

# The Ghosn-Kelly Case: Timeline



**Charge:** Conspiracy to file false securities reports understating Ghosn's compensation for 8 years

**Prosecution's theory:** All three (Ghosn, Kelly, head of secretariat) conspired from 2011

**Defense:** No decision to pay undisclosed compensation → No conspiracy; Kelly was not involved

# The Unanticipated Finding

## **Prosecution's Theory**

Kelly was part of the conspiracy  
from the start (2011)

All 3 members conspired  
throughout all 8 years



## **Court's Finding**

Kelly was NOT part of the  
conspiracy for 7 years

He joined only in Year 8  
— a theory no one argued

**Problem:** Japanese judges tend not to reveal their views during trial.  
The defense had no opportunity to challenge a theory it never anticipated.

# Evidence Disclosure: Three-Stage System

*Introduced in 2004 as part of the Pretrial Arrangement Procedure*



*2016 amendment (Art. 316-14(2)):*

*Prosecutors must provide a list of evidence in their possession*

**Kelly case: 11 TB of data disclosed**

**Defense faced dilemma: fight for full disclosure vs. Mr. Kelly's return home**

*English translation of the statute available at:*

[https://www.japaneselawtranslation.go.jp/ja/laws/view/3739#je\\_pt2ch3sc2sb1ss2at8](https://www.japaneselawtranslation.go.jp/ja/laws/view/3739#je_pt2ch3sc2sb1ss2at8)