

GOVERNMENT OF JAPAN

✓ SUMMARY OF
THE WHITE PAPER ON CRIME
1978

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PREFACE

ACQUISITIONS

One of the important functions assigned to the Research and Training Institute of the Ministry of Justice is to make periodic analyses of the trends in criminality, and to review the present administration of criminal justice and correctional practices and procedures. The results of such efforts have been compiled and reported to the Cabinet in the form of a White Paper on Crime and subsequently released to the public every year. This has been a practice since 1960.

Since 1963, the Institute has annually published a Summary of the Paper in English so that criminologists in other parts of the world would have an opportunity to make comparative analyses of criminal and correctional trends. This is the sixteenth issue of such a Summary.

The White Paper on Crime, 1978, with the subtitle "Recidivism—Trends and Measures to Counter It," outlines the recent trends in criminality and the treatment of offenders by analysing available statistics and the results of researches on crimes and criminals in 1977 and before. Furthermore, as a new undertaking, it deals specifically with the subject of recidivism, examining the true situation in Japan from various angles. As for the present extent of crime in Japan, it can be safely said that, though there are some categories of crimes which will have to be watched carefully, criminal behaviour has generally been stable for a number of years. From an international viewpoint, public order has been maintained comparatively well in Japan. There have been, however, some gloomy and pessimistic views with regard to the problems of repeated offences and offenders, owing to the facts that more than 50 per cent of offenders entering prison each year are recidivists by the definition of the Penal Code and that the number of habitual offenders, persons repeatedly imprisoned, has not decreased. On the other hand, when we began to look into the realities of recidivism in detail, we realized that there was much more information still to be gathered than expected. For example, there was little information about what proportion of the persons convicted and sentenced in a year commit crime again in the following years, to say nothing of an analysis of recidivists by age, type of offence, etc. Even the rate of revocation of suspended sentences was not precisely known.

The first step to establish effective measures for minimizing repeated offences should be to recognize the actual situations in which recidivism occurs. The Institute has made efforts since last year to define the trends of repeated offences and the characteristics of recidivists by conducting various surveys and,

as the first attempt, by analysing an enormous amount of computerized criminal data on offenders with previous criminal records. Some of noticeable findings are that the proportion of recidivists to offenders convicted of Penal Code offences in the first instance has been showing a steady decline for long time, with the exception of the disordered period after World War II, and that the rate of recidivism rate in each year, in terms of offenders convicted finally and conclusively, has been dropping more markedly in recent years. A follow-up study on the releasees from juvenile training schools also revealed an evident improvement in reducing recidivism. On the other hand, it was also observed as serious phenomena that there had existed annually a limited number of dangerous offenders who repeat such heinous crimes as murder, arson, rape, etc., and that habitual offenders have continued to commit offences chronically. This may denote that there is a group of criminals who repeat their criminal conduct turning their backs on society and being left behind by the general social and economic prosperity. It is our sincere hope that this Paper will draw serious attention of the general public to the problems of recidivism and subsequently lead to the establishment of effective measures to combat them.

The White Paper is presented in four parts. Part one reviews the recent trends in crime, centering on the criminal statistics of 1977, and part two delineates the treatment of offenders at the level of prosecution, adjudication corrections, and rehabilitation. The problems of recidivism are examined in the part three under the title of "Recidivism and Treatment of Recidivists". Part four deals with the trends in juvenile delinquency and present practices in the treatment of juvenile delinquents, along with results of the follow-up study on juvenile delinquents released from correctional institutions.

This Summary was prepared with the most helpful cooperation of Mr. Shinichi Tsuchiya, Deputy Director of the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI), and other faculty members of UNAFEI. I gratefully acknowledge their valuable contributions.

Shinpei Kira

Shinpei Kira
President
Research and Training Institute
Ministry of Justice
Japan

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PART ONE: TRENDS IN CRIMINALITY

I. Crime Trends and Statistical Reivew of Crime in 1977

A. Penal Code Offences

1. General Trends

The trends in crime after World War II, as reflected in the statistics giving the number of Penal Code offences known to the police, showed that the total number of such offences amounted to 1,387,080 in 1946. The figures rose sharply to over 1,603,265 in 1948, and then decreased to 1,344,482 in 1953. The figures showed an increase in 1954 and kept steadily rising until 1964 when Penal Code offences exceeded the 1948 peak, reaching 1,609,741. After showing a slight decrease in the following two years, they started to show an annual increase until they reached another peak in 1970, when they were 1,932,401, the highest figure since the end of the war. Since 1971 they decreased continuously and in 1974 the figure dropped to 1,671,947. However, there has been a slight increase since then, to a total of 1,704,995 in 1977, representing an increase of 13,766 over 1976.

The rate of clearance in respect of Penal Code offences was 68.0% of the total cases known to the police in 1977. The annual clearance rate in the last ten years has been between 68% and 71%. Thus, the number of offences cleared by the police more or less paralleled that of offences known to them and it was 1,160,076 in 1977. This represented a decrease of 26,573 over the previous year and the number of offenders investigated (not necessarily arrested) by the police decreased to 822,218 in 1977, 8,461 less than that of the previous year.

2. Non-Traffic Penal Code Offences

The above-mentioned increase in Penal Code offences was due mostly to the disproportionate increase of automobile accidents, constituting a Penal Code offence of "professional or gross negligence causing death or bodily injury" (Article 211).³ Since a very heavy majority of the offences included in this category are traffic in nature, various categories of offences other than those under Article 211 will, for the purpose of convenient presentation, be referred to hereinafter as "non-traffic Penal Code offences."

³The Penal Code provides for three types of Negligent Offences: Simple Negligence causing Death or Bodily Injury; Gross Negligence causing Death or Bodily Injury and Professional Negligence causing Death or Bodily Injury. The "Professional" negligent causing death or bodily injury was originally adopted to cover negligent death or bodily injury in one's business or profession such as a medical doctor or a professional car driver. Courts have enlarged the interpretation of "professional" to include motorists whose occupations are other than that of car driver.

The number of non-traffic Penal Code offences known to the police reached its peak in 1948 at 1,599,968; it then decreased sharply to 1,317,141 in 1953. The figures fluctuated somewhat in following years. Since 1971 the number decreased steadily and in 1973 it was 1,187,736, the lowest figure in the post-war years. However, it slightly increased to 1,245,766 in 1976 and to 1,266,658 in 1977, representing an increase of 20,892 from the figure of the previous year.

The clearance rate of non-traffic Penal Code offences was 57.0% of the total cases known to the police in 1977. The annual clearance rates for the last ten years have been between 54 and 60 per cent.

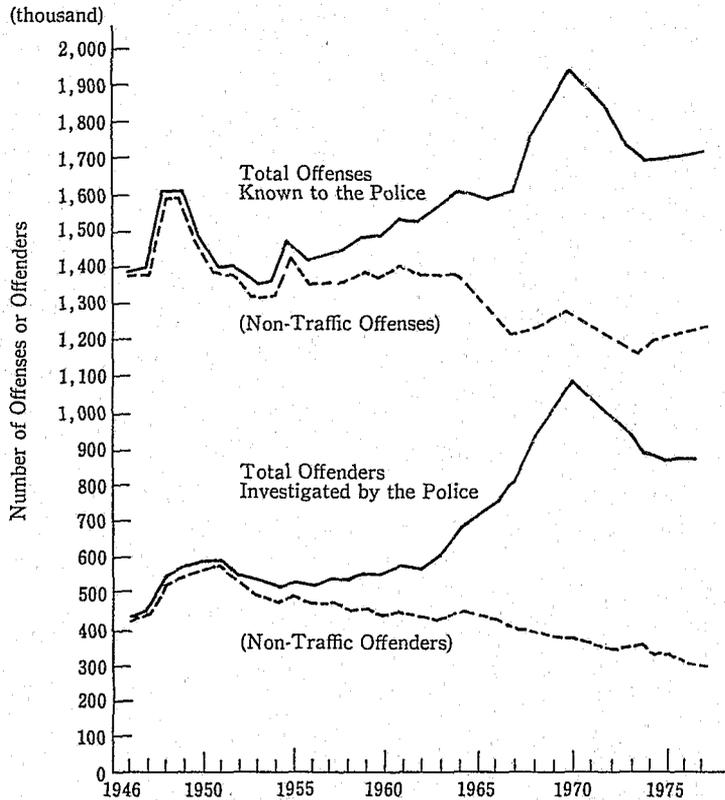
The number of non-traffic Penal Code offenders investigated by the police has shown a general downward trend since 1950, when it was 578,152. In 1977, such offenders amounted to 360,865, 3,824 more than in the previous year. The rates of non-traffic Penal Code offences known to the police and of non-traffic Penal Code offenders investigated by the police computed per 100,000 criminally responsible persons (fourteen or more years old) for 1977 were 1,437 offences and 409 offenders. The offence rate was the fifth lowest of the post-war years; the offender rate was the lowest. These rates together with the rates of prosecution and conviction in selected years are shown in Table 1.

Figure 1 demonstrates the trends in Penal Code offences and offenders together with that of non-traffic Penal Code offences and offenders.

Table 1. Non-Traffic Penal Code Offenders — Suspected, Prosecuted, and Convicted: selected years (Computed per 100,000 Criminally Responsible Population)

Year	Criminally Responsible Population Unit: 1,000	Rate Computed per 100,000 of the Criminally Responsible Population			
		Offences Known	Suspects	Persons Prosecuted	Persons Convicted in the Court of First Instance
1948	53,413	2,995	1,003	444	427
1955	61,443	2,337	799	297	254
1966	76,459	1,690	564	245	206
1969	79,740	1,570	470	204	167
1970	80,500	1,587	470	198	159
1971	81,364	1,526	442	182	148
1972	82,947	1,473	417	185	151
1973	83,885	1,416	423	166	137
1974	84,792	1,425	425	153	126
1975	86,323	1,428	419	170	118
1976	87,195	1,429	409	169	118
1977	88,145	1,437	409	161	...

Figure 1. Trends in Penal Code Offences and Offenders



3. Statistical Review of Penal Code Offences in 1977

Of the total Penal Code offences (including traffic) known to the police in 1977, theft was the largest, comprising 63.0%, followed by professional or gross negligence causing death or bodily injury with 25.7%, fraud with 3.3%, bodily injury including that resulting in death (manslaughter) with 1.9%, assault with 1.2%, and embezzlement with 0.8%. Murder (homicide with an intent to kill) accounted for 0.1%.

Of the total Penal Code offenders investigated by the police in 1977, those who were charged with professional or gross negligence causing death or bodily injury were by far the largest, accounting for 56.1%. This was due to the fact that the clearance rate of such cases was nearly 100%, while that of theft was 51.1% in 1977. The number of persons charged with professional negligence was followed by the those charged with theft with 25.2%, bodily injury including that resulting in death with 5.0%, assault with 3.1%, and fraud with 1.9%. Alleged murderers stood for 0.2% of the total.

Table 2. Trends in Penal Code Offenders Investigated by

Offences	Year		1973		1974	
			Number	Index	Number	Index
I. Property Offences						
1. Theft			174,003	100	190,792	110
2. Fraud			15,908	100	15,118	95
3. Embezzlement			8,089	100	7,735	96
4. Stolen Property			2,070	100	2,046	99
5. Breach of Trust			203	100	174	86
Total			200,273	100	215,865	108
II. Offences of Violence						
A. "Non-heinous" Crimes						
6. Assault			32,408	100	31,415	97
7. Bodily Injury (including those resulting in death)			53,008	100	46,858	88
8. Intimidation			2,199	100	1,977	90
9. Extortion			11,930	100	11,602	97
10. Unlawful Assembly with Weapon			1,006	100	1,660	165
Total			100,551	100	93,512	93
B. "Heinous" Crimes						
11. Murder (including particide, infanticide and attempt)			2,113	100	1,870	88
12. Robbery			910	100	840	92
13. Robbery involving Homicide, Bodily Injury, or Rape			1,168	100	1,271	109
Total			4,191	100	3,981	95
III. Sex Offences						
14. Rape (including those resulting in injury and death)			4,786	100	4,485	94
15. Indecent Assault			1,816	100	1,629	90
16. Obscene Matters (distributing, selling, etc.)			3,644	100	3,604	99
Total			10,246	100	9,718	95
IV. Offences of Negligence						
17. Professional Negligence causing Death or Bodily Injury			576,855	100	491,982	85
18. Simple Negligence causing Death or Injury			546	100	519	95
19. Fire caused by Negligence			4,828	100	4,314	89
Total			582,229	100	496,815	85
V. Miscellaneous						
20. Arson			702	100	748	107
21. Gambling			15,631	100	16,020	102
22. Kidnapping			224	100	178	79
23. Forgery and Counterfeiting			1,857	100	1,645	89
Total			18,414	100	18,591	101

the Police by Crime Categories 1973-1977

1975		1976		1977	
Number	Index	Number	Index	Number	Index
198,423	114	201,932	116	207,064	119
16,603	104	15,918	100	15,665	98
8,647	107	9,904	122	12,375	153
1,838	89	1,811	87	1,639	79
195	96	236	116	226	111
<u>225,706</u>	<u>113</u>	<u>229,801</u>	<u>115</u>	<u>236,969</u>	<u>118</u>
27,822	86	26,368	81	25,781	80
42,775	81	40,590	77	40,730	77
1,989	90	1,700	77	1,702	77
12,367	104	10,636	90	9,660	81
1,206	120	1,038	103	1,236	123
<u>86,159</u>	<u>86</u>	<u>80,382</u>	<u>80</u>	<u>79,109</u>	<u>79</u>
2,179	103	2,113	100	1,988	94
936	103	939	103	814	89
1,310	112	1,106	95	1,012	87
<u>4,425</u>	<u>106</u>	<u>4,158</u>	<u>99</u>	<u>3,814</u>	<u>91</u>
4,052	85	3,394	71	3,046	64
1,570	86	1,465	81	1,540	85
3,654	100	3,653	100	2,947	81
<u>9,276</u>	<u>91</u>	<u>8,512</u>	<u>83</u>	<u>7,533</u>	<u>74</u>
468,502	81	473,638	82	461,353	80
470	86	410	75	363	66
3,863	80	3,962	82	3,791	79
<u>472,835</u>	<u>81</u>	<u>478,010</u>	<u>82</u>	<u>465,507</u>	<u>80</u>
736	105	876	125	921	131
14,673	94	12,539	80	12,233	78
176	79	144	64	136	61
1,888	102	2,147	116	1,805	97
<u>17,473</u>	<u>95</u>	<u>15,706</u>	<u>85</u>	<u>15,100</u>	<u>82</u>

In 1977, of the major Penal Code offences known to the police, theft represented an increase of 23,645 from the figure of the previous year, followed by embezzlement with 2,221, while professional or gross negligence causing death or bodily injury showed a decrease of 7,126, and fraud decreased by 3,342. Among them, embezzlement showed the greatest rate of increase with 19.0%. On the other hand, rape (including that resulting in death or bodily injury), fraud, extortion, murder, assault, and professional or gross negligence causing death or bodily injury showed a downward trend.

For the purpose of a more detailed analysis of Penal Code offenders investigated by the police, they have been grouped under five headings, namely, Property Offences, Offences of Violence, Sex Offences, Offences of Negligence, and Miscellaneous.

Table 2 shows the trends of such offenders in which the 1973 figures are used as a base index of 100, and deviations annually up to 1977 are indicated. According to the table, the index of property offenders investigated by the police was 118 in 1977, influenced especially by indices of 153 in embezzlement and 119 in theft. The increase of embezzlement resulted principally from the conversion of lost articles, and the increase of theft was due to bicycle and motorbicycle thefts, shop-lifting, etc.

Heinous crimes (murder, robbery, robbery involving homicide, bodily injury, or rape) are on a downward trend, and non-heinous crimes such as assault, bodily injury, intimidation, etc., are also rather sharply decreasing.

Sex Offences are generally on a downward trend, and rape is especially on a sharply decreasing trend in the past five years.

Offences of Negligence are on a general downward trend, especially with the sharp decrease in 1977 of simple negligence causing death or injury.

Of other Penal Code offences, arson is on a sharply increasing trend, while gambling and kidnapping are on a downward trend.

B. Special Law Offences

1. Traffic Violations

Special law offences here are held to mean all those offences other than Penal Code offences. Thus they can be characterized as so-called "statutory crimes." The overwhelming majority of these offences has long been the violation of the road traffic laws, including all types, from drunken driving to illegal parking.

The trends in traffic violations, as reflected by the number of violators received in the Public Prosecutors' Offices, show a sharp increase since 1953. The total number of violators received increased from 2,832 in 1946 to 753,543

in 1953, and further to 4,965,062 in 1965. The percentage of traffic violators among the total offenders received in the Public Prosecutors' Offices increased sharply from 0.5% in 1946 to 43.9% in 1953 and to 83.8% in 1965.

The Government met this disproportionate increase of traffic violations with the adoption of a new system of Traffic Infraction Notification Procedure, a planned partial decriminalization of less serious violations. This procedure was brought into effect in July 1968. Thus the figures dropped sharply to 1,470,620 or 54.4% in 1969. However, a constant increase occurred in ensuing years and the number of such violators reached 2,461,388, 71.4% of all offenders received in the Public Prosecutors' Offices in 1977.

2. Other Special Law Offences

The number of violators of special laws other than traffic violators stood for 57.5% of the total offenders received in the Public Prosecutors' Offices in 1947. Most of them were violators of the Food Control Law and the Price Control Ordinance of that chaotic post-war period. The number of violators of other special laws has been decreasing since 1950 and it was 153,952 or 4.5% of the total in 1977. This number was 1,359 more than the number of the previous year. A great increase was observed in the number of violators of the Stimulant Drugs Control Law, the Hemp Control Law, the Regulating Any Business Affecting Public Morals. In respect to violators of the Public Security Ordinances and the Income Tax Law, a decreasing trend was observed.

C. Crimes Committed by Organized Violent Group Members

Organized violent groups, which extended their power through the economically disorganized period following the end of World War II, increased steadily in number. With the increased number of groups, there occurred many struggles between them resulting from conflicts of interests in raising funds. Through these struggles larger groups acquired controlling power over smaller groups and merged some of them into the organization of larger groups. In 1958, the numbers of organized violent groups and of their members were 4,192 and 92,860 respectively.

