

Promulgated on March 21, 2011, Effective on July 1, 2011

10 Crimes of Larceny

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 upon Habitation at Nighttime (Criminal Act, Article 330), Special Larceny (Criminal Act, Article 331), Habitual and Repeated Larceny (Aggravated Punishment Act Article 5-4, paragraph 1, 2, 5, and 6), Larceny of Forest Products and the Like (Act on Development and Management of Forest Resource, Article 73, paragraph 1, paragraph 3, Forest Protection Act, Article 54, paragraph 1, and Aggravated Punishment Act, Article 9, paragraph 1, paragraph 2), Larceny of Asset Pertaining to Forest Culture (Act on Forest Culture and Recreation, Article 35, paragraph 2), or Larceny of Cultural Property (Cultural Property Protection Act, Article 92, paragraph 1 and 2).

I. TYPES OF OFFENSE AND SENTENCING PERIODS

01 | LARCENY OF GENERAL PROPERTY

Type	Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
1	Larceny of Unattended Property	- 6months	4months - 8months	6months - 1yr
2	General Larceny	4months 10months	6months - 1yr 6months	10months - 2yrs
3	Larceny Against Personal Belongings	6months - 1yr	8months - 2yrs	1yr - 3yrs
4	Larceny Accompanied by Intrusion	8months - 1yr 6months	1yr - 2yrs 6months	1yr 6months - 4yrs

Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> ● Special Considerations can be Taken into Account for Engaging in Offense ● Poverty Crimes ● Intrusion Upon Places Other Than Indoors of a Dwelling (Type 4) 	<ul style="list-style-type: none"> ● Carrying of a Deadly Weapon, Intrusion Upon Habitation, Building, or Other Similar Structures by Destroying Security Devices (Type 4) ● Offense Committed with an Organized Scheme ● Serious Personal or Social Harm Caused and Harm Not Reversed ● Instigating the Subordinate Person to Commit the Offense
	Actor /Etc.	<ul style="list-style-type: none"> ● Those with Hearing and Visual Impairments ● Those with Mental Incapacity (Cases Where the Offender Cannot be Held Liable) ● Voluntary Surrender to Investigative Agencies ● Offender Expresses Remorse and the Victim Opposes Punishment 	<ul style="list-style-type: none"> ● Repeated Offenses of Same Offense under the Criminal Act that Does Not Constitute Repeated Offenses under the Aggravated Punishment Act
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> ● Passive Participation 	<ul style="list-style-type: none"> ● Two or More Co-offenders Involved ● Cases falling within Act on Forest Culture and Recreation, Article 35, Paragraph 2, and Forest Protection Act, Article 54, Paragraph 1
	Actor /Etc.	<ul style="list-style-type: none"> ● Substantial Portion of Damages Reversed ● Those with Mental Incapacity (These Are Cases Where the Offender Can be Held Liable) ● Expresses Sincere Remorse ● No Prior Criminal History 	<ul style="list-style-type: none"> ● Repeated Offenses of Different Type under the Criminal Act that Does Not Constitute Repeated Offenses under the Aggravated Punishment Act, Criminal History by the Same Type of Offenses that Does not Constitute Repeated Offense under the Criminal Act (This Applies When the Criminal History is Within Ten Years After Completion of Sentence)

02¹ LARCENY OF SPECIAL PROPERTY

Type	Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
1	Valuable Property	1yr - 2yrs 6months	1yr 6months - 3yrs	2yrs 6months - 4yrs
2	Extremely Valuable Property	1yr 6months - 3yrs	2yrs - 4yrs	3yrs - 6yrs

▷ When the Type 2 offense falls within the Aggravated Punishment Act, Article 9, paragraph 1, subparagraph 1, or Article 9, paragraph 2, increase the minimum and maximum sentencing range each by multiplying 1.5.

Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> Special Considerations can be Taken into Account for Engaging in Offense Lack of Intention to Steal the Special Property 	<ul style="list-style-type: none"> Carrying of a Deadly Weapon Instigating the Subordinate Person to Commit the Offense
	Actor /Etc.	<ul style="list-style-type: none"> Those with Hearing and Visual Impairments Those with Mental Incapacity (Cases Where the Offender Cannot be Held Liable) Voluntary Surrender to Investigative Agencies Offender Expresses Remorse and the Victim Opposes Punishment 	<ul style="list-style-type: none"> Repeated Offenses of Same Offense under the Criminal Act that Does Not Constitute Repeated Offenses under the Aggravated Punishment Act
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> Passive Participation 	<ul style="list-style-type: none"> Two or More Co-offenders Involved
	Actor /Etc.	<ul style="list-style-type: none"> Substantial Portion of Damages Reversed Those with Mental Incapacity (These Are Cases Where the Offender Can be Held Liable) Expresses Sincere Remorse No Prior Criminal History 	<ul style="list-style-type: none"> Repeated Offenses of Different Type Under the Criminal Act that Does Not Constitute Repeated Offenses under the Aggravated Punishment Act, Criminal History by the Same Type of Offenses that Does not Constitute Repeated Offense under the Criminal Act (This Applies When the Criminal History is Within Ten Years After Completion of Sentence)

03¹ HABITUAL · REPEATED LARCENY

Type	Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
1	General Habitual · Repeated Larceny	1yr 6months - 3yrs	2yrs - 4yrs	3yrs - 6yrs
2	Joint Habitual · Repeated Larceny	2yrs 6months - 4yrs	3yrs - 5yrs	4yrs - 7yrs

▷ When the offense falls within the Aggravated Punishment Act, Article 5-4, paragraph 6, increase the minimum and maximum sentencing range each by multiplying 1.5.

Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> Special Considerations can be Taken into Account for Engaging in Offense 	<ul style="list-style-type: none"> Repeated Offenses by Use of Special Methods, Devices, or Organizations Larceny of Special Property Instigating the Subordinate Person to Commit the Offense
	Actor /Etc.	<ul style="list-style-type: none"> Those with Hearing and Visual Impairments Those with Mental Incapacity (Cases Where the Offender Cannot be Held Liable) Voluntary Surrender to Investigative Agencies Offender Expresses Remorse and the Victim Opposes Punishment 	
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> Poverty Crimes Insignificant Damage Passive Participation 	<ul style="list-style-type: none"> Carrying of a Deadly Weapon Two or More Co-offenders Involved Intrusion Upon a Habitation or Intrusion After Destroying Security Devices
	Actor /Etc.	<ul style="list-style-type: none"> Substantial Portion of Damages Reversed Those with Mental Incapacity (These Are Cases Where the Offender Can be Held Liable) Expresses Sincere Remorse 	

[DEFINITION OF OFFENSES]

01¹ LARCENY OF GENERAL PROPERTY

1. TYPE 1 LARCENY OF UNATTENDED PROPERTY

- This means cases where the risk of inflicting bodily injuries to the victim is slight, the extent of the offender's occupying 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 apply:
 - Occupying an unattended object outdoors;
 - Occupying a product on display; or
 - 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 OF PERSONAL BELONGINGS

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

4. TYPE 4 LARCENY ACCOMPANIED BY INTRUSION

- 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 the concurrent crime of intrusion upon habitation and larceny. However, the offense shall be classified as *Larceny Accompanied by Intrusion* and will not be

treated as multi-count conviction under the sentencing guideline.

02¹ LARCENY OF SPECIAL PROPERTY

1. TYPE 1 VALUABLE PROPERTY

- This means cases of larceny where the stolen goods are placed with high social, cultural, and economic value and the following applies:
 - Larceny as prescribed in Cultural Property Protection Act, Article 92, paragraph 2.
 - Larceny of cash, marketable securities, or precious jewelry held by a financial institution (financial institution stipulated in Specific Economic Crime Act, Article 2, paragraph 1).
 - Cases where the value of the property has surged in a short period of time or is in scarcity.
 - 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 is extremely high in social, cultural, and economic value and the following applies:
 - Larceny as prescribed in Cultural Property Protection Act, Article 92, paragraph 1.
 - Larceny of forest products that falls within Aggravated Punishment Act, Article 9, paragraph 1, subparagraph 2.
 - Larceny of oil contained in an oil pipeline (oil pipeline as prescribed in the Oil Pipeline Safety Control Act)
 - Larceny of forest products that falls within Aggravated Punishment Act, Article 9, paragraph 1, subparagraph 1 or Article 9, paragraph 2.
 - Cases where the stolen property is industrial technology crucial enough to change the course of a company's future such as the success or failure, or to change the dynamics of the relevant industry.

03¹ LARCENY OF HABITUAL AND REPEATED PROPERTY

1. TYPE 1 GENERAL HABITUAL OR REPEATED LARCENY

- Cases under Aggravated Punishment Act, Article 5-4, paragraph 1.
- Cases under Aggravated Punishment Act, Article 5-4, paragraph 5, directed to apply punishment stipulated in Aggravated Punishment Act, Article 5-4, paragraph 1.
- Cases under Aggravated Punishment Act, Article 5-4, paragraph 6, directed to apply punishment stipulated in Aggravated Punishment Act, Article 5-4, paragraph 1.

2. TYPE 2 JOINT HABITUAL OR REPEATED LARCENY

- Cases under Aggravated Punishment Act, Article 5-4, paragraph 2.
- Cases under Aggravated Punishment Act, Article 5-4, paragraph 5, directed to apply punishment stipulated in Aggravated Punishment Act, Article 5-4, paragraph 2.
- Cases under Aggravated Punishment Act, Article 5-4 para 6, directed to apply punishment stipulated in Aggravated Punishment Act, Article 5-4, paragraph 2.

[DEFINITION OF SENTENCING FACTORS]

1. SPECIAL CONSIDERATIONS CAN BE TAKEN INTO ACCOUNT FOR ENGAGING IN OFFENSE

- This means one or more of the following factors apply:
 - 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.
 - Other cases with comparable factors.

