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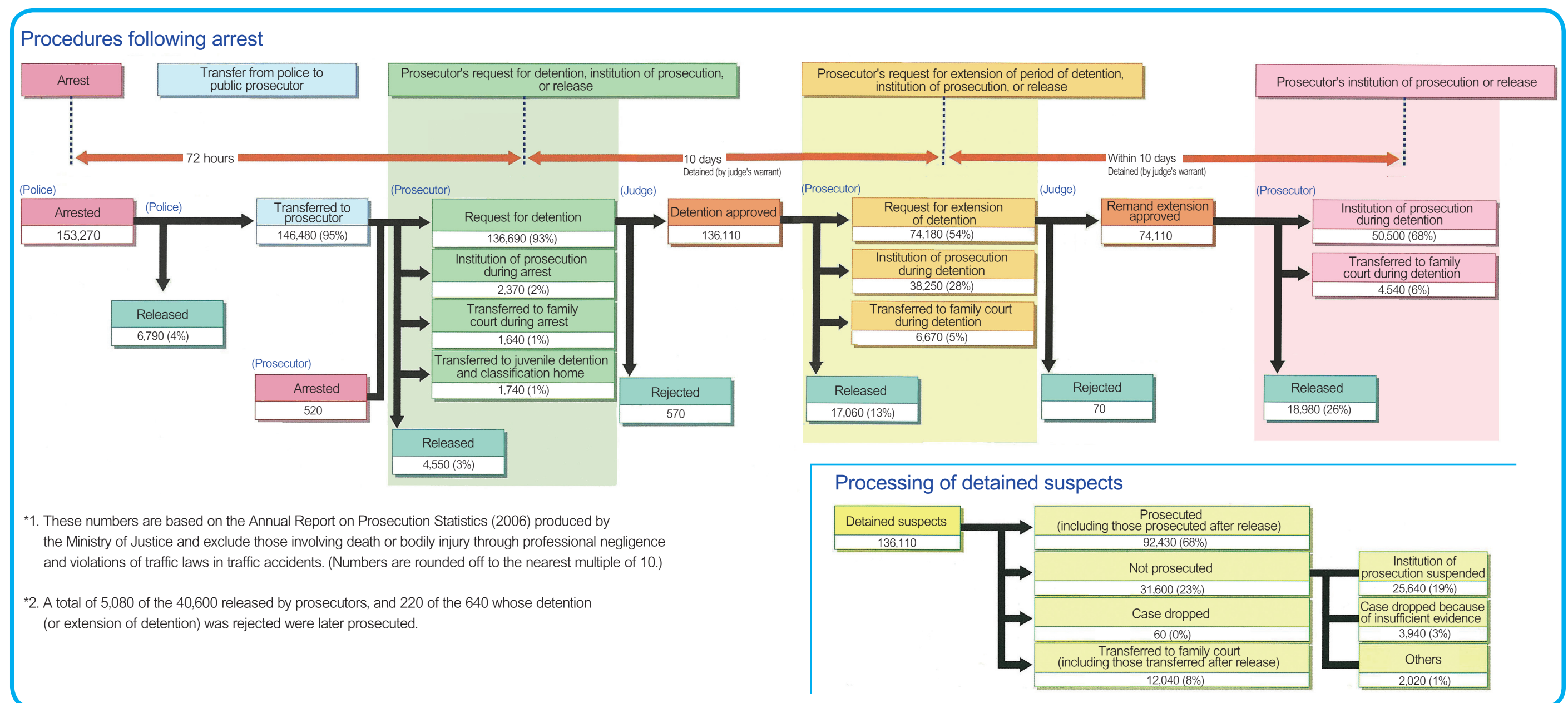
# I. Introduction

In Japan, there are about 1,300 detention facilities in total inside almost all of police stations and several Prefectural Police Headquarters. These facilities detain an average of 14,000 detainees on any given day. In administering the police detention facilities, care is paid to safeguarding the rights of the detainees.

This pamphlet introduces the police detention system in Japan and the treatment of detainees in an effort to deepen your understanding of Japan's police detention facilities.

## II. The Police Detention System

### 1. Outline of System Relating to Physical Restraint of Suspects



#### a. Procedures for the Arrest and Detention of Suspects (Note\*1)

In Japan, apart from arrests in flagrante delicto or emergency arrests in exceptional circumstances, a suspect can only be arrested through a warrant issued beforehand by a judge, and the principles of judicial judgment apply throughout from the stages preceding the physical restraint of a suspect. Only when there is probable cause for believing that the suspect has committed a crime, the judge can issue an arrest warrant, having taken into account the necessity for stopping the suspect from escaping or spoiling evidence. In 2006, the police arrested around 150,000 suspects, and these arrests were very cautiously conducted. In most other cases, investigations were conducted without physically detaining suspects. (Principle of investigation on a non-forcible basis) (Note\*2)

Upon arresting a suspect, the police must inform him of a summary of the causal facts for which he has been arrested as well as his right to select a defense counsel, and must give him an opportunity to make an explanation.

If it is deemed that there is no need for detention after the arrest, the suspect is immediately released; if his or her detention is deemed necessary, the suspect must be referred to a public prosecutor within 48 hours of the arrest.

Upon receiving the suspect, the prosecutor again informs the suspect of a summary of the facts of the crime and his or her right to choose a defense counsel, scrutinizes the suspect's explanations and the evidence forwarded from the police. Only when he or she recognizes that a need exists for detention, the prosecutor requests the judge to detain him or her further. The prosecutor must make this request within 24 hours of receiving the suspect. The judge listens to the suspect's explanation, and issues a detention warrant if he acknowledges that there is a reason and necessity for detention. Of the total persons kept in detention after the arrest, the number of persons thus detained in 2006 was around 136,000.

While the period of detention is 10 days, when there is a request from the prosecutor and a judge deems that the request has a compelling reason, the period of detention can be extended up to another 10 days. Those whose period of detention was extended numbered around 74,000, or 54% of those in detention.

If the prosecutor does not institute prosecution during the period of detention, the suspect must be released. During the detention period of up to 20 days, the suspect's personality, age and environment, the seriousness and circumstances of the crime, and what has happened after the crime are all taken into account, and around 89,000 persons held in detention were prosecuted during their period of detention in 2006. When the accused satisfies certain conditions, he or she is bailed out automatically. Also when the judge recognizes it appropriate to bail out him or her, it is done under the judge's official authority.

