CHAPTER 39

Crimes of Larceny

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This guideline applies to adult offenders (nineteen years of age or older) who committed any offenses of Larceny (Criminal Act, Article 329), Larceny with intrusion into a residence at nighttime (Criminal Act, Article 330), Special Larceny (Criminal Act, Article 331), Habitual Crimes (Criminal Act, Article 332, Article 329 through 331), Repeated Larceny (Aggravated Punishment Act, Article 5-4, paragraph 2, paragraph 5, paragraph 6), Larceny of Forest Products and the Like (Act on Development and Management of Forest Resources, Article 73, paragraph 1 and paragraph 3, Forest Protection Act, Article 54, paragraph 1, and Aggravated Punishment Act, Article 9, paragraph 1), Larceny of Asset Pertaining to a Forest Culture (Act on Forestry Culture and Recreation, Article 35, paragraph 2), and Larceny of Cultural Property (Cultural Heritage Protection Act, Article 92, paragraphs 1 and 2), and Stealing Oil from Oil Pipelines Using Facilities (Oil Pipeline Safety Control Act, Article 13-2, paragraph 1).

※ Note that the underlined provisions applied to certain crimes were deleted or amended following the statutory revisions made after the sentencing guidelines were established. The sentencing guidelines on those crimes will be revised later. For this reason, all or part of the current standards of sentencing would not be applied.

PART A

TYPES OF OFFENSES AND SENTENCING RANGE

1 LARCENY OF GENERAL PROPERTY

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Larceny of Unattended Property	– 6 mos.	4 mos. – 8 mos.	6 mos. – 1 yr.
2	General Larceny	4 mos. – 10 mos.	6 mos. – 1 yr. 6 mos.	10 mos. – 2 yrs.
3	Larceny Against Personal Belongings	6 mos. – 1 yr.	8 mos. – 2 yrs.	1 yr. – 3 yrs.
4	Intrusion and Larceny	8 mos. – 1 yr. 6 mos.	1 yr. – 2 yrs. 6 mos.	1 yr. 6 mos. – 4 yrs.

▷ In cases where multiple larceny offenses constituting habitual larceny each fall under different types of crimes, then apply the sentencing range of the most severe larceny offense.

▷ However, in cases where the sentencing range for larceny as calculated by applying the special sentencing factors of larceny is lower than the sentencing range derived from the special sentencing factors applicable to another larceny offense constituting the habitual larceny, the sentencing range for that other larceny offense shall be used as the base sentencing range.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Cases with special extenuating circumstances that mitigate the offender's involvement • Offenses driven by economic necessity • In cases where the offender intruded into a place other than an indoor residential space (Type 4)	• Carrying a deadly weapon, intrusion upon habitation, building, or other similar structures by destroying security devices (Type 4) • Offense committed through an organized division of roles (excluding habitual offenders) • Cases where the offense was repeatedly committed through special methods, tools, or organization (in case of the habitual offender) • Cases where the offense resulted in significant personal or societal harm, and such harm remains unredressed • Instigating the subordinate to commit the offense

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
	Offender /Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities • Victim expresses the intent of non-punishment or substantial restitution to the victim	• Same-offense recidivism within the statutory recidivism period that does not constitute recidivism offense under the Act on the Aggravated Punishment of Specific Crimes • Habitual offender
General Sentencing Factor	Conduct	• Minor participation	• Two or more co-offenders involved • Cases falling within the Act on Forestry Culture and Recreation, Article 35, paragraph 2, and the Forest Protection Act, Article 54, paragraph 1
	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 (Repeat offense within the statutory recidivism period of three years). Prior convictions for the same-offense, which do not constitute statutory recidivism (less than ten years after the completion of the 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 Crimes of Larceny of general properties were committed under severe intoxication from alcohol or drugs (the same shall apply to crimes of larceny of special properties, and larceny under Act on the Aggravated Punishment, etc. of Specific Crimes).

❶ Cases in which the offender voluntarily induced intoxication by taking alcohol or drugs and where the offender intended or foresaw the crime or attempted to use the condition as a ground for exemption, intoxication is considered as a general aggravating factor regardless of the fact that the offender was in a state of diminished mental capacity at the time of the crime.

❷ Cases in which the offender had no intention of committing the offense or could not foresee the commission of such offense, but past behavior reveals the possibility of harm caused to others while under the influence of high levels of alcohol or drugs, intoxication shall not be considered as a mitigating factor regardless of whether the offender was in a state of diminished mental capacity at the time of the crime.

