

## Policy on Ensuring Propriety of Examination in Police Investigations

There is no question that the examination of suspects has long played a key role in criminal procedures in Japan as a means to reveal the truth of cases. Yet, recently, there has been a succession of serious cases of acquittals that question the very nature of the examination and severe indications have been raised towards police investigations. The police has deeply reflected these indications, taken the urgent measures to prevent further incidents and extracted points for future investigations. However, public criticism remains powerful and trust towards police investigations has been badly shaken.

Under the trial by jury system to be implemented by May 2009, jury members chosen from the general public will be involved in hearings for criminal proceedings, directly verifying the results of police investigations from the citizen's perspective. Accordingly, in order to contribute to a good impression of the jury members, it is required more than ever to ensure the propriety of the police investigative procedures, particularly the examination of suspects.

Due to these circumstances, the National Public Safety Commission has recognized the urgency of ensuring propriety of the examination. Seeking a nation-wide effort by the police, it announced its decision, "Ensuring the Propriety of Examinations in Police Investigations" on November 1, 2007. The National Police Agency (NPA) was directed to take steps in order to ensure further propriety of examination, while giving sufficient consideration to the actual state of investigations by the prefectural police as well as the compatibility with the coming jury system.

The NPA has dedicated itself to consideration concerning measures to be taken based on the said decision, and recently put together the policies that the police must take, "the Policy on Ensuring Propriety of Examination in Police Investigations". Based on this policy, the NPA shall exert itself to swiftly and steadily enforce measures to ensure the propriety of examination, thus regaining the public trust towards police investigations.

### I Enhanced Supervision

#### (1) Supervision by Departments other than the Investigative Department

- (a) An organization responsible for supervising examination will be placed in the

general affairs and police affairs departments of both the NPA and the Prefectural Police Headquarters (hereafter to be called the Headquarters Supervising Section). Officers in charge of supervision will be placed in the general affairs and police affairs departments of the Police Stations and the Headquarters of Supervising Section.

(b) Behavior targeted for the supervision shall involve those which may lead to improper acts in regard with the examination. They shall be typified as follows, which are to be stipulated under the National Public Safety Commission Rules for the further accuracy.

- (i) Contact with the suspect's body (excepting where inevitable)
- (ii) Use of physical force directly or indirectly
- (iii) Words or actions causing particular confuse or distress
- (iv) Strongly demanding the suspects to take certain actions or positions
- (v) Granting favors or proposing to do so, or making promises
- (vi) Words or actions giving gross offence to suspect's dignity
- (vii) Attempting to perform examination in a certain time period without the advance approval of the Chief of Prefectural Police Headquarters or the Chief of Police Station.

(c) Supervision is to be carried out by checking behavior during the examination of suspects in interrogation rooms, regardless of types of crimes or the nature of procedures..

(d) Supervision will in general be carried out as follows.

- (i) Grasping Examination Situations

A When examination is carried out in interrogation rooms or equivalent places, the investigative officers immediately report details to the Headquarters Supervising Section. It includes information in the Report of examination Situations, specified by Article 182 Paragraph 2 Section 1 of the Criminal Investigation Code (2<sup>nd</sup> National Public Safety Commission Rule, 1957).

B The supervisor in the police station receives complaints from suspects. He also checks situations regarding examination of suspects made in the said police station or makes inspections where necessary and reports the results to the Headquarters Supervising Section.

C The Headquarters Supervising Section makes visits to police stations regularly or when necessary to make external confirmation of examination situations, focusing on the presence of improper behavior.

D When a complaint regarding examination is risen, the complainant's name, contact points, contents of the complaint etc...are documented. Following the set procedures, they are reported to the Prefectural Public Safety Commission (hereafter the 'Public Commission') and to the Chief of Prefectural Police Headquarters. (All contents of the reports are also to be grasped by the Headquarters Supervising Section.)

(ii) Inspections

When the possibility of improper behavior is recognized through the procedure (i) above, the Headquarters Supervising Section verifies such behavior by carrying out of review of relevant documents, report hearings from the investigative officer, external confirmation of examination, report hearings from the investigating officer, interviews with the suspect and so on.

