CHAPTER 45

Crimes of Illegal Arrest · Confinement · Abandonment · Abuse

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This guideline applies to adult offenders (nineteen years of age or older) who committed any offenses of Illegal arrest or Confinement (Criminal Act, Article 276, paragraph 1), Illegal Arrest or Confinement of Lineal Ascendant (Criminal Act, Article 276, paragraph 2), Aggravated False Arrest or Aggravated Illegal Confinement (Criminal Act, Article 277, paragraph 1), Aggravated Illegal Arrest or Confinement of Lineal Ascendant (Criminal Act, Article 277, paragraph 2), Special False Arrest or Illegal Confinement, Special False Arrest or Confinement of Lineal Ascendant, Special Aggravated Arrest or Confinement, Special False Arrest or Confinement of Lineal Ascendant (Criminal Act, Article 278), Habitual Illegal Arrest or Confinement, Habitual Illegal Arrest or Confinement of Lineal Ascendant, Habitual Aggravated Illegal Arrest or Confinement, Habitual Aggravated Illegal Arrest or Confinement of Lineal Ascendant (Criminal Act, Article 279), Death or Injury caused by Arrest or Confinement, Injury caused by Aggravated Arrest or Confinement, Injury caused by Special Arrest or Confinement, Death or Injury caused by Special Aggravated Arrest or Confinement (Criminal Act, Article 281, paragraph 1, first part), Death or Injury caused by Arrest or Confinement, Death or Injury caused by Aggravated Arrest or Confinement of Lineal Ascendant, Death or Injury caused by Aggravated Arrest or Confinement of Lineal Ascendant, Death or Injury caused by Special Aggravated Arrest or Confinement (Criminal Act, Article

281, paragraph 2, first part), Death caused by Arrest or Confinement, Death caused by Aggravated Arrest or Confinement, Death caused by Special Arrest or Confinement, Death caused by Special Aggravated Arrest or Confinement, Death caused by Habitual Arrest or Confinement, Death caused by Habitual Aggravated Arrest or Confinement (Criminal Act, Article 281, paragraph 1, latter part), Death or Injury caused by Arrest or Confinement of Lineal Ascendant, Death or Injury caused by Aggravated Arrest or Confinement of Lineal Ascendant, Death or Injury caused by Special Arrest or Confinement of Lineal Ascendant, Death or Injury caused by Special Aggravated Arrest or Confinement of Lineal Ascendant, Death or Injury caused by Habitual Arrest or Confinement of Lineal Ascendant, Death or Injury caused by Habitual Aggravated Arrest or Confinement of Lineal Ascendant (Criminal Act, Article 281, paragraph 2, latter part), Arrest or Confinement Committed by Two or More Persons Jointly, Arrest or Confinement of Lineal Ascendant Committed by Two or More Persons Jointly (Act on the Punishment of Violences, etc., Article 2, paragraph 2), Arrest or Confinement by the Person Committing the Offense Repeatedly (Act on the Punishment of Violences, etc., Article 2, subparagraph 3), Special Arrest or Confinement, or Special Arrest or Confinement of Lineal Ascendant by the Person Committing the Offense Repeatedly (Act on the Punishment of Violences, etc., Article 3, paragraph 4), Arrest or Confinement with the intent to retaliate (Act on the Aggravated Punishment of Specific Crimes, Article 5-9, paragraph 2), Death Resulting from Arrest or Confinement Committed with Intent to Retaliate (Act on the Aggravated Punishment of Specific Crimes, Article 5-9, paragraph 3), Abandonment (Criminal Act, Article 271, paragraph 1), Abandonment of Lineal Ascendant (Criminal Act, Article 271, paragraph 2), Aggravated Abandonment (Criminal Act, Article 271, paragraph 3), Aggravated Abandonment of Lineal Ascendant (Criminal Act, Article 271, paragraph 4), Abandoning Baby (Criminal Act, Article 272), Cruelty to Another (Criminal Act, Article 273, paragraph 1), Cruelty to Lineal Ascendant (Criminal Act, Article 273, paragraph 2), Injury Caused by Abandonment, Aggravated Injury Caused by Abandonment, Injury of Baby Caused by Abandonment, Injury Caused by Cruelty (Criminal Act Article 275, paragraph 1, first part), Death Caused by Abandonment, Aggravated Death Caused by Abandonment, Death of Baby Caused by Abandonment, or Death Caused by Cruelty (Criminal Act Article 275, paragraph 1, latter part), Death of Lineal Ascendant Caused by Abandonment, Aggravated Death of Lineal Ascendant Caused by Abandonment, or Death of Lineal Ascendant Caused by Cruelty (Criminal Act, Article 275, paragraph 2, latter part), Abandonment of the Elderly or Abuse Toward the Elderly under Welfare of Senior Citizens Act (Welfare of Senior Citizens Act, Article 55-2, Article 55-3, paragraph 1, subparagraph 2), Abuse Toward Youth Prescribed in Youth Protection Act (Youth Protection Act, Article 57),

Children Trafficking under Child Welfare Act (Child Welfare Act, Article 71, paragraph 1, subparagraph 1), Having a child engage in lewd acts, arranging lewd acts, committing sexual harassment (Child Welfare Act, Article 71, paragraph 1, 1-2), Child Abuse, Child Abandonment, Neglecting, Placing a Child with Disability to Public Viewing, Forcing a Child to Go Begging or Exploiting a Child in Begging (Child Welfare Act, Article 71, paragraph 1, subparagraph 2), Habitual Offender of Child Welfare Act (Child Welfare Act, Article 72), Child Abuse and Murder (Act on Special Cases Concerning the Punishment of Child Abuse Crimes, Article 4, paragraph 1), Death of a Child Caused by Child Abuse (Act on Special Cases Concerning the Punishment of Child Abuse Crimes, Article 4, paragraph 2), Abuse of, and Aggravated Bodily Injury on Children (Act on Special Cases Concerning the Punishment of Child Abuse Crimes, Article 5), Habitual Offender of Child Abuse (Act on Special Cases Concerning the Punishment of Child Abuse Crimes, Article 6, Article 2, subparagraph 4, item 2, item 3), Child Abuse by a Person With a Duty to Report Child Abuse (Act on Special Cases Concerning the Punishment of Child Abuse Crimes, Article 7, Article 2, subparagraph 4, item 2, item 3, item 12)

※ Note that the underlined provisions applied to certain crimes were deleted or amended following the statutory revisions made after the sentencing guidelines were established. The sentencing guidelines on those crimes will be revised later. For this reason, all or part of the current standards of sentencing would not be applied.

