

CHAPTER 6 REHABILITATION OF OFFENDERS

I. PROBATION AND PAROLE

A. Probation

1. Juvenile Probationer

A juvenile who commits an offence or is adjudicated as a “pre-delinquent” may be placed on probation by the Family Court. Probation for juveniles is a protective measure stipulated in the Juvenile Law. The legally prescribed period of supervision is up to twenty years of age or at least two years, whichever is longer. In 2003, 44,207 juveniles nationwide were placed on probation by the Family Court. Among juvenile offenders who were adjudicated by the Family Courts, 16.2 percent were placed on probation in 2003.²⁶

2. Adult Probationer

The Penal Code provides that an offender who commits an offence may be placed on probation by the Criminal Court upon the pronouncement of suspended execution of sentence of imprisonment or suspended execution of a fine. In Japan, adult probation is used by the court as a measure complementary to the suspension of execution of sentence. A probation order is mandatory in a suspended sentence case regarding an offence which took place during the period of previous suspension unaccompanied by a probation order. In other cases of suspended execution of sentence, probation is discretionary to the court. The legal requirements for probation only refer to the gravity of the sentence and the offender’s criminal record, making no reference to the type of offence. The term of supervision ranges from one to five years, corresponding to that of suspension of the execution of sentence specified by the sentencing court, with possible provisional suspension for good behaviour.

B. Parole

1. Subjects of Parole

a) Juvenile Training School Parolee

A juvenile offender can be conditionally released on parole from a Juvenile Training School by the decision of the Regional Parole Board (RPB), based on the Offenders Rehabilitation Law. The period of parole supervision is up until the parolee reaches the age of twenty or the last day of a fixed period of custody determined by the Family Court. In 2003, 5,587 juveniles were released from Juvenile Training Schools and placed on parole supervision. The rate of parolees among all juveniles who were released from Juvenile Training Schools was 96.5 percent.²⁷

b) Prison Parolee

An offender can be conditionally released from prison on parole by the decision of the RPB based on the Penal Code. The period of parole supervision is for the remaining term of the sentence, and in the case of a life term, the period of parole is for life unless he/she is granted a pardon.

As for the “juvenile” parolee, the period of parole supervision is provided in the Juvenile Law as follows. (1) If a person, who is sentenced to imprisonment for life while he/she was a juvenile, has been paroled, and ten years have passed since the parole (without its revocation), he/she shall be regarded as having served their sentence. (2) If a person sentenced to a fixed term of imprisonment while he/she was a juvenile has been paroled, and the same length of term as that which he/she served of imprisonment before parole, or the maximum term of the unfixed term of imprisonment has passed without revocation, he/she shall be regarded as having served their sentence at the time when the shortest of the above has passed.

²⁶ Ibid.

²⁷ Annual Report of Statistics on Rehabilitation for 2003.

c) *Women's Guidance Home Parolee*

A woman can be conditionally released on parole by the decision of the RPB from the Women's Guidance Home, a non-punitive correctional institution for ex-prostitutes, based on the Anti-Prostitution Law.

2. Parole Procedure

The screening of inmates for release on parole is a major duty of the RPB. The parole procedure is the same throughout Japan. In Japan, an inmate has no right to apply for parole. The right to file an application for parole is vested in the head of the institution. The head of the institution where the offender is confined, when he/she thinks appropriate, submits an application for parole to the RPB. When doing so, due consideration is paid to the progress achieved by the offender at the institution.

a) *Parole Examination*

On receipt of the application, a board member visits the institution and interviews the inmate in question. Later, three members of the board examine the case on the panel and evaluate whether the individual really meets the requirements stated below in view of their observations at the interview, as well as on the basis of the information gathered from the institutional record and the result of the adjustment of living conditions (assessment) carried out by the Professional Probation Officer (PPO) and Volunteer Probation Officer (VPO).

