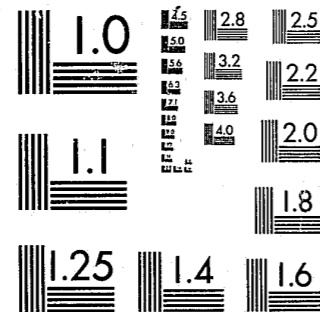


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GOVERNMENT OF JAPAN

SUMMARY OF  
THE WHITE PAPER ON CRIME

1979

RESEARCH AND TRAINING INSTITUTE  
MINISTRY OF JUSTICE

## PREFACE

The Research and Training Institute of the Ministry of Justice has, since 1960, submitted to the Cabinet an annual White Paper on Crime reporting trends in criminal activity and current concerns in the administration of criminal justice. Each White Paper is published, as is an English-language summary, so that government officials, members of the legal profession, scholars and interested citizens generally, in Japan and abroad, may receive up-to-date information on prevention of crime and treatment of offenders in this country. This is the seventeenth in the series of summary volumes.

The 1979 White Paper on Crime, subtitled "Recidivism From an International Perspective," focuses on crime trends and techniques for dealing with offenders over the past several years, with emphasis on conditions in 1978, and analyzes the problem of repeated crime from both a domestic and comparative point of view.

Crimes rates in Japan for a number of years have generally remained constant or declined somewhat, and have been consistently lower than those in western countries. Nevertheless, there is increasing concern in this country over recent increases in the frequency of commission of theft and other property offenses, the unlawful use of stimulant drugs and several forms of criminal activity by organized crime groups. Although there has been an over-all drop in repetitive criminality, a relatively small number of habitual criminals and dangerous offenders commit a disproportionate share of new crimes. Therefore, urgent priority must be given to the development and implementation of effective treatment measures and programs directed at these hardcore offenders.

This White Paper has endeavored to bring the realities of recidivism to the fore through a comparative analysis of repetitive crime in selected Asian and European countries. This volume also touches on certain aspects of habitual criminality in Japan not covered in the 1978 White Paper, based on a computerized evaluation by the Ministry of Justice of 500,000 case files randomly selected from a much larger body of data. It also examines repetitive drug offenses, criminal acts of mentally disordered persons and certain other crimes which have created deep concern in contemporary Japanese society.

Needless to say, it is most difficult to conduct precise comparative analyses of recidivism in Japan and other nations, because of major differences in legal

systems and variations in statistical data and data classifications. Only quite general conclusions may be drawn about frequency of recidivism and the offenses most commonly committed by habitual criminals. Nevertheless, even such general conclusions are a helpful setting within which to evaluate recidivism in Japan and the efficacy of policies and practices directed against it. This country appears to share with other nations the phenomenon that much serious crime is repetitive and that a relatively small body of high-frequency recidivists perpetrates an inordinately large proportion of all crime.

Data in the 1978 White Paper established that the recidivism rate among previously convicted offenders in immediately preceding years was somewhat lower than had been true in earlier years. The current 1979 White Paper confirms that trend, whether cases are evaluated on the basis of the form of penalties, length of terms of imprisonment or receipt of suspension of execution of sentence. The only offender group showing some increase in frequency of recidivism comprises those granted suspension of sentence execution coupled with probationary supervision; offenders in that category recidivate at three times the rate of those receiving suspension without probationary supervision. It also is a matter of concern that stimulant drug law offenders who received suspension commit new crimes almost twice as often as those similarly treated after convictions for other crimes.

These are but a few of the intriguing topics discussed in this White Paper. It is divided into four parts. The first summarizes recent crime trends observable in statistical data, particularly those for 1978, and evaluates the problem of recidivism in this and selected foreign countries on the basis of both quantitative and qualitative data. The second describes the actual processing of offenders during the phases of prosecution, adjudication, correctional administration and rehabilitation. Part three covers trends in juvenile criminality and delinquency and modes of treating juvenile offenders. Part four delineates legal and administrative problems brought about by drug offenses, organized crime activities, acts of mentally disordered persons and female crime. The Ministry of Justice hopes that the 1979 White Paper discussion of these important problems will contribute to the improvement of criminal justice administration in this country and elsewhere.

This English-language summary was prepared through the most helpful cooperation of 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 Institute faculty members. I gratefully acknowledge their valuable contributions.



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## PART ONE: TRENDS IN CRIMINALITY

### I. Crime Trends and Statistical Review of Crime in 1978

#### A. Penal Code Offenses

##### 1. General Trends

Trends in crime since World War II, are reflected in statistics on the number of Penal Code offenses known to the police. The total number of such offenses, 1,387,080 in 1946, rose sharply to over 1,603,265 in 1948, and then decreased to 1,344,482 in 1953. In 1954 an increasing trend began which culminated in 1964 in a total of 1,609,741 Penal Code offenses, which exceeded the 1948 peak. After a slight decrease during the following two years, a third period of acceleration began which reached another peak in 1970 of 1,932,401, the highest figure since the end of the war. However, from 1971 onward the rate decreased constantly to a 1974 level of 1,671,947. There has been a slight increase since then, to a 1978 total of 1,776,801, a rise of 71,806 over 1977.

The rate of clearance by the police of known Penal Code offenses was 68.6 percent in 1978. The annual clearance rate during the past ten years has varied between 68 percent and 71 percent of offenses known to the police. Thus, the figure of 1,219,578 in 1978 represented an increase of 59,502 over the previous year and the number of offenders investigated (although not necessarily arrested) by police increased to 843,295 in 1978, 21,077 more than during the previous year.

##### 2. Nontraffic Penal Code Offenses

The above-described increase in Penal Code offenses flowed mostly from a disproportionate increase in automobile accidents constituting the Penal Code offense of professional or gross negligence causing death or bodily injury (Article 211).<sup>23</sup> Since a very heavy majority of the offenses included in this category are traffic related, other categories of offenses lying outside Article 211 are, for the purpose of convenient presentation, referred to here as "nontraffic Penal Code offenses."

<sup>23</sup>The Penal Code includes three types of negligent offenses: simple negligence causing death or bodily injury; gross negligence causing death or bodily injury, and professional negligence causing death or bodily injury. The "professional" negligence concept was originally designed to cover negligent death or bodily injury inflicted in the course of business or professional activity by persons like physicians or commercial chauffeurs. Courts have enlarged the interpretation of "professional" to include motorists whose occupations are other than that of vehicle driver.

The number of nontraffic Penal Code offenses known to the police reached a peak in 1948 of 1,599,968; it then decreased sharply to 1,317,141 in 1953. Figures have fluctuated somewhat in the following years. Since 1971 the number has decreased steadily; in 1973 it dragged to 1,187,936, the lowest figure in the postwar year. However, there was a slight rise to 1,266,658 in 1977 and to 1,335,172 in 1978, representing an increase of 68,514 over the figure for the preceding year.

The clearance rate for Penal Code offenses was 68.6 percent of all cases known to the police in 1978, an increase of 0.6 percent over the previous year.

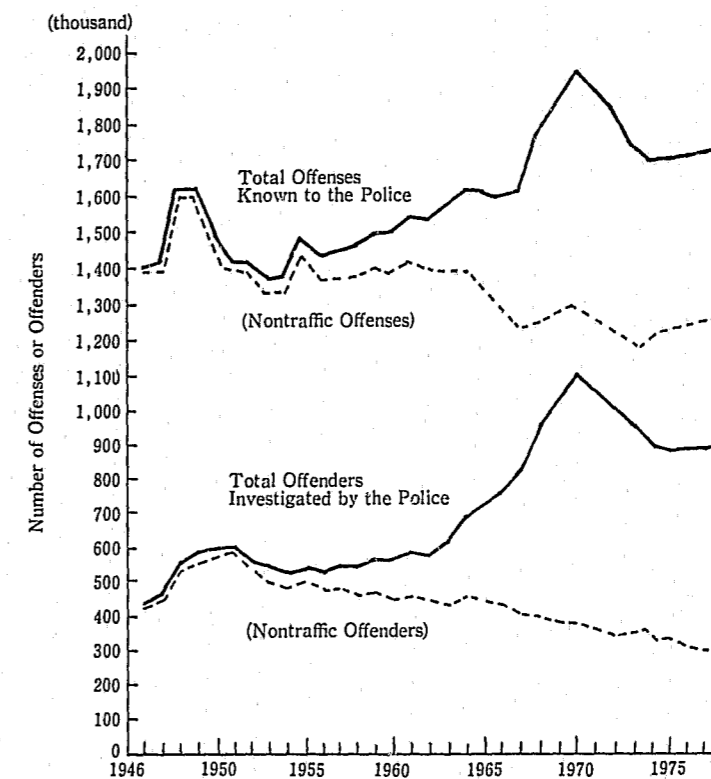
The number of nontraffic Penal Code offenders investigated by the police has shown a general downward trend from the 1950 figure of 578,152. In 1978, there were 379,322 such offenders, 18,457 more than in 1977. For every 100,000 persons amenable to the Penal Code (i.e., fourteen years or older), police learned of 1,498 offenses and investigated 426 offenders. Despite the fact the both categories reflected an increase over the preceding year, there was a decrease in the number of persons actually prosecuted. These rates, with frequencies of prosecution and conviction, in selected years are shown in Table 1.

Figure 1 demonstrates the trends in Penal Code offenses and offenders compared with those of nontraffic Penal Code offenses and offenders.

Table 1. Nontraffic 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			
		Offenses Known	Suspects	Persons Prosecuted	Persons Convicted in court of first instance
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	1,478	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	111
1978	89,145	1,498	426	153	...

Figure 1. Trends in Penal Code Offenses and Offenders



### 3. Statistical Review of Penal Code Offenses in 1978

Of the total Penal Code offenses (including traffic) known to the police in 1978, theft was the most frequently committed, comprising 64.0 percent, followed by professional or gross negligence causing death or bodily injury (24.9 percent), fraud (3.7 percent), bodily injury including that resulting in death (manslaughter) (1.6 percent), assault (one percent), and embezzlement (0.9 percent). Intentional homicide accounted for only 0.1 percent.

Of all Penal Code offenders investigated by the police in 1978, a clear majority (55 percent) were charged with professional or gross negligence causing death or bodily injury. This was largely explainable by a clearance rate of nearly 100 percent, while the rate for thefts was that year only 52.7 percent. Professional negligence cases aside, 27.4 percent of the total were charged with theft, 4.3 percent with bodily injury including that resulting in death, 2.8 percent with assault, and 2 percent with fraud. Murder charges came to a minuscule 0.2 percent of the total.



Table 2. Trends in Penal Code Offenders Investigated by

Offenses	Year	1974		1975	
		Number	Index	Number	Index
<b>I. Property Offenses</b>					
1. Theft		190,792	100	198,423	104
2. Fraud		15,118	100	16,603	110
3. Embezzlement		7,735	100	8,647	112
4. Stolen Property		2,046	100	1,838	90
5. Breach of Trust		174	100	195	112
Total		215,865	100	225,706	105
<b>II. Offenses of Violence</b>					
<b>A. "Non-heinous" Crimes</b>					
6. Assault		31,415	100	27,822	89
7. Bodily Injury (including that resulting in death)		46,858	100	42,775	91
8. Intimidation		1,977	100	1,989	101
9. Extortion		11,602	100	12,367	107
10. Unlawful Assembly with Weapon		1,660	100	1,206	73
Total		93,512	100	86,159	92
<b>B. "Heinous" Crimes</b>					
11. Murder (including patricide, infanticide and attempt)		1,870	100	2,179	117
12. Robbery		840	100	936	111
13. Robbery Involving Homicide, Bodily Injury, or Rape		1,271	100	1,310	103
Total		3,981	100	4,425	111
<b>III. Sex Offenses</b>					
14. Rape (including that resulting in injury and death)		4,485	100	4,052	90
15. Indecent Assault		1,629	100	1,570	96
16. Obscene Matters (distributing, selling, etc.)		3,604	100	3,654	101
Total		9,718	100	9,276	95
<b>IV. Offenses of Negligence</b>					
17. Professional Negligence causing death or bodily injury		491,982	100	468,502	95
18. Simple Negligence (causing death or injury)		519	100	470	91
19. Fire Caused by Negligence		4,314	100	3,863	90
Total		496,815	100	472,835	95
<b>V. Miscellaneous</b>					
20. Arson		748	100	736	98
21. Gambling		16,020	100	14,673	92
22. Kidnapping		178	100	176	99
23. Forgery and Counterfeiting		1,645	100	1,888	115
Total		18,591	100	17,473	94

the Police by Crime Categories 1974-1978

	1976		1977		1978	
	Number	Index	Number	Index	Number	Index
	201,932	106	207,064	109	231,403	121
	15,918	105	15,665	104	16,594	110
	9,904	128	12,375	160	14,157	183
	1,811	89	1,639	80	1,717	84
	236	136	226	130	208	120
	229,801	106	236,969	110	264,079	122
	26,368	84	25,781	82	23,996	76
	40,590	87	40,730	87	36,423	78
	1,700	86	1,702	86	1,582	80
	10,636	92	9,660	83	9,399	81
	1,038	63	1,236	74	1,264	76
	80,382	86	79,109	85	72,664	78
	2,113	113	1,988	106	1,843	99
	939	112	814	97	822	98
	1,106	87	1,012	80	926	73
	4,158	104	3,814	96	3,591	90
	3,394	76	3,046	68	2,876	64
	1,465	90	1,540	95	1,482	91
	3,653	101	2,947	82	3,094	86
	8,512	88	7,533	78	7,452	77
	473,638	96	461,353	94	463,973	94
	410	79	363	70	332	64
	3,962	92	3,791	88	3,586	83
	478,010	96	465,507	94	467,891	94
	876	117	921	123	944	126
	12,539	78	12,238	76	10,595	66
	144	81	136	76	140	79
	2,147	131	1,805	110	2,065	126
	15,706	84	15,100	81	13,744	74



The 1978 statistics on major Penal Code offenses revealed an increase over the preceding year of 63,255 theft cases and 8,746 fraud cases; the latter reflected a 15.6 percent rate of increase. In contrast, bodily injury cases decreased by 3,541 and assault cases by 1,791; a downward trend was observable also in crimes of gambling, traffic in obscene matter, obstruction of the performance of official duty, intimidation, extortion, intentional homicide, robbery and rape (including that resulting in death or bodily injury).

For purposes of detailed analysis, Penal Code offenders investigated by the police have been divided into five categories, based on property offenses, violent offenses, sex offenses, offenses committed through negligence and miscellaneous offenses.

Table 2 shows the trends in the numbers of investigated offenders, using a 1974 base index of 100 and reflecting figures through 1978. The cumulative index figure of 122 for property offenders investigated by police in 1978 was affected strongly by an index of 183 for embezzlement cases and 121 for theft cases. However, many embezzlement cases rested on conversion of lost articles, while much of the increase in theft reflected petty activity like wrongful temporary use of bicycles and motorbikes or shoplifting. Heinous offenses (intentional homicide, robbery, robbery involving homicide, bodily injury and rape) revealed a downward trend; a sharp rate of decrease was observable in nonheinous offenses like assault, bodily injury and intimidation.

There have been evident diminutions as well in sex offenses (rape having declined appreciably over a five-year period) and offenses committed through negligence, particularly simple negligence resulting in death or injury. Gambling offenses and kidnapping also have been on a steeply declining basis. Indeed, arson is the only dangerous offense which has been committed at an accelerated rate.

#### B. Special Law Offenses

##### 1. Traffic Violations

Special law offenses comprise all offenses other than Penal Code offenses. Thus, they can be characterized as so-called statutory crimes. Over the years, the overwhelming majority of these offenses have arisen from road traffic law violations of all types, from drunken driving to illegal parking.

Since 1953 there has been a sharp but steady increase in the number of persons investigated by public prosecutor's offices on traffic violation charges. Beginning with a 1946 number of 2,832, the incidence had risen to 753,543 in 1953 and 4,965,062 in 1965. Traffic cases amounted to an insignificant 0.5 percent of all cases investigated by public prosecutors in 1946, but to a share of

43.9 percent in 1953 and a staggering 83.8 percent in 1965. The Government then moved to counter this disproportionate increase in traffic violations through adoption of a new system of traffic infraction notification procedures, embodying a partial decriminalization of less serious violations; the system went into effect in July 1968. It brought about a significant decrease in cases in 1969, to 1,470,620 (54.4 percent). That trend was short-lived, however; every year after 1969 showed an increase, and in 1978 the figure reached 2,308,157, or 70.1 percent of all cases received that year by public prosecutor's offices.

##### 2. Other Special Law Offenses

In 1978, public prosecutors received a total of 2,452,319 special law offenses. Setting aside road traffic law offenses, special law violations amounted to 144,162, a decrease of 9,790 cases from 1977. That decrease is chiefly explained by a decline in contraventions of the Public Election Law. The year 1977 saw a national election for the House of Councillors and many local elections, while in 1978 there were only a few elections to choose prefectural governors and local mayors. Consequently, election law violations received by public prosecutor's offices sharply dropped from a 1977 total of 15,274 to a 1978 figure of 3,776.

