

**PREVENTION OF JUVENILE CRIME  
IN THE UNITED STATES AND JAPAN**

**Toru Ogino**

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Program on U.S.-Japan Relations  
Harvard University  
61 Kirkland Street  
Cambridge, MA 02138-2030

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## **ABOUT THE AUTHOR**

After earning a B.A. in law at the University of Tokyo in 1982, Mr. Ogino embarked on a career in the National Police Agency. He worked in the Legal and Planning Administration Office, the Administrative Reform Council of the Prime Minister's Office, and the Cabinet Legislation Bureau before assuming the post of director of the First District Headquarters of the Metropolitan Police Department in Tokyo. While at Harvard, Mr. Ogino has examined juvenile delinquency in the United States and Japan.

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## INTRODUCTION

In Japan, the 10-year period after the collapse of the “bubble” economy was called the “lost decade,” and, during that time, many Japanese began to lose confidence in their country. During the era of rapid growth that followed World War II, Japan was proud not only of its economic prowess, but also of its success in maintaining a safe society. The crime rate in Japan was very low, a rarity in advanced industrial countries.<sup>1</sup> In contrast, starting in the late 1950’s, the United States suffered from a rapidly increasing crime rate.<sup>2</sup>

In the late 1980’s, however, the tide changed, and the number of crimes in Japan began to rise<sup>3</sup>; in the middle of the 1980’s, on the other hand, those in the United States started to decline.<sup>4</sup> The increase in crime in recent years has made many Japanese lose their faith in the safety of society in Japan, while the American success both in crime reduction and sustaining an economic boom has made a strong impression. Some Japanese eagerly insist that Japan should learn from the experiences of the United States.

In Japan, several factors are believed to be responsible for the recent increase in crime. They include an alarming increase of juvenile crimes, the influx of illegal immigrants, and intrusion of crime organizations or *boryokudan* into normal economic activities.<sup>5</sup> In 2003, 38 percent of all Penal Code offenders<sup>1</sup> were juveniles, and the crime rate per 1,000 in the 14-19 age bracket was 17.5, eight times the respective figure for adults.<sup>6</sup> Devising methods of coping

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<sup>1</sup>Vogel 1979; see also subsection on *Comparison Between Japan and Other Industrialized Countries* (pp 10-11).

<sup>2</sup>Ruth and Reitz 2004.

<sup>3</sup>National Police Agency 2004.

<sup>4</sup>Ruth and Reitz 2004.

<sup>5</sup>See Chapter 3. The Action Plan for Realizing a Society Resistant to Crime (2003) established five prioritized issues, including juvenile crime, illegal entry to Japan, and criminal organizations.

<sup>6</sup>National Police Agency 2004.

with juvenile crime is one of the most important issues being studied by the Japanese government today.

In this paper, I would like to examine how the United States and Japan deal with juvenile crime within their efforts to prevent crimes and maintain safe communities. Juvenile crime is a very complicated subject. It is beyond the scope of this paper to discuss the characteristics of juvenile delinquency as a whole. My concern here is what types of strategies will work in our efforts to prevent juvenile crime.

The basis of the juvenile justice system in modern countries is the idea that juvenile offenders should be treated differently from adult criminals.<sup>7</sup> Some think the juvenile justice system is “soft” on youth crime and inefficient in preventing juvenile delinquency, but differential treatment is still the prevailing principle behind juvenile justice. In the political arena, many theories have been put forward about what should be the most important value in the juvenile justice system. The argument has taken an ideological line and has become a polarized issue of “education vs. punishment,” “treatment vs. due process,” or “juvenile needs vs. community safety.” But these ideological matters are not my concern in this paper, because all of these values are important parts of a balanced solution. I will deal with how to reduce juvenile crimes in a practical sense. My focus is on proactive prevention, rather than reactive investigation and prosecution.

Most Japanese people simply believe that the criminal justice system works well in preventing crimes and that all that has to be done to make society safe is to arrest more criminals and punish them more severely. Others, however, insist that punishment rarely serves any purpose and that crime cannot be reduced unless the root causes of crime, such as poverty, poor parenting, and various kinds of discrimination, are eliminated. Actually, it is not so easy to

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<sup>7</sup>See subsection on *Features of the Juvenile Justice System* (pp 23-24).

understand what kinds of efforts are effective for the deterrence of a particular type of crime.<sup>8</sup> Nowadays, many Japanese know of New York City's successful effort to reduce crimes<sup>9</sup> based on the "Broken Window Theory."<sup>ii</sup> In Japan, some observers assert that we should learn from New York City,<sup>10</sup> but it is unlikely that we can succeed in reducing crimes just by imitating the practices of New York unless we deeply understand the context of that success. We have to examine how, why, and the context within which a certain deterrent policy works before we adopt it into another setting.

The fundamental aim of criminal justice is to realize justice in each criminal case. Crime investigation by the police is an indispensable part of the criminal justice system, and it basically consists of apprehending a suspect and collecting evidence for a trial. Although examining the motive in each criminal case may give us useful clues to prevent future crimes, police do not necessarily conduct such examinations. For example, Braga reported that the Boston police recorded as little as possible about the motives in the homicide cases they investigate in order to prevent creating documentation that would be of potential use to the defense at trial.<sup>11</sup> Theoretically, this means that preventing crime is, at best, a by-product in the criminal procedure.

Most people, however, believe that police investigation of crimes and arrest of criminals are two of the most important components in our efforts to prevent crimes. Crime prevention is important for most people because maintaining a safe neighborhood is a crucial factor in their quality of life. So what people want the police to do is sometimes inconsistent with what the police think they should do. Many people are aware of the fact that, if both the police and the

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<sup>8</sup>See section on **The Decrease of Crime in the United States** (pp 13-15).

<sup>9</sup>Kelling and Sousa 2001.

<sup>10</sup>Former Mayor of New York City Rudolph Giuliani's *Leadership* (2002) was very popular in Japan.

<sup>11</sup>Braga, Piehl, and Kennedy 1999.

public think that the role of the police should just be law enforcement or the first step of the criminal justice system, police cannot meet the public's demand for a safe community. This is the problem of what the mission of the police is.

With these points in mind, I will conduct a comparative study on the prevention of juvenile crime in the United States and Japan.

First of all, I will discuss and compare crime trends in the United States and Japan (Chapter 1). In this chapter, I will present an overview of the crime situation in the Japan from the end of World War II, when Japanese society experienced great changes, and that in the United States from the 1930's, when crime data began to be compiled there. In Japan, the crime situation was very good and stable during almost all the postwar Showa Era (1945-1988), while the United States was suffering from crimes, especially from the late 1950's onwards. In the late 1980's, however, crimes in Japan started to increase rapidly, while those in the United States dropped dramatically. This alarming increase in Japan brought the topic to the forefront of political and social debate and encouraged lawmakers and practitioners, in their efforts to turn the crime rate around, to look to the United States to see what happened there.

In Chapter 2, I will examine the situation of juvenile crime in Japan and the United States. The rate of juvenile crime in Japan is becoming alarmingly worse, while that in the United States has been improving recently. I will review the fundamental idea of juvenile justice and the basic features of the Japanese juvenile justice system. Then I will discuss how the juvenile justice system really works in Japan. I will also talk about criticism of the juvenile justice system.

In Chapter 3, I will examine current practices for preventing youth crime in both the United States and Japan. In this chapter, I will examine "the Boston Gun Project's Operation Ceasefire," practices for preventing youth street crime in Osaka, and the fight against motorcycle

gangs or *bosozoku* in Hiroshima. In these instances, police activities go beyond simply investigating each individual case.

In the conclusion, I will talk about the deterrence of crime and how the mission of the police should be redefined for more effective crime prevention. Then, based on this comparative study, I will make some suggestions for Japan.

## CHAPTER 1

### THE PRESENT SITUATION OF CRIME IN JAPAN AND THE UNITED STATES

#### Crime Prevention as a Political Issue

Recently, because of the rapid increase in crime, many Japanese people have become more concerned about the safety of Japanese society. Prime Minister Junichiro Koizumi has pledged himself to re-establish Japan as “the safest country in the world,”<sup>12</sup> and, on September 5, 2003, established the Ministerial Meeting Concerning Measures Against Crime.<sup>13</sup> This meeting was held in light of the high frequency of juvenile and heinous crimes that pose an immediate threat to people’s daily lives. At the second meeting on December 18, 2003, the decision was made to implement an “Action Plan for the Realization of a Society Resistant to Crime.”<sup>14</sup>

Koizumi’s pledge to re-establish Japan as “the safest country” implies his assumption that most Japanese people used to believe that their country was the safest in the world, but do not think so anymore. Is the Japanese people’s changing perception of their country true? Why have they lost confidence in the safety of society?

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<sup>12</sup>“General Policy Speech by Prime Minister Junichiro Koizumi to the 162nd Session of the Diet.” Prime Minister of Japan and His Cabinet. 18 April 2005  
<<http://www.kantei.go.jp/jp/koizumispeech/2005/01/21sisei.html>>.

<sup>13</sup>“Ministerial Meeting Concerning Measures Against Crime (17 March 2000. Verbal Approval at the Cabinet Meeting)” Prime Minister of Japan and His Cabinet. 18 April 2005  
<<http://www.kantei.go.jp/jp/singi/hanzai/konkyo.html>>.

<sup>14</sup>“Action Plan for the Realization of a Society Resistant to Crime (18 December 2003).” Prime Minister of Japan and His Cabinet. 18 April 2005  
<<http://www.kantei.go.jp/jp/singi/hanzai/kettei/031218keikaku.html>> .

