,946	166.8	18.9	117,902
1982	944,051	441,963	362,138	798.2	79,825	166.6	18.1	118,728
1983	963,544	438,705	355,505	773.5	83,200	171.5	19.0	119,536
1984	961,363	446,617	364,833	783.8	81,784	166.5	18.3	120,305
1985	970,369	432,250	353,265	749.3	78,985	158.6	18.3	121,049
1986	967,997	399,886	322,030	673.5	77,856	154.3	19.5	121,660
1987	983,931	404,762	326,700	674.1	78,062	152.7	19.3	122,239
1988	988,784	398,208	315,568	642.7	82,640	159.7	20.8	122,745
1989	934,194	312,992	246,487	496.2	66,505	127.1	21.2	123,205
1990	899,650	293,264	233,070	467.1	60,194	114.1	20.5	123,611
1991	899,023	296,158	239,093	472.8	57,065	107.0	19.3	124,101
1992	922,953	284,908	232,878	456.5	52,030	96.7	18.3	124,567
1993	958,475	297,725	243,445	473.8	54,280	100.2	18.2	124,938
1994	974,158	307,965	250,070	483.9	57,895	106.2	18.8	125,265
1995	970,179	293,252	234,471	450.7	58,781	107.0	20.0	125,570
1996	979,275	295,584	234,918	448.5	60,666	109.7	20.5	125,859
1997	957,460	313,573	243,192	461.8	70,381	126.5	22.4	126,157
1998	1,006,804	324,263	251,540	475.3	72,723	129.9	22.4	126,472
1999	1,080,107	315,355	250,433	471.6	64,922	115.4	20.6	126,667
2000	1,160,142	309,649	246,271	462.8	63,378	112.4	20.5	126,926
2001	1,195,897	325,292	256,869	479.5	68,423	120.5	21.0	127,316
2002	1,219,564	347,880	273,289	509.4	74,591	130.9	21.4	127,486
2003	1,269,785	379,910	300,309	558.4	79,601	139.2	21.0	127,694
2004	1,289,416	389,297	305,165	566.8	84,132	146.7	21.6	127,787
2005	1,278,479	387,234	303,059	564.3	84,175	147.0	21.7	127,768
2006	1,241,358	384,630	302,914	560.8	81,716	142.0	21.2	127,901
2007	1,184,336	366,002	286,432	529.9	79,570	138.1	21.7	128,033
2008	1,081,955	340,100	266,976	493.8	73,124	126.8	21.5	128,084
2009	1,051,838	333,205	262,971	486.7	70,234	121.8	21.1	128,032
2010	1,029,117	322,956	253,464	471.5	69,492	120.4	21.5	128,057
2011	986,068	305,951	240,320	443.1	65,631	113.1	21.5	127,799
2012	939,826	287,386	226,955	419.0	60,431	104.2	21.0	127,515

Appendix 2 Number of known cases, number of cleared cases, and number of offenders cleared of Penal Code offences, by type of major offence (2001-2012)

