

GHQ/SCAP Records (RG 331, National Archives and Records Service)

Description of contents

- (1) Box no. 301
- (2) Folder title/number: (15)
No Title

(3) Date: ?

(4) Subject:

Classification	Type of record
323, 424	v

(5) Item description and comment:

(6) Reproduction: Yes No

(7) Film no.

Sheet no.

-1-

SECTION III

RELEASE

PROCEDURE RELATIVE TO RELEASE OF LUNATICS IN PRISON

(June, 1901. No. 7 instructions by Home

Office. Joint Signature by Justice Minister)

In regard to a lunatic in prison who requires care, at a proper time prior to his release, the warden of the prison shall give a notification to a person responsible for his care. In case there is no person responsible for his care or in case he is unable to discharge his duty, the warden shall give a notification to the mayor ~~of the mayor~~ of the city or to the headman of the city-ward, town or village where the lunatic resides (in case he has no residence or in case his residence is unknown, the headman of the locality of the prison), and shall take the procedure of giving him over.

In case nobody is found to take him over, even after going through the foregoing procedure, the warden of the prison shall make the report to the police station of the seat of the prison, and give him over. The policeman shall take the procedure of delivering him to to a person responsible for his care or to the mayor of the city or to the headman of the city-ward, town or village. When the warden of the prison makes the notification of each of the items, he shall annex a doctor's diagnosis or other necessary documents.

-2-

MATTER RELATIVE TO RELEASE OF A PERSON TAKEN SERIOUSLY SICK

(Kan Hatan I No. 209)

Although it is specified in the provisions of article 69 of the prison law that a convict to be released who has *been seriously sick and is under medical treatment may* application, be permitted to stay in prison. However, it is considered that this is a temporary measure limited to an unavoidable case, and that in case of a person, whose prognosis is not clear, and who has no one to claim him nor travel expenses, even though he is domiciled in the prefecture where the prison is situated, he should be directly handed over to the mayor of the city or to the headman of the city-ward, town village where the prison is located and should be treated as a person sick on the road, in accordance with No. 1,375 B notification dated March, 1902, issued by the Chiefs of the Local Affairs and Prison Bureaus in reply to item 2 of No. 1,768 inquiry by the Governor of Ehime Prefecture dated 27 February, 1902. However, on the other hand, it is considered that the foregoing notification has lost its validity in accordance with the provisions of articles 69 and 70 of the prison law. Such being the case, we are at a loss how to ascertain this doubtful point, and we beg to ask your instructions.

(December, 1907. Reply by Chief of
Prison Bureau. Prison No. 1,665.)

Your view stated in the first class is right.

-3-

MATTER RELATIVE TO PROCEDURE FOR
RELEASE OF LUNATICS IN PRISON

(September, 1920. Notification by Chief of Sanitary
Bureau of Home Office. Home Office north sanitary
No. 110. Addressed to wardens of prisons.)

The following inquiry and reply have been made with the
Governor of Hokkaido.

(September, 1920. Governor of Hokkaido. Guard No. 8,622.
Addressed to Sanitary Bureau of Home Office.)

It is considered that lunatics in prison, irrespect-
ive of whether they are convicted or unconvicted
prisoners, should be equally dealt with in accordance
with No. 7 instructions by the Home Office dated June,
1901. However, it is also considered that the foregoing
instructions must not be applied to a person who
unexpectedly leaves prison because his case has been
dropped by the prosecutor. We beg to ask your
instructions.

(Date. Number of Chief of Sanitary Bureau.
Addressed to Governor of Hokkaido.)

We acknowledge receipt of your inquiry about the
abovementioned subject by No. 8,622 guard dated the
21st of last month. We beg you to understand that
persons discharged from prison, irrespective of whether
~~they~~ ^{they} are convicted or unconvicted prisoners, should be
dealt with in accordance with No. 7 instructions by the

-4-

Home Office dated June, 1901, and that same treatment shall be accorded to persons discharged from prison on the acquittal of their charge by the prosecutor. In making this reply, counsel has been taken with the Justice Ministry.

MATTER RELATIVE TO RELEASE OF PERSON, WHOSE SENTENCE HAS BEEN SUSPENDED ON ACCOUNT OF HIS MENTAL DERANGEMENT, WHOSE NAME IS NOT KNOWN HAS NO ONE TO CLAIM HIM.

(March, 1911. Inquiry by Warden of Abashiri Prison. A No. 47.)

In cases where, in accordance with article 16 of the enforcement regulations of the prison law, a prosecutor has been advised of a convict in prison to whom No. 1, item 2, article 319 of the criminal code applies, and the execution of the sentence of the convict has been suspended, if there is no one responsible for the care of the convict in question, or a person responsible for his care considers himself incapable of discharging his duty, or if a person who should claim him does not present himself to court when his sentence has been suspended, is it appropriate to deal with the foregoing convict in accordance with No. 7 instructions of the Home Office dated June, 1901. We beg to ask your instructions.

(March, 1911. Reply by Chief of Prison Section. Prison C No. 259.)

In case the person in question is in the state of stupor and requires attention, it is desired that he will be dealt

-5-

with in accordance with your opinion, whereas, in case he does not need attention but is unable to walk for his sickness, it is considered that he should be dealt with as a charity patient.

MATTER RELATIVE TO REPORT TO POLICE STATION ON
PERSON SUBJECTED TO PENALTY ABOVE CONFINEMENT

(September, 1922. Instructions by Justice
Ministry. Administrative A No. 1,424.)

In releasing a person subjected to a penalty above confinement, his past career and his conduct in prison shall be taken into consideration. And in regard to a person recognized to require future inspection, a report shall be made to the police station in the locality of the prison in conformity to the following form.

No....

Date...

Police Station.

Report on Person to Be Released.

Finger-print	left right	Date of release		Domicile Birthplace Residence
Name of crime		Number of crimes and con- finement		
Name and term of penalty		Previous offence		Name Date of birth
Physical feature		Degree of penitence		
Practice of crime				

Prison (Branch Prison, Sub-Branch.)

-6-

Directions for Description.

1. In the column of previous offence the name and number of previous offences shall be described, for instance, three larcenies and one fraud.
2. Such descriptions as the following shall be made in the column of the degree of penitence: wicked; bad; no indication of penitence; or, although he shows some penitence, he is liable to commit a crime, if he has no proper guardian.
3. In the column of practice of crime, if possible, the detailed description of the concrete practice of a convict shall be given.

MATTER RELATIVE TO REPORT ON RELEASE
OF THOSE SUBJECT TO PENALTY

(September, 1922. Notification by Vice-Justice
Minister. Administrative A No. 1,424.)

An agreement has been reached that, in accordance with today's instructions administrative A No. 1,424, a report shall be made to the police on those who indicate no penitence, especially, on those who require strict surveillance, and that the other persons released shall be placed under the superintendence mainly of the aid societies. It has been also agreed that, excepting their indirect inspection made to the extent that their conformity to society will not be interrupted, their special inspection regarding them as

-6-

Directions for Description.

1. In the column of previous offence the name and number of previous offences shall be described, for instance, three larcenies and one fraud.
2. Such descriptions as the following shall be made in the column of the degree of penitence: wicked; bad; no indication of penitence; or, although he shows some penitence, he is liable to commit a crime, if he has no proper guardian.
3. In the column of practice of crime, if possible, the detailed description of the concrete practice of a convict shall be given.

MATTER RELATIVE TO REPORT ON PENITENCE
OF THOSE SUBJECTS TO PAROLE

(September, 1922, Notification by Vice-Justice
Minister, Administrative A No. 1,424.)

An agreement has been reached that, in accordance with today's instructions administrative A No. 1,424, a report shall be made to the police on those who indicate no penitence, especially, on those who require strict surveillance, and that the other persons released shall be placed under the superintendence mainly of the aid societies. It has been also agreed that, excepting their indirect inspection made to the extent that their conformity to society will not be interrupted, their special inspection regarding them as

-6-

Directions for Description.

1. In the column of previous offence the name and number of previous offences shall be described, for instance, three larcenies and one fraud.
2. Such descriptions as the following shall be made in the column of the degree of penitence: wicked; bad; no indication of penitence; or, although he shows some penitence, he is liable to commit a crime, if he has no proper guardian.
3. In the column of practice of crime, if possible, the detailed description of the concrete practice of a convict shall be given.

MATTER RELATIVE TO REPORT ON RELEASE
OF THOSE SUBJECTS TO PENALTY

(September, 1922. Notification by Vice-Justice
Minister. Administrative A No. 1,424.)

An agreement has been reached that, in accordance with today's instructions Administrative A No. 1,424, a report shall be made to the police on those who indicate no penitence, especially, on those who require strict surveillance, and that the other persons released shall be placed under the superintendence mainly of the aid societies. It has been also agreed that, excepting their indirect inspection made to the extent that their conformity to society will not be interrupted, their special inspection regarding them as

-7-

-7-

ex-convicts shall not be conducted. Accordingly, it is desired that the following measures will be taken.

(The Interior Part Omitted)

Report on Release.

9. The inspection shall be made in reference to those who require special inspection by the police, such as the wicked and depraved, those who indicate no penitence, those who indicate some penitence, yet who are liable to commit a crime again, if they have no proper guardian etc.

10. No report shall be required on those who have been released due the suspension of the execution of their sentence.

11. With reference to those, on whose release no report is made to the police, the aid societies shall be encouraged to conduct their superintendence satisfactorily.

MATTER RELATIVE TO SURVEILLANCE AND
INSPECTION OF THE RELEASED

(September, 1922. Notification by Vice-Justice Minister.
Administrative A. No. 1,424. Addressed to prosecutors.)

It is a matter of regret that the inspection of the released hitherto made by the police is still accompanied by its evils even now that the surveillance system has been abolished. In view of this fact, an arrangement has been made with the Home Office that a report to be made by prisons to the police shall be limited to

-8-

matters relative to the released who require special inspection by the police, such as their names, ages, social stations and other necessary matters, and that they shall be kept under strict surveillance so that they may have no chance to commit a crime again. An agreement has also been reached that no report relative to the other released shall be ~~made~~^{made} to the police, and that no special inspection of these persons regarding them as ex-convicts shall not be conducted. Accordingly, as it is desired that you will co-operate for this cause by removing the former evils relative to the inspection and surveillance of the released.

For reference the Home Vice-Minister's reply to the Justice Vice-Minister's inquiry is given here as an appendix.

(Abridged) Transcript of Home Vice-Minister's Reply.

2. Matter Relative to Report on the Released.

A. A report shall be made only on those, who are liable to commit a ~~crime~~^{crime} again while they are released, and who require surveillance by the police, and no report on the others shall be made. However, it is impossible to give photographs as the photographing facilities are not complete.

B. The past surveillance method of the general released has frequently left something to be desired. For instance, policeman in uniform, by making a visit to the residence of the released or by disclosing their

-9-

having been ex-convicts in the presence of others, would sometimes throw them into despair. Accordingly, it is requested that instructions will be given to local governors to the effect that, in reference to the other released convicts than those mentioned in the preceding item, the principle of inspection and surveillance shall be revised, and that, except indirect inspection made to the extent that their social conformity will not be obstructed, no special inspection shall be made openly regarding them as ex-convicts.

MATTER RELATIVE TO REPORT ON RELEASE
OF PERSON SUBJECTED TO PENALTY
(September, 1923. Notification by Chief
of Administrative Criminal Bureau and Chief
of Protection Section. Protective No. 1,910.)

