The Fifth United Nations Congress
on the Prevention of Crime and
the Treatment of Offenders
September 1 – 12, 1975
Toronto, Canada

CRIME PREVENTION AND CONTROL
– THE CHALLENGE OF THE LAST QUARTER OF THE CENTURY –

(National Statement by Japan)

Tokyo, Japan
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CONTENTS

Agenda Item I

CHANGES IN FORMS AND DIMENSIONS OF CRIMINALITY – TRANSNATIONAL AND NATIONAL

Introduction

One of the most conspicuous characteristics of any modern society is the rapid and accelerated changes in all aspects of life, due particularly to remarkable progress in science and technology. Changes in social and economic conditions have broad implications for crime. Although closely related with and sometimes indistinguishable from each other, two different kinds of change in crime should be discerned for analytical purposes. The one is the change in the modes and forms of criminal activities. Particularly, technological development has contributed to the birth of crimes the means and scales of which were unconceivable in the past. The other is the change in the concept of crime. Changes in the way of life and social attitudes of the general public have brought about new evaluations of the kinds of behaviour that should be controlled by penal measures.

Emphasis in this portion dealing with Agenda Item One will be given to the former aspect–general trends in criminality and the specific changes in the forms and dimensions of criminality–while the latter will be discussed in more detail under Agenda Item Two.

I. Trends of Criminality in Postwar Japan

Even though there have been made only minor changes in the Penal Code of 1907 since the end of World War II, great changes have been observed in the conditions forming the basis of the Code such as the socio-economic structures of the country and the value judgements of the people. Reflecting the socio-economic chaos, a rapid increase in criminality was recorded immediately after the war. Economic recovery and development observed in the ensuing years contributed to the stabilisation of the social situation, and the trends in criminality likewise became much less serious and more stable.

The trends in crime as reflected in the statistics giving the number of Penal Code offences known to the police showed that the total number of such offences amounted to 1,387,080 in 1946. This represents a rate of 2,798 per 100,000 criminally responsible population (fourteen years old and over). The figure rose sharply to over 1,603,265 in 1948, and then decreased to 1,344,182 in 1953. The figures showed an increase in 1954 and kept steadily rising until 1964 when Penal Code offences exceeded the 1948 peak and reached 1,609,741. After showing a slight decrease in the following two years, they started to show an annual increase till they reached another peak in 1970, when they were 1,932,401, the highest figure since the end of World War II. This figure decreased continuously to 1,671,965 in 1974, representing a rate of 1,971 persons per 100,000.

The increase in Penal Code offences after 1953 was due mostly to a rapid growth in the number of registered automobiles and the consequential increase of automobile accidents, constituting Penal Code offences of professional or gross negligence causing death or bodily injury. Offences of this category increased rapidly and disproportionately from about 3,000 cases in 1946 to 117,071 in 1960 and to

652,614 in 1970. They were 460,960 in 1974, accounting for 27.5 per cent of the total Penal Code offences.

The annual number of non-traffic Penal Code offences known to the police reached the peak in 1948, when it numbered 1,599,968, due mainly to the increase in the number of property offences. It decreased as Japan overcame its economic chaos. In 1953 the number was 1,317,141. The figures fluctuated somewhat in the following years and reached the lowest point in 1973 when, after three years' consecutive decrease, they were 1,187,936. In 1974, they were 1,211,005.

Examination of the trends in non-traffic Penal Code offences by types of crime reveals the following:

(1) *Property offences* (theft, fraud, embezzlement, dealing in stolen property, etc., and breach of trust). Crimes in this category known to the police increased very rapidly after the War and reached the peak in 1948 when they numbered 1,470,000 cases. They subsequently showed a general decreasing trend till 1954 when they numbered 1,140,000. Except for 1955, the figures fluctuated between 1,100,000 and 1,170,000 in the ensuing years till 1965. Further decreases then occurred, and in the last several years the incidence of property offences has been stabilised at between 1,050,000 and 1,100,000 cases per year. There were about 1,075,000 cases in 1974, representing 73 per cent of the peak figure in 1948.

(2) *Heinous offences* (homicide, robbery and robbery involving death, bodily injury or rape). Crimes in this category burgeoned out of the postwar turmoil and reached the peak in 1948, when they numbered about 13,000 cases. In the following years the annual number of cases fluctuated between 7,000 and 10,000. As the livelihood of the public and general social order became reasonably stabilised, such crimes decreased. Continuous decreases have been recorded since 1962. In 1974 there were

4,052 cases, amounting to 31 per cent of the peak figure in 1948

(3) *Offences of violence* (assault, bodily injury including those causing death, intimidation, extortion and unlawful assembly with weapon). The annual number of crimes in this category increased from 78,000 in 1949 to 160,000 in 1961. Such crimes were particularly rampant from 1958 to 1961 when the country enjoyed a high level of economic prosperity and industrial development was rapidly accelerated. In 1962, however, crimes of violence started to decrease. In 1974, for example, there were 78,616.

(4) *Sex offences* (rape including those causing death and bodily injury, indecent assault including those causing death and bodily injury, public indecency, and distributing and selling, etc. of obscene material). The annual number of crimes in this category increased rapidly from 850 in 1946 to 7,600 in 1952, reflecting the social disorder of postwar days and a change in people's view towards sex. Between 1953 and 1957 the annual number fluctuated between 5,000 and 7,000. It started to increase again in 1958, presumably reflecting the pleasure-seeking mood, a product of rapid economic growth, till it reached 15,000 in 1967. The incidence decreased in the ensuing years and was 11,135 in 1974.

In summation, it would be safe to assert that crime in Japan has been well contained and that most offences show a declining trend.

The picture is different, however, in the case of juveniles. The annual number of juvenile offenders investigated by the police for major non-traffic Penal Code offences reached a first speak in 1951, numbering 126,000. This figure then decreased yearly to 85,000 in 1954. However, it rose again after 1955, recording the largest incidence in 1964 when it numbered 151,083. It showed a general decrease in the following years. In 1974, there were 115,453 juvenile offences.

An interesting contrast can be seen between the trends of adult and juvenile crime. Referring only to violations of the Penal Code that do not involve traffic offences, the adult crime rate has generally declined every year, while the juvenile rate has fluctuated considerably. The adult rate per 1,000 corresponding population was 8.6 in 1949, declining to 3.3 in 1974. The juvenile rate per 1,000 criminally responsible juvenile population on the other hand was at the same level in both 1951 and 1964, 12.1 and 12.0 respectively. After 1964 it fluctuated between 8.9 and 11.3. In 1974 it was 11.9, which represents a rate of incidence 3.5 times the rate for adult crime. In 1974, 31.7 per cent of all offenders under the Penal Code were juveniles. The proportion was particularly high for theft (44.5%) and extortion (45.7%).

II. Detailed Examination of the Changes in Forms and Dimensions of Criminality

Despite a general decline in criminality in Japan over the past two decades, several kinds of crime continue to require serious attention. As has been shown above, juvenile crime has not decreased but fluctuates unpredictably. Some offences, such as traffic violations, have increased sharply. Others, though their volume has not increased, have become increasingly disruptive in a qualitative sense. Finally, due to changes in social conditions, consideration must be given to prohibiting by law certain kinds of behaviour that has been permitted or even encouraged in the past as well as legalizing other forms of behaviour that have been prohibited in the past. Examination of these problems will be made below.

1. Offences Relating to Automobiles

The number of registered automobiles in Japan at the end of

1974 was about 27,710,000, representing an increase by a factor of 9.9 over 1959. The rapid increase in automobile ownership has generated significant problems. The most undesirable, of course, is traffic deaths and injuries. The number of negligent traffic violators causing death or injury apprehended by the police (clearance rate has been almost 100% in these years) increased from 100,367 in 1959 to 160,960 in 1974, a fivefold increase. Hit-and-run cases involving death or injury likewise increased 3.6 times, from about 8,500 in 1959 to 30,371 in 1974.

Various countermeasures, well coordinated at the ministerial level, have been taken in related fields such as educational instruction, technological improvement of vehicles and road, control of the flow of road traffic, and strict and effective law enforcement.

It is gratifying to observe that despite a continuing rise in the number of automobiles, traffic offences began to decline in 1971 and have continued to decline. They numbered 652,614 in 1970, but 631,215 in 1971, 594,542 in 1972, and 460,960 in 1974. It is worth noting that this decline preceded the "petroleum shock."

In regard to the law enforcement, the penalty for negligent offence (defined in the Penal Code as professional or gross negligence causing death or injury) was revised in 1968, raising the upper limit of imprisonment from three years without labour to five years with or without labour. Those offenders sentenced to imprisonment without labour are mostly committed to a number of open institutions that give special training and corrective education. This has proved very effective; the recidivism rate is negligible.

Because the number of offences under the Road Traffic Law is very large, millions of persons must be processed by the courts. In 1962, for example, the number was four million and it continued to increase. In response to this pressure on the courts, police, and

correctional facilities, the Traffic Infraction Notification System was introduced in July, 1968. Under this system, certain categories of traffic violators are exempted from prosecution, thereby avoiding stigmatising violators as criminals, if a "non-penal fine" is paid within a specified time.

In 1974 this system was applied to 81.6 per cent of all the cases, 7,208,582 out of 8,833,472. Ninety-five per cent of violators subjected to this special procedure paid the required fine, a percentage that has more or less been stable since the inception of the system. This system, together with the adoption of the "point system" for suspension and revocation of driving license, has made it possible to "decriminalize" traffic offences without reducing the deterrent effect of the law. Even so the burden on the criminal justice system is still heavy. In 1974, 1,624,890 violators were dealt with in criminal proceedings.

The diffusion of automobiles has also contributed to the increase of other forms of crimes, such as thefts of or from automobiles. Furthermore, automobiles are increasingly used as a means for committing crimes. For example, large-scale thefts from stores and factories are facilitated by the use of automobiles and in over a half of rape cases automobiles are employed to effect the seclusion of victims. Automobiles used for committing crimes are often stolen ones. The fact that stricter enforcement of parking regulations is statistically related to the decrease of automobile thefts suggests one effective measure for controlling crimes involving automobiles.

2. Juvenile Delinquency

In contrast to the general decrease in the number of adult offenders, the number of juvenile offenders and delinquents has not been decreasing. The analysis of such trends in the last five years by age

groups reveals that while there has been a decline in cases among older juveniles (18–19 years of age) similar to that among adults, the number of offences and delinquencies of other age groups has been increasing. The increase was most conspicuous among the age group of fourteen to fifteen years of age.

Classification of offences committed by juveniles shows that while the number of heinous and violent offences has decreased or stabilised, theft has increased, particularly among the age groups of fourteen to fifteen (7.1% increase over the previous year 1973), and sixteen to seventeen (12.8% increase over the previous year 1973). The overall increase in juvenile offences is thus due largely to the increase of theft committed by juveniles of these age groups.

Most of recent theft cases committed by juveniles were shoplifting and stealing of automobiles or motorcycles. In the case of motorcycle stealing, 93.5 per cent in 1974 were committed by juveniles. Most of these were an act of impulse for fun or thrill; very few were a planned action. Lack of sense of guilt is common among these juveniles.

It is noticeable that the proportion of delinquent juveniles from broken or poor families has considerably decreased in recent years. The percentage of delinquent juveniles having both parents among the total has increased from 51.3 per cent in 1962 to 84.2 per cent in 1974. Likewise, the percentage of those who are from middle class families has increased from 33.4 per cent in 1962 to 66.9 per cent in 1973.

This change in the background of delinquent juveniles together with changes in the pattern of offences, such as the increase in impulsive crime, demonstrates that juvenile delinquency in Japan has undergone a considerable change in its nature. As a result, the diagnosis and prediction of delinquency will become increasingly difficult.

Another fact that should not be overlooked is an increase in the use of explosives by juvenile offenders. This was unknown before 1972. In that year there were two such juvenile offenders, then ten in 1973, and 29 in 1974. Most of these offenders were below nineteen years of age and students of senior or junior high schools. Many of these offences are matters of impulse, or imitating or following others, or acting out of vague frustration.

3. Offences Relating to Technological Innovation

Rapid progress in science and technology increases the danger of serious industrial and machine-related accidents marked by heavy casualties. They include airplane crashes, train collisions, fires in the department stores, explosions at petroleum refineries and related "Kombinat". Total casualties from this type of accident in recent years have often exceeded one hundred. In most cases, these accidents were caused by negligence on the part of managers, drivers, operators, and controllers. Clarifying the cause of such accidents and consequent proof of negligence will require scientific knowledge and sophisticated technological skills. Investigation tends to become prolonged as to prosecution and trial.

In order to deal with these cases more effectively, law enforcement agencies in Japan have established special teams composed of scientific and technological experts. The police give priority to the intensive training of investigators in techniques required for the investigation of these cases.

Technological innovation has also given rise to techniques for rationalizing and saving manpower, and these are related to new forms of crime. This is conspicuous among retail stores. In a "super-market" a customer selects the item by himself and takes it to the cashier without the closer supervision of traditional retail stores. The number

of super-markets has increased very rapidly and is expected to reach 10,000 soon, which would be three times the number eight years ago. As a result, the number of shoplifting cases has increased substantially. For example, in 1969 there were 76,684 cases and in 1974 a total of 110,341.

The police has guided the store managers in making surveillance more strict by employing guards; plain-clothes men (and women) also patrol such stores so as to detect shoplifters.

Another technical innovation related to crime is the increase in the number of vending machines for soft drinks, wine, beer, cigarettes, etc. They have increased about 20 to 30 per cent every year in the last few years and now number about 2.2 million throughout Japan. Since these machines are mostly placed at the easily accessible places by the public, they inevitably escape close watch by management. This provides an opportunity for stealing coins from the machine or stealing goods by the use of metals other than coins. Thefts of this type have increased from 7,404 in 1971 to 8,437 in 1972 and 9,825 in 1974.

The police have requested the manufacturers of vending machines to develop a system enabling a complete elimination of the use of false coins. Managers are also requested to be more watchful and to maintain closer contact with the police.

4. Offences Accompanying Business and Industrial Activities

Business and industrial enterprises have contributed greatly to our economic development after the Second World War. At the same time, they demonstrated a variety of anti-social behaviours stemming from the over-zealous pursuit of economic gains or productivity, which have caused serious social repercussions. This has led to the criminalization or more substantial penalization of a cluster of new and old forms of behaviour by such enterprises. Two categories will be

discussed here: offences related to environmental pollution and economic offences.

(1) Offences related to environmental pollution

Behind the rapid economic development of postwar Japan achieved by allowing as wide freedom as possible to activities of business enterprises, there has been a lack of sufficient concern for conserving a healthy and comfortable environment for human beings. It is only after tragic events in Minamata and other places that society as a whole came to realise the seriousness of environment pollution.

As will be explained in detail under the Agenda Item Two below, enactment or revision of a series of the anti-pollution laws were mostly completed by the end of 1970. During the second half of 1971, a total of 803 pollution cases were received by the public prosecutors' offices throughout Japan. The number of such cases was 2,613 in 1972. It increased to 3,999 in 1973 and further to 4,909 in 1974. The number of cases prosecuted has likewise increased from 1,492 in 1972 to 2,787 in 1973 and further to 3,239 in 1974. Of these 3,239, 1,404 or 43.3% were the violators of the Water Pollution Control Law (1970), which was followed by the violators of the Marine Pollution Prevention Law (1970) numbering 740 or 22.8%. The Law for the Punishment of Crimes Relating to Environmental Pollution Which Adversely Affect the Health of Persons (1970), known for the most punitive approach in all anti-pollution laws, was firstly applied in 1974 to prosecute five offenders. The investigation and prosecution of these offenders, together with various non-punitive anti-pollution measures, have contributed greatly to the improvement of the situation.

(2) Economic offences

Unethical pursuit of profits by enterprises is another area where

increased control by the criminal law is necessary for the protection of the general public. There were considerable legal restrictions on economic activities of enterprises in the postwar period of economic chaos in order to stabilise the livelihood of citizens and to reconstruct the economy of the country. Violators were prosecuted quite automatically, the most frequently applied laws being the Commodity Price Control Ordinance (1946) and the Foodstuffs Control Law (1942). By the early 1950's, when considerable economic recovery had taken place, legal restrictions on economic activity began to be loosened or removed which in turn contributed greatly to a high rate of economic growth. Prosecutions under the above-mentioned two laws became very few. Of course, a great effort by law enforcement agencies continued to control ordinary illegal economic activities such as commercial frauds, excessive speculation in dealing of stocks and foods, unfair competition, infringement of a patent right, smuggling of goods, tax evasion and other kinds of improper business practices.

Besides various legislative moves as will be mentioned under the Agenda Item Two, the law enforcement agencies tried to contain such anti-social activities by applying pre-existing laws. For example, the Foodstuffs Control Law, which had long been unused, was applied to a big trading firm for hoarding a large amount of rice. Likewise, the Securities Transaction Law (1948), violation of which had seldom been penalized before, was used to prosecute the manipulation of the stock exchange, and the Anti-Trust Law was applied to prosecute the executives of big oil companies for their conspiracy in a price and production cartel.

Investigation and prosecution of offences involving big enterprises have become increasingly difficult because of the complexity of organisation and technology employed. The police and public prosecutors' offices accord increased priority to the training of staff not only in

the related laws but also in the organisational structure of business, its computerized accounting systems and other related mechanism, and in the analysis of domestic and international economic trends.

5. Crimes Involving the Taking of a Hostage

Taking a hostage in order to achieve an unlawful purpose is one of the most vicious crimes. In 1974, there were 24 such cases in Japan.

Analysis of this kind of crime in Japan reveals that the most common form was seen when a single offender, 25 years or younger, after having committed a crime, took a hostage at knife-point in order to avoid arrest by the police some years ago.

The rescue of the hostages has been made by forcible arrest of the offender, in most cases, and also by use of persuasion. The clearance rate in the crimes involving the taking of a hostage has been 100 per cent. The established guiding principles for investigators for crimes of this category were: 1) to give a top priority to the rescue of the hostage without any injury, 2) to avoid any casualty among the police officials, reporters, cameramen, and the general public, and 3) to arrest the offender without shooting him to death or causing him to commit suicide. In order to achieve these three objectives, intensive training of law enforcement officers is being provided, including psychological techniques for persuading offenders and making safe arrests. In this connexion it is worth noting here that one housewife was taken as a hostage by three radical extremists armed with shotguns and rifles in February 1972. After many hours of effort, the hostage was rescued and all three offenders were arrested without injury. Two police officials, superintendent and inspector, however, were shot to death.

6. Hijacking

The first incident of air piracy occurred in Japan in March 1970, when a domestic jet airliner was forcibly seized by a radical group of students acting from political motivation. Spurred by this incident, Japan hurriedly adopted various legislative and administrative measures necessary for the suppression of unlawful seizure of aircraft. These included the following:

(1) ratification of the Convention on Offences and Certain Other Acts Committed on Board Aircraft of 1963 (Tokyo Convention);

(2) amendment and enactment of relevant national legislation to implement the Tokyo Convention;

(3) enactment of the Law concerning Punishment for Unlawful Seizure of Aircraft and Similar Crimes (May 18, 1970) which defines the unlawful seizure of aircraft as a new category of crime and provides heavier punishment than in the case of robbery, and is made applicable to any act of unlawful seizure of aircraft regardless of nationality of the offender, place of commission of offence and the State of registration of the seized aircraft;

(4) becoming the first Signatory State for the Convention for the Suppression of Unlawful Seizure of Aircraft by the Hague Diplomatic Conference on December 17, 1970 (Hague Convention);

(5) enactment of the Law for Punishment of Acts Endangering Aviation and Similar Acts (June 19, 1974) implementing the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal Convention); and

(6) strengthening and expanding of the police force stationed at airports and establishment of a system for examining the baggage and personal belongings of aircraft passengers by means of metal detectors.

After the first one, there have been seven hijacking cases in Japan. The hijackers were successfully arrested in all cases but one. In these cases a psychological approach proved effective and essential for rescuing the persons involved safely.

7. Offences Involving Explosives

It is a matter of serious social concern in recent years that the number of offences involving the use of explosives has greatly increased. The number of such cases was 12 in 1970, 41 in 1971, 23 in 1972 and 16 in 1973; it jumped to 52 in 1974. This sudden increase has brought with it a serious increase in the casualties—from 57 (including one death) in 1971 to 439 (including eight deaths) in 1974. The detonating devices and explosive substances involved have become increasingly more sophisticated, which has made the explosive power greater and the chances of detection smaller.

Many incidents were the results of subversive activities by radical extremists who had mastered the technique of manufacturing time bombs and disseminated the knowledge widely. Their avowed intention was to cause widespread social unrest. It is very disturbing that several cases were committed by young teen-agers motivated by curiosity rather than political ideology. Cases of this nature are on the increase.

The police are giving special attention to increasing their detecting rate. Some of the counter-strategies for these cases include: 1) training of specialists in explosives, 2) establishing a more effective system of bomb disposal, 3) procuring equipment and material for the disposal of bombs and making them widely available, 4) mobi-

lizing the active cooperation of the general public in preventing and detecting such offences, and 5) giving strict and firm guidance to the manufacturers, dealers, and users of explosive compounds and other materials that are used for bomb manufacturing.

Increase in bomb cases has produced an increase in "bomb-scare" cases in which the purpose is to intimidate others by notifying that a bomb has been planted and will be exploded. Some have been real but most are fictitious. These cases have increased from 25 in 1970 to 190 in 1973 and 1,666 in 1974. Since some of notifications are really accompanied by subsequent explosions, the authorities concerned cannot treat them lightly, which causes great public apprehension and inconvenience. It has therefore been the government policy to deal with them severely, even though many are simply mischievous telephone calls without dangerous intent. The police utilise many techniques for detection, such as tracing the telephone call and analysing the offender's voiceprint. Persons detected are prosecuted under a charge of intimidation or forcible obstruction of business which is punishable by imprisonment for not more than three years.

8. Offences Committed by Radical Students

Since the 1960's, violent crimes by student political groups have increasingly attracted public concern. At the beginning these crimes were considered to emanate from an excessive and impatient idealism peculiar to young intellectuals and, accordingly, were dealt with leniently. But, as violent crimes committed by radical ultra-leftist groups increased toward the end of 1967, law enforcement and judicial attitudes became increasingly severe. The number of radicals apprehended by the police rose from about 6,600 in 1968 to 14,700 in 1969. The firm but flexible legislative and administrative countermeasures

against student unrest proved to be successful and most university campuses regained their peace in 1970. The number of the apprehended students decreased that year to about 5,000. It was 1,672 in 1974.

However, the quantitative decrease does not reflect the actual dimensions of the problem. The weapons used in these offences have escalated from wooden clubs and stones to Molotov cocktails and bombs. Radical students staged violent demonstrations on the street, attacked policemen, committed a bank robbery, and hijacked an airplane. Cruel attacks were made on members of competing radical sects in a struggle for power. Such fights, generally known as "inner struggle violent fights," became more and more deliberate and premeditated. The means and instruments employed became even more brutal. Time and again innocent passers-by were involved. In 1974, 286 such fights took place which caused 11 deaths and 607 injuries.

Not only the law enforcement authorities but also the courts now treat cases of student violence as a real menace to society and not as forgivable excesses of otherwise legitimate political activities. It is worth mentioning that legislative efforts towards containment of Molotov cocktails have proved very effective. After a policeman on duty was burnt to death by extremists in 1971, the Government enacted a new law enabling the police to control the manufacture, possession, and use of Molotov cocktails. After the enactment of "the Law for Punishing the Use of Glass-Bottle Grenade" and the revision of the "Poisonous and Injurious Substance Control Law" in 1972, which was intended to control materials to be used for making Molotov cocktails, the use of Molotov cocktails was drastically decreased from 106 in 1972 to 45 in 1974. The number of such bombs which were seized before their use likewise decreased from 440 to 182.

9. Crimes against Public Morals

Methods and policy for dealing with behaviour affecting public morals differ greatly from one country to another, depending upon historical, social, cultural and other factors. Crimes in this category include gambling, indecency, prostitution, and abortion. Drug abuse can also be included. One characteristic of contemporary society can be found in its liberal permissiveness, where the pursuit of pleasure is no longer considered a vice per se. Moreover, criteria for judging virtue and vice, or good and evil, have become unsettled, differing widely from person to person. It is, therefore, in this category of crime that the argument for decriminalization is most frequent.

The movement for decriminalization has not, however, gained sizable momentum in Japan. This can be attributed to the fact that laws in Japan have been very selective in criminalization. And the actual administration of already limited penal clauses has also been very cautious and selective, to the point that the enforcement standards of the police and the public prosecutors conform to the standards of the majority of citizens. Detailed explanations will be given below about each category of such crimes.

(1) Offences related to sex

Homosexuality and other sexually deviant behaviours such as sodomy per se have never been criminalized; they remain matters of private morality. Adultery was abolished in 1947. The Anti-Prostitution Law (1956) does not criminalize an act of prostitution per se and a non-punitive measure (placement in a women's guidance home) is given priority in sentencing. The law penalizes public solicitation, procuring and knowing facilitation of prostitution. Those who are

apprehended by the police under the Anti-Prostitution Law are overwhelmingly members of a gangster group who exploit prostitutes. This situation is very different from that of some Western countries where a movement for decriminalization seems to have emerged as a reaction to the strict penalizing of sex offences.

(2) Abortion

Even though the Penal Code retains the penalty for an act of abortion, the Eugenic Protection Law (1948) legalizes abortion if undertaken on medical, eugenic, ethical and socio-economic grounds. Annual total of such operations numbers about 700,000. On the other hand, the number of crimes of abortion recorded in 1974 throughout Japan was only three.

