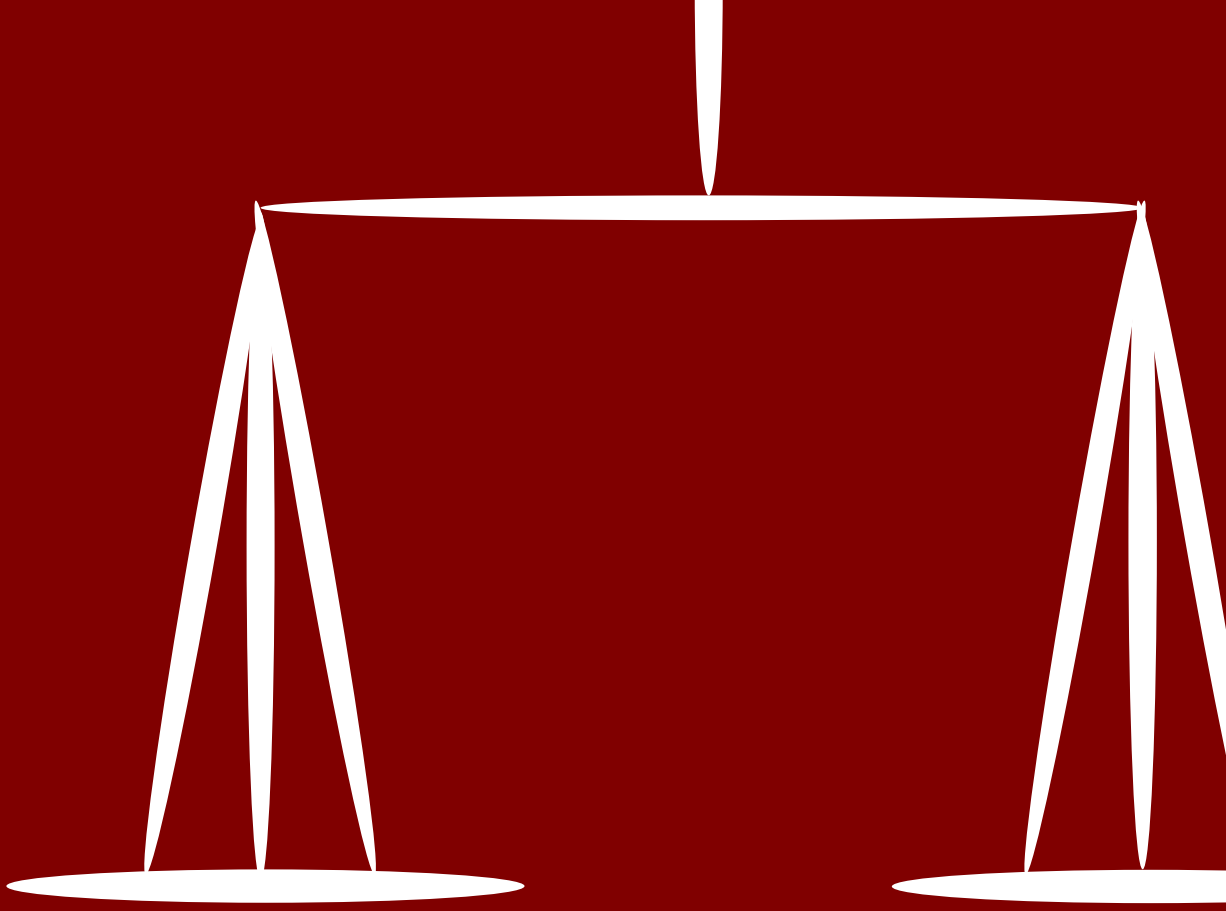


Outline of Criminal Justice in JAPAN

2021

Supreme Court of Japan

CONTENTS

I. HISTORY OF MODERN CRIMINAL JUSTICE IN JAPAN

The development of the criminal justice system in a modern sense was undertaken after 1867.

In 1880, the government promulgated *Chizaiho,* the Criminal Procedure Law, modeled after the Napoleonic criminal code from France. In 1890, the Criminal Procedure Law was revised to become the Code of Criminal Procedure, the first western style comprehensive criminal justice system adopted in Japan.

In 1922, a new Code of Criminal Procedure was promulgated, influenced by German Law. Thus, the Code of Criminal Procedure from the *Meiji* era onward can be said to be fully based on the Continental European system.

The current Code of Criminal Procedure was promulgated in accordance with the principles of the new postwar Constitution in 1948 to fully protect fundamental human rights.

Under this code, the Continental European system is maintained to a much greater degree, while at the same time, the best characteristics of Anglo-American law have been adopted.

The most notable points are the stringent requirements on judicial warrants for compulsory investigations, restrictions on the admissibility of evidence, such as the hearsay rule, and adoption of the adversary system in the court procedure. Therefore, the current Code of Criminal Procedure can be considered a hybrid of the Continental European and Anglo-American legal systems.

As a result of various systemic reforms since the end of the 20th century, the role of the judiciary has become more important. Thus, the judicial system has been reformed to afford swifter, more familiar and reliable justice for the general public. In terms of criminal justice, criminal procedures have also been amended to enhance and speed up the process, and to expand the public defense system.

Additionally, a *Saiban-in* system has been in place since May 21, 2009, in which the general public participates in the trial and judgment of criminal cases. As described, the criminal justice system in Japan has evolved and improved in order to better suit the 21st century.

The Courthouse of Fukui District Court

Ⅱ. OUTLINE OF CRIMINAL JUSTICE IN JAPAN

A. Three-tier Court System

A three-tier court system is adopted for Japanese criminal cases. One of two types of courts (either a district or summary court) is used as the court of first instance depending on the severity of the statutory penalty for the charged offense as described in the charging sheet for criminal cases. The high court is then the court of second instance, while the Supreme Court is the final appellate court of appeal.

B. Court of First Instance

1. Summary court

a. Jurisdiction

A summary court generally only has jurisdiction over criminal cases where the penalty is a fine or lighter. It is vested with the power to impose imprisonment with work with regard to a certain scope of offenses that are punishable by light statutory penalties, such as theft and embezzlement, only with a term of sentence as limited by law.

b. Composition of the court

A single judge handles each case in summary court.

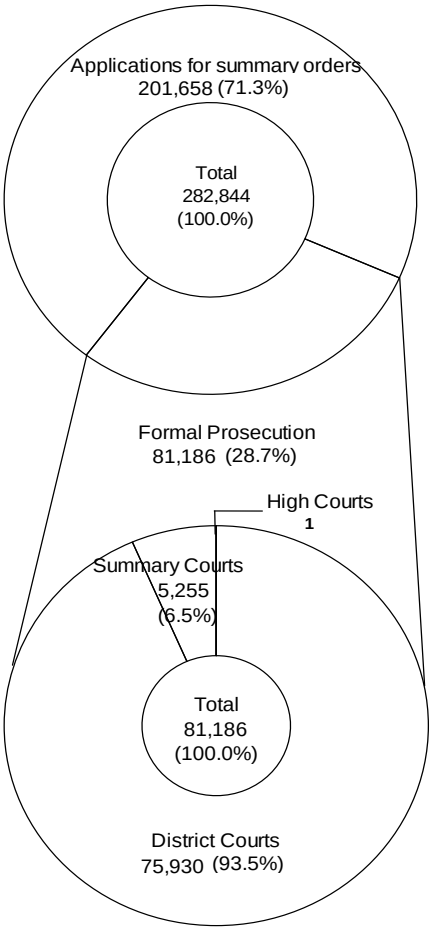
c. Summary proceedings

Summary proceedings that do not require a court hearing can be used for simple punishment of minor crimes where the facts are not in dispute at a summary court. Summary proceedings are initiated by the public prosecutor requesting a summary order at the same time as the institution of prosecution. The public prosecutor must confirm with the suspect that there is no objection to the application of the summary proceeding prior to initiating the procedure.

A Summary court examines documentary and material evidence submitted by the public prosecutor without holding a court hearing, and may impose a fine of not more than 1,000,000 yen on the accused. If any party objects to the summary order and requests a formal trial, the case is transferred to a trial procedure in a court of first instance.

Refer to Graph 1 for statistics on summary proceedings and formal prosecutions.

Graph 1. Comparison of Applications for Summary Orders and Formal Prosecutions; Cases Brought to High Courts, to District Courts and to Summary Courts for Formal Prosecutions (2019)



(Note) Source: Annual Report of Statistic on Prosecution for 2019, Ministry of Justice
(Note)"Prosecution" includes a request for alternation of counts.

2. District court

a. Jurisdiction

The district court has jurisdiction as the court of first instance over criminal cases other than those liable for fines or lesser punishment. There are no summary proceedings for cases sent to a district court, for which court hearings are always held.

b. Composition of the court

In the district court, a single judge handles each case except for certain crimes with heavy statutory penalties, which are handled by a panel of three judges.

Certain types of serious crimes in which the general public has a strong interest are designated to be handled under the *Saiban-in* system.

The courts can also handle other cases with a three-judge panel at their own discretion. Refer to Graph 2 for the number of cases handled by a single judge and a three-judge panel, respectively.