A notification as given in the separate sheets has been received from the Police Bureau of the Home Office. As special police inspection of the released who are not liable to repeat an offence hinders their social conformity, so does the neglect of police inspection of those who are liable to repeat an offence run counter to the criminal politics which aims at social protection. The judgement of result of criminal administration and the reports on release enforced with the agreement of the Home Office have become

-10-

important factors in securing the results of penal execution and aid work and in utilizing the functions of preventive police, and these factors will have a great bearing on the prevention of the repetition of offences. Accordingly, it is desired that careful examinations will be made in releasing convicts in order to conduct affairs rightly, and that co-operation will be made with the Police so as to leave nothing desired in the aid of released convicts who require inspection.

P. S. In accordance with the orders of the Home Minister, the transcript of his notification relating to the inspection of released convicts from prison is given here as an appendix.

(Separate Sheets)

(June, 1923. Chief of Police Bureau of
Home Office. Home Office issue No. 64.)

Notification relative to Report on Released
Convicts from Prison (Given here by Orders.)

With a view to providing reference for the prevention of crimes, ~~negotiations~~^{negotiations} were carried on with the Justice Ministry for the method of making reports on those who are imprisoned when they are released from prisons serving out their terms. Recently a reply, as is given in the separate sheets, has been received from the Ministry. Accordingly, it is desired that those who have received a notification of release will

-11-

be inspected and protected in accordance with the following provisions, and that simultaneously efforts will be directed for ensuring mutual ~~Al~~ason so that the aim of criminal police service may be attained.

TEXT

1. How to Deal with Notice of Release of those who Require Criminal Inspection.

(1) The Police station which has received a notice of release from the prison shall send it to the police station of the locality where the released person resides.

(2) The police station of the locality where the released person resides shall enter, in the roll of persons who require criminal inspection, items to be written in a release notice.

(3) When the released person has returned home, the report shall be sent to the police stations of his domicile and of other localities concerned, and efforts shall be made to discover his whereabouts.

When this whereabouts has been discovered, the list in question shall be sent to the police station of his locality.

When his whereabouts is unknown, the report shall ^{be} sent to the police department which shall ask prefectures concerned to take steps to hunt for him.

(4) When the released person has changed his abode after

-12-

an entry has been made in the roll of released persons who require criminal inspection the report together with the roll shall be sent to the police station of the locality where he has removed.

(5) When a matter has been found which requires caution regarding the action of a person under criminal inspection, a proper measure shall be taken in co-operation with the police station concerned.

(6) When a change has taken place in the status of a person under criminal inspection, or when he has repeated an offence and has been arrested, a report to that effect shall be made to the police station concerned.

2. Remarks on Inspection of Person who Require Criminal Inspection.

(1) The released who are impenitent are generally professional criminals. Therefore, when a notice of their release has been received from the penal execution authorities the preventive police shall keep them under due surveillance, providing them with necessary aid. Also efforts shall be made for their proper guidance so that they may conform themselves to society. In case they wrong society again, preventive measures shall be taken to nip their wrong in the bud.

(2) In regard to their surveillance and protection, reference shall be made to (B), 2 of the Justice Vice-minister's reply

-13-

and No. 3 Home Office police notification relative to the inspection of released convicts ^{dated} 21 December, 1917.

In addition, full liason shall be established with the workers in the local discharged prisoner's aid service.

(3) Upper class police officers shall sufficiently guide and supervise the surveillance work of lower class police officers charged with the duty of direct surveillance and aid.

(The Home Vice-Minister's reply as given in the separate sheet is the same as a reply appended to the Justice Vice-Minister's notification addressed to the prosecutors justice dated September, 1922.)

THE SAME CASE.

(October, 1923. Notification by Chief of Penal Execution Bureau. Executive A No. 1,600.)

No report on some of the released convicts found impenitent by investigations made into the release notifications and into the penitent conditions of the released convicts as classified by terms of penal servitude during the period from April, 1921, to December, 1922, has been made to police stations. Especially on impenitent person no report or reports incomplete in the majority of the items have been given. The above fact is no more than the statistics of only a part of the released convicts. However, from this the rest may be inferred. It may be safely said that those who are found impenitent when they have served

-14-

out their term under proper penal execution are liable to repeat offences. Herein lies the intention of No. 1,424 executive A instructions and notification dated 28 September, 1922, relating to the notification of release. Accordingly, it is desired that steps will be taken so that police stations may be advised of all those who are impenitent and those recognized to indicate no penitence.

THE SAME CASE

(September, 1927. Notification by orders of Chief of Penal Execution Bureau. Executive A No. 1,263.)

Relative to the notification on the release of convicts, several notifications have been made. However, later inquiries have revealed that foregoing notifications are often sent on the previous day of or on the day of the release of ~~convicts~~ ^{convicts} after looking into the necessity of the notification when an examination in the convicts conduct is made at the time of their release. As a result, it often happens that by the time the notification is received by the police station of the locality where a released convict has his residence, he has changed his abode or his whereabouts has become unknown. This gives no small difficulty to the prevention and control of crimes, and runs counter to the intention of the foregoing notification. Accordingly, it is desired that, in addition to sending a notification considerably prior to the release, the notification will be directly sent to the police station

-15-

of the locality where the released convict takes up his quarters, if such is the desire of the police authorities.

MATTER RELATIVE TO RESULT OF PENAL EXECUTION

(February, 1922. Instructions by

Justice Ministry. Prison A No. 198)

In case a convict, concerning whose penal execution reference ~~data~~^{data} has been sent by a prosecutor, has been discharged on parole or at the expiration of his term, the notification, in accordance with the form given in the separate sheet, shall be immediately drawn up and sent to the prosecutor's office which conducted the execution of his sentence and to the prosecutor's office of the court which gave his sentence. The same shall apply to a convict, about whom the foregoing necessity is specially recognized by the warden of the prison.

No.

Date...

Prosecutor's Office of the Court.

Warden of the Prison.

-16-

Report on Result of Penal Execution

Convict's name	
Court which gave final sentence and date of the sentence	
Date of execution of sentence and diary. No.	
Names of crime and penalty. Term of penalty. Number of offences.	
Process of penal execution	
Change of disposition	
Penitent or otherwise	
Other reference matters	

Directions for Treatment.

1. In case the prosecutor's office of the court which gave the sentence and the prosecutor's office which conducted the execution of the sentence are different, each prosecutor's office shall send the notification to the other.
2. In the case of a person for whom two or more sentences must be executed in succession, when all the sentences have been executed, the notification shall be drawn up for each sentence.
3. In the case of a person, for whom a warrant of his detention must be executed in succession to the expiration of his term of penal servitude, or who must be detained at the prison workshop, the time of the expiration of his term of penal servitude shall be regarded as the time of his release.
4. As in the case of a person who was released on parole for an amnesty or who served two or more sentences in

-17-

succession, if his sentenced penalty and the term during which he was actually imprisoned are different, the reasons and the term of the actual execution shall be described in the column of name of crime, name and term of penalty, and number of offences.

5. In the column of process of penal execution shall be described the outline of the treatment, especially steps taken on the basis of the reference data given by a prosecutor, the conduct of a convict during his imprisonment, and other matters for reference.

6. In the column of change of disposition shall be mentioned the change and conditions of the convict's disposition and habits due to the execution of his penalty.

7. In the column of penitence a description shall be made according to the following classification.

1. There are indications of his penitence.
2. There is some indication of his penitence.
3. His penitence is hardly recognizable.
4. There is no indication of his penitence.

8. In the column of other reference matters shall be stated the convict's impressions on his trial, his victim, his relatives and old friends, and other matters which serve as good references.

(June, 1922. Notification by the Chief of the Prison Bureau, Addressed to the Public Prosecutor-General, the Chief Public Prosecutors and the Prosecutors Justice.)

- 18 -

We beg to inform you that relative to the abovementioned matter, instructions, as given in the separate sheet, has been issued.

(Separate Sheet)

February, ¹⁹²² 1928. Instructions by the Justice Ministry
No. 198 Prison A.

DIRECTIONS FOR THE DRAWING UP OF
REPORT ON RESULT OF PENAL EXECUTION
(March, 1922. Notification by Chief
of Prison Bureau. Prison A No. 327.)

Relative to the report on the result of penal execution, instruction has been given by No. 198 prison A notification under the date of the ^{27th} 27th last month. The intention of the foregoing report is to clarify the result of the actual execution of the content of the sentence given to the convict concerned, and to offer reference ~~given to the convict case~~ matters for the accusation and punishment of his future crime. Accordingly, the above report forms one of the very important items in penal administration. Therefore, it is necessary to draw up the report with specially close attention, aiming at the accuracy of the observation and statement. If the truth of the matter is not attained, by taking a superdicial view, making an erroneous observation and using high flown language, not only will it be impossible to attain the expected result, but trouble will be brought upon others, and penal execution officers will come

- 19 -

to fall in public estimation. We beg that you will understand the intention of the report and deal with the matter rightly.

P. S. In the case of release on parole it is requested that special attention will be paid to the description of the process of the penal administration. Particularly in case a convict, sentenced to a short term penalty, has been detained in a cell and has been subjected to a strict treatment, it is desired that in addition to the statement of this ^{item} the following specifications will also be made: the release on parole will not affect the general prevention of crimes; for instance, the residence of the person in question is far from the place where he committed his crime; or as a condition of the release on parole, his residence has been designated, and connections with the place where he committed his crime has been cut off.

FORM OF REPORT ON RESULT OF PENAL EXECUTION

(October, 1922. Notification by Chief of Penal
Administrative Bureau. Administrative A No. 1,526.)
1562

In regard to blank forms used for reports on the above-mentioned subject, "mino paper" (Japanese tough writing paper) is employed by some prisons, while "hanshi" (common Japanese writing paper) by others. Moreover,

- 20 -

the division of the columns being various, the blank forms lack unity and make a poor show. Therefore, the blank form, whether to be sent to the prosecutor's office or to be submitted to the authorities, has been standardized into the form as given in the separate sheet, and it is hoped that this blank form will be used by all prisons. However, there is no objection to the use of the old printed forms as long as they are left.

P. S. The blank margin is left at the top of the form for the convenience of entering a diary number, a date of dispatch and a signature.

No.

Date.

Prosecutor's Office of Court:

Warden of Prison.

Report on Result of Penal Administration.

Convict's name	
Court which gave final sentence and date of sentence	
Names of crime and penalty. Term of penalty. Number of offences.	
Process of penal administration.	
Change of disposition.	
Penitent or otherwise.	
Other reference matters.	

- 21 -

RE ENTRY IN REPORT ON RESULT OF PENAL ADMINISTRATION
(December, 1922. Notification by Chief of Penal
Administrative Bureau. Administrative A No. 1,611.)

In regard to a person about whom a notice was given as
one requiring police inspection, in accordance with the
instructions administrative A No. 1,424, dated 28 September
this year, we beg that, in making a report on the result of
his penal administration, the following entry will be made
in the reference matters column: "Recognized to require
police inspection, and a report to that effect has been made
to police stations".

REPORT ON COMPLETION OF PENAL EXECUTION
OR ON DEATH DURING IMPRISONMENT

(January, 1926. Notification by Chief of Penal
Administrative Bureau. Administrative A No. 80.)

In regard to reports on reference matters for penal
administration, the notification, as given in the separate
sheet, has been issued. Accordingly, reports henceforth
to be drawn up on the above-mentioned item and to be sent
to the prosecutor's office shall be naturally limited to
the sphere prescribed by the foregoing notification.

(Separate Sheet)

(January, 1926. Notification by Chief of Criminal Affairs
Bureau and Chief of Penal Administration Bureau addressed

- 22 -

to Public Prosecutor General, Chief Public Prosecutors and Chief Prosecutors Justice. Administrative A No. 80.)