	Total of Penal Code offences	Homicide	Robbery	Robbery Causing Death	Robbery Causing Injury	Rape at the Scene of a Robbery	Injury	Assault	Intimidation	Extortion	Unlawful Assembly with Weapons	Theft
Known cases												
2001	3,581,521	1,340	6,393	96	2,755	171	33,965	16,928	2,300	19,566	42	2,340,511
2002	3,693,928	1,396	6,984	93	3,038	154	36,324	19,442	2,374	18,403	30	2,377,488
2003	3,646,253	1,452	7,664	78	3,119	203	36,568	21,937	2,625	17,595	34	2,235,844
2004	3,427,606	1,419	7,295	89	2,958	201	35,937	23,691	2,537	14,424	27	1,981,574
2005	3,125,216	1,392	5,988	66	2,351	159	34,484	25,815	2,479	10,978	16	1,725,072
2006	2,877,027	1,309	5,108	52	2,018	137	33,987	31,002	2,658	8,636	20	1,534,528
2007	2,690,883	1,199	4,567	44	1,752	136	30,986	31,966	2,553	7,384	19	1,429,956
2008	2,533,351	1,297	4,278	44	1,649	104	28,291	31,641	2,651	6,349	16	1,372,840
2009	2,399,702	1,094	4,512	55	1,564	110	26,464	29,638	2,348	5,530	15	1,299,294
2110	2,271,309	1,067	4,029	36	1,415	97	26,547	29,593	2,298	5,202	6	1,213,442
2011	2,139,720	1,051	3,673	34	1,307	56	25,832	29,237	2,312	4,311	6	1,133,125
2012	2,015,347	1,030	3,658	35	1,290	61	27,962	31,802	3,241	4,172	6	1,040,447
Cleared cases												
2001	1,388,024	1,261	3,115	74	1,453	106	22,544	7,852	1,590	7,895	43	367,643
2002	1,432,548	1,336	3,566	83	1,521	98	23,453	8,348	1,572	7,022	30	403,872
2003	1,504,436	1,366	3,855	67	1,728	100	23,659	9,539	1,567	7,502	29	433,918
2004	1,532,459	1,342	3,666	83	1,501	156	22,938	10,666	1,581	5,915	28	447,950
2005	1,505,426	1,345	3,269	57	1,342	104	23,304	13,703	1,638	5,376	16	429,038
2006	1,466,834	1,267	3,061	52	1,159	95	23,331	19,405	1,812	4,841	20	416,281
2007	1,387,405	1,157	2,790	37	1,050	104	22,062	21,463	1,869	4,242	20	395,243
2008	1,288,720	1,237	2,612	42	982	95	20,180	21,925	1,953	3,701	13	379,839
2009	1,241,357	1,074	2,923	45	1,028	102	19,388	21,238	1,781	3,297	15	361,969
2110	1,182,809	1,029	2,516	40	864	100	19,350	21,667	1,734	3,173	8	327,786
2011	1,121,495	1,029	2,385	31	833	58	18,870	21,666	1,823	2,731	5	305,922
2012	1,070,838	963	2,486	30	828	62	20,833	23,317	2,452	2,611	7	286,638
Offenders cleared												
2001	1,195,897	1,334	4,096	114	2,539	72	29,584	8,636	1,525	10,186	497	168,919
2002	1,219,564	1,405	4,151	141	2,391	67	29,862	9,132	1,527	8,811	283	180,725
2003	1,269,785	1,456	4,698	90	2,710	78	28,999	10,124	1,457	8,531	419	191,403
2004	1,289,416	1,391	4,154	120	2,269	91	27,069	11,002	1,388	7,063	279	195,151
2005	1,278,479	1,338	3,844	90	2,128	75	27,130	13,970	1,522	6,439	95	194,119
2006	1,241,358	1,241	3,335	83	1,684	72	27,075	19,802	1,693	5,780	155	187,654
2007	1,184,336	1,161	2,985	65	1,446	59	25,458	21,808	1,684	5,054	159	180,446
2008	1,081,955	1,211	2,813	74	1,470	64	23,164	22,379	1,824	4,474	83	174,738
2009	1,051,838	1,036	3,069	97	1,428	63	22,253	21,376	1,562	3,961	73	175,823
2110	1,029,117	999	2,568	50	1,155	63	22,030	22,076	1,613	3,761	45	175,214
2011	986,068	971	2,431	43	1,183	44	21,572	21,999	1,663	3,324	24	168,514
2012	939,826	899	2,430	46	1,088	55	23,752	23,610	2,145	3,050	20	153,864

Note: 1. "Offences relating to payment cards" refers to Crimes related to Electromagnetic Records of Payment Cards provided in Part II, Chapter XVIII-II of the Penal Code.
2. "Offences relating to payment cards" has been included in data since 2002.
3. Figures for "buying or selling of human beings" for "Kidnapping/buying or selling of human beings" are counted from 2005.

Source: Criminal Statistics by the National Police Agency.

