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# Chapter 15

## Crimes of Narcotics

This guideline applies to adult offenders (nineteen years of age or older) who committed any offenses falling under the Chemical Substances Control Act, Article 59, subparagraph 6, the Narcotics Control Act, Article 58, paragraph 1, subparagraph 1 to 7, paragraph 2, Article 59, paragraph 1 subparagraph 1 to 11, paragraph 2, Article 60, paragraph 1, subparagraph 1 to 3, paragraph 2, Article 61, paragraph 1, subparagraph 1 to 6, paragraph 2, or the Act on the Aggravated Punishment, etc. of Specific Crimes, Article 11, paragraph 2, subparagraph 1, subparagraph 2.

## PART A — TYPES OF OFFENSES AND SENTENCING PERIODS

### 01 | DRUG USE AND/OR POSSESSION OF DRUGS, OR OTHER SIMILAR ACTIVITIES

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Hallucinogenic substance	- 8 mos.	6 mos. - 1 yr.	8 mos. - 1 yr. 6 mos.
2	Marijuana, psychotropic drugs listed under (d), (e), and others	6 mos. - 10 mos.	8 mos. - 1 yr. 6 mos.	10 mos. - 2 yrs.
3	Psychotropic drugs listed under (b) or (c)	6 mos. - 1 yr. 6 mos.	10 mos. - 2 yrs.	1 yr. - 3 yrs.
4	Narcotics, psychotropic drugs listed under (a) or others	10 mos. - 2 yrs.	1 yr. - 3 yrs.	2 yrs. - 4 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> <li>The motive or other matters for engaging in the offense can be taken into consideration</li> </ul>	<ul style="list-style-type: none"> <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 visual 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 cooperated in important matters related to the investigation</li> </ul>	<ul style="list-style-type: none"> <li>Habitual offender</li> <li>Repeated offenses of the same type (within three years of suspension of sentence or imposing of another sentence more severe)</li> </ul>



CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> <li>Offender's passive participation</li> </ul>	<ul style="list-style-type: none"> <li>Offense committed in a specially protected area such as within proximity of schools</li> </ul>
General Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> <li>Those with mental incapacity (These are cases where the offender can be held liable)</li> <li>Drug substance abuser's voluntary and active intention to undergo treatment</li> <li>No prior criminal history</li> <li>Offender's cooperation with the investigation on general matters</li> </ul>	<ul style="list-style-type: none"> <li>Criminal history by the same type of offenses (This applies when the criminal history is over three years but within ten years after imposing suspension of sentence or sentence more severe); or repeated offenses of the different type under the Criminal Act</li> </ul>

## 02 | ENGAGING IN SELLING, BROKERING, OR OTHER SIMILAR ACTIVITIES

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Hallucinogenic substance listed under (d) or others	- 8 mos.	6 mos. - 1 yr. 4 mos.	10 mos. - 2 yrs.
2	Marijuana, psychotropic drugs listed under (b), (c), and others	8 mos. - 1 yr. 6 mos.	1 yr. - 2 yrs.	1 yr. 6 mos. - 4 yrs.
3	Psychotropic drugs listed under (a) or others	2 yrs. 6 mos. - 5 yrs.	4 yrs. - 7 yrs.	5 yrs. - 8 yrs.
4	Offense committed for profits or habitual offenders	5 yrs. - 9 yrs.	7 yrs. - 11 yrs.	9 yrs. - 14 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> <li>• The motive or other matters for engaging in the offense can be taken into consideration</li> <li>• Buying or selling for drug use and possession of drugs, or other similar activities</li> </ul>	<ul style="list-style-type: none"> <li>• Organizational or professional crime</li> <li>• Active role in an organized crime or other similar roles</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 visual 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 cooperated in important matters related to the investigation</li> </ul>	<ul style="list-style-type: none"> <li>• Habitual offender (Type 1 or 2)</li> <li>• Repeated offenses of the same type (within three years of suspension of sentence or imposing of another sentence more severe)</li> </ul>
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> <li>• Offender's passive participation</li> </ul>	<ul style="list-style-type: none"> <li>• Offense committed in a specially protected area such as within proximity of schools</li> </ul>
General Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> <li>• Those with mental incapacity (These are cases where the offender can be held liable)</li> <li>• No prior criminal history</li> <li>• Offender's cooperation with the investigation on general matters</li> </ul>	<ul style="list-style-type: none"> <li>• Criminal history by the same type of offenses (This applies when the criminal history is over three years but within ten years after imposing a suspension of sentence or another sentence more severe); or repeated offenses of the different type under the Criminal Act</li> </ul>



## 03 | IMPORTING, EXPORTING, OR MANUFACTURING DRUGS OR OTHER SIMILAR ACTIVITIES RELATED TO DRUGS

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Hallucinogenic substance listed under (d) or others	8 mos. - 1 yr. 6 mos.	10 mos. - 2 yrs.	1 yr. 6 mos. - 3 yrs.
2	Marijuana, psychotropic drugs listed under (c)	1 yr. - 3 yrs.	2 yrs. - 4 yrs.	3 yrs. - 6 yrs.
3	Psychotropic drugs listed under (a), (b), or others	2 yrs. 6 mos. - 5 yrs.	4 yrs. - 7 yrs.	5 yrs. - 8 yrs.
4	Offense committed for profits or habitual offenders	5 yrs. - 9 yrs.	7 yrs. - 11 yrs.	9 yrs. - 14 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> <li>The motive or other matters for engaging in the offense can be taken into consideration</li> </ul>	<ul style="list-style-type: none"> <li>Organizational or professional crime</li> <li>Active role in an organizational crime or other similar roles</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 visual 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 cooperated in important matters related to the investigation</li> </ul>	<ul style="list-style-type: none"> <li>Habitual offender (Type 1 or 2)</li> <li>Repeated offenses of the same type (within three years of suspension of sentence or imposing of other sentences more severe)</li> </ul>
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> <li>Offender's passive participation</li> </ul>	<ul style="list-style-type: none"> <li>Offense committed in a specially protected area such as within proximity of schools</li> </ul>

