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Chapter 18

Crimes of Violence

This guideline applies to adult offenders (nineteen years of age or older) who committed any offense of Inflicting Injury (Criminal Act, Article 257, paragraph 1), Inflicting Injury on Lineal Ascendant (Criminal Act, Article 257, paragraph 2), Inflicting Grievous Injury (Criminal Act, Article 258, paragraph 1, 2), Inflicting Grievous Injury on Lineal Ascendant (Criminal Act, Article 258, paragraph 3), Special Bodily Injury-Special Bodily Injury on Lineal Ascendant (Criminal Act, Article 258-2, paragraph 1), Special Aggravated Bodily Injury-Special Aggravated Bodily Injury on Lineal Ascendant (Criminal Act, Article 258-2, paragraph 2), Injury Resulting In Death (Criminal Act, Article 259, paragraph 1), Injury Against Linear Ascendant Resulting In Death (Criminal Act, Article 259, paragraph 2), Assault (Criminal Act, Article 260, paragraph 1), Assault Against Linear Ascendant (Criminal Act, Article 260, paragraph 2), Special Assault-Special Assault Against Linear Ascendant (Criminal Act, Article 261), Assault Resulting in Injury-Special Assault Resulting in Injury-Assault Against Linear Ascendant Resulting In Injury (Criminal Act, Article 262), Assault Resulting in Death-Special Assault Resulting In Death-Assault Against Linear Ascendant Resulting in Death (Criminal Act, Article 262), Habitual Infliction of Injury-Habitual Infliction of Injury Against Linear Ascendant-Habitual Infliction of Grievous Injury-Habitual Infliction of Grievous Injury Against Linear Ascendant-Habitual Special Infliction of Injury-Habitual Special Infliction of Injury Against Linear Ascendant-Habitual Special Infliction of Grievous Injury-Habitual Special Infliction of Grievous Injury Against Linear Ascendant-Habitual Assault-Habitual Assault Against Linear Ascendant-Habitual

Special Assault (Criminal Act 264), Intimidation (Criminal Act, Article 283, paragraph 1), Intimidation Against Linear Ascendant (Criminal Act, Article 283, paragraph 2), Special Intimidation-Special Intimidation Against Linear Ascendant (Criminal Act 284), Habitual Intimidation-Habitual Intimidation Against Linear Ascendant-Habitual Special Intimidation-Habitual Special Intimidation Against Linear Ascendant (Criminal Act, Article 285), Infliction of Injury By Multiple Persons-Infliction of Injury By Multiple Persons Against Linear Ascendant-Assault By Multiple Persons-Assault By Multiple Persons Against Linear Ascendant-Intimidation By Multiple Persons-Intimidation By Multiple Persons Against Linear Ascendant (Violence Punishment Act, Article 2, paragraph 2), Repeated Infliction of Injury ·Repeated Infliction of Injury Against Linear Ascendant·Repeated Assault·Repeated Assault Against Linear Ascendant·Repeated Intimidation·Repeated Intimidation Against Linear Ascendant (Violence Punishment Act, Article 2, paragraph 3), Repeated Special Infliction of Injury ·Repeated Special Infliction of Injury Against Linear Ascendant·Repeated Special Assault·Repeated Special Assault Against Linear Ascendant·Repeated Special Intimidation·Repeated Special Intimidation Against Linear Ascendant (Violence Punishment Act, Article 3, paragraph 4), Infliction of Injury For Retaliation-Assault For Retaliation-Intimidation For Retaliation (Aggravated Punishment Act, Article 5-9, paragraph 2), Infliction of Injury For Retaliation Resulting In Death-Assault For Retaliation Resulting In Death (Aggravated Punishment Act, Article 5-9, paragraph 3), Assault Against Drivers Operating Motor Vehicles-Intimidation Against Drivers Operating Motor Vehicles (Aggravated Punishment Act, Article 5-10, paragraph 1), and Assault Against Drivers Operating Motor Vehicles Resulting In Injury-Assault Against Drivers Operating Motor Vehicles Resulting In Death· Intimidation Against Drivers Operating Motor Vehicles Resulting In Injury ·Intimidation Against Drivers Operating Motor Vehicles Resulting In Death (Aggravated Punishment Act, Article 5-10, paragraph 2).



