

Statement of Claim

January 23, 2024

To: the Osaka District Court

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Defendant: The Government of Japan

The State Minister of Justice and Representative
of the Defendant's Administrative Agency

Ryuji Koizumi

Disposal Administrative Agency, Tokyo Regional
Correction Headquarters Superintendent

Kenichi Matsumura

Disposal Administrative Agency, Osaka Regional
Correction Headquarters Superintendent

Kazuhito Egashira

Execution Information Disclosure Request Case

Value of the lawsuit value: ¥1,600,000

Stamp duty: ¥13,000

(Exhibits)

1 Documentary Evidence 1 copy each

2 Statement of Evidence 6 copies

3 Power of Attorney

2 copies

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Relief Claimed

Section 1. Disclosure of Documents Regarding Tetsuo Kawanaka

1. Minister of Justice

- (1) The Minister of Justice shall revoke the decision to withhold each administrative document listed in Annex Document Catalog No. 1-1 dated August 10, 5th year of Reiwa, as specified for the plaintiffs.
- (2) The Minister of Justice shall make an order to disclose each administrative document listed in Annex Document Catalog No. 2-1 to the plaintiffs.

2. Osaka Regional Correction Headquarters Superintendent

- (1) The Osaka Regional Correction Headquarters Superintendent shall revoke the decision to withhold each administrative document listed in Annex Document Catalog No. 1-2 dated July 25, 5th year of Reiwa, as specified for the plaintiff.

- (2) The Osaka Regional Correction Headquarters Superintendent shall make an order to disclose each administrative document listed in Annex Document Catalog No. 2-2 to the plaintiff.

Section 2. Disclosure of Documents Regarding Norio Nagayama

1. Minister of Justice

- (1) The Minister of Justice shall revoke the decision to withhold each administrative document listed in Annex Document Catalog No. 1-3 dated August 10, 5th year of Reiwa, as specified for the plaintiff.
- (2) The Minister of Justice shall make an order to disclose each administrative document listed in Annex Document Catalog No. 2-3 to the plaintiff.

2. Tokyo Regional Correction Headquarters Superintendent

- (1) The Tokyo Regional Correction Headquarters Superintendent shall revoke the

decision to withhold each administrative document listed in Annex Document Catalog No. 1-4 dated July 31, 5th year of Reiwa, as specified for the plaintiff.

- (2) The Tokyo Regional Correction Headquarters Superintendent shall make a decision to disclose each administrative document listed in Annex Document Catalog No. 2-4 to the plaintiff.

Section 3. Disclosure of Documents Regarding Yoshio Fujinami

1. Minister of Justice

- (1) The Minister of Justice shall revoke the decision to withhold each administrative document listed in Annex Document Catalog No. 1-5 dated August 10, 5th year of Reiwa, as specified for the plaintiff.
- (2) The Minister of Justice shall make a decision to disclose each administrative document listed in Annex Document Catalog No. 2-5 to the plaintiff.

2. Tokyo Regional Correction Headquarters Superintendent

- (1) Tokyo Regional Correction Headquarters Superintendent shall revoke the decision to withhold each administrative document listed in Annex Document Catalog No. 1-6 dated July 31, 5th year of Reiwa, as specified for the plaintiff.

- (2) Tokyo Regional Correction Headquarters Superintendent shall make an order to disclose each administrative document listed in Annex Document Catalog No. 2-6 to the plaintiff.

Section 4. Disclosure of Documents Regarding Michitoshi Kuma

1. Minister of Justice

- (1) The Minister of Justice shall revoke the decision to withhold the undisclosed sections listed in Annex Document Catalog No. 2-7 of the partial disclosure decision dated August 25, 5th year of Reiwa, regarding each administrative document listed in Annex Document Catalog No. 1-7 for the plaintiff.

- (2) The Minister of Justice shall make an order to disclose each administrative document

listed in Annex Document Catalog No. 2-7 to the plaintiff.

Section 5. Disclosure of Documents Regarding Shoko Asahara, also known as Chizuo Matsumoto

2. Minister of Justice

(1) The Minister of Justice shall revoke both of the following decisions for the plaintiff.

- a. Regarding the partial disclosure decision dated August 3, 5th year of Reiwa, concerning each administrative document listed in Annex Document Catalog No. 1-8, specifically revoking the decision to withhold the undisclosed portions listed in Annex Document Catalog No. 2-8.
- b. Regarding the partial disclosure decision dated September 4, 5th year of Reiwa, concerning each administrative document listed in Annex Document Catalog No. 1-9, specifically revoking the decision to withhold the undisclosed portions listed in Annex Document Catalog No. 2-9.

(2) The Minister of Justice shall make a decision to disclose each administrative

document listed in Annex Document Catalog No. 2-8 and 2-9 to the plaintiff.

3. Tokyo Regional Correction Headquarters Superintendent

(1) The Tokyo Regional Correction Headquarters Superintendent shall revoke the decision to withhold the undisclosed sections listed in Annex Document Catalog No. 2-10 of the partial disclosure decision dated September 1, 5th year of Reiwa, concerning each administrative document listed in Annex Document Catalog No. 1-10 for the plaintiff.

(2) The Tokyo Regional Correction Headquarters Superintendent shall make a decision to disclose each administrative document listed in Annex Document Catalog No. 2-10 to the plaintiff.

Section 6. Disclosure of Documents Regarding Keizo Okamoto (formerly "Kawamura")

1. Minister of Justice

(1) The Minister of Justice shall revoke both of the following for the plaintiff:

- a. Regarding the partial disclosure decision dated August 3, in the 5th year of Reiwa, concerning each administrative document listed in Annex Document Catalog No. 1-11, specifically revoking the decision to withhold the undisclosed portions listed in Annex Document Catalog No. 2-11.
- b. Regarding the partial disclosure decision dated September 4, in the 5th year of Reiwa, concerning each administrative document listed in Annex Document Catalog No. 1-12, specifically revoking the decision to withhold the undisclosed portions listed in Annex Document Catalog No. 2-12.

(2) The Minister of Justice shall make a decision to disclose each administrative document listed in Annex Document Catalog No. 2-11 and 2-12 to the plaintiff.

2. Osaka Regional Correction Headquarters Superintendent

(1) The Osaka Regional Correction Headquarters Superintendent shall revoke the decision to withhold the undisclosed portions listed in Annex Document Catalog No. 2-13 of the partial disclosure decision dated August 25, 5th year of Reiwa, concerning each administrative document listed in Annex Document Catalog No. 1-13 for the

plaintiff.

- (2) The Osaka Regional Correction Headquarters Superintendent shall make a decision to disclose each administrative document listed in Annex Document Catalog No. 2-13 to the plaintiff.

Section 7. Seek a judgment that the litigation costs shall be borne by the defendant.

Cause of Claim

This matter is a request for disclosure of information to clarify the situation of executions in Japan. In Japan, executions are stipulated to be carried out by hanging (Penal Code Article 11). There are significant issues with this method of execution in Japan, as well as with the core procedures surrounding it. However, information regarding executions in our country is scarcely made public. Therefore, it is not possible to verify whether executions (by hanging), which are considered problematic, are carried out in accordance with the law and properly, nor can it be determined whether they are not considered "cruel punishment" under current circumstances. Furthermore, it is not possible to widely inform citizens about the reality of executions.

Therefore, the lawyers specializing in death penalty cases and the journalists who have covered executions are filing this lawsuit seeking disclosure of administrative documents related to executions in order to shed light on the reality of the death penalty, particularly in prominent cases mentioned in previous records.

Section 1. Parties

1. Plaintiffs

(1) Plaintiff Yukio Oda (hereinafter referred to as "Plaintiff Oda") is a lawyer belonging to the Osaka Bar Association and concurrently serves as a professor (criminal law) at the Ritsumeikan University School of Law. He is also the defense counsel for Keizo Okamoto (formerly Keizo Kawamura) in a retrial request and served as a member of the Osaka Detention Center Inspection Committee from April 2023 to 2025.

(2) Plaintiff Noriyuki Imanishi (hereinafter referred to as "Plaintiff Imanishi") is a freelance journalist who writes articles and contributes to publications such as Weekly Asahi. He has been active in covering events such as the Atsuko Muraki case, the Fukushima Daiichi nuclear disaster, and death penalty cases.

2. Administrative Agencies Responsible for Execution

Each administrative agency responsible for execution holds and maintains documents pertaining to the execution of the six individuals who have been sentenced to death and are seeking disclosure as mentioned below (Section 2).

Section 2. Documents Requested for Disclosure

1. Deceased Individuals Subject to the Requested Disclosure

The deceased individuals subject to the documents requested for disclosure by the plaintiffs, along with the dates and locations of their executions, are as follows:

- (1) Tetsuo Kawanaka (executed on March 26, 1993, at Osaka Detention Center)
(hereinafter referred to as "Kawanaka")
- (2) Norio Nagayama (executed on August 1, 1997, at Tokyo Detention Center)
(hereinafter referred to as "Nagayama")
- (3) Yoshio Fujinami (executed on December 25, 2006, at Tokyo Detention Center)
(hereinafter referred to as "Fujinami")
- (4) Michitoshi Kuma (executed on October 28, 2008, at Fukuoka Detention Center)
(hereinafter referred to as "Kuma")
- (5) Chizuo Matsumoto, also known as Shoko Asahara (executed on July 6, 2018, at Tokyo Detention Center) (hereinafter referred to as "Matsumoto")
- (6) Keizo Okamoto, formerly known as Keizo Kawamura (executed on December 27, 2018, at Osaka Detention Center) (hereinafter referred to as "Okamoto")

2. Existence of Documents Related to Execution

(1) The Minister of Justice is responsible for holding and maintaining the following documents related to the execution of all six deceased individuals who are the subject of the requested disclosure:

- Motion for Execution of Death Penalty
- Authorization Document for Execution of Death Penalty
- Execution Order for Death Penalty
- Execution Report for Death Penalty

(2) The Tokyo Regional Correction Headquarters Superintendent holds and maintains the following documents related to the execution of Nagayama, Matsumoto, and Fujinami, who are subjects of the requested disclosure:

- Directive for Execution of Death Penalty
- Immediate Report on Execution of Death Penalty

(3) The Osaka Regional Correction Headquarters Superintendent holds and maintains the following documents related to the execution of Kawanaka and Okamoto, who are subjects of the requested disclosure:

- Directive for Execution of Death Penalty
- Immediate Report on Execution of Death Penalty

(4) The Fukuoka Regional Correction Headquarters Superintendent holds and maintains the following documents related to the execution of Kuma, who is the subject of the requested disclosure:

- Directive for Execution of Death Penalty
- Immediate Report on Execution of Death Penalty

(5) In connection with the aforementioned directives for execution of death penalty and immediate reports on execution of death penalty, there exist memoranda, meeting minutes, and reports on deliberation conducted within each Regional Correction Headquarters or detention center.

Section 3. Issues with the Death Penalty (Hanging) in Japan

1. Issues with Japan's Death Penalty System

There are significant issues with Japan's death penalty system. The major points of concern are as follows:

- (1) The death penalty is carried out by hanging, but this method of execution may constitute cruel and unusual punishment and may be illegal (unconstitutional).
- (2) The death penalty is announced to the convict on the morning of the execution day and executed approximately two hours later. This may infringe upon the rights of the condemned individual.
- (3) While the convicted individual may have requested a retrial, the Minister of Justice, who lacks judicial authority, is still allowed to authorize the execution. This raises questions about legality.

2. Currently in Dispute in the Courts

The issues raised in points 1. through 3. are currently being contested in the judicial arena as follows:

(1) Osaka District Court (2nd Civil Division) Case No. Reiwa 4 (Gyo U) No. 169: Request for Injunction against Hanging Execution The convicted individual serves as the plaintiff, arguing that hanging execution constitutes cruel and unusual , inhuman and injurious to dignity, violates Article 36 of the Constitution, violates Articles 6 and 7 of the International Covenant on Civil and Political Rights, and violates Article 13 of the Constitution by undermining human dignity. Therefore, an injunction against hanging execution is requested. (B3).

(2) Osaka District Court (2nd Civil Division) Case No. Reiwa 3 (Gyo U) No. 122: Confirmation of Non-Existence of Obligation to Accept Execution on Same Day as Notification of Execution of Death Penalty and Claim for State Compensation.

The convicted individual serves as the plaintiff, arguing that the notification of execution of the death penalty on the same day as the execution itself (approximately 2 hours later) violates the fair procedure guaranteed by Article 31 of the Constitution, infringes upon the rights stipulated in Articles 6 and 7 of the International Covenant on Civil and Political Rights, undermines human dignity as guaranteed by Article 13 of the Constitution, and is therefore illegal. Consequently, a confirmation of the non-existence of the obligation to accept execution of the death penalty on the same day as notification (confirmation of obligation under public law) and compensation for

damages are requested (B4).

- (3) Osaka District Court (19th Civil Division) Case No. Reiwa 2 (Wa) No. 12340: Claim for State Compensation for Execution of Death Penalty Pending Retrial

The defense attorney for the retrial request serves as the plaintiff, arguing that executing the death penalty pending retrial violates Article 32 of the Constitution and constitutes a violation of Articles 6 and 7 of the International Covenant on Civil and Political Rights, thereby infringing upon the defense attorney's right to representation. Compensation for damages is sought (B5).

In this way, numerous legal issues regarding Japan's execution of the death penalty have been raised and contested in the judicial arena.

3. The defendant is refusing to disclose information regarding hanging executions.

The lawsuit in the previous section (1) is disputing the cruelty of hanging executions (Article 36 of the Constitution).

The Supreme Court Grand Bench ruling from March 12, 1948, which deemed the death penalty constitutional 76 years ago (Keishu Volume 2, No. 3, Page 191), stated: "Life is precious. The life of one individual outweighs the entire earth. The death penalty is undoubtedly the most severe punishment, and it is an ultimate punishment that cannot be avoided. Needless to say, it forever deprives the fundamental element of human dignity, life itself. ... Looking back at the history of punishment in various countries, it is evident that the system and implementation of the death penalty, like all others, have always undergone changes, fluctuations, and evolution in accordance with the times and circumstances." ...

According to Article 31 of the Constitution, even though the sanctity of an individual's life is highly regarded, it is clearly stipulated that punishment depriving one of life may be imposed through proper legal procedures.

In other words, the Constitution, like in many modern culturally diverse nations, should be understood as acknowledging and maintaining the existence of the death penalty as a form of punishment. To put it differently, it is intended to serve as a general deterrent through the deterrent effect of the death penalty, to eradicate the roots of specific social evils through its enforcement, and thus to defend society. Moreover, it can be interpreted

as prioritizing humanitarian considerations not only for individuals but also for society as a whole, ultimately recognizing the necessity of the continued existence of the death penalty system for the welfare of society. ...

Therefore, the Constitution, like in many modern culturally diverse nations, should be understood as acknowledging and maintaining the existence of the death penalty as a form of punishment. ... However, although the death penalty, as mentioned at the beginning of this statement of claim, is a truly extreme punishment and a cold-blooded penalty, the death penalty itself as a punishment is not generally considered to immediately fall under the category of so-called cruel punishment in the provision.

However, even in the case of the death penalty, just as with other forms of punishment, if the methods of its execution are generally recognized from a humanitarian perspective as being cruel and unusual for the time and circumstances, then of course it must be considered as cruel punishment. Therefore, if in the future laws were enacted to establish cruel methods of execution such as burning at the stake, crucifixion, hanging by the gallows, or boiling in a cauldron, such laws would undoubtedly be in violation of Article 36 of the Constitution.”

It is stated that hanging execution would be in violation of Article 36 of the Constitution when "the methods of its execution are generally recognized as cruel from a humanitarian perspective for the time and circumstances." According to Supreme Court precedents, in evaluating and determining the legitimacy of hanging execution, it should always be clarified "from a humanitarian perspective for the time and circumstances" how actual executions are carried out.

However, in the case at hand, the defendant country has refused even to disclose the "procedure" by which hanging executions are carried out.

Section 4. Non-Disclosure of Death Penalty Executions in Japan

Despite numerous executions having been carried out in Japan, the manner in which they are conducted is kept undisclosed and shrouded in secrecy. This is inherent to the nature of the defendant country.

1. Number of Executors of Death Penalty

The number of executors of the death penalty since 1925 (Taisho 14) is as follows (B1, B2).

These data are based on various statistics including Execution Statistics Yearbook, Correction Statistics Yearbook, Criminal Statistics Yearbook, Prosecution Statistics Yearbook, etc.

