CHAPTER 1

Crimes of Robbery

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This guideline applies to adult offenders (nineteen years of age or older) who committed any offenses of Robbery (Criminal Act, Article 333), Special Robbery (Criminal Act, Article 334), *Quasi*-robbery, *Quasi*-special Robbery (Criminal Act, Article 335), Robbery Resulting in Bodily Injury (Criminal Act, Article 337), Robbery Resulting in Death (Criminal Act, Article 338), Habitual Robbery Etc. (Criminal Act, Article 341), Robbery Within Recidivism Period Etc. (Act on the Aggravated Punishment of Specific Crimes, Article 5-4, paragraph 5, subparagraph 2), or Repeated Offense of Robbery Resulting in Bodily Injury (Act on the Aggravated Punishment of Specific Crimes, Article 5-5).

PART A

TYPES OF OFFENSES AND SENTENCING RANGE

1 GENERAL STANDARD

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Standard Robbery	1 yr. 6 mos. – 3 yrs.	2 yrs. – 4 yrs.	3 yrs. – 6 yrs.
2	Special Robbery	2 yrs. 6 mos. – 4 yrs.	3 yrs. – 6 yrs.	5 yrs. – 8 yrs.

▷ When the offense is committed within the statutory recidivism period as set forth in the Act on Special Cases Concerning the Punishment of Specific Violent Crimes, increase the minimum and maximum sentencing range each by multiplying 1.5.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factors	Conduct	• Cases with special extenuating circumstances concerning the offender's participation in, or motives for the offense • Simple use of force or threat to evade apprehension	• Five or more co-offenders involved (Type 2) • Offense against a financial institution • Vulnerable victims • Use of firearms (Type 2) • Instigating the subordinate to commit the offense
	Offender /Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities • Victim expresses the intent of non-punishment of the offender or substantial restitution to the victim	

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
General Sentencing Factors	Conduct	• Initial intent to commit robbery of minor value only • Use of minor degree of force and threat • Cases where the offense was committed out of economic necessity • Minor participation • Mere carrying of a deadly weapon (Type 2)	• Planned crime • Morally reprehensible motives
	Offender /Etc.	• Diminished mental capacity (with fault) • Sincere remorse • No prior criminal convictions • Considerable restitution	• Different-offense recidivism within the statutory recidivism period that does not constitute recidivism offense under the Act on the Aggravated Punishment of Specific Crimes, or the Act on Special Cases Concerning the Punishment of Specific Violent Crimes (Repeat offense within the statutory recidivism period of three years). Prior convictions for the same-offenses which do not constitutes a repeat offense within the statutory recidivism period or a crime of violence and/or larceny that do not constitute a repeated offense within recidivism period under the Criminal Act (Less than ten years since completion of sentence) • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)

▷ Apply the following classification in cases where Robbery was committed while severely intoxicated by the use of alcohol or drugs (the same shall apply to Habitual Robbery · Repeated Robbery, or when the offense resulted in bodily injury or death of the victim).

❶ Cases in which the offender voluntarily became intoxicated by alcohol or drugs with the intent to commit a crime, in anticipation of committing a crime, or to use as grounds for exemption after committing a crime, the state of intoxication shall be reflected as a general aggravating factor regardless of whether the defendant was in a state of diminished mental capacity at the time of the offense.

❷ Cases in which offender had no criminal intent and no anticipation of committing a crime, but past experiences, physical condition, or circumstances indicated a propensity to cause harm to others when intoxicated, the state of intoxication shall not be reflected as a mitigating factor regardless of the defendant's mental capacity at the time of the offense.

❸ Even in cases not falling under ❶, ❷, if the offender did not suffer from diminished mental capacity at the time of the offense, the intoxication shall not be reflected as a mitigating factor.

2 CASES RESULTING IN BODILY INJURY

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Standard Robbery	2 yrs. – 4 yrs.	3 yrs. – 7 yrs.	5 yrs. – 8 yrs.
2	Special Robbery	3 yrs. – 6 yrs.	4 yrs. – 7 yrs.	6 yrs. – 10 yrs.

▷ When the offense causes bodily injury as a result of habitual robbery or is a specific offense subject to the aggravated punishment (Repeated robbery causing bodily injuries) as set forth in the Act on the Aggravated Punishment of Specific Crimes, the sentencing guidelines for Habitual · Repeated robbery within statutory recidivism period offense shall apply.