One of the tools to control their activities was a legislative measure. In 1958, new articles proscribing the intimidation of a witness and unlawful assembly with dangerous weapons were added to the Penal Code. The Law for Punishment of Acts of Violence was reformed in 1964 so as to make more strict control possible over organized violent groups. As a result of strict control many groups were dissolved and the arrests of group members totalled 43,303 in 1966, a sharp decrease from the 82,074 in 1956. The numbers of groups and group members have decreased since 1964 but they remain a menace

to society today.

Organized violent groups can be classified into gambling groups, street stallmen groups, and hooligans groups by the type of their activities and the characteristic feature of group members. In the ten years after 1955, activities of hooligans groups were most noticeable. Since 1965, gambling groups and violent street stallmen groups, which are tightly organized, have become more prominent.

One recent trend is that organized violent groups are extending power over wider areas by integrating smaller groups. In the process of integration many conflicts have occurred between groups. Consequently, group members have equipped themselves with more powerful weapons, and the number of weapons and the number of weapons seized from group members has increased yearly. In addition, illicit manufacture and smuggling of pistols conducted by group members have sharply increased in number. In 1977, the incidence of struggles between violent groups decreased to 28, 38 less than that of the previous year. But the struggles themselves became more severe. The number of guns seized from group members was the highest in 1976 since the World War II. In 1977, the number of remolded model guns seized from group members decreased as a result of an amendment of the Law Regulating the Possession of Guns and Swords. However, attention must be paid to the fact that the number of real guns seized increased. Recently, organized violent groups smuggle guns into Japan from Thailand, the United States, etc. and stimulant drugs from Hong Kong, Korea, etc. They secretly sell these illegally imported guns and stimulant drugs systematically on a large scale, and thus spread the sphere of their activities overseas as well as in Japan seeking more money. Moreover, with a view to raise their funds, organized violent groups have advanced their activities into intellectual crimes such as extortion by threatening to cause trouble at corporate stock holders meetings, and installation of slot machines, in addition to conventional activities such as gambling, bookmaking, and coercing schoolgirls and runaway girls into prostitution. They also operate money lending businesses and businesses as affecting public morals such as bars, cabarets, etc. Thus their activities have close relations with the lives and business activities of ordinary citizens.

In 1977, 57,351 violent group members were arrested, representing an increase of 928 more than that of the previous year. The crimes which increased markedly over the previous year were bodily injury, and unlawful armed assembly of Penal Code offences, and violation of the Stimulant Drugs Control Law and violation of the Law Regulating Any Business Affecting Public Morals. Of

the total offences committed by group members, bodily injury was the largest (19.6%), followed by violation of the Stimulant Drugs Control Law (14.0%), assault (11.9%), gambling (9.8%), extortion (7.9%), violation of the Horse Racing Law (5.9%), and violation of the Law Regulating the Possession of Guns and Swords (4.9%).

D. Violent Crimes Committed by Youthful Extremists

Violent crimes committed by radical ultraleftist groups started to increase at the end of 1967. The overwhelming majority of extremists were university students. The number of radicals apprehended by the police increased from about 6,600 in 1968 to 14,700 in 1969. Although, firm but flexible legislative and administrative measures against student unrest proved to be successful and most university campuses again became peaceful, and the number of apprehended students considerably decreased in 1970, such quantitative decrease does not indicate the dimensions of the problem. The weapons generally used by extremists in their offences have escalated from simple timbers and stones to Molotov cocktails and, further, to explosives. They not only continued to stage violent street demonstrations, but also attacked policemen, committed a bank-robbery and hijacked an airplane. Dreadful and cruel attacks on members of competing radical groups are often exchanged.

It is noteworthy that legislative efforts against gasoline bombs have proved very effective. The incident of a policeman on duty who was burnt to death by extremists in 1971 caused the Government to pass a new law which enabling the police to control the manufacture, possession and use of bombs composed of gasoline and otherwise not controlled materials. After the enactment of the Law for Punishing the Use of Glass-Bottle Grenade and the revision of Poisonous and Injurious Substance Control Law, in 1972, the use of such gasoline bombs has drastically decreased.

In 1977, the Public Prosecutors' Offices received 168 violators of the Law for Punishing the Use of Glass-Bottle Grenade, which was 129 more than that of the previous year. The principal reason for this increase was the demonstrations against the New Tokyo International Airport.

Because of power struggles and reorganizations movement violent fights (so-called "interfactional warfare") frequently in the past. In 1977, there were 41 such fights known to the police. This was 50 less than 1976 figure, and only 13.3% of the number in 1969 when such incidents occurred most frequently. Although the number of incidents has decreased recently, those which do occur have become more and more deliberate and premeditated, and the means and instruments employed in fighting have become even more brutal. Time and again

they have involved innocent passers-by.

As a result of the 41 incidents of interfactional warfare, 10 persons were killed and 46 persons were injured in 1977. A total of 63 suspects were received in the Public Prosecutors' Office for these fights, the number being 109 less than that of the previous year. Of these suspects, 59.1% were prosecuted.

One of the recent developments in the field of domestic terrorism is a series of time-bomb attacks on Japan's major corporations. Among the twenty-three actual and attempted bombing cases in 1974, were attacks on the head offices of Mitsubishi Heavy Industries, Mitsui & Company, Taisei Corporation, Kajima Corporation, and Teijin Central Research Institute.

In May 1975, the Metropolitan Police Department apprehended a group of eight extremists including two women, and seized weedkillers, mortars, travel clocks, and other bomb-making materials from the rooms of all the suspects. The arrested radicals formed the core of the "East Asia Anti-Japan Armed Front," which was made up of three subgroups: "Wolf," "Fang of the Earth," and "Scorpion." The subgroups acted independently or jointly in selecting business corporations as targets.

Though the recent figures do not indicate any remarkable increase in bombing cases, most cases are of serious enough nature to cause increasing anxiety within Japanese society. Therefore, a strict watch against bombing cases must be continued in the future.

Further, starting with the hijacking of the Japan Air Lines (JAL) jetliner "Yodo," and the subsequent escape of a group of Japanese terrorists to North Korea in March, 1970, Japanese have been involved in terrorist incidents in foreign countries practically every year. For example, there were the massacre at Tel Aviv Airport in May, 1972, the hijacking of a JAL airliner over the Netherlands in July, 1973, the attack on an oil refinery in Singapore in January, 1974, the seizure of the French Embassy in The Hague in September, 1974, and the attack on the American and Swedish Embassies in Kuala Lumpur in August, 1975. In those incidents, the Japanese terrorists claimed membership in the "Japanese Red Army." In Kuala Lumpur incident, the criminals shot one police officer to death and took 53 persons as hostages, including the American Consul and the Swedish Charge d'Affairs. They demanded the release of seven radicals, including members of the Japanese Red Army, from Japanese prisons. The Japanese Government released five of the seven, and permitted them to leave the country. In September, 1977, Japanese terrorists claiming membership in the "Japanese Red Army" hijacked a JAL jetliner flying over India with 151 passengers and forced it to land at Dacca Airport in Bangladesh. The Japanese

Government was compelled to pay six million U.S. dollars ransom and release six radicals who were in prison awaiting trial or serving their sentence.

To combat these crimes, the Japanese Government reviewed countermeasures thoroughly and the relevant laws were amended. For example, severe punishment was newly provided for the hijacker who takes passengers, etc. as hostages and illegally demands that a third party do what he or she is not obliged to do, and also for the person who introduces explosives, firearms, etc. into an airplane. Grounds for limiting the issuance of a passport were also broadened. Further efforts must be made to promote international cooperation to prevent these crimes.

One of the radical movements which drew attention recently was an aggravated attack on the New Tokyo International Airport. Repeated terrorist activities require the careful efforts of the police.

Furthermore, radicals have attacked and set fire to police, detention house, and court facilities, claiming revenge for the ruling of the Supreme Court in the so-called Sayama case, in which the Supreme Court rejected an appeal made by the defendant who was found guilty of a rape-murder. These struggles against the establishment show a dangerous tendency to expand and a strict watch is needed.

E. Offences Concerning Pollution

In 1977, the Public Prosecutors' Offices throughout Japan received a total of 6,574 violators of laws and regulations concerning control of pollution. This represents a decrease of 0.8% from the figures in 1976.

The most frequent violation was of the Law Controlling Disposition of Exhaustion and Environmental Disruption accounting for 59.9% of the total, which was followed by the violations of the Law for Prevention of Oceanic Pollution and Disaster at Sea (19.6%), the Water Pollution Control Law (8.2%), the Harbour Regulation Law (3.0%), and the River Law (3.0%).

Violations of laws concerning pollution control were severely acted upon by Public Prosecutors. The percentage of institution of public prosecution in such cases was 71.8% in 1977. This was a little higher than the average percentage of special laws, excluding the road traffic violation cases, which was 68.7%.

F. Crimes Committed by Government Officials

In 1977, the number of government officials referred to the Public Prosecutors' Offices, under charges other than traffic violations, was 19,563, which represented a decrease of 2.1% from the previous year. Of the total, 71.3% were charged with professional or gross negligence causing death or bodily injury.

In 1977, officials suspected of the crime of accepting a bribe amounted to 595, a decrease of 137 from the previous year. During five years from 1972 to 1976, bribery was most prevalent among local public service employees; members of local assemblies were the highest in number, followed by local public officials in the field of construction, and then local public officials in the field of agriculture and forestry.

66.8% of the total bribery cases disposed of by Public Prosecutors in 1977 were brought to trial. The ratio of suspended sentences to the total sentences rendered in bribery cases was 93.2% in 1976. This percentage has long been remarkably high.

G. Narcotic and Other Drug Offences

The post-war history of drug abuse in Japan can be divided into three periods:

(1) The stimulants period (1946 — 1956)

In the post-war turmoil of socio-economic chaos, stimulants abuse spread throughout the country. The Stimulant Drugs Control Law was enacted in 1951 to provide a basis for controlling stimulant drugs (amphetamine and methamphetamine). Japan preceded all other countries in the world in this attempt. Unfortunately, stimulant drug abuse did not cease and the number of offenders referred to the Public Prosecutors' Offices continued to increase, reaching a peak in 1954 (about 53,000 cases). The Government, accordingly, took comprehensive countermeasures. First, it amended the law in three respects: (a) expansion of the scope of control to include handling of raw materials such as ephedrine; (b) provision of higher penalties; and (c) establishment of a new system of compulsory hospitalization of addicts. It also carried out nation-wide educational campaigns to eradicate stimulant drugs abuse. As a result, the number of offenders referred to Public Prosecutors' Offices drastically decreased in 1956 and fell to only 265 cases in 1958, indicating almost completed eradication of these offences.

(2) The heroin period (1957 — 1964)

Like stimulant drugs, narcotic abuse gradually increased after the war and annual narcotic arrests numbered about 1,000 during the "stimulants period."

With the decrease of stimulants abuse, heroin abuse began to increase, reaching its peak in 1962 and 1963. The number of narcotic offenders referred to Public Prosecutors' Offices was about 3,700 in 1963. The number of heroin addicts was estimated at 40,000 in the peak years. This serious situation forced the Government to undertake integrated countermeasures against heroin abuse in 1963. These countermeasures were: (a) intensification of punitive provi-

sions by amending the Narcotics Control Law (for instance, the maximum penalty was raised to life imprisonment in case of illicit import of heroin for gain, etc.); (b) strengthening control agencies; (c) disbanding criminal organizations which were the core of illicit transaction of heroin; (d) establishment of a system of compulsory hospitalization for narcotic addicts; and (e) nationwide educational campaigns to publicize narcotic evils. As a result, the number of offenders decreased substantially to 1,771 in 1964, and it continued to decrease generally thereafter. The number of heroin addicts has also decreased year by year and now is estimated to be negligible.

(3) The diversified drugs period (from 1965 onward)

After 1965 only a small number of heroin addicts has been detected, even in the high delinquency areas of large cities in Japan. Thus, the countermeasures against heroin problems have proved to be effective. However, the abuse of hallucinogenic drugs such as cannabis and LSD and organic solvents such as thinners and glues has gradually been increasing among the younger generation. The number of cannabis cases referred to Public Prosecutors' Offices was 1,318 in 1977, a 24.5% increase over the previous year.

The abuse of organic solvents such as thinners and glues has become epidemic among teen-agers during the past several years. In 1971, about 50,000 youngsters were found to be abusing them, a 25 per cent increase over the previous year. Accidental deaths attributable to the abuse of these solvents were numerous (the peak year was 1969 when the number of accidental deaths reached 84). These grave consequences of "glue-sniffing" impelled the Government to take stringent countermeasures. Selling thinners and glues, knowing that they would be abused, as well as glue-sniffing itself has been outlawed since August 1972, when an amendment to the Poisonous and Injurious Substance Control Law was passed by the Diet. The overall effect of this amendment is yet to be seen. Although the number of glue-sniffing cases known to the police decreased remarkably in 1973, they again began to increase in 1974 and about 32,600 were reported in 1977.

As mentioned above, stimulants offences once seemed almost eradicated. In 1970, however, the number of these offenders suddenly rose to 1,905, two and a half times as many as in the previous year, and it has continued to increase, almost doubling every year until in 1973 when it reached about 11,000. This abuse, unlike that of the immediate post-war period, has spread to almost all localities throughout Japan, and even includes ordinary citizens such as housewives. This phenomenon is believed to be a reflection of prevalent pleasure-seeking habits probably related to rapid economic growth. It can also be related

to the escapism noticeable among certain sections of the younger generation. This sudden revival of stimulants abuse is also attributed to organized gangsters intending to get unlawful funds for their organizations by illicit transactions in stimulant drugs. To cope with this growing problem, the following amendments were made to the Stimulant Drugs Control Law in 1973: (a) intensification of control over raw materials of stimulant drugs; (b) consolidation of punitive provisions and making statutory penalties heavier, including life imprisonment. Law enforcement agencies continue rigorous control based on their successful experiences before. Even in the case of a simple offence such as possession of a small quantity of drugs, the authorities never fail to investigate the case thoroughly in order to uncover the boss of the organization which was the source of the stimulant drugs and to punish him severely. This is called the "Up to the Top" operation in Japan. The overall effects of these amendments are yet to be seen. Stimulants offences did decrease from 11,030 in 1973 to 7,635 in 1974. However, they remarkably increased to 13,287 in 1975, and to 23,711 in 1977, the highest during the last ten years. In 1977, 367 offenders committed such heinous offences as assault and bodily injury, murder, rape, and arson, etc. under the influence of stimulant drugs, causing great social concern. Profits obtained through the dealing with stimulant drugs are considered an important financial source for gangsters and transaction in such drugs are being conducted through more shrewd and sophisticated techniques than before.

Thorough investigation, speedy and severe punishment, and enlightenment of the public are required more than ever to cope with drug problems successfully.

H. Mentally Disturbed Offenders

In 1977, of a total of 243,945 adult non-traffic Penal Code offenders, 2,189 or 0.9% were mentally disordered or suspected to be mentally disordered. The most common offence committed by such offenders was theft (1,226). However, the ratio of such offenders in adult non-traffic Penal Code offenders was conspicuously high in arson (16.7%) and murder (8.2%). Those who were acquitted or not prosecuted because of insanity in the District Courts of District Public Prosecutors' Offices, and those whose sentences were mitigated in the District Courts because of their mental state, totalled 594 persons. Of this total, 30.3% were accused of murder, 16.8% of arson, 17.0% of assault and bodily injury.

Examination of these 594 persons by psychiatrists showed that 307 (51.7%) were suffering from schizophrenia and 54 (9.1%) were alcoholic. Of these 594 persons, 296 (49.8%) were compulsorily hospitalized under the Mental Health

Law.

The ratio of mentally disordered offenders in prisons and juvenile training schools was 10.7% and 9.5% respectively. Medical treatment, occupational therapy, psychotherapy, and other treatment are given to them.

It should be noted here that, in May 1974, the Legal System Council, a permanent advisory board to the Minister of Justice, recommended an overall revision of the Penal Code. Its proposed draft included two kinds of security measures (curative and abstinence measures) for mentally disordered offenders.

I. Crimes Committed by Foreigners and Crimes Committed by Japanese in Foreign Countries

Out of 528,859 offenders whom the Public Prosecutors' Offices received in 1977, foreigners numbered 26,558 (5.0%). Both the number and the percentage decreased from the previous year.

The crimes in which the ratio of foreigners was high were violations of such special laws as the Aliens Registration Law, the Immigration Control Order, the Customs Law, the Hemp Control Law, and the narcotics Control Law. The ratio of foreigners in these offences was ranging from 99.0% to 17.6%; however, the ratio of foreigners charged with Penal Code offences was only 2.7%.

As for crimes committed by Japanese in foreign countries in 1977, the National Police Agency received notice of 114 cases through ICPO or the Ministry of Foreign Affairs. This represents about 5 times as many as those in 1968, in which it was only 23. The most common offences committed by Japanese in foreign countries were those relating to narcotics or stimulant drugs (21.1%), followed by customs and exchange control (18.4%). 21.9% of these offences were committed in Korea, 14.9% in America, 10.5% in England, and 7.9% in Thailand.

J. Female Offences

1. General Trends

In contrast with the decreasing trend of male offenders, the total number of 68,919 female non-traffic Penal Code offenders investigated by the police in 1977 is a 1,643 increase over that of the previous year. The ratio of female offenders to all offenders was 13.6% in 1972, which increased to 19.0% in 1977. Further, the rate of female offenders per 1,000 criminally responsible female population has been moving upward for these five years, namely from 1.2 to 1.5. Table 3 compares the number of males and females investigated by the police and the percentage of female to the total offenders.

Of the total Penal Code offences committed by female offenders in 1977,

theft was the largest standing for 87.2%, 1.1% higher than in 1976, while the corresponding rate of theft committed by males was 50.0%, 0.7% more than the previous year. Those offences which show high rates of female offenders to the total offenders were infanticide (92.1%), participation in suicide (36.0%), theft (29.0%), killing an ascendant (19.6%), homicide (14.1%) and arson (11.6%).