## **The Current Crime Situation in Japan**

### *Trends in Crime After World War II*

In the postwar Showa Era (1945-1988), the crime situation in Japan was very stable, and the crime rate was exceptionally low when compared to other modern industrial countries.<sup>15</sup>

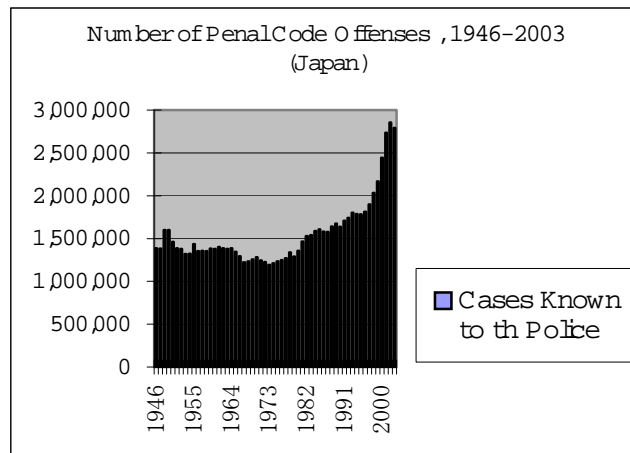
The number of reported Penal Code crimes was around 1.6 million in both 1946 and 1947, immediately after the end of World War II. These numbers were very high compared with the pre-war era and were thought to be the result of the social turbulence of the time. After that, the number of reported Penal Code crimes began to decrease. From 1955 to 1970, an era of rapid economic growth, the total number of such crimes decreased to an average of 1.4 million per year. By 1984, this had declined to approximately 1.19 million, the lowest since the end of World War II. Subsequently, however, a gradual increase in the number of reported Penal Code crimes began to appear (Figure 1).<sup>16</sup>

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<sup>15</sup>See subsection on *Comparison Between Japan and Other Industrialized Countries* (pp 10-11).

<sup>16</sup>National Police Agency.

**Figure 1. The Number of Reported Penal Code Crimes in Japan (1946 – 2003)<sup>17</sup>**



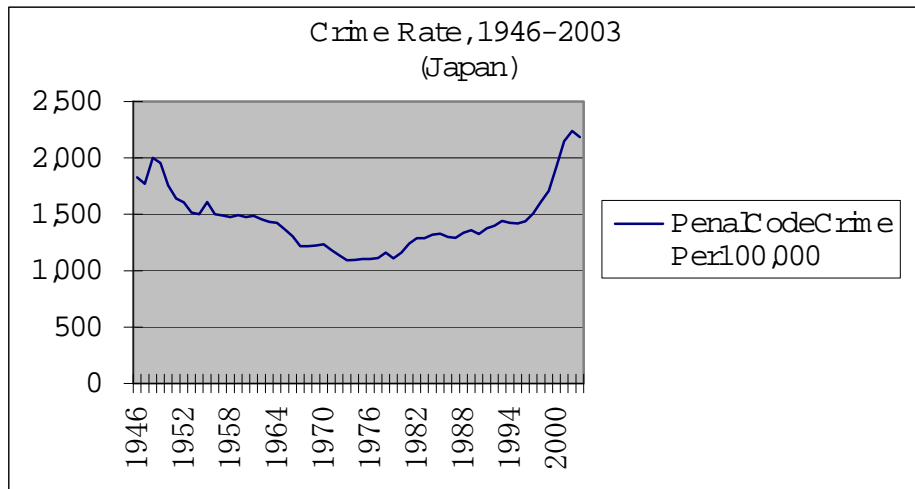
The crime rate (number of Penal Code crimes per 100,000 people) in the late 1940's was around 1,800; this gradually decreased over the next three decades, leveling out at around 1,100 in the mid-1970's. In the early 1980's, however, the crime rate began to increase, then in 1996 started to skyrocket, and, by 2000, broke its previous all-time high of 2,000 set in 1948 (Figure 2).<sup>18</sup>

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<sup>17</sup>National Police Agency.

<sup>18</sup>National Police Agency; Maeda 2003.

**Figure 2. Crime Rate per 100,000 Population in Japan (1946 – 2003)<sup>19</sup>**



### *The Current Crime Situation*

The number of reported Penal Code offenses increased for seven consecutive years from 1996 to 2002, each year setting a new postwar high. In 2002, 2.85 million Penal Code offenses were reported, and, in 2003, 2.79 million cases were reported, showing a 2.2 percent decrease as compared with 2002. But these figures are still high. The numbers of reported Penal Code crimes in recent years have been almost twice as high as those in the postwar Showa Era, which were stable at around 1.4 million per year.<sup>20</sup>

As a result of the increase in crimes, the prison population has also skyrocketed. In 1992, the average daily population of all prisons in Japan was about 45,000; by 2002, this had climbed to about 70,000.<sup>21</sup>

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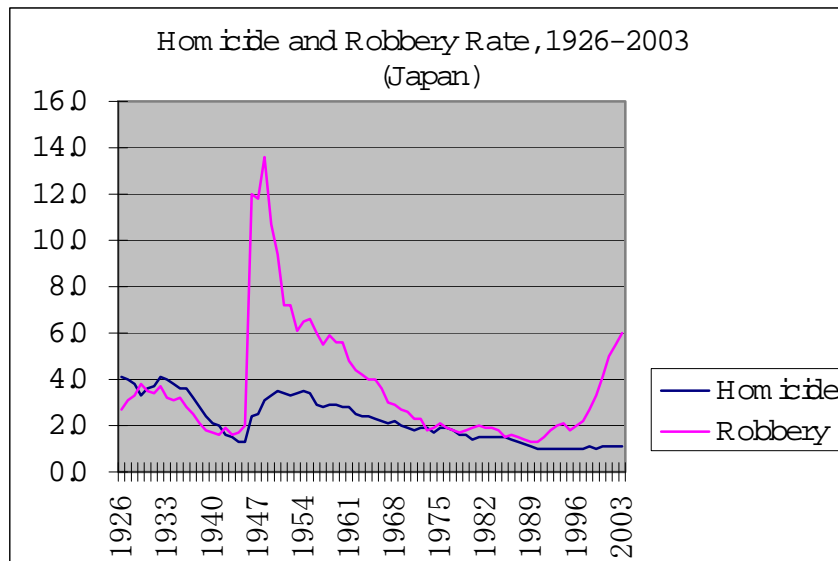
<sup>19</sup>National Police Agency and Ministry of Justice.

<sup>20</sup>National Police Agency.

<sup>21</sup>Ministry of Justice.

In spite of this increase in overall crimes, the number of homicide cases has not risen. Homicide cases, including attempted murder, have stayed stable, while the overall crime rate has increased about 150 percent. The robbery rate has increased by 200 percent, and 70 percent of those arrested for street robberies are juveniles. So, even though Japan has a low murder rate, the overall increase in crime obviously threatens the peaceful lives of the general public.<sup>22</sup>

**Figure 3. Crime Rates for Homicide and Robbery in Japan (1926 – 2003)<sup>23</sup>**



*Comparison Between Japan and Other Modern Industrialized Countries*

In the early postwar years, the crime rate in Japan was exceptionally low as compared with other modern industrial countries. The 1979 White Paper on Crime made a comparison between Japan and other modern industrial countries, such as the United States, the United

<sup>22</sup>National Police Agency.

<sup>23</sup>National Police Agency and Ministry of Justice.

Kingdom (England and Wales), West Germany and France.<sup>24</sup> The report showed that, in 1977, the Japanese rates for the following crimes were: murder, 1/5 of the U.S. rate and 1/2 of that of West Germany; rape, 1/11 of the U.S. rate and 1/4 that of both the United Kingdom and West Germany; robbery, 1/100 of the U.S. rate and 1/28 that of France; bodily injury, 1/8 the U.S. rate and that of West Germany; larceny, 1/5 of the U.S. rate and 1/4 that of both the United Kingdom and West Germany. Homicide rates per 100,000 population in 1977 were 8.8 in the United States, 4.2 in West Germany, 3.7 in France, and 1.8 in the United Kingdom and Japan.

In spite of the recent rapid increase of crimes, Japan is still safer than these other countries. Homicide rates per 100,000 population in 2000, for example, were 5.5 in the United States 3.7 in France, 3.4 in Germany, 2.9 in the United Kingdom, and 1.2 in Japan. It is the comparison with the past, however, rather than to other countries, that makes the Japanese people feel unsafe.<sup>25</sup>

### *Public Concern About Crime*

Some may think that local crimes such as purse-snatchings or street robberies are not so serious when compared to homicides. This is true in the legal sense, but the public's perception is very different. In Japan, a homicide is only known to ordinary people through the news and mass media, while purse-snatchings and street robberies are what people may encounter in their neighborhoods this evening, and, because of this immediacy, they cause much more fear and concern to the average Japanese citizen.

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<sup>24</sup>Ministry of Justice.

<sup>25</sup>Maeda 2003.

Nowadays, the Japanese people have great concerns about crime. In September 2004, the Cabinet Office released a poll about public safety<sup>26</sup>; it showed that 86.6 percent of the people answered that they thought the crime situation in Japan had deteriorated in the past the 10 years, and 80.2 percent responded that they were concerned that they themselves and their families or friends would be victims of crime. These concerns and fears, though, cannot be attributed to hysteria alone. When the current crime situation mentioned previously is taken into consideration,<sup>27</sup> it can be seen that they are legitimate.

### **The Framework of Present Policies Against Crime**

The 2003 Action Plan for the Realization of a Society Resistant to Crime<sup>28</sup> defines the following three initiatives as essential for the restoration of public security:

- i) community action to preserve public safety;
- ii) improvement of the social environment, so crime will be less likely to occur;  
and
- iii) vigilance against various crimes involving the illegal entry of materials and/or immigrants.

With these as a foundation, the Action Plan established five prioritized issues to be tackled by the government with the cooperation of the public, business establishments, and local governments, in accordance with the distinctive trend of crime occurrence:

- i) deterrence of crime that threatens the peace in neighborhoods;
- ii) efforts to deter juvenile crime undertaken by Japanese society as a whole;

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<sup>26</sup>“Poll About Public Safety in September 2004.” Cabinet Office. 18 April 2005  
<<http://www8.cao.go.jp/survey/h16/h16-chian/index.html>>.

<sup>27</sup>See subsection on *The Current Crime Situation* (pp 9-10).