1925 (Taisho 14)	19
1926 (Showa 1)	29
1927 (Showa 2)	12
1928 (Showa 3)	21
1929 (Showa 4)	13
1930 (Showa 5)	15
1931 (Showa 6)	19
1932 (Showa 7)	22
1933 (Showa 8)	28
1934 (Showa 9)	35
1935 (Showa 10)	14
1936 (Showa 11)	11
1937 (Showa 12)	23
1938 (Showa 13)	15

1939 (Showa 14)	14
1940 (Showa 15)	20
1941 (Showa 16)	22
1942 (Showa 17)	11
1943 (Showa 18)	15
1944 (Showa 19)	29
1945 (Showa 20)	9
1946 (Showa 21)	11
1947 (Showa 22)	12
1948 (Showa 23)	33
1949 (Showa 24)	33
1950 (Showa 25)	31
1951 (Showa 26)	24
1952 (Showa 27)	18
1953 (Showa 28)	24
1954 (Showa 29)	30
1955 (Showa 30)	32
1956 (Showa 31)	11
1957 (Showa 32)	39

1958 (Showa 33)	7
1959 (Showa 34)	30
1960 (Showa 35)	39
1961 (Showa 36)	6
1962 (Showa 37)	26
1963 (Showa 38)	12
1964 (Showa 39)	0
1965 (Showa 40)	4
1966 (Showa 41)	4
1967 (Showa 42)	23
1968 (Showa 43)	0
1969 (Showa 44)	18
1970 (Showa 45)	26
1971 (Showa 46)	17
1972 (Showa 47)	7
1973 (Showa 48)	3
1974 (Showa 49)	4
1975 (Showa 50)	17
1976 (Showa 51)	12

1977 (Showa 52)	4
1978 (Showa 53)	3
1979 (Showa 54)	1
1980 (Showa 55)	1
1981 (Showa 56)	1
1982 (Showa 57)	1
1983 (Showa 58)	1
1984 (Showa 59)	1
1985 (Showa 60)	3
1986 (Showa 61)	2
1987 (Showa 62)	2
1988 (Showa 63)	2
1989 (Heisei 1)	1
From 1990 (Heisei 2)	
To March 1993	
(Heisei 5)	0
1993 (Heisei 5)	7
1994 (Heisei 6)	2
1995 (Heisei 7)	6

1996 (Heisei 8)	6
1997 (Heisei 9)	4
1998 (Heisei 10)	6
1999 (Heisei 11)	5
2000 (Heisei 12)	3
2001 (Heisei 13)	2
2002 (Heisei 14)	2
2003 (Heisei 15)	1
2004 (Heisei 16)	2
2005 (Heisei 17)	1
2006 (Heisei 18)	4
2007 (Heisei 19)	9
2008 (Heisei 20)	15
2009 (Heisei 21)	7
2010 (Heisei 22)	2
2011 (Heisei 23)	0
2012 (Heisei 24)	7
2013 (Heisei 25)	8
2014 (Heisei 26)	3

2015 (Heisei 27)	3
2016 (Heisei 28)	3
2017 (Heisei 29)	4
2018 (Heisei 30)	15
2019 (Heisei 31	
/Reiwa 1)	3
2020 (Reiwa 2)	0
2021 (Reiwa 3)	3
2022 (Reiwa 4)	1
2023 (Reiwa 5)	0

(Total 1,106)

The total number of executions amounts to 1,106 individuals. While executions were in double digits in the 1930s, it was not until the 1940s that they finally dropped to single digits. Nonetheless, executions by hanging have been carried out continuously every year.

2. Disclosure of Information on Executions

The Ministry of Justice used to include only the number of executions in statistical data

compiled annually. However, in November 1998 (Heisei 10), the Ministry of Justice began to publicly disclose only the fact of execution and the number of individuals executed on the day of execution (or after execution).

Furthermore, from October 2007 (Heisei 19), approximately nine years later, the Ministry of Justice began to disclose only the name, date of birth, crime, and location of execution of the executed individuals after the execution.

To date, this is the extent of information on executions disclosed by the Ministry of Justice.

3. Regarding the Merits of the Death Penalty (Absurdity of the Defendant Country's Attitude)

As outlined above, the defendant country (the Ministry of Justice) has failed to disclose the reality of hanging executions, leaving the public in a state of being "blindfolded" regarding the actuality of the death penalty (hanging executions).

However, on July 26, 2022, during a press conference following the execution of Tomohiro Kato, a death row inmate, Minister of Justice Yoshihisa Furukawa expressed

the opinion that abolishing the death penalty is not appropriate. When asked about the majority of public opinion considering the death penalty unavoidable, citing surveys conducted by the Cabinet Office every five years, Minister Furukawa referred to the results of these surveys as a significant basis for maintaining the death penalty. He stated:

"The Cabinet Office's public opinion surveys serve as a very important basis for judgment. According to the survey conducted by the Cabinet Office in November of the first year of Reiwa, 80.8 percent of respondents expressed the opinion that the death penalty is unavoidable. Similar results were obtained in surveys conducted in November of Heisei 26, with 80.3 percent expressing the same opinion." (B6, July 26, 2022, Minister Yoshihisa Furukawa).

In doing so, he cited the results of public opinion surveys as a major rationale for maintaining the death penalty.

However, on the other hand, no information about the death penalty (hanging executions) is disclosed at all, and very little information is provided to the citizens. There is a problem with conducting opinion polls on the abstract "merits of the death

penalty" to citizens while refusing to provide information, and using the results of these opinion polls conducted under incomplete information as a "golden rule" for the basis of reviewing the system (B7, Report by the Bar Association "What Is Happening to Japan's Death Penalty System? - Promoting Open Discussions Based on Correct Information" pages 84 or 87).

Section 5. Disclosure of Death Penalty Information

1. Public Disclosure of Death Penalty Executions in Death Penalty States in the United States

Among so-called developed countries, the United States (hereinafter referred to as "the US") is one that carries out the death penalty.

The US is divided into states that maintain the death penalty (hereinafter referred to as "retention states") and states that have abolished it (hereinafter referred to as "abolition states"). As of November 2023, there are 23 abolition states and 27 retention states (with 5 states under moratorium, meaning a suspension of executions). The federal government and the military of the United States maintain the death penalty,

but the federal government is currently under a moratorium.

(1) Retention States in the United States

As of January 1, 2022, there are 2,436 death row inmates in retention states in the United States (approximately 20 times the number in Japan). The number of death row inmates in the United States and their breakdown by state are as follows (Source: Death Penalty Information Center).

Number of Death Row Inmates in Various States of the United States

(As of January 1, 2022, totaling 2,436 individuals)

	States	Number
1	California	692 (Currently under moratorium)
2	Florida	330
3	Texas	199
4	Alabama	170
5	North Carolina	139
6	Ohio	135
7	Pennsylvania	129 (Currently under moratorium)
8	Arizona	117
9	Nevada	65
10	Louisiana	62
11	Tennessee	47
12	Oklahoma	44
13	Federal	44 (Currently under moratorium)
14	Georgia	42
15	Mississippi	37
16	South Carolina	37
17	Arkansas	30
18	Kentucky	27
19	Oregon	22 (Currently under moratorium)
20	Missouri	20
21	Nebraska	12

22	Kansas	9
23	Indiana	8
24	Idaho	8
25	Utah	7
26	Military (U.S.)	4
27	Montana	2
28	New Hampshire	1
30, 2019		Death penalty abolished on May
29	South Dakota	1
30	Wyoming	0

(2) Publicity of Executions

According to a study by Professor Kana Sasakura of the Faculty of Law at Konan University, the attendance and provisions for executions in the 12 states where executions occurred over the past five years (not all states where the death penalty is retained execute individuals routinely) are as follows. Executions are legally mandated and require the presence of individuals other than those directly involved in the execution process, ensuring the "execution itself" is made public. (C2-1, 2)

1. Alabama

AL Code	Persons who may be present at execution.
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§ 15-18-83	<p>(a) The following persons may be present at an execution and none other:</p> <ol style="list-style-type: none">(1) The executioner and any persons necessary to assist in conducting the execution.(2) The Commissioner of Corrections or his or her representative.(3) Two physicians, including the prison physician.(4) The spiritual advisor of the condemned.(5) The chaplain of Holman Prison.(6) Such newspaper reporters as may be admitted by the warden.(7) Any of the relatives or friends of the condemned person that he or she may request, not exceeding six in number.(8) The immediate family of the victim, over the age of 19, not exceeding eight in number and apportioned equally among the victim's immediate family members. If there are fewer than eight total immediate family members of the victim, additional non-immediate family members of the victim, over the age of 19, not to exceed eight total immediate and non-immediate family members.(9) If there are fewer than eight total family members of the deceased victim under subdivision (8), additional immediate family members of a victim, for whose death the inmate is not sentenced to death. <p>(b) No convict shall be permitted by the prison authorities to witness the</p>
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	execution.
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2. Arizona

AZRev	Persons present at execution of sentence of death; limitation
Stat § 13-758	<p>The director of the state department of corrections or the director's designee shall be present at the execution of all death sentences and shall invite the attorney general and at least twelve reputable citizens of the director's selection to be present at the execution. The director shall, at the request of the defendant, permit clergymen, not exceeding two, whom the defendant names and any persons, relatives or friends, not exceeding five, to be present at the execution. The director may invite peace officers as the director deems expedient to witness the execution. No persons other than those set forth in this section shall be present at the execution nor shall any minor be allowed to witness the execution.</p>

3. Florida

FLStat	922.11 Regulation of execution.—
§ 922. 11	<p>(1) The warden of the state prison or a deputy designated by him or her shall be present at the execution. The warden shall set the day for execution within the week designated by the Governor in the warrant.</p> <p>(2) Twelve citizens selected by the warden shall witness the execution. A qualified physician shall be present and announce when death has been inflicted. Counsel for the convicted person and ministers of religion requested by the convicted person may be present. Representatives of news media may be present under rules approved by the Secretary of Corrections. All other persons, except prison officers and correctional officers, shall be excluded during the execution.</p>

4. Georgia

GA Code	§ 17-10-41. Persons Required to Be Present at Executions
§ 17-10-41 (2022)	<p>There shall be present at the execution of a convicted person the superintendent of the state correctional institution or a deputy superintendent thereof, at least three executioners, two physicians to determine when death supervenes, and other correctional officers, assistants,</p>

	<p>technicians, and witnesses as determined by the commissioner of corrections.</p> <p>In addition, the convicted person may request the presence of his or her counsel, a member of the clergy, and a reasonable number of relatives and friends, provided that the total number of witnesses appearing at the request of the convicted person shall be determined by the commissioner of corrections.</p>
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5. Mississippi

<p>MS Code § 99-19- 55</p>	<p>2. When a person is sentenced to suffer death in the manner provided by law, it shall be the duty of the clerk of the court to deliver forthwith to the Commissioner of Corrections a warrant for the execution of the condemned person. It shall be the duty of the commissioner forthwith to notify the State Executioner of the date of the execution and it shall be the duty of the said State Executioner, or any person deputized by him in writing, in the event of his physical disability, as hereinafter provided, to be present at such execution, to perform the same, and have general supervision over said execution. In addition to the above designated persons, the Commissioner of Corrections shall secure</p>
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the presence at such execution of the sheriff, or his deputy, of the county of conviction, at least one (1) but not more than two (2) physicians or the county coroner where the execution takes place, and bona fide members of the press, not to exceed eight (8) in number, and at the request of the condemned, such ministers of the gospel, not exceeding two (2), as said condemned person shall name. The Commissioner of Corrections shall also name to be present at the execution such officers or guards as may be deemed by him to be necessary to insure proper security. No other persons shall be permitted to witness the execution, except the commissioner may permit two (2) members of the condemned person's immediate family as witnesses, if they so request and two (2) members of the victim's immediate family as witnesses, if they so request. Provided further, that the Governor may, for good cause shown, permit two (2) additional persons of good and reputable character to witness an execution. No person shall be allowed to take photographs or other recordings of any type during the execution. The absence of the sheriff, or deputy, after due notice to attend, shall not delay the execution.

6. Missouri

<p>MORevStat</p> <p>§ 546.740</p>	<p>546.740. Execution, witnesses. — The chief administrative officer of the correctional center, or his duly appointed representative shall be present at the execution and the director of the department of corrections shall invite the presence of the attorney general of the state, and at least eight reputable citizens, to be selected by him; and he shall at the request of the defendant, permit such clergy or religious leaders, not exceeding two, as the defendant may name, and any person, other than another incarcerated offender, relatives or friends, not to exceed five, to be present at the execution, together with such peace officers as he may think expedient, to witness the execution; but no person under twenty-one years of age shall be allowed to witness the execution.</p>
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7. Nebraska

<p>NEREVST</p> <p>§ 83-970</p>	<p>Besides the Director of Correctional Services and those persons required to be present under the execution protocol, the following persons, and no others, except as provided in section 83-971, may be present at the execution: (1) The member of the clergy in attendance upon the convicted</p>
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	<p>person; (2) no more than three persons selected by the convicted person;</p> <p>(3) no more than three persons representing the victim or victims of the crime; and (4) such other persons, not exceeding six in number, as the director may designate. At least two persons designated by the director shall be professional members of the Nebraska news media.</p>
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8. Ohio

<p>OH</p> <p>RevCode</p> <p>§ 2949.25</p>	<p>(A) At the execution of a death sentence, only the following persons may be present:</p> <p>(1) The warden of the state correctional institution in which the sentence is executed or a deputy warden, any other person selected by the director of rehabilitation and correction to ensure that the death sentence is executed, any persons necessary to execute the death sentence by lethal injection, and the number of correction officers that the warden thinks necessary;</p> <p>(2) The sheriff of the county in which the prisoner was tried and convicted;</p> <p>(3) The director of rehabilitation and correction, or the director's agent;</p> <p>(4) Physicians of the state correctional institution in which the sentence is</p>
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	<p>executed;</p> <p>(5) The clergyperson in attendance upon the prisoner, and not more than three other persons, to be designated by the prisoner, who are not confined in any state institution;</p> <p>(6) Not more than three persons to be designated by the immediate family of the victim;</p> <p>(7) Representatives of the news media as authorized by the director of rehabilitation and correction.</p> <p>(B) The director shall authorize at least one representative of a newspaper, at least one representative of a television station, and at least one representative of a radio station to be present at the execution of the sentence under division (A)(7) of this section.</p>
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9. Oklahoma

<p>OK Stat</p>	<p>B. The judgment of execution shall take place under the authority of the Director of the Department of Corrections and the warden must be present along with other necessary prison and corrections officials to carry out the</p>
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§ 1015	<p>execution. The warden must invite the presence of a physician and the district attorney of the county in which the crime occurred or a designee, the judge who presided at the trial issuing the sentence of death, the chief of police of the municipality in which the crime occurred, if applicable, and lead law enforcement officials of any state, county or local law enforcement agency who investigated the crime or testified in any court or clemency proceeding related to the crime, including but not limited to the sheriff of the county wherein the conviction was had, to witness the execution; in addition, the Cabinet Secretary of Safety and Security must be invited as well as any other personnel or correctional personnel deemed appropriate and approved by the Director. The warden shall, at the request of the defendant, permit the presence of such ministers chosen by the defendant, not exceeding two, and any persons, relatives or friends, not to exceed five, as the defendant may name; provided, reporters from recognized members of the news media will be admitted upon proper identification, application and approval of the warden. The identity of all persons who participate in or administer the execution process and persons who supply the drugs, medical supplies or medical equipment for the execution shall be confidential and shall not be subject to discovery in any civil or criminal proceedings. The purchase of drugs, medical supplies or medical equipment</p>
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necessary to carry out the execution shall not be subject to the provisions of The Oklahoma Central Purchasing Act.

C. In the event the defendant has been sentenced to death in one or more criminal proceedings in this state, or has been sentenced to death in this state and by one or more courts of competent jurisdiction in another state or pursuant to federal authority, or any combination thereof, and this state has priority to execute the defendant, the warden must invite the prosecuting attorney or his or her designee, the judge, and the chief law enforcement official from each jurisdiction where any death sentence has issued. The above mentioned officials shall be allowed to witness the execution or view the execution by closed circuit television as determined by the Director of the Department of Corrections.

D. A place shall be provided at the Oklahoma State Penitentiary at McAlester so that individuals who are eighteen (18) years of age or older and who are members of the immediate family of any deceased victim of the defendant may witness the execution. The immediate family members shall be allowed to witness the execution from an area that is separate from the area to which other nonfamily member witnesses are admitted; provided, however, if there are multiple deceased victims, the Department shall not be required to provide separate areas for each family of each deceased victim. If facilities are not

capable or sufficient to provide all immediate family members with a direct view of the execution, the Department of Corrections may broadcast the execution by means of a closed circuit television system to an area in which other immediate family members may be located.

Immediate family members may request individuals not directly related to the deceased victim but who serve a close supporting role or professional role to the deceased victim or an immediate family member, including, but not limited to, a minister or licensed counselor. The warden in consultation with the Director shall approve or disapprove such requests. Provided further, the Department may set a limit on the number of witnesses or viewers within occupancy limits.

As used in this section, "members of the immediate family" means the spouse, a child by birth or adoption, a stepchild, a parent, a grandparent, a grandchild, a sibling of a deceased victim, or the spouse of any immediate family member specified in this subsection.

