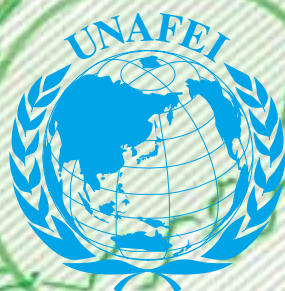


CRIMINAL JUSTICE IN JAPAN



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

(UNAFEI)

FOREWORD

It was in 1890 that Japan introduced a constitution incorporating the principles of the rule of law and representative government. This Constitution provided for the separation of powers and the protection of civil liberties. Under it, criminal justice was administered according to law as enacted by the national legislature; however, the Emperor was sovereign and held absolute power over the country. Since the end of World War II, the Emperor has been prescribed in the Constitution as a symbol of national unity. The Constitution of 1946 established a democratic government and confirmed the principle of the rule of law and constitutional safeguards for fundamental human rights were strengthened. This booklet is an attempt to present a concise picture of the administration of criminal justice as actually practiced in Japan.

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CRIMINAL JUSTICE IN JAPAN

CHAPTER 1 STRUCTURE AND ORGANIZATIONS OF THE CRIMINAL JUSTICE ADMINISTRATION

I. POLICE

A. Introduction

The police, as an agency charged with the functions of protecting the rights and the freedom of individuals and maintaining public peace and order, must carry out its duties efficiently and in conformity with the democratic principles upon which the present Japanese Constitution is based. As in other democratic countries, the organization and activities of the police in Japan are guided by the two principles of supremacy of law and democratic administration. The Police Law was enacted in 1947 and fully amended in 1954, conforming with these principles. This law also was intended to provide a more efficient police organization, paying considerable respect to the principle of local autonomy.

B. Outline of the Present Police Organization

1. National Public Safety Commission

The National Public Safety Commission is an administrative board under the jurisdiction of the Prime Minister. It is composed of a chairman and five members, serving five year terms, who are appointed by the Prime Minister with the consent of both Houses of the Diet. The Chairman is a State Minister, who convenes the Commission and presides over its affairs, but is not a member.

The National Public Safety Commission controls the National Police Agency with respect to such matters as presiding over police training, communications, criminal statistics, equipment, and other coordination of police administration, as well as matters of police operations affecting the national public safety, which the Police Law prescribes as follows:

- 1) Matters relating to serious natural disasters creating public unrest.
- 2) Matters relating to civil disturbances disrupting peace in local areas.

The National Public Safety Commission has the power to appoint or dismiss the Commissioner-General of the National Police Agency with the approval of the Prime Minister. Appointments and dismissals of Chiefs of Prefectural Police Headquarters are also made by the Commission with the consent of the Prefectural Public Safety Commission. As for the Chief (Superintendent-General) of the Tokyo Metropolitan Police Department, the further approval of the Prime Minister together with the consent of the Commission and the Tokyo Metropolitan Public Safety Commission are required. Prefectural Public Safety Commissions may, when necessary, submit recommendations to the National Public Safety Commission with respect to the dismissal of or disciplinary action against the Chief of a Prefectural Police Headquarters.

2. National Police Agency

The National Police Agency was established under the control of the National Public Safety Commission as a national agency headed by a Commissioner-General. The Agency performs prescribed duties which cover the same scope as those of the National Public Safety Commission. The Commissioner-General directs and supervises the Prefectural Police in matters within the scope of the duties of the National Police Agency. The National Police Agency is made up of the Commissioner-General's Secretariat and five Bureaus, namely the Community Safety Bureau, the Criminal Investigation Bureau, the Traffic Bureau, the Security Bureau and the Info-Communications Bureau. In addition, as separate institutions attached to the

Agency, there are the National Police Academy, the National Research Institute of Police Science and the Imperial Guard Headquarters. There are seven Regional Police Bureaus established as local offices of the National Police Agency, whose jurisdiction extends to all districts except the areas of Tokyo Prefecture and Hokkaido.

