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## Chapter 3

# Crimes of Sexual Assault

This guideline applies to adult offenders (nineteen years of age or older) who committed any offense of Rape (Criminal Act, Article 297), Imitative Rape (Criminal Act, Article 297-2), Indecent Acts by Compulsion (Criminal Act, Article 298), *Quasi-Rape*, *Quasi-Indecent Acts* by Compulsion (Criminal Act, Article 299), Rape with Injury (Criminal Act, Article 301), Rape Resulting in Death (Criminal Act, Article 301-2), Statutory Rape, Imitative Rape or Indecent Acts against Minor (Criminal Act, Article 305), Habitual Offense (Criminal Act, Article 305-2), Robbery and Rape (Criminal Act, Article 339), Rape/Sexual Penetration/Indecent Acts by Compulsion Accompanied by Intrusion upon Habitation, etc. (Sexual Crime Act, Article 3, paragraph 1), Rape/Indecent Acts by Compulsion Accompanied by Special Robbery, etc. (Sexual Crime Act, Article 3, paragraph 2), Special Rape/Sexual Penetration/Indecent Acts by Compulsion, etc. (Sexual Crime Act, Article 4), Rape/Indecent Acts by Compulsion, etc. by Relative (Sexual Crime Act, Article 5), Rape/Sexual Penetration/Indecent Acts by Compulsion of Disabled Person (Sexual Crime Act, Article 6), Rape/Sexual Penetration/Indecent Acts by Compulsion, etc. of Minors under Thirteen Years of Age (Sexual Crime Act,

Article 7), Rape, etc. with Injury (Sexual Crime Act, Article 8), Rape and so forth Resulting in Death (Sexual Crime Act, Article 9, Paragraph 2, 3), Rape/Sexual Penetration/Indecent Acts by Compulsion, and others offenses to Juveniles (Children-Juvenile Sexual Crime Act, Article 7), Sexual Intercourse of Disabled Juvenile (Children-Juvenile Sexual Crime Act, Article 8), Rape with Injury (Children-Juvenile Sexual Crime Act, Article 9), Rape, etc. Resulting in Death (Children-Juvenile Sexual Crime Act, Article 10, paragraph 2), Sexual Offense by the Offender with Obligation to Report (Children-Juvenile Sexual Crime Act, Article 18) or Second Offense of Rape by a Robbery under the Aggravated Punishment Act (Aggravated Punishment Act, Article 5-5), Rape Against Military Personnel, etc. (Military Criminal Act, Article 92), Imitative Rape Against Military Personnel, etc. (Military Criminal Act, Article 92-2), Indecent Acts by Compulsion Against Military Personnel, etc. (Military Criminal Act, Article 92-3), *Quasi-Rape*, *Quasi-Imitative Rape*, *Quasi Indecent Acts* by Compulsion Against Military Personnel, etc. (Military Criminal Act, Article 92-4), Rape and others Against Military Personnel, etc. Resulting in Bodily Injuries or Harm (Military Criminal Act, Article 92-7), and Rape and Others Against Military Personnel, etc. Resulting in Death(military criminal act, article 92-8).



# PART A — TYPES OF OFFENSES AND SENTENCING PERIODS

## ▶ GENERAL APPLICABLE PRINCIPLES

### 01 | RAPE (OF VICTIM THIRTEEN YEARS OF AGE OR OLDER)

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Standard Rape	1 yr. 6 mos. - 3 yrs.	2 yrs. 6 mos. - 5 yrs.	4 yrs. - 7 yrs.
2	Rape by Relative/Rape After Intrusion Upon Habitation, etc. /Special Rape	3 yrs. - 5 yrs. 6 mos.	5 yrs. - 8 yrs.	6 yrs. - 9 yrs.
3	Rape After Robbery	5 yrs. - 9 yrs.	8 yrs. - 12 yrs.	10 yrs. - 15 yrs.

- \* Imitative Rape Against an Adult falls within Type 1. However, reduce the maximum and the minimum sentencing range to  $\frac{2}{3}$ .
- \* Rape/Imitative Rape Against a Minor (including Sexual Intercourse or Analogous Intercourse by Deceptive Schemes or by the Use of Force) falls within Type 2.
- \* When the offense falls within *Repeated Crimes* as set forth in the Special Violent Crimes Act, increase the minimum and maximum sentencing range each by multiplying 1.5.
- \* When the offense falls within *Repeated Crimes* set forth in the Aggravated Punishment Act, 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"> <li>• Sadistic, perverse conduct or with an extreme level of sexual humiliation</li> <li>• Constant and repeated offense against multiple victims</li> <li>• Vulnerable victims</li> <li>• Offenders of special robbery under the Special Sexual Crime Act, Article 3, paragraph 2 (Type 3)</li> <li>• Offender commits rape after intrusion upon habitation or other similar settings or in a special rape where the victim is a relative</li> <li>• Gang-rape (Type 2 and 3)</li> <li>• Pregnancy</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 expresses remorse, and the victim opposes punishment</li> </ul>	<ul style="list-style-type: none"> <li>• Repeated offenses of the same type under the Aggravated Punishment Act or the Criminal Act that do not constitute a repeated offense under the Special Violent Crime Act</li> <li>• Offenses committed by the person under a legal obligation to report or by an employee of protection facilities</li> <li>• Habitual offenders</li> </ul>
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> <li>• Offender's passive participation</li> <li>• Participation as a result of duress or threat of another</li> </ul>	<ul style="list-style-type: none"> <li>• Premeditated crime</li> <li>• Multiple acts of rape in the commission of the same offense</li> <li>• Condemnable motives</li> <li>• Offense committed by causing diminished physical or mental capacity to the victim</li> <li>• Offense committed by a relative</li> <li>• Offense against a minor</li> </ul>



CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
General Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> <li>• A significant amount of money deposited with the depository</li> <li>• Expresses sincere remorse</li> <li>• No prior criminal history</li> </ul>	<ul style="list-style-type: none"> <li>• Abuse of trust in relationships of trust</li> <li>• Different types of repeated offenses under the Criminal Act that do not constitute as a repeated offense under the Aggravated Punishment Act or the Special Violent Crime Act, and the criminal history of imprisonment by the same type of offense, or a crime of violence that do not constitute a repeated offense under the Criminal Act (This applies when the criminal history is within ten years after completion of sentence)</li> <li>• Harm caused in the course of reaching an agreement (This excludes cases where the act constitutes the crime of coercion)</li> </ul>

\* Apply the following classification in cases in which sexual offenses were committed while intoxicated by the use of alcohol or drugs (including cases of Indecent Acts by Compulsion, Sexual Crimes against the Disabled Person, Sexual Crimes against a victim Under Thirteen Years of Age, sexual crimes under the military criminal act, offenses that resulted in injuries or death):

- ❶ Cases in which the offender voluntarily induced intoxication by taking alcohol or drugs and where the offender intended or foresaw the crime or attempted to use the condition as a ground for exemption, intoxication is considered as a general aggravating factor regardless of the fact that the offender was in a state of diminished mental capacity at the time of the crime.
- ❷ Cases in which the offender had no intention of committing the offense or could not foresee the commission of such offense, but past behavior reveals the possibility of harm caused to others while under the influence of high levels of alcohol or drugs, intoxication shall not be considered as a mitigating factor regardless offender was in a state of diminished mental capacity at the time of the crime.
- ❸ Even if the cases do not fall within ❶, ❷, intoxication should not be taken into account as a mitigating factor unless the offender's mental state at the time of the crime constitutes *Those with Mental Incapacity*.

## 02 | INDECENT ACTS BY COMPULSION (OF VICTIM THIRTEEN YEARS OF AGE OR OLDER)

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Indecent Acts by Compulsion (Standard)	- 1 yr.	6 mos. - 2 yrs.	1 yr. 6 mos. - 3 yrs.
2	Indecent Acts by Compulsion by Relative/ Indecent Acts by Compulsion After Intrusion Upon Habitation, etc. /Special Indecent Acts by Compulsion	1 yr. 6 mos. - 3 yrs.	2 yrs. 6 mos. - 5 yrs.	4 yrs. - 7 yrs.
3	Indecent Acts by Compulsion After Robbery	5 yrs. - 8 yrs.	7 yrs. - 11 yr.	9 yrs. - 13 yrs.