E. Any surviving victim of the defendant who is eighteen (18) years of age or older may view the execution by closed circuit television with the approval of both the Director of the Department of Corrections and the warden. The Director and warden shall prioritize persons to view the execution, including immediate family members, surviving victims, and supporting persons, and may

	<p>set a limit on the number of viewers within occupancy limits. Any surviving victim approved to view the execution of the defendant may have an accompanying support person as provided for members of the immediate family of a deceased victim. As used in this subsection, "surviving victim" means any person who suffered serious harm or injury due to the criminal acts of the defendant of which the defendant has been convicted in a court of competent jurisdiction.</p>
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10. South Dakota

<p>SD Codified L § 23A-27A- 34</p>	<p>23A-27A-34. Attendance at execution by attorney general, sentencing judge, state's attorney, sheriff, representatives of victim, news media, and additional citizens approved by warden.</p> <p>The secretary of corrections shall request, by at least two days' previous notice, the presence of the attorney general, the trial judge before whom the conviction was had or the judge's successor in office, the state's attorney and sheriff of the county where the crime was committed, representatives of the victim, at least one member of the news media, and</p>
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	<p>a number of reputable adult citizens to be determined by the secretary. All witnesses and persons present at an execution are subject to approval by the secretary.</p>
<p>SD Codified L § 23A-27A- 34.1 (2023)</p>	<p>23A-27A-34.1. Attendance at execution by person trained to pronounce death, corrections staff, and law enforcement officers.</p> <p>The secretary of corrections shall arrange for the attendance of a person trained to examine the defendant and pronounce death and for the attendance of such penitentiary staff, Department of Corrections staff, and law enforcement officers as deemed necessary to perform the execution and maintain security.</p>
<p>SD Codified L § 23A-27A- 34.2</p>	<p>The defendant is permitted to have up to five witnesses present at the execution. Witnesses for the defendant may include counsel, members of the clergy, relatives, or friends.</p> <p>The warden may not permit any person to be present at the execution other than those designated in § § 23A-27A-32, 23A-27A-34, 23A-27A-34.1, and 23A-27A-34.2 and may not permit the presence of any person</p>
<p>SD Codified L § 23A-27A-36</p>	<p>under the age of eighteen years.</p>

11. Tennessee

<p>TN Code § 40- 23-116</p>	<p>a. In all cases in which the sentence of death has been passed upon any person by the courts of this state, it is the duty of the sheriff of the county in which the sentence of death has been passed to remove the person so sentenced to death from that county to the state penitentiary in which the death chamber is located, within a reasonable time before the date fixed for the execution of the death sentence in the judgment and mandate of the court pronouncing the death sentence. On the date fixed for the execution in the judgment and mandate of the court, the warden of the state penitentiary in which the death chamber is located shall cause the death sentence to be carried out within an enclosure to be prepared for that purpose in strict seclusion and privacy. The only witnesses entitled to be present at the carrying out of the death sentence are:</p> <ol style="list-style-type: none">1. The warden of the state penitentiary or the warden's duly authorized deputy;2. The sheriff of the county in which the crime was committed;3. A priest or minister of the gospel who has been preparing the condemned person for death;
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4. The prison physician;
5. Attendants chosen and selected by the warden of the state penitentiary as may be necessary to properly carry out the execution of the death sentence;
6. A total of seven (7) members of the print, radio and television news media selected in accordance with the rules and regulations promulgated by the department of correction. Those news media members allowed to attend any execution of a sentence of death shall make available coverage of the execution to other news media members not selected to attend;
7. A. Immediate family members of the victim who are eighteen (18) years of age or older. Immediate family members shall include the spouse, child by birth or adoption, stepchild, stepparent, parent, grandparent or sibling of the victim; provided, that members of the family of the condemned prisoner may be present and witness the execution;
B. Where there are no surviving immediate family members of the victim who are eighteen (18) years of age or older, the warden shall permit up to three (3) previously identified relatives or personal friends of the victim to be present and witness the execution;
8. One (1) defense counsel chosen by the condemned person; and
9. The attorney general and reporter, or the attorney general and

reporter's designee.

b. No other person or persons than those mentioned in subsection (a) are allowed or permitted to be present at the carrying out of the death sentence. It is a Class C misdemeanor for the warden of the state penitentiary to permit any other person or persons than those provided for in subsection (a) to be present at the legal execution.

c. 1. Photographic or recording equipment shall not be permitted at the execution site until the execution is completed, the body is removed, and the site has been restored to an orderly condition. However, the physical arrangement of the execution site shall not be disturbed.

2. A violation of subdivision (c)(1) is a Class A misdemeanor.

3. The department shall promulgate rules that establish criteria for the selection of news media representatives to attend an execution of a death sentence in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. In promulgating the rules, the department shall solicit recommendations from the Tennessee Press Association, the Tennessee Associated Press Managing Editors, and the Tennessee Association of Broadcasters. For each execution of a death sentence, applications for attendance shall be accepted by the department. When the number of

	<p>applications require, lots to select news media representatives will then be drawn by the warden of the state penitentiary at which the death sentence is to be carried out. All drawings shall be conducted in open meetings and notice shall be properly given in accordance with § 4-5-203.</p> <p>d. If the immediate family members of the victim choose to be present at the execution, they shall be allowed to witness the execution from an area that is separate from the area to which other witnesses are admitted. If facilities are not available to provide immediate family members with a direct view of the execution, the warden of the state penitentiary may broadcast the execution by means of a closed circuit television system to the area in which the immediate family members are located.</p> <p>When, from any cause, an inmate sentenced to death has not been executed pursuant to the sentence, the sentence stands in full force, and shall be carried into execution by the court in which the inmate was tried.</p>
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12. Texas

CRIM	Texas Code of Criminal Procedure - CRIM P Art. 43.20. Present at execution
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<p>Art. 43.20</p>	<p>The following persons may be present at the execution: the executioner, and such persons as may be necessary to assist him in conducting the execution; the Board of Directors of the Department of Corrections, two physicians, including the prison physician, the spiritual advisor of the condemned, the chaplains of the Department of Corrections, the county judge and sheriff of the county in which the Department of Corrections is situated, and any of the relatives or friends of the condemned person that he may request, not exceeding five in number, shall be admitted. No convict shall be permitted by the prison authorities to witness the execution.</p>
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(3) The Meaning of Making Executions Public

As outlined above, in the retention states of the United States, executions are mandated to be public for citizens and others. Those permitted to attend serve as representatives of the citizens of their respective states, witnessing the executions.

Publicizing an execution means that every objective and physical aspect leading to the execution is disclosed, including the location (the prison and the position within it), the configuration of the execution chamber, the apparatus used, and the method of

execution (the administration of drugs), among other details. Some retention states allow even foreigners to attend executions. Takayo Ogura, a former correspondent for the Mainichi Shimbun, witnessed the execution of Terry Lynn Short, a Japanese student who murdered someone in Oklahoma in 2008, and documented it ("The Shaking Executions," Kabu C3). Similarly, Yuji Fuse, a researcher at the Ryukoku University Correction and Protection Center, witnessed the execution of Robert Leroy Bryan in Oklahoma in 2004 and recorded the event ("Witnessing Executions in America," Kabu C4).

This illustrates how information about executions is widely available in the United States.

2. Procedure for Execution of the Death Penalty in Japan

The procedure for the execution of the death penalty in Japan is as follows:

(1) Submission by the Chief Prosecutor in Charge of Execution

Pursuant to Article 472 of the Code of Criminal Procedure, the chief prosecutor of

the Public Prosecutors Office to which the prosecutor in charge of execution (hereinafter referred to as the "chief prosecutor in charge of execution") belongs shall submit a motion for the execution of the death penalty to the Minister of Justice, along with two copies of the records of the criminal trial where the death penalty judgment was finalized and excerpts of the judgment, upon finalization of the death penalty judgment, and make a submission regarding the execution of the death penalty (Execution Procedure Regulation Article 9).

(2) Execution Order by the Minister of Justice

Upon review of the submission for the execution of the death penalty, the Minister of Justice orders the execution of the death penalty to the prosecutor (Code of Criminal Procedure Article 475, paragraph 1).

(3) Supervision of the Death Penalty Execution by the Prosecutor

When an execution order for the death penalty is received from the Minister of Justice in accordance with Article 475, paragraph 1 of the Code of Criminal Procedure, the prosecutor directs the execution of the death penalty to the head of the penal institution

through a death penalty execution instruction document (Execution Office Regulations Article 10, paragraph 1). The execution of the death penalty is supervised within five days from the Minister of Justice's execution order (Code of Criminal Procedure Article 476).

(4) Execution of the Death Penalty

Upon receiving instructions for the execution of the death penalty, the head of the penal institution (prison warden) notifies the death row inmate and proceeds with the execution by hanging. Currently, the notification is given to the inmate on the morning of the execution day, approximately 2 to 3 hours before the execution. Until then, the date of execution is not disclosed to the death row inmate.

3. Attendance at Executions in Japan

So what is the process of witnessing executions in Japan?

(1) Eligibility for Attendance at Executions

Article 477, paragraph 1 of the Code of Criminal Procedure stipulates, "The death penalty shall be executed in the presence of a prosecutor, a prosecutor's assistant, and the head of the penal institution or their representatives." Paragraph 2 further specifies, "No one may enter the execution site without the permission of the prosecutor or the head of the penal institution."

However, so far, in Japan, there have been no reported cases where the presence of a third party other than "prosecutors, prosecutor's assistants, and the head of the penal institution or their representatives (execution-related personnel)" has been allowed, except for chaplains providing guidance to the condemned. Even chaplains, if considered execution-related personnel, are subject to strict confidentiality obligations, and information about the execution is not disclosed to anyone other than the execution-related personnel, such as prison officers and the condemned individual, who receive religious guidance from the chaplain.

(2) Instructions to Attendees

Kimiko Otsuka, acting as a journalist, conducted detailed interviews with numerous participants involved in executions, such as prison officers and chaplains,

and compiled a report titled "The Agony of Executioners" (D1). In this report, she describes the following:

"If leaked outside, strict warning. More than twenty chaplains visit the detention center every day for religious guidance. They meet directly with death row inmates to uplift their spirits. The term 'uplifting spirits' may sound a bit formal. It's about treating death row inmates with compassion and helping restore their humanity."

The person who has long served in this role is the head priest of this temple. Religious counseling in the detention center allows individuals to choose the religion they wish to follow. In addition to the head priest, there were many Buddhist chaplains. Each sect's main temple recommends candidates, and the Ministry of Justice appoints them. Upon appointment by the Ministry of Justice, a pledge of confidentiality regarding all events within the detention center is also taken. Therefore, it is understood that nothing relating to the private matters of death row inmates should be discussed. This includes the inmate's real name, the date of execution, and the circumstances surrounding the execution. This requirement applies not only to chaplains but also to all prison officers who are similarly bound by confidentiality. This obligation persists even after retirement. Upon retiring from

their duties, prison officers, as well as chaplains for death row inmates, are firmly reminded by the Ministry of Justice to maintain confidentiality.

If it becomes known that a former prison officer has disclosed information about an execution, they will receive a severe warning from the Ministry of Justice. Former prison officers, typically of cautious and conscientious character, are intimidated by this prospect. They prefer to live quietly, avoiding attention and scrutiny.

Simultaneously, due to fear, regret, shame, and anguish over their own actions, they are reluctant to speak about it.

On the other hand, through the Chaplain Association, the Ministry of Justice issues severe warnings to chaplains. Each chaplain may individually brush off the Ministry of Justice's warnings. However, if their actions were to cause trouble for their affiliated sect, it would be a different matter. Whether they like it or not, they are compelled to remain silent.” (Page 144 and 145)

In other words, unlike in the United States, where third-party attendance is permitted and information about executions is widely disclosed in retention states,

in Japan, there is absolutely no way to verify whether executions are conducted in a lawful and proper manner.

4. Pointing out issues in Japan's Non-disclosure of Information on the Death Penalty

The lack of transparency surrounding Japan's death penalty, including the "non-disclosure of death penalty information," has been criticized in various ways, as outlined below:

(1) The Yomiuri Shimbun Social Affairs Department's "Death Penalty" (D2) states in its conclusion:

“The judicial world is undergoing an unprecedented transformation. The introduction of the lay judge system, in which citizens participate in criminal trials, has forced a reevaluation among the legal professionals - judges, prosecutors, and defense attorneys. Lay judges not only determine guilt or innocence but also decide on the severity of the punishment. Defendants sentenced to imprisonment must consider the path to rehabilitation. The Ministry of Justice has found itself

compelled to respond to the growing interest of the public, who may one day serve as lay judges.

On the other hand, amidst this new wave, there are still areas where information remains undisclosed. This pertains to information regarding the "death penalty." Cases subject to lay judge trials may involve individuals facing the death penalty as the maximum sentence. Yet, the lives of death row inmates and the procedures for their execution remain shrouded in secrecy."

"I truly believe that it was necessary to embark on a series examining the reality of the death penalty and contemplating its significance," they explain, discussing their motive for publication. (pages 263 and 264)

- (2) Satoshi Sato (Kyodo News, Editorial Board Member) discusses in 'Report: Death Penalty - The Realities of the Extreme Penalty Concealed by the Ministry of Justice' (D3),"

"The authority to decide when and who to execute by death penalty is effectively held by bureaucrats in the Ministry of Justice, and there is no external verification

over these procedures. Furthermore, contact with death row inmates is severely restricted, making it extremely difficult to understand their situation. It is fair to say that death row inmates become 'erased' from society by the time their sentence is finalized, before their lives are ended through execution.

What are the reasons for carrying out executions? Was there any arbitrary judgment in the selection process? What thoughts do death row inmates have about the sentences imposed on them? Without addressing these doubts, it is inevitable to say that it is quite unreasonable for the state to maintain a punishment that takes away human lives. With citizens having more opportunities to be involved in the judgment of death penalties through the lay judge system, there is a demand for the 'visualization' of the death penalty itself, including the process.

The only major developed countries that continue to carry out executions are Japan and the United States (with some states having abolished it), with Japan having faced criticism from the international community, including the European Union (EU). However, the Ministry of Justice has continued executions without heeding these criticisms and has not wavered in its stance to maintain the death penalty system. While citing "public support" as a reason for maintaining the death

penalty system, the Ministry of Justice remains passive in disclosing information related to the death penalty, resulting in a highly unbalanced situation.

In order to alleviate this situation even slightly, it is necessary to closely examine the lives of death row inmates who have been convicted in court and received final death sentences, as well as to listen to the voices of those involved in the death penalty, including prison officers, lawyers, justice bureaucrats, and victims' families. Only through such efforts can a comprehensive discussion on Japan's death penalty system, including its existence or abolition, become possible. These thoughts form the basis of the motivation behind starting this investigation." (Introduction, pages 6-7)

- (3) Professor Koichi Kikuta, Emeritus Professor at Meiji University, discusses "The Death Penalty" (Revised Edition) (D4).

"On November 20, 1975, at the House of Councillors Committee on Judicial Affairs, Miho Yasuhara, Director of the Criminal Affairs Bureau of the Ministry of Justice, even refused to disclose in public how many executions were carried out in each fiscal year. Of course, such figures are evident from statistics, but there seems to be

a 'consideration' (?) not to disclose which minister oversaw how many executions.

Rather than considering executions themselves as a disgrace to the state, it seems they are avoiding drawing attention to the death penalty altogether due to its clandestine nature." (Page 28)

(4) Osamu Aoki, a journalist, states in "Hanging" (D 5),

"However, it seems to me that despite our tendency to often speak emotionally about the death penalty, we don't really know much about its underlying realities.

Discussions surrounding the death penalty are often superficial, heavily emotional, and sometimes ideological. In particular, Japan's use of the <gallows> for executions is shrouded behind an unprecedented veil of secrecy, making it impossible to see what exactly unfolds at the execution site and what emotions those involved in the execution process carry out as part of their public duties. These matters themselves are hidden in the depths of darkness." (D 5 , pages 321 and 322)

(5) In the afterword of the paperback edition of Aoki Osamu's book "Execution by Hanging" (Gallows), as quoted by author Kaoru Takamura, Takamura points out the issues with the secrecy surrounding executions, as follows:

"Now, it bears repeating that almost everything related to the operation of the death penalty system in this country is shrouded in secrecy. The only exception was in 2010 when, under the direction of the Minister of Justice, the execution chamber at Tokyo Detention Center was opened to the press. However, even then, there was no sight of the noose placed around the neck of the condemned, and while there was a trapdoor, the view of the underground space where the condemned would fall after it opened was limited. Furthermore, the actual process of being hanged with a noose, what happens to the body of the condemned at that moment, and so forth, the reality of execution remains enveloped in darkness. Isn't this rather strange?

Nowadays, in the necessity of lay judge trials, photographs of victims' bodies are presented to the eyes of the lay judges. If that is the case, then it would only be fair to also show photographs of executions to those involved in the judgment. If real photographs of bodies are deemed essential for an accurate understanding of the facts of a crime, then similarly, real photographs should be indispensable for an accurate understanding of death penalty judgments. However, despite almost everything about the reality being hidden, it doesn't mean there's a mystery surrounding the death penalty system or its operation. ... What exists is nothing but the condemned awaiting death, the rigorous mechanisms and procedures for

carrying out the death penalty, the parties involved, and the corpses. There's hardly a more straightforward world, one could argue." (D5, Pages 355 and 356)

"By the way, there are two things about this country's death penalty system that should be brought to light. One is the reality of executions carried out beyond the walls, and the other is the individual realities of the condemned who have the noose placed around their necks." (D5, Page 359)

"The death penalty is by no means an abstract concept. There is a platform, a pulley, a noose, a living condemned inmate with the noose around their neck, a living prison officer to push the execution button, and ultimately, a dead body. It is a tangible human endeavor to end human life by human hands, complete with sounds and smells. The more one hears about the execution site and the process of execution, the more confused one becomes about how to react to the face, voice, and breath of the condemned inmate they meet in the visitation room. It is only natural for one's emotions to become disoriented as a human being, simply because the person in front of them is indeed human. It's as if there is an instinctive aversion to picturing their death concretely. Perhaps, it's precisely why the scene of executions is kept so tightly concealed. I believe judicial authorities understand what could happen if

ordinary citizens were to witness firsthand the condemned or the execution scene."

(D5, Page 362 to 363)

- (6) Takayasu Ogura (Mainichi Shimbun Editorial Board Member) discusses " The Shaking Executions" (C3).

"In Japan, in addition to prison officers directly involved in the execution, the prison warden and prosecutor are supposed to be present. Rather than allowing only a very limited number of people to attend, it would be more accurate to say that certain individuals are obliged to attend while others are not permitted. Since the prison warden or prosecutor who attended cannot discuss the execution afterward, Japanese media, despite reporting on the execution itself, end up saying nothing about the process. ... It's like reporting only the result of a sports match without discussing the actual game" (Page 21) He discusses it in contrast to his own experience of executions in the U.S.

- (7) Maeda Akira, a professor at Tokyo Zokei University, discusses in "500 Books and the Death Penalty" (D6)

"Secrecy and the Struggles at the Scene

The authorities in the Ministry of Justice have hidden information about executions under the guise of secrecy. While it may be necessary to protect the privacy of death row inmates, execution procedures and the execution site have been kept secret regardless of privacy concerns. External communication for death row inmates has also been restricted. There was even a long period where the very existence of executions was kept secret. However, various efforts to circumvent information barriers have gradually revealed the reality of executions and the treatment of death row inmates. The veil over the dimly lit world that has been denigrated is beginning to lift."

"In this way, information regarding the death penalty has been gradually revealed in various forms. However, the authorities in the Ministry of Justice continue to maintain a stubborn attitude under the guise of a policy of execution secrecy. Since the directive of 1963, the treatment of death row inmates has deteriorated further, and external communication has been severely restricted. Meanwhile, during the execution in 1993, there were even attempts to orchestrate bizarre information leaks to certain media outlets. It is hoped that such unjust attitudes will be challenged, and

the release of fundamental information necessary for a comprehensive discussion on the death penalty will be encouraged."

