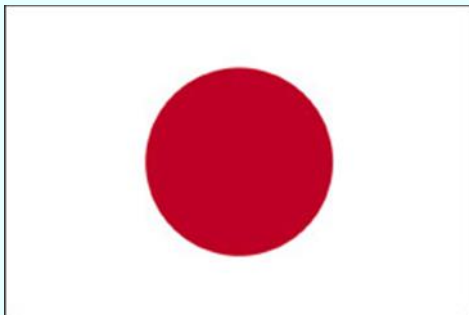


# Amendment of Japan's Criminal Procedure Code(CPC)



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# Process of Amendment

The Diet Passed the Amendment  
including CPC in June, 2016

## 【Holistic View on the Amendment】

○ Lowering excessive reliance on  
interrogation or written statement is needed.



- Appropriate & Various tools for collecting evidence
- Trial with enough hearing

# Major Amendment ①

## 1 Introducing Video Recording of Interrogations

- In certain types of crimes, video recording is mandatory for interrogations of suspects who are detained or under arrest.
- To prove that a suspect's statement was voluntarily given, request for examination on video-recorded interrogation is required.

## 2 Introducing bargaining agreements

- Agreement for cooperation on collecting evidence & prosecution
- Exemption from criminal charges (Witnesses, etc.)

## 3 Reasonable & effective wiretapping

- Expanded scope of crimes subject to wiretapping
- Wiretapping conditions limited to organized crimes

## 4 Clarifying reason of considerations in deciding bail

# Major Amendment ②

## 5 Enough support by defense counsels

- Public attorney system is expanded to all detained suspects.
- Notice on Public attorney system to suspects is given(How to use the system).

## 6 Expanded scope of evidence to be disclosed

- Issue list of evidence if defense counsel requests for it.
- The scope of evidence for disclosure is expanded.

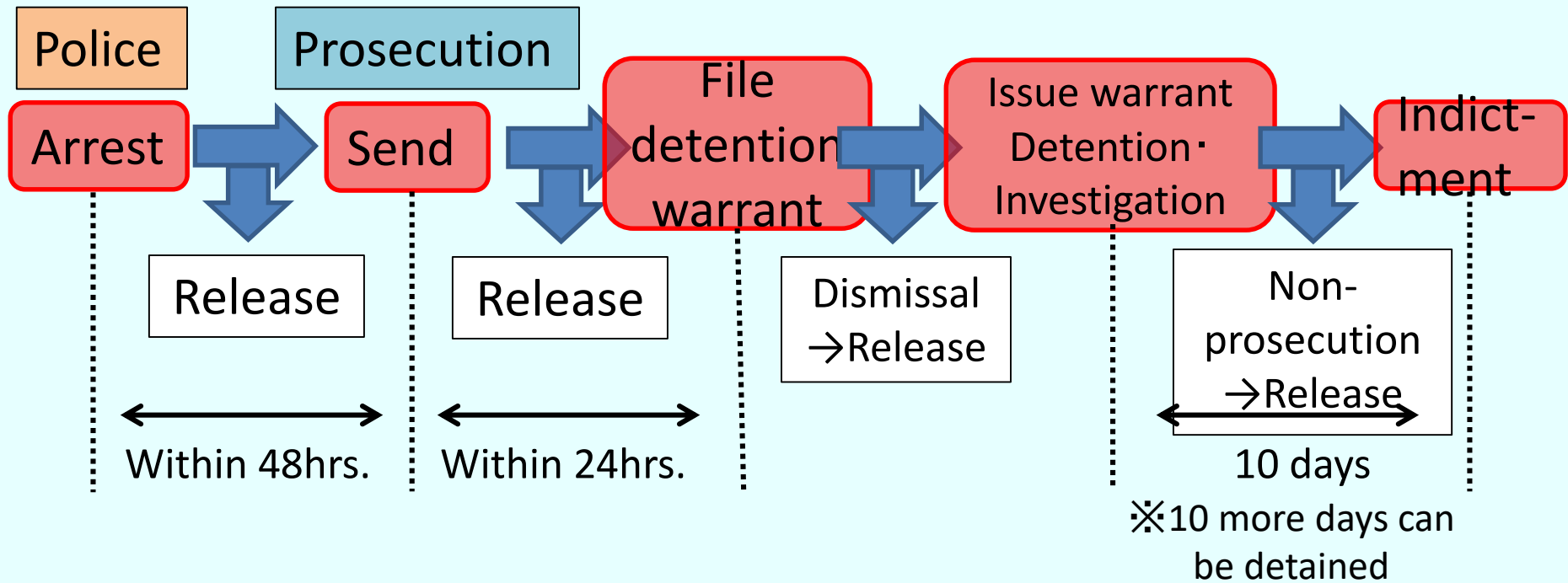
## 7 Expanded measures to protect criminal victim & witness

## 8 Higher legal penalty for destroying evidence, etc.

## 9 Measures to handle confession cases in simple & fast manner

# Introduction of Video Recording in Interrogations

## <Investigation in Japanese Criminal System>



- ✂ Except for flagrant offender, arrest warrant issued by a judge is required.
- ✂ About 35.5% of suspects are arrested, except for traffic-related crimes.
- ✂ While being detained, suspects are interrogated by police as well as prosecutors.
- ✂ Depending on prosecutor's judgment, video recording of interrogation has been made so far

# Introduction of Video Recording in Interrogation

## <Summary of Video Recording>

### No. 1

In certain types of crimes, video recording is mandatory for interrogations of suspects who are detained or under arrest.