3. Prefectural Police

The term “Prefectural Police” includes both the Prefectural Police organizations and the Prefectural Public Safety Commissions which control the police organizations. The Prefectural Public Safety Commissions are established under the jurisdiction of the respective Prefectural Governors. They are usually composed of three members (five members in the case of Tokyo Prefecture and the prefectures in which there are cities with a population of over one million each), whose appointments are made by the Governor with the consent of the Prefectural Assembly. All Prefectural Police Departments come under the control of the aforementioned Commissions.

The jurisdiction of the Prefectural Police is generally confined to their respective prefectures. The authorized personnel strength of the Prefectural Police is determined by Prefectural Ordinance, but the number of police officers must conform to the standards fixed by Cabinet Order. According to this Cabinet Order, the total strength was set at 278,300 persons as of 2003. The Prefectural Police officers who hold a rank higher than senior superintendent are designated as “local senior police officials” and they hold the same status as national public officials. They are appointed and dismissed by the National Public Safety Commission with the consent of the respective Prefectural Public Safety Commission. There are 47 Prefectural Police Departments in Japan. The largest is the Tokyo Metropolitan Police Department with the next being the Osaka Police Headquarters. The population estimate for Japan as of 1 October 2003 is about 127,619,000.¹ Since the total number of police officers authorized is 278,300, which includes the officers of the National Police Agency and the Imperial Guard as well as the officers of the Prefectural Police, there is one police officer for approximately every 460 persons in this country.



Tokyo Metropolitan Police Department

B. Police Functions

The Police Law stipulates the duties of the police as “protection of life, person and property of individuals; prevention, suppression and detection of crime and apprehension of suspects; control of traffic; and other functions necessary to maintain public peace and order”. Of these functions, those which most directly relate to criminal justice are crime detection and the apprehension of suspects, that is to say, criminal investigation.

1. Criminal Investigation

Crime detection is one of the primary duties of the police, prescribed by the Police Law. This is the duty of all police officers, including patrolmen, in all Prefectural Police jurisdictions. Every Police Department, whether it is a Prefectural Police Headquarters or a local Police Station, has officers and units specializing in crime detection. These specialized units are engaged mainly in the investigation of cases

¹ Statistics Bureau, Ministry of Internal Affairs and Communications.

which require extended or large-scale investigation or special investigative techniques. These specialized units in the Police Headquarters direct and assist local police stations in the investigation of important cases, and sometimes conduct the investigation independently.

Criminal investigation, as well as police activities in other fields, must conform to the provisions of laws and ordinances. The Law for Execution of Police Duties was created to provide a general standard of performance for police officers. The Code of Criminal Procedure was created to control the procedures of criminal investigation including arrest of suspects, as well as criminal proceedings in general, as will be described in Chapter 3.

In this connection it should be noted that the present Constitution prescribes that “no person shall be convicted or punished in cases where the only proof against him is his own confession” (Article 38). Investigation to obtain legal evidence, therefore, is particularly important in criminal cases, and consequently it is and has been highly important to establish carefully systematized and scientific crime-detection methods.

In addition to the nature of recent crimes, which are becoming complex and sophisticated, and are being committed nationwide or transnationally, material and human factors have made criminal investigations difficult. Mass-production and mass-distribution of commercial goods presents obstacles to investigation in terms of linking materials of the crime scene evidence to suspects. Further, people in big cities tend to be more indifferent and less cooperative, making it difficult for police to gather information from them. To combat this, the police are promoting measures to improve their capabilities as follows²:

(1) Trans-prefectural Investigation

- Developing cooperative arrangements and information sharing among prefectures
- Quickly deploying investigative units across prefectural borders

(2) Expertise Development

- Advanced skills training for investigators
- Recruiting experts from the private sector
- Making prefectural police specialists available as investigators and instructors nationwide

(3) Internationalization

- Employing interpreters for non-Japanese speaking suspects
- Training investigators in transnational crime investigative techniques
- Developing closer cooperation with international organizations and law enforcement agencies overseas