No consistent trends have been registered among the various special law offenses. There were 28,187 offenders under the Stimulant Drug Control Law, an increase of 4,476 between 1977 and 1978; 12,268 offenses were recorded in 1978 against the Law Regulating Businesses Affecting Public Morals, or 1,241 more than in 1977. Public security cases embodying contraventions of the Law Regulating Possession of Guns and Swords, Explosives Control Law, Minor Offense Control Law, Law for Prevention of Nuisances Caused by Intoxication, and the like declined in number, while among fiscal and economic offenses increases were noted in violations of the Income Tax Law and the Law Regulating Investments, Savings and Interest. At the same time, however, decreases were observable in the commission of crimes against the Corporate Tax Law, Customs Law and Law Regulating Land and Building Transactions. Nor are consistent trends to be derived from crimes against public morals: there were more violations of the Law Regulating Businesses Affecting Public Morals, Horse Racing Law and Bicycle Racing Law, but fewer offenses under the Anti-Prostitution Law, Employment Security Law and Child Welfare Law.

##### C. Violent Crimes Committed by Youthful Extremists

Radical ultraleftist groups began increasingly to commit violent crimes from 1967 on; the overwhelming majority of extremists were university students. The dimensions of the problem are indicated by the fact that the police arrested 6,600 radicals in 1968, but 14,700 in 1969. By 1970 the number of arrests had

decreased significantly, reflecting the success of firm but flexible legislative and administrative measures against student unrest; most university campuses again were quiet. The mere decrease in numbers of arrests, however, does not reflect the true picture. Weapons used by extremists in committing violent crimes changed from staves and rocks to Molotov cocktails and then to explosives. Radicals no longer were content to stage violent street demonstrations; they attacked police officers, perpetrated bank robberies and hijacked aircraft. Frequently, one faction committed deadly acts against members of competing radical groups.

Legislative efforts to combat the use of gasoline bombs have proved notably successful. After an incident in 1971 in which an on-duty police officer was burnt to death by extremists, the Government sponsored new laws which enabled the police to control the manufacture, possession and use of bombs made from gasoline and other substances not otherwise subject to legal controls. As a result of these statutes the Law Punishing Use of Glass-Bottle Grenades and amendments to the Poisonous and Hazardous Substance Control Law, both enacted in 1972, the use of inflammable devices has decreased drastically. Nevertheless, 1978 saw outbreaks of extremist activity directed mainly at obstructing the opening of the New Tokyo International Airport at Narita. Groups of extremists, not content with rallies and demonstrations against the opening of the new airport, attacked security police detachments with hundreds of glass-bottle grenades, destroyed the airport control tower and severed air communication network cables at several points in the vicinity of the airport; these activities extended from February through September 1978. The worst of the incidents was the destructive vandalism at the air facility control tower on March 26, 1978, which required the scheduled March 30th commencement of air carrier service to be delayed until May 20th.

Thus, the anti-airport demonstrations were a principal cause of the notable increase in cases received by public prosecutor's offices in 1978 under the Law Punishing Use of Glass-Bottle Grenades: 312 offenders in comparison with 144 fewer the preceding year. Records showed that 4,116 grenades had been illegally used in 1978, 2.5 times the frequency in 1977, and 3,185 incendiary devices had been confiscated, twenty times more than the year before.

The year 1978 also saw 32 incidents of "interfactional warfare" based on power struggles and factionalism within radical groups. Although these violent occurrences were nine fewer than in 1977 and only 10.4 percent of those of the peak frequency year of 1969, they occasioned much greater concern; they evidenced increasingly greater deliberation and premeditation and became much more

brutal in their execution. In most instances, assailants took their victims by surprise in their clandestine quarters and used iron pipe bludgeons to beat them to death or severely injure them. Time and again these criminal assaults have involved innocent persons who happened to be present. As a consequence of these 32 incidents in 1978 of interfactional warfare, seven persons were killed and 45 injured; it is no great matter of consolation that the victims numbered four fewer than during the preceding year. Cases involving 35 suspects were received by public prosecutor's offices, 14 fewer than in 1977.

A serious recent development in the area of domestic terrorism has been a series of time-bomb attacks against major Japanese corporations: twenty-three bombings and attempted bombings in 1974 embraced among their targets the headquarters of Mitsubishi Heavy Industries, Mitsui Company, Taisei Corporation, Kajima Corporation and the Teijin Central Research Institute. In May 1975, the Tokyo Metropolitan Police Agency apprehended eight members of an extremist group, including two women, and seized at the place of arrest defoliant chemicals, mortar shells, timing devices and other materials used to construct explosive devices. The arrested radicals formed the core of the "East Asia Anti-Japan Armed Front," composed of three subgroups: "Wolf," "Fang of the Earth" and "Scorpion." These subgroups acted both independently and cooperatively in selecting corporate targets. Although recent figures show no remarkable increase in bombing attacks (only one such incident occurred in 1978), those which occur are serious enough to cause increasing anxiety among Japanese citizens. Therefore, active surveillance to forestall terrorist bombing must be continued for the foreseeable future.

There is concern as well about terrorist activities by Japanese nationals in foreign countries. Incidents of that character have occurred practically every year, beginning with the hijacking of the Japan Airlines jetliner Yodo and the ensuing escape of a group of Japanese terrorists to North Korea in March 1970. Subsequent occurrences, in which the Japanese perpetrators claimed membership in the "Japan Red Army," included the Tel Aviv airport massacre of May 1972, the hijacking of a JAL airliner over the Netherlands in July 1973, an attack on an oil refinery in Singapore in January 1974, seizure of the French embassy at The Hague in September 1974 and attacks on the American and Swedish embassies in Kuala Lumpur in August 1975. In the latter incident, the criminals shot one police officer to death and took 53 hostages, including the United States consul and Swedish chargé d'affaires. They demanded the release from Japanese prisons of seven radicals, including members of the Japan Red Army; the Japanese Government released five of the seven and permitted them to leave

the country. In September 1977 other Japanese terrorists claiming membership in the Japan Red Army hijacked a JAL jetliner over India and forced it with its 151 passengers to land at Dacca Airport in Bangladesh. The Japanese Government then felt compelled to pay a ransom of \$6 million (U.S.) and to release six radicals imprisoned awaiting trial or serving sentences of conviction.

In reaction, the Japanese Government thoroughly reviewed the counter-measures which might be taken against such crimes and enacted or amended a number of laws. For example, sharply increased punishment was provided against hijackers who take passengers or other persons hostage and unlawfully demand that third parties do acts they are not legally obligated to perform, and against persons introducing firearms, explosives, etc. into aircraft. Grounds for refusing to issue passports also were broadened. On May 16, 1978, the Diet enacted a new Law to Punish Extortionate Acts Through Use of Hostages. Nevertheless, further efforts are necessary to promote international cooperation to prevent such crimes. Although in 1978 the Japan Red Army embarked on no international terrorist undertakings, it significantly increased its publicity efforts to garner support for its cause from potentially sympathetic groups; for example, it mailed picture postcards from Lebanon to accused offenders in custody in Japan, calling for solidarity and mutual alignment. Surveying the international scene, there were 353 terrorist incidents in 1978, about 27 percent more than the 279 cases reported in 1977. Although there were but two hijackings during 1978, there were 27 kidnapping cases (an increase of five cases over the previous year) and eleven seizures of hostages during unlawful invasion of premises (an increase of six cases over 1977).

#### D. Offenses Concerning Pollution

In 1978, public prosecutor's offices throughout Japan dealt with 6,299 cases arising out of violations of pollution control statutes and regulations, a decrease of 275 from 1977. The most frequently violated provision, the Law Controlling Disposition of Exhaustion and Environmental Disruption, accounted for 64.6 percent of the total (4,072 cases), followed by contraventions of the Law for prevention of Ocean Pollution and Marine Disasters (1,147 cases, or 18.2 percent), the Water Pollution Control Law (589 cases, or 9.4 percent), the Harbor Regulation Law (125 cases, or 1.9 percent), and the Poisonous or Hazardous Substance Control Law (76 cases, or 1.2 percent).

Analysis of the sources of pollution revealed that construction firms were responsible for a disproportionate number of instances arising from waste disposal through unlawful dumping, while metallurgical manufacturers were a principal source of water pollution. Public prosecution was instituted during 1978 in

67.3 percent of the pollution cases forwarded for evaluation, a rate slightly less than the prosecution rate of 74.5 percent for all violations of special laws excluding road traffic cases.

#### E. Crimes Committed by Public Officials

A decrease of 18.3 percent from the preceding year was noted in nontraffic law offenses allegedly committed by government officials (excluding persons employed in a quasi-governmental capacity) and investigated by public prosecutor's offices. Among the total of 19,380 such cases, 74 percent were based on professional or gross negligence resulting in death or bodily injury. During the ten-year period 1969-1978, bribery cases against public officials, including persons in a quasi-governmental capacity, most frequently involved local governmental employees. The largest number of suspects were responsible for civil engineering and construction; next in sequence were members of local legislative bodies and local public officials in the fields of agriculture, forestry and fisheries. In contrast, there has been a steady annual decline in bribery cases involving national governmental officials. Of all the bribery cases disposed of in 1978 by public prosecutor's offices, 72.8 percent were brought to trial; 93.3 percent of bribery convictions in 1977 resulted in suspended execution of sentences, a very high rate which has characterized this class of offenses for some time.

#### F. Crimes Committed by Foreigners and Crimes Committed by Japanese in Foreign Countries

If one excludes from consideration cases involving professional negligence causing death or bodily injury, or arising from violations of the Road Traffic Control Law, public prosecutor's offices in 1978 received 24,678 cases involving foreigners, or 4.7 percent of the total. Both the numerical total and the percentage declined from the preceding year. Foreigners were most frequently involved in violations of special laws like the Alien Registration Law, Customs Law, Hemp Control Law and Narcotics Control Law, and the Immigration Control Order. The ratio of aliens to citizens among persons thus charged ranged from 98.9 percent to 19.9 percent, compared to a proportion of Penal Code offenses of only 2.5 percent.

In 1978 the National Police Agency received through ICPO or the Ministry of Foreign Affairs notice of 120 instances of crimes committed in other nations by Japanese nationals. This was a five-fold increase over the 23 cases reported in 1968. The most commonly committed offenses by Japanese abroad related to customs and exchange control laws (25.9 percent), followed by narcotics or stimulant drug control measures (24.1 percent). Of the total, 29.2 percent of such offenses were committed in Korea, 15 percent in the United States, 10 per-

cent in Thailand, and 5.8 percent each in the Republic of The Philippines and France.

#### G. Road Traffic Offenses

##### 1. General Trends

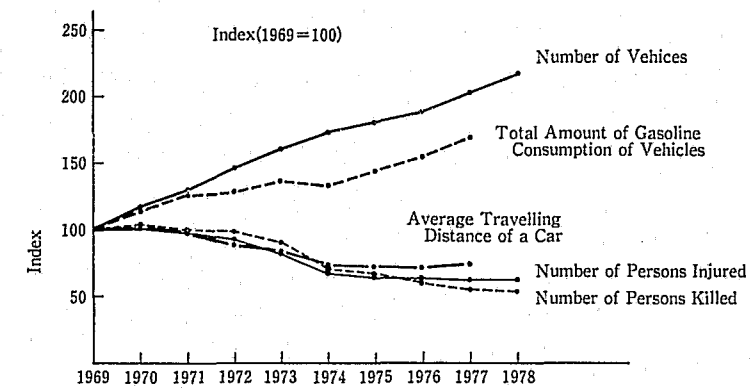
###### (1) Current Situation in Historical Perspective

Japan has seen an increase in the number of registered vehicles each year since the close of the Pacific War. The 1978 figure of 35 million represented an increase of 2,150,000 over the previous year and twice the number of vehicles registered a decade earlier. The number of licensed drivers likewise has grown to 39,170,000, or about half the population over sixteen years of age.<sup>29</sup> Figure 2, using the 1969 total as an index of 100, shows the trends in traffic accident frequency, resulting deaths and injuries, and numbers of vehicles (automobiles and motorcycles) involved. It is noteworthy that in 1978 the number of traffic accidents increased, but that the injury rate rose only slightly while the number of fatalities decreased. Thus, traffic accidents resulting in death or injury amounted to 464,037, up 0.7 percent from the previous year; physical injuries were caused to 594,116 persons (0.2 percent increase over 1977), and 8,783 citizens died (a decrease of 1.8 percent). Because, according to these figures, an average of 24.1 persons were killed and 1,627.7 persons injured each day, the current picture as to traffic offenses must be regarded as quite serious. Accidents involving two or more automobiles were the most frequent, amounting to 72.9 percent of the 1978 total.

During the past fifteen years, motor vehicle ownership has become notably widespread in Japan. In 1974 there was one automobile for every 4.2 Japanese residents, compared with ratios of 1.7 in the United States, 2.8 in France and 3.5 in England and West Germany. The automobile accident fatality rate increased in all these nations except England from 1960 through the end of the 1960s or early 1970s, and then began to decrease; England saw little fluctuation in statistics during those years. The French rate of 24.9 per 100,000 population in 1975 was the highest, followed by 24 in West Germany, 21.8 in the United States, 12.8 in Japan and 11.7 in the United Kingdom. The preceding year, 1974, had seen a different order: Japan, with 5.9, ranked after West Germany with 8.1 and France with 7.2, but ahead of England with 4.4 and the United States with 3.6.

<sup>29</sup>The minimum licensing age is 16 for motorcycles and certain types of compact cars, 18 for ordinary cars, and 21 (and a minimum of three years of driving experience) for commercial vehicles like highway carriers.

Figure 2. Trends in Numbers of Vehicles, Casualties, and Incidence of Traffic Accidents, 1969-1978



###### (2) Trends in the Road Traffic Law Violations

In 1978 there were 12,119,233 recorded violations of the Road Traffic Law, a decrease of 350,867 or 2.8 percent, from the preceding year. Speeding was the most frequently committed offense (41.6 percent), followed by unlawful parking (14.6 percent), disregarding restrictive warning signs (9.3 percent) and failure to observe stop signs (6.6 percent). There were 32,223 hit-and-run cases (an increase of 510 over 1977) which caused death or injury to 36,924 persons, or 6.1 percent of all 1978 traffic casualties.

###### (3) Functioning of the Traffic Infraction Notification System

A traffic infraction notification procedure (traffic infraction ticket system) was instituted in July 1968 to ease judicial docket congestion occasioned by the sharp increase in traffic violations noted above. The system also decriminalizes the bulk of road traffic violations, because minor traffic violators are exempt from criminal prosecution if they pay a "nonpenal fine" within a specified time. Those who fail to pay are referred to a public prosecutor's office for possible prosecution. In 1978 this system was invoked by 10,132,302 or 83.6 percent, of those who violated the Road Traffic Law.

The system was expanded in August 1970 to cover juvenile traffic violators; in 1978, 916,007 (or 76.3 percent) of all juvenile traffic offenders came under the notification system. The fact that the traffic infraction notification procedure constitutes a most successful innovation is attested by the fact that year after year fewer than four percent of those issued traffic systems by the police fail to pay the nonpenal fine assessed against them.

## 2. Prosecution and Trial of Traffic Offenses

### (1) Prosecution of Traffic Offenses

In 1978, public prosecutors inquired into 466,613 cases of professional or gross negligence resulting in death or bodily injury, an increase of 6,351 over 1977. Almost all these cases arose from traffic accidents. As another indicator of the seriousness of the situation, such cases constituted 55.4 percent of all Penal Code offenses received that year by public prosecutor's offices. Road traffic offenses in general amounted to 2,285,119, a decrease of 139,683 from the preceding year.

Prosecution was instituted in 68.9 percent of cases arising from professional negligence causing death or bodily injury, 32.6 percent of gross negligence cases occasioning a like result, and 97.1 percent of the road traffic cases. Summary adjudication was requested in 96.5 percent, 85 percent and 99.2 percent of the cases in these several categories; a corollary was that formal proceedings involving such charges came only to 3.5, 15 and 0.8 percent, respectively.

### (2) Trial of Traffic Offenders

The number of persons convicted of professional or gross negligence resulting in death or bodily injury increased annually to a peak of 454,366 in 1970, and then declined to a total of 285,905 in 1977. Of these, only 9,963 were sentenced to a term of imprisonment with or without forced labor, and only 2,191 (or 22 percent) actually served time; execution of sentence was suspended for the others. Sentences were relatively short; 64 percent ranged from six to twelve months in duration. Fines were assessed that year in 275,942 cases of professional or gross negligence causing death or bodily injury. Fines imposed through summary orders ranged from 50,000 to 199,999 yen against 70.3 percent of offenders whose negligence caused death, and 200,000 yen against the remaining 28.8 percent; in contrast, fines between 30,000 and just under 100,000 yen were levied against 57.2 percent of those whose negligence resulted in bodily injury alone.

### 3. Juvenile Traffic Offenders

Because of the relatively high minimum age limits for obtaining driver's licenses (see footnote 2) and quite limited opportunities to drive vehicles, juveniles constitute a quite small fraction of all traffic offenders. Table 3 indicates the number of juvenile offenders, and their ratio to all traffic law violators, known to the police or referred to either a public prosecutor's office or a family court. Speeding was charged against 28 percent of these juvenile violators in 1978; 7.5 percent were charged with driving without a license.

In 1977, family courts referred to public prosecutor's offices for possible

prosecution 14.8 percent of the juveniles alleged to be responsible for professional or gross negligence, and 17.7 percent of those charge with Road Traffic Law violations. Among the cases retained in family courts, discharges with or without a court hearing were entered in 71.4 percent of the professional or gross negligence cases and 74.3 percent of Road Traffic Law cases; probationary supervision was imposed in 13.6 percent of the cases in the first category and 7.9 percent of those in the second.

