

## 2006 CHANGES IN JAPAN'S LEGAL SYSTEM

Japan introduced new legal procedures in October 2006. The information below is current as of October 2010:

### **COURT-APPOINTED ATTORNEYS (Government paid attorneys)**

Until September 2006, a suspect was only entitled to a court-appointed attorney following indictment. Effective October 2006, a court-appointed attorney is available in the pre-indictment period (before you are indicted), but only if you meet all of the following conditions:

- a) A detention order has been requested/issued.
- b) You do not have more than 500,000 yen to hire a private attorney (approx \$6250 when 80 yen = \$1). You do not have to provide proof of your lack of financial resources. However, if the court determines later that you were actually able to pay for a private attorney, there could be a fine, and attorney fees can be charged to you. If you have more than 500,000 yen, the court can submit a request for a private attorney to the Japan Legal Support Center "Hoterasu", or you can find an attorney yourself.
- c) The offense for which you are charged has to be punishable by imprisonment for more than three years. Examples include, but are not limited to, murder, robbery, rape, possession of drugs (excluding marijuana) for sale, importation of drugs (excluding marijuana), larceny, and assault causing injury. If the maximum sentence for your offense is three years or less, but you cannot afford a private attorney, a court-appointed attorney will be provided to you at some point following indictment.

If you are interested in a court-appointed attorney, please advise the police, the prosecutor or the judge. You must make this request yourself; consular personnel cannot do this for you.

NOTE: Everyone, regardless of qualification, can request a one-time free consultation with a Duty Attorney (Toban Bengoshi). Simply ask the police to contact the "Toban Bengoshi" for you.

### **SPEEDY TRIAL**

Who Qualifies: First time offenders charged with misdemeanors, and the prosecutor has decided to ask for a suspended sentence. Provided that you plead guilty, and both the prosecutor and you consent to this process, a trial should be held within two weeks of the date of the indictment. The trial and the sentencing are usually completed in a single day. "Speedy" is therefore a relative term, as this process can still take more than a month from the date of your arrest.

## LAY JUDGE SYSTEM

On May 21, 2009, Japan introduced a lay judge system that allows ordinary citizens to take part in criminal proceedings as judges. Serious criminal cases are tried under this new system. Six lay judges randomly selected from among eligible voters, together with three professional judges at district courts, examine serious criminal cases such as murder, robbery resulting in bodily injury or death, bodily injury resulting in death, unsafe driving (such as drunken driving) resulting in death, arson of an inhabited building, kidnapping for ransom, and abandonment (of a child) by a person responsible for protection resulting in death. This system is different from the jury system in the United States where jurors are involved in deciding guilt or innocence, and the judges determine the sentence. Lay judges participate in determining guilt or innocence, and if they find the defendant guilty, also participate in determining the sentence, including the death penalty. Verdicts and sentences are determined by majority vote. A guilty verdict must be supported by at least one professional judge. Lay judges also participate in the questioning of the defendant and trial witnesses.