

CENTER FOR PRISONER RIGHTS

HEALTHCARE GUIDE

For Detainees & Prisoners in Japan's Penal Institutions



OVERVIEW:

- (P2) Features of Medical Care at Penal Institutions
 - Medical Expenses
 - Emphasis on Security
- (P3) Medical Care Standards at Penal Institutions
- (P4) Detention Facility Issues
- (P5) Medical Care Systems at Penal Institutions
- (P6) When Medical Care is Entrusted to External Institutions
- (P6) Medical Examinations
- (P7) Medical Care by Appointed Doctors
- (P8) Claim for Review
- (P9) Suggestions and Opinions of Penal Institution Visiting Committees
- (P10) Informed Consent
- (P11) Message to Inmates

Foreword

The Centre for Prisoners' Rights (CPR) receives many queries from the inmates of detention centres, prisons and other penal institutions, as well as from their families and friends. A large number of these queries involve serious issues regarding the medical care received by the people detained. This booklet was therefore created to address these issues, and we hope that it provides a certain amount of help in ensuring the physical and mental health of inmates as they prepare for their return to society.



Features of Medical Care at Penal Institutions

Penal institutions can be largely divided into detention centres housing mainly people currently undergoing court cases or inmates sentenced to death, and prisons housing sentenced inmates.

Prisons are further divided into facilities for men and for women, facilities for long-term sentences and short-term sentences, facilities for habitual criminals (repeat criminals) and non-habitual criminals (first-time criminals), and facilities that differ depending on the physical and mental condition of the inmates. The lifestyles and medical care environments are different within each individual facility.

Medical Expenses

All treatment and medical care received by inmates of penal institutions is free of charge as a basic principle. The facilities cover all costs incurred in doctor examinations, tests and prescription issuance, etc., which means that these costs are included in the Ministry of Justice's budget.

The obligation to and responsibility for protecting the life and health of all inmates lies with each penal institution. Considering that the state is exercising its right to "deprive citizens of their freedom", it is natural for the state to be charged with this responsibility. If applications for treatment by designated doctors (details provided later) at the expense of inmates are accepted, then the full cost of this must be incurred by the applicant.

Emphasis on Security

Given the general nature of penal institutions, they naturally have a tendency to place emphasis on security rather than medical care.

Understandably, they must prevent prisoners from incidents such as "escaping", "the outbreaks of violence" and "inmate suicide". The provision of external medical care relies on the availability of detention officials to escort detainees. When staff are not available to escort detainees, visits to external medical facilities might not be possible.

Medical Care Standards at Penal Institutions

Article 56 of the “Act on Penal Detention Facilities and the Treatment of Inmates and Detainees” set out that “adequate hygienic and medical measures in accordance with public standards of hygiene and medical care shall be established.”

A cause for concern here is defining the meaning of “public standards.”

For example, Article 57 states that “Except on Sundays and other days specified by the Ministry of Justice Order, inmates must be provided with the opportunity to have adequate outdoor exercise as far as is practical for the purpose of maintaining their health.”

Article 24 of the “Regulations for Penal Institutions and Treatment of Inmates” (hereinafter known as the “Treatment Regulations 処遇規則 (*shoguu kisoku*)”) pertaining to this and issued by the Ministry of Justice states that “inmates must be provided with the opportunity to exercise for as long a period as is possible amounting to not less than thirty minutes per day.” Although this regulation states “not less than thirty minutes,” apparently in nearly all cases, exactly thirty minutes is allowed.

The same Treatment Regulations also state that inmates must be allowed to bathe “at least twice per week.” This regulation is also covered in further detail in the “Internal Regulations 内規 (*nai ki*)” issued by each institution, as well as being listed in the “Handbook for Life Inside the Institution 所内生活の手引き (*shonai seikatsu no tebiki*)” available in each room.