	Fraud	Embezzle-ment	Embezzle-ment of Lost Property	Breach of Trust	Acceptance of Stolen Property	Rape	Forcible Indecency	Public Indecency	Distribution of Obscene Objects	Dangerous Driving Causing Death or Injury	Vehicle Driving Causing Death or Injury through Negligence/ Negligence in the Pursuit of Social Activities	Vehicle Driving Causing Death or Injury through Negligence, etc.	Causing Death or Injury through Negligence
Known cases													
2001	43,104	65,770	63,775	66	2,388	2,228	9,326	1,771	454	-	846,455	845,909	135
2002	49,482	73,933	71,782	56	2,987	2,357	9,476	2,052	392	322	840,453	839,867	172
2003	60,298	92,346	90,163	40	4,519	2,472	10,029	2,422	375	308	856,435	855,809	213
2004	83,015	104,412	101,869	41	5,547	2,176	9,184	2,391	522	270	865,212	864,569	208
2005	85,596	97,867	95,520	34	5,403	2,076	8,751	2,420	693	279	856,298	855,644	235
2006	74,632	95,844	93,436	61	5,134	1,948	8,326	2,602	795	379	826,447	825,798	226
2007	67,787	85,606	83,449	45	4,582	1,766	7,664	2,286	810	434	782,192	781,613	219
2008	64,427	70,364	68,171	41	3,866	1,582	7,111	2,361	816	352	715,521	714,977	192
2009	45,162	65,176	63,213	29	3,607	1,402	6,688	2,357	797	325	696,832	696,333	173
2110	37,516	57,572	55,837	31	3,284	1,289	7,027	2,651	837	333	685,584	685,120	181
2011	34,599	50,368	48,692	28	2,925	1,185	6,870	2,636	1,186	333	659,081	658,627	182
2012	34,678	41,433	39,692	56	2,552	1,240	7,263	2,975	1,320	369	633,344	632,857	210
Cleared cases													
2001	30,017	64,278	62,773	58	2,372	1,404	3,887	1,438	451	-	846,367	845,909	91
2002	31,547	71,743	70,240	51	2,967	1,468	3,367	1,573	393	322	840,364	839,867	117
2003	30,364	88,962	87,587	33	4,457	1,569	3,893	1,706	364	308	856,287	855,809	138
2004	26,617	97,362	95,845	25	5,310	1,403	3,656	1,669	502	270	865,066	864,569	131
2005	29,384	92,350	90,897	27	5,198	1,443	3,797	1,741	671	279	856,157	855,644	166
2006	30,127	90,557	89,012	37	4,866	1,460	3,779	1,999	770	379	826,310	825,798	144
2007	27,963	81,249	79,891	48	4,424	1,394	3,542	1,718	787	434	782,083	781,613	156
2008	30,277	65,920	64,435	31	3,621	1,326	3,555	1,782	787	352	715,428	714,977	128
2009	28,753	61,757	60,433	23	3,397	1,163	3,563	1,810	768	325	696,722	696,333	118
2110	24,897	54,219	52,960	25	3,084	1,063	3,637	1,953	783	333	685,486	685,120	129
2011	22,169	46,933	45,681	29	2,677	993	3,550	1,926	1,158	333	658,954	658,627	141
2012	20,264	38,129	36,873	32	2,334	1,097	3,946	2,064	1,270	369	633,243	632,857	134
Offenders cleared													
2001	8,495	65,695	64,628	88	2,322	1,277	2,236	1,261	592	-	871,279	870,605	88
2002	9,507	73,467	72,283	85	2,916	1,355	2,130	1,371	483	322	872,395	871,684	115
2003	10,194	90,446	89,358	52	4,345	1,342	2,273	1,456	432	308	890,589	889,875	134
2004	11,238	97,293	96,083	27	4,935	1,107	2,225	1,451	590	270	900,805	900,119	126
2005	11,648	92,417	91,306	31	4,889	1,074	2,286	1,502	814	279	891,958	891,245	143
2006	12,406	90,696	89,444	54	4,495	1,058	2,254	1,715	913	380	857,464	856,728	129
2007	12,113	81,296	80,192	36	4,230	1,013	2,240	1,618	892	425	818,996	818,334	140
2008	12,036	65,396	64,256	30	3,404	951	2,219	1,613	857	349	742,490	741,855	114
2009	12,542	60,992	59,919	25	3,172	918	2,129	1,626	820	317	719,182	718,633	116
2110	11,306	53,689	52,598	27	2,989	803	2,189	1,727	805	336	706,676	706,161	119
2011	10,569	46,287	45,227	32	2,532	768	2,217	1,700	1,061	320	680,595	680,117	136
2012	10,997	37,545	36,467	39	2,199	858	2,451	1,745	1,132	365	652,948	652,440	133