PART A

TYPES OF OFFENSES AND SENTENCING RANGE

1 ARREST · CONFINEMENT

1. GENERAL APPLICABLE PRINCIPLES

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	General Arrest · Confinement	– 8 mos.	6 mos. – 1 yr.	8 mos. – 2 yrs.
2	Arrest · Confinement for the Purpose of Retaliation	4 mos. – 1 yr. 4 mos.	10 mos. – 2 yrs.	1 yr. – 2 yrs. 6 mos.
3	Repeated Offense of Arrest · Confinement	6 mos. – 1 yr. 6 mos.	10 mos. – 3 yrs.	1 yr. 6 mos. – 4 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Dolus Eventualis • Cases involving only a minor degree of arrest or confinement • Cases with special extenuating circumstances that mitigate the offender's involvement • Extenuating motives for the offense • The offender voluntarily released the victim to a safe place	• Playing a leading role or directing/coordinating the offense (excluding Type 3 offenses) • Cases where the offense is committed by a show of force by a group or multitude, or by carrying a dangerous weapon • Where the offense was committed against an unspecified number of persons or multiple victims, or was repeatedly committed over a considerable period • The victim is a lineal ascendant of the offender • The offender cruelly treats a person as prescribed in the Criminal Act, Article 277, paragraph 1 • Morally reprehensible motives (This does not apply to Type 2 offenses) • Cases involving serious degree of arrest or confinement • Vulnerable victim • Instigating the subordinate to commit the offense

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
	Offender /Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities or internal whistle-blowing • Victim expresses the intent of non-punishment or substantial restitution	• Same-offense recidivism within the statutory recidivism period (excluding Type 3 offenses) • Child abuse committed by a mandatory reporter defined in Article 7 of the Act on Special Cases Concerning the Punishment of Child Abuse Crimes • Habitual offender
General Sentencing Factor	Conduct	• Minor participation	• Two or more co-offenders • Planned offense
	Offender /Etc.	• Diminished mental capacity (with fault) • Sincere remorse • No prior criminal convictions • Considerable restitution	• Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense or a crime of violence resulting in imprisonment that do not constitute statutory recidivism (less than ten years after the completion of the sentence) • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)

▷ Apply the following classification in cases in which the crime of illegal arrest · confinement was committed in a state of intoxication due to alcohol or drugs (the same shall apply to crimes of abandonment · abuse or child abuse, and cases where the offense resulted in bodily injury or death of the victim).

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 intent 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 or 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 the diminished mental capacity.

2. CASES RESULTING IN BODILY INJURIES

CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
Injuries Caused by Arrest · Confinement	6 mos. – 1 yr. 6 mos.	1 yr. – 2 yrs.	1 yr. 6 mos. – 3 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Dolus Eventualis • Cases involving only a minor degree of arrest or confinement • Cases with special extenuating circumstances that mitigate the offender's involvement • Extenuating motives for the offense • The offender voluntarily released the victim to a safe place • Minor bodily injuries • Where bodily injury resulted, but the base offense was only attempted	• Playing a leading role or directing/coordinating the offense • Cases where the offense is committed by a show of force by a group or multitude, or by carrying a dangerous weapon • Where the offense was committed against an unspecified number of persons or multiple victims, or was repeatedly committed over a considerable period • The victim is a lineal ascendant of the offender • The offender cruelly treats a person as prescribed in the Criminal Act, Article 277, paragraph 1 • Morally reprehensible motives (this does not apply to Type 2 offenses) • Cases involving serious degree of arrest or confinement • Vulnerable victim • Serious bodily injuries • Instigating the subordinate to commit the offense
	Offender/ Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (with fault) • Voluntary surrender to investigative authorities or internal whistle-blowing • Victim expresses the intent of non-punishment or substantial restitution to the victim	• Same-offense recidivism within the statutory recidivism period • Child abuse committed by a mandatory reporter defined in Article 7 of the Act on Special Cases Concerning the Punishment of Child Abuse Crimes • Habitual offender

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
General Sentencing Factor	Conduct	• Minor participation	• Two or more co-offenders • Planned offense
	Offender/ Etc.	• Diminished mental capacity (with fault) • Sincere remorse • No prior criminal convictions • Considerable restitution	• Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense or a crime of violence resulting in imprisonment that do not constitute statutory recidivism (less than ten years after the completion of the sentence) • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)

3. CASES RESULTING IN DEATH

CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
Arrest · Confinement Resulting in Death	1 yr. 6 mos. – 3 yrs.	2 yrs. – 4 yrs.	3 yrs. – 5 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Dolus Eventualis • Cases with special extenuating circumstances that mitigate the offender's involvement • Extenuating motives for the offense • The offender's conduct was not a direct cause of death of the victim	• Playing a leading role or directing/coordinating the offense • Cases where the offense is committed by a show of force by a group or multitude, or by carrying a dangerous weapon • Where the offense was committed against an unspecified number of persons or multiple victims, or was repeatedly committed over a considerable period • The victim is a lineal ascendant of the offender • The offender cruelly treats a person as prescribed in the Criminal Act, Article 277, paragraph 1 • Morally reprehensible motives (This does not apply to Type 2 offenses)

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
			• Cases involving serious degree of arrest or confinement • Vulnerable victim • Serious bodily injuries • Instigating the subordinate to commit the offense
	Offender/ Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities or internal whistle-blowing • Victim expresses the intent of non-punishment or substantial restitution	• Same-offense recidivism within the statutory recidivism period
General Sentencing Factor	Conduct	• Minor participation	• Two or more co-offenders • Planned offense
	Offender/ Etc.	• Diminished mental capacity (with fault) • Sincere remorse • No prior criminal convictions • Considerable restitution	• Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense or a crime of violence resulting in imprisonment that do not constitute statutory recidivism (less than ten years after the completion of the sentence) • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)

2 ABANDONMENT · ABUSE

1. APPLICABLE PRINCIPLES

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	General Abandonment · Abuse	– 8 mos.	2 mos. – 1 yr.	6 mos. – 1 yr. 6 mos.
2	Aggravated Abandonment · Abuse	2 mos. – 1 yr.	6 mos. – 1 yr. 6 mos.	1 yr. – 2 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Dolus Eventualis • Cases involving minor degree of abandonment or abuse • Cases with special extenuating circumstances that mitigate the offender's involvement • Extenuating motives for the offense	• The offense was committed against multiple victims, or repeatedly over a prolonged period • The victim is a lineal ascendant of the offender • Morally reprehensible motives (excluding Type 2 offenses) • Cases involving serious degree of abandonment or abuse • Instigating the subordinate to commit the offense
	Offender/ Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities or internal whistle-blowing • Victim expresses the intent of non-punishment or substantial restitution	• Same-offense recidivism within the statutory recidivism period • Child abuse committed by a mandatory reporter defined in Article 7 of the Act on Special Cases Concerning the Punishment of Child Abuse Crimes • Habitual offenders (limited to cases where aggravated punishment under Article 6 of the Act on Special Cases Concerning the Punishment of Child Abuse Crimes applies)
General Sentencing Factor	Conduct	• Minor participation	• Planned offense
	Offender/ Etc.	• Diminished mental capacity (with fault) • Sincere remorse • No prior criminal convictions • Considerable restitution	• Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense or a crime of violence resulting in imprisonment that do not constitute statutory recidivism (less than ten years after the completion of the sentence)