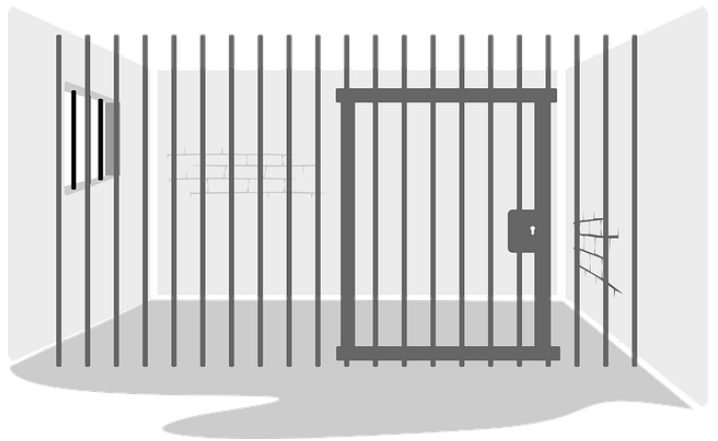
If the “Internal Regulations” or actual operational conditions provide fewer number of baths or shorter bathing times than those listed in the “Treatment Regulations”, this will constitute an issue of illegality.

Q: The exercise times and bathing times at the institution I am committed to include the time required for traveling to and from the relevant facilities, so the actual time spent there is very short.

A: There is a tendency for the minimal times and minutes stated in “at least XX times” and “at least XX minutes” being observed during actual operations. Given the style in which these details are written, it should be clear that they are calling for the actual exercise times and bathing times to be interpreted as the minimum length of time permissible. If shorter times are being normalized, then the suggestions and opinions, etc., submitted to the Penal Institution Visiting Committees (see page 9) should call attention to this and appropriate steps demanded.

Detention Facility Issues

The places where people who have been arrested are first detained are often the detention facilities in police stations (also known as police cells). These facilities are designed to house suspects temporarily and consequently do not have any resident doctors or nurses, and very little consideration is given to the impact that detaining suspects over long periods of time may have on their health.



However, these facilities are also known as “substitute prisons” (or “daiyo kangoku” in Japanese), and they have many inherent issues due to the fact that they continue to be used for the post-arrest period of confinement and to confine suspects after they have been indicted.

For example, there is a tendency for detainees in police stations to be easily provided with sleeping pills and other medications upon request compared to other penal institutions (detention centre and prison). One of the reasons for this different approach might be that detainees in police station are yet to be indicted. However, detainees might be wrongly provided with an inappropriate amount of medicines, creating potential for overdoses in some cases from a medical perspective. When these dosages are reduced or withdrawn after detainees are moved to other institutions, there are occasionally complaints that “the drugs they used in the police cells can no longer be obtained.”

The health and medication of detainees needs to be carefully monitored and continued when they are moved from detention facilities to other penal institutions. In other words, medication prescribed for neurological disorders has side effects, and care must be taken when they are used and after they have been withdrawn.



Medical Care Systems at Penal Institutions

Penal institutions are, in order of substantiality of medical care provided, broadly categorized into the 3 categories of specialized medical facilities, medical priority facilities, and general facilities.

Specialized Medical Facilities (4)

East Japan Medical Correction Centre
(Akishima City)

**Integrated with the Hachioji Medical Prison
(for inmates with physical and mental disorders) and inaugurated in 2018.*

Okazaki Medical Prison
(for inmates with mental disorders)

Osaka Medical Prison
(for inmates with physical and mental disorders)

Kitakyushu Medical Prison
(for inmates with mental disorders)

Medical Priority Facilities (9)

Sapporo Prison

Miyagi Prison

Fuchu Prison

Tokyo Detention Centre

Nagoya Prison

Osaka Prison

Hiroshima Prison

Takamatsu Prison

Fukuoka Prison

Inmates suffering from illnesses and disorders that are difficult to treat at general facilities are moved to medical priority facilities and specialized medical facilities.

General facilities are equipped with medical departments (or medical sections), with the medical departments operating medical facilities (clinics) required by law and staffed by one or two doctors, a pharmacist and a nutritionist, etc. They generally do not employ nurses, although several prison wardens with assistant nurse qualifications assist the doctors.

Q: I felt unwell and requested a check-up to a staff member, but this was refused because “the doctors were busy”, and instead I was asked to “state my temperature” and was then told that “I didn’t need a doctor for such a trivial reason” and that I “should take medicine and see what happens.” Isn’t such treatment against the law?