	Arson	Fire Caused through Negligence	Giving and Acceptance of Bribes	Kidnapping/ Buying or Selling of Human Beings	Obstructing Performance of Public Duty	Breaking into a Residence	Damage to Property	Counterfeiting	Counterfeiting of Currency	Counterfeiting of Documents, Counterfeiting of Securities, Offences relating to Payment Cards	Gambling and Lotteries	Physical Violence Act (Article 2, 3)
Known cases												
2001	1,540	102	157	211	2,302	5,245	7,662	6,050	347	5,656	291	103
2002	1,234	81	162	215	2,544	6,461	9,607	6,608	959	5,586	300	105
2003	1,448	105	114	231	2,909	7,820	11,100	8,675	2,937	5,700	202	124
2004	1,513	136	94	232	2,957	8,566	12,332	8,032	2,957	5,033	243	196
2005	1,361	118	104	204	3,188	8,961	12,884	7,175	2,194	4,928	213	173
2006	1,337	104	135	180	3,402	9,211	13,816	5,433	622	4,750	205	147
2007	1,120	86	55	178	3,459	9,041	13,617	4,442	419	3,971	415	100
2008	1,054	123	78	141	3,071	8,682	13,129	5,097	395	4,666	252	87
2009	913	103	44	140	2,952	8,234	12,062	3,992	557	3,393	349	153
2110	895	85	65	151	2,881	8,028	11,554	3,429	572	2,808	369	186
2011	880	119	56	132	2,863	7,690	10,948	2,915	476	2,405	208	185
2012	822	95	42	173	2,932	7,983	11,204	2,497	298	2,147	355	154
Cleared cases												
2001	1,540	102	157	211	2,302	5,245	7,662	6,050	347	5,656	291	103
2002	1,234	81	162	215	2,544	6,461	9,607	6,608	959	5,586	300	105
2003	1,448	105	114	231	2,909	7,820	11,100	8,675	2,937	5,700	202	124
2004	1,513	136	94	232	2,957	8,566	12,332	8,032	2,957	5,033	243	196
2005	1,361	118	104	204	3,188	8,961	12,884	7,175	2,194	4,928	213	173
2006	1,337	104	135	180	3,402	9,211	13,816	5,433	622	4,750	205	147
2007	1,120	86	55	178	3,459	9,041	13,617	4,442	419	3,971	415	100
2008	1,054	123	78	141	3,071	8,682	13,129	5,097	395	4,666	252	87
2009	913	103	44	140	2,952	8,234	12,062	3,992	557	3,393	349	153
2110	895	85	65	151	2,881	8,028	11,554	3,429	572	2,808	369	186
2011	880	119	56	132	2,863	7,690	10,948	2,915	476	2,405	208	185
2012	822	95	42	173	2,932	7,983	11,204	2,497	298	2,147	355	154
Offenders cleared												
1998	783	84	223	179	2,057	3,856	4,222	1,634	53	1,558	2,080	148
1999	815	84	252	173	2,194	4,214	4,931	2,112	91	1,996	1,928	147
2000	866	77	151	151	2,508	5,361	5,331	2,124	127	1,973	1,725	199
2001	867	86	113	187	2,705	5,993	5,522	2,236	152	2,052	1,422	291
2002	791	96	217	176	2,868	6,107	6,362	2,033	209	1,793	1,771	240
2003	825	92	168	167	3,118	6,209	6,551	1,847	74	1,742	1,380	224
2004	764	76	98	152	3,181	5,901	6,575	1,898	68	1,805	1,529	137
2005	659	82	120	129	2,945	5,881	6,480	1,810	87	1,703	1,359	103
2006	631	67	71	101	2,698	5,547	6,160	1,710	80	1,602	1,388	237
2007	651	53	81	107	2,547	5,601	5,864	1,617	78	1,506	1,312	254
2008	616	80	85	118	2,476	5,433	5,839	1,491	65	1,403	903	222
2009	592	82	67	137	2,501	5,581	5,975	1,466	58	1,371	876	182

Appendix 3 Average daily number of inmates of penal institutions (1950-2012)