▷ When the offense falls within a special violent crime under Act on Special Cases Concerning the Punishment of Specific Violent Crimes (within the statutory recidivism period), increase the minimum and maximum sentencing range each by multiplying 1.5.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factors	Conduct	• Minor bodily injuries or bodily injuries resulting from negligence • Cases with special extenuating circumstances concerning the offender's participation in, or motives for the offense • Bodily injuries resulting from a base offense of attempt • Simple use of force or threat to evade apprehension	• Five or more co-offenders involved (Type 2) • Offense against a financial institution • Vulnerable victims • Serious bodily injuries • Use of firearms (Type 2) • Instigating the subordinate to commit the offense
	Offender /Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities • Victim expresses the intent of non-punishment of the offender or substantial restitution to the victim	

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
General Sentencing Factors	Conduct	• Initial intent to commit robbery of minor value only • Use of minor degree of force or threat • Cases where the offense was committed out of economic necessity • Minor participation • Mere carrying of a deadly weapon (Type 2)	• Planned crime • Morally reprehensible motives
	Offender /Etc.	• Diminished mental capacity (with fault) • Sincere remorse • No prior criminal convictions • Considerable restitution	• Different-offense recidivism within the statutory recidivism period that does not constitute recidivism offense under the Act on the Aggravated Punishment of Specific Crimes, or the Act on Special Cases Concerning the Punishment of Specific Violent Crimes (Repeat offense within the statutory recidivism period of three years). Prior convictions for the same-offenses which do not constitutes a repeat offense within the statutory recidivism period or a crime of violence and/or larceny that do not constitute a repeated offense within recidivism period under the Criminal Act (Less than ten years since completion of sentence) • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)

3 CASES RESULTING IN DEATH

CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
Robbery Resulting in Death	6 yrs. – 11 yrs.	9 yrs. – 13 yrs.	11 years or more, or life imprisonment

▷ When the offense is committed within recidivism period as set forth in the Act on Special Cases Concerning the Punishment of Specific Violent Crimes, increase the minimum and maximum sentencing range each by multiplying 1.5.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factors	Conduct	• Offender's conduct was not the direct cause of death	• Vulnerable victims • Instigating the subordinate to commit the offense
	Offender /Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities • Victim expresses the intent of non-punishment of the offender or substantial restitution to the victim	• Absence of remorse (excluding mere denial of the offense)
General Sentencing Factors	Conduct	• Minor participation	• Offense of special robbery
	Offender /Etc.	• Rescuing or transferring the victim to the hospital after committing the offense • Diminished mental capacity (with fault) • Sincere remorse • Considerable restitution	• Different-offense recidivism within the statutory recidivism period that does not constitute recidivism offense under the Act on the Aggravated Punishment of Specific Crimes, or the Act on Special Cases Concerning the Punishment of Specific Violent Crimes (Repeat offense within the statutory recidivism period of three years). Prior convictions for the same-offenses which do not constitutes a repeat offense within the statutory recidivism period or a crime of violence and/or larceny that do not constitute a repeated offense within recidivism period under the Criminal Act (Less than ten years since completion of sentence)

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
			• Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)

4 HABITUAL · REPEATED OFFENSES OF ROBBERY WITHIN STATUTORY RECIDIVISM PERIOD

CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
Habitual · Repeated Offenses of Robbery Within Statutory Recidivism Period	5 yrs. – 8 yrs.	6 yrs. – 10 yrs.	8 yrs. – 12 yrs.

▷ When the offense is committed within recidivism period as set forth in the Act on Special Cases Concerning the Punishment of Specific Violent Crimes, increase the minimum and maximum sentencing range each by multiplying 1.5. However, this does not apply to cases where the offense falls within the Repeated offense of robbery causing bodily injuries as set forth in the Act on the Aggravated Punishment of Specific Crimes, Article 5-5, which prescribes aggravated punishment for the offense.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factors	Conduct	• Cases with special extenuating circumstances concerning the offender's participation in, or motives for the offense • Simple use of force or threat to evade apprehension	• Five or more co-offenders involved • Offense against a financial institution • Committed five or more times of the same offense (habitual robbery) • Serious bodily injuries (repeated crime of robbery within statutory recidivism period) • Use of firearms • Instigating the subordinate to commit the offense
	Offender /Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities • Victim expresses the intent of non-punishment of the offender or substantial restitution to the victim	