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
			• Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)

2. CASES RESULTING IN BODILY INJURIES

CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
Injury Caused by Abandonment · Abuse	2 mos. – 1 yr. 6 mos.	6 mos. – 2 yrs.	1 yr. – 3 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Dolus Eventualis • Cases involving minor degree of abandonment or abuse • Cases with special extenuating circumstances that mitigate the offender's involvement • Extenuating motives for the offense • Minor bodily injuries	• Where the offense was committed against an unspecified number of persons or multiple victims, or was repeatedly committed over a considerable period • The victim is a lineal ascendant of the offender • Morally reprehensible motives (excluding Type 2 offenses) • Cases involving serious degree of abandonment or abuse • Serious bodily injuries • Instigating the subordinate to commit the offense
	Offender/ Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities or internal whistle-blowing • Victim expresses the intent of non-punishment or substantial restitution	• Same-offense recidivism within the statutory recidivism period • Child abuse committed by a mandatory reporter defined in Article 7 of the Act on Special Cases Concerning the Punishment of Child Abuse Crimes • Habitual offenders (limited to cases where aggravated punishment under Article 6 of the Act on Special Cases Concerning the Punishment of Child Abuse Crimes applies)

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
General Sentencing Factor	Conduct	• Minor participation	• Planned offense
	Offender/ Etc.	• Diminished mental capacity (with fault) • Sincere remorse • No prior criminal convictions • Considerable restitution	• Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense or a crime of violence resulting in imprisonment that do not constitute statutory recidivism (less than ten years after the completion of the sentence) • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)

3. CASES RESULTING IN DEATH OF THE VICTIM

CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
Abandonment · Abuse Resulting in Death	1 yr. 6 mos. – 3 yrs.	2 yrs. – 4 yrs.	3 yrs. – 5 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Dolus Eventualis • Cases with special extenuating circumstances that mitigate the offender's involvement • Extenuating motives for the offense • The offender's conduct was not a direct cause of death	• Where the offense was committed against an unspecified number of persons or multiple victims, or was repeatedly committed over a considerable period • The victim is a lineal ascendant of the offender • Morally reprehensible motives (excluding Type 2 offenses) • Cases involving serious degree of abandonment or abuse • Instigating the subordinate to commit the offense
	Offender/ Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities or internal whistle-blowing • Victim expresses the intent of	• Same-offense recidivism within the statutory recidivism period

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
		non-punishment or substantial restitution to the victim	
General Sentencing Factor	Conduct	• Minor participation	• Planned offense
	Offender/ Etc.	• Diminished mental capacity (with fault) • Sincere remorse • No prior criminal convictions • Considerable restitution	• Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense or a crime of violence resulting in imprisonment that do not constitute statutory recidivism (less than ten years after the completion of the sentence) • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)

3 CHILD ABUSE

1. CHILD ABUSE UNDER THE CHILD WELFARE ACT

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Physical · Emotional Abuse, Abandonment and Neglecting, etc.	2 mos. – 1 yr.	6 mos. – 1 yr. 6 mos.	1 yr. 2 mos. – 3 yrs. 6 mos.
2	Sexual Abuse	4 mos. – 1 yr. 6 mos.	8 mos. – 2 yrs. 6 mos.	2 yrs. – 5 yrs.
3	Child Trafficking	6 mos. - 2 yrs.	1 yr. - 3 yrs.	2 yrs. 6 mos. - 6 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Dolus Eventualis • Cases where the degree of abandonment or child abuse was minor (Type 1, Type 2) • Cases with special extenuating circumstances that mitigate the offender's involvement • Extenuating motives for the offense	• Where the offense was committed against an unspecified number of persons or multiple victims, or was repeatedly committed over a considerable period • Morally reprehensible motives (excluding Type 2 offenses) • Cases involving serious degree of abandonment or abuse • Instigating the subordinate to commit the offense
	Offender/ Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities or internal whistle-blowing • Victim expresses the intent of non-punishment	• Same-offense recidivism within the statutory recidivism period (in cases of Type 2 offense, sex crime, commercial sexual act, digital sex crime) • Child abuse committed by a mandatory reporter defined in Article 7 of the Act on Special Cases Concerning the Punishment of Child Abuse Crimes • Habitual offenders (limited to cases where the aggravated punishment provision of Article 72 of the Child Welfare Act applies.
General Sentencing Factor	Conduct	• Minor participation	• Planned crime • Crimes against children under 6 or those with physical and/or mental disabilities
	Offender/ Etc.	• Diminished mental capacity (with fault) • Sincere remorse • No prior criminal convictions • Considerable restitution	• Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense or a crime of violence resulting in imprisonment that do not constitute statutory recidivism (less than ten years after the completion of the sentence)(in cases of Type 2 offense, sex crime, commercial sexual act, digital sex crime) • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)

2. CHILD ABUSE RESULTING IN SERIOUS BODILY INJURY · DEATH · MURDER UNDER ACT ON SPECIAL CASES CONCERNING THE PUNISHMENT OF CHILD ABUSE CRIMES

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Abuse of, and aggravated bodily injury on children	1 yr. 6 mos - 3 yrs.	2 yrs. 6 mos - 5 yrs.	4 yrs. - 8 yrs.
2	Death resulting from child abuse	2 yrs. 6 mos. - 5 yrs.	4 yrs. - 8 yrs	7 yrs. - 15 yrs.
3	Murder by child abuse	12 yrs. - 18 yrs.	17 yrs. - 22 yrs	20 yrs. or more, life imprisonment

▷ In case of offense falling in Type 3, compare the maximum and minimum limit of the recommended sentencing range with the crime of Murder and apply the sentencing range that is more severe.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Dolus Eventualis • Cases with special extenuating circumstances that mitigate the offender's involvement • Extenuating motives for the offense • The offender's conduct was not a direct cause of death or serious bodily injuries of the victim	• Where the offense was committed against an unspecified number of persons or multiple victims, or was repeatedly committed over a considerable period • Morally reprehensible motives (excluding Type 2 offenses) • Cases involving serious degree of abuse • Instigating the subordinate to commit the offense • Desecration of a corpse (Type 2, Type 3)
	Offender/ Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities or internal whistle-blowing • Victim expresses the intent of non-punishment of the offender	• Child abuse committed by a mandatory reporter defined in Article 7 of the Act on Special Cases Concerning the Punishment of Child Abuse Crimes • Same-offense recidivism within the statutory recidivism period