"The reason why discussions on the death penalty have often stalled is because the reality of executions has remained unknown. The lack of concrete information about the death penalty has made it difficult to derive meaning from the numbers of 'support for the death penalty' in public opinion polls. What is the death penalty, after all? It seems like something everyone knows, but in reality, perhaps no one has truly crossed that threshold."

5. Criticism from Overseas

The lack of transparency in Japan's death penalty information" has also been pointed out by overseas sources.

(1) David T. Johnson's Observation

In "The View of Japan's Death Penalty from Americans" (D 7), David T. Johnson (Professor at the University of Hawaii) outlines the characteristics of secrecy and silence in Japan's execution of the death penalty in ten points.

"Today, the execution of the death penalty is often regarded as an event that does not warrant much publicity, and it is not seen as an exercise of power. In many countries that continue to carry out executions, officials strive to execute the death penalty as discreetly as possible, away from public scrutiny. While the extent to which this objective is achieved may vary, the secrecy and silence surrounding Japan's execution of the death penalty are extreme compared to other countries."

The characteristics of Japan's execution of the death penalty, in which the state carries out executions in secrecy, can be summarized in the following ten points.

1. Death row inmates are not informed of the date and time of their execution until one to two hours before it is actually carried out. This method, in which they are suddenly informed, is called "surprise attack." Many death row inmates live with a sense of fear, wondering if each day might be their last, for years or even decades.
2. The relatives of the inmate are informed of the execution after it has been carried out. With few exceptions, this also applies to the inmate's legal representatives, the media, and all other members of society. This serves to suppress criticism and opposition.

3. In some cases, even the prison officers who carry out the execution are rarely informed in advance. This is because it is believed that if they were notified beforehand, there is a possibility that they might take a leave from work.
4. No third party is allowed to witness the hanging. Therefore, journalists, the relatives or friends of the prisoner or the victim, as well as the general public, cannot attend the execution. According to a study in the United States, between 3 to 5 percent of all executions fail, and prisoners may suffer for extended periods during the process. The failure rate of executions in Japan is unknown because those who might mention failures are excluded from the execution site.
5. Researchers and journalists are denied access to records related to the death penalty. This hinders research and reporting on the subject of the death penalty.
6. Even when the death penalty is not being carried out, ordinary citizens and the media can hardly see the execution grounds.
7. "Chaplains" are allowed to attend executions, but condemned prisoners cannot choose

who should be present. Chaplains are selected from recognized clergy approved by the government, and none of them openly opposes the death penalty. Candidates are excluded if they engage in activities deemed "political," and they are also prohibited from making statements that might give hope to death row inmates.

8. The Ministry of Justice strategically selects the schedule for executions to minimize criticism and opposition.
9. The Ministry of Justice does not explain how individuals selected for execution were chosen or why some remain unexecuted. As of 2017, there were 122 people with confirmed death sentences. However, only a few of them are executed each year, and the criteria for selection are not disclosed.
10. From the pronouncement of the death sentence to its execution, condemned individuals are socially isolated through restrictions on visitation and communication imposed by the state. This operational approach is explained as aiming to ensure the "emotional stability" of the condemned and to "prepare them for death." However, by socially killing them before their physical demise, it effectively facilitates a "smooth" execution. Condemned individuals, whose will to live has been drained, become

resigned to their fate, making them less likely to resist execution. (D7, pages 53 to 55)

(2) The Critique by the United Nations Human Rights Council Special Rapporteur

Professor Yasuzumi Kitamura, Professor Emeritus at Chuo University, describes the report of the United Nations Human Rights Council Special Rapporteur in "Opinion that the Notification on the Day of or Immediately Prior to Execution of the Death Penalty Is a Violation of International Human Rights Law" (D8, pages 14-17).

The Special Rapporteur of the United Nations Human Rights Council conducts country-specific investigations and reports the findings to the Council, as seen recently in Japan with the "Johnny's sexual abuse issue." Of particular note in relation to the obligation to notify the date of execution is a report compiled by Philip Alston, the Special Rapporteur, in March 2006. This report provides a detailed and accurate analysis of why states have an obligation to notify death row prisoners and their families of the date of execution. It states at the outset, "This report is based on the proposition that states retaining the death penalty are not prohibited by international law from doing so, but they do have a clear obligation to disclose the details of its application" (E/CN.4/2005/7, para. 59).

“The following analysis regarding the secrecy surrounding Japan's death penalty system highlights important issues from a human rights perspective:

"For example, the restrictions on transparency in Japan go beyond the limits necessary to protect privacy and human dignity, undermining security measures that could be brought about by disclosure. External access to death row prisoners is essential to safeguard their rights. For instance, when the International Federation for Human Rights (FIDH), an international NGO, visited Japan in 2002 to investigate the conditions of death row prisoners, being denied access to detainees, death row cells, execution chambers, and secure areas within detention facilities raises concerns. Justification for such actions becomes impossible since information regarding the privacy of death row prisoners is not disclosed regardless of the prisoner's will."

“The argument opposing transparency with privacy reveals two logical limitations. The first logical limitation is that securing privacy rights does not justify the denial of information to the very person whose privacy rights are being exercised. Therefore, the argument that secrecy protects the privacy of death row inmates cannot explain or justify the refusal to disclose the timing of executions and other details to the inmates

themselves and their families. In fact, privacy protection would rather support the assertion that death row inmates and their families should be fully informed about the inmate's fate. Restricting basic information about the death of the inmate from the inmate and their family does not promote privacy; instead, it undermines the privacy.”

“The second logical limitation is that if a death row inmate does not desire their own experiences and the facts of their execution to be kept private, respect for privacy cannot compensate for the obligation of transparency. In such circumstances, "privacy" becomes nothing more than a byproduct of forced secrecy. Since death row inmates do not know when they will die, they have no opportunity to disclose (or manage privacy about) this fact. Furthermore, death row inmates are prohibited from contacting the media or politicians, and contact with approved visitors is strictly managed and monitored. By depriving death row inmates of communication means and depriving them of knowledge about the most important aspect of their lives—the timing of their own death—the Japanese system not only fails to protect the privacy of death row inmates but rather violates it.”

The Alston report, as mentioned above, points out the fallacy of the government's claim to respect the privacy of death row inmates by not informing them or their

families of the impending execution, and further by withholding information about the execution from the general public under the pretext of maintaining the emotional stability of the inmates. Such arguments, it contends, carry a meaning contrary to the true sense of privacy, which would involve being informed in advance of the date of one's own demise, allowing for a minimum of time to confront one's impending death and to communicate with family members. The failure to provide such notification, the report argues, constitutes cruel and inhumane treatment in violation of Article 7 of the International Covenant on Civil and Political Rights.

Reports and recommendations from such special rapporteurs do not equate to the official stance of the United Nations. However, as reports commissioned within the official procedures of the United Nations on designated themes, they possess a more public character than scholarly publications, serving as interpretations of international human rights law. It is noted that the independence of special rapporteurs, stemming from their status as experts in their individual capacities, is crucial in avoiding the politicization of procedures and ensuring fairness. Furthermore, it is emphasized that in the Universal Periodic Review of the United Nations Human Rights Council, there is no impediment to treating reports from special rapporteurs as objective and reliable sources of information when deliberating on the human rights situation of the countries

under review.

(3) The view of the United Nations Committee Against Torture

Professor Kitamura's aforementioned opinion paper (D 8) states: "Moreover, within the United Nations, aside from the Committee on Economic, Social and Cultural Rights, the Committee Against Torture also issued general comments during the review of Japan's government report in 2013. According to this, the Committee expressed deep concerns about the detention conditions of death row inmates in contracting states and made the following recommendations: "

“(a) Unnecessary secrecy and ambiguity surrounding the execution of death row inmates. As noted by special rapporteurs on extrajudicial, summary, or arbitrary executions, refusing to provide prior notification of the date and time of execution to death row inmates and their families constitutes a clear violation of human rights. It is recommended to provide death row inmates and their families with sufficient advance notice of the scheduled date and time of execution." (page 26)

(4) Criticism from foreign countries

As such, there is significant criticism from outside Japan, particularly from the United Nations, regarding the "secrecy" and "ambiguity." Despite strong criticism from both domestic and international sources, the defendant country stubbornly maintains secrecy surrounding the execution of the death penalty.

6. The Last Resort to Know the Situation of Executions

Article 478 of the Code of Criminal Procedure stipulates that "the prosecutor who attended the execution of the death penalty shall prepare an execution record, and shall sign and affix his seal on it together with the prosecutor and the head of the criminal facility or his representative." The creation of documents such as the execution record is legally mandated.

In Japan, the only means for citizens to understand the situation of executions is through requesting documents for disclosure in this claim.

Section 6. Regarding the Request for Information Disclosure

1. Purpose of Plaintiffs' Request for Information Disclosure

Plaintiff Oda is a professor of law at a law school (criminal law), and as an attorney, he represented Keizo Okamoto, who was executed while seeking a retrial. He also served as a member of the inspection committee for the Osaka Detention Center and has conducted research on "executions" in Japan. Additionally, Plaintiff Konishi, through coverage of criminal cases and reporting on death penalty cases, has conducted investigations similar to Oda's on "executions" in Japan and has shared the results through the media, questioning them to the public.

The purpose of the plaintiffs' request in this case is twofold: (1) to verify whether executions in Japan are conducted properly and lawfully and (2) to examine whether Japan's use of hanging as a method of execution currently constitutes "cruel punishment" prohibited by the Constitution. The plaintiffs argue that if the requested documents are disclosed, they can shed light on the reality of the death penalty (hanging) to the public. It should be noted that in the United States, the plaintiffs would naturally have the opportunity to witness executions.

2. Documents Requested for Disclosure in this Case

(1) Execution of Kawanaka (E1-1 to 1-6)

There was a period in Japan from 1990 to March 1993 when no executions were carried out. The resumption of executions occurred on March 26, 1993, with the execution of Kawanaka at Osaka Detention Center, along with two others. Regarding Kawanaka, the following personal information is known:

1 A robbery-murder incident on April 3, 1975, in which he severely injured a couple in Hyogo Prefecture, killed their two daughters, and robbed them of 8,000 yen in cash.

2 An attempted robbery-murder incident on August 15, 1977, in which he severely injured two office workers and attempted to rob them of approximately 30,000 yen in Hyogo Prefecture.

3 A robbery-murder incident on the same month's 18th in Mie Prefecture, where he killed a woman and robbed her of 28,000 yen in cash, among other things. He was arrested as the perpetrator of these incidents, confessed to incidents 1 and 2, and was involved in three robbery cases, three cases of robbery resulting in injury, and

one case of attempted robbery-murder, committing crimes in ten prefectures. There were final judgments between the robbery incident and the incident in 1975, as well as between the incidents in 1975 and 1977.

Kawanaka grew up in a household without parents and was raised by his brother in extreme poverty. From a young age, he repeatedly engaged in theft to survive.

(Trial Proceedings)

September 13, 1980 (Showa 55): Kobe District Court (Presiding Judge Michinobu Takahashi) - Sentence of 10 years imprisonment, death penalty, and life imprisonment.

May 26, 1982 (Showa 57): Osaka High Court (Presiding Judge Naomichi Yagi) - Dismissal of the appeal.

September 13, 1984 (Showa 59): Supreme Court (Presiding Judge Kyoichi Yaguchi) - Dismissal of the appeal.

Around 1987 (Showa 62): Certainty of the judgment was questioned, and preparations for a retrial were being made, claiming innocence in part. However, due to worsening symptoms of schizophrenia, preparations for the retrial were suspended.

March 26, 1993 (Heisei 5): Execution of the death penalty at Osaka Detention Center.

(Issues)

Osaka Detention Center arranged for an external psychiatrist to conduct an examination on January 14, 1982, which resulted in a diagnosis of "delusional psychosis (suspected schizophrenia)." He had been regularly visiting a psychiatric clinic every six months. However, during the appeal and supreme court hearings, Kawakami's mental condition was not considered as part of the proceedings. Subsequently, his symptoms worsened, and it appears that Kawakami suffered from a schizophrenic-like mental disorder, reaching a degree of personality disintegration. At the time of execution, there are suspicions that he may have been in a state of "insanity" as prohibited by Article

479-1 of the Code of Criminal Procedure. (E1-6: Takenami Nakamichi's "How to Respond to the Death Penalty for Aum," Annual Report on Abolition of the Death Penalty '96, pp. 72-74)

(2) Execution of Nagayama

This case concerns the defendant in the case that established the standards for death penalty judgments by the Supreme Court, known as the Nagayama criteria (Supreme Court, July 8, 1983, First Petty Bench Judgment). Following the confirmation of the death penalty (May 9, 1990), the execution took place on August 1, 1997, at Tokyo Detention Center.

(Trial Proceedings)

July 10, 1979 (Showa 54): Tokyo District Court - Death penalty verdict

August 21, 1981 (Showa 56): Tokyo High Court - Death penalty overturned, life imprisonment verdict

July 8, 1983 (Showa 58): Supreme Court - Overturned the High Court's decision and remanded it to the High Court, establishing the Nagayama criteria

March 18, 1987 (Showa 62): Tokyo High Court - Death penalty verdict

April 17, 1990 (Heisei 2): Supreme Court - Dismissal of appeal

August 1, 1997 (Heisei 5): Execution

(Issues)

Kyoko Otani, who was the defense counsel in the first appeal trial of Nagayama, revealed in "With the Death Penalty Defense Attorney Nagayama Norio" (document F2) that the custodian had doubts about the execution of the death penalty. On November 26, 1997, through the defense counsel, the following three inquiries were made to the Tokyo Detention Center, seeking written responses:

1. Was there a "diary"? If so, please hand it over.
2. What was the cause of the "wetting" of the futon? If there is discoloration from water seepage over time and only that part is odorless, it is inferred that some incident occurred in the cell after the execution was declared, necessitating partial

cleaning and deodorizing. Therefore, please provide the date, time, location of the declaration, the person involved, and the situation at that time.

3. Was there a signature on any "unfinished matters"? If so, please hand over the will. If not, please clearly state the circumstances, the person who heard it, the scribe, the witnesses, the date, and the location.

The response from the Tokyo Detention Center to this was "brusque." On December 1, in a communication to the defense counsel:

1. Regarding the diary, there were no items not handed over.
2. Regarding the futon, there was no leakage at the time of delivery. Additionally, there were no facts such as those mentioned in the inquiry, such as wetting, cleaning, or deodorizing.
3. Regarding the unfinished matters, under the observation of multiple staff members, the individual orally expressed their final thoughts. There was no will.

I will refrain from providing further information, as the nature of the matter should be handled with the utmost solemnity.

However, the futon was not wet when received by Amnesty, nor was it wet in our home. If there is a possibility that the futon folded in the cell became wet, it could have been either due to Mr. Nagayama causing an extreme mess during his disturbance in the cell or some kind of substance being used on Mr. Nagayama in the cell. Around 9 a.m. on August 1st, another death row inmate, Shoji Daidoji, heard a loud scream. "It sounded like a protest, then quickly turned into a muffled voice and disappeared. Was that loud voice from someone being taken to the execution ground?" he wrote in a letter from prison dated August 3rd. (Ref: (F 2 – 6 , Pages 241-242) (Note: Regarding the description of the "futon" mentioned above, the futon was received by Attorney Ohtani from Tokyo Detention House via Amnesty. The spot on the futon that was wet or stained was not caused at Amnesty or at Attorney Ohtani's home, so it is suggested that it may have been caused when Mr. Nagayama struggled and was subdued at Tokyo Detention House.) As described above, there are concerns regarding Mr. Nagayama's execution, as he may have resisted it and some physical force may have been used by the detention center, suggesting that it may not have been conducted peacefully.

There are numerous studies and writings regarding Nagayama's life, including the chronology in (F 2 – 5) spanning pages 276 to 291. Additionally, Nagayama himself has left behind many writings. Among the notable ones are "Tears of Ignorance" (1971), "The Forgotten Canaries" (1971), "Love or No Love" (1973), "Period of Disturbance 1" (1973), "Anti-Terayama Shuji Theory" (1977), "Kihashi" (1984), "Abandoned Child Game" (1987), "Tears of Execution" (1988), "For Some Reason, the Sea" (1989), "Different Waters" (1990), and "Hana" (1997).

(3) Fujinami's Execution (E3)

He was a former defendant in the Imaichi quadruple murder case. On March 29, 1981, in Imaichi City, Tochigi Prefecture, Fujinami, enraged that relatives of his divorced ex-wife refused to disclose her whereabouts, stabbed two relatives to death and injured two children while under the influence of alcohol. A ring and a pearl necklace were found in the car, and he stole cash (700 yen) and a camera. He was indicted for robbery-murder and other charges and received a death sentence from the Utsunomiya District Court on February 19, 1982. The appeal was dismissed by the Tokyo High Court on November 11, 1992, and the appeal to the First Petty Bench of the Supreme Court on October 1, 1993, was also dismissed. The sentence

was finalized on October 4 of the same year. After the death sentence was finalized, he was incarcerated in the Tokyo Detention Center.

Before his death sentence was finalized, he joined the "Japan Death Row Inmates' Conference - Barley Group" and contributed essays to the organization's newsletter, "Barley Group Newsletter."

He was baptized on Christmas in 1989 and converted to Christianity.

On December 25, 2006 (Christmas Day), he was executed. His lawyers were in the process of preparing a third request for retrial.

At the time, Fujinami was 75 years old and unable to walk independently, receiving treatment in the infirmary.

According to chaplain Yasunobu Kuroki, Fujinami was brought to the execution site in a wheelchair, taken out of the wheelchair, handcuffed, and blindfolded before being executed. Kuroki protested to the prosecutors, correctional bureau chief, and detention center chief, saying, "Executing someone on December 25, it seems you are mocking Christianity. Why do you have to kill a 75-year-old man like this?"

Couldn't he have died naturally from illness? The people at the Ministry of Justice don't see people as human beings."

This was disclosed after Kuroki's death in 2015 (Heisei 27).

