

2013 Annual Report on Crime and Criminal Policy in Korea





PREFACE

Understanding crimes must precede effective response; only when we correctly understand the criminal phenomena in Korea could we seek effective solutions.

The Korean Institute of Criminology(KIC) has been publishing the annual report since 2006 to help the public, field workers, and professionals better understand the characteristics and trend of the crimes and criminal justice in Korea. The annual publication not only collects, analyzes and evaluates various official data regarding crimes and its responses during the year, but also provides organized analysis on criminal policies pursued by criminal justice organizations in related field.

Each publication has a similar structure and contents, making yearly comparison easier. The *2013 Annual Report on Crime and Criminal Justice in Korea*, therefore, has a similar structure to that of the previous reports.

Part 1 describes crimes that occurred in Korea for the last ten years and how they were dealt with and also focuses on index crimes occurrence and international comparison under the theme of "Crimes in Korea." Part 2, under the theme of "Crime-specific Analysis on Current Status and Countermeasures," touches upon the trends of and countermeasures against various major crimes including sex crimes, corporate crimes, cyber crimes, corruption crimes and narcotics crimes, and also looks into some major criminal types including juveniles, females and foreigners. Part 3 highlights the mainstream trend of criminal policies on correction and probation, juvenile probation and crime victim protection, as well as current trend of criminal justice agencies such as National Police

Agency, Public Prosecutors' Office, Courts and Constitutional Court. Meanwhile, unlike the 2011 and 2012 publications, the 2013 Annual Report adds legislative and policy trend with respect to criminal justice. I sincerely hope that our Annual Report will be of great help to all those interested in criminal policy and contribute to the development of criminal justice.

As a final note, I would like to sincerely thank our researchers for the hard work and care they have put in publishing this report.

December 2014
President,
Korean Institute of Criminology
Park, Sang Ok

A handwritten signature in black ink, appearing to read 'Park Sang Ok', with a long horizontal stroke extending to the right.



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PART 1

The Crimes in Korea

CHAPTER
1



Trends and Characteristics of Crimes

1

Trends and Characteristics of Crimes

This chapter reviews the total number¹⁾ of crimes that occurred in Korea for the past 10 years (2003-2012), the number of Criminal Act offenses as well as response measures, and the basic characteristics of criminals and victims for each crime. Data related to crimes were all collected using “crimes and criminal justice statistics information” established by the KIC, which is a statistics system designed to conduct scientific analysis and create specialized forecast index by processing original statistics concerning crime patterns and phenomena in Korea. This chapter in particular utilized Reported Crime Statistics, which was set up based on Crime Analysis published by Supreme Prosecutors’ Office. As of December 2013, the data in Crime Analysis from 1993 through 2012 can be accessed.

Section 1 Trend of Crimes and Responses

1. Trend of Crimes

A. The pattern and trend of total crimes

The pattern of the total crimes that took place for the last

1) Total number of crimes refers to all the violations of Criminal Law and other Special Acts.

10 years could be looked at from the total number²⁾ and crime rate,³⁾ shown in <Table 1-1-1>. The total number of crimes that occurred in 2003 was 2,004,329, which temporarily increased to 2,080,901 in 2004, only to decline for the two years in a row in 2005 and 2006 to 1,893,896 and 1,829,211 respectively. 2006 saw the lowest figure in the last decade. Meanwhile, the number went up again to 1,965,977 in 2007 and 2,189,452 in 2008, followed by a gradual decrease to 2,168,185 in 2009, 1,917,300 in 2010, and 1,902,720 in 2011. The total number in 2012 was 1,944,906, which was a slight increase from 2011, but still below the decade peak in 2008. Overall trend shows that the total number of crimes in Korea has been in decline since 2008, which can be confirmed by the broken line graph with reference to the right axis in <Figure 1-1-1>.

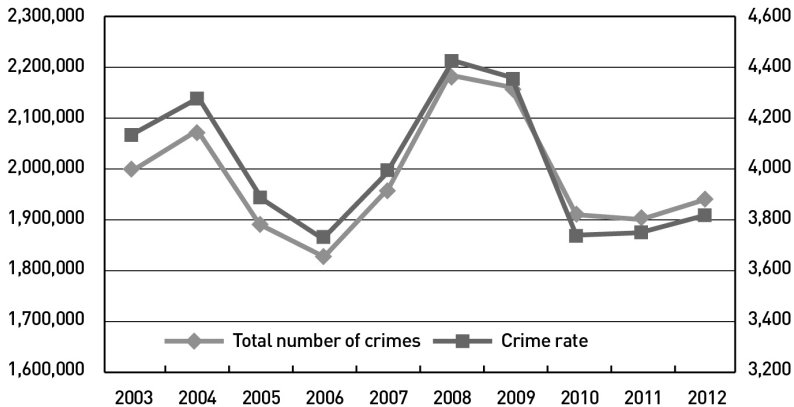
<Table 1-1-1> Total number and crime rate

Year	Total	Crime rate	Increase rate
2003	2,004,329	4,142.3	100.0
2004	2,080,901	4,283.1	103.4
2005	1,893,896	3,882.3	93.7
2006	1,829,211	3,733.7	90.1
2007	1,965,977	3,987.7	96.3
2008	2,189,452	4,419.5	106.7
2009	2,168,185	4,356.0	105.2
2010	1,917,300	3,750.0	90.5
2011	1,902,720	3,750.0	90.5
2012	1,944,906	3,817.0	92.1

* Source: Supreme Prosecutors' Office, <Crime Analysis> 2004-2013. Reorganized.

2) Total number refers to the number of crimes investigated by police officers for a year. Therefore, not all the crimes that actually occurred are accounted for: only the ones either reported by victims or recognized by the police. To be more specific, it refers to the number of crimes first booked by the police, included in the preliminary crime statistics data, and approved by the authorities (Jong, Yeon Tark, 2011:248).

3) Crime rate refers to the number of crimes per 100,000 population.



* Source: Supreme Prosecutors' Office, <Crime Analysis> 2004-2013. Reorganized.

〈Figure 1-1-1〉 Annual trend of the total number of crimes and crime rate

B. Current status and trend of Criminal Law offenses and Special Acts offenses

Total crimes can be divided into two categories: offenses in Criminal Law and those in Special Acts. Criminal Law offenses include all the crimes from each chapter of Criminal Law plus crimes of larceny, acquiring stolen property, kidnapping and inducement, false arrest and illegal confinement, currency and abandonment of duties under the "Act on the Aggravated Punishment etc. of Specific Crimes," crimes of fraud, embezzlement, and breach of trust under the "Act on the Aggravated Punishment etc. of Specific Economic Crimes," crimes of destruction, violence, inflicting bodily injury, intimidation, extortion, false arrest and illegal confinement under the "Punishment of Violences etc. Act," crimes against the "Act on the Special Cases Concerning the Punishment etc. of Sexual Crimes," and "Act on the Protection of Children and Juvenile from Sexual Abuse (Article 7)."⁴⁾

4) <Crime Analysis> published by Supreme Prosecutors' Office on which our

The trend is as shown in <Table 1-1-2>. The total number of Criminal Law offenses was trending downward with 857,488 in 2003, 826,886 in 2004 and 825,840 in 2005 for the last 10 years, followed by 828,021 in 2006, 845,311 in 2007, 897,536 in 2008, 993,136 in 2009, 939,171 in 2010, 997,263 in 2011, and 1,038,609 in 2012. The figure slightly dropped in 2010 year-on-year, but on the whole has been on the increase since 2006.

Crime rate (the number of crimes per 100,000 inhabitants) can be of reference for a detailed look into the trend. From 2003 to 2006, the numbers are on decline: 1,772.2 in 2003, 1,702.0 in 2004, 1,692.9 in 2005 and 1,609.1 in 2006. However, the occurrence rate started to increase from 2007 and the trend continued: 1,811.7 in 2008, 1,995.0 in 2009, 1,837.0 in 2010, 1,966.0 in 2011, and 2,039.0 in 2012, with the only exception of the year 2010 that showed a relative decrease YOY. This trend can be confirmed through a broken line graph showing the crime rate of Criminal Law offenses in <Figure 1-1-2>.

report is based includes in its statistics from 2008 to 2011 not only crimes of rape and indecent act by compulsion under the Criminal Act but also those under the Act on Special Cases Concerning the Punishment, etc. of Sexual Crimes and Act on the Protection of Children and Juveniles from Sexual Abuse (Art 7). However, it excludes the latter from 2012 data, therefore the 2012 data on the crimes of rape and indecent act against juveniles in violation of the Article 7 of the Act on the Protection of Children and Juveniles from Sexual Abuse were excluded.

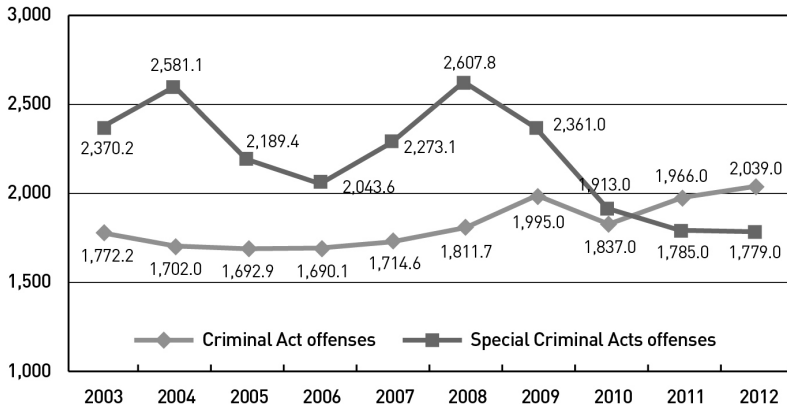
<Table 1-1-2> Total number, crime rate, and composition rate of Criminal Law and Special Acts offenses

Year	Criminal Law				Special Acts			
	Occurrence	Crime rate	Increase in crime rate	Composition rate	Occurrence	Crime rate	Increase in crime rate	Composition rate
2003	857,488	1,772.2	100.0	42.8	1,146,841	2,370.2	100.0	57.2
2004	826,886	1,702.0	96.0	39.7	1,254,015	2,581.1	108.9	60.3
2005	825,840	1,692.9	95.5	43.6	1,068,056	2,189.4	92.4	56.4
2006	828,021	1,690.1	95.4	45.3	1,001,190	2,043.6	86.2	54.7
2007	845,311	1,714.6	96.7	43.0	1,120,666	2,273.1	95.9	57.0
2008	897,536	1,811.7	102.2	41.0	1,291,916	2,607.8	110.0	59.0
2009	993,136	1,995.0	112.6	45.8	1,175,049	2,361.0	99.6	54.2
2010	939,171	1,837.0	103.7	49.0	978,129	1,913.0	80.7	51.0
2011	997,263	1,966.0	110.9	52.4	905,457	1,785.0	75.3	47.6
2012	1,038,609	2,039.0	115.1	53.4	906,297	1,779.0	75.1	46.4

* Source: Supreme Prosecutors' Office, <Crime Analysis> 2004-2013. Reorganized.

The numbers of Special Acts offenses for the last 10 years are as follows: 1,146,841 in 2003, 1,254,015 in 2004, 1,068,056 in 2005, 1,001,190 in 2006, 1,120,666 in 2007, 1,291,916 in 2008, and 1,175,049 in 2009, with the figures going up and down, to settle within the 90,000-range since 2010 of 978,129, followed by 905,457 in 2011, and 906,297 in 2012.

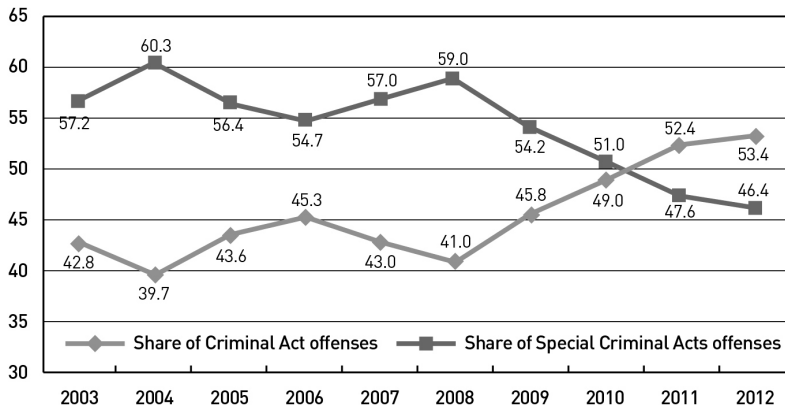
To take a more detailed look into the trend, crime rate (the number of crimes per 100,000 inhabitants) of the Special Acts offenses could be of great help. The figure in 2003 was 2,370.2, which decreased to 2,581.1 in 2004, 2,189.4 in 2005, and 2,043.6 in 2006. But the crime rate went up again, with 2,273.1 in 2007 and 2,607.8 in 2008, only to go down to 2,361.0 in 2009. It further dropped to 1,913.0 in 2010, 1,785.0 in 2011, and 1,779.0 in 2012, showing a bigger decrease rate. The crime rate of Special Acts offenses has been in decline, as confirmed through the upper graph line in <Figure 1-1-2>.



*Source : Supreme Prosecutors' Office, <Crime Analysis> 2004~2013. Reorganized.

〈Figure 1-1-2〉 Annual trend of crime rate of Criminal Law and Special Acts offenses

Criminal Law offenses are gradually increasing while Special Acts offenses are decreasing, and the trend can also be clearly seen in <Figure 1-1-3> through the change of ratio of each crime out of the total number. In 2003, Special Acts offenses accounted for 57.2%, 1.3 times higher than Criminal Act offenses of 42.8%. However, the ratio of Special Acts offenses gradually decreased: in 2012, it accounted for 46.4%, showing 10.8%p compared to 2003. On the contrary, Criminal Act offenses ratio rose by 10.6%p from 42.8% in 2003 to 53.4% in 2012.



*Source : Supreme Prosecutors' Office, <Crime Analysis> 2004~2013. Reorganized.

〈Figure 1-1-3〉 Annual trend of composition rate of Criminal Law and Special Acts offenses

2. Trend of Responses

A. Number of arrests and arrest rate

Arrest rate,⁵⁾ meaning the number of arrests⁶⁾ out of total crimes, shows 88.6% in 2003, 89.5% in 2004, 85.8% in 2005, 85.8% in 2006, 87.5% in 2007, 87.4% in 2008, 89.2% in 2009, and 84.5% in 2010, with figures going above and below 80% range. But it decreased to 70% range in 2011 with 78.6%, which continued to decrease to 76.9% in 2012, the lowest for the last ten years. The trend can

5) Number of arrest is only meaningful in relation with the number of crimes: therefore, this book focuses on the changes in arrest rate, instead of arrest number.

6) The number of arrest is the number of cases during the year where offenders are arrested regardless of the year of crime occurrence. Where there are accomplices, arresting only one of them would account for an arrest. As such, different standard years for number of crimes and arrest often lead to the arrest rate of over 100%.

be confirmed through an upper broken line graph with the reference to the right axis in <Figure 1-1-4>.

<Table 1-1-3> Number and rate of arrests

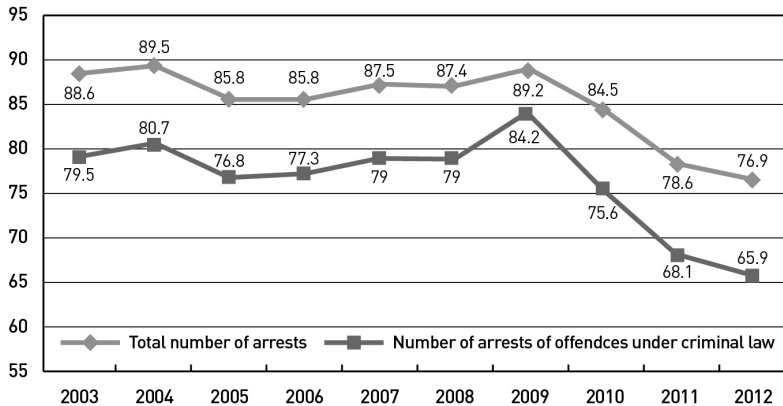
Years	Total crimes			Criminal Act offenses		
	Total number	Arrest	Arrest rate	Total number	Arrest	Arrest rate
2003	2,004,329	1,776,049	88.6%	857,488	681,488	79.5%
2004	2,080,901	1,862,234	89.5%	826,886	667,503	80.7%
2005	1,893,896	1,624,522	85.8%	825,840	634,244	76.8%
2006	1,829,211	1,569,547	85.8%	828,021	640,296	77.3%
2007	1,965,977	1,720,000	87.5%	845,311	667,959	79.0%
2008	2,189,452	1,914,469	87.4%	897,536	709,117	79.0%
2009	2,168,185	1,933,566	89.2%	993,136	836,099	84.2%
2010	1,917,300	1,620,942	84.5%	939,171	710,146	75.6%
2011	1,902,720	1,496,334	78.6%	997,263	678,817	68.1%
2012	1,944,906	1,496,304	76.9%	1,038,609	684,832	65.9%

* Arrest rate = (Number of arrests)/(Total crimes)

Meanwhile, the crime rate for the last ten years of Criminal Law offenses excluding Special Acts offenses, most of which are Act on Special Cases Concerning the Settlement of Traffic Accident and Road Traffic Act offenses, is as follows: 79.5% in 2003, 80.7% in 2004, 76.8% in 2005, 77.3% in 2006, 79.0% in 2007, 79.0% in 2008, 84.2% in 2009, and 75.6% in 2010, with the number going up and down without noticeable changes. In 2010, however, it declined to 68.1%, which further decreased by 2.2%p compared to 2011 to 65.9%, the lowest figure in the last 10 years.

In sum, the arrest rate of both total crimes and Criminal Law offenses has been on the decrease as a whole for the last decade, the latter of which is lower than the former one. In particular, the decreasing gap of the arrest rate of Criminal Law offenses

is far bigger than that of the total crimes.



*Source : Supreme Prosecutors' Office, <Crime Analysis> 2004~2013. Reorganized.

<Figure 1-1-4> Annual trend of arrest rate

B. Disposition of Prosecutors' Office to Criminal Law offenders

The disposition of Prosecutors' Office to Criminal Law offenders for the last 10 years is shown below in <Table 1-1-4> and <Figure 1-1-5>. 31.9% were subject to prosecution requiring either informal or formal procedure, 54.1% non-prosecution including suspension of indictment, and 14.1% transference to juvenile court or family protection. Looking at this figure more closely, out of prosecuted criminals, requisition of formal procedure accounted for 7.9%, and requisition of summary procedure 24.0%, while suspension of prosecution accounted for 21.2%, and other reasons, including being cleared of suspicion and lacking prosecutorial right, 32.8%.

Annual trend of composition rate of criminals prosecuted requiring formal procedure mostly stays around the 7 to 8% range, not showing great fluctuation: 9.3% in 2003, 7.8% in 2004, 7.1% in 2005, 7.4% in 2006, 7.6% in 2007, 8.2% in 2008, 8.1% in 2009,

7.3% in 2010, 7.3% in 2011, and 8.1% in 2012.

The composition rate of criminals requiring summary procedure shows a downward trend: 26.5% in 2003, 24.2% in 2004, 24.4% in 2005, 23.5% in 2006, 24.7% in 2007, 24.6% in 2008, 23.9% in 2009, 23.0% in 2010, 22.7% in 2011, and 22.3% in 2012.

The rate of criminals whose prosecution got suspended has stayed in the early 20% range with a few ups and downs: 19.2% in 2003, 19.4% in 2004, 20.6% in 2005, 19.8% in 2006, 20.3% in 2007, 21.3% in 2008, 22.8% in 2009, 22.7% in 2010, 23.2% in 2011, 22.4% in 2012.

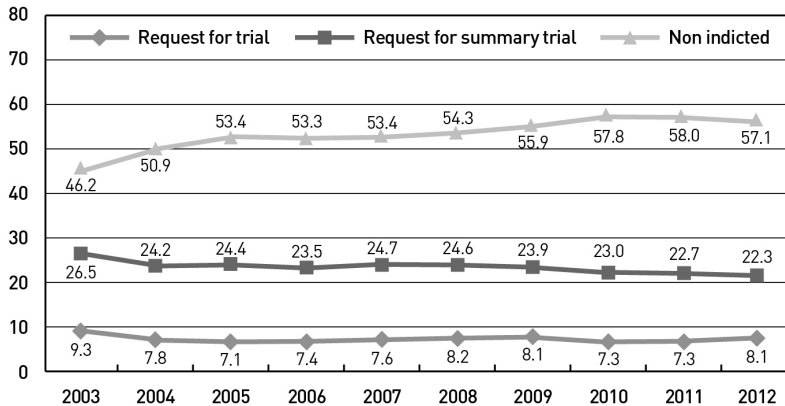
Meanwhile, the rate of criminals who were transferred, etc. accounted for 18.0% in 2003, which continuously decreased to the lowest 11.9% in 2010 and slightly rebounded after. But on the whole, the rate of transference etc. is on the decrease.

〈Table 1-1-4〉 The result of the Criminal Law offenders at the Prosecutors' Office

Year	Total	Prosecution			Non-prosecution			Transfer etc.
		(Subtotal)	Requisition of formal procedure	Requisition of summary procedure	(Subtotal)	Suspension of prosecution	Non-prosecution etc.	
2003	1,025,140 (100.0)	366,509 (35.8)	94,925 (9.3)	271,584 (26.5)	473,614 (46.2)	196,496 (19.2)	277,118 (27.0)	185,017 (18.0)
2004	950,089 (100.0)	304,483 (32.0)	74,261 (7.8)	230,222 (24.2)	483,592 (50.9)	184,665 (19.4)	298,927 (31.5)	162,014 (17.1)
2005	865,325 (100.0)	272,739 (31.5)	61,801 (7.1)	210,938 (24.4)	462,206 (53.4)	177,882 (20.6)	284,324 (32.9)	130,380 (15.1)
2006	855,066 (100.0)	264,197 (30.9)	63,320 (7.4)	200,877 (23.5)	456,097 (53.3)	169,198 (19.8)	286,899 (33.6)	134,772 (15.8)
2007	833,807 (100.0)	269,521 (32.3)	63,695 (7.6)	205,826 (24.7)	445,601 (53.4)	169,213 (20.3)	276,388 (33.1)	118,685 (14.2)
2008	1,023,947 (100.0)	335,866 (32.8)	84,172 (8.2)	251,694 (24.6)	555,992 (54.3)	217,904 (21.3)	338,088 (33.0)	132,089 (12.9)
2009	1,118,253 (100.0)	357,990 (32.0)	90,587 (8.1)	267,403 (23.9)	625,474 (55.9)	254,662 (22.8)	370,812 (33.2)	134,789 (12.1)
2010	944,853 (100.0)	287,047 (30.4)	69,424 (7.3)	217,623 (23.0)	545,787 (57.8)	214,523 (22.7)	331,264 (35.1)	112,019 (11.9)

Year	Total	Prosecution			Non-prosecution			Transfer etc.
		(Subtotal)	Requisition of formal procedure	Requisition of summary procedure	(Subtotal)	Suspension of prosecution	Non-prosecution etc.	
2011	954,629 (100.0)	286,612 (30.0)	69,477 (7.3)	217,135 (22.7)	553,816 (58.0)	221,277 (23.2)	332,539 (34.8)	114,201 (12.0)
2012	1,012,020 (100.0)	307,760 (30.4)	82,257 (8.1)	225,503 (22.3)	578,122 (57.1)	226,972 (22.4)	351,150 (34.7)	126,138 (12.5)
Total	9,583,129 (100.0)	3,052,724 (31.9)	753,919 (7.9)	2,298,805 (24.0)	5,180,301 (54.1)	2,032,792 (21.2)	3,147,509 (32.8)	1,350,104 (14.1)

*Source : Supreme Prosecutors' Office, <Crime Analysis> 2003~2012, Reorganized.



*Source : Supreme Prosecutors' Office, <Crime Analysis> 2003~2012, Reorganized.

<Figure 1-1-5> Annual trend of the disposition of criminal act offenders at the Prosecutors' Office

Section 2 Conclusion

A total of 1,944,906 crimes were perceived by criminal justice organizations in 2012, which translates into 3,817 per 100,000 inhabitants. The number and rate of total crimes kept decreasing from 2003 to 2006, and started going up from 2007 to record the highest in 2008, which began to go down again afterward. When crimes are divided into Criminal Law offenses and Special Acts offenses, the former marked 997,263 in 2012, showing a continuous increase for the last 10 years, while Special Acts offenses are gradually trending downward.

The arrest rate of both total crimes and Criminal Law offenses for the last decade has been on the decline, with the latter lower than the former.

The latter also shows a bigger decrease gap. 31.9% of the arrested criminals were prosecuted, 54.1% were not prosecuted and 14.1% were transferred as juvenile protection or family protection case. Prosecution rate has continuously decreased while non-prosecution rate has increased for the last 10 years.

76.0% of the criminals in 2012 were male offenders while female accounted for 18.6%, although sex ratio for the last decade has not shown much change. Most offenders were in their 40s, while the second and third largest age groups were 30s and 20s. The rate of criminals ages between the age of 20 and 40 gradually declined, while minors under 19 and the age groups of 50s and 60s increased.

Criminal records of Criminal Law offenders show that only 19.0% are first-time offenders, while 41.6% were repeat criminals. Offenders with unidentified criminal history accounted for 39.4%. For the last 10 years, the rate of first-time offenders and repeat criminals both decreased while offenders with unknown record continuously increased, making it hard to identify a trend. However, it is noticeable that the rate of criminals convicted nine

times or more is continuously increasing. Among repeat criminals, even though the rate of different crimes repetition is almost double that of crimes in kind, the latter kept increasing for the last 10 years with the starting point of repetition earlier than that of the different crime repeat criminals. In the meantime, regarding accomplice status, 79.9% of the total Criminal Law offenses in 2012 were committed by sole offenders, and the figure had been trending upward for the last 10 years.

In 2012, 65.5% of the victims of Criminal Law offenses were males, showing males are more vulnerable than females to the Criminal Law crimes. Meanwhile, the sex ratio has not much changed for the last decade. Offenders in their 40s accounted for 25.6%, 30s 20.7%, and 50s 20.2%, showing victims in their 30s and 40s were the most vulnerable. Minors and people in their 50s have also increasingly become vulnerable.

CHAPTER

2



Current Trend and Characteristics of Index Crimes

2

Current Trend and Characteristics of Index Crimes

Identifying a trend of crime patterns of a society or country is harder than one might assume. Many of the analyses over crime trend currently available in Korea contain incorrect interpretation or personal distortion of reality. This is largely due to the unstableness of crime-related data that are collected and categorized. Moreover, the problem could occur even more frequently, particularly when official crime statistics are cited as a reference for a crime trend, because the process of simply lining up time series data of official crime statistics published by criminal justice agencies contain critical traps in it. Of course, this does not mean official crime statistics do not have any valuable data for grasping the crime reality nor does it imply that there could be additional measures to alleviate or address the problem for that matter. The key to solving the situation lies in improving the quality of various data to be combined with careful analysis supported by endless efforts to harmonize conflicting data. And this could also apply to the process of identifying the trend of major crimes, or what we call “index crimes” of Korea.

Previous publication series of Crime and Criminal Justice in Korea published from 2006 to 2012 repeatedly highlight index crimes, so we will save detailed explanation here and instead provide brief account. Index crimes can be defined as representations of the pattern of total crimes of one society. Social consensus over which kinds constitute index crimes can and does

differ among societies or countries.⁷⁾ Nevertheless, crimes of homicide, robbery, rape and other serious crimes are commonly categorized as index crimes and reported in detail in most countries. Index crimes in this report are crimes of murder, robbery, arson, larceny, sexual violence, and violences and bodily injury⁸⁾-six crimes that have been consistently used from 2009 to 2013 in the series publication of this report.

The basic method used in this chapter to identify patterns and characteristics of index crimes is the preservation of the analytical framework for official crime statistics that have been applied since 2009 in the series publication of this report. Since 2012, new discoveries have been added to provide a direction for improving analytical errors or unclear interpretations from previous years from a long-term perspective. New discoveries refer to facts newly identified during the analysis of <Crime Statistics 2011>, jointly published between the Korean Institute of Criminology and National Police Agency. The analytical framework of this year is mostly the same as that of last year (2012), and the attempts to reflect the accomplishment achieved during the re-analysis of raw data from National Police Agency (mostly regarding the crimes of homicide and sexual violence; the rest of the crimes will be reflected according to the progress of cooperation with the National Police Agency) are similar.

7) For example, eight crimes of homicide, rape, robbery, aggravated injury, break-in larceny, grand auto theft, and arson are index crimes in the United States, while in the United Kingdom, they are six crimes of homicide, robbery, injury, rape, serious assault, break-in larceny, and grand auto theft. Of course they may be subject to adjustment depending on the practical or policy needs as well as the personal interest of researchers. <Crime Statistics> published by National Police Agency has been including six crimes of homicide, robbery, sexual violence (rape and indecent act by compulsion), larceny, violences, and fraud since 2011.

8) In order to avoid confusion, the term has been changed from crimes of assault to crimes of violences and injury since 2012.

Section 1 Homicide

The scope of the crimes of homicide in official crime statistics, especially of those presented by <Crime Analysis> by Supreme Prosecutors' Office and <Crime Statistics> by National Police Agency, includes murder, infanticide, killing of ascendant, and murder upon request, with consent, upon request through fraudulent means, or by threat of force, as well as attempts, preparations, and conspiracies. Crimes leading to death by negligence are separately categorized, and crimes of murder by robbery (categorized as robbery) or murder by rape (categorized as rape) are also excluded. First of all, <Table 1-2-1> shows the trend of crime of homicide of the recent 10 years presented to have occurred (technically, crimes that were "reported" to have occurred) in <Crime Analysis> of Supreme Prosecutors' Office.

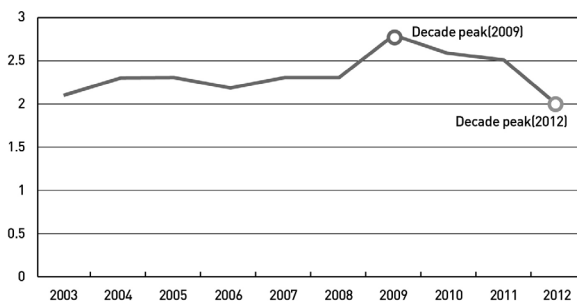
<Table 1-2-1> Year-specific number and crime rate of homicide (2003–2012) (SPO data)

Year	Total crimes		Homicide		The proportion of homicide out of total crimes	
	Number	Crime rate*	Number	Crime rate*	Out of total crimes	Out of Criminal Act offenses
2003	2,004,329	4188.0	1,011	2.1	0.050%	0.118%
2004	2,080,901	4331.7	1,082	2.3	0.052%	0.131%
2005	1,893,896	3934.3	1,091	2.3	0.058%	0.132%
2006	1,829,211	3781.6	1,064	2.2	0.058%	0.128%
2007	1,965,977	4045.4	1,124	2.3	0.057%	0.133%
2008	2,189,452	4473.0	1,120	2.3	0.051%	0.125%
2009	2,168,185	4408.5	1,390	2.8	0.064%	0.140%
2010	1,917,300	3880.4	1,262	2.6	0.066%	0.134%
2011	1,902,720	3822.3	1,221	2.5	0.064%	0.121%
2012	1,944,906	3817.4	1,029	2.0	0.053%	0.099%

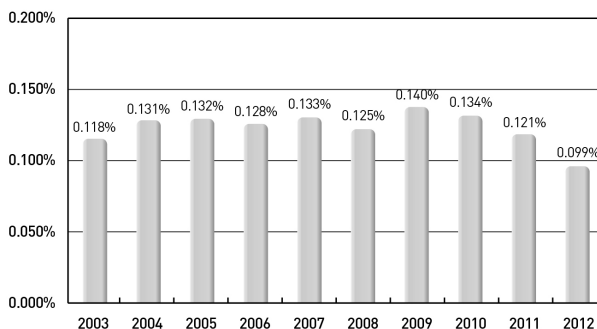
* Crime rate: Number of crimes per 100,000 inhabitants

※ Source: Supreme Prosecutors' Office, <Crime Analysis> each year, reorganized.