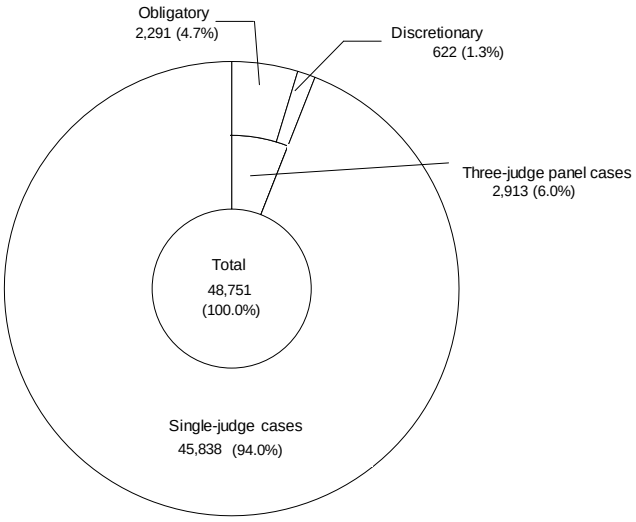
c. *Saiban-in* system

Fact-finding and sentencing are conducted by a panel comprised of six *Saiban-in* chosen from the general public together with three judges for certain types of serious crimes in which there is strong public interest, such as homicide, robbery causing death or injury, arson of inhabited buildings, and kidnapping for ransom.

The *Saiban-in* system is the same as the citizen participation system adopted in Germany and France, etc. in that the panel is comprised of both *Saiban-in* and judges.

However, *Saiban-in* find facts and determine the sentence with the judges, while issues of legal interpretation are handled entirely by the judges, which differs from the citizen participation system in Germany, France, etc.

On the other hand, the *Saiban-in* are appointed by random selection from among persons registered in the list of voters for each case, which is much like the jury system adopted in the United States and elsewhere.



Graph 2. Number of Cases Handled by Single-Judge and by Three-Judge Panel (Ordinary District Court Cases in the First Instance) (2019)

However, *Saiban-in* conduct deliberations together with judges, and determine the sentence as well as whether the accused is guilty or not, which is different from other jury systems.

As described above, the *Saiban-in* system is unique to Japan, differing from both the citizen participation and jury systems.

d. Expedited trial proceedings

Among cases handled by a single judge at district and summary courts, those deemed clear and minor can be tried via expedited trial proceedings.

In expedited trial proceedings, the court sets a trial date as early as possible, applies a less rigorous examination of the evidence, and renders a judgment within one day insofar as possible. When a court renders a judgment of imprisonment in expedited trial proceedings, execution of the sentence shall be suspended.

In order to conduct expedited trial proceedings, when the public prosecutor deems it appropriate, the public prosecutor must secure the consent of the suspect, and then make a petition in writing for

expedited trial proceedings at the time of instituting prosecution.

Then, if the defense counsel for the suspect also agrees to the case being tried by expedited trial proceedings and the accused states that he/she is guilty at the opening proceedings of the ordinary trial of first instance, the court will decide to apply the expedited trial proceedings.

This is different from an arraignment in the United States and other jurisdictions, in which the evidence is examined even though the accused has admitted guilt.

C. Court of Appellate Instance

1. Court of second instance

If either party is dissatisfied with the judgment in the first instance, said party can appeal to a court of second instance with a demand to reverse the judgment by alleging that errors were committed. It is noteworthy that the public prosecutor also has the right of appeal in the same way as the accused.

All appeals for criminal cases are handled by high courts, with such appeal cases being tried by a three-judge panel. An appeal can be made to the court of second instance on the following grounds:

(1) Non-compliance with procedural law in the trial procedure

(2) An error in the interpretation or application of law in the judgment

(3) Excessive severity or leniency of a sentence ; or

(4) An error in fact-finding

The procedure for the court of second instance is to review the court proceedings and judgment in the first instance through the records, rather than holding a new trial to conduct fact-finding again.

Therefore, proceedings in the court of second instance are mostly restricted to oral arguments made by the public prosecutors and defense counsels, and in contrast to the first instance, the high court does not examine witnesses or other evidence.

However, the court of second instance exceptionally examines evidence that was not assessed in the first instance when they consider that it is necessary to investigate facts that remain unclear after examining the records of the first instance.

Once the court of second instance has reviewed the records of the first instance and confirms that there was no error in the judgment through the trial procedure, the court then dismisses the appeal.

On the other hand, if the court admits that an error was made and the judgment in the first instance should be revised, the court must reverse the judgment.

If the court of second instance admits that the court of first instance should reexamine the evidence or revise its judgment, it will reverse the judgment and remand the case to the court of first instance, and a retrial will be held at the court of first instance. However, the high court can also immediately render a new judgment based on the case records and evidence examined by the court of the first and second instance if appropriate.

In any of these cases, if only the accused appealed, any sentence determined will not be heavier than that rendered by the court of first instance.

Needless to say, any judgment by the high court is binding on the court of first instance when the case is remanded to the court.

Table 1. Reasons for Reversals by Courts of Second Instance

Classification / Year	Number of the accused (A)	Number of reversals (B)	Due to inappropriate sentencing					Due to errors in fact finding					Due to errors in application of law					Others		
			Total (C)	Own judgment	Remanded or trans-ferred	% (C/B)	% (C/A)	Total (D)	Own judgment	Remanded or trans-ferred	% (D/B)	% (D/A)	Total (E)	Own judgment	Remanded or trans-ferred	% (E/B)	% (E/A)	Total number (F)	% (F/B)	% (F/A)
2015	6,078	589	101	101	-	17.1	1.7	83	77	6	14.1	1.4	46	32	14	7.8	0.8	375	63.7	6.2
2016	5,910	669	134	134	-	20.0	2.3	89	76	13	13.3	1.5	42	34	8	6.3	0.7	417	62.3	7.1
2017	6,098	587	111	111	-	18.9	1.8	79	76	3	13.5	1.3	54	43	11	9.2	0.9	361	61.5	5.9
2018	5,710	576	95	95	-	16.5	1.7	98	81	17	17.0	1.7	56	45	11	9.7	1.0	352	61.1	6.2
2019	5,828	530	70	69	1	13.2	1.2	66	58	8	12.5	1.1	40	35	5	7.5	0.7	372	70.2	6.4

(Note) Cases for which judgments were reversed based on multiple grounds are recorded in multiple appropriate columns.

2. Final appellate instance

Either party can make a final appeal to reverse the judgment of the court of second instance.

The Supreme Court handles all final appeals.

At the Supreme Court, cases are generally handled by a Petty Bench comprised of five justices, but cases involving important constitutional issues and the like are handled by the Grand Bench comprised of all fifteen justices.

Final appeals can only be filed on the following grounds:

(1) A violation of the Constitution or an error in the interpretation of the Constitution; or

(2) An alleged conflict with precedents of the Supreme Court or high courts

However, the final appellate court may reverse the judgment in the first or second instance under special circumstances if it deems that not doing so would clearly be contrary to justice.

As a guardian of the Constitution, the Supreme Court is the court of last instance, with the authority to determine whether or not all laws, orders, regulations and measures comply with the Constitution.

Therefore, ensuring appropriate interpretation of the Constitution and the law is the primary purpose of the final appeal system; therefore, the procedure of the final appellate instance is different from that of the first and second instances in that there is no examination of witnesses.

However, the Supreme Court is the court of last resort in Japan, so it has the discretionary power to reverse any judgment in the second instance if it determines that leaving the judgment intact clearly constitutes an injustice.

The types of judgment of the final appellate court are almost the same as those in the court of second instance.

In other words, if the Supreme Court admits that there was no error in the judgment of second instance, the final appeal will be dismissed, whereas the case will be remitted to the lower court if the judgment is reversed by the Supreme Court.

However, the Supreme Court may also remit a case to the court of first instance rather than to the court of second instance when reversing the judgment of second instance.