It is hereby requested that the above mentioned report to be sent to the wardens of prisons in accordance with the instructions No. 674 prison A dated September, 1921, will be drawn up in reference to a person sentenced to an indefinite term of penal servitude for the time being and to a person who is considered to specially require the above report, and will be dispatched.

REPORT ON COMPLETION OF PENAL EXECUTION
OR ON DEATH DURING IMPRISONMENT

(November, 1928. Instructions administrative A No. 1,896.)
Revised. 1930. Administrative A No. 1,108.

In case a person, who has served out his term of penal servitude or who is serving his sentence, has died, a report shall be drawn up in conformity to the form as given in the separate sheet, and shall be sent to the prosecutor's office of the court which sentenced his penalty.

(Form)

Report on completion of penal execution (death during imprisonment).	
Name	

to Public Prosecutor General, Chief Public Prosecutors and Chief Prosecutors Justice. Administrative A No. 80.)

It is hereby requested that the above mentioned report to be sent to the wardens of prisons in accordance with the instructions No. 674 prison A dated September, 1921, will be drawn up in reference to a person sentenced to an indefinite term of penal servitude for the time being and to a person who is considered to specially require the above report, and will be dispatched.

REPORT ON COMPLETION OF PENAL EXECUTION
OR ON DEATH DURING IMPRISONMENT

(November, 1928. Instructions administrative A No. 1,896.)

Revised. 1930. Administrative A No. 1,108.

In case a person, who has served out his term of penal servitude or who is serving his sentence, has died, a report shall be drawn up in conformity to the form as given in the separate sheet, and shall be sent to the prosecutor's office of the court which sentenced his penalty.

(Form)

Report on completion of penal execution (death during imprisonment).	
Name	

- 22 -

to Public Prosecutor General, Chief Public Prosecutors and Chief Prosecutors Justice. Administrative A No. 80.)

It is hereby requested that the above mentioned report to be sent to the wardens of prisons in accordance with the instructions No. 674 prison A dated September, 1921, will be drawn up in reference to a person sentenced to an indefinite term of penal servitude for the time being and to a person who is considered to specially require the above report, and will be dispatched.

REPORT ON COMPLETION OF PENAL EXECUTION
OR ON DEATH DURING IMPRISONMENT

(November, 1928. Instructions administrative A No. 1,896.)

Revised. 1930. Administrative A No. 1,108.

In case a person, who has served out his term of penal servitude or who is serving his sentence, has died, a report shall be drawn up in conformity to the form as given in the separate sheet, and shall be sent to the prosecutor's office of the court which sentenced his penalty.

(Form)

Report on completion of penal execution (death during imprisonment).	
Name	

- 23 -

Permanent domicile	
Name of crime	
Name and term of penalty	
Court which gave sentence	
Date of completion of penal execution (death)	
Remarks	
Date	
Court Prosecutor's Office:	
Hereby we make the foregoing report.	
Sincerely yours,	
Certain Prison.	
(Certain Branch Prison).	

Remarks:

1. The foregoing reports shall be lumped together and dispatched within a period not exceeding one month.
2. The form to be used shall be the quatorfolio of "Mino" paper (Japanese writing paper).

- 24 -

RE REPORT ON ^{DATE} ~~BATH~~ OF COMPLETION OF PENAL EXECUTION.

(November, 1928. Notification by Chief of Penal
Administrative Bureau. Administrative A 2 of No. 1,896.)

In reference to the above-mentioned matter, the instructions, as given in the separate sheet, has been issued. To the court and the prosecutor's office, the foregoing matter is not only necessary for the application of aggravation by concurrent offences but also very important for investigations relative to ^{amnesty} ~~amnesty~~. Therefore, it is hereby desired that no item will be omitted in the foregoing report.

P. S. It is hoped that the foregoing reports will be sent in a lump every month.

REPORT ON CERTIFICATION OF LEGAL CAPACITY OF RELEASED CONVICT.

(May, 1928. Notification by Justice
Vice-Minister. Criminal No. 4,680.)

It is prescribed by the notification administrative A No. 854 that a rehabilitated person shall be regarded as the same as a person who has been favored with an amnesty which shall nullify the validity of his sentence of penalty, or as a person who was sentenced to probation and has served out his term of probation without having it cancelled. It is also provided by the same notification that in cases where the certification of his legal capacity is made by the headman of a city-ward, of a town or of a village, unless a

- 25 -

special certificate about his former offence is sought by a Government or public office, a certificate, which testifies to the fact that he is an ex-convict who has been rehabilitated, shall not be given, and that the foregoing fact shall be kept secret from public knowledge. Nevertheless, from time to time, treatments contrary to the intention of the above-mentioned notification are made to our great regret from the point of view of aid work to be ^{done} done for released convicts. We beg hereby to inform you that, as a result of counsel taken with the authorities, the notification addressed to the local governors, as given in the separate sheet, has been issued by the Chief of the Local Affairs Bureau of the Home Office.

REPLY RE CERTIFICATION OF LEGAL CAPACITY OF RELEASED CONVICT.

(May, 1928. Chief of Local Affairs Bureau of Home Office; Justice Local No. 55. Addressed to Chief of Criminal Affairs Bureau of Justice Ministry.)

We beg hereby to inform you that in reference to an inquiry criminal affairs No. 1,483 made by the Criminal Affairs Bureau of the Justice Ministry under the date of 8 February this year, the notification, as given in the separate sheet, has been issued to the local ^{governors} governors. (Separate Sheet)

- 26 -

NOTIFICATION BY ORDER RELATIVE TO CERTIFICATION
OF LEGAL CAPACITY OF RELEASED CONVICT.

(May, 1928. Chief of Local Affairs Bureau of Home Office.
Justice local No1 55. Addressed to local governors.)

A partial revision of the amnesty ordinance was effected on 4 February, 1927, and on the basis of the revised amnesty ordinance, on the seventh of the same month, a rehabilitation ordinance was promulgated, granting a favor of rehabilitation to hundreds of thousands of people. We are deeply impressed with the gracious Imperial benevolence. The notifications No. ¹¹⁵155 local dated 25 June, 1919, and No. 265 local dated 15 November of the same year made relative to the omission of criminal judgement or extinction of the validity in certifying the legal capacity of a person who has been favored with a rehabilitation, provides that in cases where the certification of the foregoing person's legal capacity is made by the headmen of a city-ward, town or village, unless a special certificate about his former offence is sought by a Government or public office, a certificate, which describes the facts that he is an ex-convict and that he has been rehabilitated, shall not be given, and that the foregoing facts shall be kept from public knowledge. In this connection, it has been brought to our notice by the Justice Ministry that treatments con-

- 27 -

trary to the intention of the foregoing notifications are made from time to time to great regret from the view-point of aid work to be done for released convicts. Hereby, we beg you to see to it that, hereafter in reference to a person who has been rehabilitated, to a person who has been favored with an amnesty which shall nullify the validity of the sentence of his penalty and, to a person who was sentenced to probation and has served out his term of ^{probation} ~~probation~~ without having had it cancelled, a marginal entry to that effect shall be made in the criminal's roll and that the items recorded in the roll will be crossed out in red ink to the extent that their legibility will not be lost. It is also desired that in certifying their legal capacity they will be treated as ordinary people free from former offences, unless a special certificate of their former offences are sought by a Government or public office.

RE REPORT ON PERSON WHO HAS TRANS-
FERRED HIS DOMICILE OR RESIDENCE
(January, 1929. Notification by Chief of
Criminal Affairs Bureau of Justice
Ministry. Criminal Affairs No. 1,095.)

The above-mentioned subject is a procedure for making a report, in accordance with the Home Office instructions No. 1 of 1917 and No. 3 of 1927 to the mayor of a city or to the

- 28 -

headman of a town or of a village where a person in question has transferred his domicile or residence. Inasmuch as the same report is made on a person who has been rehabilitated by an Imperial ordinance, it often happens that his being an ex-convict is disclosed. In the light of the intention of the notification relative to the certification of the legal capacity of person who have been rehabilitated, this fact is exceedingly regrettable for aid to be rendered to released convicts. In view of this fact, it is considered advisable to except the application of the foregoing instructions to the above-mentioned persons, and the Ministry took counsel with the Home Office. As a result, the notification addressed to the local governors, as given in the separate sheet has been issued by the Chief of the Local Affairs Bureau of the same Office. Hereby we beg to make the foregoing notice.

~~Notice~~ Hereby we

(See No. 4,680 criminal affairs notification dated 29 May, 1930.)

(Separate Sheet)

Reply re Report on Criminal who Has Transferred his Domicile or Residence

(January, 1929. Issued by Chief of Local Affairs Bureau of Home Office. Addressed to Chief of Criminal Affairs Bureau of Justice Ministry.

- 29 -

Third Justice local No. 64.)

We acknowledge receipt of your inquiry No. 8,232 criminal affair with reference to the above-mentioned item. It is considered proper to deal with the above item in accordance with your view. We beg hereby to inform you that today the notification, as is given in the separate sheet, has been sent to the local governors.

NOTIFICATION by Order re Report on Criminal Who Has Transferred His Domicile or Residence.

(January, 1929. Issued by Chief of Local Affairs Bureau of Home Office. Addressed to Local governors. Third Justice local No. 64.)

In reference to the criminal items of a person who has transferred his census register or ^{domicile} domicile, the Home Office instructions No. 1 dated April, 1917, and No. 3 dated January, 1927, provides that the mayor of a city or the headman of a town or a village, of which the person in question has struck out his name from the census register, or where he has his permanent domicile, shall make a report to the mayor of a city or the headman of a town or a village, of which he has put his name on the census register, or where he has domiciliated himself. However, in the case of a person who has been rehabilitated, of a person who has been granted an amnesty or a special favor to nullify the validity of the sentence of his penalty, and of a person, who was sentenced to probation and has

- 30 -

completed his term of probation without having had it cancelled, and who has had his name in the criminals' roll crossed out in accordance with the notification by order No. 55 Justice local dated 19 May this year, we beg you to see to it that a report on their crimes is not made when they transfer their domicile or strike their names off the census register.

RE ESTABLISHMENT OF RE-IMPRISONMENT INVESTIGATION
BOOK OF RELEASED CONVICTS

(June, 1932. Instructions administrative A No. 981.)

The re-enrollment investigation book of released convicts, as given in the separate sheet, has been provided for, effective from 1 July, 1932.

RE-ENROLLMENT INVESTIGATION BOOK OF RELEASED CONVICTS

Chief of office		
Chief of department		
Date of dispatch and number		
Second offence	Name of crime and number of offences	
	Name and term of penalty	Date of imprisonment
	Time and place of second offence	Date. Prefecture
	Period	Date
	Prison he was cast into.	
	How he lived when he committed the crime.	
	Individual character	Natural; habitual; casual; unknown.
	Cause and motive of crime	

Former Sentence	<i>crime</i>	
	Name of crime and number of offences	Date of imprisonment
	Name and term of penalty	Natural; habitual; casual; unknown
	Individual character	
	Cause and motive of crime	
	Result of penal administration	Found; found in a measure; imperceptible; none
	Acquired skill <i>skill</i>	
	Expected method of gaining livelihood	yen sen
	Monetary reward	
	Method of aid	
Date of release		
Reasons for release		
Name	Name	
Date of birth		
Permanent domicile	Permanent domicile	
Place of residence	Place of residence	

Separate Sheet (Directions for Filling in)

1. In case a convict, who was sentenced to a penalty above confinement, and who was released by virtue of an amnesty, of release on parole or of the suspension of his sentence, or upon the expiration of his term, has been again sentenced to a penalty above confinement and has been imprisoned again, an entry shall be made in this book at the prison from which he was released.
2. In case the foregoing convict has been put into another prison than the one from which he was released,

- 32 -

an entry shall be made in each column of this book with reference to an extract from the ex-convicts' identity-book.