(3) Public indecency

The police have continued to strictly enforce the provisions of the Penal Code criminalizing indecent shows and publications. However, the concept of indecency has changed greatly over the past decades. Sixty years ago, a drawing of a kissing couple in a reputable newspaper was punished under the Penal Code, which would be unbelievable for current readers of such publications. This "liberalization" which has been accelerated quite rapidly in recent years may be due partly to legalization of pornography in some of foreign countries and growing flow-in of the information from these countries. In 1973, 1,634 persons were apprehended under a charge of public indecency; this was about half the number in 1969. The majority of offenders were members of gangster groups. In 1974, however, the figure rose to 2,121.

(4) Gambling

Horse racing, cycle or boat racing administered by local political

subdivisions have been attracting an increasing number of customers (about 112 million persons in 1974). The amount of sweepstakes in these events reached about over 12 billion US dollars in 1974, representing a doubling within the last five years. Gambling among private citizens has also flourished in recent years.

Gambling as prescribed in the Penal Code has been prosecuted very selectively, mostly against members of gangster groups and professional or habitual gamblers. Since opening a gambling house is one of the major sources of income for gangster groups, the police enforce this law rigorously. The total number of cases known to the police during 1974 was 4,393, the largest in five years. Gambling by private citizens involving moderate stakes is seldom prohibited by the law enforcement agencies.

As observed above, crimes against public morals are being enforced mostly when they assume the dimension of an organised crime. However, it is clear that there is a considerable gap between written laws and actually enforced laws, which may give rise to disrespect for law in general. Selective application of these laws has so far met public approval but may some day generate criticism about "partial" administration. Arguments for decriminalizing such crimes are therefore likely to continue.

Drug abuse, however, is regarded as crime against health and society. Laws relating to it have been enforced most rigorously. This subject will be discussed under the next heading.

10. Narcotic and Other Drug Offences

The postwar history of drug abuse in Japan can be divided into three periods:

(1) the stimulants period (1946–1956)

In the postwar turmoil of socio-economic chaos, stimulants' abuse

spread throughout the country. The Stimulant Drugs Control Law was enacted in 1951 to provide a basis for controlling stimulant drugs (amphetamine and methamphetamine). Japan preceded any other country in the world in such an attempt. Unfortunately, stimulants' abuse did not cease and the number of offenders referred to the public prosecutors' offices continued to increase, reaching a peak in 1954 (about 52,000 cases). The Government, accordingly, took comprehensive countermeasures. First, it amended the law in three respects: (a) expanded the scope of control to include handling of raw materials such as ephedrine; (b) intensified punitive provisions; (c) established a new system of compulsory hospitalization of addicts. It also carried out nation-wide educational campaigns to eradicate stimulant drug abuse. As a result, the number of offenders referred to public prosecutors' offices drastically decreased in 1955 and fell to only 265 cases in 1958, indicating almost complete eradication of these offences.

(2) the heroin period (1957–1964)

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

With the decrease of stimulants' abuse, heroin abuse began to increase, reaching the peak in 1962 and 1963. The number of offenders referred to prosecutors' offices was about 3,700 in 1963. The number of heroin addicts was estimated at 40,000 in the peak years. This serious situation forced the Government to undertake integrated countermeasures against heroin abuse in 1963. These countermeasures were: (a) intensification of punitive provisions by amending the Narcotics Control Law (for instance, the maximum penalty was raised to life imprisonment in case of illicit import of heroin for gain, etc.); (b) strengthening control agencies; (c) disbanding criminal organi-

sations which were the core of illicit transaction of heroin; (d) establishment of a system of compulsory hospitalization for narcotic addicts; and (e) nation-wide educational campaigns to publicize narcotic evils. As a result, the number of offenders decreased substantially, to 1,771 in 1964, and it continued to decrease, generally, thereafter. The number of heroin addicts has also decreased year by year and now is estimated to be negligible.

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

After 1965 only a small number of heroin addicts have been detected, even in the delinquency-infiltrated areas of large cities in Japan. Thus, the countermeasures against heroin problems have proved to be effective. However, the abuse of hallucinogenic drugs such as cannabis and LSD and organic solvents such as thinners and glues has gradually been increasing among the younger generation lately. Further, stimulants' abuse has begun to show signs of revival.

Fortunately, cannabis and LSD abuse are not very popular yet among the Japanese and offenders of this kind are not large in number: the annual number of cannabis cases referred to prosecutors' offices are not more than several hundred and LSD cases are about 50 a year.

The abuse of organic solvents such as thinners and glues has become epidemic among teen-agers during the past several years. In 1971, about 50,000 youngsters were found to be abusing them, 25 per cent increase over the previous yesar. Accidental deaths attributable to the abuse of these solvents were numerous (the peak year was 1969 when the number of accidental deaths reached 84). These grave consequences of "glue-sniffing" impelled the Government to take stringent countermeasures. Selling thinners and glues, knowing that they would be abused, as well as glue-sniffing itself has been outlawed

since August 1972, when an amendment to the Poisonous and Injurious Substance Control Law was passed by the Diet. The overall effect of this amendment is yet to be seen, but it appears that the number of glue-sniffing cases known to the police has decreased remarkably (in 1972 about 36,000 were found abusing glue; the number decreased to about 21,000 in 1974). Unexpectedly, the number of accidental deaths attributable to the "glue-sniffing" increased to 76 in 1973 (it was 43 in 1974), which may indicate a considerable number of latent habitual abusers.

As mentioned above, stimulants' offences once seemed almost eradicated. In 1970, however, the number of these offenders suddenly rose to 2,142, two and a half times as many as in the previous year, and it has continued to increase, doubling every year until in 1973 it reached about 12,000. The abuse, unlike before, has spread to almost all localities throughout Japan, and even to ordinary citizens such as housewives. This phenomenon is believed to be a reflection of prevalent pleasure-seeking habits probably related to rapid economic growth. It can also be related to the escapism noticeable among certain sections of the younger generation. This sudden revival of stimulants' abuse is also attributed to organised gangsters intending to get unlawful funds for their organisations by illicit transaction of stimulant drugs. To cope with this growing problem, the following amendments have been made to the Stimulant Drugs Control Law in 1973: (a) intensification of control over raw materials of stimulant drugs; (b) consolidation of punitive provisions and making statutory penalties heavier, including life imprisonment. Law enforcement agencies continue rigorous control based on their successful experiences before. Even in the case of a simple offence such as possession of a small quantity of drugs, the authorities never fail to investigate the case thoroughly in order to uncover the boss of the organisation res-

ponsible for the illicit transaction and to punish him severely. This is called "Up to the Top" operation in Japan. Though overall effects of these amendments are yet to be seen, stimulants' offences apparently began to decrease in 1974. The number of such offenders received by the public prosecutors' offices in the first half of 1974 was 3,944, which was 2,546 less than the corresponding figure for 1973, representing a decrease by 39.2 per cent.

However, stimulants are, like heroin, supplied almost exclusively from overseas, and cutting off the international supply line is the prerequisite for successful eradication of the drugs. The efforts of individual countries to control drugs are inherently limited. International cooperation is of paramount importance in the fight against drugs. Based on this understanding, and in the expectation of close collaboration by members of the world community, Japan has actively participated in activities of the United Nations related to curbing drug abuse and has acceded to the relevant conventions. Japan is ready to cooperate with other countries by all possible means in order to eradicate drug abuse.

The Government policy of increasing criminalization and heavier penalization of drug abuse cases, coupled with thorough medical treatment and educational campaigns, has secured nation-wide support, including opposition parties in the Diet. Arguments for decriminalizing even a simple use of drug have hardly any supporters in Japan. Drug abuse is conceived not as personal pleasure-seeking unrelated to the well-being of others but as a cause of mental and physical deterioration and the breaking down of families, thus causing great social harm. In this connexion, Japan fully endorses the Preamble of the Single Convention on Narcotic Drugs reading, in particular, "Recognising that addiction to narcotic drugs constitutes a serious

evil for the individual and is fraught with social and economic danger to mankind."

II. Transnational Crimes

Japan is an island nation inhabited by a very homogeneous population. During most of its history, and until very recently, communication and trade with the international world was very limited. As a result, patterns in its crime have not been shaped by influence from abroad. Moreover, there are those who would argue that even today its low crime rate is anomalous among modern industrial nations, suggesting that crime in Japan, in the aggregate, represents a unique pattern of causation.

In recent years, however, international traffic of people has grown remarkably due to economic development and advancement in transport facilities. In 1974, a total of 2,330,000 Japanese nationals went abroad and 724,000 foreigners visited Japan. This is 20 times the number of Japanese who travelled abroad ten years ago and three times the number of foreigners. These increases have given rise to both domestic and transnational crime problems. The number of Japanese nationals who were apprehended by foreign authorities, and whose offences were communicated through diplomatic channel and/or by the International Criminal Police Organisation, was 198 in 1974. Some of these cases involved heinous crimes such as homicide and robbery and some caused serious international complications. Most notably, a considerable number of radical extremists have gone abroad who, in collaboration with foreign radical groups, have perpetrated homicide, hijacking of aircraft, and taking of hostages.

On the other hand, there were 29,399 foreigners apprehended for non-traffic offences in Japan during 1974. Most of them were charged with minor crimes, such as theft, which were not premeditated

in nature; a few were deliberate, well planned acts by professional or "travelling" criminals. A few others were involved in the smuggling of narcotics and stimulant drugs.

III. More Effective Measures for Crime Control

As has been shown above, crime in Japan has generally been declining, and any sizable increase is not foreseen in the near future. A declining crime rate is quite unique among the world community, where most countries are suffering from rapidly increasing criminality.

Although several types of crime have been increasing in volume or taking more serious forms, there seems no need for drastic modification of present criminal law or its administration or for adopting unusual counter-strategies. The objectives of criminal justice policy should continue to be efficient law enforcement, fair and speedy trial, and individualized correctional treatment.

Compatible with such principles, some improvements are necessary in order to attain more efficient and effective law enforcement. The following are some of the countermeasures which have been or would preferably be adopted.

1. Prompt Detection of Crime

Prompt detection of crime and apprehension of criminals will remain one of the essential prerequisites for the containment of criminality. This may, however, become increasingly difficult due to progress in transportation and technology. One development by the police has been the establishment of mobile investigation squads equipped with the modern scientific equipment necessary for investigation. Another development is the improvement of emergency arrangements for encircling and arresting escaping offenders.

2. Positive Utilisation of Scientific Knowledge and Skill

The police are making every effort to utilise the fruits of modern science and technology. This is essential in order to deal effectively with criminals who exploit modern technology for criminal purposes. The National Research Institute of Police Science is facilitating the development of scientific techniques of criminal investigation and police administration. A centralized computer system has been utilised for storing and retrieving information necessary for nation-wide criminal investigation.

3. In-service Training of Investigators

In order to carry out effective investigation it is essential that police officers be well trained and their skills periodically up-dated. The police have given high priority to systematic in-service training of the investigators.

4. Securing Public Cooperation with Investigation Activities

Urbanization and the diversification of social values have resulted in increasing indifference by the general public to governmental authorities, including the police. It has become more and more difficult to secure people's cooperation with law enforcement activities. The police are therefore taking every opportunity to secure public understanding and support for law enforcement. For example, they disseminate information on particular criminal cases through the mass media in order to encourage the public to provide relevant information.

5. International Exchange of Information

In order to cope with modern crime, it is important to study crime comparatively to determine what techniques have proven suc-

cessful against it. Japan has learned a great deal from foreign countries in the improvement of its social defence system and administration.

In the exchange of such information and experience and in the promotion of more effective means of crime prevention, the United Nations Asia and Far East Institute for the Prevention of Crime and Treatment of Offenders (UNAFEI), established on the basis of the agreement between the United Nations and the Government of Japan and operating for 14 years in Fuchu, Tokyo, has made significant contributions. It is expected that the United Nations would take the initiative in the further expansion of systematic exchange of information.

6. International Collaboration in Investigation, etc.

International cooperation and collaboration has become increasingly important as crimes become more transnational. The significant role played by the ICPO and other international bodies will become even more important in this connexion in the future. Such international cooperation should therefore be further expanded, especially emphasizing regional cooperation, to facilitate close working relations between investigating, prosecuting, and judicial agencies.

7. Expansion of Jurisdiction on Transnational Crimes

There are a considerable number of transnational crimes in which several relevant countries have concurrent jurisdiction. Nonetheless, offenders seemingly go untried and unpunished. Although it is clear that punishment of these offenders may not be a completely effective deterrent for crimes of this nature, it would at least help to reduce the frequency of such events.

It would therefore be advisable that members of the world community having no jurisdiction over these crimes yet examine the possibility of expanding their respective jurisdiction or of removing legal obstacles for exercising jurisdiction so as not to let such offenders go unpunished. It is also desirable that the extradition system should be improved so that offenders may quickly be returned to the countries with jurisdiction.

Agenda Item II

CRIMINAL LEGISLATION, JUDICIAL PROCEDURE AND OTHER FORMS OF SOCIAL CONTROL IN THE PREVENTION OF CRIME

Introduction

Public and private activities contributing to the prevention of crime and the reformation and rehabilitation of offenders are diverse in their nature and extent of contribution. No one will doubt, however, that in any modern society the criminal justice system is expected to assume the most vital role in the prevention of crime. It goes without saying that a criminal justice system plays dual roles in preventing crime. The first role is to prohibit a variety of anti-social behaviours by defining them as crimes in the criminal law and explicitly pronounce in advance that a violation against such prohibition will be subject to sanctions as prescribed by the law (general prevention). Although there has been little agreement on the efficacy of the general crime-preventive function of the criminal law, significant and continuous effects of the statutory pronouncement of crime and punishment should be found in the fact that it complements and strengthens citizens' moral sentiments or norm consciousness.

Another role of a criminal justice system is the imposition of punishment or other forms of sanction on a person who has committed a crime, thus preventing him from committing another crime by segregating him from society or by reforming and rehabilitating him

(special prevention). Among special crime-preventive effects of punishment, increasing emphasis has been placed on offenders' reformation, rehabilitation or re-integration into the society.

The significance of the role of the criminal justice system in preventing a crime may differ from one country to another and from one time to another in the same country. In crime prevention, significant roles have been also assumed by such non-legal institutions as religion, morality and customs, or such non-punitive measures as education, administrative guidance and others. Since the influence of such traditional control measures as religion and morality has been very much diminished in the process of industrialisation and urbanization, increasing efforts have to be made to enhance the crime-preventive functions of a criminal justice system.

In recent years, however, two questions have been raised in relation to the policy of preventing crime by means of the criminal justice system. The first directly relates to the efficacy of the criminal justice system itself and doubts not only the general crime-preventive effects of punishment but also the usefulness of imprisonment, probation and other penal measures in preventing recidivism of offenders. The second relates to the adverse secondary effects arising from the operation of the criminal justice system. Some insist that, in pursuit of the eradication of social evils, the outreach of the criminal law is unnecessarily wide and tends to criminalize even those behaviours to which the application of penal sanctions is inappropriate, thus unduly limiting the civil liberty of citizens. Others emphasize a possibility that an innocent person may be disadvantageously exposed to police investigation or prosecution or an offender may be given unnecessary or unduly heavy punishment.

These series of questions stimulate re-examination of the role of the criminal justice system and demand the re-evaluation of the use

of alternative measures of social control. From here has emerged the advocacy for "decriminalization" or "depenalization." Such proposals however, tend to be accompanied by exaggerated criticisms against the existing criminal justice system. Also, these are discussed often on a more theoretical and Utopian rather than real basis, without looking sufficiently into the effects or even the very existence of alternative social control measures. Nevertheless, crime-preventive policies in future will limit the use of the criminal justice system to the lowest minimum and will encourage the development and use of other forms of social control in line with efforts for the more rational and effectual operation of the criminal justice system.

As previously reported under the Agenda Item One, crimes in Japan have been on a steady decrease for the past ten years. Non-traffic Penal Code offences known to the police numbered 1,435,652 in 1955. The number has been steadily downward, and was 1,187,936 in 1973, and it slightly rose to 1,211,005 in 1974. The rate computed per 100,000 of the criminally responsible population (over the age of 14) shows a more dramatic decrease; it decreased from 2,337 in 1955 to 1,428 in 1974, representing approximately 60 per cent of the rate for 1955. From these figures, it can be safely assumed that crime incidence in Japan has actually been decreasing, in the absence of any evidence indicating the increase of offences unknown to the police.

These trends of crime decrease contrast sharply with other countries which are highly industrialised but suffer from crime increase of various degrees. Reasons for the decrease have not yet been thoroughly examined or explained. They must ultimately be found in complicated interactions among social, economic and cultural factors, and it is difficult to define the extent of contribution of the criminal justice system or other forms of social control to the prevention of crime. However, serious dysfunction of any part of the criminal

justice system would definitely be one factor in generating crime. Insufficiency of other forms of social control may inhibit the efficacy of the criminal justice system. From the fact that crimes in Japan have been steadily downward in spite of a variety of crimegenerating factors existing universally in any industrialised modern society, it may be safely said that the criminal justice systems as well as other forms of social control in Japan have played some part in the reduction of crime, or at least have not encouraged crime increase.

From the above-mentioned standpoints, the statement below will:

(1) review the Japanese criminal legislation with special reference to the changes made after World War II and trends of future innovations in the substantive criminal law;

(2) point out some aspects of the implementation of criminal justice procedures in Japan relating to crime prevention; and finally

(3) introduce the present situation in regard to public and voluntary activities, operated for the purpose of crime prevention, outside of the criminal justice system, with special reference to public participation.

I. Criminal Legislation

Japan abolished the former Meiji Constitution on November 3, 1946, and on the same date sanctioned and promulgated the Constitution of Japan which is founded upon the sovereignty of the people, renunciation of war and the esteem of fundamental human rights. After May 3, 1947 when the new Constitution became effective, a number of fundmental laws and ordinances underwent comprehensive amendments. Considerable changes had to be made, in particular, in the criminal procedure law which closely relates to the constitutional safeguards for fundamental human rights. Thus, the Code of Criminal Procedure was enacted and enforced in 1949. The Code

newly created a number of additional procedural rights of defendants and suspects throughout the criminal proceedings from investigation to trial, and established a defendant's status as an adversary party in a criminal trial. Also, the new Juvenile Law was put into force in the same year. The former administrative tribunals for juveniles were thus replaced by the Family Court, which handles all matters relating to the delinquency of juveniles under the age of 20 and puts special emphasis on the welfare of youth as well as the protection of their rights.

However, the Penal Code of 1907 has not undergone complete revision at that time, although a partial amendment was made in October 1947 to abolish the provisions contradicting the principles of the new Constitution. Several important partial amendments have been made to the Code since then in accordance with the extensive social changes which have taken place. At the same time, innovations in the substantive criminal law have been realised to meet the demands of the time by enacting or revising statutes other than the Penal Code to exert control over such phases of social life as violent behaviour of various types, air and water pollution, abuse of narcotics and stimulant drugs, prostitution, abortion and traffic offences.

The existing Penal Code has been enforced for more than 60 years, and partial amendments thereof as well as enactment of other penal statutes have been unable to rectify the drawbacks of the Code so as fully to meet the demands of the changing society. Under the circumstances, the Government, recognising the necessity of an overall revision of the Penal Code, has been engaged since 1956 in the task of revising the Code. In May 1974, the Legislative Council of the Ministry of Justice, an advisory organ to the Minister of Justice, completed its task of drafting "a Preparatory Draft for the Revised Penal Code." The Ministry of Justice is presently preparing the

governmental draft based on the Preparatory Draft.

The Ministry of Justice has also recognised the necessity of revising the Juvenile Law. In June 1970, the Ministry referred to the Legislative Council of the Ministry of Justice a draft for the revised Juvenile Law. The gist of the draft was:

(1) to process juveniles between 18 and 19 years old differently from both juveniles and adults;

(2) to more fully guarantee the due process of law, by providing, for instance, a court-appointed attorney for a juvenile; and

(3) to diversify the kind and content of the protective measures applicable to juveniles.

The draft is presently under deliberation at the Juvenile Law Section of the Legislative Council.

Several amendments have been made to the Code of Criminal Procedure of 1949 as well as to the Supreme Court Rules of Criminal Procedure which supplement the Code, in relation to the pre-trial detention and facilitation of the court hearings of violent offenders and so on.

Among the criminal legislation in the postwar period, the laws relating to innovations of the substantive criminal law can be classified into the following three categories:

(1) legislation to improve the methods of treating offenders;

(2) legislation to more severely penalize those acts which threaten the security and welfare of citizens and to create appropriate penal provisions against new forms of anti-social acts which have emerged with social changes; and

(3) legislation to decriminalize those acts the punishment of which has become unnecessary or unsuitable.

Detailed explanations on this will be given hereunder:

1. Improvement of the Methods for Treating Offenders

The Japanese Penal Code since its enactment has given to the court a broad discretionary power, with wide range of statutory maxima and minima for each kind of criminal act and extended applicability of suspension of execution of sentence, so as better to sentence in accordance with the nature of each act and special features of each offender. In the postwar period, amendments have been made in order to encourage the more frequent use of community treatment. The power of the court to suspend the execution of sentence was expanded and adult probation system introduced.

First, the partial amendment of the Penal Code in 1947 expanded the scope of applicability of the suspension of execution of sentence from imprisonment for two years or less, to imprisonment for three years or less, and up to a certain amount of fine, thus making almost all crime categories including homicide and arson eligible for suspension of actual execution of sentence if the crime committed is found not very serious in its nature. Further, the partial amendment of 1953 granted another chance for the suspension of execution of sentence to persons who are found guilty for offences committed during their suspension term. This second suspension is to be given only on the condition that they be placed under mandatory probationary supervision, thus creating for the first time in Japan an adult probation system combined with suspension of execution of sentence. In the following year, 1954, the Penal Code was partially amended again to empower the court to place offenders under discretionary probationary supervision even when their sentences of imprisonment are to be suspended for the first time. Also, the Law for Probationary Supervision of Persons under Suspension of Execution of Sentence, enacted in the same year, provided standards of implementation of probationary

supervision combined with suspension of imprisonment. These legislative efforts and the Offenders Rehabilitation Law of 1949 constituted the framework of probation system as a method of community treatment of offenders.

The Anti-Prostitution Law enacted in 1956 provided a guidance system for prostitutes. Under this Law, those prostitutes who are found guilty for soliciting and the like (prostitution per se is not punishable) and whose sentences are suspended may be committed to the Women's Guidance Home. They will be subject to guidance rendered within the home for a period of six months.

It goes without saying that legislative innovations in future will place an increasing emphasis on minimizing unnecessary pain of punishment and other forms of disposition of crime as well as maximizing their rehabilitative functions. This does not mean, however, that leniency is the only factor to be taken into account in the disposition of offenders. Keeping a proper balance between leniency and strictness in sentencing is more important, since lighter punishment contradictory to common sense, or punishment inappropriate to maintain the security of the society will undoubtedly undermine the multilateral functions of the criminal justice system.

The Preparatory Draft for the Revised Penal Code includes many innovative proposals to facilitate rehabilitation of offenders. Some examples in this direction are:

(1) reducing the applicability of capital punishment;
(2) explicitly pronouncing that the prevention of crime and the rehabilitation of offenders are the purposes of punishment;
(3) expanding offenders' eligibility for suspension of execution of sentence;
(4) providing for exemption from the disqualifying effects accompanying sentence in cases where sentence is suspended;

(5) more flexible operation of the parole system; and

(6) making the scope of probationary and parole supervision more substantial.

At the same time, the Draft proposes:

(1) heavier punishment for such crime categories as endangering the body and freedom of persons, for example, assault, intimidation, duress and abduction;

(2) indeterminate sentence to enable correctional institutions to treat habitual offenders in accordance with the degree of their criminal propensity; and

(3) security measures distinct from ordinary punishment in which the mentally disturbed, alcoholic or narcotic addicts who are likely to persist in criminal acts are accommodated in medical facilities and undergo therapy to diminish mental disturbance or addiction so as to prevent their recidivism.

2. Enhancement of Security and Welfare of Citizens

(1) Crimes of violence

One of the most significant features of a modern society is that all countries have been experiencing rapid and accelerated changes in all aspects of social life, on whatever level of social development the country may be. These changes naturally have broad implications on crime and its preventive measures. Rapid development and extensive pervasion of scientific technology, in particular,, have not only fostered conspicuous changes in the mode and extent of crime, but also have created new forms of anti-social behaviours attracting public attention and concern.

Since a full account of these new crime phenomena as well as countermeasures against them are given under the Agenda Item One, it will suffice here only to outline the postwar criminal legislation

which strengthened control over the use of violence in order to better secure the safety of the daily life of citizens and safeguard their life and body:

(a) the partial amendment of the Penal Code in 1917 intensified punishment against assault and intimidation which directly endanger the bodily safety of citizens;

(b) the 1958 partial amendment of the Penal Code made punishable those who assembled with weapons and those who threatened witnesses, the former being directed against conflicts between organised gangster groups, and the latter being designed to protect witnesses so as to ensure fair criminal trials, especially, in cases of violent crimes;

(c) the Code of Criminal Procedure was partially revised in the same year to limit the eligibility of release on bail, with regard to the accused who are likely to endanger the life and body of victims or other persons willing to become witnesses, thus protecting witnesses from becoming the targets of retributive outrage of violent gangster groups;

(d) Law for Punishment of Violent Acts of 1926 was revised in 1964 to impose heavier punishment on habitual offenders committing assault, bodily injury and the like, as well as on those who inflict bodily injury with pistols, guns or swords;

(e) to cope with abduction for the purpose of extorting ransom, which was frequent at the time, the Penal Code was revised in 1964 to increase punishment for abduction committed with intent to extort ransom;

(f) to cope with the frequent use of Molotov cocktails by student extremist groups as a means of homicide, injury or arson, the Law for Punishing the Use of Glass-Bottle Grenade was enacted in 1972, which made the use, manufacture and possession of Molotov

cocktails punishable; and

(g) in order to prevent hijacking and similar acts endangering aircraft, the Law concerning Punishment for Unlawful Seizure of Aircraft and Similar Crimes which embodied the content of the Hague Convention and the Law for Punishment of Acts Endangering Aviation and Similar Acts which endorsed the Montreal Convention were enacted in 1970 and 1974, respectively.