PART A — TYPES OF OFFENSES AND SENTENCING PERIODS

01 | GENERAL INJURY

| TYPE | CLASSIFICATION | MITIGATED SENTENCING RANGE | STANDARD SENTENCING RANGE | AGGRAVATED SENTENCING RANGE |
|------|---------------------------|----------------------------|---------------------------|-----------------------------|
| 1 | General Injury | 2 mos. - 10 mos. | 4 mos. - 1 yr. 6 mos. | 6 mos. - 2 yrs. 6 mos. |
| 2 | Grievous Injury | 6 mos. - 1 yr. 6 mos. | 1 yr. - 2 yrs. | 1 yr. 6 mos. - 4 yrs. |
| 3 | Injury Resulting in Death | 2 yrs. - 4 yrs. | 3 yrs. - 5 yrs. | 4 yrs. - 8 yrs. |
| 4 | Injury for Retaliation | 6 mos. - 1 yr. 6 mos. | 1 yr. - 2 yrs. | 1 yr. 6 mos. - 3 yrs. |

| CLASSIFICATION | | MITIGATING FACTOR | AGGRAVATING FACTOR |
|--------------------------------|---------|---|---|
| Special Sentencing Determinant | Conduct | <ul style="list-style-type: none"> • Inflicting injury by willful negligence • Slight bodily injury (Type 1, 4) • Special consideration can be taken into account for engaging or participating in the offense • Cases where the victim is primarily responsible for the crime or extent of the damage • Offender's conduct was not the direct cause of death (Type 3) | <ul style="list-style-type: none"> • Active role in orchestrating the commission of the crime • Use of the authority of an organization or the multitude; otherwise, an offense committed while carrying a dangerous object (excluding cases which fall under the offense under 2. <i>Offense of Repeated or Special Injury</i>) • Offense against multiple unspecified victims or for a prolonged and repeated commission of the crime • Serious bodily injuries (Type 1, 4) • Victim is an ascendant • Instigating the subordinate person to commit the offense • Condemnable motive (This excludes Type 4) • Crimes of the obstruction of the performance of official duties |

| CLASSIFICATION | | MITIGATING FACTOR | AGGRAVATING FACTOR |
|--------------------------------|-------------|--|---|
| | | | <ul style="list-style-type: none"> • Use of cruel methods for committing the crime • Vulnerable victims |
| Special Sentencing Determinant | Actor /Etc. | <ul style="list-style-type: none"> • Those with hearing and visual impairments • Those with mental incapacity (cases where the offender cannot be held liable) • Voluntary surrender to investigative agencies or whistleblowers • Victim opposes punishing the offender(including genuine efforts to reverse the harm), and damage reversed substantially | <ul style="list-style-type: none"> • Habitual offenders • Repeated offenses of the same type under the Criminal Act |
| General Sentencing Determinant | Conduct | <ul style="list-style-type: none"> • Offender’s passive participation | <ul style="list-style-type: none"> • Two or more co-offenders • Premeditated crime |
| General Sentencing Determinant | Actor /Etc. | <ul style="list-style-type: none"> • Those with mental incapacity (These are cases where the offender can be held liable) • Expresses sincere remorse • No prior criminal history | <ul style="list-style-type: none"> • Repeated offenses of the different type under the Criminal Act 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) |

▷ Apply the following classification in cases in which a crime of violence was committed while intoxicated by the use of alcohol or drugs (including cases of habitual crimes of extortion, repeated offense of extortion, and special offense of extortion):

- ① Cases where 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.
- ② Even if the cases do not fall within ①, intoxication should not be considered a mitigating factor unless the offender’s mental state at the time of the crime constitutes *Those with Mental Incapacity*.