\* Indecent Acts by Compulsion (Including Indecent Acts Against a Minor by Compulsion, by Deceptive Schemes or by the Use of Force) Against a Minor falls within Type 2. However, reduce the maximum and the minimum sentencing range to  $\frac{2}{3}$ .

\* When the offense falls within *Repeated Crimes* set forth in the Aggravated Punishment Act, 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"> <li>Cases where the extent of violence is extremely slight</li> <li>Cases where the degree of indecent acts is slight</li> </ul>	<ul style="list-style-type: none"> <li>Sadistic, perverse conduct or with an extreme level of sexual humiliation</li> <li>Constant and repeated offense against multiple victims</li> <li>Vulnerable victims</li> <li>Offender commits rape after intrusion upon habitation or other similar settings in a special rape where the victim is a relative</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</li> </ul>	<ul style="list-style-type: none"> <li>Repeated offenses of the same type under the Criminal Act that do not constitute a repeated offense under the Special Violent Crime Act</li> </ul>



CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
		be held liable) <ul style="list-style-type: none"> <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>• Offenses committed by the person under a legal obligation to report or by an employee of protection facilities</li> <li>• Habitual offenders</li> </ul>
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> <li>• Offender’s passive participation</li> <li>• Participation as a result of duress or threat of another</li> </ul>	<ul style="list-style-type: none"> <li>• Premeditated crime</li> <li>• Condemnable motives</li> <li>• Offense committed by causing diminished physical or mental capacity to the victim</li> <li>• Offense committed by a relative</li> <li>• Offense against a minor</li> </ul>
General Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> <li>• A significant amount of money was deposited with the depository</li> <li>• Expresses sincere remorse</li> <li>• No prior criminal history</li> </ul>	<ul style="list-style-type: none"> <li>• Abuse of relationships of trust</li> <li>• Different types of repeated offenses under the Criminal Act that do not constitute as a repeated offense under the Aggravated Punishment Act or the Special Violent Crime Act, and the criminal history of imprisonment by the same type of offense, or a crime of violence that do not constitute a repeated offense under the Criminal Act (This applies when the criminal history is within ten years after completion of sentence)</li> <li>• Harm caused in the course of reaching an agreement (this excludes cases where the act constitutes the crime of coercion)</li> </ul>

## 03 | SEXUAL CRIMES AGAINST DISABLED VICTIM (THIRTEEN YEARS OF AGE OR OLDER)

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Statutory Indecent Acts by Compulsion	- 10 mos.	8 mos. - 2 yrs.	1 yr. 6 mos. - 3 yrs.
2	Statutory Rape/Indecent Acts by Compulsion	1 yr. 6 mos. - 3 yrs.	2 yrs. 6 mos. - 5 yrs.	4 yrs. - 6 yrs.
3	Imitative Rape	2 yrs. 6 mos. - 5 yrs.	4 yrs. - 7 yrs.	6 yrs. - 9 yrs.
4	Rape	4 yrs. - 7 yrs.	6 yrs. - 9 yrs.	8 yrs. - 12 yrs.

\* Indecent acts by deceptive scheme or by the use of force falls within Type 2 (However, reduce the maximum and the minimum sentencing range to  $\frac{1}{2}$ ). *quasi*-sexual intercourse by deceptive scheme or by the use of force falls within Type 3, Sexual penetration by deceptive scheme or by the use of force falls within Type 4.

\* In cases of rape after robbery (including special rape after robbery), special indecent acts by compulsion after robbery (including special imitative rape after robbery), apply the sentencing guidelines set forth in *indecent acts by compulsion (against the victim of thirteen year of age or older)* and adjust the sentencing range according to the sentencing factors set forth in *sexual crimes against a victim under thirteen years of age*

\* When the offense falls within *Repeated Crimes* set forth in the Aggravated Punishment Act, 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"> <li>Cases where the extent of indecent acts is slight (Type 1 and 2)</li> </ul>	<ul style="list-style-type: none"> <li>Sadistic, perverse conduct or with an extreme level of sexual humiliation</li> <li>Constant and repeated offense against multiple victims</li> <li>Offense committed with special robbery prescribed in the Special Sexual Crime Act, Article 3, paragraph 2 (Type 4)</li> <li>Gang-rape (Type 2 and 4)</li> <li>Pregnancy (Type 2 and 4)</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 the same type under the Criminal Act that do not constitute a repeated offense under the Special Violent Crime Act</li> <li>• Offenses committed by the person under a legal obligation to report or by an employee of protection facilities</li> <li>• Habitual offenders</li> </ul>
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> <li>• Offender’s passive participation</li> <li>• Participation as a result of duress or threat of another</li> </ul>	<ul style="list-style-type: none"> <li>• Premeditated crime</li> <li>• Multiple acts of rape in the commission of the same offense (Type 2 and 4)</li> <li>• Condemnable motives</li> <li>• Falls within offense prescribed in the Sexual Crime Act, Article 3, paragraph 1, Article 4, or 5</li> <li>• Offense committed by causing diminished physical or mental capacity to the victim</li> </ul>
General Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> <li>• A significant amount of money was deposited with the depository</li> <li>• Expresses sincere remorse</li> <li>• No prior criminal history</li> </ul>	<ul style="list-style-type: none"> <li>• Abuse of relationships of trust</li> <li>• Different types of repeated offenses under the Criminal Act that do not constitute as a repeated offense under the Aggravated Punishment Act or the Special Violent Crime Act, and the criminal history of imprisonment by the same type of offense, or a crime of violence that do not constitute a repeated offense under the Criminal Act (This applies when the criminal history is within ten years after completion of sentence)</li> <li>• Harm caused in the course of reaching an agreement (This excludes cases where the act constitutes the crime of coercion)</li> </ul>

## 04 | SEXUAL CRIMES AGAINST A VICTIM UNDER THIRTEEN YEARS OF AGE

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Statutory Indecent Acts by Compulsion	- 10 mos.	8 mos. - 2 yrs.	1 yr. 6 mos. - 3 yrs.
2	Statutory Rape	1 yr. 6 mos. - 3 yrs.	2 yrs. 6 mos. - 5 yrs.	4 yrs. - 6 yrs.
3	Indecent Acts by Compulsion	2 yrs. 6 mos. - 5 yrs.	4 yrs. - 7 yrs.	6 yrs. - 9 yrs.
4	Imitative Rape	4 yrs. - 7 yrs.	6 yrs. - 9 yrs.	8 yrs. - 12 yrs.
5	Rape	6 yrs. - 9 yrs.	8 yrs. - 12 yrs.	11 yr. - 15 yrs.

\* Statutory imitative rape falls within Type 2. However, reduce the maximum and the minimum sentencing range to  $\frac{2}{3}$ .

\* Indecent acts by deceptive scheme or by the use of force falls within Type 3, *quasi*-sexual intercourse by deceptive scheme or by the use of force falls within Type 4, and sexual intercourse by deceptive scheme or by the use of force falls within Type 5.

\* In cases of special indecent acts by compulsion after robbery (including special imitative rape after robbery), apply the sentencing guidelines set forth in *indecent acts by compulsion (against a victim under thirteen years of age)* and adjust sentencing range according to the sentencing factors set forth in *sexual crimes against a victim under thirteen years of age*.