<sup>28</sup>“Action Plan for the Realization of a Society Resistant to Crime.”

- iii) response to the threat of illegal entry into Japan;
- iv) protection of the economy and society from criminal organizations; and
- v) the strengthening and further development of infrastructure for the restoration of public security.

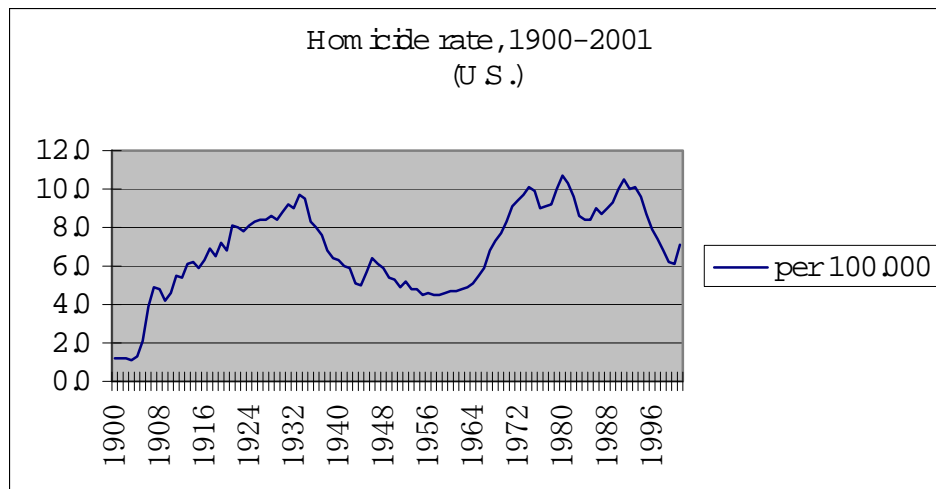
One of the remarkable points of this plan is that it emphasizes “community action” and “improvement of the social environment” in its basic principles. The plan does not say that official law enforcement is not effective, but implies that it is not necessarily sufficient in effort to prevent crimes. Another important point of this plan is that it urges that steps to deter juvenile crime should be undertaken by “Japanese society as a whole.” This implies the idea that juvenile offenders should be treated differently from adult criminals.

### **The Decrease of Crime in the United States**

Ruth describes the historical picture of grave violence in 20<sup>th</sup>-century America from homicide data, which became available when nationwide health statistics began to be collected in 1933. The data from the mid-1930's to the 1950's show the tail end of a long decline in crime, during which the nation's homicide rates fell from about 10 per 100,000 to around 5. Aside from a blip in the 1940's, the nation's homicide rates descended throughout the 1930's, 1940's, and most of the 1950's. Then, from the late 1950's through the early 1970's, the U.S. murder rate shot skyward from under 5 per 100,000 to around 10, surpassing the highest recorded levels of the early 1930's. Then, throughout the late 1980's and early 1990's, the nation suffered through homicide levels that oscillated year to year, but remained on a high plateau of roughly twice the victimization lows of the 1940's and 1950's, in the range of 8 to 10 per 100,000. In the early 1990's, the scourge of grave violence began to ease. And every year after 1993,

homicide rates dropped back to the level of the mid-1960's, declining to less than 6 per 100,000 in 1999 (Figure 4).<sup>29</sup>

**Figure 4. Trend of the Homicide Rate in the United States (1900 – 2001)<sup>30</sup>**



What was the cause of the “crime drop” of the 1990’s – success of gun control, crackdowns on the drug market, prison expansion, changes in policing, changing demography, or growth of the economy? Blumstein and Wallman, the editors of *The Crime Drop in America*, wrote: “A careful reading of this volume will bring most readers, we believe, to concur with the observation that no single factor can be invoked as *the* cause of the crime decline of the 1990’s. Rather, the explanation appears to lie with a number of factors, perhaps none of which alone

<sup>29</sup>Ruth and Reitz 2004.

<sup>30</sup>“Homicide Rate Trends.” Bureau of Justice Statistics. 18 April 2005  
<<http://www.ojp.usdoj.gov/bjs/glance/tables/hmratab.htm>>.

would have been sufficient and some of which might not have been of noticeable efficacy without reinforcement from others.”<sup>31</sup>

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<sup>31</sup>Blumstein and Wallman 2000.

## CHAPTER 2

### JUVENILE CRIME

#### **The Current Situation of Juvenile Delinquency in Japan**

In 2003, there were 144,404 juvenile Penal Code offenders; this represented the third consecutive year of increase and accounted for 38.0 percent of all Penal Code offenders. The number of felonious<sup>32</sup> and violent crimes<sup>33</sup> by juveniles remains high. In 2003, there were 2,221 felonious offenses by juveniles, an increase of 226 (11.4 percent) over the previous year.<sup>34</sup>

The number of cases of juvenile delinquency has fluctuated repeatedly from the end of World War II to the present, but the ratio of juvenile Penal Code offenders to the total number of Penal Code offenders rose from 23.6 percent in 1950 to the above-mentioned 38.0 percent in 2003 even though the ratio of juveniles under 20 to the total population decreased from 45.9 percent to 19.5 percent during the same period.

These statistics are more clearly seen through a comparison of adults and juveniles in terms of ratio per population (the number of offenders per 1,000 persons in the same age group). The ratio per population between the ages of 14 and 19 is 17.5, seven and a half times higher than that of adults. Until recently, the ratio per population for adult Penal Code offenders had decreased constantly since the end of World War II, whereas the rate per population for juvenile Penal Code offenders in the same age group has remained high (Figure 5)

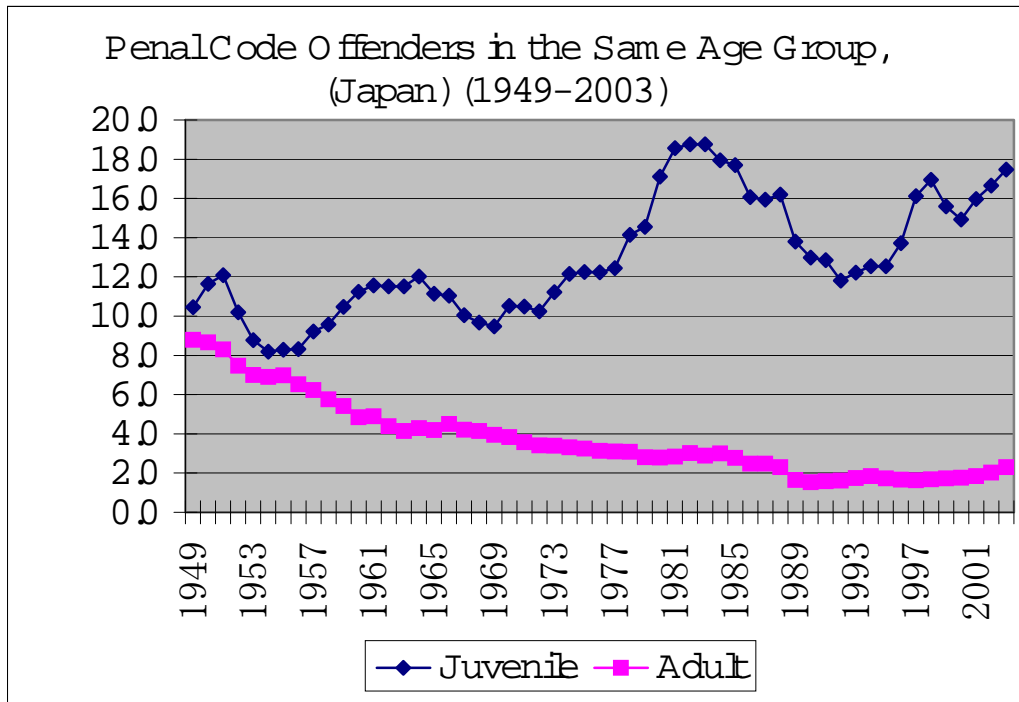
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<sup>32</sup>The category of “felonious crime” includes homicide, robbery, arson, and rape.

<sup>33</sup>The category of “violent crime” includes unlawful assembly with dangerous weapons, violence, bodily injury, intimidation, and extortion.

<sup>34</sup>National Police Agency.

**Figure 5 . Penal Code Offenders per 1000 Population in Japan (1949 – 2003)<sup>35</sup>**



The number of juvenile felonious offenders decreased consistently after peaking at 7,684 in 1950, then took an upward turn in 1991 to reach 2,212. It has remained at the high level of around 2,000 for the last seven years.

In the long term, the juvenile crime rate has been fluctuating, but has basically shown an upward trend. In the postwar Showa Era, a steady decrease in adult crime concealed the increase in juvenile crime. In late 1980's, the decrease in adult crime came to an end, and the increase in juvenile crime suddenly became more apparent.<sup>36</sup>

<sup>35</sup>National Police Agency.

<sup>36</sup>Maeda 2000.