In 1977, a total number of 25,074 female violators of special laws other than traffic were received in the Public Prosecutors' Offices. This number was 4,682 higher than the previous year. The breakdown of the number of above violators by offences is as follows: 6,521 (26.0%) violated the Law Regulating Any Business Affecting Public Morals; 4,759 (19.0%), the Public Election Law; 2,187 (8.7%), the Stimulant Drugs Control Law; 2,146 (8.6%), the Poisonous and Injurious Substance Control Law; and 1,948 (7.8%), the Anti-Prostitution Law.

Table 3. Number and Rate of Non-Traffic Penal Code Offenders Investigated by the Police by Sex, 1973-1977

Year	Female		Male		Rate of Female **
	Number	Rate*	Number	Rate*	
1973	51,133	1.2	306,605	7.5	14.3
1974	58,261	1.3	305,048	7.4	16.0
1975	61,432	1.4	302,685	7.2	16.9
1976	67,276	1.5	292,084	6.9	18.7
1977	68,919	1.5	294,225	6.9	19.0

* Rate per 1,000 corresponding population of fourteen years old and older.

** Rate of females to the total offenders.

2. Treatment of Female Offenders

There are three types of institutions for treating female offenders, i.e. Women's Prison, Training School for Girls, and Women's Guidance Home. In each institution, various kinds of rehabilitative programs such as educational and vocational training, social and religious guidance, and recreational activities are provided to fit the needs and characteristics of female offenders. In 1977, the number of females newly admitted to these institutions was 616 for Women's Prisons, 330 for Training Schools for Girls, and 18 for Women's Guidance Home. Except for the last, these are slightly higher than the totals for 1976. The total number of female probationers and parolees received by the Probation Offices throughout Japan has been stable for several years; it was 2,022 except for juveniles on short traffic probation in 1977.

K. Road Traffic Offences

1. General Trends

(1) Present Situation and Background of Traffic Offences

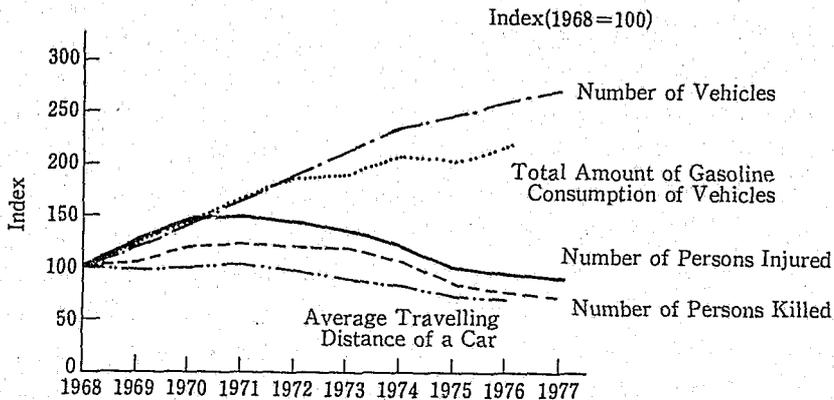
Since World War II, the number of registered vehicles has increased year after year. In 1977, the number of automobiles reached about 32,850,000, an increase of 2,390,000 over the previous year to 2.4 times the number 10 years ago. The number of drivers has likewise grown; it has reached about 37,020,000, approximately half of the population over sixteen years of age.²⁹ Figure 2 shows the trends in the incidence of traffic accidents, casualties in such accidents and numbers of vehicles (automobiles and motor-cycles), the totals in 1968 being reckoned as the index of 100. It is observed that in 1977, the number of traffic accidents as well as the number of the casualties decreased in spite of an increase in the number of vehicles. In the same year, the number of traffic accidents causing death and bodily injury was 460,649, down 2.2% from the previous year, the number of fatalities in traffic accidents was 8,945, down 8.1% and the number of persons injured was 593,211, down 3.4%. However, since the number of fatalities per day amounted to 24.5 and the persons injured to 1,625.2, it must be said that the present situation in regard to traffic offences is still serious.

Regarding the type of accidents, car to car accidents were the most frequent. They amounted to 71.2% of the total in 1977.

In comparison with America, England, West Germany and France, Japan has attained a great diffusion of motor-vehicles in the past fifteen years, population per automobile decreasing from 50.7 persons in 1960 to 4.2 in 1974, which was comparable to 1.7 in America, 2.8 in France and 3.5 in both England and West Germany in the same year. The motor vehicle accident fatality rate increased from 1960 through the late 1960's or early 1970's and then began to decrease in Japan and these countries, except England, which experienced no marked fluctuation. The fatality rate per 100,000 population in 1975 was 24.9 in France, the highest among these countries, followed by 24.0 in West Germany, 21.8 in America, 12.8 in Japan and 11.7 in England. The fatality rate per 10,000 automobiles in 1974, however, revealed a different order, i.e., 5.9 in Japan was ranked third, following 8.1 in West Germany and 7.2 in France, being higher than 4.4 in England and 3.6 in America.

²⁹Age for licensing is 16 for motorcycles and specified types of compact cars, 18 for ordinary cars, and 21 (plus driving experience for three years or more) for such big vehicles as fleet trucks.

Figure 2. Trends in Numbers of Vehicles, Casualties, and Incidence of Traffic Accidents, 1967-1976



(2) Trends in the Road Traffic Law Violations

In 1977, the total number of violations of the Road Traffic Law was 12,470,100, an increase of 633,850 or 5.4% over the previous year. The most frequent violation was speeding standing for 43.5% of the total, followed by illegal parking (14.7%), disregarding special restrictions (8.8%) and negligence in stopping (6.1%). The number of hit and run cases was 31,713 (1,260 more than in the previous year); the number of casualties in such cases was 36,528 in 1977. The ratio of hit and run cases to the total number of casualties in traffic accidents was 6.1%.

(3) The Operation of the Traffic Infraction Notification System

The Traffic Infraction Notification Procedure, or the traffic infraction ticket system, was introduced in July 1968 to ease the heavy workloads caused by the sharp increase in traffic violations. This system also aims at avoiding stigmatizing millions of traffic violators as criminals, since a minor traffic violator may be exempted from prosecution if he pays a "non-penal fine" within a specified time. Those who have failed to pay the fine will be referred to the Public Prosecutors' Office for possible prosecution. In 1977, this system was applied to 10,358,825 or 83.1% of the total number of violators of the Road Traffic Law.

The system was expanded in August 1970 to cover juvenile traffic violators. In 1977, this system was applied to 915,387 (or 77.6%) juvenile violators of the Road Traffic Law. Since less than 5% of the total violators notified by the police failed to pay the non-penal fine in the last several years, it seems safe to assert that the Traffic Infraction Notification Procedure has been operating very successfully ever since its establishment.

2. Prosecution and Trial of Traffic Offences

(1) Prosecution of Traffic Offences

In 1977, the number of suspects received by the Public Prosecutors' Offices for professional or gross negligence causing death or bodily injury (almost all of whom caused traffic accidents) was 460,262, a decrease of 14,807 below the previous year. This number still constituted 55.3% of the total Penal Code offenders received by prosecutors in 1977. Violators of the Road Traffic Law received in 1977 was 2,374,802, an increase of 235,416 over the previous year.

The rate of prosecution against traffic offenders was 68.3% in cases concerning professional negligence causing death or bodily injury, 36.8% in gross negligence causing death or bodily injury, and 97.3% in the Road Traffic Law violation. A summary order was requested in 96.4%, 85.5%, and 99.4% of these categories of cases, respectively. As a result, the rates of prosecution for public trial through a formal procedure in these cases were only 3.6%, 14.5%, and 0.6%, respectively.

(2) Trial of Traffic Offenders

The number of persons found guilty for professional or gross negligence causing death or bodily injury had increased yearly until 1970 when it reached 454,366. This figure dropped, however, to 295,531 in 1976. Of those convicted persons, 4,248 were sentenced to imprisonment with labor, 1,415 or 33.3% of which were actually imprisoned, while the remainder had their sentences suspended. Of 5,890 offenders sentenced to imprisonment without labor, 1,031 or 17.5% were imprisoned, while the remainder had their sentences suspended. The length of sentence was relatively short for both categories of imprisonment, with approximately 70% of them ranging from six to twelve months. Regarding fines, the number of fines imposed for professional or gross negligence causing death or bodily injury was 285,393 in 1976. As to the amounts of fines imposed through Summary Orders 75.0% of offenders for professional negligence causing death were punished by fines ranging from 50,000 yen to less than 200,000 yen, and 23.6% of the total were fined 200,000 yen, whereas 55.4% of offenders for professional negligence causing bodily injury were given fines ranging from 30,000 yen to less than 100,000 yen.

3. Juvenile Traffic Offenders

Because of the minimum age limit to obtain a driver's license and the fairly limited opportunities for driving, the percentage of juveniles among traffic offenders has been relatively low. Table 4 indicates the number and percentage of juveniles among the total traffic offenders received in the Public Prosecutors' Offices or known to the Police. The large proportion of juveniles among gross

(not professional) negligence offenders is explained by the extremely high rate of non-licensed drivers among juvenile traffic violators. Of the total juvenile violators of the Road Traffic Law, those driving without license were 7.4% in 1977 in comparison with the rate of 1.3% for adult violators.

Table 4. Juvenile Traffic Offenders, 1973-1977

Year	Case Referred to the Public Prosecutor				Known to the Police	
	Professional Negligence Causing Death or Bodily Injury		Gross Negligence Causing Death or Bodily Injury		Violation of the Road Traffic Law	
	Total	Juvenile(%)	Total	Juvenile(%)	Total	Juvenile(%)
1973	584,965	57,762(9.9)	1,412	456(32.3)	8,069,481	769,099(9.5)
1974	494,429	49,099(9.9)	1,327	332(25.0)	8,833,472	809,277(9.2)
1975	469,632	46,697(9.9)	1,317	399(30.3)	10,158,709	915,694(9.0)
1976	473,732	45,772(9.7)	1,337	338(25.3)	11,836,250	1,048,629(8.9)
1977	458,775	45,278(9.9)	1,487	328(22.1)	12,470,100	1,180,163(9.5)

Of the juvenile traffic cases disposed of by Family Courts in 1976, 16.5% of the professional or gross negligence cases and 19.6% of the Road Traffic Law violation cases were referred back to the Public Prosecutors for possible prosecution. Also, 74.2% of the professional or gross negligence cases and 75.6% of the Road Traffic Law violation cases were discharged by the Family Court either with or without a court hearing, and 9.1% of the professional or gross negligence cases and 4.7% of the Road Traffic Law cases were placed under probationary supervision.

II. International Comparison of Crime Trends

International comparison of crime trends has been made among the developed countries with high economic growth, including the U.S.A., England, West

Table 5. Rates of Major Crimes Known to the Police per 100,000 Population in Developed and Developing Countries' Groups, and Japan, 1970-1975*

Crime	Group	Developing Countries' Group	Developed Countries' Group	Japan
Homicide		5.1	2.7	2.1
Assault		253.1	115.3	49.9
Sex Offence		24.3	24.0	5.8
Kidnapping		1.2	0.2	0.2
Robbery		58.8	33.3	2.1
Theft		354.3	1,370.5	927.3
Fraud		30.1	136.4	45.7

* The figures are based on UN Report on CRIME PREVENTION AND CONTROL, 1977.

Germany, Japan, etc., and among the developing countries with low economic growth covering much of Asia, South America, and Africa. Table 5 shows the rates of major crimes known to the police between 1970 to 1975.

The table shows that the developed countries' group has suffered from the highest rate of theft, followed by fraud and assault cases, while Japan, except for theft cases, has been enjoying lower rates and decreasing trends among major Penal Code offences, especially with the very low rates for robbery, assault, and sex offences. The developing countries have suffered from high rates of heinous crimes, such as homicide, robbery, and assault, but have enjoyed rather low rates for economic crimes, such as theft and fraud. The disparities in the rates of crime occurrence in the above groups might be due to difference in substantive law and procedure, effectiveness of law enforcement, efficiency of information gathering system on criminal statistics, etc. between individual countries.

A couple of facts may be pointed out on the reasons for the low and decreasing crime rate in Japan. First, Japan may be considered as one centralized country with a single race and with a common socio-economic and cultural backgrounds. This has saved Japan from crimes caused by serious racial issues, such as economic insecurity, subordination, or incomplete participation. Second, the postwar economic growth, with physical security as well as with high educational levels, has given many potential criminals the chance to live peacefully without ever coming into contact with the law. Third, informal social control through family, school, and community have traditionally been effective in Japan where there has been a great emphasis on such ties in preventing and controlling crime problems. Fourth, the formal control through criminal justice system has been highly efficient in dealing with crime and criminals.

A grave concern has been expressed in the U.S.A. as to the weakening of family ties and of social solidarity in the community which has been characterized by the increase in urban slums of negroes. In Japan, on the other hand, there have been strong ties between people within family and community. Wide and strong public cooperation and participation has actually been seen in many aspects of criminal justice. Besides, Japan has had a much higher percentage of police solution of crimes and conviction of criminals in comparison with other countries. It is said that such swift and certain apprehension and punishment have been effective in deterring crimes. Further, it should be mentioned that the control of firearms has been very strict in Japan as compared with America, West Germany, England, and France. The rate of armed robbery or homicide committed with firearms is remarkably high in those countries, while in Japan the inability to procure suitable firearms with which to commit such crimes strongly discourages persons prone to commit them.

PART TWO: TREATMENT OF OFFENDERS

I. Prosecution and Trial

A. Prosecution

1. Reception of Cases

In 1977, Public Prosecutors' Offices throughout Japan received³⁹ a total of 3,447,464 suspects, of whom 832,124 or 24.1% were Penal Code offenders, 2,461,388 or 71.4% were the violators of the Road Traffic Law and 153,952 or 4.5% were the violators of all other special laws. This total was 212,372 more than that of 1976.

A detailed comparison of 1977 figures with those of 1976 reveals the following: the number of persons suspected of Penal Code offences in 1977 decreased 20,308 from the previous year. On the other hand, the number of suspects of Road Traffic Law violations increased by 231,321 in 1977. This increase would be a reflection of the increase in the number of motor vehicles and the policy of increasingly more strict law enforcement. The number of persons suspected of other special law offences increased by 1,359 in 1977.

Of all the Penal Code offenders received in the Public Prosecutors' Offices in 1977, those suspected of professional or gross negligence causing death or bodily injury accounted for 55.1%, and the vast majority of these were automobile accidents. This group was followed by persons suspected of theft (22.5%), injury and assault (7.6%), and fraud (2.7%).

It should also be noted that in 1977, of a total of 527,229 non-traffic suspects who were investigated and disposed of by the Public Prosecutors, only 23.4% were arrested, while the remainder produced themselves on a voluntary basis. Of those suspects investigated by the Public Prosecutor, 89,164 or 16.9% were detained prior to prosecution, and 73.6% of the suspects thus detained were confined for less than ten days.⁴⁰ In 1977, 74.2% of those detained were pro-

³⁹The responsibility for criminal investigation is vested by law with the police, the Public Prosecutor and his assistants. However, after having conducted an investigation of a crime the police must send the case with all documents and evidence to the Public Prosecutor (Article 246, Code of Criminal Procedure), and only the Public Prosecutor has the power to institute prosecution (Article 247, Code of Criminal Procedure). As of April 1, 1977, there were 1,173 Public Prosecutors and 919 Assistant Public Prosecutors assigned to a total of 634 Public Prosecutors' Offices of four different levels distributed among eight major administrative regions.

⁴⁰The initial period of detention is, in principle, ten days. However, an extension of detention not exceeding ten days, and still another of five days for certain serious crimes, may be made by a court upon separate application by the Public Prosecutor (Article 208, 208-2, Code of Criminal Procedure).

secuted. The number of the arrested persons has fluctuated slightly in recent years.

2. Disposition of Cases

The total number of suspects disposed of at the Public Prosecutors' Offices in 1977 was 4,730,294 which represented an increase of 291,113 over the previous year. Excluding the transfer of cases from one Office to another, the total was 3,518,755. The breakdown of the disposition of these cases was as follows:

Prosecution	2,724,840 (77.4%)
Non-prosecution	348,571 (9.9%)
Referral to Family Court	421,798 (12.0%)
Stay of Disposition	23,546 (0.7%)

Of the total number prosecuted 142,459 (5.2%) were prosecuted through formal public trial procedure, 2,580,610 (94.7%) through summary order⁹⁾ procedure and 1,771 (0.1%) through summary trial proceedings for minor traffic violation cases.

B. Trial

1. Outline of Final and Conclusive Judgement

The total number of accused who received final and conclusive judgements in 1977 was 2,642,766, an increase of 204,172 over 1976. Of those accused, 2,537,090 (96.0%) were sentenced to fines, 70,007 (2.6%) to imprisonment with labour, 5,540 (0.2%) to imprisonment without labour, and 26,212 (1.0%) to minor fine, while 219 or 0.01% were found not guilty. Convictions were obtained in 99.99% of all individuals brought before the courts. This rate of convictions has been generally stable in recent years.

Table 6 shows the trends in final court judgements during the period from 1973 to 1977.

2. Penalties Imposed

There has been a tendency in Japan to impose terms of imprisonment with or without labour that are relatively short. In 1977 slightly more than half (53.1%) of the accused received final and conclusive sentences of one year or less, followed closely (37.5%) by sentences of more than one year but less than

⁹⁾This is an order given by a Summary Court following informal criminal action initiated by a Public Prosecutor with the consent of the accused. The court considers and decides the case on a file prepared by the Prosecutor, without public hearings or hearing any evidence from the defendant. The Court cannot, however, impose a sentence heavier than a fine of 200,000 yen (approximately 240 yen is equivalent to U.S. \$1, as of January, 1978). Upon being notified of the disposition by the court, the defendant, if he wishes, may request a formal trial. If a formal trial is not requested by the defendant within two weeks of the receipt of such notification, the summary court order becomes final.

three years. This means that 90.6% of the persons committed to prison had received sentences of imprisonment with labour of less than three years. The use of short sentences is even more pronounced in the case of imprisonment without labour where 87.2% received sentences of one year or less.

C. Speedy Trial

Article 37 of the Constitution of Japan guarantees the accused the right to speedy trial, while by Article 1 of the Code of Criminal Procedure a fair speedy trial is also provided for as one of the basic principles of the criminal procedure.