02¹ OFFENSE OF REPEATED, SPECIAL INJURY

| TYPE | CLASSIFICATION | MITIGATED SENTENCING RANGE | STANDARD SENTENCING RANGE | AGGRAVATED SENTENCING RANGE |
|------|--|----------------------------|------------------------------|-----------------------------|
| 1 | Special Bodily Injury | 4 mos. - 1 yr. | 6 mos. - 2 yrs. | 1 yr. - 3 yrs. |
| 2 | Special Aggravated Bodily Injury·Repeated Infliction of Injury | 10 mos. - 2 yrs. | 1 yr. 6 mos. - 3 yrs. 6 mos. | 2 yrs. - 5 yrs. |
| 3 | Repeated Special Infliction of Injury | 1 yr. 6 mos. - 3 yrs. | 2 yrs. - 4 yrs. | 3 yrs. - 6 yrs. |

| CLASSIFICATION | | MITIGATING FACTOR | AGGRAVATING FACTOR |
|--------------------------------|-------------|--|--|
| Special Sentencing Determinant | Conduct | <ul style="list-style-type: none"> • Inflicting injury by willful negligence • Extent of the offense is slight • Special considerations can be taken into account for engaging in the offense • Cases where the victim is also primarily responsible for the crime or extent of the damage | <ul style="list-style-type: none"> • Offense against multiple unspecified victims or prolonged and repeated commission of the crime • Serious bodily injuries (This excludes types of special aggravated bodily injury) • Victim is ascendant • Instigating the subordinate person to commit the offense • Condemnable motives • Condemnable motive crimes that obstruct the performance of official duties • Use of cruel methods for committing the crime • Vulnerable victims |
| Special Sentencing Determinant | Actor /Etc. | <ul style="list-style-type: none"> • Those with hearing and visual impairments • Those with mental incapacity (cases where the offender cannot be held liable) • Voluntary surrender to investigative agencies or whistleblowers • Victim opposes punishing the offender(including genuine efforts to reverse the harm), and damage reversed substantially | <ul style="list-style-type: none"> • Habitual offenders |

| CLASSIFICATION | | MITIGATING FACTOR | AGGRAVATING FACTOR |
|--------------------------------|-------------|--|---|
| General Sentencing Determinant | Conduct | <ul style="list-style-type: none"> Offender’s passive participation | <ul style="list-style-type: none"> Premeditated crime |
| General Sentencing Determinant | Actor /Etc. | <ul style="list-style-type: none"> Those with mental incapacity (These are cases where the offender can be held liable) Expresses sincere remorse No prior criminal history | <ul style="list-style-type: none"> Repeated offenses of the different type under the Criminal Act 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) |

03 | OFFENSE OF ASSAULT

| TYPE | CLASSIFICATION | MITIGATED SENTENCING RANGE | STANDARD SENTENCING RANGE | AGGRAVATED SENTENCING RANGE |
|------|--|----------------------------|---------------------------|-----------------------------|
| 1 | General Assault | - 8 mos. | 2 mos. - 10 mos. | 4 mos. - 1 yr. 6 mos. |
| 2 | Assault Resulting in Injury | 2 mos. - 1 yr. 6 mos. | 4 mos. - 2 yrs. | 6 mos. - 3 yrs. |
| 3 | Assault Resulting in Death | 1 yr. 6 mos. - 3 yr. | 2 yrs. - 4 yrs. | 3 yrs. - 5 yrs. |
| 4 | Assault Against Drivers Operating Motor Vehicles Resulting in Injury | 10 mos. - 2 yrs. | 1 yr. 6 mos. - 3 yrs. | 2 yrs. - 4 yrs. |
| 5 | Assault Against Drivers Operating Motor Vehicles Resulting in Death | 2 yrs. - 4 yrs. | 3 yrs. - 5 yrs. | 4 yrs. - 8 yrs. |
| 6 | Habitual, Repeated, Special Assault | 2 mos. - 1 yr. 2 mos. | 4 mos. - 1 yr. 10 mos. | 6 mos. - 2 yrs. 4 mos. |
| 7 | Assault for Retaliation | 4 mos. - 1 yr. 4 mos. | 10 mos. - 2 yrs. | 1 yr. - 2 yrs. 6 mos. |