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
General Sentencing Factors	Conduct	• Initial intent to commit robbery of minor value only • Bodily injuries resulting from a base offense of attempt • Minor participation	• Planned crime • Morally reprehensible motives • Offense of special robbery
	Offender /Etc.	• Diminished mental capacity (with fault) • Sincere remorse • Considerable restitution	• Different-offense recidivism within the statutory recidivism period that does not constitute recidivism offense under the Act on the Aggravated Punishment of Specific Crimes, or the Act on Special Cases Concerning the Punishment of Specific Violent Crimes (Repeat offense within the statutory recidivism period of three years). Prior convictions for the same-offenses which do not constitutes a repeat offense within the statutory recidivism period or a crime of violence and/or larceny that do not constitute a repeated offense within recidivism period under the Criminal Act (Less than ten years since completion of sentence) • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)

DEFINITION OF OFFENSES

1 GENERAL STANDARD

1. TYPE 1 — STANDARD ROBBERY

○ This refers to an act that constitutes the offense with the following elements as prescribed in the applicable law (hereinafter the same).

ELEMENTS OF OFFENSE	APPLICABLE LAW
Robbery	Criminal Act, Article 333
Quasi-Robbery (A thief who uses violence or intimidation in order to resist recovery of stolen property, to escape arrest or to obliterate a trace of the crime)	Criminal Act, Article 335

2. TYPE 2 — SPECIAL ROBBERY

ELEMENTS OF OFFENSE	APPLICABLE LAW
Robbery/*Quasi*-robbery after intrusion into habitation at nighttime	Criminal Act, Article 334, paragraph 1, Article 335
Robbery/*Quasi*-robbery by carrying a deadly weapon, robbery/*Quasi*-robbery committed by two or more persons	Criminal Act, Article 334, paragraph 2, Article 335

※ The following offense constitutes repeated offenses within the recidivism period prescribed in the Act on Special Cases Concerning the Punishment of Specific Violent Crimes (this applies to all Robbery offenses).

ELEMENTS OF OFFENSE	APPLICABLE LAW
An offender, after sentenced for the offense of a special violent crime as prescribed in the Act on Special Cases Concerning the Punishment of Specific Violent Crimes, repeats the commission of a robbery as prescribed in the Act, Article 2, paragraph 1, subparagraph 5, within three years upon the completion of sentence, or upon the exemption from sentence.	Act on Special Cases Concerning the Punishment of Specific Violent Crimes, Article 3

2 CASES RESULTING IN BODILY INJURY

1. TYPE 1 — STANDARD ROBBERY

ELEMENTS OF OFFENSE	APPLICABLE LAW
Bodily injury caused by Robbery/*Quasi*-Robbery (including attempts thereof)	Criminal Act, Article 337

2. TYPE 2 — SPECIAL ROBBERY

ELEMENTS OF OFFENSE	APPLICABLE LAW
Bodily injury caused by Special Robbery/*Quasi*-Special Robbery (including attempts thereof)	Criminal Act, Article 337

3 CASES RESULTING IN DEATH

ELEMENTS OF OFFENSE	APPLICABLE LAW
Death caused by Robbery/*Quasi*-Robbery/Special Robbery/*Quasi*-Special Robbery (including attempts thereof)	Criminal Act, Article 338

4 HABITUAL · REPEATED OFFENSES OF ROBBERY WITHIN STATUTORY RECIDIVISM PERIOD

ELEMENTS OF OFFENSE	APPLICABLE LAW
Habitual Robbery or Special Robbery	Criminal Act, Article 341
An offender who has been sentenced to imprisonment on three or more occasions for offenses prescribed in the Criminal Act Article 333 through 336 (including attempts thereof), and Article 340 (including attempts thereof) commits Robbery, Special Robbery or a similar offense again as a repeated offense within the recidivism period	Act on the Aggravated Punishment of Specific Crimes, Article 5-4, paragraph 5, subparagraph 2
An offender who has been sentenced for the offense of the crime under the Criminal Act, Article 337 (including attempts thereof), repeats such offense within three years upon the completion of sentence or upon the exemption from a sentence.	Act on the Aggravated Punishment of Specific Crimes, Article 5-5

DEFINITION OF SENTENCING FACTORS

1 GENERAL STANDARD[1)]

1. CASES WITH SPECIAL EXTENUATING CIRCUMSTANCES THAT MITIGATE THE OFFENDER'S INVOLVEMENT

- This applies where one or more of the following are present:
  - The offender participated in the crime under coercion or threats by another person (excluding cases that fall under Article 12 of the Criminal Act).
  - The offender merely agreed to participate in the crime and neither directed nor directly took part in carrying out the offense.
  - Other cases with comparable factors

2. SIMPLE USE OF FORCE OR THREAT TO EVADE APPREHENSION

- This indicates cases in which the offender uses force or threat, but without the use of dangerous weapons or carrying thereof, to evade apprehension.