(2) Crime committed by industrial enterprises

Social changes in recent years have exerted grave influences not only on the mode and extent of crime but also on the attitudes and value judgement of the public. This has resulted in considerable shifts in the notion of what acts should be made punishable as crimes, to start with, and in citizens' expectations of the criminal justice system. These changes naturally have two dimensions: one is whether or not some of the conducts previously permitted or even encouraged should now be made punishable as criminal acts; another is the question as to whether or not some conducts traditionally conceived as crimes should be removed from the intervention of the criminal law. These two dimensions, criminalization and decriminalization, are the two sides of changing concepts of crime in a modern society. Fluidity of crime concepts as well as dichotomy between conventional and innovative attitude toward crime, however, often make appropriate solution of crime problems difficult and legislation and implementation of criminal law uncertain.

In regard to criminalization or the extension of crime control by the criminal justice system, there is a growing demand for effective penal control, including new criminal legislation, over the acts which indirectly but extensively threaten the life, body, property and happiness of the general public.

(a) Offences related to environmental pollution

One conspicuous example is seen in the efforts of controlling air and water pollution and other activities harmful to environments. There had been laws regulating activities adversely affecting the environment. Beginning around the end of the 1950's a series of anti-pollution laws were enacted. They include the Water Quality Preservation Law (1958), the Industrial Effluent Control Law (1958), the Basic Law for Environmental Pollution Control (1967), and the Air Pollution Control Law (1968). Most of penalties prescribed in these laws presupposed specific administrative orders by the competent authorities to improve, rectify or discontinue certain illegal acts causing pollution. Acts became punishable only when the enterprise had disregarded or violated such specific administrative orders.

This method of "indirect-penalization" was found to be ineffective and at the so-called "anti-pollution session" of the Diet in 1970 new laws were enacted and old laws revised to make pollution control more effective on the basis of "direct penalization" (e.g. emission of water, gas, smoke, etc. containing a pre-designated amount of certain substance is to be punished without any prior warning or order). These laws include the Marine Pollution Prevention Law (1970), the Water Pollution Control Law (1970) and the revised Air Pollution Control Law. A more punitive approach was taken in the Law for the Punishment of Crimes Relating to Environmental Pollution which Adversely Affect the Health of Persons (1970), under which intentional or negligent emission of a harmful substance in the process of industrial activities, thereby causing danger to life or health of persons, is made directly punishable. When sickness or death is caused, the offender will be punishable by imprisonment not exceeding seven years. This law is clearly distinguishable from any other pollution control laws in that it prescribes such offence as a crime rather than an administra-

tive offence. The enactment of these laws, together with various non-punitive anti-pollution measures, have contributed greatly to the improvement of the situation.

(b) Economic offences

Unethical pursuit of profits by enterprises is another area where increased control by the criminal law is necessary in order to protect the public. The existing situation in Japan has been described in detail under the Agenda Item One and some legislative moves and relevant discussions will be given here.

During the recent "petroleum crisis," oil companies and trading corporations were censured by the public for hoarding and cornering practices and making excessive profits. A considerable number of people argued strongly that such anti-social behaviour should be controlled by criminal law. However, the Government assumed a very cautious attitude.

After careful deliberation the Government adopted a policy of penalizing undesirable business activities only when administrative orders directed at specific persons had been disregarded. This policy found expression in the Law for Emergency Measures against Hoarding and Cornering Practices (1972) under which the competent authorities are empowered to give sale and delivery orders of cornered or hoarded commodities and penalize the person who had disregarded such an order. The Government also passed a law — the Law for Emergency Measures for Livelihood Stabilisation (1972) — that provided for the taking from businesses, by administrative decision, excessive profits gained by them for selling stipulated commodities at a price higher than those specified in regulations.

The unethical profit-seeking of business enterprises continues to be a political issue and revision of the Anti-Monopoly Law is now being proposed to strengthen the restriction of monopolistic and

oligopolistic price and production control.

Public condemnation of unethical price-control practices of big enterprises must be respected. Inflation must be contained. Public trust in "social justice" has to be maintained. In order to achieve social justice in a changing society, it is necessary to review and modify, if necessary, the rights and obligations of individuals and organisations so as to fit social evolution. Nevertheless, how far the criminal law can be employed in controlling anti-social but otherwise normal economic activities, particularly within a system of economic liberalism, is a question yet to be determined.

3. Problem of "Decriminalization"

So-called decriminalization has been proposed particularly in relation to crimes concerning public morals, such as drug abuse, dissemination of obscene materials, prostitution, abortion and gambling. The generally permissive attitude of a modern society and divergent views of its members on morality have contributed to the diffusion of those conducts which have been traditionally considered to be both morally wrong and detrimental to the welfare of individuals. It seems, however, problems involved in enforcing laws against morals offences are not so serious in Japan as in some other countries, and opinions favouring decriminalization of such offences are not likely to command sufficient supports for legislation in the near future. In this connexion, it must be noted that the scope of morals offences in Japan has been sharply limited even in the past. Homosexuality and other abnormal sexual conducts are not punished, and adultery ceased to be criminal in 1947. Furthermore, strict enforcement of statutes relating to some of such offences is generally considered to be useful in suppressing the criminality of gangsters and other organised criminal groups.

As to drug abuse, rigorous enforcement of the laws against dealings

of narcotics and other harmful drugs has been consistently pursued. Widespread abuse of amphetamine in the early 1950's and that of heroin in the late 1950's were both successfully suppressed, mainly by vigorous law enforcement, stiff judicial sentencing and improved medical care for addicts.

While abuse of amphetamine and marihuana is slightly increasing recently, no change in policy is indicated.

Abortion is a crime under the Penal Code, but the Eugenic Protection Law provides for some grounds of justification for it. Because medical doctors' findings of justifying grounds are difficult to challenge, prosecution is very rare against medically performed termination of pregnancy. Betting on a small scale among relatives or friends seems to be practiced by many people, but efforts of law enforcement authorities to enforce gambling laws are mainly directed against organised gambling by professional gamblers. Enforcement of laws against obscene materials have been generally vigorous, but the standards of obscenity have been gradually liberalized. As to prostitution, laws against contributing to prostitution and exploiting prostitutes are vigorously enforced, but police efforts are sometimes frustrated by the clandestine nature of organised prostitution. As for prostitutes themselves, the policy of both law and practice is to use non-penal rehabilitative measures as far as possible.

The present law enforcement policy relating to morals offences seems generally to be in harmony with the public sentiment. It is true that the existence of a gap between the law on the book and the law actually applied might engender disrespect for the law among the public and make a room for discriminatory enforcement. For these reasons, penal provisions relating to morals offences as well as their operation need a constant re-examination. At the same time, careful examination must be made as to whether or not legislative or

enforcement action in this field offends moral sentiments of the majority of people and undermines law-abiding attitudes of the public, and whether or not there is any effective alternatives to criminal law enforcement. Hasty implementation of decriminalization without looking sufficiently into the effects of alternative social control measures will tend to induce public distrust of criminal justice, thus leading to the confusion of public morality.

II. Criminal Justice Proceedings

Fair and effective operation of the criminal justice system undoubtedly assumes a vital role in crime prevention. The selection of punitive measures at sentencing, in particular, requires adequate consideration not only to the prevention of recidivism by the offender but also to general preventive effects of criminal sanctions. Ineffective or lax criminal procedures from investigation to trial and final sentencing of offenders will damage the morality and law-abiding attitudes of suspects, defendants and ultimately the public as a whole. Unfair or unduly strict dispositions imposed on suspects or defendants in the course of criminal proceedings will generate their antagonism and gravely hamper their eventual rehabilitation. Thus, all aspects of criminal procedures relate to crime prevention directly or indirectly. The following are the brief descriptions of some features of the Japanese criminal procedures which presumably contribute to crime prevention and suppression of the crime rate.

1. Investigation and Prosecution Stage

(1) Maintenance of relatively high clearance rate

It goes without saying that speedy and infallible police investigation and clearance of offenders is an essential prerequisite for any crime preventive activities to be effective. Percentage of offences investi-

gated and cleared by the police among the total cases known to the police has been about 60 per cent for the total non-traffic Penal Code offences. The rate was 58 per cent for 1974. Although one should not overestimate this percentage, since there seems to exist a considerable number of crimes unknown to the police, these figures can be regarded as relatively high. The clearance rate by the police by types of crime for 1974 was: homicide (96%), bodily injury (92%), rape (91%), arson (84%), robbery (81%) and theft (51%). The rate was notably higher for such serious offences as homicide, arson or robbery for which the so-called dark figure is almost null.

(2) Low rate of physical custody at the investigation stage

Japan has two systems to confine suspects at the investigation stage before prosecution: arrest is a system by which the police and/or the public prosecutor confine suspects up to a maximum of 72 hours, and detention is another system in which the court, upon the request of the public prosecutor, can detain arrested suspects for ten days as a rule, but which can be extended to the maximum of 25 days.

Of 975,550 Penal Code offenders disposed of by the public prosecutors' offices throughout the country in 1973, only 110,619, or 11.3 per cent of the total, were arrested. Of the arrested persons, 68,958, or 7.1 per cent were detained. In addition, more than 80 per cent of the detained suspects were detained for less than 10 days.

As seen in these figures, efforts have been made to investigate and conduct trial as far as possible without detaining the accused. This, combined with the use of suspension of prosecution as described below, has contributed greatly to the prevention of offenders' recidivism, by minimizing adverse effects of detention on the trial of the accused himself and on his social life, thus diminishing obstacles to his reformation and rehabilitation.

(3) Frequent use of system of suspension of prosecution

Japan has long adopted the concept of discretionary prosecution, or the system of suspending prosecution, which contrasts with that of mandatory prosecution employed in many other countries. Article 248 of the Code of Criminal Procedure provides that "If, after considering the character, age and situation of the offender, the gravity of the offence, the circumstance under which the offence is committed, and the conditions subsequent to the commission of the offence, prosecution is deemed unnecessary, prosecution need not be instituted." This article is applicable even when the evidence is sufficient for prosecution. The rate of such disposition, in regard to Penal Code offenders in 1974, calculated through dividing the total number of offenders prosecuted and those not prosecuted at prosecutors' discretion by the number of those not prosecuted, was 33 per cent. The rate by crime categories were : embezzlement (69%), theft (57%), fraud (51%), arson (24%), professional negligence causing death or bodily injury (28%), bodily injury (25%), rape (20%), homicide (9%) and robbery (6%). Higher percentages of non-prosecution for property offences, such as theft, fraud and embezzlement may be explained by the relatively minor nature of the offences, but more predominantly by the policy that the prosecution of a case which proved to incur little risk of repetition should be suspended, to facilitate the rehabilitation of the offender. On the contrary, comparatively lower rates for such crimes as bodily injury and professional negligence causing casualties may be due to the fact that deterrent effects of the criminal law are more emphasized in such crime categories. It is also noteworthy that prosecution even for such serious crimes as homicide, rape, arson and robbery is not infrequently suspended.

The system of suspended prosecution has undoubtedly contributed to providing offenders with opportunities to be exempt from trial, and with more chances to rehabilitate and reintegrate themselves

in the free society. Also, aftercare services are provided for such offenders. When it is deemed necessary, they may be given travel fare, accommodation at Rehabilitation Aid Hostels, and other aids. Some District Public Prosecutors' Offices, in cooperation with the probation offices, administer special guidance schemes as a kind of probationary supervision to assist and supervise rehabilitation of offenders under suspended prosecution. The scheme has been proved quite promising.

2. Trial Stage

(1) Differentiated judicial procedures by nature of crime

The more speedy the adjudication of offenders is, the greater crime-preventive effects will be exerted. In order to relieve a limited number of judges of heavy pressures of large caseloads and enable them to concentrate on more serious and contested cases, judicial procedures have to be diversified so as to leave minor and uncontested cases to summary and speedy procedures. In addition to the formal procedure in which the case is heard in open court and in accordance with the rules based on the adversary party principle, there are two forms of simple and speedy informal procedures of adjudication and sentencing: they are Summary Proceedings and Simplified Trial Proceedings.

Summary proceedings are informal criminal action initiated by the public prosecutor with the consent of the accused. The court examines the case on documentary evidence without opening a public hearng, and gives an order imposing a fine or a minor fine of not more than 200,000 yen. The defendant or the public prosecutor can demand a formal trial within 14 days if discontented with the order. Simplified trial proceedings are intended to deal with the Road Traffic Law violators. When the defendant is not against this informal proceeding, the summary court opens the public trial upon the application of the public prosecutor on the same day of application. The

court examines the case with much less formality in the presence of the defendant and imposes on him a fine or a minor fine of not more than 200,000 yen. Defendants or public prosecutors discontented with the given sentence can demand a formal trial.

Of 2,192,288 defendants processed in 1973 at the court of first instance, 2,079,126 were processed through summary proceedings or simplified trial proceedings and only the balance of 113,162 or 5.1% went through the formal public trial. In other words, the great majority of cases were processed through informal proceedings, amounting to 20 times as many as those handled by formal proceedings. The Road Traffic Law violators constitute the majority of the offenders dealt with by such proceedings, but 87 per cent of Penal Code offenders were also processed summarily in 1973, indicating extensive use of the summary proceedings.

Differentiation of judicial proceedings according to the nature and gravity of crime is also applied to formal proceedings. Except for the offences punishable with the death penalty or imprisonment for life or for a minimum period of one year or more, the court can enter an order authorizing Simplified Trial Proceedings if and when the defendant admits his guilt. In this proceeding, hearsay evidence is admissible and the court can simplify the procedure for the examination of evidence. In 1973, simplified trial proceedings were applied to 27 per cent of the total eligible cases.

(2) Relatively speedy trial ensured

The average period between the receipt and disposition of a case by the court in regard to the formal procedure in 1973 was 6.6 months at the District Court and 3.7 months at the Summary Court. The percentage of cases disposed of within three months were 43 per cent and 72 per cent respectively. The percentage of disposals within six months was 75 per cent and 89 per cent respectively. In other

words, the predominant majority of cases were disposed of within six months following their referrals to the court. Moreover, the average shown above excludes the overwhelming majority of cases processed through summary proceedings. Inclusion of these cases handled through summary proceedings, which generally conclude within a few days after referrals, will undoubtdly reduce the average time between referrals and final adjudications.

This does not negate the fact, however, that a considerable number of cases required more than three years to arrive at final dispositions, although they are negligible in terms of percentage among the total (3% at the District Court and 1% at the Summary Court). Reasons for deferred trials can be found in their complicated nature and controversies between both parties regarding the court proceedings. It is needless to mention that speeding up trials is not only to benefit defendants but also to enhance the crime-preventive effects of adjudication. The methods of court hearing and the presiding judge's excercise of authority will therefore need further improvement.

(3) Detention of defendants minimized in principle

The Japanese court is empowered to order the detention of a defendant only in cases where there are reasonable grounds to suspect that he will flee or destroy evidence. The initial term of detention is two months from the day on which prosecution has been instituted. The term may be renewed monthly, however, if there is particular necessity for continuing further detention. On the other hand, the court can release defendants on bail at any time of the detention term.

Of the Penal Code defendants in 1973, some 91 per cent were not detained when the prosecution was instituted. The percentage of detained defendants by crime categories was: robbery (99%), rape (97%), theft (96%) and homicide (94%), bodily injury (12%) and

professional negligence causing death or bodily injury (less than 3%).

In 1972, 41 per cent of the detained defendants were released on bail. Likewise, this percentage by crime was: professional negligence causing death or bodily injury (80%), bodily injury (54%), rape (43%), theft (26%), homicide (24%), and robbery (13%). Therefore, very few defendants were detained at the time of adjudication. Also, less than 5 per cent were detained for more than six months.

As seen above, the policy to release defendants as far as possible while pending trial has apparently contributed to minimizing the obstacles against their reformation and rehabilitation.

(4) Limiting the use of death penalty and imprisonment to the minimum

(a) Standard of sentencing

Sentencing is the function of the court to achieve general as well as special prevention of crime. The criminal laws of Japan give to judges broad judicial discretion in sentencing, enabling them to deliver a sentence in accordance with the merits of a given case. Although the present Penal Code does not provide for any specific standards in sentencing, the Preparatory Draft for the Revised Penal Code provides as follows (Article 48):

(i) Punishment shall be assessed commensurate with the culpability of the offender.

(ii) Punishment shall be imposed for the purpose of repressing offences and reforming and rehabilitating offenders, in light of the age, character, career and environment of the offender, the motive, method, result and impact on society of the offence, and the attitude of the offender after the offence.

(iii) The death penalty shall be invoked only with great caution.

These provisions are a reflection of the current sentencing practices in Japan. However, general standards of sentencing and weight of factors to be taken into consideration by the court in sentencing do not apply in an identical manner to all the cases. Emphasis at least shifts from one case to another, depending upon the nature of crime and type of punitive measures to be imposed. This may be explained more explicitly by some examples. First, in serious offences like homicide, emphasis is specifically placed on the judgement of the offender's culpability. The consideration of exerting general prevention follows, leaving little room for the consideration of special prevention. This is particularly true of the determination as to whether or not an offender should be sentenced to death penalty.

A similar trend can be observed in the imposition of a fine or other lighter forms of punishment for relatively minor offences. In determining the amount of fine, in particular, the most definite factors, besides the problem of evaluating the offender's means to pay the fine, are the gravity of the criminal acts and the degree of the offender's culpability. Further, in disposing of the voluminous cases of the Road Traffic Law violations and traffic accident cases through the summary proceedings, a more stereotyped judgement of the gravity of an offence has to be applied.

On the contrary, in sentencing more general crimes, particularly, such property offences as theft, the major focus seems to have been placed on the needs of general as well as special prevention, as indicated in the aforesaid provision of the Preparatory Draft. Consideration for special prevention which emphasizes an offender's potential for reformation or recidivism is invited in greater degree in determining whether or not the given sentence be suspended rather than in determining the term of imprisonment.

In Japan, sentencing is usually done on the basis of such information as records of previous offences, witnesses testifying to the circumstances regarding the commission of an offence, and the defendant's statements. Expert evidence or testimony for purely sentencing purposes is rarely introduced. There is no specific presentence investigation system in regard to adult cases. More use of such behavioural sciences as psychology and sociology to obtain more accurate information on personal as well as environmental factors of an defendant will be required in order to make the sentencing more pertinent and appropriate.

(b) Death penalty

In Japan, serious crimes such as homicide, robbery causing death and arson are punishable with death. Those sentenced to death at the court of first instance numbered 61 in 1950. This number has been on the steady decrease, and it was six in 1974, all being charged with homicide. Reasons for the decrease in the number of sentence of death penalty can be attributable partly to the fact that grave offences deserving capital punishment have decreased as social conditions became more stabilised, and partly to the tendency for the court to become increasingly circumspect in selecting the death penalty.

(c) Imprisonment

Penal Code offenders sentenced to imprisonment at the court of first instance were 108,265 in 1950. This decreased to 57,643 in 1973. Only 12 per cent of the total convicted Penal Code offenders were sentenced to imprisonment in 1973. Of the Penal Code offenders sentenced to imprisonment in 1973, only 3,443 (6%) were sentenced to less than six months, while 21,776 (38%) were sentenced from six months to less than one year, 27,233 (47%) from over one year to less than three years, and 5,203 (9%) from three to 20 years, respectively. Those sentenced to life term numbered 33.

The proportion of those whose sentences were suspended among the total offenders sentenced to imprisonment at the court of first instance was 40 per cent in 1950, but the rate has increased yearly and it was 56 per cent in 1973. Of this number, 17 per cent were placed under probationary supervision. The increased use of suspended sentence is presumably due to the sentencing policy of avoiding imprisonment as much as possible.

The use of suspension of execution of sentence among the persons sentenced to imprisonment at the court of first instance in 1973 by major crime category was: robbery (18%), homicide (27%), rape (15%), theft (53%), bodily injury (56%) and professional negligence causing death or bodily injury (70%). Generally speaking, persons committing more serious offences are likely to have less chance of suspended sentence. Similarly, the percentage of placements under probationary supervision among the total suspended sentences was: professional negligence causing death or bodily injury (5%), arson (16%), theft (21%), bodily injury (21%), rape (37%), and robbery (42%).

Suspended sentence may be revoked if the offender commits another offence or violates the conditions of probationary supervision. Of suspended sentences without probationary supervision, revocations comprised 17 per cent in 1955. This decreased to 60 per cent in 1973. One may infer from these figures that suspended sentence has been promising as a type of non-institutional treatment. On the other hand, revocations among the suspended sentences with probationary supervision were 13 per cent in 1955, but they increased to 23 in 1973. This phenomenon can be explained by the fact that adult probation tends to be ordered with respect to offenders at higher risk.

Short term imprisonment is sometimes imposed when the nature

of an offence necessitates it. Although its demerits have often been emphasized, its merit as a "shock" treatment must not be overlooked. As mentioned earlier, only 6 per cent of the Penal Code offenders were sentenced to imprisonment for less than six months, and 38 per cent for six to 12 months. Of those imprisoned for less than one year, 75 per cent were granted suspension of the execution of sentence.

(d) Fine

Mention has been made of the fact that an overwhelming majority of offenders have been sentenced through summary proceedings to a fine or a minor fine of not more than 200,000 yen. Defendants fined for Penal Code offences were 56,690 in 1950 and 423,840 in 1973 comprising 88 per cent of the total convicted Penal Code offenders. This increasing use of a fine is due to the increase in the number of traffic accidents resulting in death or injury of others. There is an argument against fine that it cannot have the effects of criminal punishment. But, a fine has the merit that it least intervenes in the social life of offenders and that it may deter recidivism provided the amount is set properly.

(e) Special proceedings for juvenile cases

Japan has special proceedings for juvenile cases distinct from formal criminal proceedings. The special proceedings under the Juvenile Law aims at correcting and rehabilitating juvenile delinquents, not through criminal punishment but through educative measures. Punitive measures are applied only to exceptional cases where the educative measures are deemed either inappropriate or incapable of rehabilitating the juveniles. The adversary system as in ordinary adult criminal courts is therefore not applied to hearings of juveniles. The Family Court judge presides over the court hearing without the intervention of the public prosecutor. The hearing is closed to the public. In order to individualize the treatment of juveniles to promote their

rehabilitation and education, there are Family Court Pre-sentence Investigators, who carries out pre-sentence investigation of the social environments of juveniles, and also the Juvenile Classification Homes which make physical and psychological diagnosis of the juveniles.

The final dispositions made by the Family Court consist, mainly, of such protective measures as probation order and committal to the Juvenile Training School. The court may refer a juvenile case back to the public prosecutor for criminal prosecution. This system, however, is used very selectively. The majority of juveniles undergo more informal forms of protective treatment and are discharged before or after the court hearings. In other words, the court is determined to avoid institutional treatment as far as possible and commit the juveniles to some form of non-institutional care. The breakdown of juvenile Penal Code offenders disposed of in 1973 by type of final dispositions was: committal to juvenile training school (1%), probation order (8%), referral to the public prosecutor (8%), discharge before court hearing (41%), discharge after court hearing (41%) and others (1%).

III. Social Control Other Than the Criminal Justice System

1. General Remarks

Any crime-preventive measures should intend not only to prevent recidivism of those who have already committed a crime but also to prevent crime by persons who have never committed it before. It is universally admitted that the criminal justice system is expected to assume the primary role in crime prevention, but since a crime in most cases is a product of interactions between individuals and society, and there is a growing amount of evidence indicating the significance of social conditions for the prevention of crime and rehabilitation of offenders, the view that a more integrated approach, covering all related administrative areas such as education, welfare and labour, should be

taken to attain effective crime prevention has gradually gained support. The statement below, therefore, limits itself to programmes other than through the criminal justice system aiming directly at crime prevention. In this regard, public participation in various programmes has been quite active in Japan, which not only fosters public understanding of crime problems but also exerts constructive influences on social conditions relating to crime incidence or its prevention. Therefore, the following will deal with crime-preventive programmes, with special reference to the public participation.

2. General Crime Prevention

The Crime Prevention Association, organised in 3,405 cities, towns or villages, are voluntary organisations cooperating in crime preventive work of the police, with 540,000 liaison units being the smallest branches of the association. Citizens affiliated with the association carry out various crime-preventive activities and promptly report criminal incidents to the police. The association also includes a total of 10,725 Vocational Unions for Crime Prevention consisting of persons whose business is more exposed to crime such as pawnbrokers, second-hand dealers, hotel and inn managers and those in the entertainment business. In special circumstances, citizens not infrequently organise themselves into vigilance teams and make the rounds of their neighbourhood at night.

For the prevention of traffic accidents, a voluntary group known as the Traffic Safety Association has been organised on district, prefectural and national levels and actively engages in the education of the public in traffic safety. Also, 380,000 Traffic Safety Voluntary Workers throughout the nation control traffic on the streets, mainly for the purpose of protecting school children from traffic accidents on their way to and from school in each community.