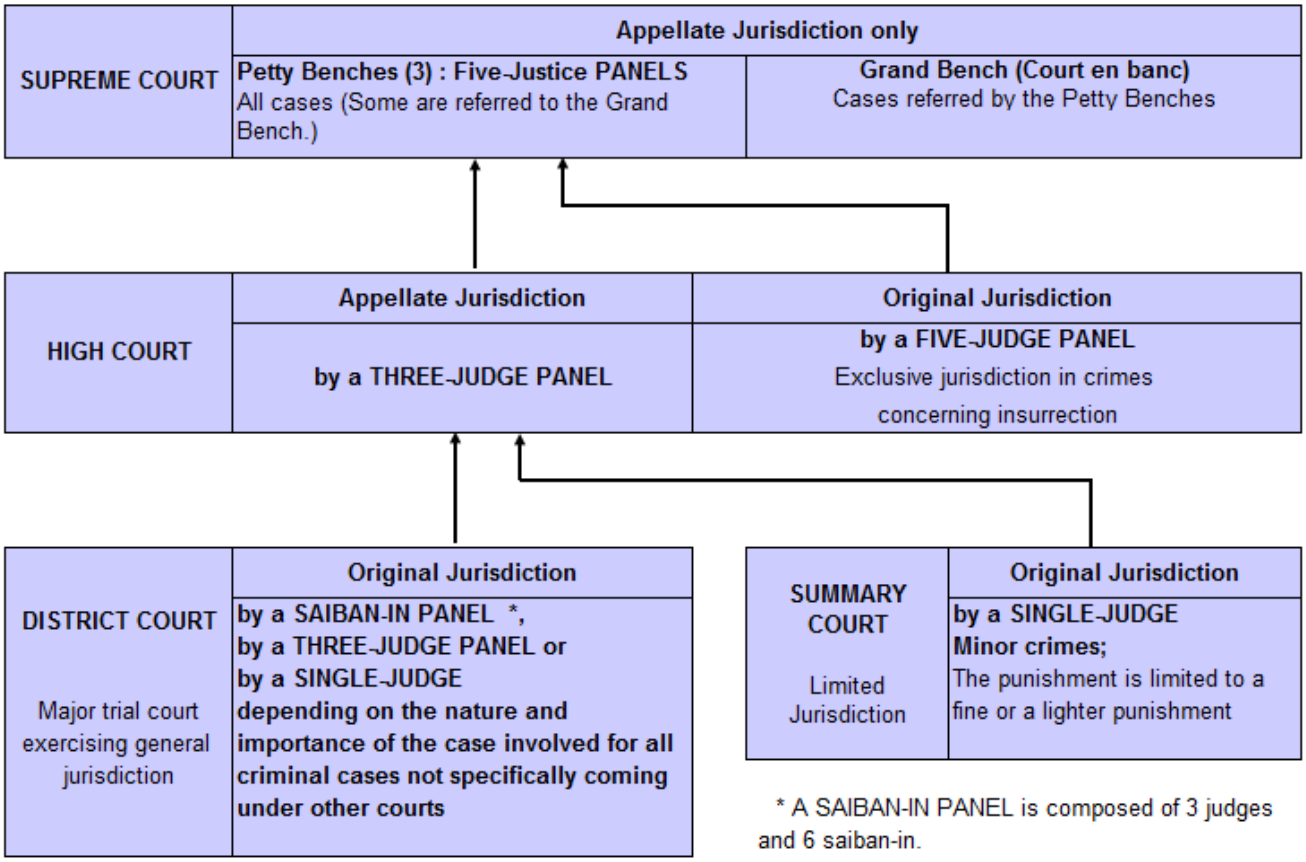
The Supreme Court can also render its own judgment immediately when it deems that it is possible to do so based on case records and evidence.

Table 2. Dispositions by the Supreme Court

Classification / Year	Number of the accused (A)	Dismissal of appeal			Percentage dismissed % (B/A)	Reversal					Percentage reversed % (C/A)	Withdrawal of appeal	Dismissal of prosecution and others
		by judgment	by decision	Total (B)		Total (C)	Own judgment			Remanded or Transferred			
							Guilty	Not guilty	Dismissal for judicial bar				
2015	1,891	8	1,557	1,565	82.8	-	-	-	-	-	-	317	9
2016	1,957	7	1,590	1,597	81.6	2	1	-	-	1	0.1	351	7
2017	2,106	5	1,771	1,776	84.3	1	-	1	-	-	0.0	327	2
2018	1,993	2	1,700	1,702	85.4	6	4	1	-	1	0.3	280	5
2019	2,091	5	1,737	1,742	83.3	3	3	-	-	-	0.1	338	8

(Note) Special appeals to the court of the last resort and extraordinary appeals to the court of the last resort are not included.

Jurisdiction and Procedure of Criminal Cases



* A SAIBAN-IN PANEL is composed of 3 judges and 6 saiban-in.

(Note)
A direct appeal may be filed to the Supreme Court against a judgment of the district court or the summary court in which the court decided unconstitutionality of law, ordinance, etc.

Ⅲ. PROCEEDINGS FROM INVESTIGATION TO JUDGMENT IN THE FIRST INSTANCE

A. Introduction

Based on a procedure for cases heard by *Saiban-in*, this chapter explains the criminal justice procedure, from the investigation following a crime and institution of prosecution through to the preparations for a criminal trial, appointment of *Saiban-in*, and the trial from within the criminal justice procedure at courts in Japan based on the overview in Chapter 2, with certain casebook examples presented in the frames.

B. Investigation

On June 3, 2020, a homicide was committed at a tavern in Minato-ku, Tokyo.
Although police officers rushed to the scene as soon as it was reported, the assailant escaped.
According to a witness, the victim was Akiko Mori (Ms.), who was an employee of the tavern, and the assailant was Taro Yamada (Mr.), who suddenly stabbed her in the chest with a knife after she refused his entreaties to reconcile with him.
The police officers noted the witness' explanation and requested from a judge an arrest warrant for Taro on the charge of homicide.
The judge reviewed the documents submitted by the police officer and duly issued an arrest warrant.

1. Offense and opening of investigation

a. Investigative authorities

The criminal justice procedure starts with an investigation by the authorities.

There are various triggers for an investigation, such as reports and notifications from victims or witnesses of crimes, police interviews and questioning, complaints, and accusations, depending on the type and nature of the case and offense.

The main investigative authorities consist of police officers and public prosecutors.

The task of police officers is to maintain social security, but in the case of an investigation, they are the primary investigative authority as judicial police officers, and thus represent the main power.

The public prosecutor receives cases referred by police and takes over the police officers' investigation results before considering whether the case will withstand the rigors of the institution of prosecution, or when he/she deems it necessary, and conducts additional investigations. The public prosecutor is a legal expert from an administrative department of the government, and his/her status is guaranteed in the same way as judges for quasi-judicial services.

Police officers and public prosecutors are mutually independent authorities, unrelated hierarchically, who handle such investigations cooperatively. However, public prosecutors may advise or instruct police officers when necessary (Article 193 of the Code of Criminal Procedure).

b. Requirement for judicial warrants

Articles 33 and 35 of the Constitution state that no person shall be apprehended, searched, or seized except upon order of a warrant issued by a judge, unless he/she is committing or has just committed

an offense.

This system is known as the warrant principle, and its aim is to ensure that compulsory investigations are not left to the sole discretion of the investigative authorities, but that a judge who takes a fair and neutral stance determines their necessity in advance.

Compulsory investigations can be implemented exceptionally only as stipulated under the law (Article 197 of the Code of Criminal Procedure. Legal principles for compulsory investigations).

The inappropriate exercising of authority during an investigation while crimes are being investigated and evidence collected and preserved may constitute serious abuse of an individual's fundamental rights and freedoms as a citizen.

Therefore, how to balance the demand to swiftly and appropriately achieve the purpose of an investigation and reveal the truth with the need to prevent abuse of the fundamental rights and freedoms of citizens is an important perspective in any investigation.

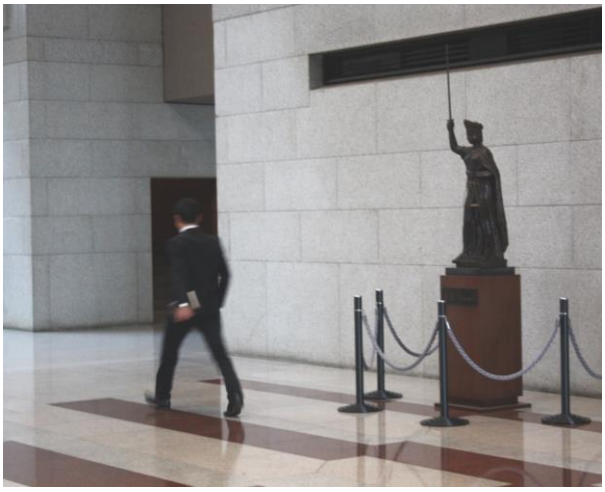
2. Arrest

On June 5, Taro was arrested by a police officer on the basis of the arrest warrant. Taro was detained after being informed of the facts concerning the crime as described in the warrant and his right to appoint a defense counsel, and was given an opportunity to provide an explanation.

a. Arrest

An arrest is a compulsory measure to physically restrain a suspect, limiting his/her physical freedom for a certain period to prevent the concealment or destruction of evidence as well as his/her escape.

Three types of arrest are defined under the Code of Criminal Procedure as follows.



(1) Ordinary arrest based on a warrant issued by a judge in advance

(2) Emergency arrest to physically restrain a suspect for a serious crime when a warrant from a judge cannot be obtained in advance due to the urgency of the situation, with the request for a warrant submitted to a judge immediately after the arrest; and

(3) On-the-spot arrest without an arrest warrant to physically restrain a suspect when the person is apprehended in the act of committing or having just committed an offense, and there is no doubt about his/her identity

In the case of an ordinary arrest, the police officer must show the arrest warrant to the suspect (Article 201 of the Code of Criminal Procedure), and immediately advise him/her of the essential facts of the suspected crime and of the fact that the suspect may appoint a defense counsel, after which he/she is given an opportunity to explain (Article 203, paragraph (1) of the Code of Criminal Procedure).

b. The right to remain silent and its notification procedure

When investigating the suspect, the police officer must notify the suspect that he/she has the right to remain silent.

Article 38, paragraph (1) of the Constitution states,

"No person shall be compelled to testify against himself."

This constitutional right is extended, and Article 198, paragraph (2) of the Code of Criminal Procedure states that the suspect must be notified of his/her right to remain silent: "In the case of an interrogation… the suspect shall, in advance, be notified that he/she is not required to make any statement against his/her will.

3. Referral to the public prosecutor

The police officer referred Taro to the public prosecutor with the documents and articles of evidence at 10:00 a.m. on June 7.

The public prosecutor considered that further physical restraint was needed, after providing Taro with an opportunity to provide an explanation regarding the suspected facts of the crime and assessing the documents and articles of evidence.

Consequently, the public prosecutor requested to detain the suspect at 4:00 p.m. on the same day.

Since the fundamental rights and freedoms of a suspect are restricted to a large degree, the period of physical restraint is strictly stipulated under the law. When a suspect is arrested by a police officer, the police officer must refer the suspect to a public prosecutor together with the documents and articles of evidence within 48 hours of his/her arrest (Article 203, paragraph (1) of the Code of Criminal Procedure).