\* When the offense falls within *Repeated Crimes* set forth in the Special Violent Crimes Act, 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"> <li>Cases where the extent of indecent acts is slight (Type 1 and 3)</li> </ul>	<ul style="list-style-type: none"> <li>Sadistic, perverse conduct or with an extreme level of sexual humiliation</li> <li>Constant and repeated offense against multiple victims</li> <li>Offense committed with special robbery prescribed in the Special Sexual Crime Act, Article 3, paragraph 2 (Type 5)</li> <li>Gang-rape (Type 2 and 5)</li> <li>Pregnancy (Type 2 and 5)</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 the same type under the Different types of repeated offenses under the Criminal Act that do not constitute a repeated offense under the Special Violent Crime Act</li> <li>• Offenses committed by the person under a legal obligation to report or by an employee of protection facilities</li> <li>• Habitual offenders</li> </ul>
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> <li>• Offender’s passive participation</li> <li>• Participation as a result of duress or threat of another</li> </ul>	<ul style="list-style-type: none"> <li>• Premeditated crime</li> <li>• Multiple acts of rape in commission of the same offense (Type 2 and 5)</li> <li>• Condemnable motives</li> <li>• Falls within offense prescribed in the Sexual Crime Act, Article 3, paragraph 1, Article 4, or 5</li> <li>• Offense committed by causing diminished physical or mental capacity to the victim</li> </ul>
General Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> <li>• A significant amount of money was deposited with the depository</li> <li>• Expresses sincere remorse</li> <li>• No prior criminal history</li> </ul>	<ul style="list-style-type: none"> <li>• Abuse of relationships of trust</li> <li>• Different types of repeated offenses under the Criminal Act that do not constitute as a repeated offense under the Aggravated Punishment Act or the Special Violent Crime Act, and the criminal history of imprisonment by the same type of offense, or a crime of violence that do not constitute a repeated offense under the Criminal Act (This applies when the criminal history is within ten years after completion of sentence)</li> <li>• Harm caused in the course of reaching an agreement (This excludes cases where the act constitutes the crime of coercion)</li> </ul>

## 05<sup>1</sup> SEXUAL CRIMES UNDER THE MILITARY CRIMINAL ACT

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Indecent Acts by Compulsion Committed Against Military Personnel	6 mos. - 1 yr. 4 mos.	10 mos. - 2 yrs. 6 mos.	2 yrs. - 4 yrs.
2	Imitative Rape Committed Against Military Personnel	1 yr. 6 mos. - 3 yrs.	2 yrs. 6 mos. - 5 yrs.	4 yrs. - 7 yrs.
3	Rape Committed Against Military Personnel	2 yrs. 6 mos. - 5 yrs.	4 yrs. - 7 yrs.	6 yrs. - 9 yrs.

\* When the offense falls within Repeated Crimes set forth in the Special Violent Crimes Act, 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"> <li>Cases where the extent of the physical act is extremely minor (Type 1)</li> <li>Cases where the extent of the indecent act is slight (Type 1)</li> </ul>	<ul style="list-style-type: none"> <li>Sadistic, perverse conduct or with an extreme level of sexual humiliation</li> <li>Constant and repeated offense committed against multiple victims</li> <li>Active use of the offender's superior position or offense committed against a vulnerable victim</li> <li>Pregnancy (Type 3)</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 the same type under the Criminal Act that do not constitute a repeated offense under the Special Violent Crime Act</li> <li>Habitual offenders</li> </ul>



CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> <li>• Offender’s passive participation</li> <li>• Participation as a result of duress or threat of another</li> </ul>	<ul style="list-style-type: none"> <li>• Premeditated crime</li> <li>• Multiple acts of rape in the commission of the same offense (Type 3)</li> <li>• Condemnable motives</li> <li>• Offense committed by causing diminished physical or mental capacity to the victim</li> </ul>
General Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> <li>• A significant amount of money was deposited with the depository</li> <li>• Expresses sincere remorse</li> <li>• No prior criminal history</li> </ul>	<ul style="list-style-type: none"> <li>• Abuse of relationships of trust</li> <li>• Different types of repeated offenses under the Criminal Act that do not constitute as a repeated offense under the Aggravated Punishment Act or the Special Violent Crime Act, and the criminal history of imprisonment by the same type of offense, or a crime of violence that do not constitute a repeated offense under the Criminal Act (This applies when the criminal history is within ten years after completion of sentence)</li> <li>• Harm caused in the course of reaching an agreement (This excludes cases where the act constitutes the crime of coercion)</li> </ul>

## ▶ CASES RESULTING IN BODILY INJURY

### 01 | INJURY AGAINST A VICTIM OR VICTIM OF THIRTEEN YEARS OF AGE OR OLDER

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Indecent Acts by Compulsion (Standard)	2 yrs. 6 mos. - 4 yrs.	3 yrs. - 5 yrs.	4 yrs. - 6 yrs.
2	Rape (Standard)	2 yrs. 6 mos. - 5 yrs.	4 yrs. - 7 yrs.	6 yrs. - 9 yrs.
3	Indecent Acts by Compulsion by the Relative of the Victim	3 yrs. 6 mos. - 6 yrs.	5 yrs. - 8 yrs.	7 yrs. - 10 yrs.
4	Rape by the Relative of the Victim	4 yrs. - 7 yrs.	6 yrs. - 9 yrs.	8 yrs. - 12 yrs.
5	Indecent Acts by Compulsion after Intrusion of Habitation, etc./Special Indecent Acts by Compulsion	5 yrs. - 8 yrs.	7 yrs. - 11 yrs.	10 yrs. - 14 yrs.
6	Rape after Intrusion of Habitation, etc./Special Rape	6 yrs. - 9 yrs.	8 yrs. - 13 yrs.	12 yrs. - 16 yrs.

- \* Indecent acts by compulsion (including indecent acts by deceptive scheme or by the use of force) against a juvenile and imitative rape against an adult fall within Type 2.
- \* Rape (including sexual intercourse by deceptive scheme or by the use of force) against a juvenile and imitative rape (including sexual penetration by deceptive scheme or by the use of force) against a juvenile fall within Type 3.
- \* When the offense falls within *Repeated Crimes* set forth in the Aggravated Punishment Act, increase the minimum and maximum sentencing range each by multiplying 1.5.
- \* Apply sentencing factors set forth in rape (against a victim of thirteen years of age or older) and in cases of indecent acts by compulsion (against a victim of thirteen years of age or older). Add special mitigating factors of cases when injury results, but the base offense is an attempt, and minor injury resulted. Also, add special aggravating factors when serious bodily injuries resulted.
- \* Cases in which the bodily injury results from rape after robbery (including the case of special robbery), this falls within Type 6. For cases where the bodily injury results by indecent acts by compulsion after special robbery, this falls within Type 5.  
In such cases, add serious bodily injury to special aggravating factors and non-serious bodily injury to general aggravating factors to the relevant sentencing factors (rape or indecent acts by compulsion against a victim of thirteen years of age or older).



## 02 | INJURY AGAINST DISABLED OR VICTIM UNDER THIRTEEN YEARS OF AGE

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Statutory Indecent Acts by Compulsion	2 yrs. 6 mos. - 4 yrs.	3 yrs. - 5 yrs. 6 mos.	5 yrs. - 8 yrs.
2	Statutory Rape	2 yrs. 6 mos. - 5 yrs.	4 yrs. - 7 yrs.	6 yrs. - 9 yrs.
3	Indecent Acts by Compulsion	5 yrs. - 8 yrs.	7 yrs. - 11 yrs.	10 yrs. - 14 yrs.
4	Imitative Rape	5 yrs. - 9 yrs.	8 yrs. - 12 yrs.	11 yr. - 15 yrs.
5	Rape	6 yrs. - 10 yrs.	9 yrs. - 14 yrs.	More than 13 yrs. or life imprisonment

- \* Statutory imitative rape falls within type 2, indecent acts by deceptive scheme or by the use of force falls within Type 3, sexual intercourse by deceptive schemes or by the use of force falls within Type 5.
- \* When the offense falls within *Repeated Crimes* set forth in the Special Violent Crimes Act, increase the minimum and maximum sentencing range each by multiplying 1.5.
- \* Apply sentencing factors set forth in the sexual crimes against disabled victims (that are thirteen years of age or older) or the sexual crimes against a victim under thirteen years of age. For cases where injury results but the base offense is an attempt and only minor injuries resulted, add to the special mitigating factors; in cases in which serious bodily injuries resulted, add to the special aggravating factors.
- \* Cases where the bodily injury results from rape after robbery (including the cases of special robbery), this falls within Type 5. Indecent acts by compulsion after special robbery results in bodily injury falls within Type 3 and imitative rape after special robbery resulting in bodily injury falls in Type 4. In such cases, add serious bodily injury to the special aggravating factors, and non-serious bodily injury to the general aggravating factors respectively in the above sentencing factor table (the sexual crimes against disabled victims (that are thirteen years of age or older) or sexual crimes against a victim under thirteen years of age).

