

Daiwa Foundation

The Japanese Plea Bargain

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1 Introduction

- 2015
- The Criminal Procedure amended (come in force from June, 2018)
(Recording Interrogation, Negotiation and Agreement for Cooperation(so called “Japanese Plea Bargain”) etc)

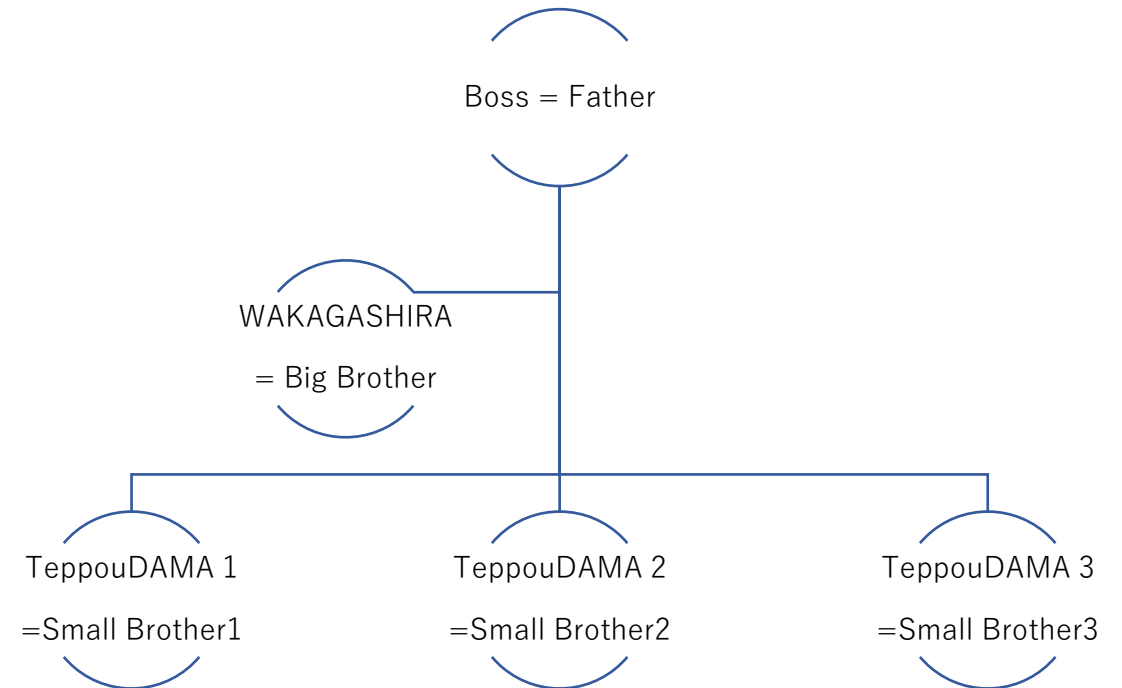
○Background Organized Crime

- YAKUZA
 - One of Organized crime in Japan

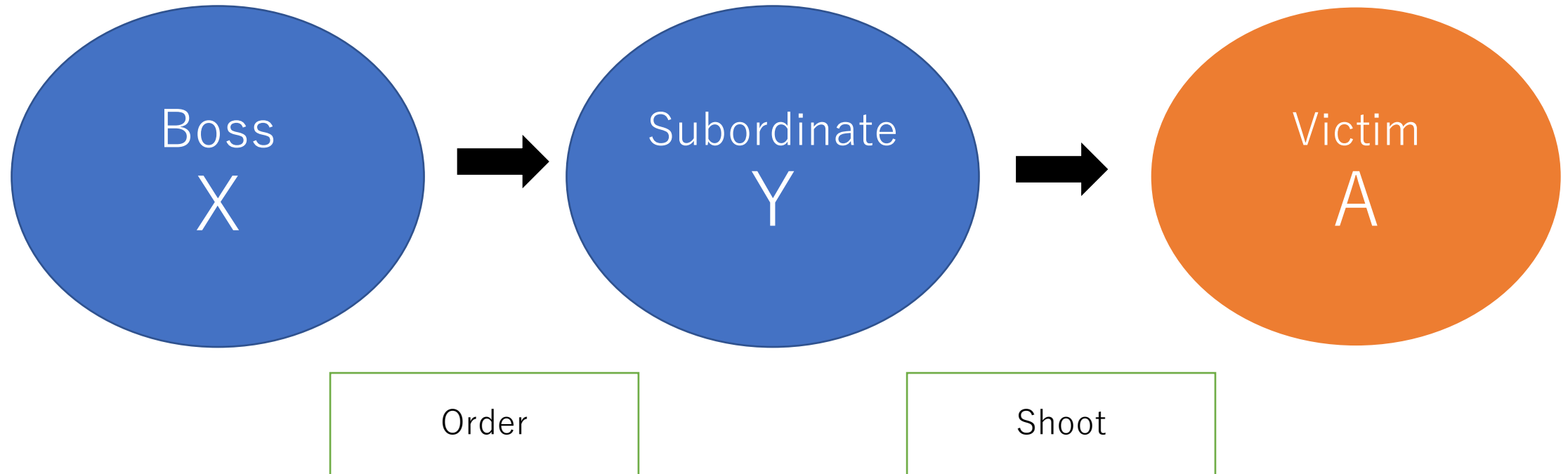
1 fictitious blood relationship

2 unquestioning obedience for the boss