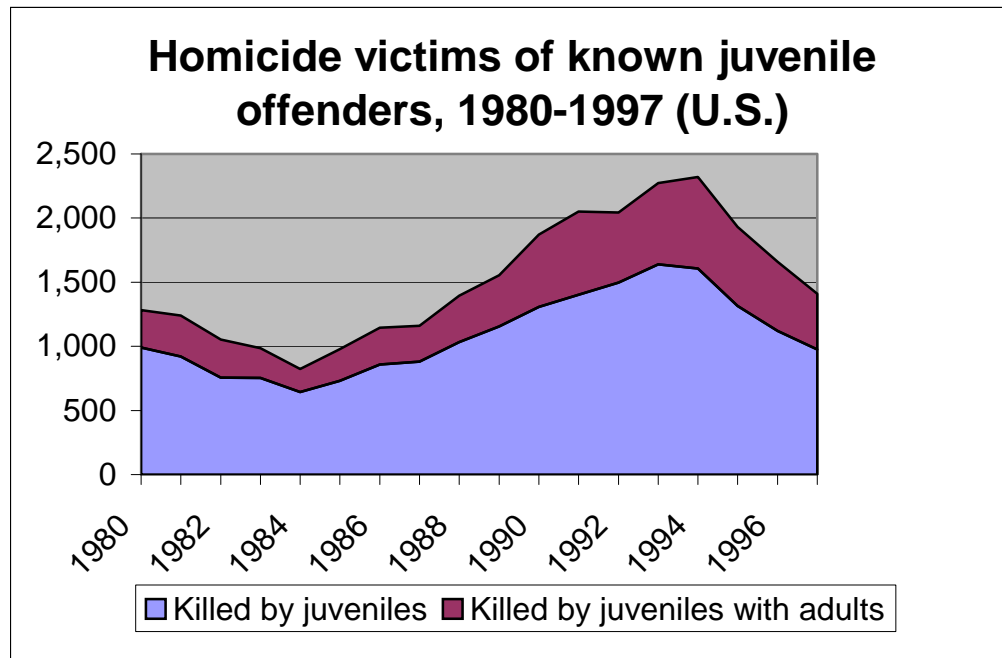
## **The Current Situation of Juvenile Delinquency in the United States**

Ruth described the escalation and drop in homicides by juveniles in the 1980's and 1990's.<sup>37</sup> From 1984 to 1994, the United States suffered through a terrifying decade of escalating of homicide among juveniles and young adults aged 18 to 24. In the first four years of the 1980's the United States enjoyed a decline in homicides among both adults and adolescents. After 1984 and through the 1990's, the adult homicide rates continued to decrease almost every year. Between 1984 and 1994, in contrast, the rates of juvenile homicide roughly tripled, following a course horribly divergent from the adult pattern. Then, in 1995, juvenile murder rates began to fall off even more rapidly than they had risen, so that, by the end of the 1990's, the eruption of adolescent homicides had subsided back to the levels of the mid-1980's (Figure 6).

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<sup>37</sup>Ruth and Reitz 2004.

**Figure 6. Homicide Victims of Known Juvenile Offenders in the United States (1980 -1997)<sup>38</sup>**

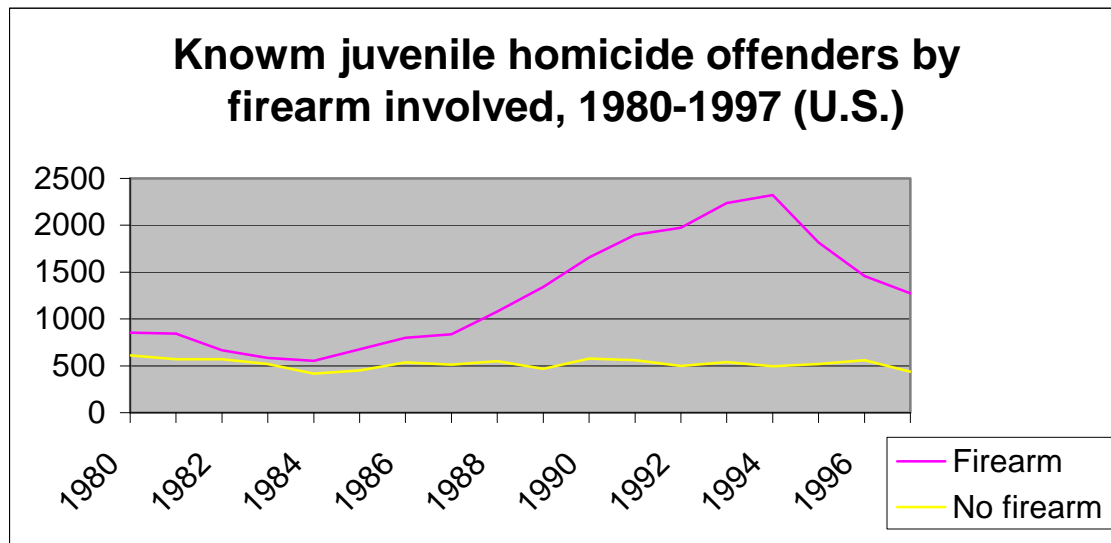


It is very difficult to understand what caused the youth homicide rate to increase between 1984 and 1994, or what caused it to reverse direction. Ruth, however, thinks that the statistical record offers some powerful clues. One of them is that nearly all of the increase in juvenile homicides involved gun-related deaths. Every year from 1980 through the late 1990's, there have been close to 500 homicides committed by juveniles without firearms. Juvenile gun homicides, by contrast, increased from several hundred per year in the early 1980's to an incredible peak of 1,800 in 1994. In symmetrical fashion, the entire decline in juvenile murder since 1994 has matched the swift drop-off in firearm deaths (Figure 7).<sup>39</sup>

<sup>38</sup>“How Many Murders Are Committed by Juvenile Offenders in the United States?” Office of Juvenile Justice and Delinquency Prevention. 18 April 2005  
<http://ojjdp.ncjrs.org/ojstatbb/offenders/qa03105.asp?qaDate=19990930>.

<sup>39</sup>Ruth and Reitz 2004.

**Figure 7. Known Juvenile Homicide Offenders by Firearm Involvement in the United States (1980-1997)<sup>40</sup>**



Ruth concluded that the juvenile homicide escalation of 1984 to 1994 could be directly attributed to increased gun possession by some children and adolescents, the increased willingness of those young people to use their guns against human targets, or some combination of the two. Ruth thinks that the decline in juvenile homicides since 1994 may be traceable to reversals in several of the same factors. He admitted that no one knows with certainty why such wild fluctuations in gun possession and use occurred, but he thinks that they may have been tied to the rise and fall of crack-cocaine markets in the inner cities, as well as gang activities related to those markets.<sup>41</sup>

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<sup>40</sup>“What Are the Trends in Homicides Committed by Juveniles Involving Firearms?” Office of Juvenile Justice and Delinquency Prevention. 18 April 2005  
<<http://ojjdp.ncjrs.org/ojstatbb/offenders/qa03103.asp?qaDate=19990930>>.

<sup>41</sup>Ruth and Reitz 2004.

Cork has shown a connection between the rise in handgun homicides and the recruitment of juveniles into the crack market.<sup>42</sup> Blumstein proposed a hypothesis for a sequence that created the rise:

- introduction of crack in the mid-1980's;
- recruitment of young minority males to sell drugs in street markets;
- arming of drug sellers with handguns for self protection
- diffusion of guns to peers;
- irresponsible and excessively casual use of guns by young people;
- leading to a “contagious” growth in homicide.

Blumstein thinks Cork provides strong evidence supporting this connection.<sup>43</sup>

Zimring concluded that there have been no long-term trends, or dramatic short-term trends, in juvenile offending rates for the crimes of robbery, rape, and assault since 1980. Instead, he posited that a tiny fraction of all assaults committed by juveniles became considerably more dangerous because a small, but meaningful, number of teenagers were suddenly exacerbating their assaultive behavior with handguns. Out of hundreds of thousands of assaults each year, Zimring estimated that only 10,000-15,000 extra “gun wound” cases in the assaults statistics would have produced all the extra gun homicides that pushed the juvenile homicide spike to its upper limit in 1994.<sup>44</sup>

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<sup>42</sup>Cork 1999.

<sup>43</sup>Blumstein 2000.

<sup>44</sup>Zimring 1998.

The results of these studies show us the important role of guns in the rise and fall of youth crime. Thus, I will examine a practice in the United States to address gun-related crimes later in this paper.<sup>45</sup>

## **The Juvenile Justice System**

### *Serious Crimes Committed by Juveniles and Fear in Society*

Ruth wrote that, in the late 1990's, mass school shootings, such as the Columbine High School massacre in April 1999, caused parents in America to fear for the safety of their children. Such vivid fears persisted even though the incidence of juvenile gun violence, violence in schools, and all violent juvenile crimes had been dropping for at least five years.<sup>46</sup> As Zimring said, "One Columbine is more important to people's sense of insecurity than 100,000 housebreakings."<sup>47</sup> Via national media, Ruth asserted that our most vivid images of juvenile crime are formed by a small number of events. This is also the case in Japan.

In May 1997, a 14-year-old boy killed an 11-year-old boy in Kobe, one of the largest cities in Japan. The victim was beheaded, and his head was left at a school gate with a sinister note in his mouth. The teenage killer was sent to a juvenile center for psychiatric treatment, but the case caused an uproar in Japan. Why was the killer not punished? How can we protect our children from this kind of horrible crime?<sup>48</sup> The case raised many questions. When and under what circumstances should juveniles be treated as adults by the justice system?<sup>49</sup> Are the

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<sup>45</sup>See section on **The Boston Gun Project's Operation Ceasefire** (pp 36-38).

<sup>46</sup>Ruth and Reitz 2004.

<sup>47</sup>Zimring 2000.

<sup>48</sup>Parker 2001; Sasaki 2000.

<sup>49</sup>Parker 2002.

fact-finding procedures in juvenile trials appropriate? Are crime victims given proper and sufficient consideration?

### *Features of the Juvenile Justice System*

Historically, juveniles have not always been processed through a separate system of justice. In all modernized countries, until the 19<sup>th</sup> century, the criminal code applied to all people – adults and children alike. During the 19<sup>th</sup> century, a number of developments paved the way for a separate system of justice for juveniles in the United States.<sup>50</sup>

A juvenile court was established in Chicago in 1899, the first such court in the world. At that time, when the number of dependent and destitute children was increasing because of an increase in birthrates and an influx of immigrants to America, the establishment of the juvenile court system in the United States was part of a reform movement to protect children. This movement included the establishment of child labor laws, compulsory education, and houses of refuge. Juvenile courts were established in order to introduce the practice of *in loco parentis* – in place of parents.<sup>51</sup> The origin of the juvenile court can be traced back to early English legal doctrine known as *parens patriae* (the state as parent), which justified the court's jurisdiction in cases in which parents had failed to properly care for and supervise their children.

In the early 20<sup>th</sup> century, the ideas and practices of juvenile court in the United States had a great impact on many countries. Juvenile courts were established in the United Kingdom in 1908; in France, Austria and Belgium in 1912; in Hungary in 1915; in Spain in 1916; and in Germany in 1923.<sup>52</sup>

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<sup>50</sup>Lawrence 1998.