The number and rate (number of crimes per 100,000 inhabitants) of crimes of homicide presented in <Crime Analysis> published by Supreme Prosecutors' Office were 1,011 and 2.1 respectively in 2003 and had since remained mostly the same with a little change until 2009, when the figure dramatically leaped to 1,390 and 2.8. The numbers started to slowly decrease since 2010 to 1,262 and 2.6, to 1,221 and 2.5 in 2011, and 1,029 and 2.0 in 2012. The most recent statistics of 2012 in the number of crimes of homicide per population show the lowest figure in the past 10 years.



〈Figure 1-2-1〉 Pattern of homicide for the recent 10 years (reference: numbers per 100,000 population)



〈Figure 1-2-2〉 Trend of changes in crime rate compared to Criminal Law offenses for the recent 10 years

The share of homicide out of total Criminal Law offenses (0.099%) in 2012 is also the lowest for the recent decade (<Figure 1-2-2>).

Meanwhile, the trend of cases where victims actually died as a result of the homicide offenses could to some extent be different compared to that seen in <Table 1-2-1> and <Figure 1-2-1> above, because composition rate between consummation and attempt is not always consistent. One of the reasons why the trend of the consummated homicide is important is because the calculation criteria used in homicide statistics of advanced countries including the US and others that are registered in UNODC (United Nations Office on Drugs and Crime) basically focus on death by homicide cases.⁹⁾

However, we find it inappropriate to present the trend of death by homicide cases, for we identified serious errors in statistics of division between consummation and attempts¹⁰⁾ shown in <Crime Analysis> of Supreme Prosecutors' Office since the Korean Institute of Criminology had started cooperating with National Police Agency in 2011. Instead, we intend to present error-revised results (retroactively revised to the year 2007) seen in the previous consummation/attempt statistics after having worked with the National Police Agency since 2011.

In addition, <Table 1-2-2> reveals that the number of total homicide crimes in the Police statistics is slightly smaller than or similar to that in <Crime Analysis>. This is because cases directly

9) Of course homicide that resulted in death in Korea cannot be directly translated in the same term with that of the United States. To do that, we need to add more crimes such as death resulting from robbery or robbery and murder. Despite this, to align the homicide statistics of Korea into the UNODC standard, the first thing that has to be done is to identify the exact number of homicide cases involving the death of the victims.

10) To elaborate on the exact cause of the error, the section of attempted/consummated in the KICS system was optional, and when it was left unfilled, the system automatically treated the section as consummated. As a result, hundreds of "attempted homicides" were categorized as consummated ones. This could also apply to other crimes.

investigated by the Prosecutors would elude the Police statistics. However, error-revised statistics of homicide crimes by the National Police Agency show a noticeable gap with the consummation/attempt statistics shown in <Crime Analysis>.¹¹⁾ The numbers of consummated homicide crimes are 446 in 2007, 443 in 2008, 494 in 2009, 453 in 2010, 427 in 2011, and 411 in 2012. The downward trend in the past three years, even after considering the division between consummation and attempts, is not really distinct from that seen from the data of Supreme Prosecutors' Office in <Table 1-2-1>. Despite that, however, the occurrence trend of consummated and attempted homicide crimes respectively is different from that of the total homicide crimes shown in the data of Supreme Prosecutors' Office. For example, total number of homicide crimes in 2011 (1,221 by SPO, and 1,204 by KNPA) is higher than that in 2008 (1,120 by SPO and 1,111 by KNPA) but the number of consummated homicide crimes (427) is smaller than the figure in 2008 (443). This is because the composition rate between consummated and attempted crimes is not consistent every year. 2009 and 2011 in particular saw relatively higher share of attempted homicide out of the total homicide crimes (64% in 2009 and 64.5% in 2011).

<Table 1-2-2> Annual trend of crime pattern of consummated/attempted homicide (2007-2012) (KNPA data)

Year	Estimated population	Homicide	Consummated homicide			Attempted homicide etc.		
		Number*	Number	Rate	Ratio	Number	Rate	Ratio
2007	48,597,652	1,113	446	40.1%	0.92	623	56.0%	1.28
2008	48,948,698	1,111	443	39.9%	0.91	668	60.1%	1.36
2009	49,182,038	1,374	494	36.0%	1.00	880	64.0%	1.79

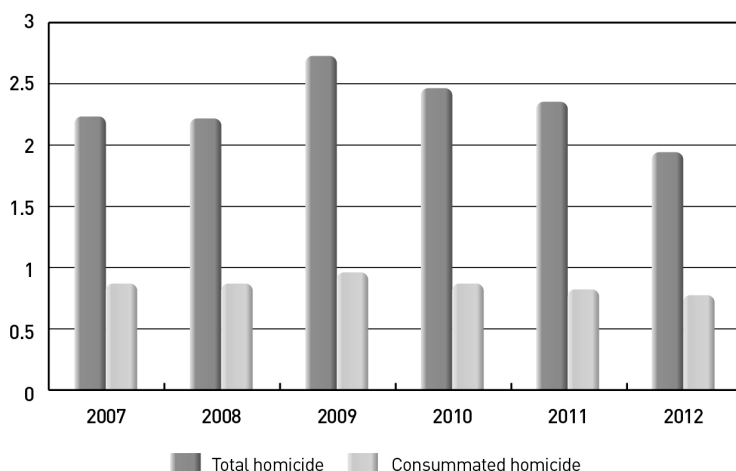
11) Even though the relevant data from <Crime Analysis> are not presented here, the consummated homicide published in 2009 <Crime Analysis> reads 1,093 (number of arrest) while the error-adjusted statistics from the KNPA says 494 (see Table 1-2-2).

Year	Estimated population	Homicide	Consummated homicide			Attempted homicide etc.		
		Number*	Number	Rate	Ratio	Number	Rate	Ratio
2010	49,410,366	1,252	453	36.2%	0.92	799	63.8%	1.62
2011	49,779,440	1,204	427	35.5%	0.86	777	64.5%	1.56
2012	49,874,358	995	411	41.3%	0.82	584	58.7%	1.17

* Since some cases might have been directly investigated by the Prosecutors' Office without going through Police investigation, it is understandable that Police data show smaller figures than Prosecutors' Office data (Table 1-2-1).

※ Source: National Police Agency, <2011-2012 Crime Statistics>, cited and reorganized Trend of Index Crime Patterns.

<Figure 1-2-3> more clearly shows the significance of dividing consummation and attempted crimes. If we compare the trend of changes in crime rate of homicide (number per 100,000 inhabitants) and that of consummated homicide, we can easily see in the graph that the latter is far smaller than the former.



<Figure 1-2-3> Comparison between the trend of crime rates of total homicide and consummated homicide

For reference, <Figure 1-2-3> cites the detailed categorization of crimes of homicide provided by Police statistics in 2011 and 2012 <Crime Statistics>.

<Table 1-2-3> Detailed statistics of consummated/attempted homicide in 2011-2012 (KNPA data)

Detailed category of crimes of homicide	2011				2012			
	Consummated homicide		Attempts, preparations, conspiracies		Consummated homicide		Attempts, preparations, conspiracies	
	Occurrence	Arrest	Occurrence	Arrest	Occurrence	Arrest	Occurrence	Arrest
Murder	342	318	752	734	340	326	559	551
Infanticide	12	9	-	-	16	15	-	-
Killing of ascendant	48	46	20	20	32	32	18	18
Murder upon request/with consent	1	1	-	-	3	3	1	1
Abetment or aid of suicide	21	19	5	5	20	19	5	5
Murder upon request/with consent through fraudulent means or threat of force	3	2	-	-	-	-	1	1
Total	427	395	777	759	411	395	584	576
Arrest rate (Total arrests/Total occurrence×100)	92.5%		97.7%		96.1%		98.6%	

※ Source: National Police Agency, <Crime Statistics> 2011-2012. Reorganized.

The table above shows that the rates of Infanticide (Article 251, Criminal Law), Killing ascendant (Article 250 Para. 2, Act), and Murder upon request or with consent (Article 252, Act) are relatively small, while Murder of Article 250 Paragraph 1 accounts for most of the crimes of homicide (342 out of 427 or 80.1% in 2011, and 340 out of 411 or 82.7% in 2012). Between 2011 and

2012, both consummated and attempted homicide went down (but some sub-crimes like infanticide slightly increased) while the arrest rate went up, which is a very desirable phenomenon.

Section 2 Arson

Korean Criminal Act distinguishes between crimes of arson and fire caused by negligence. This is in line with murder being set apart from death by negligence. The scope of the crimes of arson as presented in <Crime Analysis> by Supreme Prosecutors' Office and <Crime Statistics> by National Police Agency includes setting fire to building with people inside etc., setting fire to public structures, etc., setting fire to other structures etc., setting fire to general goods, spread of fire, and obstruction of fire fighting, as well as attempts, preparations and conspiracies for each crime.

<Table 1-2-4> and <Figure 1-2-4> reveal official statistics of crimes of arson for the recent 10 years, to which those of fire caused by negligence are added. To start with, the number of crimes of arson per 100,000 inhabitants (crime rate) shows a trend that, like crimes of homicide, stays at a similar level every year without much change. The 2011 figure slightly increased compared to the previous year but started to decrease again in 2012, appearing to remain close to the average.

In the meantime, crimes of fire caused by negligence had trended downward until 2009 but has since been increasing. However, the 2012 statistics, the most recent data available, show once again a decrease by a small margin.

The combined crime rate trend of crimes of arson and fire caused by negligence makes it hard to determine whether it is going up or down because of its irregular annual fluctuations. The irregularity is mostly attributable to the trend of crimes of fire caused by negligence, rather than the crimes of arson.

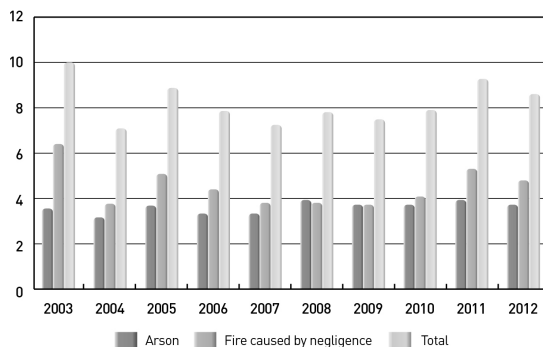
〈Table 1-2-4〉 Annual number and rate of crimes of arson (Supreme Prosecutors' Office data)

Year	Arson		Rate of arson out of total crimes		Reference 1 Fire caused by negligence		Reference 2 Arson+Fire caused by negligence	
	Number	Rate*	Out of total crimes	Out of Criminal Act offenses	Number	Rate*	Number	Rate*
2003	1,713	3.6	0.085%	0.200%	3,104	6.5	4,817	10.1
2004	1,590	3.3	0.076%	0.192%	1,873	3.9	3,463	7.2
2005	1,827	3.8	0.096%	0.221%	2,500	5.2	4,327	9.0
2006	1,685	3.5	0.092%	0.203%	2,163	4.5	3,848	8.0
2007	1,694	3.5	0.086%	0.200%	1,908	3.9	3,602	7.4
2008	1,946	4.0	0.089%	0.217%	1,902	3.9	3,848	7.9
2009	1,866	3.8	0.086%	0.188%	1,889	3.8	3,755	7.6
2010	1,886	3.8	0.098%	0.201%	2,072	4.2	3,958	8.0
2011	1,972	4.0	0.104%	0.198%	2,696	5.4	4,668	9.4
2012	1,897	3.8	0.098%	0.183%	2,437	4.8	4,334	8.7

* (Crime) Rate: Number of crimes per 100,000 inhabitants(Recalculated according to the 2014 estimated population)

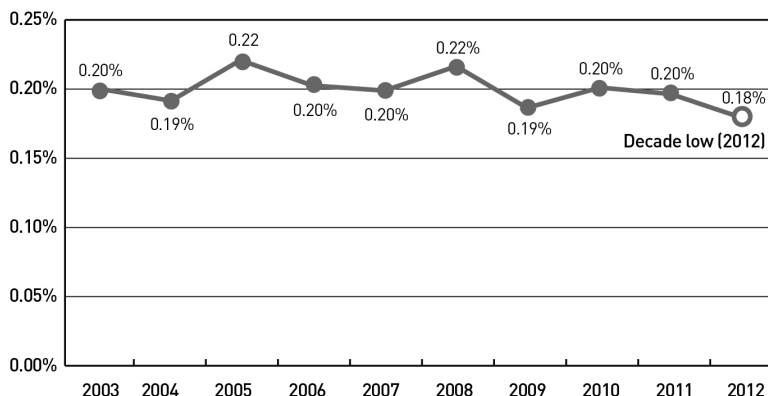
※ Source: Supreme Prosecutors' Office, <Crime Analysis>, each year. Reorganized.

〈Figure 1-2-4〉 clearly illustrates that trend of arson is relatively more stable (=annual gap is smaller) than that of fire caused by negligence.



〈Figure 1-2-4〉 Trend of crime rate of arson and fire caused by negligence for the past 10 years

Meanwhile, one of the most noticeable aspects in the rate of arson compared to total Criminal Law offenses is that the 2012 figure represents the lowest in recent 10 years even though annual changes, no matter how insignificant, are also observed.



<Figure 1-2-5> Change in trend of crimes of arson for the recent 10 years compared to Criminal Law offenses

<Figure 1-2-5> shows annual changes in number of bodily damage caused by crimes of arson (bodily injury and death) for the recent 10 years. First of all, 2003 saw a total of 460 damages (102 dead¹²) and 358 bodily injured) marking the record high due to the Daegu Subway Arson that year. The number was in the 200 range from 2004 to 2006 and 100 range from 2007 to 2008, which decreased to less than 100 in 2009, showing an overall downward trend. Of course in 2012, the bodily injuries more than doubled to 86 compared to 2011 figure of 42, but death in 2012

12) The number of death from the Daegu Subway incident of February 18, 2003 is published as 192 with plus minus few. However, the official website of the Special Committee for Daegu Subway Incident (<http://www.daegusubway.or.kr/>) says the officially confirmed death is 42 while 136 is missing. The exact number of deaths is yet to be determined.

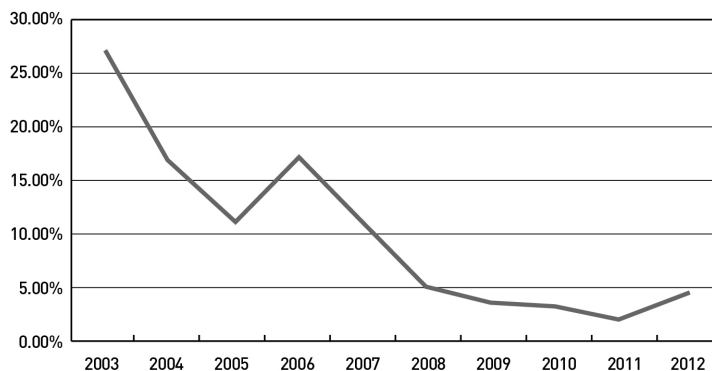
when taken separately is still the lowest figure in the recent 10 years.

〈Table 1-2-5〉 Number of bodily injuries and death caused by crimes of arson (SPO data)

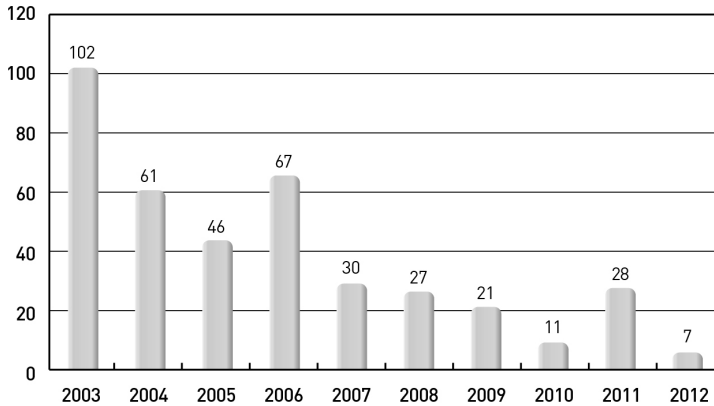
Year	A Number of crimes of arson	Bodily injuries caused by arson			Rate of bodily damage (B+C)/ A×100
		B Bodily injuries	C Death	B+C Total bodily damage	
2003	1,713	358	102	460*	26.9%
2004	1,590	206	61	267	16.8%
2005	1,827	160	46	206	11.3%
2006	1,685	222	67	289	17.2%
2007	1,694	160	30	190	11.2%
2008	1,946	74	27	101	5.2%
2009	1,866	48	21	69	3.7%
2010	1,886	48	11	59	3.1%
2011	1,972	14	28	42	2.1%
2012	1,897	79	7	86	4.5%

* Unusual numbers are due to Daegu Subway Arson incident in 2003 that resulted in many victims.

※ Source: Supreme Prosecutors' Office, <Crime Analysis> each year. Reorganized.



〈Figure 1-2-6〉 Change in rate of bodily damage caused by arson
(Number of bodily damage/Number of incidents ×100)



〈Figure 1-2-7〉 Change in the number of deaths caused by arson

This could be a clue showing that, even though crimes of arson have either maintained a certain level or slightly increased for the last 10 years, the number of serious arson crimes has continuously decreased. Of course, this could be a wrong conclusion if more and more police officers have stopped putting in bodily damages while recording crime statistics. Therefore, additional research should be conducted by checking raw data of crime statistics regarding this matter.

Section 3 Robbery

The scope of crimes of robbery in official crime statistics includes crimes of robbery, special robbery, quasi-robbery, robbery by hostage, bodily injury or death resulting robbery either by intent or negligence, robbery and rape, and piracy as well as attempts, preparations and conspiracies for each of these crimes. In addition, crimes of robbery in the Act of Aggravated Punishment etc. of Specific Crimes are also included.

As was previously mentioned, crimes of robbery and rape in official statistics are categorized under crimes of robbery, but some in Special Acts fall under crimes of sexual harrasment (rape and indecent act by compulsion). In other words, crimes of aggravated robbery and rape in the “Act on Special Cases Concerning the Punishment and Protection of Victim, etc. of Sexual Crimes” are categorized as crimes of rape and indecent act by compulsion, not robbery. Common sense would dictate that there is nothing wrong with crimes of robbery and rape in the “Act on Special Cases Concerning the Punishment and Protection Of Victim, etc. of Sexual Crimes” falling under sexual harrasment. It lacks consistency to put the same crime (robbery and rape) under different categories-one for crimes of robbery, and the other for rape. Anyhow, the fault that the current official statistics for crimes of robbery exclude some of the robbery and rape offenses must be considered first.

Next, <Table 1-2-6> shows the officially collected data of the number and crime rate of robbery for the last 10 years. The crime rate is on the decline and the proportion out of total crimes and “Criminal Law” offenses is also decreasing.

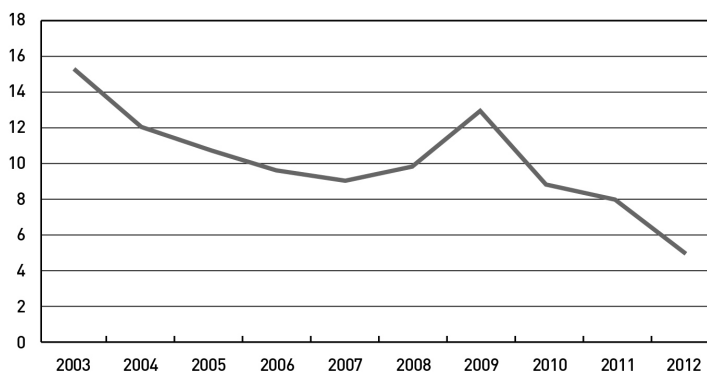
<Table 1-2-6> Number and trend of crime rate of robbery excluding aggravated robbery and rape (SPO data)

Year	Criminal Law offenses		Robbery		Share out of (%)	
	Number	Crime rate*	Number	Crime rate*	Total crimes	Criminal Law offenses
2003	857,488	1791.7	7,327	15.3	0.37%	0.9%
2004	826,886	1721.3	5,762	12.0	0.28%	0.7%
2005	825,840	1715.6	5,266	10.9	0.28%	0.6%
2006	828,021	1711.8	4,684	9.7	0.26%	0.6%
2007	845,311	1739.4	4,470	9.2	0.23%	0.5%
2008	897,536	1833.6	4,827	9.9	0.22%	0.5%
2009	993,136	2019.3	6,379	13.0	0.29%	0.6%
2010	939,171	1900.8	4,395	8.9	0.23%	0.5%

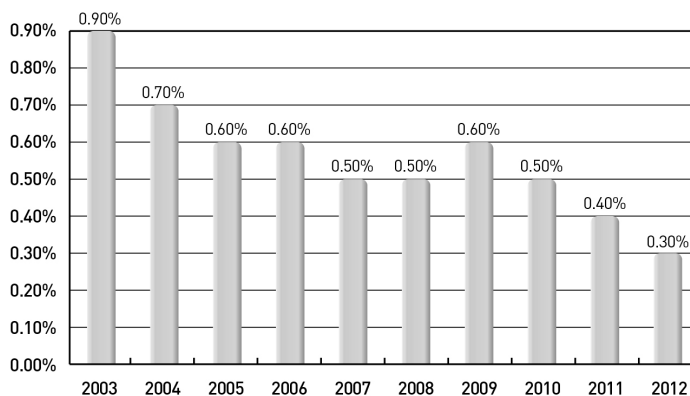
Year	Criminal Law offenses		Robbery		Share out of (%)	
	Number	Crime rate*	Number	Crime rate*	Total crimes	Criminal Law offenses
2011	997,263	2003.4	4,021	8.1	0.21%	0.4%
2012	1,038,609	2038.6	2,643	5.2	0.16%	0.3%

* Crime rate: Number of crimes per 100,000 inhabitants

※ Source: Supreme Prosecutors' Office, <Crime Analysis> each year. Reorganized.



〈Figure 1-2-8〉 Trend of crime rate of robbery for the recent 10 years



〈Figure 1-2-9〉 Change in trend of proportion of robbery out of total Criminal Law offenses for the recent 10 years

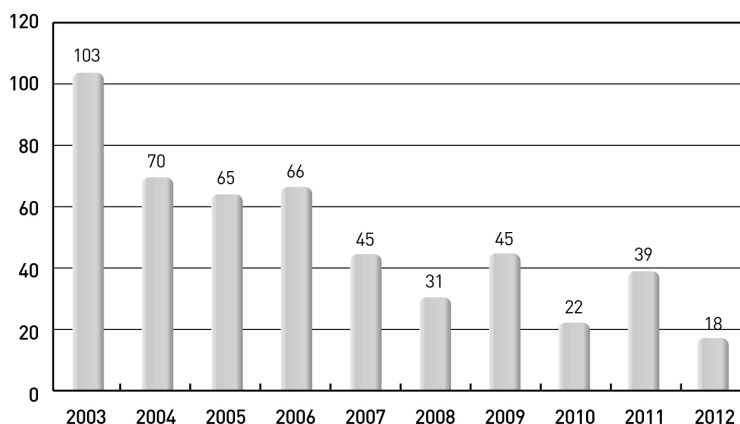
In particular, the 2012 statistics for robbery show not only record low figures in 10 years but also drastically decreased number of 5.2 compared to the previous year (8.1 per 100,000 inhabitants).

<Table 1-2-7> shows robbery cases during the recent 10 years where victims incurred bodily damage, and the graph in <Figure 1-2-10> describes the number of deaths each year caused by robbery for the recent 10 years.

<Table 1-2-7> Statistics for the number of bodily injuries and death caused by crimes of robbery (SPO data)

Year	A Number of robbery	Bodily damage caused by robbery			Rate of bodily damage (B+C)/ A×100
		B Number of bodily injuries	C Number of deaths	B+C Total bodily damage	
2003	7,327	2,690	103	2,793	38.1%
2004	5,762	2,072	70	2,142	37.2%
2005	5,266	1,514	65	1,579	30.0%
2006	4,684	1,323	66	1,389	29.7%
2007	4,470	1,106	45	1,151	25.7%
2008	4,827	973	31	1,004	20.8%
2009	6,379	1,039	45	1,084	17.0%
2010	4,395	316	22	338	7.7%
2011	4,021	179	39	218	5.4%
2012	2,643	983	18	1,001	37.9%

* Source: Supreme Prosecutors' Office <Crime Analysis> each year. Reorganized.



〈Figure 1-2-10〉 Change in number of deaths caused by crimes of robbery

Compared to other years, the 2010 and 2011 figures in <Table 1-2-7>, especially the number of bodily injuries, are very doubtful whether there were statistical errors that happened during data input. Therefore, excluding the 2010 and 2011, the number of robbery cases resulting in bodily damage is on the whole declining. The number of deaths is trending downward even after considering those two years, which is far sharper than the decline in the total number of robbery (<Figure 1-2-10>).

Finally, <Table 1-2-8> shows the trend in patterns of each type of robbery according to *modus operandi* (M.O.).

〈Table 1-2-8〉 Trend of each type of robbery based on M.O. (SPO data)

Year	Number of robbery* (A)	Break-in robbery			Mugging			Other crimes of robbery**		
		Number (B)	Share B/ A×100 (%)	Rate**	Number (C)	Share C/ A×100 (%)	Rate**	Number (D)	Share D/ A×100 (%)	Rate**
2003	7,706	1,733	22.5%	3.6	1,619	21.0%	3.4	4,354	56.5%	9.1
2004	5,750	1,944	33.8%	4.0	1,291	22.5%	2.7	2,515	43.7%	5.2
2005	5,265	1,912	36.3%	4.0	973	18.5%	2.0	2,380	45.2%	4.9

Year	Number of robbery*	Break-in robbery			Mugging			Other crimes of robbery**		
		Number (B)	Share B/ A×100 (%)	Rate**	Number (C)	Share C/ A×100 (%)	Rate**	Number (D)	Share D/ A×100 (%)	Rate**
2006	4,684	2,123	45.3%	4.4	778	16.6%	1.6	1,783	38.1%	3.7
2007	4,470	1,875	41.9%	3.9	819	18.3%	1.7	1,776	39.7%	3.7
2008	4,827	1,687	34.9%	3.4	855	17.7%	1.7	2,285	47.3%	4.7
2009	6,379	2,127	33.3%	4.3	1,068	16.7%	2.2	3,184	49.9%	6.5
2010	4,394	1,391	31.7%	2.8	803	18.3%	1.6	2,200	50.1%	4.5
2011	4,021	1,298	32.3%	2.6	684	17.0%	1.4	2,039	50.7%	4.1
2012	2,404	998	41.5%	2.0	479	19.9%	1.0	927	38.5%	1.9

* For unknown reasons, numbers from 2002 to 2010 are inconsistent with those from <Table 1-2-6> and <Table 1-2-7> excluding 2011 figures.

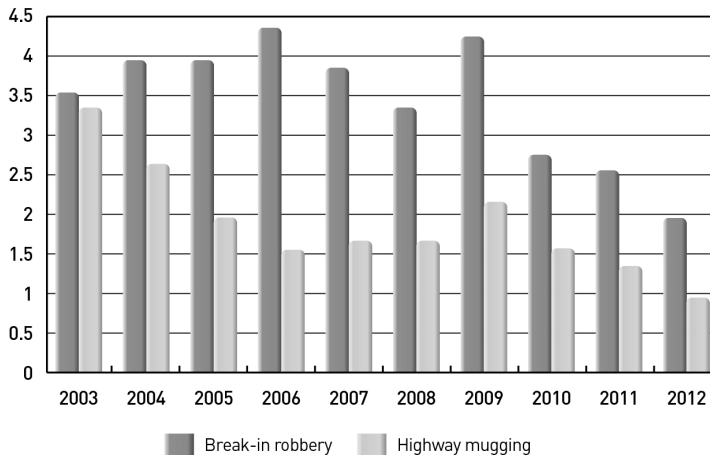
** Crime rate: Number of crimes per 100,000 inhabitants (Recalculated according to the 2014 population estimates)

*** Combination of robbery inside a vehicle, piracy, robbery using a vehicle, robbery by kidnapping, robbery using anesthetics, robbery by hostage, robbery and rape, sudden robbery, and other forms of robbery

※ Source: Supreme Prosecutors' Office, <Crime Analysis> each year. Reorganized.

This table divides crimes of robbery into three categories according to the method of crime: break-in robbery, highway mugging, and others.¹³⁾ First of all, crime rates of the three have been on the decline, particularly for the past four years. Highway mugging shows the biggest drop, followed by others.

13) The "Others" or other types of robbery refer to all the other types of robbery excluding break-in robbery and highway mugging, not the "others" mentioned in <Crime Analysis> by the SPO.



〈Figure 1-2-11〉 Comparison between crime rates of break-in robbery and highway mugging for the recent 10 years

If you compare proportions of both types, highway mugging decreases by a large margin while crimes of break-in robbery are increasing. As <Figure 1-2-11> shows, the crime rate of both crimes in 2003 were similar, but the gap grew since, which decreased a little recently.

Section 4 Larceny

Larceny is the most traditional form of offense with particularly high hidden crimes. The scope of official statistics for larceny includes crimes of larceny, larceny by trespassing residence at night (compound larceny), special larceny, and unlawful use of automobiles in Criminal Law, as well as crimes of larceny in “Act on the Aggravated Punishment etc. of Specific Crimes.” <Figure 1-2-9> shows that the number and crime rate of larceny have both steadily increased for the last 10 years.

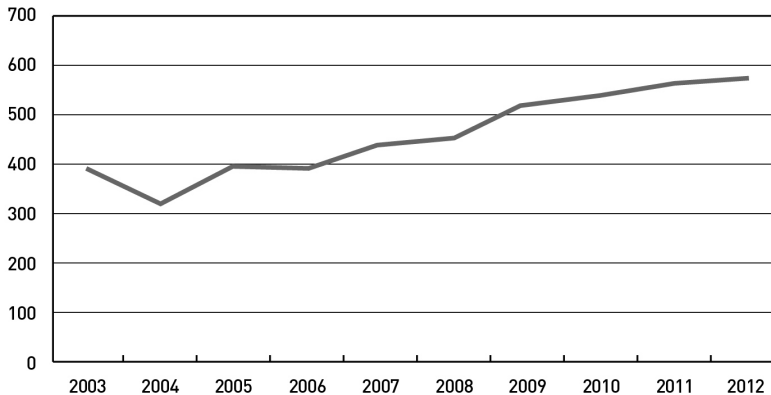
<Table 1-2-9> Annual number and crime rate of larceny (SPO data)

Year	Larceny		Share of larceny out of (%)		Reference statistics: Receiving stolen property	
	Number	Rate*	Total crimes	Total Criminal Act crimes	Number	Rate*
2003	187,871	392.5	9.4%	21.9%	1,145	2.4
2004	154,850	322.3	7.4%	18.7%	1,581	3.3
2005	191,114	397.0	10.1%	23.1%	3,547	7.4
2006	190,745	394.3	10.4%	23.0%	2,432	5.0
2007	212,530	437.3	10.8%	25.1%	3,050	6.3
2008	223,264	456.1	10.2%	24.9%	2,212	4.5
2009	256,680	521.9	11.8%	25.8%	3,381	6.9
2010	268,007	542.4	14.0%	28.5%	3,206	6.5
2011	281,561	565.6	14.8%	28.2%	2,606	5.2
2012	293,074	575.2	15.1%	28.2%	3,856	7.6

* Crime rate: Number of crimes per 100,000 inhabitants

※ Source: Supreme Prosecutors' Office, <Crime Analysis> each year. Reorganized.