Year	Total	Sentenced inmates	Inmates sentenced to death	Unsentenced inmates	Defendants	Suspects	Workhouse detainees	Arrestee by warrant	Court-ordered confinement house detainees	Provisional detainees under protective detention
1950	103,170	85,254	76	17,259	15,295	1,963	581	-	-	-
1951	95,784	80,743	73	14,438	12,466	1,972	530	-	-	-
1952	86,199	72,340	96	13,290	11,482	1,807	473	-	-	-
1953	78,225	65,377	89	12,319	10,757	1,563	428	0	0	11
1954	77,112	63,934	84	12,471	10,882	1,589	593	1	0	28
1955	81,868	66,505	66	14,580	12,852	1,729	684	1	0	31
1956	82,870	68,901	70	13,243	11,996	1,247	626	1	0	28
1957	80,354	67,170	66	12,605	11,462	1,142	483	2	0	29
1958	79,191	65,406	69	13,157	11,979	1,178	525	2	0	32
1959	79,534	66,194	69	12,725	11,561	1,163	507	1	-	38
1960	75,821	63,330	54	11,922	10,886	1,036	470	1	0	44
1961	71,475	59,621	62	11,392	10,397	995	361	1	0	38
1962	67,759	56,399	65	10,868	9,967	900	390	3	0	33
1963	65,802	54,898	56	10,384	9,477	907	435	1	0	28
1964	63,190	53,024	66	9,625	8,811	814	443	2	-	29
1965	63,515	52,813	70	10,129	9,321	808	471	2	0	29
1966	64,199	53,737	78	9,910	9,154	756	445	2	0	28
1967	60,837	51,928	83	8,444	7,727	717	355	3	0	23
1968	56,257	48,094	76	7,787	7,209	578	277	2	0	21
1969	52,736	44,438	76	7,968	7,428	540	234	1	2	17
1970	49,209	40,917	73	8,010	7,490	520	189	2	3	15
1971	48,131	40,039	59	7,844	7,332	511	173	1	3	12
1972	48,894	40,509	48	8,163	7,714	449	162	1	2	10
1973	47,651	39,949	48	7,472	7,070	402	173	2	1	7
1974	45,731	38,597	47	6,920	6,564	356	157	3	1	6
1975	45,690	37,850	41	7,606	7,203	402	183	2	0	7
1976	46,931	38,470	24	8,225	7,846	379	203	3	1	7
1977	47,903	39,224	17	8,463	8,100	363	190	2	1	6
1978	49,885	40,797	19	8,872	8,541	331	189	2	1	7
1979	50,846	42,041	20	8,625	8,306	319	150	2	1	8
1980	50,596	42,142	24	8,285	7,998	287	135	1	1	9
1981	51,395	42,580	27	8,648	8,371	277	130	1	0	9
1982	53,449	44,214	28	9,056	8,783	273	140	1	0	8
1983	54,326	45,304	28	8,853	8,610	243	132	1	0	7
1984	54,508	45,035	27	9,273	9,052	221	164	2	0	7
1985	55,263	45,805	26	9,268	9,042	226	155	2	0	7
1986	55,348	46,107	25	9,059	8,869	190	148	2	0	7
1987	55,210	46,077	27	8,945	8,771	174	150	5	0	6
1988	54,344	45,909	33	8,236	8,098	138	155	6	0	5
1989	51,829	44,247	38	7,410	7,284	126	125	4	0	4
1990	48,243	41,141	43	6,952	6,836	116	99	4	0	4
1991	45,749	38,657	49	6,949	6,837	112	86	4	0	4
1992	44,876	37,522	54	7,198	7,084	114	94	3	0	4
1993	45,057	37,209	56	7,664	7,539	125	122	3	0	3
1994	45,573	37,318	58	8,037	7,908	129	153	3	-	3
1995	46,535	38,013	57	8,283	8,169	114	178	2	0	2
1996	48,393	39,521	53	8,636	8,501	135	177	2	0	3
1997	50,091	40,977	52	8,859	8,713	146	198	2	0	2
1998	51,986	42,611	52	9,060	8,928	132	259	2	0	2
1999	53,947	44,110	53	9,469	9,339	130	311	2	0	2
2000	58,747	47,683	53	10,637	10,525	112	366	3	0	4
2001	63,415	51,668	55	11,323	11,202	121	364	3	0	2
2002	67,354	55,132	57	11,694	11,579	115	467	3	0	1
2003	71,889	59,069	57	12,052	11,942	109	708	4	0	1
2004	75,289	62,641	59	11,686	11,590	96	899	3	0	1
2005	77,932	65,780	73	11,131	11,037	93	943	4	0	0
2006	80,335	69,301	86	9,992	9,908	84	947	8	0	0
2007	80,684	70,625	102	8,937	8,860	77	1,013	7	0	0
2008	78,533	69,020	103	8,336	8,257	79	1,068	6	0	0
2009	76,019	66,776	100	7,960	7,868	92	1,176	7	0	0
2010	74,232	64,998	108	7,878	7,775	103	1,242	5	0	0
2011	71,378	62,433	117	7,683	7,595	87	1,140	5	0	0
2012	68,565	59,988	132	7,347	7,255	92	1,093	5	0	0
	(100.0)	(87.8)	(0.1)	(10.5)	(10.4)	(0.1)	(1.5)	(0.0)	(0.0)	(0.0)