3. FIVE OR MORE CO-OFFENDERS INVOLVED

- This indicates cases in which five or more offenders were involved in the commission of the robbery.

4. VULNERABLE VICTIMS

- This indicates cases in which the victim was especially vulnerable due to a diminishing physical and/or mental capacity or victim's age at the time Etc., and the offender knew or could have known the victim's such circumstances.

5. VICTIM EXPRESSES THE INTENT OF NON-PUNISHMENT

- This indicates cases in which the offender shows sincere remorse with genuine efforts to reach a settlement with the victim; the victim or the family of victim (in the case of a deceased victim) fully understands the legal and social

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[1)] Sentencing factors with the same designation that apply to Robbery resulting in Bodily Injury/Death, Habitual · Repeated offense of Robbery Within Statutory Recidivism Period have the same definition unless defined otherwise.

implications of opposing punishment and clearly expresses the intent not to seek punishing the offender. However, this should not apply in the following cases:

- (1) in cases in which the victim or the family of the deceased opposes punishment as a result of *de facto* coercion or deceit by the offender against the victim's will, or
- (2) where there is no reasonable or convincing basis for the victim or their legal representative to express no desire for punishment.

- This applies only to cases in which, upon careful and thorough examination and assessment of the victim's or legal representative's age, intelligence, and ability to fully understand the meaning, content, and legal implications of expressing an intent not to seek punishment, it is determined that such expression is both informed and genuine.

6. SUBSTANTIAL RESTITUTION TO THE VICTIM

- This refers to cases where the defendant, through sincere efforts to remedy the damage, has restored the harm to a degree comparable to reaching a settlement (in cases where only property damage occurred, approximately two-thirds or more of the damage) or where such degree of damage recovery is assured.
- In the case of a deposit, this applies only where it amounts to substantial recovery of damages, as determined through careful examination of the following: the opinion of the victim or the victim's legal representative (in case of a deceased victim, this includes the spouse, lineal relatives, and siblings); whether the defendant is able by law to recover the deposited money or is likely to do so; and the nature of the legal interest harmed and the scale and degree of the damage.
- Cases where the victim has received aid from the State under the Crime Victim Protection Act in connection with the damage (including where the defendant subsequently fulfills the obligation to indemnify the State) shall be excluded, absent special circumstances.

7. CAUSING HARM IN THE COURSE OF ATTEMPTED SETTLEMENT (EXCLUDING CASES WHERE SEPARATE CRIMES SUCH AS COERCION ARE ESTABLISHED)

- This indicates cases in which harm is inflicted by persistently harassing the victim, by applying undue pressure by suggesting tangible or intangible disadvantages for refusing the settlement, or by using other equivalent methods, in the course of attempting settlement.

8. USE OF MINOR DEGREE OF FORCE · THREAT

- This indicates cases in which the degree of force and threat used in the crime is heavier than that of extortion but slighter than that of general robbery cases.

9. OFFENSE COMMITTED OUT OF ECONOMIC NECESSITY

- This applies where one or more of the following are present:
  - Offense committed to escape from the offender's impoverished circumstances
  - Offense committed to pay for hospital expenses or school tuitions and the like
  - Other cases with comparable factors

10. MINOR PARTICIPATION

- This indicates cases in which the nature of participation in the commission of the offense was minor or the offender had a limited role.
- However, this does not apply in cases in which the offender had a leading role in the commission of the offense by causing another person to commit the offense.

11. PLANNED CRIME

- This applies where one or more of the following are present:
  - Advance preparation and possession of a weapon used in the offense
  - Planned conspiracy
  - Inducement of victim
  - Preparation for destruction of evidence
  - Prior planning of a flight plan
  - Other cases with comparable factors

12. MORALLY REPREHENSIBLE MOTIVES

- This applies where one or more of the following are present:
  - Offense committed out of retaliation, grievance, or hatred
  - Motive derived from the pleasure of committing the crime itself
  - Other cases with comparable factors

13. SINCERE REMORSE

- This indicates cases in which, after examining and assessing the specific circumstances surrounding the offender's admission of the offense and any voluntary efforts made toward victim restitution and/or the prevention of re-offending, the offender is deemed to show genuine remorse for the offense

14. NO PRIOR CRIMINAL CONVICTIONS

- This indicates cases in which, the defendant has never committed a crime even once prior to the relevant offense. However, this excludes cases targeting unspecified victims or multiple victims, or cases where crimes were committed repeatedly over a prolonged period.

