

Citizen Judge System in Taiwan's Judiciary

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What is the citizen judges system?

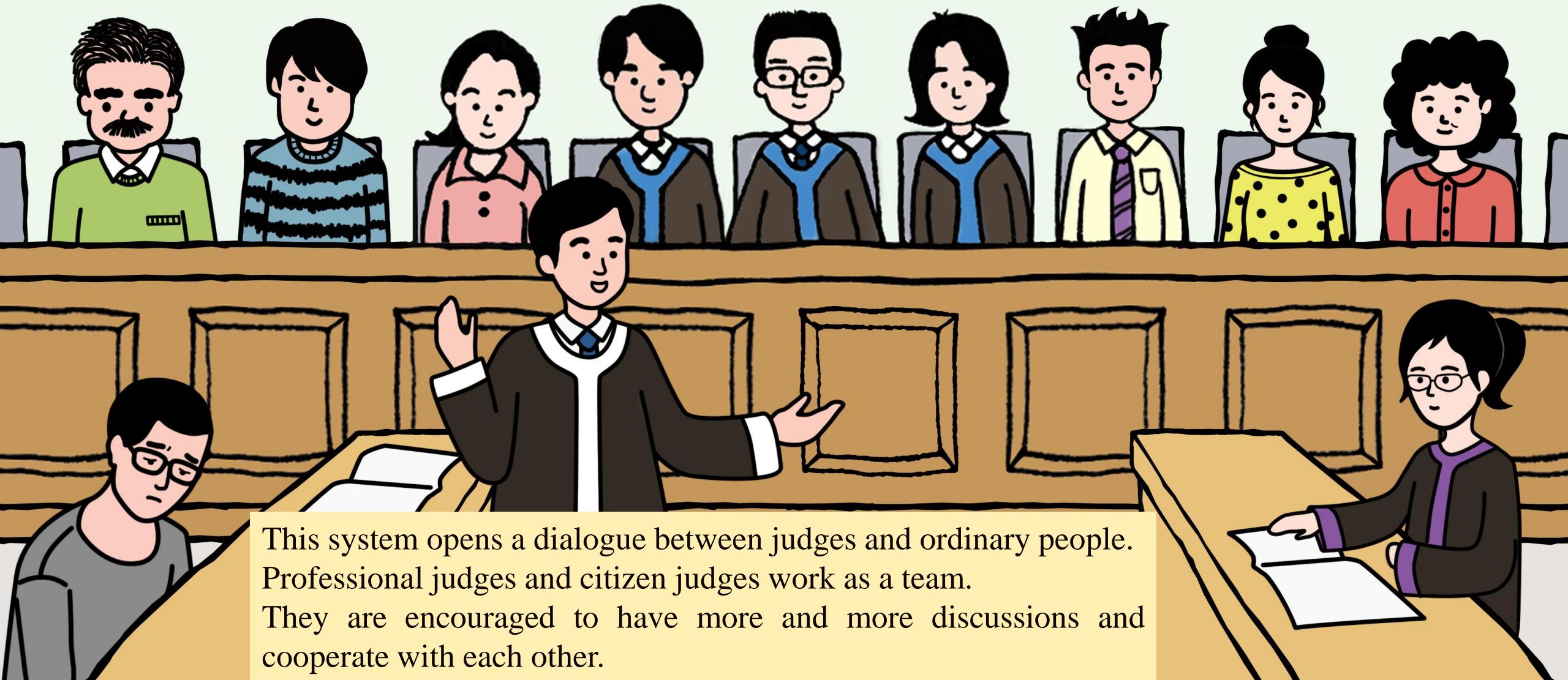
Incorporating diverse perspectives and experiences of the citizen into the trial will help the judicial decision become more comprehensive.

The citizen judges system comprises people from all walks of life, sitting next to judges to make decisions together.

Despite lacking legal background, the citizen judges will bring their unique life experiences, values, and sentiments into the trial. With their participation, we can expect a more transparent judiciary where the judicial expertise converses with society. In addition, a mutual understanding between the court and the general public can be reached with constant communication and reflection.