The public prosecutor who receives such a referral must determine whether to release the suspect or request a judge to detain the suspect for further physical restraint within 24 hours of receiving the suspect, with the period of physical restraint not exceeding 72 hours (Articles 205, paragraphs (1), (2) and (4) of the Code of Criminal Procedure).

4. Detention of the suspect

The judge examined the documents, and after questioning Taro and offering him an opportunity to provide an explanation, issued a detention warrant on the same day.

On June 16, the public prosecutor requested an extension of the detention period from a judge because their investigation was not complete. The judge decided that this was unavoidable and extended the detention period for 10 days.

a. Definition and requirements for detention of the suspect

Detention of a suspect is a compulsory measure applied following an arrest and is restricted to arrested suspects only; only a public prosecutor can request a detention.

Detention of a suspect is permitted when there is probable cause to suspect he/she committed a crime, and if any of the following apply (Article 207, paragraph (1) and Article 60, paragraph (1) of the Code of Criminal Procedure);

(1) The suspect has no fixed residence

(2) There is probable cause to suspect that the suspect may conceal or destroy evidence; or

(3) The suspect fled or there is probable cause to suspect that he/she may flee

The judge receives the request and reviews the documents and other supporting evidence, and if he/she determines that the requirements for detention have been fulfilled after notifying the suspect of his/her right to remain silent and right to appoint defense counsel and directly listening to the suspect's explanation, the judge may then issue a detention warrant.

b. Period of detention prior to the institution of prosecution

The detention period prior to the institution of prosecution is limited to 10 days from the day on which the detention is requested (Article 208, paragraph (1) of the Code of Criminal Procedure).

However, a judge is permitted to extend this period by up to a further 10 days upon request from the public prosecutor if unavoidable circumstances exist, such as when further investigation is necessary (Article 208, paragraph (2) of the Code of Criminal Procedure). Although it is extremely rare, detention can be extended for five additional days for certain crimes, such as insurrection (Article 208-2 of the Code of Criminal Procedure).

c. Written statement taken by a public prosecutor

Such interrogation as deemed necessary to achieve the purpose is permitted in an investigation, and the public prosecutor may interrogate both suspects and witnesses during the investigation stage and is authorized to prepare a written transcript of their oral statements in the public prosecutor's presence (Article 197 and Article 198, paragraphs (1) and (3) of the Code of Criminal Procedure).

There are rules excluding hearsay evidence in the Code of Criminal Procedure (described later). However, according to Article 321, paragraph (1), item (ii) of the Code of Criminal Procedure, under exceptional circumstances, and provided that all legal requirements are satisfied, the court may adopt a document that contains a statement given before a public prosecutor created at the investigation stage as evidence.

d. Court-appointed defense counsel system

Article 37, paragraph (3) of the Constitution stipulates, "At all times, the accused shall have the assistance of competent counsel who shall, if the accused is unable to secure the same by his own efforts, be assigned for his/her use by the State."

Accordingly, the Code of Criminal Procedure stipulates a system for the court to appoint defense counsel (Article 36, Article 37, and Article 289 of the Code of Criminal Procedure).

Previously, suspects did not have the right to request a court-appointed defense counsel, but currently, when detention is required or a detention warrant is issued, if the suspect cannot appoint defense counsel privately due to indigence or other reasons, the suspect can request a court-appointed defense counsel from a judge (Article 37-2 of the Code of Criminal Procedure).

Even if the suspect did not request court-appointed defense counsel when the detention warrant was issued, in the event there is any doubt that the suspect may not be able to determine whether or not defense counsel is needed due to diminished mental capacity or any other reason, a judge can appoint defense counsel ex-officio (Article 37-4 of the Code of Criminal Procedure).

e. Right to interview with defense counsel

Article 39, paragraph (1) of the Code of Criminal Procedure stipulates, "The accused or the suspect in custody may, without any official being present, have an interview with, or send or receive documents or articles from counsel or prospective counsel upon the request of any person entitled to appoint counsel." As described, arrested suspects or suspects under detention have the right to receive advice from defense counsel by means of an interview without any official being present, which is known as the right to interview with defense counsel.

C. Institution of Prosecution

On June 26, the date on which his detention would expire prior to the institution of prosecution, the public prosecutor submitted a charging sheet to the Tokyo District Court, charging Taro with homicide.

In Japan, there is no allowance for criminal prosecutions to be instituted by victims or any persons other than the state (state prosecution policy), and among state institutions, the right to prosecute is only vested in public prosecutors under Article 247 of the Code of Criminal Procedure; this is known as the monopolization of prosecution.

At the same time, public prosecutors can decline to prosecute at their own discretion as stipulated under Article 248 of the Code of Criminal Procedure, even if well-grounded suspicion exists and they believe the suspect is guilty.

A prosecution need not be instituted if it is not deemed necessary considering the criminal's character, age, environment, gravity of the offense, situation when the crime was committed, and the circumstances after the offense was committed, etc. This is called the principle of discretionary prosecution.

Refer to Graph 3 for statistics on the ratio of the public prosecutors' final disposition.

Public prosecutors have wide-ranging prosecutorial discretion in Japan, and there are two juristic systems in place to remedy any abuse or illegal exercising of that discretion by public prosecutors.

The first is an examination by the Committee for Inquest of Prosecution.

The Committee for Inquest of Prosecution investigates whether or not a public prosecutor's decision not to institute prosecution was appropriate, based on claims by the victim or a party concerned in criminal cases, or under its own authority.

The Committee for Inquest of Prosecution is comprised of 11 members selected by lottery from among Japanese nationals aged 20 or older with the right to vote.

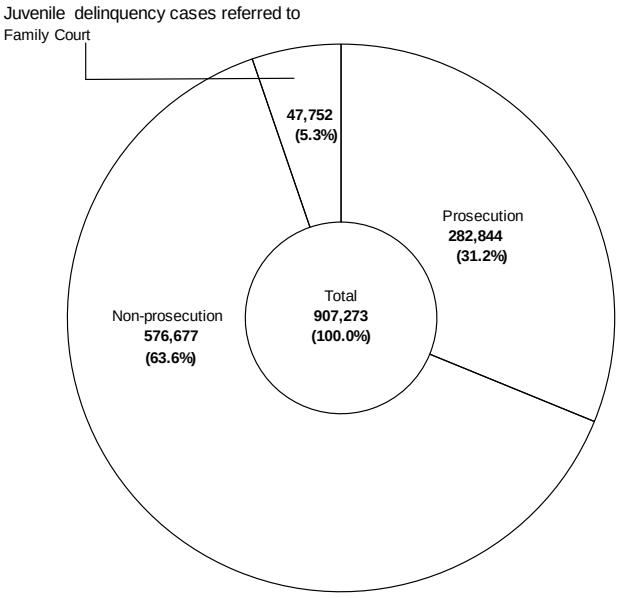
The purpose of this system is to reflect public opinion in the appropriate exercising of prosecutorial authority.

From May 21, 2009, a system was adopted whereby suspects could be prosecuted when the Committee for Inquest of Prosecution resolved to pass an institution of prosecution under certain conditions for cases previously dismissed by a public prosecutor.

Another system is a quasi-prosecution procedure (Article 262 and later of the Code of Criminal Procedure).

Plaintiffs and accusers may demand that a trial be held in a district court if they are dissatisfied with a public prosecutor's decision not to institute

Graph 3. Case Dispositions by Public Prosecutors (2019)



(Note) Source: Annual Report of Statistic on Prosecution for 2019, Ministry of Justice
(Note)"Prosecution" includes a request for alternation of counts.

prosecution where the crime involves a public officer.

If it is judged that the demand has sufficient grounds, the court will adjudge that the case should be committed to the competent district court. In this case, it is considered that the prosecution regarding the case deemed to have been instituted and an attorney appointed by the court exercise the same function as a public prosecutor.

D. Trial Preparation (including requests for bail)

The case for Taro was assigned to the Third Criminal Division, which is one of the three-judge panels at the Tokyo District Court.

Taro was charged with the crime of homicide, and the case is to be tried and judged under the Saiban-in system.

Pretrial conference procedure for the Taro case are to be held first, and the points at issue and evidence will be organized prior to the first trial date.

At the same time as the pretrial conference procedure , the defense counsel, Mr. Sato, who was requested by Taro, questioned his family about the background details.

Also, a few days after the institution of prosecution, the defense counsel was notified by the public prosecutor that evidence which the public prosecutor was planning to examine in the trial can be inspected and copied.

The defense counsel visited the Public Prosecutor's Office to assess the evidence.

The defense counsel thought that the written transcript of Mr. Yoshinobu Takagi's oral statement taken by a public prosecutor was rather questionable.

According to this written statement, Mr. Takagi said that Taro pursued Akiko, who stepped back when she saw the knife just before the stabbing, but this contradicted the explanation provided by Taro.

Taro claimed that Akiko suddenly approached him. Therefore, the defense counsel also demanded from the public prosecutor disclosure of other written transcripts of Mr. Takagi's oral statements that were not planned to be submitted for examination, which were then provided.

The defense counsel clarified during the pretrial conference procedure that the allegation described on the charging sheet that the accused had intended to kill Akiko would be disputed.

The defense counsel consented to examination of all items of documentary evidence requested by the public prosecutor, except for the written transcript of Mr. Takagi's oral statement taken by the prosecutor.