<Figure 1-2-8> identifies the pattern of an increasing trend. According to the changing shares of larceny out of total and Criminal Law crimes as shown in <Table 1-2-9>, we can see that the proportion of larceny in both cases has been increasing. This means that the number of crimes of larceny is increasing much faster than other crimes. For reference, crimes of acquiring stolen property, largely related to crimes of larceny, had rather decreased since 2009 until 2012 when they began to increase again. Compared to 2011, the 2012 figure showed a steep increase.



〈Figure 1-2-12〉 Trend of number of larceny compared to population for the recent 10 years

<Table 1-2-10> below shows the comprehensive statistics for the trend and amount of property damage resulting from crimes of larceny. This part of data requires special attention in its interpretation due to the relative lack of accuracy of the figures but was presented here for the reference purpose. First of all, the number of larceny resulting in confirmed property damage showed little change until 2010. In other words, the figure hardly went up until 2010 even though the total number of larceny increased. However, it suddenly shot up in 2011 and 2012, which is difficult to explain solely based on this data. We only guess that there could be a certain change during the process of data input considering a dramatic change in the column of property damage trended. The share of larceny incidents with confirmed property damage was trending downward from 2003 to 2010 (from 64.5% to 48.8%), then suddenly increased to 78% and 91.5% in 2011 and 2012 respectively. The statistics regarding the amount of property damage resulting from larceny are too uneven to be regarded as unstable. For instance, the number of larceny with confirmed property damage in 2012 greatly increased compared to 2011, but

the amount of damage was cut in half. Considering the unstableness, the statistics could at best only serve as a reference purpose.

〈Table 1-2-10〉 Number of larceny cases with confirmed property damage and the amount of property damage

Year	A(=B+C+D) Number of larceny cases	Confirmed property damage			Rate of larceny with confirmed property damage B/ A×100	Amount of property damage (Unit : KRW100,000)
		B Yes	C No	D Unknown		
2003	187,871	120,967	15,164	51,740	64.4%	42,664,264
2004	154,850	68,794	85,640	416	44.4%	32,534,172
2005	191,114	105,711	85,037	366	55.3%	3,967,876
2006	190,745	107,770	82,628	347	56.5%	2,576,615
2007	212,530	117,636	94,641	253	55.4%	2,774,604
2008	223,264	122,928	100,127	209	55.1%	2,716,417
2009	256,680	124,902	131,503	275	48.7%	14,607,084
2010	268,007	130,901	50,554	86,552	48.8%	2,408,480
2011	281,561	219,682	30,672	31,207	78.0%	16,449,880
2012	293,074	268,296	19,229	24,778	91.5%	8,226,251

※ Source: Supreme Prosecutors' Office <Crime Analysis> each year. Reorganized.

Meanwhile, <Table 1-2-11> shows the trend of each type of larceny based on the *modus operandi*. For the ease of data interpretation, we simplified the table by presenting only two types of M.O. In other words, the categories of larceny in official statistics such as break-in larceny, pick pocketing, snatching, shoplifting, larceny using vehicle, and larceny by trickery were all combined to constitute "traditional larceny" to be compared with "others." In the table, the share of "Traditional larceny" decreased while "Others" increased until 2012, when the former began to show a steep increase again. The proportion of "Others" was 48.1% in 2002, which steadily increased year by year to reach 62.2% in 2011 and fell to 53% in 2012.

〈Table 1-2-11〉 M.O.-specific trend of larceny (SPO data)

Year	Number of larceny (A)	Traditional larceny*			Other types***		
		Number (B)	Share B/ A×100(%)	Crime rate**	Number (C)	Share C/ A×100(%)	Crime rate**
2003	187,488	93,332	49.8%	195.0	94,156	50.2%	196.7
2004	154,920	74,174	47.9%	154.4	80,746	52.1%	168.1
2005	191,121	91,615	47.9%	190.3	99,506	52.1%	206.7
2006	190,748	87,323	45.8%	180.5	103,425	54.2%	213.8
2007	212,531	94,676	44.5%	194.8	117,855	55.5%	242.5
2008	223,262	93,451	41.9%	190.9	129,811	58.1%	265.2
2009	256,681	103,418	40.3%	210.3	153,263	59.7%	311.6
2010	267,994	99,393	37.1%	201.2	168,601	62.9%	341.2
2011	281,534	106,370	37.8%	213.7	175,163	62.2%	351.9
2012	274,660	129,001	46.9%	258.7	145,659	53.0%	292.1

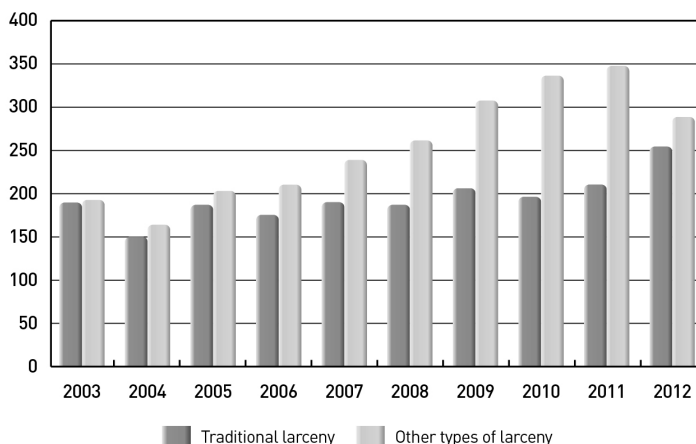
* Break-in larceny, pick pocketing, snatching, shoplifting, larceny using vehicle, and larceny by trickery combined

** Crime rate: Number of crimes per 100,000 inhabitants (based on the estimated population of 2014)

*** Numbers as presented in "other types of larceny" from <Crime Analysis> of Supreme Prosecutors' Office

※ Source: Supreme Prosecutors' Office, <Crime Analysis> each year. Reorganized.

When compared to "Traditional larceny," the trend of "Other types" has shown a relatively steep increase for the last 10 years, while that of its counterpart has been stable. Of course the 2012 figure hints that there might be a change in such patterns: the number of traditional crimes rapidly increased that year while other types of larceny went down. Hypothetically, this could be attributable to a more prominent tendency in the 2012 statistics which incorporated part of the types of larceny that used to be categorized as "Other types" into "Traditional larceny." Nevertheless, it is still valid that "Other types," not "Traditional larceny," led the increase of the number of larceny for the last 10 years.



〈Figure 1-2-13〉 Trend of crime rates of traditional larceny and other types of larceny for the recent 10 years

Section 5 Sexual Violence

Crimes of sexual violence are the most difficult to identify through official crime statistics, even with the help of additional data. It is never an overstatement that there are many hidden traps in the process of identifying the trend of sexual violence only through official statistics. Not only chronically low and seasonally fluctuating report rate,¹⁴⁾ but also widening scope of application every year due to the revision of relevant law¹⁵⁾ make it

14) In case the reporting rate in the past was very low, and it gradually increased recently, the crimes in official statistics could be seen drastically going up without the actual increase of offenses. It is highly likely that the reporting rate of sexual violence has been rising due to the ever-growing awareness about human rights and women's rights.

15) For the last decade, it quite often happened where what had not constituted crimes suddenly became serious felony due to the amendment of related Acts. This led to seemingly increasing sexual violence in the official statistics.

fundamentally difficult to infer the real pattern. What is worse, due to various systems of special acts that go beyond the imagination of the public and statistical classification that shows mind-boggling inconsistency, official statistics for sexual violence are considered by far the most unreliable. The next-best approach to see the reality would be to constantly collect data while correcting existing data to make the most accurate and comprehensive analysis possible. Superficial review of statistics that are given passively would only lead to the distortion of reality. This point must be duly noted before reading this section.

For starters, the classification method of official statistics is confusing. Up until now, <Crime Analysis> published by Supreme Prosecutors' Office uses the term "statistics for crimes of rape," which includes both rape and indecent act by compulsion. Even though both crimes could only vaguely fall under the same category and are of two different natures, they have both been called rape, and the two statistical data have been combined. This negligence has resulted in crimes of indecent act by compulsion being included in the rape statistics, setting aside the question whether the combining itself was appropriate. In order to amend such negligence, this section uses the term "crimes of sexual violence," instead of crimes of rape. That is, statistics containing both crimes of rape and indecent cannot technically be called "statistics for rape."

Sexual violence in this section includes crimes concerning rape in the "Criminal Law" and sexual violence in special acts. The former includes rape, indecent act by compulsion, quasi-rape, quasi-indecent act by compulsion, inflicting or causing bodily injury by rape, killing or causing death by rape, sexual intercourse with minors, and sexual intercourse by abuse of occupational authority. The crime of robbery and rape which, as previously mentioned, is categorized as robbery in Criminal Law but falls under rape according to "Act on Special Cases Concerning the Punishment

etc. of Sexual Crimes.” Furthermore, crimes of aggravated robbery and rape under the “Act on Special Cases Concerning the Punishment of Sexual Crimes and Protection of Crime Victims, etc. (1994-2010)” is categorized under crimes of rape. In the meantime, special acts related to sexual violence have frequently been amended or newly established almost every year, with the addition of various provisions on sexual crimes in many special acts. The problem is statistical confusion stemming from the situation. There were cases where sexual violence-related crimes had totally been eluded by statistics for rape and indecent act by compulsion and from a certain point, suddenly, started to be included in the statistics. This could not simply be solved by adding the statistical data of new special acts concerning sexual violence because they contain not only the same crimes as sexual violence but also other forms of sex-related crimes. As late as 2008, statistics for rape and indecent act by compulsion became complete by incorporating all those data separated from other statistics of new special acts.

As a result, figures from 2003 to 2007 in <Table 1-2-12> do not capture total crimes of sexual violence. Therefore, we readjusted statistical numbers by adding violations of Act on the Protection of Juveniles from Sexual Abuse to each relevant year. What should be noted in advance is that part of the data of the Act which the relevance to sexual violence cannot be confirmed due to the lack of raw data were also added. From 2010 to 2011, the violations of the “Act on Special Cases Concerning the Punishment etc. of Sexual Crimes” and “Act on the Protection of Juveniles from Sexual Abuse (Rape etc.)” were included while in 2012, part of violations of the latter (Rape etc., Article 7) was again excluded.

The number and crime rate of sexual violence each year in <Table 1-2-12> show that more and more crimes of sexual violence have been occurring every year for the past decade. Although the most recent 2012 data depicts smaller numbers than those in

2011, this cannot be translated as net decrease because it is related in some part to the fact that part of the provisions of the “Act on the Protection of Juveniles from Sexual Abuse (Rape etc.)” were excluded from the scope of the 2012 statistics for sexual violence. Perhaps it could be an example case that shows how mere exclusion of a small statistical item that used to be part of the statistics can significantly affect crime statistics.

〈Table 1-2-12〉 Number and crime rate of sexual violence each year (SPO data)

Year	A	B	A+B	Crime rate of sexual violence*	Share of sexual violence out of		Reference: Robbery and rape under Criminal Law****	
	Rape and indecent act by compulsion**	Act on protection of juveniles from sexual abuse***	Crimes of sexual violence		Total crimes	Criminal Law offenses	Number	Crime rate*
2003	10,365	2,119	12,484	26.1	0.6%	1.5%	414	0.9
2004	11,105	2,863	13,968	29.1	0.7%	1.7%	181	0.4
2005	11,757	1,874	13,631	28.3	0.7%	1.7%	117	0.2
2006	13,573	1,584	15,157	31.3	0.8%	1.8%	70	0.1
2007	13,634	1,752	15,386	31.7	0.8%	1.8%	77	0.2
2008	15,094	Separated and added to A	15,094	30.8	0.7%	1.7%	45	0.1
2009	16,156	Separated and added to A	16,156	32.8	0.7%	1.6%	85	0.2
2010	19,939	Separated and added to A	19,939	40.4	1.0%	2.1%	30	0.1
2011	22,034	Separated and added to A	22,034	44.3	1.2%	2.2%	44	0.1
2012	21,346	Separated and added to A	21,346	41.9	1.1%	2.1%	20	0.04

* Crime rate: Number of crimes per 100,000 inhabitants

** Figures for crimes of rape and indecent act by compulsion are as presented under the crimes of rape in <Crime Analysis> of Supreme Prosecutors' Office. The scope in the publication had not until 2007 included violations of “Act

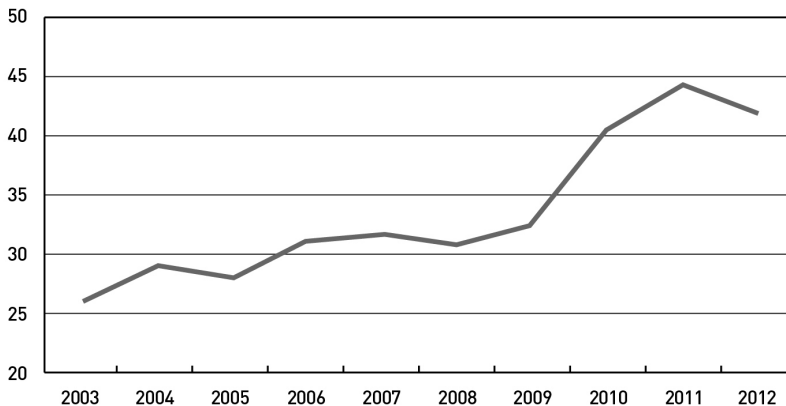
on the Protection of Juveniles from Sexual Abuse". But starting from 2008, the data regarding rape of juvenile under the same Act began to be included. After the sweeping reform of Special Acts concerning sexual violence in 2010, the violations of "Act on Special Cases Concerning the Punishment etc. of Sexual Crimes" and "Act on the Protection of Children and Juveniles from Sexual Abuse" were added to the crimes of rape and indecent act by compulsion under Criminal Act. However, in 2012, part of the violations of "Act on the Protection of Children and Juveniles from Sexual Abuse" were again excluded, which seem to have led to the decreased number of crimes.

*** The violations from 2002 to 2007 include crimes other than sexual violence. Since there is no way to distinguish them, however, due to the lack of raw data, they had to be put in as a whole here.

**** M.O.-specific figures. The problem is that bigger numbers appear if robbery and rape under Criminal Act is added. (See <Crime Statistics 2011> and <Crime Statistics 2012> p. 58: 132 cases in 2011 and 66 in 2012) One possibility is that part of crimes of robbery and rape is included in break-in etc. robbery. That is, redundancy might occur between break-in robbery and robbery and rape if there are both.

※ Source: Supreme Prosecutors' Office, <Crime Analysis> each year. Reorganized.

The following graph shows the trend of the number of sexual violence per population for the last 10 years (crime rate: number of crimes concerning sexual violence per 100,000 inhabitants).



<Figure 1-2-14> Trend of crime rate of sexual violence for the recent 10 years

As previously mentioned, however, hidden traps certainly exist that make it hard to translate the overall trend of increase as shown in <Figure 1-2-14>. In particular, the expansion of the scope of application itself of sexual crimes during the frequent process of establishing and revising various special acts concerning sexual violence in the last 10 years could make the numbers look like they are increasing. If this is added to other considerations such as possibility of change in sex crime report rate due to changing perceptions about traditional roles of women and women empowerment, as well as changing understanding about crimes of sexual violence of judicial organizations, it is hard to identify the true trend of a certain offense group just by interpreting this graph. One of the approaches to this matter could be to strictly look at only a certain limited offense group. For instance, both crimes of inflicting and causing bodily injury by rape have a *corpus delicti* or the body of crime that are not easily subject to the change of law. The only problem is that the current statistics do not provide such data.

In 2012 and 2013, National Police Agency allowed researchers at the KIC to have, although limited, access to raw data of crime statistics of KNPA from 2011 to 2012, and as a result, we were able to create two sub statistics related to sexual violence. The challenge was that even special acts concerning sexual crimes sometimes do not distinguish between rape and indecent act by compulsion thereby making it impossible to separate the two crimes even with raw data we had. Simply put, the accurate distinction of the two crimes is impossible. <Table 1-2-13> below shows our meaningful attempt.

〈Table 1-2-13〉 Separate statistics for sexual violence (KNPA data)

Rape (Categorized as rape when indeterminate under special acts)				Indecent act by compulsion (Includes determinate indecent act by compulsion)			
		2011	2012			2011	2012
Determinate rape	Rape	2,538	2,270	Determinate indecent act by compulsion	Indecent act by compulsion	8,081	8,692
	Quasi-rape	586	583		Indecent act by compulsion causing bodily injury	235	
	Rape by consanguinity and relatives	201	208		Indecent act by compulsion causing death	1	
	Sexual intercourse by abuse of occupational authority	2	5		Indecent act at crowded public place	1,651	1,243
	Sexual intercourse with a person under the custody	10	8		Indecent act by abuse of occupational authority	121	160
	Aggravated rape	452	361		Aggravated indecent act	105	58
Cases where it is hard to distinguish between the two crimes even with raw data	Rape inflicting bodily injury (Including indecent act by compulsion)	414	1,200	De facto indecent act by compulsion	Aggravated quasi-indecent act by compulsion	72	73
	Bodily injury caused by rape(*)	823			Indecent act by consanguinity and relatives	149	184
	Rape resulting in death(*)	-	13		Quasi-indecent act by consanguinity and relatives	26	26
	Rape and murder(*)	7			Indecent act by compulsion against minors under 13*	838	819
	Quasi-rape of persons with disability etc(*)	494	632		Act on the Punishment etc. of Sexual Crimes (uncategorized)	2	3

Rape (Categorized as rape when indeterminate under special acts)				Indecent act by compulsion (Includes determinate indecent act by compulsion)			
		2011	2012			2011	2012
	Break-in rape etc(")	341	323				
	Aggravated larceny and rape(")	16	23				
	Aggravated robbery and rape(")	279	208				
	Rape or indecent acts against minors(")	65	48				
	Consented rape against minors under age of 13(")	46	56				
	Act on the Protection of Children and Juveniles from Sexual Abuse violations(")	1,943	2,474				
Total rape [max.]		8,217	8,412	Total indecent act [min.]		11,281	11,258
Total rape [min.]		3,789	3,435	Total indecent act [max.]		15,709	16,235
Total rape and indecent act (19,498 in 2011, 19,670 in 2012)***							

* Crimes of rape and indecent act by compulsion against children under 13 under the "Act on Special Cases Concerning the Punishment etc. of Sexual Crimes" includes crimes of rape, which actually accounted for only a few cases in 2011. Currently, there is no way to separate those few, thus they had to be categorized as indecent act by compulsion.

*** Being the data from the KNPA, some discrepancies are bound to exist with the figures from the Supreme Prosecutors' Office.

※ Source: KNPA, <Crime Statistics 2011>, <Crime Statistics 2012>. Reorganized.

〈Table 1-2-14〉 Number of bodily injuries and death resulting from sexual violence (SPO data)

Year	A Number of rape and indecent act by compulsion	Bodily damage resulting from rape and indecent act by compulsion			Share of cases involving bodily damage (B+C)/ A×100
		B Bodily injury	C Death	B+C Bodily damage	
2003	10,365*	1,798	23	1,821	17.6%
2004	11,105*	2,081	13	2,094	18.9%
2005	11,757*	1,751	8	1,759	15.0%
2006	13,573*	1,725	14	1,739	12.8%
2007	13,634*	1,300	8	1,308	9.6%
2008	15,094	1,102	13	1,115	7.4%
2009	16,156	921	16	937	5.8%
2010**	19,939	321	2	323	1.6%
2011**	22,034	85	4	89	0.4%
2012	21,346	1,318	13	1,415	6.2%

* Figures in the table are collected only from the rape and indecent act by compulsion section in <Crime Analysis> published by Supreme Prosecutors' Office. The reason special acts statistics were not included was the statistical population from 2003 to 2007 was limited to rape and indecent act by compulsion.

** Presumed to have been a statistical error from the process of putting in raw data. Exact cause of the error not known.

※ Source: Supreme Prosecutors' Office <Crime Analysis> each year. Reorganized.

It is unfortunate that raw data for these statistics are highly likely to be insufficient. Some clues are detected that indicate data input itself had not been properly handled. Particularly, the number of sexual violence resulting in bodily damage in 2010 and 2011, far from normal, is highly likely assumed to be the result of an overall negligence of data input. Thus, if we could assume that statistics from 2003 to 2009 and in 2012 are less inaccurate to be used as reference, bodily damage resulting from sexual violence from 2002 to 2009 had been on the decline, which, however, slightly increased in 2012. To sum up, except for some years involving suspicious errors, total number of sexual violence is trending upward while that of serious types involving bodily damage such

as bodily injury and death is to some extent decreasing. But a final decision is bound to be reserved due to the suspicious quality of data.

Section 6 Violence and Bodily Injury

What used be called “crimes of assault” from 2009 to 2011 changed to “crimes of violence and bodily injury” in 2012.¹⁶⁾ They basically include crimes of violence and bodily injury under the Criminal Law and part of violations of Punishment of Violences, etc. Act. The preface of each year reveals that starting from 2003, statistics for violence and bodily injury are added by those under Punishment of Violences, etc. Act.¹⁷⁾ Since 2006, at least, the principle has been firmly established, so statistics for violence and bodily injury may legitimately claim the title. As a reference, crimes of violence under the Criminal Law include violence, special violence, habitual violence, violence on lineal ascendant,

16) Basically, defining assault was difficult to begin with. Depending on the case, any crimes of robbery, homicide and rape could all fall under crimes of violence. In addition, after excluding these crimes, kidnapping and inducement, arrest and illegal confinement, intimidation and extortion, and all the acts in violation of “Punishment of Violences, etc. Act” could also be seen as crimes of violence. Despite the ambiguity, the term was chosen mostly because of the Act. However, recently, the SPO’s <Crime Analysis> re-categorizes crimes of violence and injury under the Act as general violence and injury, allowing the term “crimes of violence and injury” to be used more freely.

17) However, it is very doubtful whether this principle actually applied from 2003 to 2005. The amendment of the related acts (excluding nighttime violence from the Punishment Act to be re-categorized as general crimes of violence and injury) led to sharp decrease of the Punishment Act violations from 2006 and dramatic increase of general violence and injury. If the crimes of violence and injury under the Punishment Act had been separated and included in the statistics for general violence and injury, the huge statistical gap would not have been so distinct. Anyway, the statistics seem to have been relatively accurate since 2006.

injury/death resulting from violence, and injury/death resulting from violence on lineal ascendant under the Criminal Law, and violence against drivers operating motor vehicles, and retaliatory crimes under the Act on the Aggravated Punishment, etc. of Specific Crimes. Crimes of bodily injury include bodily injury, bodily injury on lineal descendant, death resulting from bodily injury, and death resulting from bodily injury on lineal descendant.

<Table 1-2-15> below shows the statistics for the number and crime rate of violence and bodily injury from 2006 when the statistical data started to be differently computed.

<Table 1-2-15> Number and crime rate of crimes of violence and bodily injury

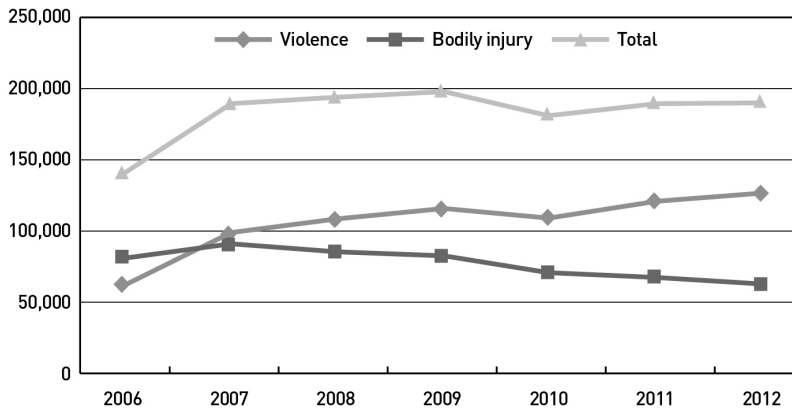
Year	Violence (A)	Bodily injury (B)	Violence and bodily injury		Share of the two out of total crimes	Share of the two out of Criminal Law offenses
			Number* (A+B)	Crime rate**		
2006	64,235	79,542	143,777	297.2	7.9%	17.4%
2007	97,598	93,178	190,776	392.6	9.7%	22.6%
2008	107,947	86,924	194,871	398.1	8.9%	21.7%
2009	115,524	82,686	198,210	403.0	9.1%	20.0%
2010	109,580	70,785	180,365	365.0	9.4%	19.2%
2011	123,304	67,719	191,023	383.7	10.0%	19.2%
2012	128,110	63,242	191,352	383.7	9.8%	18.4%

* Combination of violence and bodily injury, both of which include the same offenses under "Punishment of Violences, etc. Act."

** Number of crimes per 100,000 inhabitants (Recalculated based on the population estimate in 2014)

※ Source: Supreme Prosecutors' Office <Crime Analysis> each year. Reorganized.

To take a closer look at <Table 1-2-15>, crimes of violence has continuously been increasing for the last seven years, while crimes of bodily injury has gradually decreased since 2007. Therefore, combined trend of both crimes since 2007 has been hard to determine whether it is going up or down.



〈Figure 1-2-15〉 Trend of number of crimes of violence and bodily injury for the recent seven years

<Table 1-2-16> below shows the relationship between offenders and victims in crimes of violence and bodily injury (combined).

〈Table 1-2-16〉 Rearranged relationship between the victims and offenders of crimes of violence and bodily injury

(Number (%))

Year	Number of victims of violence*	Someone known to victims in any way**	Strangers***
2006	167,682	46,184	121,498
	(100.0)	(27.5)	(72.5)
2007	215,840	54,314	161,526
	(100.0)	(25.2)	(74.8)
2008	275,714	65,632	210,082
	100.0%	(23.8)	(76.2)
2009	274,513	63,688	210,825
	(100.0)	(23.2)	(76.8)
2010	245,062	55,220	189,842
	(100.0)	(22.5)	(77.5)
2011	241,895	49,082	192,813

Year	Number of victims of violence*	Someone known to victims in any way**	Strangers***
	(100.0)	(20.3)	(79.7)
2012	255,490	57,097	198,393
	(100.0)	(22.3)	(77.7)

* Violence and bodily injury combined

** Friends, boyfriend/girlfriend, relatives living together, other relatives, employers, employees, colleagues, business partners, neighbors, and acquaintances all combined

*** Strangers, others, unknown, State, and State officials combined

※ Source: Supreme Prosecutors' Office <Crime Analysis> each year. Reorganized.

The table above is a simplified rearrangement of the data presented in <Crime Analysis> published by Supreme Prosecutors' Office. We rearranged all the sub categories in the source including friends, boy/girlfriends, cohabiting relatives, neighbors, strangers and other 10 into only two big categories. "Someone known to victims in any way" refers to not only intimate relationships such as family, friends, or boy/girlfriends, but also any type of acquaintance including colleagues or neighbors, while "Strangers" refer to others, unknown, State, or State officials. The table shows that victims knew their offenders in only 20.3% of the relationships, and the rest of the offenders (79.7%) were strangers. The share of crimes of violence and bodily injury committed by someone known to the victims was 27.5% in 2006, which continued to decrease little by little until it reached 20.3% in 2011. To state the obvious, this trend is in line with the fact that the share of the crimes committed by strangers has been increasing. In 2012, however, the share of crimes committed by acquaintances increased while the other one by strangers decreased compared to the previous year.

Although it is hard to make an accurate analysis on the consistent increase of the crimes of violence and bodily injury committed by strangers or decrease of those committed by someone known to victims, interesting assumptions can be made out of

this. Of course, we cannot completely exclude the possibility that the phenomenon is due to a systematical problem stemming from data input process. In particular, when the data are not a necessary input value, they increasingly tend to be omitted (by, for example, a first-line cop who deals with too much workload and wants to reduce time for data input). More “Unknown” values (omitted data gets automatically categorized as unknown by the system) might have led to the relative decrease of violence and bodily injury committed by someone known to victims. This could also apply to the previous statistics for bodily injury and death. If this assumption is true, it would mean a serious and costly degradation of the value of crime statistics, which is already laden with various problems. If, on the contrary, the unusual trend is the result of accurate data input, it would be a very interesting and useful reference for a multifaceted approach to the crimes. Fortunately, Korea National Police Agency and the KIC agreed to reduce the number of elective input values and have more necessary ones, allowing a more positive outlook for future statistics.

PART 2

Criminal Policy of Korea

CHAPTER
1



Major Trends of Criminal Policy

1

Major Trends of Criminal Policy

Section 1 Policy Trend of Correction and Probation

Correction in a broad sense, concerning what happens after a criminal is sentenced in court, is the final stage of criminal justice and also the most important aspect in preventing recidivism. In Korea, correction in a narrow sense means “treatment in facilities” like detention centers or prisons, while “treatment in community” refers to probation or an order to attend lectures. As a treatment in community, correction is the responsibility of Korea Correctional Service while Crime Prevention Policy Bureau is in charge of, both of which are under the Ministry of Justice. This section takes a look at the structure, current status, major policies, future plans, and debated issues of these two organizations.

1. Korea Correctional Service

A. Structure and current status

Korea Correctional Service is in charge of affairs regarding correctional institutions and detention centers, also known as treatment in facility. Currently there are 36 correctional institutions (including one juvenile correctional institution),¹⁸⁾ 11 detention

18) Jeonguep and Sangju CIs are to be opened in 2014, totaling 38.

centers, and three branches, which add up to 50 in total. Detention centers mostly accommodate unconvicted prisoners while correctional institutions both convicted and unconvicted prisoners (see <Figure 2-1-1>).



<Figure 2-1-1> Structure of correctional facilities of Korea Correctional Service¹⁹⁾

As presented in <Figure 2-1-2>, the basic policy philosophy of Korea Correctional Service is to prevent recidivism and make sure prisoners fully return to society through correction and edification.

•Mission

Korea Correctional Service improves public safety by confining offenders in the correctional facilities and providing offenders with rehabilitation programmes, education, vocational training and other self-improvement opportunities to assist offenders in becoming law-abiding citizens.

<Figure 2-1-2> Introduction to Korea Correctional Service

The number of inmates in the facilities under the supervision of Korea Correctional Service is 48,790 as of January 2014, as shown in <Table 2-1-1>. 63.7% of them are first-time offenders while 36.3% are convicted more than two times.²⁰⁾ 32,431 inmates (66.5%) are convicted prisoners and 16,359 (33.5%) are unconvicted. Fifty-eight death row inmates with fixed penalty are scattered among five facilities.