3 Professional Judges & 6 Citizen Judges



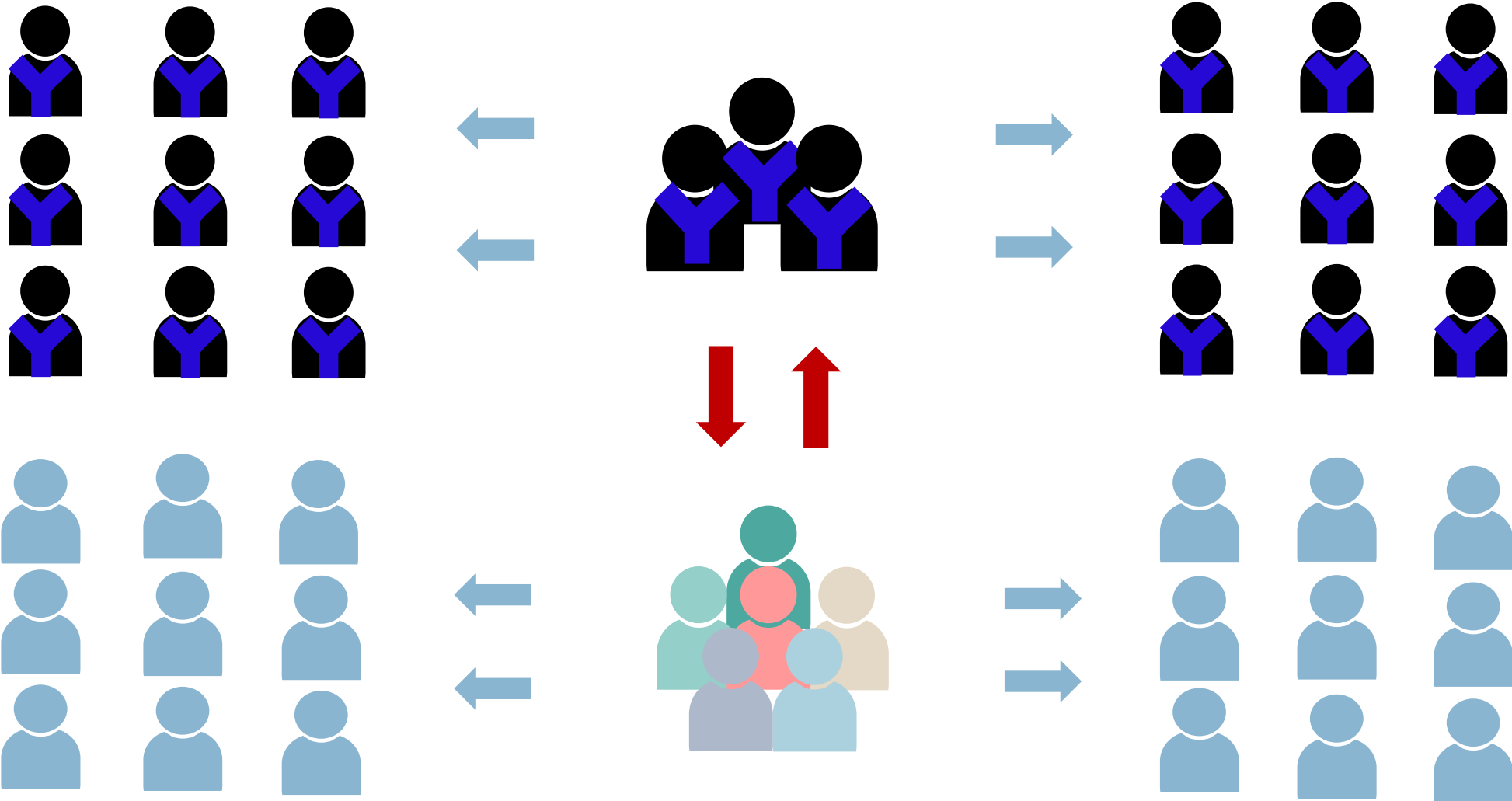
This system opens a dialogue between judges and ordinary people. Professional judges and citizen judges work as a team. They are encouraged to have more and more discussions and cooperate with each other.

Citizen Judge Courtroom



Diffusion Effects

Judges bring ordinary people's views and values into other cases.



Citizen judges spread their experiences and impressions of the justice system to their relatives, friends and colleagues.