With a revision of the Code of Criminal Procedure, effective from October 2006, a system of appointing, at a suspect's request, a state selected defense counsel was introduced for suspects facing the prospect of a death penalty, life imprisonment or imprisonment with or without forced labor for not less than one year and having had a detention warrant issued against them if they are, for poverty or for any other reason, unable to hire a defense counsel. From October to December 2006, state appointed defense counsels were provided to 575 defendants from the stage where they were still suspects.

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- (\*1) In this pamphlet, the numbers of suspects are based on the Annual Report on Prosecution Statistics (2006) produced by the Ministry of Justice and excludes suspects in cases of death or bodily injury through professional negligence in traffic accidents and violations of traffic laws.
  - (\*2) According to the 2006 Annual Report on Prosecution Statistics, the total number of suspects dealt with by the Public Prosecutor's Offices was around 490,000, and of those, the number of persons prosecuted was around 180,000. However, the number of persons arrested in the process of processing these cases was around 150,000, or only around 30% of the total number of suspects; the remainder were dealt with without being physically detained.

## b. Role and Importance of Questioning of Suspects

In Japan, the period of physical restraint prior to instituting prosecution a suspect is a maximum of 23 days. The investigation conducted during such a limited period aims at unearthing not only the relevant alleged facts that form the basis of the detention, but other facts on circumstances relating to those alleged facts, so that the prosecution is based on strict criteria wherein a prosecution can only be brought where the prosecution side is convinced of the guilt of the suspect and considers a prosecution appropriate. Therefore, in the investigation during the period of suspect's detention, a very wide and detailed collection of evidence is conducted within a limited period.

The suspect is carefully questioned down to such details as the cause of, and motive for the crime, the situation leading up to the crime, the circumstances of the suspect's flight after the crime, and whether any remorse is felt, in addition to his subjective understanding of the criminal intent and the objective circumstances of the crime he committed. Each of these matters is checked by further investigations to build up a very exhaustive proof. In the practice of the current criminal procedure, the suspect's testimony obtained by proper questioning plays an extremely important role in clarifying the truth of the case. Also in Japan where the range of the statutory penal provisions is set broadly, clarification of the circumstances, which can only be understood through questioning, is an extremely important element when imposing an appropriate sentence.

For the above-mentioned reason, questioning is very important in Japan's criminal justice system. Broad and detailed questioning within a limited period of physical restraint is necessary and indispensable.

In addition, with the Constitution of Japan stating that "No person shall be compelled to testify against himself," the Constitution guarantees the right to silence, and stipulates that confessions made under compulsion, torture, or threat, or after improperly prolonged detention or confinement, or confessions suspected of being otherwise non-voluntarily obtained cannot be used as evidence. Accordingly, in a criminal trial, a judge rigorously checks the voluntariness of statements.



## 2. The Substitute Detention System and its Necessity

### a. The Substitute Detention System

In the Code of Criminal Procedure, it is determined that the judge who detains a suspect under pre-prosecution detention will detain that suspect in a penal institution. However, Article 15, Paragraph 1 of the Act on Penal and Detention Facilities and the Treatment of Inmates and Detainees (hereinafter referred to as "the Penal and Detention Facilities Act"), stipulates that those detained under pre-prosecution detention under the Code of Criminal Procedure: "can be held in a detention facility instead of in a penal institution." Accordingly, the judge can detain a suspect in a police detention facility. The system under which a suspect can be detained in such a police detention facility is known as the "substitute detention system."

Prior to the enactment of the Penal and Detention Facilities Act, the provision as stipulated in Article 15, Paragraph 1 of the Penal and Detention Facilities Act was contained in Article 1, Paragraph 3 of the Prison Act ("Police cells may be used instead of prisons"). (The Prison Act was abolished with the enactment of the Penal and Detention Facilities Act.) Even before the enactment of the Penal and Detention Facilities Act, judges used to detain suspects in police detention facilities. At that time, the substitute detention system was known as "the substitute prison system."

As described later, in consideration of the capacity and location of the existing police detention facilities and detention houses, the difficulty of building new detention houses in light of budget limitations and the opposition from residents in areas surrounding potential sites, the substitute detention system is necessary and indispensable to enable the completion of detailed investigations within a comparatively short pre-prosecution detention period of 20 days. In addition, the transfer of police detention facilities to the control of the Ministry of Justice is also problematic because of budgetary limitations. Under these circumstances, considering it vital to safeguard the rights of the detainee to the greatest possible extent, the police scrupulously separate detention from investigation within the detention facilities, and respect the rights of the detainee.

### b. Selection of the Place of Detention for a Suspect

When it comes to designating the place of detention for a suspect, there are no established principles or exceptions in choosing between a detention house and a police detention facility.

In designating the place of detention, a judge weighs up various circumstances and uses his/her discretion.

In fact, more than 98% of suspects are detained in a detention facility.

Under the Code of Criminal Procedure and the Penal and Detention Facilities Act, a judge can detain a suspect in a penal institution (detention house) or a police detention facility. The place of detention is decided by the judge based on an overall assessment of individual circumstances, such as:

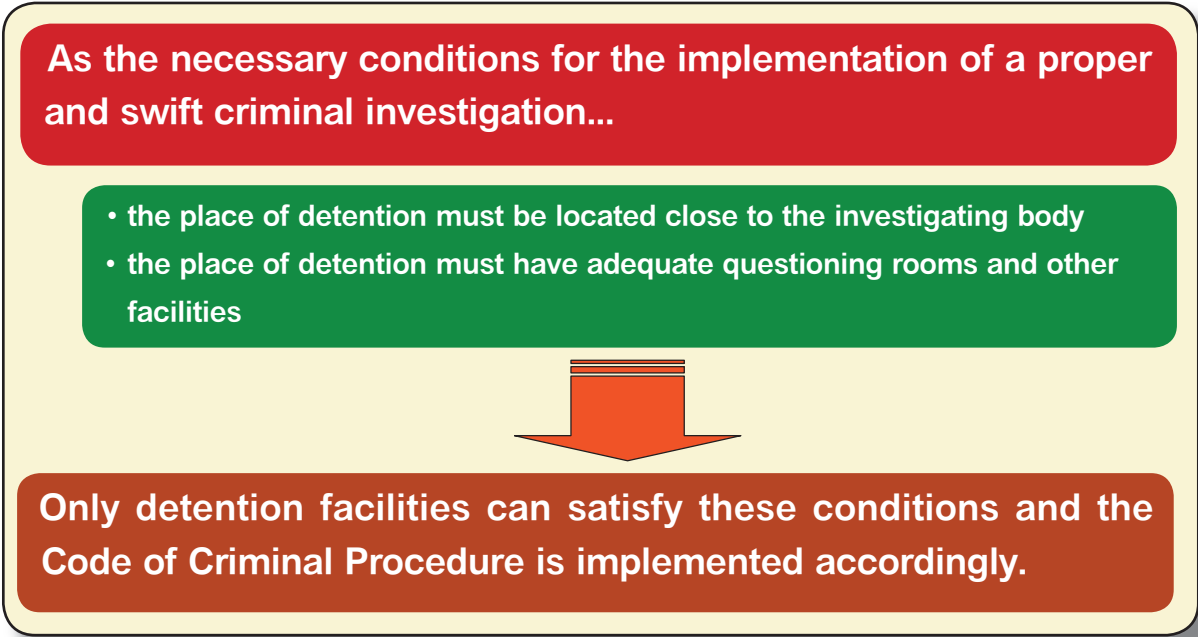
- Between a penal institution and a detention facility which would be more suitable to achieve the goals of the investigation within the maximum detention period of 20 days
- Between a penal institution and a detention facility which would be more suitable considering the convenience of interviews with the detainee and the detainee's defense counsel or family
- Between a penal institution and a detention facility which has room to hold this detainee