Also, the defense counsel expressed no objection to examination of the knife used in the crime.

The public prosecutor demanded to examine the witness, Mr. Takagi, since consent for examination of the written transcript of Mr. Takagi's oral statement taken by the prosecutor was not given, and the defense counsel expressed no objection to such an examination.

It was then decided that Mr. Takagi would be examined as a witness on the first trial date. It was also decided that Ms. Maki Yamada, the mother of the accused, would be examined as a defense witness, and the accused would be questioned, etc.

Once a rough trial plan was decided, the schedule for the Taro case was set. The first trial date would be held on September 28, with the trial scheduled to finish on September 30, and thus the final trial plan was drawn up after arranging issues and evidence through the pretrial conference procedure.

1. Pretrial conference procedure

The court may, upon the request of the public prosecutor, the accused or defense counsel or ex officio, hold a pretrial conference procedure prior to the first trial date in order to arrange the issues and evidence of the case and establish a trial plan.

Through this procedure, a trial plan is established after identifying the allegations, requesting examination of the evidence by both parties concerned, and rendering a ruling to examine the evidence or dismiss the request for examination of evidence, etc. Pretrial conference procedure must be held in cases that adopt the *Saiban-in* system.

2. Disclosure of evidence

When the public prosecutor requests examination of the documentary or material evidence, an opportunity to inspect it must be provided to the defense counsel in advance as promptly as possible after the institution of prosecution (Article 299, paragraph (1), main clause of the Code of Criminal Procedure, Article 178-6, paragraph (1), item (i) of the Rules of Criminal Procedure).

For cases involving pretrial conference procedure, the public prosecutor must disclose evidence for which examination is demanded in the pretrial conference procedure to the defense counsel (Article 316-14 of the Code of Criminal Procedure). Additionally, the public prosecutor must, upon the request of the defense counsel, disclose evidence belonging to a certain evidential category that is deemed to be important to judge the credibility of specific evidence for examination requested by the public prosecutor (Article 316-15 of the Code of Criminal Procedure) and which is deemed to be connected to the allegation of the defense counsel (Article 316-20 of the Code of Criminal Procedure), when he/she deems it appropriate.

3. Principle of the adversary system

The principle of the adversary system is adopted in the current legislation. Under this principle, the court is able to examine evidence if needed, but the parties concerned have the initiative regarding the collection and provision of evidence.

4. Exclusion of hearsay evidence

Article 37, paragraph (2) of the Constitution guarantees the right of examination by stipulating: “The accused shall be permitted full opportunity to examine all witnesses, and shall have the right of compulsory process for obtaining witnesses on his/her behalf at public expense.”

Hearsay evidence cannot be used as evidence as per Article 320 of the Code of Criminal Procedure.

However, the Code of Criminal Procedure allows for some exceptions, such as when the accused consents, or when the written statement is made under special circumstances that lend credibility and are necessary to prove the facts of a crime.

5. Designation of a trial date

The court shall, insofar as possible, hold the trial on successive days in cases which require several days for the proceedings. Refer to Table 3 for the average number of days expended for trials held under the *Saiban-in* system.

Table 3. Distribution of the number of the accused per actual trial period (from the first to the final trial date) under the saiban-in system and average actual trial period（per guilty or not guilty plea）

		Number of the accused	Actual trial period									Average actual trial period (days)
			2 days	3 days	4 days	5 days	Within 10 days	Within 20 days	Within 30 days	Within 40 days	Over 40 days	
2015	Total	1,182	3	118	171	121	469	229	47	11	13	9.4
	Pleaded guilty	623	3	114	137	85	236	41	7	-	-	6.2
	Pleaded not guilty	559	-	4	34	36	233	188	40	11	13	13.0
2016	Total	1,104	-	116	142	94	437	260	35	13	7	9.5
	Pleaded guilty	568	-	107	120	59	208	67	5	2	-	6.7
	Pleaded not guilty	536	-	9	22	35	229	193	30	11	7	12.6
2017	Total	966	1	58	92	98	367	281	47	11	11	10.6
	Pleaded guilty	449	1	53	84	63	184	58	5	1	-	7.2
	Pleaded not guilty	517	-	5	8	35	183	223	42	10	11	13.5
2018	Total	1,027	3	66	101	76	440	272	46	11	12	10.8
	Pleaded guilty	496	3	59	87	53	236	51	4	1	2	7.3
	Pleaded not guilty	531	-	7	14	23	204	221	42	10	10	14.0
2019	Total	1,001	-	96	104	79	370	281	50	12	9	10.5
	Pleaded guilty	491	-	91	86	59	188	59	8	-	-	6.8
	Pleaded not guilty	510	-	5	18	20	182	222	42	12	9	14.1

(Note) The actual trial period for proceedings refers to the period from the first trial date to the final judgment (pronouncement of judgment) and includes days when trials and other proceedings are not conducted as well as Saturdays, Sundays, and public holidays.
(Note) Fig. 42 of "Data for implementation status of trials examined by *Saiban-in*" published by the General Secretariat of the Supreme Court of Japan (in Japanese only)

Meanwhile, the defense counsel requested bail.

This request was assigned to a judge in a different criminal division (the Warrant Division).

When the public prosecutor opposed the granting of bail, the judge examined the case records, and interviewed the defense counsel upon his request.

After considering the nature of the crime and the degree of the risk that the accused might flee or conceal or destroy evidence, the judge dismissed the bail request.

6. Bail

Bail is a system used to release the accused on the condition of payment of bail money.

Under current legislation, bail is not available to suspects before they are prosecuted.

Article 89 of the Code of Criminal Procedure stipulates that when bail is requested, it must be granted except for certain cases, such as when the accused committed a serious crime and there is probable cause to suspect that the accused may conceal or destroy evidence.

Use of the *Saiban-in* system is normally reserved for those charged with serious crimes.

Article 90 of the Code of Criminal Procedure further stipulates that even in the exceptional cases specified in Article 89 of the same Code, the court may grant bail by its own authority if it deems it appropriate in consideration of circumstances such as the degree of disadvantage that the accused would suffer in terms of his/her health, economic situation, social life or preparation for defense due to being placed under physical restraint continuously, in addition to the degree of the risk that the accused might flee or conceal or destroy evidence if he/she is released on bail.

7. Bail requests before first trial date

A judge other than the one scheduled to hear the trial normally handles matters concerning detention before the first trial date (Refer to Article 280, paragraph (1) of the Code of Criminal Procedure,).

This derives from the principal of eliminating the risk of prejudice.

E. Appointment of *Saiban-in* (Lay Judges)

Saiban-in who will participate in the trial are appointed before the trial starts.

Saiban-in are selected at random by lottery from among Japanese nationals aged 20 or older with the right to vote.

The actual process is as follows. Each district court drafts a list of *Saiban-in* candidates by around the fall of each year to be used the following year.

In the following year, when the first trial date of a case to be heard by *Saiban-in* is fixed, each district court selects candidates as *Saiban-in* for each case from the list of *Saiban-in* candidates by lottery, and sends out a notification for them to attend court on the day of the proceedings to appoint *Saiban-in*.

On the day of appointing *Saiban-in*, the presiding judge asks the candidates about whether there are any circumstances that would prevent them from acting as *Saiban-in* or any causes due to which they may file a motion for refusal.

Six *Saiban-in* are then appointed by lottery from among the candidates, excluding those who are unable to act as *Saiban-in* or are excused from performing *Saiban-in* duties.

Alternate *Saiban-in* may be appointed to prepare for the case when appointed *Saiban-in* are unable to attend.