3. The name of a convict who has been again put into the prison from which he was released shall be written in red ink.

4. Entries in the columns for the cause of the crime and for the number of offences and imprisonments shall be made in conformity to the example given in the convict's imprisonment card.

5. In the column for the place of residence shall be entered the residence where the convict lived at the time when he was released from his former offence.

6. In the column for the date and order for dispatch the order of entry shall be entered.

7. In the column for the date and place of a second offence shall be mentioned the date and place of the first offence according to prefectural classification.

8. In the column for the period shall be stated the period from the date of release to the date of a second offence.

9. In the column of the method of aid shall be entered the concrete account of the steps of aid actually taken at the time of release (e. g. "Handed over to be placed

- 33 -

under the shelter or care of so and so" or "Handed over to his guardian, his father, mother or brother or so and so" etc.

RE ESTABLISHMENT OF RELEASED CONVICT'S
RE-IMPRISONMENT INVESTIGATION BOOK AND
TREATMENT OF EX-CONVICT'S IDENTITY BOOK.

(June, 1932. Notification by Chief of Penal
Administrative Bureau. Administrative No. 981.)

With reference to the establishment of the released convict's re-imprisonment investigation book, the instructions, as given in the separate sheet, has been issued. The investigation book, together with protective measures taken for the effect of penal administration, will make date for investigating the percentage of the commission of second offences after release. In case an application for the dispatch of the ex-convict's identification book was sent in by a prison into which an ex-convict has been cast, a reply hitherto made has varied according to each prison. It is requested that hereafter the reply will be made in accordance with the following directions.

Directions.

1. In case an application for the dispatch of the ex-convict's identification card has been sent in by a prison into which an ex-convict has been cast, the required items shall

- 34 -

be entered in the released convict's re-imprisonment investigation book. The ^{name} name of the addressee and the date of the dispatch shall be written in red ink in the roll of prisoners. Thereupon the ex-convict's identification card shall be signed by the warden of the prison, and shall be sent to the prison into which the ex-convict has been cast.

2. The form of the ex-convict's identification card shall be fixed, as is given in the separate sheet. The card shall be sent in an envelope (unsealed).

3. The identification cards prepared by a prison which released convicts shall be classified according to a calendar year. Their total number shall be recorded. With reference to those which were sent to other prisons and to those which were used by the prison which released convicts, statements to that effect and the dates shall be specifically recorded.

P. S. The printed forms of the ex-convict's identification card required for the time being shall be distributed by the Kosuge Prison under separate cover. However, we beg that the suitable form will be thenceforth be prepared by each prison.

(Separate Sheet)

Issued.

No.

^{about}
Inquiry bout ex-criminal's identification book

Sentence <i>now</i> see under execution	Name of crime	
	Name and term of penalty	
	Date of sentence of penalty	
	Court which gave sentence	
	Means of gaining livelihood at the time when the crime was committed	
Former Offence	Name of crime <i>crime</i>	
	Name and term of penalty	
	Reason for release	
	Date for release	
	Individual character natural habitual casual unknown	
	Cause and motive of crime	
	Date and place of crime	
Name	Name	
Age	Age	
Permanent domicile <i>domicile</i>	Permanent domicile	

- 36 -

Residence	Present residence
-----------	-------------------

Inclosed, you will find the form for inquiring about the ex-convict's identification book.

Such and such Prison.

RE READJUSTMENT OF RELEASED CONVICT'S
RE-IMPRISEMENT INVESTIGATION BOOK.

(August, 1932. Notification by Chief of Penal Administrative Bureau, Justice Ministry. Administrative C No. 1,542.)

We beg to inform you that, in reference to the above-mentioned item, an inquiry, as given in No. A separate sheet, has been received from the Warden of the Kagoshima Prison, and that a reply, as given in No. B separate sheet, has been made.

(No. A) INQUIRY ABOUT READJUSTMENT OF RELEASED
CONVICT'S RE-IMPRISEMENT INVESTIGATION BOOK

(Inquiry by Warden of Kagoshima
Prison. Criminal issue No. 2,278.)

We have the following doubt about the above-mentioned item, and we beg to ask your instructions.

Text.

In case a released convict has been put in a prison in the colonial territory of Korea or of Formosa, and an inquiry about the ex-convict's identification book has been received, is it necessary to make an entry in the re-imprison-

- 37 -

ment investigation book? If such is the case, as a result of the application of the inquiry form for the ex-convict's identification book, the prison which released the foregoing convict must make further inquiry about and investigation into the necessary items. We would like to know the right measure to be taken for this problem.

(No. B) RE READJUSTMENT OF RELEASED CONVICT'S
RE-IMPRISONMENT INVESTIGATION BOOK.
(Reply by Chief of Penal Administrative
Bureau. Administrative C No. 1,542.)

We acknowledge receipt of your inquiry No. 2,273, dated 21 September relative to the above-mentioned matter. We beg that in case a released convict has been put into a prison in colonial territory, necessary items will be inquired into and readjusted.

RE ENTRY IN RELEASED CONVICT'S
RE-IMPRISONMENT INVESTIGATION BOOK
(October, 1936. Notification by Chief of Penal
Administrative Bureau. Administrative A No. 1,262.)

It is requested that, in the column for the result of the penal administration of the former sentence, the progressive treatment of a released convict and the penal class to which he belonged will be added to items to be entered in the above-mentioned investigation book.

- 122 -

MATTER RELATIVE TO INTERPRETATION OF
ARTICLE 1 OF COMMUTATION ORDINANCE.

(December, 1928. Notification by Chief of Criminal
Affairs Bureau of Justice Ministry, secret No. 1,670.)

In accordance with Article 1 of the recently promul-
gated commutation ordinance, those who are favored with the
commutation shall conform to the directions for the enforce-
ment of the commutation ordinance notified by the secret
No. 29 on 29 January this year and to the directions for
the enforcement of the amnesty notified by the secret No.
1,376 dated 4 October this year. Those which were finally
decided designate those which were finally decided by 12
p. m. 9 November, 1928. Therefore, it is to be noted that
the under-mentioned case should naturally be favored with
a commutation.

Record.

2 November, 1928.	Sentence.
9 November, 1928.	Expiration of the term for the appeal.
10 November, 1928.	Final decision.

MATTER RELATING TO INTERPRETATION OF ARTICLE
8 OF PRESENT COMMUTATION ORDINANCE.

(November, 1928. Notification by Chief of Criminal
Affairs Bureau. Criminal Affairs No. 9,843.)

- 123 -

In view of the fact that some people have a doubt about article 8 of the present commutation ordinance, this is to make the following notification for reference.

The intention of the foregoing article is that the present commutation shall not be granted to a person, who was previously subjected to a penalty above confinement for crime A, who was given an amnesty relative to the crime within fifteen years prior to 10 November, 1928, and who committed crime B within seven years after that and was sentenced to a penalty above confinement shall not be favored with the present commutation, irrespective of whether he is guilty of crime A or crime B, the execution of which penalty was completed seven years before.

Furthermore, a question and reply relative to the foregoing article are given here for reference.

Question (1 November, 1928. Warden of Nagano Prison.) The case of a person, who was subjected to five years' penal servitude for a larceny, who served out his term on 19 August, 1913, and who had not been punished since then. On 7 February, 1927, he was rehabilitated by the rehabilitation ordinance of the Imperial ordinance No.13. However, on 10 April this year he was sentenced to eight months' penal servitude for a larceny, and he is now serving his term. The above falls under the provisions of article 8 of the present commu-

- 123 -

In view of the fact that some people have a doubt about article 8 of the present commutation ordinance, this is to make the following notification for reference.

The intention of the foregoing article is that the present commutation shall not be granted to a person, who was previously subjected to a penalty above confinement for crime A, who was given an amnesty relative to the crime within fifteen years prior to 10 November, 1928, and who committed crime B within seven years after that and was sentenced to a penalty above confinement shall not be favored with the present commutation, irrespective of whether he is guilty of crime A or crime B, the execution of which penalty was completed seven years before.

Furthermore, a question and reply relative to the foregoing article are given here for reference.

Question (1 November, 1928. Warden of Nagano Prison.) The case of a person, who was subjected to five years' penal servitude for a larceny, who served out his term on 19 August, 1913, and who had not been punished since then. On 7 February, 1927, he was rehabilitated by the rehabilitation ordinance of the Imperial ordinance No.13. However, on 10 April this year he was sentenced to eight months' penal servitude for a larceny, and he is now serving his term. The above falls under the provisions of article 8 of the present commu-

- 124 -

tation ordinance, and his penalty is considered to deserve a commutation. In this connection, we beg to ask whether the general rehabilitation, as stated in No. 13 Imperial ordinance of 1927, the like of which had never been promulgated before, is covered by the amnesty of Article 8 of the commutation ordinance. Reply (6 November, 1928. Chief of the Criminal Affairs Bureau.)

Even person, who was favored with a rehabilitation in accordance with the rehabilitation ordinance of the Imperial ordinance No. 13 of 1927 is considered to be covered by "obtaining an amnesty" provided for in article 8 of the present commutation ordinance.

We assure you in addition that there is a way to give a special commutation even to those who fall under article 8 of the commutation ordinance, if ^{they} ~~they~~ are under special circumstances.

MATTER OF QUESTION AND REPLY RELATIVE TO COMMUTATION.

(November, 1928. Notification by Chief of Criminal Affairs Bureau. Criminal Affairs No. 9,852.)

With regard to the above-mentioned subject, there were an inquiry as is stated in the separate sheet A and reply as is stated in the separate sheet B. They are given here for reference.

(No. A)

Matter regarding Amnesty.

- 125 -

(October, 1928. Inquiry by warden of Milke Prison.

Secret issue No. 67.)

Six years and nine months' penal servitude for robbery and larceny. Jinshichi Aiya.

The above has two penalties with cumulative relations, as is stated in the separate transcript of decisions and the transcript of the direction-book of executions, and is now serving the above-mentioned sentence. One of the penalties is twenty-years' penal servitude for robbery and personal injury. This penalty was finally decided on 29 March, 1917. The other crime is six years and nine months' penal servitude for robbery and larceny. This penalty was finally decided on 30 June, 1917. Judging from the nature of the latter penal servitude of six years and ^{nine} ~~the~~ months, he ought to be favored with the present amnesty. However, he was previously sentenced to twenty years' penal servitude. Such being the case, although the proviso of No. 10, article 6 of the commutation ordinance notified by the secret No. 1,376 on 4 October, 1928, is applicable to him, this case still admits of some doubt. Accordingly, to make sure of the case, we asked the opinion of the prosecutor justice of the court which sentenced the first penalty. He is of opinion that the proviso of No. 10, article 6 of the ordinance presupposes the limitation of its application to the second offence of robbery and larceny.

- 126 -

Such cases as the foregoing which have relations of concurrent offences do not fall under the proviso of the above-mentioned number, although they may differ in the time of their final decision. However, still his view is considered to admit of some doubt.

On the contrary, supposing that the foregoing two concurrent offences had not been given separate sentences and had been given one combined sentence, they would fall under article 7 of the ordinance (for the offences of robbery and bodily injury), and would not naturally be given a commutation. As the execution gives us a concern, we beg to ^{ask} ask your instructions.

When you have done with this affair, we beg you to return us the document in the separate sheet.

REPLY TO INQUIRY RELATIVE TO COMMUTATION.