There is no imperative stating that the place of detention should be a penal institution as a general principle, or that a detention facility should be the place of detention only in an exceptional case.

Accordingly, in many cases, the judge selects a police detention facility while the investigation is proceeding and charges are yet to be laid, and after the suspect is charged, the judge changes the place of detention to a penal institution.



c. Why is the Substitute Detention System Necessary?



In Europe, a country allows the suspect to be kept in custody for up to six months pending the laying of charges, while another allows the suspect to be kept in custody for up to four months for misdemeanors and up to one year for serious crimes. In those countries they can further extend these periods. On the other hand, as stated in 1. b. (P.5), in Japan, after the suspect is arrested, the criminal investigation must be conducted swiftly and properly. Within a comparatively short detention period of up to 20 days, the investigation must be conducted very widely and exhaustively with the aim of reaching a decision to charge or release the suspect.

In the investigation, the suspect is questioned very broadly and exhaustively, articles of evidence are presented, and crime scene inspections must be carried out in the presence of the suspect. Accordingly, the suspect's place of detention must satisfy the following conditions:

- Must be proximate to the investigating body
- Must have adequate questioning rooms and other facilities

Japan today has not enough detention houses (Note \*3). In addition to the travel time needed to and from the police - the investigating body - there are few questioning rooms in detention houses (Note \*4). To increase the number of detention houses so that they could satisfy the conditions required as places of detention, it is necessary to construct a lot more penal institutions in cities with dense populations. However,

- Securing of sites is difficult, and the costs of purchasing sites as well as constructing buildings are high.
- Residents in the vicinity of land earmarked for penal institutions would launch a movement against the construction.

Because of such difficulties, building penal institutions in cities is not easy. On the other hand, detention facilities, which have been established at almost all police stations, are close to the investigating bodies, and have adequate facilities such as questioning rooms.

With such a background, the substitute detention system, which allows them to be kept in police detention facilities instead of holding detainees in penal institutions, is essential for achieving swift and proper investigations.

The transfer of detention facilities from prefectural police to the jurisdiction of the Ministry of Justice would also lead to high costs as follows:

- The purchase or lease by the government of detention facilities belonging to the prefectures
- Payment of salaries of government officials employed at the facilities

Therefore, such transfer would present great difficulties in Japan.

(\*3) Comparing the Numbers of Detention Facilities and Penal Institutions  
(Limited to those Holding Unsenteded Inmates) (As of April 2007)

	Number of facilities
Detention facilities	1,262
Penal institutions	154

(\*4) State of Questioning Room Facilities in Detention Facilities and Penal Institutions  
(Limited to those Holding Unsenteded Inmates) (As of October 2007)

	Number of questioning rooms
Detention facilities	11,000 approx.
Penal institutions	650 approx.

### 3. The Substitute Detention System and Safeguarding of Detainee Rights:

#### Focus on the Penal and Detention Facilities Act

##### a. Introduction

In Japan, the Prisons Act was revised, and the Penal and Detention Facilities Act, which regulates the administration of penal institutions, detention facilities, Maritime Safety detention facilities and the treatment of those held in those institutions, was passed in June 2006 and was implemented in June 2007.

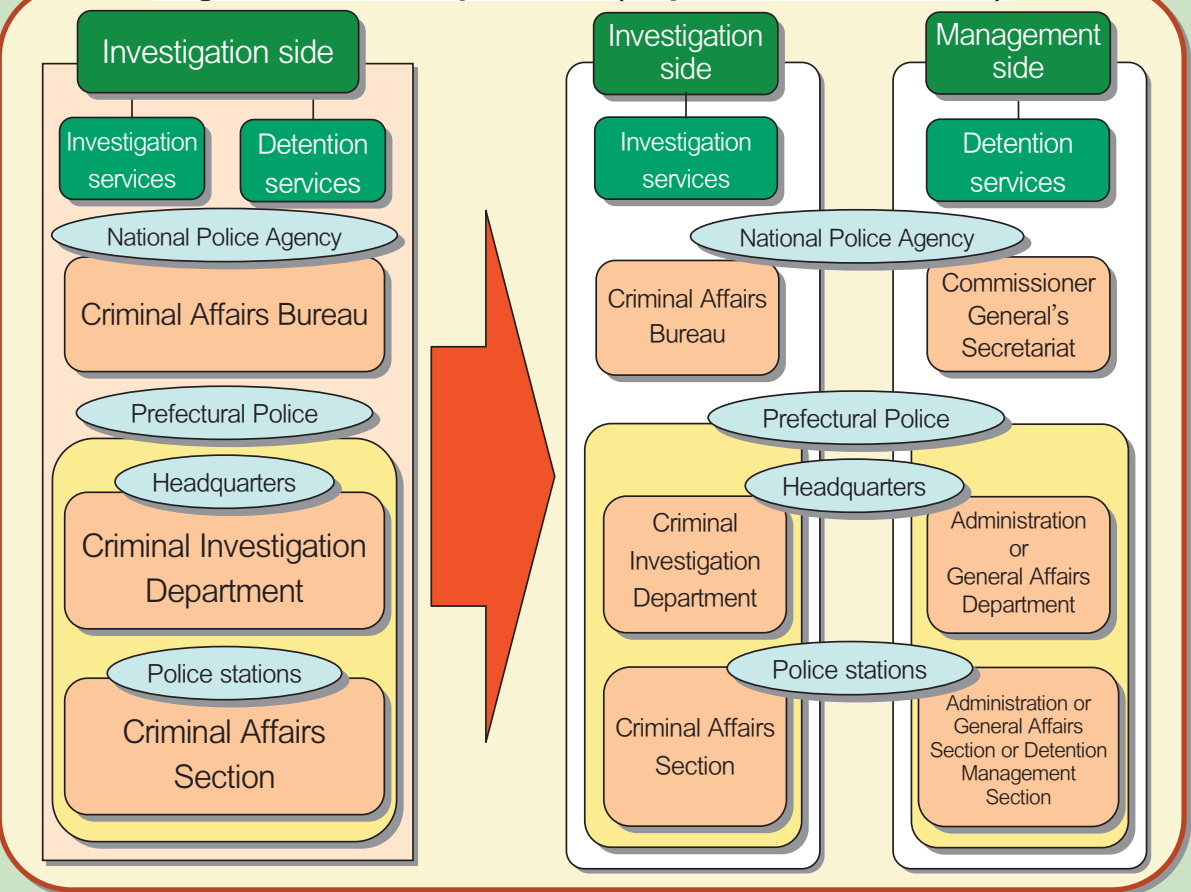
This section describes the system's mechanisms for safeguarding the rights of detainees.