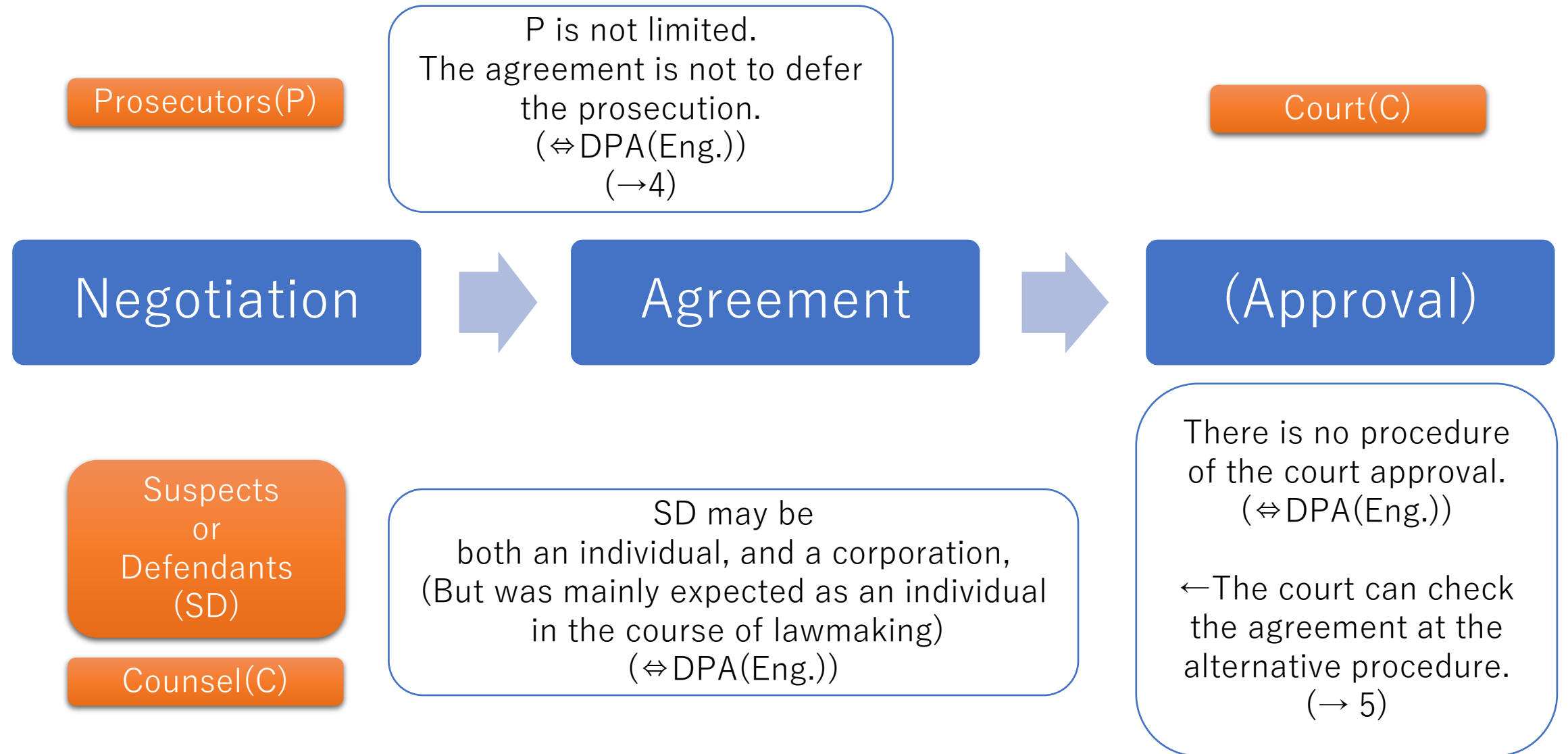
→ The main expected case is to agree with a subordinate (WAKAGASHIRA or TeppouDAMA) in order to punish the superior(Boss) in the organization.



- Who is the most responsible person?



2 Procedure (\Leftrightarrow DPA(Eng.))



3 The Offences specified in the act

The Japanese Penal Code Offences

- EX) Fraud, Extortion, or Obstruction of Execution, etc.
- which YAKUZA frequently commits

The Act on Punishment of Organized Crimes and Control of Crime Proceeds

- EX) Graded penal code offences
- which target YAKUZA.

