

On-duty lawyer system [*Toban bengoshi seido*]

The on-duty lawyer system provides those who are being investigated by the police the chance to receive legal advice. On receiving a request from the suspect, a member of his family or an acquaintance, the lawyer on standby (on-duty) will meet with the suspect and offer free consultation. This system is provided by bar associations throughout Japan.

The difference between a suspect and an accused

According to Article 34 of the Japanese Constitution, a suspect has the right to an attorney. While under investigation, the individual is referred to as the suspect (*higisha*) and an accused (*hikokunin*) after being indicted. For an accused who does not have the economic means to employ a lawyer, the state provides an 'appointed attorney' (*kokusen bengonin*) whose expenses are covered by the state.

Since there is no appointed attorney for suspects prior to indictment, the individual must pay for a lawyer's services. The on-duty lawyer system (*toban bengoshi seido*) was therefore established for those who could not pay for a lawyer's services or who did not know how to request the services of a lawyer.

Requesting an on-duty lawyer

A suspect or a family member, friend or acquaintance can request an on-duty lawyer.

The lawyer on duty on the day of contact will bring an interpreter for the meeting with the suspect. The lawyer who meets the suspect will advise on the suspect's status, rights and prospects thereafter and provide an outline of criminal procedures. The lawyer will also check if illegal investigations are being carried out. No fees are incurred for the first visit. However, after this initial visit, the lawyer is considered to be privately appointed and will require lawyer's fees.

Use of the Legal Aid System

In circumstances where it is difficult to pay lawyer's fees, the Japan Federation of Bar Associations provides a system of assistance. To apply for legal aid, in principle, the following conditions should be met: (1) innocence is contested, (2) the suspect needs to be defended prior to indictment (3) the suspect is under 20 years old, etc.

If required, the on-duty lawyer will help with the application procedures. If the application is successful, a predetermined amount of the lawyer's fees will be paid by the Japan Federation of Bar Associations. In principle, the deferred fees must be reimbursed.

Enquiries Hyogo Prefecture Bar Association Criminal Defense Center 078-341-2940
(*Hyogo-ken Bengoshi-kai Keiji Bengo Center*)

Note For details, ask a person who understands Japanese to enquire for you.