(4) Scientific Investigation

- Developing computer-assisted systems such as an automatic vehicle licence plate number reading system, automatic fingerprint identification systems, and a photographic suspect reference system
- Upgrading criminal identification and examination such as on-the-spot micro-identification, forensic science and DNA analysis

(5) Citizen's Cooperation

- More deeply considering the viewpoint of the victim
- Securing citizen's understanding and cooperation in investigative activities through public relation campaigns

2. Police Work with Juveniles

Mention should be made of the special procedures followed in juvenile cases. In Japan a “juvenile” is defined as a person under 20 years of age. Children under 14 years of age, even though they violate the Penal

² Police of Japan 2003.

Code, may not be held criminally responsible. The police are concerned not only with those juveniles who have committed crimes, but also with other juveniles who come under any of the categories prescribed by the Juvenile Law and who are regarded as prone to commit offences in view of their character or environment. The police also have a responsibility in connection with any juveniles who have behavioural problems, or who may be in need of protection. Foremost, the police have a responsibility as part of their duty to prevent delinquency, and to protect and rehabilitate juveniles.

II. PROSECUTION

A. Qualification

In Japan, private attorneys, judges and public prosecutors have the same qualifications. To become a Japanese legal practitioner, in principle, the applicants must pass the National Bar Examination.³ Around 1,200 candidates (about 3 percent of those who take the Examination) pass each year. After passing the Examination, they must take the 18-month training course as legal trainees at the “Legal Research and Training Institute of the Supreme Court”. After completing such training, trainees can become a private attorney, an assistant judge or a public prosecutor. If a judge or a public prosecutor quits their job, they can become a private attorney, and most of them do so. Similarly, a private attorney also can become a judge or a public prosecutor. As of 2003, there are about 2,200 judges, 1,400 public prosecutors and 19,000 private attorneys in Japan.⁴



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) and 203 branches, and 438 Local Public Prosecutors Offices (consisting mainly of Assistant Public Prosecutors, who have to pass a special examination conducted by the Ministry of Justice after working in criminal justice agencies for a certain period). As of 2003, there are about 2350 public prosecutors (including about 900 assistant public prosecutors) and about 8,650 assistant officials in Japan.⁵ Regarding the size of district public prosecutors offices, the average office has ten public prosecutors. The smallest one has only five public prosecutors, and the largest one has more than 200 public prosecutors. Each office has a Chief and a Deputy Chief Prosecutor who supervise investigation, prosecution and trials. 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 “Criminal Affairs Department”) or the Trial Department.

C. Functions and Jurisdiction

The different levels of public prosecutors offices correspond to a comparable level in the courts. Public prosecutors exercise such functions as investigation, instituting prosecution, requesting the proper application

³ Law schools (post-graduate schools) were established from April 2004 and a new National Bar Examination will be introduced in 2006. In the near future, a person who wants to take the Bar Examination will have to be a graduate of a law school in principle. The methodology of the Bar Examination will be also changed. The new Bar Examination will be based on law school curricula.

⁴ Ministry of Justice Statistics, 2003.

⁵ Guide to Public Prosecutors Office 2004.

of law by courts, supervising the execution of judgements 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 receive equal salaries according to the length of their term in office. Their independence and impartiality are also protected by law. They are considered impartial representatives of the public interest. 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. The Prosecutor-General, the Deputy Prosecutor-General and the Superintending Prosecutor of the High Public Prosecutors Offices 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, and the Cabinet is responsible to the Diet in their exercise. The Minister of Justice should have the power to supervise public prosecutors to complete his/her responsibility as a member of the Cabinet. However, prosecutorial functions have a quasi-judicial nature, inevitably exerting an important influence on all sectors of criminal justice, including the judiciary and the police. If the functions were controlled by political influence, then the whole criminal justice system would be jeopardized. To harmonize these requirements, Public Prosecutors Office Law Article 14 provides that “[the] Minister of Justice may control and supervise public prosecutors generally in regard to their functions. However, in regard to the investigation and disposition of individual cases, he/she may control only the Prosecutor-General”. The Minister of Justice cannot control an individual public prosecutor directly.