##### b. Separation of Investigation and Detention

#### The Penal and Detention Facilities Act

- ① **Legal clarification of the principles of organizational separation of investigation and detention and separation of detainees' treatment from investigation**
- ② **Procedural guarantee system**
  - Detention Facilities Visiting Committee → Reflects findings of third parties
  - Ensures transparency in separation of detention and investigation
  - Development of complaint mechanisms → Assures an appropriate response to detainees' complaints

#### Organizational separation (implemented in 1980)



#### How separation of detainees' treatment from investigation actually works

- Notification of the separation at start of detention
- Entry and exit checks performed by detention staff
- Respect of the established daily schedule
- Meals, etc., provided by detention staff
- Transfer of detainees

The substitute detention system, where the suspect is kept into custody of the police - the investigating body - is criticized for making it easier to give rise to illegal investigations such as forced confessions and for forming hotbeds for false convictions. Consequently, to safeguard the rights of detainees, in the Japanese police, investigators are prohibited from controlling the treatment of detainees held in the detention facility and detainees are in the hands of the general affairs (administration) division, which is not responsible for investigation (implemented in 1980). This separation of investigation and detention has been rigidly enforced for some time now.

Moreover, in Article 16, Paragraph 3 of the Penal and Detention Facilities Act, the principle of separation of investigation and detention is clearly stipulated. And this law stipulates:

- A system whereby a high-ranking staff member responsible for police headquarters' detention services tours detention facilities in each prefecture to check whether detention services are being properly run, including whether investigation and detention are separately managed.
- A system whereby a high-ranking staff member responsible for the National Police Agency's detention services tours detention facilities nationwide to check whether detention services are being properly run, including whether investigation and detention are separately managed.

The law also stipulates the following to build up the checking functions relating to the separation of investigation and detention:

- The establishment of a system whereby a Detention Facilities Visiting Committee, which is independent from the police, inspects detention facilities in the prefecture under its jurisdiction and can express its opinion on detention services, including the facilities' compliance of the separation of investigation and detention. (see P.14)
- The development of mechanisms to handle complaints relating to the treatment of detainees. (including complaints raised by detainees about a treatment that contravenes the principle of separation of investigation and detention) (see P.15)

The specific measures separating the detention from the investigation are as follows.

### (1) Notification at the start of detention

A detainee is notified at the start of detention that detention officers will take care of all matters relating to his/her treatment, and that investigators will not be involved there.

### (2) Checks and other procedures for detainees entering and leaving detention facilities

A detention facility is the place of living for detainees, and all investigative activities, including questioning, will take place outside it. Questioning rooms will be outside the detention facility, separated clearly by walls and doors, etc. Also, any entry by an investigator into the detention facility is strictly forbidden because such entry may cause detainees to develop a feeling of oppression from being under the surveillance of an investigator.

When it is necessary to take a detainee out of a detention facility for purposes of the investigation, an investigation supervisor checks the need for such measure, makes a request and then a detention supervisor approves that request. Officials from both the investigation and detention sides will check that an investigator is not involved in the treatment of a detainee and that no other improper procedures are taking place. The times of a detainee's entry to or exit from the detention facility will be fully recorded by detention officers, and if there is a request from a judge, the record is submitted to the trial court.

### (3) Respecting the daily timetable

Investigation activities such as questioning generally are carried out during office hours (normally 8:30 a.m. to 5:15 p.m.) following the daily timetable for meals, sleeping, and other functions. Even when circumstances necessitate questioning outside office hours (such as an arrest of a suspect past 5:15 p.m.) or when the questioning carries on past the bedtime set in the daily timetable of the detention facility (normally around 9:00 p.m.), a request for ending the questioning will be made from the detention side to the investigation side. If, despite all measures, the questioning carries on past bedtime, compensatory measures will be taken, such as to delay the time for rising the next morning, to ensure that the detainee gets sufficient time for sleep.

A survey conducted in December 2004 and October 2005 on the times that detainees were taken out from a detention facility for police investigations and returned to the facility showed that around 15% of detainees were returned after office hours and that those returned after 9:00 p.m. totaled around 1%.

### (4) Provision of meals

Meals are one of the most important aspects of the treatment of detainees. Detainees will have their meals in detention facilities and investigators will not give detainees meals in questioning rooms.

### (5) Handling of personal items brought in, interviews, and correspondence

The handling of personal items brought in to detainees from outside, interviews, and correspondence are matters falling under the administration of a detention facility, and even if an application for bringing in such items, interviews, or correspondence has been made to an investigator, it must be passed on to a detention officer.

### (6) Body searches, storage of personal property

To confirm that a detainee is not in possession of deadly weapons or dangerous items, at the start of the detainee's detention, etc. a detention officer will conduct a body search and examine the personal property of the detainee to the extent necessary to secure the detainee's safety and maintain order in the facility. An investigator will not be permitted to be present at such body searches and examination of the personal property, and will not be able to store the personal property of the detainee.