| CLASSIFICATION | | MITIGATING FACTOR | AGGRAVATING FACTOR |
|--------------------------------|-------------|---|--|
| Special Sentencing Determinant | Conduct | <ul style="list-style-type: none"> • Committing assault by willful negligence • Cases where the extent of the offense is slight (Type 1, 6, 7) • Slight bodily injury (Type 2, 4) • Special considerations can be taken into account for engaging in the offense • Cases where the victim is also primarily responsible for the crime or extent of the damage • Offender's conduct was not the direct cause of death (Type 3) | <ul style="list-style-type: none"> • Active role in orchestrating the commission of the crime(This excludes Type 6) • Use of the authority of an organization or the multitude; otherwise, offense committed while carrying a dangerous object (excluding cases where special assault applies) • Offense against multiple unspecified victims or for a prolonged and repeated commission of the crime • Serious bodily injuries (Type 2, 4) • Victim is an ascendant • Instigating the subordinate person to commit the offense • Assault against drivers operating motor vehicles (Type 1) • Condemnable motive (This excludes Type 7) • Use of cruel methods for committing the crime • Vulnerable victims |
| Special Sentencing Determinant | Actor /Etc. | <ul style="list-style-type: none"> • Those with hearing and visual impairments • Those with mental incapacity (cases where the offender cannot be held liable) • Voluntary surrender to investigative agencies or whistleblowers • Victim opposes punishing the offender, and damage reversed substantially | <ul style="list-style-type: none"> • Habitual offenders • Repeated offenses of the same type under the Criminal Act (excluding repeated assault under Type 6) |
| General Sentencing Determinant | Conduct | <ul style="list-style-type: none"> • Offender's passive participation | <ul style="list-style-type: none"> • Two or more co-offenders involved • Premeditated crime |
| General Sentencing Determinant | Actor /Etc. | <ul style="list-style-type: none"> • Those with mental incapacity (These are cases where the offender can be held liable) • Expresses sincere remorse • No prior criminal history | <ul style="list-style-type: none"> • Repeated offenses of the different type under the Criminal Act 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) |

04¹ OFFENSE OF INTIMIDATION

| TYPE | CLASSIFICATION | MITIGATED SENTENCING RANGE | STANDARD SENTENCING RANGE | AGGRAVATED SENTENCING RANGE |
|------|---|----------------------------|---------------------------|-----------------------------|
| 1 | General Intimidation | - 8 mos. | 2 mos. - 1 yr. | 4 mos. - 1 yr. 6 mos. |
| 2 | Intimidation Against Drivers Operating Motor Vehicles Resulting in Injury | 10 mos. - 2 yrs. | 1 yr. 6 mos. - 3 yrs. | 2 yrs. - 4 yrs. |
| 3 | Intimidation Against Drivers Operating Motor Vehicles Resulting in Death | 2 yrs. - 4 yrs. | 3 yrs. - 5 yrs. | 4 yrs. - 7 yrs. |
| 4 | Repeated Special Intimidation | 2 mos. - 1 yr. | 4 mos. - 1 yr. 6 mos. | 6 mos. - 2 yrs. |
| 5 | Intimidation for Retaliation | 4 mos. - 1 yr. 4 mos. | 10 mos. - 2 yrs. | 1 yr. - 2 yrs. 6 mos. |

