

WORLD FACTBOOK OF CRIMINAL JUSTICE SYSTEMS

Taiwan, Republic of China

by

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GENERAL OVERVIEW

1. Political System.

The Republic of China on Taiwan (R.O.C.) has a democratic government based on Dr. Sun Yat-Sen's Three Principles which are: of the people, by the people and for the people. The government has five branches: executive, legislative, judicial, examination, and inspection. The duties and powers of each branch operate to check and balance the others to prevent any one branch from controlling the government. Fundamentally, criminal laws are created by legislatures, they are interpreted in the courts, and they are enforced through the powers of the Premier.

2. Legal System.

The Republic of China employs an adversarial legal system with a prosecutor representing the plaintiff and a defense attorney representing the defendant. The Judge has the ultimate power to make a final decision on sentencing affairs. In addition to the civilian legal system a military justice system also exists but on a much smaller scale.

3. History of the Criminal Justice System.

The Republic of China on Taiwan's criminal justice system has its roots in Continental law but the spirit of Common law has been inserted into the system. The criminal justice system is

not much different from the Western system of justice that is comprised of police, prosecutions, courts and correction.

The police force in this country is divided into the national and local levels. They are both under the jurisdiction of the Ministry of Interior through the National Police Administration.

The prosecution and correction branches are under the jurisdiction of the Ministry of Justice through the Department of Prosecution and the Department of Corrections.

The Court system is under the jurisdiction of the judicial branch. The judicial branch is a higher level that is compatible with the Executive.

## CRIME

### 1. Classification of Crimes.

\* Legal classification. Crimes are primarily determined by the criminal law. There are many types of crimes such as murder, manslaughter, forcible rape, robbery, aggravated assault, burglary, larceny theft, arson, embezzlement, and fraud. According to Crime and Analysis, published annually by the Ministry of Justice, crimes can be divided into two major categories: 1) property crimes such as theft, fraud, embezzlement; and 2) violent crimes such as homicide, assault, robbery, intimidation (1991).

\* Age of criminal responsibility. Information not available.

\* Drug offenses. Information not available.

### 2. Crime Statistics.

The following data has been compiled by the Ministry of Interior from information given them by the Criminal Investigation Bureau of the National Police Administration.

\* Murder. There were 949 convicted homicide offenders in 1991 for a rate of 0.87 per 10,000 population.

\* Rape. Information not available.

\* Theft. There were 10,137 convicted theft offenders in 1991 for a rate of 9.29 per 10,000.

\* Drug Offenses. There were 11,685 convicted drug offenders in 1991 for a rate of 10.71 per 10,000.

\* Crime regions. Information not available.

## VICTIMS

1. Groups Most Victimized by Crime. Information not available.
2. Victims' Assistance Agencies. Information not available.
3. Role of Victim in Prosecution and Sentencing. Information not available.
4. Victims' Rights Legislation. Information not available.

## POLICE

1. Administration.

Taiwan has a unified or centralized police system that is very different from the United State's localized or decentralized police system. The police functions in Taiwan are clearly defined in the Police Act as follows: 1) to maintain public order, 2) to protect social security, 3) to prevent all dangers, and 4) to promote the welfare of all people. The police are responsible for enforcing the law and maintaining public order but are also responsible for crime prevention and the protection of the lives and property of others. They are also assigned particular duties which are not practiced in many countries. These include, 1) management of exit from and entry into Taiwan; the police handle immigrations affairs, 2) civil defense and disaster rescue, 3) fire prevention and fire fighting, 4) order maintenance and riot control, 5) assistance for other government affairs whenever necessary.

Due to the perception of an external security threat almost any crime, but especially violent crime, is seen by the public as a threat to internal security or solidarity and therefore should be suppressed or cleared as soon as possible. The police clearance rates are therefore rather high. A beat system of community policing and an informers network used by police detectives contribute to the high police efficiency.

2. Resources.

\* Expenditures. Information not available.

\* Number of police. There were 75,517 police officers in 1990. There were 20,025 directly

under the jurisdiction of the National police administration; 12,277 under the jurisdiction of Taipei and Kaoshong City; and 43,215 under the jurisdiction of Taiwan Province.