The parole requirements for an adult prisoner are (1) he/she has served no less than one-third of a determinate sentence or ten years of a life sentence, (2) he/she demonstrates repentance and progress, (3) there is no likelihood of recidivism during the prospective period of parole, and (4) society will accept his/her parole.

The parole requirements for a training school inmate are (1) he/she has attained the highest grade of the progressive stage in the institution, and (2) rehabilitation can be expected, by and large, through supervision after release on parole.

b) *Parole Decision*

When the panel of three board members finds that an inmate meets the requirements and that parole will better serve the goal of correctional efforts, it determines a definite date of parole, the place where he/she should return, and the conditions that the parolee should abide by during the period of supervision. In 2003, among the 28,170 prisoners released, 15,784 (56.1 percent) were released on parole.²⁸ This means 94.7 percent of applications were approved by the RPB. In contrast, the approval rate of parole for juvenile training school inmates was 99.2 percent (the number of applications was 6,056).²⁹

c) *Investigation by PPO attached to RPB*

Parole aims to release an inmate at the optimal time for reintegration into society under adequate supervision and assistance. To this end, PPOs attached to RPBs visit correctional institutions to interview inmates and discuss their cases with correctional officers for the parole preparation prior to the application of parole. The functions of those PPOs may be summarized as follows, (1) collection of factual information on the individual through interviews and examination of their institutional record, (2) case conferences and liaison with institutional officers, and (3) providing the field officer at the probation office with pertinent data to promote effective pre-release inquiry and adjustment. Furthermore, some of the RPBs second one or two parole officers to work full-time in a prison so as to strengthen these functions. This scheme began in 1981 and is utilized in ten correctional institutions throughout Japan.

28 Annual Report of Statistics on Correction for 2003.

29 Annual Report of Statistics on Rehabilitation for 2003.

C. Probation and Parole Conditions

The following general conditions as provided by law are automatically imposed upon a parolee and a juvenile probationer:

- (1) to live at a specified residence and to engage in a lawful occupation;
- (2) to maintain good conduct;
- (3) to discontinue criminogenic companionships; and
- (4) to get prior approval for a change of residence or long journey.

In addition to these general conditions, the parolee is also required to abide by special conditions which the RPB sets forth as a guide toward a law-abiding life. Special conditions vary widely as they are designed to meet the individual needs of each parolee. The most frequently used include restriction of alcohol, regular contact with their VPO and the support of their family. Failure to comply with a special condition can be a cause for reincarceration exactly in the same way as a violation of a general condition may result in the revocation of parole.

In relation to juvenile probation, on the other hand, the authority to stipulate special conditions is vested in the Chief Probation Officer. However, these conditions, although they are similar to those of parole, cannot be a ground for the revocation of probation unless the juvenile's misconduct is determined by the Family Court to be sufficiently indicative of a new disposition according to the Juvenile Law.

The conditions imposed on an adult probationer during the probation period are regulated in a less restrictive manner. Specifically, they are:

- (1) to notify the probation office of their specific place of residence immediately after the probation order is rendered;
- (2) to maintain good conduct; and
- (3) to give the probation office prior notice when changing residence or traveling for over one month.

These conditions are imposed on every adult probationer in the court. Neither the court nor the probation office has the authority to impose any additional conditions on adult probationers. If the probationer violates any of the conditions, his/her probation may be revoked by the court only when the circumstances are seriously unfavourable to him/her.

D. Supervision and Process

1. Supervision and Treatment

The Offenders Rehabilitation Law (1949) describes the purpose of supervision of probationers and parolees as "to promote the improvement and rehabilitation of the person under probation supervision, by leading and supervising him/her to make him/her observe, the conditions [of supervision] and giving him/her guidance and aid, in recognition of the fact that he/she naturally has the responsibility to help him/herself". The methods of the guidance and supervision are to watch the behaviour of the person under supervision by keeping proper contact with them, to give the person under supervision such instructions as are deemed necessary and pertinent to make them observe the conditions and to take other measures necessary to aid them in becoming a law-abiding member of society.

