

CHAPTER 6 REHABILITATION OF OFFENDERS

I. PROBATION AND PAROLE

A. Probation

1. Juvenile Probationer

A juvenile who committed an offence or was adjudicated as a “pre-delinquent” may be placed on probation by the Family Court. Probation for juveniles is a protective measure stipulated in the Juvenile Law. The legally prescribed period of supervision is up to 20 years of age or at least two years, whichever is longer. In 1998, 54,221 juveniles nationwide were placed on probation by the Family Court. Among juvenile offenders (excluding traffic cases) who were adjudicated by the Family Courts, 10.1 percent were placed on probation in 1998²⁹.

2. Adult Probationer

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

B. Parole

1. Subjects of Parole

a) *Juvenile Training School Parolee*

A juvenile offender can be conditionally released on parole from a Juvenile Training School at the decision of the Regional Parole Board (RPB), based on the Offenders Rehabilitation Law. The period of parole supervision is up to the 20 year of the parolee’s age or the last day of a fixed period of custody determined by the Family Court which shall not exceed beyond the 26th year of the parolee’s age. In 1998, 4,847 juveniles were released from Juvenile Training Schools and placed on parole supervision. The rate of parolees among all juveniles who were released from Juvenile Training Schools was 98.8 percent³⁰.

b) *Prison Parolee*

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

As for the “juvenile” parolee, the period of parole supervision is provided in the Juvenile Law as follows, (1) if persons who are sentenced to penalty for life while he/she was a juvenile have been paroled, and 10 years have passed since the parole (without its rescission), he/she shall be regarded as having served their sentence, (2) if persons sentenced to a fixed term penalty while he/she was a juvenile have been paroled, and the same length of term as that which he/she served of the penalty before parole, or the maximum term of the unfixed penal term mentioned in the Juvenile Law, has passed since the parole without rescission, he/she shall be regarded as having served their sentence at the time when the shortest of the above has passed.

²⁹ Annual Report of Judicial Statistics for 1998

³⁰ Annual Report of Statistics on Rehabilitation for 1998

c) *Women's Guidance Home Parolee*

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

2. Parole Procedure

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

a) *Parole Examination*

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

The parole requirements for an adult prisoner are (1) he/she has served no less than one-third of a determinate sentence or 10 years of a life sentence, (2) he/she proves repentance and progress, (3) there is no likelihood of recidivism during the prospective period of parole, and (4) the society will accept his/her parole.

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

b) *Parole Decision*

When the panel of three board members finds that an inmate meets the requirements and that parole will better serve the goal of correctional efforts, it determines a definite date of parole, the place where he/she should return, and the conditions that the parolee should abide by during the period of supervision. In 1998, among the 22,240 prisoners released, 12,948 (58.2 percent) were released on parole³¹. This means 94.4 percent of applications were approved by the RPB. In contrast, the approval rate of parole for juvenile training school inmates was 98.8 percent (the number of application was 4,847)³².

c) *Investigation by PPO attached to RPB*

Parole aims to release an inmate at the optimal time for integration in the society under adequate supervision and assistance. To this end, PPOs attached to RPBs visit correctional institutions to interview inmates and discuss their cases with correctional officers for the parole preparation prior to the application of parole. The functions of those PPOs may be summarized as follows, (1) collection of factual information on the individual through interviews and examination of their institutional record, (2) case conferences and liaison with institutional officers, and (3) providing the field officer at the probation office with pertinent data to promote effective pre-release inquiry and adjustment. Furthermore, some of the RPBs send one or two parole officers to work full-time in a prison so as to strengthen these functions. This scheme began in 1981 and has catered to 10 correctional institutions throughout Japan.

³¹ Annual Report of Statistics on Correction for 1998

³² Annual Report of Statistics on Rehabilitation for 1998

C. Probation and Parole Conditions

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

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

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

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

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

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

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

D. Supervision and Process

1. Supervision and Treatment

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

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

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



Interview at a Probation Office (moot)

Receiving the information from the probation office, the assigned VPO starts supervising the offender. The VPO keeps in touch with the offender and his family by means of mutual visits and interviews generally twice a month or so, while the frequency and mode of contact vary as the case requires. The VPO submits a regular progress report on each offender to the probation office every month. When the PPO thinks it necessary, judging from the information from the VPO or the offender's family, he/she interviews and supervises the offender as crisis intervention. Although VPOs are entrusted many part of the supervision, PPOs need to exercise great supervision directly or intervene in the VPOs' supervision frequently over certain offenders like gang members, drug abusers, sex offenders and the mentally disordered.

2. Intensive Supervision by PPOs

a) *Day Offices*

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

b) *Classification System*

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

c) *Direct PPO Supervision Teams*

In 1974, special PPO teams were organized in Tokyo and Osaka probation offices to target mainly juvenile delinquents with mental problems, poor social backgrounds or other difficulties in their life. PPOs

intensively and directly supervise them using treatment skills such as counseling, group therapy and family therapy. In 1994, direct supervision by PPOs was encouraged nationwide. In addition to the above purpose, newly appointed probation officers must directly treat offenders under an experienced supervisor in order to improve their treatment skills as professionals.