Model view of a *Saiban-in* courtroom

1 Judges 2 *Saiban-in* 3 Court Clerk 4 Court Secretary 5 Public Prosecutor 6 Defense Counsel 7 Accused

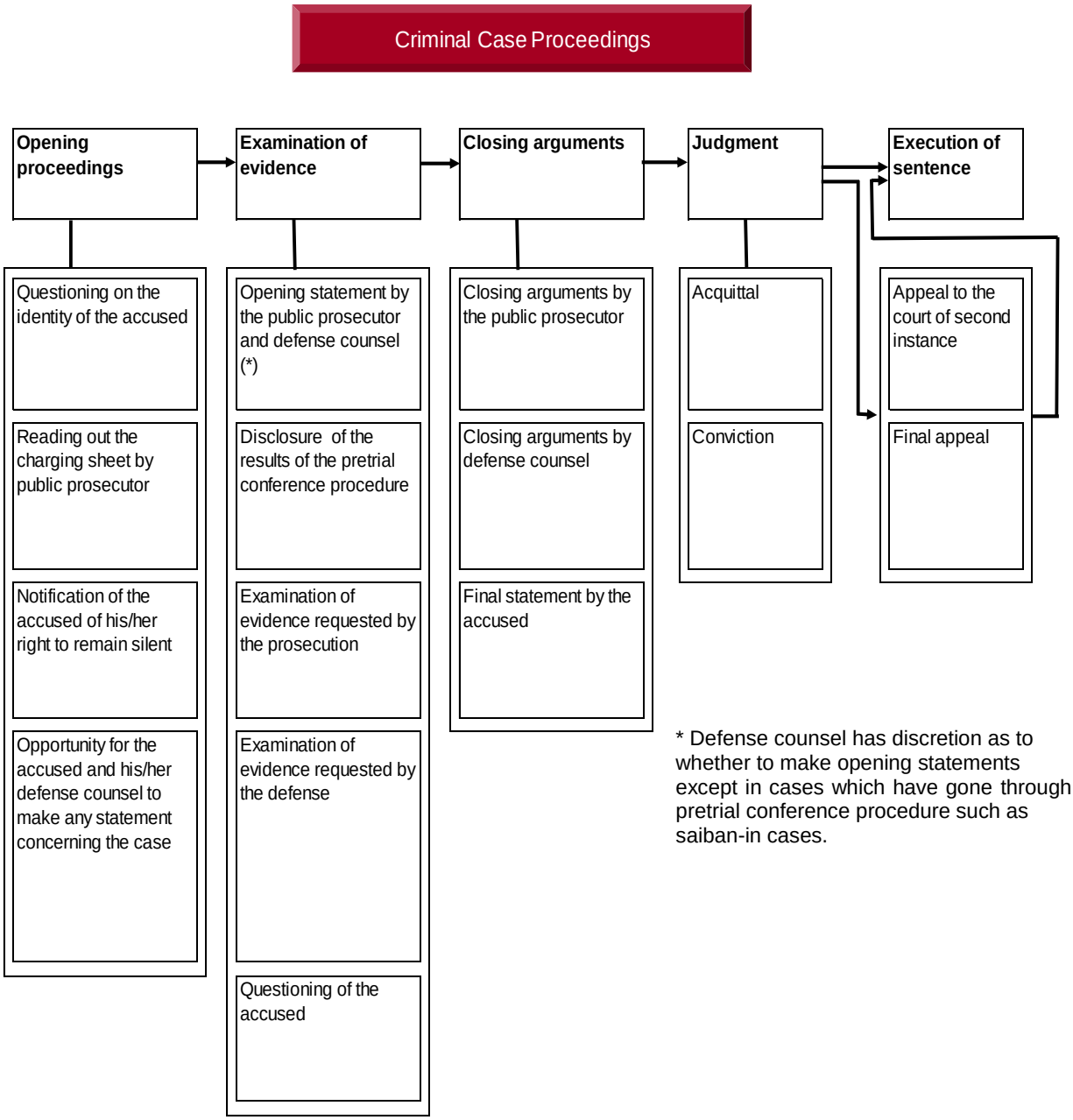
(Note) Sometimes a court stenographer is seated next to a court clerk.

Taro's trial began in Courtroom 411 on the fourth floor of the Tokyo District Court at 10:00 a.m. on September 28.

F. Trial

The trial procedure is as follows.

In cases that are not subject to being heard by *Saiban-in*, basically the same trial procedure is conducted, with some differences including the following:, the trial is conducted by a single judge or a panel of judges:, pretrial conference procedure are not necessarily required:, and at trials for which no pretrial conference procedure were held, an opening statement by the defense counsel is not always presented, and a statement of the results of the pretrial conference procedure is also not presented. Additionally, the public prosecutor and defense counsel request to examine the evidence in open court, and the court decides whether or not the evidence will be adopted after hearing the other party's opinions, and examines the evidence thus adopted.


Criminal Case Proceedings
Opening proceedings
Examination of evidence
Closing arguments
Judgment
Execution of sentence
Questioning on the identity of the accused
Reading out the charging sheet by public prosecutor
Notification of the accused of his/her right to remain silent
Opportunity for the accused and his/her defense counsel to make any statement concerning the case
Opening statement by the public prosecutor and defense counsel (*)
Disclosure of the results of the pretrial conference procedure
Examination of evidence requested by the prosecution
Examination of evidence requested by the defense
Questioning of the accused
Closing arguments by the public prosecutor
Closing arguments by defense counsel
Final statement by the accused
Acquittal
Conviction
Appeal to the court of second instance
Final appeal
* Defense counsel has discretion as to whether to make opening statements except in cases which have gone through pretrial conference procedure such as saiban-in cases.

1. Opening proceedings

Presiding judge: This court is hereby in session.
[To the accused] Please step forward.

The accused stepped up before the witness stand. The presiding judge asked the accused to confirm his name, registered domicile, residence, occupation, and date of birth for identification.

Presiding judge: The trial is now being held regarding the charge against you of homicide.
Please listen as the public prosecutor reads the charging sheet.
[To the public prosecutor] Will you please read the charging sheet?

The public prosecutor read aloud the charged facts and the applicable penal statutes as recorded on the charging sheet.

Presiding judge: The court is now going to hear this case based on the charge against you that has been read by the public prosecutor. Listen carefully to what I am about to tell you.
You have the right to remain silent. You may refuse to answer some of the questions, or you may remain silent throughout the trial.
However, any statement made by you in this court may be used as evidence either for or against you.
Therefore, answer any questions bearing these points in mind. Do you understand?

Accused: Yes, I do.

Presiding judge: Do you have anything you wish to say in response to the statement just read by the public prosecutor?

Accused: Yes. Although she was stabbed with a knife, I never meant to kill her.

Presiding judge: I see. What is your opinion, Defense Counsel?

Defense counsel: I concur with the accused. He had no intention of homicide in this case.
Therefore, he is not guilty as charged.

2. Examination of evidence

Presiding judge: Now, we shall commence with examination of the evidence. Please make your opening statement.

The public prosecutor presented his opening statement, explaining the background of the crime, the crime itself, and other circumstances.

Regarding the intention to kill (intention of homicide) that is disputed by the accused, the public prosecutor stated to the court that the accused went to the scene with a knife bought in advance, with the intent to stab Akiko to death.

In response to this allegation, the defense counsel stated that the accused had bought the knife for cooking, not with the intent to stab Akiko to death, and that on the day of the incident, he only intended to threaten her with the knife.

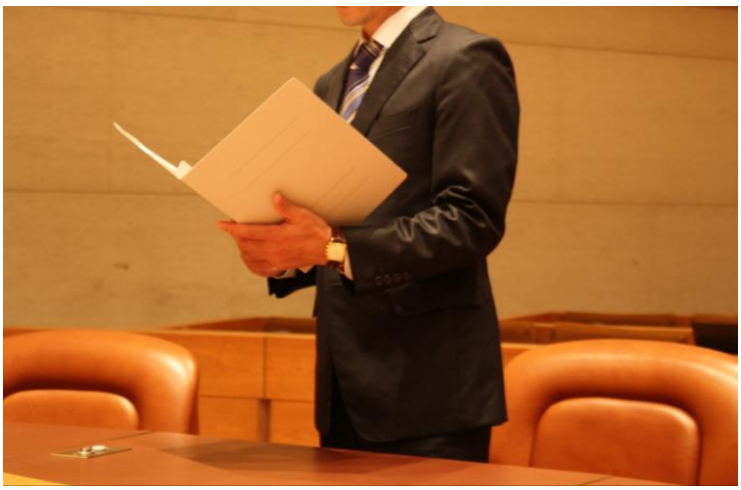
After the opening statements had been presented, the presiding judge disclosed the results of the pretrial conference procedure, stating that the point at issue in this case was whether or not the accused had intended to kill Akiko, and that the court was going to examine the evidence requested by the public prosecutor, including documentary evidence, such as the on-site inspection report and investigation report, and then examine Mr. Takagi as a witness.

a. Opening statement

In criminal cases, the principle of "innocent until proven guilty" is upheld, so the public prosecutor must prove the fact pertaining to the charges beyond a reasonable doubt based on the evidence. Therefore, the public prosecutor makes an opening statement at the start of the examination of evidence and clarifies the specific facts to be proved. Also, in the case of trials held under the *Saiban-in* system, after the public prosecutor's presentation, the defense counsel also makes an opening statement if he/she has any facts to prove or other allegations to make on factual or legal issues.

b. Statement of the pretrial conference procedure results

Points of issue and evidence are organized through the pretrial conference procedure in preparation for trials in which *Saiban-in* are not involved, so clarifying the results in the trial after the opening statement enables clear identification of disputed points as they pertain to the examination of evidence, types of evidence and the order in which evidence is examined.



c. Examination of evidence

Presiding judge: Now the evidence will be examined. Public prosecutor, please explain the evidence in detail.

The public prosecutor read out the documentary evidence, such as the on-site inspection record, which indicated the circumstances at the scene of the crime, and exhibited the knife, which was then submitted to and retained by the court.

There are three types of evidence, namely witnesses, documentary evidence, and articles of evidence. Examination takes the form of questioning for witnesses or exhibiting for articles of evidence.

In examining documentary evidence, the presiding judge instructs the person who requested examination to read the document aloud (Article 305 of the Code of Criminal Procedure).

However, when the presiding judge finds it to be appropriate after listening to the opinions of the parties concerned in the case, he/she may instruct that the document be summarized rather than read out in its entirety (Article 203-2 of the Rules of Criminal Procedure).

3. Examination of witnesses

Presiding judge: Next, we will examine Mr. Takagi as a witness. Please step up to the witness stand, Mr. Takagi.

The presiding judge questioned Mr. Takagi to confirm his identity, ordered him to swear an oath to tell the truth, and advised him of the punishment for perjury if false testimony were to be offered, and of his right to refuse to answer questions that could incriminate him or his relatives. The public prosecutor then began his questioning.

The public prosecutor, after briefly questioning about Mr. Takagi's occupation, the time of his arrival at the tavern, and so on, examined him in detail regarding the offense he had witnessed.

Mr. Takagi's testimony in court matched the details in the written transcript of his oral statement taken by the public prosecutor.

Following examination by the public prosecutor, the defense counsel began its examination.

