

Promulgated on June 18, 2012, Effective on July 1, 2012

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 257, paragraph 3), 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 262), 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 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 (Criminal Act, Article 285), Habitual Assault·Habitual Intimidation (Violence Punishment Act, Article 2, paragraph 1, subparagraph 1), Habitual Assault Against Linear Ascendant·Habitual Intimidation Against Linear Ascendant(Violence Punishment Act, Article 2,

paragraph 1, subparagraph 2), Habitual Infliction of Injury·Habitual Infliction of Injury Against Linear Ascendant (Violence Punishment Act, Article 2, paragraph 1, subparagraph 3), 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), Special Infliction of Injury·Special Infliction of Injury Against Linear Ascendant·Special Assault·Special Assault Against Linear Ascendant·Special Intimidation·Special Intimidation Against Linear Ascendant (Violence Punishment Act, Article 3, paragraph 1), Habitual Special Assault·Habitual Special Intimidation (Violence Punishment Act, Article 3, paragraph 3, subparagraph 1), Habitual Special Assault Against Linear Ascendant·Habitual Special Intimidation Against Linear Ascendant (Violence Punishment Act, Article 3, paragraph 3, subparagraph 2), habitual special injury·Habitual Special Infliction of Injury Against Linear Ascendant (Violence Punishment Act, Article 3, paragraph 3, subparagraph 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), 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).



I. TYPES OF OFFENSE AND SENTENCING PERIODS

01¹ GENERAL INJURY

Type	Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
1	General Injury	2 months - 1 yr	4 months - 1 yr 6 months	6 months - 2 yrs
2	Grievous Injury	6 months - 1 yr 6 months	1 yr - 2 yrs	1 yr 6 months - 3 yrs
3	Injury Resulting in Death	2 yrs - 4 yrs	3 yrs - 5 yrs	4 yrs - 7 yrs
4	Injury for Retaliation	6 months - 1 yr 6 months	1 yr - 2 yrs	1 yr 6 months - 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 Organization or the Multitude; Otherwise Offense Committed While Carrying a Dangerous Object Such As a Weapon (Excluding Cases Which Fall Under Offense of 2. <i>Offense of Habitual - Repeated - Special Injury</i>) ● Offense Against Unspecified Multiple Victims or for 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 ● Use of Cruel Methods for Committing the Crime ● Vulnerable Victims

Classification		Mitigating Factor	Aggravating Factor
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 Whistle Blowers ● Victim Opposes Punishment (Including Genuine Efforts to Reverse Harm) 	<ul style="list-style-type: none"> ● Repeated Offenses of the Same Type under the Criminal Act
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> ● 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 Different Type under the Criminal Act that Does Not Constitute Repeated Offenses under the Criminal Act (This Applies When the Criminal History is Within Ten Years After Completion of Sentence)

▷ Apply the following classification in cases where 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, 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 taken into account as a mitigating factor unless the offender’s mental state at the time of the crime constitutes Those with Mental Incapacity.



02¹ OFFENSE OF HABITUAL · REPEATED · SPECIAL INJURY

Type	Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
1	Habitual Infliction of Injury · Repeated Infliction of Injury · Special Infliction of Injury	1 yr 6 months - 2 yrs 6 months	2 yrs - 4 yrs	3 yrs - 5 yrs
2	Habitual Special Extortion · Repeated Special Infliction of Injury	2 yrs 6 months - 4 yrs	3 yrs - 5 yrs	4 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 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 Unspecified Multiple Victims or Prolonged and Repeated Commission of the Crime ● Serious Bodily Injuries ● Victim is Ascendant ● Instigating the Subordinate Person to Commit the Offense ● Condemnable Motives ● Condemnable Motive Crimes that Obstructs 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 Whistle Blowers ● Victim Opposes Punishing Offender and Damage Reversed Substantially 	
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> ● 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 Different Type under the Criminal Act that Does Not Constitute Repeated Offenses under the Criminal Act (This Applies When the Criminal History is Within Ten Years After Completion of Sentence)



