

Promulgated on February 4, 2013, Effective on July 1, 2013

## 23 Crimes of Arson

This guideline applies to adult offenders (nineteen years of age or older) who committed any offense of Setting Fire to a Present Dwelling Structure (Criminal Act, Article 164, paragraph 1), Setting Fire to a Present Dwelling Structure Resulting in Injury or Death (Criminal Act, Article 164, paragraph 2), Setting Fire to a Public Structure or the like (Criminal Act, Article 165), Setting Fire to a Building Structure, etc. Owned by Another (Criminal Act, Article 166, paragraph 1), Setting Fire to Goods in Another's Ownership (Criminal Act, Article 167, paragraph 1), Setting Fire to Building Structures Designated as Cultural Heritage (Cultural Heritage Protection Act, Article 94), Setting Fire to Seed-Collection Forests, etc. (Forest Resources Act, Article 71, paragraph 1), Setting Fire to a Forest, etc. of Another's Ownership (Forest Resources Act, Article 53, paragraph 1), Setting Fire to a Forest as prescribed in the Aggravated Punishment Act (Aggravated Punishment Act, Article 9, paragraph 2, Forest Resources Act, Article 71, paragraph 1)

### ■ Abbreviation

- Forest Resources Act : Act on Creation and Management of Forest Resources
- Aggravated Punishment Act : Act On the Aggravated Punishment, etc. of Specific Crimes

## I. TYPES OF OFFENSE AND SENTENCING PERIODS

### 01 | GENERAL STANDARD

Type	Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
1	Setting Fire to a Present Dwelling Structure	1 yr 6 months - 3yrs	2 yrs - 5 yrs	4 yrs - 7 yrs
2	Setting Fire to a Building Structure, etc. Owned by Another	1 yr - 2yrs	1 yr 6 months - 3 yrs	2 yrs 6 months - 5 yrs
3	Setting Fire to Goods in Another's Ownership	6 months - 1yr	10 months - 2 yrs	1 yr 6 months - 4 yrs



Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> <li>● Special Considerations can be Taken into Account for Engaging in Offense or Motive</li> <li>● Actual Damage is Slight</li> </ul>	<ul style="list-style-type: none"> <li>● Prolonged and Repeated Commission of the Crime</li> <li>● Resulted in Multiples of Victims, Extent of Harm is Serious or Inflicting Serious Harm to the Victim</li> <li>● Crime Against Special Property with High Social, Cultural, or Economical Value</li> <li>● Condemnable Motives</li> <li>● Instigating the Subordinate Person to Commit the Offense</li> </ul>
Special Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> <li>● Those with Hearing and Speaking Impairments</li> <li>● Those with Mental Incapacity (Cases Where the Offender Cannot be Held Liable)</li> <li>● Voluntary Surrender to Investigative Agencies</li> <li>● Offender Expresses Remorse and the Victim Opposes Punishment</li> </ul>	<ul style="list-style-type: none"> <li>● Repeated Offenses of Same Type under the Criminal Act</li> </ul>
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> <li>● Passive Participation</li> </ul>	<ul style="list-style-type: none"> <li>● Premeditated Crime</li> <li>● Causing Multiples of Victims or the Risk of Inflicting Serious Harm to the Victim is Substantial (This Excludes Type 3)</li> </ul>
General Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> <li>● Efforts to Prevent the Spread of Fire or Damages</li> <li>● Offender Injured Severely Due to the Fire</li> <li>● Those with Mental Incapacity (Cases Where the Offender Can be Held Liable)</li> <li>● Expresses Sincere Remorse</li> <li>● No Prior Criminal History</li> <li>● There is Genuine Efforts to Reverse Harm</li> </ul>	<ul style="list-style-type: none"> <li>● Repeated Offenses of Different Type under the Criminal Act, Criminal History of Imprisonment by the Same Type of Offenses or by Crime of Violence that Does not Constitute Repeated Offense under the Criminal Act (This Applies When the Criminal History is Within Ten Years After Completion of Sentence)</li> </ul>