The time taken from the institution of prosecution to its disposition by the courts of first instance⁹⁾ was as follows: Of the total number of accused disposed

Table 6. Trends in Dispositions by Courts 1973-1977

Judgements	1973	1974	1975	1976	1977
Death	4 (0.0)	2 (0.0)	3 (0.0)	2 (0.0)	2 (0.0)
Imprisonment with Labour	60,503 (2.9)	59,060 (2.8)	63,280 (2.9)	69,702 (2.9)	70,007 (2.6)
Imprisonment Without Labour	9,224 (0.4)	7,499 (0.4)	5,912 (0.3)	6,008 (0.2)	5,540 (0.2)
Fine	2,032,758 (95.9)	2,040,673 (95.8)	2,123,181 (95.8)	2,335,579 (95.8)	2,537,090 (96.0)
Temporary Penal Detention*	67 (0.0)	66 (0.0)	62 (0.0)	102 (0.0)	86 (0.0)
Minor Fine	12,395 (0.6)	17,767 (0.8)	20,014 (0.9)	23,469 (1.0)	26,212 (1.0)
Not Guilty	464 (0.0)	430 (0.0)	335 (0.0)	318 (0.0)	219 (0.0)
Dismissal of Public Prosecution	4,079 (0.2)	3,553 (0.2)	3,344 (0.2)	3,397 (0.1)	3,603 (0.1)
Acquittal & Others	64 (0.0)	31 (0.0)	14 (0.0)	17 (0.0)	7 (0.0)
Total	2,119,558 (100.0)	2,129,081 (100.0)	2,216,145 (100.0)	2,438,594 (100.0)	2,642,766 (100.0)

* Temporary penal detention shall consist of confinement in a penal detention house for one day or more but less than 30 days (Article 16, Penal Code).

** A fine shall be not less than 4,000 yen. A minor fine shall be 20 or more yen but less than 4,000 yen (Article 15 and 17, Penal Code, Article 2, Law of Temporary Measures Concerning Fine and Others).

*** Figures in parentheses show percentages.

⁹⁾ Summary Courts and District Courts are first instance trial courts and there are 50 District and 575 Summary Courts in Japan. The District Courts handle all cases in the first instance except those specifically coming under the jurisdiction of other courts. The Summary Courts handle minor cases and may impose imprisonment with labour not exceeding three years in certain specific cases enumerated by law.

A party who is not satisfied with the decisions rendered by trial courts of the first instance, may appeal to the High Court as reviewing court. Appeal may be made from the decisions of the High Court, provided that certain reasons prescribed by law exist. This second appeal is to the Supreme Court of Japan which is the highest court and the court of last resort, with power to determine the constitutionality of any law, order, regulation or official act

of by the District Courts, the percentage of those disposed of within six months was 82.9% in 1976 (80.1% in 1975) and 93.4% within one year (91.7% in 1975). In the Summary Courts, 91.7% of the cases were disposed of within six months (90.9% in 1975), and 96.8% within one year.

The details of the interval between the institution of the prosecution in the first instance court and disposition by the High Courts in 1976 were as follows:

six months or less	17.8%
one year or less	46.3%
three years or less	24.6%
over three years	9.1%
over seven years	2.2%

The percentage of the accused disposed of within one year amounted to 64.1%. As to the interval between the date of institution in the first instance court and the final disposition by the Supreme Court, 31.6% of the accused were disposed of within one year, and 71.4% were within two years.

D. Suspension of Prosecution and Suspension of Execution of Sentence

1. Suspension of Prosecution

A Public Prosecutor is empowered to suspend prosecution at his discretion. He may suspend prosecution even if the evidence of the offence is sufficient, if he believes it to be in the best interests of society and the offender to do so, after a careful review of the character, age, and situation of the offender, the gravity of the offence, the circumstances under which the offence was committed, and conditions existing subsequent to the commission of the offence (Article 248, Code of Criminal Procedure). Thus the exercise of discretionary power by a Public Prosecutor may be based on criminological considerations which aim at the rehabilitation of the offender by avoiding stigmatization as a criminal.

The system of suspension of prosecution originated from the function of a Public Prosecutor to request the investigation of crime, but not to make it himself, which was in practice under the ministerial order of Minister of Justice of 1885. The practice was gradually strengthened to the extent that he could make a thorough investigation and it has continued to expand to the present system. In other countries, the system has been in use legally or practically, but the use of the system in these countries is rather limited in comparison with Japan. Because of the recent frequent occurrence of heinous crimes in Japanese society, however, the rate of suspension of prosecution is on a downward trend in general.

Of all decisions of non-prosecution made by Public Prosecutors in 1977, 283,412 or 81.3% of the total non-prosecution cases were based on this discretion, while 44,601 or 12.8% were based on insufficiency of evidence and 20,558 or 5.9% were for such other reasons as death of the suspect or withdrawal of complaint. Table 7 shows percentage of suspension of prosecution by five categories in recent years.

Table 7. Percentage of Suspension of Prosecution, 1972-1977

Year	All Offences	Penal Code Offences(All)	Penal Code Offences (Non-traffic)	Traffic Violation	Other Special Law Offences
1972	14.3	30.6	38.4	4.1	35.4
1973	13.6	31.8	40.4	3.7	36.2
1974	12.6	33.3	41.6	3.0	36.2
1975	11.7	32.2	38.1	2.7	34.5
1976	10.0	30.6	36.4	2.5	26.8
1977	9.4	30.8	37.2	2.3	28.3

2. Suspension of Execution of Sentence

The system of suspended execution of sentence was first introduced in Japan by the "Law Relating to Suspension of Execution of Sentence of 1905," and was incorporated in the present Japanese Penal Code of 1907. By several amendments of the Code thereafter, its use was expanded by broadening the eligibility for suspension.⁷⁾ Thus, the number of suspended sentences has increased yearly.

In 1977, of the 70,007 persons who received final judgements of imprisonment with labour, 41,794 or 59.7% (60.3% in 1976) received suspension of execution of sentence while, of the 5,540 persons who receiving final sentences of imprisonment without labour, 4,742 or 85.6% (84.3% in 1976) were granted suspensions.

Of those persons who were sentenced to fines by either summary order or by summary trial proceedings in 1976, 62.5% (64.2% in 1975) were fined more than 10,000 but less than 50,000 yen. By partial amendment to the Law for Temporary Measures Concerning Fine, the Maximum amount of fine that may be imposed either by summary order or by summary trial proceedings has been raised from 50,000 to 200,000 yen. In 1976, 190,945 persons or 8.1% of the total were fined more than 50,000 yen. The rate of suspension of sentence in the case of fines was only 0.001%.

⁷⁾For example, any first offender who receives a sentence of imprisonment of three years or less may be granted suspension of his sentence by the Court. The accused who was convicted of an offence but who has not been sentenced to imprisonment within five years from the time of completion or remission of the execution of the former sentence completed or remitted, may again be granted a suspended sentence (Article 25, Penal Code).

The courts revoked the suspension of 4,573 or 11.2% of the total 40,699 suspended sentences (excluding the sentences to the Road Traffic Law) in 1977.

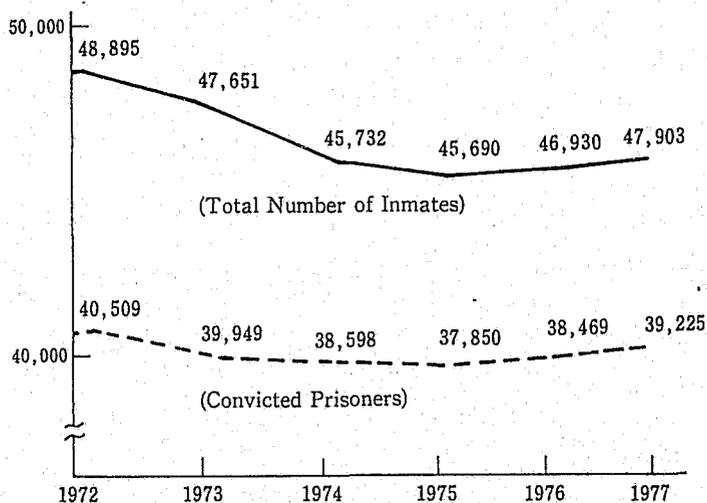
II. Correctional Institutions

Correctional institutions are not only a place where penalties imposed by courts are carried out but a place where offenders may learn the attitudes and skills needed for a successful community reintegration upon release. Since 1948, in order to make this dual purpose apparent, juvenile training schools and juvenile classification homes as well as penal institutions such as prisons and detention houses have been referred to as "correctional institutions." In Japan, there are seven major detention houses in the larger cities, 105 branch detention houses in smaller cities, fifty-eight main prisons, nine branch prisons, and nine juvenile prisons.

A. Average Daily Population

The average daily population of correctional institutions in 1977 was 47,903 an increase of 973 over the previous year. Included in this 47,903 were 1,207 females or 2.6% of the total. Limiting the average daily census to sentenced prisoners, the figure is reduced to 39,225 which was 756 more than the daily average sentenced prison population in 1976. The trends in the average daily population in the last six years are shown in Figure 3.

Figure 3. Trends in the Average Daily Population in Penal Institutions, 1972-1977



B. Admissions and Releases

In 1977, a total of 4,361 persons were admitted to all types of penal institutions. Of this number (22,284 were initially admitted as suspects; 15,455 of

them became defendants while in the institutions, 35,363 were initially admitted as defendants.

Consequently, only a relatively small number of persons were initially admitted as convicted prisoners.

The total number of admissions as convicted prisoners in 1977 was 27,680. Of this number, women accounted for 616 or 2.2%. The annual admission of convicted prisoners has been on a downward trend with some fluctuations since 1948 when there were 70,694 persons admitted as convicted. The figure for 1977 showed an increase of 284 from the 1976 figure.

Of the total such admissions in 1977, the age-group of 30—39 comprised 37.0%. Prisoners in their 20's have been decreasing year by year, while those in their 40's are on an increasing trend. A total of 26,868 or 97.1% were sentenced to imprisonment with labor and 795 or 2.9% were sentenced to imprisonment without labour. Of persons sentenced to imprisonment with labour, 51.2% had a sentence of one year or less; 28.2% had over one year but no more than two years; 10.6%, over two years but no more than three years; 9.7%, over three years; and 0.2%, a life term. Of these new admissions as convicted prisoners, 41.6% were serving a prison sentence for the first time; 18.0%, the second time; 12.1%, the third time; 8.1%, the fourth time; 5.6%, the fifth time; while 14.5% had a history of serving more than five sentences. Of the 11,510 first termers, 9.9% had once been retained in a Juvenile Training School and 4.5% had previously been under probation. Of the same total, 48.6% had previously received a suspended prison sentence.

The breakdown of offences for which these prisoners were newly convicted shows that theft was the largest single offence, amounting to 32.2% of the total. Next came violation of the Stimulant Drugs Control Law (12.3%), followed by bodily injury and assault (9.5%), professional negligence causing death or bodily injury and fraud (7.4% each), and violation of the Road Traffic Law (6.1%).

In 1977, a total of 27,090 prisoners were released from prisons or detention houses. Of this total, 14,381 persons or 53.1% were released on parole, and 12,709 persons or 46.9% were discharged at the expiration of full term.

C. Treatment of Convicted Prisoners

1. Classification

Upon admission all inmates receive a general orientation to institutional life as well as further investigation and classification to determine both a suitable institution and an appropriate treatment programme.

In view of recent development in treatment techniques and the increasing

need to provide for more effective treatment for prisoners, a new classification system was established under an administrative rule entitled the "Prisoners Classification Rules" which was enacted in April 1972. The main features of the new system can be summarized as follows: (1) A specially equipped and staffed prison in each of the eight Correction Regions was designated as classification center of the region. (2) Definitions of the classification categories were clarified. (3) New classification categories for the treatment of prisoners were introduced.

The major classification categories under this system are as follows:

(1) Categories for Allocation

a) Categories by sex, nationality, kind of penalty, age and span of the term of imprisonment

(Sex)

Class W: Female

(No designation of class is made for male)

(Nationality)

Class F: Foreigners who need treatment different from that for Japanese

(No designation of class is made for Japanese and other foreigners)

(Kind of Penalty)

Class I: Imprisonment without labour

(No designation of class is made for imprisonment with labour)

(Age)

Class J: Juveniles under twenty years of age

Class Y: Young adults under twenty-six and not less than twenty years of age

(No designation of class is made for adult of twenty-six years of age and older)

(Span of the Term of Imprisonment)

Class L: Long termers (not less than eight years)

(No designation of class is made for short and medium termers)

b) Categories by degree of criminal tendency

Class A: Those whose criminal tendencies are not so advanced

Class B: Those whose criminal tendencies are advanced

c) Categories by mental and physical disorder

- Class Mx: Those who are mentally retarded or who need the same treatment as that for mentally retarded persons
- Class My: Those who are psychopathic or who are recognized as having a considerable psychopathic tendency
- Class Mz: Those who are psychotic or who are recognized as having a considerable psychotic tendency, those who are seriously neurotic, those who are suffering from confinement reaction, and those who are addicted to a drug or alcohol
- Class Px: Those who are physically disordered, pregnant, or have just given birth, and are in need of medical treatment or care for a considerable period of time
- Class Py: Those who are physically handicapped and in need of special treatment and those who are blind, deaf or dumb
- Class Pz: Those who are above sixty years of age and generally recognized as having considerable senile symptoms and those who need special treatment due to weak constitution

(2) Categories for Treatment

a) Categories by specially required treatment

- Class V: Those who need vocational training
- Class E: Those who need academic education
- Class G: Those who need social education or living guidance
- Class T: Those who need specialized therapeutic treatment

Table 8. Percentage and Real Number of Prisoners in Classification Categories, as of 31 December of 1975-1977

Categories	1975	1976	1977 (Real Number)
A	17.8	18.6	19.4 (7,746)
B	49.7	51.7	53.1 (21,166)
F	0.4	0.3	0.3 (119)
I	1.5	1.4	1.0 (408)
J	0.2	0.2	0.1 (40)
L	7.1	6.6	6.4 (2,551)
Y	14.4	12.4	10.8 (4,298)
M	1.5	1.3	1.2 (476)
P	1.2	1.2	1.2 (476)
W	2.2	2.2	2.3 (912)
Unexamined	4.2	4.1	4.1 (1,642)
Total Real Number	37,744	38,715	39,834

- Class S: Those who need special protective treatment
- b) Categories by specially recommended treatment
- Class O: Those who are suitable for open treatment
- Class N: Those who are suitable for maintenance work

Detailed treatment standards have been set forth specifically for each of the above allocation and treatment categories. The concrete treatment programme will be organized for each prisoner on the basis of such standards.

Indicated in Table 8 are the major classification categories under the newly introduced system and distribution of inmates among them at the end of 1975-1977.

2. Education

In prisons, opportunities are provided for inmates to pursue correspondence courses in such subjects as bookkeeping, auto-mechanics, mimeographing, electronic engineering and other vocational subjects as well as general academic courses for high school and college credits. In juvenile prisons, compulsory education courses are provided consistent with the requirements of the School Education Law.

Cultural and recreational activities are organized within prisons with the participation of the authorized public. In 1977, there were 1,052 Voluntary Prison Visitors who made a total of 10,206 visits to assist prisoners in cultural, educational and social welfare programmes as well as with individual problems. The number of Voluntary Prison Chaplains in 1977 was 1,377 and conducted 8,122 individual and 7,357 group interviews with inmates.

3. Prison Industry and Vocational Training

In late December 1977, a total of 92.9% of the prisoners sentenced to imprisonment with labour and 91.9% of the workhouse detainees were assigned to work.⁸⁾ Of the inmates sentenced to imprisonment without labour and of the persons awaiting trial and judgment, 91.0% and 1.3%, respectively, were permitted on application to do work which they preferred.⁹⁾

The total value of the products of prison industries including agricultural production for fiscal year 1977 (April 1977-March 1978) was approximately 12,740 million yen (equivalent to some 63.7 million dollars), produced by an average daily manpower of about 37,400. The operational cost of those industries

⁸⁾The prisoners sentenced to "imprisonment with labour" and workhouse detainees have an obligation to work and must do so. However, those who cannot be assigned to work because of sickness, disciplinary action, or transfer are temporarily excused from labor.

⁹⁾Prisoners sentenced to "imprisonment without labour" and those awaiting trial and judgment are not obliged to engage in prison labor, but are allowed to work upon request.

was approximately 4,368 million yen (equivalent to some 21.8 million dollars).

Relating the value of production to the cost of operation by type of industry reveals that the metal work industry earned 3,428 million yen (26.9% of the total value) at a cost of 511 million yen, while wood-craft industry earned 2,326 million yen (18.3%) at a cost of 1,478 million yen. Similarly, 1,965 million yen (15.4%) and 1,628 million yen (12.8%) were earned in the printing and tailoring industries at costs of 905 and 162 million yen, respectively.

As a result of prison vocational training programs in 1977, a total of 2,334 prisoners passed national or municipal examinations and were qualified or obtained licenses in such fields as welding, driving, auto repairing, boiler operation, electric wiring, barbering, etc. Also 353 prisoners earned certificates of vocational training authorized by the Minister of Labour in such fields as woodcraft, printing, plastering, etc.

D. Suspects and Defendants

The average daily population of suspects and defendants in 1977 was 8,463. The number of defendants was 8,100, an increase of 254 from the 1976 figure. The number of suspects, on the other hand, was 363, sixteen less than in the previous year. The number of defendants admitted to detention houses in 1977 was 51,543, an increase of 610 over the previous year and suspected offenders held in detention houses in 1977 numbered 22,299, a decrease of 966 as against the previous year.

E. Women's Guidance Home

The number of female offenders convicted of violation of the Anti-Prostitution Law newly admitted to Women's Guidance Home has been on a decline since its peak in 1960 and was 18 in 1977. Of the above female offenders accommodated in the Women's Guidance Home, there are many who are of advanced age, have mental and physically defects, and have strong tendencies to repeat the same offence.