(iii) Measures when Acknowledging Improper Behavior

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The supervisor may suspend the improper behavior when he actually acknowledged such acts in the process of the inspection.

B The results of the inspection are documented, reported to the disciplinary posts or surveillance department of each Headquarters and to be utilized for occupational discipline and punishment.

C The actual situations of supervision is to be reported regularly or when necessary to the Public Commission.

(2) Full Documentation System for Examination Process / Conditions

It has been obliged to make the Report of Examination Situations when a suspect or accused subject to physical restraints are examined in examination rooms or in other equivalent places. It is to be obliged in principle, to make the Report, regardless of types of crimes or physical restraints.

2 Stricter Control of Examination Time

(1) It is to be provided under the Criminal Investigation Code that the examination shall not be carried out at midnight or for long periods of time, except for the unavoidable reasons. (2) The points necessary for the control of the examination time are to be stipulated under the National Public Safety Commission Rules, such as requirement of the advanced approval by the Chief of Prefectural Headquarters or the Chief of Police Station for cases below ;

(a) When examination is to be carried out between the hours of 10pm and 5am the next day.

(b) When examination is to be carried out over eight hours (excluding rest periods) in a single day.

### 3 Other Steps for Ensuring Propriety of Examination

#### (1) Clarification of Standards for Interrogation Rooms

Standards for setting up interrogation rooms are stipulated under the Criminal Investigation Code, in order to make the examination environment clear for the citizens.

#### (2) Further fulfillment of Facilities for Easy Understanding of Examination Conditions

In order to allow an external view of the examination conditions, all interrogation rooms are to have two-way mirrors etc, as well as the electronic control systems for entry/exit surveillance and for electronic access to the contents of Reports on Examination Conditions.

### 4 Raising Awareness for those involved in Investigations

#### (1) Full Training regarding Investigative Propriety

Each Prefectural Police School has basically courses for new-coming police officers to impart expertise and skills necessary for investigating officers. In order to incorporate with the reformation of the judicial system and to promote propriety of investigations, the curriculums of these courses are to be reviewed.

Training of police officers in a disciplinary position is also to be fulfilled with regards to the examination from the perspective of promoting propriety of the examination.

#### (2) Practical Training with Concrete Examples

Research upon the way of practical training for investigation methods including the examination is to be done at the Highest Training Institute for Investigation Leaders Research,. The efforts are utilized in the Prefectural Police Department.

#### (3) Passing on Investigative Skills

In order to ensure the takeover of investigating methods (including examination) and the nature of proper investigation to the next generation, retired investigating officers with outstanding skills in examination and other areas are to be utilized as part-time staff or the reappointed.

#### (4) Active Invitation of Outside Law Lecturers

Training in the Prefectural Police Department has long made use of inviting outside

lecturers according to contents of the courses. Invitation of outside lecturers such as lawyers and legal experts is to be activated more in order to raise awareness on police investigations from a lawyer's perspective, particularly in regard to examination. The result will be the raise in awareness of the need for proper investigating methods.

(5) Personnel Measures

(a) Use of a Merit-Based System

To promote personnel management based on the ability and achievement, the work performance records of officers involved in examination is to be even more accurately reflected upon the promotion, salary and so on.

(b) Active Use of Commendations

In order to maintain strong morale among officers in the execution of their duties, active use of commendations shall be made through accurate evaluation upon the services.

(c) Clarification of Types of Behavior leading to Disciplinary Action

Types of behavior which may lead to disciplinary action are to be clarified, in relation to improper behavior.

d) Strict Measures on Improper Behavior

When improper behavior is acknowledged, discipline will be used where necessary in order to ensure the propriety of examination. This will be realized by taking strict measures including disciplinary action based on consideration of all factors involved.

(e) Promotion of Merit/Skill-Based Personnel Dispositions

In order to execute investigating activities such as examination properly and effectively, personnel skills and performance should be accurately grasped. Further efforts are to be made in ensuring the impartial and fair work assessment. Promotion in personnel dispositions for the right person in the right place is to be based upon the results of the said work assessment.