Note: 1. "Average daily number of inmates" = Yearly total of the number of inmates at 0:00 every day / Number of days per year.
2. Figures in parentheses show the percent ratio.

Source: Annual Report of Statistics on Adult Correction and Annual Report of Statistics on Correction.

Appendix 4 Frequency of imprisonment of newly admitted inmates, by type of offence (2012)

Offense	Total	1st time	2nd time	3rd time	4th time	5th time or more
Total	24,780	10,275	4,414	2,941	2,091	5,059
Penal Code Offenses	16,060	7,156	2,763	1,718	1,206	3,217
Homicide	288	229	27	9	7	16
Robbery	747	524	75	46	26	76
Injury	1,214	523	198	148	123	222
Assault	150	42	35	19	9	45
Intimidation	83	29	20	10	11	13
Theft	8,405	3,090	1,609	1,045	737	1,924
Fraud	1,908	1,001	292	147	107	361
Extortion	271	106	65	30	21	49
Embezzlement/Breach of trust	370	222	35	26	22	65
Rape	321	251	34	13	8	15
Forcible indecency	347	205	68	31	11	32
Dangerous driving causing death or injury	61	45	7	2	4	3
Vehicle driving causing death or injury through negligence/negligence in the pursuit of social activities	404	295	48	21	16	24
Arson	162	122	18	8	3	11
Breaking into a residence	331	96	62	43	24	106
Physical Violence Act	198	29	33	32	12	92
Others	800	347	137	88	65	163
Special Act Offenses	8,720	3,119	1,651	1,223	885	1,842
Firearms and Swords Control Act	105	26	21	10	12	36
Anti-Prostitution Act	32	16	8	2	2	4
Stimulants Control Act	6,453	1,939	1,253	987	743	1,531
Narcotics and Psychotropics Control Act	54	25	16	6	5	2
Road Traffic Act	1,202	662	200	124	71	145
Others	874	451	153	94	52	124

Note: "Embezzlement" includes embezzlement of lost property.
Source: Annual Report of Statistics on Correction.

Appendix 5 Number of parole applications, grants, and rejections (1949-2012)