Mr. Takagi was questioned about how much alcohol he had consumed that evening, what sort of conversation had taken place between the accused and the victim, and how clearly he was able to observe the incident from where he was sitting, etc.

After the cross-examination, the Saiban-in, associate judges, and presiding judge asked some supplementary questions.

In accordance with Article 304 of the Code of Criminal Procedure, witnesses are first examined by the presiding judge or associate judges. Following this, the public prosecutor, the accused, or the defense counsel examines the witness. The court can determine the order of examination.

However, in practice, the witness is first questioned by the party that called him/her to the stand, followed by the other party, and finally, the *Saiban-in* and judges conduct their examination. This reflects the principles of the adversary system, whereby witnesses are first examined by the parties.

4. Questioning the accused

Presiding judge: Next, the accused will be questioned.
[To the accused] Step up to the stand.

The accused stepped up to the stand.

Presiding judge: [To the defense counsel] You may proceed.

In answering the defense counsel's questions, the accused made the following assertions:
He bought the knife on that day not to stab Akiko but to use for cooking.
On that evening, he talked with her for over thirty minutes, but finally he was told not to come back to the tavern again.
When he recalled the knife he had bought, he impulsively thought that she might change her mind if he threatened her.
"Reconsider, otherwise we'll die together," said the accused.
When he pointed the knife towards her, she unexpectedly lunged at him as if to take it from him.
Then, while fighting for the knife, the accused realized the knife was stuck in her chest. The accused deeply regrets the incident.
Thereafter, the public prosecutor, Saiban-in, presiding and associate judges posed more questions to the accused.

Under Anglo-American law, the accused can choose to stand as a witness, but in Japan, the accused is not allowed to give testimony after swearing an oath. This means that the accused can legally refuse to answer any questions, but can make a voluntary statement, which is admissible as

evidence.

5. Confession

When the accused makes a confession to a police officer or public prosecutor after admitting having committed a crime during the investigation stage, the confession details will be recorded as evidence in a written statement of the accused, and may be requested as evidence and examined.

In terms of the timing to request examination of the confession, the law stipulates that such examination shall not be made until after all other evidence pertaining to proving facts constituting the offense are examined (Article 301 of the Code of Criminal Procedure).

This rule is so that the *Saiban-in* and judges do not prejudge a case based on the presence of a confession.

Regarding the admissibility of evidence, Article 38, paragraph (2) of the Constitution stipulates that any confession made under compulsion, torture, threats, or after prolonged arrest or detention shall not be admitted into evidence.

This is reinforced by Article 319, paragraph (1) of the Code of Criminal Procedure, which also stipulates that any confession made under compulsion, torture, threats, or after prolonged arrest or detention, or for which doubt concerning its voluntarily exists, may not be used as evidence.

Regarding the evidentiary value of a confession, Article 38, paragraph (3) of the Constitution stipulates that no person shall be convicted or punished in cases where the only proof against the person is his/her own confession.

This is also reinforced by Article 319, paragraph (2) of the Code of Criminal Procedure, which stipulates that the accused shall not be convicted if his/her confession, whether or not it was made in open court, is the only piece of incriminating evidence.

The arraignment system is not adopted under current legislation, so even if the accused admits guilt in court, the fact-finding proceedings cannot be omitted. (Refer to Article 319, paragraph (3) of the Code of Criminal Procedure).

However, such cases can be transferred to a summary criminal trial (Article 291-2, Article 307-2, and Article 320, paragraph (2) of the Code of Criminal Procedure).

6. Demonstration of circumstances (The One-Phase System of Criminal Proceedings)

Presiding judge: Now, moving on to demonstrating circumstances. Public prosecutor – please read the summary of the report on the accused's criminal record and the written answers to the inquiries regarding his personal background.

The public prosecutor read the summary of these documents, which revealed that the accused had a juvenile delinquency record of theft and a previous conviction of causing injury through negligence while driving a car five months prior.

Presiding judge: Next, we will question Ms. Maki Yamada, the accused's mother, as a witness regarding any mitigating circumstances. Ms. Yamada, please step up to the witness stand.

The presiding judge asked Ms. Maki Yamada to confirm her identity, ordered her to swear an oath to tell the truth and advised her of the punishment for perjury. The defense counsel questioned her about the accused's routine behavior, relationships with women, his juvenile delinquency involving theft, and efforts to compensate the victim's family and so on. The public prosecutor confirmed during cross-examination that the family of the victim had refused his offer of compensation. Finally, the presiding judge asked a further question about the accused's relationships with women, and then the questioning ended.

The court must find the facts and determine the sentence in the event that the accused is found guilty, so the proceedings for fact-finding and sentencing are merged into a single phase.

Thus, evidence both for fact-finding and for mitigating/aggravating circumstances is submitted during the same procedure. The characteristics of this single-step system are adopted until the stage of rendering a judgment.

If convicted, the sentence is rendered without separately declaring a guilty verdict.

However, efforts shall be made to conduct the examination of evidence based on circumstances that are clearly unrelated to the facts of the crime as separately as possible from the examination of evidence that is related to the facts of the crime. (Article 198-3 of the Rules of Criminal Procedure)

7. Closing Arguments

Presiding judge: The examination of the evidence is complete.
[To the public prosecutor] Public prosecutor, please present your closing arguments.

The public prosecutor made his closing arguments. He emphasized the argument about the intention to commit homicide to reaffirm his claim that this was a premeditated homicide. Finally, the public prosecutor expressed an opinion concerning the sentence to be imposed.

Public prosecutor: The public prosecutor considers a sentence of 16 years imprisonment with work to be appropriate for the accused.

Presiding judge: [To the defense counsel] Your closing arguments, please.

The defense counsel pointed out that the accused had purchased the knife with other kitchen utensils, and that the witness, Mr. Takagi, had been drinking too much to be able to observe the incident accurately. He concluded that it was clear that the accused did not have the intention to kill the victim.

The presiding judge then ordered the accused to step up to the witness stand.

Presiding judge: Before we conclude these trial proceedings, do you have anything you would like to say to the court?

Accused: I can do nothing but apologize to Akiko. Please be merciful in your judgment.

The presiding judge then declared the date for rendering the judgment, and concluded the trial.

8. Deliberations

After concluding the trial, the judges and Saiban-in conducted their deliberations. First, they discussed whether or not the accused had the intention to kill based on the evidence examined in court. As a result, they agreed that the accused had such intention.

Then, deliberations were held on the sentencing, and the circumstances of the accused were also discussed with reference to sentencing trends for similar cases in the past. It was finally concluded that imprisonment with work for 14 years would be appropriate.

The judges and *Saiban-in* hold their deliberations (Article 66, paragraph (1) of the Act on Criminal Trials with Participation of Saiban-in).

In order to organize a unified opinion as a panel, the judges and *Saiban-in* on the panel must state their own opinions (Article 66, paragraph (2) of the Act on Criminal Trials with Participation of Saiban-in, etc.).

However, the *Saiban-in* must also understand the interpretation of requirements for what constitutes a crime as a prerequisite for reaching a judgment as to whether or not a crime was committed.

Therefore, the presiding judge must carefully explain the applicable laws and regulations to the *Saiban-in* for such deliberations, organize the deliberations so that *Saiban-in* can easily understand them, and provide sufficient opportunities for *Saiban-in* to express themselves (Article 66, paragraph (5) of the Act on Criminal Trials with Participation of Saiban-in).

The judgment (verdict) rendered by the panel comprised of judges and *Saiban-in* is determined based on the majority opinions of all of the panel members, including the opinions of both the *Saiban-in* and judges (Article 67, paragraph (1) of the Act on Criminal Trials with Participation of Saiban-in).

Accordingly, a judgment cannot be rendered based on the majority of opinions reached only by the *Saiban-in* or only by the judges. This rule is adopted with the intention of making good use of the objective of the *Saiban-in* system—wherein *Saiban-in* and judges share responsibility and work in collaboration to make a judicial decision—, and in consideration of the constitutional requirement of guaranteeing the right to have a fair trial in a court of law.

9. Judgment

The court rendered its judgment at 4:30 p.m. on September 30 in the same courtroom.

Presiding judge: The court hereby renders its judgment. The accused is sentenced to 14 years imprisonment with work. The 10 days held under pre-sentencing detention shall be included in said period of imprisonment. The knife currently kept in custody at the Tokyo District Public Prosecutors Office shall be confiscated. Court costs shall be borne by the accused.

The court judged that the accused had the intention of homicide when he pulled out the knife in front of Akiko in the tavern and declared him guilty of homicide. At the end, the presiding judge advised the accused of his right to appeal.

a. Rate of acquittal

Table 4 shows the ratio and number of accused acquitted in courts of first instance.