Legal Purposes



Enhance the transparency of the judiciary



Reflect the public's opinions



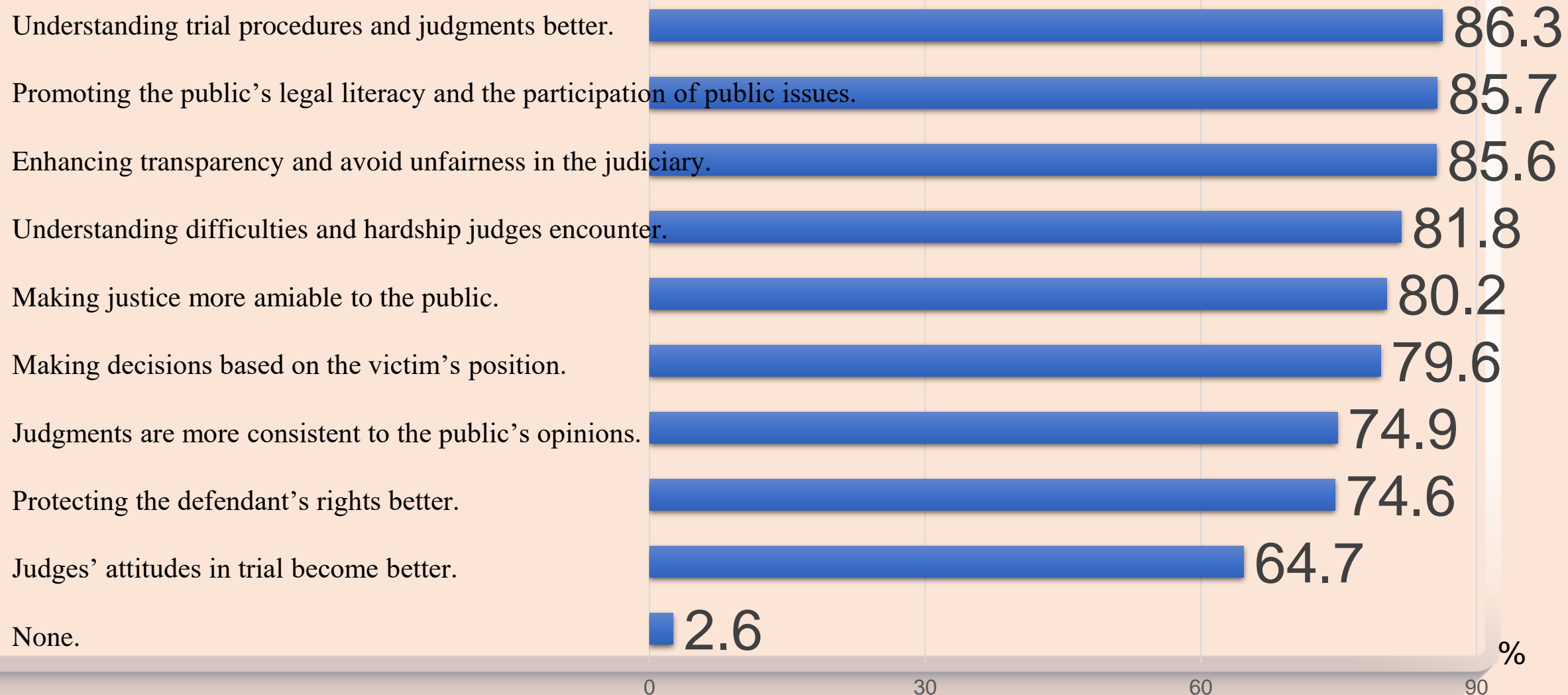
Promote the public's confidence in the judiciary



Affirm the principle of popular sovereignty

Most citizen judges support this system.

82.7% of citizen judges agree this system makes justice better.



Only in criminal cases

Participation in trials

Can I be a good citizen judge?

In what types of cases would a citizen judge participate in the trial?

- Crimes with a minimum sentence of 10 years imprisonment (such as robbery with rape/rape accompanied the robbery)
- Crimes involving intentional behavior that results in death (such as a fatal accident caused by driving under the influence of alcohol)
- Excluded cases: cases involving juvenile offenses, or violations of the Narcotics Hazard Prevention Act



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Legitimate reasons to rule cases not to be adjudicated by citizen judges

Trials may not be conducted impartially

It's inappropriate to conduct civil participation

Threats to citizen judges or their relatives

Court ruling

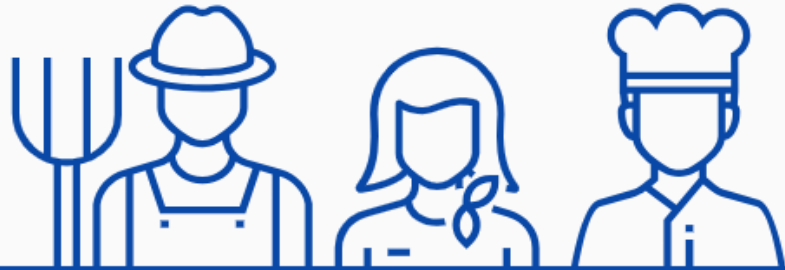
Complicated cases or cases with specialized knowledge

Defendants admit crimes and no controversy over sentencing

126 cases have been submitted to the court.

19 judgments have been delivered.

24 cases have been ruled not to be adjudicated by citizen judges..