3. Prevention of Juvenile and Youth Delinquency

In the light of the need to plan well-coordinated and comprehensive programmes towards the healthy and sound upbringing of juveniles and the prevention of juvenile delinquency, the Juvenile Problems Council, an organ attached to the Prime Minister's Office, was established by law in 1953. The Local Juvenile Problems Councils were likewise established in the prefectures, cities, towns and villages. The Headquarters of Juvenile Countermeasures was established in the Prime Minister's Office in 1966. These organisations take a close and comprehensive interest in such problems as guidance, education, protection and correction of the youth and juveniles and plan integrated programmes coordinating the various activities of the agencies and organisations concerned.

The Ministry of Justice conducts in July each year the "Brighter Society Campaign" to mobilize the community mainly for the purpose of preventing juvenile delinquency. This campaign was initiated in 1951, and has been actively continued for the past 24 years. Public and voluntary social defence organisations in the community have been very active in cooperating with this campaign; lecture meetings and round-table discussions have been held and posters, standing signboards or hanging screens displayed. In 1974, citizens who directly participated in the campaign amounted to 1,069,000 throughout the country.

There are also a total of approximately 38,000 volunteer citizens commissioned by the police as Cooperators for Juvenile Guidance. They go out on the street with the police officers, giving guidance and advice to juveniles who are or likely to be delinquent. Increasing numbers of juvenile runaways from home have been protected in the course of this activity. The School and Police Councils and the Workshop and Police Councils are other examples of cooperation between the police and local organisations aiming at the prevention of delinquency of students or young workers who have been given guidance.

The Big Brothers and Sisters Association (BBS) is a voluntary organisation contributing to the prevention of delinquency or recidivism of the youths. The association was first organised in Kyoto in 1947 and has since spread rapidly throughout Japan and presently every prefecture has an association with local associations in smaller districts. The total members number some 8,000 consisting mainly of students and young workers of both sexes between about 20 to 30 years old. They befriend juvenile delinquents to help them rehabilitate themselves, as well as mobilizing the community toward delinquency prevention. Besides juvenile probationers and parolees, they also deal with juveniles referred to them by the Family Court, police, school and individual families.

Another voluntary group of national scale is the Women's Association for Rehabilitation Aid. The association is composed of approximately 320,000 women, with the female volunteer probation officers being the core of the association. Its main objective is to aid juvenile delinquents with the members' motherly affection, and the members mainly engage collectively in such activities as paying visits to correctional institutions, assistance to the activities of volunteer probation officers, and purification of community environments for the sake of promoting crime prevention.

4. Prevention of Recidivism of Offenders

In recent years, correctional workers have been trying their efforts to approximate institutional settings to the ordinary life style in the free society so as to facilitate the resocialization of offenders. The participation of the general public in correctional treatment has therefore become increasingly significant. Japan is characterized by the extensive participation of volunteers in non-institutional treatment.

Voluntary prison visitors are the prime example of organised

volunteers participating in institutional treatment. They number approximately 1,000 in the whole country. They are appointed from among the learned persons in the community by the director of the Regional Correction Headquarters. They visit prisons, juvenile training schools and other correctional institutions to give counselling, guidance and advice to inmates on their family, religion, job and other problems in which the inmates request help.

Another example is the work of Voluntary Chaplains. This function was undertaken by full-time correctional workers in prewar days. Since the new Constitution of postwar Japan prohibits the Government from any religious activities, volunteers have to be mobilized so as to carry out all the religious activities in correctional institutions. A total of 1,400 voluntary chaplains are presently appointed by wardens of correctional institutions from different denominations of Buddhism, Shintoism, Christianity and others and give religious services to inmates who applied for them of their own will.

A Volunteer Probation Officer (VPO) is a volunteer working in the field of community treatment. He is entrusted by the Minister of Justice, under the Volunteer Probation Officer Law, with the task of administration of community treatment and crime prevention. Although his legal status is that of a part-time government official, he is unpaid, and merely receives reimbursement from the national fund for actual expenses needed in fulfilling his duties. His main task is the supervision of probationers and parolees. In addition, he investigates and adjusts family and social situations where an inmate of a correctional institution is supposed to return after release. Also, he enlightens the public in matters of crime prevention, and tries to eradicate crime-generating factors from the community. Under the present probation and parole system, 570 professional probation officers and approximately 50,000 volunteer probation officers are expected to

work in close collaboration and fully develop their respective contributions.

A Rehabilitation Aid Hostel is a voluntary body contributing to community treatment of offenders. The hostel is established under the licence of the Minister of Justice on the basis of the Law for Aftercare of Discharged Offenders. It accommodates and gives guidance not only to probationers and parolees but also to ex-offenders who are not placed under any supervision. Since the Government has no hostel of its own, it relies on a total of 111 hostels for residential treatment of parolees, ex-offenders, etc. The hostel is not a mere facility providing room and board, but plays an important role in rendering individual and group treatment to the residents.

In fact, hostels accommodate one-fourth of all the parolees from prisons in Japan and serve as facilities to orient them to the community life immediately upon their release. Hostels accommodate probationers or parolees when their rehabilitation seems to be hampered by the lack of appropriate living or working place. Persons whose imprisonment has terminated or whose sentence was suspended without probationary supervision or who were suspended from prosecution can be referred to a hostel when the chief of the probation office upon receipt of a voluntary application from these ex-offenders, finds their referral necessary. In 1974, approximately 8,400 persons were thus referred to the hostels and received protection. Consideration is presently given to how the hostels may be better used for treating probationers or parolees and for assisting ex-offenders who are not placed under supervision.

5. Prevention of Crime by Mentally Disturbed Persons

The Mental Hygiene Law of 1950, which prescribes social welfare

measures for the mentally disturbed, provides Prefectural Governors with the power compulsorily to commit persons who are likely to hurt themselves or others to a mental hospital, based upon the certification of mental illness by more than two psychiatrists. The primary purpose of this administrative action of compulsory hospitalization is, of course, to apply medical treatment to the mentally disturbed. It is also hoped that this system functions as a preventive measure against crimes or recidivism by the mentally disturbed. The same law provides that police officers, public prosecutors, or chiefs of probation offices or correctional institutions are obligated to inform the Prefectural Governors of any persons found or suspected of being mentally disturbed in the course of fulfilling their duties. Approximately 17,000 persons were thus reported in 1974 and those in mental hospitals in early 1975 numbered 65,542. These actions have supposedly contributed to the prevention of crimes which might otherwise be committed by these persons.

On the other hand, the compulsory commitment system has problems in the following areas:

(a) Although the Mental Hygiene Law presupposes national or prefectural hospitals as facilities receiving the referrals, most of the patients, due to the lack of available beds in the public hospitals, are actually committed to private hospitals which vary considerably in the quality of treatment as well as in the size of facilities;

(b) Some of the receiving hospitals are intolerant of the formidable job of treating the mentally disturbed with criminal propensity, and tend to release the referred patients before their mental conditions have reasonably recovered, thus eventually letting them commit another crime upon their release; and

(c) There are arguments as to whether or not this compulsory commitment system as an administrative action fully safeguards the

patients' human rights.

In this respect, the aforementioned Preparatory Draft for the Revised Penal Code proposes that the court should be empowered to impose curative treatment by a sentence of the court as a security measure for the mentally disturbed with conspicuously higher criminal propensity.

Besides compulsory hospitalization, the Mental Hygiene Law empowers the officials of City, Town or Village Health Clinics and the psychiatrists designated by Prefectural Governors to pay visits to non-hospitalized patients and counsel them on a door-to-door basis. This system has been adopted as an alternative to the hospital care of the mentally disturbed and has been contributing to the prevention of their potential crimes.

Agenda Item III

THE EMERGING ROLE OF THE POLICE AND OTHER LAW ENFORCEMENT AGENCIES WITH SPECIAL REFERENCE TO CHANGING EXPECTATIONS AND MINIMUM STANDARDS OF PERFORMANCE

I. Transition of the Japanese Police System

1. Prewar Days

Japan's new Government, established as a result of the Meiji Restoration of 1868, made it known that one of its most important overall policies was to modernize Japan. In order to attain this goal, the Government made every effort to centralize Japan by organising the police as a national front-line organisation to disseminate new government policies throughout the country. It is of special interest to note that, during the period of turmoil immediately following the Restoration, Japan was able to establish a modern police system more quickly than expected, and much of the credit for this should go to the first Superintendent General of the Tokyo Metropolitan Police Force, Toshiyoshi KAWAJI. Keenly aware of the necessity for expanding the police system in this country, he began laying the foundation for a modern police system. When he was appointed to head the Tokyo police, he was still in his early thirties. (Note 1)

In addition to inherent police duties, such as prevention and suppression of crimes, protection of people's life and property, and maintaining public peace and order, the police at that time were

responsible for carrying out administrative functions pertaining to enterprises, sanitation, factory construction, insurance, etc. When necessary, the police were also empowered to place any individual under physical restraint, and exercised some control over property and individual's ownership.

2. Postwar Days

In 1948, the centralized police system of Japan underwent drastic reform. The aim of this reform was to effect a complete decentralization of the police based on the doctrine of democracy and, at the same time, to limit their responsibilities and powers to maintaining public safety and order, preventing, suppressing and investigating crimes, and protecting the life, person and property of the individual. As a result of this decentralization, the number of local autonomous police organisations totalled 1,605 throughout the country. This reform also introduced for the first time in Japan the Public Safety Commission System. The purpose of this new commission system was supervision of the police by a popular democratic supervisory organisation representing the nation so that bureaucracy and self-complacency in the police, and the intervention by political elements could be eliminated, thus ensuring the political neutrality of the police.

It soon became apparent, however, that this new police system, when compared with the former (centralized) one, has serious defects. Excessive fragmentation of police units brought about inefficiency from overlapping of manpower and facilities. This new system proved to be uneconomical. Likewise, excessive fragmentation of police jurisdictions by the new system could not efficiently meet operational requirements. For instance, this system could not cope with those various police matters which had grown and expanded over the years. Moreover, the independent character of this newly introduced National

Public Safety Commission became so strong that the Government's responsibility for maintaining public security and order became obscure.

Therefore, in 1954, the police system again underwent reform to eliminate these defects and the following corrective actions were taken:

(1) police organisational structure was established as one service with 47 Metropolitan and Prefectural Police Forces across the country uniting to ensure more effective and efficient operation, and in so doing, the economic burden imposed on the nation was reduced; and

(2) under the supervision of the National Public Safety Commission, the National Police Agency was created as the agency responsible for specific matters as prescribed by the State, and at the same time, a State Minister was made Chairman of the National Public Safety Commission, thus ensuring that security and peace were controlled by the State.

However, it should be pointed out that, with this organisational reform, basic police responsibilities were not changed. Article 2 of the Police Law of 1954 clearly states that "responsibilities and duties of the police are to protect the life, person and property of an individual, and take charge of the prevention, suppression and investigation of crimes as well as apprehension of suspects, traffic control and other affairs concerning the maintenance of public safety and order." This provision states also that police responsibilities should be limited as stated in the law.

II. Latest Social Situation in Japan

In the course of economic and social development after the Second World War, the police of Japan have likewise developed and grown,

with the full support of the people, into an agency that is effective in all phases of police activities, being equipped to cope with the problems of the changing times. As of the end of 1974, there were approximately 190,350 police officers throughout the country, one officer serving an average of 574 persons. The security situation of Japan has been kept stable with little change, and the police have continued to make notable contributions to the steady development of our society.

However, Japan's social situation poses many complicated problems in maintaining law and order from the police viewpoint. These include, in particular, the trend towards the weakening of the residential-social communities as a result of increased urbanization, a rising pleasure-seeking climate with a backdrop of a growing consumption, deterioration of community solidarity, lack of law-abiding spirit, and the diversification of value judgements. Although the development of science and technology has strengthened and promoted police activities, particularly in the fields of police communication and identification, improvement of police mobility through use of motor vehecles, and the processing of police information and data by use of electronic computers, it has also given rise to undesirable phenomena, such as increase in the number of traffic accidents and the trend of crimes toward greater viciousness and subtlety, which have made police activities more difficult than before. For example, the proportion of the cases cleared on the day of occurrence among the total non-traffic cases has decreased from 13.6 per cent in 1966 to 12.9 per cent in 1969 and to 11.3 per cent in 1974, while that of the cases having taken longer than one year has increased from 3.9 per cent in 1966 to 4.4 per cent in 1969 and to 13.4 per cent in 1974. A detailed description of the major social changes affecting the law enforcement agencies in this country will be given below.

1. Urbanization

The influx of the population to urban areas in Japan has increased drastically since the end of the last war, and as a result of this phenomenon, the total population of the big cities now comprises more than 70 per cent of the population of this country. In the course of this migration to the big cities, the areas surrounding the cities have also experienced rapid urbanization. This trend further accelerated the so-called urbanism of persons typically represented in their living pattern and their community consciousness.

Noteworthy in considering the above trend are the following phenomena which have posed big problems to the police of Japan:

Crimes have begun to concentrate in big cities. Furthermore, the nature of those crimes has changed in forms for such reasons as deterioration of the living environment, moral conditions, etc. Weakening popular consensus to be seen in the fragmented local community plus an increase in a sense of anonymity in the urban areas has reduced the crime-suppressing effect of traditional community and also has degraded the cooperative attitude of the public toward the police, all of which make police activities more difficult.

2. Progress of Science and Technology, and Trend towards Reliance on "Information"

As stated earlier, advancement of science and technology and the expansion of information collection have brought about efficiency in police operations and qualitative changes in various aspects of police activities. They have also brought about such undesirable phenomena as mobility of criminals, increasing viciousness and deceptiveness of crimes, increase in crimes of environmental pollution and big accidents,

and the like. These have forced unprecedented changes in police affairs.

(1) Increase in high speed traffic

In the area of traffic and transportation, revolutionary achievements have been made; particularly noteworthy is the increased volume of traffic and shortening of travel time. However, the increase in traffic and speed has given rise to such incidents as hijacking of aircraft and increase in serious train accidents, which in turn have caused great concern to society.

(2) Progress of motorization in Japan

Motorization has been very rapid and extensive in Japan. Over the past 20 years, the following growth has been recorded:

(a) number of registered motor vehicles have grown 20 times (27.71 million cars.);

(b) number of licensed drivers have increased 15 times (31.91 million licensees.); and

(c) total length of paved major arterial roads has been extended more than 15 times. (93,188 kilometres)

Such rapid progress of motorization has also inevitably led to a deterioration in the urban environment through increased traffic accidents, chronic traffic congestion, and an ever-growing number of traffic pollution incidents. As a result of this motorization, a new police field, known as traffic police, was created to handle such additional matters as drivers' licensing and supervision of all traffic safety installations and equipments in this country. Motorization has also made the criminal's sphere of activity much larger, and the offender's movement much faster than before. It has consequently made the deterioration in the urban environment through increased traffic

(3) Information-oriented changes

Information-oriented changes, rapidly taking place in the forms of increased volume of intelligence, internationalization of information, the emergence of "video-oriented" information, and simultaneous processing, have given rise, in particular, to the upgrading of levels of knowledge, advancement of national consciousness concerning human rights, etc. A special social trend has consequently emerged which cannot be overlooked from the national security viewpoint. This particular trend is represented by such "behavioural traits" as following another blindly with no selection capability which is usually found in a society saturated with an excessive amount of information.

Increased volume of information has to some extent assisted the police in that wider sources of information are available to them. However, information regarding crimes or other police matters are apt to be scattered about among the community residents, or buried in the community in general, thereby making police criminal investigation and other activities all the more difficult.

It must also be pointed out that development of methods of dissemination of information and its active utilisation have promoted imitation of crimes among the public. As clearly seen in the spread of bombing incidents, particularly, in cases of giving fictitious telephone warnings of intended bombings, a new and serious problem for the police from a security viewpoint has arisen because an incident which took place in one locality could easily be communicated in detail to all other parts of the country through the mass communication media.

3. Increased International Cultural Exchange Activities

Due to the development of rapid transportation, in particular, by aircraft, international cultural exchange activities of various sorts have markedly increased in volume and scope. As a consequence, both the

crimes committed by resident foreigners in Japan and the offences committed outside Japan by Japanese nationals have increased of late.

It is of particular concern that there is a growing trend towards new types of more vicious transnational crimes such as bombing incidents, abduction and hostage incidents and hijacking cases. Furthermore, the practice of principal suspects in major cases fleeing to other countries, as stated earlier, is on the increase. The trend of aping crimes, as stated earlier, has been noted not only within one particular country but also on an international basis. Under these circumstances, it has become increasingly important to promote international cooperation among police forces of all countries.

4. Specialization and Compartmentalization of the Administrative Structure

As a result of the rapid social change, concomitant with industrialisation and urbanization, demands by the public on the administrative agencies have increased in volume, which are becoming more diversified. In order to cope with this development, the Government has made every effort to expand and pluralize its administrative structure and promote its structural specialization and compartmentalization as far as possible. Unfortunately, the government efforts could not keep up with the increase and diversification of the nation's administrative demands. At the same time, these efforts also have brought about a gap between administrative policies because of the excessive specialization and compartmentalization of the administrative structure made on a vertical structural basis. This sort of administrative gap has stirred the dissatisfaction and discontent of citizens, thereby posing a new problem to the police, because such an emotional dissatisfaction tends to be expressed through violent protest.

III. Function and Role of the Police of Japan

1. Police Serve as a "Clearing House"

As described earlier, the development of Japan's postwar economy elevated the level of the living standard. However, the economic affluence of our citizens' living created considerable distortion in the social structure, deterioration in the public consensus and lack of proper spirit toward law and order. Under these circumstances, a new public expression of dissatisfaction emerged toward the quality of life, particularly in regard to environment and social security. The demands of the people have been ever-increasing in recent years, along with growing awareness of fundamental human rights. The recent increase of various citizens' movements, and the increase in lawsuits over administrative matters can be conceived as a manifestation of these trends.

It is of particular significance that in the case of interdisciplinary or interdepartmental affairs, such as the problem of pollution and commodity prices, citizens experience some difficulties in locating the exact administrative agencies responsible for the specific problem, particularly because of specialization and compartmentalization of the administrative structure. This state of affairs has caused the public to select the police as an outlet for their growing discontent—a trend which has recently been growing in Japan. This reaction toward the police is evident from the fact that a significant proportion of citizens' calls for police assistance through the "Dial 110" Telephone System, and their complaints or accusations lodged with the police have been related to discontent with conditions affecting their private lives.

It can, therefore, be considered that the special trend described

above implies that, as for the handling of these interdisciplinary affairs which are not necessarily solved by other administrative agencies, the citizens expect the police to complement Government administrative functions by filling any gap that might exist in the administrative structure. The reason for these special expectations of the police may be attributable to the fact that the police are so organised that even the front-line units can easily respond to newly emerged situations, and that the police have maintained direct contact with the public, and thereby can cope smoothly with problems in any area.

2. Police Function Includes Making "Referrals"

In order to meet the demands of the public, it is necessary for the police to operate, not only as a "clearing house" for administrative agencies, but also, if required, to undertake "referral, proposal or suggestion-offering" functions for other administrative agencies concerned. In regard to the problems of pollution, for example, the Government has taken various administrative and legislative measures and enacted a series of laws so as to tighten its administrative guidance, supervisory functions and punitive measures. In the face of this situation, the police not only make every effort to enforce laws and regulations but also make proposals or suggestions to such other administrative agencies as may be concerned, with reference to the matters crystallized in the course of their investigation and guidance.

Soaring commodity prices and shortage of necessary goods, triggered by the unusual fluctuating economy caused by the energy crisis in 1973, have seriously affected the people's livelihood in general. It has also caused a big problem to the administration of State affairs of Japan. So far as this problem is concerned, the police of Japan have achieved favourable results by sticking to the basic policy that such

matters as stabilising prices and maintaining careful adjustment and coordination between demand and supply for goods and materials should be handled by administrative measures of responsible administrative agencies but, for the purpose of ensuring administrative efficiency, those specific matters which require control action should be strictly controlled by the police with special emphasis placed on those violation cases which are determined to be vicious in nature, or of major importance.

3. "Service-oriented" Police

The police of Japan expend much time and energy in activities to provide assistance and services to the general public, such as furnishing geographical guidance, searching for runaways from home, and providing counselling and guidance on matters of concern to citizens. These "service-oriented" activities by the police have greatly contributed to upgrading the image of the Japanese police. Complaints, grievance, consultation and requests made to the police have become numerous and diversified. (Note 2) Telephone Consultation Service Desks known as "Young Telephone Corners" have therefore been established at all prefectural police forces to provide advice and assistance in response to young callers regarding their worries and dissatisfactions. These special police facilities have been welcomed by the young people and it is presumed that it has considerably eliminated their worries and dissatisfactions, and has prevented them from being involved in various delinquent activities.

Viewed in the above context, it may be said that the needs of the times have caused the public to place special expectations on the police to carry out a "social welfare-oriented function" which has not necessarily been covered by other administrative agencies. In order for the police and the nation to maintain good relations, it will be

necessary for the police to further strengthen activities in this field. (Note 3)

IV. Police Activities and Cooperation of the Public

1. Understanding and Cooperation of the Public towards the Police

It is no exaggeration to say that without the understanding and cooperation of the citizens, effective police activities cannot be performed. The following police activities are contributing to the fostering of such understanding and cooperation, in addition to their inherent functions:

(1) The police box and resident police box system

Japan has adopted a system in which police boxes and resident police boxes are operated on a nation-wide basis, thus permitting police activities to be closely linked with the citizens' life. This special police system has played a very important role in acquiring the fullest possible understanding and cooperation of the citizens. According to population, size of area, administrative boundary, and type of police matters to be handled, jurisdiction of each police station is further divided into sectors. Police boxes or resident police boxes are responsible for each of these sectors.

As of the end of March 1974, thre were 5,858 police boxes and 10,239 resident police boxes throughout Japan. The former units are mainly established in urban districts, and as a rule, they are at all times manned by more than three foot-patrol officers. The latter units are established mainly in non-urban areas and as a rule, they are manned by a single police officer who lives with his family in this police facility and performs his day-to-day duties. The police officers assigned to these types of police units perform their duties in their respective areas of activity, providing protection and patrol services to their areas. In addition, these officers make door-to-door

visits to establish and maintain good contacts and relations with the community residents and, at the same time, to be knowledgeable of the actual situation within their sector.

A resident police box is, in most instances, established at a site far from a police station, so that almost all police matters in his area have to be disposed of by the resident police officer himself. Therefore, his wife's assistance is indispensable. Above all, most important is the understanding and cooperation of fellow community residents in the area. In order to achieve their goals, all police officers serving at resident police boxes with their families, in addition to performing their official duties, seek to perform various other services and lead their own lives in such a way that they would be accepted in the community as trustworthy neighbours. For this purpose, they respond to citizens' need for counselling on family matters, or problems related to private life, and to act as a mediator in marital disputes.

Through such activities, which are closely related to the national life, the police of Japan have traditionally been favoured with the people's deep understanding and cooperative support which are major factors leading to high performance of the police. One reason for a very high rate of clearance in Japan is attributed to the people's understanding and cooperative attitude toward the police which have been developed through the above special police activities and services.

(2) Prevention of crimes and accidents and cooperation towards the police

Prevention of crimes and accidents is the most fundamental duty of the police. A national opinion survey conducted by the Public Relations Division of the Prime Minister's Office shows that, even though most of the citizens in this survey have given a high rating to the police performance, they still wished the police would place

more emphasis on preventing crimes and accidents. (Note 4)

In order to secure the cooperation of the public toward crime prevention, the police forces in Japan have placed emphasis on enhancing citizens' consciousness toward the prevention of crime and also on providing every possible cooperation and encouragement to the citizens' activities designed to prevent crimes and accidents. There are several voluntary organisations currently engaged in specific activities in this field, such as the Crime Prevention Associations (Note 5), the Work-Site Crime Prevention Societies (Note 6) and the Traffic Safety Associations. (Note 7) In order to promote these civil organisations, the police continuously provide positive cooperation, with adequate guidance and suggestions, whenever and wherever necessary.

2. Problems in Securing Public Cooperation

(1) Weakening trend in cooperative attitude

As explained earlier, the willingness of the public to cooperate with the police has gradually been declining in the course of the progress of urbanization and concomitant changes in the appreciation of values. For instance, the result of a public opinion survey shows a gradual decline in the people's attitude towards cooperation with the police. The proportion of those expressing positive willingness to volunteer to cooperate with the police has declined from 61 per cent in 1969 to 54 per cent in 1974, while those expressing passive willingness to cooperate, only if and when asked to do so by the police, have increased from 26 to 29 per cent. Those who did not express positive attitude towards this question have likewise increased from 11 to 16 per cent.

There has also been observed an annual decline of citizens' volunteering information to the police leading to the apprehension of

the offenders. The ratio of these cases which were cleared through citizens' cooperation among the total cases cleared in 1969 was 43.2 per cent. This ratio has since decreased yearly, being 29.9 per cent in 1971.

Although the public may be motivated by a desire to cooperate with the police, a growing sense of anonymity and lack of concern among the people in urban areas seem to have made them indifferent to other people's affairs and information does not flow into the police channels. This trend has become a big obstacle for the police in carrying out effective criminal investigation in urban areas, and measures to cope with this growing problem should be worked out as promptly and effectively as possible.