## 03<sup>1</sup> SEXUAL CRIMES UNDER THE MILITARY ACT

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Statutory Indecent Acts by Compulsion Committed Against Military Personnel, etc.	2 yrs. 6 mos. - 5 yrs.	4 yrs. - 7 yrs.	6 yrs. - 9 yrs.
2	Imitative Rape or Rape Committed Against Military Personnel, etc.	3 yrs. 6 mos. - 6 yrs.	5 yrs. - 8 yrs.	7 yrs. - 10 yrs.

\* When the offense falls within *Repeated Crimes* set forth in the Special Violent Crimes Act, increase the minimum and maximum sentencing range each by multiplying 1.5.

\* In such cases, add serious bodily injury to the special aggravating factors, and non-serious bodily injury to the general aggravating factors respectively in the above sentencing factor table (the sexual crimes against disabled victims that are (thirteen years of age or older) or sexual crimes against a victim under thirteen years of age) for sexual crimes under the Military Act.





## ▶ CASES RESULTING IN DEATH

CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
Rape Resulting in Death/Imitative Rape Resulting in Death/Indecent Acts by Compulsion Resulting in Death	9 yrs. - 12 yrs.	11 yrs. - 14 yrs.	More than 13 yrs. or life imprisonment

\* When the offense falls within *Repeated Crimes* set forth in the Aggravated Punishment Act, increase the minimum and maximum sentencing range by multiplying 1.5.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> <li>Offender's conduct was not a direct cause of death</li> </ul>	<ul style="list-style-type: none"> <li>Vulnerable victim</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 expresses remorse, and the victim opposes punishment (This includes genuine efforts to reverse the harm)</li> </ul>	<ul style="list-style-type: none"> <li>Absence of remorse (This excludes cases where the offender merely denies offense)</li> <li>Repeated offenses of the same type under the Criminal Act that do not constitute a repeated offense under the Special Violent Crime Act</li> </ul>
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> <li>The indecent acts by compulsion are the base offense</li> <li>Offender's passive participation</li> </ul>	
General Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> <li>A significant amount of money was deposited with the depository</li> <li>Offender expresses sincere remorse</li> <li>No prior criminal history</li> </ul>	<ul style="list-style-type: none"> <li>Different types of repeated offenses under the Criminal Act that do not constitute as a repeated offense under the Aggravated Punishment Act or the Special Violent Crime Act, and the criminal history of imprisonment by the same type of offense, or a crime of violence that do not constitute a 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

### ▶ GENERAL STANDARDS

## 01<sup>1</sup> RAPE (AGAINST A VICTIM THIRTEEN YEARS OF AGE OR OLDER)

### (1) TYPE 1 — STANDARD RAPE

- Type 1, Standard Rape, indicates offenses with the following statutory elements of the offense under the applicable laws (The same applies hereinafter).

ELEMENTS OF THE OFFENSE	APPLICABLE LAW
• Sexual intercourse with victim by force or threat	Criminal Act, Article 297
• Imitative rape by force or threat	Criminal Act, Article 297-2
• <i>Quasi-Rape</i> , imitative rape ( <i>i.e.</i> , sexual intercourse with a female by taking advantage of her unconscious condition or inability to resist)	Criminal Act, Article 299

### (2) TYPE 2 — RAPE BY A RELATIVE/RAPE AFTER INTRUSION UPON HABITATION, ETC./SPECIAL RAPE

ELEMENTS OF OFFENSE	APPLICABLE LAW
• Rape/ <i>Quasi-Rape</i> /Imitative Rape/ <i>Quasi-Imitative Rape</i> after committing an intrusion upon habitation, larceny accompanied by an intrusion into habitation at nighttime (including attempts thereof), special larceny (including attempts thereof)	Sexual Crime Act, Article 3, paragraph 1
• Rape or <i>Quasi-Rape</i> committed while carrying a dangerous weapon or two or more persons involved in the offense	Sexual Crime Act, Article 4, paragraph 1, paragraph 3
• Rape/ <i>Quasi-Rape</i> /Imitative Rape/ <i>Quasi-Imitative Rape</i> against a juvenile (under nineteen years of age)	Children-Juvenile Sexual Crime Act, Article 7, paragraph 1, paragraph 2, paragraph 4
• Sexual Intercourse/ <i>Quasi-Sexual Intercourse</i> with a juvenile (under nineteen years of age) by deceptive schemes or force	Children-Juvenile Sexual Crime Act, Article 7, paragraph 5
• Rape/ <i>Quasi-Rape</i> by a relative	Sexual Crime Act, Article 5 paragraph 1, paragraph 3



### (3) TYPE 3 — RAPE AFTER ROBBERY

ELEMENTS OF OFFENSE	APPLICABLE LAW
<ul style="list-style-type: none"> <li>Rape against a victim thirteen years of age or older by the offender of a robbery</li> </ul>	Criminal Act, Article 339
<ul style="list-style-type: none"> <li>Rape/<i>Quasi</i>-Rape/<i>Imitative Rape/Quasi</i>-<i>Imitative Rape</i> by Compulsion against a victim thirteen of age or older by the offender of special robbery (including attempts thereof)</li> </ul>	Sexual Crime Act, Article 3, paragraph 2

## 02 <sup>1</sup> INDECENT ACTS BY COMPULSION (AGAINST A VICTIM THIRTEEN YEARS OF AGE OR OLDER)

### (1) TYPE 1 — STANDARD INDECENT ACTS BY COMPULSION

ELEMENTS OF OFFENSE	APPLICABLE LAW
<ul style="list-style-type: none"> <li>Indecent Acts by Compulsion by force or threat</li> </ul>	Criminal Act, Article 298
<ul style="list-style-type: none"> <li><i>Quasi</i>-Indecent Acts by Compulsion (i.e., Indecent Acts by Compulsion by taking advantage of the victim's unconscious condition or inability to resist)</li> </ul>	Criminal Act, Article 299

### (2) TYPE 2 — INDECENT ACTS BY COMPULSION BY A RELATIVE/ INDECENT ACTS BY COMPULSION AFTER INTRUSION UPON HABITATION, ETC./SPECIAL INDECENT ACTS BY COMPULSION

ELEMENTS OF OFFENSE	APPLICABLE LAW
<ul style="list-style-type: none"> <li>Indecent Acts by Compulsion/<i>Quasi</i>-Indecent Acts by Compulsion after committing intrusion upon habitation, larceny accompanied by intrusion into habitation at nighttime (including attempts thereof), special larceny (including attempts thereof)</li> </ul>	Sexual Crime Act, Article 3, paragraph 1
<ul style="list-style-type: none"> <li>Indecent Acts by Compulsion/<i>Quasi</i>-Indecent Acts committed while carrying a dangerous weapon or two or more persons involved in the offense</li> </ul>	Sexual Crime Act, Article 4, paragraph 2 and paragraph 3
<ul style="list-style-type: none"> <li>Indecent Acts by Compulsion/<i>Quasi</i>-Indecent Acts by Compulsion against a juvenile (under nineteen years of age)</li> </ul>	Children-Juvenile Sexual Crime Act, Article 7, paragraph 3, paragraph 4

ELEMENTS OF OFFENSE	APPLICABLE LAW
<ul style="list-style-type: none"> <li>Indecent Acts against a juvenile (under nineteen years of age) by using deceptive scheme or force</li> </ul>	Children-Juvenile Sexual Crime Act, Article 7, paragraph 5
<ul style="list-style-type: none"> <li>Indecent Acts by Compulsion/<i>Quasi</i>-Indecent Acts by Compulsion by a relative</li> </ul>	Sexual Crime Act, Article 5, paragraph 2, and paragraph 3