Fujinami left a will, with the final lines reading, "I cannot stand alone or take a single step. I am half ill. Aged 73." In the last two lines, he wrote, "Protest to the Minister of Justice. I cannot take a single step because I am treated in the infirmary."

This additional text was added just before the execution (D3-2, p. 190). The case of executing an elderly person at the age of 75, who was unable to stand or walk independently, constitutes a matter that should be made clear.

(4) Execution of Kuma (D5, Chapter 8, "Hanging Execution," Pages 224-263)

Kuma was a former defendant in the so-called "Iizuka Incident." On February 20, 1992, two girls went missing in Iizuka City, Fukuoka Prefecture, and the following day, their bodies were found at Yachidani Pass in Amagi City (now Asakura City) in the same prefecture. Two years later, on February 20, 1994, Kuma (then 56 years

old) was arrested. He was indicted for abduction, murder, and abandonment of a body. Despite a lack of substantial direct evidence, Kuma consistently denied the charges. However, DNA analysis of bloodstains conducted by the National Research Institute of Police Science supported the case. On September 26, 1999, the Fukuoka District Court sentenced Kuma to death. He appealed the decision, but on October 10, 2001, the Fukuoka High Court upheld the original verdict. He further appealed to the Supreme Court, but on October 8, 2006, his appeal was rejected, and the death penalty was finalized. About two years later, on October 28, 2008, the death penalty was carried out at Fukuoka Detention Center.

In this case, DNA analysis served as evidence for the conviction. However, the method of analysis that was used as evidence in this case was the same as the one that was discredited in the Ashikaga incident, where a retrial resulted in an acquittal, raising doubts about its credibility and suggesting a strong possibility of wrongful conviction.

In "Execution by Hanging" (D5), Aoki Osamu writes:

"The explanation regarding such death penalty orders, which were handled by the Ministry of Justice, was received by Hideosuke Mori, who had just been appointed as

the Minister of Justice in the Aso Taro government, which had been launched just one month earlier in September 2008. It was extremely unusual for a minister of justice who had been in office for only one month to issue a death penalty order, and of course, it was also the first experience for Hideosuke Mori."

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According to multiple officials in the Ministry of Justice, Mori, who had been briefed on these circumstances by senior police officials, felt a slight unease about issuing the execution order for Kuma, prompting him to press the senior police official before him for reassurance.

"Are you sure about this?"

However, the gaunt-faced senior police official asserted confidently, urging Mori to make a decision.

"There is no mistake. Everything is fine."

In the end, Mori signed the execution orders for both Kuma and Takashio as prompted by the senior police official. The orders were dated October 24th.

Furthermore, Aoki discusses the case of Toshiyuki Sugaya in the same chapter, who was initially convicted based on DNA evidence from the same Forensic Science Laboratory but was later acquitted when the credibility of DNA analysis was questioned.

He remarks:

"Was Kuma really the perpetrator after all? Perhaps he wasn't the culprit. When prompted by the Ministry of Justice Criminal Investigation Bureau to issue the death penalty execution order, Minister of Justice Mori Eiji's momentary hesitation, when he asked, 'Is everything alright?'—was it not a sign that something was amiss?"

.....

And there's one more, we cannot fail to mention the even more alarming "inference."

.....

Moreover, as previously mentioned, the execution carried out just two years after the finalization of the death penalty verdict in Kuma's case was notably swift, even when compared to precedents. If so, could it be that the Ministry of Justice and the prosecution, foreseeing the potential overturning of the forensic identification in the Ashikaga case, feared that they had to expedite the execution of Kuma, the death row inmate in the Iizuka case, which harbored similar problematic points, without delay?

Wasn't it to avoid by all means a situation where unprecedented errors in the administration of the ultimate punishment wielded by the state, the death penalty, would lead to growing doubts about the death penalty system itself? (Pages 258 to 259)

The Iizuka case subsequently saw Kuma's wife becoming the petitioner, filing a request for retrial in 2009, but the petition was dismissed and confirmed by the Supreme Court. Currently, a second request for retrial is pending. Therefore, given the strong possibility of a wrongful conviction in Kuma's case, it is imperative to clarify how the execution was carried out.

(5) Execution of Matsumoto

Matsumoto was the leader of the Aum Shinrikyo cult.

1987 (Showa 62): Founded the religious organization "Aum Shinrikyo" and began missionary activities.

1989 (Heisei 1): Ordered the murder of the Sakamoto family by Tsutsumi Sakamoto, an attorney.

From 1993 (Heisei 5) onwards: Instructed followers to develop weapons and assassinate adversaries, leading to numerous incidents.

June 1994 (Heisei 6): Aum Shinrikyo Sarin Attack.

March 1995 (Heisei 7): Tokyo Subway Sarin Attack.

May 1995 (Heisei 7): Arrested as the mastermind behind the Tokyo Subway Sarin Attack.

The cases for which he was charged are as follows:

Male Follower Homicide Case (Murder)

Sakamoto Family Homicide Case (Murder)

Sarin Plant Construction Case (Attempted Murder)

Pharmacist Lynching Homicide Case (Murder and Corpse Desecration)

Taro Takimoto Sarin Attack Case (Attempted Murder)

Automatic Rifle Manufacturing Case (Violation of Weapons Manufacturing Law)

Matsumoto Sarin Attack Case (Murder and Attempted Murder)

Male Active Follower Lynching Homicide Case (Murder and Corpse Desecration)

Parking Lot Operator VX Attack Case (Attempted Murder)

Company Employee VX Homicide Case (Murder)

Victim's Association Chairman VX Attack Case (Attempted Murder)

Notary Office Director Arrest and Confinement Resulting in Death Case (Arrest and Confinement Resulting in Death)

Tokyo Subway Sarin Attack Case (Murder and Attempted Murder)

The trial proceeded as follows:

February 27, 2004 (Heisei 16): Tokyo District Court - Death penalty verdict

March 28, 2006 (Heisei 18): Tokyo High Court - Dismissal of appeal

March 30, 2006 (Heisei 18): Filing of objection against dismissal decision

May 2006 (Heisei 18): Tokyo High Court - Dismissal of objection

September 15, 2006 (Heisei 18): Supreme Court - Rejection of special appeal, confirmation of death penalty verdict

The execution was carried out on July 3, 2018.

Matsumoto's mental state has been a concern since the time of the trial. Matsumoto's relatives are currently in litigation with the government, seeking compensation on the grounds that the execution was illegal due to his mental incapacity at the time of execution. An article from the Asahi Shimbun (E5-1) is reporting on the trial based on civil case records. According to the civil trial records, documents prepared by the Tokyo

Detention Center have been submitted by the government. However, the relatives are requesting the submission of original documents that provide concise evaluations and opinions, rather than primary materials such as medical records. In any case, the execution of Matsumoto raises concerns about his mental state, and the circumstances of the execution should be clarified.

(6) Execution of Okamoto

This is detailed in the complaint for the first of the three death penalty cases (B5).

(Event Overview)

Former defendant in the Cosmo Research incident. On January 29, 1988, Okamoto and three accomplices robbed the president of the investment advisory company Cosmo Research of 100 million yen and killed him along with company employees. Okamoto and Hirokazu Suemori received the death penalty, while Keiichi Son was sentenced to life imprisonment. On December 27, 2018, during the fourth retrial request, Okamoto was executed along with Suemori at Osaka

Detention Center. His works include "Is it okay for someone like me to live?", "To Live", and "Outcasts".

(Chronology)

January 29, 1988 (Showa 63): Incident occurs.

October 6, 1988 (Showa 63): Arrested for separate fraud charges.

March 23, 1995 (Heisei 7): Sentenced to death for robbery-murder, corpse abandonment, fraud, violation of firearms and swords control laws, and violation of explosives control laws (Judge Mitsuyuki Tanimura).

March 5, 1999 (Heisei 11): Appeal dismissed (Judge Motohiko Nishida).

September 13, 2004 (Heisei 16): Appeal to the Supreme Court dismissed (Judge Jinro Shimada).

August 2008 (Heisei 20): First retrial request.

June 4, 2010 (Heisei 22): Osaka District Court rejects retrial request.

June 7, 2010 (Heisei 22): Immediate appeal filed.

June 28, 2011 (Heisei 23): Osaka High Court dismisses immediate appeal.

June 30, 2011 (Heisei 23): Special appeal.

December 10, 2011 (Heisei 23): Special appeal dismissed.

December 21, 2011 (Heisei 23): Second retrial request.

August 26, 2014 (Heisei 26): Osaka District Court rejects second retrial request.

August 28, 2014 (Heisei 26): Immediate appeal filed.

March 30, 2015 (Heisei 27): Osaka High Court dismisses immediate appeal.

April 2, 2015 (Heisei 27): Special appeal.

November 30, 2015 (Heisei 27): Special appeal dismissed.

December 4, 2015 (Heisei 27): Third retrial request.

March 28, 2017 (Heisei 29): Osaka District Court rejects third retrial request.

March 30, 2017 (Heisei 29): Immediate appeal filed.

July 20, 2017 (Heisei29): Osaka High Court dismisses immediate appeal.

July 20, 2017 (Heisei 29): Special appeal.

September 11, 2017 (Heisei 29): Special appeal dismissed.

September 12, 2017 (Heisei 29): Fourth retrial request.

December 27, 2018 (Heisei 3): Execution at Osaka Detention Center along with Suemori.

As stated above, Okamoto and his legal team have been pursuing retrial requests. The course of events is as detailed in the statement of claim for the first case. However, despite the absence of authority for the Minister of Justice to decide on retrial requests,

the death penalty was carried out on the grounds of lacking grounds for retrial. Moreover, the execution took place on December 27th, close to the year-end, and there should be records indicating how Okamoto felt during the execution.

(7) Characteristics of these cases

The documents related to the executions requested for disclosure, while varying in timing, pertain to cases where not only the individuals' names but also the crimes for which they were sentenced to death have become widely known in the public domain.

All of these cases are notable and widely known incidents.

Moreover, as indicated above, each of the executions has been subject to criticism.

This is evident from the evidence cited.

Incidentally, in terms of timing, there are differences in the scope of information disclosed by the Ministry of Justice.

The executions of (1) Kawanaka and (2) Nagayama occurred during a period (prior to executions in November 1998) when only the number of executions was disclosed based on annual statistical data, and individual details of each execution were not

officially revealed.

The execution of (3) Fujinami took place during a period (from executions in November 1998 to executions before December 2007) when only the fact of the execution and the number of executed individuals were disclosed on the day of execution.

The executions of (4) Kuma, (5) Matsumoto, and (6) Okamoto respectively marked a shift to a system where the names, birth dates, execution locations, and the crimes leading to the execution of the condemned were disclosed on the day of execution. This change occurred after executions in December 2007.

Furthermore, Okamoto's case was handled by the plaintiff, Oda. On the day of execution, while Oda was heading to Osaka Detention Center by taxi, intending to meet with Okamoto and convey New Year's greetings, a staff member from Oda's office called and informed him that Okamoto had been executed.

This incident presents an ideal opportunity to elucidate the reality of executions, and thus, the plaintiffs requested disclosure of information held by administrative agencies

under the Law Concerning the Disclosure of Information Held by Administrative Organs.

3. Plaintiffs' Request for Information Disclosure

(1) To the Minister of Justice

On June 28, 2023, the plaintiffs requested the Minister of Justice to disclose the following documents:

(1) Execution of Kawanaka (Enclosed document: A1-1-1)

(2) Execution of Nagayama (Enclosed document: A1-2-1)

(3) Execution of Nagayama (Enclosed document: A1-2-1)

(4) Execution of Kumama (Enclosed document: A1-4-1)

(5) Execution of Matsumoto (Enclosed documents: A1-5-1, 2)

(6) Execution of Okamoto (Enclosed documents: A1-6-1, 2)

And related to each of the above executions.

1. Motion for Execution of Death Penalty
2. Authorization Document for Execution of Death Penalty
3. Execution Order for Death Penalty
4. Execution Report for Death Penalty
5. For issuing Document 1 above, any memorandum prepared within the Ministry of Justice, minutes of meetings held within the Ministry of Justice, or reports detailing discussions held within the Ministry of Justice (if multiple exist, all of them)
6. For issuing Document 2, any memorandum prepared within the Ministry of Justice, minutes of meetings held within the Ministry of Justice, or reports detailing discussions held within the Ministry of Justice (if multiple exist, all of them)
7. For issuing Document 3, any memorandum prepared within the Ministry of Justice, minutes of meetings held within the Ministry of Justice, or reports detailing discussions held within the Ministry of Justice (if multiple exist, all of them)

(2) To Tokyo Regional Correction Headquarters Superintendent

On June 28, 2023, the plaintiffs requested the Tokyo Regional Correction Headquarters Superintendent to disclose the following documents:

- (2) Execution of Nagayama (A 2 – 1 – 1)
- (3) Execution of Fujinami (A 2 – 2 – 1)
- (5) Execution of Matsumoto (A 2 – 3 – 1, 2)

For the above executions:

- 1. Execution Directive
- 2. Execution Report
- 3. For Document 1, any memorandum prepared within the Tokyo Regional Correction Headquarters or Tokyo Detention Center, minutes of meetings held within the Tokyo Regional Correction Headquarters or Tokyo Detention Center, or reports detailing discussions held within the Tokyo Regional Correction Headquarters or Tokyo Detention Center (if multiple exist, all of them)

- (3) To Osaka Regional Correction Headquarters Superintendent

On June 28, 2023, the plaintiffs requested the Chief of the Osaka Regional Correction Headquarters Superintendent to disclose the following documents:

(1) Execution of Kawanaka (A 3 – 1)

(6) Execution of Okamoto (A 3 – 2 – 1 , 2)

For the above executions:

1. Execution Directive

2. Execution Report

3. For Document 1, any memorandum prepared within the Osaka Osaka Regional Correction Headquarters or Osaka Detention Center, minutes of meetings held within the Osaka Regional Correction Headquarters or Osaka Detention Center, or reports detailing discussions held within the Osaka Osaka Regional Correction Headquarters or Osaka Detention Center (if multiple exist, all of them)

(4) To Fukuoka Regional Correction Headquarters Superintendent

On June 28, 2023, the plaintiffs requested the Chief of the Fukuoka Regional Correction Headquarters Superintendent to disclose the following documents:

(4) Execution of Kuma (A 4 – 1, 2)

1. Execution Directive
2. Execution Report
3. For Document 1, any memorandum prepared within the Fukuoka Regional Correction Headquarters or Fukuoka Detention Center, minutes of meetings held within the Fukuoka Regional Correction Headquarters or Fukuoka Detention Center, or reports detailing discussions held within the Fukuoka Regional Correction Headquarters or Fukuoka Detention Center (if multiple exist, all of them)
4. Decision of the administration agencies

(1) Minister of Justice

- A. On August 3, 2023, the Minister of Justice made a disclosure (partial) decision regarding the request documents of:

(5) Matsumoto

(6) Okamoto

(Delivered on August 7 of the same year) (A 1 - 5 - 2 A 1 - 6 - 2).

B. On August 10, 2023, the Minister of Justice made a non-disclosure decision for all request documents of:

(1) Kawanaka

(2) Nagayama

(3) Fujinami

(Delivered on August 14 of the same year) (A 1 - 1 - 2、A 1 - 2 - 2、A 1 - 3 - 2).

C. On August 25, 2023, the Minister of Justice made a disclosure (partial) decision regarding the request document of:

(4) Kuma

(Delivered on August 30 of the same year) (A 1 - 4 - 2).

D. Furthermore, on September 4, 2023, the Minister of Justice made a disclosure (partial) decision regarding the request documents of:

(5) Matsumoto

(6) Okamoto

(Delivered on September 7 of the same year) (A 1 - 5 - 3 A 1 - 6 - 3).

(2) Tokyo Regional Correction Headquarters Commissioner

A. On July 31, 2023, the Tokyo Regional Correction Headquarters Superintendent made a non-disclosure decision for all request documents of:

(2) Nagayama

(3) Fujinami

(Delivered on August 2 of the same year) (A 2 - 1 - 2 A 2 - 2 - 2).

B. On September 1, 2023, the Tokyo Regional Correction Headquarters Superintendent made a disclosure (partial) decision regarding the request document of:

(5) Matsumoto

(Delivered on September 4 of the same year) (A 2 - 3 - 2).

(3) Osaka Regional Correction Headquarters Superintendent

A. On July 25, 2023 (Reiwa 5), the Osaka Regional Correction Headquarters Superintendent made a decision of non-disclosure for all requested documents from (1) Kawanaka (delivered on July 26 of the same year) (A3-1-2).

B. On August 25, 2023 (Reiwa 5), the Osaka Regional Correction Headquarters Superintendent made a (partial) disclosure decision regarding the request document from (5) Okamoto (delivered on August 28 of the same year) (A3-2-3).

(4) Fukuoka Regional Correction Headquarters Superintendent

A. On August 8, 2023, the Fukuoka Regional Correction Headquarters Superintendent made a decision of non-disclosure for all requested documents of Kuma's

(1) Execution report

(2) Deliberation document created within the Fukuoka Regional Correction Headquarters or Fukuoka Detention Center, meeting minutes held within the Fukuoka Regional Correction Headquarters or Fukuoka Detention Center, or reports detailing discussions held within the Fukuoka Regional Correction

Headquarters or Fukuoka Detention Center, received following the "Execution Instruction Document" (Delivered on August 14 of the same year).

B. On August 8, 2023, the Fukuoka Regional Correction Headquarters Superintendent made a disclosure (partial) decision regarding the execution instruction document of

(4) Kuma

(Delivered on August 14 of the same year) (A 4 – 1 – 3).

(5) However, the non-disclosure decisions regarding Kawanaka, Nagayama, and Fujinami should all be revoked. Regarding Kumama, Matsumoto, and Okamoto, all parts listed in Annex Document Catalog No. 2 among those that were non-disclosed should be revoked, and must be disclosed.