Table 3. Juvenile Traffic Offenders, 1970, 1975-1978

Year	Professional or Gross Negligence Causing Death or Bodily Injury			Violation of the Road Traffic Law		
	Total Number of Offenders		Juvenile (%)	*Total Number of Offenders		Juvenile (%)
	Known to the Police	Juveniles		Referred to the Public Prosecutor- s' Offices and Family Courts	Juveniles	
1970	692,620	76,921	11.1	1,546,569	491,318	31.8
1975	466,059	44,592	9.6	1,861,951	228,219	12.3
1976	471,357	43,860	9.3	2,045,058	244,996	12.0
1977	459,175	43,373	9.4	2,223,048	270,082	12.1
1978	461,796	46,376	10.0	2,089,361	284,309	13.6

\* The number disposed of under the traffic infraction notification system is not included in the above total.

## II. Recidivism Viewed from the International Perspective

### A. General Aspects

The 1978 White Paper on Crime, under the subheading of "Recidivism—Trends and Measures to Counter It," analyzed in some depth the problem of recidivism. The 1979 volume further elaborates upon that problem, partly in light of new international perspectives and partly on the basis of recent computerized statistics concerning offenders with previous criminal records.

### B. Actual Frequency of Recidivism in Foreign Nations

#### (1) West Germany

The West German Penal Code utilizes both criminal penalties and measures for rehabilitation and safety against recidivists. Penalties are enhanced for repeated criminality, and special measures can be taken like security detention and commitment to a mental institution or therapeutic facility. In 1974, recidivists constituted 42.8 percent of all offenders in police custody. The highest rate of recidivism, 67.3 percent, was experienced in crimes of robbery and extortion, followed by 54.7 percent for fraud, 52.8 percent for homicide and



51.6 percent for rape. Moreover, 34.1 percent of all convicted offenders had previous convictions; the rate was highest in robbery and extortion cases (69.4 percent) and fraud and other property offenses excluding theft and embezzlement (50.4 percent). Some 77.3 percent of prison inmates and security detainees had prior criminal records; 37.7 percent of these were multiple recidivists with five or more previous convictions. Among the 271 security detainees in 1977, almost half (133, or 49.1 percent) had committed theft. The number of such detainees has shown a sharp decline in recent years.

In 1974, some 46.4 percent of those placed on probation after suspension of the execution of sentence had their suspensions revoked because of the commission of new offenses or violation of probation conditions. Parolees underwent a 51.7 percent revocation rate for like reasons. In 1977, 3,538 mentally disordered persons subjected to rehabilitative and safety measures were committed to mental institutions or therapeutic facilities.

(2) France

In 1973, the highest rate of recidivism (57.2 percent) was manifested among persons convicted of appropriating consumables or services (including transportation) without payment, followed by robbery (50 percent) and arson (50 percent). Young offenders in their early 20s recidivated at a high rate of 47.3 percent. In examining the histories of 5,990 persons released from incarceration in 1963, some 44.5 percent (2,668) had been sentenced for new crimes within ten years following release; the highest frequency (59.4 percent) was evidenced by those who had been sentenced to terms of six months to one year. Correspondingly, the longer the term of original imprisonment, the lower the probability of new criminality following release. Of those imprisoned on new judgments of conviction, more than half were reincarcerated within one year after release from original confinement; more than sixty percent were imprisoned more than twice in a ten-year period.

French penal statutes embody three categories of crime: felonies, misdemeanors and violations. Recidivists are defined as those with previous criminal records for felony who commit new felonies, those with prior misdemeanor records who commit new misdemeanors of the same nature as their earlier offenses within five years of the latest judgment of conviction against them, and those convicted of violations who commit a new misdemeanor within one year after the latest violation conviction. Recidivism, in the discretion of a sentencing court, may be punished through imposition of up to twice the maximum prison term provided in the law defining the basic offense.

In addition penal supervision (tutelage) may be assessed against those

convicted twice for felonies within a ten-year period, or those actually imprisoned for six months or more during a like period because of convictions for felonies or specified misdemeanors like bodily injury, public indecency, theft and fraud. Penal supervision is exercised in addition to a principal penalty adjudged against an offenders, and is designed to place an offender under official tutelage to prevent commission of future crimes and to promote social reintegration as a law-abiding citizen. Convicts under penal supervision are to be confined in prisons for ten years, but may be furloughed, placed on work-release status or paroled during that time. Penal supervision automatically terminates at age 65. At the end of 1975, there were 252 prisoners and 156 parolees subject to penal supervision. Such measures were ordered in 1974 chiefly in connection with convictions for theft, fraud and breach of trust, the most usual penalty for which otherwise was imprisonment for a term of less than two years.

(3) The United Kingdom

Among the 31,171 offenders aged 21 years or older committed to correctional institutions in 1977, some 27,851 could be checked for prior criminal records. Among them, 92.1 percent were determined to be repeat offenders 66.6 percent had six or more earlier convictions. Of those released from prison in 1974 on the basis of sentences of imprisonment for more than three months, 20.4 percent committed new offenses within six months after release, 34.7 percent within one year, and 49.8 percent within two years. Under English law defining recidivism, the maximum term of imprisonment becomes five years for crimes ordinarily punishable by less than that term, and ten years for crimes punishable by terms of between five and ten years. The highest number of prisoners sentenced under the statute after its enactment in 1967 was 129 in 1970; since that year there has been a gradual decrease to a total of 14 in 1976 and 16 in 1977. Between 1948 and 1967, preventive detention and corrective training could be invoked against repeaters, but both alternatives were repealed in 1967 because of the infrequent use made of them.

(4) The United States

Recidivism in the United States is best gauged from rearrest data in the computerized Uniform Crime Reports issued by the Federal Bureau of Investigation (FBI). According to the FBI's National Crime Information Center, 164,295, or 64.2 percent, of the 255,936 persons arrested and booked for crimes during six-year period 1970 through 1975 had been arrested two or more times. Their criminal careers, based on the time span between first and latest arrests, averaged five years and three months, and encompassed an average of four arrests. About half of those arrested two or more times, or 82,190, were taken

into custody in a state different from that in which they were first apprehended; 12,336 of them had been arrested in more than four jurisdictions. These and other relevant data establish that a relatively small number of criminals constitute the body of recidivists.

(5) Scandinavian Countries

The penal systems of Denmark, Norway and Sweden share much in common. Retribution and deterrence play a small role in Scandinavia; sanctions are viewed as measures to prevent crime and reintegrate offenders into society. Fines, suspension of pronouncement of sentence and probation are widely used to avoid incarceration of offenders; terms of incarceration for those who must be sentenced to correctional confinement usually are abbreviated through use of devices like extramural treatment and parole. None of the three nations imposes the death penalty. All use a child welfare law to handle juvenile offenders; all authorize medical treatment for alcoholics and mentally ill offenders, and security detention for dangerous offenders.

Nevertheless, the incidence of crime has shown signs of increase in recent years. In 1976, Norway experienced a crime rate of 2,287 for each 100,000 population, Sweden 8,302 and Denmark 5,469. In studying the 1969 recidivism rates in Sweden among those subjected to penal sanctions, 88.3 percent of juvenile thus dealt with had committed new offenses within five years after release compared to only half who recidivated after imposition of lesser sanctions. The second highest rate, 86.1 percent, was manifested among those who had been subjected to security detention. In contrast, the lowest recidivism rate of 18.3 percent was experienced among those without a record of prior penal dispositions who were sentenced to imprisonment for from one month to less than four months.

(6) Asian Countries

Among those received in Hong Kong prisons in 1977, 85.6 percent had prior criminal records and 74.3 percent had been incarcerated before. Drug offenders showed a 61.1 percent recidivism rate, and members of secret societies a frequency of 65.7 percent. In Sri Lanka, 38.8 percent of those imprisoned in 1976 had been incarcerated before, as had percent of their 1977 counterparts in Singapore. Similarly, Malaysia showed a 42.1 percent rate in 1974, while Thailand in 1977 found only 17.3 percent of its imprisoned offenders to have prior criminal records.

Hong Kong does not rely exclusively on prisons; it has drug addiction treatment centers for addicts and juvenile detention centers to house minors for a brief period in an effort to achieve early rehabilitation. Sri Lanka in 1978, as part of its new law intended to restrict release on bail and forestall indis-

criminate use of suspended sentences, has imposed a minimum sentence of one-third the statutory maximum term for certain felonies committed by dangerous offenders and recidivists. In Singapore, corrective training for a maximum of four years and preventive detention for a maximum of fifteen years may be imposed on habitual offenders. In Thailand, such offenders may be committed to detention centers for a maximum of ten years.

C. Current Status of Recidivism in Japan

The Research and Training Institute of the Ministry of Justice continued without interruption its research on recidivism initiated in 1978 and described in the 1978 White Paper on Crime. Computerized data were gathered on a sample of 500,000 of those persons with prior criminal records convicted between January 1, 1948 and December 31, 1978, and domiciled in sixteen prefectures which include major population centers like Tokyo, Osaka, Kyoto and Sapporo. The total number of crimes attributable to the sample came to 865,174, or an average 1.7 for each offender. Analysis of the data showed that 20.7 percent had been sentenced to incarceration (including death and imprisonment with or without forced labor), 20.8 percent received suspended sentences (including suspension of execution of imprisonment with or without forced labor), and 58.5 percent a fine or other authorized sanction. Those incarcerated averaged 1.2 prior offenses, those given a suspended sentence an identical frequency, and those fined an average of 1.4. Incarcerated offenders showed an uneven distribution of recidivism frequency; the 9.1 percent of those with more than five previous incarcerations accounted for some 28.8 percent of all recidivist imprisonment.

There has been a gradual and general decline in the rate of recidivism for first offenders within three years of sentence or release from prison, whether in terms of the year, offense, term of imprisonment, or whatever. However, in 1975 as an example, 31.6 percent of first offenders who had been subjected originally to suspension of execution of sentence with probationary supervision recidivated, as did 26.5 percent of those sentenced to imprisonment for less than one year; both figures were higher than the general recidivism rates for first offenders. In examining the data on recidivism on the part of previously imprisoned offenders within a five-year period following release, a slight increase was experienced from 56.6 percent in 1948 to 58.2 percent in 1948 to 58.2 percent in 1973; the reimprisonment rate for such offenders showed a decrease from 50 percent in 1948 to 45.1 percent in 1973. No significant trend is observable from such figures.

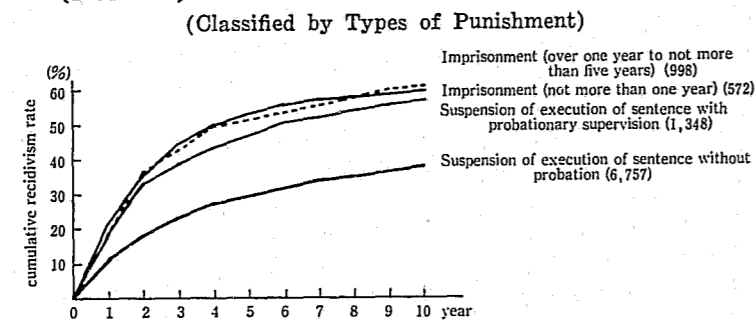
Data were also analyzed concerning those convicted as first offenders between 1964 and 1968 to theft or bodily injury and whose convictions either became



finally binding or resulted in imposition of a prison sentence followed by release from prison. Within a five-year period after either event, the greatest recidivism rate of 60 percent was experienced among those who had been imprisoned for between one and five years for theft, or who were either imprisoned for not more than one year or granted suspension of execution of sentence with probationary supervision based on a conviction for infliction of bodily injury (Figures 3 and 4).

A gradual downward trend is observable in the revocation rate of those granted a suspension of execution of sentence until 1967. Since that year, however, an upward trend has been evident. Thus, in 1975 resission was ordered concerning 10.6 percent of those under suspension of sentence without probationary supervision or who had been in that status, and against 30.5 percent of those subject to probationary supervision.

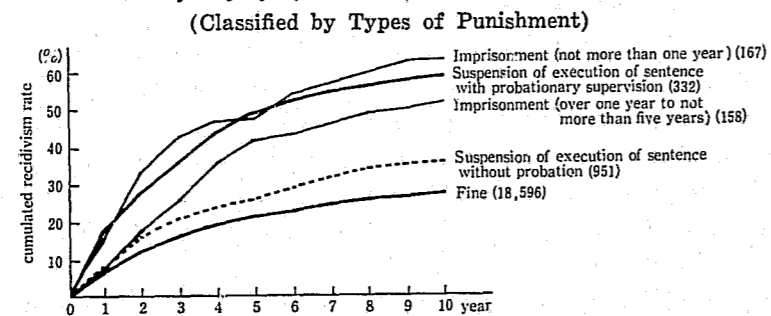
Figure 3. Cumulative Recidivism Rate for First Offenders Charged with Theft (1964-1968)



Notes:

1. Based upon a survey by the Research and Training Institute of the Ministry of Justice.
2. Subjects are first offenders who were released from prison or whose sentences became final during the period of 1964 to 1968.
3. Recidivism is defined as subsequent conviction of a new crime.
4. Figures in parentheses are the number of subjects.

Figure 4. Cumulative Recidivism Rate of First Offenders Charged with Bodily Injury (1964-1968)



Note: See Figure 3.

D. Recidivism from the International Viewpoint

It is extremely difficult to conduct an international comparison of statistics on recidivism because of a paucity of relevant statistical data, differences from country to country in defining previous criminal records and distributing them statistically, and legal system variances like mandatory or discretionary prosecution powers. Nevertheless, some conclusions may be drawn about recidivism in certain countries based on available statistical data.

(1) Dangerous Recidivists

In the Federal Republic of Germany (West Germany), 42.8 percent of all offenders investigated by police were recidivists; the rate was 67.3 percent for robbery, 52.8 percent for homicide and 51.6 percent for rape. Habitual offenders accounted for 64.2 percent of all arrests made in the United States between 1970 and 1975; they were responsible for 77.6 percent of robbery cases, 67.6 percent of homicide cases and 63.2 percent of rape cases. In Japan during 1974, the recidivism rate among Penal Code offenders investigated by the police came to 34.3 percent; habitual criminality accounted for 56 percent of all robberies, 48.6 percent of homicides and 49.5 percent of rapes. Thus, all three countries showed a high recidivism rate in excess of 40 percent for serious crimes like robbery, homicide and rape. Recidivism rates among convicted offenders in these countries follow almost the same pattern.

(2) Multiple Offenders

In West Germany in 1974, 21.3 percent of convicted offenders with prior criminal records had five or more earlier convictions. The rate amounted to 36.1 percent each for robbery and extortion, 29.6 percent for theft and embezzlement, and 29.4 percent for other property offenses like fraud, which are relatively high frequencies. Among imprisoned convicts, 40.7 percent had five or more earlier convictions, as did 81.6 percent of those subjected to measures for rehabilitation and security. United Kingdom statistics for 1974 show that 72.2 percent of former convicts received in correctional institutions had six or more previous convictions. In Japan, the 1974 rate among Penal Code offenders investigated by the police was 24 percent with five or more prior convictions; the highest categories of crime indicated 34.2 percent in fraud cases, 26.5 percent in extortion cases, and 25.8 percent in theft cases, frequencies quite similar to those in West Germany noted above. Thus, Japan and Western Europe suffer alike from the persistent presence of serious multiple offenders.

(3) Concentration of Criminal Populations

Research on "street crimes" conducted in the United States District of Columbia between 1971 and 1976 showed that only seven percent of those ar-

rested for such crimes were responsible for 24 percent of the total, thus revealing that criminal activity tends to be concentrated in a relatively small segment of the population. In the study of 500,000 offenders in Japan, described earlier, only 5.8 percent of those with previous criminal records had been convicted five or more times, but their crimes constituted 23.5 percent of those recorded. Such an extraordinary concentration is strikingly like that revealed in the District of Columbia research summarized above.

## PART TWO: TREATMENT OF OFFENDERS

### I. Prosecution and Trial

#### A. Prosecution

##### 1. Reception of Cases

In 1978, public prosecutor's offices throughout Japan received<sup>29</sup> a total of 3,294,245 suspects, of whom 841,926 or 25.6 percent were Penal Code offenders, 2,308,157 or 70.1 percent were violators of the Road Traffic Law and 144,162 or 4.4 percent had violated other special laws. This total was 153,219 smaller than that for 1977.

A detailed comparison of 1978 figures with those for 1977 reveals that the number of persons suspected of Penal Code offenses in 1978 increased 9,802 over the preceding year, while those under the Road Traffic Law decreased by 153,231 and those covered by other special laws by 9,790. A majority (55.4 percent) of Penal Code offenses investigated by public prosecutor's offices arose from professional or gross negligence causing death or bodily injury; a high percentage were the consequence of automobile accidents. Next in terms of frequency came theft (23.6 percent), injury and assault (6.6 percent) and fraud (2.8 percent).

Public prosecutor's offices rather speedily disposed of Penal Code and special law offenses (other than those of professional negligence causing death or bodily injury, or involving violations of the Road Traffic Law): 68.6 percent were handled in fifteen days or less, and 84.6 percent within one month.

It also is worthy of mention that of the 523,802 nontraffic cases dealt with by public prosecutors in 1978, only 21 percent of the offenders had to be arrested; the others appeared voluntarily. Arrests occurred most frequently in cases of robbery (62.4 percent), followed by rape (61.5 percent), homicide (55.1 percent), extortion (47.9 percent), violations of the Stimulant Drugs Control Law (44.8 percent) and bodily injury (34.3 percent). A total of 87,942 (16.8 percent) suspects were detained prior to prosecution, but 72.9 percent of that number

<sup>29</sup>Responsibility for criminal investigation is vested by law with the police, public prosecutors and their 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 latter has the power to institute prosecution (Article 247, Code of Criminal Procedure). As of April 1, 1978, there were 1,173 public prosecutors and 919 assistant public prosecutors assigned to a total of 634 public prosecutor's offices at four different levels distributed among eight major administrative regions.

were confined for less than ten days.<sup>49</sup> Prosecutors requested detention most frequently in homicide cases (98.2 percent), followed by stimulant drug control cases (96.8 percent), extortion (92.2 percent), rape (91.7 percent), robbery (90.9 percent), theft (83.5 percent), and bodily injury (73 percent).