### (3) TYPE 3 — INDECENT ACTS BY COMPULSION AFTER THE OFFENSE OF ROBBERY

ELEMENTS OF OFFENSE	APPLICABLE LAW
<ul style="list-style-type: none"> <li>Indecent Acts by Compulsion/<i>Quasi</i>-Indecent Acts by Compulsion by an offender committing special robbery (including attempts thereof)</li> </ul>	Sexual Crime Act, Article 3, paragraph 2

## 03 | SEXUAL CRIMES AGAINST DISABLED VICTIMS (THIRTEEN YEARS OF AGE OR OLDER)

### (1) TYPE 1 — STATUTORY INDECENT ACTS BY COMPULSION

ELEMENTS OF OFFENSE	APPLICABLE LAW
<ul style="list-style-type: none"> <li>Indecent Acts by an offender, nineteen years of age or older, against a disabled child or a disabled juvenile victim, or instigates a disabled child or disabled juvenile to commit indecent acts against a third party</li> </ul>	Children-Juvenile Sexual Crime Act, Article 8, Paragraph 2

### (2) TYPE 2 — STATUTORY RAPE/INDECENT ACTS BY COMPULSION

ELEMENTS OF OFFENSE	APPLICABLE LAW
<ul style="list-style-type: none"> <li>Sexual Intercourse by an offender, nineteen years of age or older, against a disabled child or a disabled juvenile victim or instigates a disabled child or a disabled juvenile victim to have sexual intercourse with a third party</li> </ul>	Children-Juvenile Sexual Crime Act, Article 8, Paragraph 1
<ul style="list-style-type: none"> <li>Indecent Acts by Compulsion/<i>Quasi</i>-Indecent Acts committed against physically or mentally disabled victim</li> </ul>	Sexual Crime Act, Article 6, paragraph 3, paragraph 4
<ul style="list-style-type: none"> <li>Indecent Acts by Deceptive Schemes or by Use of Force against a physically or mentally disabled victim</li> </ul>	Sexual Crime Act, Article 6, paragraph 6

**(3) TYPE 3 — IMITATIVE RAPE**

ELEMENTS OF OFFENSE	APPLICABLE LAW
<ul style="list-style-type: none"> <li>Imitative Rape/<i>Quasi</i>-Imitative Rape against a physically or mentally disabled victim</li> </ul>	Sexual Crime Act, Article 6, paragraph 2, paragraph 4
<ul style="list-style-type: none"> <li>Indecent Act by Deceptive Schemes or by the Use of Force against a physically or mentally disabled victim, when the extent of the indecent act is comparable to <i>quasi</i>-sexual intercourse</li> </ul>	Sexual Crime Act, Article 6, paragraph 6

**(4) TYPE 4 — RAPE**

ELEMENTS OF OFFENSE	APPLICABLE LAW
<ul style="list-style-type: none"> <li>Rape/<i>Quasi</i>-Rape against a physically or mentally disabled victim</li> </ul>	Sexual Crime Act, Article 6, paragraph 1, paragraph 4
<ul style="list-style-type: none"> <li>Indecent Act by Deceptive Schemes or by the use of Force against a physically or mentally disabled victim</li> </ul>	Sexual Crime Act, Article 6, paragraph 5

## 04 | SEXUAL CRIMES AGAINST A VICTIM UNDER THIRTEEN YEARS OF AGE

**(1) TYPE 1 — STATUTORY INDECENT ACTS BY COMPULSION**

ELEMENTS OF OFFENSE	APPLICABLE LAW
<ul style="list-style-type: none"> <li>Statutory Indecent Acts by Compulsion (indecent acts against a victim under thirteen years of age)</li> </ul>	Criminal Act, Article 305 (Article 298)

**(2) TYPE 2 — STATUTORY RAPE/STATUTORY IMITATIVE RAPE**

ELEMENTS OF OFFENSE	APPLICABLE LAW
<ul style="list-style-type: none"> <li>Statutory Rape (sexual intercourse with victim under thirteen years of age)</li> </ul>	Criminal Act, Article 305 (Article 297)
<ul style="list-style-type: none"> <li>Statutory Imitative Rape (sexual intercourse with victim under thirteen years of age)</li> </ul>	Criminal Act, Article 305 (Article 297-2)

**(3) TYPE 3 — INDECENT ACT BY COMPULSION**

ELEMENTS OF OFFENSE	APPLICABLE LAW
<ul style="list-style-type: none"> <li>• <i>Quasi</i>-Sexual intercourse by compulsion against a victim under thirteen years of age</li> </ul>	Sexual Crime Act, Article 7, paragraph 3 and paragraph 4
<ul style="list-style-type: none"> <li>• <i>Quasi</i>-Sexual intercourse with victim under thirteen years of age by deceptive schemes or use of force</li> </ul>	Sexual Crime Act, Article 7, paragraph 5

**(4) TYPE 4 — IMITATIVE RAPE**

Elements of Offense	Applicable Law
<ul style="list-style-type: none"> <li>• Imitative Rape/<i>Quasi</i>-Imitative Rape against a victim under thirteen years of age</li> </ul>	Sexual Crime Act, Article 7, paragraph 2 and paragraph 4
<ul style="list-style-type: none"> <li>• Imitative Rape/<i>Quasi</i>-Imitative Rape by deceptive schemes or by the use of force against a victim under thirteen years of age</li> </ul>	Sexual Crime Act, Article 7, paragraph 2 and paragraph 5

**(5) TYPE 5 — RAPE**

ELEMENTS OF OFFENSE	APPLICABLE LAW
<ul style="list-style-type: none"> <li>• Rape/<i>Quasi</i>-Rape against a victim under thirteen years of age</li> </ul>	Sexual Crime Act, Article 7, paragraph 1, paragraph 4
<ul style="list-style-type: none"> <li>• Indecent Act by Deceptive Schemes or by the use of Force against a victim under thirteen years of age</li> </ul>	Sexual Crime Act, Article 7, paragraph 5
<ul style="list-style-type: none"> <li>• Rape against a victim under thirteen years of age by the robbery offender</li> </ul>	Criminal Act, Article 339
<ul style="list-style-type: none"> <li>• Rape/<i>Quasi</i>-Rape against a victim under thirteen years of age by an offender who committed special robbery (including attempt offenses)</li> </ul>	Sexual Crime Act, Article 3, paragraph 2



## 05<sup>1</sup> SEXUAL CRIMES UNDER THE MILITARY CRIMINAL ACT

### (1) TYPE 1 — INDECENT ACTS BY COMPULSION AGAINST MILITARY PERSONNEL, ETC.

ELEMENTS OF OFFENSE	APPLICABLE LAW
<ul style="list-style-type: none"> <li>• Indecent acts by force or threat committed against military personnel and others</li> </ul>	Military Criminal Act, Article 92-3
<ul style="list-style-type: none"> <li>• <i>Quasi-Indecent Acts by Compulsion</i> (i.e., Indecent Acts by Compulsion by taking advantage of the victim's unconscious condition or inability to resist)</li> </ul>	Military Criminal Act, Article 92-4

### (2) TYPE 2 — IMITATIVE RAPE AGAINST MILITARY PERSONNEL, ETC.

ELEMENTS OF OFFENSE	APPLICABLE LAW
<ul style="list-style-type: none"> <li>• Imitative rape against military personnel by the use of threat or force</li> </ul>	Military Criminal Act, Article 92-2
<ul style="list-style-type: none"> <li>• <i>Quasi-imitative rape</i> (imitative rape by taking advantage of the victim's unconscious condition or inability to resist)</li> </ul>	Military Criminal Act, Article 92-4

### (3) TYPE 3 — RAPE

ELEMENTS OF OFFENSE	APPLICABLE LAW
<ul style="list-style-type: none"> <li>• Rape committed against military personnel and others by the use of force or threat</li> </ul>	Military Criminal Act, Article 92
<ul style="list-style-type: none"> <li>• <i>Quasi-Rape</i> (Sexual intercourse committed by taking advantage of the victim's unconscious condition or inability to resist)</li> </ul>	Military Criminal Act, Article 92-4

\* The following offense constitutes *Repeated Crimes* as prescribed in the Aggravated Punishment Act or Special Violent Crime Act (This applies to all offenses).