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
General Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> <li>• Those with mental incapacity (These are cases where the offender can be held liable)</li> <li>• No prior criminal history</li> <li>• Offender's cooperation with the investigation on general matters</li> </ul>	<ul style="list-style-type: none"> <li>• Criminal history by the same type of offenses (This applies when the criminal history is over three years but within ten years after imposing suspension of sentence or sentence more severe); or repeated offenses of the different type under the Criminal Act</li> </ul>



## 04<sup>1</sup> OFFENSE AGAINST MULTITUDES

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Type 1	2 yrs. - 4 yrs.	3 yrs. - 6 yrs.	5 yrs. - 8 yrs.
2	Type 2	3 yrs. - 6 yrs.	5 yrs. - 8 yrs.	7 yrs. - 10 yrs.
3	Type 3	6 yrs. - 9 yrs.	8 yrs. - 11 yrs.	10 yrs. - 14 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> <li>The motive or other matters for engaging in the offense can be taken into consideration</li> </ul>	<ul style="list-style-type: none"> <li>An organizational or professional crime</li> <li>Active role in an organized crime or other similar roles</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 visual 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 cooperated in important matters related to the investigation</li> </ul>	<ul style="list-style-type: none"> <li>Repeated offenses of the same type (within three years of suspension of sentence or imposing of other sentences more severe)</li> </ul>
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> <li>The offender's passive participation</li> </ul>	<ul style="list-style-type: none"> <li>An offense committed in a specially protected area such as within proximity of schools</li> </ul>
General Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> <li>Those with mental incapacity (these are cases where the offender can be held liable)</li> <li>No prior criminal history</li> <li>Offender's cooperation with the investigation on general matters</li> </ul>	<ul style="list-style-type: none"> <li>Criminal history by the same type of offenses (This applies when the criminal history is over three years but within ten years after imposing suspension of sentence or sentence more severe); or repeated offenses of the different type under the Criminal Act</li> </ul>

## DEFINITION OF OFFENSES

### 01 | DRUG USE AND/OR POSSESSION OF DRUGS, OR OTHER SIMILAR ACTIVITIES

#### (1) TYPE 1 — HALLUCINOGENIC SUBSTANCE

\* This means offenses with the following elements of crime as prescribe in the applicable law (This applies to all offenses).

ELEMENTS OF CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
<ul style="list-style-type: none"> <li>Hallucinogenic substance</li> <li>- Intake, inhaling/possession for those purposes</li> </ul>	Chemical Substances Control Act, Article 59, subparagraph 6	Imprisonment not exceeding three years or fine not exceeding 50 million won

#### (2) TYPE — 2 MARIJUANA, PSYCHOTROPIC DRUGS LISTED UNDER (D), (E), AND OTHERS

ELEMENTS OF CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
<ul style="list-style-type: none"> <li>Psychotropic item (d)</li> <li>- Carrying, possessing, using, managing, injecting, issuing prescription</li> <li>- Using/providing of the place, facilities, equipment, fund, means of transportation</li> </ul>	<ul style="list-style-type: none"> <li>Narcotics Control Act, Article 61, paragraph 1, subparagraph 5</li> <li>Narcotics Control Act, Article 61, paragraph 1, subparagraph 1</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment not exceeding five years or fine not exceeding 50 million won</li> <li>Imprisonment not exceeding five years or fine not exceeding 50 million won</li> </ul>
<ul style="list-style-type: none"> <li>Psychotropic item (e)</li> <li>- Using/providing of the place· facilities, equipment, fund, means of transportation</li> </ul>	<ul style="list-style-type: none"> <li>Narcotics Control Act, Article 61, paragraph 1, subparagraph 1</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment not exceeding five years or fine not exceeding 50 million won</li> </ul>
<ul style="list-style-type: none"> <li>Marijuana, etc.</li> <li>- Cultivating, carrying, possessing, transporting, keeping, using of the marijuana or temporary class of marijuana</li> <li>- Taking, smoking of the marijuana,</li> </ul>	<ul style="list-style-type: none"> <li>Narcotics Control Act, Article 61, paragraph 1, subparagraph 6</li> <li>Narcotics Control Act, Article 61, paragraph 1, subparagraph 4</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment not exceeding five years or fine not exceeding 50 million won</li> <li>Imprisonment not exceeding five years or</li> </ul>