2 CASES RESULTING IN BODILY INJURY

1. MINOR BODILY INJURIES

- Minor bodily injuries means injuries that require two weeks or less medical care, affect only relatively limited parts of the body, do not interfere with the victim's day-to-day activities, and do not require medical interventions such as surgical stitches.

2. SERIOUS BODILY INJURIES

- Serious bodily injuries refer to injuries requiring four to five weeks or more of medical treatment. This includes, but is not limited to, injuries resulting in protracted functional impairment or severe disfigurement, injuries to vital body parts, or cases where further physical complications are anticipated.

3 CASES RESULTING IN DEATH

1. ABSENCE OF REMORSE (EXCLUDING MERE DENIAL OF THE OFFENSE)

- This indicates cases in which the offender admits to committing the crime yet does not express any sign of guilt or remorse but rather justifies the offense. This should be distinguished from merely denying the criminal conduct.

PRINCIPLES APPLICABLE TO SENTENCING FACTORS

1 DETERMINING THE SENTENCING RANGE

- When determining the appropriate sentencing range, judges must consider only the Special Sentencing Factors.
- However, where multiple Special Sentencing Factors are present, the applicable sentencing range shall be determined after assessing the factors in accordance with the following principles:
  - ❶ Greater weight is accorded to Conduct Factors than to Offender/Etc. Factors of equal number. However, where a victim or bereaved family member has intent of non-punishment, such wishes may be treated on a par with a Conduct Factor.
  - ❷ Conduct Factors *inter se*, and Offender/Etc. Factors *inter se*, shall be treated as equivalent.
  - ❸ If the sentencing range applicable cannot be determined by the aforementioned principles in ❶ and ❷, judges are to decide the sentencing range by a comprehensive comparison and assessment of Special Sentencing Factors based on the principles set forth in ❶ and ❷.
- After the assessment of sentencing factors, where aggravating factors outweigh mitigating factors, the aggravating sentencing range is recommended; where mitigating factors outweigh aggravating factors, the mitigating sentencing range is recommended; and in all other cases, the standard sentencing range is recommended.

2 DETERMINING THE SENTENCE TO BE IMPOSED

- The sentence to be imposed shall be determined within the sentencing range established under paragraph 1 above, by comprehensively taking into account both General Sentencing Factors and Special Sentencing Factors.
- Where the upper limit of the sentencing range under the sentencing guidelines exceeds 25 years, life imprisonment may be imposed.

GENERAL APPLICATION PRINCIPLES

1 SPECIAL ADJUSTMENTS TO THE RECOMMENDED SENTENCING RANGE

❶ After the assessment of Special Sentencing Factors, if a case falls within the Aggravating Sentencing Range and either i) two or more Special Aggravating Factors exist alone, or ii) Special Aggravating Factors outnumber Special Mitigating Factors by two or more, the upper limit of the recommended sentencing range may be increased by up to 1/2. If the resulting upper limit exceeds 25 years, life imprisonment may be imposed.

❷ After the assessment of Special Sentencing Factors, if a case falls within the Mitigating Sentencing Range and either i) two or more Special Mitigating Factors exist alone, or ii) Special Mitigating Factors outnumber Special Aggravating Factors by two or more, the lower limit of the recommended sentencing range may be reduced by up to 1/2.

2 RELATION BETWEEN THE RECOMMENDED SENTENCING RANGE UNDER THE SENTENCING GUIDELINES AND THE APPLICABLE SENTENCING RANGE BY LAW

- Where the sentencing range recommended under this guideline conflicts with the statutory applicable aggravated/mitigated sentencing range, the upper or lower limit of the applicable sentencing range by law shall govern.

3 APPLICATION OF DISCRETIONARY MITIGATING FACTORS BY LAW

- Where a judge declines to apply discretionary statutory mitigating factors listed in the Sentencing Factor Table of this guideline, such factors shall be considered as extenuating circumstances among mitigating factors.

GUIDELINES ON SENTENCING MULTIPLE OFFENSES

1 APPLICABLE RANGE

- This section applies to concurrent crimes prescribed in the first part of Article 37 of the Criminal Act. However, when concurrent crimes under the first part of Article 37 of the Criminal Act include both an offense set forth in the sentencing guidelines and an offense not covered by the sentencing guidelines, then the minimum level should be the minimum of the sentencing range of the offense that is set forth in this sentencing guideline.