ELEMENTS OF OFFENSE	APPLICABLE LAW
<ul style="list-style-type: none"> <li>• An offender, after sentenced for the offense of rape after robbery (including attempts thereof), repeats the commission of such offense within three years upon completion of sentence or upon the exemption from the sentence.</li> </ul>	Aggravated Punishment Act, Article 5-5
<ul style="list-style-type: none"> <li>• An offender, after sentenced for the offense of a special violent crime as prescribed in the Special Violent Crime Act, repeats the commission of a sexual crime as prescribed in the Act, Article 2, paragraph 1, subparagraph 3 and 4 within three years upon the completion of sentence or upon the exemption from the sentence.</li> </ul>	Special Violent Crime Act, Article 3

## ▶ CASES RESULTING IN BODILY INJURIES

### 01 | BODILY INJURIES AGAINST A VICTIM THIRTEEN YEARS OF AGE OR OLDER

#### (1) TYPE 1 — STANDARD INDECENT ACTS BY COMPULSION

ELEMENTS OF OFFENSE	APPLICABLE LAW
Bodily injuries are caused as a result of Indecent Acts by Compulsion/ <i>Quasi</i> -Indecent Acts by Compulsion (including attempts thereof)	Criminal Act, Article 301 (Article 298, Article 299)

#### (2) TYPE 2 — STANDARD RAPE

ELEMENTS OF OFFENSE	APPLICABLE LAW
<ul style="list-style-type: none"> <li>Bodily injury caused as a result of Rape/<i>Quasi</i>-rape (including attempts thereof)</li> </ul>	Criminal Act, Article 301 (Criminal Act, Article 297, Article 297-2, Article 299)
<ul style="list-style-type: none"> <li>Bodily injury is caused to a juvenile victim as a result of Indecent Acts by Compulsion/<i>Quasi</i>-Indecent Acts by Compulsion/Indecent Acts by Deceptive Schemes or by the Use of Force (including attempts thereof)</li> </ul>	Children-Juvenile Sexual Crime Act, Article 9 (Article 7, paragraph 3 to paragraph 5)

#### (3) TYPE 3 — INDECENT ACTS BY COMPULSION BY THE VICTIM'S RELATIVE

ELEMENTS OF OFFENSE	APPLICABLE LAW
<ul style="list-style-type: none"> <li>Bodily injury caused as a result of Indecent Acts by Compulsion/<i>Quasi</i>-Indecent Acts by Compulsion as prescribed in the Sexual Crime Act, Article 5 (including attempts thereof)</li> </ul>	Sexual Crime Act, Article 8, paragraph 2 (Sexual Crime Act, Article 5, paragraph 2, paragraph 3)
<ul style="list-style-type: none"> <li>Bodily injury is caused to a juvenile victim as a result of Rape/<i>Quasi</i>-Rape/Imitative Rape/<i>Quasi</i>-Imitative Rape/Sexual Intercourse by Deceptive Schemes or by the Use of Force (including attempts thereof)</li> </ul>	Children-Juvenile Sexual Crime Act, Article 9 (Article 7, paragraph 1, 2, 4, and 5)





**(4) TYPE 4 — RAPE BY VICTIM'S RELATIVE**

ELEMENTS OF OFFENSE	APPLICABLE LAW
<ul style="list-style-type: none"> <li>Bodily injury caused as a result of Rape/<i>Quasi</i>-Rape</li> </ul>	Sexual Crime Act, Article 8, paragraph 2 (Article 5, paragraph 1, and paragraph 3)

**(5) TYPE 5 — INDECENT ACTS BY COMPULSION AFTER INTRUSION UPON HABITATION, ETC./SPECIAL INDECENT ACTS BY COMPULSION**

ELEMENTS OF OFFENSE	APPLICABLE LAW
<ul style="list-style-type: none"> <li>Bodily injury caused as a result of Rape/<i>Quasi</i>-Rape as prescribed in the Sexual Crime Act, Article 3, paragraph 1, and Article 4 (including attempts thereof)</li> </ul>	Sexual Crime Act, Article 8, paragraph 1 (Article 3, paragraph 1, Article 4, paragraph 2, and paragraph 3)

**(6) TYPE 6 — RAPE AFTER INTRUSION UPON HABITATION, ETC./SPECIAL RAPE BY COMPULSION**

ELEMENTS OF OFFENSE	APPLICABLE LAW
<ul style="list-style-type: none"> <li>Bodily injury caused as a result of Rape/<i>Quasi</i>-Rape, Imitative Rape as prescribed in Sexual Crime Act, Article 3, paragraph 1, or Article 4 (including attempts thereof)</li> </ul>	Sexual Crime Act, Article 8, paragraph 1 (Article 3, paragraph 1, Article 4, paragraph 1, and paragraph 3)

## 02<sup>1</sup> BODILY INJURIES AGAINST DISABLED VICTIMS OR VICTIMS UNDER THIRTEEN YEARS OF AGE

### (1) TYPE 1 — STATUTORY INDECENT ACTS BY COMPULSION

ELEMENTS OF OFFENSE	APPLICABLE LAW
<ul style="list-style-type: none"> <li>Bodily injury is caused against a victim under thirteen years of age as a result of indecent acts by compulsion (including attempts thereof)</li> </ul>	Criminal Act, Article 305, Article 301

### (2) TYPE 2 — STATUTORY RAPE

ELEMENTS OF OFFENSE	APPLICABLE LAW
<ul style="list-style-type: none"> <li>Bodily injury is caused against a victim under thirteen years of age as a result of Sexual Intercourse, <i>Quasi</i>-Sexual Intercourse (including attempts thereof)</li> </ul>	Criminal Act, Article 305, Article 301

### (3) TYPE 3 — INDECENT ACTS BY COMPULSION

ELEMENTS OF OFFENSE	APPLICABLE LAW
<ul style="list-style-type: none"> <li>Bodily injury is caused against a victim under thirteen years of age as a result of Indecent Acts by Compulsion, <i>Quasi</i>-Indecent Acts by Compulsion/ Indecent Acts by Deceptive Schemes or by the Use of Force as prescribed in the Sexual Crime Act, Article 7, paragraph 3 to 5 (including attempts thereof)</li> </ul>	Sexual Crime Act, Article 8, paragraph 1 (Article 7, paragraph 3 to paragraph 5)
<ul style="list-style-type: none"> <li>Bodily injury is caused against a disabled victim as a result of Indecent Acts by Compulsion, <i>Quasi</i>-Indecent Acts by Compulsion/Indecent Acts by Deceptive Schemes or by the Use of Force as prescribed in Sexual Crime Act, Article 6, paragraph 3, 4, 6 (including attempts thereof)</li> </ul>	Sexual Crime Act, Article 8, paragraph 1 (Article 6, paragraph 3, paragraph 4, and paragraph 6)



**(4) TYPE 4 — QUASI-RAPE**

ELEMENTS OF OFFENSE	APPLICABLE LAW
<ul style="list-style-type: none"> <li>Bodily injury is caused against a victim under thirteen years of age as a result of Imitative Rape/<i>Quasi</i>-Imitative Rape/<i>Quasi</i>-Sexual Penetration by Deceptive Schemes or by the Use of Force as prescribed in the Sexual Crime Act, Article 7, paragraph 2, paragraph 4, paragraph 5 (including attempts thereof)</li> </ul>	Sexual Crime Act, Article 8, paragraph 1 (Article 7, paragraph 2, paragraph 4, and paragraph 5)
<ul style="list-style-type: none"> <li>Bodily injury is caused against disabled victim as a result of Imitative Rape/<i>Quasi</i>-Imitative Rape as prescribed in the Sexual Crime Act, Article 6, paragraph 2, paragraph 4 (including attempts thereof)</li> </ul>	Sexual Crime Act, Article 8, paragraph 1 (Article 6, paragraph 2, and paragraph 4)