(November, 1928. Reply by Chief of Criminal Affairs Bureau. Criminal Affairs No. 9,462.)

We acknowledge the receipt of your inquiry by the secret issue No. 67 dated 20 December relative to the commutation for Jinshichi Aiya. The intention of the proviso of No. 10, article 6 of the present commutation ordinance has reference to the previous offences. Accordingly, the case of your inquiry, which is related to concurrent offences, does not contravene the foregoing provisions. Item 1, article 7

- 187 -

of the commutation ordinance, as is indicated in the provisions, applies to inseparable cases in which one sentence was given in combination to concurrent offences. In cases where two sentences were given, as in the case of your inquiry, the foregoing article does not apply. Therefore, it is considered that after all the sentence of six years and nine months' penal servitude for the robbery and larceny is to be commuted in accordance with the present commutation ordinance.

P. S. Although the convict is commuted, as is stated above, he has the other penalty of twenty years' penal servitude. It is to be noted that since the limitation of article 14 of the criminal code exists, the terms of the two penal servitudes to be executed will not be affected, irrespective of whether or not the foregoing commutation is granted.

QUESTION AND REPLY RELATIVE TO COMMUTATION.

(February, 1929. Notification by Chief of Criminal Affairs Bureau. Criminal Affairs No. 1,325.)

A question and reply relative to the commutation are given in the separate sheet for reference.

(Separate Sheet)

Reply Relative to Commutation.

26 October, 1928. Inquiry by warden of Kosuge Prison.

6 February, 1929. Reply by Chief of Criminal Affairs Bureau.

Question.

- 128 -

There are two final sentences given to concurrent offences. One final sentence is fifteen years' penal servitude for larceny, and the other is thirteen years' penal servitude for larceny.. Because of the limitation of article 14 of the criminal code, the prosecutor has decided to conduct the execution of five years' penal servitude and to execute twenty years' penal servitude including the other fifteen years' penal servitude. Ought the commutation in accordance with the commutation ordinance to be granted on the basis of the five years' penal servitude conducted by the prosecutor or on the basis of the sentenced thirteen years' penal servitude? Answer.

^m
The comutation is considered to be given on the basis of the sentence of the thirteen years' penal servitude.
A MATTER RELATIVE TO THE DAY FROM WHICH THE SECOND PENALTY IS COMPUTED WHEN THE EXPIRATION DAY OF THE FIRST PENALTY FALLS ON THE PREVIOUS DAY OF THE PROMULGATION OF THE COMMUTATION ORDINANCE AS A RESULT OF COMMUTATION.

(November, 1928. Notification by Chief of
Criminal Affairs Bureau. Secret No. 1,575)

In regard to the above-mentioned case, there was an inquiry, as is stated in the separate sheet No. A, and reply as is stated in No. B. They are given here for reference.

(A)

Inquiry about Doubt relative to Calculation of Commu-

- 129 -

tation.

(November, 1928. Inquiry by warden of
Yamaguchi Prison. Secret issue No. 50.)

Suppose that the day of the promulgation of the commutation ordinance is 10 November. In cases where the calculation of commutation for those sentenced to the first and second penalties is made, even when the expiration day of the first penalty, as a result of its commutation as is stated in the under-mentioned instance, falls on 8 November, the day of release from the above penalty falls on the day of the promulgation of the Imperial ordinance, that is, 10 November.

Therefore, the term of the second penalty is considered to be computed not from prior to the promulgation of the Imperial ordinance retrospectively, that is, 9 November, but from 10 November. However, there is an opinion that since the first penalty expires on 8 November, it is proper to compute the term of the second penalty retrospectively from 9 November, as a result of the calculation in accordance with the commutation ordinance for the benefit of the person in question.

As we have ^{some} seen doubt this problem, we beg to ask your instructions.

The penalties are mentioned below.

The First Penalty. Larceny, embezzlement in business.

- 130 -

	original penalty	changed penalty
name and term of penalty	penal servitude 6 months	penal servitude 5 months and 29 days
initial date in reckoning term of penalty	11 May, 1928	11 May, 1928
expiration day of penalty	10 November, 1928	8 November, 1928

The Second Penalty. Escape.

	original penalty	changed penalty
name and term of penalty	penal servitude 3 months including 20 days of detenti- on pending trial	penal servitude, 2 months and 12 days including 20 days of detention pending trial
initial date in reckoning term of penalty	11 November, 1928	
expiration day of penalty	21 January, 1929	If 9 November, 1928, is made the initial date in reckoning, 31 December, 1928. If 10 November, 1928, is made the initial date in reckoning, 1 January, 1929.

- 131 -

(B)

Reply concerning the Day from which the Term of the Second Penal Servitude is Computed in case the Expiration Day of the Term of the First Penal Servitude Falls on the Previous Day of the Promulgation of the Commutation Ordinance as a Result of the Reduction of the Penalty.

(November, 1928. Reply by Chief of Criminal Affairs Bureau. Secret No. 1,574.)

Your inquiry on the foregoing subject by the ^{secret} ~~secreted~~ issue No. 50 dated 6 November is to hand. It is considered that in accordance with your above-mentioned opinion, the term of the second penal servitude should be computed from the day of the promulgation of the commutation ordinance, that is, 10 November.

MATTER RELATIVE TO INTERPRETATION OF ARTICLE

2 OF REHABILITATION ORDINANCE OF 1927.

(January, 1929. Notification by Chief of Criminal Affairs Bureau. Criminal Affairs No. 389.)

The question in the separate sheet No. A and the reply in the separate sheet No. B concerning the above-mentioned subject are given here for reference.

(A) (December, 1928. Inquiry by Warden of Gifu Prison.)

There are the following two views regarding the interpretation of article 2 of the rehabilitation ordinance of No. 13 Imperial ordinance of February last year. As we have a pressing necessity to know which view to take for the application

- 132 -

of article 8 of this year's commutation ordinance, we beg to ask your instructions. First Opinion. In the case of those who committed a crime before attaining full eighteen years of age and were subjected to a penalty other than capital punishment or life imprisonment, and who served out their sentence or were exempted from the execution of their sentence on the previous day of 25 December, 1926, the provisions shall apply only to those who did not commit a crime and were not subjected to a penalty after attaining full eighteen years of age.

Second Opinion. In the case of those who committed a crime before attaining full eighteen years of age and were subjected to a penalty other than capital punishment or life imprisonment, and who served out their sentence or were exempted from the execution of their sentence by the previous day of 25 December, 1926, if they committed one or several crimes later again and have one or several previous offences they shall have their ^{legal} legal capacity forfeited or suspended for their previous conviction. Therefore, as the rehabilitation is virtually of no avail for them, the rehabilitation shall not be applied to them.

(B) (January, 1929. Reply by Chief of Criminal Affairs Bureau. Criminal Affairs No. 388.)

We acknowledge the receipt of your inquiry regarding the interpretation of article 2 of the rehabilitation ordinance of 1927 by the secret issue No. 1,971 dated 27 December last year.

- 133 -

The foregoing Article applies to boy criminals to whom the juvenile law does not apply, that is, boys criminals prior to the enforcement of the juvenile law. same treatment as is provided in article 14 of the juvenile law and of universally accorded the favor of rehabilitation. Therefore, it is considered that several ~~after~~¹ previous offences committed by criminals after attaining full eighteen years should in no way prevent the application of the same article, and that they should be rehabilitated relative to the offences which they committed when they were boys. Their commission of crimes after attaining full eighteen years of age and their consequent forfeiture or suspension of their legal ~~capacity~~^{capacity} seems to virtually nullify their rehabilitation relative to the crimes which they committed at an age under full ~~eighteen~~^{eight} years. Nevertheless, supposing that there is a case in which a person who was subjected to more than six years' penal servitude or confinement for their commission of a crime before attaining full eighteen years of age, and who was later sentenced to less than six years' penal servitude or confinement for his crime committed after attaining full eighteen years of age, it will have a real bearing upon his franchise whether he will be favored with the rehabilitation provided for in article 2 of the rehabilitation ordinance of 1927. However, it is to be noted that the case of your inquiry is to be rehabilitated only relative to the crime committed before attaining to full eighteen years of age contravenes the provisions of article 8 of the present commutation ordinance,

INVESTIGATION

does not apply to the juvenile law

The foregoing article was specified with the intention of giving the same treatment as is provided in article 14 of the juvenile law and of universally acceding the favor of rehabilitation. Therefore, it is considered that several previous offences committed by criminals after attaining full eighteen years should in no way prevent the application of the same article, and that they should be rehabilitated relative to the offences which they committed when they were boys. Their commission of crimes after attaining full eighteen years of age and their consequent forfeiture or suspension of their legal ^{capacity} ~~capacity~~ seems to virtually nullify their rehabilitation relative to the crimes which they committed at an age under full eighteen years. Nevertheless, supposing that there is a case in which a person who was subjected to more than six years' penal servitude or confinement for their commission of a crime before attaining full eighteen years of age, and who was later sentenced to less than six years' penal servitude or confinement for his crime committed after attaining full eighteen years of age, it will have a great bearing upon his franchise whether he will be favored with the rehabilitation provided for in article 2 of the rehabilitation ordinance of 1927. However, it is to be noted that the case of your inquiry is to be rehabilitated only relative to the crime committed before attaining to full eighteen years of age contravenes the provisions of article 8 of the present commutation ordinance,

- 134 -

and the penalty sentenced for this crime is not to be favored with a commutation.

DIRECTIONS RELATIVE TO ENFORCEMENT OF AMNESTY.

(February, 1934. Notification by Chief of Criminal Affairs Bureau. Secret No. 4.)

1. In regard to the enforcement of the commutation ordinance,
 - (1) the directions relative to the enforcement of the commutation ordinance notified by the secret No. 29 dated 29 January, 1927 shall be applied.

However, "25 December, 1926" mentioned in the foregoing directions shall read "11 February, 1934", "From 25 December, 1911, to 24 December, 1916" mentioned in article 18 (article 8 mentioned in this article shall read article 7) of the foregoing notification shall read "from 11 February, 1919" to 10 February, 1934".

- (2) The calculation of the terms of penal servitude shall be conducted in accordance with the intention of the notification secret No. 1,504 issued by the Criminal Affairs Bureau on 2 November, 1928.

2. In the enforcement of the rehabilitation ordinance, Except changes made in the following two items, all the items in the directions relative to the enforcement of the rehabilitation ordinance notified by the secret No. 66 dated 19 February, 1927, shall be applied.

- (1) "24 December, 1916" mentioned in (3) of the second

- 135 -

investigation section of item 1 of the foregoing notification shall read "10 January, 1924".

(2) When the additional entry of rehabilitation has been made in the ledger of decisions, a report shall be made in accordance with item 5 of the foregoing notification.

- 136 -

COMMUTATION ORDINANCE.

(11 February, 1934. Imperial ordinance No. 19.)

Article 1. A person, who was sentenced to a penalty before 11 February, 1934, and who has not served his sentence or who is serving his sentence or who is on probation or on the stay of his sentence or on parole, shall have his sentence reduced in accordance with this ordinance. However, this shall not apply to a person who evades his sentence.

Article 2. Capital punishment shall be life imprisonment.

Article 3. Life imprisonment shall be twenty years' penal servitude, while life confinement shall be twenty years' confinement. However the foregoing terms of penalty shall be fifteen years' penal servitude or confinement for a person who was seventy years of age or above on 11 February, 1934, and for a person who was under sixteen years of age when he committed a crime.

Article 4. Penal servitude or confinement for a limited term shall be changed in accordance with the following examples.

1. A person, who has not yet begun to serve his sentence, shall have one-fourth of the term of his penal servitude reduced.