ELEMENTS OF CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
<p>hemp plant seed skin/carrying of the marijuana, hemp plant seed, skin of that seed for those purposes</p> <ul style="list-style-type: none"> <li>- Using/providing of the place, facilities, equipment, fund, means of transportation of the marijuana</li> </ul>	<ul style="list-style-type: none"> <li>• Narcotics Control Act Article 61, paragraph 1, subparagraph 1</li> </ul>	<ul style="list-style-type: none"> <li>• fine not exceeding 50 million won</li> <li>• Imprisonment not exceeding five years or fine not exceeding 50 million won</li> </ul>
<ul style="list-style-type: none"> <li>• Raw material for narcotics, raw material containing the component of narcotics, seed, seedling</li> <li>- Cultivating of the raw material, carrying, possessing of the raw material, seed, seedling</li> </ul>	<ul style="list-style-type: none"> <li>• Narcotics Control Act, Article 61, paragraph 1, subparagraph 2</li> </ul>	<ul style="list-style-type: none"> <li>• Imprisonment not exceeding five years or fine not exceeding 50 million won</li> </ul>
<ul style="list-style-type: none"> <li>• Raw material of psychotropic item (a)</li> <li>- Smoking, taking of the raw material/carrying, possessing for those purposes</li> </ul>	<ul style="list-style-type: none"> <li>• Narcotics Control Act, Article 61, paragraph 1, subparagraph 3</li> </ul>	<ul style="list-style-type: none"> <li>• Imprisonment for not exceeding five years or fine not exceeding 50 million won</li> </ul>
<ul style="list-style-type: none"> <li>• Habitual offender</li> </ul>	<ul style="list-style-type: none"> <li>• Narcotics Control Act, Article 61, paragraph 2</li> </ul>	<ul style="list-style-type: none"> <li>• <math>\frac{1}{2}</math> aggravation</li> </ul>

### (3) TYPE 3 — PSYCHOTROPIC DRUGS LISTED UNDER (B) OR (C)

ELEMENTS OF CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
<ul style="list-style-type: none"> <li>• Psychotropic item (b)</li> <li>- Carrying, possessing, using, managing, injecting, issuing prescription</li> <li>- Using/providing of the place, facilities, equipment, fund, means of transportation</li> </ul>	<ul style="list-style-type: none"> <li>• Narcotics Control Act, Article 60, paragraph 1, subparagraph 2</li> <li>• Narcotics Control Act, Article 61, paragraph 1, subparagraph 1</li> </ul>	<ul style="list-style-type: none"> <li>• Imprisonment not exceeding 10 years or fine not exceeding 100 million won</li> <li>• Imprisonment not exceeding five years or fine not exceeding 50 million won</li> </ul>
<ul style="list-style-type: none"> <li>• Psychotropic item (c)</li> <li>- Carrying, possessing, using, managing, injecting, issuing prescription</li> <li>- Using/providing of the place, facilities, equipment, fund, means of transportation</li> </ul>	<ul style="list-style-type: none"> <li>• Narcotics Control Act, Article 60, paragraph 1, subparagraph 2</li> <li>• Narcotics Control Act, Article 61, paragraph 1, subparagraph 1</li> </ul>	<ul style="list-style-type: none"> <li>• Imprisonment not exceeding 10 years or fine not exceeding 100 million won</li> <li>• Imprisonment not exceeding five years or fine not exceeding 50 million won</li> </ul>

ELEMENTS OF CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
<ul style="list-style-type: none"> <li>Habitual offender</li> </ul>	<ul style="list-style-type: none"> <li>Narcotics Control Act, Article 60, paragraph 2</li> <li>Narcotics Control Act, Article 61, paragraph 2</li> </ul>	<ul style="list-style-type: none"> <li><math>\frac{1}{2}</math> aggravation</li> <li><math>\frac{1}{2}</math> aggravation</li> </ul>

**(4) TYPE 4 — NARCOTICS, PSYCHOTROPIC DRUGS LISTED UNDER (A) OR OTHERS**

ELEMENTS OF CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
<ul style="list-style-type: none"> <li>Narcotics and Others                             <ul style="list-style-type: none"> <li>- Carrying, possessing, managing, trading, Using/providing of narcotics or temporary class of narcotics</li> <li>- Place, facilities, equipment, fund, means of Transportation for narcotics</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Narcotics Control Act, Article 59, paragraph 1, subparagraph 9</li> <li>Narcotics Control Act, Article 60, paragraph 1, subparagraph 1</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment not less than 1 year</li> <li>Imprisonment not exceeding 10 years or fine not exceeding 100 million won</li> </ul>
<ul style="list-style-type: none"> <li>Heroin, its salts, or other substance containing its salts                             <ul style="list-style-type: none"> <li>- Carrying, possessing, managing, giving or receiving, transporting, using, injecting, providing</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Narcotics Control Act, Article 59, paragraph 1, subparagraph 3</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment not less than 1 year</li> </ul>
<ul style="list-style-type: none"> <li>Psychotropic item (a)                             <ul style="list-style-type: none"> <li>- Carrying, possessing, using, managing</li> <li>- Using/providing of the place, facilities, equipment, fund, means of transportation</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Narcotics Control Act, Article 59, paragraph 1, subparagraph 5</li> <li>Narcotics Control Act, Article 60, paragraph 1, subparagraph 1</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment not less than 1 year</li> <li>Imprisonment not exceeding 10 years or fine not exceeding 100 million won</li> </ul>
<ul style="list-style-type: none"> <li>Habitual offender</li> </ul>	<ul style="list-style-type: none"> <li>Narcotics Control Act, Article 59, paragraph 2</li> <li>Narcotics Control Act, Article 60, paragraph 2</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment not less than three years</li> <li><math>\frac{1}{2}</math> aggravation</li> </ul>