## 2. Disposition of Cases

Public prosecutor's offices in 1978 disposed of cases against 4,553,075 suspects, a decrease of 177,219 from the preceding year. After cases transferred from one office to another are set aside, the breakdown of the 3,383,672 in which determinations were made appears thus:

Prosecution .....	2,572,221 (76.0%)
Nonprosecution .....	332,157 (9.8%)
Referral to family court .....	455,905 (13.5%)
Stay of disposition .....	23,389 (0.7%)

Formal trial procedures were instituted in 146,112 (5.7 percent) of the prosecuted cases, and a summary order<sup>50</sup> obtained in 2,426,109 (94.3 percent). Penal Code offenses (excluding professional negligence causing death or bodily injury) were prosecuted at a rate of 57 percent in 1978, compared with 52.9 percent in 1974; corresponding percentages for special law violations (excluding Road Traffic Law offenses) were 74.5 percent and 60.6 percent. There has been a steady annual increase in the rate of stimulant drug control prosecutions, reaching a 1978 figure of 84.7 percent. Analyzed from a different viewpoint, non-traffic Penal Code charges were instituted against 50.6 percent of first offenders and 79.7 percent of those with prior criminal records involving a fine or heavier punishment.

As indicated above, about 18 percent of all nontraffic offenses were proceeded against by formal public trial or summary order. In cases of professional negligence causing death or bodily injury, however, although only 1.5 percent were the object of formal trial procedure, about 42 percent were dealt with through summary orders. Road traffic violations saw formal prosecution in only

<sup>49</sup>The basic period of detention under the Code of Criminal Procedure is ten days, but an additional ten-day period may be sought, followed by a third and final five-day period in certain serious cases (Arts. 208, 208-2). Detention must be ordered by a judge.

<sup>50</sup>If a defendant consents, a public prosecutor can seek a summary order by filing a case in a summary court. The court decides such a case on the basis of a file submitted by the public prosecutor; no hearing is held and the defendant presents no evidence. The maximum sentence is a ¥200,000 fine (the January 1979 exchange rate was \$1.00 US=¥240). After notice of summary court disposition, a defendant has two weeks to request formal trial; if no request is made during that time the summary court order becomes final.

0.5 percent of the cases, while summary order procedure was followed in about 63 percent.

## B. Trial

### 1. Summary of Final Adjudications

Final adjudications were rendered in 1978 against 2,508,147 defendants, 134,619 (5.1 percent) fewer than the previous year. The acquittal rate was quite low: 223, or one-one hundredth of a percent, of all those brought before Japanese courts. The conviction rate has remained steady over the years. Among those convicted, fines were levied against 2,399,063, minor fines against 27,441, imprisonment at forced labor against 72,509, and imprisonment without forced labor against 5,072. Thus, 96.9 percent of those convicted (2,426,575 in all) received a fine or a lesser punishment, while only 3.1 percent (77,585) were sentenced to imprisonment without forced labor or a heavier punishment. Table 4 summarizes trends in final adjudications from 1974 through 1978.

Table 4. Trends in Dispositions by Courts 1974-1978

Judgements	1974	1975	1976	1977	1978
Death	2 (0.0)	3 (0.0)	2 (0.0)	2 (0.0)	4 (0.0)
Imprisonment with labor	59,060 (2.8)	63,280 (2.9)	69,702 (2.9)	70,007 (2.6)	72,509 (2.9)
Imprisonment without labor	7,499 (0.4)	5,912 (0.3)	6,908 (0.2)	5,540 (0.2)	5,072 (0.2)
Fine*	2,040,873 (95.8)	2,123,181 (95.8)	2,335,579 (95.8)	2,537,090 (96.0)	2,399,063 (95.7)
Temporary detention**	66 (0.0)	62 (0.0)	102 (0.0)	86 (0.0)	70 (0.0)
Minor fine	17,767 (0.8)	20,014 (0.9)	23,469 (1.0)	26,212 (1.0)	27,441 (1.1)
Acquittal	430 (0.0)	335 (0.0)	318 (0.0)	219 (0.0)	223 (0.0)
Dismissal of public prosecution	3,553 (0.2)	3,344 (0.2)	3,397 (0.1)	3,603 (0.1)	3,762 (0.1)
Acquittal on procedural grounds, etc.	31 (0.0)	14 (0.0)	17 (0.0)	7 (0.0)	3 (0.0)
Total***	2,129,081 (100.0)	2,216,145 (100.0)	2,438,594 (100.0)	2,642,766 (100.0)	2,508,147 (100.0)

\* A fine must be not less than 4,000 yen. A minor fine is 20 to less than 4,000 yen (Article 15 and 17, Penal Code; Article 2, Law for Temporary Measures Concerning Fines, Etc.).

\*\* Temporary penal detention consists of confinement in a penal detention house for one day to less than 20 days (Article 16, Penal Code).

\*\*\* Figures in parentheses are percentages.

### 2. Penalties Imposed

In 1977, district court judgments were entered against 63,176 persons, of whom 60.8 percent were convicted of professional or gross negligence causing

death or bodily injury, stimulant drug control offenses, road traffic law violations, bodily injury and theft. Incarceration or the death penalty was assessed against 38.3 percent of those so adjudicated. Among the 60,966 defendants sentenced to serve terms of imprisonment with or without forced labor, 55.7 percent received terms of one year or less and only 4.4 percent were given sentences exceeding three years.

Formal trial proceedings were conducted against 19,908 summary court defendants during 1977 throughout Japan. Of these, 13,513 (67.9 percent) were sentenced to imprisonment at forced labor for theft, while 1,303 (6.5 percent) were fined for violating the Road Traffic Law.

Fines were imposed in first-instance courts against 2,551,324 persons; 92.3 percent came to less than 50,000 yen, and only 2.2 percent reached 100,000 yen or more.

#### C. Frequency of Appeals<sup>9</sup>

Kōso appeals were lodged in high courts during 1977 against 12.1 percent of the judgments entered in district courts and 4.5 percent of those in summary courts. Reversals were entered in 2,061 (24.1 percent) of the 8,567 cases disposed of by the high courts. Jōkoku appeals were lodged with the Supreme Court against 36.9 percent of the 1977 high court judgments. That same year, however, only one percent of the 2,690 cases decided by the Supreme Court overturned high court action.

#### D. Suspension of Prosecution and Suspension of Execution of Sentence

##### 1. Suspension of Prosecution

Article 248 of the Code of Criminal Procedure empowers public prosecutors in their discretion to suspend the institution of prosecution, even though sufficient evidence is in hand to support formal action, if suspension is in the best interests of society and an offender. Decisions suspending institution of prosecution rest on a careful evaluation of the character, age and circumstances of an offender; the seriousness of the offense and the circumstances under which it was committed; and relevant considerations arising after commission of the

<sup>9</sup>Japan's first-instance courts comprise 50 district and 575 summary courts. District courts hear all cases not placed specifically within the jurisdiction of some other court, while summary courts may hear minor cases; the latter may impose imprisonment at forced labor for not more than three years in certain cases specified by law.

Kōso appeal may be lodged in a high court by any party dissatisfied with a first-instance adjudication. A second level of Jōkoku appeal lies in the Supreme Court against high court decisions, on grounds set forth by statute. The Supreme Court, as the highest court in Japan's judicial structure, is the court of final resort, with power to determine the constitutionality of laws, orders, regulations and official actions.

offense. Exercise of these discretionary powers by public prosecutors may rest on criminological grounds promoting offender rehabilitation without imposing the stigma of a criminal conviction.

The roots of the system lie in a Ministry of Justice directive of 1885 allowing public procurators (predecessors of the present public prosecutor) to request investigations into crime even though they could not conduct such investigations themselves. In time, public procurators came to have their own power to carry out investigations and decide whether or not to institute prosecution; it is out of that tradition that the contemporary power to suspend institution of or to institute prosecution has come. Other nations have developed somewhat similar systems, either by statute or through practice, but not nearly as systematically as the Japanese procedure. Even in Japan, however, there has been a downward trend in the frequency with which the device has been used, a reflection perhaps of the increased rate at which heinous crimes are being committed in this country.

Analysis of all cases in 1978 (excluding professional or gross negligence cases resulting in injury or death and road traffic law violations) resulting in nonprosecution reveals that 109,425 or 78.9 percent, reflected a decision to suspend institution of prosecution. In contrast, 19,053 (13.7 percent) of the nonprosecution cases rested on insufficiency of evidence, and 3,601 (2.6 percent) on a miscellany of grounds like physical absence, legal defects and withdrawal of complaints.

##### 2. Suspension of Execution of Sentence<sup>10</sup>

The device of suspended execution of sentence first appeared in Japan in 1905 in a special law authorizing it; it was then incorporated in the present Penal Code of 1907. Subsequent amendments have expanded its use by increasing the number of cases in which it is available. Accordingly, the frequency of instances in which it is utilized has increased year by year.

In 1977, 45,952 (60.7 percent compared with 60.8 percent in 1976) of the 75,742 persons sentenced to imprisonment with or without forced labor were granted suspension of execution of sentence. Among them, 8,065 or 17.6 percent (contrasted with 18 percent in 1976) were placed under probationary supervision. Thus, there has been a slight decrease in the frequency of use in 1977 compared to 1976. The rate of revocation of suspended execution of

<sup>10</sup>To illustrate, any first offender receiving a sentence of imprisonment for three years or less may be granted a suspension of execution of sentence by the sentencing court. Defendants with a prior conviction are also eligible if they have not again been sentenced to imprisonment within five years after completion of or remission of service of an earlier sentence (Article 25, Penal Code).

sentences has shown an observable increase over the years 1974 through 1978. In 1977 courts revoked suspension in 4,573 or 11.2 percent, of the 40,699 cases (excluding road traffic law cases) in which suspension had been allowed. The rate reached 12.4 percent in 1978.

#### E. Speedy Trial

Article 37 of the Japanese Constitution guarantees each accused person a speedy trial; that is also stated as one of the important objectives of the Code of Criminal Procedure (Article 1). In assaying the extent to which that goal is realized, 1977 figures show that in 84.6 percent of district court cases disposition was reached within six months after institution of prosecution (compared with 82.9 percent in 1976), and 94.3 percent within one year (compared with 93.4 percent the preceding year). In summary courts, 77.9 percent were adjudicated within three months (77.7 percent in 1976), 92.2 percent within six months (91.6 percent in 1976), and 96.9 percent within one year (96.8 percent in 1976). Thus, first-instance courts appear to be disposing of cases expeditiously in recent years.

During 1977, 43,037 of 63,176 persons receiving final judgments in district courts were in detention at the time prosecution was instituted, a rate of 68.1 percent. Of these detainees, however, 19,213 (44.6 percent) were granted release on bail during the course of proceedings against them.

## II. Correctional Institutions

Correctional facilities serve not merely as places where penalties meted out by the courts are administered; they also provide settings in which offenders can acquire attitudes and skills necessary to a successful reintegration into society following release. To stress this dual role, since 1948 juvenile training schools and classification homes, as well as penal institutions like prisons and detention centers, have been denominated correctional institutions. The Japanese correctional system includes seven major detention facilities in larger cities, 106 branch detention houses in smaller communities, fifty-eight main prisons, nine branch prisons and nine juvenile prisons.

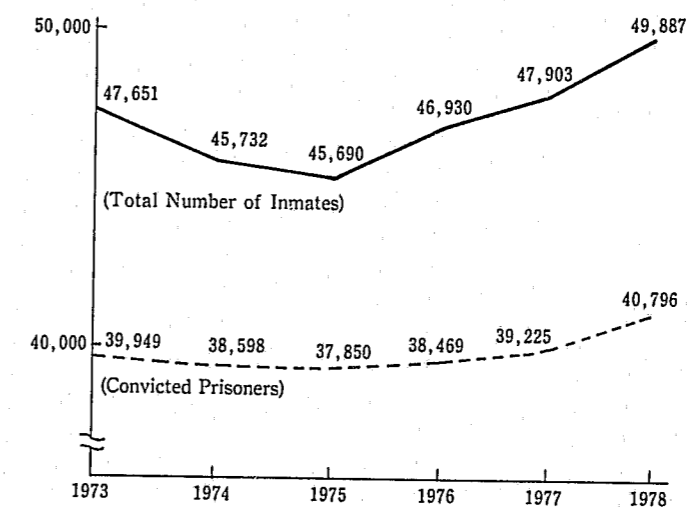
#### A. Revision of the Prison Law

In March 1976 the Minister of Justice issued a directive to the Judicial System Review Commission to create a Prison Law Revision Division to evaluate a proposed reform of the Prison Law. The division thus created had substantially completed by April 1979 a review of a draft code generated by its subcommittee; only a few portions then remained to be considered.

#### B. Average Daily Census

The average daily population of penal institutions in 1978 was 49,887, an increase of 1,984 over the preceding year. Female offenders numbered 1,406 or 2.8 percent of the total. If only sentenced prisoners are included, the average daily census in 1978 amounted to 40,796 or 1,571 more than the average 1977 figure. Figure 5 shows the trends in average daily population from 1973 through 1978.

Figure 5. Trends in the Average Daily Population in Penal Institutions (1973-1978)



#### C. Admissions and Discharges

In 1978, 29,093 convicted prisoners were admitted to correctional institutions, of whom 707 or 2.4 percent were women. Despite some fluctuation, there has been a general downward trend in admissions of convicted prisoners from the peak year of 1948, which saw 70,694 persons thus received. However, the 1978 figures showed a significant increase of 1,413 over the 1977 statistic.

The age group 30-39 comprised 39.2 percent of the 1978 admissions. The number of prisoners in their 20s has been decreasing over the years, while those in their 40s show an increasing trend. A total of 28,405 (97.6 percent) of those admitted had received sentences of imprisonment with forced labor, while only 676 (2.3 percent) were sentenced to imprisonment without forced labor. Among the former group, 51.3 percent had received terms of one year or less, 28.4 percent terms of more than one year but less than two years, 11.1 percent terms of more than two but less than three years, 9.1 percent a term of three years or more, and 0.1 percent a life sentence. Analyzing those

newly admitted, 42.3 percent were serving their first prison sentence, 18 percent their second, 12 percent their third, 8.2 percent their fourth, 5.5 percent their fifth, and 14 percent upward of their sixth term. Among the 12,303 first termers, 9 percent had been confined earlier in a juvenile training school and 4.1 percent had been placed under probationary supervision; 48.7 percent had previously received suspension of execution of sentence without supervision.

Theft was the most frequent basis for imprisonment—20.8 percent of the total. Ranked below theft were stimulant drug control violations (17.5 percent), professional negligence resulting in death or bodily injury (13.5 percent), road traffic law violations (8.5 percent), bodily injury or assault (7.8 percent), and fraud (6.2 percent).

29,164 prisoners were released from prisons or detention houses during 1978; 14,373 of them, or 49.3 percent, were released under parole supervision, while another 13,750 (47.1 percent) had served the full period of their sentences.

#### D. Treatment of Convicted Prisoners

##### 1. Classification

Upon admission, all inmates receive a general orientation about institutional living, and are further evaluated and classified to determine suitable institutional assignments and treatment programs. In April 1972 new prisoner classification rules were set forth by administrative action. The main features of the new system are: (1) designation of a specially equipped and staffed prison in each of the eight correctional regions as a regional classification center; (2) revised definitions of classification categories; and (3) new classification categories for certain classes of prisoners. The principal categories under the system are:

##### (1) Categories for Allocation

###### a) Categories by sex, nationality, penalty, age and length of the term of imprisonment

###### (Sex)

Class W: Female

(No designation of class is made for males)

###### (Nationality)

Class F: Foreigners requiring treatment different from that for Japanese

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

###### (Nature of Penalty)

Class I: Imprisonment without labor

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

###### (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 adults twenty-six years of age and older)

###### (Length of 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 based on criminal tendencies

Class A: Those without advanced criminal tendencies

Class B: Those with advanced criminal tendencies

###### c) Categories based on mental and physical disorders

Class Mx: Those who are mentally retarded or require identical treatment

Class My: Those who are psychopathic or manifest considerable psychopathic tendencies

Class Mz: Those who are psychotic or manifest considerable psychotic tendencies, those with serious neuroses, those who suffer from confinement reaction, and those who are addicted to a drug or alcohol

Class Px: Those physically incapacitated, pregnant, or post-partum who are in need of medical treatment or extended care

Class Py: Those who are physically handicapped and in need of special treatment and those who are blind, deaf or mute

Class Pz: Those above sixty years of age who appear senile or require special treatment because of physical frailty

##### (2) Treatment Categories

###### a) Categories based on special treatment needs

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

Class S: Those who need special protective treatment



- b) Categories based on specially recommended treatment  
 Class O: Those who are suitable for trusty status  
 Class N: Those who are suitable for institutional maintenance work

Table 5. Percentages and Actual Numbers of Prisoners in Classification Categories (1976-1978)

Categories	1976	1977	1978(Actual Number)
A	18.6	19.4	20.2( 8,362)
B	51.7	53.1	53.4(22,059)
F	0.3	0.3	0.2( 99)
I	1.4	1.0	1.1( 442)
J	0.2	0.1	0.1( 33)
L	6.6	6.4	6.2( 2,544)
Y	12.4	10.8	9.9( 4,075)
M	1.3	1.2	1.1( 470)
P	1.2	1.2	1.2( 511)
W	2.2	2.3	2.6( 1,063)
Unclassified	4.1	4.1	4.0( 1,661)
Total Actual Number	38,715	39,834	41,819

\* As of December 31.