(2) Tentative measures to be taken

In the face of the above circumstances, the police of Japan will have to exert utmost efforts to obtain the nation's understanding and cooperation principally through the following special measures:

(a) Developing police officers capable of securing public confidence

In many cases an individual forms an opinion or image of the police through his personal contact with a policeman. In this sense, it is not extravagant to say that an individual policeman represents the police as a whole. It is no use to argue what the basic policy of the police should be, if it could not be materialized by the individual police officer. It is therefore of extreme importance that police officers should be fostered to meet the following qualifications, morally and technically:

(i) possession of sufficient skill or technical knowhow to make proper contacts with the citizens as a representative of the police as a whole;

(ii) possession of practical common sense by which they can fully understand the desires of the public and utilise such understanding in their day-to-day operations and activities; and

(iii) being a capable specialist who can handle their tasks effectively in accordance with the wishes of the public.

(b) Encouraging volunteering of information by the public and promoting community relations activities

In an information-oriented society, it becomes increasingly necessary that the police, on their own initiative, provide the nation with adequate information as much as possible so that the understanding and cooperation of the public may be forthcoming to the police. In order to achieve this goal, the first priority is to improve and strengthen the police-public relations structure, and to provide the general public with necessary and up-to-date information after full review and assessment of all the police information on hand.

As far as the linkage between the police and the public is concerned, the stimulation of a desire to participate by community residents is a key factor. Because of this need, police-community relations activities must be promoted. In a modern society consisting of increasing proportion of indifferent members, special efforts have to be made to retain and expand citizens' interest in the police, so that police activities may be accepted and seem to them as activities closely related to their daily life.

In this specific approach, it is very important that the police devise the ways and means for promoting appropriate public relations activities best fitted to the actual conditions of the respective communities, since the day-to-day contacts of the police with people and the responses by community residents to the police vary a great deal according to the peculiarities of their living environments. This can be said of office quarters surrounded by white-collar workers, factory areas full of labourers, business districts where working sites and living quarters are closely located, residential districts, amusement quarters, farming

districts and slum districts.

(c) Need to grasp the citizens' desires toward the police

It would be the most important duty of the present police administration to precisely place its special emphasis on the nation's expectations and wishes. To attain this, it is essential that the police grasp, exactly and accurately, the nation's expectations and wishes concerning the police in general.

One of the efforts made along this line is to weigh crimes in accordance with its seriousness or viciousness as viewed by the public and to determine enforcement policy on the basis of such a standard. For example, the "seriousness' between murder and theft should be different as the citizens' feelings and responses toward them would differ greatly, even though the two crimes are treated alike statistically. In order to further this specific point, the National Police Agency, with the cooperation of the National Research Institute of Police Science, is now preparing a special project to conduct a nation-wide survey so that the degree of viciousness of all crimes may be measured as objectively as possible. Through this special project, it will become possible to grasp to a certain extent the citizens' feelings relating to the security situation in Japan, and clarify the points towards which the priority of police investigation should be directed.

(d) Formation of safety minimum standards

Another effort of the police in understanding the citizens' expectations toward the police is its preparation of "Safety Minimum Standards". The National Police Agency is now in the process of preparatory work to formulate "Safety Minimum Standards" in order to fully understand the citizens' expectations toward the police, and to let police findings reflect on all police measures so as to facilitate the police activities along the lines that closely approximate to the public's desire.

The object of this special project is to work out a quantitative standard to be attained by the police that would ensure the safety of the people. By applying these minimum standards, if formulated properly, the following points can be identified:

(i) the level and specific aspects of safety relating to police responsibilities and duties;

(ii) safety level to be attained in each aspect;

(iii) the degree of current safety level in each aspect and consequently the achievement ratio against the level of safety to be attained;

(iv) priority order to which police efforts should be directed in order to attain goals; and

(v) interrelation of factors indicating how the safety elements of each aspect mutually influence each other.

By establishing these specific standards, problems hindering the safety of each field can be identified and at the same time the appropriate police measures to cope with these problems can be suggested.

V. Minimum Standards of Performance

Like a medical doctor or a teacher, a policeman engages in a profession, the existence of which is indispensable to a society. A high professional ethical code of conduct is therefore demanded of each of these professions because of their special position in our society. Since the responsibilities of a policeman in the prevention and suppression of crimes are related closely to fundamental human rights, the police undergo greater scrutiny than those in other professions.

The citizens' expectations toward the police always have two profiles. One is the expectation of positive activities by the police, such as ensuring safety and eliminating hazards and uneasiness. The other is negative expectations to restrain police activities from being

in excess of certain fixed limitations. A policeman's performance of his responsibilities and duties should adequately meet these two types of community expectations in all aspects of police activities.

As for the topic of "Minimum Standards of Performance" which is included in this Agenda Item, these standards are influenced by ethical principles (or code), and this moral code for the police should be given formal authentication on an international basis. From a contextual viewpoint, this code should be established in such a way that emphasis is placed on the goals of a policeman's functions rather than prohibiting specific activities of a policeman.

As regards the execution of police responsibilities and duties, there are two laws which are in effect in this country. One is the Police Duties Execution Law of 1954 which mainly prescribes necessary measures to be taken by a police officer in order to realise administrative objectives. The other is the Code of Criminal Procedure of 1948 which mainly prescribes necessary measures and procedures to be taken by a police officer in order to realise judicial goals. The former consists of only eight provisions. All measures to be taken by a policeman in order to realise administrative purposes of the police are based on this law which is well known for its detailed and cautious provisions for the protection of the fundamental human rights of individuals. For immediate reference, it is reproduced in full at the end of this national statement. (Attachment) The latter provides, among other things, various detailed safeguards against the abuse of human rights by the authorities in the process of criminal procedure such as an extensive judicial check on their investigative activities.

VI. Recruitment and Training of Police Officers

One of the factors indispensable to securing the confidence and support of the public in the day-to-day police activities is the high competence and capability of individual police officers. It is therefore necessary, first of all, to recruit men of ability and character who are able or who will be able to demonstrate the capability of protecting the citizens' life, body and property and maintain social order. The next requirement is to provide these recruits with the necessary education and training in order to bring them up as capable officers who will live up to a high professional code of ethical conducts.

1. Recruitment

It is regrettable to notice that the recruitment of well-qualified persons in Japan has become increasingly difficult in recent years. Results of a survey made in Japan on "Things I Want Most in Life", in which a person is requested to choose one among the three subjects, namely, "love and sincerity", "money and position" and "a job worth doing", those who chose the last item stood for 28 per cent of the total. This proportion is considerably higher than that shown in similar surveys in foreign countries. Despite such tendency, and despite the fact that the policeman's work has generally been considered as a "job worth doing", the application rate for police service is getting lower, particularly in urban areas. This phenomenon is presumed to be caused partly by ample job opportunities elsewhere and partly by the decreasing appreciation of the police by the general public, due to the recent increase of certain factors making the attractiveness of the police work more difficult to demonstrate to the public.

Another noteworthy trend in Japan is the increased recruitment

of female police officers. The total number of female police officers in Japan increased from 455 in 1965 to 814 in 1970. It further increased to 2,850 in 1974 representing about 1.5 per cent of the authorized strength of all police officers in Japan. Utilising characteristic qualities of females, these officers are engaged in such fields as guidance and counselling of juveniles, control of illegal parking, providing geographical guidance services, and some limited criminal investigative activities. In so doing, they contribute to improving the public image towards the police.

2. Education and Training of Police Officers

The police in Japan have made every possible effort to provide police recruits with a variety of educational and training programmes to let them acquire the professional knowledge and techniques that are required in the performance of day-to-day police responsibilities and duties and to elevate their own personal character to serve as acceptable police officers. Since the policemen are vested with strong authority and heavy responsibilities, and the public in general regard the police profession as being a specialized one which requires balanced personality, they always tend to critically scrutinize policemen's behaviour and actions. The need for their education and training is therefore stronger than for other professions.

The special feature of the Japanese police training system is the adequate and fully supervised guidance structure designed to provide a step-by-step programme of instructions from the basic to advanced courses. It can be classified into the following five categories:

(i) education and training for newly recruited police officers (pre-service training);

(ii) special in-service training for officers holding specified police ranks, or those who are to be promoted;

(iii) on-the-job training conducted at one's assigned post;

(iv) training for developing specialized competency to be a specialist; and

(v) overseas study, training programmes entrusted to outside training organisations, etc.

In 1972, a special study group on police education and training was established within the National Police Agency with the wide participation of outside men of learning. Its purpose is to work out adequate training programmes to provide police officers with the capacity to cope with rapidly changing social situations. Under its auspices, drastic and comprehensive study is being made into the very basics of the police training system, particularly in such fields as pre-service training, training for senior ranking officers and for specialized staff personnel. One of its tentative conclusions is to extend the period of pre-service training from the present one year and two months to a full two years' term.

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Agenda Item IV

THE TREATMENT OF OFFENDERS IN CUSTODY OR IN THE COMMUNITY, WITH SPECIAL REFERENCE TO THE UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS

Introduction

The Ministry of Justice is, concurrently with the drafting of a new Penal Code, working on the overall revision of the Prison Law, the Offenders Rehabilitation Law and others, which are the basic laws stipulating the treatment of offenders in custody or in the community. Pending the revision of these laws, however, every effort is being made by administrative rules and instructions, etc. to improve the treatment methods of offenders (Note 8).

The basic policy for these reforms rests upon the full implementation of the United Nations Standard Minimum Rules for the Treatment of Prisoners to protect the fundamental rights of offenders in custody and improve the institutional treatment of prisoners as well as to facilitate their reintegration into society, and also upon the intensification of treatment programmes for offenders in the community.

The penal institutions (Note 9) in Japan are not overpopulated at present, except a few institutions in the vicinity of Tokyo. The percentage of the inmates to the total capacity of the institutions in

1974 was 73. The average dialy population of inmates in the same year was 45,732, including 38,598 prisoners serving sentences, 6,920 awaiting trial and others. Among them, there were 1,039 female prisoners and 296 juveniles (one girl), that is, those under 20 years of age when their sentences became final.

The decreasing tendency in the number of institutional inmates has been conspicuous in the past several years and some small local institutions (Branches of Detension Houses) had virtually to be closed. This decrease in the number of offenders in custody is attributable to the fact that a majority of the crimes committed are either traffic offences or not serious in nature, for which there is a growing tendency for the courts to choose non-institutional treatment such as a fine, the suspension of execution of sentence, probation, etc. rather than institutional treatment. Anyway, the number of the inmates today is less than half, as compared with the institutional population in the 1940's and 1950's which exceeded 100,000. The caseload of the officers of penal institutions is two to four inmates per capita but, on the other hand, the number of the inmates who make troube in institutions and make their treatment difficult because of their personality traits or for other reasons has a tendency to increase, and about 50 per cent of the total inmates are recidivists, 13.1 per cent being mentally defective and 19.6 per cent, organised gangsters. Of all the newly committed inmates, 16.9 per cent were given very short prison terms not exceeding six months and 49.3 per cent were sentenced to imprisonment for one year or shorter terms.

On the other hand, the prisoners who were sentenced to imprisonment for a limited term exceeding five years comprise 3.2 per cent and life terms, 0.1 per cent. The average prison term is about 18 months. As one would expect, the average term of the traffic offenders is remarkably short.

In Japan, probation and parole supervision over the offenders in the community is, according to the kinds of the subjects of supervision, divided into the following five categories: supervision over the juveniles under 20 years of age placed on probation by the Family Courts (Category 1), supervision over the juveniles released on parole from the Juvenile Training Schools (Category 2), supervision over those released on parole from prisons (Category 3), supervision over those placed on probation by the criminal courts suspending the execution of their sentences (Category 4), and supervision over those women who are released on parole from the Women's Guidance Homes which are the non-punitive correctional institutions for ex-prostitutes (Category 5). As of the end of 1974, the number of those placed under supervision was 68,652 in all, among which 6,594 (9.6%) were parolees (Category 3) released from prisons and 21,570 (31.4%) were probationers (Category 4) for whom the execution of sentences was suspended.

The total number of those placed under probation or parole supervision decreased 36.4 per cent that year, as compared with the figures in 1966, which exceeded 100,000. This is, among other reasons, due in no little degree to the decrease of parolees from prisons resulting from a decline in the total number of inmates of correctional institutions. However, the caseload of probation officers is as heavy as about 150 per capita. These professionals have therefore to carry out their responsibilities with the cooperation of about 50,000 volunteer probation officers throughout the country. It is worthy of mention that, among the persons placed under probation and parole supervision, there are included a noticeable number of the mental defectives and organised gangsters and also some radical students and others involved in what we call public security cases.

I. Treatment of Offenders in Custody

1. Development of Legislation

The modernization of the institutional treatment system of offenders in Japan dates back to the first written prison regulations which came into force in 1872 and, since then, it has been under the influence of western civilisation. In those days the Japanese penal law was still after Chinese pattern but, adopting the modern philosophies of Western penal law, it had already accepted "peine privative de liberté" as the nucleus of the whole penal system, and this penalty of imprisonment came to occupy a stable position in the Old Penal Code of 1879. The Government amended the Prison Rules of 1872 several times and, through these amendments, the treatment of prisoners, especially, the status of unconvicted prisoners was improved remarkably.

Following the enactment of the Penal Code in 1907, the present Prison Law came into force in 1908, providing a legal basis for the institutional treatment of prisoners. Since this Prison Law is concise, setting forth the fundamental rules only, all subsequent innovations of institutional treatment have been made by the amendment of the Prison Law Enforcement Regulations, a Ministry of Justice Ordinance, or by the issuance of directives or instructions. Among all others, the Ordinance for the Prisoner's Progressive Treatment issued in 1933 introduced the progressive treatment system based on the classification of prisoners. This classification system of prisoners achieved gradual development in the postwar decades, becoming the core of the existing system of treatment of prisoners. Another remarkable feature of our correctional innovations in recent years is seen in the promotion of the legal status of unconvicted prisoners, especially in connexion with

their right of defence in trial.

2. Present Conditions of Living, etc. in Penal Institutions

First, speaking of the accommodation facilities, the institutions being constructed nowadays place particular stress upon guaranteeing the rights of prisoners and improving institutional treatment. However, there are still some old institutions which were built over half a century ago and war-stricken institutions which were partly repaired in the postwar days of shortage of materials and whose reconstruction is among the most urgent problems to be solved by the administration. Moreover, the recent trends of urbanization compel the removal of these institutions from city areas. Under these circumstances, the Correction Bureau of the Ministry of Justice is now working hard on a comprehensive construction plan of correctional institutions in a nation-wide, long-range perspective.

One of the salient features of institutional accommodations in Japan is that the adoption of dormitory (cells for associate confinement) system is quite common. This is mainly because it is more convenient for grouping prisoners for prison labour and also for financial reasons, but at the same time it reflects the Japanese mode of living of ordinary families. Single cells are mainly used for those who make trouble in associate confinement, but the use of these cells is gradually being expanded to prisoners at the pre-release stage and the inmates of open institutions. For unconvicted prisoners, solitary confinement is a general principle by law, but in fact they are sometimes confined in dormitories.

As regards the food, clothing and daily necessaries provided by the institutions, much improvement has been made by administrative efforts during the past years. The amount of calories of staple food and side dishes is guaranteed by law for prisoners and, besides, nutritionists

are assigned to institutions and the authorities continue their efforts to adapt the food to the taste of inmates by inquiring into their preference through questionnaires or by having the representatives of inmates participate in the menu committee and other methods. Likewise, all efforts are being made to make their uniform and other institutional clothing comparable to those worn by the common run of people and extensively use any articles that are in common use among the people at large. Thus the correctional authorities place the top priority upon improving the conditions of living of the inmates.

Also, much attention is being paid to the preservation of health and sanitation of prisoners. Physical exercises and sports are receiving high priority as far as it is possible to assign officials to supervise such activities. Prisoners may receive medical treatment either in the medical department of each institution or in the medical centre (penal institution) established in each of the eight Correction Regions which is staffed with an adequate number of doctors, nurses, etc. and equipped with modern medical appliances, depending upon the condition of their illness or injury. Serious cases are transferred to medical prisons, which are the institutions specially established for giving medical care to such prisoners. Moreover, it is not rare for the prison authorities to seek the assistance of medical specialists from outside the prison or send sick prisoners to extramural hospitals, if necessary. The health condition of prisoners is improved through institutional life more often than not and their death rate is remarkably lower than the mortality of the general public.

Nowadays, close gastroenteric examination in addition to the regular physical check-up is carried out for the maintenance of health of inmates, especially, for long termers. Particular emphasis is placed upon the early discovery and proper treatment of diseases. A pregnant

prisoner is usually allowed to deliver a baby at a maternity hospital outside the prison. At the present time the securing of a sufficient number of doctors, nurses and other medical staff is a most difficult problem in Japan, so the Ministry of Justice has established both a scholarship system for medical college students who desire to work as doctors of correctional institutions in future and the Assistant (Male) Nurse Training Institute attached to the Hachioji Medical Prison in Tokyo, to solve this problem.

The maintenance of discipline among prisoners, disciplinary punishment and other security measures such as the use of instruments of restraint or confinement in protection cells all seriously affect the personal liberty of inmates, so these are strictly regulated both by law and by administrative practices. These security measures must not be enforced beyond the extent necessary for their purposes, and confinement in a protection call requires the intervention of a medical doctor. Corporal punishment is strictly prohibited, for any reason whatsoever. Although "major solitary confinement" is a kind of disciplinary punishment still existing under the Prison Law formally, it has never been in actual use after the war and, since there are no facilities in any prison for such confinement, it has been abolished in practice. The reduction of food for convicted prisoners except juveniles, and the temporary prohibition of outdoor exercises are among the disciplinary punishments authorized by law and are actually imposed upon inmates in some institutions, but there is argument that they should be abolished in future.

As regards the filing of complaints by inmates, they are given the right to make a petition to the Minister of Justice or to an official visiting the institution for inspection, under the present Prison Law, and the right to file a suit to the court for remedial action is equally guaranteed under the Constitution for all people, including

prisoners. According to the court precedents, an inmate is granted judicial remedy in cases where the disposition made by the head of the institution deviates from the scope of his discretionary power as well as in cases where the disposition is against the law. As a means of seeking judicial remedy, an inmate may not only file a suit with the court against the head of the institution for the revocation or alteration of the disposition made by the latter but also claim damages under the State Redress Law or the Civil Code. In addition, there are some other remedies available to the inmates, such as applying to the court for a writ of habeas corpus or demanding the investigation by the Civil Liberties Bureau of the Ministry of Justice or its local organs or by Civil Liberties Commissioners, volunteer workers appointed by the Minister of Justice of the action taken against him as an alleged infringement of his basic rights. It is a recent trend that the complaints by inmates, including those filed with the public prosecutors' offices against the institutional staff for the action taken by them, which the inmates allege is a criminal offence, have been remarkably increasing.

For contact and communication with people outside the prison, inmates require the permission of the head of the institution, as a general rule, under the Prison Law. However, such interviews with relatives, exchange of letters or reading of books, etc. as are considered useful to the institutional treatment of prisoners as well as to their reintegration into society are encouraged more often than not and, in particular, unconvicted prisoners are allowed, because of his legal status, extensively to communicate with the outside world, unless such communication is harmful to the security or maintenance of discipline in the institution.

As regards religious activities in the institutions, the freedom of religion is guaranteed for all people, including prisoners, under the

Constitution of Japan. In this regard, the Constitution prohibits the Government from performing any religious activities or using public fund for any religious institution or association, as it maintains the principle of separating religon from politics. Therefore, all religious activities for prisoners are conducted by priests or chaplains who are volunteers. And the service of these volunteers is made available to the institutions by the National League of Voluntary Chaplains, which organises training courses systematically and performs other activities, greatly contributing to the development of religious guidance for inmates. Besides this system, there is the Voluntary Visitors System under which those volunteers who represent a number of professions and who are willing to give counsel and guidance in their specialized fields come to the institutions and counsel inmates about their personal, legal or business matters. The number of the above chaplains and voluntary visitors exceed 1,000, respectively.

The strength of the staff of penal institutions is over 16,600, of which over 1,000 are specialists, such as medical doctors, industry technicians, psychologists, etc. and about 100 are educational instructors. In Japan, it is a long-standing practice that the custodial staff give counsel and advice to inmates and take part in their treatment besides their primary role in security and custody, but the necessity of securing more treatment specialists is being recognised as a natural consequence of the development of the classification system. In these circumstances, the problems requiring immediate attention now are the securing of medical doctors, psychologists and other specialists, the selection and intensive training of custodial staff and the rationalization of working conditions of the officers. Systematic trainging programmes are conducted in the Central Training Institute for Correctional Personnel and its eight branch institutes across the country and there are also many pre-service and in-service training programmes

conducted in each institution. Also, the importance of refresher courses is being emphasized besides the training of those newly recruited. The staff are all in national government service and, as their working conditions are rather stringent, the rationalization of their service is under consideration to alleviate their overburden, together with the possible impending adoption of a system of working five days a week. Their salaries are little higher, like police officers, than ordinary government workers under the pay structure for national government personnel. Special salaries of higher scale are paid to medical doctors and other medical staff.

3. Treatment of Prisoners Based on Classification, and Open Treatment

The institutional treatment of prisoners is based on the classification system, with particular emphasis laid on individual treatment. For this purpose, reception and classification centres have been established in each of the eight Correction Regions across the country. All prisoners are classified there and assigned to different allocation categories, according to their sex, nationality, kind of sentence, age and length of sentence, extent of criminal maturation, mental defects or physical sickness or defects, and they are sent to separate institutions or segregated sections within the institution. Also, for purposes of treatment in the institution, they are divided into different Treatment Categories (Note 10). In order to effect the individualization of treatment, based on the above classification systems for allocation and treatment, there have been established various types of specialized institutions, as illustrated by medical prisons, prisons for traffic offenders, or juvenile or female prisons and also institutions for all-round vocational training and some institutions for open treatment.

Semi-open or open treatment accorded to prisoners took the form

of extramural work in most cases in the past. This has about 40 years' history in Japan dating back to the prewar days. Especially, the prison camps, or live-in workshops which belong to prisons, etc. are usually semi-open or open institutions and have been used for the pre-release treatment of prisoners. In recent years, however, open institutions are also constructed as specialized prisons, or segregated sections thereof, for accommodating those sentenced to imprisonment without labor for traffic offences or even as prisons for ordinary prisoners. The separation in specialized prisons of traffic offenders sentenced to imprisonment without labour was started experimentally in some Correction Regions in and after 1961 and it has been expanded on a nation-wide level since 1965. Ichihara Prison in the Tokyo Correction Regions in and after 1961 and it has been expanded on a nation-wide level since 1965, Ichihara Prison in the Tokyo Correction Region being a typical open institution of this kind. Prisoners of this category are sent to these specialized prisons directly from the classification centres, unlike other prisoners who are treated by what is called "terminal system" under which they are transferred to open institutions only after they reach the stage of pre-release treatment. Furthermore, as a new trend in treatment, there is being developed a method of treatment which allows prisoners with good records to participate in some employment in the community at their pre-release stage. Under this system, prison inmates live in dormitories inside the ordinary housing area for industrial workers, freely attend various workshops in the area and work with ordinary workers.

4. Prison Industry, Educational Activities and Medical Care

A majority of the prisoners, that is, those sentenced to imprisonment with labour are legally bound to work. Almost all of those who are sentenced to imprisonment without labour, mainly traffic offenders,

engage in prison industry, upon their own request. Prison labour consists mainly of such productive work as metal work, tailoring, carpentry, printing, leather work, etc. and, in many cases, prisons offer labour on a contractual basis with private enterprises, which provide materials and equipments. In fact, the securing of useful work for prisoners is a matter of vital concern to all prisons. The revenue raised by prison industry in 1971 amounted to about 9,600 million yen (approximately $ US 32 millions).

As regards the prison work for young prisoners and those who have specific vocational aptitude, emphasis is placed upon their vocational training, which is given in compliance with the Vocational Training Law, with a view to enabling these inmates to acquire official qualifications or licence for their smooth return to society. On the other hand, prison labour is given as a therapeutic work for those inmates who are mentally or physically defective, as is the case with the work for prisoners in medical prisons.

Remuneration for prison labour under the present law remains no more than a favour and is small in amount, compared with the wage for ordinary workers, so every effort is being made to raise it. This is also true of compensation for accidental injury, disease or death resulting from employment in prison labour. The so-called "work release system" under which prisoners attend business enterprises outside the prison in the daytime without being supervised by the staff and the wages received from the enterprises are all given to the prisoners is not provided for in the present Prison Law, but its codification is under serious study now.

The educational activities for prisoners in the institutions are manifold to meet the needs of each inmate. These are mainly composed of "life guidance" which includes moral training in daily life activities and aims at shaping their attitudes as good members

of society and stabilising their emotional life, "schooling" which is similar to the ordinary school education covering the curricula provided for in the School Education Law, "vocational guidance" which is designed to make the choice of occupation easier for inmates and to develop their aptitude for occupation, "physical training" and recreational activities and other educational programmes and events. The primary responsibility for carrying out these activities rests with the prison staff but they receive assistance from men of learning and experience outside the prison. Correspondence courses are also in extensive use. Educational programmes also occupy an important position in the recreational activities of inmates. They consist of physical exercise, various forms of recreation and club activities conducted by the autonomous control of inmates themselves under the guidance of the staff. Spontaneous self-study by individual inmates at leisure hours has also been encouraged in recent years.