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
General Sentencing Factor	Conduct	• Minor participation	• Planned offense • Crimes committed against child under 6 or those with physical and/or mental disability • Abandonment of a corpse (Type 2, Type 3)
	Offender/ Etc.	• Diminished mental capacity (with fault) • Sincere remorse • No prior criminal convictions • Post-offense aid/medical transport • Considerable restitution	• Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense or a crime of violence resulting in imprisonment that do not constitute statutory recidivism (less than ten years after the completion of the sentence)(including sex crimes, within ten years after the completion of the sentence) • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)

DEFINITION OF OFFENSES

1 ARREST · CONFINEMENT

1. GENERAL APPLICABLE PRINCIPLES

- This refers to an act that constitutes the offense with the following elements as prescribed in the applicable law (hereinafter the same).

TYPE	ELEMENTS OF OFFENSE	APPLICABLE LAW
Type 1. General Arrest · Confinement	Arrest or confinement	Criminal Act, Article 276, paragraph 1
	Arrest or confinement of lineal ascendant	Criminal Act, Article 276, paragraph 2
	Aggravated arrest or confinement	Criminal Act, Article 277, paragraph 1
	Aggravated arrest or confinement of lineal ascendant	Criminal Act, Article 277, paragraph 2
	Arrest or confinement committed by two or more persons, arrest or confinement of lineal ascendant jointly committed by two or more persons	Punishment of Violence, etc. Act, Article 2, paragraph 2
	Special arrest or confinement, special arrest or confinement of lineal ascendant, special aggravated arrest or confinement, special aggravated arrest or confinement of lineal ascendant	Criminal Act, Article 278
	Habitual arrest or confinement, habitual arrest or confinement of lineal ascendant, habitual aggravated arrest or confinement, habitual aggravated arrest or confinement of lineal ascendant	Criminal Act, Article 279
Type 2. Arrest or Confinement for the purpose of Retaliation	Arrest or confinement for retaliation	Act on the Aggravated Punishment, etc. of Specific Crimes, Article 5-9, paragraph 2
Type 3. Repeated Offense of Arrest · Confinement Within Statutory Recidivism Period	Repeated offenses of arrest or confinement, offenses of cumulative arrest or confinement of lineal ascendant	Punishment of Violence, etc. Act, Article 2, paragraph 3
	Cumulative offenses of special arrest or confinement, cumulative offenses of special arrest or confinement of lineal ascendant	Punishment of Violence, etc. Act, Article 3, paragraph 4

2. TYPE 2 — OFFENSES RESULTING IN BODILY INJURIES

ELEMENTS OF OFFENSE	APPLICABLE LAW
Arrest or confinement resulting in bodily injuries, aggravated arrest or confinement resulting in bodily injuries, special arrest or confinement resulting in bodily injuries, special aggravated arrest or confinement resulting in bodily injuries, habitual arrest or confinement resulting in bodily injuries, or habitual aggravated arrest or confinement resulting in bodily injuries	Criminal Act, Article 281, paragraph 1, first part
Arrest or confinement of lineal ascendant resulting in Bodily Injuries, aggravated arrest or confinement of lineal ascendant resulting in bodily injuries, special arrest or confinement of lineal ascendant resulting in bodily injuries, special aggravated arrest or confinement of lineal ascendant resulting in bodily injuries, habitual arrest or confinement of lineal ascendant resulting in bodily injuries, or habitual aggravated arrest or confinement of lineal ascendant resulting in bodily injuries	Criminal Act, Article 281, paragraph 2, first part

3. TYPE 3 — OFFENSES RESULTING IN DEATH

ELEMENTS OF OFFENSE	APPLICABLE LAW
Arrest or confinement resulting in death, aggravated arrest or confinement resulting in death, special arrest or confinement resulting in death, special aggravated arrest or confinement resulting in death, habitual arrest or confinement resulting in death, habitual aggravated arrest or confinement resulting in death	Criminal Act, Article 281, paragraph 1, latter part
Arrest or confinement of lineal ascendant resulting in death, aggravated arrest or confinement of lineal ascendant resulting in death, special arrest or confinement of lineal ascendant resulting in death, special aggravated arrest or confinement of lineal ascendant resulting in death, habitual arrest or confinement of lineal ascendant resulting in death, habitual aggravated arrest or confinement of lineal ascendant resulting in death	Criminal Act, Article 281, paragraph 2, latter part
Arrest or confinement for retaliation resulting in death	Act on the Aggravated Punishment, etc. of Specific Crimes, Article 5-9, paragraph 3

2 ABANDONMENT · ABUSE

1. GENERAL APPLICABLE PRINCIPLES

TYPE	ELEMENTS OF OFFENSE	APPLICABLE LAW
Type 1 General Abandonment · Abuse	Abandonment	Criminal Act, Article 271, paragraph 1
	Abandonment of lineal ascendant	Criminal Act, Article 271, paragraph 2
	Abandoning a baby	Criminal Act, Article 272
	Cruelty to another	Criminal Act, Article 273, paragraph 1
	Cruelty to lineal ascendant	Criminal Act, Article 273, paragraph 2
Type 2 Aggravated Abandonment · Abuse	Aggravated abandonment	Criminal Act, Article 271, paragraph 3
	Aggravated abandonment of lineal ascendant	Criminal Act, Article 271, paragraph 4
	Desertion of senior citizens or elder abuse under the Welfare of Senior Citizens Act	Welfare of Senior Citizens Act, Article 55-2, Article 55-3, paragraph 1, subparagraph 2
	Abuse toward youth	Youth Protection Act, Article 57

2. TYPE 2 — ABANDONMENT OR ABUSE RESULTING IN BODILY INJURIES

ELEMENTS OF OFFENSE	APPLICABLE LAW
Abandonment or aggravated abandonment resulting in bodily injuries, abandoning baby or abusing baby resulting in bodily injuries	Criminal Act, Article 275, paragraph 1, first part
Abandonment of lineal ascendant or aggravated abandonment of lineal ascendant resulting in bodily injuries, cruelty to lineal ascendant resulting in bodily injuries	Criminal Act, Article 275, paragraph 2 first part