2 DETERMINING THE BASE OFFENSE

- The "base offense" refers to the offense subject to the most severe punishment after selecting the type of punishment and applying any statutory aggravation and/or mitigation thereto. However, where the upper end of the sentencing range under the sentencing guidelines for an offense covered by this chapter is lower than the upper end of the sentencing range under the sentencing guidelines for the other concurrent offense, the other concurrent offense shall become the base offense.

3 DETERMINING THE SENTENCING RANGE FOR THE CONCURRENT MULTIPLE OFFENSES

- Except for concurrent offenses that are treated as a single offense under the sentencing guidelines, the following method of aggravation for multiple offenses shall apply:
  - ❶ For multiple offenses involving two offenses, the upper end of the sentencing range shall be determined by adding 1/2 of the upper end of the sentencing range of the other offense to the upper end of the sentencing range of the base offense.

❷ For multiple offenses involving three or more offenses, the upper end of the sentencing range shall be determined by adding the following three figures: (1) the upper end of the sentencing range of the base offense, (2) 1/2 of the upper end of the sentencing range of the offense with the highest sentencing range among the other offenses, and (3) 1/3 of the upper end of the sentencing range of the offense with the second highest sentencing range among the other offenses.

❸ For multiple offenses where the lower end of the sentencing range of the other offense is higher than the lower end of the sentencing range of the base offense, the lower end of the sentencing range after applying the method of aggravation for multiple offenses shall be the lower end of the sentencing range of the other offense.

PART B

GUIDELINE ON SUSPENDING A SENTENCE

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Circumstances	• Prior convictions for the same-offense (suspended sentence of imprisonment without labor or a more severe punishment imposed within the past five years) • Vulnerable victims • Use of dangerous weapons • Serious bodily injuries	• Cases where the defendant prevented or hindered the commission of the crime by a co-offender (or co-perpetrator) • Bodily injuries resulting from a base offense of attempt • Simple use of force or threat to evade apprehension • No prior criminal convictions • Victim expresses the intent of non-punishment of the offender or substantial restitution to the victim
General Circumstances	• Two or more prior convictions resulting in a suspended sentence of imprisonment without labor or heavier punishment • Planned crime • Playing a leading role as a co-offender • Post-offense evidence tampering or attempting to destroy or conceal evidence • Lack of social/family ties • Drug or alcohol addiction • Absence of sincere remorse • Absence of efforts to reverse the harm • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)	• Offender's minor participation as a co-offender • Stable social/family ties • Voluntary surrender to investigative authorities • Sincere remorse • No prior convictions resulting in a suspended sentence of imprisonment without labor, or heavier punishment • offender's severely compromised health condition • Cases where detaining the offender would impose excessive hardship on dependent family members • Considerable restitution

DEFINITIONS OF CIRCUMSTANCES TO CONSIDER WHEN SUSPENDING A SENTENCE

- For identical factors in both Sentencing Factors and the Circumstances for Suspending a Sentence, refer to the definitions set forth in the Definition of Sentencing Factors.
- Calculation of the Period of Prior Criminal Convictions
  - For cases where a suspended sentence of imprisonment was imposed, the period of a prior conviction is calculated from the date on which the judgment became final to the date of the commission of the offense.
  - For cases where a sentence of imprisonment was executed, the period of a prior conviction is calculated from the date on which the sentence was fully served to the date of the commission of the offense.

PRINCIPLES APPLICABLE TO CIRCUMSTANCES WHEN SUSPENDING A SENTENCE

- When the recommended sentence is imprisonment with labor and judges decide to suspend execution of the sentence, they must give greater weight to the Primary Circumstances than to the General Circumstances, and the following principles should be considered:
  ❶ When two or more Primary Affirmative Circumstances exist alone, or when Primary Affirmative Circumstances outnumber Primary Adverse Circumstances by two or more, it is recommended to suspend the sentence.
  ❷ When two or more Primary Adverse Circumstances exist alone, or when Primary Adverse Circumstances outnumber Primary Affirmative Circumstances by two or more, imprisonment is recommended.
  ❸ In cases in which ❶ or ❷ apply, but the difference between the number of General Adverse (Affirmative) Circumstances and General Affirmative (Adverse) Circumstances is greater than the difference between the number of Primary Affirmative (Adverse) Circumstances and Primary Adverse (Affirmative) Circumstances, or in cases other than ❶ or ❷, the judges shall decide whether to suspend the sentence after comparing and assessing all the Circumstances comprehensively.