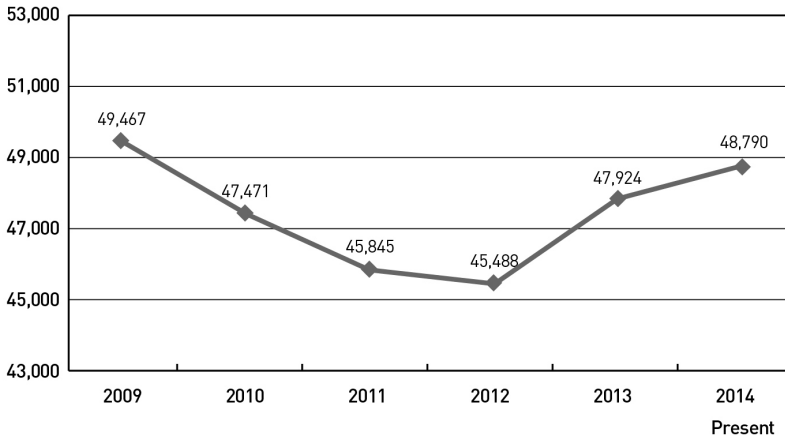
<Table 2-1-1> Number of inmates

Categories	Total	Convicted	Unconvicted	Death row
Sum	48,790 (100%)	32,431 (66.5%)	16,359 (33.5%)	58
First-time offender	31,085 (63.7%)	17,775	13,310	-
Convicted more than twice	17,705 (36.3%)	14,656	3,049	-

19) See the website of Korea Correctional Service (http://www.corrections.go.kr/HP/TCOR/cor_01/cor_0104/cor_010404.jsp)

20) See “2014 Korea Correctional Service Work Report,” an internal document of the KCS.

The annual average number accommodated had been decreasing since 2009 until 2012 when it began to go up (See <Figure 2-1-3>).



<Figure 2-1-3> Trend of the number of inmates

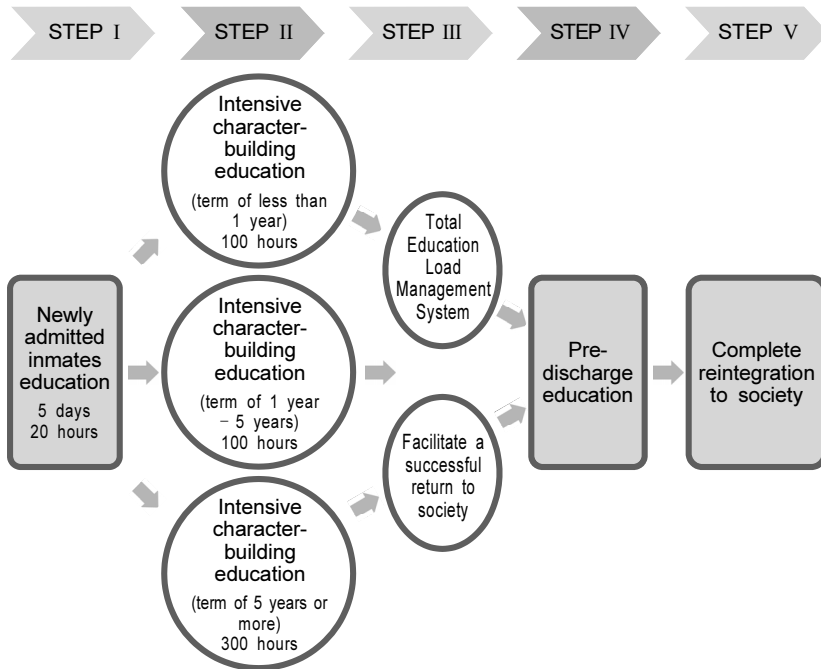
B. Major policy²¹⁾

Korea Correctional Service designed and implemented various plans in 2013 as always. This section looks at some of them: designing a comprehensive plan for inmates correction and edification, building more Halfway houses, introducing online video visitation, increasing the number of mental healthcare centers, strengthening education for sex criminals, and realigning correctional facilities with special function.

21) Ibid.

1) Comprehensive plan for the correction and edification of inmates

In order to prevent recidivism of violent crimes, Korea Correctional Service has been pursuing a comprehensive plan for the correction and edification under a new paradigm of “Improving on crimes by fundamentally changing the inner self of criminals.” The Service established TF in May 2013 and after subsequent meetings with advisors in June and July, established a comprehensive plan. It consists of two parts: correctional education (including curricular education, character building, humanities, religion, emotion development, and prevention of recurrence of specific crimes) and vocational training (including aptitude on getting a job and entrepreneurship). In particular, as part of the effort to strengthen humanities education, Korea Correctional Service concluded MOUs with Seoul National University and others in 2013 to open courses on basic humanities such as philosophy, literature, and history. 824 inmates from 46 facilities participated in the course lasted for three to five days. Starting in January 2014, a computer management structure called “Total Education Load Management System” will be introduced in order to manage the educational history of inmates in a consistent and structured manner. In addition to strengthening character building education for incoming inmates, “intensive program on character building” for inmates with fixed penalty was also started as a pre-discharge education for outgoing ones (see <Figure 3-1-4>). The intensive program divides fixed penalty inmates into three stages of 100 to 300 hours each. The course includes parenting, humanities, education, art therapy, anger management, positive psychology, religion, and job experience day. The program will be piloted in three facilities (Yeoju Correctional Institution, Seoul Detention Center, and Cheongju Women’s Correctional Institution) and expanded to all facilities across the country in 2015.



〈Figure 2-1-4〉 Comprehensive plan on correction and edification of inmates

2) Building more halfway houses: Miryang Hope Center opened

In January 2009, a halfway house was introduced to Anyang Correctional Institution in order to help to-be-released prisoners successfully adapt to society and refrain from committing crimes again. Called “Somang House,” halfway houses are located outside or next to correctional institutions, where 10 inmates who are to be released under parole and one manager live outside of the institution. Inmates work at factories or companies outside the compound during workdays and return to the house after work

for leisure activities and social adaptation training. Proven effective to increase the social adaptability of to-be-discharged inmates, the number of halfway houses or Somang Houses has increased to seven as of the end of 2013. Particularly, Miryang Hope Center that opened in September 2013 is being differently operated with the others. The existing halfway houses are all located next to correctional institutions (outside the CI nonetheless), but the employee dormitory of Korea Carbon Co., Ltd. located in Miryang was remodeled to build Miryang Hope Center, reaffirming the true meaning of halfway houses as a treatment in community.



〈Figure 2-1-5〉 Outside and inside of Miryang Hope Center

Furthermore, while access to the Internet and smartphones is completely banned in the existing halfway houses, Miryang Hope Center encourages using them in order to help the residents return to society. 10 model prisoners who are to be released under parole can buy necessary items with a debit card and participate in various experience programs including field trip, volunteer work, and religious activities designed to help them readjust to the outside world. In addition, they can freely commute to and from their

workplace without personnel surveillance and spend spare time at the Center or take part in edification programs after work. On weekends, they can leave or receive visitation to see their families. Prison guards are present only during holidays and at night to help with the edification program and useful guidance. More halfway houses are expected to be built in the future.

3) Introduction of online video visitation system

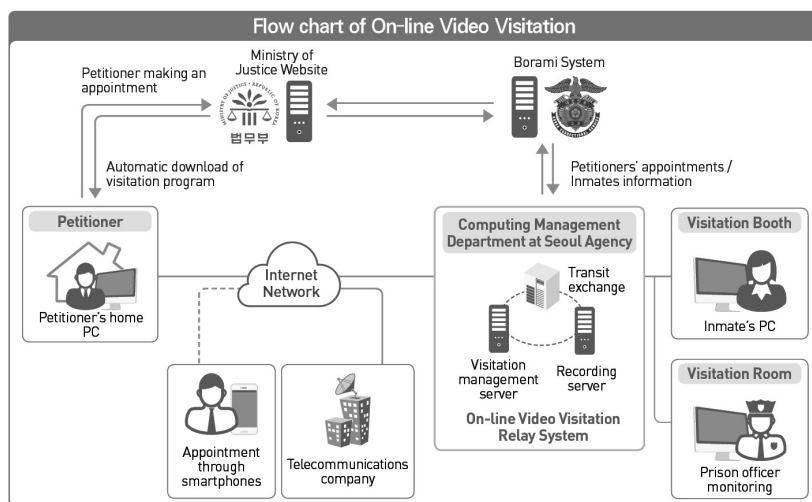
Constantly connecting with families while serving the term is very effective in preventing recurrence of crimes as well as allowing in maintaining emotional stability. However, many correctional facilities are located in remote areas, making it difficult for family members to visit. In order to address this problem, online video visitation system was introduced in 2004. With more and more inmates using it, it has been welcomed by the families of inmates. However, the inconvenience for non-inmates to make a trip to the nearest correctional facility was pointed out. Therefore, starting from 2012, proxy servers that connect the computers in correctional facilities to computers equipped with webcam in the house of non-inmates or civil petitioners were built (see <Figure 3-1-6>).

The new system was first piloted from January to March in 2013 and was further expanded to twelve designated correctional facilities²²⁾ starting in April to the families of inmates²³⁾ at Open Institution Level (S1) and Relaxed Security Level (S2)²⁴⁾ only. In

22) Gangreung CI, Gyeongju CI, Gimcheon CI, Daejeon CI, Yeosu CI, Yeongwol CI, Jangheung CI, Jinju CI, Cheonan Open CI, Cheongju Women's CI, and Hwasung Vocational Training CI.

23) The scope of family of inmates is as follows: 1. spouse, lineal ascendant/descendant, and siblings 2. spouse of lineal ascendant/descendant, lineal ascendant/descendant of spouse, siblings of spouse 3. those who sponsor, have a special relationship with the inmates without any family or those who can be deemed as family

order to use the system, family members of inmates must first visit the correctional institution accommodating the family inmate to prove the family relationship and take a photo. After completing the procedure, they can make an appointment through the website of the Ministry of Justice. Since September 2013, the subject has been further expanded to General Security Level inmates and is expected to be introduced in all correctional facilities. The online video visitation system forecasts to not only help the non-inmates such as seniors and disabled people who experience difficulty in accessing the facilities but also encourage inmates to successfully complete their terms and return to society.



〈Figure 2-1-6〉 Online video visitation system

- 24) All the correctional facilities are divided into four levels of security: open institution level, relaxed security level, general security level, and maximum security level.

4) Building more mental health centers

The first mental health center inside a correctional institution opened in Gunsan Correctional Institution on December 18, 2012, with the purpose of providing professional treatment and systematic management to mentally ill inmates. Mental health centers refer to those established under “Mental Health Act” and provide six to twelve months of treatment and rehabilitation for inmates suffering from schizophrenia and mood/affective disorder. On November 19, 2013, the second mental health center opened in Jinju Correctional Institution. Four mental health centers are expected to be completed by 2015, one at each Regional Correctional Institution, to provide intensive treatment programs for mentally ill inmates. The organized rehabilitation treatment from Centers is expected to effectively help inmates complete their term and return to society.

5) Strengthening education to prevent the recurrence of sexual violence – more correctional psychotherapy centers established

The first correctional psychotherapy center opened in Seoul Nambu Correctional Institution in October 2011 in order to prevent sexual violence recidivism. In 2012, a treatment program for sex criminals was jointly developed with the Korean Institute of Criminology to provide a systematic and professional treatment. Other centers followed: the second one in Pohang on January 30, 2013, third in Cheongju CI on May 30, 2013, and fourth in Gunsan CI on November 28, 2013. Before the centers were established, general sex criminals took 40 hours of intensive education at a designated organization while sex offenders against children took a hundred hours. However, needs arose that high-risk sex offenders must be given a more structured and specialized treatment, leading

to the establishment of these centers. Gunsan Correctional Institution has a psychology examination room, education room, and counseling room, and eight officers will be exclusively designated to sex violence recurrence prevention programs including three clinical psychologists. Treatment center will mainly focus on correcting distorted sex awareness, helping inmates accept responsibility, and improving relationship skills. In particular, programs will be developed through close analysis over the trigger of recurrence of crimes. In the future, the Korean Institute of Criminology will continue to cooperate in developing Korean-style treatment programs for sex offenders and open additional correctional psychotherapy centers in Busan and Gyeongsangnam-do Province so that a psychotherapy system for sex offenders will be built around five centers across the nation.



〈Figure 2-1-7〉 Correctional Psychotherapy Treatment Center at Seoul Nambu Correctional Institution

6) Realigning correctional facilities with special function

Korea Correctional Service restructured specialized correctional facilities to provide treatment that can maximally accommodate the diversity among inmates. As <Table 2-1-2> shows, halfway houses will be built in seven correctional institutions and detention centers while Gyeongsangbuk-do Northern Correctional Institution and Hwasung CI for Vocational Training are exclusively designated for vocational training and Yeongwol CI as an autonomous Institution.²⁵⁾ Female inmates are accommodated in Cheongju Women's Correctional Institution and juvenile inmates in Gimchoen Juvenile CI. Death row inmates with fixed penalty are only imprisoned in Seoul and Busan Detention Centers and Daejeon, Daegu, and Gwangju Correctional Institutions. To effectively manage the increasing number of foreign inmates, Daejeon and Cheonan CIs and Cheongju Women's Correctional Institutions were designated as CI for foreign inmates. Public security offenders are in Daejeon, Daegu, Gwangju, Andong, Jeonju CIs, and Cheongju Women's CI. Inmates with mental illness and tuberculosis are in Jinju CI, and those with leprosy are in Suncheon CI, so that they are more efficiently supervised and managed.

25) Institutions on autonomy are operated in a way that minimizes the supervision and monitoring over the inmates while encouraging autonomy, harmony, volunteerism, club activities, character building education, leisure activities, foreign language learning, and self-directed study.

〈Table 2-1-2〉 Correctional facilities with special function

		Correctional Facilities
Function	Halfway house (7)	CIs: Cheonan (Open CI), Anyang, Chuncheon, Changwon, Suncheon, Cheongju Womens' CI Detention Center: Miryang (Miryang Hope Center)
	Vocational training (2)	Gyeongbuk North CI and Hwasung Vocational Training CI
	Autonomy	Yeongwol CI
Types of inmates	Women, juveniles	Cheongju Women's and Gimcheon Juvenile CIs
	Death row inmates with fixed penalty (5)	Seoul and Busan Detention Centers, Daejeon, Daegu, and Gwangju CIs
	Foreigners (3)	Daejeon, Cheonan(including SOFA inmates), and Cheongju Women's CIs
	Inmates on probational custody (3)	The Third Gyeongbuk North CI, Cheonan CI, and Cheongju Women's CI
	Public security offenders (6)	Daejeon, Daegu, Gwangju, Andong, Jeonju, and Cheongju Womens' CIs
Diseases	Mental illness, tuberculosis	Jinju CI
	Leprosy	Suncheon CI

7) Others

Other changes were made in many aspects to maximize the effect of correction and edification as well as to increase the efficiency of the operation of correctional facilities. First of all, in order to protect the children of inmates and maintain/strengthen the family bond, the Second Council for Crisis Families of Inmates Support was held jointly by the Ministry of Gender Equality and Family, Ministry of Education, and Ministry of Health and Welfare. In addition, Love Your Family Camp was expanded, and more family visitation rooms were built. Second, as part of the policies to elevate the self-respect of inmates, they were given opportunities of so-called "talent donation:" inmates donated the goods they manufactured during vocational training programs to welfare facilities, plastered wallpaper, and boasted their hair styling skills. In 2013, practical skills training was strengthened such as plastering

work, sewing, and tiling, and a barista course also opened at Cheongju Women's Correctional Institution. Third, maintenance work was done in the facilities including floor heating system construction and remodeling rest rooms. Proposals for improving design manual of correctional facilities were also established, reflecting the recommendations from International Federation of Red Cross. Fourth, practice regarding inmates' non-compliance on labor duty was implemented. Since there had been not enough number of workshops to accommodate all of the inmates with prescribed labor duty, efforts have been made in building more workshops and engaging better companies. In addition, living room construction work, operation support work, and short-term intensive vocational training courses were strengthened, leading to a higher labor duty execution rate.

C. Future plans

In 2014, accurate evaluation and diagnosis would have to be made on various systems and programs adopted so far while at the same time considering new systems. Seven facilities including Daegu Correctional Institution facing old age of the building have been reviewing relocation or new construction. To provide better correctional treatment for female inmates, building new women's facilities in Gyeonggi-do Province is being considered. Amending Correction-related acts amendment is also an important issue that should include obligatory medical examinations on all newly confined inmates and rights to unlimited visitation with lawyers in civil/administrative cases. Meanwhile, to address the lack of and to increase the efficiency of workforce, it is necessary to establish acts, regulations, and detailed operation plans concerning development of correctional assistant service robots. Other plans include: establishing Busan Correctional Service; upgrading branches to correctional institutions or Detention Centers; improving

protective equipment for escort; changing correctional personnel schedule to four shifts; dispatching correctional personnel overseas to protect Korean nationals living abroad; developing methods and exclusive classification center to distinguish and separately watch high risk inmates; and increasing the number of officers on emergency stand-by in places including remote areas with insufficient labor force and subsequent unstable work environments.

D. Issues at hand in correctional policies

Owing to many policies pursued by Korea Correctional Service in 2013, much improvement was accomplished, while some tasks still need to be addressed. First, the recurrence of crimes is a persistent source of social concern. On top of that, the public is skeptical about the ability of correctional authorities in preventing recidivism. Current efforts such as Education Load Management System and Comprehensive Plan for the Correction and Edification of Inmates must be built on professional personnel and scientific research. In addition, Crime Prevention Policy Bureau, National Police Agency, Ministry of Health and Welfare, and communities should cooperate to provide organic and consistent management for inmates.

Second, higher human rights awareness of inmates has led to operational challenges at correctional facilities. Petitions, charges, and complaints submitted by inmates have demoralized correctional personnel and resulted in the waste of administrative power. However, this could be a great opportunity for correctional officers to realize the importance of human rights of inmates and due process. The service also created more comfortable atmosphere with one-on-one counselling service and basic knowledge education so that inmates can freely submit and ask for answers to their complaints.

Third, the opposition from the public against correctional

facilities is also a matter that seeks our attention. 27 out of 50 facilities are over 25 years old. This could lead to not only the inefficiency of concern regarding the correction and edification effect of inmates, but also the human rights violation of inmates. Therefore, those facilities are in urgent need of remodeling, reconstruction, and relocation. However, the reality is that the public opinion in candidate communities is strictly unfavorable to having any correctional facilities in their town. Related government agencies must take the initiative to have conversation and reach an agreement with the residents of those communities. Mature civil awareness will play a significant role.

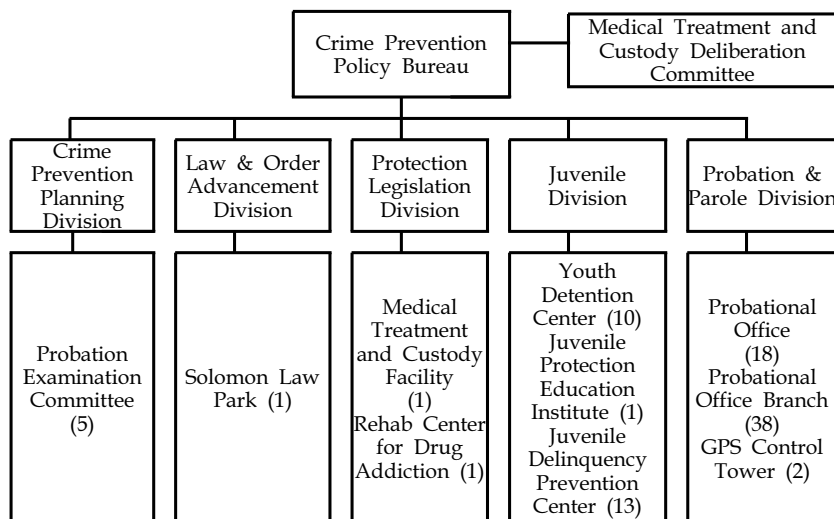
2. Crime Prevention Policy Bureau

A. Structure and current status

Crime Prevention Policy Bureau²⁶⁾ (the Bureau or CCPB hereinafter) is in charge of affairs concerning probation, or “in-community treatment.” Probation, additional treatment, community service order, order to attend lecture, electronic surveillance, revealing information regarding sex criminals, pharmacologic treatment on sex offenders’ sexual impulse, investigation, examination, and supervision of Korea Rehabilitation Agency and private incorporations as part of post-discharge support effort. The Bureau is also in charge of juvenile justice²⁷⁾ as well as medical treatment and custody facilities, both of whose basic principle is probation (see <Figure 2-1-8>).

26) It started in 1981 as Probation Bureau and later changed to Crime Prevention Policy Bureau in 2008.

27) Juvenile Correction Institution does not fall under juvenile probation category and is managed under the Korea Correctional Service.



※ Special corporation : Korea Rehabilitation Agency

〈Figure 2-1-8〉 Structure of Crime Prevention Policy Bureau²⁸⁾

The basic objective of the Bureau, as presented in <Figure 3-1-9>, is to supervise/manage criminals in community to prevent the recurrence of crimes, successfully reintegrate the society, and to pursue social security.

•Mission

Crime Prevention Policy Bureau supervises Probation Office that prevents recidivism and protects society by enforcing probation, orders of community services and orders to attend lectures; Juvenile Detention Center that helps juveniles under probationary measures adapt to society by detaining and holistically educating them under the disciplinary environment; and Medical Treatment and Custody Facility that holds offenders with mental illness under custody to treat them medically and help them with rehabilitation.

〈Figure 2-1-9〉 Objective of CPPB

28) See the website of Crime Prevention Policy Bureau
http://www.moj.go.kr/HP/TSPB/spb_40/spb_403010.jsp

The scope of Jurisdiction Bureau²⁹⁾ includes probation, community service, order to attend lecture, and John School,³⁰⁾ the current status presented in <Table 3-1-3>. As of the end of 2013, there were 96,574 probation cases, 46,179 community service, 28,568 orders of community service, and 3,997 court orders for John School. The trend in the last three years shows that the numbers either remained unchanged or slightly rose except for the orders for John School.

<Table 2-1-3> Current responsibilities of Crime Prevention Policy Bureau

Years	Total	Probation	Community Service (Including the fine alternative)	Orders to attend lectures (Including completion orders)	John Schools
2013	175,318	96,574	46,179	28,568	3,997
2012	178,199	97,886	45,842	28,517	5,954
2011	177,172	98,063	47,658	25,110	6,341

Through electronic surveillance, one of the main tasks of probation, the Bureau is managing 1,703 persons as of the end of December 2013, the majority of whom are sex offenders amounting to 1,351 (see <Table 3-1-4>). Compared to 188 surveillance in the first year in 2008, the number has significantly increased.

29) Juvenile probation, which is also a very important area of the Bureau, will be separately covered in another chapter.

30) John School was adopted in 2005, under which those who were indicted with prostitution but had their prosecution suspended under the condition that they take two-day 16-hour education program at probational offices designed to prevent the recurrence of prostitution.

〈Table 2-1-4〉 Current status of crime-specific electronic surveillance
(number of people)

Total	Sexual violence	Abduction	Homicide
1,703	1,351	2	350

Probation officers also conduct various investigation cases, and the number in 2013 totaled 30,487. The most 12,141 cases are for pro-ruling investigation, followed by 8,359 cases of environmental and matters regarding probation (see <Table 2-1-5>).

〈Table 2-1-5〉 Current status of examination responsibilities of
probation officers

Total	Before Court ruling	Before Court determination	Before Prosecutors' determination	Before request	On environment and probation matters
30,487	2,159	12,141	5,084	2,744	8,359

B. Major policies³¹⁾

Crime Prevention Policy Bureau made various transformative efforts in its probational jurisdiction. Electronic surveillance was strengthened, pharmacologic treatment on sexual impulse expanded, and sex offenders registry system established. In addition, professional touch was added to orders to attend lecture, and intensive law education and customized probation were to be provided. Along with the improvements made to the existing programs, new ones such as Public Request for Community Service and probation after completing the term were also introduced.

31) See "Yearly Work Report 2013," an internal document of the CPPB

- 1) Stronger electronic surveillance – establishing a designated TF for surveillance alarm and strengthening cooperation system with the National Police Agency

In September 2008, electronic surveillance on sex offenders started, followed by kidnappers of minors in 2009 and homicide in 2010. The maximum wearing period increased from 10 to 30 years. In 2012, crimes of robbery were also gradually included. A designated task force was established and put in charge of electronic surveillance alarm to quickly respond to the alarms for various reasons and to strengthen the supervision over groups with high-risks of recidivism. The change reflected the opinion that since all of the personnel at the Probation Office was dispatched to emergency standby team for nighttime and holiday alarms, heavy workload of the personnel led to inefficiency. A total of 42 fixed term workers (rank holders of and above level three) will be assigned to the TF to work with relevant civil servants so that emergency can be immediately addressed. The lack of budget allowed only 26 out of 56 Probation Office to have the TF currently, but when the budget increases, it is expected to be available for the rest of them. The introduction of the TF will improve the uninterrupted supervision system through its strengthened response capacity.

In addition, as part of the effort to establish the cooperation system with the National Police Agency, the information regarding people under the surveillance was shared starting in June 2013, and now police officers will also be sent when the alarm goes off. Meanwhile, the Bureau has been working with the Ministry of Science, ICT and Future Planning as well as Ministry of Trade, Industry and Energy to develop “intelligent electronic anklet” that can detect the signs of likely crimes using advanced information technology. It will compare and analyze the past M.O.s, movement patterns, etc. with those on real-time basis and activate the alarm

in case any abnormalities occur so that probational officers can immediately intervene.

2) Rearranging the system of disclosing personal information regarding sex offenders

The system of allowing public access to personal information of sex offenders was rearranged in 2013, based on “Act on Special Cases Concerning the Punishment, etc. of Sexual Crimes” and was initially introduced in 2011. Those who were either convicted with crimes of sexual violence or received a Court order for the likeliness to commit crimes again are registered and managed by the authorities. The registry is made available to the public. The disclosure system not only prevents the recurrence of crime but also informs citizens whether any sex offenders are living in the neighborhood, or if they do, what their addresses are. It enables autonomous sex crime prevention. However, it has been pointed out that the information management system lacks consistency, thereby causing confusion among the public. In other words, Ministry of Gender Equality and Family and Ministry of Justice each takes different acts and regulations³²⁾ as the legal basis for the system. The former deals with the disclosure of cases where victims are younger than 19, whereas the latter manages cases where victims are at least 19 years old. This discrepancy creates inconsistency between the two sets of information.

In order to address this problem, the distinction between minors and adults was eliminated in June 2013. That is, the nature and scope of jurisdiction has become clear: the registration and management of the information are the responsibility of the

32) The Ministry of Gender Equality and Family took the “Act on the Protection of Children and Juveniles from Sexual Abuse” while Ministry of Justice took “Act on Special Cases Concerning the Punishment, etc of Sexual Crimes” as a legal ground for the registry system.

Ministry of Justice, while the disclosure and notification are the responsibility of the Ministry of Gender Equality and Family. The system is retroactive to previous three years, including all the convicted sex offenders from April 16, 2008, to April 15, 2011 (excluding those sentenced with a fine).



〈Figure 2-1-10〉 Website of sex criminal registry³³⁾

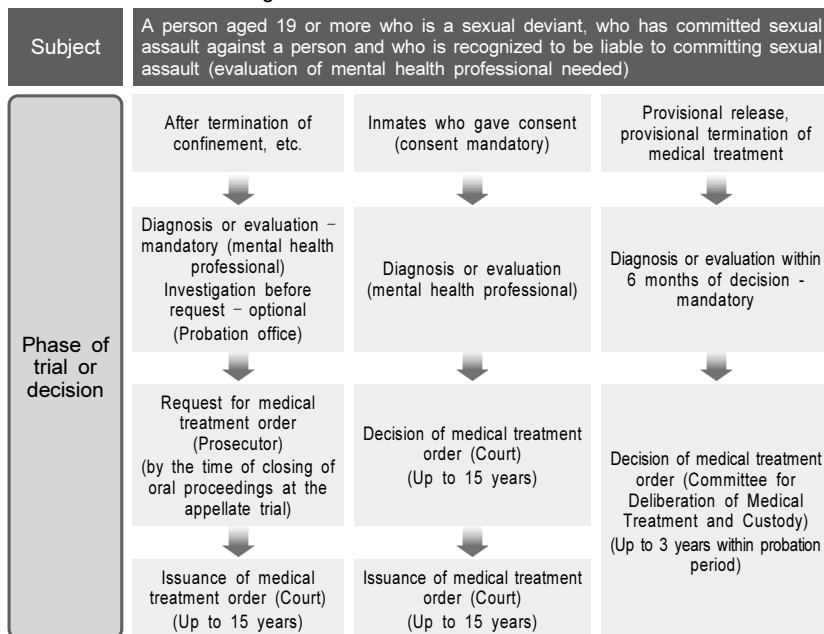
33) See the website <http://www.sexoffender.go.kr/>

3) Expanding pharmacologic treatment on sexual impulse

To control and prevent the skyrocketing number of sex crimes, psychological treatment of sexual impulse has been adopted since July 2011. The subject is sexual deviants not younger than 19 years who committed crimes of sexual violence against victims under sixteen years old who are considered liable to committing sex crime again. The treatment is to suppress abnormal sexual impulse or desires by weakening or normalizing deviant sexual function for a certain period.

Upon the prosecutor's request based on the diagnosis and evaluation of health professionals, the Court may order treatment not exceeding fifteen years. The treatment order is executed two months prior to discharge, after executing punishment of treatment and custody first. When matters occur requiring the suspension of treatment, approval from Probation Examination Committee is needed (see Figures 2-1-11 and 2-1-12).