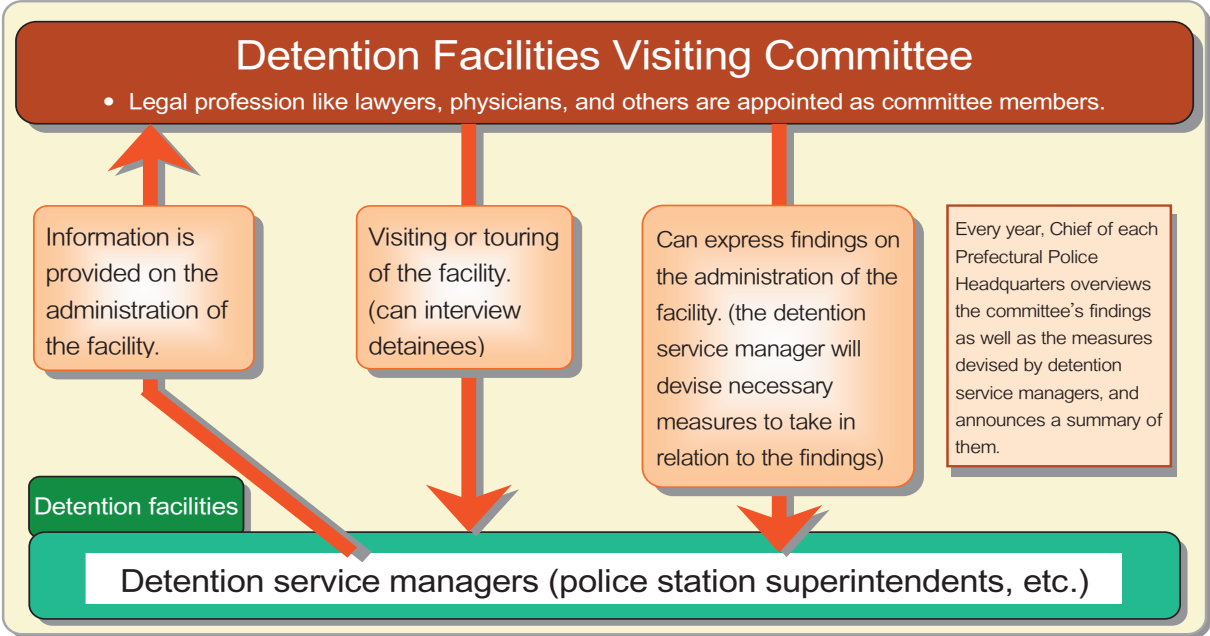
The body searches at a detention facility, will, as a rule, be conducted with a detainee wearing underwear. However, where there is a high likelihood of concealment of dangerous items, a body search can be made with underwear removed as long as the detainee is wearing a light summer kimono (bathrobe). Body searches of female detainees will be performed by female police officers or female clerks.

### (7) Transferring detainees

When a detainee is transferred for prosecution questioning or medical treatment, the detention supervisor shall bear liability for the detainee, and persons from the detention side are assigned as escort officers. When the needed escort officers cannot be made up from personnel from the detention side only, as a rule, persons belonging to a section not responsible for investigations will be assigned to escort the detainee, and in situations where there is no alternative, escort officers may be assigned from among personnel who are not engaged in the particular investigation associated with the detainee.



c) Detention Facilities Visiting Committee System

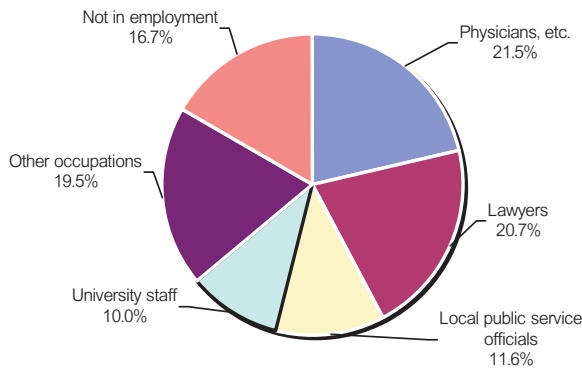


Under the Penal and Detention Facilities Act, the Detention Facilities Visiting Committees (hereinafter referred to as "the committees") system was established as a body made up of third parties outside police. The committees are set up in each Prefectural Police Headquarters. Its members are appointed by each Prefectural Public Safety Commission from among persons with deep insight and exceptional personality who also demonstrate a passion to improve and enhance the administration of detention facilities. Specifically, each committee consists of no more than ten members composed of legal profession such as lawyers, physicians, local residents, and others. Through visits to detention facilities, interviews with detainees and other means, the committee members gain an understanding of the actual state of a detention facility and express their findings to the detention services manager (Note\*5), while Chief of each Prefectural Police Headquarters publicly announces the committee's findings and the measures the police have devised. This system is expected to secure transparency in the running of detention facilities.

(\*5) Detention services managers are required to supervise detention services associated with detention facilities. In a detention facility situated at a police station, the police station superintendent serves as detention service manager, and in a detention facility situated at a prefectural police headquarters, normally the chief of a division responsible for the police headquarters' detention management services serves as detention service manager.