Section 7. Plaintiffs' Right to Request

1. Right to Obtain Information on the Legality and Fairness of Capital Punishment

Executions

Capital punishment execution involves the state taking the life of a human being as a punishment. Human life is guaranteed the utmost respect under Article 13 of the Constitution. Procedures for taking this life must be conducted lawfully and fairly (Constitution Article 31, Supreme Court, Grand Bench decision of March 12, 1948). Without confirmation that such procedures have been lawful and fair, the Constitution holds no meaning. As researchers and lawyers, as well as journalists, the plaintiffs have the right, akin to those in states that retain the death penalty in the United States, to discern the reality of capital punishment executions and inform the public.

2. Right to Reevaluate (Interrogate) Death Penalty (Hanging) within the Context of Time and Environment

Furthermore, even in the Supreme Court Grand Bench decision, it is stated that if hanging "is generally recognized as having cruelty from a humane perspective in its execution method in the context of the time and environment," it would violate Article 36 of the Constitution. Therefore, it is necessary to clarify its reality and reevaluate it within the context of time and environment. Plaintiffs have the right to clarify the

reality of death penalty executions and, together with citizens, to examine them.

3. Right of Citizens to Know the Reality of Executions

Citizens have the "right to know" the reality of death penalty execution. The plaintiffs are exercising this right.

(1) For Participation in Lay Judge Trials

In Japan, the "lay judge system," where citizens participate as lay judges in criminal trials, has been implemented since May 2009 (Heisei 21). Lay judge trials may involve cases where the appropriateness of the death penalty is questioned. In such cases, citizens are involved in determining facts and sentencing. However, with little information provided about how individuals sentenced to death are treated and how executions are carried out, there are lingering doubts about whether the proceedings and deliberations leading to death sentences are conducted properly. In fact, in February 2014, twenty individuals with experience as lay judges, including those involved in death penalty judgments, submitted a request to the Minister of Justice urging for a halt to executions and thorough disclosure of information.

(2) For Accurately Assessing the Death Penalty System

The target demographic for the Cabinet Office's public opinion surveys, which the Ministry of Justice uses as a strong basis for retaining the death penalty (hanging), is the general public. To evaluate Japan's death penalty system, it is essential to have accurate knowledge and understanding of the current state of the death penalty (hanging).

Unlike in death penalty retention states in the United States where executions are public, in Japan, executions are not publicized. Therefore, it is imperative for citizens to understand the reality of the death penalty (hanging).

Since not all citizens can exercise these rights, the plaintiffs are acting as representatives to exercise these rights, similar to death penalty retention states in the United States.

4. The Right to Information in the United States

In support of the plaintiffs' rights, there is public disclosure of executions in the United States.

(1) In retention states in the United States

As mentioned above, the method of execution is legislated, and the right to obtain information about executions is institutionally guaranteed.

In addition to prosecutors, courts, defense attorneys, and other stakeholders there are statutory witnesses such as family members and friends of the person sentenced to death, family members of the victim, representatives of the public, the media, a chaplain, and doctors. This is an institutional guarantee to monitor that executions are conducted lawfully and properly. It underscores the need for third-party oversight rather than leaving it solely to the executing authority.

(2) Fundamental to Institutional Safeguards in the United States (Monitoring of Procedures)

According to Professor Kana Sasakura's response document (C2-2), even in the United States, "Execution of the death penalty, even in the death penalty retention states of the United States, involves the state executing the punishment of taking a human life. The procedures by which the state or a state takes the life of a death row inmate must not only be conducted lawfully but also properly. It must be ensured that they are conducted lawfully and properly."

Historically, in the United States, which inherited the customs of English common law, executions of the death penalty were conducted publicly since the founding of the nation. Public executions continued until 1835. The decision to make executions private at this stage was influenced by paternalism and the strong advocacy for abolition of the death penalty at the time, based on the perspective that condemned individuals should not be subjected to public humiliation and to protect their dignity. On the other hand, there was increasing demand for transparency to the public and media, leading to executions being made public for certain stakeholders thereafter, as mentioned above.

In many states, representatives of the public, relatives of the condemned, victims' families, sheriffs, journalists, and others are allowed to witness executions. This is

intended to confirm, at the site of execution, whether the execution is conducted lawfully and appropriately by the correctional authorities. In cases such as Cal. First Amendment Coal. v. Woodford, 299 F.3d 868, 875 (9th Cir. 2002) in California and Phila. Inquirer v. Wetzel, 906 F. Supp. 2d 362, 373 (M.D. Pa. 2012) in Pennsylvania, courts have made detailed rulings recognizing citizens' access rights not only to the execution itself but also to all phases of the execution process, under the First Amendment to the United States Constitution. (Page 15)

Furthermore, the courts have made detailed rulings.

"In the Pennsylvania case, the court stated that 'full access to Pennsylvania's procedures and operations is necessary to deepen the judgment of whether the state's procedures conform to evolving constitutional standards.' Both the California and Pennsylvania courts have noted that granting citizens access to all aspects of the execution process plays an important role in ensuring the proper functioning of the death penalty system. Moreover, they pointed out the significance of citizens' access rights in: 1) contributing to determining whether death penalty executions by lethal injection conform to evolving standards of decency in society, 2) providing assurance of the quality of fact-finding when citizens judge whether lethal injection is administered fairly and humanely, thereby ensuring integrity, and 3) guaranteeing the

appearance of fairness in procedures through citizen access, thereby securing trust in the judicial system." (Page 15).

5. Institutional Safeguards in Japan

In Japan, neither citizens nor the media are allowed to witness executions. Not even relatives of the condemned or victims are permitted to attend. Instead, Article 478 of the Code of Criminal Procedure stipulates that "the prosecutor who attended the execution of the death penalty must create a record of the execution and must sign and affix a seal to it along with the prosecutor and the head of the penal institution or their representatives." This mandates the creation of records such as the death penalty execution report.

The assurance of the legality and propriety of executions relies on these documents and their contents as stipulated by law. Therefore, the defendant country, which is the entity responsible for carrying out executions and documenting their outcomes, has an obligation to disclose them. Consequently, as these documents are part of the institutional safeguards to disclose the circumstances of executions, the defendant country has a duty to make them known to the public.

Section 8. Reasons for Non-Disclosure

1. Reasons for Non-Disclosure of Documents Regarding the Executions of Kawana, Nagayama, and Fujinami

(1) Reasons from the Osaka Regional Correction Headquarters Superintendent and the Tokyo Regional Correction Headquarters Superintendent (A 3 - 1 - 2, A 2 - 1 - 2, A 2 - 2 - 2)

The reasons for non-disclosure of these documents are as follows:

Responding to the disclosure request regarding these documents would inevitably disclose information about the existence or non-existence of specific individuals being or having been confined in penal institutions, which falls under the category of personal information as stipulated in Article 5, Clause 1 of Regulation, resulting in the same effect as disclosing identifiable information about specific individuals.

Therefore, pursuant to the provisions of Article 8, disclosure was denied.

(2) Reasons from the Minister of Justice (A 1 - 1 - 2, A 1 - 2 - 2, A 1 - 3 - 2)

The Minister of Justice has cited the following reasons for non-disclosure:

Responding to inquiries about the existence of administrative documents would lead to the disclosure of information regarding the execution status of specific individuals who have been sentenced to death, resulting in the same outcome as the disclosure of personal information as defined in Article 5, Clause 1 of the Regulations.

Additionally, there are substantial reasons to believe that disclosing information about the execution of the death penalty would lead to the revelation of information equivalent to that covered under Article 4 of the same regulation, potentially causing interference with the execution of the penalty and other aspects of public safety and order. Therefore, non-disclosure was deemed appropriate under the provisions of Article 8.

2. Reasons for Non-Disclosure of Documents Regarding the Executions of Kuma, Matsumoto, and Okamoto

(1) Reasons for Partial Non-Disclosure by the Minister of Justice (A 1 - 4 - 2, A 1 - 5 - 3, A 1 - 6 - 3)

The reasons for partial non-disclosure of records for these three individuals are as follows:

The records contain information related to the execution status of specific individuals who have been sentenced to death, falling under the provisions of Article 5, Clause 1 of the Regulations. Additionally, the records contain information regarding the execution of the death penalty, qualifying under Article 5, Clause 4 of the Regulations.

(2) Reasons for Partial Non-Disclosure of Documents Regarding Kumama's Execution by the Fukuoka Regional Correction Headquarters (A 3 – 2 – 3)

The reasons for partial non-disclosure of the death penalty execution instructions (Document 1) are as follows:

The aforementioned Document 1 contains personal information such as the legal proceedings relevant to the executed individual, which serves as reference for the execution of the death penalty. Since this information pertains to individuals and its disclosure could potentially infringe upon the rights and interests of these

individuals, it falls under the category of non-disclosure information as stipulated in Article 5, Clause 1 of the Regulations. Therefore, the portion containing such information was not disclosed.

(Note: Information regarding the execution supervisor and document handler in (1), correctional facility staff in (3), and the judgment transcript in (4) were not requested for disclosure and hence have been omitted.)

(3) Partial Non-Disclosure Reasons for Records Regarding Matsumoto by the Tokyo Regional Correction Headquarters Superintendent (A 2 – 3 – 2)

Death Penalty Execution Instruction documents (1)

Death Penalty Execution Report (2)

Death Penalty Execution Report (Supplementary Report) (3)

In the aforementioned administrative documents (2) and (3), specific information related to the death penalty execution, such as the execution time, execution status, details regarding the executed individual's sentence, wills, arrangements for the body, and other relevant details are recorded. However, disclosing this information

could potentially jeopardize the security of the detainee's custody and the security of the correctional facility, as well as impede the maintenance of public safety and order regarding the execution of sentences and other matters. Hence, as this information falls under the category of non-disclosure information as stipulated in Article 5, Clause 4 of the Regulations, the portions containing such information were not disclosed.

(Note: Information regarding the execution supervisor and document handler in (1), as well as information about specific staff members of the correctional facility, was not requested for disclosure and therefore has been omitted.)

(5) Partial Non-Disclosure Reasons for Records Regarding Okamoto by the Osaka Regional Correction Headquarters Superintendent (A 3 – 2 – 3)

Death Penalty Execution Instruction documents (1)

Death Penalty Execution Report (2) A

Death Penalty Execution Report (Supplementary Report) (2) B

Death Penalty Execution Report (Supplementary Report) (2) C

(2) The document (1) above contains personal information related to the executed individual, such as legal proceedings that could serve as a reference for the execution of the death penalty. Disclosing this information could potentially infringe upon the rights and interests of individuals, falling under the category of non-disclosure information as stipulated in Article 5, Clause 1 of the Regulations. Hence, the portions containing this information were not disclosed.

(6) The administrative documents listed in (2) above contain specific information related to the death penalty execution, such as execution time, execution status, details regarding the executed individual's sentence, wills, arrangements for the body, and other relevant details. Disclosing this information could potentially jeopardize the security of the detainee's custody, the security of the correctional facility, and the maintenance of public safety and order regarding the execution of sentences and other matters. Therefore, as this information falls under the category of non-disclosure information as stipulated in Article 5, Clause 4 of the Regulations, the portions containing this information were not disclosed.

(Note: Information regarding the execution supervisor in document (1), the document handler in document (2), specific staff members of the correctional facility,

and judgment transcripts were not requested for disclosure and therefore have been omitted.)

Section 9. Absence of Reasons for Non-Disclosure

1. Absence of Non-Disclosure Reasons for Documents Regarding the Execution of Kawanaka, Nagayama, and Fujinami's Death Sentences

(1) Information regarding death penalty executions becomes apparent immediately after the execution. Facts such as the crimes committed by these individuals, their status as death row convicts, the detention facility where they were held, and the date of execution have become publicly known as follows:

1. Regarding Kawanaka

Kawanaka was executed on March 26, 1993, at Osaka Detention Center. The following day, on March 27 of the same month, details about the execution, including the individual's name and the crime for which they were convicted, were disclosed in

the evening editions of newspapers (Mainichi Shimbun, Asahi Shimbun, Document E1-1-2).

Therefore, the defense counsel, Takeyoshi Nakamichi, noticed his abnormality since April 17, 1987. He frequently complained, "I can't sleep because of the voices from the neighboring cell. I have no appetite." His abnormality was evident, and Osaka Detention Center had already arranged for an external psychiatrist to examine him on January 14, 1982, during the proceedings at Osaka High Court. Furthermore, he was regularly examined by a psychiatrist at intervals of six months for "delusional paranoid state (suspected schizophrenia)." ... Subsequently, he continued to send bizarre and eccentric letters, such as "telecommunications interception devices intercepting waves and computers understanding his thoughts" and "Yotaro and his pet dog," until his execution. This is reported (E1-3, page 72). And Kawanaka's last letter is published (E1-3, page 73).

In other words, at the time of Kawanaka's execution, there was a strong suspicion of schizophrenia, and it became evident that there was a significant issue regarding his mental state, possibly being of unsound mind, indicating a strong possibility that the execution could not proceed.

2. Regarding Nagayama

He was executed on August 1, 1997, at Tokyo Detention Center. However, the following day, on August 2 of the same year, the morning editions of newspapers such as Mainichi Shimbun and Asahi Shimbun (E2-1 to E2-5) revealed his name and details about the execution (including the execution location, Tokyo Detention Center), and the crimes for which he was sentenced to death.

3. Regarding Fujinami

He was executed on December 25, 2006, at Tokyo Detention Center. The evening edition of the newspaper on that day (Mainichi Shimbun, E3-1) revealed his name and details about the execution (including the execution location, Tokyo Detention Center), and the crimes for which he was sentenced to death.

Furthermore, regarding the execution details, they are extensively documented in Aoki Osamu's "Execution by Hanging" (D5, Chapter 2, pages 60 to 89).

On the morning of December 25, 2006, Fujinami was informed of his execution and escorted out of his cell. He sat in a wheelchair pushed by a prison guard as they made their way to the execution site. Passing through the Tokyo Detention Center's long, white, sterile corridors and elevators, they arrived at a room adjacent to the execution site, where a thin beige carpet was laid out. Even upon entering this room, Fujinami remained seated in the wheelchair.

Despite being told about execution, Fujinami, in a wheelchair and unable to walk or stand, showed no signs of resistance or struggle. Instead, he repeatedly expressed gratitude to the prison staff who had taken care of him. It would have been impossible for him to resist or struggle given his physical condition.

Fujinami, seated in the wheelchair pushed by a prison guard, entered the room adjacent to the execution site through the iron door. In front of him, an elderly pastor who had long been responsible for spiritual guidance offered the final prayer and hymn, clasping Fujinami's hand and expressing gratitude for his years of service. Though it was a simple ceremony just before the execution, Fujinami, a devout Christian who had placed his trust in the pastor, had tears in his eyes and listened intently to the prayer and hymn.

However, the time allotted for the final prayer was only a few minutes. As soon as the ceremony concluded, preparations for the execution began immediately under the supervision of the execution team of prison guards.

Fujinami, still seated in the wheelchair, had his face covered with a white cloth, and a blindfold was tied at the back of his head. Another prison guard swiftly handcuffed his arms. Right after that, a massive accordion curtain leading to the execution chamber was opened to the left and right by yet another guard. Apart from being in a wheelchair, the procedure was exactly the same as for other death row inmates.

The accordion curtain opened, revealing the execution ground with a white rope hanging straight down in the center. However, Fujinami, who had already been blindfolded, couldn't see it. He was prompted by the guards to proceed, making his way toward the one-meter-square execution platform at the center of the execution ground.

There was only a few meters from the room where Fujinami was to the execution platform. However, Fujinami couldn't even move himself there, let alone stand up from the wheelchair.

Therefore, Fujinami's wheelchair was once again pushed by the guards, and when it was brought close to the side of the execution platform, two guards forcibly lifted Fujinami's body by the sides to make him stand. With his body ravaged by age and illness, Fujinami could offer no resistance as the guards carried him the short distance to the execution platform. His legs, unable to move of his own volition, dragged along the ground helplessly...

Even with a thick rope around his neck, Fujinami could not support his body on his own. By the time the floor of the execution platform opened, he was already in a state akin to being hanged. Still, with a signal, the execution button was pressed, and as the floor beneath him opened with a loud bang, Fujinami fell to the basement below without uttering a scream.

About an hour after Fujinami's execution...

On the opposite side of the corridor from the execution chamber within the Tokyo Detention Center, in one of the small rooms lined up, nearly twenty people including

detention center officials, guards involved in the execution, and attending chaplains had gathered. The room was decorated with flowers, and in the center, a coffin containing Fujinami's body was placed. It was for the ceremony known as "Coffin-side Religious Service."

The formality of the "Coffin-side Religious Service" can vary depending on the detention center where the execution takes place, as well as factors such as the timing of the execution and the circumstances of the death row prisoner. In some cases, it may not be performed at all. Essentially, it is a simple "funeral" conducted by those involved in the execution to mourn the death row prisoner. It may also serve to console the emotional turmoil of the guards who were involved in the mandatory taking of a life. The service typically lasts about thirty minutes, featuring brief sermons from chaplains or priests, and concludes with all participants praying for the repose of the executed prisoner's soul.

However, the ceremony surrounding Fujinami's coffin seemed to be shrouded in an even more somber mood than usual. Perhaps it was due to the perplexity and skepticism of having to execute the wheelchair-bound elderly prisoner who had sought final salvation in Christianity, especially on Christmas Day. All participants wore

expressions as if burdened with heavy lead in their hearts. It was confided by detention center authorities that conversations like the following were exchanged without anyone prompting them:

"He was quite the honorable Christian, wasn't he?" "Yeah..." (D5, pages 77 to 80)

- (2) Keeping the executions of these death row inmates confidential disrupts the balance of information disclosure with other death row inmates.

For documents related to Kanaka and Nagayama, from the time before their executions (up to November 1998), only the number of executions was disclosed annually through compiled statistical data, while individual execution details were not officially revealed. As for documents concerning Fujinami, they belong to the period (from Fujinami's execution in November 1998 until executions before December 2007) when only the fact of execution and the number of executed inmates were publicly disclosed on the day of execution.