## 02<sup>1</sup> SETTING FIRE TO SPECIAL PROPERTIES

Type	Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
1	Setting Fire to a Cultural Heritage	2 yrs 6 months - 4 yrs	3 yrs - 8 yrs	6 yrs - 12 yrs
2	Setting Fire to a Forest	3 yrs - 6 yrs	5 yrs - 9 yrs	8 yrs - 13 yrs



Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> <li>● Special Considerations can be Taken into Account for Engaging in Offense or Motive</li> <li>● Actual Damage is Slight</li> <li>● Offender Did Not Intend to Set Fire on Special Properties (Type 1)</li> </ul>	<ul style="list-style-type: none"> <li>● Prolonged and Repeated Commission of the Crime</li> <li>● Resulted in Multiples of Victims, Extent of Harm is Serious or Inflicting Serious Harm to the Victim</li> <li>● Crime Against Special Property with High Social, Cultural, or Economical Value</li> <li>● Condemnable Motives</li> <li>● Instigating the Subordinate Person to Commit the Offense</li> </ul>
Special Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> <li>● Those with Hearing and Speaking Impairments</li> <li>● Those with Mental Incapacity (Cases Where the Offender Cannot be Held Liable)</li> <li>● Voluntary Surrender to Investigative Agencies</li> <li>● Offender Expresses Remorse and the Victim Opposes Punishment</li> </ul>	<ul style="list-style-type: none"> <li>● Repeated Offenses of Same Type under the Criminal Act</li> </ul>
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> <li>● Passive Participation</li> </ul>	<ul style="list-style-type: none"> <li>● Premeditated Crime</li> <li>● Causing Multiples of Victims or the Risk of Inflicting Serious Harm to the Victim is Substantial</li> </ul>
General Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> <li>● Efforts to Prevent the Spread of Fire or Damages</li> <li>● Offender Injured Severely Due to the Fire</li> <li>● Those with Mental Incapacity (Cases Where the Offender Can be Held Liable)</li> <li>● Expresses Sincere Remorse</li> <li>● No Prior Criminal History</li> <li>● There is Genuine Efforts to Reverse Harm</li> </ul>	<ul style="list-style-type: none"> <li>● Repeated Offenses of Different Type under the Criminal Act, Criminal History of Imprisonment by the Same Type of Offenses or by Crime of Violence that Does not Constitute Repeated Offense under the Criminal Act (This Applies When the Criminal History is Within Ten Years After Completion of Sentence)</li> </ul>

## 03 | SETTING FIRE TO A PRESENT DWELLING STRUCTURE RESULTING IN INJURY OR DEATH

Type	Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
1	Setting Fire to a Present Dwelling Structure Resulting in Injury or Death	2 yrs 6 months - 5 yrs	4 yrs - 7 yrs	6 yrs - 11 yrs
2	Setting Fire to a Present Dwelling Structure Resulting in Death (Without Intent to Commit Murder)	4 yrs - 9 yrs	7 yrs - 13 yrs	10 yrs - 17 yrs
3	Setting Fire to a Present Dwelling Structure Resulting in Death (With Intent to Commit Murder)	9 yrs - 13 yrs	12 yrs - 16 yrs	More than 15 yrs, More than Life Imprisonment

▷ In case of Type 3, compare the maximum and minimum limit of the recommended sentencing range with the Homicide Crime and apply the sentencing range that is more severe.

Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> <li>● Special Considerations Can be Taken into Account for Engaging in Offense or Motive</li> <li>● Minor Bodily Injury (Type 1)</li> <li>● Offender's Conduct is Not the Direct Cause of Death (Type 2)</li> <li>● Willful Negligence of Murder (Type 2)</li> </ul>	<ul style="list-style-type: none"> <li>● Prolonged and Repeated Commission of the Crime</li> <li>● Resulted in Multiples of Victims, Extent of Harm is Serious or Inflicting Serious Harm to the Victim (Latter is Applied to Type 1 Only)</li> <li>● Usage of Cruel Methods to Commit Crime</li> <li>● Offense Committed Against Vulnerable Victims</li> <li>● Condemnable Motives</li> <li>● Instigating the Subordinate Person to Commit the Offense</li> </ul>



Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> <li>● Those with Hearing and Speaking Impairments</li> <li>● Those with Mental Incapacity (Cases Where the Offender Cannot be Held Liable)</li> <li>● Voluntary Surrender to Investigative Agencies</li> <li>● Offender Expresses Remorse and the Victim Opposes Punishment</li> </ul>	<ul style="list-style-type: none"> <li>● Repeated Offenses of Same Type under the Criminal Act</li> </ul>
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> <li>● Passive Participation</li> </ul>	<ul style="list-style-type: none"> <li>● Premeditated Crime</li> <li>● Causing Multiples of Victims or the Risk of Inflicting Serious Harm to the Victim is Substantial</li> </ul>
General Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> <li>● Efforts to Prevent the Spread of Fire or Damages</li> <li>● Offender Injured Severely Due to the Fire</li> <li>● Those with Mental Incapacity (Cases Where the Offender Can be Held Liable)</li> <li>● Expresses Sincere Remorse</li> <li>● No Prior Criminal History</li> <li>● Victim Opposes Punishment (This Includes Genuine Efforts to Reverse Harm)</li> </ul>	<ul style="list-style-type: none"> <li>● Repeated Offenses of Different Type under the Criminal Act, Criminal History of Imprisonment by the Same Type of Offenses or by Crime of Violence that Does not Constitute Repeated Offense under the Criminal Act (This Applies When the Criminal History is Within Ten Years After Completion of Sentence)</li> </ul>

## [ DEFINITION OF OFFENSES ]

### 01<sup>1</sup> APPLICABLE SCOPE

#### 1. TYPE 1 SETTING FIRE TO A PRESENT DWELLING STRUCTURE, SETTING FIRE TO A PUBLIC STRUCTURE, ETC.

- This means offenses with following statutory elements of the offense under the applicable law (applies to all offenses)

Elements of Offense	Applicable Law
Offense of Setting Fire to (Presently Residing, Presently Existing) (Structural Building, Train, Electric Car, Automobile, Ship, Aircraft or Mine)	Criminal Act, Article 164, paragraph 1
Offense of Setting Fire to (Structural Building, Train, Electric Car, Automobile, Ship, Aircraft or Mine) or (Official Business, Public Interest)	Criminal Act, Article 165

#### 2. TYPE 2 SETTING FIRE TO A STRUCTURE, ETC.

Elements of Offense	Applicable Law
General Offense of Setting Fire to (Structural Building, Train, Electric Car, Automobile, Ship, Aircraft or Mine) or (Official Business, Public Interest)	Criminal Act, Article 166, paragraph 1

#### 3. TYPE 3 SETTING FIRE TO GENERAL GOODS

Elements of Offense	Applicable Law
Offense of Setting Fire to General Goods	Criminal Act, Article 167, paragraph 1

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## 02<sup>1</sup> SETTING FIRE TO SPECIAL PROPERTIES

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### 1. TYPE 1 SETTING FIRE TO A CULTURAL HERITAGE

Elements of Offense	Applicable Law
Setting Fire to a Structure that is Designated as or Provisionally Designated as a Cultural Heritage	Cultural Heritage Protection Act, Article 94

### 2. TYPE 2 SETTING FIRE TO A FOREST

Elements of Offense	Applicable Law
Setting Fire to a Seed-Collection Forest, an Elite Tree, or an Experimental Forest	Forest Resources Act, Article 71, paragraph 1
Setting Fire to a Forest, etc., in Another's Ownership	Forest Protection Act, Article 53, paragraph 1
Setting Fire to a Forest under Aggravated Punishment Act	Aggravated Punishment Act, Article 9, paragraph 2, Forest Resources Act, Article 71, paragraph 1