III. Probation, Parole and Aftercare

A. Development of Non-Institutional Treatment in the Last Quarter Century

With the adoption of the new Constitution in 1947, criminal justice system changed remarkably and the probation and parole system was completely reorganized. In July 1949, the Offenders Rehabilitation Law was enacted as the basic law of non-institutional treatment. Under this law, the organization and functions of the Regional Parole Board and the Probation Office and the procedures of juvenile and adult parole as well as juvenile probation were firmly established. Thereafter the probation system was newly set up by partial amendment of the Penal Code and the Law for Probationary Supervision of

Persons under Suspension of Execution of Sentence in 1954. The Rehabilitation Services Law of 1939 which provided for rehabilitation workers (predecessors of the present volunteer probation officers) and the rehabilitation service associations (predecessors of the present rehabilitation aid hostels) was abolished in 1950. These systems were reorganized by the Volunteer Probation Officer Law and the Law for Aftercare of Discharged Offenders of 1950. In addition, the supervision of parolees from the Women's Guidance Home was implemented in 1958 with the enforcement of the Anti-Prostitution Law.

New treatment programmes such as differential treatment, group counseling, pre-parole guidance, and short-term treatment for juvenile traffic violators, have been implemented with a view to meet the tremendous changes of the society during this quarter century. In addition, the preparations for law reform include proposed intergration of the relevant laws and implementation of other new treatment methods.

B. Parole

Parole is granted by one of the eight Regional Parole Boards. A prisoner is eligible for parole when he meets the following requirements:

- (1) Served at least one-third of his given sentence or ten years of a life sentence;¹⁰⁾
- (2) When he is considered penitent;
- (3) When he is considered to be eager in his rehabilitation;
- (4) When he is considered not likely to commit another crime;
- (5) When it is believed that the community will emotionally accept his release on parole.

The head of a correctional institution may file a request for parole on behalf of an inmate under his charge, or the Parole Board itself may initiate a parole investigation. After a board member investigates the parole application, the case is presented to the Board which consists of three members. Upon examination of the case, a final decision will be made by the majority vote.

At any time after an inmate is admitted to a correctional institution, upon request from either the institution or the Regional Parole Board, a probation officer at the Probation Office visits the inmate's family, or any other person named by the inmate as one with whom he will have a close relationship upon release, so as to facilitate a smooth reintegration into society. This process

¹⁰⁾In case of juveniles the period will be shortened to:

- (1) Seven years in case of a lifetime sentence;
- (2) Three years in case of a penalty for a fixed term, where it was commuted from a lifetime sentence because of being a juvenile.
- (3) One-third of the minimum period in case of a sentence of indefinite term.

usually starts soon after the inmate has been admitted to a correctional institution.

There are fifty Probation Offices in Japan. These offices received a total of 34,749 requests for investigation and environmental adjustment from correctional institutions during 1977. These offices provided 73,577 reports, including follow-up reports, as a part of the basic data used in parole examinations. The number of these reports increased by 402 from the previous year.

During 1977, a total of 14,660 prisoners were granted release on parole, a slight decrease from the previous year. During the year, 11.0% of all recommendations for parole were rejected, up 0.6% from the rate of previous year. The rate of parole rejection by the regional parole boards was higher for those incarcerated in prisons frequently; 27.2% were rejected for prisoners previously imprisoned six times or more, in contrast with 4.7% for first termers. As to the crime categories, the highest rejection rate was observed among Stimulant Drug Control Law violators and extortion cases, while 1.6% of professional or gross negligence causing death or injury cases and 3.0% of Road Traffic Law violators were among the lowest rates.

Inmates rejected for parole are discharged upon expiration of the full term of their sentences. Of the 27,090 prisoners discharged during 1977, 53.1% were released on parole and 46.9% at the expiration of their full sentences. The percentage of persons released on parole during 1976 was 54.4%.

In general, the supervision periods for prison parolees are very short.¹¹⁾ Of the total prisoners released on parole during 1977, 66.5% were under supervision for three months or less and only 4.4% were under supervision for more than one year. 78.0% of the parolees who served definite sentences were released after serving 80% or more of their sentences in prisons.

During 1977, 58 life sentence prisoners were released on parole. 74.1% of them were released after serving between more than 13 and 18 years in prison.

The parole rejection rate for inmates of Juvenile Training Schools has been very low for several years. In 1977, only nine out of the 2,802 recommendations for parole were rejected. Juveniles granted release on parole from the training schools increased by 655 in number (30.6%) in 1977 over 1976, due to the expansion of the use of short-term treatment programmes in the training schools.

Parolees from prison tend to remain longer in the community and to be less likely to return to correctional institutions than inmates released upon termination of their full terms. Statistics on those released from prison in 1975 showed that within the same year of their release, only 3.6% of the parolees

¹¹⁾ Parole supervision, under Japanese law, can extend only for the length of the full sentence of imprisonment.

were sentenced to prison again, compared to 11.0% of the full-termers. Similarly, only 23.6% of parolees were imprisoned again by the end of the third year (1977) after their release, as compared with 47.5% of the full-termers. The main reasons for this wide difference may lie both in the strictness with which parole is granted to recidivists and in the use of improved parole supervision techniques.

C. Trends in the Use of Probation and Parole

The following five classes of persons are under the supervision of the Probation Office for a specified period of time:

Category 1: (Juvenile Probationers)

Juveniles placed on probation by the Family Courts, until reaching age twenty or for at least two years;

Category 2: (Training School Parolees)

Parolees released from Juvenile Training Schools, until they reach age twenty or for the remainder of their specified period of confinement;

Category 3: (Prison Parolees)

Parolees released from prisons, for the remainder of their sentence;

Category 4: (Adult Probationers)

Persons (including some convicted juveniles) granted probation upon the suspension of execution of sentence, for the specifically designated period of supervision;

Category 5: (Guidance Home Parolees)

Parolees released from Women's Guidance Homes for the remainder of the term of guidance.

Table 9 shows the total number of persons in each of the above categories newly received by Probation Offices throughout Japan in the last five years.

Table 9. Trends of Probationers and Parolees Newly Received by Probation Offices, 1973-1977

Category	1973	1974	1975	1976	1977
1. Juvenile Probationers	20,696	19,942	21,384	23,981	33,735
2. Training School Parolees	2,188	1,812	1,593	2,071	2,763
3. Prison Parolees	16,024	15,542	14,933	14,671	14,379
4. Adult Probationers	7,187	7,014	7,048	8,068	7,897
5. Guidance Home Parolees	3	—	—	—	—
Total	46,088	44,310	44,958	48,791	58,774

Of the 46,303 probationers and parolees, excluding 12,471 traffic juvenile probationers under the short-term programme, 29.5% were charged with theft, 22.7% with the Road Traffic Law violations, and 12.1% with professional or gross negligence causing death or bodily injury. In the case of ordinary juvenile probationers apart from those placed on probation specifically for short-term treatment, as many as 40.9% were traffic violators.

At the end of 1977, there were 71,619 probationers and parolees under supervision, an increase of 2,109 over the previous year.

D. The Results of Probation and Parole

Probationers and parolees who maintain a good community adjustment may be discharged from supervision by the decision of the Probation Office or the Regional Parole Board. On the other hand, if they violate conditions imposed or commit another crime during the period of supervision, the probation or parole order may be revoked by the Court or the Regional Parole Board.

Of 32,516 juvenile probationers terminated in 1977, 21.0% served their full terms, 72.3% were discharged from supervision by the decision of the chief of Probation Office because of their good community adjustment, and 6.2% had their probation revoked because of misbehavior. Of 7,293 adult probationers terminated during the same year, 68.3% completed their full terms and 29.5% had probation revoked because of a new conviction or other misbehavior.

With regard to parolees terminated during 1977, 19.3% of the 2,078 juvenile training school parolees and 5.5% of the 14,614 prison parolees had their parole revoked because of a new conviction or other misbehavior.

Table 10. Dispositions Made Upon New Convictions of Probationers and Parolees,

1977

Disposition \ Category	1 Juvenile Probatio- ners	2 Training School Parolees	3 Prison Parolees	4 Adult Probatio- ners	Total
Imprisonment with or without Labour	306	47	357	2,078	2,788
Committal to Juvenile Training School or Child Education Home	1,345	419	-	4	1,768
Fine	1,814	22	108	469	2,413
Probation Again	981	85	-	-	1,066
Others*	54	34	413	164	665
Total	4,500 (17.1)	607 (29.2)	878 (6.0)	2,715 (37.2)	8,700 (17.3)

* "Others" include penal detention, minor fine and prosecution.

** The numbers in parentheses shows the percentage to the total of those who terminated probation or parole supervision in the same year.

The number of probationers and parolees disposed of by the various courts because of crime of misbehaviour committed during the period of supervision and a breakdown by type of disposition are given in Table 10.

The rate of absconders from supervision had gradually decreased until 1975. It increased in 1976, but decreased again to 6.0% of probationers and parolees under supervision at the end of 1977 (0.3% less than 1976).

E. Aftercare

In addition to supervision for probationers and parolees, the Probation Offices provide assistance to offenders in need. In 1977, a total of 9,613 persons received aftercare services. Of this number, 74.3% were discharged from prisons at the expiration of their sentences, 17.2% were under suspension of prosecution at the Public Prosecutor's discretion, and remaining 8.5% were on suspended sentence without supervision.

The services provided included;

1. Providing money for meals;
2. Providing clothes;
3. Arranging immediate medical care;
4. Providing travel expenses;
5. Providing certificates for travel on trains at half-fare;
6. Providing lodging accommodation by referral to the Rehabilitation Aid Hostels.

There were 104 Rehabilitation Aid Hostels operated by 103 Rehabilitation Aid Associations, with a total capacity of 2,870 beds, as of December 31, 1977. These associations are voluntary in nature but are established with the approval of the Minister of Justice. During 1977, a total of 5,909 discharged offenders, in addition to 6,418 probationers and parolees, were referred to and accommodated in these hostels. These aftercare services are provided on the basis of the State's responsibility to help each offender achieve a good community adjustment.

F. Participation of Volunteers

Probation and parole supervision and its crime prevention activities are carried out by 790 professional probation officers assigned to fifty Probation Offices. Because of heavy caseloads, their work is supplemented by voluntary workers who belong to one of three volunteers associations, namely, the Volunteer Probation Officers Associations, the Big Brothers and Sisters Associations and the Women's Associations for Rehabilitation Aid.

The volunteer probation officer is a non-permanent national government

official appointed by the Minister of Justice. On the average, he supervises two probationers or parolees and carries out various activities concerning crime prevention. The authorized number of volunteer probation officers is 52,500 and, on April 1, 1978, there were about 46,000 officers assigned to 869 probation areas throughout Japan.

The Big Brothers and Sisters Associations are organizations of young people between 18 and 30 years of age who are concerned about the rehabilitation of social deviates. A member makes friends with a delinquent and attempts to understand his needs and problems. The B.B.S. member maintains close cooperation with the professional and volunteer probation officer assigned to the case. There were 542 B.B.S. Associations with 7,741 members as of March 31, 1978.

The Women's Association for Rehabilitation Aid is an Association of voluntary women who are concerned, as mothers or housewives, about crime and delinquency problems. Members assist the activities of various organizations concerned with crime prevention and offenders' rehabilitation, visit inmates in correctional institutions and encourage probationers and parolees by making gifts to them in celebration of their successful termination of supervision. As of April 1, 1977, there were 996 such Associations with more than 200,000 members throughout Japan.

G. Pardons

The Cabinet grants pardons on a general as well as individual basis. General (collective) pardons are granted by a specially issued ordinance in commemoration of special occasions of national significance. In the case of individual pardons, comprising both ordinary pardons and special pardons, either the Public Prosecutor, the chief executive officer of a Prison, or the chief of a Probation Office must initiate an application through the National Offenders Rehabilitation Commission before the Cabinet can act.

In 1977, no general pardon was granted, but 204 offenders were granted ordinary pardons as shown in Table 11. 24 out of 30 persons who were granted the remission of execution of penalty were parolees with life imprisonment.

Table 11. Trends of Ordinary Pardon, 1973-1977

Year	Special Amnesty	Commutati- on of Pena- lty	Remission of Execution of Penalty	Restoration of Rights	Total Granted	Total Denied
1973	105	47	97	165	414	265
1974	26	35	55	86	202	53
1975	16	43	58	139	256	46
1976	4	19	45	155	223	48
1977	—	9	30	165	204	116

PART THREE: RECIDIVISM AND TREATMENT OF RECIDIVISTS

I. Recidivism and Criminal Justice

A. Recidivism Observed at Police Stage

Of 363,144 non-traffic Penal Code offenders investigated by the police in 1977, recidivists¹²⁹ numbered 123,779, or 34.1%, and the average recidivist rate remained steady near the rate of each of the past ten years (36.3% for 1968 to 1972; 34.5% for 1973 to 1977). Looking back to the period 1958 to 1962, the average recidivist rate was also 34.5%. So the recidivist rate may be said to have been hovering around 35% since around 1955, when order had been restored to society out of chaos of the 1945 to 1954 immediate post-war period. The same stability has been observed in the recidivist rates of both adult and juvenile offenders: the former being 38.5% in the period from 1968 to 1972, and 37.6% in the period from 1973 to 1977, and the latter being 31.2% and 27.8%, respectively.

Table 12. Recidivist Rate by Major Penal Code Offences, 1977

Crime	Total Number of Offenders Investigated by the Police	Number of Recidivists	Recidivist Rate
Total	363,144	123,779	34.1
Murder	1,988	1,021	51.4
Robbery	814	481	59.1
Robbery involving Homicide, Bodily Injury, or Rape	1,012	624	61.7
Arson	921	428	46.5
Rape, Indecent Assault	4,586	2,222	48.5
Assault	25,781	11,948	46.3
Bodily Injury	40,730	21,106	51.8
Extortion	9,660	6,277	65.0
Theft	207,064	52,862	25.5
Fraud	15,665	7,935	50.7
Embezzlement	12,375	2,781	22.5
Gambling	12,238	5,147	42.1
Public Indecency	1,955	864	44.2
Others	23,355	10,083	35.6

¹²⁹A recidivist as prescribed in the Japanese Penal Code, is a person who commits a crime again within five years from the day on which the execution of the former imprisonment sentence was completed or remitted, and is to be sentenced to imprisonment for the crime. The punishment imposed upon the recidivist shall be aggravated (Articles 56 and 57). However, in this paper a recidivist is considered to be any person who has previously committed a non-traffic Penal Code offense.

Table 12 shows the recidivist rate of all the non-traffic Penal Code offenders by offence categories in 1977.

Of major Penal Code offences, extortion had the highest recidivist rate of 65.0% in 1977, followed by robbery involving homicide, bodily injury, or rape (61.7%), robbery (59.1%), bodily injury (51.8%), and murder (51.4%). High recidivist rates were generally observed among these heinous crimes.

In 1968, the recidivist rate by the crime categories indicated 58.1% in extortion, followed by 56.3% in robbery, and 54.4% in robbery involving homicide, bodily injury or rape. It was 39.5% in bodily injury and 46.8% in murder, both figures lower than their counterparts in 1977. On the contrary, though the recidivist rate for gambling was 47.3% in 1968, it went down to 42.1% in 1977. In terms of the disposition of their previous offences (in case where there are two or more previous disposition, the most recent one is referred to), with regard to 123,779 recidivists investigated in 1977 in connection with their renewed involvement in criminal activities, the following findings came to light: 4.4% were under investigation prior to the fined disposition of their previous criminal offence; 4.1% were investigated while they were under juvenile probationary supervision; and 10.1% were interrogated during the period of suspension of execution of sentence, parole of juveniles and adults, etc. 15.9% were investigated within 5 years from the completion of execution of imprisonment with or without forced labour and 25.9% within 5 years after the completion of execution of other punishments. 12.1% had their previous criminal cases suspended from prosecution, and 15.0% had their previous juvenile cases dismissed. The recidivist rate within 5 years from the date of completion of execution of imprisonment with or without forced labour was high in respect of cases of fraud, robbery involving death, bodily injury or rape, robbery, murder, etc., each of them being more than 25%.

B. Trends of Recidivism Observed at Prosecution Stage

The total number of non-traffic Penal Code offenders who were received and disposed of by way of prosecution or suspension of prosecution in the Public Prosecutors' Offices in 1977 were 224,500, of whom 98,931 (44.1%) had been previously convicted. The rate of offenders with a previous conviction among those subjected to prosecution or non-prosecution has been showing an overall upward trend with some fluctuations since 1958: 35.9% in 1958, 40.2% in 1968, and 44.1% in 1977. With respect to the breakdown by age of the above offenders with previous criminal records, those in their 40s were in first place with 53.3%, followed by those in their 30's with 52.3%.

In 1977, the Public Prosecutors' Offices prosecuted 142,996 offenders, of whom 78,967 or 55.2% had been previously convicted. The breakdown of their

previous punishments was: actual imprisonment at forced labour (44.1%), suspension of execution of imprisonment at forced labour (21.6%), actual imprisonment without forced labour (0.3%), suspension of execution of imprisonment without forced labour (0.3%), and fine (33.7%). The rate of offenders with previous conviction in various categories of crimes was 71.0% for extortion, with 3,149 offenders with a previous conviction out of the total of 4,437 prosecuted, followed by 64.2% for fraud (6,901 out of 10,757), and 61.3% for theft (28,437 out of 46,397). Of 81,564 offenders who were suspended from prosecution by the Public Prosecutors' Offices, 19,968 or 24.5% had been previously convicted. The breakdown of their previous punishment was: fine (46.2%), actual imprisonment at forced labour (31.7%), suspension of execution of imprisonment at forced labour (21.3%), actual imprisonment without forced labour (0.4%) and suspension of execution of imprisonment with forced labour (0.4%). It is to be noted that the existence of a previous conviction plays an important role in deciding whether to prosecute or suspend prosecution; but character, age, circumstances surrounding offenders, gravity of crime, and mitigating circumstances, such as payment of compensation, etc., have also been taken into consideration at the stage of prosecutorial disposition.

C. Trial and Recidivism

According to judicial statistical annual reports, etc. on the rate of offenders with previous criminal records¹³⁹ and recidivists¹⁴⁰ to all offenders convicted for Penal Code offences at the first instance in the period of 1909 to 1943 (called "the former period" hereinafter) and 1949 to 1976 (called "the latter period" hereinafter), the rate for both in the former period had shown an upward trend from the middle 1920s to the middle 1930s, while the rate for offenders with previous criminal records has been on the increase and that of recidivists on the decrease in the latter period.