Who can be a citizen judge?

There are three required qualifications,
six disqualifying factors

Ensuring an impartial trial that protects the rights and interests of all parties.

“

Those meeting three qualifications have the opportunity to be a citizen judge

Must be :
23
or older

Be a citizen of the
Republic of China

Have lived in the ruling court' s
jurisdiction for at least
4 months

*For example, the jurisdiction of Taiwan
Chiayi District Court includes Chiayi City
and Chiayi County

Taiwanese have the rights and obligations to serve as citizen judges.
It is a legal duty for Taiwanese to serve as citizen judges.



But those who fall into one of the following six situations will disqualify themselves from being a citizen judge.



Personal factors

Has been disposed adversely in a crime and a certain period has not elapsed or deprived of their citizen's rights.



Physical or mental factors

Being subject to court-ordered guardianship / assistance due to a mental condition that makes interpersonal communication impossible/difficult.



Educational threshold

Having not completed compulsory education



Case related

Having a certain relationship with the defendant or victim in the case concerned



Incapacity for impartiality

Provided concrete evidence that their performance can't expect to be fair and impartial.

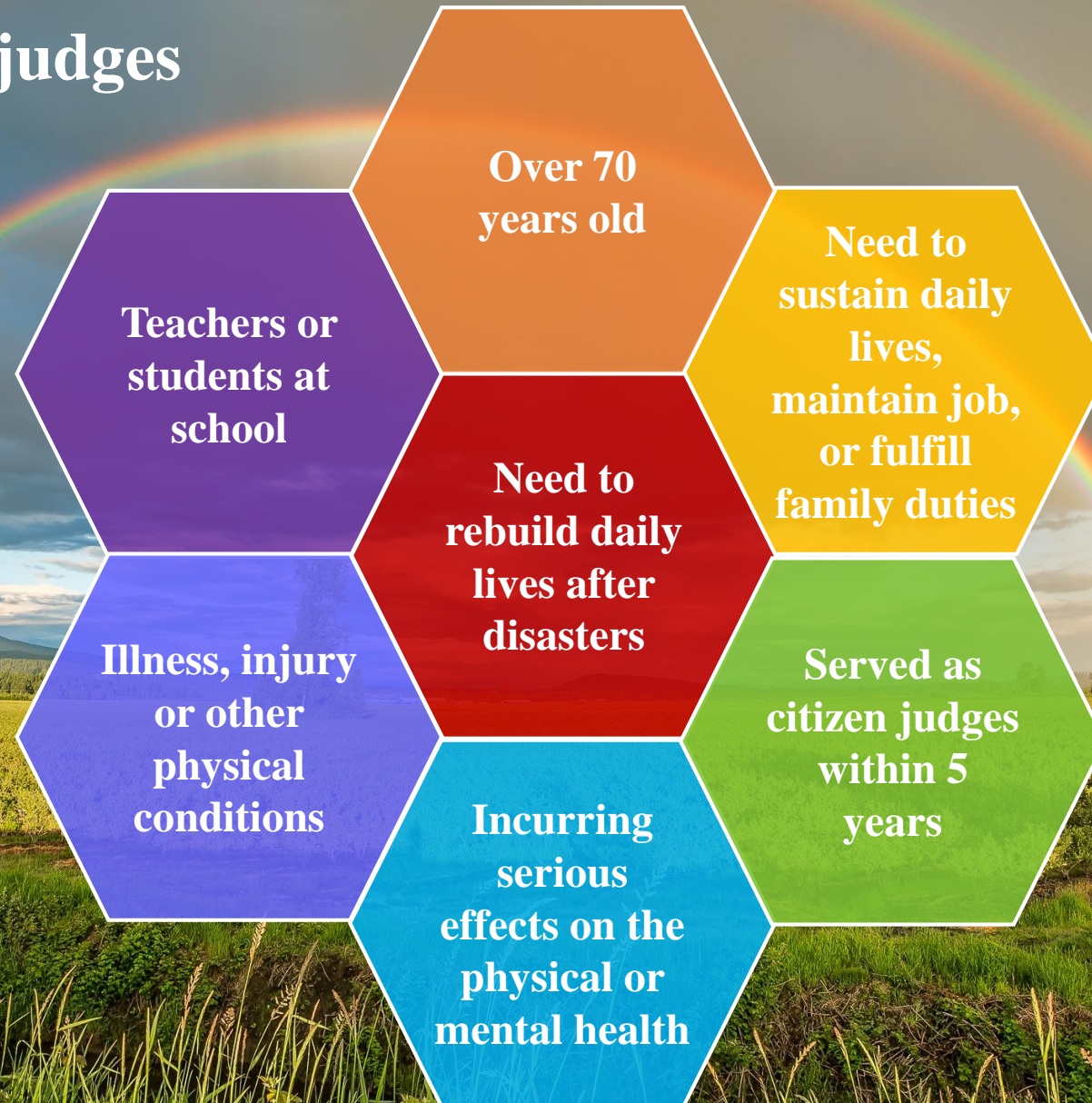


Occupational factors

Having a special professional background such as in law, politics, the military or policing, among other fields.