03¹ OFFENSE OF ASSAULT

Type	Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
1	General Assault	Less than 8 months	2 months - 10 months	4 months - 1 yr
2	Assault Resulting in Injury	2 months - 1 yr 6 months	4 months - 2 yrs	6 months - 3 yrs
3	Assault Resulting in Death	1 yrs 6 months - 3 yr	2 yrs - 4 yrs	3 yrs - 5 yrs
4	Assault Against Drivers Operating Motor Vehicles Resulting in Injury	10 months - 2 yrs	1 yr 6 months - 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 - 7 yrs
6	Habitual-Repeated-Special Assault	4 months - 1 yr 2 months	6 months - 1 yr 10 months	8 months - 2 yrs 4 months
7	Assault for Retaliation	4 months - 1 yr 4 months	10 months - 2 yrs	1 yr - 2 yrs 6 months

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 Offense ● Cases Where the Victim is Also Primarily Responsible for the Crime or Extent of the Damage ● Offender's Conduct Was Not 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 Organization or the Multitude; Otherwise Offense Committed While Carrying a Dangerous Object Such As a Weapon (Excluding Cases Where Special Assault Apply) ● Offense Against Unspecified Multiple Victims or for 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 Whistle Blowers ● Victim Opposes Punishing Offender and Damage Reversed Substantially 	<ul style="list-style-type: none"> ● Repeated Offenses of the Same Type under the Criminal Act (Excluding Habitual, Repeated Assault Under Type 6)
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> ● Passive Participation 	<ul style="list-style-type: none"> ● Two or More Co-Offenders Involved ● Premeditated Crime



Classification		Mitigating Factor	Aggravating Factor
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 Different Type under the Criminal Act that Does Not Constitute Repeated Offenses 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	Less than 8 months	2 months - 1 yr	4 months - 1 yr 6 months
2	Intimidation Against Drivers Operating Motor Vehicles Resulting in Injury	10 months - 2 yrs	1 yr 6 months - 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	Habitual · Repeated · Special Intimidation	4 months - 1 yr	6 months - 1 yr 6 months	8 months - 2 yrs
5	Intimidation for Retaliation	4 months - 1 yr 4 months	10 months - 2 yrs	1 yr - 2 yrs 6 months

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, 5) ● Slight Bodily Injury (Type 2) ● Special Considerations can be Taken into Account for Engaging in Offense ● Cases Where the Victim is Also Primarily Responsible for the Crime or Extent of the Damage ● Offender's Conduct Was Not 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 Organization or the Multitude; Otherwise Offense Committed While Carrying a Dangerous Object Such As a Weapon (Excluding Cases Where Special Assault Apply) ● Offense Against Unspecified Multiple Victims or for 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) ● 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 Whistle Blowers ● Victim Opposes Punishing Offender (Includes Genuine Efforts to Reverse Harm) and Damage Reversed Substantially 	<ul style="list-style-type: none"> ● Repeated Offenses of the Same Type under the Criminal Act (Excluding Habitual Repeated Assault Under Type 4)



Classification		Mitigating Factor	Aggravating Factor
General Sentencing Determinant	Conduct	<ul style="list-style-type: none">● 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 Different Type under the Criminal Act that Does Not Constitute Repeated Offenses under the Criminal Act (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 (Hereinafter as so applied).

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
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
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 HABITUAL · REPEATED · SPECIAL INJURY

- This means offenses with the following statutory elements of the offense under the applicable laws (Hereinafter as so applied).

Type	Elements of the Offense	Applicable Law
Type 1 Habitual · Repeated · Special Infliction of Injury	Habitual Infliction of Injury · Habitual Infliction of Injury Against Linear Ascendant · Habitual Infliction of Grievous Injury · Habitual Infliction of Grievous Injury Against Linear Ascendant	Criminal Act, Article 264
	Habitual Infliction of Injury · Habitual Infliction of Injury Against Linear Ascendant	Violence Punishment Act, Article 2, paragraph 1, subparagraph 3
	Repeated Infliction of Injury · Repeated Infliction of Injury Against Linear Ascendant	Violence Punishment Act, Article 2, paragraph 3
	Special Infliction of Injury · Special Infliction of Injury Against Linear Ascendant	Violence Punishment Act, Article 3, paragraph 1
Type 2 Special Habitual · Special Repeated Infliction of Injury	Habitual Special Infliction of Injury · Habitual Special Infliction of Injury Against Linear Ascendant	Violence Punishment Act, Article 3, paragraph 3, subparagraph 3
	Repeated Special Infliction of Injury · Repeated Special Infliction of Injury Against Linear Ascendant	Violence Punishment Act, Article 3, paragraph 4