### 3. Technology.

\* Availability of police automobiles. Information not available.

\* Electronic equipment. Information not available.

\* Weapons. Information not available.

### 4. Training and qualifications.

The training for the police officer requires at least 1 to 2 years. For senior officers that are above the sub-lieutenant level, 2 to 4 years of professional training at the Central Police College is required. Recruits must pass a written exam and physical fitness test. There are also age, health, and height requirements.

### 5. Discretion.

\* Use of force. According to the Law Regulating the Use of Police Arms, conditions under which deadly force may be employed include: 1) In the avoidance of an extreme incident and in keeping the social peace. 2) To control disturbances or riots that could cause harmful effects on the social order. 3) To prevent the escape and the resistance of the convicted offender. 4) To prevent the suspect from endangering the full enforcement of police duty, and/or when knowing the suspect may pose a risk of physical harm to others. 5) To prevent imminent physical danger to police requiring the use of deadly force. 6) To stop a suspect who is carrying weapons and attempting to hurt others and who has not followed a police order to stop.

\* Stop/apprehend a suspect. According to Criminal Procedure Law, a stop/apprehension can be conducted without warrant under the following circumstances: 1) The suspect is identified as the perpetrator by eyewitnesses. 2) The convicted criminal is attempting to escape. 3) When the officer knows the person committed the crime and he/she refuses to be frisked by the police. 4) When arresting a suspect who has committed a crime which carries a possible death sentence or at least five years in prison.

\* Decision to arrest. Information not available.

\* Search and seizure of property. Police must obtain search warrants from a prosecutor in order to search or seize property or persons. A search may be conducted without a warrant when it is known that the suspect committed the crime.

\* Confessions. Information not available.

6. Accountability. Information not available.

## PROSECUTORIAL AND JUDICIAL PROCESS

### 1. Rights of the Accused.

\* Rights of the accused. From investigatory to sentencing stages, the accused has the right to counsel, to resist illegal arrest, to resist illegal search and seizure, and the right to appeal to higher courts.

\* Assistance to the accused. The accused can ask for a defense lawyer at any stage of the process and a public defender will be assigned if the suspect is indigent.

### 2. Procedures.

\* Preparatory procedures for bringing a suspect to trial. Information not available.

\* Official who conducts prosecution. The prosecutor is the criminal investigative agency with the power to bring cases into court. The R.O.C. uses an inquisitorial justice system which presumes that prosecutors should prosecute all crimes that are known or reported to him. Prosecutors are appointed and promoted by the government.

\* Alternatives to trial. There is no plea-bargaining by the prosecutor's office or by any other actor in the system. However, the prosecutors are granted certain discretionary powers that allow them to release some offenders, usually those who have committed a minor offense, without prosecution.

In recent years the government has initiated a lenient penal policy towards offenders due to the heavy caseload in prosecutor's offices. Prosecutors, based on certain guidelines and within their discretionary power, are required to release as many offenders as possible. Those eligible are offenders who have committed misdemeanors and are first-time or accidental criminals that are at a low risk of recidivating

as well as those who are sick and not suitable for penal punishment.

\* Proportion of prosecuted cases going to trial. According to statistics released by the Ministry of Justice, the proportion of those released without prosecution is about 20 percent yearly. The conviction rate of those that go to trial is more than 90 percent.

\* Pre-trial incarceration. Information not available.

\* Bail procedure. Information not available.

\* Proportion of pre-trial offenders incarcerated. Information not available.

## JUDICIAL SYSTEM

### 1. Administration.

The Republic of China's courts system is divided into three levels: district court, higher court and Supreme Court. Judges are appointed for life and are protected by the Constitution so as to make independent decisions without outside interferences.

### 2. Judges.

\* Number of judges. The ratio of judges per 10,000 population in 1990 was 0.45.

\* Appointment and qualifications. Judges are appointed and promoted by the government. They have to pass very competitive bar examinations and take one and a half years of practical training in order to be considered qualified.