Legitimate reasons to refuse to serve as citizen judges



How are citizen judges chosen?

Four stages of selection to choose the most impartial candidates serving as citizen judges.

Age, occupation, identity, and the duration of residency are all taken into consideration to determine the eligibility as a citizen judge. Aside from random selection, a candidate must also possess certain qualifications, and must not meet disqualifying conditions.



The purpose of selection is to select fair and impartial citizen judges. Citizen judges are selected at random from a fair cross section of the community.



Randomly selected

- Local government generates a list of individuals who meet certain criteria



A review committee is formed

- All those who do not meet legal qualifications are eliminated from the list
- The district court notifies those qualified they may have a chance to serve as citizen judges the following year



- After the court accepts the case, a given number of citizen judge candidates are randomly selected from the second-round roster (For example, 50 people may be selected)
- The selected are notified of the selection date (those who show evidence of ineligibility or provide a valid reason for refusing to participate in the case, are not required to show up at court)



To question the candidates on the selection date

- Outcome 1** The candidate is deemed unsuitable.
- Outcome 2** The candidate is qualified, but has the right to refuse to serve, and exercises that right. The candidate is unsuitable for appointment as a citizen judge.
- Outcome 3** The candidate is qualified and is chosen to serve. The candidate is appointed as a citizen judge.



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Citizen judges receive full protection

Protection

active and alternative citizen judges are subject to all necessary protective measures.

Confidentiality

no one shall disclose the personal information of active, alternative or prospective citizen judges.

Safety

punishment for crimes committed against citizen judges is weighted 50% heavier.

Official leave

citizen judges must be allowed to take official leave from their regular occupations, and employers may not take any unfavorable actions against them for doing so.

Subsidies

daily fees, travel expenses and other necessary fees will be subsidized according to the number of days in court.



Protective Measures

Special passage



Childcare



Psychological counseling



Group insurance



Long-Term Care



Police escort



2

The right of citizen judges to perform their duties will be guaranteed

Independence

citizen judges may exercise their functions and powers independently, in accordance with the law, without any interference. Unless otherwise provided in the Citizen Judges Act, the authority of a citizen judge is the same as that of a Judge.

Impartiality

those found bribing citizen judges may be subject to between one and seven years imprisonment, and fined up to NT\$1 million.

Proper assistance

authorities must ensure that citizen judges understand the trial process, and can independently state their opinions, engage in full discussion with other judges in the trial, and make independent judgments.



What are citizen judges required to do?

Can I be a good citizen judge ?

The authority of citizen judges is the same as that of professional judges.

Hearing

sit on the bench alongside judges, and participate in the entire trial

Interrogation

engage in supplementary interrogation and inquiry of the defendant, victim, witnesses and experts in a case

Conviction

determine, together with the judges, whether the defendant is guilty, and what their charges

Sentencing

work with the judges to determine sentencing in the event of a conviction





Prosecutors shall disclose files and exhibits to the defense attorneys or defendants right after filing prosecutions except for certain conditions.



Discovery & Inspection



Defense attorneys or defendants shall disclose files and exhibits to prosecutors after applying for investigating evidence to the court.

Indictment-Only Doctrine
Evidence and files are not submitted along with the indictment.

法官對國民法官 之指示參考手冊

Model Citizen Judges Instructions



Court activities change in accordance with the indictment-only doctrine.

Prosecutors and defense attorneys form reasonable stories and case theories, as well as filter files and exhibits cautiously and demonstrate evidence vividly, transforming the criminal justice system into a complete adversarial system and enhancing the transparency of the judiciary.

Professional judges, prosecutors and defense attorneys use plain and clear explanations instead of complicated legal jargons, establishing the largest plain law movement in the judicial history.

The trial process

For citizen judges, just take it in stride and do it step by step

The court should get prepared and let citizen judges know what they have to do

Citizen judges who will participate in the trial are chosen.

The presiding judges explain the legal principles and trial procedures to the citizen judges.

The prosecutor and defense attorney explain the evidence they will use to support their respective claims.