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, without exception, 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. There are approximately 2,400 judges within these courts, including assistant judges and there are about 800 Summary Court judges. Approximately 22,000 other officers work in the judiciary, including court clerks, stenographers, bailiffs, clerical officers, etc.⁶

2. The Supreme Court

The Supreme Court, located in Tokyo, is the highest court in Japan and consists of fifteen Justices. At least ten of the fifteen, 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 jurists, as long as they are learned, have an extensive knowledge of the law, and are at least forty years of age. The Supreme Court has one Grand Bench, consisting of all the Justices, and three Petit Benches, each consisting of five Justices. All cases are first distributed to Petit Benches, and then if the Petit Bench decides that the case must be adjudicated by the Grand Bench, it will transfer the case to the Grand Bench.



The Supreme Court Building



The Courtroom of the Grand Bench

The Supreme Court exercises appellate jurisdiction of *Jokoku* appeals and *Kokoku* appeals as provided by law. It ordinarily hears a *Jokoku* appeal from a High Court on the following grounds:

- (1) a violation of the Constitution or an error in constitutional interpretation, or
- (2) adjudication contrary to precedents of the Supreme Court or High Courts.

The Supreme Court may also hear at its discretion *Jokoku* appeals of 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, regulation or official act. The Supreme Court exercises this power not by declaring constitutionality in a general way, but by rendering case-specific decisions.

⁶ Court Handbook 2004.

3. High Court

The eight High Courts are located in eight major cities in Japan, namely, in Tokyo, Osaka, Nagoya, Hiroshima, Fukuoka, Sendai, Sapporo and Takamatsu. High Courts have jurisdiction over *Koso* appeals filed against judgments rendered by the District Courts and Family Courts, as well as the Summary Courts in criminal cases. Ordinarily, High Court cases are heard by a collegiate body of three judges. However, insurrection cases, over which the High Court has original jurisdiction, are handled by a five-judge court.



The Courthouse of the Tokyo High Court, the Tokyo District Court and the Tokyo Summary Court

4. District Court

There are fifty District Courts, each located in the city of a seat of the prefectural government. 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 (offences punishable only by a fine or lighter punishment), Family Courts (offences harmful to the welfare of juveniles), and High Courts (offences of insurrection). The overwhelming majority of District Court cases are tried by a single judge. However, according to Japan's Court Organization Law, criminal cases involving possible sentences of death, life imprisonment or "imprisonment for a minimum period of not less than one year" are handled by a collegiate court of three judges, as well as any other cases deemed appropriate. The former are called "statutory collegiate cases" and the latter "discretionary collegiate cases".

5. 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 primarily over family disputes and juvenile delinquency cases (involving persons under 20 years of age). Additionally, these courts handle adult criminal cases involving offences harmful to the welfare of juveniles.

6. Summary Court

There are 438 Summary Courts throughout Japan. All cases are presided over by a single Summary Court judge. The Summary Courts' original subject matter jurisdiction is limited to (a) civil cases involving claims not exceeding ¥1,400,000 (b) criminal offences punishable by a fine or lighter punishment (minor fine, penal detention), and (c) other minor criminal offences designated by law such as habitual gambling, theft, embezzlement, accepting or buying stolen property, etc. Summary Courts may not impose either imprisonment with or without labour or graver punishment. However, with regard to offences mentioned above in (c), Summary Courts may impose imprisonment with labour not exceeding three years. Therefore, when a Summary Court deems it proper to impose a sentence of more than three years imprisonment, it transfers the case to the District Court. The Summary Court has a significant role in criminal justice administration because it handles all the cases dealt with by Summary Order Procedure, including the vast majority of minor offences that are punished with a fine.

B. Independence of the Judiciary

The Constitution of Japan has various provisions to ensure judicial independence; one of the most important principles of the government. These include: the vesting of all judicial power in the Supreme Court and inferior courts; no final judicial power in any organ of the executive branch of the government; and vesting rule-making power in the Supreme Court.