## 02 | ENGAGING IN SELLING, BROKERING, OR OTHER SIMILAR ACTIVITIES

### (1) TYPE 1 — HALLUCINOGENIC SUBSTANCE LISTED UNDER (D) OR OTHERS

ELEMENTS OF CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
<ul style="list-style-type: none"> <li>Hallucinogenic substance               <ul style="list-style-type: none"> <li>Selling, providing</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Chemical Substances Control Act, Article 59, subparagraph 6</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment not exceeding three years or fine not exceeding 50 million won</li> </ul>
<ul style="list-style-type: none"> <li>Psychotropic item (d)               <ul style="list-style-type: none"> <li>trading, assisting of the trade, giving or receiving, providing</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Narcotics Control Act, Article 61, paragraph 1, subparagraph 5</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment not exceeding five years or fine not exceeding 50 million won</li> </ul>
<ul style="list-style-type: none"> <li>Marijuana and Others               <ul style="list-style-type: none"> <li>Giving or receiving of marijuana or temporary class of marijuana</li> <li>Trading, assisting the trade of hemp plant seed, skin of that seed</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Narcotics Control Act, Article 61, paragraph 1, subparagraph 6</li> <li>Narcotics Control Act, Article 61, paragraph 1, subparagraph 4</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment not exceeding five years or fine not exceeding 50 million won</li> <li>Imprisonment not exceeding five years or fine not exceeding 50 million won</li> </ul>
<ul style="list-style-type: none"> <li>Habitual offender</li> </ul>	<ul style="list-style-type: none"> <li>Narcotics Control Act, Article 61, paragraph 2</li> </ul>	<ul style="list-style-type: none"> <li><math>\frac{1}{2}</math> aggravation</li> </ul>

### (2) TYPE 2 — MARIJUANA, PSYCHOTROPIC DRUGS LISTED UNDER (B), (C), AND OTHERS

ELEMENTS OF CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
<ul style="list-style-type: none"> <li>Psychotropic item (b)               <ul style="list-style-type: none"> <li>Trading, assisting the trading, giving or taking, or providing</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Narcotics Control Act, Article 60, paragraph 1, subparagraph 2</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment not exceeding 10 years or fine not exceeding 100 million won</li> </ul>
<ul style="list-style-type: none"> <li>Psychotropic item (c)               <ul style="list-style-type: none"> <li>Trading, assisting the trading, giving or taking, or providing</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Narcotics Control Act, Article 60, paragraph 1, subparagraph 2</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment not exceeding 10 years or fine not exceeding 100 million won</li> </ul>

ELEMENTS OF CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
<ul style="list-style-type: none"> <li>• Marijuana                             <ul style="list-style-type: none"> <li>- Trading, assisting the trading/ carrying, possessing for the same purpose</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Narcotics Control Act, Article 59, paragraph 1, subparagraph 7</li> </ul>	<ul style="list-style-type: none"> <li>• Imprisonment not less than 1 year</li> </ul>
<ul style="list-style-type: none"> <li>• Raw material containing narcotics component, seed, seedling                             <ul style="list-style-type: none"> <li>- Managing, giving or receiving, or extracting the components</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Narcotics Control Act, Article 59, paragraph 1, subparagraph 2</li> </ul>	<ul style="list-style-type: none"> <li>• Imprisonment not less than 1 year</li> </ul>
<ul style="list-style-type: none"> <li>• Raw material of narcotics, psychotropic                             <ul style="list-style-type: none"> <li>- Trading, assisting the trading for the purpose of manufacturing/ carrying, possessing, using for the same purpose</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Narcotics Control Act, Article 59, paragraph 1, subparagraph 4</li> </ul>	<ul style="list-style-type: none"> <li>• Imprisonment not less than 1 year</li> </ul>
<ul style="list-style-type: none"> <li>• Raw material of psychotropic item (a)                             <ul style="list-style-type: none"> <li>- Trading, assisting the trading/ carrying, possessing for the same purpose</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Narcotics Control Act, Article 59, paragraph 1, subparagraph 6</li> </ul>	<ul style="list-style-type: none"> <li>• Imprisonment not less than 1 year</li> </ul>
<ul style="list-style-type: none"> <li>• Crimes of marijuana concerning minors                             <ul style="list-style-type: none"> <li>- Giving or receiving, providing, smoking, taking</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Narcotics Control Act, Article 59, paragraph 1, subparagraph 8</li> </ul>	<ul style="list-style-type: none"> <li>• Imprisonment not less than 1 year</li> </ul>
<ul style="list-style-type: none"> <li>• Habitual offender</li> </ul>	<ul style="list-style-type: none"> <li>• Narcotics Control Act, Article 59, paragraph 2</li> <li>• Narcotics Control Act, Article 60, paragraph 2</li> </ul>	<ul style="list-style-type: none"> <li>• Imprisonment not less than three years</li> <li>• <math>\frac{1}{2}</math> aggravation</li> </ul>

**(3) TYPE 3 — PSYCHOTROPIC DRUGS LISTED UNDER (A) OR OTHERS**

ELEMENTS OF CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
<ul style="list-style-type: none"> <li>• Narcotics or temporary classification of narcotics                             <ul style="list-style-type: none"> <li>- Trading, assisting the trading/ carrying, possessing for the same purpose</li> </ul>                             * However, habitual offenders fall under Type 4                         </li> </ul>	<ul style="list-style-type: none"> <li>• Narcotics control Act, Article 58, paragraph 1, subparagraph 1</li> </ul>	<ul style="list-style-type: none"> <li>• Imprisonment for life or imprisonment not less than five years</li> </ul>



ELEMENTS OF CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
<ul style="list-style-type: none"> <li>• Psychotropic item (a)               <ul style="list-style-type: none"> <li>- Trading, assisting of the trade, giving or receiving/carrying, possessing for those purposes</li> <li>* However, habitual offenders fall under Type 4</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Narcotics Control Act, Article 58, paragraph 1, subparagraph 3</li> </ul>	<ul style="list-style-type: none"> <li>• Imprisonment for life or imprisonment not less than five years</li> </ul>
<ul style="list-style-type: none"> <li>• Crimes narcotics, temporary narcotics, psychotropic, temporary psychotropic concerning minors               <ul style="list-style-type: none"> <li>- Trading, giving or receiving, compounding, injecting, providing</li> <li>* However, habitual offenders fall under Type 4</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Narcotics Control Act, Article 58, paragraph 1, paragraph 7</li> </ul>	<ul style="list-style-type: none"> <li>• Imprisonment for life or imprisonment not less than five years</li> </ul>

