

## Shift from punishment to rehabilitation / Prosecutors emphasizing probation, guidance

**The Yomiuri Shimbun** With the overall rate of recidivism at an all-time high of 43.8 percent, prosecutors have ramped up activities to prevent offenders from relapsing and committing criminal acts.

As part of such efforts, prosecutors are increasingly seeking suspended sentences instead of imprisonment for defendants who are believed to have a relatively good chance of cleaning up their act. Prosecutors are also bolstering efforts to secure guarantors to take care of criminal offenders who have no place to live after being released on parole.

Given the rise in court rulings in lay judge trials favoring suspended sentences on condition that the accused is placed on probation, prosecutors have been steering penal policy with a view toward helping criminals return to a crime-free life.

### Guidance as deterrent

“To allow the defendant to enter a program to help him overcome his drug addiction, a suspended prison term with probation should be granted.” This statement was made Dec. 18 by a prosecutor in the first hearing of a case at the Nagasaki District Court over a violation of the Stimulants Control Law.

In the case, the prosecution sought a suspended sentence for the 45-year old defendant charged with use and possession of stimulant drugs on condition that he meet regularly with a probation officer to break his drug habit--an extraordinary move at the time.

As sought by the prosecution, the man was sentenced nine days later to 1-1/2 years in prison, suspended for three years. He has since reportedly been advised at a probation office how to stay off drugs.

Previously, prosecutors had rarely sought a suspended sentence for drug offenders, on the view that severe punishment could serve as an effective deterrent.

However, Prosecutor General Hiroshi Ozu said at a meeting in September last year of senior prosecutors from across the country that prosecutors “should be more atten-

tive to helping criminal offenders reintegrate into society.”

Since then, the number of cases in which prosecutors sought suspended sentences has been on the rise.

### Appropriate penalty

This shift toward focusing on returning offenders to society took place amid a general shift in mind-set among prosecutors that was already under way.

In 2010, a scandal came to light in which prosecutors of the Osaka District Public Prosecutors Office’s special investigation squad were found to have tampered with evidence in a criminal case.

In the subsequent reform process for the prosecutorial system, the idea that prosecutors should not focus only on securing guilty rulings, but should consider it their mission to seek the most appropriate punishment for criminals gained support.

A rise in recidivism rates among elderly people was also considered problematic. Many prosecutors came to share the opinion that helping offenders find a place to live or work would be more effective in preventing a relapse into crime than throwing them into prison, according to one prosecutorial source.

Rulings in favor of probation in the hope of straightening out offenders have been on the rise in lay judge trials, too. In this connection, a bill is being deliberated in the Diet that would allow the court in handing down a guilty ruling to partially suspend a prison term by allotting the remainder of the term to probation.

### Help from welfare workers

To prevent a return to crime among offenders who are granted a suspended sentence with probation, sufficient arrangements are needed to help them readapt to society.

The Tokyo District Public Prosecutors Office launched in April a department to help such people get back on their feet, employing a social welfare specialist as a part-time officer to help prosecutors decide how to handle them.

So far it has dealt with more than 80 cases since a preparatory phase from January. In one case, the department sent a homeless person who was arrested for trespassing

into a house to escape the cold to a welfare facility. The social worker who handled the case, Ryo Matsutomo, said, “Some criminals should be given a chance to rehabilitate themselves at welfare facilities or institutions other than prisons.

“If they can get a helping hand early on, they may be able to keep themselves from becoming repeat offenders and committing worse crimes.”

Other district prosecutors offices, including those in Sendai, Otsu and Nagasaki, have obtained cooperation from groups of specialists in welfare services.

In cases involving offenders with intellectual or other handicaps, the prosecutors have the welfare specialists give their opinions on the degree of impediment, which are reflected in the demand for punishment. Meanwhile, arrangements are made to find caretakers to look after them.

However, most rehabilitation facilities and social welfare sites for offenders are run by the private sector, and their number and scale vary depending on the region. As a result, prosecutors are uncertain whether there are enough facilities to help criminals reintegrate into society.

“As our task of reducing recidivism has just begun, each district prosecutors office is struggling to fit methods with local characteristics, using as a reference earlier experiences by prosecutors offices in this new aspect of our mission,” a senior official at the Supreme Public Prosecutors Office said.