The above trend in the latter period might be attributed to the following two factors: (1) Persons with such previous criminal records as imprisonment without forced labour and fine have swelled in number as a result of the rapid increase in the number of traffic offences. (2) Development and improvement of noninstitutional treatment might have contributed to the reduction of the number of offenders who have previous criminal convictions meeting the Penal Code definition of recidivist. In the latter period, the number of

¹³⁹An offender with previous criminal record means an offender who has previously been convicted for criminal offences.

¹⁴⁰A recidivist means an offender under Article 56 of the Penal Code: One who is convicted to imprisonment with forced labour for a limited term again for another offence committed within five years from the day on which the execution of his previous imprisonment with forced labour had been completed or remitted.

offenders convicted for Penal Code offences at the first instance has been showing a downward trend on the whole with some fluctuations. Among them, the number of offenders with previous criminal records had indicated a decreasing trend from 1957 on with its highest mark in 1956 and that of recidivists had been decreasing from 1956 on with its record-high in 1955.

As to the remarkable increase of offenders with previous criminal records and recidivists in number somewhere around 1955, it might have derived from the increase in the number of violent offences and violations of stimulant and narcotics control laws involving offenders with previous criminal records and recidivists affiliated with gangsters. As regards the more recent decreasing trend in the number of offenders with previous criminal records and recidivists, the gradual improvement of social and economic conditions in daily living and the maintenance of social law and order might have been responsible for it. It might also be right to point out that assiduous and painstaking efforts for long by police, prosecutors, judiciary, and corrections and rehabilitation personnel have turned out to be effective in preventing repeated offences by persons with previous convictions.

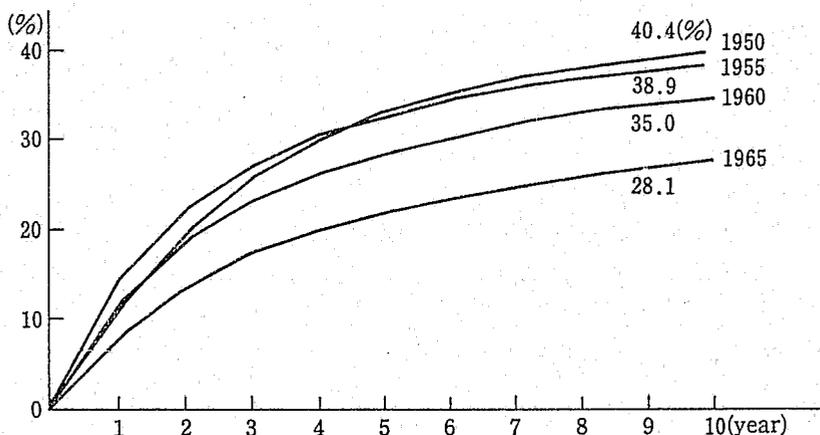
The Research and Training Institute of the Ministry of Justice conducted a study of recidivism for the period of 1 January 1948 to 1 June 1977 covering characteristics of recidivists (not limited to those prescribed in the Penal Code but including more widely those who are inclined to repeat crimes), recidivism rate, recidivism period, etc., based on a sample of 380,000 offenders with previous criminal records (excluding offenders who have previous convictions only for traffic accidents and violations of local-entity regulations or who were punished by fines for road traffic law violations) whose domiciles are located in Tokyo, Osaka and four other populous prefectures. The result of that research showed that, of all convicted offenders, those with one previous criminal record were as high as 68.0%, and those with two were 15.4%. The average was 1.8 previous offences per convicted offender.

The offences which were most often committed repeatedly by the same offender were violations of the Anti-Prostitution Law, theft, violations of the Poisonous and Injurious Substance Control Law, violations of the Narcotics Control Law, bodily injury, public indecency, violations of the Stimulant Drugs Control Law, gambling, fraud, etc. in that order of frequency.

Where the recidivists were also broken down into the following four different types: mono-offence (offenders who repeat the same offence), same category offence (offenders who repeat offences in the same category), different category offence (offenders who repeat offences in two different categories),

and multifarious category offence (offenders who repeat offences in more than three different categories). Of 40,444 offenders with more than two previous criminal records who were convicted during the period of 1 January 1972 to 1 June 1977, the mono-offence type account for about 24.6%, the same category offence type about 8.4%, the different category offence type about 44.1% and the multifarious category offence type about 23.0%. As for the recidivism rate of first offenders who were convicted from 1948 to 1967, among 380,000 offenders mentioned above, those who committed offences again within five years of the first conviction recorded the highest rate of 40.2% in 1948. However, that rate began a continuous downward trend from about 1959, and plummeted down to 19.2% in 1967 (Figure 4). These statistics might be said to prove that the practical criminal policies pursued in the field of police, prosecution, judiciary,

Figure 4. Accumulated recidivism rate in individual years



corrections and rehabilitation in Japan have succeeded in their objectives, causing a decreasing trend in the number of convicted offenders with previous criminal records and recidivists compared to those offenders convicted at the first instance.

As for the revocation of the suspension of execution of sentence which is closely related to recidivism, of all convicted offenders who were granted the above suspension, as many as more than 20% were revoked during since 1954 to 1958, but this rate began to decrease gradually and, since 1967, had leveled off. Yet in the past few years it has been showing signs of an upward trend, so more time will be needed to predict its future trend.

II. Institutional Treatment of Recidivists

A. General Remarks

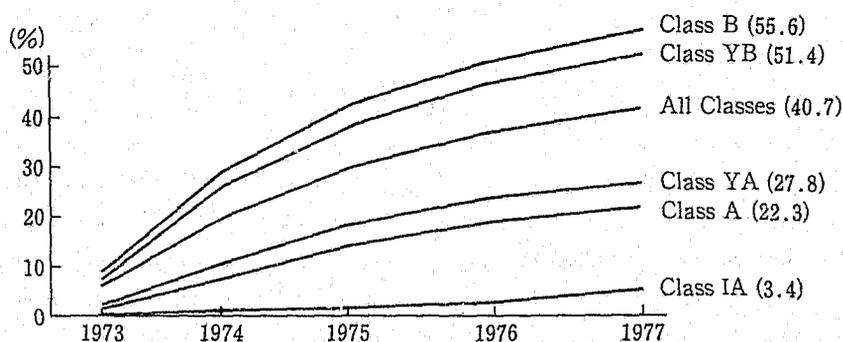
Although correctional treatment in an institution aims at the prisoner's

rehabilitation back into society, there are some offenders who are re-committed to prisons after their release and most of them are those defined as recidivists in the Penal Code of Japan (Articles 56, 59).

The average annual percentage of recidivists as defined by the Penal Code to all newly admitted prisoners was 44.1% during the period from 1908, when both the present Penal Code and Prison Law came into force, to 1977. The rate was higher between 1952 and 1965, being over 55%. However, since 1966, it has been fluctuating around 50%. The average rate of first termers to all newly admitted prisoners for the last three years was 42.1%, while that of prisoners previously imprisoned was 57.9%. These figures are close to those of 1955. In 1977, of all newly admitted prisoners, those who had been incarcerated previously more than six times amounted to 14.5%, which is approximately twice as high as that of 1955. However, the number of such prisoners in both years was almost the same.

According to the Prisoners Classification Rules, almost all prisoners admitted to prisons two or more times are classified as Class B, that is, a prisoner who has an advanced criminal tendency. In 1973, a total of 28,196 prisoners were released from prisons. Figure 5 shows the result of a follow-up study of those released prisoners at the end of 1977. During the period from 1973 to 1977, 40.7% of the released prisoners for all Classes were committed to prison again.

Figure 5. Accumulated Re-Admission Rate of Prisoners Released in 1973 by Main Prisoner's Classes (1973-1977)



1. Data based on the Annual Report on Corrections.
2. Classes F, J, L, M and P are not shown due to the small number.
3. Accumulated Re-Admission Rate =
$$\frac{\text{Number of re-admitted prisoners at the end of each above year out of total number of prisoners released in 1973}}{\text{Total number of prisoners released in 1973}} \times 100$$
4. Accumulated Re-Admission Rate for each Class is indicated in parentheses.

The re-admission rates of Classes B and YB (young adults under twenty-six and not less than twenty years of age who have advanced criminal tendency) were higher than that of the other Classes, amounting to 55.6 and 51.4% respectively.

B. Characteristics of Recidivist Prisoners

Characteristics of offenders who were repeatedly admitted to prisons were analysed. A large number of recidivist prisoners is seen in such types of crimes as theft, fraud, bodily injury, assault, violation of the Stimulant Drugs Control Law, etc. and a high ratio of re-admitted prisoners is seen in such types of crimes as intrusion upon habitation, intimidation, violation of the Law for Punishment of Acts of Violence, theft, violation of the Anti-Prostitution Law, etc., in the order of high incidence. Generally speaking, in the Penal Code offences, theft and fraud are most likely to be committed repeatedly by such offenders. For those offenders, greed, poverty and living difficulties form main backgrounds for committing offences. They commit crimes mainly out of habit and premeditatedly.

With regard to personality characteristics, Class B prisoners have no remarkable differences compared with Class A prisoners (those whose criminal tendency is not so advanced) in intelligence and mental condition, but Class B prisoners are often egocentric, and tend to have strong grievances against their situations and a desire to control others.

Living standards of repeated prisoners are generally lower and there are many whose academic careers ended at the lower level of the educational system. As the frequency of incarceration increases, the number who are unmarried or have separated from their spouses is likely to move upward. As to places to which they return after their release from the prison, according to the frequency of their incarceration, they are likely to be alienated from their families and relatives and resort to rehabilitation aid hostels, employers or acquaintances. There are many who have no occupation at the time of commission of crimes.

More than 10% of all re-admitted prisoners had remained in the society for five years or more between their release from prison and their re-commission of crimes, which means that the duration between release from the prison and re-admission has become longer. It is observed that the more often offenders are admitted to prison, the shorter the said duration becomes and that the longer the previous prison term is, the longer the said duration is. Offenders who are released from the prison on parole tend to stay in society for a longer period before their re-admission to prison, compared with those discharged upon ex-

piration of their prison terms. Of prisoners who were incarcerated again for offences committed within one year of the date of their release from their previous imprisonment, those aged 30 to 34 account for the smallest share, which means their recidivism rate is the lowest of all age brackets in this regard.

C. Treatment of Recidivist Prisoners

There are many recidivists with problems in respect to their attitudes toward life and will to reform themselves. Therefore, emphasis is placed upon imparting to them guidance for living and social education. Special attention is also paid to give effective treatment to encourage their will and habit to work, creating good human relations between inmates (having regard to their intra-factional relations), and trying to improve and adjust their relations with prospective guardians and social welfare agencies. Various types of vocational training programmes are provided to those recidivists who have the will to rehabilitate themselves. It is noteworthy that these prisoners show sufficient mettle to obtain vocational licences and certificates.

III. Rehabilitation Services and Repeated Offenders

A. Release on Parole from Prison

The ratio of parole denial by the regional parole boards tends to be higher for repeated prisoners than for non-repeated ones, because many repeated prisoners have greater problems with regard to their reintegration to the society in comparison with non-repeated prisoners. The statistics show that 20.9% of parole applications for repeated prisoners serving determinate sentence were rejected in 1977, while the rate of parole denial with respect to non-repeat prisoners was only 4.9%. Moreover, even if the repeated prisoners are released on parole, the time actually served in prison tends to be longer than that of first offence prisoners with a similar length of sentence and, therefore, the parole period of the former is likely to be shorter than that of the latter.

B. Parole and Probationary Supervision

The results of parole and probationary supervision have some correlation with the previous criminal records of adult parolees and probationers in 1977 as indicated in the Table 14.

As for the adult parolees, the rate of "good" termination was the lowest in the category of imprisonment, followed by those of suspension of execution of imprisonment, suspended prosecution, no criminal record and fine in that order. It should be noted, however, that one out of three offenders having prior records of prison commitment achieved a satisfactory termination of supervision.

Table 14. Previous Criminal Record and Result of Parole and Probationary Supervision (1977)

Previous Criminal Records*
imprisonment with forced labour

Result of Supervision	Total	actual imprisonment	suspension of execution of imprisonment	fine	suspended prosecution	nil
Adult Parolees						
Total	100.0 (14,614)	100.0 (6,047)	100.0 (3,398)	100.0 (2,473)	100.0 (26)	100.0 (2,649)
Termination						
good**	46.3	30.4	48.9	65.0	53.8	61.9
moderate	43.7	57.5	40.7	31.7	34.6	27.3
bad	2.5	3.9	2.0	1.1	3.8	3.8
others	0.9	0.4	0.4	0.2	—	3.5
Revocation	5.5	6.6	7.4	1.6	3.8	4.5
Others	1.0	1.3	0.6	0.4	3.8	1.4
Adult Probationers						
Total	100.0 (7,293)	100.0 (639)	100.0 (2,412)	100.0 (2,032)	100.0 (163)	100.0 (2,031)
Termination						
good	48.1	34.4	39.7	57.1	33.7	54.5
moderate	10.3	11.9	10.9	9.1	8.0	10.4
bad	9.4	10.3	10.1	8.2	12.3	9.2
others	0.5	0.9	0.6	0.3	1.8	0.2
Revocation	29.5	38.0	36.0	23.5	41.7	24.4
Others	2.1	4.4	2.6	1.7	2.5	1.2

* Previous criminal records include all past final criminal dispositions to offenders such as actual imprisonment with forced labour, suspension of execution of imprisonment with forced labour, fine and suspension of prosecution on the part of court and the public prosecutors prior to their commission of subsequent offences for which they were placed under parole and probationary supervision. As for those who have two or more previous dispositions mentioned above, the heavier one is referred to.

** "Good" includes those terminating their supervision period while their supervision had been provisionally suspended owing to their good behaviours.

Similar results can be observed for the adult probationers. The categories of suspended prosecution and imprisonment constituted the groups of the lowest rate of good termination with about 34%, followed by the category of suspension of execution of imprisonment with about 40%, while those of fine and no previous criminal record showed rates of good termination of more than 50%.

Thus, it can be safely said that those having longer criminal records are likely to be more socially unstable, and eventually less likely to be rehabilitated by probationary and parole supervision. Nevertheless, it would be worthwhile

to stress that even those having serious criminal careers have some possibility of successful termination of supervision.

C. Aftercare

According to the research on those receiving aftercare services by the probation offices conducted by the Research and Training Institute of the Ministry of Justice, 72.0% of those released from the prison after having served out their sentence and 29.1% of those granted suspended prosecution had prior criminal records of actual imprisonment three or more times. Furthermore, 96.6% of full-termers and 76.7% of those with previous suspended prosecution records had experience of detention prior to their commission of crimes for which they were incarcerated the last time.

The follow-up study revealed that 72.5% of those having been incarcerated in prison 5 times or more were arrested again during the period of 2 years after they received aftercare services, and nearly half of rearrested offenders were arrested within 3 months after their receipt of aftercare services, while in case of those having no prior commitment to prison, the corresponding rearrest rate remained only 38.0%.

The statistics on the places to which released prisoners were expected to return after release in 1977 indicated that among the prisoners incarcerated in prisons for the first or second time, those returning to their parents' home constituted the largest group representing 34.9%, followed by those returning home to their wives. In case of the prisoners with imprisonment 5 or more times, the largest group was composed of those accommodated in the rehabilitation aid hostels (39.7%); only 10.0% and 18.0% of them returned to their parents' and wives' homes, respectively. Thus, it is clear that the more advanced criminality they have, the less advantageous social positions they hold.

IV. Various Kinds of Recidivists

A. Dangerous Habitual Offenders

Among recidivists, there are those who inflict physical damage upon human beings, and are convicted to imprisonment for repeating such offences as murder, robbery, death or bodily injury through robbery, rape in the course of robbery, death through rape in the course of robbery, arson, rape, death or bodily injury through rape, indecent assault, death or bodily injury through indecent assault, bodily injury, death resulting from bodily injury, etc. (called "designated offences" hereinafter).

According to the annual statistical report on corrections, as to those offenders who had previous records of imprisonment with forced labour for "designated offences" and were imprisoned again for designated offences during the period

of 1972 to 1976, their annual average number came to 895 offenders for each year in between 1972 and 1976.

Statistically speaking about these offenders, the following findings are noteworthy:

- 1) Among "designated offences," indecent assault, death or bodily injury through indecent assault, and bodily injury are more likely to be committed repeatedly.
- 2) In case those offenders who had been imprisoned before for "designated offences" commit offences again, they more often will again commit "designated offences."
- 3) Among the 895 offenders who had been imprisoned before for "designated offences" and were re-imprisoned for "designated offences," the number of offenders who committed the same offence again has remained almost the same annually, though it is a small number.

To elaborate further on 3), the number of those who had been imprisoned before for murder and re-imprisoned again for murder was 18 in 1972, 17 in 1973, 16 in 1974, 17 in 1975 and 12 in 1976 and the number of those imprisoned for rape or rape resulting in death or bodily injury in the previous and next-imprisonment was 63 in 1972, 53 in 1973, 63 in 1974, 65 in 1975 and 55 in 1976. It might be said that these offenders are, as it were hard-core dangerous habitual offenders.

The Research and Training Institute of the Ministry of Justice conducted the research which intended to compare 897 convicted offenders who had previous records of imprisonment for designated offences and were again imprisoned for designated offences (called "subjects" hereinafter) with 1,001 inmates in Class B (with advanced criminal inclination) selected at random.

As a result of the research, the following characteristics were recognized in the subjects;

- 1) among those who repeat arson and sexual offences, there are relatively many whose intelligence level is low.
- 2) there are relatively many who are mentally disturbed.
- 3) those who repeat violent offences are closely related to violent organizations, but those who repeat sexual and nefarious offences are loosely connected with those organizations.
- 4) those who repeat violent and nefarious offences generally commit them impulsively.
- 5) as to those subjects who were imprisoned again for the identical offence, a similarity in the method of committing offences will be seen.

- 6). In terms of the period between the time of release from the prison and the time of commission of offences, it is longer with the subjects than the above inmates in Class B.