#### (4) TYPE 4 — OFFENSE COMMITTED FOR PROFITS OR HABITUAL OFFENDERS

ELEMENTS OF CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
<ul style="list-style-type: none"> <li>• Narcotics, psychotropic item (a)               <ul style="list-style-type: none"> <li>- Trading, assisting of the trade, giving or receiving, etc. For purpose to gain profit/trading, giving or receiving, compounding, injecting, providing concerning minors</li> <li>- Habitual trading, assisting of the trade, giving or receiving, etc./ trading, giving or receiving, compounding, injecting, providing concerning minors</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Narcotics Control Act, Article 58, paragraph 2</li> <li>• Narcotics Control Act, Article 58, paragraph 2</li> </ul>	<ul style="list-style-type: none"> <li>• Death, imprisonment for life or imprisonment not less than 10 years</li> <li>• Death, imprisonment for life or imprisonment not less than 10 years</li> </ul>
<ul style="list-style-type: none"> <li>• Other psychotropic               <ul style="list-style-type: none"> <li>- Trading, giving or receiving, compounding, injecting, providing concerning minors with a purpose for making profit</li> <li>- Habitual trading, giving or receiving, compounding, injecting, providing concerning minors</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Narcotics Control Act, Article 58, paragraph 2</li> <li>• Narcotics Control Act, Article 58, paragraph 2</li> </ul>	<ul style="list-style-type: none"> <li>• Death, imprisonment for life or imprisonment not less than 10 years</li> <li>• Death, imprisonment for life or imprisonment not less than 10 years</li> </ul>

## 03 | IMPORTING, EXPORTING, MANUFACTURING, OR OTHER SIMILAR ACTIVITIES RELATED TO DRUGS

### (1) TYPE 1 — HALLUCINOGENIC SUBSTANCE LISTED UNDER (D) OR OTHERS

ELEMENTS OF CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
<ul style="list-style-type: none"> <li>Raw material of narcotics               <ul style="list-style-type: none"> <li>Cultivating for purpose of importing or exporting, trading, manufacturing/ carrying, possessing of the raw material containing the component, seed, seedling for those purposes</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Narcotics Control Act, Article 59, paragraph 1, subparagraph 1</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment not less than 1 year</li> </ul>
<ul style="list-style-type: none"> <li>Hemp plant               <ul style="list-style-type: none"> <li>Cultivating marijuana or temporary class of marijuana for purpose of exporting, trading, manufacturing marijuana or temporary class of marijuana</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Narcotics Control Act, Article 59, paragraph 1, subparagraph 11</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment not less than 1 year</li> </ul>
<ul style="list-style-type: none"> <li>Psychotropic item (d)               <ul style="list-style-type: none"> <li>Importing or exporting, manufacturing/ carrying, possessing for those purposes</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Narcotics Control Act, Article 60, paragraph 1, subparagraph 3</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment not exceeding 10 years or fine not exceeding 100 million won</li> </ul>
<ul style="list-style-type: none"> <li>Habitual offender</li> </ul>	<ul style="list-style-type: none"> <li>Narcotics Control Act, Article 59, paragraph 2</li> <li>Narcotics Control Act, Article 60, paragraph 2</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment not less than three years</li> <li><math>\frac{1}{2}</math> aggravation</li> </ul>

### (2) TYPE 2 — MARIJUANA, PSYCHOTROPIC DRUGS LISTED UNDER (C)

ELEMENTS OF CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
<ul style="list-style-type: none"> <li>Marijuana               <ul style="list-style-type: none"> <li>Importing or exporting/carrying, possessing for those purposes                   <ul style="list-style-type: none"> <li>However, habitual offenders fall under Type 4</li> </ul> </li> <li>Manufacturing/carrying, possessing for that purpose</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Narcotics Control Act, Article 58, paragraph 1, subparagraph 5</li> <li>Narcotics Control Act, Article 59, paragraph 1, subparagraph 7</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment for life or imprisonment not less than five years</li> <li>Imprisonment not less than 1 year</li> </ul>



ELEMENTS OF CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
<ul style="list-style-type: none"> <li>• psychotropic item (c)               <ul style="list-style-type: none"> <li>- Importing or exporting, manufacturing/carrying, possessing for those purposes</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Narcotics Control Act, Article 59, paragraph 1, subparagraph 10</li> </ul>	<ul style="list-style-type: none"> <li>• Imprisonment not less than 1 year</li> </ul>
<ul style="list-style-type: none"> <li>• Habitual offender</li> </ul>	<ul style="list-style-type: none"> <li>• Narcotics Control Act, Article 59, paragraph 2</li> </ul>	<ul style="list-style-type: none"> <li>• Imprisonment not less than three years</li> </ul>