Trials or decisions ordering medical treatment

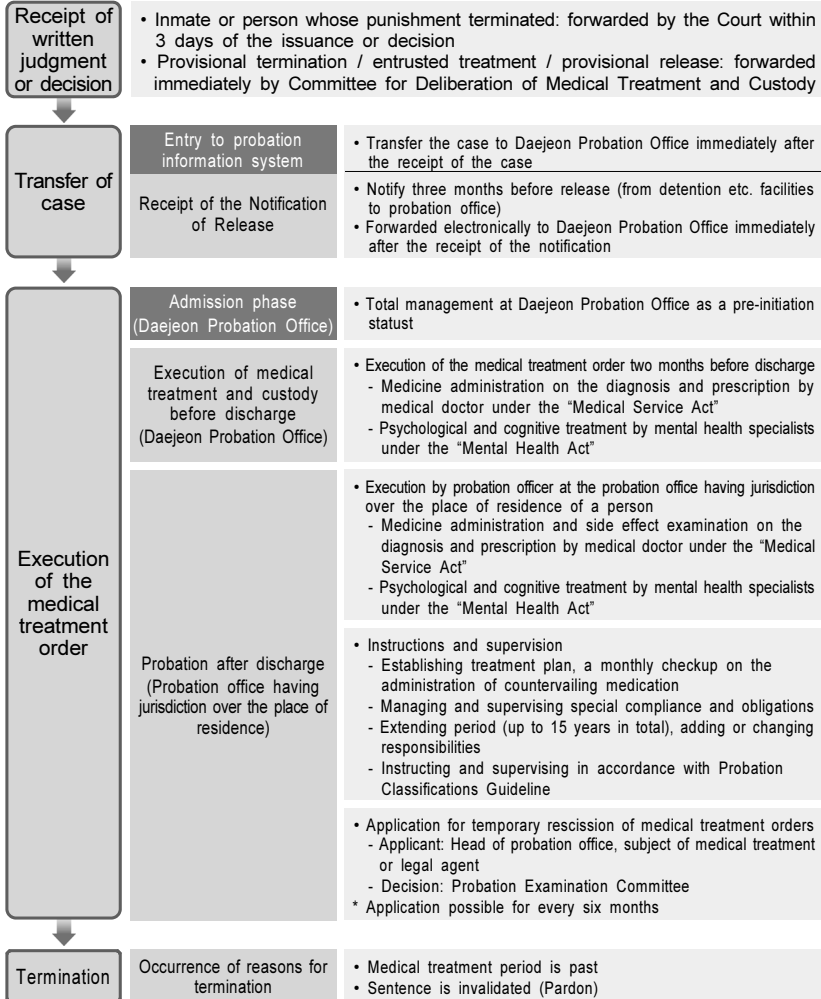


〈Figure 2-1-11〉 Procedure of pharmacologic treatment against sexual impulse - decision/determination³⁴⁾

34) See the website of the CPPB

http://www.moj.go.kr/HP/TSPB13/tspb13_02/sub_02_12_04.jsp

Execution of the medical treatment order



〈Figure 2-1-12〉 Procedure of pharmacologic treatment against sexual impulse - order of treatment and execution³⁵⁾

35) See the website of the CPPB

http://www.moj.go.kr/HP/TSPB13/tspb13_02/sub_02_12_04.jsp

Non-compliance of treatment order will be subject to confinement up to seven years or fine up to KRW 20 million. Treatment cost is covered by the government. Treatment cost per person is approximately KRW 5 million, the government pays the whole amount when the treatment is ordered based on the conviction or the decision of Medical Treatment and Custody Deliberation Committee, but the convicted inmates cover the cost when they are eligible for parole and agree to take the treatment. However, under this circumstance, the cost can be covered by the government when the convicted cannot afford to pay it. In order to increase the correctional and edifying effect of this system and effectively prevent the recurrence of crimes, obligatory probational management is concurrently imposed during the execution period of treatment. Starting from March 2013, the scope of those subject to the treatment expanded: from offenders of cases of victims younger than 16 to all offenders regardless of the age of victims.

- 4) More specialized education for orders to attend a course:
Program for domestic violence offenders of suspended prosecution on the condition of taking courses from Probational Office

Orders to take courses or lectures allow addictive convicts to be unconfined for life under the condition that they take specialized education from Probational Office or designated professional organizations. As the number of orders continues to increase, the need for more effective and efficient system is being emphasized. Therefore, to provide more specialized courses for sexual violence, domestic violence, and substance abuse, operation centers for course attendance were established in four Probational Offices including the Seoul office. In addition, more experts were hired through outsourcing, and irregular job openings and verification system for in-house instructors were also introduced.

In particular, course programs for offenders convicted of domestic violence were strengthened. As part of the measures against continuously rising domestic violence, a short-term program of “suspension of prosecution on the condition of taking courses at probational office” was adopted in August 2013 (see <Figure 3-1-13>). So far, those convicted of domestic violence took over 40 hours of treatment program. However, the scope of the subject was expanded from 2013 to also include those who committed minor crimes. In other words, non-serious crimes of domestic violence where prosecutors closed the case with “suspension of prosecution” or “prosecution authority non-existent” without any further actions are now subject to eight (one day) to 16 (two days) hours of short programs to prevent the recurrence of crimes. The program includes courses on harmful consequences of domestic violence, accepting responsibility, anger management, nurturing a happy family, etc. It is expected to contribute to ending domestic violence through early intervention.



<Figure 2-1-13> Short-term program for domestic violence convicts

5) Strengthened education for crime prevention

From a long-term perspective, a strategy to strengthen legal education for crime prevention has been pursued. Basic legal knowledge contest for high school students and other programs for students, “Children and Citizen Law School” for the socially excluded and children, and “Law Concert for Citizens” are part of the exemplary programs. New contents that were developed and distributed include preventing school violence and serious crimes, fighting public servants corruption, banning sports match fixing, and others that are rather case-specific. In addition, in April 2013, “Lulu’s monkey land ruled by law” was developed so that even children could take interest in acquiring legal knowledge. Also, Constitutional Education Promotion Group was established as part of the efforts to prevent crimes through constitutional education. The Group, after analyzing the current textbooks, identified that they do not contain sufficient explanation about the spirit and value of the Constitution and that high school curricula do not offer enough law education. The Group introduced many cases from advanced countries on constitutional education and citizenship including the US case where constitutional and citizenship education is included in all elementary, middle and high school curricula. Furthermore, by benchmarking the iCivics of the United States, it is working on developing online contents that allow the users to experience constitutional rights and obligations. Open bidding was conducted in April 2013.

6) Public request for community service system

In May 2013, Request for Community Service was launched, which allows community members to make a request themselves. Thus, any Korean national, agency, or organization can make a request on the Crime Prevention Policy Bureau website through

regional Probational Office. Chuncheon Probational Office, for example, invited residents representatives to explain about the system and encourage participation from the residents. After the system went into effect, applications continue from senior welfare centers, facilities for the disabled, and groups concerning improving situations for the socially excluded. The Request for Community Service System is expected to contribute to identifying areas where help is needed such as rural farms and facilities for the disabled or single-residence senior citizens. In addition, it will greatly reduce the workload of social workers, since those ordered with community service will be appropriately distributed.

더불어 사는 세상을 위한 행복 나눔

사회봉사 국민공모제 전국 실시

지역사회에 도움이 손길의 필요하시면,
법무부로 신청해주세요!
사회봉사자들이 달려갑니다.

① 신청기간 : 2013. 5. 부터 (연중)
② 신청자격 : 국민 누구나 (개인, 단체)
③ 신청방법 : 전국 56개 보호관찰소
④ 접수처 : 법무부 범죄예방정책국 홈페이지 (www.cpbp.go.kr) 방문 신청
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① 봉사 여건, 지역사회 기여도, 수혜자 유형, 사회봉사자 만족도, 직업의 안전성 등
② 신청서 접수 후 10일 이내에 홈페이지 기재 및 개별 통보
③ 처리결과 : 신청 → 심사 → 집행 → 평가

신청분야 및 사례

신청 분야	신청 사례
지역사회 환경 정비	▶ 벽화 및 낙서 제거, 재활용품 수거 ▶ 가로수 정비, 제설 작업 등
사회복지 지원	▶ 사각지의 집 고치기, 도시락 배달 ▶ 주거환경정선사업, 장애인 등 ▶ 단란 및 일용 배달, 무료 세탁 등
농·어촌지원 및 인권개선 복구	▶ 농가 환경 개선, 오지 마을 농가방문 ▶ 농수 피해 지원, 농산물 판매, 복구 ▶ 재난 발생 피해 복구 등
복지시설 지원	▶ 시설 내외 환경미화, 조경 ▶ 장애인 및 노인, 노숙, 시설보호 ▶ 복지시설 이용차 이·미용 봉사 등
기타 공익지원 분야	▶ 자원봉사를 위한 배움터 봉사 지원 ▶ 국민운동원 내 소책자 수거 등

참고사항 : * 신청서 접수 후 보호관찰관이 현장실사를 통해 신청기준
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법무부

〈Figure 2-1-14〉 Promotion material of Request for Community Service³⁶⁾

7) Introduction of post-term probation

Traditionally, probation is only concurrently imposed with the suspension of execution or parole. However, a serious threat emerged from the recurrence of crimes committed by high-risk offenders and became a major issue of correction and probation area. Consequently, Act on the Electronic Monitoring of Specific Criminal Offenders was amended in December 2012, and the system of probation after the termination of the sentence took effect starting from June 2013, targeting high-risk criminals of homicide, sexual violence, abduction of minority, robbery, and others that are highly likely to commit crimes again. The system is expected to prevent the recurrence of crimes and protect society by intensifying the supervision over the high-risk criminal offenders who completed their sentence.

8) Personalized probation

Due to the high rate of crime recurrence and the serious non-compliance by those under probation, the need for more proper management and supervision has persistently been raised. Therefore, after a pilot program in 2012, designated personnel has been assigned in 24 institutions to sexual violence, violences, and narcotics since January 2013. Along with this, "Crime recurrence risk evaluation tool" was developed to provide customized supervision through scientific analysis and evaluation of the factors contributing to crime recurrence. Furthermore, those in a community who are in between jobs were provided an opportunity to work.

36) See
<http://knsw.bokji.net/kncc/s03/view.jsp?boardId=bokjiSocietyNews&boardidx=6828>

C. Future plans

Crime Prevention Policy Bureau is committed to effectively preventing crimes by identifying various high-risk offender groups and strengthening support.

First of all, the Bureau implemented probational custody in order to protect the society from high-risk recurrent criminal groups. Post-sentence probation has already been implemented and is expected to be expanded. In addition, to minimize the controversy over double punishment and human rights violation, only homicide, sexual violence, and other serious crimes are included. Meanwhile, the Bureau is considering better treatment of probational custody than general sentences.

Second, since the numbers of drunk violences and psychotic crimes are increasing, treatment probation is being discussed. Those that are not subject to medical treatment and custody but are in need of professional treatment to prevent crime recurrence can be ordered to attend lectures and receive treatment of outpatient, hospitalization, or entrusted care at other facilities. Treatment probation is expected to prevent serious crimes in the first place through an early treatment of drunk and psychotic criminals.

Third, as part of the efforts to help those discharged from facilities adapt to society, the CPPB has been planning to provide the discharged and their family, or crisis family, with programs like psychology treatment, family camp, and study help.

Fourth, the inmates of treatment and custody facilities and those who completed their treatment will get stronger support. With the cooperation of the Ministry of Health and Welfare, those discharged from the treatment and custody will get continuous follow-up management. Not only that, five wards with 70 medical personnel were added, and the second facility for medical treatment and custody was built along with other measures to improve the environment of medical treatment and custody facilities. The amendment of

“Medical Treatment and Custody Act” is also being discussed. Meanwhile, in order to make sure newly adopted measures to strengthen the management of serious crimes including sexual assault are effectively implemented, Probational Offices are considering to establish Serious Crime Divisions. A large number of Probational officers are expected to be hired to respond to the possibly surging number of people under the electronic monitoring system, which is going to be overloaded with additional number of people because the Constitutional Court ruled that the retrospective application of the electronic monitoring is constitutional.

D. Issues for debate

One of the most prominent issues of the Crime Prevention Policy Bureau is securing sufficient workforce. The number of personnel newly hired cannot keep up with the pace of annually increasing workload regarding probation. As of April 2013, the number of people managed per one probation officer is 122 in Korea, compared to 25 in the UK, 33 in Japan and 46 in the US.³⁷⁾ This has led to the ineffective management and supervision of electronic monitor wearers. The problem is also found in treatment and custody facilities as well as juvenile correctional institutes. Therefore, hiring enough workforce is the most urgent issue.

As the public needs for social safety are constantly on the rise, the dependence on and the use of electronic monitoring, orders to attend lectures, and investigation affairs are also increasing. In addition, the debate on the status of the CPPB as an organization in charge of designing and executing crime prevention policies. In other words, the Bureau needs to be restructured to a headquarters system in order to be elevated to a prime organization. The Bureau will need to make an accurate diagnosis and start

37) See “Yearly Work Report 2013,” an internal document of the CPPB

in-depth discussions with the academia and related organizations.

Another challenge facing the Bureau is the protest from residents whose community harbors correctional facilities. In 2013, Seongnam Probation and Parole Branch Office was confronted with fierce opposition from the residents against the transfer of the Office. It is a NIMBY phenomenon³⁸⁾ where residents of a community oppose what is for the public good but against the interest of their community. The phenomenon has always been around the world regardless of time. The objective of in-community correction is to prevent the recurrence of crime by placing the convicts inside the community so that they can maintain familial and emotional bond that can prevent them from committing crimes again. Therefore, to run the in-community correction successfully, relevant authorities should hold open conversations with the residents for effective negotiations. In-community correction is gaining traction around the world. The resolution of NIMBY phenomenon requires active cooperation among related government organizations.

Section 2 Policy Trend of Juvenile Probation

Juveniles who committed crimes are either subject to dispositions or probation. Since they have not fully developed cognitive ability or judgment like adults, they are susceptible to becoming victims of crime or criminals themselves. In particular, juveniles must be given treatment based on probation rather than strong punishment, for they have possibility of improvement as much as they are immature.

Juvenile probation is the activity of helping to nurture the

38) NIMBY stands for Not In My Back Yard and refers to the phenomenon where facilities like correctional institutions, crematorium, and nuclear waste treatment facilities are strongly protested in residential communities.

sound growth of juveniles and protect them from crimes, which is noted as one of the most important tasks of modern criminal policy. Leading agencies include the Ministry of Education, Ministry of Gender Equality and Family, National Police Agency, the Ministry of Justice, and Court.

With the launch of the Park Geun Hye administration, school violence and sexual violence were designated as two of the four social evils of Korea. It led to a significant number of new policies regarding school violence in the area of juvenile probation. Policies to protect and support crisis juveniles and out-of-school juveniles have been established with the two Ministries taking the initiative. Below, the trend of juvenile probation policies of 2013 that were pursued by the mentioned authorities are explained.

1. Ministry of Education

The Ministry of Education and Science Technology remained committed throughout 2013 to eliminating school violence through comprehensive and field-oriented measures initiated by Prime Minister's Office. The actual operation was conducted with the cooperation of the Ministry of Education, Ministry of Gender Equality and Family, National Police Agency, and Ministry of Justice, under which various policies regarding school violence and protection of crisis were established.

A. Field-oriented and comprehensive measures against school violence

On Tuesday, July 23, Prime Minister Chung Hong Won presided over the 5th Committee On School Violence participated by relevant ministries and agencies for the deliberation and resolution of field-oriented measures against school violence. Despite the 2.6 government measure in 2012, incidents like suicide

of a student at Gyeongsan High School continued to make the news and media, prompting the Park administration to name school violence as one of the four social evils.

Since school violence hinders students from getting sound education they need, prevention is the most important. To this end, “Harmony Program” (school violence prevention program) is included in the curriculum of all elementary, middle, and high schools to be continuously implemented. Support on the activities of community will also be strengthened, such as Peer Protection, and patrolling in vulnerable areas around schools and neighbors. In the meantime, school violence survey result will be reflected in the countermeasures for each type of violence, support victims with treatment and counseling, and provide edification program for offending students.

Under the vision of “Happy and safe school,” 20 focus tasks in five core areas were presented to build violence and threat-free school environment.³⁹⁾

39) “Related agencies announce response measures with a strong focus on prevention of school violence”, news release, the Ministry of Education, July 24, 2013
<http://www.moe.go.kr/web/100026/ko/board/view.do?bbsId=294&pageSi ze=10¤tPage=0&encodeYn=Y&boardSeq=49444&mode=view>.

〈Table 2-1-6〉 Results of 7.23 Fifth Committee on School Violence

Objective	Details
More support to various autonomous prevention efforts of schools	<ul style="list-style-type: none"> - Develop and promote Harmony Program - Encourage autonomous prevention activities of schools - Support and promote autonomous prevention activities of schools - Operate curricula to help with the self-actualization of children and promote alternative education
Stronger response measures customized to the types, locations, and school levels	<ul style="list-style-type: none"> - Prevent verbal abuse by promoting “good language” - Educate on the report and prevention of cyber bullying - Introduce “Warm-up period” to restore friendship damaged because of bullying - Strengthen the prevention of sexual assault and the protection of victims - Actively address violent student communities through cooperation with related organizations - Come up with solutions customized to each location and school level
Further protection of victim students and stronger guidance of offender students	<ul style="list-style-type: none"> - Early intervention in and management of school violence - Strengthen the protection and recovery of victim students (Simplified application process through School Safety and Insurance Federation, and operate School Violence Dispute Conciliation Support Center) - Stronger guidance on offender students (Provide alternative education opportunity for offender students in case they are transferred or expelled, and keep all the records for two years after graduation, the deletion of which can be discussed at the Graduation Evaluation Committee at the request of the students) - Nurture facilitating environment for student guidance and counseling service
Improve the capability of schools while strengthening the monitoring over concealment efforts	<ul style="list-style-type: none"> - Improve the capability of school and increase support - Strengthen monitoring concealment efforts and other inappropriate responses
Build a safe school environment and encourage society-wide responses	<ul style="list-style-type: none"> - Improve school violence reporting system (converted to 117 hot line) - Expand the school safety infrastructure and focus more on qualitative growth (improve the resolution of CCTV and dispatch more school police officers) - Encourage community prevention and eradication movement - Rearrange school violence response system

B. Advanced training program for parent leaders

The Ministry of Education opened an advanced training program for parent leaders on promoting parental participation in school education and nurturing instructors of parental education. Parent leaders, who are going to be giving counseling, advice, and parental educations, were selected among those with sufficient experience of school participation. The program consisted of six rounds of school violence prevention education, suicide prevention education, academic, and career path guide, and self-directed learning and reflected the demands of parents. Parent leaders who completed the course can work as parent instructors at municipal and provincial education offices. The advanced program was first piloted in 2012 (2012, fifty participants on “how to talk to your children”) and then expanded to 300 participants in six courses in 2013.

C. “Stopbullying” mobile website opened

The Ministry of Education opened a mobile website (m.stopbullying.or.kr) and a facebook page (www.facebook.com/stopbullyingmoe) called “Stop bullying.”⁴⁰⁾

Stopbullying is a portal site on school violence prevention that has been providing up-to-date information about the government’s measures against school violence and other related projects as well as school violence report procedure. The reform of the website focused on maximizing mobile user-friendliness while adding online report and counseling. It contains sections such as news

40) “Mobile website and facebook page opened for Stopbullying, a web portal for anti-school violence,” news release of the Ministry of Education, September 23, 2013.

<http://www.moe.go.kr/web/100026/ko/board/view.do?bbsId=294&pageSize=10¤tPage=0&encodeYn=Y&boardSeq=50565&mode=view>

regarding school violence, announcement, prevention policies, diagnosis, and responses that were highly popular in the previous website. In particular, anonymous reporting and counseling system is provided so that students do not have to worry about exposing their identities.

The new reporting and counseling section allows students who were hesitant to knock on the door of counseling office for fears of revenge, identity exposure, and stigma to get counseling and talk with teachers any time.

D. Bluezone Campaign

The Ministry of Education first introduced the Bluezone Campaign on November 15, 2013 where a mural was painted on the deadzone of Ohnam Middle School, Seoul (Oryu-dong, Guro-gu) to improve the school environment and prevent school violence.⁴¹⁾ The campaign incorporated Crime Prevention Through Environment Design (CPTED).

Bluezone represents a place free from school violence and has murals that can promote positive perception about safe schools free of violence. The murals are participated by school members from design to coloring, serving as a communication channel for school violence.

Bluezone Campaign will continue for eight months until June 2014 in a total of 20 schools. First, it will start with schools in Seoul and Gyeonggi-do in 2013 and will include more and more schools across the country next year. The 2014 Bluezone schools will be selected based on applications submitted from November 18 to December 4 through the Bluezone Campaign web page on

41) "Bluezone Campaign for the Prevention of School Violence," news release of the Ministry of Education, November 15, 2013.
<http://www.moe.go.kr/web/100026/ko/board/view.do?bbsId=294&pageSi ze=10¤tPage=0&encodeYn=Y&boardSeq=51359&mode=view>

the Stopbullying site.

E. Measures to prevent school dropouts and support out-of-school juveniles

The Ministry of Education established “Measures to Prevent Dropouts and Support Out-of-school Juveniles” to engage schools in preventing students from quitting schools and promote organic support system through cooperation among organizations.⁴²⁾

First, the role of schools and Education Office will be strengthened in detecting, responding to, and reporting signs of crisis as well as providing follow-up measures. In addition, the cooling-off period will be fully adopted where students at risk of quitting school are given a cooling-off period of a minimum of up to from two weeks to three months to reconsider their decision while taking counseling, character building practice, and other programs. In addition, long-term absentees will be reported to the Office of Education, which will collaborate with Support Center for Out-of-school Juveniles for follow-up measures.

Second, in order to proactively respond to voluntary discontinuation of school, opportunities for alternative learning within the framework of public education will be greatly expanded so that students could discover and develop their talent. 33 schools with all-day alternative programs and 1,263 schools with partial programs will open in 2014.

Third, based on regular survey on status of academic discontinuation, related policies will be complemented along with a collaboration system between central and regional organizations.

42) “School dropout prevention and outside-the-school juveniles support measures,” news release of the Ministry of Education, November 28, 2013. http://www.mogef.go.kr/korea/view/news/news03_01.jsp?func=view¤tPage=8&key_type=&key=&search_start_date=&search_end_date=&class_id=0&idx=693395

Community Youths Support Net (CYS-Net) for out-of-school juveniles will be expanded from 196 in 2013 to 200 in 2014 to strengthen support on counseling, healthcare, living and residence.

Fourth, the analysis of big data on youths with high risk of deviance may improve early detection and prevention of youths who fall outside of the safety net. Furthermore, various information will be provided for those youths and their parents via websites, newsletters, e-mails, and text messages.

Fifth, to compensate for the opportunities lost after the discontinuation of school for educational and social growth, comprehensive and customized welfare service will be provided in all areas including education, self-sufficiency, healthcare, and residence. Particularly, smart classrooms (from 50 in 2013 to 54 in 2014) will be provided for youths not attending school on courses including counseling, equivalency examinations, career path guide, and various certifications.

2. Ministry of Gender Equality and Family

In 2013, the Ministry of Gender Equality and Family strengthened the punishment of the possession of child and juvenile pornography through the amended “Act on the Protection of Children and Juveniles from Sexual Abuse” while establishing measures for the education to prevent the recurrence of sexual crimes against children and youths. One-stop Support Center also opened in Busan to support the victims of sexual assault and school violence.

A. Amendment of “Act on the Protection of Children and Juveniles from Sexual Abuse”

The enforcement decree of “Act on the Protection of Children and Juveniles from Sexual Abuse” passed the Cabinet Council on

May 28 regarding warning label about i) the punishment of the creation, distribution and possession of child/juvenile pornography and ii) types of facilities where hiring sex offenders is banned. The enforcement decree entered into force from June 19.⁴³⁾

The warning label, whose phrase and font was set under the amendment, is about searching, uploading and downloading child/juvenile pornography on the website etc. of online service provider of special type under Article 104 of “Copyright Act.”

Meanwhile, as the criminal history (name of offense and count of conviction) of sex offenders subject to the disclosure of information is also to be made public, the scope of disclosure was clarified to the sexual assault charges convicted before the Court’s final decision date of charges is subjected to registration. Furthermore, as “Act on the Probation and Electronic Monitoring of Specific Criminal Offenders” dictates the disclosure of wearing a monitoring device, an attachment period is also to be indicated.

In order to keep at bay the possibilities of sex offenders getting access to children/juvenile related facilities, the list was expanded where hiring them is strictly prohibited to youth game providers and karaoke businesses equipped with youth rooms.

B. Crime recurrence prevention education on sex offenders against children and juveniles

According to the analysis of the Ministry of Gender Equality and Family on the trend of sex offenders against children and juveniles who are subject to disclosure of information, the rate

43) “Efforts to prevent sexual crimes against children and juveniles likely to get stronger”. news release of the Ministry of Gender Equality and Family, May 29, 2013.

http://www.mogef.go.kr/korea/view/news/news03_01.jsp?func=view¤tPage=0&key_type=&key=아동청소년&search_start_date=&search_end_date=&class_id=0&idx=691831

of convicts-in-kind is high (23.8%). Therefore, the Ministry planned to research the recurrence rate by those who completed the course in 2013, with a purpose of increasing the effectiveness of the recurrence prevention education and driving down the recurrence rate.⁴⁴⁾ Through cooperation with relevant government agencies, the Ministry decided to arrange the legal basis of the mentioned survey, which would take place every two years.

The education to prevent crime recurrence of children/youths participated by their parents was provided in 2013 to 39 persons from 18 families in four groups. Since both children/youths and their parents sent positive feedback, giving 4.7 stars to the program, the program is expected to be further promoted.

The program consists of 40 to 80 hours of education and is given by instructors at each Probation Office to those convicted with sexual assaults and other sexual crimes. As of November 2013, 519 convicts have taken the course on improving sexual cognitive distortion, empathizing with victims, elevating self-respect, increasing communication skills, and practicing self-restraint not to commit crimes again.

The education program for children and juveniles convicted of sexual assault includes 10 to 40 hours of cognitive behavioral counseling and treatment at juvenile reformatories, probational offices, juvenile classification review institutions and schools. Courses are given on exploring their dreams, victim role playing, correcting distorted sexual perception, responding to stress, anger management, and building intimate relationships. As of November 2013, 563 children and juveniles have taken the course.

44) "Study on the way to identify the recurrence rate by those who completed the course to prevent recidivism of sexual crimes against children and juveniles," news release of the Ministry of Gender Equality and Family, November 20, 2013.

http://www.mogef.go.kr/korea/view/news/news03_01.jsp?func=view¤tPage=9&key_type=&key=&search_start_date=&search_end_date=&class_id=0&idx=693235

C. One-stop service gaining traction

The Ministry of Gender Equality and Family established the eighteenth⁴⁵⁾ new one-stop service support center for women and school violence victims at Busan Medical Center (Yeonje-gu, Busan) to support victims of sexual and domestic violence, sex trafficking, and school violence.

Located in the first floor of the Medical Center, the one-stop center will include a counseling room, victim resting room, statement video recording room, and consulting room, all operating 24 hours. Female police officers, counselors, nurses, and clinical psychologists are also available. Center is open to visits and the service is also provided through phone calls (1899-3075). The operation of the center is conducted by tripartite agreement among Busan Medical Center (the entrustee), Busan Metropolitan City, and Busan Metropolitan Police Agency. The Busan Center is the third following northern Incheon center (Incheon St. Mary's Hospital), and western Gyeonggi (Ansan Handoh Hospital).

Supported by the Ministry of Gender Equality and Family and city and provincial governments, one-stop centers provide investigational, medical, and legal services available 24 hours for the victims of sexual, domestic, and school violence as well as sex trafficking. The first center was established at National Police Hospital in Seoul in 2005. Female victims of sexual and domestic violence and sex trafficking as well as victims of school violence can get support from female police officers while writing a victim statement. They also can get professional counseling service as well as medical and legal support free of charge.

45) "Stepping up the commitment to build a safe society from violence against women and children," news release of the Ministry of Gender Equality and Family, September 5, 2013.

http://www.mogef.go.kr/korea/view/news/news03_01.jsp?func=view¤tPage=16&key_type=&key=&search_start_date=&search_end_date=&class_id=0&idx=692794

3. Korea National Police Agency

Korea National Police Agency focused on early response to school violence in 2013. To fast-track school violence cases, the KNPA announced the result of 117 Hot Line Center and worked on treating and protecting victims while edifying and educating student offenders. In addition, the KNPA conducted intensive crackdown on Internet pornography as part of its efforts to protect juveniles from being exploited for pornography.

A. Performance results of 117 School Violence Hot Line

The KNPA analyzed and released the performance of 117 School Violence Hot Line (hereinafter 117 Hot Line) in celebrating the one-year mark of the direct report line.⁴⁶⁾ 117 Hot Line has played a central role in preventing and eliminating school violence. It has also helped establish School Violence One-stop Service and provided professional and demand-oriented counseling service.

The record of the past year show that a total of 111,567 cases were registered through 117 Hot Line from June 2012 to May 2013, a monthly average of 9,298 and a daily average of 305 cases. In particular, April this year saw 12,203 cases registered, a record high since the opening of the Hot Line. The awareness rate of the Hot Line marked 95.3%.

During the early days, 86.0% of the reporting ended up as the termination of counseling. However, after linking the calls to police officers designated to school violence and professional counseling organizations, and strengthening follow-up monitoring in order to protect victims, the rate of terminated reporting dropped

46) "Evaluation of 117 anti-school violence hotline, one-year in operation joined by students and parents", policy briefing, June 18, 2013.
<http://www.korea.kr/policy/pressReleaseView.do?newsId=155902142>

while the linkage rate doubled from 2.9% to 5.8%.

The highest types of violence are assault (38.3%) followed by insult (16.7%), and blackmailing and extortion (10.4%) in 2012, and the order pretty much stayed the same for 2013 (assault 29.1%, insult 23.0%, and blackmailing and extortion 9.7%). Assault decreased 9.2%, while insult stemming from verbal and mental abuse rose 6.3%. The cases reported by victims themselves increased by 3.0% from 65.8% in 2012 to 68.8% while those reported by parents decreased from 25.0% to 20.9%.

The KNPA is planning to proactively link the treatment and protection of victimized students as well as the edification and correction of offender students with professional counseling organizations (One-stop service, Wee Center, CYS-Net, etc.). On top of that, the Agency will provide customized one-stop counseling service through three-person-call function (Victim-Counselor-Professional counselor or school violence police officer). In order to improve counseling skills and capacity, all the counselors in relevant organizations will be required to take special education during summer and winter vacations. The KNPA will also support Special Online Courses on School Violence (e-learning) operated by Korea Youth Counseling and Welfare Institute under the MOGEF.

B. Women & Juvenile Affairs Division newly established in each Police Agency

As the Regulations on the organization of National Police Agency and related agencies were amended in November 2013, the KNPA established Women & Juvenile Affairs Division at each Regional Police Agency.⁴⁷⁾ Having previously been operated as

47) "Women & Juvenile Affairs Divisions established at each Regional Police Agency, as a momentum for eradicating four social evils," news release of the KNPA, November 20, 2013.

Women & Juvenile Affairs Section under Public Safety Division, it now has been elevated to a division, or Senior Superintendent level. With larger specialty and responsibility, the division is expected to contribute to more flexible operation of policies for the socially vulnerable such as those to eradicate four social evils. In addition, the head of the division was the first to be appointed in line with the reform of irregular employment scheme so that the four social evil project could be timely reviewed and the preparation for the next year would be properly organized.

179 Women & Juvenile Affairs Divisions were newly established at 101 major Police Offices and Women & Juvenile Affairs Section at the rest of the Offices. 1,337 personnel designated to school and domestic violence will be employed in the first half of next year.

C. Intensive crackdown on Internet pornography

The KNPA conducted seven-month-long intensive crackdown on Internet pornography starting on April 1, rounding up 1,938 in 1,824 cases and arrested six of them⁴⁸⁾.

<http://www.police.go.kr/portal/bbs/view.do?nttId=15299&bbsId=B0000011&searchCnd=1&searchWrd=%EC%B2%AD%EC%86%8C%EB%85%84§ion=&sdate=&edate=&useAt=&replyAt=&menuNo=200067&viewType=&delCode=0&option1=&pageIndex=1>

48) "Special attention needed for juveniles exposed to pornography," news release of the KNPA, May 8, 2013.

<http://www.police.go.kr/portal/bbs/view.do?nttId=14527&bbsId=B0000011&searchCnd=1&searchWrd=%EC%B2%AD%EC%86%8C%EB%85%84§ion=&sdate=&edate=&useAt=&replyAt=&menuNo=200067&viewType=&delCode=0&option1=&pageIndex=1>

	Total	Child pornography					Distribution of general pornography	Unregistered business
		Subtotal	Production	Sales, etc. for profit	Distribution or display	possession		
cases/ number of offenders (arrest)	1,824/ 1,938(6)	412/ 471(6)	6/ 8(4)	84/ 98(2)	303/ 326	19/ 39	1,411/ 1,466	1/ 1

Figures from April show that part of those arrested allegedly created child pornography exploiting juveniles. As smartphones and other IT devices are now widely available even to children, crimes related to child pornography are making their way into the every day life of juveniles. Usually, criminals approach kids through a chat application or portal site cafes and ask them to send a suggestive or nude photos via messenger. The M.O.s range from requesting photos after getting closer to luring children with payment for the photos or even blackmailing that they are going to spread the photos unless they get more revealing ones, which is close enough to cyber sexual assault. Too many times, juveniles fail to recognize the seriousness of the situation, leading to graver damage such as actual sexual violence when they decide to meet those offenders face-to-face before asking for help.