| CLASSIFICATION | | MITIGATING FACTOR | AGGRAVATING FACTOR |
|--------------------------------|---------|--|--|
| Special Sentencing Determinant | Conduct | <ul style="list-style-type: none"> • Committing assault by willful negligence • Cases where the extent of the offense is slight (Type 1, 4, and 5) • Slight bodily injury (Type 2) • Special considerations can be taken into account for engaging in the offense • Cases where the victim is also primarily responsible for the crime or extent of the damage • Offender's conduct was not the direct cause of death (Type 3) | <ul style="list-style-type: none"> • Active role in orchestrating the commission of the crime (This excludes Type 4) • Use of the authority of an organization or the multitude; otherwise, offense committed while carrying a dangerous object (excluding cases where special assault applies) • Offense against multiple unspecified victims or for a prolonged and repeated commission of the crime • Victim is an ascendant • Serious bodily injuries (Type 2) • Instigating the subordinate person to commit the offense • Intimidation against drivers operating motor vehicles (Type 1) • Condemnable motive (This excludes Type 5) |

| CLASSIFICATION | | MITIGATING FACTOR | AGGRAVATING FACTOR |
|--------------------------------|-------------|---|--|
| | | | <ul style="list-style-type: none"> • Use of cruel methods for committing the crime • Vulnerable victims |
| Special Sentencing Determinant | Actor /Etc. | <ul style="list-style-type: none"> • Those with hearing and visual impairments • Those with mental incapacity (cases where the offender cannot be held liable) • Voluntary surrender to investigative agencies or whistleblowers • Victim opposes punishing the offender (includes genuine efforts to reverse the harm) and damage reversed substantially | <ul style="list-style-type: none"> • Habitual offenders • Repeated offenses of the same type under the Criminal Act (excluding repeated assault under Type 4) |
| General Sentencing Determinant | Conduct | <ul style="list-style-type: none"> • Offender's passive participation | <ul style="list-style-type: none"> • Two or more co-offenders involved • Premeditated crime |
| General Sentencing Determinant | Actor /Etc. | <ul style="list-style-type: none"> • Those with mental incapacity (These are cases where the offender can be held liable) • Offender expresses sincere remorse • No prior criminal history | <ul style="list-style-type: none"> • Repeated offenses of the different type under the Criminal Act that do not constitute a repeated offense (This applies when the criminal history is within ten years after completion of sentence) |

DEFINITION OF OFFENSES

01 | OFFENSE OF INJURY

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

| TYPE | ELEMENTS OF THE OFFENSE | APPLICABLE LAW |
|---|--|---|
| Type 1 General Injury | Infliction of Injury | Criminal Act, Article 257, paragraph 1 |
| | Infliction of Injury Against Linear Ascendant | Criminal Act, Article 257, paragraph 2 |
| | Infliction of Injury by Multiple Persons·Infliction of Injury by Multiple Persons Against Linear Ascendant | Violence Punishment Act, Article 2, paragraph 2, subparagraph 3 |
| | Habitual Special Infliction of Injury·Habitual Special Infliction of Injury Against Linear Ascendant | Criminal Act, Article 264 |
| Type 2 Grievous Injury | Infliction of Grievous Injury | Criminal Act, Article 258, paragraph 1 and 2 |
| | Infliction of Grievous Injury Against Linear Ascendant | Criminal Act, Article 258, paragraph 3 |
| | Habitual Infliction of Grievous Injury·Habitual Infliction of Grievous Injury Against Linear Ascendant | Criminal Act, Article 264 |
| Type 3 Injury Resulting in Death | Infliction of Injury Resulting in Death | Criminal Act, Article 259, paragraph 1 |
| | Infliction of Injury Against Linear Ascendant Resulting in Death | Criminal Act, Article 259, paragraph 2 |
| | Infliction of Injury for Retaliation Resulting in Death | Aggravated Punishment Act, Article 5-9, paragraph 3 |
| Type 4 Injury for Retaliation | Infliction of Injury for Retaliation | Aggravated Punishment Act, Article 5-9, paragraph 2 |