❸ Even if the cases do not fall within ❶ or ❷, intoxication should not be taken into account as a mitigating factor unless the offender's mental state at the time of the crime constitutes diminished mental capacity.

2 LARCENY OF SPECIAL PROPERTY

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Valuable Property	1 yr. – 2 yrs. 6 mos.	1 yr. 6 mos. – 3 yrs.	2 yrs. 6 mos. – 4 yrs.
2	Extremely Valuable Property	1 yr. 6 mos. – 3 yrs.	2 yrs. – 4 yrs.	3 yrs. – 6 yrs.

▷ In cases where multiple larceny offenses constituting habitual larceny each fall under different types of crimes, then apply the sentencing range of the most severe larceny offense.

▷ However, in cases where the sentencing range for larceny as calculated by applying the special sentencing factors of larceny is lower than the sentencing range derived from the special sentencing factors applicable to another larceny offense constituting the habitual larceny, the sentencing range for that other larceny offense shall be used as the base sentencing range.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Cases with special extenuating circumstances that mitigate the offender's involvement • Lack of intent to steal the special property	• Carrying a deadly weapon • Instigating the subordinate to commit the offense • Cases where the offense was repeatedly committed through special methods, tools, or organization (in case of habitual offender)
	Offender /Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities • Victim expresses the intent of non-punishment or substantial restitution to the victim	• Same-offense recidivism within the statutory recidivism period that does not constitute recidivism offense under the Act on the Aggravated Punishment of Specific Crimes • Habitual offenders
General Sentencing Factor	Conduct	• Minor participation	• Two or more co-offenders involved
	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 (Repeat offense within the statutory recidivism period of three years). Prior convictions for the same-offense, which do not

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
			constitute statutory recidivism (less than ten years after the completion of the sentence) • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)

3 LARCENY UNDER ACT ON THE AGGRAVATED PUNISHMENT, ETC. OF SPECIFIC CRIMES

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Joint Habitual · Repeated Larceny	1 yr. – 2 yrs. 6 mos.	1 yr. 6 mos. – 3 yrs.	2 yrs. 6 mos. – 4 yrs.
2	Habitual and Repeated Larceny	1 yr. 6 mos. – 3 yrs.	2 yrs. – 4 yrs.	3 yrs. – 6 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Cases with special extenuating circumstances that mitigate the offender's involvement	• Repeated offenses by the use of special methods, devices, or organizations • Larceny of special property (excluding cases where the offender did not intend larceny of special property) • 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 or substantial restitution to the victim	

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
General Sentencing Factor	Conduct	• Offenses driven by economic necessity • Insignificant damages • Minor participation	• Carrying a deadly weapon • Two or more co-offenders involved • Intrusion into a residence or intrusion into a place after destroying security devices
	Offender /Etc.	• Diminished mental capacity (with fault) • Sincere remorse • Considerable restitution	• Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)

DEFINITION OF OFFENSES

1 LARCENY OF GENERAL PROPERTY

1. TYPE 1 – LARCENY OF UNATTENDED PROPERTY

- This indicates cases in which the risk of inflicting bodily injuries on the victim is slight, the extent of the victim's possession of the property is either loose or weak, the value of the property is insignificant, the extent of interfering with the occupying of the property is slight, and one of the following factors applies:
  - Occupying an unattended object outdoors
  - Occupying a product on display
  - Other cases with comparable factors

2. TYPE 2 — GENERAL LARCENY

- This applies to cases where larceny does not fall within Type 1, 3, or 4.

3. TYPE 3 — LARCENY AGAINST PERSONAL BELONGINGS

- This means cases of larceny of property, which is carried on another person's body, and one or more of the following factors apply:
  - Cases where larceny is committed by snatching another person's personal belongings (commonly known as 'snatching')
  - Cases where larceny is committed by stealing another person's personal belongings in a public place without them knowing the fact (commonly known as 'pickpocketing')
  - Cases of larceny committed by stealing from a drunken person unconscious in the street
  - Other cases with comparable factors

4. TYPE 4 — INTRUSION AND LARCENY

- This means cases of larceny by way of intruding on another person's dwelling, managed residence, structure, ship, or occupied room.

  ※ For cases where the offense is not committed at nighttime, the offense would constitute a concurrent crime of Intrusion Upon Habitation and Larceny. However, such an offense shall be classified as 'Intrusion and Larceny' and will not be treated as multiple offenses under the sentencing guideline.