## 03<sup>1</sup> SETTING FIRE TO A PRESENT DWELLING STRUCTURE RESULTING IN INJURY OR DEATH (WITH INTENT TO COMMIT MURDER)

### 1. TYPE 1 SETTING FIRE TO A PRESENT DWELLING STRUCTURE RESULTING IN INJURY

Elements of Offense	Applicable Law
Setting Fire to a (Presently Residing, Presently Existing) (Building, Train, Electric Car, Automobile, Ship, Aircraft or Mine) Resulting in Injury	Criminal Act, Article 164, paragraph 2, First Part of the Text

### 2. TYPE 2 SETTING FIRE TO A PRESENT DWELLING STRUCTURE RESULTING IN DEATH (WITHOUT THE INTENT TO COMMIT HOMICIDE)

Elements of Offense	Applicable Law
Setting Fire to a (Presently Residing, Presently Existing) (Building, Train, Electric Car, Automobile, Ship, Aircraft or Mine) Resulting in Death	Criminal Act, Article 164, paragraph 2, Latter Part of the Text

### 3. TYPE 3 SETTING FIRE TO A PRESENT DWELLING STRUCTURE RESULTING IN DEATH (WITH THE INTENT TO COMMIT HOMICIDE)

Elements of Offense	Applicable Law
Setting Fire to a (Presently Residing, Presently Existing) (Building, Train, Electric Car, Automobile, Ship, Aircraft or Mine) Resulting in Death	Criminal Act, Article 164, paragraph 2, Latter Part of the Text

## [ DEFINITION OF SENTENCING FACTORS ]

### 01 | GENERAL PRINCIPLES

#### **1. SPECIAL CONSIDERATIONS CAN BE TAKEN INTO ACCOUNT FOR ENGAGING IN OFFENSE OR MOTIVE**

- This applies to cases with one or more of the following factors.
  - Participation in the crime was forced by another person or resulted from threats (This excludes cases where Criminal Act, Article 12 is applicable).
  - When the offender merely agreed to participate in the crime but did not lead or actually participate in the commission of the crime.
  - When the offense was provoked by unreasonable treatment or when the offense was committed by the victim or other persons related to the victim; or
  - Other cases with comparable factors.

#### **2. ACTUAL DAMAGE IS SLIGHT**

- This means cases where one or more of the following factors apply:
  - Actual extent of harm is very slight due to extinguishing fire in the beginning stages.
  - Economic value of the damaged goods is slight; or
  - Other cases with comparable factors.

#### **3. SUBSTANTIAL PORTION OF DAMAGE REVERSED**

- This means more than 2/3 of the caused damage has been reversed or is certain to be reversed.

#### **4. RESULTED IN MULTIPLES OF VICTIMS, EXTENT OF HARM IS SERIOUS OR INFLICTING SERIOUS HARM TO THE VICTIM**

- This means cases where one or more of the following factors apply:
  - Caused damage to nearby buildings (multiplex houses, apartment complexes, etc.);
  - Caused extensive amount of economic damage to the victim;
  - Majority of victim's property was lost; or

- Other cases with comparable factors.

## **5. CONDEMNABLE MOTIVES**

- This means cases with one or more of the following factors:
  - Offense committed out of retaliation, grievance or hatred;
  - Offense committed to conceal another offense;
  - Offense committed to gain economic benefit such as to earn insurance compensation;
  - Offense committed as a way of using force while ignoring due process prescribed under law including cases of setting fire to houses or places of businesses of the occupants who oppose to urban renewal projects;
  - Offense committed to divergent religious facilities due to religious beliefs; or
  - Other cases with comparable factors.

## **6. PASSIVE PARTICIPATION**

- This means cases where 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 where the offender had an active role in the commission of the offense by causing another person to commit the offense.