<sup>51</sup>Greici 2001.

<sup>52</sup>Yanagimoto 1995.

In general, there are some important characteristics that distinguish juvenile court proceedings from adult criminal court proceedings.<sup>53</sup> First, because juveniles are generally less mature and often unaware of the consequences of their actions, they are not held legally responsible for their deeds to the same extent as adults. Legally, juveniles are not found guilty, but “delinquent.” Second, the stated purpose of the juvenile court is treatment of the child and community protection, not punishment as it is for adult offenders in criminal courts. Third, a juvenile court hearing is more informal and not open to the public. In many cases, hearing proceedings are uncontested and not adversarial. These practices are rooted in the original child-saving philosophy of the reform movement of the late 19<sup>th</sup> century, as mentioned above. Fourth, juvenile offenders are kept separate from adult offenders at every stage of the process from arrest to detention, pretrial and court proceedings, to probation supervision and institutional corrections. Fifth, a juvenile’s background and the need for and amenability to treatment are considered to be of equal importance with the offense committed when making decisions on handling each case.

### *Influence of the American System on Japan*

The legal system concerning juvenile delinquency and its practices in Japan has also been greatly influenced by that of the United States. The Japanese Penitentiary Law of 1900 and the Juvenile Law of 1923 were both influenced by the idea of *parens patriae*, which was the guiding principle of the juvenile court movement in the United States at that time.<sup>54</sup>

Right after World War II, Japan reviewed the Juvenile Law of 1923 in light of conformity with the new constitution, and a new Juvenile Law was approved in 1948. This legislation

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<sup>53</sup>Lawrence 1998; Sawanobori 2000, 2003; Tamiya and Hirose 2003.

<sup>54</sup>Morita 1999.

was based on the “Standard Juvenile Court Act Suggested Draft (prepared by a committee of the National Probation Association in 1943), which was, in turn, based on the protection-oriented juvenile delinquency policy of the time in the United States.<sup>55</sup>

### *The Japanese Juvenile Justice System*

#### Juvenile delinquents<sup>56</sup>

The Japanese Juvenile Law stipulates that people under 20 years of age are “juveniles” and provides for how to treat “juvenile delinquents” including the procedures for court hearings. “Juvenile delinquents” are divided into three categories (“juvenile criminals,” “juveniles under 14 charged with illegal behavior,” and “crime-prone juveniles”), and different procedures are established for each of them.

#### Juvenile criminals<sup>57</sup>

“Juvenile criminals” are juveniles aged 14 or more, but less than 20, who have committed criminal acts, including not only Penal Code offenses, but other offenses with penal punishment. When the police confront and question a juvenile criminal, the case is referred directly to a family court if it is an offense liable to fines or lesser punishment, or to a public prosecutor for other offenses. The public prosecutor who has received the case completes the investigation and refers it to a family court. The police transferred 140,083 juvenile criminals to the prosecutors’ offices or family courts in 2000.

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<sup>55</sup>Morita 1999.

<sup>56</sup>The Secretariat of the Justice System Reform Council, Supreme Court of Japan.

<sup>57</sup>National Police Agency.

## Summary transfer procedures<sup>58</sup>

Summary transfer procedures may be implemented in juvenile cases investigated by the police, if it is clearly recognized that the acts constituting an offense are extremely minor and the juvenile is no longer considered to pose any threat of repeat offenses. If the case falls under the types designated by the public prosecutor or family court for such procedures in advance, no criminal disposition or protective measure is required. In such cases, after reviewing documents, family courts in principle make a decision for dismissal without a hearing.

## Juveniles under 14 charged with illegal behavior<sup>59</sup>

“Juveniles under 14 charged with illegal behavior” are juveniles under 14 who have broken criminal laws. Because of their age, acts by such juveniles, do not constitute crimes. In 2000, the police worked with 20,762 juveniles under 14 charged with illegal behavior; 5,108 of these were reported to child guidance centers.

## Crime-prone juveniles<sup>60</sup>

Crime-prone juveniles are juveniles who have “crime-prone tendencies”<sup>61</sup> that do not constitute crimes under criminal law, but who are deemed likely to commit offenses or violations

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<sup>58</sup>National Police Agency.

<sup>59</sup>National Police Agency.

<sup>60</sup>National Police Agency.

<sup>61</sup>Crime-prone grounds are;

- 1) a tendency to refuse to respond to the lawful supervision of guardians;
- 2) staying away from home without justifiable reason;
- 3) contact with persons with criminal or immoral tendencies or frequenting questionable places (e.g., contact with members of *boryokudan* [crime organizations], visiting adult entertainment centers); and
- 4) a tendency toward acts that are detrimental to the morality of themselves or others (e.g., frequenting entertainment neighborhoods, repeatedly harassing young girls etc., engaging in illicit sexual relations).

of criminal laws in the future in light of their personal character or environment. In 2000, 1,887 crime-prone juveniles were referred to family courts or reported to child guidance centers.

When the police confront and question a crime-prone juvenile under 14, the same measures as those applicable to juveniles under 14 charged with illegal behavior are taken. When the juveniles are aged 14 or older, but are under 18, and if protective measures under the Child Welfare Law are considered appropriate, the case is sent to a welfare or child guidance center; on the other hand, if protective measures under the Juvenile Law are deemed necessary, it is transferred to a family court.

#### Juvenile cases<sup>62</sup>

Juvenile cases are usually referred by police to family courts, public prosecutors, or child guidance centers where they are filed. When a family court accepts a juvenile case, a judge examines the jurisdiction of the case, the age requirement, and the probability of delinquency. If appropriate according to these criteria, the judge orders family court probation officers to conduct a social investigation.

Family court probation officers utilize their expertise in psychology, sociology, pedagogy, and related fields, and call the juvenile, the guardian, or anyone else concerned to the court office for psychological tests and/or interviews about the circumstances. They also investigate the activities, personal history, personality, environment, etc. of the juvenile by, for example, visiting the juvenile's home and observing the conditions there. After the investigation, officers report to the judge on how much protection the juvenile in question needs. In cases where it is better to detain and protect the juvenile in order to obtain a detailed evaluation of the his or her physical and mental condition, the court makes the decision to detain and protect the juvenile in a juvenile

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<sup>62</sup>Supreme Court of Japan.

detention and observation center where the character of the juvenile is analyzed utilizing scientific expertise, such as psychology. The period of protective detention is limited to not more than four weeks.

If, as a result of the investigation, a family court considers it neither possible nor appropriate to commit the case for a hearing, it terminates the case by rendering a decision of dismissal without hearing. If it considers it appropriate to start a hearing, it renders a decision of commencement of hearing. Besides the juvenile and the guardian, an attendant (often a practicing attorney) sometimes participates in the hearing, and the hearing is conducted in a closed manner in order to protect the juvenile's privacy and avoid any undue emotional distress. In the hearing, an examination is conducted on the presence of the delinquency and its details as well as how much protection the juvenile requires. The judge determines the disposition of the juvenile based on the results of the evaluation and the hearing examination. Such decisions include the following:

- Probationary supervision that aims at remedying and rehabilitating the juvenile by having a probation officer or a volunteer probation officer<sup>63</sup> instruct, supervise, and give supportive guidance to the juvenile while he/she leads a normal life in society.
- Educative measures, such as sending the juvenile to a juvenile training school, that aim at remedying and rehabilitating the juvenile as a member of society. By detaining him/her in a juvenile training school, he/she can acquire the knowledge, skills, and discipline required for ordinary daily social life.
- Some cases are dismissed at this point if the judge considers it unnecessary to take protective measures.

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<sup>63</sup>Probation officers belong to the Ministry of Justice and volunteer probation officers are appointed by the Minister of Justice.

When a juvenile is aged 14 or older, and when the juvenile's past delinquencies, mental and physical maturity, his or her personality, details of the case, etc. indicate that it is appropriate to punish the juvenile by a criminal trial, the case may be referred to the public prosecutors. In such cases, the public prosecutors indict the juvenile in a district or a summary court. But referral to the public prosecutor for criminal proceedings is very rare. In 2000, merely 322 juveniles were transferred to public prosecutors.

#### Misbehaving juveniles<sup>64</sup>

In addition to treating these three types of juvenile delinquents designated in Juvenile Law, the police guide "misbehaving juveniles" for the purpose of guaranteeing their sound upbringing. "Misbehaving juveniles" are juveniles who are not included in the scope of juvenile delinquents, but who commit acts that are destructive to themselves or others, such as drinking alcohol, smoking, and loitering late at night. The police make efforts to guide and advise misbehaving juveniles and their families. In 2004, the police saw and advised 1.3 million such misbehaving juveniles.