03 | 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 2
	Assault Against Drivers Operating Motor Vehicles	Aggravated Punishment Act, Article 5-10, paragraph 1
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 Operating Motor Vehicles Resulting in Injury	Assault Against Drivers Operating Motor Vehicles in Injury	Aggravated Punishment Act, Article 5-10, paragraph 2
Type 5 Assault Against Drivers Operating Motor Vehicles Resulting in Death	Assault Against Drivers Operating Motor Vehicles in Injury	Aggravated Punishment Act, Article 5-10, paragraph 2



Type	Elements of the Offense	Applicable Law
Type 6 Habitual · Repeated · Special Assault	Habitual Assault · Habitual Assault Against Linear Ascendant · Habitual Special Assault	Criminal Act, Article 264
	Habitual Assault	Violence Punishment Act, Article 2, paragraph 1, subparagraph 1
	Habitual Assault Against Linear Ascendant	Violence Punishment Act, Article 2, paragraph 1, subparagraph 2
	Repeated Assault	Violence Punishment Act, Article 2, paragraph 3
	Repeated Assault Against Linear Ascendant	Violence Punishment Act, Article 2, paragraph 3
	Special Assault · Special Assault Against Linear Ascendant	Criminal Act, Article 261
	Special Assault	Violence Punishment Act, Article 3, paragraph 1
	Special Assault Against Linear Ascendant	Violence Punishment Act, Article 3, paragraph 1
	Habitual Special Assault	Violence Punishment Act, Article 3, paragraph 3, subparagraph 1
	Habitual Special Assault Against Linear Ascendant	Violence Punishment Act, Article 3, paragraph 3, subparagraph 2
	Repeated Special Assault	Violence Punishment Act, Article 3, paragraph 4
Repeated Special Assault Against Linear Ascendant	Violence Punishment Act, Article 3, paragraph 4	
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
	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 Habitual · Repeated · Special Intimidation	Habitual Intimidation · Habitual Intimidation Against Linear Ascendant · Habitual Special Intimidation	Criminal Act, Article 285
	Habitual Intimidation	Violence Punishment Act, Article 2, paragraph 1, subparagraph 1
	Habitual Intimidation Against Linear Ascendant	Violence Punishment Act, Article 2, paragraph 1, subparagraph 2
	Repeated Intimidation	Violence Punishment Act, Article 2, paragraph 3
	Repeated Intimidation Against Linear Ascendant	Violence Punishment Act, Article 2, paragraph 3
	Special Assault · Special Assault Against Linear Ascendant	Criminal Act, Article 284



Type	Elements of the Offense	Applicable Law.
	Special Intimidation	Violence Punishment Act, Article 3, paragraph 1
	Special Intimidation Against Linear Ascendant	Violence Punishment Act, Article 3, paragraph 1
	Habitual Special Intimidation	Violence Punishment Act, Article 3, paragraph 3, subparagraph 1
	Habitual Special Intimidation Against Linear Ascendant	Violence Punishment Act, Article 3, paragraph 3, subparagraph 2
	Repeated Special Intimidation	Violence Punishment Act, Article 3, paragraph 4
	Repeated Special Intimidation Against Linear Ascendant	Violence Punishment Act, Article 3, paragraph 4
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 means cases where the inflicted injury requires less than two weeks of medical care, affecting relatively limited bodily parts, which does not disrupt day-to-day activities of the victim, 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 OFFENSE

- This means cases where one or more of the following factors apply:
 - Participation in the crime was forced by another person or resulted from threats (This excludes cases where Criminal Act, Article 12 is applicable);
 - When the offender merely agreed to participate in the crime but did not lead or actually participate in the commission of the crime; or
 - Other cases with comparable factors.