3. Special Treatment Schemes

a) *Categorized Treatment*

The categorized treatment system was introduced to treat offenders effectively based on their particular problems in 1990. The categories consider an offender's crime and social background, such as a thinner-sniffing offender, a stimulant drug abuser, a gang member, a sex offender, a juvenile delinquent in junior high school, an unemployed juvenile delinquent, a domestic violence offender, an in-school violence offender, a hot-rodder, a mentally disturbed offender and a life-term parolee. Special treatment manuals for those categorized offenders are created, and special group counseling, guidance methods and group work sessions are provided for some categorized offenders.

b) *Special Treatment Program for Traffic Offenders*

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

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

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

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

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

e) *Community Participation Programs*

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

E. Termination of Probation and Parole

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

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

- (1) *Juvenile Probationer*: The Director of Probation Office files a notification to the Family Court seeking a new disposition. The Family Court renders a protective measure mentioned in the Juvenile Law to the juvenile notified by the Director of Probation Office. It shall, at the same time, fix the term of probationary supervision or of detention in the juvenile training school, within the period before the person reaches 23 years of age.
- (2) *Adult Probationer*: If the Director of Probation Office deems it proper that the pronouncement of suspension of execution of sentence should be cancelled, the Director of Probation Office shall file an application for revocation to the criminal court through the public prosecutor.
- (3) *Juvenile Training School Parolee*: The RPB has to apply to the Family Court to have the juvenile recommitted. Upon the application, the Family Court may recommit the juvenile to juvenile training school.
- (4) *Adult Parolee*: The RPB revokes parole upon the application of the Director of Probation Office. The parolee may be confined in the correctional institution for the whole period of the original parole period.

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

F. Material Aids in Probation and Parole

Many offenders under probation or parole supervision face financial difficulty. To meet the needs of such offenders, the PPO tries to encourage and assist them along the lines of social work principles, so that they may tackle more effectively the personal problems underlying the hardship. PPOs or VPOs often help offenders find satisfying jobs or adjust their family relationship to get support for their rehabilitation. However, material aid is indispensable when the offender faces acute financial difficulties. In 1998, 3,606 offenders received such assistance as food, clothing, medical treatment, and travel expenses from probation offices³³. Also Rehabilitation Aid Hostels attempt to help such needy offenders. Additionally, the Japan Rehabilitation Aid Association and other local organizations such as the Rehabilitation Aid Associations and the VPOs Associations distribute special funds to supplement the national funding.

G. Outcome of Supervision

In 1998, probation and parole supervision was terminated for 22,304 non-traffic juvenile probationers (excluding juveniles under special short-term schemes for traffic offenders), 4,272 juvenile parolees, 12,755 adult parolees and 4,930 adult probationers. Among them, 3,728 (16.7 percent), 1,038 (24.3 percent), 131 (1.0 percent), and 1,750 (35.5 percent) re-committed offences respectively³⁴.

³³ Annual Report of Statistics on Rehabilitation for 1998

³⁴ Annual Report of Statistics on Rehabilitation for 1998

II. AFTERCARE OF DISCHARGED OFFENDERS

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

- (1) A person who has completely served their sentence of imprisonment with or without labor or penal detentions;
- (2) A person whose sentence of imprisonment with or without labor or penal detention has been excused;
- (3) A person who has been granted suspension of execution of sentence to imprisonment with or without labor and whose sentence has not yet become final;
- (4) A person who has been granted suspension of execution of sentence to imprisonment with or without labor but has not been placed under probation supervision; and
- (5) A person who committed an offence, but has not been prosecuted because it has been found unnecessary.

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

III. PARDONS

Pardons are broadly classified into two types: general and individual. General pardons are promulgated in the form of a Cabinet ordinance in commemoration of special occasions of national significance. Individual pardons have far greater significance from the viewpoint of corrections and rehabilitation, since they are awarded on the ground of individual need. The number of pardon case handled by the National Offenders Rehabilitation Commission in 1998 was 136. Among them, 113 cases were applied by Directors of Probation Offices³⁵. Among pardons, the special amnesty, commutation of sentence and remission of execution of sentence produce early termination of probation or parole status. The restoration of rights enables ex-prisoners to access certain occupations and/or to vote. It additionally removes social and psychological stigmas.

IV. CRIME PREVENTION ACTIVITIES

An annual crime prevention campaign, called “Movement toward a Brighter Society” is conducted under the auspices of the Ministry of Justice. It is a nationwide effort to promote public understanding of the rehabilitation of offenders, as well as to bring about a better society free of criminality and juvenile delinquency. A strong public relations program has been launched in elaboration of the Movement under the slogan, “Let all of us join in preventing delinquency and assisting in offender rehabilitation.” Each prefectural, municipal or local government establishes an implementing committee to promote the Movement through various activities such as advertising campaigns, crime prevention meetings for residents in the community, informational meetings on drugs in school, etc. In brief, such preventive activities in Japan may well be conceived as efforts directed to a great extent toward community organization through the involvement of the public and the coordination of the potential forces in the community. The Probation

³⁵ Annual Report of Statistics on Rehabilitation for 1998

Office continuously encourages the Rehabilitation Aid Association, the Women's Association for Rehabilitation Aid and the Big Brothers and Sisters Association to appeal to various community groups along these lines. The crime prevention campaign in July each year is a crystallization of such efforts.



Movement toward a Brighter Society