A: Article 10 of the “Regulations on the Health, Hygiene and Medical Care of Inmates and Detainees” stipulates the following with regard to who makes the decisions as to whether or not to allow medical examinations by doctors:

“Article 10: (1) Wardens of penal institutions shall ensure that nurses or assistant nurses have a full understanding of the reasons for inmates applying for treatment for injuries or underlying illnesses ...(omitted)... and shall report said applications to doctors, etc., once the nurse or assistant nurse concerned have come to a decision on the urgency, etc., of medical examinations. (2) The doctors, etc., in receipt of the reports stipulated in the previous paragraph shall decide whether or not medical examinations are required.”

Was the “staff member” mentioned a prison warden in possession of assistant nurse qualifications? Even under the assumption that the staff member in question was a qualified assistant nurse, it needs to be noted that this was a “decision on the urgency of a medical examination” and not a decision on “whether or not medical examinations are required,” and the question as to its “legality” or “illegality” notwithstanding, that manner of treatment is problematic in the context of the regulations.”

Incidentally, the duties that do not necessarily need to be directly carried out by doctors themselves as listed in the “Medical Matters in Correction Facilities 矯正医療 (Kyousei Iryou)” booklet issued by the Japanese Correctional Association include (1) The creation of documentation, etc., as a doctor assistant; (2) Adjusting the dosages of medication based on instructions provided in advance by doctors; (3) Giving intravenous injections in accordance with instructions provided by doctors or dentists; and (4) Making decisions on the order of priority for providing medical care (page 6 of “Kyousei Iryou” booklet).

When Medical Care is Entrusted to External Institutions

When penal facilities have difficulties securing doctors, there are cases in which medical care is entrusted to external institutions.

According to the April 2015 edition of the “Kyousei Iryou” booklet, “There are cases in which the management, etc., of clinics set up in domestic facilities is entrusted to external institutions, and cases in which the medical care offices in facilities have been set up by private medical care companies” in Tsukigata Prison, Kitsuregawa Rehabilitation Program Centre, Nagano Prison, Shimane Asahi Rehabilitation Program Centre, Mine Rehabilitation Program Centre and other such facilities.

Medical Examinations

As stipulated in Article 61 of the “Act on Penal Detention Facilities and Treatment of Inmates and Detainees”, penal institutions are required to provide medical examinations when an inmate first enters the facility and thereafter at least once every year. This Article also states that “Inmates must submit to the medical examinations prescribed in the preceding paragraph.”

Article 29 of the “Regulations for Penal Institutions and Treatment of Inmates” lists various health check items that must be included in the medical examinations, although it also stipulates that certain items “may be omitted if the doctor deems them unnecessary,” and in actual fact nearly all of these items are omitted as being “unnecessary.”

Medical care by Appointed Doctors

A system for providing “medical care by appointed doctors” is included in “The Act on Penal Detention Facilities and Treatment of Inmates and Detainees.” This system allows penal institution wardens to use their discretion in allowing inmates to receive medical care by external doctors at their own expense if so requested.

This system was highly anticipated and welcomed heartily by inmates and the people involved who were dissatisfied and distrusted facility doctors, but instead of allowing inmates to visit external facilities for medical treatment, it simply requires external doctors to bring the instruments and equipment needed to the facility so that the treatment can be provided there, which makes it extremely difficult to find doctors willing to accept these conditions. Even if doctors who agree to these limitations can be found, there are various other restrictions in effect before they will be permitted to provide treatment.

A report titled “The Situation Pertaining to the Enforcement of the Act on Penal Detention Facilities and Treatment of Inmates and Detainees” issued by the Ministry of Justice in May 2011 states that, “A total of 22 instances in which medical care was provided by appointed doctors have been recorded since the enactment of the Act (treatment provided: dentistry, dermatology, orthopaedics, cardiology, etc.), and it cannot be said that this provision is being actively implemented.” The stipulations were revised following this to omit the condition stating that “inmates must have been treated by said doctor prior to their confinement,” but despite this, the number of cases in which appointed doctors were permitted to treat inmates are as shown below.