#### **Discussion**

In 2000, 131,129 people were given final dispositions by family courts (including those subjected to summary transfer procedures); of these, 37,071 (28.3 percent) were subjected to dismissal without a hearing; 14,559 (11.1 percent) were dismissed after a hearing; and 54,392 (41.5 percent) were subjected to summary transfer procedures.<sup>65</sup> Those subjected to these

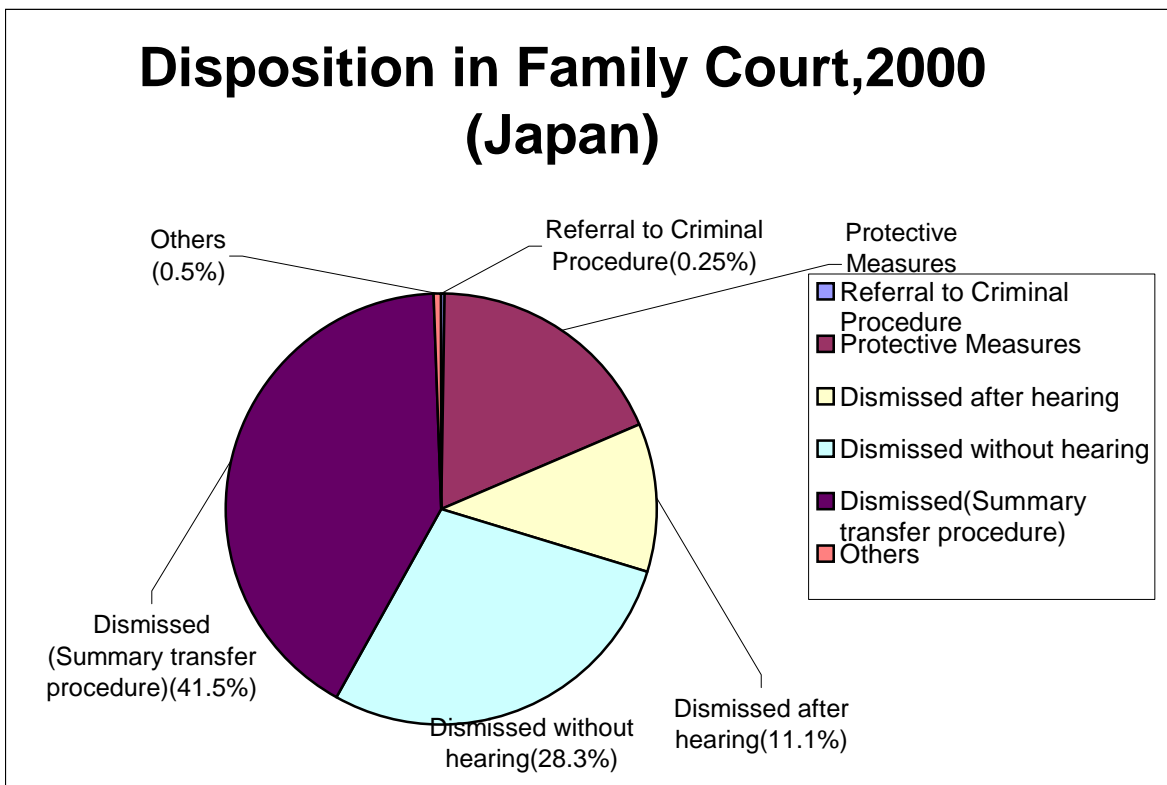
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<sup>64</sup>National Police Agency.

<sup>65</sup>National Police Agency.

dispositions and summary transfer procedures account for 106,022, or 80.9 percent of the total.<sup>66</sup> In other words, juveniles who were given protective measures through the Juvenile Law accounted for less than 20 percent of the total (Figure 8). This means that, although the ideal of juvenile courts demands that all juvenile delinquents be treated according to their needs, the majority of them are not treated as such. Methods to cope with or influence all juvenile delinquents are very important.

**Figure 8. Disposition of Juveniles in Family Court in Japan (2000)<sup>67</sup>**



Of course, in the case of dismissal after a hearing, the hearing by the judge and/or the interview by the family court probation officers may have an educational impact on the juvenile

<sup>66</sup>National Police Agency.

<sup>67</sup>National Police Agency.

concerned. And in the case of dismissal without a hearing, if an interview by a family court probation officer has taken place, the interview may be educational as well. But family court probation officers do not necessarily conduct interviews; instead, they may only examine the documents that the police have sent them. In the case of summary procedures, family courts, in principle, make a decision for dismissal without a hearing after conducting an examination of the documents only, and it is likely that family court probation officers do not conduct interviews either. As of 2003, there were about 1,600 family court probation officers in Japan, and they undertake investigations not only in cases of juvenile delinquency, but also in cases involving family affairs.<sup>68</sup>

In general, juvenile delinquents and misbehaving juveniles do not understand the consequences of their actions, either to the victims or to themselves. In light of sound upbringing of juveniles, it is important for juvenile delinquents and misbehaving juveniles to appreciate the wrongfulness of their activities. In almost all cases, police officers are the first people in touch with juvenile delinquents and misbehaving juveniles. And, in many cases, police officers are the only adults that such juveniles have anything to do with. The police encounter such juveniles in the first place, questioning them, giving them some guidance, releasing them to their parents, or taking formal action. It is obvious that juvenile courts and probation officers cannot handle all juvenile delinquents. Misbehaving juveniles are, of course, out of their jurisdiction. In this sense, the role of the police is very important.

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<sup>68</sup>Supreme Court of Japan.

## Criticism of the Juvenile Justice System

### *Criticism of the Protection-oriented Policy in the United States*

In the 1960's, the United States Supreme Court issued two landmark decisions – *Kent v. U.S.* (1966) and *In re Gault* (1967) – which forever changed the landscape of family/juvenile courts by requiring that youth be afforded due process similar to that provided to adults and that the informal proceedings of these courts became a thing of past.<sup>69</sup> Lawrence described the trends and reforms of Juvenile Justice System.

The juvenile court has come under criticism from both conservatives and liberals. Conservatives contend that the court is “soft on crime” when the primary goal is to treat juvenile offenders rather to hold them accountable for their crimes...

Liberals claim that formal processing through the juvenile justice system often aggravates the problems, and institutional confinement in detention centers and training schools only serves to further criminalize juveniles. Judicial critics denounce the lack of procedural safeguards and uniformity in the informal juvenile court process, with many juveniles receiving more punitive sanctions than adults for minor offenses that would result in no more than a fine in adult court...

The separate system of justice for juveniles was originally developed to identify and treat the youngsters' needs rather than to punish. This philosophy has come under criticism recently as some critics claim that the treatment approach has been ineffective in stemming the recent growth in juvenile crime. Others condemn the lack of procedural fairness in juvenile court proceedings and contend (along with the U.S. Supreme Court) that juveniles offenders often get the worst of both worlds: they receive neither the treatment<sup>70</sup> originally intended nor the legal safeguards received by adults in criminal court.

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<sup>69</sup>Greici 2001.

<sup>70</sup>Lawrence 1998.

Feld has noted that about a quarter of the states have redefined their juvenile codes' statements of purpose, deemphasizing rehabilitation and placing more importance on public protection and safety.<sup>71</sup>

But the liberal side of the argument has to be noted. Ruth, for example, wrote<sup>72</sup>:

Nonetheless, the degree of change in the juvenile sector has been seriously overstated. It is a little-known fact that our processes and punishments for youthful offenders have changed comparatively little since the mid-1970's when measured against the conservative shift that has taken place in adult crime response. The two spheres are not "converging," as some have suggested. Instead, the separate existence of a "juvenile justice system" has continued to matter a great deal.

#### *Amendment to the Japanese Juvenile Law in 2000*

In light of the recent increase of juvenile crime and the shock caused by felonious "illegal behavior" committed by elementary school students (by Japanese law, their acts are not crimes), fierce arguments concerning the reform of the juvenile justice system have arisen in Japan.<sup>73</sup> There have been arguments against the appropriateness of fact-finding procedures in juvenile trials and growing calls for more consideration to be given to crime victims. To deal with these arguments, the "Law for Partial Amendment to the Juvenile Law" was enacted in November 2000 and entered into force on April 1, 2001. The main points of the amendments are as follows<sup>74</sup>:

The first point is lowering the maximum age of juveniles liable to criminal punishments and introducing the principle of transfer to public prosecutors. Before the amendment, the

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<sup>71</sup>Feld 1988, 1993.

<sup>72</sup>Ruth and Reitz 2004.

<sup>73</sup>Sasaki 2000; Maeda 2000; Sawanobori 2000.

<sup>74</sup>Sawanobori 2003; Tamiya and Hirose 2003.

maximum age of juveniles liable to criminal punishments was 16. When the juvenile is aged 16 or more, and when the juvenile's past delinquencies, mental and physical maturity, details of the case, etc. indicate that it is appropriate to punish the juvenile by a criminal trial, the case is returned to the public prosecutors. In such instances, with the exclusion of certain exceptional cases, the public prosecutors must indict the juvenile at a district or a summary court. According to the amendment, juveniles under 16 are liable to criminal punishment provided that they were 14 or more years old when they committed the offense. It also calls for juveniles aged 16 or more who committed intentional criminal acts resulting in the death of victims, such as homicide or bodily injury/robbery resulting in death, to be, in principle, remanded to public prosecutors.

The second point is the introduction of the council court system and participation of public prosecutors and lawyers in juvenile trial proceedings. Before the amendment, hearings at family court were performed by one judge, even in complicated and difficult cases. Under the new amendment, the hearing may, depending on circumstances, be performed by a council body consisting of three judges. Furthermore, the amendment has made it possible for public prosecutors to attend hearings, upon decision by family courts, in cases where intentional criminal acts committed by juveniles have resulted in the death of the victim. In such cases, if juveniles do not have a lawyer in attendance, they must be accompanied by a public defender.

The third point is improving consideration for victims such as introducing systems for:

- hearing statements by victims or the immediate family (if the victim is deceased);
- notifying victims or the immediate family (when the victim is deceased) of the results of hearings in juvenile cases; and
- enabling victims or the immediate family (if the victim is deceased) to inspect or copy records (up to a certain degree) on facts the juvenile[s] involved.

This amendment mainly focuses on how to deal with serious crimes by juveniles. Lowering the maximum age of juveniles liable to criminal punishment may have a significant psychological impact on all juveniles. But only three juveniles who committed crimes when they were 14 or 15 were transferred to public prosecutors between April 2001 and March 2004.<sup>75</sup> This is because serious crimes committed by juveniles in their early teens are rare.

Introducing the council court system and participation of public prosecutors may improve fact-finding procedures; in addition, it may help the juveniles concerned understand the consequences of their actions. Consideration for victims also helps juvenile delinquents appreciate the wrongfulness of their activities.

Most juvenile delinquents, however, continue to be dismissed without a hearing and/or interview. In this sense, the impact of the amendment is limited. In light of prevention of juvenile crimes, methods of influencing juvenile delinquents in cases in which family court procedures do not have educational effects must be devised.