B. Recidivism of Mentally Disturbed Offenders

In order to determine the actual situation of recidivism or mentally disturbed offenders, the Research and Training Institute of the Ministry of Justice conducted a follow-up study, as of March 1978, on 562 offenders (526 males, 36 females) who were diagnosed as mentally disturbed (including those who were suspected to be one) by the psychiatrists at the 9 District Public Prosecutors' Offices which have a mental examination room and at the Courts corresponding to the above Public Prosecutors' Offices during 1973. In conducting this study, fingerprint cards kept by the Identification Section of the National Police Agency were used. In this study, "recidivism" means arrest which occurred after the time of disposition on the part of the public prosecutor or pronouncement of sentence of the court in 1973 until the time of this study.

272 offenders were arrested later for committing crimes again. The recidivism rate was 48.4%. As viewed from diagnoses, the number of recidivist and the recidivism rate were as follows: 83 (64.3%) out of 129 who were diagnosed as alcoholics or under abnormal alcoholic intoxication committed crimes again. 22 (62.9%) out of 35 who were diagnosed as drug addicts and 48 (60.8%) out of 79 who were diagnosed as mentally deficient were involved in criminal behaviour again. From this, a high recidivism rate can be seen in in each category. On the other hand, 47 (30.3%) out of 155 who were diagnosed as schizophrenic and 8 (34.8%) out of 23 who were diagnosed as manic-depressive committed crimes again.

As for the recidivism as viewed from the compulsory hospitalization provisions of the Mental Health Law, 31 (66.0%) out of 47 who were diagnosed as "hospitalization unnecessary (treatment unnecessary)" and 153 (56.0%) out of 273 for whom the notification for compulsory hospitalization to the Governor was not made committed crimes again. This result shows the necessity of further study on how to deal with them. Out of 145 who were compulsorily hospitalized, 47 (32.4%) committed crimes again and 9 out of these 47 repeated crimes more than five times. This fact indicates that careful examination on the problem of after-care is required.

The period from the commission of previous crime to that of subsequent crime was ascertained in 172 cases. Of these, 89 (51.7%) committed crimes again within one year after the commission of previous ones.

C. Recidivism of Fraud and Theft Offenders

Of offences which were committed by offenders who had previously served a prison sentence and were admitted again to penal institutions, fraud and theft are the dominant types of offences. These offences are the typical ones which are repeated.

Recently, the Research and Training Institute of the Ministry of Justice conducted a study on recidivist prisoners, the subjects of which were Class B prisoners. According to this study, the characteristics of the recidivist of fraud and theft were as follows: Living standards in society before re-admission to prison were low in many cases, with jobless persons accounting for about a half. With regard to the places where they returned after their release from prison, about 40% went to the rehabilitation aid hostels or social welfare facilities. As to the dwelling places at the time when they committed crimes again, about a half had no fixed address or unknown addresses. The period from the time of release from the prison to that of re-commission of crime was short in an overwhelmingly large number of cases, and about a half of them committed crimes again within six months after release from the prison. They generally scored good marks in performance in prison as compared with prisoners who committed other types of offences.

From these facts, the following characteristics can be observed: In society they were poor and often changed dwelling places; in prison, on the other hand, they were obedient to discipline but lacked the will to rehabilitate themselves.

D. Recidivism of Organized Violent Group Members

There is a close relationship between organized violent group members and recidivism. The ratio of organized violent group members among prisoners has been increasing and accounted for 23.1% (9,195 in actual number) of the total prisoners, as of the end of 1977. Among them, the ratio of recidivists by the definition of the Penal Code and prisoners who have been admitted to prisons two times or more is higher than that of the total prisoners.

With regard to the criminal tendency of prisoners affiliated with organized violent groups as viewed from the type of crime, offences relating to stimulant drugs have been markedly increasing in recent years, representing 20.7% of the total offences in 1976 although they were only 0.9% in 1966. However, the ratio of property offences (theft, fraud) has been decreasing.

With regard to their position in their groups, 28.0% are leading members, 55.3% are ordinary members, and 14.2% are associate members. With regard to the term of their membership, 9.9% have been members for less than one year, 20.0% were members less than three years, and 18.7% were members

less than five years. Persons who have been members for more than five years account for 51.4% of the total of prisoners who have been members. Furthermore, it is noticeable that 3.9% are those who have been members for more than twenty years.

From these facts, it can be said explicitly that the forms of crime of prisoners attached to organized violent groups have changed, that group members strongly affiliate themselves to organized violent groups, and that their criminal tendency is firmly fixed.

V. Problems on Recidivism

A. General Remarks

Measures against recidivism or habitual crimes are, still now, important issues of criminal policy, though they have been subjects of concern since the late 19th century.

The subject of recidivism has been taken up in many international conferences since World War II and extensive and varied problems relating to it have been discussed.

So far as we have seen thus far, it may seem that phenomena of recidivism in recent years in our country are not so worrisome because the rate of recidivists among the total number of convicted offenders has been on a decreasing trend as a whole, even with a decreasing trend in the number of convicted offenders in recent years. In addition, the recidivism rate of convicted offenders has been on a markedly decreasing trend. However, when we examine the realities of recidivism more in detail we find there still remain problems: that dangerous and habitual offenders who are liable to repeat serious crimes such as murder, arson, rape and rape resulting in bodily injury or death come to an almost definite number annually; that the recidivism rate of mentally disturbed offenders is high and their recidivism period is short; and that there are not a few offenders who have been frequently imprisoned for theft, fraud, etc., and who are poor, have no family or relatives and who lack the will to rehabilitate themselves. The future task of the criminal policy in our country is to protect society from recidivism not only through decreasing recidivism further by striking out and carrying through sophisticated countermeasures addressed specifically toward recidivists as mentioned above but also through pushing forward actively rehabilitation and reintegration to the society of some recidivists seemingly left out of effective treatment measures.

B. Treatment of Recidivists

We will try to point out several problems for the purpose of discussing ways and means to prevent recidivism and measures for the treatment of recidivists.

Regarding criminal justice, it is important, first of all to increase the clearance rate of crime still further, although it is already markedly high compared with that of other countries, and to promote further the speedy clearance of cases. Next, it is necessary to maintain an effective system of suspension of prosecution, recognizing its noteworthy role in the prevention of recidivism. Moreover, sentencing has especially important functions in combatting recidivism in the present legal system, and therefore proper sentencing is expected to be rendered, not only from the viewpoint of general and special deterrence, but also with due regard to the treatment of offenders in the field of corrections and rehabilitation. As for corrections and rehabilitation, the classification system for the treatment of inmates must be further improved. Since among the group of so-called Class B prisoners whose criminal tendencies are recognized as advanced, several identical types in terms of personality traits and environmental situations can be found, individualization of treatment according to such types should be attempted; and, on the other hand, practical attempts such as workshops outside prisons which are effective as open institutional treatment may be promoted for Class B prisoners as well in accordance with the progress of their treatment. Needless to say, it is expected that such improved treatment measures will end up producing timely parole and subsequent probationary supervision, which will be conducive to the promotion of their reintegration into the society. Improvement in the administration of rehabilitation is one of the important measures against recidivism.

Among recidivists, there are some where dangerous and habitual offenders, in view of the pattern of criminal behaviour, personality traits, and mental instability. As a whole, there are not a few problems to be considered with regard to the treatment of such types of recidivists. Again essential measure, the creation of a special treatment system for mentally disturbed offenders, for instance, is necessary. Examples of this system are widely seen in the legal systems of European countries, and countries which don't adopt such a system are rather fewer than countries which do adopt one. Two kinds of security measures, that is, curative measures for mentally disturbed offenders and abstinence measures for alcoholics and drug addicts provided for in the Draft Revised Penal Code of Japan recommended by the Legislative Council on 29 May 1974 are typical of such treatment systems.

C. Treatment of Dangerous and Habitual Offenders

Especially, dangerous and habitual offenders have for long been a focus of attention throughout the world and there are not a few legal systems with thorough measures for the treatment of them. France, as a typical case, which

has had long experiences with regard to measures for the treatment of dangerous and habitual offenders, abolished the traditional relégation (relegation to a colony for life) in 1970 and established a new system of penal tutelage (tutelle pénale) for the purpose of defending society by reintegrating repeated offenders into society. According to the Annual General Report of the Department of Penitentiary Administration of the Ministry of Justice of France (1975), the number of offenders subjected to penal tutelage is showing an unward trend of late, with 314 as of the end of December 1975. Among the above 314 offenders, those under penal tutelage in criminal institutions numbered 183 (181 males, 2 females) or 1.12% of the total number of 16,363 convicted offenders serving their sentence in prisons.

In West Germany as well, security detention for dangerous and habitual offenders which had been a pending issue since the beginning of this century was adopted in 1933 and it was enforced even after World War II, though in a constrained manner. At present four kinds of reformatory and security measures, such as an extensive improved security detention for offenders with dangerous inclinations (hangtäter) and confinement in newly established social therapeutic institutions for young recidivists, are made available by virtue of the revision of the Penal Code in 1969. According to the Statistical Report of the Federal Bureau of Statistics of West Germany (1974), the number of offenders subjected to security detention has been decreasing to a great degree after the War with 376 (372 males, 4 females) under security detention as of the end of March 1974 or 1.02% of the total number of 36,763 convicted prisoners and offenders under security detention. The system of confinement into social therapeutic institutions has not been fully put into practice yet due to the need to improve institutional facilities and recruitment of staff.

Measures for the treatment of recidivists have for long been problems in our country as well. The Draft Revised Penal Code of Japan changes the definition of recidivism and leaves augmentation of punishment for recidivism to the discretion of the court. Under the Draft recidivism others where a recidivist who has been sentenced to imprisonment at forced labour for six months or more commits a crime again and is to be sentenced to a limited term of imprisonment at forced labour. If he is found to be a habitual offender, he is deemed to be a recidivist, and the court may in its discretion impose a limited indeterminate sentence upon him. It may be said that this system aims at promoting effective treatment within the framework of punishment by restricting freedom, different from European legal systems.

PART FOUR: JUVENILE DELINQUENCY

I. Trends in Juvenile Delinquency

In Japan, persons under twenty years of age are categorized as juveniles, and are subject to special procedures under the Juvenile Law aimed at their protection, education and treatment.

Juvenile delinquents who are subject to jurisdiction of the Juvenile Law consist of the following three categories:

1. JUVENILE OFFENDER is one under twenty and not less than fourteen years of age who has committed an offence provided for in the Penal Code or special laws;

2. LAW-BREAKING CHILD is a child under fourteen years of age (not criminally responsible) who has committed an act in violation of a criminal statute; and

3. PRE-OFFENCE JUVENILE is a person under twenty years of age who is deemed likely to commit an offence in future in view of his character or surroundings, because of the presence of specific factors stipulated in the Juvenile Law.¹⁵⁾

Juvenile delinquents over sixteen years may be referred by the Family Court to the Public Prosecutor for criminal trial. Figure 6 presents the flow of cases in the juvenile justice system of Japan.

A. Juvenile Delinquency in 1977

The description of general trends in juvenile delinquency in 1977 will be divided, for the purpose of convenient analysis, into the following three categories: (1) Penal Code Offenders, (2) Special Law Offenders, and (3) Law-Breaking Children and Pre-Offence Juveniles.

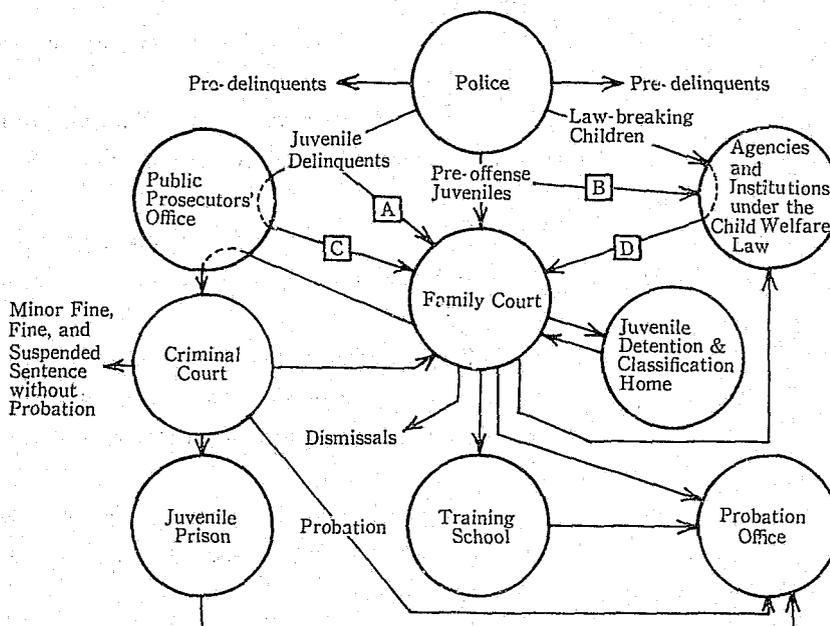
1. Penal Code Offenders

During 1977, a total of 162,819 juveniles were investigated by the police on suspicion of violation of Penal Code offences, which was 3,058 more than that of 1976. In other words, there were 17.0 juvenile offenders per 1,000 juvenile

¹⁵⁾Definition of being "pre-offence" is given in Article 3 of the Juvenile Law which reads in part: "The Family Court shall have jurisdiction over the following juveniles . . . (3) Any juvenile who is prone to commit an offence or violate a criminal law or ordinance in view of his character or surrounding circumstances, because of the existence of the following reasons; (a) that he habitually disobeys the reasonable control of his guardian; (b) that he repeatedly deserts his home without good reason; (c) that he associates with a known criminal or an immoral person, or frequents any place of dubious reputation; and (d) that he habitually acts so as to injure or endanger his own morals or those of others."

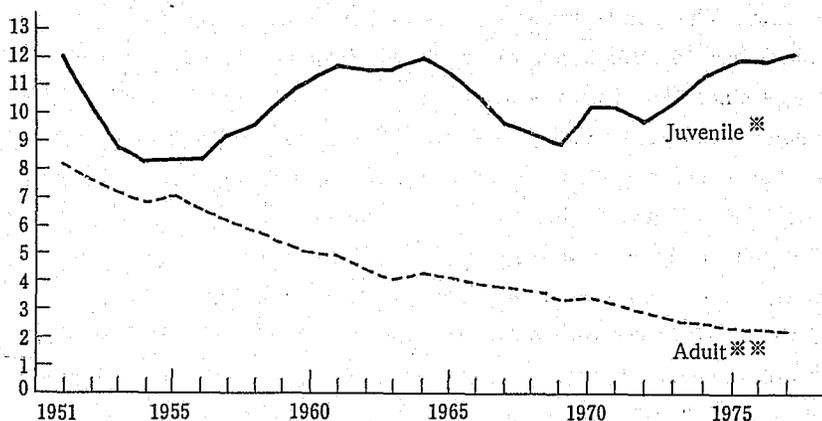
population, rate 0.1 higher than the 1976 figure. The number of juvenile suspects investigated by the police reached a peak of 133,656 in 1951 and then decreased for several years. It turned upward again in 1955 and reached a high point of 193,121 in 1966. The number stabilized below 190,000 from 1967 to 1969, but exceeded 190,000 in 1970. However, it has again stabilized below

Figure 6. Juvenile Justice System of Japan



- A The police shall send the case of juvenile delinquent to a Public Prosecutor. However, if the case concerns an offence punishable with a fine or lesser penalty, he shall send the case to a Family Court (Article 41, the Juvenile Law: Article 246, the Code of Criminal Procedure).
- B If a police officer or a guardian deems that measures under the Child Welfare Law will be more advisable than immediately sending the information to the Family Court, he may directly notify a Child Guidance Center of any case which involves a pre-offence juvenile under 18 (Paragraph 2, Article 6, the Juvenile Law). Also see below.
- C If the Public Prosecutor deems that an offence has been committed by a juvenile, he shall send the case to the Family Court. He shall also send those cases to the Family Court that he believes to be a pre-offence juvenile even if there is not sufficient grounds for suspicion in a particular case (Article 42, the Juvenile Law).
- D If the prefectural governor or chief of the child guidance center deems it necessary to take compulsory measures for a juvenile to whom the Child Welfare Law is applicable, such as restricting the freedom of his conduct or depriving him of liberty, he shall refer the case to the Family Court (Paragraph 3, Article 6, the Juvenile Law). The Family Court has jurisdiction over a law-breaking child or a pre-offence juvenile under 14 years of age only when the prefectural Governor or chief of the Child Guidance Center refers him to the Family Court (Paragraph 2, Article 3, the Juvenile Law).

Figure 7. Trends in Non-Traffic Major Penal Code Offenders Investigated by the Police: Juvenile and Adult 1951-1977



* Rate per 1,000 population of 14-19 years of age

** Rate per 1,000 population of twenty years of age and over

165,000 since 1972. Figure 7 shows the trends of the rate of juvenile offenders computed per 1,000 juvenile population, with the corresponding rates for adults.

An examination of the trends in non-traffic major Penal Code offenders who violated provisions of the Penal Code concerning property, sex and violence, and investigated by the police (offences 1-1, 20, 21 in Table 2, page 4) reveals that although the number of juvenile suspects decreased from 126,505 in 1951 to 85,496 in 1954, this trend was reversed in 1955 and peaked at 151,083 in 1964. Since 1965 the number decreased each year and reached a low of 101,412 in 1969. In 1970 there was an increase in excess of 7,000 over the 1969 low. Although the number decreased again to 97,031 in 1972, since 1974 it has almost been stable at the level of 110,000. It should be noted that in 1977 juvenile suspects who committed non-traffic major Penal Code offences were approximately one half of the number of adult suspects and four times higher than adults in ratio per 1,000 population.

It is also noted that delinquency among girls recently shows a continuous increase including some changes in quantity as well as quality. In 1977, a total number of 23,527 girls who committed Penal Code offences were investigated by the police. This was a 1,136 increase from the previous year and comprises 19.7% of the total juvenile non-traffic Penal Code offenders. In breakdown of these girl offenders by type of offences, theft covered 93.0%; however, the rate of violent offences such as extortion and assault among girls become higher than that of the previous year.

2. Special Law Offenders

During the year 1977, the Public Prosecutors' Office received a total of

259,765 juveniles suspected of violating penal statutes other than the Penal Code. Of this number, 253,691 (97.7%) were suspected of violating the Road Traffic Law. The non-traffic special law offenders received in the Public Prosecutors' Offices in 1977 amounted to 6,074, 44 more than in the previous year.