- 2012: 10 cases (implants, compartment syndrome, neck and back pain, etc.)
- 2013: 9 cases (dental treatment, implants, functional recovery rehabilitation, gender dysphoria)
- 2014: 7 cases (dental treatment, implants, gender dysphoria, post-accident disorders)
- 2015: 6 cases (dental treatment, implants, gender dysphoria)

Claim for Review

With regards to matters such as penal institution wardens “refusing to permit medical care by appointed doctors” and “suspending medical care by appointed doctors”, it is possible to file an appeal under the title of “Claim for Review 審査の申請 (*Shinsa no Shinsei*)” with the Regional Correction Headquarters.

If objections arise with regard to the manner in which this is arbitrated, it is possible to file a “Reclaim for Review 再審査の申請 (*Sai Shinsa no Shinsei*)” with the Minister of Justice. When such reclaims are filed, the Ministry of Justice Correction Bureau will investigate and review the matter. In the event of the case moving toward a situation in which it may be “rejected 棄却 (*ki kyaku*)” due to a verdict stating that the measures implemented by the facility were neither illegal nor inappropriate, the opinions of the “Research Study Committee on Administrative Review of Appeals from Inmates in Penal Institutions” (abbreviated to “Appeals Committee”), consisting of jurists, lawyers, doctors and other influential people in the private sector, may be heard in advance.

The results of these reclaims are posted on the Ministry of Justice website every month. There are certain restrictions imposed on the Appeals Committee in that debate is only carried out under the assumption that the Corrections Bureau’s decision to reject the case is considered to be appropriate, and there are hardly any cases in which discussions deliberate on the illegality or inappropriateness of the decision. However, there are cases in which the opinion of the Ministry of Justice states that the decision was inappropriate. For example, the following “proposal” was posted on March 9th, 2017.

“With regards to the reclaim to review a case submitted by an inmate of a penal institution who has yet to be sentenced, in which the administrative authority concerned did not permit the applicant to receive medical care from an appointed doctor, it is deemed that the appropriate response is to rescind this decision.”

Filing a “Reclaim for Review” should be considered when there is an objection to the verdict of the “Claim for Review”.

Q: A “Claim for Review” does not appear to cover medical issues outside of appointed doctors, so are there any other procedures available for raising requests or objections to other health or medical care issues?

A: It is possible to file “Complaints 苦情の申出 (*Kujou no Moushide*)” regarding all treatment received in penal institutions. The complaints that can be filed are those against penal institution wardens, those against inspectors, and those against the Minister of Justice (“inspectors” are workers designated by the Minister of Justice to carry out on-site inspections at penal institutions at least once per year).

Writing letters to “Penal Institution Visiting Committees”, explained below, is also effective. In addition, applying for “human rights assistance 人権救済申立 (*Jinken Kyuusai Moushide*)” to the “Human Rights Protection Committee 人権擁護委員会 (*Jinken Yougo linkai*)” run by the Bar Association will initiate an investigation that includes meetings with lawyers, etc., and in the event of a problem being identified, the Committee will issue either “Warnings 警告 (*keikoku*)”, “Recommendations 勧告 (*kankoku*)” or “Requests 要望 (*youbou*)” to the facility concerned. Although there are differences according to region, the Human Rights Protection Committee in charge are restricted to a certain extent in their movements, and the actual investigation requires a lengthy period of time. Even if a “Recommendation”, etc., is issued, there are, unfortunately, very few cases in which this will result in improvements being made.

Although the available procedures might be lamented as useless, the higher the position of the staff in penal institutions, the more they will need to be conscious of external scrutiny. There are even instances where “Complaints” that were filed against penal institution wardens and then left unattended for long periods of time, suddenly receiving improvements upon submission of “Human Rights Assistance Applications”. The Human Rights Protection Committee are also, surely delighted when they receive such reports.

Suggestions and Opinions of Penal Institution Visiting Committees

All prison facilities have Penal Institution Visiting Committees 刑事施設視察委員会 (*Keiji Shisetsu Shisatsu linkai*). Lawyers recommended by the Bar Association and doctors recommended by local medical associations take part in these committees.

Penal Institution Visiting Committees retain the right to point out problems and submit proposals and recommendations to request for improvements.