Detailed treatment standards have been provided for each allocation and treatment category, on the basis of which a personal treatment plan is to be prepared for each prisoner. Table 5 shows the distribution of inmates among the principal categories at the end of each calendar year, 1976 through 1978.

## 2. Education

Opportunities are provided prison inmates to pursue correspondence courses in applied subjects like bookkeeping, automobile mechanics, printing and reproduction services, and electronics, as well as general academic subjects for which high school and university credits may be granted. Under the School Education Law, compulsory education is provided for those held in juvenile prisons.

Community representatives have been authorized to organize cultural and recreational activities within prisons. During 1978, 1,092 volunteer prison visitors paid 11,195 visits to institutions to assist prisoners in cultural, educational and social welfare activities, as well as to provide counsel on individual problems. There also were 1,373 volunteer prison chaplains who conducted 7,855 individual and 7,645 group interviews with inmates.

## 3. Prison Industry and Vocational Training

As of the end of calendar year 1978, 92.7 percent of those sentenced to

imprisonment at forced labor, and 77.3 percent of those confined in workhouses, were performing labor.<sup>9)</sup> On a voluntary basis, work also was being performed by 87.6 percent of those sentenced to imprisonment without labor and 1.7 percent of those in detention awaiting trial and adjudication.<sup>9)</sup>

During fiscal year 1978 (April 1978—March 1979), prison industries generated products worth about 14,562 million yen (\$59.4 million, U.S.), reflecting an average daily effort of about 39,000 prisoners. The prison industry operating budget for the same period came to 4,912 million yen (\$20 million, U.S.).

The largest percentage of prison industry earnings (3,780 million yen, or 26 percent of the total) came from metalworking, at a cost of 644 million yen; wood products generated 2,806 million yen (19.3 percent) at a cost of 1,709 million yen. Printing accounted for 2,115 million yen (14.5 percent) at a direct cost of 956 million yen, and clothing manufacture for 1,921 million yen (13.2 percent) at a cost of 188 million yen.

As a result of prison vocational training programs, 2,072 prisoners passed national or municipal examinations in 1978, thereby becoming qualified or obtaining licenses in such fields as welding, vehicle operation, automobile repair, boiler operation, electrician services and barbering. An additional 414 prisoners received vocational training certificates approved by the Ministry of Labor in fields like carpentry, plastering and printing.

## E. Suspects and Defendants

An average daily census of 8,872 persons in preadjudication status was maintained during 1978. Among these, the 8,542 defendants (against whom prosecution had been instituted) reflected an increase of 442 over the 1977 figures, while the 330 suspects (those detained by order of a judge but not yet formally charged) were thirty-three fewer than during the previous year. A total of 52,606 defendants were received by detention facilities during 1978, an increase of 1,063 over 1977, but only 20,131 suspects were so held, a striking decrease of 2,168 from the year before. It should be noted that those sentenced to death are confined in detention facilities apart from other detainees, but otherwise receive identical treatment.

<sup>9)</sup>Prisoners sentenced to imprisonment with forced labor and to workhouse detention must work unless they are temporarily excused from labor because of sickness, disciplinary confinement or institutional transfer.

<sup>9)</sup>Prisoners sentenced to imprisonment without forced labor, and persons detained pending trial and adjudication, cannot be required to perform services, but may volunteer to do so.



Custodial facilities attached to police stations, not constituting detention facilities in the formal sense, accommodated a total of 1,856,086 arrestees in 1978, an average daily population of 5,085.

#### F. Women's Guidance Homes

There has been a steady decline since the peak year of 1960 in the number of women convicted under the Anti-Prostitution Law and assigned to women's guidance homes; only 15 such commitments were ordered in 1978. Many of the women confined in women's guidance homes are advanced in age or suffer from physical or mental defects; many show strong tendencies to commit future acts of prostitution.

### III. Probation, Parole and Aftercare

#### A. Development of Non-Institutional Treatment During the Past Thirty Years

The Japanese criminal justice system changed dramatically upon the adoption of the new Constitution in 1947; in particular, the probation and parole system was completely restructured. The basic law on which non-institutional treatment rests is the Offenders Rehabilitation Law enacted in July 1949, which governs the organization and functions of regional parole boards and probation offices, and establishes procedures concerning adult and juvenile parole and juvenile probation. Japan's adult probation system was the product of amendments to the Penal Code and enactment of the 1954 Law for Probationary Supervision of Persons Under Suspension of Execution of Sentence. The year 1950 saw repeal of the 1939 Rehabilitation Services Law and its rehabilitation workers (predecessors of today's volunteer probation officers), and enactment of the Volunteer Probation Officer Law and Law for the Aftercare of Discharged Offenders. Supervision of parolees from women's guidance homes was effectuated in 1958 in the course of implementing the Anti-Prostitution Law.

New treatment programs, for example, differentiated treatment, group counseling, preparole guidance, and short-term treatment for juvenile traffic offenders, have been developed in an effort to adjust to the tremendous changes in Japanese society over the past thirty years. In addition, the prison law revision proposals mentioned earlier contemplate a consolidation of existing statutes as well as the institution of new treatment methods.

#### B. Parole

Parole granting is the responsibility of the eight regional parole boards functioning under the Offenders Rehabilitation Law. Eligibility for parole is based on (1) service of at least one-third of a term of imprisonment or ten

years of a life sentence;<sup>10)</sup> (2) manifested penitence; (3) prisoner desire to cooperate in rehabilitation; (4) unlikelihood of commission of future crimes; and (5) community acceptance of parole in a particular case. A parole investigation of a prisoner may be requested by the director of the correctional institution in which he or she is confined, or instituted by the parole board itself. A single board member conducts an inquiry and presents each case to the three-member board; a majority vote governs.

At any time while an inmate is held in a correctional institution, either the institution director or a parole board may request a probation officer assigned to a probation office to visit the inmate's family, or any other person named by the inmate as one with whom he or she will have a close relationship following release, for the purpose of facilitating a smooth reintegration into society. This process usually commences soon after an inmate has been admitted to a correctional institution.

The fifty probation offices in Japan received a total of 35,533 requests from correctional institutions during 1978 for assistance with investigations and inmate reassimilation into the community. They provided 76,404 reports, including supplementary reports, as basic data for use in parole examinations, an increase of 2,827 such reports over the preceding year.

During 1978, 14,631 prisoners were paroled, a slight decrease from 1977. Parole recommendations were rejected in 12.2 percent of the cases considered by parole boards, an increase of 1.2 percent from the year before. The rejection rate was highest concerning prisoners previously imprisoned six or more times (28.8 percent), which contrasted with declinations for 5.8 percent of those serving their first prison term. Corresponding rates were 12.6 percent for those sentenced to imprisonment with forced labor and 1.2 percent for those without forced labor, 12.1 percent for those sentenced to fixed prison terms, 39.4 percent for life termers, 22.5 percent for habitual offenders, and 6.3 percent for first termers.

Inmates not paroled are discharged after expiration of their full terms of imprisonment. Of the 29,164 prisoners released during 1978, 51.1 percent went free on parole while 48.9 percent were discharged after service of their entire sentences. In comparison, parole was granted to 53.1 percent of released prisoners in 1977.

<sup>10)</sup>The period for juveniles is shortened to seven years under a life sentence, three years under a fixed term reduced from a life sentence because the offender is a juvenile, and one-third the minimum period if imprisonment was ordered for an indefinite period.

In general, supervision periods for paroled prisoners are quite brief.<sup>133</sup> Of all parolees released in 1978, 66.8 percent were supervised for three months or less, and only 4 percent were under supervision for more than one year. Some 78.3 percent of fixed-term prisoners paroled that year had already served 80 percent or more of their sentences. During 1978, 43 prisoners serving life sentences were paroled; 83.7 percent of them had been in prison for fifteen years or more.

The parole rejection rate for inmates of juvenile training schools has been quite low for several years. In 1978, only two of 3,124 parole recommendations were refused. There were 329 more juveniles released from training schools in 1978 than in 1977, chiefly because of increased use of short-term treatment programs in those schools.

Parolees from prison tend to remain longer in the community and be less likely to return to correctional institutions than former inmates released at the expiration of their full prison terms. Statistics for 1976 showed that only four percent of those paroled from prison were sentenced again to imprisonment during the first year of their release, as compared with 12.8 percent of those who had served their full sentences. In like fashion, 25.4 percent of the parolees had been reimprisoned by the expiration of three years of freedom, in contrast to 50.3 percent of the full-termers. This wide differential may be accounted for by the strict standards according to which parole is granted to recidivists and the use of improved techniques for parole supervision.

#### C. Trends in Use of Probation and Parole

Five categories of persons can be placed under the supervision of a probation office for a specified period of time:

##### Category 1: (Juvenile Probationers)

Juveniles placed on probation by family courts until age 20 or for a minimum of 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;

<sup>133</sup>Parole supervision under Japanese law cannot exceed the maximum length of the original sentence to imprisonment.

##### Category 4: (Adult Probationers)

Persons (including some convicted juveniles) granted probation incident to suspension of execution of sentence, for the specified period of supervision;

##### Category 5: (Guidance Home Parolees)

Parolees released from women's guidance homes for the remainder of their terms of guidance.

Table 6 shows the total number of persons in each of the above categories received by probation offices throughout Japan during the last five years.

Table 6. Trends of Probationers and Parolees Newly Received by Probation Offices (1974-1978)

Category	1974	1975	1976	1977	1978
1. Juvenile Probationers	19,942	21,384	23,981	33,735	44,934
2. Training School Parolees	1,812	1,593	2,071	2,763	3,066
3. Prison Parolees	15,542	14,933	14,671	14,379	14,373
4. Adult Probationers	7,014	7,048	8,068	7,897	8,501
5. Guidance Home Parolees	—	—	—	—	—
Total	44,310	44,958	48,791	58,774	70,874

Among the 46,911 probationers and parolees (after excluding 23,963 traffic juvenile probationers handled under the short-term program), 30.4 percent were charged with theft, 18.7 percent with road traffic law violations, and 11.4 percent with professional or gross negligence causing death or bodily injury. Of the ordinary juvenile offenders whose probation was not specifically for purposes of a short-term program, 31.7 percent became traffic law violators and 20.4 percent committed theft. The number of adult probationers and prison parolees violating the Stimulant Drug Control Law showed a definite increase over the preceding year.

At the end of 1978, there were 73,959 probationers and parolees under supervision, an increase of 2,340 over 1977.

#### D. Results under Probation and Parole

Probationers and parolees who maintain a good community adjustment may be discharged from supervision by decision of a probation office director or a regional parole board. However, a court or a regional parole board may revoke a probation or parole order if the person subject to it violates probation or

parole conditions or commits another offense during the period of probation or parole supervision.

Some 28.5 percent of 21,568 juvenile probationers (excluding traffic probationers placed under short-term supervision) served their full period of supervision, 60.8 percent were discharged early from supervision, by decision of a probation office director, because of their good community adjustment, and 10 percent were revoked on the basis of misconduct. Among 21,868 juvenile traffic offenders placed under short-term supervision, 99.2 percent finished supervision period with good results. In the case of adult probationers during 1978, 68.2 percent of the 7,841 persons whose period of supervision terminated had remained in that status for the full period, while 29.9 percent were revoked because of a new offense or other misconduct. That same year, 18.1 percent of 2,732 juvenile training school parolees, and 5.4 percent of 14,373 prison parolees, saw their paroles revoked for identical reasons.

Table 7. Dispositions Made Upon New Convictions of Probationers and Parolees, 1978

Category Disposition	1 Juvenile Probati- oners	2 Training School Parolees	3 Prison Parolees	4 Adult Probati- oners	Total
Imprisonment with or without labor	312	77	310	2,280	2,979
Commitment to juvenile training school or child education home	1,494	512	—	—	2,007
Fine	1,654	42	103	528	2,327
Restoration of probation	982	103	—	—	1,085
Others*	52	43	437	185	716
Total**	4,494 (20.8)	777 (28.4)	850 (5.9)	2,993 (38.2)	9,114 (19.6)

\* Including penal detention, minor fine and prosecution.

\*\* Numbers in parentheses shows the percentage of all those whose probation or parole supervision was terminated that year.

Table 7 sets forth the number of probationers and parolees dealt with by courts on the basis of crimes or misconduct during the period of supervision, and the forms of disposition.

Persons paroled from prisons experienced in 1976 a 25.4 percent rate of recommitment within three years after release (1,278 in number), compared with a 50.3 percent rate for those released after service of full prison terms (1,592). There has been a gradual increase in recommitments each year since 1973. The rate of absconding from supervision has fluctuated: it gradually

decreased until 1975, rose in 1976, and again decreased in 1977 and 1978. The rate at the end of 1978 came to six percent.

#### E. Aftercare

In addition to supervising probationers and parolees, probation officers provide various forms of assistance to offenders in need. During 1978, a total of 8,984 persons received aftercare assistance. Of these, 70.5 percent had been discharged from prison after serving their sentences, 20.1 percent were under suspension of prosecution through exercise of public prosecutor discretion, and the remaining 9.4 percent had received suspended execution of sentences without supervision. The first two categories also accounted for 88.3 percent of those relegated to provisional aftercare services and 92.5 percent of those assigned to continuing aftercare services.

Services thus provided included (1) providing money for food, (2) providing clothing, (3) arranging for urgent medical care, (4) providing travel expenses, (5) furnishing certificates for half-fare train travel, and (6) providing lodging through referrals to rehabilitation aid hostels. Of the 8,984 persons receiving aftercare services, 3,912 were given provisional aftercare and 5,072 continuing care; among them 1,659 were provided meals, 1,468 travel expenses, 693 clothing, and 92 arrangements for medical treatment.

As of December 31, 1978, there were 106 rehabilitation aid hostels operated by 105 rehabilitation aid associations, with a total bed capacity of 2,892. Such associations are voluntary in nature, but have function under approval by the Ministry of Justice. During 1978, these hostels accommodated 5,073 discharged offenders and 5,426 probationers and parolees. Aftercare services reflect the government's responsibility to assist offenders in achieving good community adjustment.

Research conducted by the Ministry of Justice Research and Training Institute showed the following phenomena as of February 1979: (1) The 1,480 residents of rehabilitation aid hostels included 1,444 males and 36 females. (2) Parolees from prisons formed the largest percentage of residents (35.7 percent), followed by those whose parole supervisory period had ended (24.5 percent), those who had completed their full prison sentences (17.8 percent), adult probationers (7.6 percent), persons under suspension of prosecution, and juvenile training school parolees. (3) In terms of age, 59.6 percent were in their 30s and 40s, 20.7 percent over 50, and 6.1 percent below 20. (4) Recidivists were prominent: 64.1 percent had been incarcerated from one to five times, and 17.8 percent had been imprisoned six or more times; 17.4 percent had never experienced incarceration. (5) Some 89.2 percent of those in good

health and 76.8 percent of those with health problems were employed. Jobs held included day labor (22.7 percent), and salaried employment (13.8 percent); 71.6 percent earned less than 150,000 yen monthly.

F. Participation by Citizen Volunteers

Primary responsibility for probation and parole supervision, and related activities directed at crime prevention, lies with 790 professional probation officers assigned to 50 probation offices. However, because of heavy caseloads, they are assisted in their efforts by volunteer workers belonging to three voluntary associations, the Volunteer Probation Officers Association, Big Brothers and Sisters Association, and the Women's Association for Rehabilitation Assistance. Volunteer probation officers are nonpermanent national governmental officials appointed by the Ministry of Justice. Each supervises an average of two probationers or parolees, and carries on various activities directed at crime prevention. The authorized number of such officers is 52,500; as of April 1, 1979, there were about 46,000 actually serving in 869 probation areas throughout Japan.

The Big Brothers and Sisters Association comprises organizations of young people between 18 and 30 years of age who are concerned about the rehabilitation of social deviates. Each makes a friend of a delinquent and attempts to understand his or her problems. Each maintains close liaison with the professional and volunteer probation officers assigned to the case. There were 548 BBS local associations with 7,967 members as of April 1, 1979.

The Women's Association for Rehabilitation Assistance is a voluntary organization of women who, as mothers or wives, are concerned about crime and delinquency problems. Members further the activities of various organizations concerned with crime prevention and offender rehabilitation, visit inmates in correctional institutions and encourage probationers and parolees by presenting them with gifts in celebration of successful termination of supervision. As of April 1, 1978, there were 1,038 association chapters throughout Japan, with more than 215,000 members.

G. Pardons

Pardons may be granted by the Cabinet on either a general or an individual basis. General (collective) pardons are decreed through a specially issued ordinance commemorating a special occasion of national significance. For individual pardons, which may be either ordinary or special, a public prosecutor, chief administrator of a prison or probation office director must initiate an application through the National Offenders Rehabilitation Commission before the Cabinet may act.

No general pardon was granted in 1978, but 246 offenders were granted ordinary pardons, as shown in Table 8. Forty of 47 persons granted remission of execution of penalty were parolees under life sentences.