## **7. CAUSING MULTIPLES OF VICTIMS OR RISK OF INFLECTING SERIOUS HARM TO THE VICTIM IS SUBSTANTIAL (THIS EXCLUDES TYPE 3)**

- Setting fire to multiplex houses, apartment complexes, shopping centers, gas stations, and causing multiples of victims or the risk of inflicting serious harm to the victim is substantial.

# 02<sup>1</sup> SETTING FIRE TO SPECIAL PROPERTIES

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## **1. OFFENDER DID NOT INTEND TO SET FIRE ON SPECIAL PROPERTIES (TYPE 1)**

- This means cases where the offender set fire on certain buildings without the intent to burn buildings designated under the Cultural Heritage Protection Act, Article 94.



## **2. CRIME AGAINST SPECIAL PROPERTY WITH HIGH SOCIAL, CULTURAL, OR ECONOMICAL VALUE**

- This means cases of setting fire to properties with high social, cultural, economic value and properties that are virtually irreparable after the destruction by fire, and with one or more of the following factors:
  - Setting fire to a structure that is designated or provisionally designated as cultural heritage such as a national treasure;
  - Setting fire to forest or natural monuments in forest gene protection zones of a national park; or
  - Other cases with comparable factors.

## **03<sup>1</sup> SETTING FIRE TO A PRESENT DWELLING STRUCTURE RESULTING IN INJURY OR DEATH**

### **1. MINOR BODILY INJURY (TYPE 1)**

- “Minor bodily injuries” means cases where the inflicted injury requires less than two weeks of medical care, affecting relatively limited bodily parts, which does not disrupt day-to-day activities of the victim, and does not require medical intervention such as surgical stitches and the like.

### **2. OFFENDER’S CONDUCT IS NOT THE DIRECT CAUSE OF DEATH (TYPE 2)**

- Other causes attributable to the victim’s death exist in that the offender’s conduct is not the direct cause of victim’s death.

### **3. SERIOUS BODILY INJURY (TYPE 1)**

- “Serious bodily injuries” means cases where the recovery from the inflicted injury requires more than 4 to 5 weeks of medical care in general, including cases with after-effects causing impairment, severe disabilities resulting from the offense, injuries inflicted to vulnerable body parts or further anticipated bodily injuries.

**4. CRUEL METHOD OF THE CRIME**

- “Cruel method of the crime” means cases where the victim has been harmed by extreme physical or mental pain in terms of the degree and duration of the pain.

**5. VULNERABLE VICTIMS**

- “Vulnerable victims” means cases where the victim was especially vulnerable due to reduced physical or mental capacity or age at the time of the crime and the offender was already aware of or possibly aware of the victim’s such circumstances.

**6. VICTIM OPPOSES PUNISHMENT (THIS INCLUDES GENUINE EFFORTS TO REVERSE HARM)**

- This means cases where the offender expresses signs of remorse and the member of the deceased victim or the victim acknowledges this and objects punishing the offender.
- This includes cases where deposits are made on a considerable amount of money comparable to reaching of an agreement with the family of the deceased victim or the victim as a result of the offender’s genuine efforts to reverse harm.

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## [ ASSESSING PRINCIPLES APPLICABLE TO THE SENTENCING FACTORS ]

### 01<sup>1</sup> DETERMINING APPROPRIATE SENTENCING RANGE

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- In determining the appropriate sentencing range, the judge must only consider the special sentencing determinants.
- However, in cases involving more than two special sentencing determinant, the applicable sentencing range is adjusted after assessing the factors as set forth below:
  - ① The same number of conduct factor shall be considered with greater significance than the actor/etc. factor. However, this shall be assessed equally to the victim or the family member of the deceased victim's objection to the punishment.
  - ② Each factor within the relevant categories of conduct or actor/etc. factors should be treated as equal.
  - ③ If the applicable sentencing range is unable to be determined by the aforementioned principles ①, ②, the judge is to decide the applicable sentencing range through a comprehensive comparison and assessment based on the principles set forth in ①, ②.
- It is recommended that when the assessment reveals greater aggravating factors to select the aggravated zone, the mitigating factors is greater to select the mitigating zone, and the same number of aggravating factors and mitigating factors to select the standard zone as a sentencing range.