2. POVERTY CRIMES

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

3. INTRUSION UPON PLACES OTHER THAN INDOORS OF A DWELLING (TYPE 4)

- This means cases among Type 4 (Larceny Accompanied by Intrusion) where the larceny is committed after intruding places other than 'indoors of a dwelling (areas where the victim resides continuously and repetitively on a daily basis and strangers unassociated to the victim or the family of the victim cannot enter with ease)'.

4. OFFENSES COMMITTED WITH ORGANIZED SCHEME

- This means cases where multiple offenders engage in commission of the offense for the purpose of larceny in an organized scheme involving agreeing to the crime in advance, allocating tasks, and executing the commission accordingly.

5. SERIOUS PERSONAL OR SOCIAL HARM CAUSED AND HARM NOT REVERSED

- "Serious personal damages" means cases with one or more of the following factors:

- Cases where the offender has harmed the victim significantly (taken into account the victim’s subjective value of the stolen item and derivative damage overall) by stealing expensive antiques, precious jewelry, large amounts of stocks or cash, or other similar goods.
- Other cases with comparable factors.
- “Serious social damage” means cases with one or more of the following factors:
 - Cases that do not fall within larceny of special property but the offense caused significant social damage.
 - 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. TWO OR MORE CO-OFFENDERS

- This means cases where two or more offenders were involved in the commission of the offense, but does not suffice to fall within *Offenses Committed with Organized Schemes*.

8. CASES FALLING WITHIN THE ACT ON FOREST CULTURE AND RECREATION, ARTICLE 35, PARAGRAPH 2, AND 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 INTENTION TO STEAL THE SPECIAL PROPERTY

- This means cases where the offender stole special property in a location where such property is not usually found. After not becoming aware of it or without intention to steal the special property, through coincidence commits the offense.

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

- This means cases where 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 of the stolen goods.
 - Cases where devices have been employed for stealing goods that are generally unmovable.
 - Offense committed with the purpose of committing larceny (this does not need to suffice to the level of a criminal organization), agreeing to the crime in advance, allocating tasks, and executing the commission accordingly.

[ASSESSING PRINCIPLES APPLICABLE TO THE SENTENCING FACTORS]

01 | DETERMINING APPROPRIATE SENTENCING RANGE

- 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'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 | DETERMINING THE APPLICABLE SENTENCE

- 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.

[GENERAL APPLICATION PRINCIPLES]

01 | SPECIAL ADJUSTMENTS TO THE SENTENCING RANGE

- 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 1/2 from the maximum level.
- 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 1/2 from the minimum level.

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

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

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


- 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

- 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

- For purposes of calculating sentencing range for multi-count conviction cases, the judge shall apply the following 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.

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- 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.

II. GUIDELINE ON SUSPENSION OF SENTENCE

Classification	Adverse	Affirmative
<p>Primary Consideration Factor</p>	<ul style="list-style-type: none"> ● Organizational or Professional Crime ● Repeated Offenses ● Carrying of a Deadly Weapon, Intrusion Upon Habitation, Building at Nighttime, or Other Similar Structures by Destroying Security Devices at Nighttime ● Criminal History of the Same Offense (Imposing of Suspension of Sentence or More Severe Punishment Within Five Years; or More Than Three Incidents of Fines) ● Serious Personal or Social Damages Caused ● Absence of Efforts to Reverse Damages 	<ul style="list-style-type: none"> ● Efforts to Obstruct or Confront the Accomplice’s Commission of the Offense ● Special Considerations can be Taken into Account for Engaging in Offense ● Poverty Crimes ● No Prior Criminal History ● Offender Expresses Remorse and the Victim Opposes Punishment (This Includes the Offender’s Genuine Efforts to Reverse Harm)
<p>General Consideration Factor</p>	<ul style="list-style-type: none"> ● Two or More Criminal History on Suspension of Sentence or for a Greater Offense ● Lack of Social Ties ● Drug or Alcohol Addiction ● Absence of Remorse ● Active Participation as an Accomplice ● Destroying Evidence or Attempting to Conceal Evidence After Commission of the Offense 	<ul style="list-style-type: none"> ● Insignificant Damage ● No Prior Criminal History of Suspension of Sentence or Punishment More Severe ● Strongly-Established Social Ties ● Voluntary Surrender to Investigative Agencies ● Expresses Sincere Remorse ● Cases of Old-age Offenders ● Passive Participation As an Accomplice ● Cases of Physically-ill Offenders ● Cases where the Arrest of the Offender would Cause Severe Hardship to the Offender’s Dependent Family Member

[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.

- Repeated Crimes
 - This means cases where the judge determines that the offender has committed similar offenses repeatedly by comprehensively taking into account the substance of the offense, criminal history, multi-count convictions, and the like.

[ASSESSING PRINCIPLES APPLICABLE TO THE CONSIDERATION FACTORS FOR SUSPENSION OF SENTENCE]

- 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.