3. TYPE 3 — ABANDONMENT OR ABUSE RESULTING IN DEATH

ELEMENTS OF OFFENSE	APPLICABLE LAW
Abandonment or aggravated abandonment resulting in death, abandoning baby or abusing baby resulting in death	Criminal Act, Article 275, paragraph 1, latter part
Abandonment of lineal ascendant or aggravated abandonment of lineal ascendant resulting in death, cruelty to lineal ascendant resulting in death	Criminal Act, Article 275, paragraph 2, latter part

3 CHILD ABUSE

1. CHILD ABUSE UNDER THE CHILD WELFARE ACT

TYPE	ELEMENTS OF OFFENSE	APPLICABLE LAW
Type 1 Physical · emotional abuse, abandonment · neglect, etc.	Physical abuse	Child Welfare Act, Article 71, paragraph 1, subparagraph 2, Article 17, subparagraph 3.
	Emotional abuse	Child Welfare Act, Article 71, paragraph 1, subparagraph 2, Article 17, subparagraph 5.
	Abandoning or neglecting	Child Welfare Act, Article 71, paragraph 1, subparagraph 2, Article 17, subparagraph 6.
	Placing a child with disability to public viewing	Child Welfare Act, Article 71, paragraph 1, subparagraph 2, Article 17, subparagraph 7.
	Forcing a child go begging or exploiting a child in begging	Child Welfare Act, Article 71, paragraph 1, subparagraph 2, Article 17, subparagraph 8.
Type 2 Sexual abuse	Having a child engage in lewd acts or arranging such acts, or committing sexual harassment against a child	Child Welfare Act, Article 71, paragraph 1, subparagraph 1-2, Article 17, subparagraph 2.
Type 3 Children trafficking	Trafficking children	Child Welfare Act, Article 71, paragraph 1, subparagraph 1, Article 17, subparagraph 1.

2. CHILD ABUSE RESULTING IN SERIOUS BODILY INJURY · DEATH · MURDER UNDER ACT ON SPECIAL CASES CONCERNING THE PUNISHMENT OF CHILD ABUSE CRIMES

TYPE	ELEMENTS OF OFFENSE	APPLICABLE LAW
Type 1 Aggravated Inflicting Bodily Injury Resulting From Child Abuse	Cases where the offender commits any child abuse crimes falling under Article 2, subparagraph 4, items 1 through 3 of Act on Special Cases Concerning the Punishment, etc. of Child Abuse Crimes, and it results in danger to a child's life, cripples a child or infects a child with an incurable or chronic disease	Act on Special Cases Concerning the Punishment, etc. of Child Abuse Crimes, Article 5
Type 2 Death Resulting From Child Abuse	Cases where the offender commits any of the child abuse crimes falling under the Act on Special Cases Concerning the Punishment, etc. of Child Abuse Crimes, Article 2, subparagraph 4, items 1 through 3 and it results in Death of the Child	Act on Special Cases Concerning the Punishment, etc. of Child Abuse Crimes, Article 4, paragraph 2
Type 3 Murder by Child Abuse	Cases where the offender commits any of the child abuse crimes falling under the Act on Special Cases Concerning the Punishment, etc. of Child Abuse Crimes, Article 2, subparagraph 4, items 1 through 3 and murders the child	Act on Special Cases Concerning the Punishment, etc. of Child Abuse Crimes, Article 4, paragraph 1

※ Habitual Offenses of Child Abuse, Child Abuse by the Offender with the Duty to Report Child Abuse (This applies to offenses falling under Type 1 to Type 3)

ELEMENTS OF OFFENSE	APPLICABLE LAW
Cases where the offender habitually commits crimes falling under Article 71, paragraph 1, subparagraph 1, subparagraph 1–2, paragraph 2 of Child Welfare Act, (Article 17, subparagraph 1, 2, 3, 5, 6, 7, or 8)	Child Welfare Act, Article 72
Cases where the offender habitually commits Child Abuse Crimes stipulated in subparagraph 4, item 2, item 3, item 13 of Article 2 of the Act on Special Cases Concerning the Punishment, etc. of Child Abuse Crimes (This shall only apply to offenders stipulated in item 2, item 3 subject to aggravated punishment under other statutes)	Act on Special Cases Concerning the Punishment, etc. of Child Abuse Crimes, Article 6
Cases where the offender who has a duty to report child abuse under each subparagraphs of Article 10, paragraph 2 commits a crime of child abuse against a child under his or her protection stipulated in subparagraph 4, item 2, item 3, item 12, item 13 of Article 2 of the Act on Special Cases Concerning the Punishment, etc. of Child Abuse Crimes (This shall only apply to offenders stipulated in item 2, item 3 subject to aggravated punishment under other statutes)	Act on Special Cases Concerning the Punishment, etc. of Child Abuse Crimes, Article 7

DEFINITION OF SENTENCING FACTORS

1 ARREST · CONFINEMENT[1)]

1. CASES WHERE THE DEGREE OF ARREST OR CONFINEMENT IS MINOR

- This refers to cases in which one or more of the following factors apply:
  - The duration of the arrest or confinement was exceptionally short,
  - The degree of force, fraud, deception, or threat used in the course of the arrest or confinement was exceptionally minimal,
  - The victim was not clearly aware that he or she was under arrest or confinement,
  - While temporarily confined, the victim was allowed to engage in physical activities at the place of confinement or to contact persons outside,
  - Other cases with comparable mitigating circumstances.

2. CASES WITH SPECIAL EXTENUATING CIRCUMSTANCES THAT MITIGATE THE OFFENDER'S INVOLVEMENT

- This refers to cases where one or more of the following factors apply:
  - The offender participated in the crime under coercion or threats by another person (excluding cases that fall under Article 12 of the Criminal Act),
  - The offender merely agreed to participate in the crime and neither directed nor directly took part in carrying out the offense,
  - Other cases with comparable mitigating factors.

3. EXTENUATING MOTIVES FOR THE OFFENSE

- This refers to cases where one or more of the following factors apply:
  - The offender committed the offense in order to separate from the victim after the offender or the offender's relatives had suffered prolonged physical or psychological abuse by the victim, including domestic violence,

1) Unless otherwise defined herein, the sentencing factors of the same designation, as applied to Crimes of Abandonment · Abuse, Child Abuse, shall be applied to herein.

- The offender committed the offense as a means of exercising rights.
- Other cases with comparable circumstances.

4. VICTIM EXPRESSES THE INTENT OF NON-PUNISHMENT

- This indicates cases in which the offender shows sincere remorse with genuine efforts to reach a settlement with the victim; the victim or the family of the victim (in the case of a deceased victim) fully understands the legal and social implications of opposing punishment and clearly expresses the intent not to seek punishment of the offender. However, this should not apply in the following cases:
  - (1) in cases in which the victim or the family of the deceased opposes punishment as a result of *de facto* coercion or deceit by the offender against the victim's will, or
  - (2) where there is no reasonable or convincing basis for the victim or their legal representative to express no desire for punishment.
- This applies only to cases in which, upon careful and thorough examination and assessment of the victim's or legal representative's age, intelligence, and ability to fully understand the meaning, content, and legal implications of expressing an intent not to seek punishment, it is determined that such expression is both informed and genuine.