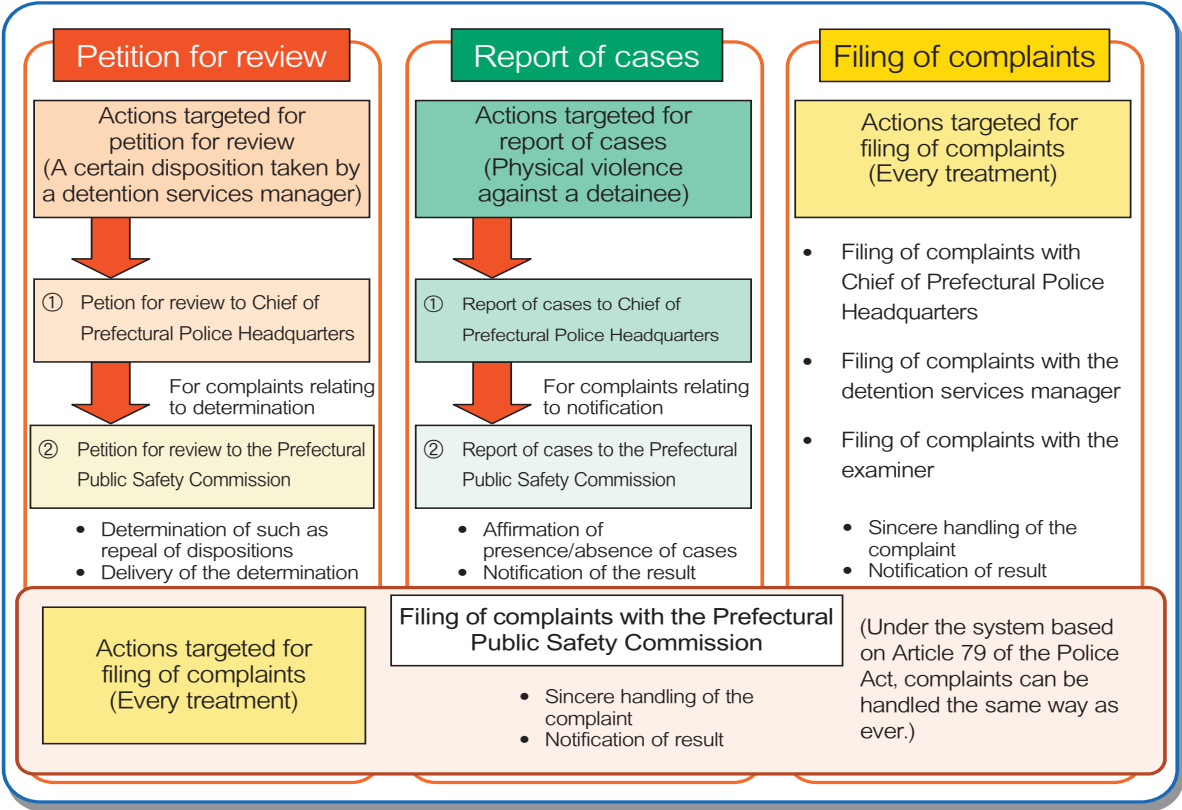


A typical visit by committee members



Percentage breakdown by occupation of the committee members (251 members nationwide, female members: 61) (As of June, 2007)

d. Development of Complaint Mechanisms



For some time past, detainees have been able to bring administrative suits in respect of illegal administrative dispositions taken against them, and where a detainee has suffered harm as a result of illegal actions or administrative dispositions against him or her, the detainee has been able to sue for government compensation. Also, as simple and swift means of redeeming the rights of a detainee without resorting to legal action, complaints based on the Police Act, have been filed with each Prefectural Public Safety Commission and complaints filed on matters not regulated by law have also been heeded.

Under the Penal and Detention Facilities Act, three systems have been set up for submitting complaints relating to detention facilities: petition for review about a certain disposition by a detention services manager, report of a case of physical violence against a detainee, and filing of complaints concerning general treatment.

Petition for review and report of a case of physical violence are first submitted to Chief of Prefectural Police Headquarters. If a detainee is not satisfied with the determination or the notification made by Chief of Prefectural Police Headquarters, a petition or a report is filed with the Prefectural Public Safety Commission. A complaint can be filed with either Chief of Prefectural Police Headquarters, the examiner appointed by Chief of Prefectural Police Headquarters conducting the firsthand examination of the detention facility, or the detention facility manager concerned. Or, as in the past, a complaint can be filed with the Prefectural Public Safety Commission in accordance with Article 79 of the Police Act.

In Japan, to guarantee a democratic administration of the prefectural police, the Prefectural Public Safety Commissions have been set up as a supervisory organ representing the common sense of people, and these commissions supervise the prefectural police from a third-party perspective. Accordingly, the Prefectural Public Safety Commissions' examination of complaints, is, as would be expected, carried out objectively and fairly from a third party perspective, and where a reason is found for the complaint, the Prefectural Public Safety Commissions take measures such as revocation of a disposition that has been the subject of that complaint.

## e. Training and Guidance for Detention Officers

Article 16, Paragraph 2 of the Penal and Detention Facilities Act stipulates that detention officers receive training for understanding the human rights.

In fact, in consideration of the importance of detention services, police officers involved in detention services are trained and receive guidance at every opportunity relating to the aims of detention services, treatment of detainees, and the importance of the separation of investigation and detention.

Police officers receive police academy training at induction into the police force and again at promotion to each new rank (police sergeant, assistant inspector, inspector), and each training includes detention services-related programs.

Also, police officers appointed as detention officers receive around ten days of concentrated training to acquire specialized knowledge.

Further, every year, top officials holding ranks of inspector or superintendent responsible for detention services at police facilities of each prefecture receive ten days of concentrated training at the National Police Agency. Through this yearly training and national conferences inviting Prefectural Police Headquarters' division manager-level officers, uniform and proper detention services are promoted nationwide.


In addition, at least once a year, the division responsible for detention services at each Prefectural Police Headquarters inspects all the detention facilities under its jurisdiction, while National Police Agency officials make systematic rounds of detention facilities in each prefecture to ensure that the detention facilities are properly managed and operated, and provide guidance to detention officers on the job site.