Table 8. Ordinary Pardons (1974-1978)

Year	Special Amnesty	Commutation of Penalty	Remission of Execution of Penalty	Restoration of Rights	Total Granted	Total Denied
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
1978	5	7	47	187	246	39

## PART THREE: JUVENILE DELINQUENCY

### I. Trends in Juvenile Delinquency

Under the Juvenile Law of Japan, persons under twenty years of age are classified as juveniles and are subject to special procedures designed for their protection, education and treatment. Juvenile delinquents under the Juvenile Law fall into three categories:

- (1) Juvenile offenders, persons aged fourteen through nineteen who commit offenses under the Penal Code or special legislation.
- (2) Child offenders, persons younger than fourteen and thus not amenable to criminal penalties under the Penal Law, who commit acts which, if done by adults, would constitute criminal offenses.
- (3) Predelinquent juveniles, persons younger than twenty years of age who, on the basis of criteria contained in the Juvenile Law,<sup>129</sup> are thought likely on the basis of their character and circumstances to commit future offenses.

Juvenile delinquents older than sixteen may be referred by a family court to a public prosecutor for criminal trial. Figure 6 charts the flow of juvenile cases in the Japanese system.

#### A. Juvenile Delinquency in 1978

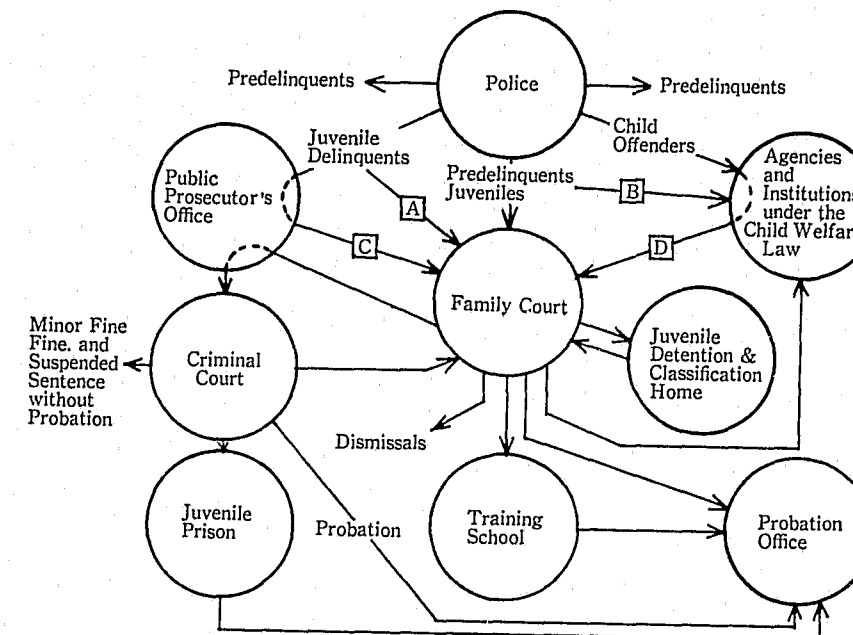
Convenient analysis of trends in 1978 suggests a division of juvenile delinquency into three categories: (1) Penal Code offenders, (2) offenders against special laws, and (3) child offenders and predelinquent juveniles.

##### 1. Penal Code Offenders

Japanese police investigated during 1978 a total of 183,427 juveniles suspected of violating the Penal Code, 20,608 more than in 1977. That equalled 18.9 juvenile offenders per 1,000 juveniles in the population, or 1.9 more than the previous year. Historically, the number of suspects investigated by the police peaked in 1951 at 133,656 and then declined for a few years. The trend was reversed in 1955, attaining another high point of 193,121 in 1966. The annual rate then stabilized between 1967 and 1969 at fewer than 190,000, but

<sup>129</sup>Article 31, (1) (3), Juvenile Law defines a predelinquent juvenile as one prone to commit an offense or violate a criminal law or ordinance, on the basis of character and surrounding circumstances, because he or she (a) habitually disobeys the reasonable mandates of a parent or guardian, (b) repeatedly runs away from home without good reason, (c) associates with known criminals or immoral persons, or frequents places of dubious reputation, or (d) habitually conducts himself or herself in a manner likely to injure or endanger his or her own morals or those of others.

Figure 6. Juvenile Justice System of Japan



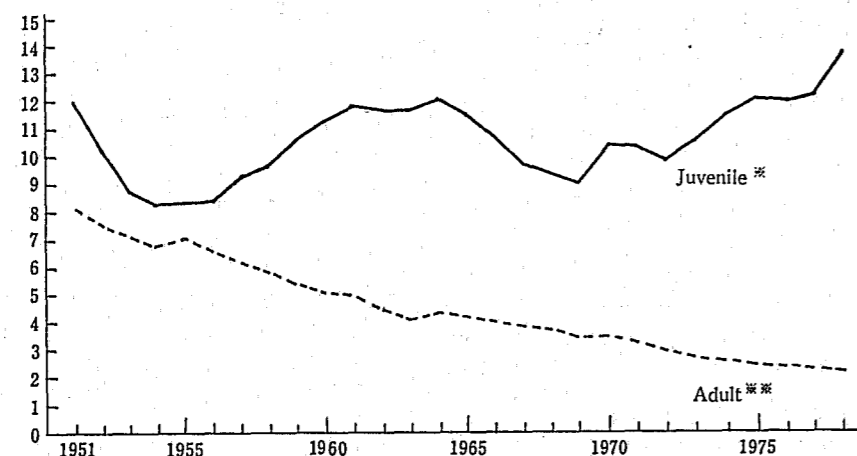
- A Police must send juvenile delinquency cases to a public prosecutor unless the underlying offense is punishable only by a fine or a lesser penalty; in the latter instance cases go directly to a family court (Article 41, Juvenile Law; Article 246, Code of Criminal Procedure).
- B In instances of predelinquent juveniles under 18, a police officer, parent or guardian who believes measures under the Child Welfare Law are preferable to family court action based on an information may contact directly a child guidance center concerning the case (Article 6[2], Juvenile Law; see also Note D below).
- C A public prosecutor who believes a juvenile has committed an offense must submit the case to a family court; a like transfer must be made of any case against a predelinquent juvenile even though there is an insufficient basis to file a formal charge (Article 42, Juvenile Law).
- D If a prefectural governor or director of a child guidance center believes that compulsory measures, for example, a restriction on freedom of activity or deprivation of liberty, should be taken against a juvenile who comes within the Child Welfare Law, the case must be referred to a family court (Article 6[3], Juvenile Law). A family court has jurisdiction over child offenders and predelinquent juveniles under age 14 only after such a referral has been made (Article 3[2], Juvenile Law).

rose above that level in 1970. A ceiling of under 165,000 was achieved for several years from 1972, but the figure, as indicated, rose well above the 180,000 mark in 1978. Figure 7 shows trends in annual rates of suspected juvenile offenders per 1,000 juvenile population, in comparison with corresponding rates for adults.

An examination of the statistics reflecting major nontraffic Penal Code offenses relating to property, sexual misconduct and violent acts, investigated

by the police (see Table 2, page 4, offenses 1—16, 20, 21), shows that although the number decreased from 126,505 in 1951 to 85,496 in 1954, a contrary trend appeared in 1955, peaking at 151,083 in 1964. After 1965 the number declined annually to a 1972 low of 101,201; it hovered around the 110,000 mark in 1974 and 1975, but exceeded 135,000 in 1978. It is noteworthy that in that year there were half as many juvenile suspects as adult suspects, but that the rate per 1,000 was four times that for adults.

Figure 7. Trends in Nontraffic Major Penal Code Offenders Investigated by the Police: Juvenile and Adult (1951-1978)



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

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

There also have been significant changes in female juvenile delinquency, both in number and character. Police during 1978 investigated 27,170 girls suspected of Penal Code offenses, an increase of 3,643 over 1977; they represented 19.8 percent of all juvenile nontraffic Penal Code offenders. Theft was by far the most frequently committed crime (93.1 percent), but there was a marked increase over the previous year in violent offenses like extortion and assault.

## 2. Special Law Offenders

The number of juveniles investigated by police during 1978 on suspicion of violating nontraffic criminal statutes outside the Penal Code rose by 3,003 over 1977, to a total of 31,409. Since 1967, a major problem has been misuse by juveniles particularly of paint thinner and volatile glue; in 1971 police gave guidance and counseling to some 49,587 youths because of that problem. In light of the seriousness of the situation, which saw some 70 accidental deaths (of whom 20 were adults), the government amended in 1972 the Poisonous and Hazardous Substances Control Law to include such chemicals. Despite vigorous

and dedicated enforcement of the revised law, hazardous substances abusers comprise the major group among nontraffic, special statute offenders—23,117 in 1978, or 74 percent of the total.

Police also gave guidance counseling to 39,615 juveniles suspected of misusing paint thinner or glue during 1978, 7,037 more than the year before; among them, 38.9 percent were employed, 37.5 percent were students and 23.6 percent were unemployed.

## 3. Child Offenders and Predelinquent Juveniles

Police in 1978 investigated and gave guidance to 40,198 children who would have been referred to either a family court or a public prosecutor if they had been fourteen years of age or older; this was 5,581 more than during the preceding year. The 1978 rate came to 3.8 for every 1,000 children in Japan in the eight-through-thirteen age bracket. Theft again was the major form of delinquency, comprising 87.1 percent of the cases investigated.

In addition to this large number of child offenders, police during 1978 also gave guidance and direction to several hundred thousand (the precise figures are not maintained) predelinquent juveniles who had engaged in such activities as smoking, drinking, unwholesome pastimes, truancy, association with undesirables, loitering in entertainment areas and inhaling paint thinner. However, there has been a steady drop since 1965 in the number of juveniles actually referred by police to either family courts or child guidance centers; there were in all 5,406 such referrals in 1978.

## B. Background and Notable Aspects of Juvenile Criminality

### 1. Juvenile Offenders Classified by Types of Crime

Analysis of the 183,427 juvenile offenders encountered in 1978 shows that theft outnumbered all other Penal Code offenses, comprising some 57.3 percent of the total. Other offenses committed with statistically significant frequency included professional negligence causing death or bodily injury (25.3 percent), bodily injury (3.7 percent), embezzlement (3.5 percent) and assault (3.4 percent). There were considerable increases, in comparison with 1977, in the rate of thefts, embezzlements, and assaults, but a slight decrease of 255 in bodily injury cases. It is to be noted with concern, however, that juveniles represented over forty percent of all offenders in categories of theft, extortion and embezzlement; that percentage has been on the increase for several years.

Thus, there was a threefold increase between 1955 and 1978 in the number of juveniles alleged to have committed embezzlement, and ratios of increase amounting to 1.7 in assault cases, 1.8 in theft cases and 1.4 in indecency cases. It is ever more evident that many juveniles now commit these offenses as a



form of recreation or pleasure-seeking; in that context, juvenile theft quite frequently arises from shoplifting and appropriation of bicycles, motorcycles and other vehicles, while there has been a sharp downturn in forcible entries into buildings. Moreover, a relatively large number of 39,615 juveniles were counseled by police during 1978 because they were inhaling paint thinner, etc.; since this figure was 7,037 higher than the previous year, there is no room whatever for optimism about this form of indulgence in future years.

Another salient feature of 1978 juvenile delinquency was a change in the collective character of the commission of delinquent acts. About 35.6 percent of all nontraffic law related Penal Code offenses were jointly committed by two or more juveniles. In addition, "hot-rodders," groups of youths riding in several vehicles, were involved in notably increased numbers in the commission of crimes of bodily injury, assault, violations of the Poisonous and Hazardous Substances Control Law, and the like, in addition to the inevitable infractions of the Road Traffic Law. This may well mean that tendencies toward violent activities are reinforced when crime-prone juveniles function in groups.

Delinquency recidivism is measured on the basis of prior referrals to family court in other cases. On that basis, there has been a decline in repeated commission of nontraffic Penal Code offenses during 1978, but an increase of recidivism under special laws. Repetitive delinquency was encountered, in decreasing order of frequency, most often in rape, robbery, fraud, extortion, assault, bodily injury and poisonous and hazardous substance abuse cases. Violent and heinous offenses are most likely to be committed by juveniles with advanced criminal tendencies. The majority of repeat juvenile offenders committed offenses within one year of their prior dispositions in family court.

Delinquent acts in recent years tend to be committed principally by juveniles from apparently normal families not suffering from poverty. A prime cause appears to be a failure on the part of parents or guardians to exercise proper supervision over the activities of children within the family group; much of the delinquency appears to flow directly out of such neglect.

## 2. Juvenile Offenders According to Age Group

Theft accounted for 82.4 percent of police-investigated crimes committed by fourteen and fifteen year olds, followed by embezzlement (4.6 percent), assault (3.4 percent), bodily injury (3.3 percent) and extortion (2.4 percent). Theft also was dominant among sixteen and seventeen year olds (76.7 percent), after which came bodily injury (4.8 percent), assault (4.8 percent), embezzlement (4.2 percent) and extortion (2.8 percent). The eighteen and nineteen age group showed a slightly smaller incidence of theft (63.4 percent), followed by bodily

injury (9.6 percent), assault (6.8 percent), embezzlement (5.7 percent) and extortion (3.1 percent). The shift was even more noticeable among young adult offenders aged twenty through twenty-four; theft accounted for 59.2 percent, followed by bodily injury (13 percent), assault (7.7 percent) and embezzlement (3.2 percent). Thus, theft predominates among younger delinquents, but is gradually displaced by more violent offenses as they mature.

## 3. School and Employment Records

Since 1968, the percentage of students committing nontraffic offenses has increased as, indeed, has the percentage of students in the population as a whole; however, it has always been smaller than the percentage of students in a given age group. Thus, during 1978 students constituted 73.7 percent of juvenile suspects investigated concerning the commission of nontraffic Penal Code offenses, at the levels of middle schools (31.1 percent), high schools (37.3 percent), colleges (3.4 percent) and universities (1.8 percent). In contrast, 22,098 employed juveniles (16.2 percent of the total) were investigated for like offenses. Thus, the high rate of student delinquency is a matter for substantial concern.

Students most frequently committed property offenses; violent offenses were less common. Violent crimes on school premises were almost always committed by male students, while female students were more often guilty of deviant behavior, particularly sexual misconduct.

Research conducted by the Ministry of Justice Research and Training Institute showed several recurring phenomena among delinquent students: (1) A great many delinquent acts were the product of peer group pressures or done out of force of habit. (2) Many delinquents manifested other behavioral problems like drinking, smoking and truancy. (3) Although delinquents generally were within normal intelligence range, many of them had displayed character or emotional problems. (4) Although their social relationships with their teachers seemed to be generally good, many of them were in difficulty with parents and friends.

## 4. Other Aspects of Delinquent Behavior

Police statistics assembled during 1978 showed that 35.6 percent of juvenile nontraffic Penal Code offenses were committed jointly by two or more delinquents, a rate four times higher than complicity among adult offenders. The highest rate in juvenile cases was encountered in extortion cases (49.8 percent), followed by robbery (45.8 percent), assault (44.3 percent), bodily injury (44.3 percent), rape (38.6 percent) and theft (36.2 percent).

Family court statistics reveal that in 1977, 23 percent of those disposed



of on the basis of nontraffic Penal Code offenses and 38.5 percent of those violating special laws had prior records of family court dispositions. Previous records were particularly prominent among those charged with rape (45.8 percent), robbery (43.9 percent) and homicide (40.0 percent). The net impact of the statistics is that those charged with violent crimes tend to have lengthier records than those charged with crimes like embezzlement and indecency, in which the recidivism rate falls below twenty percent.

C. Disposition and Treatment

1. Dispositions by Public Prosecutors

Public prosecutor's offices during 1978 received 144,370 cases of juveniles suspected of committing offenses other than article 211 and Road Traffic Law violations; of these, 113,337 (78.5 percent) were property crimes. In terms of age, the breakdown was thus:

14-15 36.8%  
16-17 38.8%  
18-19 24.4%

Property offenses prevailed among the fourteen-to-fifteen age group, while violent crimes and violations of special law were more frequent in the eighteen-to-nineteen age category.

Public prosecutors are not empowered to decide whether prosecution will be instituted against juveniles. Instead, after investigating such cases they must transfer them to family court with a treatment recommendation. Such referrals occur in almost all juvenile cases received by public prosecutor's offices. Some cases, however, later are retransferred to public prosecutor jurisdiction, with the expectation that most if not all of them will result in institution of prosecution. Accordingly, during 1978, 34,754 of the 35,161 juvenile cases remanded from family courts were prosecuted. Of these, 30,322 (87.2 percent) were charged with violating the Road Traffic Law, and 4,350 (12.5 percent) with Penal Code offenses; 91.1 percent of the latter were charged with violating article 211.

2. Family Court Adjudications

Family courts have jurisdiction (1) to decree treatment measures for juvenile delinquents from among the three protective dispositions authorized under the Juvenile Law (i.e., probationary supervision or commitment to either a juvenile training school or a child education and training home), (2) to remand to a public prosecutor's office for prosecution, or (3) to discharge a juvenile respondent without further action, either with or without a judicial hearing.

During 1978, a total of 538,659 juveniles were referred to family courts, an increase of 43,311 over 1977. Of these, 56.8 percent were charged with Road Traffic Law violations, 26.7 percent with Penal Code offenses other than article 211 crimes, 9.8 percent with article 211 offenses, and 5.9 percent with violations of special laws other than the Road Traffic Law; only a small fraction (0.8 percent) were alleged to have engaged in predelinquent behavior.

Table 9 lists final disposition of nontraffic cases in selected years including 1978.