The judges of the Supreme Court serve 9-year terms. At the end of each term a newly selected judge is appointed by the President. A judge that is currently serving can be appointed again and all appointments are subject to the approval of the National Assembly.

3. Special Courts. Information not available.

4. Procedure. Information not available.

## PENALTIES AND SENTENCING

### 1. Sentencing Process.

\* Who determines the sentence? The judge makes

the final decision on criminal sentencing affairs. The report profiles the offender's criminal, personal, and professional history and includes the judge's evaluation and sentence decision for the offender.

\* Is there a special sentencing hearing? Sentencing hearings are generally offered for every suspect. There is no jury in Taiwan's system.

\* Which persons have input into the sentencing process? Information not available.

## 2. Types of Penalties.

\* Range of penalties. The range of typical penalties in use is: fines, probation, general prison terms, life sentence, and the death penalty. There is a relative indeterminate sentencing system; the legislature sets up the type and range of sentence, within which the judge can make the decision.

The percentage of convicted offenders sentenced to probation increased from 3.12 in 1982 to 12.06 in 1986. It is expected that the percentage will increase to more than 20 percent by the end of 1994.

\* Death penalty. The death penalty exists in Taiwan. Recent polls show that 78% of citizens still favor the death penalty. Methods of execution in the system include: lethal gas, lethal injection, and firing squad.

## PRISON

### 1. General Description.

\* Number of prisons and type. There were 19 correctional institutions in 1990: 4 prison camps, 2 drug treatment institutions, 1 juvenile prison, 12 prisons of both maximum and medium security.

\* Number of prison beds. The total capacity for corrections was 21,923 in 1990 with 21,130 beds for males and 793 beds for females.

\* Average daily/number of prisoners. The inmate population was 34,770 on July 31, 1992 with 32,614 male prisoners and 2,156 female prisoners. The number of incarcerated inmates increased from 10,241 in 1977 to 25,641 in 1986, to 34,770 in 1992. That is a 300% increase in 15 years.

\* Number of annual admissions. There were 20,833

(male, 19,448; female, 1,345) admissions into correctional institutions in 1991.

\* Actual or estimated proportions of inmates incarcerated.

Crime type	Annual Admissions	Daily Average
Drug crimes	4,081 (19.6%)	Not Available
Violent crimes	5,949 (28.6%)	Not Available
Property crimes	7,905 (37.9%)	Not Available
Others	2,898 (13.9%)	Not Available
Total	20,833 (100 %)	

## 2. Administration.

\* Administration. In the correctional institution the warden is ultimately responsible for the operation of the prison. Wardens are appointed by the Minister of Justice. As a result, the warden does not have considerable power to develop prison policy, but must rely on orders generally from the Ministry of Justice through the Department of Corrections.

\* Prison guards. The estimated number of correctional officers in all correctional institutions as of June 1992 was 2,977.

\* Training and qualifications. Correctional officers are required to be at least 22 years old and have a basic high school diploma. They must be in good physical condition and have committed no crimes. Rank and file correctional officers are required to go through 5 months of training before formally performing their duty.

\* Expenditure on the prison system. Information not available.

\* Number of prisoners awaiting trial. Information not available.

## 3. Prison Conditions.

\* Remissions. As a means of reducing prison overcrowding and rehabilitating inmates, prison officials have relaxed the parole criteria. Inmates who have served one-third of their sentences and life prisoners who have served 10 years of imprisonment are eligible for parole. Statistics have shown that approximately 90% of those who apply for parole can get it and parole accounts for about 20% of those who are released from prisons.



\* Work/education. Counseling, job-skill training, make-up education and prison industry are all provided but are not mandatory.

\* Amenities/privileges. Community-based treatment is just beginning. College students voluntarily participate in juvenile reform and many Citizen Voluntary Probation Associations have been established across the country. They provide necessary assistance to those who are under parole or probation. There is also the After-Care Foundation which has financed several job training centers and factories. These allow ex-convicts to stay for short periods of time before they reenter the society.

#### EXTRADITION AND TREATIES

\* Extradition. Information not available

\* Exchange of prisoners. Information not available

\* Specified conditions. Information not available.

#### SOURCES

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