#### ① Purpose

- Guarantee to prove clearly that a suspect's statement was voluntarily given
- Contribute to appropriate implementation of interrogation

# Introduction of Video Recording in Interrogation

## <Summary of Video Recording>

### ② Cases

#### ○Cases subject to lay judge system

- Crimes punishable with life sentence in prison·imprisonment without labor
- Among crimes punishable with more than 1 year in prison or imprisonment without labor, a case where a victim is killed by an intentional criminal act

#### ○Cases by the Prosecution only

#### ✕Reasons behind the cases subject to video recording

- During trials, little possibility of dispute over the interrogation situation
- Burden on physical and human resources
- Lay judge system case← Easy proof is needed to help lay judges to understand.
- Cases by the Prosecution only← When prosecutors only conduct investigation, materials to be used at trials for judge are limited.

# Introduction of Video Recording in Interrogation

## <Summary of Video Recording>

### ③ Scope

○ Entire process of interrogation

∴ Investigators cannot decide a part of the interrogation to be video recorded on their own.

○ Interrogations by police and prosecutors are subject to video recording.



# Introduction of Video Recording in Interrogation

## <Summary of Video Recording>

### No. 2

To prove that a suspect's statement was voluntarily given, request for examination on video-recorded interrogation is required.

○Written statement of a suspect

= Only when a suspect's statement was voluntarily given, it can be used as evidence at trials.

✕When the voluntariness of what defense counsel·suspect stated is argued, prosecutors need to prove the voluntariness.

# Introduction of Video Recording in Interrogation

## <Summary of Video Recording>

### No. 2

To prove that a suspect's statement was voluntarily given, request for examination on video-recorded interrogation is required.

- To prove the voluntariness of a suspect's statement on crimes subject to video recording, request for video-recorded interrogation is mandatory.
- If there is no request for video-recorded interrogation, request for examination on written statement will be dismissed.

# Introduction of Video Recording in Interrogation

✂ Mandatory video recording is limited to a certain types of crimes. In practice, however, video recording for interrogation of a suspect in other types of crimes is also being employed.

# Introducing Bargaining Agreements

## < Summary of bargaining agreements >

○ When the suspect is being investigated or the defendant is being charged with crimes such as specific financial crimes, narcotics crimes and violation of firearms control law, and if there is a consent by defense counsel, agreement between prosecutors and suspect or defendant will be allowed in the following.

- The suspect or defendant states truth related to another person's case to help uncover the truth in a criminal case, and provide evidence to prosecutors.
- Prosecutors may not indict the suspect, charge the suspect with a less serious crime or seek lesser punishments.

# Introducing Bargaining Agreements

## < Agreements >

### Cooperation by suspect-defendant

- State the truth during the investigation.
- State the truth as a witness at another person's trial.
- Provide evidence or other necessary cooperation.

### Lesser disposition by prosecutors

- Do not initiate indictment.
- Cancel the indictment.
- Initiate or maintain indictment under specified criminal charges.
- Add or cancel specific criminal charges/Request change into specified criminal charges.
- Seek specified punishment.

⌘ Defense counsel's consent is prerequisite for agreements.

# Introducing Bargaining Agreement

## < In case of agreement >

○ In case of agreement, the written agreement should be requested for examination as evidence at defendant's trials.

○ When a written statement made under agreement is requested as evidence at another person's trials or witness is requested for testimony, the written agreement must be requested for examination as evidence.

# Introducing Bargaining Agreement

< Out of the agreement >

Both sides

- In case that the other party violates the agreement

Defendant

- Even though prosecutors request change in criminal charges based on the agreement, the court does not accept the request.
- Even though prosecutors seek punishment based on agreement, the court impose higher sentence on the defendant.

Prosecutors

- When what the written statement says based on agreement turns out not true,

# Introducing Bargaining Agreement

## < Methods not to make false statements >

① Mandatory request for examination on written agreements as evidence at another person's trial

② Interruption of defense counsels

③ Punishment on crimes such as false statement; not exceeding 5 years in prison



# Introducing Bargaining Agreement

## < Summary of Exemption >

○ Upon prosecutor's request, the court can decide a witness testimony on the following conditions

- Statement from testimony and evidence from the statement must not be used as disadvantageous evidence to the witness in the witness's criminal case
- Witness cannot refuse to state in fear of indictment or conviction

✕ The court's decision can be made before the witness testimony as well as in the middle of the witness testimony.

# Introducing Bargaining Agreement

<Other system considered, but not accepted>

【Punishment mitigation system by revealing criminal charges】

## Summary

○ In case that a suspect plays an important role in revealing the criminal charges, we come up with regulations under a law that stipulate lesser punishments.

# Introducing Bargaining Agreement

< Other system considered, but not accepted >

【Punishment mitigation system by revealing criminal charges】

## Ups

- As a suspect is motivated to make a statement contributing to revealing the criminal charges, punishment mitigation system can be used in a situation when it is difficult to collect statement evidence.
- In theory, punishment mitigation system can be adopted in the extension of current confession regulation.

## Downs

- In many confession cases, punishment mitigation is argued and the grounds for the mitigation become an issue, which may interfere with trials.
- The necessity to introduce the new punishment mitigation system is not enough as the fact that a suspect states to reveal the criminal charges is appropriately appreciated in sentencing.