Year	Prison parolees			Juvenile training school parolees		
	Number of applications	Number of grants	Number of rejections	Number of applications	Number of grants	Number of rejections
1949	21,570	20,331	408	883	753	41
1950	60,158	41,973	2,169	3,761	3,062	130
1951	53,410	40,576	2,185	7,337	5,792	117
1952	57,333	45,383	2,384	10,909	9,753	139
1953	36,700	33,847	2,043	8,084	7,713	275
1954	35,019	32,882	1,843	7,734	7,350	211
1955	35,021	32,886	1,539	7,911	7,407	212
1956	38,384	35,077	1,833	7,310	7,156	146
1957	38,715	35,400	2,379	6,654	6,386	134
1958	35,389	32,507	2,206	7,038	6,542	111
1959	35,203	31,697	2,154	7,788	7,471	104
1960	34,060	30,956	2,405	8,169	7,879	89
1961	31,153	26,955	3,126	7,518	7,242	87
1962	28,361	24,458	3,250	7,104	6,779	116
1963	26,255	22,297	3,301	6,872	6,585	106
1964	24,724	20,523	3,380	6,556	6,166	141
1965	24,353	19,763	3,647	6,994	6,490	152
1966	24,038	19,518	3,590	7,049	6,554	191
1967	24,679	20,180	3,373	6,532	6,309	64
1968	23,328	19,832	2,618	5,046	5,049	22
1969	22,187	19,408	2,069	4,012	3,906	14
1970	21,002	18,061	1,804	3,319	3,220	6
1971	20,696	17,657	1,865	3,017	2,866	1
1972	20,179	16,750	2,391	2,561	2,585	9
1973	19,355	16,145	2,343	2,271	2,206	11
1974	18,661	15,756	1,936	1,853	1,795	6
1975	17,578	15,004	1,838	1,677	1,650	5
1976	17,730	14,812	1,727	2,264	2,138	6
1977	17,398	14,660	1,810	2,889	2,793	9
1978	17,536	14,631	2,037	3,268	3,122	2
1979	18,035	14,912	1,884	3,633	3,529	3
1980	18,138	15,359	1,864	4,255	4,084	7
1981	17,448	15,270	1,459	4,353	4,316	6
1982	17,987	15,590	1,046	4,869	4,718	1
1983	19,566	17,292	897	5,051	5,006	8
1984	20,385	18,897	790	5,823	5,618	-
1985	20,314	18,194	894	5,698	5,645	1
1986	20,138	18,270	942	5,573	5,625	7
1987	19,621	17,823	974	5,378	5,247	5
1988	18,429	16,913	954	4,755	4,776	7
1989	17,562	16,391	778	4,626	4,639	1
1990	15,908	15,007	597	4,287	4,292	-
1991	14,600	13,909	388	4,039	4,086	1
1992	13,249	12,578	406	4,500	4,399	-
1993	13,454	12,643	284	4,121	4,105	-
1994	13,414	12,786	298	3,950	3,934	-
1995	13,072	12,451	331	3,763	3,807	-
1996	13,145	12,327	298	3,885	3,813	1
1997	13,745	12,973	234	4,319	4,249	2
1998	13,910	13,126	241	4,907	4,847	-
1999	14,179	13,415	246	5,282	5,226	-
2000	14,625	13,599	321	5,495	5,415	4
2001	16,027	14,716	347	5,875	5,809	1
2002	17,173	15,886	425	5,865	5,852	1
2003	17,452	16,021	424	5,663	5,622	-
2004	18,665	17,260	464	5,466	5,466	1
2005	17,916	16,602	667	4,857	4,821	1
2006	18,085	16,552	701	4,752	4,730	2
2007	18,128	16,092	819	4,327	4,307	5
2008	17,403	16,291	734	3,919	3,963	7
2009	16,557	15,030	679	3,999	3,913	4
2010	16,184	14,790	485	3,895	3,854	1
2011	16,094	15,056	312	3,608	3,622	3
2012	16,310	15,070	377	3,476	3,398	-

Source: Annual Report of Statistics on Legal Affairs and Annual Report of Statistics on Rehabilitation.

Appendix 6 Number of newly received probationers and parolees (1949-2012)

