## The significance of psychologists giving court testimony in criminal trials in Japan

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### Reasons for the Focus on Psychological Evaluation

- Introduction of lay judge system (May 21, 2009)
- > Participation of citizens in the judicial system
- The need for trials to be easily understood and adequate for lay judges selected from members of the public
- Limited understanding from a legal perspective
- Extraordinary criminal cases
- Cases where trauma such as past abuse or bullying is recognized
- Cases where the accused is a minor or has a developmental disorder
- The overall picture of cases that are clarified by psychological evaluations

  Reckground developmental factors, intellectual ability, personality traits
- ➤ Background developmental factors, intellectual ability, personality traits, psychiatric problems, etc.
- > Mechanism of the crime: motivation, psychological process of the crime
- ➤ Noteworthy points regarding treatment

### What is the saiban-in system(lay judge system)?

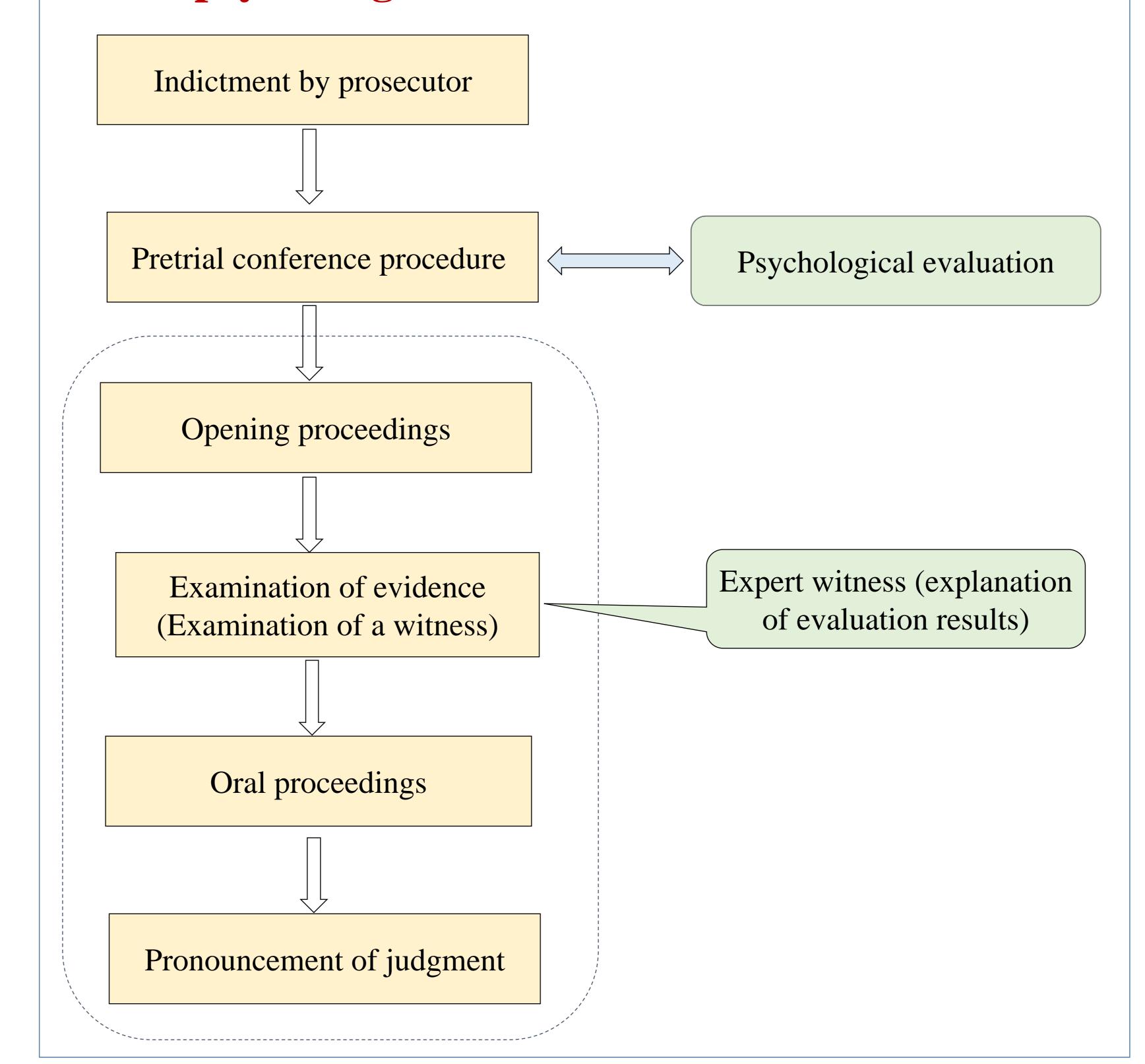
- The lay judge system is applicable in serious cases: Murder, robbery resulting in death, injury resulting in death, robbery resulting in bodily injury, robbery, rape, arson of inhabited structure, etc.
- Lay judges are responsible for both determining the facts and sentencing. cf. jury members
- The trial is conducted in a relatively short time, and the lay judge has a major sense of burden.
- The strictness of sentencing

Therefore, psychological evaluations are sometimes performed, and the procedure is as follows.

### Significance of Psychological Evaluation

- The main purpose of psychological evaluation is to understand the true nature of the crime.
- It is used as strong evidence for mitigation when making a judgment.
- Psychological evaluation has the following benefits for the defendant.
- > Feelings can be organized in a planned way, and they can face trial calmly.
- > They become able to understand the meaning of criminal acts.
- > It provides an opportunity to consider their own way of life.
- > It provides an opportunity to reconcile with inherent feelings of victimhood.
- > It also provides an opportunity to rebuild family relationships.
- $\Rightarrow$  Conducting a psychological evaluation is also one of the processes in the rehabilitation of the defendant.

# Procedure of a lay judge trial and the positioning of the psychological evaluation



### Detailed method of psychological evaluation

- Examination of records and interviews with the defendant
- Tests of intelligence and personality
- Interviews with family members and other people concerned
- > Submit as a written statement of an expert opinion
- > Give testimony as an expert witness in court: the required presentation skills



### **Future Tasks**

- Problems such as difficulty in securing remuneration for psychological evaluation requested by defence counselor, inadequate interview conditions, etc.
- The importance of collaboration/coordination with other professionals (social workers, doctors, etc.) as required
- The need for evaluator to undergo training and practice create a DVD of training course and expert testimony scenarios
  - < A scene explaining the crime mechanism >

#### 本件犯行時の心理状態と家庭環境、生活史との関係 Mechanism of the crime (Relationship with home environment, life history) 母は父の暴力を 犯行時の状況 Situation at the time of crime 制止できない Mother can not stop 被害者から「馬鹿にされた」 Defendant feels fooled by the father's violence と感じる Mother's sense of powerlessness **Defendant worries about being** 仲間から馬鹿にされる fooled by fellow のではとの心配 母にも無力感は大きい ow sense of self-affirmation Defendant feels more powerful 暴力の使用や犯行行為により 無力感 because of the use of violence 有力感を持てる 小1時に落ち着きがなく 同級生に暴力 「やれるのだったらやってみろ」 Victims say "do it" and rebel 多動・落ち着きの無さ という被害者の言葉 Restlessness and violence (6 years old) Hyperactivity and restlessness **Defendant** threatens victims and このままではやられるのでは 過敏性 Hypersensitivity defends themselves more than ないかと必要以上の自己防衛