Another feature of the institutional treatment of prisoners on which much stress is laid is so-called "medical treatment for correction". This includes orthopaedic treatment of deformities and the removal of tattoo marks upon their request and the treatment of institutional psychosis or mental defects resulting from closed institutional life, and the curative measures for those who suffer from mental disease, which are all intended for helping the prisoners reintegrate themselves into society. Medical prisons have been established mainly for this purpose.

5. Pre-release Treatment and Parole

The Prison Law and related regulations provide only for several days' pre-release confinement in a single cell and other pre-release treatment measures in the narrow sense of the words but, in practice, prisoners at that stage are sent to prison camps or special open institutions or they are allowed to participate in the work of private

enterprises, by way of pre-release treatment in most cases. Even in closed institutions, not a few of them have special sections or compartments for pre-release treatment inside the institutions. Also, the pre-release treatment programmes of the prisons which accommodate long-termers usually include in them field observation tours to business enterprises outside the prison.

Speaking of the parole of a prisoner, the head of the institution files an application for his parole with the Regional Parole Board, which in turn examines such application with all relevant records and, after having an interview with the prisoner, decides on whether to parole him or not. A convicted prisoner becomes eligible for parole by law after serving one-third of his prison term or after ten years if sentenced to life imprisonment, and a juvenile who is given an indeterminate sentence (which prescribes maximum and minimum periods) under the Juvenile Law is eligible after serving one-third of the minimum term or after seven years if sentenced to life imprisonment.

The rate of parolees to the total number of the persons released from institutions was close to 80 per cent at one time soon after World War II. But this phenomenon only meant an unavoidable countermeasure against the unusual condition of the prisons in Japan immediately after the war, that is, overcrowdedness. As the operation of parole was gradually restored to its normal condition, the parole rate has become 60 per cent today. By this percentage, one might say that parole is now to be granted as a matter of general policy but, in actual practice, very few are released on parole at the early stage of confinement, leaving adequate time for parole supervision, and in fact a majority of the parolees are released after the lapse of 70 per cent of their prison term. Many of the life-termers are released on parole after 14 to 17 years' imprisonment. Parole is granted to a

juvenile prisoner under an indeterminate sentence, usually after serving 70 per cent of its maximum term, just as in the case of an adult prisoner.

6. Exceptional Treatment for Unconvicted Prisoners

The criminal defendants or suspects who are detained pending trial are accommodated in a segregated institution (House of Detention) or in a segreageted section (detention section) of a prison, separated from ordinary prisoners. The treatment of unconvicted prisoners does not involve any criminological objective like correctional treatment. This is due to their legal status that they are presumed to be innocent. As already mentioned, unconvicted prisoners are accommodated in single cells, as a general rule. This is because, under the criminal procedure of Japan, the purpose of detention is to prevent not only escape but also the concealment or destruction of evidence. It is also conducive to protecting their privacy. The period of detention is two months, but there is no legal limitation on the renewal of detention by the court, so an offender suspected of having committed a serious crime may possibly be detained for quite a long period. The actual period of detention in many cases is two or three months. In case a defendant is detained for a long time, the period of solitary confinement is renewed every six months and his mental and physical fitness must be confirmed. For a juvenile detainee such confirmation is done every three months.

Unconvicted prisoners are allowed to engage in prison industry, upon their request. This is also true of educational and other activities and it is a requisite that they make a request for participation. They also have free access to books, magazines or newspapers unless these are harmful to the purposes of detention or discipline, or restrictions are necessary from the standpoints of the maintenance of

institutional facilities. As regards food and other supplies, they are given their clothing and bedding at their own expense as a general rule, and they may have any food at their own expense. But, alcoholic liquors and smoking are prohibited for them, just as for convicted prisoners. This regulation which prohibits unconvicted prisoners from smoking has been held constitutional by the Supreme Court. There are no restrictions, either, on hair, mustache, whisker or beard, unless it is especially harmful to their health. As regards interviews and correspondence, there are no restrictions, under the present system, as to whom to meet or whom to write to, or its frequency. Especially, their right to have interviews with defence counsel without the presence of guards is guaranteed by law.

II. Treatment of Offenders in the Community

1. Development of Legislation

The system of community treatment or offenders in Japan was adopted to some extent by the Old Juvenile Law of 1922 and the Rehabilitation Services Law of 1939, but it was after the enforcement of the Offenders Rehabilitation Law in 1949 that this system took definite shape. Under this law, the system for supervising parolees (parole system) and the basic structure for probation and parole, except adult probation, were firmly established. Thereafter the system for supervising adult probationers (adult probation system under which adult offenders are placed under probationary supervision after the court suspends the execution of their sentence) was introduced by the partial amendments of the Penal Code in 1953 and 1954, and the Law for Probationary Supervision of Persons under Suspension of Execution of Sentence was enacted in 1954 to bring this system into operation. On the other hand, the system of providing rehabilitation aid, either temporary or continuous, to those who are discharged from

prisons after the expiry of their prison terms and others was initiated in 1950 by the Law for Aftercare of Discharged Offenders. The Volunteer Probation Officer Law was also enacted in the same year. Although the community treatment system for offenders has only a quarter century's history in Japan, it keeps on developing as an effective method of treatment of offenders, with the full support of the nation.

2. Treatment by Cooperation between Government Probation Officers and Volunteer Probation Officers

Both the offenders who are placed on probation by the court concomitantly with the suspension of execution of their sentence and the parolees whose remaining term of sentence has not expired are subject to supervision by the probation offices located throughout the country. Parole and probation supervision is exercised by professional probation officers and volunteer probation officers who volunteer for this service, but there are not many cases where the supervision and treatment of a parolee or probationer is done by a professional probation officer alone. In many instances, this work is entrusted to a volunteer probation officer, who takes care of the parolee or probationer in close cooperation with the professional probation officer. In this regard, whether the subject is a parolee or probationer does not make any difference. Through such cooperation, the good effect of supervision, which may not be achieved by either of the two alone, is expected to be produced by the harmonious combination of professionalism and the non-authoritarian sense of a volunteer.

Under this cooperative scheme, a volunteer probation officer takes great advantage of his position that he lives in the same community as his client as a non-official, and keeps proper contact with the client, constantly watching his behaviour, association with his friends, employ-

ment, family environments, etc., and takes necessary steps to meet the client's need for rehabilitation. He submits a supervision progress report to the probation office on a monthly basis. At the probation office, a probation officer examines the report from the standpoint of a professional and advises the volunteer probation officer of what he should keep in mind in the future treatment of the client. The professional probation officer makes the client report to the probation office so as to conduct investigation and carries out the treatment programmes for the client by himself, if necessary.

3. Treatment at the Initial Stage Supervision

Since the treatment of offenders in the community is based on the principle of individualization, treatment programmes vary from one parolee or probationer to another. In exercising supervision, most suitable methods must be adopted, full consideration being paid to the age, personal history, mental and physical condition, family, friends and other environments of the client. For this purpose, a probation officer personally interviews his client at the time of commencement of supervision and prepares a detailed treatment plan for supervision by making reference to the data sent from the court, prison and other agencies concerned.

This treatment plan provides a guideline for the future treatment of the client, and its copy is sent to the volunteer probation officer, when he is nominated to take charge of the client. If, in the course of the exercise of supervision, any problem arises from the standpoint of supervision, the treatment plan may have to be revised.

At the commencement of supervision, the professional probation officer has a personal interview with the person to be placed under supervision, fully explains to him about the conditions which he must observe while under supervision and makes him pledge in writing.

A copy of this written oath, too, is sent to the volunteer probation officer, when he is nominated to take charge of the client.

Upon receipt of the copies of the treatment plan and written oath, the volunteer probation officer carefully studies their contents, immediately visits the client and explains to him once again about the contents of his parole or probation conditions. Also, if the client seeks advice about his family affairs, employment or use of leisure time, etc., he responds and gives counsel to him. The results of such interviews are reported to the probation office by his initial report of supervision.

4. Group Treatment

Community treatment is, as a matter of principle, individualized treatment, but the method of group treatment has been actively used since April 1965, pursuant to the increase in number of traffic offenders. At the initial stage, group treatment was applied to juveniles under 20 years of age but it is now applied to adult offenders, too. In view of the nature of their offences, it is necessary for traffic offenders to cultivate traffic morals and law-abiding spirit and also to improve their driving skills. From this angle, it is expected that group training and group counseling will be more effective for these offenders, as they make it possible to guide and train themselves by mutual impartation of knowledge and skill.

The methods of such group guidance include the holding of training courses or discussion meetings at which the traffic offenders under supervision are ordered to assemble at designated dates, time and places and learn traffic regulations and morals, and also the organisation of other group activities to improve their attitude toward life as well as giving instructions in driving skills and lessons on the structure of vehicles and repair and maintenance thereof. For carrying out these programmes, the probation offices obtain the cooperation of the police, the Traffic Safety Society, drivers' schools, etc. Incidentally, the number of the parolees and probationers who participated in these group treatment programmes amounted to 8,033 in 1972.

5. Classification for Treatment

The system of treating probationers and parolees, based on the results of classification, was implemented in October 1971 by the "Directive on the Treatment of Probationers and Parolees by Classification". Its purpose is to classify the probationers and parolees under supervision at the time of reception so as to give them proper and effective treatment, based on such classification. Certain categories of offenders, namely, those who are to receive group treatment and those placed under the direct supervision of professional probation officers are exempted from the application of this system.

Under this system, the probationers and parolees are classified into two groups: those whose treatment is presupposed to be difficult (Group A) and those whose treatment is presupposed not very difficult (Group B). For classification, a table of criteria for classification (attached to said Directive) which covers twenty problem areas is used, and a final decision is made with due consideration for the clinical opinion of the probation officer which is based on his experience as a professional. However, those persons whose period of supervision is shorter than two months are, as a general rule, classified as belonging to Group B. The total number of probationers and parolees treated under this classification system as of the end of 1974 was 48,519, of which 5,255 (10.8%) came under Group A.

As regards the probationer or parolee who is classified as A, the professional probation officer constantly keeps well-planned and active contact with him, his family, employer and other persons concerned,

maintaining particularly close liaison with the volunteer probation officer in charge of the case.

6. Emergent Material Aids to Probationers and Parolees under Supervision

The probationers and parolees placed under supervision are aided by the probation office to obtain necessary medical service and a place to live in, and they are also guided and helped to find a job as well as to return to a destination deemed suitable for them. This does not mean that the probation office automatically provides these aids of its own accord. Such material aid is given to a probationer or parolee on the premise that he naturally has the responsibility to help himself, and the probation office only gives counsel and assistance to him so that he may obtain these basic necessities by his own efforts and, only when necessary, it helps him obtain necessary aids from public health or welfare institutions or other organs.

However, in case the probationer or parolee has no place to live in or job or clothing, etc. or in case his rehabilitation is likely to be hampered by his bodily injury or sickness and he cannot expect any aid from any public health or welfare institution or other facilities, this is the stage at which the probation office steps in and directly gives necessary aids. The methods of such aid for probationers and parolees in 1974 included the provision of meals for 623, clothing for 573, medical aid for 61 and defrayment of travel expenses for 316 and, in addition, 4,220 were issued travel fare discount certificates to return home. Also, lodging accommodations (including board) were provided to 4,287.

For those probationers and parolees who cannot otherwise obtain lodging accommodations, the Rehabilitation Aid Associations are usually made available. These are non-governmental organisations established with the approval of the Minister of Justice, totalling 110

at present. The Associations not only provide room and board but also take charge of collective or individual treatment of inmates by the guidance officers specially nominated (who are concurrently volunteer probation officers). Professional probation officers may participate in such guidance or treatment programmes, when necessary. These programmes are carried out only upon request of the inmates and the system of compelling a probationer or parolee to stay in some institution for a specified period for his treatment has not yet been adopted under Japanese law. There are strong arguments, however, in favour of the adoption by law in future of the system of compelling residence at a specified place such as a Rehabilitation Aid Association for a certain period.

7. Measures for "Successful Cases" in Probation and Parole Supervision

The purpose of probation and parole supervision is to reform and rehabilitate the persons placed under supervision. Therefore, those who have successfully accomplished this objective should be discharged from supervision, which would, in turn, stimulate the volition of those under supervision to rehabilitate themselves by their own efforts. It is extremely difficult, however, to make sure of the fact that the subject has truly been rehabilitated, and this requires professional judgment from sociological and psychological viewpoints. In actual practice, there have been set up certain standards which make it possible to make a decision on this point objectively, by a directive issued by the Director-General of the Rehabilitation Bureau, Ministry of Justice (Note 11).

8. Measures for "Failure Cases" in Probation and Parole Supervision

As stated above, the objective of supervision is the reformation

and rehabilitation of parolees and probationers, and preventing them from committing a crime again. To protect the society from crime, it is important to prevent guiltless citizens from falling into the snare of a crime, but it is equally important to prevent those who have already committed a crime from repeating it. So, in case a probationer or parolee placed under supervision shows any dangerous signs that he is likely to commit a crime again and it is apprehended that, with all means such as giving him advice, guidance and material aid, his recidivism will not be prevented, it is necessary not only for himself but also for the community to take him back to the institution. Symptoms indicating that he would repeat a crime usually come out in his daily behaviour and, in the case of a probationer or parolee, they take the form of a violation of the conditions of parole or probation.

In case there is reasonable ground enough to suspect that a probationer or parolee under supervision has violated any condition to be observed while under supervision, he may be taken to the Regional Parole Board or to the Chief of Probation Office, with a warrant of arrest (inchi-jo) issud by a judge, and the actual circumstance of his violation is investigated. If, as the result of the investigation, it becomes evident that he violated such condition or conditions, his parole from prison or the suspension of execution of his sentence is revoked, as the case may be.

III. Future Problems of Treatment of Offenders

In the administration of criminal justice in Japan, the three systems that the police may not charge an offender with a very minor offence at its discretion, that prosecutors are given the power to suspend prosecution and that the court may suspend the execution of a sentence to a fine or imprisonment have quite a long tradition. The establish-

ment in the postwar decades, in addition to the above, of the supervision system for parolees and for those probationers placed under supervision concomitantly with the suspension of execution of their sentences has remarkably accelerated the tendency to avert institutional treatment.

This is demonstrated by the fact that the number of offenders confined in the institutions at the time of enforcement of the Offenders Rehabilitation Law in 1949 was about twice as large as that of the parolees and probationers placed under supervision, while, in recent years, these figures were reversed, and in fact the present number of the parolees and probationers under supervision has reached about twice as many as those incarcerated.

The community treatment system of offenders in Japan has steadily produced good effects up to now, and it is expected that it will further be developed and improved. But it must be realised that the community treatment, however well it may develop, has its intrinsic limits. In the first place, community treatment is given to an offender by letting him lead an ordinary community life, so it is a prerequisite that he has the readiness to rehabilitate himself by his own efforts and that there is possibility of mutual trust being maintained between him and those who supervise him. In this sense, the proper selection of probationers and parolees fit for supervision is a prerequisite to any good effect of community treatment programmes. If community treatment should be applied to any and all offenders indiscriminately, it would incur recidivism among them in not a few instances and arouse social unrest and anxiety about throwing dangerous offenders adrift in the community. In this connexion, it must be noted that about half of the prisoners confined in Japanese institutions are chronic recidivists, as already mentioned, 10 per cent of them, mentally defectives and nearly 20 per cent are organised

gangsters or their affiliates. It is said, therefore, that many of these prisoners are potentially dangerous to the general public, as their criminal propensity or anti-social nature is so strong. There would be grave public concern, should such criminals be left in society, and in any case intensive correctional treatment in an institution is indispensable to reforming them.

Furthermore, the national sentiments in favour of the argument that those offenders who committed serious offences should be confined in institutions, regardless of their trends of criminality, should not be ignored. Many people in Japan believe that the imposition of imprisonment for serious offences is greatly contributive to the prevention of crime, as it intensifies the moral and ethical norm consciousness of the people. Also, because of the development of institutional treatment in Japan, no less satisfactory results in social rehabilitation of offenders could be expected from the institutional treatment. To illustrate, for an example in Japan, the effect of open treatment in the institutions established for the sole purpose of treating traffic offenders sentenced to imprisonment without labour is highly valued home and abroad. The rate of recidivism of the persons discharged from these institutions is remarkably low. While the rate of "successful cases" in rehabilitation among all the prisoners in Japan is estimated at 50 to 60 per cent, the "success" rate of the offenders discharged from the all-round vocational training institutions is over 80 per cent, and it is even higher among those who received open treatment before discharge.

The treatment of offenders should be individualized to meet the needs of each offender. For this purpose, both institutional and community treatment programmes should be further improved and given more variety. What is most important is to make use of non-institutional treatment in good combination with institutional treatment and

to guarantee the consistency of treatment between the two. In this respect, the introduction of "half-free" systems should also be expanded actively. The overall revision work of the Prison Law and of the Offenders Rehabilitation Law, etc. now under way is going on along this line. That is to say, the establishment by law of such systems as work-release, furlough, temporary release, halfway house, etc. for prisoners at pre-parole stage is under intensive study.

Also, as for community treatment, a serious study is being made on the adoption of a legal system under which released prisoners are made to live first in an open residential centre for a certain period, instead of being thrown into free society from the beginning. Then, after cultivating the ability to adapt themselves to social life, they are allowed to move into free life. This method is deemed particularly important for those who are confined in an institution for a long time. The use of a residential centre like this before full release into the community treatment will enlarge the scope of application of parole and facilitate the social rehabilitation of offenders.

There are not many among the Japanese criminologists and administrators who believe it necessary at present to make radical amendments to the United Nations Standard Minimum Rules for the Treatment of Offenders. It is commonly thought that what is important is, rather, to implement the present Rules. For this purpose, the exchange of information not only on a national level but on a regional or international level should be made more actively, and the contribution made in this field by the United Nations Asia and Far East Institute for the Prevention of Crime and Treatment of Offenders located in Japan is considered to have been very significant. The administrative efforts to implement the Rules range from the improvement of food, clothing and living accommodation to the establishment of such institutional treatment system as will

facilitate the reintegration of prisoners to society and further to the intensification of its linking with community treatment. Moreover, these efforts must also be directed toward the securing of understanding and cooperation of the community in institutional treatment. Again, it is needless to say that the community treatment programmes need be enlarged and better arranged.

Together with these administrative efforts, the necessity of enacting national legislation is keenly felt for thoroughly implementing the Rules and further promoting the treatment of offenders. And such new legislation should take the focus on the firm establishment of the legal status of prisoners, the individualization of institutional treatment and assistance to prisoners for their reintegration into society, the intensification of the systems for linking with community treatment organs and with the community at large, the introduction of "half-free" systems, the diversification and systematised enlargement of community treatment programmes, etc.

Careful study will be required about expanding the application of the Standard Minimum Rules to non-institutional treatment. Many provisions in the Rules are specially designed for the treatment of inmates, and a number of problems can be foreseen if the Rules are to be applied to community treatment as they are. Although some provisions seem to be applicable to such parolees and probationers as are compelled to live in a specified residential centre as part of their community treatment, it is more desirable to establish new standard minimum rules for the community-based treatment of offenders, from the comprehensive standpoints of the entire community treatment. With this in mind, it is considered necessary to exchange information on community treatment on a global basis and carefully study this problem from new angles.

Agenda Item V

ECONOMIC AND SOCIAL CONSEQUENCES OF CRIMES: NEW CHALLENGES FOR RESEARCH AND PLANNING

Introduction

Crime has significant economic and social consequences. Crime not only causes immense damage to its victims but also imposes a large amount of expenditure on society for the control of crime and the treatment of offenders. However, there exists little information on the economic and social consequences of crime; measures for prevention of crime seem to be formulated and implemented a priori and are not based on sufficient empirical data.

Recently, effective measures to cope with crime have become more urgently required than before in many countries, because of the increase in crime and the changes in its forms and dimensions. It is imperative in such a situation to formulate and implement effective measures for the control of crime on the basis of information obtained by policy-oriented research.

Under this agenda item, it is intended to describe (1) usefulness and limitation of the assessment of the economic and social consequences of crime, (2) the consequences of crime in Japan, including losses of victims of crime and expenses required for the prevention and control of crime and the treatment of offenders, (3) overall measures to combat crime now being carried out in Japan as well as the problems encountered, (4) new challenges for research and planning with respect to regional development and reallocation of the

police resources to cope with changing criminality, and so forth.

I. Usefulness and Limitation of the Assessment of the Economic and Social Consequences of Crime

1. Scope of the Consequences of Crime

The economic and social consequences of crime are various and extensive. The most immediate ones are the losses and damages incurred by victims of crime, such as death or injury, money or property deprived of or destroyed, and various other direct or consequential losses or damages of a physical or mental nature. In the case of so-called "victimless" crime, the society can be regarded as a victim. In regard to corruption, for example, the consequent dysfunctions caused to the governmental agencies and resultant distrust by the public of the Government officials can be considerable, the victim therefore being society as a whole. The expenditure for the control of crime and the treatment of offendrs is also an essential part of such consequences. This embraces all public and private expenditure for the prevention, control, investigation, prosecution, trial, treatment and aftercare with regard to crime or criminals. The economic and social consequences of crime also encompass losses or damages suffered by the criminal himself and his family. The fear, anxiety and inconvenience caused to the public by crime are also a significant part of its social consequences.

2. Usefulness and Limitation of Assessment of the Consequences of Crime

If and when all or most of the consequences can be assessed with reasonable accuracy in monetary or other quantitative terms, particularly in respect of various sectoral elements, it will greatly facilitate

the formulation and implementation of rational criminal policy. For instance, the assessment of immediate losses and damages incurred by victims would contribute to determining the appropriate amount of funds for crime prevention and criminal justice and facilitating their rational allocation. Development of methods and techniques for assessing such consequences will make the use of the cost/benefit analysis far more dependable, thus facilitating the adoption of measures that are the most effective and the least expensive.

If and when the total consequences of crime imposed on the society, as elaborated in 1 above, can be measured, the society will be able to allocate resources more wisely and appropriately to such relevant fields as education, employment, public health, housing and social welfare, so as to minimize such consequences. When planning industrial development of areas, it is necessary to take into consideration not only economic and social benefits to be attained by industrial development but also the likely economic and social costs including those of crime concomitant with the resulting social change. Estimation of the possible consequences of the projected crime will enable the planner to formulate comprehensive development plans so as to contain such consequences at the lowest possible level. (Note 12)

Practically speaking, however, how to measure what and with what degree of accuracy is to be determined or conditioned by the needs felt by planners or the purpose of the use of the data obtained, and by the methods and techniques so far developed by researchers for measuring such consequences. Social defence planners have not sufficiently realised the need to stimulate the researchers to develop such techniques, and the results of study in this field so far made by researchers seem to be insufficient to attract the attention of planners. The needs felt by planners have appeared to be such that statistical data on the frequency and kind of crimes in addition to their intuitive

grasp of crime problems have in themselves been regarded as sufficient for their planning purposes. Only in very limited instances has an attempt been made to give crimes different weights according to such criteria as seriousness so that their impact could be measured more meaningfully for a specific purpose.

Methods and techniques for their measurement have therefore been slow in development. Even in regard to the economic consequences of a property offence, seemingly the least difficult one to assess, their assessment is not so simple and clear-cut as they may appear; it is not easy, for example, to determine the extent to which the "chain-reactions" of the economic consequences are to be considered and calculated, for instance, when the property was fully insured, the victim fully compensated and the property well utilised by the third party. The assessment of economic consequences of crimes other than property offences is far more difficult. In the case of such crimes as homicide and bodily injury involving certain physical losses or damages, the assessment might be intricate but not impossible. However, how about the crimes in which no physical damages are involved? One example would be intimidation in which mental agony is a sole consequence for the victim. It would be doubtful if the mental agony can be meaningfully assessed in terms of monetary value. It again depends upon what researchers can offer and whether planners are ready to accept their findings for utilisation.

Moreover, although the economic factor is essential in the formulation of criminal policy, it should not be the only consideration of the planner. He cannot disregard the fact that crime is anti-social and immoral behaviour which society has to prevent and contain even without regard to expense. In fact, in many cases, economic considerations have to give way to the requirements arising from metaphysical considerations.

To sum up, the development of methods and techniques for the measurement of the economic consequences and for the consequent utilisation of the results for policy formulation is still in such an embryonic stage that what can be attained at present is not very much more than alerting the public about the seriousness of crime problem by letting them visualise its scope, thus making them more conscious, cooperative and contributory towards social defence efforts.

The social consequences of crime are even more difficult to quantify than the economic consequences. In many cases they could at most be expressed only in relative terms, thus in the main limiting their utility to the determination of priority areas. In other words, the fear or anxiety, for example, caused to the public by crime can hardly be measured in absolute terms, at least at present.

Furthermore, it is yet to be examined if the significant consequences of crime can be categorized either "economic" or "social". Even though it might be a matter of definition, there would be considerable difficulties in defining without becoming too technical.

In order to overcome these difficulties and limitations, researchers and planners have to continue and expand their joint efforts. It is true that no movement can be made without taking the first step. The studies and exercises so far made in the assessment of the economic consequences, in the quantification of ethical and other metaphysical values and in the appropriate utilisation of these outcomes can be evaluated as the necessary first step. Hereunder will be presented the first steps that have been taken in Japan towards this direction.

II. Economic and Social Consequences of Crime in Japan

1. Recent Trends of Crime

As a prerequisite to clarification of the economic and social consequences of crimes, crime trends in Japan will be explained first.