Table 4. Annual Comparison of Number and Rate of the Accused Found Not Guilty or Partially Not Guilty

Court \ Classification / Year		Judgment(1)		Judgment of not guilty		Judgment of partially not guilty		Rate of not guilty judgment C/A (%)	Rate of not guilty judgment in cases of not guilty plead (D+E)/B (%)
		Total (A)	Pleaded not guilty(2)(B)	Total (C)	Pleaded not guilty(D)	Total	Pleaded not guilty(E)		
District Courts	2015	53,191	4,885	71 (1)	70	71	70	0.13	2.87
	2016	52,121	5,082	105 (2)	105	72	72	0.20	3.48
	2017	49,446	4,971	111 (1)	111	62	60	0.22	3.44
	2018	48,612	4,577	105	104	63	63	0.22	3.65
	2019	47,549	4,595	104	104	71 (1)	69	0.22	3.76
Summary Courts	2015	6,267	249	12 (6)	12	1	1	0.19	5.22
	2016	5,570	205	8 (4)	8	1	1	0.14	4.39
	2017	5,216	217	8 (2)	8	1	1	0.15	4.15
	2018	4,774	182	6 (2)	6	-	-	0.13	3.30
	2019	4,239	168	9 (3)	8	1	1	0.21	5.36

* Total of guilty and not guilty judgments.
** "Pleaded not guilty" refers to cases where the accused did not admit all charged facts or argued a reason to preclude establishment of the crime with regard to Article 335, paragraph(2) of the Code of Criminal Procedure.
(Notes) Figures in parentheses indicate the number of retrial cases included in the total.

b. Sentencing

Please refer to Table 5 for statistics on the terms of imprisonment with work based on type of offense (ordinary cases in courts of first instance).

One of the characteristics of the Japanese Penal Code is the extremely wide range of penalties prescribed by law.

The court chooses the form of punishment and determines its terms or amount with broad discretion.

Theoretically, the court's broad discretion over sentencing could cause some disparity in sentencing.

However, such differences are not very substantive in practice for the following reasons:

(1) By integrating numerous previous decisions, the courts have created implicit sentencing standards based on subjective and objective circumstances, such as the severity of the offense, conditions under which the offense was committed, the circumstances of the offender, and so forth. During deliberations on sentencing in *Saiban-in* proceedings, the *Saiban-in* are shown graphs and other data that indicate the trends in sentencing in precedent cases for the same type of offense.

(2) Both the accused and public prosecutor can appeal to the high court on the grounds of inappropriate sentencing by the court of first instance.

Table 5. Comparison of Terms of Imprisonment with Work When Sentenced by Type of Crime
(All District and Summary Court Cases, 2019)

Term / Crimes (Statutory range of imprisonment)	Total	For life	Not more than 30 years	Not more than 20 years	Not more than 10 years	Not more than 5 years	3 years	n of execution of sentence	n of execution of sentence	Not less than 2 years	n of execution of sentence	n of execution of sentence	Not less than a year	n of execution of sentence	n of execution of sentence	Not less than 6 months	n of execution of sentence	n of execution of sentence	Less than 6 months	n of execution of sentence	n of execution of sentence
Total	(100.0) 46,105	(0.0) 18	(0.0) 20	(0.4) 165	(1.9) 857	(4.6) 2,105	(6.1) 2,820	(0.3) 118	(3.7) 1,713	(20.9) 9,618	(1.1) 517	(11.4) 5,279	(42.6) 19,636	(1.5) 686	(29.2) 13,479	(20.5) 9,450	(0.1) 38	(14.3) 6,580	(3.1) 1,416	(0.0) 4	(2.1) 951
Offer of bribes (3yrs. ⇔ 1mth.)	(100.0) 10	-	-	-	-	-	-	-	-	(30.0) 3	-	(20.0) 2	(40.0) 4	-	(40.0) 4	(30.0) 3	-	(30.0) 3	-	-	-
Acceptance of bribes (see below *)	(100.0) 18	-	-	-	-	-	(16.7) 3	-	(16.7) 3	(50.0) 9	-	(38.9) 7	(33.3) 6	-	(33.3) 6	-	-	-	-	-	-
Homicide (death pen., life,20yrs. ⇔ 5yrs.)	(100.0) 236	(2.1) 5	(5.5) 13	(33.5) 79	(28.8) 68	(11.0) 26	(16.1) 38	-	(14.0) 33	(3.0) 7	-	(0.8) 2	-	-	-	-	-	-	-	-	-
Injury (15yrs. ⇔ 1mth.)	(100.0) 2,257	-	-	(0.0) 1	(0.4) 10	(2.9) 65	(5.6) 127	(0.0) 1	(4.4) 99	(22.8) 514	(0.1) 2	(16.6) 374	(52.9) 1,193	-	(39.4) 890	(15.0) 338	(0.1) 3	(6.9) 156	(0.4) 9	-	(0.2) 4
Injury through negligence in the pursuit of social activities (5yrs. ⇔ 1mth.)	(100.0) 1	-	-	-	-	-	-	-	-	(100.0) 1	-	(100.0) 1	-	-	-	-	-	-	-	-	-
Death through negligence in the pursuit of social activities (5yrs. ⇔ 1mth.)	(100.0) 1	-	-	-	-	-	-	-	-	(100.0) 1	-	(100.0) 1	-	-	-	-	-	-	-	-	-
Negligent driving causing injury (7yrs. ⇔ 1mth.)	(100.0) 753	-	-	-	-	-	(0.5) 4	-	(0.4) 3	(4.2) 32	-	(3.6) 27	(40.8) 307	-	(39.6) 298	(53.7) 404	-	(50.6) 381	(0.8) 6	-	(0.5) 4
Negligent driving causing death (7yrs. ⇔ 1mth.)	(100.0) 60	-	-	-	(1.7) 1	(3.3) 2	(28.3) 17	-	(21.7) 13	(46.7) 28	-	(28.3) 17	(18.3) 11	-	(15.0) 9	(1.7) 1	-	(1.7) 1	-	-	-
Theft (10yrs. ⇔ 1mth.)	(100.0) 12,719	-	-	(0.0) 1	(0.4) 55	(2.8) 359	(4.6) 584	(0.0) 2	(2.9) 369	(19.5) 2,486	(0.1) 9	(12.1) 1,534	(56.9) 7,239	(0.1) 19	(36.2) 4,601	(15.6) 1,978	(0.0) 6	(6.2) 791	(0.1) 17	-	(0.0) 2
Habitual theft (20yrs. ⇔ 3yrs.)	(100.0) 1,136	-	-	-	(0.4) 5	(22.5) 256	(15.1) 172	-	-	(49.7) 565	-	-	(12.1) 138	-	-	-	-	-	-	-	-
Robbery (see below **)	(100.0) 442	(2.9) 13	(0.7) 3	(4.3) 19	(29.9) 132	(28.1) 124	(27.6) 122	-	(20.4) 90	(6.6) 29	-	(1.8) 8	-	-	-	-	-	-	-	-	-
Fraud (10yrs. ⇔ 1mth.)	(100.0) 3,482	-	-	-	(3.2) 113	(11.7) 407	(18.4) 640	-	(13.4) 468	(32.6) 1,135	(0.0) 1	(17.7) 616	(31.1) 1,082	(0.0) 1	(20.0) 697	(3.0) 103	-	(1.0) 35	(0.1) 2	-	-
Extortion (10yrs. ⇔ 1mth.)	(100.0) 329	-	-	-	-	(4.9) 16	(8.5) 28	-	(4.9) 16	(40.7) 134	(0.3) 1	(28.6) 94	(44.4) 146	-	(31.3) 103	(1.2) 4	-	(0.3) 1	(0.3) 1	-	-
Violation of the Public Office Election Act (7yrs. ⇔ 1mth. ***)	(100.0) 15	-	-	-	-	-	-	-	-	-	-	-	(93.3) 14	-	(93.3) 14	(6.7) 1	-	(6.7) 1	-	-	-
Violation of the Stimulant Drug Control Act (life, 20yrs. ⇔ 1mth.***)	(100.0) 6,824	-	(0.0) 3	(0.2) 12	(1.9) 127	(6.6) 447	(5.7) 392	(1.6) 110	(0.8) 54	(34.4) 2,345	(7.2) 490	(9.8) 666	(51.1) 3,485	(9.2) 627	(26.5) 1,808	(0.2) 13	(0.0) 3	-	-	-	-
Violation of the Road Traffic Act (1) (10yrs. ⇔ 1mth.***)	(100.0) 5,584	-	-	-	(0.0) 1	(0.1) 5	(0.5) 27	-	(0.4) 21	(1.8) 98	(0.0) 1	(1.2) 67	(20.5) 1,143	(0.0) 1	(18.0) 1,006	(59.5) 3,323	(0.0) 2	(49.9) 2,789	(17.7) 987	-	(14.1) 790
Others	(100.0) 12,238	-	(0.0) 1	(0.4) 53	(2.8) 345	(3.3) 398	(5.4) 666	(0.0) 5	(4.4) 544	(18.2) 2,231	(0.1) 13	(15.2) 1,863	(39.8) 4,868	(0.3) 38	(33.0) 4,043	(26.8) 3,282	(0.2) 24	(19.8) 2,422	(3.2) 394	(0.0) 4	(1.2) 151

(1) Including violation of the Act Regarding Security of Storage Places for Automobiles.

* Acceptance of bribes includes: acceptance upon request (7yrs. ⇔ 1mth.); acceptance in advance of assumption of office (5yrs. ⇔ 1mth.); passing of bribes to a third party (5yrs. ⇔ 1mth.); aggravated acceptance (20yrs. ⇔ 1yr.); acceptance after resignation of office (5yrs. ⇔ 1mth.); acceptance of bribes for exertion of influence (5yrs. ⇔ 1mth.); and simple acceptance of bribes (5yrs. ⇔ 1mth.)

** Robbery includes: robbery causing death or injury (death, for life, 20yrs. ⇔ 6yrs.) and simple robbery (20yrs. ⇔ 5yrs.)

*** For violations of each Act

Notes: Figures in parentheses are percentages of the total number for each offense.

Supreme Court of Japan