**(5) TYPE 5 — RAPE**

ELEMENTS OF OFFENSE	APPLICABLE LAW
<ul style="list-style-type: none"> <li>Bodily injury caused as a result of Rape/<i>Quasi</i>-Rape, Sexual Intercourse by Deceptive Schemes or Use of Force as prescribed in the Sexual Crime Act, Article 7, paragraph 1, paragraph 4, paragraph 5 (including attempts thereof)</li> </ul>	Sexual Crime Act, Article 8, paragraph 1 (Article 7, paragraph 1, paragraph 4, and paragraph 5)
<ul style="list-style-type: none"> <li>Bodily injury caused as a result of Rape/<i>Quasi</i>-Rape, Sexual Intercourse by Deceptive Schemes or Use of Force as prescribed in the Sexual Crime Act, Article 6, paragraph 1, paragraph 4, paragraph 5 (including attempts thereof)</li> </ul>	Sexual Crime Act, Article 8, paragraph 1 (Article 6, paragraph 1, paragraph 4, and paragraph 5)

## ▶ SEXUAL CRIMES UNDER THE MILITARY CRIMINAL ACT

### 01 | TYPE 1 — STATUTORY INDECENT ACTS BY COMPULSION

ELEMENTS OF OFFENSE	APPLICABLE LAW
<ul style="list-style-type: none"> <li>Bodily injury caused as a result of Indecent Acts by Compulsion, <i>Quasi-Indecent Acts by Compulsion</i> (including attempts thereof) committed against military personnels, etc.</li> </ul>	Military Criminal Act, Article 92-7 (Article 92-3, Article 92-4)

### 02 | TYPE 2 — IMITATIVE RAPE/RAPE AGAINST MILITARY PERSONNEL, ETC.

ELEMENTS OF OFFENSE	APPLICABLE LAW
<ul style="list-style-type: none"> <li>Bodily injury caused as a result of Imitative Rape, <i>Quasi-Imitative Rape</i> (including attempts thereof) against military personnels, etc.</li> </ul>	Military Criminal Act, Article 92-7 (Article 92-2, Article 92-4)
<ul style="list-style-type: none"> <li>Bodily injury caused as a result of Rape, <i>Quasi-Rape</i> (including attempts thereof) against military personnels, etc.</li> </ul>	Military Criminal Act, Article 92-7 (Article 92, Article 92-4)



▶ **CASES RESULTING IN DEATH (RAPE RESULTING IN DEATH, IMITATIVE RAPE RESULTING IN DEATH, INDECENT ACTS BY COMPULSION RESULTING IN DEATH)**

ELEMENTS OF OFFENSE	APPLICABLE LAW
<ul style="list-style-type: none"> <li>• Death as a result of Rape/<i>Quasi</i>-Rape/Imitative Rape/<i>Quasi</i>-Imitative Rape/Indecent Acts by Compulsion/<i>Quasi</i>-Indecent Acts by Compulsion (including attempts thereof)</li> </ul>	Criminal Act, Article 301-2
<ul style="list-style-type: none"> <li>• Death of the victim as a result of crimes as prescribed in the Sexual Crime Act, from Article 4, Article 5 (including attempts thereof)</li> </ul>	Sexual Crime Act, Article 9, paragraph 2
<ul style="list-style-type: none"> <li>• Death of the victim as a result of sexual crimes as prescribed in the Sexual Crime Act, Article 6, Article 7 (including attempts thereof)</li> </ul>	Sexual Crime Act, Article 9, paragraph 3
<ul style="list-style-type: none"> <li>• Death of the victim as a result of Rape/<i>Quasi</i>-Rape /Imitative Rape/<i>Quasi</i>-Imitative Rape/Indecent Acts by Compulsion/<i>Quasi</i>-Indecent Acts by Compulsion (including attempts thereof) committed against military personnel, etc.</li> </ul>	Military Criminal Act, Article 92-8

## DEFINITION OF SENTENCING FACTORS

### 01 | GENERAL STANDARDS

#### (1) SADISTIC AND PERVERSE CONDUCTS

- This indicates cases in which one or more of the following factors apply and the resulting harm or bodily injury is considerably severe:
  - Conducts that cause prolonged immobility to the victim by the use of means such as strapping
  - Conducts that inflicts bodily harm to the victim's body by the use of instruments such as cigarette butt, needle, club, and the like
  - Conducts that inserts substances into the sexual organs of the victim
  - Other conducts with other comparable factors

#### (2) EXTREME LEVELS OF SEXUAL HUMILIATION

- This indicates cases in which one or more of the following factors apply and as a result of the commission of the offense caused extreme levels of humiliation to the victim:
  - When the commission of the offense was filmed
  - When the offense was committed in the presence of the victim's others such as the victim's children, spouse, or parents
  - When substances or instruments were used for sexual pleasure
  - Other cases with comparable factors

#### (3) CONSTANT AND REPEATED OFFENSE AGAINST MULTIPLE VICTIMS

- This indicates cases in which the offender committed sexual crimes against multiple victims of five or more in a constant and repeated manner.

#### (4) TAKING ADVANTAGE OF AUTHORITY AS A SUPERIOR

- This means the defendant is the victim's superior (under the Military Criminal Act, Article 2, paragraph 1) and taking advantage of such authority (including explicitly exercising authority or influence in performing one's duties) to exercise external pressures to commit the crime more easily.



#### **(5) VULNERABLE VICTIMS**

- This indicates cases in which the victim was especially vulnerable due to reduced physical or mental capacity, the victim's age at the time of the crime, rank within the military, positions of authority, or chain of command, and the offender was already aware of or possibly aware of the victim's circumstances.

#### **(6) PREGNANCY**

- This indicates cases in which the victim has been impregnated as a result of the offense.

#### **(7) OFFENSE COMMITTED IN A SPECIALLY PROTECTED AREA**

- This indicates cases where the offender induces or attempts to induce the victim from specially protected areas for children under thirteen years of age. This applies to schools (including school grounds and buildings), nurseries, orphanages, kindergartens, other educational facilities, places nearby the facilities, streets leading to the facilities, stairways, elevators in apartment complexes, and the like.

#### **(8) OFFENDER EXPRESSES REMORSE, AND THE VICTIM OPPOSES PUNISHMENT**

- This indicates cases in which the offender expresses sincere remorse with genuine efforts to reach an agreement with the victim; The offender pays proper compensation for the damage caused in which the victim acknowledges this and expresses objection to punishing the offender with a clear understanding of the legal and social implications of such objections.
- However, this should not apply in the following cases:
  - In cases in which the offender actually forced or deceived the victim into expressing objection for punishment since the victim is not stating the intent freely.
  - In cases in which the victim is a minor, disabled, or a blood relative of the offender, and no generally accepted grounds can be found in the victim or the legal representative's objections for punishment.
- This applies to cases in which the victim is a minor, disabled, or a blood relative of the offender, and the like; the objections for punishment can only be possible after thorough and careful examination of the victim and whether the victim can fully understand the meaning, implications and effect of such

objections according to the legal representative's age, mental capacity, and intelligence, and whether the objection genuinely represents the victim's intention.

**(9) OFFENSE COMMITTED BY THE PERSON WITH LEGAL OBLIGATION TO REPORT OR BY AN EMPLOYEE OF PROTECTION FACILITIES**

- This indicates cases in which one or more of the following factors apply:
  - Offense committed by the director of an organization or the employee of the institution or facilities prescribed in the Children-Juvenile Sexual Crime Act, Article 34, paragraph 2 against a child or juvenile victim who is under the protection, supervision, or medical treatment of the offender.
  - Offense committed by the director of an organization or the employee of the institution or facilities established with the purpose to protect and educate disabled persons.

**(10) OFFENDER'S PASSIVE PARTICIPATION**

- This indicates cases in which the nature of participation in the commission of the offense was passive or the offender had a limited role.
- However, this does not apply in cases in which the offender had an active role in the commission of the offense by causing another person to commit the crime by means such as in an attempt to fulfill the offender's voyeurism.