02¹ OFFENSE OF REPEATED, SPECIAL INJURY

| TYPE | ELEMENTS OF THE OFFENSE | APPLICABLE LAW |
|--|--|---|
| Type 1 Special Bodily Injury | Special Bodily Injury·Special Bodily Injury Against Linear Ascendant | Criminal Act, Article 258-2, paragraph 1 |
| | Habitual Special Bodily Injury·Habitual Special Bodily Injury Against Linear Ascendant | Criminal Act, Article 264 |
| Type 2 Special Aggravated Bodily Injury, Repeated Special Infliction of Injury | Special Aggravated Bodily Injury·Special Aggravated Bodily Injury Against Linear Ascendant | Criminal Act, Article 258-2, paragraph 2 |
| | Habitual Special Aggravated Bodily Injury·Habitual Special Aggravated Bodily Injury Against Linear Ascendant | Criminal Act, Article 264 |
| | Repeated Infliction of Injury·Repeated Infliction of Injury Against Linear Ascendant | Violence Punishment Act, Article 2, paragraph 3, subparagraph 3 |
| Type 3 Repeated Special Infliction of Injury | Repeated Special Infliction of Injury·Repeated Special Infliction of Injury Against Linear Ascendant | Violence Punishment Act, Article 3, paragraph 4, subparagraph 3 |

03¹ OFFENSE OF ASSAULT

| TYPE | ELEMENTS OF THE OFFENSE | APPLICABLE LAW |
|---------------------------|--|---|
| Type 1 General Assault | Assault | Criminal Act, Article 260, paragraph 1 |
| | Assault Against Linear Ascendant | Criminal Act, Article 260, paragraph 2 |
| | Assault by Multiple Persons·Assault by Multiple Persons Against Linear Ascendant | Violence Punishment Act, Article 2, paragraph , subparagraphs 1 and 2 |
| | Habitual Assault·Habitual Assault Against Linear Ascendant | Criminal Act, Article 264 |
| | Assault Against Drivers Operating Motor Vehicles | Aggravated Punishment Act, Article 5-10, paragraph 1 |

| TYPE | ELEMENTS OF THE OFFENSE | APPLICABLE LAW |
|--|---|---|
| Type 2 Assault Resulting in Injury | Assault Resulting in Injury·Special Assault Resulting in Injury | Criminal Act, Article 262 |
| | Assault Resulting in Injury·Special Assault Resulting in Injury (Grievous Injury) | Criminal Act, Article 262 |
| | Assault Against Linear Ascendant Resulting in Injury | Criminal Act, Article 262 |
| | Assault Against Linear Ascendant Resulting in Injury (Grievous Injury) | Criminal Act, Article 262 |
| Type 3 Assault Resulting in Death | Assault Resulting in Death, Special Assault Resulting in Death | Criminal Act, Article 262 |
| | Assault Against Linear Ascendant Resulting in Death | Criminal Act, Article 262 |
| | Assault for Retaliation Resulting in Death | Aggravated Punishment Act, Article 5-9, paragraph 3 |
| Type 4 Assault Against Drivers Operation Motor Vehicles Resulting in Injury | Assault Against Drivers Operating Motor Vehicles Resulting in Injury | Aggravated Punishment Act, Article 5-10, paragraph 2 |
| Type 5 Assault Against Drivers Operation Motor Vehicles Resulting in Death | Assault Against Drivers Operating Motor Vehicles Resulting in Death | Aggravated Punishment Act, Article 5-10, paragraph 2 |
| Type 6 Repeated, Special Assault | Special Assault·Special Assault Against Linear Ascendant | Criminal Act, Article 261 |
| | Habitual Assault Against Linear Ascendant·Habitual Special Assault | Criminal Act, Article 264 |
| | Repeated Assault | Violence Punishment Act, Article 2, paragraph 3, subparagraph 1 |
| | Repeated Assault Against Linear Ascendant | Violence Punishment Act, Article 2, paragraph 3, subparagraph 2 |
| | Repeated Special Assault | Violence Punishment Act, Article 3, paragraph 4, subparagraph 1 |
| | Repeated Special Assault Against Linear Ascendant | Violence Punishment Act, Article 3, paragraph 4, subparagraph 2 |
| Type 7 Assault for Retaliation | Assault for Retaliation | Aggravated Punishment Act, Article 5-9, paragraph 2 |