### 02<sup>1</sup> DETERMINING THE APPLICABLE SENTENCE

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- The judge should select the proper point within the sentencing range as assessed in accordance with the above principles, along with the special sentencing determinant and general sentencing determinant taken together.
- When the maximum of the sentencing range exceeds twenty-five years, the judge may impose a life imprisonment.

## [ GENERAL APPLICATION PRINCIPLES ]

### 01 | SPECIAL ADJUSTMENTS TO THE SENTENCING RANGE

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- ① In cases where the aggravating factor is selected and the assessment of the special sentencing determinant reveals only two or more special aggravating factors or the special sentencing determinant outnumbers the special mitigating determinant by two or more, then the sentencing range should be increased up to  $\frac{1}{2}$  from the maximum level. If this results in a maximum level that exceeds twenty-five years, then the judge may impose a life imprisonment.
- ② For cases where the mitigating factor is selected as a result of assessment of the special sentencing determinant, and there are two or more special mitigating determinant or the special mitigating determinant outnumbers the special aggravating determinant by two or more, the sentencing range should be decreased up to  $\frac{1}{2}$  from the minimum level.

### 02 | RELATION BETWEEN THE RECOMMENDED SENTENCING RANGE GUIDELINES AND APPLICABLE SENTENCING RANGE BY LAW

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When the sentencing range under this guideline conflicts with the range drawn in accordance with the aggravation and mitigation of applicable law, the sentencing range prescribed by applicable law governs.

### 03 | APPLICATION OF STATUTORY MITIGATING FACTORS AS DISCRETIONARY

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When the judge declines to apply the optional mitigation factor under the applicable law as listed in the sentencing table of this guideline, this shall be considered as the discretion for mitigation.



## [ GUIDELINE ON MULTI-COUNT CONVICTIONS ]

### 01 | APPLICABLE SCOPE

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- This part on multi-count convictions applies to concurrent crimes prescribed in the first part of Article 37 of the Criminal Act as set forth in this sentencing guideline. However, in cases of this article's concurrent crimes where offenses that fall within and outside of the sentencing guidelines are involved, the minimum level should be the minimum of the sentencing range of the offense that is set forth in this sentencing guideline.

### 02 | DETERMINING BASE OFFENSE

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- The “base offense” means the most severe offense that results after the selection of penalty and statutory aggravation and mitigation as prescribed in Criminal Act, Article 50. However, in cases where the maximum sentencing range is lower than that of the maximum sentencing range of the other counts as provided in this guideline, then such other count becomes the base offense.

### 03 | CALCULATING SENTENCING RANGE

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- For purposes of calculating sentencing range for multi-count conviction cases with the different offense, the judge shall apply the following principles unless the offenses are deemed as a single offense under the sentencing guideline:
  - ① In setting sentencing range for an offender convicted of two counts, the sentencing range should be the total sum of the maximum sentencing range of the base offense and the 1/2 of the maximum sentencing range of the second count.
  - ② In setting sentencing range for an offender convicted of three or more counts, the sentencing range should be the total sum of the following: (1) maximum sentencing range of the base offense, (2) 1/2 of the maximum sentencing range of the count with the highest sentencing range, and (3) 1/3 of the maximum sentencing range of the remaining count with the second highest sentencing range.

- ③ For cases where the minimum sentencing range of the other count is higher than that of the base offense, the minimum sentencing range resulting from the multi-count offense should be the minimum sentencing range of the other count.
- However, when the multi-count conviction is composed of two or more offense of extortion and other different offenses, first set the sentencing range for multi-count conviction of the same offense and then use the resulted point range to calculate the sentencing range for multi-count conviction with different offenses.