Year	Total	Juvenile probationers	Juveniles with short-term traffic disposition	Juveniles with short-term probation	Juvenile training	Prison parolees	Offenders given suspension of execution of sentence with probationary supervision	Parolees from women's guidance home
1949	36,221	6,317	…	…	848	27,799	1,257	…
1950	59,739	13,291	…	…	3,121	43,106	221	…
1951	69,446	23,612	…	…	5,505	40,147	182	…
1952	77,999	22,657	…	…	9,704	45,465	173	…
1953	58,237	16,994	…	…	7,724	33,427	92	…
1954	59,206	16,702	…	…	7,295	32,824	2,385	…
1955	61,265	17,094	…	…	7,375	32,435	4,361	…
1956	65,893	17,003	…	…	7,161	34,821	6,908	…
1957	68,699	19,253	…	…	6,427	35,290	7,729	…
1958	67,592	20,763	…	…	6,481	32,046	8,282	20
1959	70,361	23,410	…	…	7,256	31,230	8,369	96
1960	71,720	24,408	…	…	7,797	30,824	8,525	166
1961	65,319	22,757	…	…	7,206	26,708	8,562	86
1962	61,158	21,607	…	…	6,598	24,356	8,556	41
1963	59,310	22,569	…	…	6,456	22,043	8,216	26
1964	60,513	26,044	…	…	6,143	20,432	7,883	11
1965	62,258	28,173	…	…	6,301	19,430	8,350	4
1966	64,542	30,647	…	…	6,423	18,953	8,513	6
1967	62,950	29,055	…	…	6,240	19,871	7,779	5
1968	60,643	28,549	…	…	5,016	19,534	7,542	2
1969	56,228	25,999	…	…	3,895	19,171	7,161	2
1970	55,320	27,383	…	…	3,167	17,861	6,908	1
1971	52,525	25,403	…	…	2,888	17,458	6,771	5
1972	50,096	23,900	…	…	2,540	16,427	7,228	1
1973	46,088	20,686	…	…	2,188	16,024	7,187	3
1974	44,310	19,942	…	…	1,812	15,542	7,014	-
1975	44,958	21,384	…	…	1,593	14,933	7,048	-
1976	48,791	23,981	…	…	2,071	14,671	8,068	-
1977	58,774	33,735	12,471	…	2,763	14,379	7,897	-
1978	70,874	44,934	23,963	…	3,066	14,373	8,501	-
1979	76,226	50,031	28,472	…	3,440	14,625	8,128	2
1980	83,652	56,322	30,638	…	4,063	15,206	8,058	3
1981	86,871	59,214	33,083	…	4,285	15,036	8,336	-
1982	91,771	63,519	35,642	…	4,644	15,385	8,223	-
1983	100,019	70,385	41,772	…	4,945	16,890	7,798	1
1984	102,737	70,758	42,924	…	5,569	18,718	7,692	-
1985	101,971	71,411	44,361	…	5,585	17,795	7,180	-
1986	102,434	72,268	45,499	…	5,580	18,130	6,456	-
1987	100,140	70,747	45,565	…	5,313	17,603	6,477	-
1988	95,736	68,367	44,099	…	4,753	16,540	6,076	-
1989	96,341	70,322	46,586	…	4,614	16,200	5,205	-
1990	97,801	73,779	50,298	…	4,333	14,896	4,793	-
1991	93,218	70,684	48,021	…	4,058	13,831	4,645	-
1992	90,419	68,972	46,279	…	4,298	12,417	4,732	-
1993	82,052	60,363	40,567	…	4,189	12,532	4,968	-
1994	75,276	53,815	35,409	366	3,891	12,516	5,054	-
1995	71,851	51,075	31,717	2,708	3,782	12,138	4,856	-
1996	72,177	51,173	30,893	3,367	3,762	12,316	4,926	-
1997	76,078	54,008	31,319	3,937	4,205	12,829	5,036	-
1998	77,266	54,221	30,633	4,187	4,815	12,948	5,282	-
1999	77,535	53,856	29,684	4,382	5,187	13,256	5,236	-
2000	75,995	51,701	26,447	4,630	5,357	13,254	5,683	-
2001	75,114	49,410	24,546	4,676	5,788	14,423	5,493	-
2002	75,197	48,643	23,334	4,783	5,848	15,318	5,388	-
2003	70,949	44,207	20,435	4,654	5,587	15,784	5,371	-
2004	68,194	40,817	18,560	4,575	5,436	16,690	5,251	-
2005	62,562	36,260	15,916	4,271	4,886	16,420	4,996	-
2006	58,841	33,576	14,101	3,929	4,711	16,081	4,473	-
2007	54,878	30,554	12,706	3,910	4,344	15,832	4,148	-
2008	50,717	27,169	10,455	3,662	3,994	15,840	3,714	-
2009	48,488	26,094	9,908	3,665	3,869	14,854	3,671	-
2010	47,562	25,525	9,485	3,668	3,883	14,472	3,682	-
2011	45,199	23,580	8,276	3,595	3,601	14,620	3,398	-
2012	44,056	22,557	7,809	3,295	3,421	14,700	3,376	2

Source: Annual Report of Statistics on Legal Affairs and Annual Report of Statistics on Rehabilitation.

Edited by Faculty Members of UNAFEI
English supervised by Thomas L. Schmid,
Linguistic Adviser

2014 edition