5. SUBSTANTIAL RESTITUTION TO THE VICTIM

- This refers to cases in which the defendant, through genuine and sustained efforts, has restored the damages to a degree comparable to a formal settlement, or in which restitution of such degree is reasonably assured.
- In the case of a court deposit, it constitutes substantial recovery of damages only when such a determination is made after carefully examining and assessing the opinions of the victim of the underlying offense or their legal representative (including the spouse, lineal relatives, and siblings if the victim is deceased) regarding the deposit, whether the defendant is legally permitted or intends to retrieve the deposited funds, the nature of the infringed legal interests, and the scale and extent of the damage.
- In cases where the victim has received relief money from the State pursuant to the Crime Victim Protection Act in connection with the damage suffered

(including cases where the defendant subsequently fulfills the obligation to reimburse the State), such cases shall be excluded unless special circumstances exist.

6. MORALLY REPREHENSIBLE MOTIVE

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

7. CASES WHERE THE DEGREE OF ARREST OR CONFINEMENT IS SERIOUS

- This means one or more of the following factors apply:
  - The duration of the victim's arrest or confinement was considerably long.
  - The degree of force, fraud, deception, or threat used in the course of the arrest or confinement was exceptionally serious.
  - Other cases involving comparable aggravating factors.

8. VULNERABLE VICTIM

- Vulnerable victim refers to cases in which, at the time the offense was committed, the victim was vulnerable to the offense due to diminished physical or mental capacity or age, and the offender was aware or could reasonably have been aware of the victim's circumstances.

9. SINCERE REMORSE

- This indicates cases in which the offender is deemed to show genuine remorse for the offense after examining and assessing the specific circumstances surrounding the offender's admission of the offense and any voluntary efforts made toward victim restitution and/or the prevention of re-offending.

10. NO PRIOR CRIMINAL CONVICTIONS

- It means that the defendant has no previous criminal conviction. However, this does not apply to cases in which the offense was committed repeatedly over an extended period

11. PLANNED OFFENSE

- This refers to cases involving one or more of the following factors:
  - Preparation for and possession of a weapon used in the offense
  - A planned conspiracy
  - Inducing the victim
  - Preparation for the destruction of evidence
  - Advance planning of escape or flight
  - Other cases involving comparable aggravating factors

12. CAUSING HARM WHILE ATTEMPTING TO REACH A SETTLEMENT WITH THE VICTIM (EXCLUDING CASES WHERE THE ACT CONSTITUTES ANY OTHER CRIME SUCH AS THE CRIME OF COERCION)

- This indicates cases in which the offender persistently harassed the victim or exerted undue pressure by implying tangible or intangible disadvantages in the course of attempting to reach a settlement, or otherwise caused harm through comparable means in response to the victim's refusal to settle.

13. MINOR BODILY INJURIES

- Minor bodily injuries refer to cases in which the injury inflicted requires two weeks or less medical treatment, affects a relatively limited part of the body, does not significantly interfere with the victim's daily activities, and does not require medical procedures such as suturing or similar intervention.

14. SERIOUS BODILY INJURIES

- Serious bodily injuries refer to cases in which the offense results in lasting aftereffects, serious or permanent impairment or disability, injury to vulnerable or vital parts of the body, or bodily injury that is likely to cause further serious harm.

15. OFFENDER'S CONDUCT WAS NOT A DIRECT CAUSE OF DEATH

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

2 ABANDONMENT · ABUSE[2)]

1. CASES WHERE THE DEGREE OF ABANDONMENT OR ABUSE IS MINOR

- This means one or more of the following factors apply:
  - Cases of abandonment: where the extent of the violation of the duty to protect the child or the degree of danger to the child's life or physical safety was minor; or where the child was abandoned at a hospital, police substation, child-protection facility, or similar location; or where the offender left the scene after the child had been rescued by another person.
  - Cases of child abuse: where the extent of violence or threatening language used by the offender, or the degree of physical pain or mental anguish suffered by the child, was minor; or where the degree of lewd acts or acts inducing sexual humiliation or disgust was minor.
  - Other cases involving comparable mitigating factors

2. EXTENUATING MOTIVES FOR THE OFFENSE

- This means one or more of the following factors apply:
  - Cases in which the offender unintentionally committed the offense as a result of impaired judgment while supporting or caring for the victim.
  - Cases in which the offender committed the offense in order to separate from the victim after the offender or the offender's relatives had suffered prolonged physical or psychological abuse by the victim, including domestic violence.
  - Other cases involving comparable circumstances.

2) Unless otherwise defined herein, the sentencing factors of the same designation, as applied to child abuse, shall also apply.

3. MORALLY REPREHENSIBLE MOTIVES

- This means cases one or more of the following factors apply:
  - Offenses committed out of retaliation, grievance, or hatred
  - Offenses committed with no specific reason toward an indiscriminate (random) number of people or motive derived from the pleasure of committing the crime itself
  - Offense committed for economic gain
  - Other cases with comparable factors

4. CASES WHERE THE DEGREE OF ABANDONMENT OR ABUSE IS SERIOUS

- This means one or more of the following factors apply:
  - Cases of abandonment: where the victim was abandoned in a place with poor or dangerous conditions, or where the offender abandoned the victim in a secluded area
  - Cases of abuse: where the degree of abuse was severe, such as where the offender tortured the victim, subjected the victim to forced labor, deprived the victim of sleep or food, carried dangerous objects such as deadly weapons, inflicted considerably severe violence or threats, or engaged in lewd acts or acts inducing sexual humiliation or disgust to a severe degree
  - Other cases with comparable aggravating factors

3 CHILD ABUSE

1. SPECIAL CIRCUMSTANCES MITIGATING THE OFFENDER'S MOTIVES TO COMMIT THE OFFENSE

- This means cases with one or more of the following factors (except in cases where acts conducted for the purpose of discipline or education result in abuse):
  - Cases in which the offender unintentionally committed the offense as a result of impaired judgment while supporting or caring for the victim.
  - Cases in which the offender committed the offense after having suffered prolonged domestic violence or other abusive acts by the victim.
  - Other cases with comparable factors

2. CASES WHERE THE DEGREE OF ABUSE IS SERIOUS

- This means one or more of the following factors apply:
  - Cases of abandonment: where the victim is abandoned at a place of poor or dangerous conditions or the offender abandons the victim in a secluded area,
  - Cases of abuse: where the degree of the abuse was severe as such where the offender tortured the victim, subjected the victim to forced labor, or deprived the victim of sleep or food, or the offender carried dangerous objects such as deadly weapons, or inflicted considerably severe violence or threat, of the degree of conducting lewd acts or inducing sexual humiliation or disgust was severe,
  - Illegal arrest and confinement: where the victim was arrested or confined for an exceptionally long period, the extent of force, fraudulent means, deception, or threat used in the process of arrest or confinement was exceptionally serious,
  - Injury and assault: where the victim has been harmed by extreme physical or mental pain in terms of the degree and duration of the pain,
  - Other cases with comparable factors.