## II. GUIDELINE ON SUSPENSION OF SENTENCE

Classification	Adverse	Affirmative
<p style="text-align: center;"><b>Primary Consideration Factor</b></p>	<ul style="list-style-type: none"> <li>● Prolonged and Repeated Commission of the Crime</li> <li>● Resulted in Multiples of Victims, Extent of Harm is Serious or Inflicting Serious Harm to the Victim</li> <li>● Crime Against Special Property with High Social, Cultural, or Economical Value</li> <li>● Condemnable Motives</li> <li>● Criminal History of the Same Offense (Suspension of Sentence or More Severe Punishment Within Five Years)</li> <li>● Serious Bodily Injury</li> <li>● Vulnerable Victims</li> </ul>	<ul style="list-style-type: none"> <li>● Special Considerations Can be Taken into Account for Engaging or Participating in Offense</li> <li>● Actual Damage is Slight</li> <li>● Voluntary Surrender to the Investigative Agencies</li> <li>● Victim Opposes Punishment or the Harm is Significantly Reversed</li> <li>● Minor Bodily Injury</li> <li>● No Prior Criminal History</li> </ul>
<p style="text-align: center;"><b>General Consideration Factor</b></p>	<ul style="list-style-type: none"> <li>● Causing Multiples of Victims or Risk of Inflicting Serious Harm to the Victim is Substantial</li> <li>● Two or More Criminal History on Suspension of Sentence or for a Greater Offense</li> <li>● Lack of Social Ties</li> <li>● Drug or Alcohol Addiction</li> <li>● Absence of Remorse</li> <li>● Premeditated Crime</li> <li>● Active Participation as an Accomplice</li> <li>● Deliberate Concealment of Profits Gained from the Offense</li> <li>● Absence of Efforts to Reverse Harm</li> </ul>	<ul style="list-style-type: none"> <li>● Strongly-Established Social Ties</li> <li>● Efforts to Prevent Spread of Fire</li> <li>● Offender is Severely Injured Due to Fire (However, 'Cases of Physically-Ill Offenders' is Not Applied Additionally in this Case)</li> <li>● Offense Committed Accidentally</li> <li>● Expresses Sincere Remorse</li> <li>● No Criminal History of Suspension of Sentence or Imposing of Other Sentences More Severe</li> <li>● Cases of Old-Aged Offenders</li> <li>● Cases of Physically-ill Offenders</li> <li>● Passive Participation As an Accomplice</li> <li>● Cases where the Arrest of the Offender would Cause Severe Hardship to the Offender's Dependent Family Member</li> </ul>

## [ DEFINITIONS OF CONSIDERATION FACTORS FOR SUSPENSION OF SENTENCE ]

- In cases where the consideration factors for suspension of sentence of sentencing and the sentencing factors are identical, refer to the definitions set forth in the *Definition of Sentencing Factors*.
  
- Determining Criminal History
  - Prior criminal history is calculated as follows: In cases involving suspension of sentence, calculate from the date the defendant’s suspension of sentence was affirmed up to the date of the commission of the offense. In cases imposing imprisonment, calculate from the final date of the completion of the sentence up to the date of the commission of the offense.

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## [ ASSESSING PRINCIPLES APPLICABLE TO THE SENTENCING FACTORS ]

- For cases where the imposing penalty is imprisonment, in deciding whether the suspension of sentence is appropriate, the primary consideration factor should be taken into account with greater importance than the general consideration factors. This is further specified as follows:
  - ① In cases where only two or more primary affirmative factors exist or when primary affirmative factors outnumber the major adverse factor by two or more, suspension of sentence is recommended.
  - ② In cases where two or more primary adverse factors exist or when primary adverse factors outnumber the primary affirmative factor by two or more, imprisonment is recommended.
  - ③ In cases other than ①, ②, or even if cases of ①, ②, if the difference between the number of general adverse(affirmative) factors and general affirmative (adverse) factors is greater than that of adverse and affirmative factors of the primary consideration, then the judge shall decide whether to suspend the sentencing after assessing and comprehensively taking into account the factors listed under the suspension of sentence section.