Preliminary proceedings

Before the formal start of the trial, statements are sorted out into issues. The prosecutor and the defense attorney then engage in the investigation of evidence, and the court plans the trial, including estimating the number of trial days.

Selection procedures

Affirmation procedures

The citizen judges swear that they will hear the case with honesty and impartiality, according to the law **(thus, the job of the citizen judges begins).**

Pre-trial explanation

Start of trial

The clerk announce the offense charged, the prosecutor summarizes the indictment, and the judges inform the defendant of their rights.

Opening statements



The prosecutor and defense attorney debate about whether the defendant is guilty, what offenses they have committed, and how they should be sentenced. The victim or their family members make a statement, which is followed by a statement from the defendant.

(The job of the citizen judges is over)

Independent review of evidence by each party

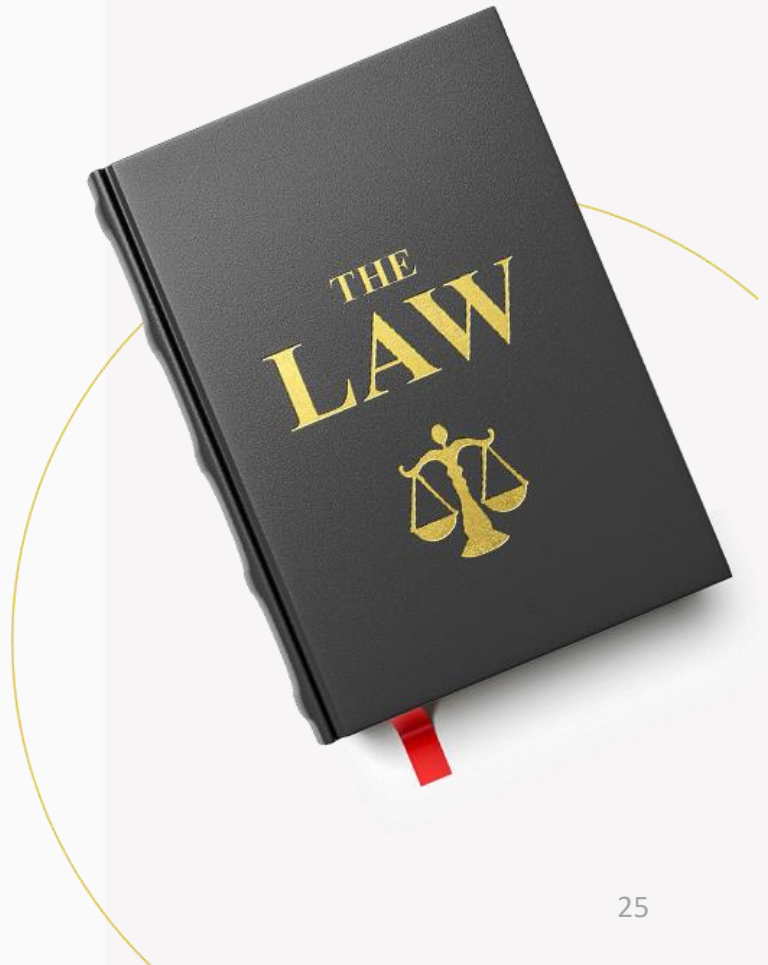
The prosecutor and defense attorney present evidence (including witness, expert witness, documentary evidence, and physical evidence) to support their claims.