04¹ OFFENSE OF INTIMIDATION

| TYPE | ELEMENTS OF THE OFFENSE | APPLICABLE LAW |
|---|--|--|
| Type 1 General Assault | Intimidation | Criminal Act, Article 283, paragraph 1 |
| | Intimidation Against Linear Ascendant | Criminal Act, Article 283, paragraph 2 |
| | Intimidation by Multiple Persons·Intimidation by Multiple Persons Against Linear Ascendant | Violence Punishment Act, Article 2, paragraph 2, subparagraphs 1 and 2 |
| | Habitual Intimidation·Habitual Intimidation Against Linear Ascendant | Criminal Act, Article 285 |
| | Intimidation Against Drivers Operating Motor Vehicles | Aggravated Punishment Act, Article 5-10, paragraph 1 |
| Type 2 Intimidation Against Drivers Operating Motor Vehicles Resulting in Injury | Intimidation Against Drivers Operating Motor Vehicles Resulting in Injury | Aggravated Punishment Act, Article 5-10, paragraph 2 |
| Type 3 Assault Against Drivers Operation Motor Vehicles Resulting in Death | Intimidation Against Drivers Operating Motor Vehicles Resulting in Death | Aggravated Punishment Act, Article 5-10, paragraph 2 |
| Type 4 Repeated, Special Intimidation | Special Assault·Special Assault Against Linear Ascendant | Criminal Act, Article 284 |
| | Habitual Special Intimidation·Habitual Intimidation Against Linear Ascendant | Criminal Act, Article 285 |
| | Repeated Intimidation | Violence Punishment Act, Article 2, paragraph 3, subparagraph 1 |
| | Repeated Intimidation Against Linear Ascendant | Violence Punishment Act, Article 2, paragraph 3, subparagraph 2 |
| | Repeated Special Intimidation | Violence Punishment Act, Article 3, paragraph 4, subparagraph 1 |
| | Repeated Special Intimidation Against Linear Ascendant | Violence Punishment Act, Article 3, paragraph 4, subparagraph 2 |
| Type 5 Intimidation for Retaliation | Assault for Retaliation | Aggravated Punishment Act, Article 5-9, paragraph 2 |

DEFINITION OF SENTENCING FACTORS

01 | MINOR BODILY INJURIES

- Minor bodily injuries mean cases where 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.

02 | SERIOUS BODILY INJURIES

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

03 | SPECIAL CONSIDERATIONS CAN BE TAKEN INTO ACCOUNT FOR ENGAGING OR PARTICIPATING IN THE OFFENSE

- This indicates cases in which 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)
 - When the offender merely agreed to participate in the crime but did not lead or participate in the commission of the crime
 - Other cases with comparable factors

04 | CASES WHERE THE VICTIM IS ALSO PRIMARILY RESPONSIBLE FOR THE CRIME OR EXTENT OF THE DAMAGE

- This indicates cases in which the offense resulted from certain causes attributable to the victim as well as the offender (*e.g.*, when domestic violence inflicted to the offender by the victim was the motive of the offense or when the offense was committed to fighting against the victim's preceding crime or unfair treatment towards the offender) or the damage was enlarged to a substantial degree by certain causes attributable to the victim, in the course of the offense or after the offense.