**(11) PREMEDITATED CRIME**

- This means cases with one or more of the following factors:
  - Advance preparation and possession of the crime weapon
  - Planned conspiracy
  - Inducement of victim
  - Preparation of destruction of evidence
  - Prior planning of a flight plan
  - Other cases with comparable factors





## **(12) CONDEMNABLE MOTIVES**

- This means cases with one or more of the following factors:
  - Offense committed for the purpose of preventing the victim's report of another crime that the offender committed
  - Offense committed out of retaliation, grievance, or hatred
  - Offense committed for economic gain
  - Other cases with comparable factors

## **(13) OFFENSE COMMITTED BY CAUSING DIMINISHED PHYSICAL OR MENTAL CAPACITY TO THE VICTIM**

- This indicates cases in which the reduced mental capacity is caused by the use of alcohol, substances, or the like with the purpose of diminishing the victim's perception and control for the commission of the offense.

## **(14) A SIGNIFICANT AMOUNT OF MONEY WAS DEPOSITED WITH THE DEPOSITORY**

- This indicates cases in which the offender deposited a significant amount of money with the depository after a failed attempt to reach an agreement with the victim in a genuine effort to restore the inflicted harm.

## **(15) ABUSE OF RELATIONSHIPS OF TRUST**

- This indicates cases in which the offender abused the mutual trust relationship with the victim, and examples of such relationship include:
  - Teacher and student relationship
  - Children of an acquaintance
  - Other comparable relationships

## **(16) PRIOR CRIMINAL HISTORY OF THE SAME OFFENSE**

- This means cases of criminal history for sexual assault offense as set forth in the sentencing guideline.

**(17) HARM CAUSED IN THE COURSE OF AN ATTEMPT TO REACH AN AGREEMENT WITH THE VICTIM**

- This indicates cases in which the offender consistently harassed, publicized, or threatened to publicize the criminal facts, or used other comparable means to force the victim to settle in the course of reaching an agreement.

## 02<sup>1</sup> CASES RESULTING IN INJURY

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**(1) MINOR BODILY INJURIES**

- This indicates cases in which the inflicted injury requires less than two weeks of medical care, affecting relatively limited bodily parts, which does not disrupt the victim's day-to-day activities and does not require medical intervention such as surgical stitches and the like.

**(2) SERIOUS BODILY INJURIES**

- This indicates cases in which the recovery from the inflicted injury requires more than 4 to 5 weeks of medical care in general, including incidences with after-effects causing impairment, severe disability resulting from the offense, injuries inflicted on vulnerable body parts, or further anticipated bodily injuries.

## 03<sup>1</sup> CASES RESULTING IN DEATH

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**(1) OFFENDER'S CONDUCT WAS NOT THE DIRECT CAUSE OF DEATH**

- This indicates cases in which the intervening causes were unforeseen by the offender at the time of the commission of the offense and, the offender cannot be held liable for the direct cause of the death.

**(2) OFFENDER EXPRESSES REMORSE, AND THE VICTIM OPPOSES PUNISHMENT (THIS INCLUDES GENUINE EFFORTS TO REVERSE THE HARM)**

- This indicates cases in which the offender expresses sincere remorse with genuine efforts to reach an agreement with the victim; The offender pays



proper compensation for the damage caused in which the victim acknowledges this and expresses objection to punishing the offender with a clear understanding of the legal and social implications of such objections.

- This includes cases where deposits are made in a considerable amount of money comparable to reaching an agreement with the family of the deceased or the victim as a result of the offender's genuine efforts to reverse the harm.

**(3) ABSENCE OF REMORSE (THIS EXCLUDES CASES WHERE THE OFFENDER MERELY DENIES OFFENSE)**

- This indicates cases in which the offender admits to committing the crime yet does not express any sign of guilt or remorse but rather justifies the offense conduct. This should be distinguished from merely denying the offense.

## ASSESSING PRINCIPLES APPLICABLE TO SENTENCING FACTORS

### 01 | DETERMINING THE SENTENCING RANGE

- 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. However, the victim or the victim's family member opposing the punishment of the offender can match the conduct determinant.
  - 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

- 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.
- In cases in which the maximum of the sentencing range exceeds twenty-five years, the court may impose life imprisonment.



## 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  $\frac{1}{2}$ . In cases in which the maximum of the sentencing range exceeds twenty-five years, the court may impose life imprisonment.
- 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.
  - ※ Even though 'constant and repeated offense against multiple victims' be applied as a special aggravating factor, Guidelines on Sentencing Multiple Offenses will apply separately.

### 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	Risk of Recidivism, etc.	<ul style="list-style-type: none"> <li>• Premeditated crime</li> <li>• Sadistic, perverse conduct or with an extreme level of sexual humiliation</li> <li>• Offense committed in a specially protected area (applies to a sexual offense against a victim under thirteen years of age)</li> <li>• Criminal history of the same offense (for suspension of 10 year or more imprisonment sentence)</li> <li>• Repeated crimes</li> <li>• Vulnerable victims</li> <li>• Use of dangerous objects</li> <li>• Gang-rape</li> </ul>	<ul style="list-style-type: none"> <li>• Cases where the extent of violence is extremely slight in indecent acts by compulsion (against a victim thirteen years of age or older, excluding offenses committed against disabled persons)</li> <li>• Offender attempted to thwart the accomplice’s commission of the crime</li> <li>• Cases where the extent of the indecent acts is slight</li> </ul>
	Other Factors	<ul style="list-style-type: none"> <li>• Offense as prescribed in the Sexual Crime Act, Article 5</li> <li>• Pregnancy</li> <li>• Serious bodily injuries</li> </ul>	<ul style="list-style-type: none"> <li>• Bodily injuries resulting from a base offense of attempt</li> <li>• Offender expresses remorse, and the victim opposes punishment</li> </ul>
General Consideration Factor	Risk of Recidivism, etc.	<ul style="list-style-type: none"> <li>• Two or more criminal record on the suspension of a sentence for imprisonment or for a greater offense</li> <li>• Lack of social ties</li> <li>• Offense committed by causing diminished physical or mental capacity to the victim</li> <li>• Drug or alcohol addiction</li> <li>• Absence of remorse</li> </ul>	<ul style="list-style-type: none"> <li>• No criminal history of the same offense and no criminal history of the suspension of a sentence for imprisonment or imposing of more severe sentences</li> <li>• Strongly established social ties</li> <li>• Non-premeditated crime</li> <li>• Voluntary surrender to investigative agencies</li> <li>• Expresses sincere remorse</li> </ul>





CLASSIFICATION		ADVERSE	AFFIRMATIVE
			<ul style="list-style-type: none"><li>• Offense by deceptive schemes or use of authority, excluding the use of force or threats (against a victim thirteen years of age or older)</li><li>• Cases of elderly offenders</li></ul>
	Other Factors	<ul style="list-style-type: none"><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>• Offender's passive participation as an accomplice</li><li>• A significant amount of money was deposited with the depository</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></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 imposing imprisonment, prior criminal history is calculated from the final date of the completion of the sentence until the date of the commission of the offense.
- Repeated Crimes
  - This indicates cases in which the court determines that the offender has committed similar offenses repeatedly by considering the substance of the offense, the criminal history, multi-count convictions, and the like comprehensively.
  - However, this does not apply to cases where multiple conducts of sexual intercourse constitute a single offense.
- Non-premeditated Crimes
  - This indicates cases in which the offender did not make prior plans to induce the victim through means such as causing the victim's diminished physical or mental capacity. This is also applicable to cases in which the offense was a result of contacting the victim for purposes other than that of the intent to commit the offense.



## 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.
  - ④ In the above ③, for cases in which fall under the following, sentencing is recommended:
    - Rape, Imitative Rape against a victim under thirteen years of age, or Rape against a disabled victim (over thirteen years of age)
    - Rape after Robbery, or Indecent Acts by Compulsion After Special Robbery
    - Continued and Repeated Acts against three or more persons
    - Criminal history for a suspension of sentence for less than three years or a more severe offense exists