Since December 2007, there has been a change in practice where, on the day of execution, the name, date of birth, place of execution, and the criminal offense leading

to the execution of the inmate are disclosed. Regarding the executions of Kuma, Asahara, and Okamoto (4, 5, and 6), although there are undisclosed parts in the recorded content, they are not designated as "not disclosed under Article 8 of the Law" due to being "information about individuals specified in Article 5, Paragraph 1 of the Law, which would result in the same consequences as disclosing information that can identify specific individuals." The documents related to both 1, 2, and 3, as well as 4, 5, and 6, pertain to executions of the same death row inmates and remain consistent. There is no reason to apply the "provisions of Article 5, Paragraph 1 and Article 8 of the Law" only to documents related to 1, 2, and 3.

2. No reasons were provided for partial non-disclosure concerning documents related to the executions of Kuma, Matsumoto, and Okamoto.

(1) Relevant Administrative Documents

Regarding the records of Kuma, Matsumoto, and Okamoto, the administrative documents in question where the legality of the non-disclosure decision is at issue mainly include:

A. Portions of "Execution Progress Reports," including the start and end (confirmation of death) times of the executions, execution status, the individual's sentiments regarding their sentence, information about wills, etc., and details regarding the handling of the body.

B. Portions of "Execution Reports" attached to the "Execution Reports," specifically concerning the progress of the execution.

(Hereinafter referred to as "the Administrative Documents.")

(2) Relevance to Personal Identification Information (Article 5, Clause 1)

A. Claims by the Administering Agencies:

Regarding the reasons for non-disclosure of these administrative documents, the Minister of Justice asserts that "the information recorded pertains to the execution status of specific individuals sentenced to death, falling under Article 5, Clause 1."

Furthermore, each Regional Correction Headquarters Superintendents argues that "the information in question is related to individuals and may include information that can identify specific individuals (including information that, when compared with other

information, can identify specific individuals) or information that, although not identifying specific individuals, may still harm their rights and interests if disclosed publicly, thus falling under Article 5, Clause 1, regarding non-disclosure information."

B. Relevance to Clause I of the Supplementary Provision to Article 5, Clause 1

Even if the information falls under Clause 1 of Article 5 as personal identification information, it is stipulated that "information that is required by law or custom to be made public or is planned to be made public must be disclosed" (Supplementary Provision, Clause I).

As mentioned above, the execution of the death penalty must be carried out in accordance with the law (Article 31 of the Constitution) and this obligation to conduct it properly and lawfully is recognized in the Supreme Court's judgment of March 12, 1948. Therefore, under Article 31 of the Constitution, whether the execution of the death penalty is lawful and appropriate is determined by the executing country (the Ministry of Justice), which falls under "information that is planned to be made public."

C. Relevance to Clause III of the Supplementary Provision to Article 5

Furthermore, even if the information falls under Clause 1 of Article 5 as personal identification information, it is stipulated that "information that is recognized as necessary to be made public for the protection of a person's life, health, livelihood, or property must be disclosed" (Supplementary Provision, Clause III).

Regarding such information, even if it relates to individuals' privacy, when it is deemed necessary to protect the lives, health, or property of citizens, it will be disclosed based on a balancing of interests.

The death penalty is the highest punishment under our country's penal code, and it represents the ultimate penalty of depriving a person of life. Therefore, not only must innocent individuals not be mistakenly sentenced to death in criminal trials, but the execution of death penalty convicts must also be carried out through proper procedures.

The death penalty is stipulated as "execution by hanging" (Article 11, Penal Code), and when carrying out the death penalty, it is required to wait five minutes after

confirming the death of the person who has been hanged before removing the noose (Article 179, Law Concerning Penal Institutions and the Treatment of Inmates). Furthermore, Article 36 of the Constitution strictly prohibits cruel punishments, and Article 479(1) of the Code of Criminal Procedure states that "if a person sentenced to death is in a state of mental incompetence, the execution shall be suspended by order of the Minister of Justice."

However, in the current situation where specific details about executions are not disclosed, it is impossible to verify whether executions are carried out in accordance with the aforementioned laws and regulations, especially regarding whether the death penalty constitutes a cruel punishment or whether the person being executed was in a state of mental incompetence.

However, in the current situation where specific details about executions are not disclosed, it is impossible to verify whether executions are carried out in accordance with the aforementioned laws and regulations, especially regarding whether the death penalty constitutes a cruel punishment or whether the person being executed was in a state of mental incompetence.

On the other hand, if specific facts about the execution of the death penalty are disclosed, it would also entail the public disclosure of information related to the privacy of the individual being executed. However, it is a well-known fact widely reported in various media outlets that the individuals being executed have been sentenced to death for serious crimes in the past and that their executions have taken place. Additionally, when such information is disclosed, it is already known that the individuals themselves have died as a result of the execution, and furthermore, the government has consistently maintained a stance of not disclosing any information regarding the execution of the death penalty. Therefore, considering that the information contained in the administrative documents in question is the only information that reveals the execution status of the death penalty, there is a compelling need to disclose these administrative documents.

Hence, the administrative documents in question fall under the category of "information deemed necessary to protect human life, health, livelihood, or property, and therefore must be disclosed."

(3) Regarding the applicability of public safety information (Article 5, Clause 4)

A. Argument of the Administering Agencies:

The Minister of Justice asserts that the reason for non-disclosure of the administrative documents in question is that "information related to the execution of the death penalty is recorded, and therefore falls under Article 5, Clause 4." Furthermore, it is claimed that "the disclosure of such information may hinder the securing of the detainees' custody and the security of correctional facilities, and may also hinder the execution of penalties and the maintenance of public safety and order, thereby falling under the non-disclosure information stipulated in Clause 4 of Article 5." Additionally, each Regional Correction Headquarters Superintendents argues that "the disclosure of such information may hinder the securing of the detainees' custody and the security of correctional facilities, and may also hinder the execution of penalties and the maintenance of public safety and order, thus falling under the non-disclosure information stipulated in Clause 4 of Article 5."

B. Regarding the applicability of Article 5, Clause 4

Under Article 5, Clause 4, information that "the head of an administrative agency deems to have substantial grounds for believing that its disclosure would impede crime

prevention, suppression, investigation, maintenance of public prosecution, execution of penalties, or other maintenance of public safety and order" is considered non-disclosure information.

Fundamentally, the Information Disclosure Law aims to further the openness of information held by administrative agencies by allowing requests for the disclosure of administrative documents, in line with the principle of popular sovereignty, and to fulfill the government's accountability to the people and promote democratic administration (Article 1). Considering that Article 5 of the law mandates the general disclosure of administrative documents, exceptions such as Article 5, Clause 4 should not be abused and must be strictly interpreted.

That is, Clause 4 of the same article is interpreted to apply only in cases where there is a concrete risk with a high degree of likelihood of impeding crime prevention, suppression or investigation, maintenance of public prosecution, execution of penalties, or other maintenance of public safety and order, or at least where such risks can be "reasonably anticipated." In this case, the assertions of the administering agencies remain abstract, and it is not clear at all what kind of "risks of impeding" exist, and whether they are highly likely or not.

C. In our country, there are no examples of "a risk of hindering the maintenance of public safety and order."

Additionally, there is a precedent from a previous court case regarding the applicability of Clause 4 of Article 5 to the undisclosed portions of the "Death Penalty Execution Report," which withheld execution status information. This ruling was issued by the Tokyo District Court on March 28, 2008 (Case F1).

The court stated:

"Clause 4 of Article 5 provides that information for which there are substantial reasons to not disclose is information that 'poses a risk of hindering the prevention, suppression, or investigation of crime, the maintenance of public prosecution, the execution of sentences, or the maintenance of public safety and order.' This provision is interpreted as indicating that, given the nature of information that may pose a risk to public safety and order in terms of crime prevention, suppression, investigation, etc., determining whether to disclose such information involves specialized and technical judgments regarding future predictions about criminal matters. Therefore, the court

should respect the primary judgment of the administrative agency. The court should examine and determine whether there are 'substantial reasons' for the administrative agency's decision regarding whether the information falls under the provisions of the same clause, that is, whether the decision is within the range of permissible judgments as reasonable judgments." (Case F1)

D. The defendant's argument is merely abstract reasoning.

Given the possibility that the defendant may invoke this argument in this case, it is advisable to provide a preemptive rebuttal.

The "risk of hindering the execution of sentences" as determined by the same court is merely conceptual and does not entail specific dangers with a high degree of likelihood. Throughout our country's history of over 100 years of executing death penalties, there has never been an occurrence of situations such as those posing a risk to "crime prevention, suppression or investigation, maintenance of public prosecution, execution of sentences, or the maintenance of public safety and order," nor events such as "suicide, self-harm, or escape."

If the defendant were to invoke the aforementioned precedent, considering that over 1,000 executions have been carried out in the past 100 years, there should be specific instances that can be cited. Therefore, it is imperative for specific instances to be clearly demonstrated.

E. Comparison with the United States, where death penalty execution information is widely disclosed.

Furthermore, the determination made by the aforementioned court is contradicted by the facts in the United States.

In the United States, information regarding death penalty executions is made public. Those present at the execution have no obligation to keep it secret.

In such a system as in the United States, there have been no reports of hindrances to the execution of sentences arising from public disclosure.

(1) The lack of correlation between crime rates in the United States and any hindrance to the execution of sentences.

Furthermore, the security environment in the United States is significantly worse compared to Japan. In the United States, there are no restrictions on gun ownership, and anyone can possess a firearm. According to a study in 2016, approximately one-third of the world's mass shooting incidents from 1966 to 2012 occurred in the United States.

Recent mass shootings involving firearms resulting in double-digit fatalities include:

49 deaths on June 12, 2016, in Orlando, Florida (Nightclub)

32 deaths on April 16, 2007, in Blacksburg, Virginia (University)

27 deaths on December 14, 2012, in Newtown, Connecticut (Elementary school)

23 deaths on October 16, 1991, in Killeen, Texas (Cafeteria)

21 deaths on July 18, 1984, in San Ysidro, California (McDonald's)

18 deaths on August 1, 1966, in Austin, Texas (University)

14 deaths on December 2, 2015, in San Bernardino, California (Inland Regional Center)

14 deaths on December 2, 2015, in San Bernardino, California (Inland Regional Center)

These incidents reflect the occurrence of mass shootings with double-digit fatalities. Additionally, the number of crimes and crime rates associated with firearms in the United States are significantly higher compared to Japan (Source: F2).

Year	Number of murders		Rate per 100,000	
	Japan	USA	Japan	USA
2015	363	15,883	0.3	4.9
2016	362	17,413	0.3	5.4
2017	306	17,294	0.2	5.3
2018	334	16,374	0.3	5.0
2019	319	16,669	0.3	5.1

Year	Number of robbery		Rate per 100,000	
	Japan	USA	Japan	USA
2015	2,426	328,100	1.9	102.3
2016	2,332	332,800	1.8	103.0

2017	1,852	330,600	1.5	98.6
2018	1,787	281,300	1.4	86.0
2019	1,511	268,000	1.2	81.4

In the United States, the number of murder incidents exceeds 15,000, while in Japan it is in the 300s, showing a difference of two digits. The incidence rate (per 100,000 people) fluctuates between 0.2 and 0.3 in Japan, whereas in the United States it ranges from 80 to 100, indicating a significantly higher frequency.

Despite such poor public safety in the United States, details such as the scheduled date and time of executions in prisons, as well as the location and structure of execution sites, are made public. However, there are no reports of incidents such as the abduction or obstruction of executions of death row inmates.

In the United States, the execution itself is publicly disclosed, considering it involves "specialized and technical judgment as a future prediction of crime," and it is not categorized as information that could impede "the maintenance of public safety and order, including the prevention, suppression, and investigation of crime."

(2) Stability of the emotions of death row inmates

The aforementioned court states:

"Furthermore, death row inmates, upon receiving orders from the Minister of Justice, are in a position to undergo execution immediately, placing them in an extreme mental state where they confront death. It is understood that even minor matters can cause significant mental agitation and distress. By being made aware of the manner in which their execution will eventually take place, as well as the specific process leading to hanging, they may no longer maintain psychological stability. This could lead them to attempt suicide, self-harm, or escape, rendering execution impossible or delayed, thus causing hindrance to the implementation of the sentence."

In essence, the court concludes that there is a risk that the disclosure of death penalty information may lead to "self-harm or escape attempts, thereby obstructing the execution of the death penalty."

However, this is also merely theoretical and contradicts the facts.

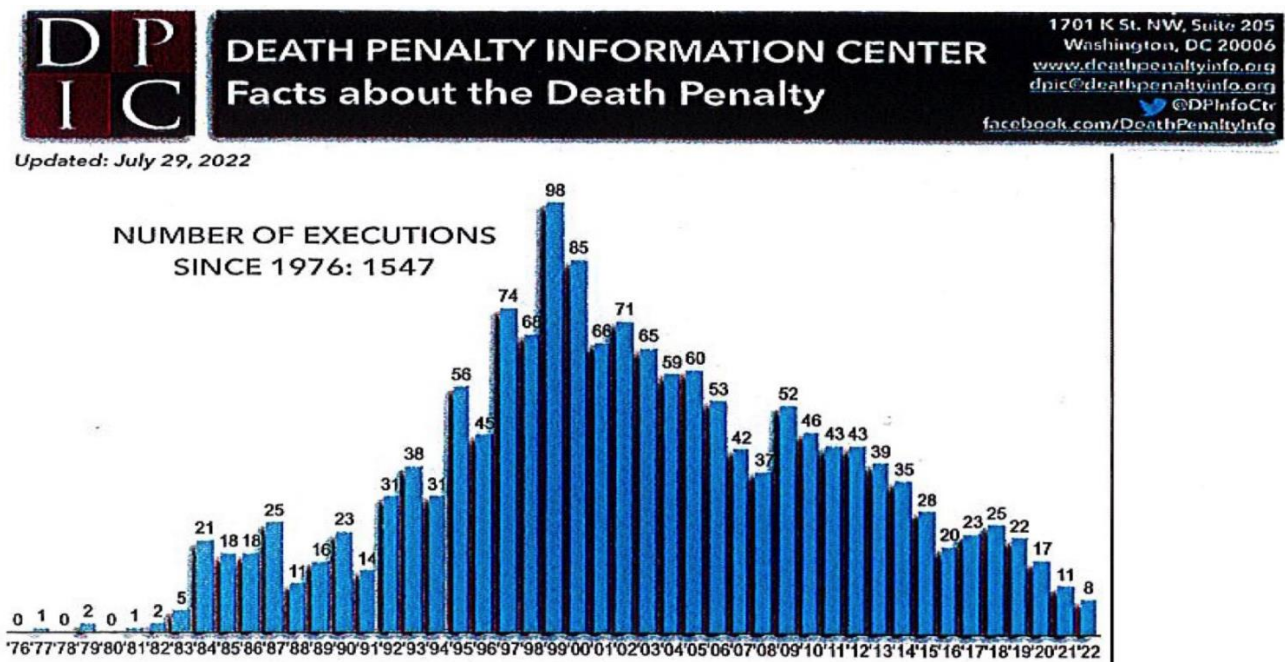
In the United States, which houses a large number of death row inmates and conducts

numerous executions, there have been no reported instances illustrating such risks.

Unlike Japan, which shares the same "death penalty system" and currently has a staggering 2,436 death row inmates as of January 1, 2022 (approximately 20 times the number in Japan), the United States (retention states) demonstrates this.

The status of executions in the United States from 1976 to 2022 is as follows (Death Penalty Information Center survey, C1).

Execution Numbers of Death Row Inmates in the United States



As indicated by this statistic, in the more than 30 retention states in the United States, approximately 1,547 executions have been carried out from 1976 to July 2022 (over about 46 years). All these executions have been preceded by notification (given 30 to 90 days before the execution), during which the execution is made public, and attendance by citizens and others has been allowed.

However, despite the significant number of executions conducted in the United States, there have been no reported instances of "self-harm, suicide, or harm to others" by death row inmates due to the public nature of the executions. Such incidents have not been reported (and if there were any, they would be submitted by the defendant).

The above judgment highlights that the assertion by the administrative agency, "The disposal administrative agency has deemed that there is sufficient rationality in determining that the public release of details such as the execution start time, execution end time, execution status (including detailed execution status such as the time when the death row inmate's death was confirmed), the emotional state and final words of the death row inmate, the disposition of the body, and other relevant information regarding the execution (such as the circumstances immediately before and after the execution) may pose a risk to the prevention of crime, the execution of the penalty, and the maintenance of public safety and order, and therefore, the administrative agency's decision should be considered as having 'sufficient reason' as stated in Article 5, paragraph 4 of the law," amounts to nothing more than abstract reasoning. This becomes evident when compared with the situation in the United States.

3. Execution Records of Kawanaka, Nagayama, and Fujinami Should Also Be Disclosed

In the case of documents related to the executions of Kawanaka, Nagayama, and Fujinami, if the decision of non-disclosure were to be rescinded, there is a possibility that certain portions might be subject to non-disclosure, similar to the documents of Kuma, Matsumoto, and Okamoto.

Therefore, as it involves the same issues as the partially disclosed records of Kumama, Matsumoto, and Okamoto, they should be disclosed to the plaintiffs. Additionally, it

is noted that information regarding the execution supervisor, document handler, staff of the correctional facility mentioned in (3), and the judgment excerpts mentioned in (4) are not being requested for disclosure.