05 | OFFENDER'S CONDUCT WAS NOT THE DIRECT CAUSE OF THE DEATH

- This indicates cases in which the intervening causes other than the offender's conduct led to the death of the victim and, therefore, the offender cannot be held liable for the direct cause of the death.

06 | THE VICTIM OPPOSES PUNISHMENT (THIS INCLUDES GENUINE EFFORTS TO REVERSE THE HARM)

- This indicates cases in which the offender expresses remorse for committing the crime, and the family member of the deceased victim or the victim acknowledges this and objects to punishing the offender.
- This includes cases in which an agreement was not reached with the deceased's family or the victim, and the offender deposited a considerable amount of money to reach an agreement with the family of the deceased or the victim as a genuine effort to reverse the harm.

07 | CONDEMNABLE MOTIVES

- This means one or more of the following factors apply:
 - Offense committed out of retaliation, grievances, or hatred
 - Cases where the offender enjoyed committing the crime itself
 - Other cases with comparable factors

08 | CRUEL METHOD OF THE CRIME

- This indicates cases in which the victim has been harmed by extreme physical or mental pain in terms of the degree and duration of the pain.

09 | VULNERABLE VICTIMS

- This indicates cases in which the victim was especially vulnerable due to reduced physical or mental capacity or age at the time of the crime and the offender was already aware of or possibly aware of the victim's such circumstances.

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 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 offense.



11 | PREMEDITATED CRIME

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

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.

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 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 where 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"> • Use of the authority of an organization or the multitude; otherwise, offense committed while carrying a dangerous object such as a weapon offense against multiple unspecified victims or for a prolonged and repeated commission of the crime • Victim is an ascendant • Condemnable motives • A criminal history of the same offense (imposing suspension of sentence or a more severe punishment, or three or a more incidences of the fine within five years) exists • The degree of the crime of obstruction of the performance of official duties is grievous • Vulnerable victims • Prolonged and repeated commission of the crime | <ul style="list-style-type: none"> • Committing offense by willful negligence • Slight bodily injuries • Special considerations can be taken into account for engaging or participating in the offense • Cases where the victim is also primarily responsible for the crime or extent of the damage • When the aspect of the crime is slight • Offender stopped or troubled the performance of the crime by the accomplice • Offender’s conduct was not the direct cause of death or serious bodily injury • No prior criminal history • Victim opposes offender’s punishment (This includes genuine efforts to reverse the harm) |
| General Consideration Factor | <ul style="list-style-type: none"> • Two or more criminal history on the suspension of sentence or for a greater offense • Lack of social ties • Drug or alcohol addiction • Absence of remorse • Premeditated crime • Victim was a driver who operated a motor vehicle • Crime against unspecified or multiple victims • Active participation as an accomplice | <ul style="list-style-type: none"> • Strongly established social ties • Accidental crime • Expresses sincere remorse • Significant amount of money deposited • No criminal history of the suspension of sentence or imposing of other sentences more severe • Cases of elderly offenders • Cases of physically ill offenders • Offender’s passive participation as an accomplice |

| CLASSIFICATION | ADVERSE | AFFIRMATIVE |
|----------------|---|--|
| | <ul style="list-style-type: none"> • Deliberate concealment of profits gained from the offense • Absence of efforts to reverse the harm | <ul style="list-style-type: none"> • Rescuing or transferring the victim to the hospital after committing the offense • Cases where the arrest of the offender would cause severe hardship to the offender's dependent family member |

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*.
- Significant obstruction of official duties means cases with one or more of the following factors:
 - The obstruction of official duties in regard to the extent and duration causing inconvenience or interruptions to official duties is significant
 - Offense committed against the public officer who was performing an urgent mission to save lives, extinguish fires, investigate crimes, maintain security, etc.
 - Other cases with comparable 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, prior criminal history is calculated from the final date of the completion of the sentence up to 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.