4. Ministry of Justice

In 2013, Alternative Education Center was restructured to Juvenile Dream Center in order to enhance its measures for crisis juveniles. In addition, a session was newly adopted where teachers' opinions are heard before the decisions of prosecutors.

A. Juvenile Dream Center established

The Ministry of Justice established three additional Juvenile Dream Centers in Jeonju, Suncheon, and Chuncheon in 2013.⁴⁹⁾

The Center first opened in six regions as “Alternative Education Center” in 2007. Four opened additionally in the capital area in 2012 as part of the “Comprehensive Plans against School Violence,” and three more opened this year in the region with high demand for education. The Ministry of Justice recently renamed the Center to Juvenile Dream Center, which shows the strong commitment of the Ministry to helping crisis juveniles grow into healthy and sound youths.

Ninety percent of students who received education at the Center successfully adapted themselves after going back to school, drawing a very positive feedback about the effectiveness of the program.

The Ministry is planning to establish three more Centers in eastern Busan and Ulsan as well as Suwon (totalling 16 nationwide), completing the educational foundation on which the operation of six programs will be expanded to eradicate school violence.

B. Opinion hearing before prosecutor’s decision

The Ministry of Justice introduced a hearing procedure where the teachers the concerned student can express their opinion before a prosecutor makes decisions about school violence case.⁵⁰⁾ The pre-decision hearing is implemented by West Seoul Prosecutors’

49) “Three additional Juvenile Dream Centers to be established by the Ministry of Justice,” Yonhap News November 20, 2013.
<http://news.naver.com/main/read.nhn?mode=LSD&mid=sec&sid1=102&oid=001&aid=0006607653>

50) “Suwon District Prosecutors’ Office to hold pre-decision session to listen to the teachers of the juveniles,” Incheon Ilbo, June 12, 2013.
<http://news.itimes.co.kr/news/articleView.html?idxno=489144>,
 “Busan District Prosecutors’ Office to listen to the opinion of the teacher of the juvenile offender before punishing him”, Yonhap News, July 8, 2013.
<http://news.naver.com/main/read.nhn?mode=LSD&mid=sec&sid1=102&oid=001&aid=0006359944>

Office and Seobu and Jungbu District Offices of Education Seoul. Prosecutors ask the teachers of concerned students questions about family background, personality, school life, relationship with classmates, etc. Their statements are considered in the decision making process.

The hearing procedure was first piloted in 2012 and in 89 cases, teachers' statements were reflected in the decisions. It has been well received by both schools and the Prosecutors' Office, so a separate operation instruction was made and implemented this year. Through the procedure, teachers' statements can provide information about the situation of students that would otherwise remain unrevealed, which allows the authorities to make educational decisions most appropriate for the concerned student.

Section 3 Policy Trend of Crime Victims Protection

The 1987 Constitution of Korea ensures, for the first time in world history, the right of crime victims to make a statement during the proceeding of a trial (Article 27(5)) and to make a request for aid in case of bodily injury or death (Article 30). To enforce the provisions, "Crime Victim Compensation Act" was established in 1987, while "Criminal Procedure Act" was amended. The support policy for crime victims gained traction in 2004 when the Ministry of Justice announced "Comprehensive Measures to Protect and Support Crime Victims," and Crime Victims Support Centers were established across the nation under the Public Prosecutors' Offices. In 2005, "Crime Victim Protection Act" was established that regulates non-financial support. Afterward, "Crime Victim Protection Act" and "Crime Victim Compensation Act" were integrated into "Crime Victim Protection Act," while "Crime Victim Protection Fund Act" entered into force in 2011 which regulates establishing fund based on fines and recourse money.⁵¹⁾ As is

shown, legislative efforts to protect crime victims have been continuing based on constitutional legitimacy, bringing along with it the expansion of related projects.

1. The Definition of Crime Victim Protection and Support

Crime victim⁵²⁾ protection and support is defined as acts that contribute to loss recovery and due exercise of rights by, and promotion of welfare of, crime victims thereby preventing secondary victimization in the form of mental damage that can occur during investigation or court trials.⁵³⁾

Article 30 of the Constitution provides that citizens who have suffered bodily injury or death due to criminal acts of others may receive aid from the State under the conditions as prescribed by Act, while “Crime Victim Protection Act,” which is a fundamental act on the protection of crime victims, provides in Article 4 that the protection and support of crime victims is the responsibility of the State.⁵⁴⁾ It is also stated so in “Sexual Violence Prevention

51) The Fund shall be created from a) 4/100 of a fine enforced as prescribed in Article 477 (1) of the Criminal Procedure Act, b) reimbursements obtained in subrogation as prescribed in Article 21 (2) of the “Crime Victim Protection Act”, c) cash, articles and other property contributed or donated by persons, other than the Government, and d) earnings accruing from the operation of the Fund (Article 4, Crime Victim Protection Fund Act). The Fund shall be used for a) payment of relief funds for criminal damage under Article 16 (1) of the “Crime Victim Protection Act”, b) payment of subsidies under Article 34 (1) of the Act, c) business or activities related to the protection and support of crime victims under other Acts, and d) disbursement of expenses for the creation, management and operation of the Fund (Article 6 of the Act). As such, the use of Fund is strictly regulated by the Act, and as a result, the business other activities to protect crime victims are also limited to what is prescribed in the Act.

52) The term “crime victim” means a victim of another person's criminal act and the spouse (including the *de facto* marriage), lineal relatives, and siblings of such victim (Article 3 (1) 1, Crime Victim Protection Act)

53) Article 3 (1) 2 of the Crime Victim Protection Act

and Victims Protection Act,⁵⁵⁾ “Act on Special Cases Concerning the Punishment etc. of Crimes of Domestic Violence,⁵⁶⁾” and “Child

54) Article 4 (Responsibility of State)

The State shall have responsibilities to take each of the following measures for protection and support for crime victims, and to provide the necessary financial resources thereto:

1. Construction and operation of system for protection and support for crime victims;
2. Survey of current conditions, research, education and promotion for protection and support for crime victims;
3. Improvement of relevant Acts and subordinate statutes and the formulation and execution of various policies for protection and support for crime victims.

55) Article 3 (Responsibility of State)

(1) The State and local governments shall take the following measures to prevent sexual assault and provide protection and support for victims of sexual assault (hereinafter referred to as “victims”):

1. Building and operation of reporting systems for sexual assault;
 2. Investigation, research, education and publicity necessary to prevent sexual assault;
 3. Establishment and operation of facilities for the protection and support of victims;
 4. Support for the rehabilitation of victims including residential assistance, occupational training and legal aid;
 5. Building and operation of cooperative systems between related agencies to facilitate the protection and support of victims;
 6. Improvement of harmful environment to prevent sexual assault;
 7. Adjustment of related Acts and subordinate statutes and the establishment, implementation and evaluation of various policies to protect and support victims.
- (2) The State and local governments shall take necessary budgetary measures to fulfill the responsibility under paragraph (1).

56) Article 4 (Duty of State)

(1) The State and a local government shall take each of the following measures to prevent domestic violence and to protect and support victims thereof; <Amended by Act No. 9668, May 8, 2009; Act No. 11981, Jul. 30, 2013>

1. Establishment and operation of a domestic violence reporting system;
2. Investigation, research, education and publicity for the prevention of domestic violence;
3. Establishment and operation of protection facilities for victims, grant of a preferential living right in a rental house and provision of other supportive services for them;
4. Establishment and operation of a cooperation network among related agencies to facilitate the protection of and support to victims;
5. Arrangement of the related Acts and subordinate statutes and the formulation,

Welfare Act.⁵⁷⁾”

2. Legislation Status with Regards to Crime Victim Protection and Support

The right and protection of crime victims could be divided into two categories: support for the crime victims and protection of them during criminal procedures. The former is about eliminating

implementation and evaluation of various policies for the prevention of domestic violence and for the protection of and support to victims;

6. Preparation of safety measures for the protection of victims and employees, such as counselors at emergency call centers under Article 4-6, counselors at counseling centers related to domestic violence under Article 5, counselors at protection facilities for victims of domestic violence under Article 7.
- (2) In order to fully perform the duties under paragraph (1), the State and a local government shall take budgetary measures for these purposes.
- (3) A Special Metropolitan City, a Metropolitan City, a Do, a Special Self-Governing Province and a Si/Gun/Gu (referring to an autonomous Gu; hereinafter the same shall apply) shall have organizations and public officials in charge of the prevention of domestic violence and protection of and support to victims.
- (4) The State and a local government shall foster and support, with a subsidy for expenses, etc., counseling centers related to domestic violence and protection facilities for the victims established and operated under Articles 5 (2) and 7 (2).

57) Article 4 (Responsibility)

- (1) The State and local governments shall endeavor for the promotion of health and welfare of children, and implement the policies therefor.
- (2) The guardian of children shall rear the children healthy and safely within the family, with adjusting them to the period of their growth.
- (3) All citizens shall respect the rights, interests and safety of children, and rear them healthy.
- (4) The State and local governments shall devise the policies necessary for protecting the rights and interests of handicapped children.
- (5) The State and the local governments shall take necessary policy steps to protect children from being discriminated on the grounds of genders, ages, religions, social statuses, properties, whether having handicaps or not, birthplaces, races, etc. of themselves or their parents.
- (6) The State and the local governments shall provide necessary education to help guardians so that their children can grow in a safe environment (due enforcement on September 29, 2014).

economic, mental, and social difficulties of crime victims and helping them recover by providing economic, medical, mental, psychological, and legal support. On the other hand, the latter is about providing protective measures from criminal justice organizations, strengthening the status of crime victims within the procedure, and pursuing restorative justice that can safeguard their rights. “Crime Victim Protection Act,” “Criminal Procedure Act,” “Act on Special Cases Concerning the Punishment etc. of Crimes of Domestic Violence,” and order of compensation all include provisions about it, with legal basis and legitimacy on the Constitution.

Looking at the history of support efforts, “Crime Victim Compensation Act” was established in 1987 while “Criminal Procedure Act” was amended in the same year. In 2003, Advisory Committee on Reform of Prosecutors’ Office reviewed the matter, followed by the discussion by Investigation System and Practice Reform Committee in the following year on how to establish crime victim protection and support system. National Police Agency on its part set up Crime Victim Response Office and Crime Victim Support System. In particular, in September 2004, Ministry of Justice announced a comprehensive measures for crime victim protection and support, thereby establishing Crime Victim Support Center under 55 Prosecutors’ Offices nationwide. Meanwhile, “Crime Victim Protection Act” was promulgated in December 2005 and put into force in March 2006. The Act was wholly amended in 2010, incorporating “Crime Victim Compensation Act” into “Crime Victim Protection Act.”

The following sections examine in more detail current legislations regarding crime victim support.

A. Order for compensation

On January 29, 1981, “Act on Special Cases Concerning Expedition, etc. of Legal Proceedings (Act No. 3361)” was established that entered into force on March 1, 1981. The Act has provisions about an order for compensation from Article 25 to 36. When a conviction is to be declared in the procedures of criminal trial of the first instance or the second instance against certain crimes, the court may, either *ex officio* or upon the application of the victim or his/her successor, order compensation for direct physical damage, medical expenses, and solatium that has occurred due to the criminal acts of the accused case. Also, the court may order payment of the compensation for damages agreed upon between the accused and the injured party in either the accused case or of other crimes. Order for compensation contributes to swift aid of victims in that proof from criminal proceedings can grant a court order for compensation without resorting to a separate civil procedure. However, since the requirements are rather strict in order to prevent the compensation proceeding from delaying criminal one, in reality, not all the victims of crimes listed in the Act can be granted the order.

B. Act on the Prevention of Domestic Violence and Protection etc. of Victims

The purpose of this Act is to prevent domestic violence and to protect and support victims thereof (Article 1). The State and a local government shall take measures to prevent domestic violence and to protect and support victims, and the State and a local government shall take budgetary measures for these purposes (Article 4). The State or a local government may establish and operate a counseling center or counselor training facilities related to domestic violence and matters necessary for the standards of

the establishment and operation of counseling centers, the number of counselors therein and the procedures for report thereof, etc. shall be prescribed by Ordinance of the Ministry of Gender Equality and Family. Any person, other than the State or a local government, social welfare corporations and other non-profit entities, schools, legal aid corporations, and social welfare corporations may also establish the center and counseling training facilities matters related to this shall also be prescribed by Ordinance of the Ministry of Gender Equality and Family (Article 5). The State or a local government may subsidize part of the expenses for the establishment and operation of counseling centers or protection facilities under this Act (Article 13). The Minister of Gender Equality and Family or the head of a Si/Gun/Gu shall supervise the centers, protection facilities, and training facilities (Article 11), but the standards are set by the MOGEF, designating it the primary supervisory organization under this Act.

C. Legal Aid Act

The purpose of this Act is to protect fundamental human rights and to further contribute to the promotion of legal welfare by providing legal aid to those in economic difficulty or not adequately protected by the law due to ignorance of the law. Any corporation registered under the Ministry of Justice and Korea Legal Aid Corporation established under the Act shall provide aid.⁵⁸⁾ If it is deemed necessary for sound support and development, the Government may provide subsidies within budget limits (Article 4). The term "legal aid" in this Act means providing any person with all support concerning legal consultation, a representation of a lawsuit by an attorney-at-law or a public-service advocate, and other legal affairs and does not include economic aid (Article

58) Both are referred to as "legal aid corporation." (Article 4 of the Act)

2). The Minister of Justice shall guide and supervise legal aid corporations (Article 35).

D. Sexual Violence Prevention and Victims Protection Act

The purpose of this Act is to prevent sexual trafficking, protect victims of sexual traffic and persons who have sex with people in exchange for money, and support their self-reliance (Article 1). Act on the Punishment of Acts of Arranging Sexual Trafficking stipulates that the State and local governments shall take legal and institutional measures and secure financial resources for education, publicity, etc. to prevent and eradicate sexual traffic, acts of arranging sexual trafficking, etc. and human trafficking aimed at sexual trafficking (Article 3). The former Act also provides that the State and local governments may establish and operate counseling centers for the victims of sexual assault, and any person other than the State and local governments who intends to establish and operate a counseling center shall file a report thereon with the competent Special Self-Governing City Mayor or Special Self-Governing Province Governor or the head of a competent Si/Gun/Gu (Gu means an autonomous Gu) (Article 10). And the State may establish and operate a Central Support Center for Prevention of Sexual Trafficking to facilitate effective liaison, coordination, etc. of delivery systems for support services with respect to the preventive activities against sexual trafficking and victims, etc. of sexual trafficking (Article 11-2). The State or a local government may subsidize expenses involved in the establishment and operation of a supporting institution and a counseling center and may subsidize expenses to non-profit corporations or organizations performing protective and supporting activities for victims of overseas sexual trafficking within budget limits (Article 15). The Act provides that the related facilities and other affairs shall be supervised by Ministry of Gender Equality and Family.

E. Sexual Violence Prevention and Victims Protection Act

The Act provides that the State and local government shall be responsible for establishing necessary legal and institutional measures as well as securing financial resources. The State and local governments may establish and operate counseling centers for the victims of sexual assault, and any person other than the State and local governments who intends to establish and operate a counseling center shall file a report thereon with the competent Special Self-Governing City Mayor or Special Self-Governing Province Governor or the head of a competent Si/Gun/Gu. The State and local governments may provide subsidies for counseling centers, protective facilities or integrated support centers to cover the expenses involved in their establishment and operation. Affairs related to the centers and facilities and other affairs related to this Act shall be supervised by Ministry of Gender Equality and Family.

F. Child Welfare Act

The Act defines children requiring protection as those who have no guardian or are separated from a guardian, or those whose guardian is unsuitable for rearing children or incapable of rearing them, such as the guardian abuses them, and provides regulations regarding their protection (Article 3). The State and local governments may install child welfare facilities and persons other than the State and local governments may install child welfare facilities by reporting to the head of competent Si/Gun/Gu (Article 50). The State and local governments shall establish specialized child protection agency to activate child abuse prevention activities (Article 45), and the head of the agency has responsibilities of providing necessary support including counseling, and educational, medical, and psychological treatment in order to secure

the safety of children, prevent the abuse from recurring, and maintain the sound function of family (Article 29). Children in need of protection need not necessarily be the victims of crimes. However, the Act also applies when parents or guardians abuse them, in which case the children might be victims. Duties of Ministry of Welfare are to oversee the facilities and protect children.

G. Act on Special Cases Concerning the Punishment of Specific Violent Crimes

The Act provides that where it is deemed that the accused or any other person may or is apprehended to harm the life or body of a witness of a specific violent crime,⁵⁹⁾ a public prosecutor

⁵⁹⁾ Article 2 (Coverage of Application)

(1) The term "specific violent crimes" in this Act means crimes falling under any of the following subparagraphs:

1. Crimes under Articles 250 (Murder, Killing Ascendant), 253 (Murder upon Request through Fraudulent Means, etc.), and 254 (Attempts) (excluding attempted criminals referred to in Articles 251 and 252), among the crimes of murder in Chapter XXIV of Part II of the Criminal Act;
2. Crimes under Articles 287, 288, 289, 293 and 294 (excluding attempted criminals referred to in Articles 291 and 292), among the crimes of abduction and enticement in Chapter XXXI of Part II of the Criminal Act;
3. Crimes under Articles 297 (Rape), 297-2 (Imitative Rape), 298 (Indecent Act by Compulsion), 299 (Quasi-Rape, Quasi-Indecent Act by Compulsion), 300 (Attempts), 305 (Sexual Intercourse or Indecent Acts with Minor), 301 (Inflicting or Causing Another's Bodily Injury by Rape, etc.) and 301-2 (Killing Another or Causing Death of Another by Rape, etc.) committed by carrying a lethal weapon or other dangerous articles, or by not less than two persons in conspiracy, among the crimes of rape and an indecent act in Chapter XXXII of Part II of the Criminal Act;
4. Crimes under Articles 3 through 10 and 14 (excluding attempted criminals under Article 13) of the Act on Special Cases concerning the Punishment, etc. of Sexual Crimes;
5. Crimes under Articles 333 (Robbery), 334 (Special Robbery), 335 (Quasi-Robbery), 336 (Robbery by Hostage), 337 (Bodily Injury resulting from Robbery), 338 (Murder, etc. by Robbery), 339 (Robbery and Rape), 340 (Piracy), 341 (Habitual Crimes), and 342 (excluding attempted criminals under Articles 329 through

shall request the chief of the competent police station to take necessary measures for the personal safety of the witness (Article 7). Since it is within the scope of the prosecutors' duty, it is under the jurisdiction of the Ministry of Justice. In addition, with respect to the victims of specific violent crimes which are under investigation or trial or persons who have reported or accused specific violent crimes under investigation or trial, facts or photographs to the extent that they may presumed be identified by their names, ages, addresses, occupations, appearance, and so on as victims or persons who have reported or accused shall not be published in newspapers or other publications or broadcasted by wire: provided, that this shall not apply in cases where victims, persons who have reported or accused, or their agents (their spouses, lineal relatives or brothers and sisters in cases where the victims or persons who have reported or accused deceased) specifically consent to such publication or broadcasting (Article 8).

H. Act on Protection of Specific Crime Informants, etc.

The purpose of this Act is to protect informants, etc. of specific crimes,⁶⁰⁾ to ensure that citizens can voluntarily cooperate in

331, 331-2 and 332), among the crimes of theft and robbery in Chapter XXXVIII of Part II of the Criminal Act;

6. Crimes under Article 4 (Formation of Organization, etc. and Activities) of the Punishment of Violences, etc. Act and Article 5-8 (Formation of Organization, etc.) of the Act on the Aggravated Punishment, etc. of Specific Crimes.

(2) Crimes which fall under the subparagraphs of paragraph (1) and are punished cumulatively in accordance with other Acts shall be deemed specific violent crimes.

60) Article 2 1

The definitions of terms used in this Act shall be as follows:

1. The term "specific crimes" means crimes falling under any of the following items:

(a) Crimes under Article 2 of the Act on Special Cases concerning the Punishment

criminal procedures concerning specific crimes without fear, thereby contributing to defending society from crimes (Article 1). When any retaliation is likely to be taken against informants, etc. of crimes or their relatives, etc., prosecutors or the chief of a police station may order public officials belonging to the relevant prosecutors' office or police station to take measures necessary for personal safety during a specific time, or request the chief of a police station having jurisdiction over the dwelling places or current locations of the relevant persons to take personal safety measures. In such cases, the chief of a police station, upon receiving a request, shall take personal safety measures, without delay, unless any extenuating circumstance exists, and when the chief of a police station takes personal safety measures, he/she shall inform prosecutors of such fact as prescribed by Presidential Decree. Meanwhile, when informants, etc. of crimes or their relatives, etc. have suffered significant economic loss or mental pain, or paid or needs to pay expenses incurred in moving or changing an occupation, etc. due to any possible retaliation against them, the State may pay rescue funds for informants, etc. of crimes, upon request by informants, etc. of crimes, their legal representatives or relatives, etc. (Article 14). A Council on Rescue of Informants, etc. of Crimes (hereinafter referred to as the "Council") shall be established under the control of each district public prosecutors' office, so as to deliberate on and determine matters concerning the payment of rescue funds and each Council shall be supervised

of Specific Violent Crimes;

- (b) Crimes under Article 2 (2) of the Act on Special Cases concerning the Prevention of Illegal Trafficking in Narcotics, etc.;
- (c) Crimes committed by members belonging to groups under Article 4 of the Punishment of Violences, etc. Act and Article 5-8 of the Act on the Aggravated Punishment, etc. of Specific Crimes, with regard to the activities of such groups;
- (d) Crimes under Articles 8 through 16 of the Act on Punishment, etc. of Crimes under Jurisdiction of the International Criminal Court;
- (e) Crimes under Article 5-9 of the Act on the Aggravated Punishment, etc. of Specific Crimes.

and controlled by the Minister of Justice (Article 14(3) and (4)). As seen above, personal safety measures are led by a Prosecutor, and rescue funds are supervised by the Minister of Justice. Therefore, the Ministry of Justice has the overall control.

I. Crime Victim Protection Act

Crime Victim Protection Act serves as a basic act regarding the protection of and support for crime victims. The Act provides as basic ideology that i) a crime victim has the right to immediately recover from the circumstances of the criminal injury and be guaranteed human dignity, ii) a crime victim's reputation and privacy shall be protected, and iii) a crime victim has the right to participate in various criminal proceedings in connection with the relevant case (Article 2). Unlike Crime Victim Compensation Act, there is no limit in types of crime (The term "crime victim" means a victim of another person's criminal act and the spouse, lineal relatives, and siblings of such victim, Article 3(1)(i)). Furthermore, the State shall have responsibilities to take each of the following measures for protection and support for crime victims and to provide the necessary financial resources to construction and operation of system for protection and support for crime victims (Article 4). The local governments shall actively endeavor to protect and support crime victims and shall cooperate to facilitate smooth execution of the State policies for protection and support for crime victims (Article 5). The basic policies of crime victims protection and support are as follows:

- a) Loss Recovery Support, etc: The State and local governments shall formulate plans necessary to provide counselling, medical services, payment of relief funds, legal aid and employment assistance, dwelling support, and other plans necessary for protecting crime victims, proportionate to the degree of harm to crime victims and to the necessity for

protection and support (Article 7).

- b) Guarantee, etc. of Participation in Criminal Procedures: The State shall ensure that the crime victim is afforded the criminal procedural rights to exercise, including the right to consult with a criminal investigator with regard to the relevant criminal case or to attend the trial or other proceedings and make a statement. And the State may, if requested by a crime victim, provide him/her with information pertaining to criminal proceedings, such as the results of the investigation to persons alleged to be perpetrators, a date for a public trial, the results of the trial, execution of a sentence, and the current status on the execution of the sentence of probation (Article 8). This serves as a legal basis for the Prosecutors' Office to provide information related to criminal procedure such as results of dispositions, the date and result of trial, the status on discharge, etc.
- c) Protection of Privacy, Physical Safety, etc. The State and local governments shall take measures necessary to protect the reputation and privacy of crime victims, and formulate appropriate measures where crime victims are in danger of retaliatory violence due to their statements or testimony during criminal proceedings and where they are in need of protection (Article 9). This is a general provision regarding personal safety measures of victims including witnesses that were previously recognized by individual acts.
- iv) Education and Training: The State and local governments shall provide necessary education and training to persons who engage in criminal investigations, persons who provide counselling and medical services to crime victims, and other persons who engage in activities relating to protection and support for crime victims, in order to promote awareness about crime victims and to perform protection and support

activities efficiently (Article 10).

- v) Promotion, Survey, and Research: The State and local governments shall carry out promotion activities necessary to increase the public's understanding and awareness of crime victims and endeavor to conduct a survey on the current status of criminal damage and to develop support policies, so as to ensure the provision of appropriate support services rooted in professional knowledge and experience with crime victims (Article 11).

Furthermore, the Act in Chapter 5 provides a legal ground for the establishment of a crime victim support corporation, which may be registered with the Minister of Justice when meeting certain requirements. Registered corporations are entitled to government subsidies but are under rather strict responsibilities and supervision. The Crime Victim Protection Committee shall be established under the control of the Minister of Justice to deliberate on the master plan and important matters concerning protection and support for crime victims, and the Minister of Justice shall establish a master plan for protection and support for crime victims every five years, following the deliberation of the Crime Victim Protection Committee (Articles 12 and 15). The Minister of Justice, the heads of relevant central administrative agencies, and the Special Metropolitan City Mayor, a Metropolitan City Mayor, a Do Governor, and the Governor of a Special Self-Governing Province shall establish and execute annual implementation plans under the master plan, while the Minister of Justice may request the cooperation of the heads of relevant central administrative agencies, heads of local governments, or heads of relevant public institutions, if necessary for establishment and execution of the master plan and implementation plan (Articles 13 and 14).

3. Crime Victim Protection Fund Act

The purpose of this Act is to establish a crime victim protection fund to raise finances necessary for protecting and supporting crime victims and to prescribe matters necessary for the management and operation of the fund (Article 1). The Fund shall consist of i) a fine enforced as prescribed in Article 477 (1) of the Criminal Procedure Act, ii) reimbursements obtained in subrogation as prescribed in Article 21 (2) of the Crime Victim Protection Act, iii) cash, articles and other property contributed or donated by persons, other than the Government, and iv) earnings accruing from the operation of the Fund (Article 4 (1)). The Government shall pay an amount computed by multiplying a fine enforced as prescribed in Article 477 (1) of the Criminal Procedure Act by the rate prescribed by Presidential Decree, which is not less than 4/100 (Article 4 (2)). The Fund shall be managed and operated by the Minister of Justice (Article 5). The Fund shall be used for i) payment of relief funds for criminal damage under Article 16 (1) of the Crime Victim Protection Act, ii) payment of subsidies under Article 34 (1) of the Crime Victim Protection Act, iii) business or activities related to the protection and support of crime victims under other Acts prescribed by Presidential Decree, iv) disbursement of expenses for the creation, management and operation of the Fund, and v) other business or activities prescribed by Presidential Decree for protecting and supporting crime victims (Article 6). To deliberate on matters concerning the management and operation of the Fund, a deliberative committee on operation of crime victim protection fund shall be established in the Ministry of Justice (Article 7). In the meantime, the Fund subsidized shall not be used for a purpose other than for which it has been subsidized, and where the Fund has been subsidized by fraud or other fraudulent means, or the subsidized Fund has been used for a purpose other than its intended purpose, the Minister of

Justice may have all or part of the Fund returned (Article 14).

The enforcement decree of the Act provides that the 5/100 of the fine executed in accordance with the Article 477 (1) of Criminal Procedure Act, and the whole amount of reimbursements obtained in subrogation as prescribed in Article 21 (2) of the Crime Victim Protection Act shall be paid to the Fund (Article 2). In addition, the Fund may also be used to establish and operate protective facilities for sexual and domestic violence victims (Article 5). Deliberative Committee on Operation of Crime Victim Protection Fund consists of 15 members including the Chair.⁶¹⁾ Meanwhile, in order to secure the fairness of deliberation, the process for decommissioning, exclusion, challenge, and evasion of committee members is also stipulated in the enforcement decree (Articles 9 and 10).

61) Original proposal for the Enforcement Decree of the Act provided that the Deliberative Committee consisted of less than 10 members including the Chair (Article 6(1)). We once weighed in the review statement on the proposal for the Enforcement Decree of July 2010 (main reviewer: Research Fellow Kang Suk-gu) that even though this provision is not contradictory to the proviso of Article 7(2) of the Act that states “at least half of the members of the Deliberative Committee including the Chair shall be non-public servants,” it would be better to increase civic members in the future for the smooth operation of the Committee, considering that at least five public officials (Vice Minister of Justice, and public servants from the Ministry of Justice, Ministry of Health and Welfare, Ministry of Gender Equality and Family, and Ministry of Strategy and Finance) would automatically become members. The number, reflecting our opinion, increased to 15.

〈Table 2-1-7〉 Current crime victims protection and support system

Acts	Major responsibility	Institution
Act on Special Cases Concerning Expedition, etc. of Legal Proceedings	Order of compensation	Supreme Court
Crime Victim Protection Act	Crime victim relief fund, criminal conciliation	Ministry of Justice
Crime Victim Protection Fund Act	Crime victim protection	Ministry of Justice, Ministry of Gender Equality and Family, Ministry of Health and Welfare
Legal Aid Act	Support from Korea Legal Aid Corporation and other legal aid corporations	Ministry of Justice
Act on Special Cases Concerning the Punishment of Specific Violent Crimes	Witness protection and safety program	Ministry of Justice
Act on Protection of Specific Crime Informants, etc.	Informants protection and aid funds for reporters of crime	Ministry of Justice
Act on the Prevention of Domestic Violence and Protection etc. of Victims	Counseling service center for domestic violence, protection facilities for victims	Ministry of Gender Equality and Family
Act on the Prevention of Prostitution and Protection etc. of Victims	Support facilities for prostitution victims, counseling service centers, central support center for prostitution prevention	Ministry of Gender Equality and Family
Sexual Violence Prevention And Victims Protection Act	Sexual violence counseling centers, victim protection facilities, one-stop support center	Ministry of Gender Equality and Family
Child Welfare Act	Child welfare facilities, protection institution, central foster care center	Ministry of Health and Welfare
Guarantee of Automobile Accident Compensation Act	Compensation for damages, living cost support, medical support	Ministry of Land, Infrastructure and Transport
Emergency Aid and Support Act	Living cost support, medical support, residence support, social welfare facilities support, education support	Ministry of Health and Welfare

4. Important Provisions of New Crime Victim Protection Act (wholly amended on May 14, 2014)

In 2010, Crime Victim Protection Act was wholly amended, thereby repealing scrapping Crime Victim Aid Act (No. 3969, established on November 28, 1987, entry into force on July 1, 1988) and integrating crime victim aid system into it.