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

- This means cases where 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 fight



against the victim's preceding crime or an unfair treatment towards the offender) or where 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 means cases where the intervening causes other than the offender's conduct lead 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 HARM)

- This means cases where the offender expresses signs of remorse and the family member of the deceased victim or the victim acknowledges this and objects punishing the offender.
- This includes cases where the offender fail to reach an agreement with the family of the deceased or the victim, so deposits are made in a considerable amount of money comparable to reaching of an agreement with the family of the deceased or the victim as a result of the offender's genuine efforts to reverse 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 means cases where 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 means cases where 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 | PASSIVE PARTICIPATION

- This means cases where the nature of participation in the commission of the offense was passive or the offender had limited role.
- However, this is not applicable in cases where the offender had an active role in the commission of the offense by causing another person to commit offense.

11 | PREMEDITATED CRIME

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



[ASSESSING PRINCIPLES APPLICABLE TO THE SENTENCING FACTORS]

01¹ DETERMINING APPROPRIATE SENTENCING RANGE

- In determining the appropriate sentencing range, the judge must only consider the special sentencing determinants.
- However, in cases involving more than two special sentencing determinant, the applicable sentencing range is adjusted after assessing the factors as set forth below:
 - ① The same number of conduct factor shall be considered with greater significance than the actor/etc. factor. However, this shall be assessed equally to the victim or the family member of the deceased victim's objection to the punishment.
 - ② Each factor within the relevant categories of conduct or actor/etc. factors should be treated as equal.
 - ③ If the applicable sentencing range is unable to be determined by the aforementioned principles ①, ②, the judge is to decide the applicable sentencing range through a comprehensive comparison and assessment based on the principles set forth in ①, ②.
- It is recommended that when the assessment reveals greater aggravating factors to select the aggravated zone, the mitigating factors is greater to select the mitigating zone, and the same number of aggravating factors and mitigating factors to select the standard zone as a sentencing range.

02¹ DETERMINING THE APPLICABLE SENTENCE

- The judge should select the proper point within the sentencing range as assessed in accordance with the above principles, along with the special sentencing determinant and general sentencing determinant taken together.

[GENERAL APPLICATION PRINCIPLES]

01 | SPECIAL ADJUSTMENTS TO THE SENTENCING RANGE

- ① In cases where the aggravating factor is selected and the assessment of the special sentencing determinant reveals only two or more special aggravating factors or the special sentencing determinant outnumbers the special mitigating determinant by two or more, then the sentencing range should be increased up to 1/2 from the maximum level. If this results in a maximum level that exceeds twenty-five years, then the judge may impose a life imprisonment.
- ② For cases where the mitigating factor is selected as a result of assessment of the special sentencing determinant, and there are two or more special mitigating determinant or the special mitigating determinant outnumbers the special aggravating determinant by two or more, the sentencing range should be decreased up to 1/2 from the minimum level.

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

When the sentencing range under this guideline conflicts with the range drawn in accordance with the aggravation and mitigation of applicable law, the sentencing range prescribed by applicable law governs.

03 | APPLICATION OF STATUTORY MITIGATING FACTORS AS DISCRETIONARY

When the judge declines to apply the optional mitigation factor under the applicable law as listed in the sentencing table of this guideline, this shall be considered as the discretion for mitigation.



[GUIDELINE ON MULTI-COUNT CONVICTIONS]

01 | APPLICABLE SCOPE

- This part on multi-count convictions applies to concurrent crimes prescribed in the first part of Article 37 of the Criminal Act as set forth in this sentencing guideline. However, in cases of this article's concurrent crimes where offenses that fall within and outside of the sentencing guidelines are involved, the minimum level should be the minimum of the sentencing range of the offense that is set forth in this sentencing guideline.

02 | DETERMINING BASE OFFENSE

- The “base offense” means the most severe offense that results after the selection of penalty and statutory aggravation and mitigation as prescribed in Criminal Act, Article 50. However, in cases where the maximum sentencing range is lower than that of the maximum sentencing range of the other counts as provided in this guideline, then such other count becomes the base offense.