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<sup>75</sup>“Overview of the Practices of the Amendment of Juvenile Law ” Supreme Court of Japan. 18 April 2005 <[http://courtdomino2.courts.go.jp/tokei\\_misc.nsf/e2cf159e9940cdf249256b7400152dd9/cf6b263f795367d949256eb30016ee25?OpenDocument](http://courtdomino2.courts.go.jp/tokei_misc.nsf/e2cf159e9940cdf249256b7400152dd9/cf6b263f795367d949256eb30016ee25?OpenDocument)>.

## CHAPTER 3

### PRACTICES IN THE UNITED STATES AND JAPAN

#### **The Boston Gun Project's Operation Ceasefire**

As mentioned previously,<sup>76</sup> the enactment of gun control is a crucial factor in the deterrence of youth homicides in the United States. The Boston Gun Project's Operation Ceasefire was a problem-oriented policing initiative aimed at taking on the problem of homicide victimization among youth in Boston.

Boston experienced an epidemic of youth homicides between the late 1980's and early 1990's. Homicides committed by persons aged 24 and less increased from 23 victims in 1987 to 73 in 1990 and remained high until after the peak of the epidemic. Between 1991 and 1995, Boston experienced an average of 44 youth homicides per year. Before the youth violence epidemic between 1987 and 1989, annual counts of Boston youth homicides averaged slightly less than 30.

An interagency working group, with representatives of local and state police departments, corrections and probation agencies, prosecutors, federal agencies such as the ATF, street-level gang workers, and researchers, was established. The working group characterized the problem: Gang members made up less than one percent of all youth in the city, but accounted for 60 percent of youth homicide. Gang turf occupied less than 4 percent of the city, but accounted for 25 percent of all serious crimes and particularly high rates of firearms-related offenses. The research team studied youthful victims and perpetrators of homicides involving a knife or gun.

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<sup>76</sup>See subsection on "The Current Situation of Juvenile Delinquency in the United States" in this paper (pp 18-22).

Seventy-five percent of both groups had crime records involving, on average, more than nine prior offenses.<sup>77</sup>

The Boston Police Department conducted comprehensive street enforcement of even minor quality-of-life ordinances, intensive probation and parole supervising, service of outstanding warrants, and the like, along with gang mediation and other social services. They also focused on firearms trafficking. In one particularly violent gang neighborhood, they delivered a clear message to the effect that, unless the shooting stopped and guns were relinquished, gang members would be subjected to an intense level of scrutiny and, for those on probation and parole, severe personal restrictions. Gang members were told that the drug markets would shut down, warrants would be served, the streets would swarm with law enforcement officers (including a Federal presence), bed checks would be performed on probationers, rooms would be searched by parole officers, unregistered cars would be taken away, and disorderly offenses such as public drinking would be pursued.<sup>78</sup>

The working group sent a strong message that violence by gang members would not be tolerated in Boston. This intention was conveyed by police officers, street workers, and others. In addition, the working group held a series of semiformal meetings, called “forums” with gang members. In a certain forum, one assistant U.S. Attorney said: “... the U.S. Department of Justice cares about you. We can bring in the DEA...FBI...ATF... We can prosecute you federally ... and there’s no parole in the Federal system.... We don’t want to do that, and we won’t if we don’t have to, but it’s violence that will get that kind of attention.”

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<sup>77</sup>Kennedy 1997.

<sup>78</sup>Kennedy 1997.

Then one corrections officer said:

We know you're all caught up in something you can't control. We know it's dangerous out there. And we'll help, any way we can. If you need protection from your enemies, if you want a job, if your Mom needs treatment, if you want back into school, tell us, here's my phone number.... If you don't hear what's being said to you today, it's on your hands. Take what we're offering. I've been to over 100 funerals, and I'm not going to any more. The violence stops now.

Police officers, probation officers, and street workers reported that that word of the meeting spread quickly on the street, with gangs all over Boston talking about the forum, and that an unprecedented calm fell over the streets.<sup>79</sup>

Operation Ceasefire was implemented in mid-1996. Boston averaged 44 youth homicides per year between 1991 and 1995. In 1996, the number decreased to 26; in 1997, it decreased further to 13.<sup>80</sup>

## **Practices in Japan**

There are practices in Japan that are, in some ways, similar Boston's. Even though practices in Japan are not empirically evaluated, some ideas can be gleaned from them.

### *A Practice in Osaka*

Osaka, the third largest city in Japan, has long history of street crime. In order to overturn its reputation as the purse-snatching capital of the nation, crime became one of the most urgent issues not only for the Osaka Prefectural Police Headquarters, but also for the municipal government.

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<sup>79</sup>Kennedy, Braga, and Piehl 2001.

<sup>80</sup>Kennedy, Braga, and Piehl 2001.

In many cases, criminals who committed street robberies and purse-snatchings used stolen vehicles to escape. The Osaka Police Headquarters examined cases of street crimes in which the perpetrators were apprehended, and found that many juveniles who committed street robberies and purse-snatchings had stolen motorcycles or motorcycle parts, such as license plates, in preparation for their crimes and often drove stolen motorcycles without licenses. In light of these findings, the Osaka Police developed a strategy whereby community police officers who apprehended juveniles who had stolen motorcycles and traffic police officers who detained juveniles driving without licenses would transfer the cases to the Juvenile Crime Investigation Section. The Juvenile Crime Investigation Section would then carry out a more detailed investigation as to whether each juvenile had something to do with other street crimes. This would aid in identification and apprehension of delinquent groups. After that, the Juvenile Crime Investigation Section would transfer juvenile suspects to the Juvenile Delinquency Prevention Section, which would give them guidance, advising them and their families, with some help from volunteers.<sup>81</sup>

The Osaka Police believe that, through these practices, they were able to disband delinquent groups and reduce street crimes.

#### *A Practice in Hiroshima*

The activity of motorcycle gangs (*bosozoku*) was one of the main threats to the safety of life in Hiroshima, a city of about 1,000,000 people. This was not only because motorcycle gangs disturbed the peace with their noise and endangered people by driving recklessly, but also because members of motorcycle gangs committed street crimes like purse-snatching and robbery. Most members of motorcycle gangs were juveniles. Motorcycle gangs gathered noisily in the

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<sup>81</sup>Goto 2003; Shikata 2003.

downtown area; in many cases, crowds wanted to watch the motorcycle gangs and egged them on. Motorcycle gangs often have had relationships with members of crime organizations (*boryokudan*) that lent “backup support” in dealing with other motorcycle gangs. In some cases, juveniles who were motorcycle gang members become *boryokudan* members through such relationships.

The city of Hiroshima passed an ordinance to regulate threatening and frightening acts in public places, while Hiroshima Prefecture enacted regulations to regulate support of motorcycle gangs by *boryokudan* members. These new rules enabled the police to conduct more effective crackdowns on motorcycle gangs.

In most prefectural police headquarters in Japan, juvenile crimes are dealt with by a division of the community safety department, while motorcycle gangs are dealt with by a division of the traffic department. The Hiroshima Police Headquarters restructured its organization and established a motorcycle gang division in the community safety department. This helped the police conduct stronger crackdowns on motorcycle gangs.<sup>82</sup>

The Hiroshima Police feel that, through these practices, they were able to reduce the number of members of motorcycle gangs. The number of emergency calls (110 calls) concerning motorcycle gangs subsequently decreased.

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<sup>82</sup>Ueoka and Ikeda 2002; Shikata 2003.

## CONCLUSION

### Deterrence of Crime

Needless to say, maintaining public safety is one of the basic responsibilities of the government. As Hart has said, general prevention is the primary justification for maintaining a system of criminal punishment. Criminal laws exist and are enacted in order to discourage proscribed behaviors.<sup>83</sup> It is obvious that ordinary people believe that one of the main purposes of criminal justice is to maintain a safe society by preventing crimes and that criminal justice can deter crimes.

Most people think that criminal justice deters crimes as follows. Most people behave rationally; at least they avoid unpleasantness. Punishment is an unpleasant consequence of a crime, so ordinary people avoid committing crimes. Torny and Farrington said<sup>84</sup>: "... enactment and enforcement of criminal laws affect behavior directly and indirectly and ... law enforcement must be a component of any country's effort to protect its citizens from crime ... some potential offenders are deterred by fear of sanctions ... some crimes are prevented by confinement of some offenders or otherwise controlling their movements or activity."

All offenders, however, are not necessarily arrested, and all arrested criminals are not necessarily punished. At the same time, certain kinds of crimes result from poverty, and, in such cases, crime cannot be deterred unless the root cause is eliminated. What is more, people do not always behave rationally. As Torny and Farrington have said<sup>85</sup>: "Different crimes have different causes, different offenders commit crimes for different reasons, and sensible prevention

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<sup>83</sup>Hart 1968.

<sup>84</sup>Torny and Farrington 1995.

<sup>85</sup>Torny and Farrington 1995.

policies should take account of those differences... The diversity of crimes and criminals is one reason why law enforcement is a necessary but not sufficient strategy for crime prevention.”

What is important is that the authorities focus on specific cases, whether they succeed or fail, and examine their purposes, targets, and how and why they took certain measures. As Torny and Farrington have said<sup>86</sup>: “It is important to investigate to what extent different prevention strategies are differentially effective with different kinds of offenders, offenses, and victims, in different places and times.”

### **The Mission of the Police**

The view of police as law-enforcement officers or the front end of the criminal justice system is very common in both the United States and Japan. Torny and Farrington further write<sup>87</sup>: “(H)owever, there is an emerging consensus among researchers and public officials in many countries that the potential effects of law enforcement are limited and modest and that public safety policies that rely solely or primarily on law enforcement are incomplete and insufficiently protect the public.”

Kelling argues that:

[The model of police as “law enforcement” and the “front end of the criminal justice system”] lacks the idea of prevention, except in a narrow, technical sense: crime prevention would be achieved through the police role at the front end of the criminal justice system, that is, by making arrests. Police officers were expected to make arrests *automatically* – not using judgment or discretion to manage situations (and maybe keeping them from getting out of hand), but responding to crises already in progress.”<sup>88</sup>

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<sup>86</sup>Torny and Farrington 1995.