Major revision includes i) expansion of the scope of damage and victims, ii) establishment of legal ground for temporary protective facilities and counseling and treatment programs for crime victims and their families, iii) clarification of restrictions where the payment is limited, iv) realignment of payment criteria, v) extension of payment application period, vi) arrangement of procedures regarding the request for re-deliberation of dismissal or rejection, and vii) introduction of criminal conciliation procedure. Below, we would like to take a more detailed look at each of them.

First of all, the new Act expands the scope of the criminal injury subject to relief from serious disability to disability or serious injury.

The term "criminal injury subject to relief" means death, disability, or serious injury caused by an act corresponding to a crime injuring human life or body committed inside the territory of the Republic of Korea or in a vessel or an aircraft of the Republic of Korea outside of the territory of the Republic of Korea (including acts which are not subject to punishment under Article 9, 10 (1), 12, or 22 (1) of the Criminal Law, but excluding acts which are not subject to punishment under Article 20 or 21 (1) of the same Act or acts committed by negligence) (Article 3 (1) (4)).

Expansion of relief fund

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| <ul style="list-style-type: none"> - The amended enforcement decree expanded the scope of injuries entitled for the relief fund to level 10 disability from the previous one of only serious injuries ranging from disability level 1 to 6. <ul style="list-style-type: none"> - level 6: vision of both eyes are or lower than 0.1/ distinct disability or injury in two of the three joints in one leg - level 10: vision of both eyes are or lower than 0.1/ distinct disability or injury in one of the three joints in one leg - Relief for serious injuries was newly adopted so that victims could get the fund while receiving treatment for damage. <ul style="list-style-type: none"> - Serious injury: damage to major organs, amputation of part of body, and serious mental illness that require at least two months' treatment - Along with the amendment, the number of victims entitled to receive the fund is expected to increase five to six fold (average application for the past five years was only 28). |
|---|

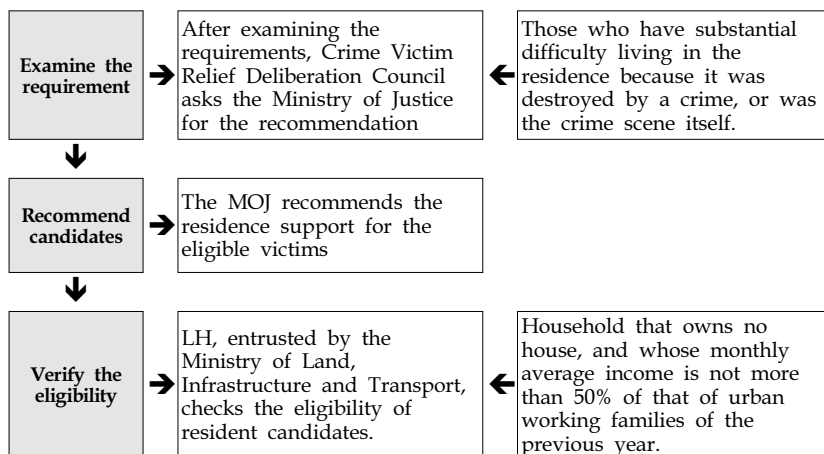
Second, the new Act states that temporary residence shall be provided for victims having difficulty residing in the current one, while psychological treatment shall be given to victims and their families suffering from mental trauma.

The State and local governments shall formulate plans necessary to provide counselling, medical services, payment of relief funds, legal aid and employment assistance, dwelling support, and other plans necessary for protecting crime victims, proportionate to the degree of harm to crime victims and to the necessity for protection and support, and the State shall establish and operate temporary protective facilities (hereinafter referred to as "protective facilities") to provide crime victims and their families with physical and mental stability and to help them return to normal social life. In such cases, the State may entrust the operation of protective facilities to a corporation for support for crime victims. The State shall operate counselling and therapy programs that help restore crime victims and their families' mental health. Matters concerning the standards for the establishment and operation of protective facilities, standards and procedures for entry thereto or exit therefrom, procedures for the consignment operation, standards and procedures for the supervision thereof, and

operation, etc. of the counselling and therapy programs shall be prescribed by the Presidential Decree (Article 7).

Residence support to help with the stable recovery of victims

- The Ministry of Justice is consulting with the Ministry of Land, Infrastructure and Transport to provide rental houses for crime victims who no longer are able to live in their residence.
- Accordingly, the amended enforcement decree provides that crime victims who want to receive support may file an application with Crime Victim Relief Deliberation Council under the Police Agency, which will evaluate the eligibility.
- Since March 2010, purchased, leased, and rental residence (smaller than the area of 60㎡ at 30% of market price) have been distributed under the <Instructions manual on residence support for residentially vulnerable groups> (directive of the Ministry of Land, Infrastructure and Transport). In the second half of this year, <Regulations on providing residential buildings> will be amended so that rental houses will be provided for those in need of them.
- The policy is expected to provide practical support for crime victims who were attacked in or around their residence but are not able to move out due to financial situations.



〈Figure 2-1-15〉 Flow chart showing the procedure of support of purchased, leased, and rental residence

Third, by deleting ‘insolvency or unknown whereabouts of the offender’ from the requirements for financial support from the relief fund, it expands the scope of victim who are eligible for

the support. Therefore, the State shall get reimbursement from offenders in subrogation after first paying the aid to victims.

If a person who suffers from a criminal injury and requires relief falls under either of the following circumstances, the State shall pay him/her or his/her bereaved family a criminal injury relief fund: 1. Where he/she is unable to obtain full or partial compensation for criminal damage; 2. Where he/she becomes a victim subject to relief after providing a clue to the investigation, such as a complaint or accusation, presenting statements, or giving testimony or submitting materials in the process of investigation or trial of a criminal case of his/her own or any other person (Article 16).

Fourth, the Act clarifies restrictions and cases which no relief fund shall be paid that were previously determined by Presidential Decree. Cases where no relief fund may be paid are as follows (Article 19 (1)): i) Spouse (including a person who has a *de facto* matrimonial relationship); ii) Lineal relatives by blood; iii) Relatives within the fourth degree of relationship; and iv) Relatives living together. However, no partial payment of the relief fund may be made where no kinship falling under any subparagraph of paragraph (1) exists between a victim subject to relief and the perpetrator at the time a crime is committed (Article 19 (2)). If a victim subject to relief commits any of the following acts, no relief fund may be paid (Article 19 (3)): i) An act of abetment or aid in the relevant Criminal Law; ii) An act which causes the relevant Criminal Law, such as excessive violence, threat, or serious contempt; iii) An act which is significantly unjust in connection with the relevant Criminal Law; iv) An act of tolerating the relevant Criminal Law; v) An act of joining an organization which is likely to commit an illegal act collectively or habitually (provided, that this shall not apply where joining the organization is deemed to have no relation to becoming a victim of the relevant criminal injury); and vi) An act of causing death or serious bodily harm

to a perpetrator, his/her relative, or any other person who is closely related to a perpetrator in retaliation to the Criminal Law. In addition, where a victim subject to relief commits any of the following acts, no partial payment of the relief fund may be paid (Article 19 (4)): i) An act which causes the relevant Criminal Law, such as violence, threat, or contempt; and ii) An inattentive or inappropriate behavior which has contributed to the occurrence or aggravation of the relevant criminal injury.

When paying the bereaved family relief fund, "victim subject to relief" shall be deemed "victim subject to relief or a bereaved family member with the highest priority for receipt thereof" in the application of the provisions of paragraphs (1) through (4) (Article 19 (5)). Where the whole or partial payment of the relief fund is deemed in contravention of the prevailing social norms, considering the relationship between a victim subject to relief or his/her bereaved family and the perpetrator, and other circumstances, no whole or partial payment thereof may be paid (Article 19 (6)). Notwithstanding the provisions of paragraphs (1) through (6), if extenuating circumstances exist to acknowledge that refusal to pay the relief fund is in contravention of prevailing social norms, some of the relief fund may be paid (Article 19 (7)).

Fifth, the new Act sets the amount of relief fund which is obtained by multiplying the monthly salary, actual monthly income, or average monthly wage of the crime victim by the number of the months prescribed by Presidential Decree within a certain limit. Previously, the relief payment was a fixed amount, which now became proportional to a real income at the time of death, disability, or injury, thereby helping more efficiently the recovery of victims.

The amount of the bereaved family relief fund shall be the amount obtained by multiplying the amount of monthly salary, actual monthly income, or average monthly wage of the victim subject to relief at the time of his/her death (referring to when his/her body is damaged, if he/she dies on account of such damage)

by the number of months prescribed by Presidential Decree within the limit of not less than 18 months but not exceeding 36 months taking into consideration the number, ages, and conditions for subsistence of the bereaved family members (Article 22 (1)). The amount of the disability relief fund and a serious injury fund shall be the amount obtained by multiplying the amount of monthly salary, actual monthly income or average monthly wage of the victim subject to relief at the time of damage to his/her body by the number of months prescribed by Presidential Decree within the limit of not less than two months but not exceeding 36 months, taking into consideration the degree of the disability or serious injury of the victim, number, ages, and conditions for subsistence of the dependent family members (Article 22 (2)). The amount of the monthly wage, actual monthly income or average monthly wage referred to in paragraph (1) or (2) shall be verified by a certification issued by the head of a tax office, Si/Gun/Gu (referring to an autonomous Gu) having jurisdiction over the victim's place of domicile, or the head of the institution at which the victim works or other certification which has public trust and is prescribed by Presidential Decree (Article 22 (3)). In applying paragraph (1) or (2), if the amount of monthly wage or actual monthly income of a victim subject to relief exceeds twice the amount of average wage, the amount equivalent to twice the amount of the average wage shall be deemed the monthly wage or actual monthly income (Article 22 (4)).

Calculation criteria of relief funds

- All the related facts will be comprehensively considered including victim's income, the number of bereaved family, dependency status etc. so that the provision will be of practical help.
- KRW 4,500,000 – 54,000,000 for bereaved family funds and KRW 2,250,000 – 45,000,000 for disability or serious injury; maximum KRW 24,000,000 increase from the previous amount of KRW 30,000,000.

※ Method of calculation

Standard amount	×	Number of months	×	Multiplying number
Average of three months' income right before the damage occurred or average monthly income of daily worker		<ul style="list-style-type: none"> • Injury or disability fund: 3 to 30 months depending on the level of injury • Bereaved family fund: 18 to 30 months depending on the order of bereaved families 		Depending on the number of (bereaved) family, or dependency status

The estimated relief payment based on Article 22 of Crime Victim Protection Act and its enforcement decree is as follows.

A. Bereaved family relief fund

- a) Criteria: Monthly wage at the time of death (or average wage) multiplied by number of months.

Order of relationship	Number of months
Spouse and dependent children under 19	34
Dependent parents, grandparents, grandchildren, and siblings	26
Other bereaved family	18

b) Plus or minus the number of months considering the family relationship

Order of relationship	Number of bereaved family ≥ 2	Number of bereaved family =1
Spouse and dependent children under 19	6/6	6/6
Dependent parents, grandparents, grandchildren, and siblings	6/6	5/6
Other bereaved family	4/6	3/6

c) Estimated amount of payment calculated according to the criteria

Order of relationship	Number of bereaved family ≥ 2	Number of bereaved family =1
Spouse and dependent children under 19	KRW 51,000,000	KRW 51,000,000
Dependent parents, grandparents, grandchildren, and siblings	KRW 39,000,000 ~ KRW 51,000,000	KRW 32,500,000 ~ KRW 51,000,000
Other bereaved family	KRW 18,000,000 ~ KRW 36,000,000	KRW 13,500,000 ~ KRW 27,000,000

B. Disability relief fund

a) Criteria

The amount of (average) monthly income multiplied by the number of months is multiplied by a variable of number of dependent family members (4/6 ~ 6/6).

Relationship	Multiplier
1. Spouse (including a de-facto spouse) and dependent children at the time of occurrence of a crime	6/6
2. Dependent parents, grandparents, grandchildren, and siblings at the time of occurrence of a crime	5/6
3. Others	4/6

b) Estimated amount of payment calculated according to the criteria

Disability level	Months	X monthly income (KRW, million) (KRW 1.5 ~ 3 million)	X dependent family multiplier (KRW, million)	Limit adjusted actual payment (KRW, million)
1	34	51~102	34~10.2	34~51
2	31	46.5~93	31~93	31~51
3	28	42~84	28~84	28~51
4	25	37.5~75	25~75	25~51
5	22	33~66	22~66	22~51
6	19	28.5~57	19~57	19~51
7	16	24~48	16~48	16~48
8	13	19.5~39	13~39	13~39
9	10	15~30	10~30	10~30
10	8	12~24	8~24	8~24
11	6	9~18	6~18	6~18
12	4	6~12	4~12	4~12
13	3	4.5~9	3~9	3~9
14	2	3~6	2~6	2~6

Sixth, the new Act extends the application filing period to three years from the acknowledgement of the occurrence of the injury subject to relief or 10 years from the occurrence of the relevant criminal injury.

A person who intends to receive a relief fund shall file an application thereof to the district council having jurisdiction over his/her place of domicile, place of residence, or place where the crime has occurred, as prescribed by Ordinance of the Ministry of Justice. No application referred to in paragraph (1) may be filed after three years from his/her acknowledgement of the occurrence of the relevant criminal injury subject to relief or after 10 years when the relevant criminal injury subject to relief occurs (Article 25).

Seventh, the new Act provides procedures of applying for re-deliberation on the dismissal or rejection of payment application.

In order to deliberate on and resolve matters concerning the payment of relief funds, a council for relief of criminal injury (hereinafter referred to as "district council") shall be established under each district prosecutor's office, and the Council for the Relief of Criminal Injury (hereinafter referred to as "Central Council") shall be established under the control of the Ministry of Justice. Each district council shall deliberate on and resolve matters concerning the payment of relief funds which fall under the jurisdiction of each district prosecutor's office under which each district council is established. The Central Council shall deliberate on and resolve the following: i) Cases for which applications for re-deliberation are filed under Article 27; ii) Other matters under its jurisdiction pursuant to other Acts and subordinate statutes. Each district council and the Central Council shall be directed and supervised by the Minister of Justice (Article 24).

If a district council dismisses (including cases of partial dismissal) or rejects an application for the payment of a relief fund, the applicant may apply for re-deliberation to the Central Council via the relevant district council within two weeks after the original copy of the judgement is served. Upon receiving an application for re-deliberation pursuant to paragraph (1), the district council shall forward all of the records concerning the application for payment of a relief fund to the Central Council within one week from receipt thereof. The Central Council shall make a decision to provide relief again within four weeks following deliberation with respect to the application filed under paragraph (1). If a decision made by the district council which has rejected the application for payment of a relief fund is in contravention of Acts and subordinate statutes, the Central Council may remand the case to such district council. If an applicant whose application for the payment of a relief fund has been rejected makes necessary corrections thereto and applies for re-deliberation thereon, the Central Council may remand the case to the relevant district council

(Article 27).

Eighth, the new Act introduces criminal conciliation in order for a criminal dispute to be settled in a fair and smooth manner and for victims to recover from the damage.

If deemed necessary for the practical recovery from damage suffered by a crime victim through the fair and amicable settlement of a criminal dispute between a suspect and a crime victim (hereinafter referred to as "parties"), a public prosecutor may refer the criminal case under his/her investigation to criminal conciliation upon a request of parties or *ex officio*. The precise scope of the criminal cases which may be referred to criminal conciliation shall be prescribed by Presidential Decree, but in principle, they are limited to ones violating individual's property rights or regarding personal disputes and where victims accused the offenders. More specifically, i) As disputes which have occurred owing to lending and borrowing money between individuals, such as borrowed money, the price for construction, and investment, cases of property crime accused of fraud, embezzlement, breach of fiduciary duty, etc.; ii) Cases of accusation in private disputes, such as defamation, insult, infringement on boundary, infringement of intellectual property rights, and delayed payment of wages, between individuals; iii) In addition to matters prescribed by subparagraphs 1 and 2, cases of accusation deemed suitable to be submitted for criminal conciliation for the settlement of disputes; and iv) In addition to cases of accusation, cases corresponding to subparagraphs 1 through 3 from general criminal cases (Article 46 (1) Enforcement Decree of the Act). However, criminal conciliation shall not be used in cases where a suspect is likely to flee or destroy evidence; where the expiration of the period of prescription of a public prosecution is imminent; or where the case falls under any obvious ground for a non-prosecution disposition (Provided that the same shall not apply to cases falling under any ground for a prosecution suspension disposition) (Article

41, Act).

The criminal conciliation committee shall strive to bring about fair and amicable reconciliation between parties and facilitate a crime victim's practical recovery from the damage he/she has suffered (Article 43 (1)). A criminal conciliation committee shall consist of two or more criminal conciliation committee members. The criminal conciliation committee members shall be commissioned in advance by the head of the competent district public prosecutor's office or heads of its branch offices from among those having expertise, including legal knowledge necessary for criminal conciliation, and social reputation. No person falling under any subparagraph of Article 33 of the State Public Officials Act may be commissioned as a criminal conciliation committee member. The terms of office for the criminal conciliation committee members shall be two years and may be renewed. The Chairperson of the criminal conciliation committee shall be commissioned by the head of the competent district public prosecutor's office or heads of its branch offices from the criminal conciliation committee members (Article 42). No person who engages in the business for protection and support for crime victims may conduct any acts to exercise undue influence over investigation, defense, or trial, such as demanding that the perpetrator of the crime be punished during criminal proceedings or exerting duress upon persons interested in the case. Any person who engages or has engaged in the business for protection and support for crime victims shall not reveal any confidential information relating to any other person's privacy learned in the course of performing such business, but may use it only for purposes of protecting and supporting the crime victims. Also, no person who engages or has engaged in the business for protection and support for crime victims while employed by a crime victim support corporation may demand, or accept, money or valuables under the pretext of fees, etc. on account of protection and support for crime victims: provided, that the same shall not

apply where otherwise provided in other Acts (Articles 46, 38, 39, and 40). If a case is referred to criminal conciliation, the committee shall take procedures for criminal conciliation without delay. If deemed necessary, a criminal conciliation committee may order a person who has a stake in the outcome of criminal conciliation to participate in criminal conciliation upon request of such stakeholder or ex officio. However, when no suspicion is obviously deemed to exist on account of the counterfeit of evidence, false statement, and any other ground found during the conciliation process, the criminal conciliation committee shall suspend the conciliation and return the case to the competent public prosecutor (Articles 43, and 45(2)). A criminal conciliation committee may request a public prosecutor who has referred a criminal case to criminal conciliation to send copies of relevant materials, such as documents submitted by parties in connection with the relevant criminal case, investigation documents, and articles of evidence. The public prosecutor may, upon receipt of a request referred to in paragraph (1), forward the relevant materials to the criminal conciliation committee, if deemed necessary for criminal conciliation: provided, that he/she may exclude herefrom the part which is deemed likely to infringe upon the confidentiality of privacy or reputation of the parties or a third party or is deemed necessary to keep confidentiality for investigation purpose. Parties may submit materials concerning the factual assertions related to the relevant criminal case to the criminal conciliation committee. A criminal conciliation committee may, with the consent of the person who has submitted materials or made statements under paragraphs (1) through (3), allow the other party to inspect such materials, or deliver or forward a copy thereof to the other party (Article 44). The criminal conciliation committee shall record the process of criminal conciliation in writing on each designated date for criminal conciliation, and prepare a written statement of the outcomes thereof if conciliation is concluded. The criminal

conciliation committee shall, upon completing a criminal conciliation process, forward the relevant criminal case to the public prosecutor who has referred the case to criminal conciliation, attached with the documents prescribed in paragraph (1) (Article 45 (1) and (3)). A public prosecutor may take the outcomes of criminal conciliation into account when investigating and handling a criminal case: provided, that, he/she shall not take into account the circumstances of disagreement in criminal conciliation to the disadvantage of the suspect (Article 45 (4)).

5. Overview of 2013 Implementation Plan on Crime Victim Protection and Support⁶²⁾

The Minister of Justice shall establish a basic plan on crime victims protection and support every five years. Accordingly, a basic plan for 2012 through 2016 has been in place. The Minister of Justice, Head of Central Administration Agency, Mayors of Metropolitan cities, and governors are required to establish annual plans regarding crime victims protection and support. Below is the 2013 execution plan of Ministry of Justice and Supreme Prosecutors' Office.⁶³⁾

A. Support for damage recovery

a) Establishing an early support system for crime victims

For an immediate post-crime response to the needs of victims and their family, crime scene clean-up service and personal safety

62) Major implementation plan of 2013 of the Ministry of Justice and Supreme Prosecutors' Office

63) See "2013 Implementation plan of basic plan on crime victim protection and support (2012-2016)," Ministry of Justice.

measures will be provided. Also, the network among crime victim support centers, police, and civil groups will be strengthened through a cooperative system of the centers and organizations supporting the victims of sexual and domestic violence, and child abuse.

Activities in 2012

- Crime Victim Support Center working with the KNPA and other support organizations
 - Cooperation with the KNPA (1,197 cases of medical, livelihood and student loan support)
 - Cooperation with other support organizations (1,740 cases)
- Crime Victim Support Center strengthening network with investigation agencies and private organizations
 - 121 MOUs with the KNPA and private organizations
 - 67 cases of crime scene management and clean-up
 - 1,193 cases of personal safety measures including accompanying to Courts or investigation agencies

b) Building a comprehensive system of counseling-statement-treatment-restitution

“Crime victims support map” showing every organization and facility for crime victims support will be created. Regional council meetings will also be established so that immediate and comprehensive response to crimes would be possible.

Activities in 2012

- Two rounds of expert councils to build a comprehensive support system for crime victims
- “Crime Victim Support Guide” containing all the related organizations and facilities published and distributed
- Criminal Justice portal website (www.kics.go.kr) established to provide information about crime victim support organizations (service, hot line, map, website, etc)
- 61 support corporations registered to build national counsel network (by the Ministry of Justice, 2006-2012)
- MOUs concluded among government agencies to provide protection and support for crime victims
 - Ministry of Education and Science and Technology, Ministry of Justice, Ministry of Health and Welfare, Ministry of Gender Equality and Family, National Court Administration, and Korea National Police Agency

- Regions selected for pilot program of region-specific “Comprehensive crime victim support network”
 - Crime Victim Support Centers in Northern Seoul, Gunsan, Seongnam, Incheon, Wonju
 - Specialized training for workers in crime victim support affairs
 - 76 completed the basic course for crime victim support specialists
 - 105 Criminal Conciliators took 2 rounds of 14 hours of training
-

c) Multilateral support for rehabilitation including medical, residential, vocational, and legal assistance

Smile Centers will be further promoted to strengthen a specialized psychological treatment: particularly, two additional regional Centers will be built to provide better accessibility to crime victims. In addition, the scope of medical expenses support will be expanded to legitimate foreign expatriates in Korea. Crime victims and their family will get counseling and vocational assistance while legal support including compensation for damage lawsuit will be expanded.

Activities in 2012

- 240 victims received 3,594 times of psychological treatment, temporary residence service, and legal support via Smile Center.
 - Additional local Smile Centers were opened to expand protection facilities (Busan Center opened on December 9)
 - KRW 928,000,000 was provided as medical expenses for crime victims who incurred bodily injuries to help with faster recovery and treatment
 - Medical MOUs were concluded between Crime Victim Support Center and 472 regional hospitals (as of the end of December 2012)
 - 61 recommendations and 23 moving-ins for residence support, and KRW 75,410,000 of moving expenses in 99 cases (both accumulated statistics as of the end of December)
 - Free legal aid was provided for crime victims
 - 6,530 cases (9,628 victims) in 2010 / 11,960 cases (15,426 victims) in 2011 / 10,085 cases (10,712 victims) in 2012
 - Helped establish a social enterprise “Hope Cafe,” and encouraged employment of three crime victims (November 2012)
 - Job information and interview arrangements for 43 crime victims through Crime Victim Support Centers network
-

d) Crime Victims Relief Fund system

Prompt payment of relief fund and fair deliberation by Council for the Relief of Criminal Injury through its proactive operation can make sure an appropriate payment is made. Meanwhile, even if the crime was committed by a family or relative, the Fund may not be provided in accordance with Article 19 (7) of Crime Victim Protection Act (“...if extenuating circumstances exist to acknowledge that refusal to pay the relief fund is in contravention of prevailing social norms, some of the relief fund may be paid”). Furthermore, swift and simple payment mechanism will be promoted through a shortened period of payment as well as emergency relief fund.

Activities in 2012

- Enforcement Decree of Crime Victim Compensation Act (amended on June 29, 2012)
 - Maximum limit of part of bereaved family relief fund increased
Relief fund increased up to three fold for the family members third in line who are either parents or children of the victim
※ approximately additional KRW 690,000,000 in 72 cases was provided (December 2012)
- PTSD of crime victim recognized as serious injury for the first time, relief fund provided (October 2012)
 - KRW 9.76 million was provided by the Deliberation Council after recognizing PTSD is as grave as serious injury to interfere with daily lives
- TF in the Prosecutors’ Office held to discuss improvement of relief fund payment procedure (November 2012)
 - Focus on quick provision of the relief fund and active indemnity claim
※ Total of KRW 6.2 billion was provided in 2012 (15.5% increase YOY)

Years \ Records	Applications	Payment
2011	431 / KRW 9,973,997,000	287 / KRW 5,410,033,000
2012	407 / KRW 10,286,842,000	291 / KRW 6,250,686,000

B. Participation in a criminal procedure

a) Right of participation of victims in a criminal procedure

Notification to crime victims in each stage of a procedure will be strengthened along with continuing efforts to introduce a crime victims participation system. In addition, victims will be given an opportunity to make statement during a parole procedure. Also, an inmate may donate the wage earned for his/her labor to a corporation registered in accordance with the Article 16 of Crime Victim Protection Act.

Activities in 2012

- Protection of victim's rights in discharging the offender
 - Record of donation to Crime Victim Support Center from the offender will be considered during the eligibility examination for parole
66 paroled inmates donated their labor incentives and custody deposit money in 2012
※ 1% of 6,500 total inmates on parole in 2012
 - Focus on victim's rights protection during the training session for parole officers (June 2012)
Review on actual cases on victim protection during parole and opinion exchanges
 - Reflect victim's right protection during parole process
Consider the possibility of inmates endangering victims again and reflect it in the examination
Respect the opinion of the victim who does not want the inmate to be paroled
※ 11 complaints received from victims in 2012
 - Donation of inmates' labor incentives before discharge
Inmates may donate their labor incentives before discharge to corporations registered under the Article 16 of the "Crime Victim Protection Act" (the Article 94 of the "Detention Labor Special Account Operation Instruction Manual"
※ 642 inmates donated KRW 42,870,000 worth of their labor incentives in 2012

b) Guarantee free statement supported by customized professional aid

State-appointed attorneys designated to crime victims will be introduced while the support for specialized training will be

supported by the State. Attorneys selected exclusively for crime victims will be placed at one-stop support centers after completing training. In the meantime, “Regulations on the Appointment of Attorneys by Public Prosecutors” and operation manual will be reformed. Specialized training, workshops and symposiums will be jointly held with Korean Bar Association while best support practices will be published for distribution.

Activities in 2012

- Court-appointed lawyer for victims expansion
 - Court-appointed lawyers for children and juvenile victims of sexual assault under 19 (March 16, 2012)
Support for 2,908 sexual assault victims (March-December 2012)
 - Court-appointed lawyers for all sexual assault victims, not just under 19 pursuant to the amended “Act on Special Cases Concerning the Punishment, etc. of Sexual Crimes” (November 2012)
 - Education and promotion activities for victims on court-appointed lawyer system
510 court-appointed lawyers for victims received 9 rounds of education (February-October 2012)
“Please, Punish The Man” (March 5-8, 2012) on EBS knowledge channel-e, billboard, and cable advertisement (April 1-30), and animation production and distribution (October-November 2012)
 - Survey on the current status and progress on court-appointed lawyers for crime victims
Phone survey on beneficiaries of the system (61 times, July 1-December 31, 2012)
Commissioned a study on the progress and evaluation of court-appointed lawyers for crime victims (October 9, 2012 – January 31, 2013)
- Statement assistance system for sexual assault victims of children and those with disability
 - Statement assistants mediate or support sexual assault victims of ages under 13 or those with disability who have difficulty communicating or expressing their opinions during the investigations or court proceedings. Training started on June 19, 2013, and participation in the investigation and court proceedings began on December 19, 2013.

C. Privacy and personal information protection

a) Protection of personal information of crime victims

Policy research will be commissioned to come up with a certain standard on disclosing some facts about crimes and victims in

order to protect crime victims and their families from secondary victimization. “Crime Victim Protection Act” and “Act on Promotion of Information and Communications Network Utilization and Information Protection, etc.” will be amended to provide a legal ground for crime victims personal information protection. Furthermore, fifty volunteers will be hired to monitor human rights violations of women and children victims.

Activities in 2012

- Education on the protection of personal information of crime victims and ban on disclosure for public servants involved in investigation and court proceedings
- Education on the protection of the human dignity of the victims during the exposure to the media
- Instruct and monitor the field workers not to disclose personal information acquired during work
- Provide information on the progress of execution of punishment
 - Immediate notification of parole, discharge, prison transfer, death, escape, and other information related to inmates to victims and their families through document, oral announcement, and fax

b) Personal safety measures for crime victims

Crime victims, reporters, or witnesses at risk of retaliatory crimes will be further protected while additional protective facilities will be built⁶⁴⁾ and operated to respond to a real demand. GPS trackers and moving expenses will also be provided for crime victims.⁶⁵⁾ Efforts to prevent secondary damage from revenge will be intensified during a parole review process by reflecting the possibility for inmates to commit retaliatory crimes.

64) Building additional protection facilities across the nation currently in operation under the Supreme Prosecutors’ Office and other regional Offices (Seoul Central, Incheon, Suwon, Daejeon, Daegu, Busan, and Gwangju)

65) GPS tracking devices and moving expense subsidies provided to the victims of serious crimes, sexual violence, domestic violence, and child abuse who are under the threat of retaliation will be further utilized to strengthen the protection.

Activities in 2012

- Stronger protection of crime victims, reporters, and witnesses
 - Increase personal protection activities for crime victims, serious crime reporters, and witnesses subject to retaliation
 - Build additional victim protection facilities in Busan, Daegu, Gwangju, and Daejeon
 - Provide GPS tracking devices and moving expenses for crime victims, serious crime reporters, and witnesses exposed to retaliatory crimes
 - ※ 628 tracking devices and KRW 75,410,000 moving expenses were provided for 99 victims from 2012
 - ※ Instructions for the provision of tracking devices and moving expenses for crime victims (Supreme Prosecutors' Office Regulations, established April 16, 2012), Special Orders on Strengthening Personal Safety Measures for Crime Victims (established on August 10, 2012)
 - Utilization of personal safety measures under the Act on Protection of Specific Crime Informants, etc. (including using alias when writing a statement) as well as relief funds for the reporters of a crime
 - More substantial protection for personal safety of crime victims and witnesses such as accompanying to investigation agencies or court
 - ※ Personal safety measures including accompanying to investigation agencies: 1,193 cases (67% increase YOY)

c) Preventing secondary damage during a criminal procedure

In order to promote awareness about human rights of victims and gender equality, a workshop for dedicated crime victim support Prosecutors and Investigators will be held, while a course on crime victim protection will be included in basic curriculum such as a Course for Grade Seven Prosecutor Promotion. A similar course will also be included in the curriculum of newly hired and promoters for other levels to prevent personality degradation and personal information leak.