The offender who has been placed on probation or released from the institution should report immediately to the probation office. At the office, he/she is interviewed and explained the framework of probation or parole supervision in a probation office. Taking into consideration all the information including information from the Court and/or correctional institution, the PPO analyzes the offender's maladjustment to various social and psychological environments; hypothesizes about the cause of their crime and assesses the

individual's needs and problems which require special attention; and frames a treatment plan. The PPO assigns a VPO as the day-to-day supervisor of the offender. The assignment is based upon the PPO's belief that the VPO best matches the personality, and will most effectively supervise the offender and his/her family. Often a VPO lives in the same community as the offender, which makes contact between them more convenient.



Interview at a Probation Office (moot)

After receiving the information from the probation office, the assigned VPO starts supervising the offender. The VPO keeps in touch with the offender and his family by means of mutual visits and interviews generally twice a month or so, while the frequency and mode of contact vary as the case requires. The VPO submits a regular progress report on each offender to the probation office every month. When the PPO thinks it necessary, judging from the information from the VPO or the offender's family, he/she interviews and supervises the offender as crisis intervention. Although VPOs are entrusted with the day to day supervision and support of probationers and parolees, PPOs need to be directly involved and exercise oversight over their VPO's activities in some cases, such as those involving gang members, drug abusers, sex offenders and the mentally disordered.

2. Intensive Supervision by PPOs

a) *Day Offices*

PPOs of main cities visit the local community such as municipal offices, public halls or youth centres. These visits are called "Day Offices". The "Day Offices" facilitate direct probation-parole casework by PPOs and provide VPOs with closer supervision and consultation. The frequency of the "Day Office" ranges from once a week to once every two months, depending on local circumstances and the caseload of the area. PPOs interview probationers and parolees, visit their homes, counsel their families and consult with school teachers, employers and community agencies, using the "Day Offices" as their base.

b) *Classification System*

This system is implemented to classify and treat offenders differently according to their criminal tendencies and difficulties in life, in order to make use effectively of the limited power of PPOs. Probationers and parolees are classified into two groups: Group A requiring more intensive treatment, and Group B representing no acute or serious problems. Factors of classification to be considered are: financial instability, family conflict, difficulties in life history, unemployment, no fixed residence, drug or alcohol abuse, criminal history, intellectual or personal defects, poor attitude toward supervision, and association with organized criminals. Cases are reviewed occasionally for possible re-classification.

3. Special Treatment Schemes

a) *Categorized Treatment*

The categorized treatment system was introduced in 1990 and revised in 2003 to treat offenders effectively based on their particular problems. The categories take into consideration the offender's crime, individual circumstances, character and social background. Currently there are thirteen categories which include thinner-sniffing offenders, stimulant drug abusers, gang members, sex offenders, juvenile delinquents in junior high school, unemployed juvenile delinquents, domestic violence offenders, in-school violence offenders, hot-rodders, mentally disturbed offenders, offenders with a drinking problem, elderly offenders and those with a gambling problem. Special treatment manuals for those categorized offenders are created, and special group counselling, guidance methods and group work sessions are provided for some categorized offenders.

b) *Special Treatment Programme for Traffic Offenders*

Introduced in 1965, juvenile delinquents on probation for traffic offences (speeding, driving without a licence, negligently causing death or injury, etc.) receive group and individualized treatment emphasizing the importance of observing the law and driving safely. In 1974 the target group of this scheme was extended to parolees and adult probationers.

c) *Special Short-term Scheme for Juvenile Traffic Probationers*

Initiated in 1977, juvenile traffic probationers, upon the recommendation of the Family Court, attend discussions, lectures and films in lieu of casework. Juveniles can be discharged from probation within three or four months if they attend group sessions, submit monthly report papers on their life to the probation office and do not commit further crimes.