2. A person, who has begun to serve his sentence, shall have one half of his remaining term of penal servitude reduced. However, in the case of a person who has not yet

- 137 -

served-half his term of penal servitude, the example mentioned in the preceding item shall apply.

3. In the case of a person who was seventy years of age or above, and of a person who was under sixteen years of age at the time when he committed a crime, the provisions of the preceding two terms shall not apply, and one-third of their terms of penal servitude reduced.

In regard to a sentence given with a long and a short term of penal servitude fixed, the provisions of the preceding ^{item} ~~term~~ shall apply each to the long and the short term. However, in the case of a person who was over sixteen years of age at the time of his commission of a crime and who has served out his short term, the provisions of the preceding item 2 shall apply to his long term.

In making the calculation of the preceding two terms, if a fractional part of a year or of month is produced, a year is reckoned as twelve months, while a month as thirty days. If a fractional part of a day is produced, it is cut off.

Article 6. In the case of the under-mentioned crimes, their penalties shall not be reduced.

1. The crimes of articles 73 and 75 of the criminal code.
2. The crime and attempted crime of article 108 of the criminal code.
3. The crime and attempted crime of article 148 of the criminal

- 138 -

code.

4. The crime of article 181 of the criminal code.
5. The crime and attempted crime of article 200 of the criminal code.
6. The crime of article 204 of the criminal code committed against one's lineal ascendant or the lineal ascendant of one's spouse.
7. The crime of item 2, article 205 of the criminal code.
8. The crime of item 2, article 218 of the criminal code, and the same crime which caused a person's death or injury.
9. The crime of item 2, article 220 of the criminal code, and the same crime which caused a person's death or injury.
10. The crime and attempted crime of article 236, ~~238~~ or ~~239~~ of the criminal code (however, the application is limited to a person who was formerly sentenced to a penalty for his act of robbery or of larceny.)
11. The crimes and attempted crimes of articles 240 and 241 of the criminal code.
12. The crimes of the old law which are of the same nature as those mentioned in each of the preceding items.
13. The crimes and attempted crimes of articles 1 to 3 of the military secrets protection law.
14. The crimes of the ordinances which are enforced in Korea, Formosa, Kwantung and the South Sea Islands, and which are

- 139 -

of the same nature as those mentioned in each of the preceding items.

Article 6. In cases where one sentence was given in combination to concurrent crimes, if the concurrent crimes include any of the crimes mentioned in the preceding article, no commutation shall be given.

The same shall apply when an act guilty of a crime not mentioned in the preceding article is simultaneously guilty of a crime mentioned in the preceding article or is the means or result of a crime mentioned in the preceding article.

Article 7. In the case of a person, who was once subjected to a penalty above confinement, who was granted an amnesty within fifteen years prior to 10 February, 1934, and who was sentenced to a penalty above confinement within seven years after that, his penalty shall not be reduced.

Supplementary Provisions.

This ordinance shall be enforced from the day of its enforcement.

REHABILITATION ORDINANCE.

(11 February, 1934. Imperial ordinance No. 20.)

Article 1. A person, who has lost his legal capacity or has had it suspended on account of having been sent ~~sent~~^{need} to a penalty above a fine, and who has served out his sentence or who has spent more than ten years from the day when he

- 140 -

was exempted from the execution of his sentence to the previous day of 11 February, 1934, shall be granted a rehabilitation. However, this shall not apply to a person who was again sentenced to a penalty above a fine after 11 February, 1924.

Article 2. A person, who committed a crime at an age under full eighteen years and was subjected to a penalty other than capital punishment, and who served out his term or was exempted from the execution of his sentence by the previous day of 11 February, 1934, shall be granted a rehabilitation relative to his legal capacity which he has lost or which he has had suspended on account of having been subjected to his penalty.

Supplementary Provisions.

This ordinance shall be enforced from the day of its promulgation.

COMMUTATION ORDINANCE.

(11 February, 1938. Imperial ordinance No. 76.)

Article 1. A person, who was subjected to a penalty above confinement for any of the crimes mentioned below, and who has not served his term yet or who is serving his term or who ~~is~~ either on probation or on the stay of his sentence or on parole, shall have his sentence reduced in accordance with this ordinance. However, this shall not apply to a person who evades his sentence.

- 141 -

1. The crimes of articles 77 and 79 of the criminal code.
2. The crimes of articles 95 and 96 of the criminal code.
3. The crimes of articles 106 and 107.
4. The crimes of articles 25, 26 and 30 of the Army criminal code, as well as the attempted or preliminary crimes or plots of the same articles.
5. The crime of article 103 of the Army criminal code.
6. The crimes of articles 20, 21 and 25 of the Navy criminal code, as well as the attempted or preliminary crimes or plots of the same articles.
7. The crime of article 104 of the Navy criminal code.
8. The crime violating the peace police law. However, the crime concerning public morals is excepted.
9. The crime violating the press law. However, the crime concerning public morals is excepted.
10. The crime violating the publication law. However, the crime concerning public morals is excepted.
11. The crime violating the petition ordinance.
12. The crime contravening the election law of the House of Representatives as well as the crime violating the ordinance to apply the punitive regulations of the foregoing law to the election of the members of the Diet organized by the ordinance. However, the crime against item 2, article 112 of the election law for the members

- 142 -

of the House of Representatives, and the crime against the ordinance to apply the foregoing article to the election for the members of the Diet organized by the ordinance are excepted.

13. The crimes violating the old laws which are of the same nature as those mentioned in the foregoing items.

14. The crimes violating the ordinances which are enforced in Korea, Formosa, Kwantung and the South Sea Islands, and which are of the same nature as those mentioned in the text of items 1, 11 and 12.

Article 2. In cases where one sentence is given in combination to concurrent offences, if the concurrent offences include a crime not mentioned in the preceding article, no commutation shall be granted.

The same shall apply if an act guilty of a crime mentioned in the preceding article is simultaneously guilty of a crime not mentioned in the preceding article or is the means or result of a crime not mentioned in the preceding article.

Article 3. In the case of a person, who was once subjected to a penalty above confinement, and who was granted an amnesty, a special pardon, a commutation or the favor of rehabilitation not ordained by an Imperial ordinance within fifteen years prior to 11 February, 1938, and who was sentenced to a penalty above confinement within seven years after that, his penalty shall not be reduced.

- 143 -

Article 4. Capital punishment shall be life imprisonment.

Article 5. Life imprisonment shall be twenty years' imprisonment, while life confinement shall be twenty years' confinement.

Article 6. Penal servitude or confinement for a limited term shall be changed in accordance with the following examples.

1. A person, who has not yet begun to serve his sentence, shall have one-fourth of his term of penal servitude reduced.
2. A person, who has begun to serve his sentence, shall have one-half of his remaining term of penal servitude reduced. However, in the case of a person who has not yet served one half of his term of penal servitude, the example mentioned in the preceding item shall apply.
3. In the case of a person who was seventy years of age or above, and of a person who was under sixteen years of age at the time when he committed a crime, the provisions of the preceding two items shall not apply, and one-third of their terms of penal servitude shall be reduced.

In making the calculation of the preceding two terms, if a fractional part of a year or of a month is produced, a year is reckoned as twelve months, and a month as thirty days. If a fractional part of a day is produced, it is

- 144 -

cut off.

Supplementary Provisions.

This ordinance is enforced from the day of its promulgation.

REHABILITATION ORDINANCE.

(11 February, 1938. Imperial ordinance No. 77.)

Article 1. A person who has lost his legal capacity or has had it suspended on account of having been sentenced to a penalty above a [£] fine, and who has spent more than ten years from the day when he served out his term or when he was exempted from the execution of his sentence to the previous day of 11 February, 1938, shall be rehabilitated. However, this shall not apply to a person who was again subjected to a penalty above a fine after 11 February, 1928.

Article 2. A person, who committed a crime at an age under full eighteen years and was subjected to a penalty other than capital punishment or life imprisonment, and who served out his term or was exempted from the execution of his sentence by the previous day of 11 February, 1938, shall be rehabilitated relative to his legal capacity which he has lost or which he has had suspended on account of having been subjected to the penalty.

Supplementary Provisions.

This ordinance shall be enforced from the day of its

- 145 -

enforcement.

MATTER RELATIVE TO REHABILITATION.

(11 February, 1938. Notification by Justice Ministry No. 5.)

A person, who was rehabilitated in accordance with the rehabilitation ordinance issued by No. 77 Imperial ordinance of 1938, and who desires to obtain certificate of the rehabilitation, shall present its application to the prosecutor of the court which gave the sentence of the penalty.

(February, 1938. Notification by Chief of Administrative Criminal Affairs Bureau. Administrative criminal No. 170.)

The form set forth in the separate sheet shall be followed in preparing a report on those who were favored with a commutation in accordance with the Imperial ordinance No. 76 of 11 February, 1938.

It is to be noted that in regard to those who have radical ideas, in addition to the foregoing report, a report on their terms of penal servitude and the expiration day of their terms of penal servitude, which have been altered, shall be presented in conformity to the fourth alteration report form given in the provisions issued by the Notification No. 1,673 administrative A in September, 1928.

- 147 -

due to the cancellation of the stay of a sentence shall be entered in the remarks column.

2. The ratio of the commuted persons to the convicts.
(Of 11 February, 1938.)

name of penalty	commuted personnel	personnel not commuted	whole number of convicts	percentage

Total.

- 148 -

SECTION 2 - PROVISIONAL RELEASE

PROVISIONAL DISCHARGE DETAILED CONTROL REGULATIONS

(September 1968,
{ Signed jointly by Justice and Home Ministers }
{ Justice Ministry Ordinance No. 25 }

Provisional Discharge Detailed Control Regulations
are fixed as follows:

Provisional Discharge Detailed Control Regulations:

Article 1. A person who has been granted a provisional discharge shall be placed under the supervisions of a competent police station at the place of his residence.

Article 2. In case of the release of a person who has been granted a provisional discharge, the prison shall fix the approximate date of his arrival at the place of his residence and record it on a certificate slip.

A person who has been granted a provisional discharge shall present himself to a competent police station on the day prescribed on the certificate card as mentioned in the foregoing paragraph and obtain a seal thereof. In case the trip requires several days, he shall put up at such a place where a police station is located and present himself there to obtain the seal thereof.

- 149 -

Article 3. In case a person who has been granted a provisional discharge finds it impossible to act in accordance with the foregoing article, due to natural calamity or illness or to other accidents, or sees such a possibility, he shall without delay inform a police station accordingly and obtain a certificate card therefrom.

The certificate card mentioned in the foregoing paragraph shall be submitted to a competent police station for a seal.

Article 4. In case the chief of a prison issues a certificate card, he shall notify the public prosecutor of the local court that exercises jurisdiction over the place of residence of the ^{person}~~prisoner~~ who has been granted a provisional discharge, public prosecutors of the court that meted out such a sentence, as well as the competent ^o police station, [^] regarding the matter.

Article 5. In case a person who has been granted a provisional discharge intends to make a trip covering more than 3 days but not more than 10 days, he shall notify a competent police station regarding the reason thereof, his destination and the number of days required for such a trip.

- 150 -

Article 6. In case a person who has been granted a provisional discharge intends to remove his residence or make a trip covering more than 10 days, he shall submit an application thereof for permission, stating reason, destination and the number of days required for such a trip, to a competent police station.

In case the removal of the residence or the trip covering more than 10 days is permitted, the competent police concerned shall issue a passport, excepting such cases where as a result of such removal or trip a person on a provisional release still resides in the locality under the jurisdiction of the competent police station.

Regulations provided for in Articles 2 and 3 are applied mutatis mutandis to the foregoing instance.