1. Appointment of Judges

According to the Constitution, all lower court judges are appointed by the Cabinet from a list of persons nominated by the Supreme Court. 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.

Once appointed, judges can serve until retirement, which is 65 years of age for lower court judges, and 70 years of age for the Justices of the Supreme Court and Summary Court judges. Judges are re-appointed every ten years, 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 check and balance systems among the three branches of government, the Court of Impeachment may dismiss a judge if he/she neglects their duties to a remarkable degree, or if there has been misconduct, whether or not it relates to official duties.

2. Qualifications and Categories of Judges

Lower court judges are divided into fully-fledged judges and assistant judges. The term “judge of the inferior courts” in the Constitution includes both fully-fledged judges and assistant judges. It is used in the Court Organization Law to categorize judges in regard to court organization and limitations of power. Therefore, an assistant judge can be called a judge in the context of the Constitution, at least regarding protection of status, judicial proceedings and other broader areas.

The assistant judge system aims to provide professional experience through on-the-job training before qualifying as a fully-fledged judge. Assistant judges are appointed from among those who have passed the National Bar Examination, have completed 18 months of training at the Legal Training and Research Institute of the Supreme Court, and passed the final qualifying examination. For the first five years, the judicial authority of an assistant judge is restricted. He/she can be an associate judge of a three-judge court, 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 the single-judge court. To be a fully-fledged judge, it is necessary to have practical experience of not less than ten years as an assistant judge, a public prosecutor, a practicing lawyer, a professor of law at a designated university, or equivalent related experience as prescribed by statute.

Judges assigned to the High Court must be fully-fledged judges or qualified senior assistant judges; whereas judges assigned to the District and Family Courts may include fully-fledged judges and both junior and senior assistant judges. Lower court judges are also assigned to the Family Courts, as well as administrative positions in the General Secretariat of the Supreme Court, as Judicial Research Officials of the Supreme Court, and as Professors of the Training Institutes. In contrast, Summary Court judges can be appointed from among individuals unqualified as jurists. In practice, they are appointed primarily from among learned and experienced court clerks who are selected by a special Supreme Court committee. 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 Corrections Headquarters (RCH).

The RCHs supervise penal institutions, comprising 59 prisons, eight juvenile prisons and seven detention houses as of 2003. Most of them have branch institutions under their control. The number of branch prisons is five, and that of branch detention houses is 110.⁷ Detention houses, which are institutions that accommodate prisoners awaiting trial, mainly hold penal suspects and defendants who might try to escape or destroy evidence if not detained. Close attention is paid in detention houses to ensure the rights of inmates to have the proper assistance of legal counsel without hindrance, as well as their right to a fair trial. Juvenile prisons accommodate youth offenders under 26 years old. In adult and juvenile prisons, inmates are expected to serve their time participating in various correctional treatment programmes, and to attain the goal of resocialization and rehabilitation. There are six women's prisons including one branch. There are four medical prisons including two branches. The medical prisons are set up to function as medical centres in the treatment of inmates in need of specific medical services. Medical sections of ordinary institutions, which are responsible for the hygiene and medical care of their own inmates, can deal only with common illnesses.

The RCHs also supervise juvenile correctional institutions comprising 52 juvenile training schools, 52 juvenile classification homes and one branch juvenile training school as of 2003.⁸ In juvenile classification homes, juvenile delinquents are kept in custody from two to eight weeks during which their background and character are observed and studied, and the reports from the juvenile classification homes assist the Family Court's decision-making.

Finally, there is a women's guidance home under the Tokyo RCH which houses women who have been sentenced to "guidance disposition" prescribed in the Anti Prostitution Law.

B. Size of Penal Institutions

The size of correctional institutions is roughly classified into three scales, namely, large (about 1,000-2,500 prisoners), middle (about 600-800), and small (less than 300). Though the organizational structure differs according to the above-mentioned scales, each of Japan's penal institutions has the following sections: general affairs; treatment (security and industry); education (education and welfare); classification (classification and parole preparation); and medical care, etc.