The Economic Crime

EX) Tax Law, Act on Prohibition of Private Monopolization and Maintenance of Fair Trade, and other laws which Government can specify by cabinet order.

The Dealing Crime

EX) Drugs, guns and arms, etc.
which YAKUZA frequently commits

- The main offences are Organized Crime.
- The other party of the agreement was expected as an individual, and the agreement with a corporation is not enough to be considered in the Economic Crime in the course of lawmaking.
- There is no amendment of Substantive law in order to make this system more effective.

4 Agreement

Subject to **C**,
Prosecutors (P) can agree with suspects (or defendants) (SD) on that P do **A**, if SD do **B**
about the others' CASE, which means that SD can't agree to **B** for his own CASE.

A

P

- 1 not charge (or discharge the case)
- 2 charge with (or amend) a reduced count.
- 3 suggest a reduced sentence
- 4 charge with summary proceeding

B

SD

- 1 state truth in trial or investigation.
- 2 cooperate to adduce evidence

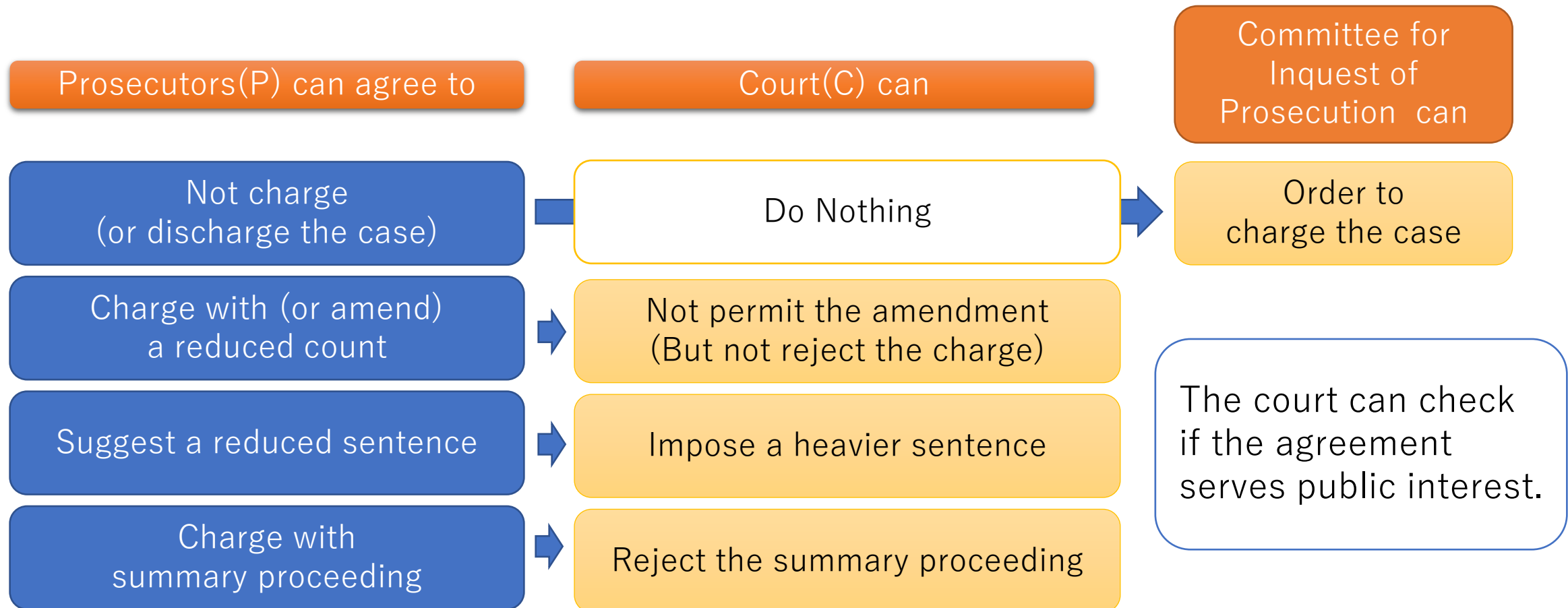
There is no disgorgement.

C

- 1 S is involved in the offences (above), and
- 2 Prosecutor believes that it is necessary in the light of the importance of the statement acquired and the case concerned, etc.

5 Court Approval

There is no procedure of the court approval. (\Leftrightarrow DPA(Eng))
But the Court can check some part of the agreement by below procedure.
The agreement can be cancelled, If court takes the decision.



6 Conclusion

There are some problems in Japanese plea bargain in order to make an agreement with a corporation in economic crimes, because the other party of the agreement was expected as an individual, and the agreement with a corporation was not enough to be considered in economic crime in the course of lawmaking.