Article 7. In case a competent police station has permitted the removal of residence, it shall notify accordingly the public prosecutor aforementioned in Article 4, the prison, public prosecutor of such local court of justice and police station exercising jurisdiction over the place of the new residence, regarding the matter.

In such a case, all documents concerned shall be forwarded to the new competent police station.

- 151 -

Article 8. In case a person who has been granted a provisional discharge intends to make a trip outside the Empire, he shall submit an application for permission thereof, stating reason, destination and the number of days required for such a trip, to the Justice Minister through the competent police station concerned and the prison that issued the certificate card.

The competent police station and the prison concerned shall investigate into the matter and their respective views regarding it on the application.

Regulations provided for in Article 6, the second and third paragraphs, are applied mutatis mutandis to cases where such trips have been permitted.

Article 9. In case a person who has been granted a provisional discharge has been permitted to make the trip outside the Empire, a competent police station shall notify accordingly the public prosecutors aforementioned in Article 4, regarding the matter.

Article 10. In case a person on provisional discharge has completed his trip and returned to the place of his residence, he shall without delay report to a competent Police station

- 152 -

regarding the matter and return the passport to it.

Article 11. A person who has been granted a provisional discharge shall without delay submit his plans regarding his occupation and other livelihood affairs, to a competent police station.

A person who takes a person on provisional discharge under his protection shall countersign the report mentioned in the foregoing paragraph.

Article 12. A person who has been granted a provisional discharge shall report to a competent police station once a month and inform it of the results of the items mentioned in the preceding article. In case a person who has been permitted to travel remains at a place for more than a month, he shall report to a police station that exercises jurisdiction over the place of his sojourn, regarding the matter, and furnish it with the information as prescribed in the foregoing paragraph. In such a case, such a police station shall notify the competent police station of the gist of such information.

Article 13. A competent police station may give instructions which are deemed necessary to a person on provisional discharge to enable him to engage in legitimate business or to

- 153 -

behave decently, or may order him to conduct himself as required.

In case the competent police station has issued such orders as mentioned in the foregoing paragraph, it shall notify the public prosecutors of the court that exercises jurisdiction over the place of his residence and the prison that issued the certificate card.

Article 14. The competent police station shall make an investigation report semi-annually regarding the propriety of conduct of a person on a provisional discharge, the kind of his occupation, his diligence, living conditions, relations with his relatives, and other matters, and shall submit ^{it} if to the public prosecutors of the local court that exercises jurisdiction over the place of his residence and the prison that issued the certificate card.

Article 15. The supervision of a person on provisional discharge may be entrusted to a competent relative, an acquaintance, or to a person who is engaged in the welfare work of those released from prison, Shinto priest, Buddhist priest, as well as to a teacher or ^a man of moral influence, on the consent of the warden of the prison that issued the certificate card.

- 154 -

A person who has been entrusted with it in accordance with the provision of the foregoing paragraph shall inform the competent police station of the items aforementioned in Article 14 on the last day of each month.

Article 16. When the public prosecutors and police stations have discovered that a person who has been granted provisional discharge is subject to the Criminal Code Article 29, Para. 1, they shall report their respective opinions to the Justice Minister.

Reports to be submitted by police stations shall be so submitted through the public prosecutors of such local court as exercises jurisdiction over the place of residence of a person on the provisional discharge.

Article 17. When the Justice Minister has cancelled the decision on a provisional discharge, he shall notify public prosecutors of the local court or the district court that exercises jurisdiction over the place of residence of a person who has been granted the provisional discharge, or the prison in which he is imprisoned, regarding the matter, and order the execution thereof.

In the foregoing case the certificate card shall be returned.

- 155 -

Article 18. In case a person whose provisional discharge has been cancelled is not imprisoned, a public prosecutor shall issue a warrant of arrest in accordance with the provision of the Criminal Procedure Code, Article 219, Para. 2.

Article 19. The public prosecutor or the prison that effected the execution aforementioned in Article 17 shall inform the public prosecutor, the competent police station, and the prison that issued the certificate card aforementioned in Article 4, regarding the matter.

Article 20. When a person who has been granted a provisional discharge has died, the competent police station concerned shall inform the public prosecutor aforementioned in Article 4 and the prison that issued the certificate card, regarding his death.

The prison which has been informed of it as mentioned in the foregoing paragraph shall notify the justice Minister regarding the matter.

SUPPLEMENTARY RULES

This ordinance will take effect on October 1st, 1908.

PROCEDURES REGARDING PROVISIONAL DISCHARGE

- 156 -

AND TEMPORARY RELEASE
(Justice Ministry Instruction No. 7, September, 1908)

(Revised: No. 4, 1910; No. 5, 1923;)

(No. 1, 1933; No. 3, 1936)

Procedures regarding Provisional Discharge and Temporary Release.

Article 1. In the application for obtaining a provisional discharge must be recorded the place of residence of a person to whom a provisional discharge is to be granted, his name, age, name of crime, number of crimes committed, term of imprisonment, date from which the term of imprisonment is to be computed, date of its expiration, date on which the conditional period for a provisional discharge expires, reason for the granting of a provisional discharge, of the place of residence, name, occupation, living conditions of the protector of the prisoner after his discharge, as well as the relations of the prisoner with the protector.

As regards those who have been sentenced to imprisonment of an indefinite term, the length of the term of such imprisonment and the date corresponding to the day of its expiration shall be recorded.

Article 2. In the application for obtaining temporary release shall be recorded the place of residence of the per-

- 157 -

son to whom the temporary release is to be granted, his name, age, name of crime, number of crimes committed, term of imprisonment or amount of fine, date from which the term of imprisonment is to be computed, date of its expiration, and the reason for the granting of the temporary release.

Article 3. The copies of the last one and a half years of the "B" conduct record of the personal status book may be used as the conduct record to be appended to a petition for obtaining the provisional discharge as provided for in the Prison Law Enforcement Regulations, Article 173.

The copies of the personal history card and those of the replies received from public offices and others may be used as the personal history investigation documents.

Article 4. The computation of one-third of a term of imprisonment shall be made according to the calendar as under-mentioned:

1. In case of a term of imprisonment not exceeding 3 years and computed by the number of years alone, the number of years is converted into the number of months and the figure thus obtained is divided by three, and then the period corresponding to the quotient thus obtained is computed from the day from which the term of imprisonment is to be computed.

- 158 -

2. In case the term of imprisonment exceeds 3 years and covers the number of years alone, and they are yet impossible to be divided by the figure three as it stands, a quotient is obtained by dividing the number of years by the figure "3" in the first place. Next, the fractional part of the number of years is converted into number of months and a quotient is obtained by dividing it by the figure "3". And the period corresponding to the quotients of both the year and month are computed from the day from which the term of imprisonment is to be computed.

3. In case of a term of imprisonment not exceeding three years and covering ^{numbers} ~~numbers~~ of years and months, the number of years is converted into number of months first, to which the number of months of the term of imprisonment is added, and then the sum thus obtained is divided by 3. Thus the period corresponding to the quotients obtained of years and months is computed from the day from which the term of imprisonment is to be computed.

4. In case a term of imprisonment exceeds three years and covers the number of years and months, and yet it is impossible to be divided by 3 as it stands, first a year-quotient shall be obtained by dividing the number of years by 3, and then the fractional part of the number of years is converted into the number of months to which is added the number of

- 159 -

months of the term of imprisonment, and thus a month-quotient is obtained by dividing the sum by 3. The fractional part of the number of months shall be calculated as follows:

(a) Compute according to the calendar a period corresponding to the year and month-quotients from the day from which the term of imprisonment is to be computed, and fix the last day of such a period.

(b) Next, compute according to the calendar the fractional part of the number of months, with the following day of the last day fixed by (a) as the starting-point of computation, and compute the number of days corresponding to the period obtained thus.

(c) Obtain a day-quotient by dividing by 3 the number of days obtained by (b). Then, compute a period corresponding to the day-quotient with the following day of the last fixed by (a) as the starting-point of computation, and thus fix the last day. Increase the quotient by one day when there is any fractional part of the number of days.

5. In case a term of imprisonment covers numbers of years, months, and of days and it is impossible to be divided by 3, compute the number of days as mentioned in (a) and (b), to which ^{add} and the number of days of the term of imprisonment, and thus obtain a day-quotient by dividing the sum mentioned above by 3. Lastly, compute as mentioned in 4-(a).

- 160 -

6. In case a term of imprisonment covers numbers of months and days, or the number of days alone, and it is impossible to be divided by 3, compute as mentioned in the foregoing instances.

7. In case there is number of days to be included in the period of imprisonment, first deduct the figure retroactively from the last day of the full term of imprisonment, and then compute one-third of the remaining period.

Article 5. A provisional discharge certificate card shall be made in accordance with Forms No. 1, 2 and 4 illustrated hereunder, and a temporary release certificate card shall be made in accordance with Form No. 3 as illustrated hereunder.

Article 6. In case of a release by provisional discharge or a temporary release, the date and time in full when a permit thereof has arrived and the date and time in full when the release has been granted shall be reported to the Justice Minister.

Regarding those subject to the application of Article 11 of the Juvenile Law, not only what is provided for in this article but also the day when the execution of the penalty in accordance with this article is to be completed shall be reported.

Article 7. (Deleted)

Supplementary Rules

This ordinance shall take effect on October 1st, 1908.

The temporary release certificate card provided for in the Justice Ministry Instruction No. 2 of 1906 shall be canceled as from the day when this ordinance is to be enforced.

FORM NO. 1

(Front)

PROVISIONAL DISCHARGE CERTIFICATE CARD

No. village, town, ward, city, province, prefecture
(Permanent domicile and place of residence following provisional discharge.)

Name in full,
Date of birth.

Name of penalty, term of imprisonment:
From day of month year,
Expires day of month year.

Term of Provisional Discharge: Day month year
From day of month year,
Expires day of month year.

To arrive at the place of residence on day month year

The above is granted a provisional discharge, and therefore the present certificate card is hereby given.

Dated day month year.

Prison.

33 cm.

- 162 -

Warden: name in full (Seal)

Remarks,
Seal of police
officer.

20 cm.

(Reverse)

Instructions to Those Who Are to Be Granted
Provisional Discharge

1. You shall report to a competent police station on the date designated by the Prison and obtain a seal thereof on this certificate card. In case your trip requires several days, you shall lodge at a place where a police station is located and report to such police station for a seal of approval thereof.
2. If you find it impossible to act in accordance with the foregoing provision due to a calamity or illness or other accidents, or see such a possibility, you shall without delay/ inform a police station accordingly and obtain a certificate therefrom. This certificate shall be submitted to a competent police station for a seal of approval.

- 163 -

3. You shall engage in legitimate business and behave decently.
4. While on a provisional discharge, you shall be placed under the supervision of a competent police station and follow commands or orders therefrom.
5. You shall without delay submit your plans regarding your occupation and other livelihood affairs to a competent police station. If you have a protector, you shall have him countersign the report to be submitted.
6. You shall report to a competent police station once a month and inform it of the results of the items mentioned in the foregoing provision. In case you have been permitted to make a trip and stay at a place for more than a month, you shall report to a police station which exercises Jurisdiction over the place of your journey and inform it of the matter as prescribed in the foregoing provision.
7. If you intend to make a trip exceeding 3 days but not exceeding 10 days, you shall notify a competent police station of its reason, your destination and of the number of days required for such a trip.

- 164 -

8. If you intend to remove your residence or make a trip exceeding 10 days, you shall submit an application for permission, stating reason, destination and the number of days required for such a trip, to a competent police station, and shall receive a passport. The 1st and 2nd provisions shall be applied mutatis mutandis to such a case.