Recent trends of crime found in our criminal statistics indicate that in 1974 the number of Penal Code offences known to the police was 1.04 times the figure for 1963. Excluding from these numbers the crime of "traffic negligence causing death or injury" involved in traffic accidents, the number of Penal Code offences known to the police in 1974 decreased to 87 per cent of the figure for 1964. Also, analysis of the Penal Code offences known to the police by types of offence from 1964 through 1974 indicates that traffic negligence causing death or injury increased 2.05 times, indecent crimes 1.1 times, and interference with official duties 1.1 times, while among the remaining offences, including homicide, robbery, rape, etc., decreases varied from 90 to 50 per cent. Even the number of traffic negligence cases causing death or injury, which had increased sharply until 1970, have been decreasing since 1971, despite an increase in the number of registered cars. The breakdown of Penal Code offences known to the police in 1974 by types of offence shows that theft was the largest, comprising 60 per cent of the total, followed by traffic negligence causing death or injury which was 21 per cent; all other offences remained between 3 per cent and 0.1 per cent of the total. Corruption is not as serious a problem in Japan as in some other countries. The number of cases investigated by the police was about 760 in 1974. The number of drug offenders investigated by the police in the same year consisted of 355 violators of the Narcotics Control Law, 165 of the Opium Law, 659 of the Cannabis Control Law, and 9,625 of the Stimulant Drugs Control Law. The number of these offences has on the whole been stable for several years. However, offences against the Narcotics Control Law in Okinawa and against the Stimulant Drugs Control Law throughout Japan increased sharply in recent years, requiring strong countermeasures. (Note 13)

Next, while the number of Penal Code offences committed by

juveniles, except traffic negligence causing death or injury, has been on the decrease since 1965, it increased by 7,000 over the previous year's figure in 1974. One of the characteristics of recent juvenile crimes is that offences committed by juveniles under 18 years of age have risen in number, in contrast with a decrease in number of those committed by older juveniles. The number of the juveniles arrested (or investigated, if not arrested) for Penal Code offences in recent years comprised 32 per cent of all persons arrested (or investigated). (Note 14) Their rate per 1,000 juveniles is 3.5 times as high as the rate for adults.

When criminal phenomena are examined from the viewpoint of locality, the number of the Penal Code offences excluding traffic negligence causing death or injury has been decreasing in almost all areas in Japan, not excepting such large cities as Tokyo and Osaka. However, looking into local trends of criminal phenomena carefully, we find rising trends of crime in some middle-sized cities and industrially developing areas where rapid social changes are taking place. The number of non-traffic Penal Code offences has been increasing in 10 out of the 38 cities, most of which are capitals of prefectures. In the past ten years, out of the 24 industrially developing areas, in which development is being carried out under the National Comprehensive Development Plan, 11 areas are seeing an upward trend in the number of non-traffic Penal Code offences. Although industrial development is not always associated with increase of crime, measures for prevention of crime are becoming more important in areas where industrialisation and urbanization are in progress. (Note 15)

2. Economic and Social Losses of Victims of Crime

Criminal statistics prepared by the Japanese police list the total damage which the victims in certain types of crimes have suffered.

The total amount which the victims of robbery, extortion, theft, fraud, embezzlement and breach of trust sustained in 1973 was 102,546,000,000 yen ($ US 346,799,000) (Note 16), 22 per cent of which was recovered from offenders after the commission of crimes. The amount of damage was the largest for theft, comprising 47 per cent of the total, followed by fraud 33 per cent and embezzlement, 12 per cent, while, in terms of the number of cases, theft accounts for 92 per cent, fraud 5 per cent, embezzlement 1 per cent, and breach of trust 0.02 per cent. It is noticeable that the average amount of damage per case is far greater in fraud and embezzlement than in other crimes.

There are no data available with reference to the economic and social losses of victims in other types of crime. This remains to be clarified by future research. It is presumed that the amount of damage must be considerable in the case of traffic negligence causing death or injury because 15,000 persons were killed and 790,000 persons injured in 540,000 traffic accidents in 1973. An average indemnity for a victim killed in a traffic accident was 8,890,000 yen ($ US 30,000) (Note 17). If calculated on the basis of this average, total damages awarded victims killed in the traffic accidents in 1973 amounted to 133,350,000,000 yen ($ US 450,000,000).

In estimating the total damage inflicted on society, one should not fail to pay due consideration to the damage caused by crimes which have taken place but not been reported. Acccording to the results of a 1970 survey on a sample of people in Japan, the dark figure of Penal Code offences is 1.1 times as many as that of reported offences. (Note 18) This figure seems to be considerably smaller than those estimated in other countries.

3. Expenses Required for the Prevention and Control of Crime and the Treatment of Offenders

The funds needed by the police and other governmental agencies responsible for prosecution, trial, correction and rehabilitation of offenders amounted to 744,125,000,000 yen ($ US 2,516,000,000), which constitutes 3.6 per cent of the total of the State budget (general account) plus the budget for local governments, and 0.8 per cent of the Gross National Product. According to a survey of the United Nations, many nations spent 3 to 10 per cent of their national budget for crime control activities. The proportion of expenditure for control of crime in the national budget is considerably smaller than that of other countries.

In Japan, of this expenditure for 1972, 83 per cent were spent by the police, 6.8 per cent by the courts, 6.4 per cent by the correctional authorities, 3.2 per cent by the public prosecutors' offices and 0.6 per cent by the rehabilitative organisations. (Note 19) Generally speaking, there is a tendency for the percentage of expenditure for police activities to be larger and that for corrections smaller in comparison with those in other countries. (Note 20) This suggests that police activities are extended to the broader field of social welfare and the prevention of crime. Another reason why the proportion of expenditure for rehabilitative organisations is relatively small is due to the positive and extensive roles played by volunteer probation officers numbering some 50,000 throughout Japan.

When the expenses for an offender under institutional or community-based treatment are calculated, it is found that the average expense per day for one inmate is 2,030 yen ($ US 6.87), whereas that for one probationer is 143 yen ($ US 0.48). (Note 21)

The total amount of expenditure for the prevention and control of

crime and for the treatment of offenders increased by 3.7 times over the past ten years. The rate of increase was highest with the police, being 400 per cent, and lowest with the correctional authorities, 260 per cent. The high increase in police expenditure is mainly attributable to improvement and expansion of police activities because of an increase in traffic offences and changes in the forms and dimensions of crime in recent years. On the other hand, the relatively low increase in correctional expenditure reflects the recent tendency of decrease in the number of inmates in correctional institutions; a majority of convicted offenders receive a fine and, even when they are sentenced to imprisonment, 60.3 per cent of them are granted suspension of execution of sentence. (Note 22)

While the number of Penal Code offences known to the police remained 1.1 times as many as ten years ago, expenditures for the prevention and control of crime and for the treatment of offenders rose 3.7 times. This means that even if we take into consideration the rise of commodity prices during this ten-year period, programmes for crime prevention and the treatment of offenders have gradually been improved and strengthened.

III. Overall Measures to Combat Crime Now Being Carried Out in Japan, and the Problems Encountered

A few examples of Japanese experience in overall countermeasures for combating crime will be described below.

1. Measures for Traffic Safety

In Japan, traffic by automobiles has developed rapidly since the end of World War II, resulting in the steady increase of traffic accidents. In order to cope with the increasing number of accidents, it is necessary for a number of administrative organisations concerned

with traffic safety to keep close mutual contact and introduce overall countermeasures. Since the establishment of the Traffic Accident Prevention Headquarters in the Cabinet in 1955, the Government has tried to administer measures for traffic safety in a comprehensive way by expanding and rationalizing the related organisations. Also, in 1970, there were established the Central Council on Measures for Traffic Safety in the Prime Minister's Office and Metropolitan, Prefectural, City, Town, or Village Council on Measures for Traffic Safety in each prefecture and municipality, respectively. In 1971, the Central Council formulated the Basic Plan for Traffic Safety giving an outline of the measures for traffic safety to be taken during the five-year period from 1971 through 1975. Since then the administrative organisations concerned and local public bodies prepared their own plans for measures related to traffic safety on the basis of the Basic Plan and set about implementing them. For example, various steps have been taken not only for the construction and maintenance of roads and the installation of traffic safety facilities, but also for the rationalization of various methods of traffic control and the diffusion of ideas of traffic safety. Furthermore, the structure of organisations responsible for speedy and proper control, investigation and disposition of traffic violations has been strengthened. The budget for measures of traffic safety has been increasing significantly and the total budget for land traffic safety for 1973 was 330,430,000,000 yen (S US 1,117,450,000), out of which the budget allocated to the police, prosecutor's offices and the courts which are directly related to the disposition of traffic offences was 2,350,000,000 yen (S US 7,795,000). (Note 23)

In 1971 and 1972, the number of traffic accidents and the persons killed in such accidents decreased, which is considered a promising trend showing that the above-mentioned countermeasures have begun to take effect.

2. Programmes for the Prevention and Correction of Juvenile Delinquency

In dealing with juvenile delinquency, it is especially necessary to carry out comprehensive programmes efficiently with the combined efforts not only of the social defence organisations but also all the agencies concerned with this problem as well as voluntary organisations. Since immediately after World War II the Government has paid particular attention to the prevention of juvenile delinquency and the sound growth of juveniles, taking various measures such as the improvement of relevant laws, provision of increased manpower, provision and improvement of institutions and facilities, the organisation of campaigns among the people, etc. The countermeasures for juvenile delinquency are closely related to educational and welfare programmes for youths and juveniles, and responsibilities are thus shared by several Ministries. The necessity for combining and coordinating these programmes has long been stressed and there has always existed some coordinating organisation since the establishment of the Youth Problems Deliberative Council in the Cabinet in 1949.

Under the present system there are the Headquarters for Youth Problems and Countermeasures in the Prime Minister's Office and the Youth Problems Deliberative Council, an advisory organ to the Prime Minister. The main task of the Headquarters for Youth Problems headed by the Prime Minister is to synthesize and coordinate the programmes and business of various Ministries relating to youth and juveniles. It holds prior consultations with the Ministries concerned about the budget for youth and juvenile problems to ensure its proper allocation. The amount of such budget is also increasing year by year and, in 1974, it was 2,035,813,000,000 yen ($ US 6,786,040,000), out of which the expenditure allotted to the police and correctional

and rehabilitative authorities exclusively for the prevention of delinquency and the treatment of juvenile delinquents was 17,464,000,000 yen ($ US 58,213,000). (Note 24) Considering the fact that juveniles are to play important roles in building our future society, that their crime rate is 3.5 times as high as the rate for adults and that they are generally more susceptible to the educative or correctional measures than adults, the per capita expenditure for dealing with delinquent juveniles can and should be more than that for adults. In fact, the per capita expenditure for institutionalizing delinquent juveniles were 3.4 times as high as that for adult prisoners in 1974.

3. Other Measures

Besides those mentioned above, various comprehensive measures have been formulated and implemented on a national level against the abuse of drugs, prostitution and organised crime of violence, and they have proved successful. In recent years, these offences, except amphetamine abuse, have been contained at low levels and at present there are no overall programmes in active operation in this field. With regard to the recent increase in the number of offences against Stimulant Drugs Control Law, the Headquarters for Countermeasures against Drug Abuse, which was established in the Prime Minister's Office, formulated an up-to-date plan for the implementation of countermeasures against the abuse of stimulant drugs, and has been promoting comprehensive measures such as stringent control of the drugs and public education for prevention of their abuse.

4. Problems Encountered in Enforcing General Anti-Crime Programmes

Japanese overall anti-crime measures have had considerable success in the past. However, these measures were of an ex post facto nature,

designed to cope with the frequent occurrence of crime and delinquency which attracted public attention at specific times. They were not incorporated into national development planning from the beginning, nor were they based on adequate scientific research from the standpoint of the efficient use of the national budget. In other words, these measures were taken in such a manner as to concentrate upon what seemed to be lacking. Although they were successful in that they suppressed the rapid increase of crime and delinquency of specific kinds, the fact is that they have not been based on a well-laid plan for prevention.

IV. New Challenges for Research and Planning

1. National Development and Crime Prevention Measures

The Japanese government formulated a National Comprehensive Development Plan in 1962 with a view to preventing the overcrowding of industries and population in large cities, developing underdeveloped areas and promoting well-balanced economic and social development. Based on this plan, 15 new industrial cities and six industrial regions were designated for comprehensive national development. (Note 25) In these cities and regions, where the total population and amount of industrial activity have increased remarkably, rapid social change has been taking place during the past 10 years. It is often said that rapid social change due to industrialisation and urbanization is associated with the increase of crime. Therefore, an interesting question is whether crime has increased in these industrially developing areas. In 15 new industrial cities and six industrial development regions, the number of non-traffic Penal Code offences known to the police and the rate of such offences per 1,000 population in 1973 were compared with figures for 1963. (Three of these cities and

areas stretch over the boundary between two prefectures and were studied separately. Therefore, 24 localities were actually surveyed.) In the past ten years, the number of offences has increased in 11 areas and decreased in 13 areas. Of these 13 areas, more decrease than the national average was recorded in nine areas. In the same period, the rate of offences in general has increased in six areas, not changed in one area and decreased in 17 areas. The rate has decreased more sharply than the national average in nine areas. In the areas where the number of offences has increased, heinous offences, violent offences and sex offences did not show much fluctuation, whereas property offences and traffic negligence cases causing death or injury have increased sharply. Thus, there is a tendency for crime to decrease in many industrially developing areas in Japan where industrialisation and urbanization are progressing. However, the areas where the number of offences has sharply increased were the rapidly developing areas where social development lagged behind industrial development. This highlights the importance of taking effective measures for crime prevention in the course of area development and of setting up a plan for harmonious progress of industrial development and social development in order to minimize the increase in criminality usually associated with economic development.

2. Criminal Phenomena and Contermeasures against Them in the Kashima Development Area

(1) Progress of development and crime trends

Industrial development has been carried out in the Kashima area located on the Pacific coast about 80 kilometres north-east of Tokyo, which was designated as one of the industrial development areas in 1963. As mentioned earlier, developing measures for crime control

in industrial development areas experiencing rapid social change is one of the most important tasks of criminal policy in Japan. Therefore, the Research and Training Institute of the Ministry of Justice has been conducting a comprehensive research project from 1970 through 1975 to identify the relation between economic and social changes and criminal phenomena, and also the effect of crime prevention measures in the Kashima Developing Area. The Institute mobilized a number of researchers selected from among lawyers, sociologists, psychologists, etc. (Note 26) The development of the Kashima area was begun with the Ibaraki Prefectural Government as its main sponsor. It aimed at the establishment of an industrial area of 3,300 hectares on the Pacific coast to construct a coastal industrial zone consisting of 45 plants for handling steel, oil, electric power, machine tools, etc. and to develop residential areas and farming lands around the industrial area during the period from 1963 through 1975. This industrial development project has about 70 per cent been completed and the population in the area has increased from about 57,000 in 1963 to 91,000 at present. The value of products manufactured also increased from 3,600,000,000 yen ($ US 12,000,000) to 283,400,000,000 yen ($ US 958,000,000) in the same period. The types of industry have been developing from primary to secondary and then to tertiary, thus moving very fast toward industrialisation and urbanization. At the outset of the development, a social defence project team was formed, composed of development planners and researchers in Ibaraki Prefecture. Having analysed the social change caused by the development and the trends of crime associated with it, the team proposed that social defence programmes should be an integral part of the social development planning and should be carried out with the participation and cooperation of local residents. However, it seems that the overall social defence programmes based on these basic policies have not been implemented satisfactorily.

During the period from 1962 to 1971 the incidence of crime increased very sharply in the Kashima area as social change caused by development progressed. If the number of offences in 1962 is used as the base index of 100, in 1971 offences of traffic negligence causing death or injury was 979 and non-traffic Penal Code offences was 383. However, the number of Penal Code offences including the traffic negligence cases has decreased since 1972, as social change in the first stage of development became less rapid and measures for crime control have been improved. In 1973, the index for traffic negligence cases went down to 905 and that for non-traffic Penal Code offences to 307. Examining the trends in each category of offences during the period from 1962 to 1971, the number of theft cases increased approximately five times, whereas that of other property offences, violent offences, heinous offences and sex offences showed only a slight increase. It was also found that out of all the offenders arrested or investigated by the police in the Kashima area from January 1970 to June 1972, 63 per cent were those who had lived there since pre-development times, while the remaining 37 per cent were migrants who moved to the Kashima area after the commencement of development. (Note 27)

The clearance rate of crime in the Kashima area was also examined, in order to evaluate the effectiveness of police activities to control crime. The clearance rate of non-traffic Penal Code offences, which was 69 per cent in 1962 (the year prior to the commencement of development), kept declining as development progressed, going down to 30 per cent in 1971. After that, it began to increase and recovered to 41 per cent in 1973, which was still lower than the national average of 58 per cent.

(2) Economic and social consequences in the Kashima area

As mentioned above, crimes increased rapidly in the Kashima area in the course of development. The next question is, what effects have these crimes caused on the society. According to the police statistics of Ibaraki Prefecture, the total amount of losses to victims from robbery, extortion, theft, fraud and embezzlement was 7,919,400 yen ($ US 26,782) in 1966. It increased year by year and amounted to 81,092,600 yen ($ US 274,239) in 1973. Of the total amount of losses in 1973, the loss from theft was the largest, comprising 88.5 per cent, followed by fraud, 10.6 per cent, robbery, 0.3 per cent, and embezzlement, 0.1 per cent. Out of the total amount, 11 per cent was recovered from the victims. (Note 28) Although this was only a part of losses incurred by victims of crime, it is safe to assume that crime as a by-product of development, increased and made a great economic and social impact on society in the Kashima area.

To further the survey on the costs of crime associated with development, an inquiry is being made into the total damage caused by all Penal Code offences which occurred in the Kashima area and also into its trends. This is being done by analysing the damage caused by each offence which is entered in the inquiry list based on the case records. It is also planned to choose firms and inhabitants by a random-sampling method and investigate the actual damage which they sustained by crime and also the expenses of inhabitants for crime prevention (such as expenses for the employment of guards, purchase of alarms, installment of road lamps, payment of insurance premiums, etc.).

Furthermore, another survey is under way to investigate expenditure for the prevention and control of crime and the treatment of offenders and its change during the period of development, with regard to the police, prosecutors' office, court, correctional institution

and probation office in the Kashima area. The interim report of the survey estimates that the total expenditure for Kashima Police Station, the jurisdiction of which is the central part of the Kashima area, increased five times, i.e. from 36,040,000 yen ($ US 122,000) in 1963 to 257,470,000 yen ($ US 871,000) in 1973. Since police duties include those not directly connected with crime prevention or treatment of offenders, such as traffic guidance, crowd control, family affairs consultation, emergency rescue activities and the like, it is necessary to determine how many officers are engaged in what duties on a man-hour basis with reference to all the police personnel for a certain period of time and to calculate the expenses related to anti-crime measures by apportioning the budget on the basis of the result of the above investigation. (Note 29) The result of the investigation indicates that the expenditure directly concerned with the control of crime and the treatment of offenders was between 72 per cent and 83 per cent of the total expenditure of Kashima Police Station and increased about 7.3 times during the past 11 years. The increase in the expenditure for prevention of serious crimes and control of traffic offences was particularly noticeable.

Since the total expenditure for the prevention and control of crime and the treatment of offenders spent by all the police stations in Ibaraki Prefecture, where Kashima area is located, increased 5.1 times during the same period, the increase in the expenditure of Kashima Police Station outstripped that in the whole prefecture. When the increase in the rate of expenditure of Kashima Police Station is compared with that in Penal Code offences in its jurisdiction (which was about 4.9 times) for the past 11 years, it can be concluded that police activities in Kashima area have been improved considerably. However, if the rate of increase in expenditure for police activities in the Kashima area for the past 11 years is examined very carefully, it is found that

the increase in the expenditure did not always keeep pace with the upsurge of crime. Recently, social conditions have been stabilised and police measures for the control of crime have been improved greatly. It seems that these factors contributed to the decrease in crimes as well as to the rise in the clearance rate of crimes in the Kashima area. Moreover, the survey is designed not only to investigate expenses related to anti-crime programmes in the prosecutors' office, court, correctional institution and probation office in that area, but also to analyse the change in the expenses accompanying the progress of the development. It is also contemplated that more data on whether or not crimes inflict an unfair burden upon a certain sector of the community will be collected in order to rectify such a situation and to find out what changes are necessary in social defence programmes including anti-crime measures and how they should be enforced.

The results of the Kashima research will give important suggestions useful not merely for improvement of countermeasures against crime in the Kashima area but also for the preparation of a comprehensive social defence plan in other developing areas.

3. Reallocation of the Police Resources to Cope with Changing Criminality

In recent times urban sprawl concomitant with urbanization and industrialisation is seen in many cities, especially in large cities such as Tokyo. While crimes are declining in the inner parts of Tokyo, they are increasing in the suburban areas of the city where urbanization progresses very rapidly as many residential sections and shopping centres are being developed. For this reason, while police manpower is not sufficient to cope with crime in the suburban areas, it is abundant in the inner areas.

In 1974 the Tokyo Metropolitan Police Headquarters made a survey of the economic and social consequences of crimes in the precincts of 89 police stations in Tokyo so as to reallocate police resources to meet social needs for the control of crime. Each type of crime was given a weight to indicate its seriousness. This was done on the basis of a survey about perceptions of randomly sampled inhabitants on its seriousness and the average time spent handling it. Then the average number of each type of crime for a year from 1970 to 1973 was calculated in the precinct of a respective police station. The economic and social consequences of each type of crime were estimated in each precinct by multiplying the average number of each type of crime by the weight score given to it. In addition to the economic and social consequences of crimes estimated by this way, the number of suspects arrested, their detention periods, prediction of future crime trends and workloads not directly related to the control of crime, such as traffic guidance or family affairs consultation, were also considered as relevant factors in quantifying the workloads of all the personnel of each police station in Tokyo. The result of the survey reveals in general that the workload per policeman in the inner areas is light, whereas that in the suburban areas is too heavy. Consequent upon this finding, the Tokyo Metropolitan Police Headquarters reduced the personnel of 42 police stations in the inner areas and increased them in 44 stations, most of which are located in the suburban areas. (Note 30)

The Police Headquarters in every prefecture have made a great effort to rearrange police forces, adapting them to changing situations in criminality in the same way as the Tokyo Metropolitan Headquarters did. The same is true of the courts and the public prosecutors' offices, which, for example, have abolished or merged their branch offices.

4. Necessity of Cooperation between Planners and Researchers

Closer cooperation between policy-makers and researchers is to be required in order to develop research on the economic and social consequences of crime and to formulate measures for the control of crime based thereon. Researchers should be mindful of the type and kind of information most needed by planners for their planning and formulation of policy and conduct policy-oriented research so as to make the results of research more relevant to the existing needs of the policy-makers. Policy-makers ought to establish criminal policy based on empirical data resulting from such research and modify policy, if necessary, after evaluation of its effect. In this joint effort to formulate and implement more effective criminal policy, setting up standards for measuring the social costs of crime which cannot be assessed in terms of money, developing methods of research for this purpose, and training research workers qualified for studying the costs of crime and the effect of measures for crime control are of paramount importance. It is also desirable to exchange information and results of research on criminal phenomena and countermeasures against them in many countries through international conferences, seminars and dissemination of publications, in order to make use of valuable experiences taking place abroad. It is gratifying to notice in this connexion that the United Nations Asia and Far East Institute for the Prevention of Crime and Treatment of Offenders, Fuchu, Tokyo, has placed particular emphasis on these subjects. Its 35th International Seminar Course (February —March 1974), for example, was devoted to the planning and research for crime prevention, with special reference to urbanization and industrialisation. (Note 31)

V. Conclusion

As stated above, non-traffic Penal Code offences have been decreasing since 1965, and even traffic negligence cases have been gradually declining since 1971, despite accelerated industrialisation and urbanization in Japan. This seems to be attributable to the fact that policy-makers grasped the trends of crime accurately and objectively, and established and implemented overall measures for the suppression and prevention of crime. Needless to say, direct measures for the control of crime should be accompanied by broad social defence programmes, including such fields as education, employment, public health, housing and social welfare. Japan has made every effort to implement these social programmes and thus tackled problems of criminality comprehensively. (Note 32)

However, the anti-crime programmes have mostly been of ex post facto or emergent nature to deal with something which had already taken place. Therefore, measures for prevention of crime in the future should be formed as part of an overall social defence plan based on empirical analysis and scientific projection of the future trends. In planning the industrial development of areas, social defence programmes must be incorporated in the planning from the very outset.

Revealing the economic and social consequences of crime to the extent that they can be used as a basis of effective planning is certainly a new challenge for research and planning. The research project mentioned above on criminal phenomena and countermeasures in the Kashima area is an example of our efforts in this direction. It is designed to provide the national and local governments with reference materials for overall development planning to be set up in future as well as to make itself conducive to carrying out more efficient and better planned programmes for crime prevention from the outset of development. All the results of this research have so far been disseminated to the government agencies and other organisations concerned. The Perefectural Government of Ibaraki, implementing the de-

velopment of the Kashima area, has instituted a new project—the construction of Tsukuba Research and School City. In this project more concrete and comprehensive programmes for crime prevention have been incorporated in development planning from the outset, based on relevant information obtained by the Kashima research project and they are being put into operation. This is a good example of cooperation between researchers and planners in which results of research on crime prevention in the developing area are transmitted to planners for use by them in choosing the least expensive and most effective programmes for crime prevention and treatment of offenders.