3. OFFENDER'S CONDUCT WAS NOT THE DIRECT CAUSE OF AGGRAVATED BODILY INJURY OR DEATH

- This indicates cases in which intervening unforeseen causes by the offender existed at the time of the commission of the offense and result in aggravated bodily injury on or death of the victim, therefore, the conduct of the offender cannot be deemed to have directly caused aggravated bodily injury or death.

PRINCIPLES APPLICABLE TO SENTENCING FACTORS

1 DETERMINING THE SENTENCING RANGE

- When determining the appropriate sentencing range, judges must consider only the Special Sentencing Factors.
- However, where multiple Special Sentencing Factors are present, the applicable sentencing range shall be determined after assessing the factors in accordance with the following principles:
  - ❶ Greater weight is accorded to Conduct Factors than to Offender/Etc. Factors of equal number. However, where a victim or bereaved family member has no intent of punishment, such wishes may be treated on a par with a Conduct Factor.
  - ❷ Conduct Factors *inter se*, and Offender/Etc. Factors *inter se*, shall be treated as equivalent.
  - ❸ If the sentencing range applicable cannot be determined by the aforementioned principles in ❶ and ❷, judges are to decide the sentencing range by a comprehensive comparison and assessment of Special Sentencing Factors based on the principles set forth in ❶ and ❷.
- After the assessment of sentencing factors, where aggravating factors outweigh mitigating factors, the aggravating sentencing range is recommended; where mitigating factors outweigh aggravating factors, the mitigating sentencing range is recommended; and in all other cases, the standard sentencing range is recommended.

2 DETERMINING THE SENTENCE TO BE IMPOSED

- The sentence to be imposed shall be determined within the sentencing range established under paragraph 1 above, by comprehensively taking into account both General Sentencing Factors and Special Sentencing Factors.
- Where the upper limit of the sentencing range under the sentencing guidelines exceeds 25 years, life imprisonment may be imposed.

GENERAL APPLICATION PRINCIPLES

1 SPECIAL ADJUSTMENTS TO THE RECOMMENDED SENTENCING RANGE

❶ After the assessment of Special Sentencing Factors, if a case falls within the Aggravating Sentencing Range and either i) two or more Special Aggravating Factors exist alone, or ii) Special Aggravating Factors outnumber Special Mitigating Factors by two or more, the upper limit of the recommended sentencing range may be increased by up to 1/2. If the resulting upper limit exceeds 25 years, life imprisonment may be imposed.

❷ After the assessment of Special Sentencing Factors, if a case falls within the Mitigating Sentencing Range and either i) two or more Special Mitigating Factors exist alone, or ii) Special Mitigating Factors outnumber Special Aggravating Factors by two or more, the lower limit of the recommended sentencing range may be reduced by up to 1/2.

2 RELATION BETWEEN THE RECOMMENDED SENTENCING RANGE UNDER THE GUIDELINES AND THE APPLICABLE SENTENCING RANGE UNDER LAW

- Where the sentencing range recommended under these guidelines conflicts with the range determined pursuant to statutory aggravation or mitigation provisions, the sentencing range prescribed by law shall govern.

3 APPLICATION OF DISCRETIONARY MITIGATING FACTORS BY LAW

- Where a judge declines to apply discretionary statutory mitigating factors listed in the Sentencing Factor Table of this guideline, such factors shall be considered as extenuating circumstances among mitigating factors.

GUIDELINES ON SENTENCING MULTIPLE OFFENSES

1 APPLICABLE RANGE

- 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 include both an offense set forth in the sentencing guidelines and an offense not covered by the sentencing guidelines, then the minimum level should be the minimum of the sentencing range of the offense that is set forth in this sentencing guideline.

2 DETERMINING THE BASE OFFENSE

- The "base offense" refers to the offense subject to the most severe punishment after selecting the type of punishment and applying any statutory aggravation and/or mitigation thereto. However, where the upper end of the sentencing range under the sentencing guidelines for an offense covered by this chapter is lower than the upper end of the sentencing range under the sentencing guidelines for the other concurrent offense, the other concurrent offense shall become the base offense.

3 DETERMINING THE SENTENCING RANGE FOR THE CONCURRENT OFFENSES

- Except for concurrent offenses that are treated as a single offense under the sentencing guidelines, the following method of aggravation for multiple offenses shall apply:
  - ❶ For multiple offenses involving two offenses, the upper end of the sentencing range shall be determined by adding 1/2 of the upper end of the sentencing range of the other offense to the upper end of the sentencing range of the base offense.

❷ For multiple offenses involving three or more offenses, the upper end of the sentencing range shall be determined by adding the following three figures: (1) the upper end of the sentencing range of the base offense, (2) 1/2 of the upper end of the sentencing range of the offense with the highest sentencing range among the other offenses, and (3) 1/3 of the upper end of the sentencing range of the offense with the second highest sentencing range among the other offenses.

❸ For multiple offenses where the lower end of the sentencing range of the other offense is higher than the lower end of the sentencing range of the base offense, the lower end of the sentencing range after applying the method of aggravation for multiple offenses shall be the lower end of the sentencing range of the other offense.