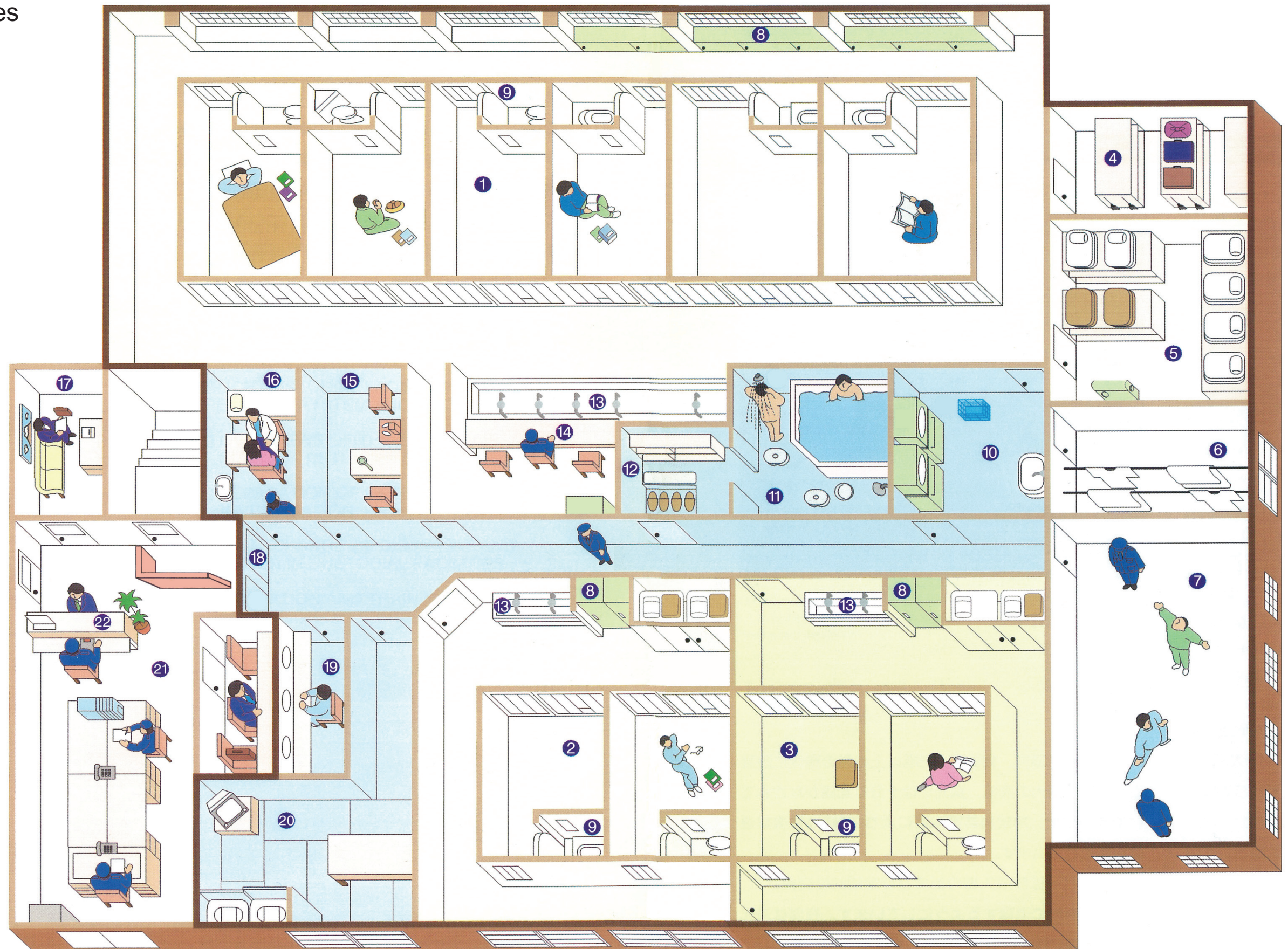


# III. Detention Facilities and Treatment of Detainees

## 1. Detention Facilities

1. Adult male cell
2. Juvenile cell
3. Female cell
4. Storage
5. Bedding storeroom
6. Drying space
7. Exercise yard
8. Personal property storage
9. Toilet
10. Laundry
11. Bathroom
12. Changing room
13. Wash basins
14. Detention officers' room
15. Body search room
16. Medical examination room
17. Waiting room
18. Detention facility entrance/exit
19. Interview room for defense counsels, family members or others
20. Staff room
21. Detention office
22. Reception for interviews and receiving personal items for detainees

 The area inside the brown frame is the detention facility.





## 2. Treatment of Detainees (Life in Detention Facilities)

While necessary restrictions apply to the daily lives of the detainees secured in detention facilities to prevent escapes or spoilation of evidence, efforts are always being made to improve and develop the facilities and services of detention facilities to ensure a good living environment for detainees. In addition, the following considerations are carried out in respect of detainees' rights.

### a. Cells



A cell (Only the head of a sitting detainee can be seen) (not an actual detainee)



Front of cells



Detainee in bed (not an actual detainee. Bedclothes are placed in storages during the day)

In order to protect the privacy of detainees, the traditional pie-shaped placement of the cells has been replaced with placement in rows. Each cell is furnished in front with an opaque board so that the detainee cannot always be seen by detention officers. Toilets in cells are surrounded by walls.

The floors are covered either with tatami (straw matting) or carpeting. Considering the Japanese custom of sitting and sleeping directly on tatami, detainees are able to continue this same life-style even in their detention cells.

Detention facilities are typically located on the second floor or higher of police station buildings and due attention is paid to ventilation and lighting. Temperature is maintained at comfortable levels 24 hours-a-day by an air cooling and heating system.

Clean bedclothes are provided for new detainees and are also regularly replaced. Bedding is sterilized regularly. At night, cells are darkened to facilitate comfortable sleeping.



b. Daily timetable

日課時限			
Timetable		( 英 語 )	
Informaçã de progurama do dia		( ポルトガル語 )	
作息制度		( 中国語 )	
• 起床	午前	• Get up at	} 6:30
• 起床	上午	• Acorament	
• 朝食	午前	• Breakfast at	} 7:30
• 早餐	上午	• Cafê da manhã	
• 運動	午前	• Exercise at	} 8:00
• 运动	上午	• Exercicios	
• 昼食	午後	• Lunch at noon	} 0:00
• 午餐	正午	• Almoço	
• 夕食	午後	• Supper at	} 6:00
• 晚餐	下午	• Jantar PM	
• 就寝	午後	• Sleep at PM	} 9:00
• 就寝	下午	• Huminação diminuae	

A notice board with the daily timetable



Books available for borrowing (not an actual detainee)

New detainees are informed of the daily schedule at the time they are first brought into detention at the facility. The photograph shows a standard schedule.

The behaviour of detainees is not restricted as long as it does not disturb the peace of other detainees or violate the purpose of their detainment. They are provided with daily newspapers and books to read free of charge and are allowed to read books brought to them from outside or books they have bought themselves. Also they can listen to radio programs such as news and music every day, during meals or at other times.

Detainees are also allowed access to legal compendia stored in detention facilities which contain international conventions, including international agreements on human rights.

Questioning and other parts of criminal investigations take place outside of detention facilities, due respect being paid to the daily schedule. (see P.13)

c. Meals



Breakfast menu: Rice, fermented soy beans, Japanese-style omelet, type of fried tofu, fish boiled in soy sauce, miso soup, Japanese pickles 668 kcals



Lunch menu: Rice, croquettes, curry, stir-fried vegetables, salad, Japanese pickles 810 kcals



Supper menu: Rice, grilled fish (salmon), omelet, steamed dumplings, stir-fried vegetables, beans, Japanese pickles 911 kcals

The photographs show typical standard meals supplied to detainees at a detention facility. Meals are checked regularly by qualified dieticians to ensure that the nutritional balance is on a par with national standards of living. Every year, efforts are made to improve meal contents.

In addition to their regularly supplied meals, detainees are allowed to purchase meals, confectionary, milk products and other goods with their own money.



d. Medical Treatment and Health Care

Health checks by commissioned doctors

- Detainees receive health checks twice a month

Medical care by commissioned doctors

- When detainees are injured or sick, they immediately receive medical care from a commissioned doctor, or other necessary steps are taken to provide medical treatment.
- Based on the recognition that the maintenance of detainees' health is the responsibility of the police, the Penal and Detention Facilities Act makes it clear that detention service managers should ensure the medical treatment for detainees.
- The costs are covered by the government.

Medical care by doctors designed by a detainee

- If a detainee wishes to receive medical care other than by a commissioned doctor, such medical care is permitted.
- The costs are borne by the detainee.

Detainees receive regular twice-monthly health checkups by a commissioned doctor, and, if they are injured or ill, can receive proper medical care at public expense, including immediate treatment at an ordinary hospital.