d) *Special Short-term Scheme for Juvenile Non-traffic Probationers*

Introduced in 1993, the Family Court selects this programme for juvenile non-traffic offenders who do not yet demonstrate serious criminal tendencies, do not have serious deviation of character; do not have a relationship with criminal organizations; and whose living environment is not so bad. This short probationary supervision, six to seven months, focuses on an individual's specific and limited problems, which prevents their adaptation to society. He/she is assigned a programme which is thought useful for rehabilitation; i.e. community service in a residential home for the aged or a nursing home, or attending an outdoor recreational activity, or a drug abuse programme. Also they must submit a monthly report on their daily performance and implementation of the given task.

e) *Community Participation Programmes*

Introduced in 1992, community participation programmes, including a community service programme, have been employed as a useful treatment method in the community-based treatment of juvenile offenders. This programme is categorized into (1) community service in social welfare institutions such as for aged or physically handicapped people in the community, (2) work on farms or in public areas, (3) observation tours of historical spots, public facilities or construction areas, and (4) recreational activities such as skiing, soccer, cooking, fishing and camping.

E. Termination of Probation and Parole

Supervision can be discharged when probationers and parolees prove to be a success with no further indication of danger to the society. In the case of juvenile probation, the Chief Probation Officer is vested with the authority to decide on an early discharge. For juvenile parolees, the RPB may make a decision to terminate parole supervision earlier than the original parole termination date on the basis of an application from the Chief Probation Officer. As to adult parolees, a determinate sentence can only be discharged by amnesty. Finally, neither the court nor the Director of the Probation Office can discharge an adult probationer. Amnesty is the only available means for terminating probation. However, the RPB may provisionally suspend probation upon the request of the Director of the Probation Office.

In the “failure cases” of probationers and parolees, the RPB or the Chief Probation Officer may at any time summon and interrogate the person. They also may have the person arrested under warrant issued by a judge in advance. Procedures, which are taken on the occasion of a technical violation, are as follows:

- (1) *Juvenile Probationer*: The Chief Probation Officer files a notification with the Family Court seeking a new disposition. The Family Court renders a protective measure mentioned in the Juvenile Law to the juvenile notified by the Director of the Probation Office. At the same time, it fixes the term of probationary supervision or of detention in the juvenile training school for, in most cases, a period before the person reaches 20 years of age.
- (2) *Adult Probationer*: If the Chief Probation Officer deems it proper that the pronouncement of suspension of execution of sentence should be cancelled, he files an application for revocation to the criminal court through the public prosecutor.
- (3) *Juvenile Training School Parolee*: The RPB has to apply to the Family Court to have the juvenile recommitted. Upon the application, the Family Court may recommit the juvenile to juvenile training school.
- (4) *Adult Parolee*: The RPB revokes parole upon the application of the Chief Probation Officer. The parolee may be confined in the correctional institution for the whole period of the original parole period.

Any person who is dissatisfied with the ruling made by the RPB may apply to the National Offenders Rehabilitation Commission for its examination of the disposition.

F. Material Aids in Probation and Parole

Many offenders under probation or parole supervision face financial difficulties. To meet the needs of such offenders, the PPO tries to encourage and assist them along the lines of social work principles, so that they may tackle more effectively the personal problems underlying the hardship. PPOs or VPOs often help offenders find satisfying jobs or adjust their family relationship in order to help with their rehabilitation. However, material aid is indispensable when the offender faces acute financial difficulties. In 2003, 4,180 offenders received such assistance as food, clothing, medical treatment, and travel expenses from probation offices.³⁰ Also Halfway Houses attempt to help such needy offenders. Additionally, the Japan Rehabilitation Aid Association and other local organizations such as the Rehabilitation Aid Associations and the VPOs Associations distribute special funds to supplement the national funding.