PART B

GUIDELINE ON SUSPENDING A SENTENCE

1 ARREST · CONFINEMENT

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Circumstance	• Cases where offenders committed the crimes by threat of collective force or by carrying a dangerous weapon • The victim is a lineal ascendant of the offender • Morally reprehensible motives • The offender cruelly treats a person as prescribed in the Criminal Act, Article 277, paragraph 1 • Cases where the degree of arrest or confinement is serious or the offense resulted in serious bodily injuries or death of the victim • Vulnerable victim • The offense was committed over a repeatedly over a considerable period of time • Child abuse committed by a mandatory reporter defined in Article 7 of the Act on Special Cases Concerning the Punishment of Child Abuse Crimes • Prior convictions for the same-offense [a suspended sentence of imprisonment or a heavier punishment within the past five years, or three or more fines (including suspended sentences)]	• Cases with special extenuating circumstances concerning the offender's participation in, or motives for the offense • Cases where the degree of arrest or confinement is minor or the crime results in minor bodily injuries • The offender voluntarily released the victim to a safe place • Bodily injury resulting from an attempted underlying offense • The offender's conduct was not the direct cause of death or serious bodily injuries • The offender attempted to thwart the accomplice's commission of the crime • No prior criminal convictions • Victim expresses the intent of non-punishment or substantial restitution

CLASSIFICATION	ADVERSE	AFFIRMATIVE
General Circumstance	• Two or more prior convictions resulting in a suspended sentence of imprisonment without labor or a heavier punishment • Lack of family/social ties • Drug or alcohol addiction • Absence of sincere remorse • Planned crime • The offense was committed against multiple/indiscriminate victims • Leading role as a co-offender • Post-offense evidence tampering or attempt to conceal or destroy evidence • No genuine effort to recover the harm • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)	• Stable family/social ties • Offense committed impulsively • Voluntary surrender to investigative authorities or internal whistle-blowing • Sincere remorse • No prior convictions resulting in a suspended sentence of imprisonment without labor or a heavier punishment • The offender's physical condition is severely impaired • Minor participation as a co-offender • Post-offense aid/medical transport • Cases where detaining the offender would impose excessive hardship on dependent family members • Considerable restitution

2 ABANDONMENT · ABUSE

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Circumstance	• Victim is a lineal ascendant • Morally reprehensible motives • Cases where the degree of abandonment or abuse is serious or the offense resulted in serious bodily injuries or death • The offense was committed repeatedly over a prolonged period of time • Child abuse committed by a mandatory reporter defined in Article 7 of the Act on Special Cases Concerning the Punishment of Child Abuse Crimes • Prior convictions for the same-offense [a suspended sentence of imprisonment or a heavier punishment within the past five years, or three or more fines (including suspended sentences)]	• Cases with special extenuating circumstances concerning the offender's participation in, or motives for the offense • Cases where the degree of abandonment or abuse is minor or the crime results in minor bodily injuries • Offender's conduct was not the direct cause of death or serious bodily injuries • The offender attempted to prevent the offense by hindering the co-offender • No prior criminal convictions • Victim expresses the intent of non-punishment or substantial restitution
General Circumstance	• Two or more prior convictions resulting in a suspended sentence of imprisonment without labor or heavier punishment • Lack of family/social ties • Drug or alcohol addiction • Absence of sincere remorse • Planned offense • The offense was committed against multiple victims • Leading role as a co-offender • Post-offense evidence tampering or attempt to conceal or destroy evidence • No genuine effort to recover the harm • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)	• Stable family/social ties • Voluntary surrender to investigative authorities or internal whistle-blowing • Sincere remorse • No prior convictions resulting in a suspended sentence of imprisonment without labor or a heavier punishment • The offender's physical condition is severely impaired • Minor participation as a co-offender • Post-offense aid/medical transport • Cases where detaining the offender would impose excessive hardship on dependent family members • Considerable restitution

3 CHILD ABUSE (EXCEPT MURDER BY CHILD ABUSE UNDER THE ACT ON SPECIAL CASES CONCERNING THE PUNISHMENT OF CHILD ABUSE CRIMES)

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Circumstance	• Morally reprehensible motives • Cases where the degree of abandonment or abuse is serious • The offense was committed repeatedly over a prolonged period of time • Child abuse committed by a mandatory reporter defined in Article 7 of the Act on Special Cases Concerning the Punishment of Child Abuse Crimes • Prior convictions for the same-offense [a suspended sentence of imprisonment or a heavier punishment within the past five years, or three or more fines (including suspended sentences)]	• Cases with special extenuating circumstances concerning the offender's participation in, or motives for the offense • Cases where the degree of abandonment or abuse is minor • Offender's conduct was not the direct cause of death or serious bodily injuries • The offender attempted to prevent the offense by hindering the co-offender • No prior criminal convictions • Victim expresses the intent of non-punishment or substantial restitution to the victim
General Circumstance	• Two or more prior convictions resulting in a suspended sentence of imprisonment without labor or a heavier punishment • Lack of family/social ties • Drug or alcohol addiction • Absence of sincere remorse • Planned offense • The offense was committed against multiple victims • Leading role as a co-offender • Post-offense evidence tampering or attempt to conceal or destroy evidence • No genuine effort to recover the harm • Offense against a child under six years of age, or a child with a physical or mental disability • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)	• Stable family/social ties • non-premeditated offense • Voluntary surrender to investigative authorities or internal whistle-blowing • Sincere remorse • No prior convictions resulting in a suspended sentence of imprisonment without labor or a heavier punishment • The offender's physical condition is severely impaired • Minor participation as a co-offender • Post-offense aid/medical transport • Cases where detaining the offender would impose excessive hardship on dependent family members • Considerable restitution

DEFINITIONS OF CIRCUMSTANCES TO CONSIDER WHEN SUSPENDING A SENTENCE

- For identical factors in both Sentencing Factors and Circumstances for Suspending a Sentence, refer to the definitions set forth in the Definition of Sentencing Factors.
- Calculation of the Period of Prior Criminal Convictions
  - For cases where a suspended sentence of imprisonment or a fine was imposed, the period of a prior conviction is calculated from the date on which the judgment became final to the date of the commission of the offense.
  - For cases where a sentence of imprisonment was executed, the period of a prior conviction is calculated from the date on which the sentence was fully served to the date of the commission of the offense.

PRINCIPLES APPLICABLE TO CIRCUMSTANCES WHEN SUSPENDING A SENTENCE

- When the recommended sentence is imprisonment with labor and judges decide to suspend execution of the sentence, they must give greater weight to the Primary Circumstances than to the General Circumstances, and the following principles should be considered:

  ❶ When two or more Affirmative Primary Circumstances exist alone, or when Primary Affirmative Circumstances outnumber Primary Adverse Circumstances by two or more, it is recommended to suspend the sentence.

  ❷ When two or more Primary Adverse Circumstances exist alone, or when Primary Adverse Circumstances outnumber Primary Affirmative Circumstances by two or more, imprisonment is recommended.

  ❸ In cases in which ❶ or ❷ apply, but the difference between the number of General Adverse (Affirmative) Circumstances and General Affirmative (Adverse) Circumstances is greater than the difference between the number of Primary Affirmative (Adverse) Circumstances and Primary Adverse (Affirmative) Circumstances, or in cases other than ❶ or ❷, judges shall decide whether to suspend the sentence after comparing and assessing the Circumstances among Mitigation Circumstances for suspension of execution of the sentence comprehensively.