03 | CALCULATING SENTENCING RANGE OF MULTI-COUNT CONVICTION OF THE SAME OFFENSE

- For purposes of calculating sentencing range for multi-count conviction cases among the offenses of extortion, the judge shall apply the following :
 - ① In setting sentencing range for an offender convicted of two counts, the sentencing range should be the total sum of the maximum sentencing range of the base offense and the 1/2 of the maximum sentencing range of the second count.
 - ② In setting sentencing range for an offender convicted of three or more counts, the sentencing range should be the total sum of the following: (1) maximum sentencing range of the base offense, (2) 1/2 of the maximum sentencing range of the count with the highest sentencing range, and (3) 1/3 of the maximum sentencing range of the remaining count with the second highest sentencing range.

- ③ For cases where the minimum sentencing range of the other count is higher than that of the base offense, the minimum sentencing range resulting from the multi-count offense should be the minimum sentencing range of the other count.
- However, when the multi-count conviction is composed of two or more offense of extortion and other different offenses, first set the sentencing range for multi-count conviction of the same offense and then use the resulted point range to calculate the sentencing range for multi-count conviction with different offenses.



II. GUIDELINE ON SUSPENSION OF SENTENCE

Classification	Adverse	Affirmative
<p style="text-align: center;">Primary Consideration Factor</p>	<ul style="list-style-type: none"> ● Use of the Authority of Organization or the Multitude; Otherwise Offense Committed While Carrying a Dangerous Object Such As a Weapon Offense Against Unspecified Multiple Victims or for Prolonged and Repeated Commission of the Crime ● Victim is an Ascendant ● Condemnable Motives ● Criminal History of the Same Offense (Imposing of Suspension of Sentence or More Severe Punishment, or Three or More Incidences of Fine Within Five Years) ● Crimes of Obstruction of the Performance of Official Duties ● 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 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 Direct Cause of Death or Serious Bodily Injury ● No Prior Criminal History ● Victim Opposes Offender's Punishment (This Includes Genuine Efforts to Reverse Harm)
<p style="text-align: center;">General Consideration Factor</p>	<ul style="list-style-type: none"> ● Two or More Criminal History on Suspension of Sentence or for a Greater Offense ● Lack of Social Ties ● Drug or Alcohol Addiction ● Absence of Remorse ● Premeditated Crime ● Victim Was a Driver Who Operated a Motor Vehicle ● Crime Against Unspecified Multiple Victims ● Active Participation as an Accomplice ● Deliberate Concealment of Profits Gained from the Offense ● Absence of Efforts to Reverse Harm 	<ul style="list-style-type: none"> ● Strongly-Established Social Ties ● Accidental Crime ● Expresses Sincere Remorse ● Significant Amount of Money Deposited ● No Criminal History of Suspension of Sentence or Imposing of Other Sentences More Severe ● Cases of Old-Aged Offenders ● Cases of Physically-ill Offenders ● Passive Participation As an Accomplice ● 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 CONSIDERATION FACTORS FOR SUSPENSION OF SENTENCE]

- In cases where the consideration factors for suspension of sentence of sentencing and the sentencing factors are identical, refer to the definitions set forth in the *Definition of Sentencing Factors*.

- Determining Criminal History
 - Prior criminal history is calculated as follows: In cases involving suspension of sentence, calculate from the date the defendant’s suspension of sentence was affirmed up to the date of the commission of the offense. In cases imposing imprisonment, calculate from the final date of the completion of the sentence up to the date of the commission of the offense.



[ASSESSING PRINCIPLES APPLICABLE TO THE SENTENCING FACTORS]

- For cases where the imposing penalty is imprisonment, in deciding whether the suspension of sentence is appropriate, the primary consideration factor should be taken into account with greater importance than the general consideration factors. This is further specified as follows:
 - ① In cases where only two or more primary affirmative factors exist or when primary affirmative factors outnumber the major adverse factor by two or more, suspension of sentence is recommended.
 - ② In cases where two or more primary adverse factors exist or when primary adverse factors outnumber the primary affirmative factor by two or more, imprisonment is recommended.
 - ③ In cases other than ①, ②, or even if cases of ①, ②, if the difference between the number of general adverse(affirmative) factors and general affirmative (adverse) factors is greater than that of adverse and affirmative factors of the primary consideration, then the judge shall decide whether to suspend the sentencing after assessing and comprehensively taking into account the factors listed under the suspension of sentence section.