2 LARCENY OF SPECIAL PROPERTY

1. TYPE 1 — VALUABLE PROPERTY

- This means cases of larceny where the stolen goods have high social, cultural, and economic value, then the following applies:
  - Larceny as prescribed in the Cultural Heritage Protection Act, Article 92, paragraph 2,
  - Larceny of forest products under the Act on Aggravated Punishment, etc. of Specific Crimes, Article 9, paragraph 1, subparagraph 2,
  - Larceny of oil contained in an oil pipeline under the Oil Pipeline Safety Control Act, Article 13-2, paragraph 1,
  - Larceny of cash, marketable securities, or precious jewelry held by a financial institution (financial institution stipulated in Act on the Aggravated Punishment of Specific Economic Crimes, Article 2, paragraph 1),
  - Cases where the value of the property has surged in a short period of time or is scarce,
  - Larceny of significant industrial technology or materials concerning trade secrets.

2. TYPE 2 — EXTREMELY VALUABLE PROPERTY

- This means cases of larceny where the stolen goods are extremely high in social, cultural, and economic value, then the following applies:
  - Larceny as prescribed in the Cultural Heritage Protection Act, Article 92, paragraph 1
  - Larceny of forest products that fall within the Aggravated Punishment Act, Article 9, paragraph 1, subparagraph 1
  - Cases in which the stolen property is industrial technology crucial enough to determine the success or failure of a company or to change the dynamics of the relevant industry

3 LARCENY UNDER ACT ON THE AGGRAVATED PUNISHMENT, ETC. OF SPECIFIC CRIMES

1. TYPE 1 — JOINT HABITUAL LARCENY · REPEATED LARCENY WITHIN STATUTORY RECIDIVISM PERIOD

- Cases under Act on the Aggravated Punishment of Specific Crimes, Article 5-4, paragraph 2
- Cases under Act on the Aggravated Punishment of Specific Crimes, Article 5-4, paragraph 5, subparagraph 1

2. TYPE 2 — HABITUAL REPEATED LARCENY WITHIN STATUTORY RECIDIVISM PERIOD

- Cases under Act on the Aggravated Punishment of Specific Crimes, Article 5-4, paragraph 6

DEFINITION OF SENTENCING FACTORS

1. CASES WITH SPECIAL EXTENUATING CIRCUMSTANCES CONCERNING THE OFFENDER'S PARTICIPATION IN, OR MOTIVES FOR, THE OFFENSE

- This means one or more of the following factors apply:
  - 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 mitigating factors.

2. OFFENSES DRIVEN BY ECONOMIC NECESSITY

- This indicates cases in which one or more of the following factors apply:
  - Offense was committed to escape the offender's impoverished household circumstances
  - Offense was committed to pay for hospital expenses, school tuition, or similar necessities
  - Other cases with comparable mitigating factors

3. IN CASES WHERE THE OFFENDER INTRUDED INTO A PLACE OTHER THAN AN INDOOR RESIDENTIAL SPACE

- This refers to cases falling under Type 4 (Intrusion and Larceny) in which the larceny was committed after intruding into places other than the 'indoors of a dwelling.' For purposes of this provision, 'indoors of a dwelling' means a place where the victim resides continuously and habitually on a daily basis, and into which persons who are strangers to the victim or the victim's family cannot easily enter.

4. OFFENSE COMMITTED THROUGH AN ORGANIZED DIVISION OF ROLES

- This refers to cases in which multiple offenders commit a larceny offense through an organized scheme, including prior agreement to commit the crime, allocation of roles, and coordinated execution.

5. WHERE THE PERSONAL OR SOCIAL HARMS ARE PARTICULARLY SERIOUS

- "Serious personal harm" means cases involving one or more of the following factors:
  - Cases in which the offender caused significant harm to the victim by stealing expensive antiques, precious jewelry, large amounts of stocks or cash, or other similar property, taking into account the victim's subjective valuation of the stolen items and the overall derivative damage.
  - Other cases with comparable factors.
- "Serious social harm" means cases involving one or more of the following factors:
  - Cases that do not fall within larceny of special property but nonetheless resulted in significant social harm.
  - Other cases with comparable aggravating factors.

6. MINOR PARTICIPATION

- This indicates cases in which the nature of participation in the commission of the offense was passive or the offender had a limited role.
- However, this is not applicable in cases in which the offender had an active role in the commission of the offense by causing another person to commit the offense.

7. TWO OR MORE CO-OFFENDERS

- This indicates cases in which two or more offenders were involved in the commission of the offense but did not fall under the 'offenses committed through an organized division of roles.'