Oral argument

Final deliberation

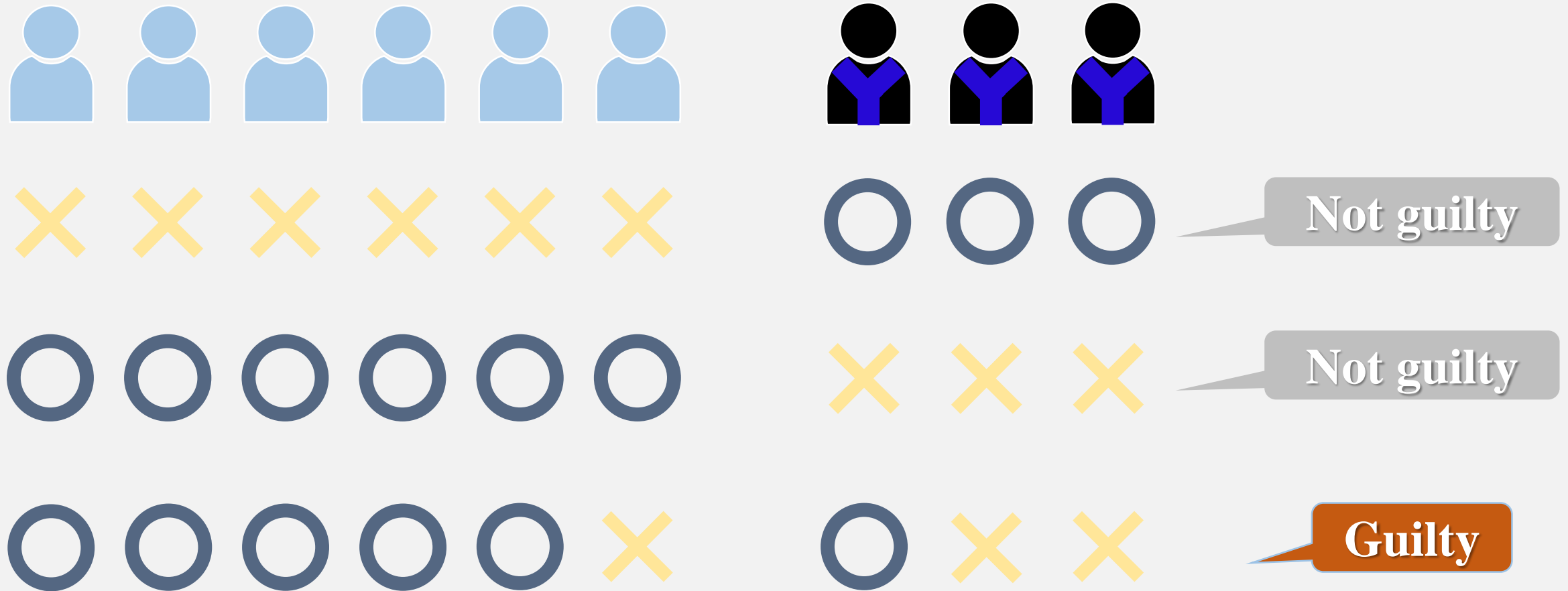
Ruling made after deliberation between presiding judges and citizen judges.

Declaration of verdict



Guilty or not guilty ? Who has the final say ?

A guilty verdict requires six or more votes for support.
It must contain assent votes from both citizen judges and judges.

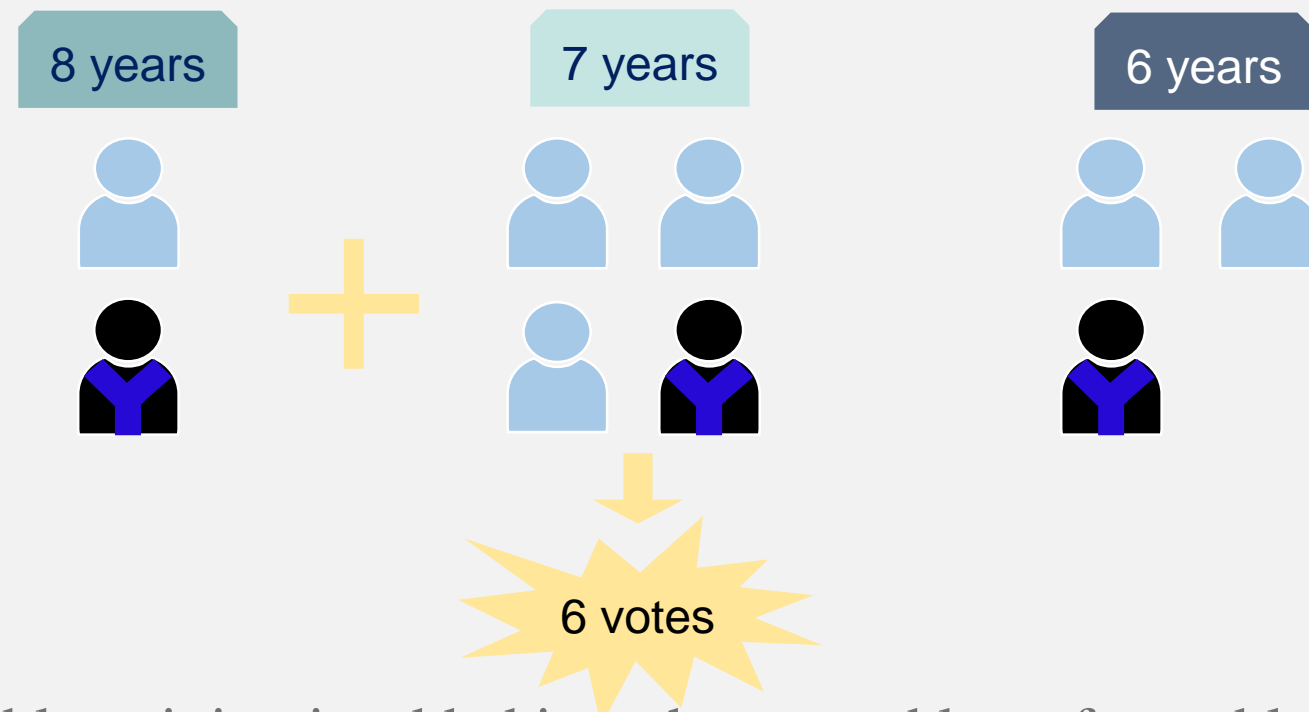


How is sentencing determined?