<sup>87</sup>Torny and Farrington 1995.

<sup>88</sup>Kelling 1996.

Kelling also posited the collapse of the law-enforcement strategy and an evolution of a new community-based paradigm of crime prevention and control that is revolutionizing criminal justice.<sup>89</sup>

As Kennedy et al. said:

Perhaps most fundamental lesson here [the Boston Gun Project] is that the basic approach the project followed – serious sustained attention to an important problem, with ambitious goals – is worthwhile. This approach is an enormous departure from the reactive “we’ll send another car” mode that was typical of policing until recently, and it may be relevant not only in matters of crime and criminal justice, but in other aspects of the public sector as well.<sup>90</sup>

Practices in both the United States and Japan, mentioned above,<sup>91</sup> are part of community-based paradigms of policing. The community-based model can be understood clearly when compared to the traditional “criminal justice model.” Kelling and Coles summarized the two models shown in the figure below.<sup>92</sup>

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<sup>89</sup>Kelling 1996.

<sup>90</sup>Kennedy, Braga, and Piehl 2001.

<sup>91</sup>See Chapter 3.

<sup>92</sup>Kelling 1996.

**Figure 9. The “Criminal Justice System” Versus Community-based Prevention**

	<b>Criminal Justice System</b>	<b>Community-Based Prevention</b>
<b>The Crime Problem</b>	INDEX CRIME: the more serious the crime, as determined by traditional measures, the more energy criminal justice agencies should expend dealing with it.	DISORDER, FEAR, SERIOUS CRIME: seriousness determined by context, neighborhood priorities, and the extent to which problems destabilize neighborhoods and communities
<b>Priority in Crime Control</b>	APPREHEND AND PROCESS OFFENDERS	PREVENT AND CONTROL CRIME, RESTORE AND MAINTAIN ORDER, REDUCE CITIZEN FEAR
<b>Role of Citizens</b>	AID POLICE: Since crime control is best left to criminal justice professionals, citizens “aid” professionals in controlling serious crime by calling the police, being good witnesses, and testifying against wrongdoers; all else is vigilantism	CITIZENS ARE KEY: control of disorder, fear, and crime has its origins in the “small change” of neighborhood life; citizens set standards for the neighborhood and/or maintain order; police and other criminal justice agencies support and aid citizens, especially in emergencies.
<b>Police, Prosecutor, Court and Correction: Structure</b>	CENTRALIZED ORGANIZATION	DECENTRALIZED AGENCIES: allow for flexible responses to local problems and needs.
<b>Methods</b>	PROCESS INDIVIDUAL CASES: when crimes occur.	PROBLEM-SOLVING APPROACH: identify and solve larger problems within which individual cases are embedded.
<b>Use of Discretion</b>	DISCOURAGE, UNRECOGNIZED: assumption that little guidance is needed for law enforcement processing; clear and precise rules and regulations developed as required; attempt to limit/eradicate discretion with mandatory arrest and prosecution policies, determinate sentences	FUNDAMENTAL AND IMPORTANT TO CRIME CONTROL EFFORTS: controls developed through statements of legislative intent; carefully crafted laws that address the complexity of issues; formulation of guidelines, procedures, rules, and regulations with input from citizens and line police officers.
<b>Order v. Liberty Interest</b>	INDIVIDUAL LIBERTY INTERESTS PREDOMINATE: most nonviolent deviance should be tolerated in the name of individual liberty interests.	BALANCED: liberty interests not absolute, but balanced against the need to maintain basic levels of order for neighborhoods and communities to function.
<b>Public-Private Relationship</b>	POLICE NEUTRAL AND REMOVED: should intrude into community life as little as possible.	POLICE ACT ON BEHALF OF COMMUNITY: are intimately involved in local life, but also act justly, equitably, in accord with established legal principles.

The models mentioned above are just “ideal types,” which help us more clearly comprehend various aspects of policing. Each police force is somewhat a mixture of these two types.

The community policing movement has been especially prominent in the United States, changing the culture of police officers. The situation in Japan is completely different. To the Japanese, “community policing” may be something like apple pie to the Americans. It is considered the standard. Of course, some pies taste bad and are even rotten. But, in Japan, the idea of community policing has been the model of how police officers should behave in the community.<sup>iii</sup> Recently, when scandals have been unearthed, public opinion has said that the police have lost their basic and traditional values for serving the community.

Though the systems are different, there are certain practices that are common to the United States and Japan. Before they devised strategies with clear definitions of targeted groups and common goals among participating agencies, the police might have worked to investigate juvenile crimes, but they could not prevent them. The performance of the police is greatly influenced by what the police themselves think their role and mission are. This role should be redefined for more effective crime prevention.

### **What Can Japan Learn from the United States?**

Some important lessons can be drawn from practices in both the United States and Japan. One important common point is the power of frontline knowledge and perspectives. In both countries, frontline practitioners know what is and is not possible in each case. They know what kinds of strategies are likely to be effective. They can design intervention plans that are well matched to the capacities of the agencies concerned.<sup>93</sup>

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<sup>93</sup>Kennedy, Braga, and Piehl 2001.

The second shared point is that each country's practices are composed of well-coordinated combinations of law enforcement and crime prevention. These procedures are neither "zero-tolerance" crackdowns nor mere campaigns for crime prevention.<sup>94</sup>

The third point that they have in common is that, in each case, the authorities sent a clear message to the specific targeted group of teenagers or young adults. These messages have been very effective warnings that their bad behavior would no longer be tolerated anywhere, and, if they continued this behavior, it would result in severe punishment.<sup>95</sup>

There was one characteristic, however, that the Boston Gun Project had that Japanese practices did not. That was the power of the "outside eye," especially that of researchers. In the Boston case, researchers' analysis – where the guns were coming from, what guns gang members favored, who was killing and being killed, what role was played by gangs and gang conflicts – kept the working group moving on solid ground and helping participating agencies comprehend the logic of the proposed intervention.<sup>96</sup>

From investigating practices in both countries, we can understand there are some things in common that helped them succeed. One could say these are just regular measures, but it is not so easy to ascertain so-called regular methods suitable for each particular context. We should be neither too optimistic nor too cynical. Though there is no magic wand to solve all problems, certain actions work in specific situations. A lot can be learned by putting together the lessons derived through successes and failures in the two countries.

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<sup>94</sup>Kennedy, Braga, and Piehl 2001.

<sup>95</sup>Kennedy, Braga, and Piehl 2001.

<sup>96</sup>Kennedy, Braga, and Piehl 2001.

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<sup>i</sup>Penal Code offenses mean crimes defined in the Penal Code (excluding deaths or injuries through negligent conduct of business in traffic accidents) and those defined in the "Law for Prevention and Disposition of Robbery, Theft, etc.," the "Law for Punishment of Acts of Violence, etc.," the "Law Concerning Duels," the "Explosive Control Punishment Law," the "Law to Punish Aircraft Seizure and Other Related Crimes," the "Law to Punish Dangerous Acts for the Safety of Aviation," the "Law to Punish Compulsory Acts by Hostage Taking," the "Special Measures Law Concerning Prevention of Poisoning Food and Beverages on the Market," and the "Law Concerning Prevention of Injuries by Sarin," and others.

<sup>ii</sup>The Broken Window Theory underscores the significance of order-maintenance activities by the police and uses the analogy of a broken window to describe the relationship between disorder and crime: "If a window in a building is broken and left unrepaired, all the rest of the windows will be broken. One unrepaired broken window is a signal that no one cares, and so breaking more windows costs nothing." See Wilson and Kelling 1982 and Kelling and Cole 1996

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<sup>iii</sup>Community policing in Japan is based the *koban* (police boxes or posts) and *chuzaisho* (residential police boxes or posts) systems. Nearly 40 percent of the police officers in Japan are community police officers and most community police officers are assigned to *koban* or *chuzaisho*. There are about 15,000 *koban* and *chuzaisho* nationwide. *Koban* are common in urban areas and are usually staffed around-the-clock by at least three community police officers on a three-day, three-shift basis. *Chuzaisho* are generally located in rural areas. In principle, one community police officer is assigned to a community and lives with his family in quarters attached to the *chuzaisho*.

Duties in *koban* or *chuzaisho* include: 1) keeping a close eye on nearby activities; 2) patrolling on beats either on foot, by bicycle, or by car; 3) routine visits to houses and offices on their beats to give advice on crime and accident prevention, listening to residents' concerns, and hearing complaints or suggestions for police services; 4) publication of information pamphlets reporting on crimes and accidents in their beats and giving tips on crime prevention. Community police officers volunteer off-duty to teach judo or kendo to children and also participate in various community gatherings. There are about 13,700 *koban* (*chuzaisho*) liaison councils nationwide. Members of each council consist of community residents from various walks of life and they express opinions, make requests, and study and discuss community issues with the police to support community security activities.

The system of police boxes in Japan dates back to the first police box in Tokyo in 1874. Police boxes were in place around the country by 1888; thus, the prototype of Japanese community policing that consists of *koban* and *chuzaisho* was generated. The Japanese police system in the late 19<sup>th</sup> century was highly centralized, and its basic characteristic was as the instrument of the government to control the people. But street-level activities by the community police officers were basically oriented to the interests of the community and were supported by the residents.

Citizens feel a great sense of security from the presence of the police officers in *koban* or *chuzaisho*. Newly recruited policemen are assigned to community police and work at the *koban* after their initial training. Versed in community relations, police officers respond to citizens' requests with care and consideration. Since it is the visibility of the police officers in a *koban* that makes citizen feel safe, the *aki-koban* " (that is, literally, a vacant police box, meaning a police box where there is no police officer on duty or where police officers are always absent because they are responding to emergency calls, etc.) is of great concern to the residents. Recent rapid increases in crime in Japan have caused concern and become a political issue, and, in his General Policy Speech to the 162nd Session of the Diet (21 January 2005), Prime Minister Koizumi pledged himself to increase the number of police officers in order to reduce *aki-koban*.