### (3) TYPE 3 — PSYCHOTROPIC DRUGS LISTED UNDER (A), (B), OR OTHERS

ELEMENTS OF CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
<ul style="list-style-type: none"> <li>• Narcotics or temporary classification of narcotics               <ul style="list-style-type: none"> <li>- Importing or exporting, manufacturing/carrying, possessing for those purposes</li> <li>* However, the cases of habitual offender fall under type 4</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Narcotics Control Act, Article 58, paragraph 1, subparagraph 1</li> </ul>	<ul style="list-style-type: none"> <li>• Imprisonment for life or imprisonment not less than five years</li> </ul>
<ul style="list-style-type: none"> <li>• Psychotropic item (a)               <ul style="list-style-type: none"> <li>- Importing or exporting, manufacturing/carrying, possessing for those purposes</li> <li>- Extracting the component from the raw material/importing or exporting/carrying, possessing for those purposes</li> <li>* However, habitual offenders fall under Type 4</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Narcotics Control Act, Article 58, paragraph 1, subparagraph 3</li> <li>• Narcotics Control Act, Article 58, paragraph 1, subparagraph 4</li> </ul>	<ul style="list-style-type: none"> <li>• Imprisonment for life or imprisonment not less than five years</li> <li>• Imprisonment for life or imprisonment not less than five years</li> </ul>
<ul style="list-style-type: none"> <li>• Psychotropic item (b)               <ul style="list-style-type: none"> <li>- Importing or exporting, manufacturing/carrying, possessing for those purposes</li> <li>* However, habitual offenders fall under Type 4</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Narcotics Control Act, Article 58, paragraph 1, subparagraph 6</li> </ul>	<ul style="list-style-type: none"> <li>• Imprisonment for life or imprisonment not less than five years</li> </ul>
<ul style="list-style-type: none"> <li>• Raw material of narcotics, psychotropic               <ul style="list-style-type: none"> <li>- Importing or exporting, manufacturing the raw material with the purpose to manufacture narcotics, psychotropic/carrying, possessing of the raw material for those purposes</li> <li>* However, habitual offenders fall under Type 4</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Narcotics Control Act, Article 58, paragraph 1, subparagraph 2</li> </ul>	<ul style="list-style-type: none"> <li>• Imprisonment for life or imprisonment not less than five years</li> </ul>

**(4) TYPE 4 — OFFENSE COMMITTED FOR PROFITS OR HABITUAL OFFENDERS**

ELEMENTS OF CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
<ul style="list-style-type: none"> <li>• Narcotics, psychotropic item (a), (b), marijuana, narcotics, raw material of psychotropic</li> <li>- Importing or exporting, manufacturing, etc. for purpose to gain profit</li> <li>- Habitual importing or exporting, manufacturing, etc.</li> </ul>	<ul style="list-style-type: none"> <li>• Narcotics Control act, Article 58, paragraph 2</li> <li>• Narcotics Control Act, Article 58, paragraph 2</li> </ul>	<ul style="list-style-type: none"> <li>• Death, imprisonment for life or imprisonment not less than 10 years</li> <li>• Death, imprisonment for life or imprisonment not less than 10 years</li> </ul>

**04<sup>1</sup> OFFENSE AGAINST MULTITUDES****(1) TYPE 1**

ELEMENTS OF CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
<ul style="list-style-type: none"> <li>• Crimes of narcotics, psychotropic under the Narcotics Control Act, Article 59, paragraph 1, paragraph 2, Article 60, paragraph 1, paragraph 2, which the value of the concerned narcotics, etc. is 5 million won or more and less than 30 million won (Act on the Aggravated Punishment of Specific Crimes, Article 11, paragraph 2, subparagraph 2)</li> </ul>	<ul style="list-style-type: none"> <li>• Act on the Aggravated Punishment of Specific Crimes, Article 11, paragraph 2, subparagraph 2</li> </ul>	<ul style="list-style-type: none"> <li>• Imprisonment for life or imprisonment not less than three years</li> </ul>

**(2) TYPE 2**

ELEMENTS OF CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
<ul style="list-style-type: none"> <li>• Crimes of narcotics, psychotropic under the Narcotics Control Act, Article 59, paragraph 1, paragraph 2, Article 60 paragraph 1, paragraph 2, which the value of the concerned narcotics, etc. is 30 million won or more and less than 50 million won (Act on the Aggravated Punishment of Specific Crimes, Article 11, paragraph 2, subparagraph 2)</li> </ul>	<ul style="list-style-type: none"> <li>• Act on the Aggravated Punishment of Specific Crimes, Article 11, paragraph 2, subparagraph 2</li> <li>• Narcotics Control Act, Article 58, paragraph 1, subparagraph 1 to 4, 6, and 7</li> </ul>	<ul style="list-style-type: none"> <li>• Imprisonment for life or imprisonment not less than three years</li> <li>• Imprisonment for life or imprisonment not less than five years</li> </ul>





ELEMENTS OF CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
<ul style="list-style-type: none"> <li>Crimes under the Narcotics Control Act, Article 58, paragraph 1, subparagraph 1 to 4, 6, and 7, which the value of the concerned narcotics, etc. is 5 million won or more and less than 50 million won the narcotics</li> </ul>		

### (3) TYPE 3

ELEMENTS OF CRIME	APPLICABLE LAW	SENTENCING RANGE BY LAW
<ul style="list-style-type: none"> <li>Crimes of narcotics, psychotropic under the Narcotics Control Act, Article 59, paragraph 1, paragraph 2, Article 60, paragraph 1, paragraph 2, which the value of the concerned narcotics, etc. is 50 million won or more (Act on the Aggravated Punishment of Specific Crimes, Article 11, paragraph 2, subparagraph 1)</li> <li>Crimes under the Narcotics Control Act, Article 58, paragraph 1, subparagraph 1 to 4, 6, and 7, which the value of the concerned narcotics, etc. is 50 million won or more</li> </ul>	<ul style="list-style-type: none"> <li>Act on the Aggravated Punishment of Specific Crimes, Article 11, paragraph 2, subparagraph 1</li> <li>Narcotics Control Act, Article 58, paragraph 1, subparagraph 1 to 4, 6, and 7</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment for life or imprisonment not less than 10 years</li> <li>Imprisonment for life or imprisonment not less than five years</li> </ul>