NOTE

(1) KAWAJI published a book entitled "Hands and Eyes of the Police" in which he visualized the ideal image of the police and made the following impressive statements:

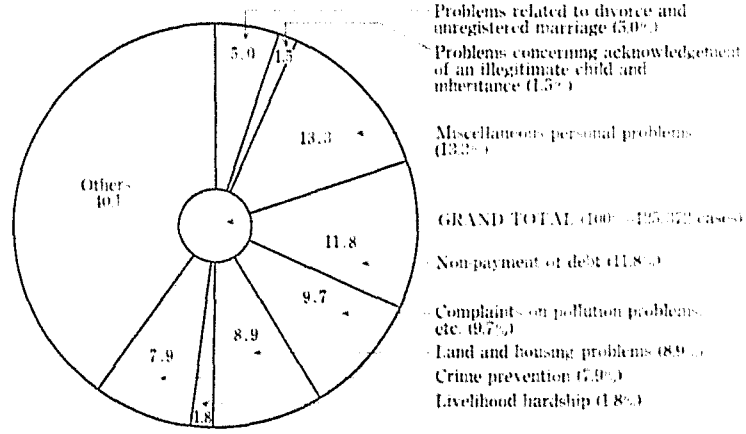
(i) "A police officer is the guardian of the people. Therefore, in performing his official duties he must stand at all times on the side of the people without being overtaken by his personal feelings".

(ii) "A police officer is responsible for the restraint of people's rights and freedom. Therefore, he should strictly judge his own personal conduct and try to serve as a model to others as to what should constitute a citizen's life. Otherwise, he cannot hope to accomplish his assigned responsibilities".

(iii) "Police officers are responsible for maintaining public peace and order and should, even in time of peace, maintain readiness for any unexpected disruption of public security".

He thus exerted deep and significant influence in the formation of ethics which has become the undercurrent of the present Japanese police.

(2) The breakdown of the police counselling service by the contents of complaints or troubles in 1973 is as follows:



Of these 125,372 cases, 37 per cent were "solved", 51 per cent "advised" and 3 per cent referred to the competent agencies.

(3) Since around 1962, various forms of private security services have emerged and are now widely prevalent in Japan. In 1972, the total number of these private security guards exceeded 40,000 persons, engaging in such services as maintaining security of shops, offices, factories and construction sites, or escorting and delivering cash and jewels. These private security services, as a whole, have made significant contributions to preventing crimes and calamities, apprehending criminals and turning them over to the police concerned, discovering fires at an early stage and informing appropriate agencies concerned.

However, since these special services inevitably have direct influence over an individual's life and property, an incident could arise in which an individual's, or organisation's lawful rights or activities may be infringed. It was therefore felt that some form of control should be imposed on them through the enactment of restrictive legislation. The Security Service Law was thus enacted in November 1972 for the first time in Japan. This law formulates necessary control provisions over the security service enterprises so that their services may be conducted appropriately. One of its control measures is that every security service company is required to make a report of its business operation to Metropolitan or Prefectural Public Safety Commissions concerned.

(4) A nation-wide survey was conducted in 1971 by the Public Relations Division of the Prime Minister's Office in order to find public opinions concerning the police. Regarding the public's expectations as to where the police should place their special emphasis, the following results were obtained:

More frequent patrol service	26%
Traffic safety and control of traffic violations	13%
Posting a police officer in a police box at all time	12%
Prevention of juvenile delinquency	11%
Intensification of control over racketeer groups	9%
Increase in the number of policemen and police boxes	7%
Control of annoying acts	6%
Control of collective violence by extremist groups	2%

Control of Public Office Election Law violations	2%
Control of business affecting public morals	1%
Others	1%

To the question about their second choice of emphasis, 14 per cent cited the prevention of juvenile delinquency and 11 per cent listed the tightening of police control over annoying acts.

(5) Crime Prevention Associations have been established at 51 locations throughout the country. Their activities usually include their own independent patrol services and crime prevention campaigns. With the police, they jointly sponsor seasonal crime prevention activities, or set up crime prevention days. These associations sponsor various contests for youths such as fencing, judo, baseball and oratory and make significant contributions toward the prevention of juvenile delinquency and the development of healthy younger generation.

As places for their front-line operations, there are some 540,000 liaison sites across the country which carry the following functions:

(i) reporting offences in the community to the police;

(ii) dissemination of police information to community residents;

(iii) cooperation with the police in "crime prevention diagnostic activities", and

(iv) passing on to the police opinions and desires of neighbours concerning local crime prevention measures.

(6) The Work-Site Crime Prevention organisations include various crime prevention groups which have been organised by a group of same profession so as to prevent crimes from recurring in their respective work-sites. As of the end of 1973, there were about 10,000 such organisations across the country and they have conducted various activities such as mutual exchange of necessary information concerning crime prevention in work-sites and carried out studies to seek improvements in structures, facilities and systems for more effective crime prevention.

(7) As private traffic safety organisations in Japan, there are the Traffic Safety Association, the Promotion Committees for Safe Driving of Motorcycles, Mother-and-Child Traffic Safety Clubs and many others. Above all, the Traffic Safety Association plays a key role in all the traffic safety campaigns conducted by private traffic safety organisations in

this country. The Association holds national conventions related to traffic safety activities, and publishes public traffic campaign material in order to promote traffic safety consciousness among the general public. It also holds various guidance meetings to lecture on bicycle and motorcycle safety. The All-Japan Traffic Safety Association heads the overall structure with the Prefectural Traffic Safety Associations playing major roles at prefectural level, and District (or branch) Traffic Safety Associations conduct their own traffic safety activities at police station level.

(8) The major administrative reforms accomplished in the field of corrections during the last five years were as follows: first, as regards the treatment of offenders in custory, the buildings of some institutions have been newly constructed or remodeled to upgrade the living accommodation for inmates, based on a long-term basic plan concerning the consolidation of institutions; medical centres have been established in each of the eight Correction Regions to improve the medical services for physical and mental diseases; the working hours of institutional staff have been shortened and normalized; the training courses for newly recruited officers of institutions and refresher courses have been intensified; by revising the classification rules for prisoners, reception and classification centres have been established in each Correction Region and, besides the classification system for allocating prisoners to institutions, there has been newly established another classification system for purposes of treatment, with a view to carrying out treatment programmes most suitable to individual prisoners in a concentrated manner so that the individualization of treatment could be enhanced; open treatment has been further promoted by increasing open institutions; the scope of prisoners who are permitted to engage in some work on their own account outside the regular work hours has been enlarged to cover all prisoners, with intent to allow them to use leisure hours more actively and increase their income; the measures for safety and sanitation in prison industry have been strengthened and the amount of indemnification of industrial injury increased; the shortening of work hours of prisoners has enabled them to use educational programmes and medical services more actively; and the rules concerning parole and the supervision of parolees have been revised to urge the authorities to

make more active use of parole.

Secondly, as regards the treatment of offenders in the community, the community treatment programmes for those probationers and parolees whose treatment is difficult have been improved by the Directive on Treatment of Probationers and Parolees by Classification; by enforcing the Directive on Probation and Parole Supervision over Traffic Offenders, group treatment programmes have been commenced for offenders of this type; some Rehabilitation Aid Associations which accommodate and carry out treatment programmes for probationers, parolees, etc. have been newly constructed or remodelled to provide better living accommodation; as regards those probationers and parolees who make a trip for a long period of time, the system of entrusting the probation office, which has jurisdiction over the place where they are travelling, with the responsibility of supervising and treating them has been initiated; and besides, the Rules for Handling the Business concerning Parole and Probation Cases have been established to simplify and rationalize the business concerned, for improving community treatment programmes.

(9) The penal institutions are defined to include adult prisons, juvenile prisons and detention houses. The adult prisons accept adult prisoners, and the juvenile prisons, young and juvenile prisoners under 26 years of age, and detention houses, prisoners awaiting trial. There are 58 adult prisons, nine juvenile prisons and seven detention houses and, in addition, nine branches of adult prisons and 107 branches of detention houses.

(10) Prisoners are classified into the following categories from two angles, one for allocation and the other for treatment:

The categories for allocation (criteria, based on which the institutions or sections of institutions admitting prisoners are determined) are divided, first, by sex, nationality, type of sentence, age and length of sentence, into Class W (females), Class F (foreigners who need treatment different from that for Japanese), Class I (those sentenced to imprisonment without labour), Class J (juveniles), Class L (long termers to serve sentences for not less than eight years) and Class Y (young adults under 26 but not less than 20) and next, by the degree of criminal tendency, into Class A (those whose criminal tendency is not so advanced) and Class B (those whose criminal tendency is

advanced) and further, by mental defects or physical sickness of defects, into Class M (mentally defectives) and Class P (those who are physically sick or defective). These Classes M and P are further broken down into Class Mx (those who are mentally retarded or who need the same treatment as for mentally retarded persons), Class My (psychopaths or those who are found to have a considerable psychopathic tendency) and Class Mz (those who are psychotic or who are found to have a considerable psychotic tendency, those who are seriously neurotic, and those who are found to be clearly suffering from confinement reaction, drug or alcoholic addiction or its aftereffect) and, also, into Class Px (those who need medical treatment or care because they are physically disordered, pregnant or they have delivered a baby), Class Py (those who physically handicapped and in need of special treatment and those who are blind, deaf or dumb) and Class Pz (those who are around 60 years of age or over and present considerably senile symptoms, and those who need special treatment due to their weak constitution).

Next, the categories for treatment (criteria indicating the points on which emphasis should be placed in treating prisoners) are divided into Class V (those who need vocational training), Class E (those who need school education), Class G (those who need social education and life guidance), Class T (those who need specialized therapeutic treatment) and Class S (those who need special protective treatment) and there are also Class O (those who are suitable for open treatment) and Class N (those who are qualified for maintenance work).

Of 37,769, the total number of prisoners as of the end of 1974, 17,792 (48.0%) were Class B prisoners, 6,444 (17.0%) Class Y, 17.1 per cent Class A, 7.7 per cent Class L, 1.9 per cent Class I, 2.1 per cent Class W, 1.5 per cent Class M, and 1.1 per cent Class P. Except Classes B and A, all other classes are divided into sub-classes a and b. Also, of 35,668, the total number of prisoners who were classified by the Categories for Treatment, 22,719 (63.7%) were Class G prisoners, 6,938 (19.4%) Class N, 4.8 per cent Class V, 4.5 per cent Class S, 3.5 per cent Class T, 1.9 per cent Class O and 1.8 per cent Class E.

(11) The measures taken in this case vary, according to the types of disposition by the courts. As regards the prisoners in Category 3

(parolees from prisons), only those juveniles who are under indeterminate sentence are qualified, and the execution of their indeterminate sentence is regarded to have been completed and, as for Category 4 offenders (those placed under probationary supervision by the court at the time when it suspends the execution of their sentence), they are tentatively relieved from such supervision.

(12) The White Paper on Crime for 1974, published by the Research and Training Institute of the Ministry of Justice, deals with the interrelation between progress of regional development and crime trends, placing emphasis upon the importance of incorporating social defence programmes into overall development planning right from the beginning of development.

(13) In Japan, there was a rapid rise in violations of the Stimulant Drugs Control Law from 1951 through 1955 and those of the Narcotics Control Law, the peak of which was in 1962 and 1963. In both cases, stringent enforcement of law as well as proper medical treatment for drug addicts suppressed these violations very effectively, and drug offences have been contained at low levels since 1964. However, the number of persons arrested or investigated by the police for violation of the Stimulant Drugs Control Law increased from 1,618 in 1970 to 9,625 in 1974. During the same period, violators of the Narcotics Control Law arrested or investigated by the police increased from 110 to 355. Sixty per cent of them were arrested or investigated in Okinawa; the number in other areas in Japan has been declining.

(14) In the breakdown by types of offences of juvenile offenders arrested or investigated in 1974 by the police for Penal Code offences in the same year, 52.3 per cent were for theft, 29.0 per cent for traffic negligence causing death or injury, 4.3 per cent for bodily injury and 4.2 per cent for assault.

(15) The White Paper on Crime for 1974 (op. cit. supra Note 12) indicates that the measures for the control of crime are crucial in some middle-sized cities and industrially developing areas in which social change has taken place very rapidly, since there is a tendency towards an increase in crime in those places.

(16) This figure was obtained by simply totalling the amount of the

immediate damage; no attention was paid to such factors as whether the property was insured or returned without delay.

(17) The figure is cited from the statistics on civil trial for 1972 published by the General Secretariat of the Supreme Court.

(18) In this survey conducted by the National Police Agency, 15,000 households, which had been chosen by a stratified random sampling method, were interviewed about their victimization by non-traffic Penal Code offences in 1969. From the results of the survey, it is estimated that the total number of such offences committed in Japan would have been 2,104,450 in 1969, whereas the number of the offences known to the police was 1,026,283 in the same year. Consequently, the dark figure or the number of the unreported offences would have been 1,078,167. The rate of the dark figure, that is,

$$\left(\frac{\text{dark figure}}{\text{number of offences known to the police}} \cdot 100\right)$$

is 105.1 in the total non-traffic Penal Code Offences while it is 81.8 in theft, 236.3 in fraud, 237.5 in extortion, 395.4 in embezzlement, 70.7 in assault and bodily injury, respectively.

(19) This figure contains expenditures for the courts(only related to criminal trial), the Ministry of Justice(only related to the public prosecutors' offices, correctional institutions, rehabilitative organisations) and the police (excluding the Imperial Guards Headquarters and the National Research Institute of Police Science) in the State budget, and that for the police in the budget for local governments. As regards the expenditure for the courts (only related to criminal trial), it is calculated by multiplying the total budget for the courts by the rate of the number of criminal cases, including juvenile delinquency cases, to the total number of criminal and civil cases dealt with in the courts in 1972.

(20) See the President's Commission in Law Enforcement and Administration of Justice, "The Challenge of Crime in a Free Society", PP.32–35, U.S. Government Printing Office (1964).

(21) The average expense per day for an inmate was calculated as

$$\frac{\text{(budget for correctional institutions)} - \text{(revenue by prison labour)}}{\text{(average number of inmates per day in correctional institutions)}} : 365.$$

That for a probationer was calculated as

budget for rehabilitative organisations (excluding that for inquiry of parole)

(average number of probationers)

: 365.

(22) Of all the convicted persons, for whom the decision became final in 1973, 96 per cent were sentenced to a fine, and only 3.3 per cent to imprisonment with or without labour, 60 per cent of which were granted suspension of execution of the sentence. Recently, the rate of those granted suspension of execution of sentence to all the persons sentenced to imprisonment has been rising. The average number of inmates per day in prisons and detention houses was 18,000 in 1971, which was the smallest in number since the end of World War II.

(23) The budget for measures of land traffic safety consists of that for improvement of roads and other traffic equipment, campaigns for traffic safety, control of dangerous driving, relief measures for victims of traffic accidents and the like in the State budget.

(24) The main budget for youth and juvenile problems in the State budget comprises that for measures for coordinaion and adjustment of administration for juveniles, education in schools and homes and workshops, disposition and treatment of juvenile delinquents, campaign for sound growth of youths, etc. The budget for the prevention of juvenile delinquency and the treatment of juvenile delinquents in the State budget is composed of funds for such purposes in the respective budgets of the police, public prosecutors' offices, courts, correctional institutions rehabilitative organisations and social welfare agencies.

(25) Regional development in Japan after World War II could be devided into three stages from the viewpoint of the contents of the plan and its implementation. In the first stage, the development plans, which had been promoted by the national and local governments and other regional organisations, were synthesized into a comprehensive national development plan, based on the National Comprehensive Development Law enacted in 1950. The national plan was afterwards implemented systematically. In the second stage, for the purpose of preventing overcrowding of population and industries and for development of under-

developed areas, 15 cities were designated as new industrial cities and 6 areas as new industrial areas, under the National Comprehensive Development Plan established in 1962. Regional developmest in these cities and areas took a leading part in national development. In the third stage, the New National Comprehensive Development Plan was formulated in 1969, aiming at correcting inflexibility in utilisation of national land under the past national development plan. It was also designed to establish highly developed societies by 1985, and industrial and social development has been promoted so as to achieve this goal. Through these stages, new industrial cities and areas have played important roles in national development.

(26) See Zen Tokoi, "Criminal Phenomena and Countermeasures against Them in the Kashima Development Area", Bulletin of the Criminological Research Department, No 15–No 19, the Research and Training Institute of the Ministry of Justice (1972–1975). This research aims at identifying the interrelation between criminal phenomena and social change and obtaining materials relevant to formulating measures for the control of crime in new development areas. Thus far, the research team made surveys of the content of the development plan, its implementation, progress of social change, crime trends, costs of crime, social defence organisations and their activities.

(27) Ibid. Since it is estimated that out of the total population in the Kashima area, 83 per cent are original inhabitants and 17 per cent are migrants, the crime rate of the migrants is higher than that of the original inhabitants. Especially, it is noted that crimes committed by temporary labourers, who moved there to be engaged in the construction of factories, roads and other facilities, increased rapidly from 1962 to 1971.

(28) Cited from the police statistics of Ibaraki Police Headquarters. When the proportion of losses incurred by victims of each offence to the total amount of losses in the Kashima area is compared with that in Japan, while that of fraud and embezzlement in the area is smaller than that in Japan as a whole. The rate of recovery of the losses in the area is less than that in Japan as a whole.

(29) Ibaraki Police Headquarters made every officer in the Kashima Police Station record how long he performed what kinds of duties everyday from November 1 to 10 in 1973. By processing these data, man-hours with regard to each kind of duty in the station were calculated. The result of the survey shows that out of the total work of all the personnel in the station during the period, investigation accounted for 35.8 per cent, crime prevention activities 39.7 per cent, custody and escort of suspects 7.8 per cent, and those not directly related to the prevention and control of crime (e.g., family affairs consultation, protection of runaway juveniles, emergency rescue work, etc.) 16.7 per cent.

(30) The National Research Institute of Police Science also conducted research on consequences of crime, surveying citizens' perception on the seriousness of various crimes, probability of a certain offender being arrested, prediction on potential punishment against him, etc.

(31) The report of the Seminar, together with the papers prepared for the Seminar are contained in Resource Material Series No. 8 (October 1974) published by UNAFEI.

(32) The Japanese Government has so far endeavoured to further various social welfare programmes, along with more direct countermeasures against crime, in order to tackle criminal problems from various angles. This may be partly demonstrated by the fact that the illiteracy rate (illiterate persons per 1,000 population aged 15 years or over) is 0.7 per cent and unemployment rate (percentage of the unemployment to the workable population) 2 per cent and the average life-span is 70.7 years for men, 76.0 years for women.

(Attachment)

THE POLICE DUTIES EXECUTION LAW

(Law No. 136 – July 12, 1948)

(as revised by: – Law No. 163 – June 8, 1954)

(Object of this Law)

ARTICLE 1. The object of this law is to provide for the necessary measures to be taken by a police officer for performing faithfully such his authorities and duties of protecting lives, persons and properties of individuals, preventing crimes, maintaining public safety as those provided for in the Police Law (Law No. 196–1947), as well as the enforcement of other laws and regulations, etc.

2. Any measures which are provided for in this law should be resorted to within the limits of minimum necessity for the purpose of the preceding paragraph, and any abuse thereof is strictly prohibited.

(Questioning)

ARTICLE 2. A police officer may stop and question any person who has reasonable ground to be suspected of having committed or is about to commit a crime judging reasonably from his or her unusual behaviours and/or other surrounding circumstances, or who is deemed to have some information in the crime which has already been committed or is about to be committed.

2. In case when a police officer considers that such questioning on the spot as that provided for in the preceding paragraph will disadvantage the subject person or obstruct the traffic, he may ask him or her to come with him to a nearby police-station, police-box or residential police-box for questioning.

3. Any person provided for in the preceding two paragraphs shall not be detained, or forced to be taken to a police-station, a police-box or a residential police-box or compelled to answer his questions against his or her will so long as it is not based on the laws concerning criminal procedure.

1. With regard to the person who is under arrest in accordance with the laws concerning criminal procedure, a police officer may search his or her person for any possible weapon.

(Protection)

ARTICLE 3. In case when a police officer finds a person, who is deemed to come clearly under any of the following items, judging reasonably from his or her unusual behaviours and/or other surrounding circumstances, and moreover has reasonable ground to believe that he or she needs emergency aid and protection, he must give him or her immediate protection at any of such proper places as a police-station, a hospital, a mental institution, relief facilities, etc.:–

(1) A person who is feared to inflict an injury on his or her own, or others' lives, persons or properties on account of his or her mental derangement or drunkenness;

(2) A stray child, a sick person and an injured person or the like who are not attended by any proper guardian and are considered as requiring emergency aid and protection (except the case when such person refuses to be given immediate protection).

2. In case when a police officer has taken the measures provided for in the preceding paragraph, he shall inform this fact as soon as possible to the family, acquaintances or other persons concerned, and make the necessary arrangements for handling the subject person over to them. In the event of no responsible relative or acquaintance can be found, the police officer should immediately turn the case over to the proper public health or public welfare service or any of the other official services charged with the disposition of such persons by laws and regulations.

3. The police protection under the provision of paragraph 1 shall not last longer than 24 hours except a case, where a warrant of a judge of the summary court (hereinafter means the summary court having jurisdiction over the place where the police-station is located to which the police officer who has given the said protection is assigned) authorizing further protection is obtained.

4. The warrant referred to in the proviso of the preceding paragraph shall be issued by the judge at the request of a police officer only in the case when he deems that the circumstances are inevitable to issue such

warrant, and the extended period shall not exceed 5 days in total. In this warrant, the inevitable circumstances which are deemed to exist must be stated expressly.

5. The police officer shall notify the summary court every week of the names and addresses of the persons who are placed under police protection in accordance with the provision of paragraph 1, reason or reasons for protection, and dates of protection and delivery, as well as the names of the persons or services to whom or which such persons are handed over.

(Measures for Refuge, etc.)

ARTICLE 4. In case of a dangerous situation, such as a natural calamity, incident, destruction of a structure, traffic accident, explosion of a dangerous thing, appearance of a mad dog or runaway horse, excessive congestion of people, or the like, which is feared to endanger the lives and persons of the people or cause a serious damage to their properties, a police officer may give the necessary warning to the person or persons who happen to be at the scene, the keeper of the goods and other persons concerned; and in case of excessive urgency, he may keep back the person under the threatening danger or make such persons take refuge within the limits of necessity for escaping from the impending danger, or order the persons who happen to be at the scene, keeper of the subject thing and any other persons concerned to take the measures generally considered necessary for the prevention of dangers, or take such measures himself.

2. With regard to the action taken by the police officer under the provision of the preceding paragraph, it shall be necessary for him to report the action to the Public Safety Commission concerned through due channel. In such case, the Public Safety Commission shall take a proper action in order to ask other public services for their cooperations which are deemed necessary for the subsequent actions.

(Prevention and Suppression of Crimes)

ARTICLE 5. A police officer may, when he notices a crime is about to occur, give the necessary warning to the person or persons coscerned for the prevention of its occurrence, and check such act of the person or persons in case when it endangers any lives or persons of the people or

cause a serious damage to property, and moreover the case admits no delay.

(Entry)

ARTICLE 6. In case when any dangerous situation provided for in the preceding two Articles has happened, and any lives, persons or property of the people are in jeopardy, a police officer, if he deems it inevitably necessary in order to prevent the danger, hold the spread of damage in check, or give relief to sufferers, may enter any person's land, building, vessel or vehicle, within the limits reasonably judged necessary.

2. The manager of, or any person corresponding to the manager of, a place of performance, hotel, restaurant, railway-station or any other place whereto a crowd of people access, cannot without good reason refuse the entry of a police officer to his or her premises during the time when it is open, if demanded by the police officer for the purpose of preventing a crime or a danger imperilling any lives, persons or properties of the people.

3. In making entry under the provisions of the preceding two paragraphs, a police officer shall not interfere arbitrarily with the lawful operation of the business of the person concerned.

4. In making entry under the provision of either paragraph 1 or paragraph 2, a police officer, if requested, shall tell the manager of, or the person corresponding to the manager, of the place the reason for his entry, and moreover show such person his certificate of identification.

(Use of Weapon)

ARTICLE 7. A police officer may use his weapon in case when there is reasonable ground to deem it necessary for the apprehension of a criminal or the prevention of his escape, self-protection of others or suppression of resistance to the execution of his official duty within the limits judged reasonably necessary according to the situation. However, he shall not inflict any injury upon any person except the case falling under the category of the provisions of Article 36 (Legal Defence) of the Penal Code (No. 45—1907) or of Article 37 (Emergency Refuge) of the same law, or the case falling under any of the following items:

(1) In case when a person, who is actually in the act of committing, or has sufficient ground to be suspected of having committed a violent

and dangerous crime which is punishable by death penalty, life imprisonment with or without labour or imprisonment with or without labour for maximum period of not less than three years, makes resistance to the police officer against the execution of his duty to the subject person or attempts to escape, or a third person makes resistance to the police officer with the object of letting the subject person escape; provided there is reasonable ground on the part of the police officer to believe that there exists no other means but to do so either for the prevention of such resistance or escape or for the apprehension of such person.

(2) In case of apprehending a person under a warrant of arrest, or serving a warrant of production or detention, if the subject person makes resistance to the police officer against the execution of his duty to the subject person or attempts to escape, or a third person makes resistance to the police officer with the object of letting the subject person escape; provided there is reasonable ground on the part of the police officer to believe that there exists no other means but to do so either for the prevention of such resistance or escape or for the apprehension of the subject person.

(Authorities and Duties under other Laws and Ordinances)

ARTICLE 8. A police officer shall carry out duties and exercise his powers granted under the laws and regulations concerning criminal procedure and others, as well as police regulations, in addition to the provisions in this law.

SUPPLEMENTARY PROVISION

This law shall come into force as from the day of its promulgation.

END