Penal Institution Visiting Committees are not organizations established for the purpose of providing assistance for human rights infringements against individuals. The Visiting Committees inspect facilities and then provide their opinions to penal institution wardens with regards to administrative matters. That being said, issues pertaining to medical care usually come under the direct jurisdiction of facility administration. The committee members include doctors to enable them to accurately understand all issues related to medical care, and the recommendations the committee submits are highly respected by the penal institutions concerned. These opinions also carry more weight than those issued by the Bar Association and external NGOs.

In addition, Visiting Committees are allowed to read medical records archived by prisons and are able to question doctors depending on the circumstances. Their ability to access necessary information in this way is the greatest advantage they have.

The Visiting Committees consider the issues facing facility administration and then point out and demand improvements, and there are cases in which this changed the way in which inmates are treated. There are even cases in which this has resulted in

inmates being moved from general facilities to medical priority facilities and receiving medical care from external hospitals. The providing of information to the Visiting Committees can come from inmates, their friends, and their families. This information is to be addressed to the “Visiting Committee at the XX Prison (**“Insert Facility Name” 視察委員会御中**)” (or other facility names, such as Detention Centre or Rehabilitation Program Centre, etc.). Prison offices are not permitted to open letters addressed to the Visiting Committee and they are always opened by committee members, so there is no fear of information being leaked to the prison authorities.

The Ministry of Justice releases a “List of Measures and Other Reports Based on the Opinions of Penal Institution Visiting Committees” once every year. These also contain a certain amount of opinions relating to medical care.

Informed Consent [Explanations and Agreements]

Informed consent requires doctors to fully explain the purpose of medical care to patients and obtain their consent, and it is based on a principle of granting maximum respect to the right to choose and the free will of patients.

However, the medical care provided in prison facilities, where receiving medical care from doctors itself is a complex procedure, means that in reality, it is difficult for prisoners or detainees to receive satisfactory explanations on their own illnesses and medical care. It is even difficult to obtain copies of one’s own medical records, so it is impossible to have family members, etc., obtain the opinions of external doctors separately.

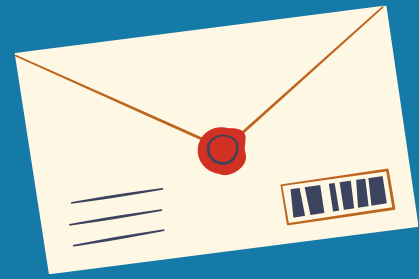
Requests for the release of information are handled in accordance with stipulations laid down in the inherent Personal Information Protection System, which states that “requests for the release of information include the risk of a person’s past criminal records being divulged, which puts said person at a disadvantage upon their return to society and during rehabilitation,” and court verdicts have precedent for such information being exempt from public release, as in “The information belonging to Penal Detention Institutions may reveal details of detention methods if released, regardless of whether or not said information contains independent details, and this comes under the jurisdiction of it being personal information that must be protected under the application of Article 45 Paragraph 1 of the Act on the Protection of Personal Information Held by Administrative Organs” (Tokyo High Court judgment issued on July 9th, 2008).

The “Instructions on the Handling of Inmate Medical Records and the Provision of Medical Care Information” calls for medical workers in penal institutions to pursue Informed Consent.

Message to Inmates

From the Center of Prisoner Rights

There is no doubt that many different issues pertaining to medical care in penal institutions exist.



It is also true that seeking litigation (in courts of law) to address the medical care issues in penal institutions is not recommended. There is no guarantee that suing the state will result in appropriate medical care being provided, and because litigation requires extremely long periods of time, it may result in irredeemable situations prior to a verdict being reached in the case of people suffering from serious illnesses. It is necessary to place the emphasis on recovery while using all available means to access appropriate medical treatment.

If disorders are overlooked in penal institutions or if grave situations caused by errors in medical care arise, one way is to file a case requesting compensation from the state. The first step for this is to contact the Japan Legal Support Centre *Houterasu* (see below). They can provide advice on your chances of winning the case and on the costs that will be incurred.

Japan Legal Support Center *Houterasu*

0570-078377

(Multilingual Information Service)

Hours: Mon-Fri (0900-1700)

0570-078374

(Japanese Service)

Hours: Mon-Fri (0900-2100)

Sat (0900-1700)

<https://www.houterasu.or.jp/en/index.html>

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