Fuchu Prison



Nara Juvenile Prison

⁷ "Kyosei no genjo, General Situation of Correction Administration", *Hoso Jiho* Lawyers Association Journal Vol 56 No.5.

⁸ Ibid.

C. Correctional Officials

In 2003, more than 20,000 officials⁹ were working for the Correctional Bureau. Correctional officials in penal institutions are newly employed from among those who have passed the examination for correctional services. The examination is administered by the National Personnel Authority together with the Ministry of Justice. Correctional workers in juvenile institutions are employed from among those who have passed the examination for instructor in the Ministry of Justice, and classification specialists or psychologists are selected from among those who have passed the senior-level examination for psychological services, which is also administered by the National Personnel Authority. In Japan, correctional officers are all public officials who are guaranteed their status by the Law of Public Officials. Correctional officers enjoy about a ten percent higher basic salary than general public officials due to the evaluation of the difficulties in their 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 Bureau handles probation and parole policy-making, the supervision of Regional Parole Boards (RPB) and Probation Offices, the recruitment and transfer of probation officers and periodical publications on community-based treatment of offenders, etc.

The basic organization that implements community-based treatment of offenders is the Probation Office. There are 50 probation offices (headed by a Director of Probation Office), three branches and 27 local offices, throughout Japan. Their main duties in juvenile and adult cases are: (1) supervision of both adult and juvenile probationers and parolees, (2) adjustment of inmates' family relationships and other social conditions prior to release on parole from prisons and juvenile training schools, (3) aftercare of ex-offenders who apply for such services, (4) investigation and application for pardons, (5) promotion of crime prevention activities in the community, (6) recommendation and selection of volunteer probation officers, (7) supervision of halfway houses and volunteer probation officers and (8) training for workers of halfway houses and volunteer probation officers.

The main duties of RPB for juveniles and adults are: (1) decision of release on parole from juvenile training schools, prisons, women's guidance homes and work houses, (2) revocation of parole, (3) decision to terminate the indeterminate sentence of a parolee who was sentenced to imprisonment when he/she was a juvenile, (4) decision to provisionally suspend the probationary supervision of an adult probationer and (5) extension of the parole period. The number of RPB members varies in each region from three to twelve. The verdict of the panel is made by a majority vote.

The National Offenders Rehabilitation Commission is a central board attached to the Ministry of Justice. The Commission's functions are to make recommendations to the Minister of Justice regarding special pardon, commutation of sentence, remission of execution of sentence, and restoration of rights and privileges to specific persons; and to examine and judge the rulings of the RPB upon a complaint filed by a probationer or a parolee. The Commission consists of five members appointed by the Minister of Justice with the Diet's approval, and all of its decisions are made by majority vote. No more than three members of the Commission should belong to the same political party. As an independent organization however, it is authorized to freely pass judgment and make recommendations to the Minister of Justice.

B. Probation Officers

Professional Probation Officers (PPO) work for either RPB or Probation Offices. Both groups have the same qualifications, training and official status. PPO are full-time officials employed by the Ministry of Justice based on the merit system. The Offenders Rehabilitation Law (1949) requires them to have a certain

⁹ Ibid.

degree of competence in medical science, psychology, pedagogy, sociology, and/or other disciplines relevant to the treatment of offenders. PPOs are mainly recruited from a list of candidates who have passed the national civil service examination by the National Personnel Authority specializing in psychology, pedagogy, sociology, law or public administration. As of 2004, the number of professional staff members working in the whole rehabilitation service was 1,416 including about 900 PPOs of RPB and Probation Offices.