Section 10. Obligation to Mandate Disclosure Decisions

Under the Information Disclosure Law, the head of an administrative agency is generally obligated to disclose administrative documents to the requester, except when there are records of non-disclosure information in the requested administrative documents (Article 5). In such cases, if a decision of non-disclosure is found to be illegal through judicial review, the court must not only revoke the non-disclosure decision but also have the obligation to mandate the administrative agency head to make a disclosure decision. If this is not the case and the court only revokes the non-disclosure decision, there have been instances where the administrative agency head refuses disclosure again for different reasons, leading to what is referred to as a "whack-a-mole game" which renders information disclosure meaningless (Matsumi Shigeki, "Information Disclosure Law (2nd Edition)," p. 344, Yuhikaku). For the prompt disclosure of information, it should be considered that the court has the authority to mandate disclosure decisions to the head of

administrative agencies. In fact, in past legal precedents, such as a judgment by the Osaka District Court on February 28, 2023, which ordered the disclosure decision to be made by the head of an administrative agency after ruling that information regarding the unit price and quantity of cloth masks distributed as part of measures against COVID-19 did not fall under the categories of non-disclosure information prescribed in Article 5, paragraphs 2(i) and 6(6) of the Information Disclosure Law (posted on the court's website), it was determined that disclosure decisions should be made.

Therefore, in this case as well, if the decisions of non-disclosure by the Minister of Justice and each Regional Correction Headquarters Superintendents are found to be illegal, it is necessary not only to revoke such decisions but also to mandate the disclosure decisions for each administrative document within the scope stated in the request.

Section 11. Conclusion

Based on the above, the nondisclosure decisions made by the Minister of Justice, the Tokyo Regional Correction Headquarters Superintendent, and the Osaka Regional

Correction Headquarters Superintendent in this case are deemed illegal. Therefore, plaintiffs seek a judgment as requested.

(Exhibit)

Document Catalog No. 1

1. Regarding Tetsuo Kawanaka, who was executed at Osaka Detention Center on March 26, 1993, the following documents (including attached documents) are requested:

- (1) Motion for Execution of the Death Penalty
- (2) Authorization Document Regarding the Execution of the Death Penalty
- (3) Document in which the Minister of Justice orders the execution of the death penalty to the prosecutor
- (4) Execution Report of the Death Penalty
- (5) For the issuance of document (1), any memoranda prepared within the Ministry of Justice, minutes of meetings held within the Ministry of Justice, or reports detailing the deliberations conducted within the Ministry of Justice (if multiple, all documents)
- (6) For the issuance of document (2), any memoranda prepared within the Ministry of Justice, minutes of meetings held within the Ministry of Justice, or reports detailing the deliberations conducted within the Ministry of Justice (if multiple, all documents)
- (7) For the issuance of document (3), any memoranda prepared within the Ministry of Justice, minutes of meetings held within the Ministry of Justice, or reports detailing

the deliberations conducted within the Ministry of Justice (if multiple, all documents)

2. Regarding Tetsuo Kawanaka, who was executed at Osaka Detention Center on March 26, 1993, the following documents (including attached documents) are requested:

- (1) Motion for Execution of the Death Penalty
- (2) Directive for Execution of the Death Penalty
- (3) Execution Report of the Death Penalty

For the document (1), any memoranda prepared within Osaka Regional Correction Headquarters or Osaka Detention Center, minutes of meetings held within Osaka Regional

Correction Headquarters or Osaka Detention Center, or reports detailing the deliberations conducted within Osaka Regional Correction Headquarters or Osaka Detention Center (if multiple, all documents)

3. Regarding Norio Nagaayama, who was executed at Tokyo Detention Center on August

1, 1997, the following documents (including attached documents) are requested:

- (1) Motion for Execution of the Death Penalty
- (2) Decision Document Regarding the Execution of the Death Penalty
- (3) Document in which the Minister of Justice orders the execution of the death penalty to the prosecutor
- (4) Execution Report of the Death Penalty
- (5) For document (1), any memoranda prepared within the Ministry of Justice, minutes of meetings held within the Ministry of Justice, or reports detailing the deliberations conducted within the Ministry of Justice (if multiple, all documents)
- (6) For document (2), any memoranda prepared within the Ministry of Justice, minutes of meetings held within the Ministry of Justice, or reports detailing the deliberations conducted within the Ministry of Justice (if multiple, all documents)
- (7) For document (3), any memoranda prepared within the Ministry of Justice, minutes of meetings held within the Ministry of Justice, or reports detailing the deliberations conducted within the Ministry of Justice (if multiple, all documents)

4. Regarding Norio Nagaayama, who was executed at Tokyo Detention Center on August 1, 1997, the following documents (including attached documents) are requested:

- (1) Directive for Execution of the Death Penalty
- (2) Death Penalty Execution Report
- (3) For document (1), any memoranda prepared within the Tokyo Regional Correction Headquarters or Tokyo Detention Center, minutes of meetings held within the Tokyo Regional Correction Headquarters or Tokyo Detention Center, or reports detailing the deliberations conducted within the Tokyo Regional Correction Headquarters or Tokyo Detention Center (if multiple, all documents)

5. Regarding Yoshio Fujinami, who was executed at Tokyo Detention Center on December 25, 2006, the following documents (including attached documents) are requested:

- (1) Motion for Execution of the Death Penalty
- (2) Decision Document regarding the Execution of the Death Penalty
- (3) Document in which the Minister of Justice orders the execution of the death penalty to the prosecutor
- (4) Execution Report of the Death Penalty

- (5) For document (1), any memoranda prepared within the Ministry of Justice, minutes of meetings held within the Ministry of Justice, or reports detailing the deliberations conducted within the Ministry of Justice (if multiple, all documents)
- (6) For document (2), any memoranda prepared within the Ministry of Justice, minutes of meetings held within the Ministry of Justice, or reports detailing the deliberations conducted within the Ministry of Justice (if multiple, all documents)
- (7) For document (3), any memoranda prepared within the Ministry of Justice, minutes of meetings held within the Ministry of Justice, or reports detailing the deliberations conducted within the Ministry of Justice (if multiple, all documents)

6. Regarding Yoshio Fujinami, who was executed on December 25, 2006, at the Tokyo Detention Center, the following documents (including attached documents) are provided:

- (1) Directive for Execution of the Death Penalty
- (2) Execution Report
- (3) In response to Document (1), reports shall be provided that detail deliberation proceedings conducted within the Tokyo Regional Correction Headquarters or the Tokyo Detention Center, including memorandum reports generated internally,

meeting minutes from discussions held within the Tokyo Regional Correction Headquarters or the Tokyo Detention Center, or any other relevant documents outlining considerations conducted internally (all available documents if multiple).

7. Documents related to the death penalty in Heisei 20 (excluding those related to Michitoshi Kuma)

- (1) Motion for Execution of the Death Penalty
- (2) Decision Document Regarding the Execution of the Death Penalty
- (3) Review Results of the Death Penalty Case (Deemed Suitable for Execution)
- (4) Execution Order for the Death Penalty
- (5) Execution Report for the Death Penalty ("Report on the Conclusion of the Execution of the Death Penalty")

8. Documents regarding Shoko Asahara, also known as Chizuo Matsumoto, who was executed on July 6, 2018, at Tokyo Detention Center:

- (1) Detention Center Dispatch No. 1890, dated July 6, 2018, "Execution Report of the

Death Penalty"

(2) Tokyo Detention Center Dispatch No. 2515, dated September 25, 2018, "Execution Report of the Death Penalty (Follow-up Report)"

9. Documents regarding the death penalty (Heisei 30) pertaining to Shoko Asahara, also known as Chizuo Matsumoto:

(1) Motion for Execution of the Death Penalty

(2) Decision Document Regarding the Execution of the Death Penalty

(3) Result of the Death Penalty Case Review (Deemed Appropriate for Execution)

(4) Order for the Execution of the Death Penalty

(5) Report on the Execution of the Death Penalty

10. Documents regarding Shoko Asahara, also known as Chizuo Matsumoto, executed on July 6, 2018, at the Tokyo Detention Center:

(1) "Execution Command Document" dated July 4, Heisei 30 (held by the Tokyo Detention Center)

(2) "Execution Immediate Report" dated July 6, Heisei 30, East Detention Dispatch No.

1890 (held by the Tokyo Detention Center)

(3) "Execution Immediate Report" dated July 6, Heisei 30, East Detention Dispatch No.

1890 (held by the Tokyo Detention Center)

11. Documents regarding Keizo Okamoto (formerly known as Keizo Kawamura), executed on December 27, 2018, at the Osaka Detention Center:

(1) "Execution Immediate Report" dated December 27, Heisei 30, Osaka Detention Dispatch No. 4

(2) "Execution Immediate Report (Follow-up)" dated December 28, Heisei 30, Osaka Detention Dispatch No. 6

(3) "Execution Immediate Report (Follow-up)" dated January 4, Heisei 31, Osaka Detention Dispatch No. 2

12. Documents regarding Keizo Okamoto (formerly known as Kawamura), pertaining to the death penalty (Heisei 30):

(1) Motion for Execution of the Death Penalty

(2) Approval Document for Execution of the Death Penalty

- (3) Results of Examination of the Death Penalty Case (Deemed Appropriate for Execution)
- (4) Execution Order for the Death Penalty
- (5) Report on the Execution of the Death Penalty

13. Documents Regarding the Execution of the Death Penalty for Keizo Okamoto

(formerly "Kawamura"), carried out at Osaka Detention Center on December 27, 2018:

- (1) "Directive for the Execution of the Death Penalty" (Osaka Detention Center, Fiscal Year 2018)
- (2) Notification of Execution issued on December 27, 2018, numbered DaiKoHatsu No. 4 (Osaka Detention Center, Fiscal Year 2018)
- (3) Supplementary Notification of Execution issued on December 28, 2018, numbered DaiKoHatsu No. 6 (Osaka Detention Center, Fiscal Year 2018)
- (4) Supplementary Notification of Execution issued on January 4, 2019, numbered DaiKoHatsu No. 2 (Osaka Detention Center, Fiscal Year 2018)

(Exhibit)

Document Catalog No. 2

1. Documents Regarding the Execution of the Death Penalty for Tetsuo Kawanaka, carried out at Osaka Detention Center on March 26, 1993:
 - (1) Motion for Execution of the Death Penalty (excluding occupation, domicile, residence, date of transfer, criminal facility of detention, number of litigation records, and circumstances leading to investigation and arrest)
 - (2) Decision Document Regarding the Execution of the Death Penalty (excluding the name, seal, contact information (extension) of the drafter, domicile of the death row inmate, and identifiable information such as names of individuals other than Yoshiro Fujinami and names of legal entities)
 - (3) Result of Review of Death Penalty Case (Deemed Suitable for Execution)
 - (4) Directive for Execution of the Death Penalty
 - (5) Report on the Execution of the Death Penalty (excluding domicile of the executed individual and names and departments of execution witnesses other than the prison director)

- (6) Execution Notification (Including Supplementary Reports) (excluding departments and names of execution witnesses, address and name of the undertaker, and details related to personal effects)
2. Documents Regarding the Execution of the Death Penalty for Tetsuo Kawanaka, carried out at Osaka Detention Center on March 26, 1993:
 - (1) Directive for the Execution of the Death Penalty (excluding the name and seal of the execution supervisor, as well as details of the judicial process, and the seal of the handler or other staff)
 - (2) Execution Report (Including Supplementary Reports) (excluding the department and name of the execution witness, address and name of the undertaker, and details related to personal effects)
 3. Documents regarding the execution of Norio Nagayama, executed at the Tokyo Detention Center on August 1, 1997, are as follows:
 - (1) Motion for the Execution of the Death Penalty (excluding the occupation, domicile, residence, date of transfer, number of legal records, initiation of investigation, and circumstances leading to arrest of the condemned)
 - (2) Decision Document on the Execution of the Death Penalty (excluding the name, seal, contact information (extension) of the proposer, domicile of the condemned, and details of the crime that could identify specific individuals other than Norio

Nagayama)

(3) Result of Death Penalty Review (Deemed Appropriate for Execution)

(4) Death Penalty Execution Order

(5) Death Penalty Execution Report (excluding the domicile of the condemned, and the affiliation and name of execution witnesses other than the detention center director)

(6) Death Penalty Execution Report (including supplementary reports) (excluding the affiliation and name of the execution witness, the address and name of the recipient, and the situation regarding residual property)

4. Death Penalty Execution Directive (excluding the name and seal of the execution supervisor, details of the judicial process, etc., and the seal of the handler or other staff)

(1) Death Penalty Execution Directive (excluding the name and seal of the execution supervisor, details of the judicial process, etc., and the seal of the handler or other staff)

(2) Death Penalty Execution Report (including supplementary reports) (excluding the affiliation and name of the execution witness, the address and name of the recipient, and the situation regarding residual property)

5. Documents regarding the execution of Yoshio Fujinami, carried out at the Tokyo

Detention Center on December 25, 2006, are as follows:

(1) Motion for the Execution of the Death Penalty (excluding the occupation, domicile,

residence, date of transfer, number of judicial records, initial investigation details leading to arrest of the confirmed death penalty recipient)

(2) Regarding the Death Penalty Execution (Approval Document) (excluding the name, seal, contact information (extension) of the proposer, domicile of the confirmed death penalty recipient, and any specific personal identifiers excluding Yoshio Fujinami in the overview of criminal facts)

(3) Result of Death Penalty Case Examination (Deemed Appropriate for Execution)

(4) Death Penalty Execution Order

(5) Death Penalty Execution Report (excluding the domicile of the executed individual, affiliation and name of execution witnesses other than the detention center director)

(6) Death Penalty Execution Report (excluding the domicile of the executed individual, affiliation and name of execution witnesses other than the detention center director)

6. The following documents concerning Yoshio Fujinami, who was executed at the Tokyo Detention Centre on 25 December 2006

(1) The execution order (excluding the name and seal of the execution leader, the course of the trial, etc., the seal of the person handling the case or any other staff member)

(2) A preliminary report on the execution (including a follow-up report) (excluding,

however, the name and department of the person who witnessed the execution, the address and name of the person who picked up the property, and the status of the money and goods left behind).

7. Documents regarding the execution of Yoshio Fujinami, carried out at the Tokyo Detention Center on December 25, 2006, are as follows:

- (1) Death Penalty Execution Directive (excluding the name and seal of the execution supervisor, details of judicial proceedings, and the seal of the handler or other staff)
- (2) Death Penalty Execution Bulletin (Including Supplementary Reports) (excluding the affiliation and name of the execution witness, address and name of the recipient, and details regarding residual property)

8. Regarding Shoko Asahara, also known as Chizuo Matsumoto, who was executed at the Tokyo Detention Center on July 6, 2018, the following documents are provided:

- (1) Part of the Death Penalty Execution Bulletin, East Detention Center Dispatch No. 1890, dated July 6, 2018, containing information on the execution start time, execution completion (confirmation of death) time, execution status, the condemned person's

sentiments towards their punishment, any wills, etc., and the handling of the body.

- (2) Part of the Supplementary Death Penalty Execution Bulletin, East Detention Center Dispatch No. 2515, dated September 25, 2018, concerning the handling of the body.

9. Documents related to the death penalty (fiscal year Heisei 30) concerning Shoko Asahara, also known as Chizuo Matsumoto:

- (1) Part of the Death Penalty Execution Approval Document: From the description below the 4th line on page 7 ("...and did not achieve the purpose of killing.") to page 69, and from the page after page 69 to the last page. (Excluding any information that could identify specific individuals other than Shoko Asahara, also known as Chizuo Matsumoto, or their accomplices, such as personal names or corporate names.)

- (2) Part of the "Execution Progress" attached to the Death Penalty Execution Report.

10. Documents concerning the execution of Shoko Asahara, also known as Chizuo Matsumoto, carried out on July 6, 2018, at the Tokyo Detention Center:

- (1) Part of the "Death Penalty Execution Progress Report" dated July 6, Heisei 30, with the Tokyo Detention Center's reference number 1890, containing details such as the

start and end time of the execution (confirmation of death), execution status, the convict's emotions towards the penalty, any last words or will, and handling of the remains.

- (2) Part of the "Death Penalty Execution Progress Report (Follow-up)" dated September 25, Heisei 30, with the Tokyo Detention Center's reference number 2515, concerning the handling of the body.

11. Documents concerning the execution of Keizo Okamoto, formerly known as Keizo Kawamura, carried out on December 27, 2018, at the Osaka Detention Center:

- (1) Part of the "Death Penalty Execution Progress Report" dated December 27, Heisei 30, with the Osaka Detention Center's reference number 4, containing details such as the start and end time of the execution (confirmation of death), execution status, the convict's emotions towards the penalty, any last words or will, and the handling of the body.
- (2) Part of the "Death Penalty Execution Progress Report (Follow-up)" dated December 28, Heisei 30, with the Osaka Detention Center's reference number 6, concerning the handling of the remains.
- (3) Part of the "Death Penalty Execution Progress Report (Follow-up)" dated January 4,

Heisei 31, with the Osaka Detention Center's reference number 2, regarding the the handling of the body and other related matters.

12. Documents related to the death penalty (fiscal year Heisei 30), pertaining to Keizo Okamoto, formerly known as Keizo Kawamura:

- (1) Section of the "Death Penalty Execution Approval Document" concerning the execution, from page 3, line 13 ("...possessed the aforementioned nine rounds of live ammunition for the handgun.") to page 21, excluding any information that could identify individuals other than Keizo Okamoto or his accomplices, such as personal names or corporate names.
- (2) Section of the Death Penalty Execution Report containing the date and time of execution commencement and completion, and the part labeled "Attachment" of the "Execution Conclusion Report" attached to the Death Penalty Execution Report.

13. Documents regarding the execution of Keizo Okamoto (formerly known as Keizo Kawamura) at Osaka Detention Center on December 27, 2018:

- (1) Section of the "Death Penalty Execution Report" dated December 27, Heisei 30, issued

by Osaka Detention Center, containing details such as the commencement and completion times of the execution, the execution status, the feelings of the individual sentenced to death, any last wishes, and the handling of the body.

- (2) Section of the "Death Penalty Execution Report (Follow-up)" dated December 28, Heisei 30, issued by Osaka Detention Center, specifically addressing the handling of the body.
- (3) Section of the "Death Penalty Execution Report (Follow-up)" dated January 4, Heisei 31, issued by Osaka Detention Center, covering aspects related to the handling of the body and other relevant matters.