8. CASES FALLING WITHIN THE ACT ON FOREST CULTURE AND RECREATION, ARTICLE 35, PARAGRAPH 2, AND THE FOREST PROTECTION ACT, ARTICLE 54, PARAGRAPH 1

- Larceny of Designated Forest Cultural Asset
- Larceny of nurse-trees or larceny of products in the forest protection areas

9. LACK OF INTENT TO STEAL SPECIAL PROPERTY

- This refers to cases where the offender stole special property found in an unusual location without being aware of it, or committed the offense coincidentally without intending to steal special property.

10. REPEATED OFFENSES BY THE USE OF SPECIAL METHODS, DEVICES, OR ORGANIZATIONS

- This indicates cases in which the offense applicable to one or more of the following factors has been executed repetitively:
  - Cases where the offender used a certain method or technology rather than cases of simply taking advantage of careless surveillance, or other similar methods, regarding searching, occupying, or transporting the stolen goods
  - Cases where devices have been employed for stealing goods that are generally immovable
  - The offense committed with the intent to commit larceny (This does not need to rise to the level of a criminal organization), agreeing to the crime in advance, allocating the tasks, and executing the commission accordingly

11. VICTIM EXPRESSES THE INTENT OF NON-PUNISHMENT OF THE OFFENDER

- 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 the victim (in the case of a deceased victim) fully understands the legal and social implications of opposing punishment and clearly expresses the intent not to seek punishment of 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.

12. SUBSTANTIAL RESTITUTION TO THE VICTIM

- This refers to cases in which the offender, through genuine and sustained efforts, has restored the damage to a degree comparable to a formal settlement (generally amounting to at least two-thirds of the total loss in cases involving only property damage), or in which restitution of such degree is reasonably assured.
- In the case of a court deposit, it constitutes substantial recovery of damages only when such a determination is made after carefully examining and assessing the opinions of the victim of the underlying offense or their legal representative (including the spouse, lineal relatives, and siblings if the victim is deceased) regarding the deposit, whether the defendant is legally permitted or intends to retrieve the deposited funds, the nature of the infringed legal interests, and the scale and extent of the damage.

13. CAUSING HARM WHILE ATTEMPTING TO REACH A SETTLEMENT WITH THE VICTIM (EXCLUDING CASES WHERE THE ACT CONSTITUTES ANY OTHER CRIME SUCH AS THE CRIME OF COERCION)

- This indicates cases in which the offender persistently harassed the victim or exerted undue pressure by implying tangible or intangible disadvantages in the course of attempting to reach a settlement, or otherwise caused harm through comparable means in response to the victim's refusal to settle.

14. SINCERE REMORSE

- This indicates cases in which the offender is deemed to show genuine remorse for the offense 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.

15. NO PRIOR CRIMINAL CONVICTIONS

- It means that the defendant has no previous criminal conviction. However, this does not apply to cases in which the offense was committed repeatedly over an extended period.

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. of equal number. However, where a victim expresses no intent of 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.

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.

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 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 Circumstance	• An organized or professional crime • Repeated offenses • Carrying a deadly weapon, intrusion into a residence or building at night, or other similar structures by destroying security devices at nighttime • Prior convictions for the same-offense [a suspended sentence of imprisonment or a heavier punishment within the past five years, or three or more fines (including suspended sentences)] • Cases involving serious personal or social harm • Damages were not redressed	• The offender attempted to prevent the offense by hindering the co-offender • Cases with special extenuating circumstances that mitigate the offender's involvement • Offense driven by economic necessity • No prior criminal convictions • Victim expresses the intent of non-punishment or substantial restitution to the victim
General Circumstance	• Two or more prior suspensions of execution of imprisonment without labor or more severe punishment • Lack of family/social ties • Drug or alcohol addiction • Absence of sincere remorse • Leading role as a co-perpetrator • Post-offense evidence tampering or attempt to conceal or destroy evidence • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)	• Insignificant damage • No prior convictions resulting in a suspended sentence of imprisonment without labor or heavier punishment • Stable family/social ties • Voluntary surrender to investigative authorities • Sincere remorse • Offender's minor participation as a co-offender • The offender's physical condition is severely impaired • 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 Consideration Factors 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 or a fine 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.
- Repeated Offense
  - This refers to cases where the offender is found to have repeatedly committed similar offenses, upon comprehensive consideration of the nature of the offense, the offender's history of punishment, and concurrent offense, etc.

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 among Mitigating Factors than to the General Circumstances, and the following principles should be considered:
  - ❶ When two or more Primary Circumstances exist only, 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, judges shall decide whether to suspend the sentence after comparing and assessing the Circumstances among Mitigation Circumstances for suspension of execution of the sentence comprehensively.