Sentencing(except for death penalty) : must be approved by at least five votes.

Death penalty : must be approved by at least six votes.

The sentencing decision will stand when each side(citizen judges and judges) has at least one member supporting the decision.



The least favorable opinion is added into the second least favorable, until a majority is reached.




Verdicts

Verdicts are written by professional judges, not citizen judges.

Professional judges are required to sign on the verdicts, but citizen judges are not.

Simplified verdicts contain merely the titles of material or documentary exhibits, and the reasons for the conclusion on the critical contentious issues.



Standards of appellate review transform in the interest of respecting citizen judges' judgments – focusing on the deference an appellate court affords to the decisions of a district court.

Factual issue

- **Clearly erroneous**

Legal issue

- **De novo**
- **Harmless error**

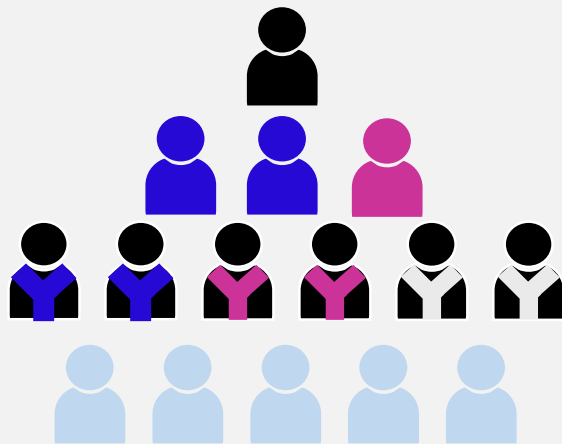
Sentencing
issue

- **Abuse of discretion**





**Assessment
Committee**



15 members

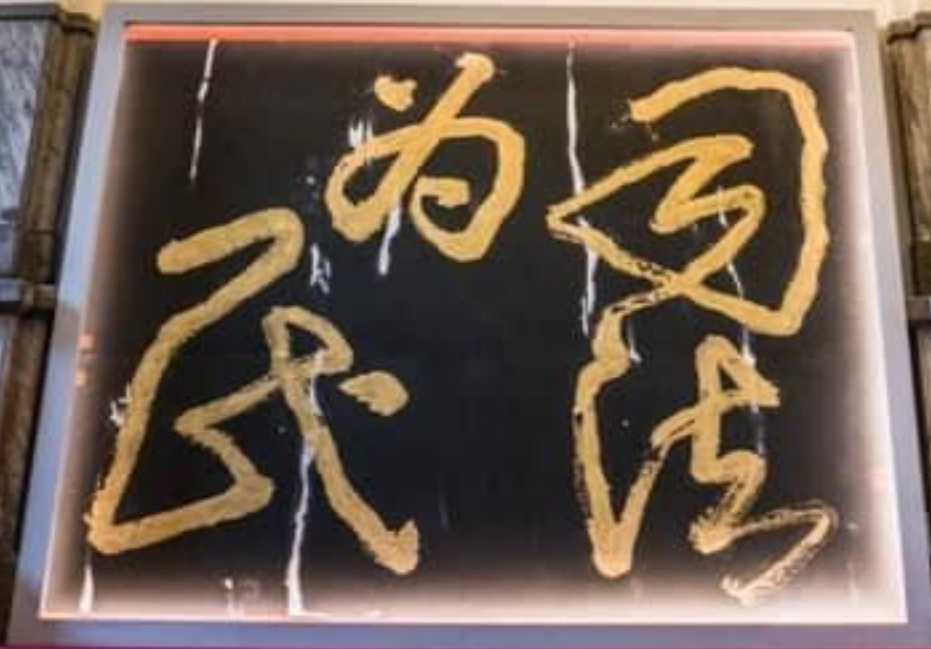
The period of the assessment is 6 years.



**Final report after the completion of
6-year period**



1. A holistic assessment of the implementation of the system.
2. Recommendations for possible amendment of the law or for relevant complementary measures.



Justice for the People

Thank you for your attention



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