Health checkup (not an actual detainee)

Detainees may also receive special treatment at their own expense from a doctor designated by the detainee, and every possible measure is taken to guarantee that their health cannot be undermined due to their detention.

During 2006, detainees made a total of around 250,000 visits to doctors for medical treatment.



Exercise (not an actual detainee)



Automatic hand sterilizer



Bathroom

To maintain their health, detainees are permitted 30 minutes outdoor exercise (or at least one hour if they wish) on weekdays, and smoking is permitted at such time.

Detainees are permitted to have a bath at least once every five days and, as a rule, at least twice a week.

To prevent the spread of AIDS, hepatitis and other infectious diseases within detention facilities, automatic hand sterilizers are provided. Detainees also benefit from humidifiers.



## e. Outside Communication



A detainee talks to his defense counsel (not an actual detainee)

\* An interview room can accommodate several defense counsels and family members with ease, and has been designed so that conversations cannot be heard outside the room.

A detainee may at any time apply to a detention officer for the selection of a defense counsel by designating an attorney or a Bar Association. The detainee may consult with his defense counsel, including a person who intends to become his defense counsel (hereinafter the same), without the presence of an official. The detainee may receive documents or articles from his defense counsel as long as these do not interfere with preventing escape or spoilage of evidence. In due consideration of the importance of detainee-counsel consultations, they are accommodated whenever possible, even on holidays and in the evening, except when there is any administrative problem for the facility (Note \*6) (Note \*7). The detainee is also guaranteed the right to meet with and receive documents or articles from family members or others unless specifically restricted to do so by a court in order to prevent escape or spoilage of evidence.

(\*6) In a country of Europe, a suspect is allowed only one 30-minute consultation with a counsel after the start of police custody during which police hold him without a warrant due to the nature of the investigation. Whenever the period of custody is extended, another interview is permitted. In that country, in the case of such crimes as abduction, managed prostitution, or organized larceny, an interview is granted only after 48 hours of police custody, and in the case of terrorism-related or drug crimes, only after 72 hours. And in another European country, although suspects placed in police custody have the right to meet with defense counsel at any time, the meeting can be postponed up to 36 hours from the start of custody where certain conditions apply. In that country, too, in the case of terrorism-related crimes, the meeting can be further postponed.

In contrast to this, in Japan, irrespective of the type of offense, a suspect is allowed to consult with a counsel immediately after being arrested. According to Article 39, Paragraph 3 of the Code of Criminal Procedure, either a public prosecutor or policeman may designate the date, time and place of consultations with a defense counsel only when necessary for the purposes of investigation and only before prosecution is instituted. This stipulation is for the purpose of achieving a balance between the necessity of the suspect's right to defense and the necessity of investigation, as in the case that an interruption of the investigation will cause a major disruption to it. (For example, in the case that the suspect is being questioned by an investigator or the suspect is accompanying investigators to a spot investigation at the time that a defense counsel applies for a meeting with the suspect.) In such a case, it is stipulated that the date and time for suspect-counsel consultation is designated promptly based on a discussion between the prosecutor, etc., and the defense counsel.

Out of around 32,000 interviews between detainees and defense counsels in November 2007, around 60 (approx. 0.2%) were designated interviews, indicating that we do our best to guarantee the right of detainees.

(\*7) Out of around 330,000 interviews between detainees and defense counsels in 2006, around 117,000 (approx. 35%) took place on weekdays during non-working hours; around 46,000 (approx. 14%) took place on weekends or public holidays.

## f. Females, Juveniles, and Foreigners in Detention



Female-only detention facility (not an actual detainee)

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(1) Female and juvenile detainees are kept separately from male and adult detainees respectively. These separate groups do not see each other at any time, whether inside or during the transfer for exercise or for entry into/exit from the facility.

Body searches of female detainees and surveillance of their bathing are conducted only by female police officers or clerks. In addition, we are in the process of expanding the number of female-only detention facilities at which all treatment of detainees is conducted by female officers.

Female detainees are allowed to use face lotion, cream and other cosmetics, combs, and hair brushes necessary for upkeep of personal appearance in washrooms and so on.

(2) In general, foreign detainees are treated in the same way as Japanese detainees. However, some adaptations are being made, considering differences in language, religion, eating habits and daily customs. In particular, efforts to achieve smooth communication include informing new detainees of their rights, the daily schedule and other details by notices written in 11 languages (English, Mandarin, Cantonese, Korean, Tagalog, Thai, Vietnamese, Farsi, Portuguese, Spanish and Russian) and with the help of an interpreter. These efforts are made in order to relieve detainees of their anxieties about being taken into custody in a foreign country. Consideration is also being given to allow detainees to maintain their own eating habits and religious practices to the greatest extent possible.

When a foreigner is taken into custody, the consulate of his/her country is notified in accordance with the Vienna Convention on Consular Relations, and its consular officer has the right to meet with the detainee.

## g. Actions against Detainees Violating Discipline and Order within Detention Facilities

In a detention facility, a detainee might be placed in a protection cell or might be subjected to restraining ropes, handcuffs, restraint jacket or gag (hereinafter collectively referred to as "instruments of restraint") only to prevent the following harms:

- When a detainee, ignoring orders from a detention officer, shouts or makes noise
- When a detainee could do injury to him/herself or harm another person
- When a detainee could damage the equipment or fixtures, etc., of the detention facility
- When a detainee could escape

Thus, the protection cell and instruments of restraint are used to prevent any action to violate the discipline and order of the detention facility, and can not be used for investigation or punishment.

In taking these restraint measures, due consideration is given to state of the health of the detainee concerned, and in the unlikely event that the detainee is injured by being placed in the protection cell or by the use of instruments of restraint, an examination by a doctor or other necessary measures will be taken. Regardless of whether an injury has occurred or not, where the detainee has been placed in the protection cell or where a restraining jacket or gag has been used, the detention services manager will expeditiously ask a doctor for his or her opinion of the health of the detainee.

The use of a gag will be permitted only in a detention facility that does not have a protection cell (Note\*8) and moreover, only when a detainee has continued to shout despite the restraining efforts of a detention officer and is creating a disturbance within the detention facility, such as interrupting the sleep of other detainees, and further, when there is no measure other than the gag to control the detainee's behavior. The use of a gag will be limited to three hours.

(\*8) While we are promoting establishment of soundproofed protection cells, only 20% of all detention facilities are equipped with protection cells at the present stage. For this reason, it is inappropriate to ban the use of gags at detention facilities with no protection cells.

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