Table 9. Final Dispositions of Nontraffic Offenders in Family Courts\*

Disposition	Year				
	1955	1965	1975	1977	1978
Dismissal without Hearing	41,277 (42.8)	37,979 (55.5)	77,760 (65.6)	84,556 (67.2)	95,635 (67.0)
Dismissal after Hearing	29,205 (30.3)	39,668 (25.0)	28,475 (24.0)	28,615 (22.8)	30,759 (21.6)
Referral to Child Guidance Center	508 (0.5)	561 (0.4)	168 (0.1)	162 (0.1)	191 (0.1)
Probation	15,268 (15.8)	19,262 (12.2)	8,655 (7.3)	8,816 (7.0)	11,267 (7.9)
Commitment to Child Education and Training Home	180 (0.2)	228 (0.1)	115 (0.1)	117 (0.1)	214 (0.2)
Commitment to Juvenile Training School	7,579 (7.9)	7,079 (4.5)	2,230 (1.9)	2,697 (2.1)	3,608 (2.5)
Referral to Public Prosecutor	2,448 (2.5)	3,607 (2.3)	1,106 (0.9)	804 (0.6)	960 (0.6)
Total	96,465 (100.0)	158,384 (100.0)	118,509 (100.0)	125,767 (100.0)	142,634 (100.0)

\* Excluding article 211 cases.

An evaluation of 1977 dispositions of article 211 cases in family courts shows that 6,423 cases (14.8 percent) were retransferred to public prosecutor's offices for prosecution, and 5,998 juveniles (13.8 percent) were either committed to juvenile training schools or placed under probationary supervision. During the same period, family courts disposed of 238,200 juvenile violators of the Road Traffic Law; 42,212 (17.7 percent) were remanded to public prosecutor's offices for prosecution, while 18,970 (8 percent) were either committed to juvenile training schools or placed on probation.

3. Criminal Adjudications

By far the greatest number of juvenile offenders prosecuted after a family court remand to a public prosecutor's office were fined as a result of summary

order proceedings; only 536 were convicted after formal trial proceedings. Among the latter, 519 were sentenced to imprisonment for either a determinate (407) or an indeterminate (112) term. However, suspended execution of sentence was decreed in 402, or 77.5 percent, of the imprisonment cases, although only 103 (25.6 percent) included probationary supervision as well. Article 211 cases were by far the most common, numbering 385 (71.8 percent), followed by theft (32) and bodily injury (16).

Criminal jurisdiction courts are empowered to retransfer cases involving juvenile defendants to family courts if they are more properly to be dealt with through protective measures rather than criminal penalties. In 1977, however, only four juvenile offenders were processed in that way.

#### 4. Juvenile Classification Homes

Juvenile classification homes conduct prehearing investigations and classification procedures concerning juveniles referred to them by family courts. The average period of commitment is twenty-one days. There are 52 such homes (including one branch home), with at least one in each of Japan's forty-seven prefectures; they are administered through the Ministry of Justice. Juvenile classification is performed by staff specialists in medicine, psychology, social work and education; their findings and treatment recommendations are transmitted to the referring family court judge.

During 1978, 15,846 juveniles, including 2,209 females, were committed to classification homes, 2,203 more than the year before. A follow-up study of those lodged in the homes showed that 29.9 percent were placed under probationary supervision, 24 percent were committed to juvenile training schools, 17.9 percent were placed on provisional probation, 7.1 percent experienced revocation of protective detention, 5.7 percent were dismissed with or without hearing, 2.2 percent were referred to public prosecutors for prosecution, and 1.4 percent were committed to child education and training homes or to protective institutions. Juvenile traffic offenders committed for evaluation during 1978 numbered 11,593, an increase of 1,508 over the prior year.

Half of those committed for evaluation were in the transitional 18 and 19 age group; those 16 and 17 comprised 35.7 percent of the group and those 14 and 15, 14.8 percent.

Those committed were most frequently charged with theft (36.3 percent), bodily injury (6.6 percent), violations of the Poisonous and Hazardous Substances Law (6.1 percent), extortion (5.3 percent) and road traffic violations (5.2 percent); predelinquent juveniles constituted 14.2 percent of the total. Patterns of delinquent behavior were ascertained in 14,143 of the juveniles

committed to classification homes during 1978; the most common activities were sexual experience (72.1 percent), flight from home (55.8 percent) on several occasions (38.1 percent) or chronically (17.7 percent), operating vehicles without a license (55.6 percent) occasionally (41.5 percent) or repeatedly (14.1 percent), use of organic solvents (glue sniffing) (54.6 percent) either occasionally (32.5 percent) or habitually (22.1 percent), and use of narcotic or stimulant drugs (10.7 percent) either infrequently (6.5 percent) or habitually (4.2 percent).

Approximately one-quarter (25.4 percent: 26.1 percent of the males and 21.2 percent of the females) had been committed to classification homes for earlier delinquent acts. Second or subsequent commitments were most commonly associated with property offenses, and much less evident in relation to other crimes.

Juvenile classification homes can evaluate juveniles as outpatients, not on the basis of family court action but at the request of interested individuals or outside organizations. There 29,962 requests for such services during 1978.

#### 5. Juvenile Training Schools

Commitment to a juvenile training school is one of the three protective measures provided for in the Juvenile Law. Juvenile training school programs are built on inmate discipline in a sympathetic environment, academic and vocational training, medical care, and cultural and recreational activities. The Ministry of Justice maintains sixty-one juvenile training schools in four categories: primary, middle, advanced and medical. As of the end of calendar year 1978, they accommodated the following inmate populations:

Primary	437	(13.3%)
Middle	2,337	(73.0%)
Advanced	268	(8.2%)
Medical	178	(5.5%)

It thus is evident that the middle group is by far the largest.

The total of juveniles thus detained, 3,779 in 1978 (including 428 girls), is 502 more than the 1977 figure; the increase chiefly represents admission of juvenile delinquents for short-term treatment, on which considerable emphasis has been placed in recent years. To confirm that fact, 1978 saw 1,163 new admissions for short-term programs in contrast to 2,616 on a longer term basis. Nineteen-year-old juveniles accounted for 25.8 percent of admissions, eighteen-year-olds 22.4 percent and seventeen-year-olds 22.3 percent. Boys aged eighteen or more and girls sixteen or less made up more than half the total admissions. Crimes from which commitments flowed were principally theft (47.4 percent),

rape and indecent assault (6.1 percent), bodily injury (5.8 percent), extortion (5.7 percent), stimulant drug violations (4.6 percent), and violations of the Poisonous and Hazardous Substances Law (4.1 percent); predelinquency commitments came to 9.6 percent of the total. Even though the gross number was not great, there was nevertheless a dramatic increase in the frequency of stimulant drug offenses; there also is an increasing trend in poisonous and hazardous substance abuse. About 85 percent of those committed had graduated from middle school but had dropped out of high school; there is a clear increase in the high school dropout rate.

During 1978, 347 certificates of completion of basic studies were presented to training school residents who had not completed compulsory education requirements before their commitments; this was 61 more than in 1977. Moreover, 1,642 boys and girls were awarded, on the basis of the vocational training and counseling which they had received at the schools, certificates or qualification diplomas in fields like abacus use, vehicle operation, welding, carpentry and woodworking, automobile mechanics, printing, sheetmetal work, drafting and electronics.

As a means to confront the increasing complexity of juvenile delinquency patterns, juvenile training schools introduced new educational programs in June 1977. These programs have two primary objectives. One is to improve short-term programs for traffic violators and ordinary delinquents in relatively small open and semi-open institution. The Maximum period of residence is set administratively at four months for traffic violators and six months for other delinquents. Primary emphasis is placed on formation of responsible social attitudes through disciplined activities. The second objective is that each training school develop, in a form tailored to its facilities and objectives, courses in (1) guidance for living, (2) vocational education, (3) general academic education, and (4) special education for retarded or emotionally unstable residents, as well as (5) therapeutic programs for physically or mentally handicapped juveniles.

Follow-up studies over a three-year period of those released from training schools in 1974 show that more than eighty percent have functioned in society without recommitment to any form of correctional institution. This is a marked improvement over a rate in excess of fifty percent for those released in 1957. Changes in treatment programs introduced in June 1977, described above, are likely to have a definite impact on those so treated. Short-term treatment is focused on those with only slight delinquent tendencies; the education it provides is designed to awaken and reinforce law-abiding attitudes through disciplined group living in an open environment. Long-term treatment thus is reserved

for those on whom short-term programs are likely to have insufficient impact. It offers guidance in living, vocational training, academic education, special education, and therapeutic treatment based on individual needs and the nature of prior misconduct.

#### 6. Juvenile Prisons

Juvenile offenders adjusted in courts other than family courts are committed to juvenile prisons, which are more treatment oriented than adult correctional facilities. Inmates of juvenile prisons are subject to continuous incarceration until they become twenty-six years old.

There were 104 juveniles imprisoned at the end of 1978, a decrease of 23 over the preceding year. The nine juvenile prisons in Japan admitted 110 juveniles in 1978, three fewer than in 1977. Most juvenile prison inmates are under indeterminate sentences. The largest percentage of them (26.4 percent) were convicted of article 211 crimes, followed by robbery (16.4 percent), theft (14.5 percent), bodily injury (12.7 percent) and rape (11.8 percent). Obviously no juvenile prison inmate has a prior record of adult imprisonment. However, 40 percent had been subjected to protective measures by family court action, and 84 percent of that group had been confined in juvenile training schools.

The Research and Training Institute of the Ministry of Justice carried on research on juvenile offenders under indeterminate sentence who were released from prison in 1974. Research findings showed: (1) The average length of confinement was 2.9 years but those convicted of causing death or bodily injury through robbery or death through rape coupled with robbery, homicide, arson, bodily injury resulting in death, and robbery averaged more than that length of time, while those convicted of narcotics violations, article 211 offenses, contraventions of the Law Punishing Acts of Violence, bodily injury, assault and theft were held for shorter periods. (2) Institutional discipline is imposed less frequently on those convicted of article 211 offenses, arson, rape and robbery causing death, and homicide than on the prison population generally, which may suggest they conform to institutional rules better than other offenders. (3) About two-thirds of the prisoners were released before they had served eighty percent of the maximum period of indeterminate imprisonment. (4) The percentage recommitted to correctional institutions within three years after release came to 22.7 percent, a lower rate than adult prisoners incarcerated for shorter terms. Those imprisoned because of extortion and theft were confined in institutions for longer periods than average and showed a higher recommitment rate, while those imprisoned on rape and homicide convictions both spent shorter periods in prison and showed recidivism rates of less than ten percent.

Treatment programs in juvenile prisons emphasize vocational and academic education. A survey conducted by the Ministry of Justice Research and Training Institute showed that juveniles, subsequently released from prison, who had undergone vocational training held jobs as auto mechanics, welders, barbers, cooks and maintenance workers. General education certificates are awarded principally to those who had not completed the period of compulsory education before commitment. Local high schools also cooperate in making available correspondence courses for inmates.

#### 7. Juvenile Parole and Probation

During 1978, 3,122 juveniles were paroled from juvenile training schools, 329 more than during 1977. Included were 2,018 undergoing long-term treatment, 954 receiving ordinary short-term treatment, and 150 who had participated in short-term traffic programs. Paroles also were extended to 120 juveniles imprisoned under indeterminate sentences; 38 of them (31.7 percent) were released before serving their minimum sentences. The rate at which the latter group are released has been steadily declining from a peak of 36.5 percent in 1976. At the end of 1978, 3,012 juveniles, or 32.6 percent of all parolees, were under parole supervision throughout Japan.

Family courts may place juveniles under probationary supervision as one of the three categories of protective measures. The number of juveniles dealt with in that way declined until 1974, but began to increase in 1975. In 1978, probationary supervision was ordered against 44,934, of whom 23,963 were under short-term supervision in connection with traffic offenses; the total exceeded that for 1977 by 11,199. The increase stemmed in part from the fact that the option of short-term probationary supervision for juvenile traffic offenders first went into force in April 1977, and accounted for the great bulk of the increased total. At the close of 1978, the 40,835 juveniles under probationary supervision comprised 63.5 percent of all those in Japan subject to such treatment. For many years there was a gradual decline in the numbers of inmates paroled from juvenile training schools, but the number began to increase in 1976 to a total of 3,066 in 1978.

It is a commonplace that treatment is difficult to accomplish if probationers or parolees are affiliated with gangster or hotrod groups, abuse volatile substances, or are mentally disordered. According to research conducted by the Ministry of Justice Rehabilitation Bureau, of the 31,600 juvenile probationers under supervision at the end of April 1979 (excluding those in short-term traffic programs), 14.8 percent engaged in glue, etc. sniffing, 2.7 percent were members of hotrod groups, 0.8 percent were affiliated with gangster groups, and 0.5 per-

cent were mentally disordered. By way of comparison, among the 3,546 juvenile training school parolees at the same time, 16.1 percent abused volatile substances, 2.1 percent were hotrodders, 2.6 percent had ties with gangster groups, and 1.9 percent were mentally disordered. In both groups, the percentage of volatile substance abusers was quite high; a considerable amount of probation office group counseling is directed at juveniles in that category.

Probationary supervision was terminated during 1977 for 21,568 juvenile probationers other than those in short-term traffic programs. Satisfactory performance during probation was the basis for 13,115 of these discharges. During the same period, 23,963 juvenile traffic offenders were placed under short-term supervision in accordance with the new system which went into effect in April 1977 (as mentioned); 21,696 of them successfully completed their period of supervision. Successful completion of parole also was recognized through discharge of 445 out of 2,732 juveniles paroled from training schools.

**PART FOUR: SPECIAL CRIMES AND OFFENDERS**

**I. Narcotics and Other Drug Offenses**

**A. General Remarks**

Table 10 shows the fluctuations in the number of drug offenders investigated by public prosecutor's offices, and juveniles counseled by juvenile officers because of thinner and glue sniffing, during the period 1951 through 1978.

**Table 10. Number of Drug Offenders Received by Public Prosecutor's Offices and of Juveniles counseled by Juvenile Police because of Thinner and Glue Sniffing\***

Year	Stimulant Drugs Control Law 1)	Narcotics Control Law 2)	Opium Law 3)	Cannabis Control Law 4)	Thinner and Glue Sniffing 5)
1951	9,841	2,383	...	26	...
1952	18,359	1,869	...	64	...
1953	35,115	1,093	...	18	...
1954	52,820	2,317	39	19	...
1955	30,935	2,047	187	58	...
1956	5,607	1,662	154	30	...
1957	866	1,758	184	40	...
1958	265	2,327	92	12	...
1959	361	2,036	177	32	...
1960	496	2,561	447	14	...
1961	512	2,664	206	25	...
1962	621	3,093	348	46	...
1963	1,141	3,084	457	136	...
1964	1,013	1,070	560	182	...
1965	781	1,141	917	258	...
1966	818	992	995	171	...
1967	753	664	631	290	...
1968	921	360	967	398	20,812
1969	825	263	331	456	31,028
1970	1,905	257	241	771	40,045
1971	3,176	249	172	797	49,587
1972	6,184	379	207	765	36,054
1973	11,030	469	264	776	16,220
1974	7,635	450	134	713	21,137
1975	13,288	290	114	992	36,968
1976	17,354	207	152	1,059	37,046
1977	23,711	199	163	1,318	32,578
1978	28,187	191	124	1,658	39,615

\* Data: Annual Report on Prosecutorial Statistics; Report of National Police Agency

1)-4): Drug offenders received by public prosecutor's offices.

5): Juveniles counseled by juvenile police because of thinner and glue sniffing.

A steady increase in the number of minors committing stimulant drugs and marijuana offenses, and sniffing volatile substances like glue and paint thinner, is a matter of substantial concern. The rate of increase observable since the early 1970s in the use of stimulant drugs is particularly striking, and reflects a second era of stimulant drug abuse comparable to that in the early 1950s. A corollary is that the number of stimulant drug prosecutions likewise has grown.

Certain patterns have emerged in stimulant drug cases investigated in recent years: (1) Most stimulant drugs are smuggled from abroad, particularly from Korea and Hong Kong, and distributed domestically by gangster groups. (2) Techniques for importing and marketing illegal drugs have become much more effective, sophisticated and complicated. (3) Use of stimulant drugs is spreading into new segments of society, like white collar employees, housewives and juveniles, which perhaps is a reflection of a constant quest for pleasure in Japanese life today.

**B. Countermeasures**

The campaign against drug abuse has necessitated several countermeasures:

- (1) Stricter law enforcement, including sweeping apprehension of offenders and harsher punishments; special attention has been given to breaking up narcotics trafficking systems operated by organized crime and gangster groups, and punishing their members severely.
- (2) Evaluation of the causes of the pleasure-seeking mood in Japanese society which seems readily to lead to drug abuse; in particular this requires the elimination of malfunctions in society which cause many to feel alienated and ignored.
- (3) Suitable counseling and therapeutic treatment for drug abusers and addicts, invoked as thoroughly and carefully as possible, and at a much earlier phase of governmental intervention.

Measures of this sort have been followed for several years, including statutory revision in 1973 authorizing heavier penalties for stimulant drug offenses. Despite these efforts, however, there has been an annual increase in the number of such offenses. Increased punishment was resorted to because it had proven effective to counter a surge in such violations during the early 1960s, when the aftermath to the Pacific War brought about easy availability of stimulant drugs. Whether enhanced penalties will work a second time remains to be seen, but there seem to be somewhat different forces at work in society today to produce stimulant drug abuse than were present two decades ago.