It was since 1967 that the abuse of paint-thinner or chemical glue, particularly among juveniles, became prevalent. The number of juveniles given guidance by the police due to such indulgence reached 49,587 in 1971. The number of accidental deaths caused thereby was as many as 70 (including 20 adults). The Government reacted to this serious situation by the amendment of the Poisonous and Injurious Substance Control Law in 1972.

Of the 32,578 juveniles who were suspected by the police and given guidance as abusers of paint-thinner or glue in 1977 (a slight decrease against the previous year), 39.6% were employed, 37.5% were students, and 22.9% were unemployed.

3. Law-Breaking Children and Pre-Offence Juveniles

In 1977, the police investigated and gave guidance to 35,337 children under fourteen years old who would have been referred either to the Family Court or to the Public Prosecutor, had they been fourteen years old or older. This figure was 801 more than that of the previous year. The rate per 1,000 population of the age group of 8-13 years was 3.4 in 1977, the same ratio as in the previous year. Theft has always been the major delinquency of children in this category, comprising 86.8% of the total.

In addition to children in the law-breaking category, the police gave guidance or direction to pre-delinquent juveniles who were indulging in smoking, drinking, unwholesome pastimes, truancy, keeping bad associates, loitering in entertainment areas, inhaling paint-thinner, etc. The estimate for such juveniles would reach several hundred thousands in all. The number of juveniles of whom the police actually referred either to the Child Guidance Center or to the Family Court, however, appears to have been declining since 1965.

B. Special Features and Background of Juvenile Criminality

1. Juvenile Offenders by Type of Crime

Breaking down 162,819 juvenile Penal Code offenders by type of offence, those who committed theft outnumbered all other types, comprising 55.0% of the total juvenile Penal Code suspects in 1977. Next, professional negligence causing death or bodily injury comprised 26.7%, followed by bodily injury (4.4%), assault (3.7%), and embezzlement (3.1%). The crimes which showed a considerable increase over the previous year were theft, embezzlement, assault and bodily injury. It should be noted, however, that juveniles comprised more

than 40% of the total offenders in such crimes as theft, extortion, embezzlement, and the number of juvenile offenders, compared with total offenders, has been increasing in recent year.

When compared with the figures for 1955, the number of juvenile offenders alleged to have committed embezzlement increased by 2.27 times in 1977, followed by assault (1.63), theft (1.53), and indecency (1.34). On the other hand, the number of cases of fraud, murder, robbery, intimidation, rape and bodily injury declined. Of late, an increasing number of juveniles are apt to commit the above offences just out of pleasure-seeking and merry-making. In this connection, it should be noted that as to theft by juveniles in 1977, shoplifting and thefts of vehicles such as bicycles, motorcycles, etc., were increasing and break-ins were showing downward trends. Juveniles guided by the police for inhaling paint-thinner came to 32,578; though this was a little but down from the previous year, the number was relatively large, so there is no room for optimism for the future. In 1977, another salient feature of juvenile delinquencies was the change in the pattern of commission of delinquencies. That is, about 36.1% of all juvenile Penal Code offences except for traffic in 1977 were committed jointly, which indicates an increasing tendency toward joint criminal behaviour by juveniles. And, as for "hot-rodders" who run around noisily in groups of vehicles, they were involved in bodily injury, assault, violation of the Poisonous and Injurious Substance Control Law, etc. in addition to violations of the Road Traffic Law, in sharply increasing number. This might be interpreted as meaning that they have strengthened their criminal characters in groups prone to violent offences. As to repeated juvenile offenders, non-traffic Penal Code offenders (with previous referral to Family Court prior to the delinquencies in question) were moving downward but, on the other hand, special law offenders were showing an upward trend in 1977. Offences committed by repeated juvenile offenders were robbery, rape, fraud, murder, extortion, bodily injury, assault, etc. in the order of high incidence. Heinous and violent crimes were liable to be committed by juveniles with advanced criminal tendencies. The majority of repeated juvenile offenders were involved in offences within one year of the date of the previous disposition by Family Court.

Recent juvenile delinquencies are liable to be committed mainly by juveniles from ordinary families who have parents and are not poor, which may reflect the universality of juvenile delinquency. Problems resulting from improper exercise of guardianship over juveniles, etc., are observed in many families of juvenile delinquents and may be said to be closely linked to juvenile delinquency today.

2. Juvenile Offenders by Age-Group

Of the total juveniles aged 14 and 15 who were investigated by the police, the offence of theft accounts for 80.2%. This was followed by embezzlement (4.2%), assault (4.2%), bodily injury (3.6%) and extortion (3.4%). In the case of 16 and 17 year-olds, theft was also the dominant offence, amounting to 76.0%. Next came bodily injury (5.8%), followed by assault (4.8%), embezzlement (3.8%) and extortion (3.1%). In the 18-19 age group, theft accounted for 61.7% of the total, followed by bodily injury (11.3%), assault (7.3%), embezzlement (4.9%) and extortion (3.3%). For young adult offenders, 20 to 24 years old, theft accounted for 54.3%, followed by bodily injury (15.5%), assault (8.8%), and embezzlement (2.9%). It is noted that theft accounts for a much higher proportion of the charges in the lower age groups, while in the older age groups crimes of violence comprise a higher ratio of the total.

3. School and Employment

In accordance with the increase of the total number of students the percentage of students among juvenile non-traffic offenders has been increasing since 1968, although it has always been smaller than the percentage of students to the total population of the corresponding age group. In 1977, 72.3% of juvenile suspects investigated for non-traffic Penal Code offences were students of junior (30.8%) or senior (36.1%) high schools, colleges (3.4%), or universities (2.1%).

In 1977, a total of 20,523 working juveniles were investigated by the police for non-traffic offences. This comprises 17.2% of the total juvenile offenders.

In 1977, students involved in delinquent behaviours surged upward in number to a remarkable degree. Of all juvenile Penal Code offenders subjected to criminal investigation in 1977, students made up 72.3%, the majority of them being in junior and senior high schools.

As to the breakdown of their offences, as heretofore, property offences were in first place, followed by violent offences. In addition, there occurred many cases of violence in school involving male students and many cases of deviant behaviour, such as sexual delinquencies, by female students.

According to a survey of the Research and Training Institute of the Ministry of Justice, the main characteristics of delinquent students are as follows:

- (1) Not a small number of criminal acts were committed as a result of following peers blindly or from force of habit.
- (2) There were many delinquents with behavioural problems such as drinking, smoking, truancy, etc.
- (3) Though their intelligence quotient seemed to be normal, many delinquents had problems with respect to their character.
- (4) Many of them had troubles

with their parents and friends, though their social relationships with teachers appeared to be maintained in good shape.

4. Others

Statistics gathered by the police revealed that in 1977, a total of 36.1 of juvenile non-traffic Penal Code offenders had co-principals or accessories while the corresponding percentage was three times lower in the case of adults. In regard to juvenile cases, the ratio was notably high for extortion (47.4%), followed by assault (46.3%), bodily injury (45.1%), robbery (40.0%), theft (36.8%), and rape (30.8%).

Family Court statistics indicate that among the non-traffic juvenile offenders disposed of in 1976, 22.0% of the non-traffic Penal Code offenders and 34.7% of special law violators excluding the Road Traffic Law violators had previous records of disposition by the Family Court. Approximately 42.8% of juveniles charged with robbery, and 40.1% with rape, and 38.5% with fraud had previous records of referral to such an agency. In brief, those charged with violent types of crime tended to have more extensive criminal records, whereas the ratio of persons with previous offences was lower in embezzlement and theft cases, with less than 20%. A survey made by the Ministry of Justice revealed that 77.6% of juveniles committed to training schools in 1977 had previous records of legal disposition.

C. Disposition and Treatment

1. Disposition by Public Prosecutor

The Public Prosecutors' Offices received 426,440 juvenile suspects in 1977, which was 29,010 (7.3%) more than that of the previous year. Of this number, 166,675 (39.1%) were suspected Penal Code offenders, an increase of 1,976 from 1976, 253,729 (59.5%) were violators of the Road Traffic Law, an increase of 26,990 from 1976, and 6,036 (1.4%) were special law violators (other than Road Traffic Law violators), an increase of 44 from the previous year. A continually decreasing percentage of professional negligence causing death or bodily injury cases from 1970 was also observed in 1977, when it was 27.4% of the above total 166,675 while theft accounted for 54.1%.

The Public Prosecutor is not empowered to determine whether or not to institute prosecution if the suspect is a juvenile. He sends the case, after investigation, to the Family Court with a recommendation for the treatment of the juvenile. Thus, a total of 421,852 juveniles were referred from the Public Prosecutor to the Family Court in 1977.

The Public Prosecutor is, in principle, required to institute prosecution when a case is referred back to his office by the Family Court for criminal prosecu-

tion. Of 39,037 juvenile offenders thus prosecuted in 1977, a total of 34,231 or 87.7% were Road Traffic Law violators, and 4,726 or 12.1% were Penal Code offenders, 93.7% of whom were charged with professional or gross negligence causing death or bodily injury.

2. Adjudication by Family Court

The Family Court is empowered to determine treatment measures for a juvenile delinquent. The Family Court can apply one of three protective measures provided for in the Juvenile Law (e.g. placement under probationary supervision, commitment to either a juvenile training school or a child education and training home), refer the case to the Public Prosecutor for criminal prosecution, or discharge the juvenile without further action, with or without a hearing.

In 1977, a total of 495,348 juveniles were referred to the Family Court, representing an increase of 33,524 from the previous year. Fifty-nine percent of them were Road Traffic Law violators. Among the non-traffic violators, Penal Code offenders stood for 34.5%, followed by special law violators (6.2%), and those engaged in pre-offence activities (0.8%).

Family Court Probation Officers investigate the juvenile, his family, or other persons involved in his case. The Family Court may place a juvenile under "tentative probation." During this period, the Family Court Probation Officer observes the delinquent's conduct for the purpose of obtaining more information to assist an appropriate court determination. In 1976, 21,326 of the total non-traffic offenders, were placed under "tentative probation."

Table 15. Final Dispositions of Non-Traffic Offenders by Family Court, 1967 and 1977

Disposition	1967		1977	
	Number	Percentage	Number	Percentage
A. Dismissal without Hearing	94,400	43.9	89,066	51.5
B. Dismissal after Hearing	62,223	29.6	56,808	32.8
C. Referral to Child Guidance Center	500	0.2	226	0.1
D. Probation	21,439	10.2	15,290	8.8
E. Commitment to Child Education & Training Home	242	0.1	206	0.1
F. Commitment to Juvenile Training School	6,665	3.2	3,186	1.8
G. Referral to the Public Prosecutor	27,030	12.8	8,238	4.8
Total	210,499	100.0	173,020	100.0

Final dispositions of all non-traffic cases for 1967 and 1977 are shown in Table 15. It will be noted that those juveniles referred to the Public Prosecutor accounts for only 4.8% of the total in 1977; the corresponding figure for 1967 was 12.8%.

3. Criminal Trial

During 1977, a total of 35,634 juveniles were convicted in courts of first instance. Of this number, 511 were sentenced to imprisonment, 380 of which were given suspended sentences. A total of 35,123 were sentenced to pay fines. Of those who were actually imprisoned, traffic offenders scored the largest figure (39), followed by those involved in theft (22), robbery (14) and rape (12).

4. Juvenile Classification Home

The Juvenile Classification Homes complete prehearing investigation and classification on juveniles referred to them by the court. The average length of stay is about twenty-one days. There are fifty-one Juvenile Classification Homes (including one branch home) in Japan administered by the Ministry of Justice. There is at least one in each of Japan's forty-seven prefectures. The classification of the juveniles is performed by staff specialists in medicine, psychology, sociology, and education. Their findings and treatment recommendations are reported to the referring family court judge.

In 1977, a total of 13,643 juveniles, including 1,856 girls, were committed to these classification homes, 1,063 more than that of the previous year.

As for the breakdown of release from confinement with regard to a total number of 13,519 juveniles housed in the Juvenile Classification Homes in 1977, probation amounted to 27.0%, followed by commitment to Juvenile Training School with 24.2%, tentative probation with 18.7%, revocation of protective detention with 8.2%, dismissal without or after hearing with 6.1%, referral to the public prosecutor with 2.1%, and commitment to Child Education & Training Home with 1.5%. The total number of juvenile traffic offenders referred for juvenile classification was 10,085, an increase of 1,239 cases from the previous year. Especially it is noteworthy that the number of juveniles given juvenile classification under confinement in Juvenile Classification Homes increase from 922 in 1976 to 1,658 in 1977.

As for the age group of juveniles accommodated in the said homes, in respect of boys, the group of advanced age, 19 and 18, comprises 6,050 (56.6%); that of middle age, 17 and 16, 3,394 (31.7%); and that of lower age, 15 and 14, 1,252 (11.7%). With regard to girls, the group of the advanced age was 304 (17.7%), that of the middle age was 715 (41.7%) and that of the lower age was 696 (40.6%).

The Juvenile Classification Homes also make available testing and classification services on an out-patient basis. These youths are not referred by the Family Courts but by interested persons or agencies from outside. Requests for these services have totaled 22,918 in 1977.

5. Juvenile Training School

Commitment to a juvenile training school is one of the three protective measures provided for in the Juvenile Law. The programmes at juvenile training schools includes discipline of inmates in a friendly atmosphere, academic and vocational training, medical treatment, and cultural and recreation activities. A total of sixty-one juvenile training schools are administered by the Ministry of Justice. They are classified into four types; primary, middle, advanced, and medical. The number of inmates in these schools by type of school at the end of December 1977 and their respective percentages of the total were as follows: middle school inmates outnumbered all other types amounting to 2,059 (71.6%), followed by primary school with 388 (13.5%), advanced school with 267 (9.3%), and medical school with 160 (5.6%), respectively.

In 1977, 3,277 juveniles, including 330 girls, were admitted to such schools, an increase of 615 over 1976 admissions. Nineteen-year-old juveniles accounted for 27.1% of all admissions, eighteen year-olds 24.2% and seventeen year-olds 20.4%. The main offences which resulted in commitment in 1977 were: theft (47.5%), pre-offence (10.3%), extortion (6.3%), rape and indecent assault (5.7%), and bodily injury (6.1%).

During 1977, 286 certificates for completion of compulsory education were awarded to those in the training schools who had not completed compulsory education prior to commitment. This number was 64 more than that of 1976. In addition, 1,520 boys and girls obtained, as a result of vocational training and guidance, qualifications or certificates in such fields as abacus, auto driving, welding, wood-craft, mechanics, printing, sheet metal work, architecture, electronics, and others.

Recently juvenile delinquency has become more complex in nature. To cope with this situation, new programmes in the juvenile training schools were introduced in June 1977, with two main objectives. One is to improve the short-term programme for traffic violators and ordinary delinquents in open or semi-open institutions of relatively small size. The maximum term of residence is administratively fixed at four months for traffic violators and at six months for ordinary delinquents. Main emphasis is placed on the formation of responsible attitudes in social life through disciplined activities. The second objective is that individual training schools perform the following treatment programmes in

consideration of the characteristics of their own facilities; that is, (1) living guidance course, (2) vocational training course, (3) academic education course, (4) special education course (for retarded or emotionally unstable juveniles), and (5) medioterapeutic treatment (for physically or mentally diseased juveniles). According to follow-up research for three years on those who were released from juvenile training schools in 1974, more than eighty percent of them have been living in society without recommittal to any correctional institution. The figure shows a sharp decrease as compared with the ratio of recommittal of juveniles released in 1957, which was a little over fifty percent.

6. Juvenile Prison

Juvenile offenders convicted in courts other than the Family Courts are committed to juvenile prisons. Juvenile prisons are more treatment-oriented than are adult prisons. An inmate of a juvenile prison may be continuously institutionalized until he reaches the age of 26.

There were 127 juvenile prisoners in juvenile prisons at the end of 1977, which was a decrease of 40 from the previous year. There are nine juvenile prisons in Japan which admitted 113 juveniles in 1977. This figure is forty-eight smaller than the 1976 figure. Most inmates of juvenile prisons have an indeterminate sentence. There is a higher percentage of inmates convicted of professional negligence causing death or bodily injury (28.7%), theft (21.8%), robbery (13.8%), and rape (12.6%) among juvenile prisoners. Understandably, no juvenile prisoner has a previous record of imprisonment. However, 43.4% had previously, been subjected to protective measures by the Family Courts, approximately 75% of whom had once been in juvenile training schools.

As to the treatment programme in juvenile prisons, the main emphasis is placed on vocational training and academic education. According to a survey of the Research and Training Institute of the Ministry of Justice, many juveniles released from juvenile prisons who had undergone vocational training were engaged in jobs connected with that training such as auto-repair man, welder, barber, cook, and engineer. For juvenile prisoners to get the certificate of completion of compulsory education, academic education is given mainly to those who have not completed their compulsory education. In addition, senior high school level education is also provided through correspondence courses in collaboration with local senior high schools.

According to the follow-up study for three years on those who served an indeterminate sentence and were released from juvenile prisons in 1974, about eighty percent of them were living in society without recommittal to any correctional institution.

7. Juvenile Probation and Parole

Placing juveniles under probationary supervision in the community for a specified period is one of the three protective measures that the Family Court may select. In 1977, a total of 33,735 juveniles were placed under probationary supervision by the Family Courts. This is an increase of 9,754 from the 1976 figure. At the end of 1977, there were 39,359 juveniles on probation, comprising 63.3% of the total number of probationers in Japan.

Those juveniles released on parole from juvenile training schools during 1977 numbered 2,761. At the end of the same year, 3,082 juveniles, or 32.7% of the total parolees, were under parole supervision throughout Japan.

In 1977, 26,373 juvenile probationers, excluding traffic offenders under short-term supervision, terminated their probationary supervision period. Of them, 17,416 probationers were discharged from supervision for good results. The total number of juvenile traffic offenders under short-term supervision, which was put into practice in April 1977, amounted to 6,143, of whom 6,101 were discharged from supervision successfully. Out of 2,078 juvenile training school parolees who completed their probationary supervision period, 211 parolees were discharged from parole supervision for good results.

END