## DEFINITION OF SENTENCING FACTORS

### 01 | THE MOTIVE OR OTHER MATTERS FOR ENGAGING IN THE OFFENSE CAN BE TAKEN INTO CONSIDERATION

- 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 the Criminal Act, Article 12 is applicable)
  - The offender merely agreed to participate in the crime but did not lead in committing the crime or actually participate
  - Offense committed as a result of single incident of mere curiosity
  - Other cases with comparable factors

### 02 | CONDEMNABLE MOTIVES

- This means cases with one or more of the following factors:
  - Offense committed through the use of distributing or secretly intoxicating another person as a plan to bring conviction
  - Offense was committed out of retaliation, grievance, or hatred
  - Other cases with comparable factors

### 03 | OFFENDER COOPERATED IN IMPORTANT MATTERS RELATED TO THE INVESTIGATION

- This indicates cases in which the offender provided accurate and detailed facts for the investigation of one or more of the following offenses to the extent that the prosecution was possible or facilitated any possible future prosecutions:
  - Compared the crime that the offender committed with: ① greater severity of the offense; or ② the same type of offense but greater severity due to the number of offenders involved, the phase of the offense's commission, the



- number of narcotics, the frequency, and duration of the use of such narcotics.
- Offense falling within Type 4 of *Engaging in Selling, Brokering, or Other Similar Activities* Category; Type 4 of *Importing, Exporting, or Manufacturing Drugs or Other Similar Activities Related to Drugs* Category; or Type 3 of *Offenses Against Multitudes* Category.
  - However, this is not applicable in cases in which the offender deliberately engaged in drug-related crimes for the purpose of deriving benefit under the *Offender's Cooperation with the Investigation* sentencing determinants.

## 04 | OFFENDER'S PASSIVE PARTICIPATION

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- 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 crime.

## 05 | DRUG SUBSTANCE ABUSER'S VOLUNTARY AND ACTIVE INTENTION TO UNDERGO TREATMENT

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- This indicates cases in which under an objective judgment, the offender, a drug substance abuser, demonstrates a clear indication of intent to undergo treatment prior to the narcotics enforcement; the drug substance abuse treatment has been voluntary, and the offender expresses a pro-active attitude toward the treatment.

## 06 | OFFENDER'S COOPERATION WITH THE INVESTIGATION ON GENERAL MATTERS

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- This indicates cases in which the offender provided cooperated with the investigation but not to the extent as set forth in the *Offender Cooperated in Important Matters Related to the Investigation* factor.
- However, this is not applicable in cases in which the offender deliberately engaged in drug-related crimes for the purpose of deriving benefit under the *Offender's Cooperation with the Investigation* sentencing determinants.

## 07 | OFFENDER'S BUYING, GIVING OR RECEIVING FOR DRUG USE AND/OR POSSESSION OF DRUGS, OR OTHER SIMILAR ACTIVITIES

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- This indicates cases in which the offender bought, gave, or received for drug use and/or possession of drugs or other similar activities.

## 08 | ORGANIZATIONAL OR PROFESSIONAL CRIME

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- This indicates cases in which one or more following factors apply:
  - Offender is a member of an organization or having an association with a criminal organization
  - Multiple persons were involved in an organized manner to commit the crime
  - Offense committed through the use of professional devices or technology
  - Other cases with comparable factors

## 09 | HABITUAL OFFENDER (TYPE 1 OR 2)

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- This means habitual offenders fall within Type 1 or 2 of the Engaging in Selling, Brokering, or Other Similar Activities Category and of the Importing, Exporting, Manufacturing, or Other Similar Activities Related to Drugs Category.



- However, this is not applicable to habitual offenders of Type 2 (Marijuana, Psychotropic Drugs listed under (c)) of the Importing, Exporting, or Manufacturing Drugs or Other Similar Activities Related to Drugs Category and Importing or Exporting of Marijuana or Carrying or Possession of Marijuana for Such Purposes (Narcotics Control Act, Article 58, paragraph 1, subparagraph 5; and Article 58, paragraph 2 of the same Act).

## ASSESSING PRINCIPLES APPLICABLE TO SENTENCING FACTORS

### 01 | DETERMINING THE SENTENCING RANGE

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- When determining the appropriate sentencing range, the court must consider only the special sentencing determinants.
- However, in cases involving more than two special sentencing determinants, the applicable sentencing range is adjusted after assessing the factors as set forth below:
  - ① The same number of conduct factors shall be considered with greater significance than the actor or other factors.
  - ② The same number of conduct factors reciprocally, or the actor, or other factors reciprocally shall be treated as the same.
  - ③ If the sentencing range applicable cannot be determined by the aforementioned principles in ① and ②, the court is to decide the sentencing range by a comprehensive comparison and assessment based on the principles set forth in ① and ②.
- After an assessment, if a greater number of aggravating factors than the mitigating factors exist, then the aggravating zone is recommended when determining the sentencing range. If a greater number of mitigating factors exist, then a mitigating sentencing range is recommended. For other cases, the standard sentencing range is recommended.

### 02 | DETERMINING THE SENTENCE APPLICABLE

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- In determining the sentence, the court should consider comprehensively both the general and special sentencing determinants that are within the sentencing range as assessed under above 1.