9. If you intend to make a trip outside the Empire, you shall submit an application for permission, stating reason, destination and the number of days required for such a trip, to the Justice Minister through a competent police station and a prison which issued the certificate card. The 8th provision shall be applied mutatis mutandis to cases where such trips have been permitted.

10. When you have taken a trip and returned to the place of your residence, you shall without delay report to a competent police station regarding the matter and return to it the passport.

In case you have violated the above-mentioned instructions or have fallen under the following items, your provisional discharge may be cancelled:

- 165 -

- (1) When you have committed another crime and have been sentenced to a penalty heavier than a fine while on a provisional discharge.
- (2) When you have been sentenced to a penalty heavier than a fine for other crimes committed prior to the granting of the provisional discharge.
- (3) When you have been condemned to a penalty heavier than a fine, committed prior to the granting of the provisional discharge, and when the penalty is to be executed.

In case of cancellation of the provisional discharge granted, the number of days spent during such discharge shall not be included in the term of imprisonment.

FORM NO. 2

(Front)

JUVENILE PROVISIONAL RELEASE CERTIFICATE CARD

No., village, town, ward, city, prefecture
(permanent domicile and the place of residence
after the granting of provisional discharge)

Name in full
Date of birth

Name of penalty, term of imprisonment (short or long).

- 166 -

From day of month year,
Expires day of month year.

Term of Provisional release: day month year.
From day of month year,
To day of month year.

To arrive at the place of residence on day month year.

The above is granted a provisional release, and therefore the present certificate card shall be given.

Dated day month year.

Name in full (Seal)
Warden,Prison

Remarks,
Seal of approval of Juvenile
Prisoners' Protector or of
Protective Organizations
designated by Justice Minister

20 cm.

(Reverse)

Instructions to Juveniles on Provisional Release

1. On arriving at the place of residence mentioned on the front side of the certificate card you shall without delay present the certificate card to a juvenile prisoners' ^{protector} but to a protective organization designated by the Justice Minister in case of a locality where there is no juvenile prisoners' protector and obtain a seal of approval thereof.
2. In case you find it impossible to act in accordance with

30 cm.

- 167 -

the foregoing provision¹ due to a calamity, illness, or other accidents, or see such a possibility, you shall without delay report regarding the matter either to a juvenile prisoners' protector or to a protective organization as designated by the Justice Minister in case there is no juvenile prisoners' protector in the locality concerned, and obtain a seal of approval thereof.

3. You shall engage in legitimate business and behave decently.

4. During the term of a provisional release you shall be placed under the supervision of a juvenile prisoners' protector at the place of your residence or by a protective organization as designated by the Justice Minister in case there is no juvenile prisoners' protector, and follow the commands or order therefrom.

5. In case you intend to change your residence or make a trip covering more than 10 days, you shall apply for permission thereof, stating the reason, destination and the number of days required for such a trip, to the juvenile prisoners' protector or a protective organization as designated by the Justice Minister in case there is no juvenile prisoners' protector.

- 167 -

the foregoing provision¹ due to a calamity, illness, or other accidents, or see such a possibility, you shall without delay report regarding the matter either to a juvenile prisoners' protector or to a protective organization as designated by the Justice Minister in case there is no juvenile prisoners' protector in the locality concerned, and obtain a seal of approval thereof.

3. You shall engage in legitimate business and behave decently.

4. During the term of a provisional release you shall be placed under the supervision of a juvenile prisoners' protector at the place of your residence or by a protective organization as designated by the Justice Minister in case there is no juvenile prisoners' protector, and follow the commands or order therefrom.

5. In case you intend to change your residence or make a trip covering more than 10 days, you shall apply for permission thereof, stating the reason, destination and the number of days required for such a trip, to the juvenile prisoners' protector or a protective organization as designated by the Justice Minister in case there is no juvenile prisoners' protector.

- 167 -

- ¹
the foregoing provision due to a calamity, illness, or other accidents, or see such a possibility, you shall without delay report regarding the matter either to a juvenile prisoners' protector or to a protective organization as designated by the Justice Minister in case there is no juvenile prisoners' protector in the locality concerned, and obtain a seal of approval thereof.
3. You shall engage in legitimate business and behave decently.
4. During the term of a provisional release you shall be placed under the supervision of a juvenile prisoners' protector at the place of your residence or by a protective organization as designated by the Justice Minister in case there is no juvenile prisoners' protector, and follow the commands or order therefrom.
5. In case you intend to change your residence or make a trip covering more than 10 days, you shall apply for permission thereof, stating the reason, destination and the number of days required for such a trip, to the juvenile prisoners' protector or a protective organization as designated by the Justice Minister in case there is no juvenile prisoners' protector.

- 168 -

6. In case you intend to make a trip abroad, you shall apply for permission thereof, stating the reason, destination and the number of days required for such a trip, to the Justice Minister through a juvenile court, a juvenile prison at the place of residence in case the juvenile court is outside the jurisdiction of a juvenile court, or an ordinary prison at the place of residence in case there is no juvenile prison.

7. When you have returned to the place of residence from the destination of your trip, you shall immediately notify accordingly the juvenile prisoners' protector, or the protective organization as designated by the Justice Minister in case there is no juvenile prisoners' protector, regarding the matter.

In case you have violated the above-mentioned instructions or have fallen under the following items, your provisional release may be cancelled:

(1) When you have committed another crime and have been condemned a penalty heavier than a fine while on a provisional release.

(2) When you have been condemned to a penalty heavier than a fine for other crimes committed prior to the granting of the provisional release.

(3) When the execution of a penalty heavier than a fine

- 169 -

is to be carried out for the crime committed prior to the granting of the provisional release.

In case of cancellation of a provisional release, the number of days spent during such release shall ^{not} be included in the term of imprisonment.

When the term of a provisional release has elapsed without cancellation of the decision following the granting of the provisional release, the execution of the penalty shall be regarded as having been effected.

FORM NO. 3

TEMPORARY RELEASE CERTIFICATE CARD

No., village, town, ward, city, province, prefecture,
(Permanent domicile and the place of residence after
one has been released temporarily)

Name in full.

Date of birth.

Term of Detention or Term of Confinement in House of
Servitude:

From day month year,
Expires day month year.

Term of Temporary Release: *day month year,*

From day month year,
To day month year.

The above is granted a temporary release and a certificate card is hereby given.

Dated day month year

24 cm.

- 170 -

Name in full (Prison)

Name and Seal of Warden.

17 cm.

FORM NO. 4 (Front)

THOUGHT CRIMINAL PROVISIONAL DISCHARGE CERTIFICATE CARD

Permanent Domicile:

Place of residence after discharge:

Name in full.

Date of birth.

Name of Penalty, term of imprisonment:

From	day	month	year,
Expires	day	month	year.

Term of Provisional Discharge: day month year.

From	day	month	year,
To	day	month	year.

To arrive at the place of residence on day month year.

The above is granted a provisional discharge and a certificate card is hereby given.

Dated day month year

Name and Seal of Warden.

Remarks,
Seal of Protector.

20 cm.

30 cm.

- 171 -

(Reverse)

Instructions to Thought Criminals on Provisional Discharge

1. On arrival at the place of residence mentioned on the front side, you shall without delay present this certificate card to a protector for a seal of approval.

2. In case you are unable to act in accordance with the foregoing provision due to a calamity, illness, or other accidents, you shall explain the reason and obtain a seal of approval thereof.

3. You shall engage in legitimate business and behave decently.

4. You shall follow the supervision and guidance by the protective inspection station which exercises jurisdiction over the place of residence.

5. In case you intend to make trip covering more than 3 days but not exceeding 10 days, you shall notify the protector of the reason, destination and the number of days required for such a trip.

6. In case you intend to change the place of residence or make a trip covering more than 10 days, you shall apply for permission therefor, stating the reason, destination and the number of days required for such a trip, to the protective inspection station.

- 172 -

7. In case you intend to make a trip abroad, you shall apply for permission, stating the reason, destination and the number of days required for such a trip, to the Justice Minister through the protective inspection station.

8. In case you have made a trip and returned to the place of residence, you shall immediately notify the protective inspection station regarding the matter.

In case you have violated the above-mentioned instruction or have fallen under the following items, your provisional discharge may be cancelled:

(1) When you have committed another crime and have been condemned to a penalty heavier than a fine while on a provisional discharge.

(2) When you have been condemned to a penalty heavier than a fine for crimes committed prior to the granting of the provisional discharge.

(3) When the execution of a penalty heavier than a fine is to be carried out for crimes committed prior to the granting of the provisional discharge.

In case of ^{cancellation} ~~annulment~~ of the provisional discharge, the number of days spent during such discharge shall not be included in the term of imprisonment.

- 173 -

PROVISIONAL RELEASE EXAMINATION REGULATIONS

(Justice Ministry Instruction, Gyô Kô, No. 1128;
dated May 25 th, 1931.

Revised: Justice Ministry Instruction,
Keisei Kô, No. 3287, dated Sept. 29th 1943;
Justice Ministry Instruction,
Keisei Kô, No. 2158, dated Nov. 26th 1944.)

Article 1. Examination of personal affairs, crimes, and protection of convicts shall be made in accordance with these regulations.

Article 2. Examination of personal affairs shall be made on the following items:

- (1) Heredities.
- (2) Health condition.
- (3) Mental condition (Brains, heart, and volition).
- (4) Ideologies and religious faith.
- (5) Sense of responsibility and sense of cooperation.
- (6) Personal career and education.
- (7) Working capability.
- (8) Conducts after imprisonment.
- (9) Work bonuses and
- (10) Other items.

Article 3. Examination of matters regarding crimes shall be made on the following items:

- (1) Age when a crime was committed.
- (2) Term of imprisonment.
- (3) Number of crimes committed in the past.

- 174 -

- (4) Nature of a crime, motive and circumstances.
- (5) Situation after crimes were committed.
- (6) Social sentiments against crimes.
- (7) Other items.

Article 4. Examination of matters regarding protection shall be made on the following items:

- (1) Name, age, occupation, residence of a convict's employer and protector, or of the relatives who lived together with the convict, as well as his relationship with them.
- (2) Character, assets and living conditions of those mentioned in the foregoing item.
- (3) Reputation of the convict's family.
- (4) Kind of interviews and communications made, conditions under which they were made by the convict.
- (5) Contrast between convict's feelings and those of his family.
- (6) Feelings of a victim and of his family versus those of a convict and of his family.
- (7) Returning place of residence of a convict after his release.
- (8) Prospect of a convict earning a livelihood after his release.
- (9) Other items.

- 175 -

Article 5. In case as a result of the examination conducted in accordance with the aforementioned three articles it is considered that there is no danger of a convict committing another crime, a petition for a provisional release may be filed for such a convict.

A petition for a provisional release may be made, if necessary, by telegraph or telephone beforehand. In such a case a written petition shall be sent in later.

Article 5-2 (Deleted)

Article 5-3 As regards a convict who is engaged in such a piece of work as designated by the Justice Minister, and is regarded good in his conduct and diligent, two days worked by him shall be counted as three days at least in computing the remaining term of his unprisonment, and it can be the ground on which to petition for his provisional release.

In the case mentioned in the foregoing paragraph, an application for permission shall be made to the Justice Minister for the selection of such affairs connected with the convict's crimes, protection, and his personal affairs, which are to be recorded.

In case it is regarded appropriate for the convict who ^{has} been permitted as mentioned in the foregoing paragraph to be granted a provisional release, a petition therefor shall be made in the form of telegraph or telephone. In such a case a computation report shall be sent in later.