G. Outcome of Supervision

In 2003, probation and parole supervision was terminated for 25,386 non-traffic juvenile probationers (excluding juveniles under special short-term schemes for traffic offenders), 5,731 juvenile parolees, 15,576 adult parolees and 5,391 adult probationers. Among them, 4,842 (19.1 percent), 1,348 (23.1 percent), 153 (1.0 percent), and 1,917 (35.6 percent) re-committed offences respectively.³¹

³⁰ Ibid.

³¹ Ibid.

II. AFTERCARE OF DISCHARGED OFFENDERS

The State assumes full responsibility for providing supervision and aid to those offenders designated as subjects of probation or parole by the judiciary or the RPB. Beside those, the Offenders Rehabilitation Law declares the State is responsible for providing services to the following categories of eligible offenders.

- (1) A person who has completely served their sentence of imprisonment with or without labour or penal detention.
- (2) A person whose sentence of imprisonment with or without labour or penal detention has been excused.
- (3) A person who has been granted suspension of execution of sentence to imprisonment with or without labour and whose sentence has not yet become final.
- (4) A person who has been granted suspension of execution of sentence to imprisonment with or without labour but has not been placed under probation supervision.
- (5) A person who committed an offence, but has not been prosecuted because it has been found unnecessary.
- (6) A person who has been sentenced to a fine or a minor fine.
- (7) A person who has been discharged or provisionally released from a workhouse.
- (8) A person who has been discharged or released on parole from a juvenile training school.

Aftercare services are limited to a maximum period of six months from the date of release from confinement. However, exceptionally, aftercare can be continued for another six months in case it is deemed necessary. Aftercare is provided only to those who apply for it in person at the probation office. The Chief Probation Officer can conduct a background investigation and screen individuals in the light of their urgency and willingness to rehabilitate themselves. The philosophy of aftercare is that the absence of adequate support may easily jeopardize the offender and the safety of society. Aid by the Probation Office includes meals, clothing, medical care, recreation, travel fares, lodging and referral to a public employment welfare agency. The PPO administers this assistance as required by each individual case. When lodging is necessary, the PPO may refer the case to a Rehabilitation Aid Hostel run by a volunteer organization. The national fund reimburses such expenses.

III. PARDONS

Pardons are broadly classified into two types: general and individual. General pardons are promulgated in the form of a Cabinet ordinance in commemoration of special occasions of national significance. Individual pardons have far greater significance from the viewpoint of corrections and rehabilitation, since they are awarded on the ground of individual need. The number of pardon cases handled by the National Offenders Rehabilitation Commission in 2002 was 133. Among them, 121 cases were applied by Directors of Probation Offices.³² Among pardons, the special amnesty, commutation of sentence and remission of execution of sentence produce early termination of probation or parole status. The restoration of rights enables ex-prisoners to access certain occupations and/or to vote. It additionally removes social and psychological stigmas.

IV. CRIME PREVENTION ACTIVITIES

An annual crime prevention campaign, called “Movement Toward a Brighter Society” is conducted under the auspices of the Ministry of Justice. It is a nationwide effort to promote public understanding of the rehabilitation of offenders, as well as to bring about a better society free of criminality and juvenile delinquency. A strong public relations programme has been launched to advance the Movement under the slogan, “Let all of us join in preventing delinquency and assisting in offender rehabilitation”. Each prefectural, municipal or local government establishes an implementing committee to promote the Movement through various activities such as advertising campaigns, crime prevention meetings for residents in the

³² Ibid.

community and informational meetings on drugs in school, etc. In brief, such preventive activities in Japan may well be conceived as efforts directed to a great extent toward community organization through the involvement of the public and the coordination of the potential forces in the community. The Probation Office continuously encourages the Rehabilitation Aid Association, the Women's Association for Rehabilitation Aid and the Big Brothers and Sisters Association to appeal to various community groups along these lines. The crime prevention campaign in July each year is a crystallization of such efforts.



Movement Toward a Brighter Society