## GENERAL APPLICATION PRINCIPLES

### 01 | SPECIAL ADJUSTMENTS TO THE SENTENCING RANGE

- ① When only two or more special aggravating factors apply, or the special sentencing determinant outnumber the special mitigating determinants by two or more, then increase the maximum level of the recommended sentencing range up to  $\frac{1}{2}$ .
- ② When only two or more special mitigating factors apply, or the special sentencing determinant outnumber the special aggravating determinants by two or more, then reduce the minimum level of the recommended sentencing range down to  $\frac{1}{2}$ .

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

- When the sentencing range under this guideline conflicts with the range determined according to the aggravation and mitigation of the applicable law, the sentencing range prescribed by the applicable law shall govern.

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

- When the court declines to apply a permissive mitigating factor under applicable law as listed in this guideline's sentencing table, the factor shall be treated as a discretionary mitigating factor.

## GUIDELINES ON SENTENCING MULTIPLE OFFENSES

### 01 | APPLICABLE SCOPE

- 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 involve an offense set forth in the sentencing guidelines, as well as an offense the sentencing guidelines do not cover, then the minimum level should be the minimum of the sentencing range of the offense that is set forth in this sentencing guideline.

### 02 | DETERMINING THE BASE OFFENSE

- The “base offense” indicates the most severe offense that results after selecting the penalty and determining the statutory aggravation and mitigation. However, in cases in which the maximum sentencing range is lower than that of the maximum sentencing range of the other offense as set forth in this guideline, the offense resulting in the concurrent crime becomes the base offense.

### 03 | CALCULATING THE SENTENCING RANGE

- To calculate the sentence of an offender convicted of multiple offenses that is not treated as a single offense under this guideline, the court shall apply the following principles:
  - ① In setting the sentencing range for an offender convicted of two offenses, the sentencing range should be the total sum of the maximum sentencing range of the base offense and the  $\frac{1}{2}$  of the maximum sentencing range of the second offense.





- ② In setting the sentencing range for an offender convicted of three or more offenses, the sentencing range should be the total sum of the following: (1) of the maximum sentencing range of the base offense, sum of  $\frac{1}{2}$  of the maximum sentencing range of the offense with the highest sentencing range, and (2)  $\frac{1}{3}$  of the maximum sentencing range of the remaining offense with the second-highest sentencing range.
- ③ For cases in which the minimum sentencing range of the other offense is higher than that of the base offense, the minimum sentencing range resulting from the multiple offense should be the minimum sentencing range of the other offense.

## PART B — GUIDELINE ON SUSPENDING A SENTENCE

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Consideration Factor	<ul style="list-style-type: none"> <li>• Condemnable motives</li> <li>• Organizational or professional crime</li> <li>• Active role in an organized crime or other similar roles</li> <li>• Drug-related offense against minors</li> <li>• Habitual offender</li> <li>• Offense committed against multitudes</li> <li>• A criminal history of the same offense (imposing suspension of a sentence or a more severe punishment within five years; or more than three incidents of fines) exists</li> </ul>	<ul style="list-style-type: none"> <li>• Efforts to obstruct or confront the accomplice's commission of the offense</li> <li>• The motive or other matters for engaging in the offense can be taken into consideration</li> <li>• Offender cooperated in important matters related to the investigation</li> <li>• Voluntary surrender to investigative agencies</li> <li>• No prior criminal history</li> </ul>
General Consideration Factor	<ul style="list-style-type: none"> <li>• Two or more criminal history on the suspension of sentence or for a greater offense</li> <li>• Lack of social ties</li> <li>• Absence of remorse</li> <li>• Active participation as an accomplice</li> <li>• Destroying evidence or attempting to conceal evidence after the commission of the offense</li> </ul>	<ul style="list-style-type: none"> <li>• Strongly established social ties</li> <li>• Expresses sincere remorse</li> <li>• No prior criminal history of the suspension of sentence or punishment more severe</li> <li>• Cases of elderly offenders</li> <li>• Offender's passive participation as an accomplice</li> <li>• Cases of physically ill offenders</li> <li>• Cases where the arrest of the offender would cause severe hardship to the offender's dependent family member</li> <li>• Offender's cooperation with the investigation on general matters</li> <li>• Drug substance abuser's voluntary and active intention to undergo treatment (drug use and/or possession of drugs category)</li> </ul>



## DEFINITIONS OF FACTORS TO CONSIDER IN SUSPENDING A SENTENCE

- In cases in which the factors to consider in suspending a sentence 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 that involve a suspension of the sentence, the prior criminal history is calculated from the date the defendant's suspension of the sentence was affirmed until the date of the commission of the offense. In cases that impose imprisonment, the prior criminal history is calculated from the final date the sentence was completed until the date the offense was committed.

## ASSESSING PRINCIPLES APPLICABLE TO THE FACTORS TO CONSIDER IN SUSPENDING A SENTENCE

- In deciding whether the suspension of a sentence is appropriate in cases in which imprisonment is imposed, the court should give the primary consideration factor greater importance than the general consideration factors. The following principles should be considered:
  - ① In cases in which only two or more primary affirmative factors exist or when the primary affirmative factors outnumber the major adverse factors by two or more, it is recommended to suspend the sentence.
  - ② In cases in which two or more primary adverse factors exist or when the primary adverse factors outnumber the primary affirmative factor by two or more, imprisonment is recommended.
  - ③ In cases in which ① or ② apply, but the difference between the number of general adverse (affirmative) factors and general affirmative (adverse) factors is greater than the difference between the number of primary affirmative (adverse) factors and primary adverse (affirmative) factors, or in cases other than ① or ②, the court shall decide whether to suspend the sentence after comparing and assessing the factors listed under the suspension of sentence section comprehensively.