C. Extensive Use of Volunteers

1. Volunteer Probation Officer (VPO)

Since the enactment of the Volunteer Probation Officer Law in 1950, approximately 50,000 persons serve as VPOs throughout the country each year. A VPO is defined as a non-permanent official of the national government. The national government pays the expenses of the VPO's activities. A VPO is expected to assist the PPO under the supervision of the Director of the Probation Office. The main duties of the VPO are (1) to supervise and assist probationers and parolees, (2) to inquire into the environment where an inmate of a correctional institution is expected to return upon release and adjust any problems there, (3) to conduct a preliminary investigation of a candidate for pardon, and (4) to promote crime prevention activities in the community.



50th Anniversary of the Community - Based Treatment of Offenders System in Japan,
with Their Majesties The Emperor and Empress in Attendance

The Volunteer Probation Officer Law requires VPOs to be (1) evaluated highly with respect to their character and conduct in the community, (2) enthusiastic and sufficiently available to work, (3) financially stable, and (4) healthy and active. The term of service of a VPO is two years with the possibility of reappointment. In practice, most are reappointed repeatedly for a number of years, because the duties of a VPO requires long-term experience and much knowledge and skill about the treatment of offenders. To recruit VPOs, the directors of 50 Probation Offices prepare a list of candidates based on information gathered from various sources in the community. Further screening is carried out by a Volunteer Probation Officers Screening Commission, which consists of representatives of the court, prosecution, the bar association, correctional institutions, the probation office, and other public commissions in the community and learned citizens.

2. Juridical Person for Offenders Rehabilitation Services

The Law for Offenders Rehabilitation Services (1995) established the Juridical Person for Offenders Rehabilitation Services in the form of a non-profit organization for offenders rehabilitation services.¹⁰ As of 2004, 164 Juridical Persons for Offenders Rehabilitation Services exist.

a) *Halfway Houses*

Halfway houses accommodate nearly a quarter of prison parolees lacking a suitable place to live. Halfway houses primarily provide room, board and guidance to juvenile and/or adult probationers, parolees and other discharged offenders. Releasees from correctional institutions such as juvenile training schools, prisons and detention houses can get shelter aid services for a certain period of time. Also prior to a final disposition, the Family Court often refers juveniles to halfway houses for guidance and observation of their behaviour. Moreover, halfway houses not only help their residents secure employment within the community or in the workshops which are available in some halfway houses, but also provide offenders with treatment for alcoholism, social skills training, special vocational guidance and social gatherings, etc. The national government supervises and provides financial support to halfway houses. In 2003, halfway houses received approximately ¥2.9 billion (74.9 percent of their budget) from the national government. As of 2004, there are 101 halfway houses run under the authority of the Ministry of Justice. Among them, four houses accommodate only juveniles, 22 are only for adults, and 75 are for both juveniles and adults. Additionally, 89 houses accommodate only men, seven only women, and five both men and women. As of 2004, the total capacity of the halfway houses was 2,253 individuals, including 111 women, with each facility averaging from 10 to 110.¹¹

b) *Rehabilitation Aid Association*

Sixty-six Rehabilitation Aid Associations exist throughout Japan. They provide ex-offenders with temporary aid such as meals, clothing, and medical care and provide halfway houses, VPO associations and other volunteer organizations with subsidies, textbooks for training and tools and materials for crime prevention activities.

3. Cooperative Volunteer Organizations

a) *Women's Association for Rehabilitation Aid (WARA)*

This association is an autonomous group, which conducts crime prevention activities in the community and helps offenders rehabilitate themselves by making use of their experience as mothers and women. As of 2004, national membership totalled 201,448. Membership is open to any women in the community.

b) *Big Brothers and Sisters (BBS) Association*

BBS is an organization of youths that befriend delinquent youngsters and discourage their delinquency. As of 2004, there were 6,024 members throughout Japan. Regardless of educational or occupational background, any person, aged mainly between twenty and thirty years, capable of befriending delinquents, with a proper understanding of their problems and needs, can become a member.¹²

c) *Cooperative Employers*

They help offenders or delinquents by offering stable employment in spite of their criminal history. As of 2004, there were 5,547 cooperative employers throughout the country.¹³

10 Community-based Treatment of Offenders in Japan, 2004.

11 Ibid.

12 Ibid.

13 Ibid.