The prosecution rate in substance abuse cases investigated by public pro-

secutor's offices has tended for some years to be more than seventy percent, compared with a frequency of between sixty and seventy percent in all special law violation cases other than those under the Road Traffic Law. However, it has been much higher recently, having reached 82.6 percent in 1977 and 84.7 percent in 1978; this reflects the severity with which public prosecutors dispose of this class of offenses. On the other hand, despite increased severity in penalties, courts have not appreciably changed their patterns of sentencing stimulant drug offenders. Although there has been a slight increase in average length of sentence, the rate at which execution of sentence is suspended in such cases fluctuates between 55 and 59 percent, which is not much different than the percentage before statutory penalties were revised upward. The rate of suspension is especially high in cases of unlawful acquisition or possession of stimulant drugs. In all, a statistical analysis of sentences in stimulant drug cases supports a conclusion that a key factor in a judicial decision whether or not to suspend execution of sentence is whether the convicted offender has a previous record of imprisonment with forced labor. Table 11 shows the distribution of length of sentences and frequency of suspension of execution of sentence in stimulant drug cases adjudicated in first-instance courts from 1972 through 1977.

Table 11. Distribution of Imprisonment Terms in First Instance Courts and Rate of Suspended Sentence for Stimulant Drug Offenses (1972-1977)\*

Sentences Year	Total imprisonment	15 yrs. or less	10 yrs. or less	7 yrs. or less	5 yrs. or less	3 yrs.	2 yrs. or more	1 yr. or more	6 months or more	Less than 6 months	Suspen- sion among total	
1972	100.0 (1,343)			0.15	1.71	2.23	6.6	29.6	42.2	17.5	53.2	
				4.10								
1973	100.0 (2,926)			0.17	1.13	2.29	7.1	27.2	46.7	15.4	55.7	
				3.59								
1974	100.0 (2,979)			0.10	0.13	1.75	1.64	7.3	25.9	41.2	22.0	55.6
				3.63								
1975	100.0 (4,896)			0.02	0.10	1.39	1.31	4.7	21.8	43.6	27.0	59.1
				3.04								
1976	100.0 (6,948)			0.23	1.58	1.22		6.4	25.2	45.4	19.9	59.5
				3.04								
1977	100.0 (9,296)	0.05	0.18	0.31	1.87	1.56	6.1	25.7	47.4	16.9	56.3	
		3.04										

\* By percentage; numbers of offenders are in parentheses.

A noteworthy fact is that 25.1 percent of those receiving suspension of execution of sentence in 1976 stimulant drug cases had undergone revocation of suspension, a frequency almost twice the rate for all offenses.

## II. Crimes Committed by Violent Gangster Groups (Bōryokudan)

### A. General Remarks

Organized criminal groups dedicated to violent acts have steadily increased in number since they emerged in the economically chaotic years following the Pacific War. A consequence was frequent conflicts between such groups competing for the same sources of illicit funds which eventuated in either absorption or control of many smaller gangster organizations by larger ones. In 1958, it was estimated that there were 4,192 such organizations with 92,860 members.

The Diet enacted several statutory provisions to combat organized crime, including 1958 amendments to the Penal Code prohibiting intimidation of witnesses and unlawful assembly while armed with dangerous weapons, and 1964 revision of the Law Punishing Acts of Violence. The strict enforcement of these new laws brought about the dissolution of many gangster groups and a reduction in the membership of surviving organizations to 43,303 in 1966, a notable decrease from the 1956 membership figure of 82,074. The decline in numbers of organizations continued through 1978, but there still remained in the latter year 2,525 groups with an estimated membership of 108,700. This manifests a clear menace to contemporary Japanese society.

Organized crime groups can be classified on the basis of membership profiles and illicit activities into organizations devoted to gambling, street vending and violent extortionate acts. In the decade from 1955, the latter groups were the more active, but since 1965 their prominence has been eclipsed through a resurgence of gambling and street vendor groups, which are more tightly organized.

A recent trend has seen increasing consolidation of smaller groups into larger ones, extending over wider geographical areas. Thus, in 1978, the activities of 2,003 of the groups (79.3 percent of the total) extended into more than two prefectures.

The process of consolidation is frequently based on strife among groups, in the course of which group members have armed themselves with increasingly powerful arsenals. Pistol smuggling by group members is a chronic problem. In 1975 there were 89 instances of combat between organized crime groups, 54 of which saw the use of firearms. There has been, however, some diminution



in the number of such occurrences, so that only 18 gang fights were registered in 1978 (ten fewer than in 1977), of which 13 involved firearms. Nevertheless, the circumstances of combat were much more serious, as reflected in the rate of firearms seizure. The peak year after the Pacific War was 1976, with 1,350 weapons seized, but in 1978 police confiscated 1,021 guns, a decrease of 285 from 1977.

Organized crime groups smuggle firearms into Japan, principally from Thailand and the United States, and stimulant drugs, chiefly from Hong Kong and Korea. These illegal commodities are sold clandestinely through a widespread network of illicit outlets. This has spread the quest for unlawful gain beyond Japan's borders into the international sphere. Moreover, organized crime groups have begun to augment their treasuries through economic crimes, for example, extortion based on threats to disrupt corporate stockholder meetings, and installation of gambling devices like slot machines, as well as more conventional criminal activities such as gambling, bookmaking and procuring schoolgirls and young runaways for prostitution. Gangster groups also operate loansharking businesses and enterprises affecting public morals like bars and cabarets. Thus, their criminal activities impact heavily on the lives and business activities of a great many ordinary citizens.

Police during 1978 arrested 58,750 members of organized crime groups, an increase of 1,399 over 1977. The offenses causing the most concern were gambling and extortion under the Penal Code, and violations of the Stimulant Drugs Control Law and Horse Racing Law; all showed marked increases over the preceding year. In analyzing the distribution of gang member offenses, bodily injury was the most frequent crime (17.7 percent), followed by stimulant drug violations (15.7 percent), assault (10.9 percent), gambling (10.1 percent), extortion (8.1 percent), violations of the Horse Racing Law (7.4 percent), and violations of the Law Regulating Possession of Guns and Swords (4.2 percent). However, in some instances gang members were responsible for a disproportionate share of all such offenses committed during 1978: 59.6 percent of the Horse Racing Law violations, 55.9 percent of gambling cases, 55.3 percent of Bicycle Racing Law offenses, 52.8 percent of all intimidation prosecutions, and 52.1 percent of the stimulant drug cases.

#### B. Correctional Treatment of Organized Crime Group Members

Members of gangster groups form an increasing part of the total prison population in Japan, having reached 24.1 percent (9,977 persons) by the end of 1978. Most of them are denominated Class B prisoners (i.e., those with advanced criminal tendencies) upon admission; because most of them also follow socially undesirable ways and lack any purpose to reform, they are also placed

in the Class G treatment category (i.e., prisoners requiring social re-education and lifestyle guidance).

There are several special aspects of treating organized crime group members during imprisonment:

- (1) They are kept under strict security conditions and dealt with firmly by prison staff members.
- (2) Preexisting relationships among prisoners are carefully identified and evaluated; confinement in separate quarters or institutions is practiced to prevent a continuation of factional strife within correctional institutions.
- (3) Such prisoners are encouraged to develop a motivation to earn a lawful living and to cultivate necessary work habits.
- (4) Special care and treatment are available to those who evidence a desire to break away from criminal organizational ties, designed to reintegrate them into law-abiding segments of society.

Research undertaken by the Ministry of Justice Research and Training Institute revealed several interesting features about Class B prisoners as a whole: There were more organized crime adherents in the group serving sentences of more than five but less than ten years than there were prisoners without such ties. There is an inverse relationship between frequency of reincarceration and membership in gangs, a phenomenon not perceivable among others in the Class B group. Gangster group members showed a lower than average recidivism rate within the first three months after release from prison, but a higher than usual frequency during a five-year period thereafter. Gang members generally were younger than the average of Class B prisoners and tended more often to be within the normal range of intelligence (IQ 90-109) than were the nongangster prisoners in the "B" classification. In contrast, fewer of them had worked at lawful occupations than had unaffiliated prisoners, and more of them had compiled worse than average institutional disciplinary records during earlier terms of imprisonment.

#### C. Probation and Parole for Organized Crime Adherents

Gang members are as eligible for parole as other prisoners, provided they show a purpose to break away from gang activities and lead law-abiding lives, and otherwise meet statutory criteria for parole release. As one would expect, however, they are released far less frequently than are prisoners in general. When a sample was evaluated of 1,693 prisoners, including 170 members of organized crime groups, it was found that the denial rate for first offenders in the organized crime group was 8.3 percent, in comparison with 3.4 percent



for those without such ties, and the denial frequency for recidivists in the organized crime group 27.1 percent in comparison to a general frequency of 19.1 percent for those without such ties. Figures compiled by the Ministry of Justice Rehabilitation Bureau showed that, as of the end of April 1979, there were 221 paroled organized crime adherents and 1,292 on probation (including in both groups those under supervision). They constituted only 3.6 percent of the nation's parolees and 5.5 percent of all convicted defendants placed on probation. Parole and probationary supervision is intensive and designed to cause the recipients to cut their ties with criminal groups and to find and hold lawful employment.

### III. Mentally Disturbed Offenders

#### A. General Observations

Only a relatively small proportion of 1978's nontraffic Penal Code offenders were or were thought to be mentally disturbed: 2,256 (0.9 percent) adults and 471 (0.3 percent) minors. Theft was the offense most commonly encountered among this group (1,688), but its members committed a disproportionate percentage of arsons (13.1 percent) and homicides (8.3 percent).

A total of 599 persons were not prosecuted by public prosecutor's offices, acquitted on the basis of want of mental capacity or had the severity of their offenses mitigated on the same ground, following district court proceedings. Among them 188 (31.4 percent) were accused of homicide, 126 (21 percent) of arson, 86 (14.4 percent) of theft, and 80 (13.4 percent) of assault and bodily injury. Psychiatric evaluations of the 599 found that 308 (51.4 percent) were diagnosable as suffering from schizophrenia (104 of them had committed homicides and 49 arsons); 49 (8.2 percent) were chronic alcoholics.

Under the Mental Health Law, police officials, public prosecutors and correctional and rehabilitation officers can commence compulsory hospitalization through notice to a prefectural governor. During 1978, notice was given concerning 5,815 persons, of whom 3,849 were determined to be mentally disturbed. Compulsory hospitalization was ordered administratively in 2,067 (53.7 percent) of the latter cases.

Mentally disturbed offenders constituted 9.8 percent of the prison population and 8.3 percent of those committed to juvenile training schools, as of December 20, 1978. Most of them were mental retardates, who constitute nearly five percent of the total number of inmates. Mentally disturbed offenders are accorded medical and psychiatric treatment, occupational therapy and other appropriate care.

The recommittal rate for 646 of these "M Class" prisoners released in 1974 came to 49.7 percent by the end of 1978, a higher rate than the 42.2 percent experienced by all prisoners released the same year. The highest percentage of returnees was among mental retardates (61.2 percent), followed by psychopaths (46 percent) and psychotic prisoners (34 percent).

It is relevant to note in this context that a 1974 proposed draft for a revised Penal Code, submitted by the Legal System Council, a permanent advisory body to the Minister of Justice, includes two kinds of security measures (curative and abstinence measures) for mentally disordered offenders. As of 1979, however, the Diet had not yet acted on the proposal.

#### B. Recidivism among Mentally Disturbed Offenders

During a five-year period ending in 1978, reports to the Ministry of Justice Criminal Affairs Bureau indicated that 2,754 persons had not been prosecuted, had been acquitted or had received sentence mitigation because of mental disorder; among these 1,220, or 44.3 percent, were recidivists. Further analysis of the latter group showed that 285 had committed the same type of offense on both the latest and next most recent occasion; this pattern of repetition was encountered most often, in decreasing frequency, in theft, fraud, bodily injury and assault.

The Ministry of Justice Research and Training Institute continued through 1978 a study of recidivism among mentally disturbed offenders, based on a population of 568 offenders (532 males and 36 females). The sample was gathered on the basis of records in the files of the Identification Section of the National Police Agency as of the end of February 1979, transmitted by staff psychiatrists in the nine district public prosecutor's offices which maintain their own diagnostic facility, and concerning those diagnosed as or suspected of being mentally disturbed; district court records in those same jurisdictions also provided some of the file data. "Recidivism," as defined in this study, meant an arrest occurring after a 1973 disposition of a case by a public prosecutor or adjudication of sentence by a court.

Of these 568 offenders, 291 were arrested because of commission of new crimes, a recidivism rate of 51.2 percent. Further analysis revealed that 24 of 35 diagnosed drug addicts (68.6 percent), 88 of 131 alcoholics or alcoholic substances abusers (67.2 percent), 50 of 79 mental retardates (63.3 percent), and 18 of 34 psychopaths (52.9 percent) committed new offenses during the relevant period, a quite high recidivism rate for each classification. The rate was much lower for other diagnostic categories: 3 out of 11 (27.3 percent) whose

acts were psychogenic, 53 out of 159 schizophrenics (33.3 percent), and 9 of 23 manic-depressives (39.1 percent).

Commission of further antisocial or dangerous acts is somewhat more likely to be encountered among those handled under the compulsory hospitalization procedures of the Mental Health Law. To illustrate, 32 of 47 (68.1 percent) persons diagnosed as requiring no hospitalization or treatment, and 157 of 261 (60.2 percent) persons concerning whom no hospitalization request was transmitted to a prefectural governor, committed further criminal acts. Further analysis of this combined group, incidentally, showed that it comprised 93.9 percent of all mentally retarded offenders, 88.9 percent of the psychopaths, 87.1 percent of those suffering from epilepsy or organic brain disorder, 73.3 percent of the alcoholics or alcohol abusers, and 21.5 percent of the schizophrenics.

Compulsory hospitalization is an administrative measure directed principally at treatment of mentally disturbed individuals; it tends not to be effective against dangerous patients whose symptoms cause them to commit violent or other clearly antisocial acts. All mentally disturbed individuals obviously cannot be viewed as dangerous, but there are enough of the dangerous among them to warrant consideration of new devices protective of society, in the nature of security measures and the like, when potential danger is identified.

#### IV. Female Offenses

##### A. General Trends

In contrast to male criminality, which has decreased somewhat, female criminality has been on the increase. Thus, during 1978 the police investigated 72,986 women for nontraffic Penal Code offenses, a 4,067 rise over the preceding year. Women constituted 13.6 percent of all offenders in 1972, but 19.1 percent in 1978. Moreover, the rate of crimes per 1,000 females legally responsible under the Penal Code increased from 1.3 to 1.6 during that five-year period. Table 12 compares the numbers of males and females investigated by police, and the percentage of females among all offenders.

Females in 1978 committed theft more often than any other Penal Code offense: 87.6 percent of all crimes (an increase of 0.4 percent over 1977) compared to a 54.7 percent rate among males (an increase of 4.7 percent over the previous year). Female offenders also constituted a considerable portion of all those committing theft (27.6 percent), homicide (2.1 percent — but 91.2 percent of all infanticide cases, assisted suicide (26.1 percent), killing ascendants (20 percent)), and arson (12.4 percent).

Public prosecutor's offices received during 1978 21,492 cases of females suspected of violating special laws other than the traffic laws; this was 3,582 fewer than the year before. Among these, 6,115 (28.5 percent) were charged with violating the Law Regulating Businesses Affecting Public Morals; 2,911 (13.5 percent) the Poisonous and Hazardous Substances Control Law; 2,898 (13.5 percent) the Stimulant Drugs Control Law; 1,601 (7.4 percent) the Anti-Prostitution Law; and 918 (4.3 percent) the Public Elections Law.

##### B. Treatment of Female Offenders

During 1978, public prosecutor's offices disposed of 50,030 females suspected of nontraffic Penal Code offenses. Prosecution was instituted in 5,423 (10.8 percent) of the cases, suspended in 17,613 (35.2 percent) and denied on a miscellany of grounds in 1,644 (3.3 percent). Disposition was stayed in 144 cases (0.3 percent), and 25,206 cases (50.4 percent) were referred to family courts. During the same period, 18,152 cases were dealt with under nontraffic special laws; prosecution was instituted in 11,041 (60.8 percent), institution of prosecution suspended in 5,182 (28.5 percent), and transferral made to family courts in 1,268 cases (7 percent).

During 1977, courts of first instance convicted 1,914 females of Penal Code offenses; the most common crimes were theft (818), fraud (245), article 211 offenses (222), and homicide (169). That same year, 1,710 women were convicted of violating special legislation at first instance; stimulant drug violations were the most common (1,061), followed by offenses under the Anti-Prostitution Law (307).

There are three types of institutions for female offenders: women's prisons, training schools for girls, and women's guidance homes. Each such institution maintains programs suitable for its inmates, including educational and vocational training, social and religious counseling, and recreation. During 1978, women's prisons admitted 707 females, training schools 428 girls, and women's guidance homes 15 women. The first two figures were higher than the preceding year's.

The number of female probationers and parolees received annually by probation offices throughout Japan has been stable for some years; the 1978 figure was 2,426 (excluding juveniles undergoing short-term traffic probation).

Female recidivism is less prevalent than recidivism among male offenders, on the basis of Penal Code and special law offenses investigated by prosecutor's offices (including cases in which prosecution and suspension of the institution of prosecution are ordered) and adjudicated in first-instance courts. If only those admitted to correctional institutions are evaluated, however, there is no appreciable difference between males and females as far as prior records of

incarceration or suspended execution of sentence are concerned. Thus, 1977 statistics show that 62 percent of females committed to prison for Penal Code offenses had such prior records (contrasted with 77.3 percent of male offenders), as did 75.6 percent of those convicted of violating special laws (compared to a male rate of 85.1 percent).

**END**