Activities in 2012

- Separate victims from offenders to prevent unwanted face-to-face confrontation
 - Individual summoning and statement recording room utilization
- Workshops for dedicated prosecutors and investigators to promote awareness on crime victims' human rights and gender equality
 - Workshop for prosecutors for sexual assault (October 2012)
 - Workshop for investigators for sexual assault (November 2012)
- Specialized training for workers in the field of crime victim protection
 - 213 newly appointed prosecutors, to-be-appointed seventh grade public servants at Prosecutors' Office, and investigators of women and child abuse cases received 5 rounds of 7-hour courses on the protection of crime victim.

CHAPTER

2



Policy Trend of Criminal Justice Agencies

2

Policy Trend of Criminal Justice Agencies

Section 1 Korea National Police Agency

The 18th President Park Geun Hye announced the new slogan “New era of national happiness and hope” and promised to work to promote economic prosperity, strong welfare, well-balanced industrialization, and democratization. The new government, after hearing ministerial reports, set national safety as a core task and had the Presidential Transition Committee include nine tasks into 64 national agenda. Four social evils (sexual violence, school violence, domestic violence, and unsafe food) were among them as well as the task of strengthening the public safety capacity and restoring public trust in governmental authority.

National Police Agency has been committed to protecting the life and property of the people, building social safety net for the socially vulnerable such as children and women, and other measures of founding basis for public safety. Particularly, 2013 saw many environmental changes both inside and outside the organization: changing of Commissioner General, demonstrations against the construction of electricity pylon tower and Jeju navy base, SMC protest, and the execution of the vice chairman of defense commission of the DPRK, Chang Sung Taek. Nevertheless, the NPA remained unwaveringly committed to the new tasks of the Park administration. In order to implement the government tasks

and address internal problems of the NPA, Commissioner General Lee Sung Han who was inaugurated on March 29, 2013 established Special Victims Unit, a designated team for sexual violence and Tourist Police, while operating Police Investigation Reform Committee and transferring Korean Police Investigation Academy. The NPA also hired more personnel.

The rest of this chapter examines the trend of criminal policy of the KNPA mainly through related articles, press release, and legislative propositions. The scope of activities of Police Agency is so vast it needs to be categorized into three: crime prevention, crime investigation, and traffic management. Legislative amendment trend is also separately reviewed.

1. Crime Prevention Activities

The new Park Geun Hye administration put forward the core task of eliminating four social evils to usher in a new era of national happiness and hope. The NPA also focused on public safety policies in line with this task. First of all, headquarters were established in all the police offices nationwide to eliminate four social evils including the one led by Deputy Commissioner at Korean National Police Agency on February 27. Advisory Council on four social evils was also launched on April 2 headed by Professor Lee Seung Jong of Korea Research Institute for Local Administration to listen to advice and public opinion. Sexual, domestic, and school violence were previously a responsibility of Women and Juvenile Affairs Section, but the Section was elevated into Division at first grade Agencies in the 2012 under the direct supervision of Directors (Superintendent). In November 2013, rankings and positions were wholly rearranged so that 16 Women and Juvenile Affairs Sections were all elevated to Division led by Directors (Senior Superintendent). In this subsection, sexual, school and domestic violence which belong in the public safety area. Unsafe food will

be covered in the subsection of Crime Investigation. Intensive crackdown on harmful shops around schools, operation of are also reviewed below.

A. Prevention and crackdown of sexual violence

Year after year, Police Agency has been focusing their public safety capability on preventing sexual violence against the socially vulnerable such as women, children, juveniles, and people with disability. Nevertheless, crimes of sexual violence have been increasing every year as shown in <Table 3-2-1>.

<Table 2-2-1> Crimes of sexual violence for the recent 5 years

Year	2008	2009	2010	2011	2012	2013.11.
Number	15,970	17,242	20,375	21,912	22,933	26,448

Source : Internal data of the KNPA

In order to respond to the increasing number of sexual violence, the KNPA established “Special Victims Unit (SVU)” at each regional police agency. The SVU is operated 24 hours by 10 to 26 people who have experience in investigation and other tasks of Women are Juvenile Affairs Section. SVU agents go to the crime scene immediately after a case is reported and work with the one-stop support center to protect victims while arresting and investigating offenders. They are also exclusively in charge of tracking and investigating registered sex criminals in case their whereabouts are not identified for more than two months to prevent the recurrence of crimes.

Meanwhile, cases of sexual violence other than those against children and the disabled which were previously jointly dealt with by Investigation and Women and Juvenile Affairs, are now solely taken care of by the SVU investigation team that is also in charge

of protecting and supporting victims. It was first piloted for three months in Seoul Gwanak Police Station in a neighborhood where sexual violence frequently occurred and one-room studios and multi-residence buildings are populated. After that, the program went national, as shown in <Table 3-2-2>, starting in September with 294 designated personnel working at Special Victims Units in 52 Police Stations nationwide. The SVU is operated around the clock and is exclusively in charge of investigating general sexual violence cases and protecting crime victims. In addition, it will take over the comprehensive management of offenders liable to committing crimes and protection of victims at high risk. The KNPA is planning to establish the SVUs in all police stations by hiring additional 293 workforce in 2014 and 292 the following year.

<Table 2-2-2> Current status of SVUs for each regional agency

Region	Seoul	Busan	Daegu	Incheon	Gwangju	Daejeon	Ulsan	Gyeonggi
Police Stations	19	4	3	4	2	1	1	10
Number	117	23	15	22	11	6	6	55
Region	Gang-won	Chung-buk	Chung-nam	Jeon-buk	Jeonnam	Gyeong-buk	Gyeong-nam	Jeju
Police Stations	1	1	1	1	1	1	1	1
Number	5	6	5	5	5	5	4	4

Source: Internal data of the KNPA

Furthermore, additional One-stop Support Centers were established in Incheon St. Mary's Hospital, Handoh Hospital in Ansan, Gyeonggi, and Busan Medical Center to provide crime victims with more convenient and quick support. The Center, built in hospitals, not police stations, are composed of female investigative officers to not only discourage victims from hesitating to report out of shame but also prevent secondary damage through careful consideration of the victims. First launched in Police

Hospital in 2005, 25 Centers are currently in operation nationwide.

In the meantime, Patrol Lines will be organized from bus stops and subway stations to residence areas after analyzing crime status and regional characteristics so that women can feel less insecure on their way home from work. Local police officers will take turns patrolling at vulnerable hours. In addition, security lights, CCTVs, and alarm bells will also be built. In addition, the NPA will cooperate with local governments, and related organizations will provide Safe Escort Home service upon the application of women where they are escorted home from bus stops and subway stations. "Safeguard areas for women," renamed from "Special precincts regarding sexual violence" to cast off the dark image, added extensive one-room studio areas under the management. Precinct police officers will be dispatched to those areas to promote autonomous crime prevention and strengthen related facilities.

B. Prevention and crackdown of school violence

In Korea, school violence has recently drawn public attention. Particularly, at the end of 2011, a series of cases occurred where a number of students took their lives after being continuously bullied by their classmates, raising social awareness about school violence. In 2012, in response, School Police was introduced while previously scattered reporting system was integrated as 117 hot line. The new administration that launched in 2013 announced school violence as one of the four social evils to eliminate.

The KNPA particularly conducted prevention education through school police in order to promote the idea that school violence is a crime and expanded the program from elementary and secondary schools to include kindergartens. With the cooperation of education authorities, areas within 200 meters radius of schools were designated as Safe Zones while additional CCTVs were set up in accordance with the CPTED. The crackdown was

also strengthened on “Kiss rooms,” “Adult PC rooms,” and cigarette and alcohol parlors within the Safe Zones. Furthermore, School Police jointly patrol with Children Safety Guardians and School Guardians while the supervision of 2,270 Children Safety Guardians was taken over from the Ministry of Health and Welfare, and the number doubled afterwards.

When a school violence case occurs, the police decides whether it is subject to punishment or guidance. Minor first-time offenders are to be subject to dismissal with cautions and summary judgment while sharing information on violent student clubs with education authorities and inducing their dismantlement. Guidance and Review Committee in charge of determining an overall direction of guidance and punishment, which had previously been exclusively run by internal personnel of the KNPA, was joined by doctors, lawyers, teachers, civil group members, and other external specialists in 2013. In addition, portable recording equipments were consecutively provided to police stations across the nation so that concerned students of school violence cases do not have to visit the police station in person to make statement.

Additional 167 School Police officers were deployed to one to seven schools at high risk of school violence. Police stations, education offices, and parent groups held discussions regarding how to stop school violence before a new semester started, while notification letters issued by the Chief of Police Station were sent to parents to promote school violence hot line 117. Meanwhile, all the reports registered through 117 were followed up by the monitoring counselors whether there was additional damage or the case was settled smoothly, thereby responding to the needs of the 117 users. In case a long-term counseling is needed, tripartite calls were utilized through “117 link system” so that the cases could be referred to other special organizations such as We Centers or Cys-net.

In order to help prevent offender students from committing

crimes again and adapt to school life, the KNPA has been operating Class of Love (92 in total), and Guidance Programs (222 in total). In order to increase the effectiveness of the program, the KNPA co-developed a “standard guidance program” with Korean NeuroPsychiatric Association that complemented psychiatric diagnosis and intervention, which was piloted for two months from September 2013 in 35 regions. The program is planned to go national from 2014.

C. Prevention and crackdown of domestic violence

Domestic violence has traditionally been regarded as a family affair or private matter, rather than as a crime. Therefore, police intervention has also predominantly been considered as inappropriate. In accordance with this, domestic violence has manifested itself in various forms including violence between couples, abuse against children and senior citizens, violence against the disabled, and violence in multi-cultural families. The types of violence have also been expanded from physical to emotional violence, and to economic one. As part of efforts to eradicate domestic violence through the intervention of authorities, the government enacted “Act on the Special Cases Concerning the Punishment etc. of Crimes of Domestic Violence” and “Act on the Prevention of Domestic Violence and Protection etc. of Victims” in 1997. The new administration declared domestic violence as one of the four social evils and have worked since to address the problem. On June 28, the government announced “comprehensive measures against domestic violence” after consulting with eight related agencies including the Prime Minister’s Office, Ministry of Gender Equality and Family, and National Police Agency. The core tasks of the measures are i) promoting a customized prevention system, ii) strengthening early response and punishment, and iii) protecting victims and their

families to achieve a target reduction of 20% in recurrence rate by the end of 2017 when the current presidential term ends. Below, some of the tasks that are related to the police are examined below.

First of all, specialized courses on practical response to domestic violence and domestic violence instructors will be open in Education Center for Police Value and Police Training Institute respectively. These courses are intended to help raise the awareness of police officers about domestic violence and address real cases more effectively.

For early response and emergency relief systems, related laws were amended so that an offender might be subject to fine for negligence of up to KRW five million for compulsion of performance in case he/she impedes investigator's access to the scene and investigation or refuse to follow ad hoc urgent measures such as restraint orders. And police officers are required to respond to the report of domestic violence and may accompany an expert counselor to the scene. This is an important measure to take in order to alleviate the burden of the officer and protect victims from an early stage. The nature of domestic violence is repetitive and time-consuming, requiring consistent follow-up management and the expertise in protecting victims. To this end, police officers dedicated to domestic violence were deployed to conduct smooth monitoring over domestic violence reports registered through 1,366 centers as well as to prevent the repetition of the crime and further protect victims.

When a police officer decides that the offender is a flagrant one, he/she can be arrested accordingly while offenders under the influence may be forwarded to Police Stations or emergency medical centers within 24 hours of time. Cases involving deadly weapons or habitual offenders are subject to confined investigation in principle. Offenses against migrant wife, children, or the disabled are to be more strictly treated. Also, One-strike Out was adopted where even one time violation of ad hoc measures like evacuation

or restraint orders might be subject to the application for confinement at a court detention center.

In order to help the victims of domestic violence with lower awareness of their rights, support system, counseling, medical, and legal service was notified in the form of Victim Rights Notification Document to be given to the victims with the detailed explanation.

Furthermore, additional family protection facilities were built, and with the help of local governments and hospitals, temporary shelters were established for those in areas without access to the facilities.

D. Intensive crackdown on harmful businesses near schools

So far, all kinds of variations of prostitution business around schools have been evading punishment, either because they are not in the jurisdiction of local government supervision or because no legal procedure for demolition is available. Furthermore, the fact that crackdown on those facilities by police is not carried out on a regular base only worsens the current situation. To address the concern about juvenile delinquency, the NPA conducted an intensive crackdown on harmful businesses around schools. Starting in May 2013, areas near Nonhyun Elementary School in Gangnam-gu were selected for a pilot program in collaboration with Gangnam-gu Office and other related agencies. Eleven harmful businesses including so-called “kiss rooms” were shut down permanently, while two were forced to change into different categories. The number of reports registered through 112 also decreased, leading to less workload for the police. Judging that the pilot test had proven effective, the NPA expanded the program into 17 areas around the nation, strengthening the crackdown.

E. Strengthening Children Safety Guardians

Selected among retired police officers and members of Korean Senior Citizens Association, Children Safety Guardians are dispatched in areas vulnerable to crimes against children to prevent juvenile delinquency and deviation. So far, the system has not been effectively managed by the Ministry of Health and Welfare. Since 2013, the KNPA has become a supervisory agency, securing 21.9 billion won in budget and expanding its personnel from 2,270 to 5,882. The Guardians now enjoy better welfare and are required to carry their identification while working so that they can have a sense of duty as well as confidence and play an important role in establishing a children safety net. In addition, Chiefs of Police Precinct and Police Box are given the authority of job allocation. The Guardians are also provided education from organizations specialized in sexual violence and child abuse as well as on the job training hosted by Chief of Police Station.

F. Safety Certificate System to prevent crimes at convenience stores

There are currently around 24,000 convenience stores nationwide. With an abundant cash flow, they are one of the most vulnerable groups to crimes of robbery and larceny. However, the owners are most likely to neglect the autonomous crime prevention once their stores are insured. The KNPA initiated a CVS Safety Certificate System with Korea Association of Convenience Stores and six main CVS chains in order to help the CVSs engage in more active crime prevention activities. The System is based on the CPTED, encouraging each store to install CCTV and improve equipments and the environment. Stores with exemplary accomplishment are given a certificate mark issued by a police station. To this end, the NPA consulted with CPTED experts for

a set of standards, which were put into use from August 2013 to evaluate the crime prevention efforts of convenience stores.

G. Tourist Police Debuts

The number of inbound tourists visiting Korea is increasing due to the popularity of Hallyu, or Korean Wave, but more and more of them are finding it difficult to communicate and travel around. Sometimes they lose their phones, wallets, or passports and cannot find a place to sleep during night. In order to help with those inconveniences, Tourist Police Unit was established on July 17 at the first Tourism Promotion Meeting of Cheong Wa Dae as part of efforts to nurture a strategic tourism industry. On October 16, Tourist Police Unit debuted under the Foreign Affairs Division of Seoul Metropolitan Police Agency, composed of 52 police officers and 49 auxiliary police officers good at speaking English, Chinese, and Japanese. They are dispatched in areas frequented by foreigners such as Myeongdong, Itaewon, Dongdaemun, Insadong, Hongdae, Cheongyecheon, and City Hall to prevent crimes, maintain order, crack down on illegal activities, and receive complaints. As of December 4, Tourist Police clamped down 65 illegal activities including so-called call vans, addressed 53 complaints, and provided tour guide service. Foreigners reportedly said that the service they got was greatly helpful and instilled a good image of Korea for them. Additional Tourist Police Units will soon be launched at Police Agencies in Busan and Incheon in 2014.

2. Crime Investigation Activities

A. Solving violent crimes

The KNPA and police stations nationwide deal with millions

of cases a year, which range from violent crimes like homicide and robbery to traffic crimes. Among them are a few violent crimes that drew attention of the media including Yeosu Post Office robbery case (Yeosu Police Station), killing of a whole family in Jeonju (Deokjin Police Station, Jeonju), murder of neighbors living upstairs for making noises (Seoul Jungrang Police Station), murder of a college girl (Daegu Jung-gu Police Station), killing a reverend's wife in her thirties due to domestic violence (Ilsan Police Station, Gyeong-gi), brutal murder of a teen girl living in Yongin (Yongin Dongbu Police Station), killing of a mistress in Gunsan (Gunsan Police Station), missing mother and son in Incheon (Incheon Naumbu Police Station), and murder of a high school girl in Hanam (Hanam Police Station).

B. Crackdown on unsafe food

The new government announced unsafe food as one of the four social evils and engaged in ambitious crackdown efforts to achieve food safety. Task-specific accomplishments are reviewed below.

Crimes regarding unsafe and junk foods mean malicious manufacturing and distribution of unsafe foods in violation of Food Sanitation Act, Act on Origin Labeling of Agricultural and Fishery Products, Agricultural and Fishery Products Quality Control Act, Livestock Products Sanitary Control Act, Functional Health Foods Act and Act on Special Measures for the Control of Public Health Crimes. They include: i) manufacturing, distributing, and selling harmful foods, ii) selling sick animal meat, iii) conducting false and exaggerated advertisement of foods and health functional foods, and iv) false labeling of origin of agricultural and fishery products.

In 2013, the KNPA conducted an intense crackdown around

New Year's and Chuseok holidays as well as in spring, the three most profitable seasons for the food industry, and arrested 76 ill-intended food offenders as shown in the <Table 2-2-3>.

<Table 2-2-3> Special crackdown on harmful foods in 2013 organized by KNPA

Period	Duration	Result
New Year's Holiday season	Jan 21~ Feb 22 (1 month)	569 raided (2 arrested)
100 day intensive crackdown	Mar 8~ Jun 15 (100 days)	3,011 raided (70 arrested)
Chuseok Holiday season	Aug 26~ Sept 27 (1 month)	547 raided (4 arrested)

Source : KNPA

The Police Agency established a TF designated to harmful foods at each police station consisting of intelligence crime investigators, with a special focus on chronic and ill-willed food offenders. Furthermore, it concluded an MOU with the Ministry of Food and Drug Safety in order to establish a joint response system, share information, and conduct a crackdown together. An investigation manual for harmful and unsafe foods was published to help officers carry out more specialized and organized investigations.

As a result of these efforts, a total of 2,188 cases were identified, 4,374 were rounded up, among which chronic offenders were arrested. 1,627 tons of harmful foods (equivalent to 108 x 1.5 ton trucks) were confiscated to prevent further distribution. There were 1,511 cases of false and exaggerated advertisement, 1,072 cases of harmful food manufacturing and distribution, 630 cases of unlicensed manufacturing and distribution of foods, and 431 cases of false label of origin, and slaughtering sick animals or unlicensed slaughtering. Fraudulent sales advertising low-quality foods as those with special function targeting the socially vulnerable including senior citizens was the most dominant case (KNPA press release December 12, 2013).

C. Police Investigation System Reform Committee

Since December 3, 2012, the KNPA has been pursuing various measures to improve the expertise, integrity, and fairness of police investigation by establishing a "Police Investigation Reform T/F" led by the Deputy Commissioner. However, the interim report of the Agency on December 16, right before the presidential election, regarding the investigation of the internet replies written by National Intelligence Service employees was extremely disappointing and triggered a public doubt that front line investigators had been under illegitimate pressure from high-ranking officers. Subsequently, the KNPA launched Police Investigation System Reform Committee on June 28 led by Professor Shin Dong Woon of Seoul National University joined by many other specialists, in order to conduct investigation free from external pressure and listen to and reflect public opinions.

The Committee comprises of 10 members: nine external members from academia, law, media, and civil groups, and the Head of Investigation Bureau of Police Agency who will help understand the overall system. The Committee holds a regular monthly meeting, field trips as well as meetings with working level officers. After three months of discussions, the Committee provided recommendations at the end of September on 20 tasks in five major areas. They are: i) six tasks regarding fair investigation including specific process of an objection right under the Police Act, ii) four tasks regarding investigative expertise including establishing a specialized investigation system for certain crimes at regional agencies, iii) four tasks regarding the human rights protection during the process of investigation including introducing a Police Judicial Inspection System, iv) two tasks regarding increasing public convenience including measures against the abuse of right to accusation, and v) four tasks regarding continuous development

of police investigation including adopting Police Investigation Policy Committee (20 tasks in five major areas). KNPA will select 30 core tasks and enforce regulations while realigning personnel and organization in order to implement the recommendations of the Committee.

D. Relocation of Police Investigation Academy to Asan, Chungnam Province

Police Investigation Academy, once located in Hwigyeong-dong, Dongdaemun-gu, Seoul, serves as a specialized training institute designed to strengthen the expertise and investigative capacity. It first started out in 1984 as "Investigation Officers Training Institute" under Investigation Division, being moved to Hwigyeong-dong, Seoul. In 2013, it was once again relocated in September to Asan, Chungnam Province as part of the relocation plan of government agencies to regional areas. The newly built Academy has Mock Crime Practice Field, Car Chasing and Blocking Practice Ground, Evidence Psychoanalysis Lab, and Mock Court where trainees could be provided ample opportunities for field-job practice. In addition, the Crime Research Institute was established to provide support regarding investigation methods and field investigation including crime methods, forensic data, and up-to-date crime trends.

E. Regular employment of experienced lawyers as investigation officers

The KNPA concluded an MOU with Korean Association of Law Schools on January 30, 2013 on hiring lawyers graduating from law schools and opening courses in law schools nationwide regarding police studies. Accordingly, an employment plan was confirmed where experienced and knowledgeable lawyers will be

regularly hired and dispatched as police officers in investigative departments. They are expected to contribute to promoting expertise of police investigation and garnering public trust. According to the plan, instead of decreasing the number of Korea National Police University graduates, 20 lawyers with over two years of experience will be hired as Senior Inspectors and required to work for five years at an investigation department after completing six months of training at the Police Training Institute.

F. Efforts to reform an investigation structure

The amendment of the “Criminal Procedure Act” in 2011 that recognized the right of the Police to initiate investigation and that of the Prosecutor to direct the investigation of every case had been evaluated to be insufficient: it further strengthened the authority of the Prosecutors while failing to solidify the right of the Police, who are supposed to check against the Prosecutors' dominance. In 2012, the Public Prosecutors' Office and National Police Agency failed to reach an agreement over the escorting and apprehending of suspects investigated by the Prosecutors despite many rounds of investigation councils and arbitration of the Prime Minister's Office. Both parties agreed to meet again after considering the size of personnel required to transfer the task from the Ministry of Security and Public Administration to the Prosecutors' Office. In the meantime, presidential candidates from both ruling and opposition parties included the separation of investigative rights of the Police from that of the Prosecutors in their pledge, reflecting the aspirations of the Korean people.

President Park pledged during the presidential race that the Police and Prosecutors will monitor and check against each other and that the direct investigation rights of the latter will shrink. At an interim report meeting of Presidential Transition Committee on January 13, 2013, a Japanese model was proposed where the

Police took charge of initiating and conducting the investigation before referring a case, while complementary investigation and indictment will be the responsibility of the Prosecutors after the initial investigation. In addition, limiting the scope of examination by the Prosecutors of the writ application made by the Police and providing a route to file a complaint with a district court when a writ application rejected by the Prosecutors were also proposed. The Law & Order and Social Safety Division of the Presidential Transition Committee decided that time was not ripe yet to discuss a complete separation of investigation and indictment rights. In the meantime, having considered an alternative of granting the Police complete investigation right regarding five serious crimes of homicide, robbery, rape, larceny, and violence, concluded that for now, it would be better to settle for the inclusion of "Designing a reasonable national investigation system in accordance with a global standard from the perspective of public benefits" as part of national agenda. The Prime Minister's Office confirmed the implementation plan of national agenda based on the proposition submitted by the Ministry of Justice that the reasonable role division between the Police and the Prosecutors would be considered by 2017, which is rather too general.

In 2013, the Public Prosecutors' Office and the National Police Agency held three rounds of investigation council and five rounds of working level meeting participated by high-ranking officials. But they did not get to discuss essential aspects of investigation right coordination and have even failed to solve conflicts regarding the adjustment of escort and detention of suspects under the direct investigation of the Prosecutors.

3. Traffic Management Policy

A. Online access and payment system reform

In order to alleviate the inconveniences of having to visit in person police stations or banks to pay traffic penalties or fine for negligence, the KNPA opened a website (<http://efine.go.kr>) for online payment that has been available since January 2012. The system greatly improved since January 10, 2013, by adding the function of checking pictures taken, which had previously been unavailable, and filing complaints without visiting the police station. When a double payment is made by mistake, all the processes ranging from application to refund are conducted online. In addition, anyone who registered his/her phone number in advance can get a text message when their cars are caught by a speed camera.

B. Special traffic management during congested periods

During special seasons such as New Year's Holiday and Chuseok, traffic congestion or frequent accidents are normally anticipated. Consequently, needs arise for the smooth operation of traffic situation, and the Police Agency established a special plan for safe roads. As shown in <Table 3-2-4>, the Police implemented five rounds of special traffic management.

〈Table 2-2-4〉 Special traffic management activities in 2013 organized by KNPA

Activities	Period	Duration
New Year's Holiday season	Feb 1 ~ Feb 12	12 days
Highway traffic management on Buddha's Birthday Holiday season	May 17 ~ May 19	3 days
Chuseok Holiday season	Sept 10 ~ Sept 22	13 days
Traffic safety measures to prevent large scale accidents in autumn travel season	Oct 14 ~ Nov.30	48 days
College entrance examination day	Nov 7	1 day

Source: KNPA

During these periods, the Police mobilized every method possible including patrol cars, local police officers, and police helicopters to be dispatched to areas anticipated to show traffic jam. Crackdown on selfish driving habits such as driving on bus-only lanes or shoulder of highway was also conducted, while traffic information was circulated in order to alleviate traffic jams.

C. Traffic safety measures near schools

In order to promote awareness about children's safety and to secure traffic safety of children near school zones, the Police implemented special measures when new semesters began in March and September including stronger clampdown on traffic violations. In March, the Police teamed up with private organizations including Korea Green Mothers and Safe Kids Korea to carry out campaigns like Road-crossing Safety, Safe School Bus, and other basic safety education for pedestrians. Furthermore, traffic cops were dispatched to school zones during commuting hours to respond to various traffic violations such as traffic light violation, illegal parking, failure to protect pedestrians, and entering banned areas in the school zones.

4. Revision of Police-related Acts and Regulations

A. Stronger punishment of false reporting under the Punishment of Minor Offenses Act

Making false report not only seriously compromises national safety by distracting the limited capacity of authorities but also causes social harm by wasting police force mobilized to the scene. Since the punishment through crimes of obstruction of performance of official duties under Criminal Law would be too complicated in that it has to go through a full process under Criminal Procedure Act. Therefore, Punishment of Minor Offenses Act is preferred for its relative simplicity. However, a question arises regarding the effectiveness of the Act in suppressing crimes, leading to a discussion of strengthening the current punishment of a fine not exceeding KRW 100,000, detention, or a fine for negligence to a fine not exceeding KRW 600,000, detention, or a fine for negligence (Bill for partial amendment of Punishment of Minor Offenses Act, No. 1901580) in order to alert citizens to the harmful impact of the crime.

B. New provision regarding compensation for loss in the Act on the Performance of Duties by Police Officers

When damage is incurred during the legitimate performance of duties by police officers, it was difficult for them to ask for appropriate compensations. Furthermore, the concerned police officers were sometimes held liable for civil torts even though they were not criminally responsible, thereby making it hard for them to perform their duty in a stable manner. Therefore, Article 11-2 was newly established stating that any special loss of life, health, or property damage that occurs in the course of the legitimate performance of duties by a police officer may be compensated

by the State (Bill for partial amendment of Act on the Performance of Duties by Police Officers, No. 1900690).

C. Amendment of Road Traffic Act

Road Traffic Act was amended three times in 2013: May 22, August 13, and December 30. Below are the detailed explanations about the amendment.

First, a legal basis was founded for punishing crossroad tailgating and cutting in caught by road cameras with a fine for negligence. Those two behaviors are the main causes of worsening traffic congestion as well as creating atmosphere of taking law and order less seriously. The development of devices capable of catching these types of violations required a legal ground for legal intervention. Thus, Article 160 (3) was newly added to the Road Traffic Act that subjects cutting in and tailgating to a fine for negligence not exceeding KRW 200,000 (Bill for partial amendment of Road Traffic Act, No. 1904685).

Second, a provision was established as a legal basis for punishing DMB watching while driving with a fine. As concerns have been rising over the increasing number of accidents due to watching DMB while driving, the Road Traffic Act was amended to clarify the scope and subject of permissible behaviors regarding DMB watching by adding Article 11-2 and revised Article 49 (1) 11. Furthermore, Article 156 (i) was amended so that any person watching DMB while driving as prescribed in Article 49 (1) 11 might be subject to a fine not exceeding KRW 200,000, detention, or a fine for negligence (Bill for partial amendment of Road Traffic Act, No. 1905812).

Third, provisions regarding the safety of school commuting vehicles and traffic on the designated bicycle lanes were rearranged.

As a series of accidents involving commuting vans to private institutes or day care centers have recently occurred, voices arose demanding more strengthened regulation over the safety of school bus and other commute vehicles. Those vehicles must be registered, the failure of which is subject to the punishment of operators, while the drivers as well as the operators of those institutions must take a course on safety. Children must be accompanied with guardians in their rides. Meanwhile, foreigner schools, alternative schools, and international ones were included in the provisions regarding school zones. A provision was also needed to regulate the predominance of vehicles on the designated bicycle lanes under the Promotion of the Use of Bicycles Acts. Meanwhile, the drivers of school bus must make sure that all the children fasten their seat belts before departing, the violation of which is subject to the punishment of drivers (Bill for partial amendment of Road Traffic Act, No. 1908851). The amended Act is to be put into force on April 29, 2014 after promulgation and notification for legislation.

D. Amendment of Security Services Industry Act

Since the establishment of Security Services Industry Act in 1976, the industry has been expanding its scope of application from general facilities to airports, ports, and nuclear power plants, thereby complementing crime prevention service. Along with its growth, however, the industry also created various problems. For example, the clash between security guards and Union members of YPR or SJM, or violence that resulted from the mobilization of unlicensed security guards are creating concerns that the regulations regarding security services industry should be further strengthened. Accordingly, the Security Services Act was amended to strengthen the requirements of security business license, while collective complaint sites were clarified to include labor dispute and redevelopment sites. Permission from the Chief of Police Station

is needed 48 hours prior to dispatching security guards to those sites. Meanwhile, a minimum equity capital required to get a business permission increased to over KRW 100 million, and over 20 security guards and more than one instructor is required for facility security service. Contracting and subcontracting to unqualified businesses is strictly banned, which is particularly punishable at a group complaint site. Overall, the punishment for illegal activities violating the scope of security services industry has been intensified (Bill for partial amendment of Security Services Industry Act, No. 1904867).

5. Evaluation on Public Security Policy of National Police Agency

As the former Commissioner General Kim Gi-yong resigned on March 15, 2013 for no apparent reasons who had put forth the slogan "Trustworthy Police" and worked to reform Police education and promote the confidence of the organization. Lee Sung Han, one of the Police cadets, came into office as the Commissioner General on March 29 with the slogan of "Happy Koreans, Safe Korea." Despite many difficulties inside and outside of the Police such as suspicions regarding the intervention of the NIS in the presidential election, demonstration against an electronic transmission tower in Miryang, alleged sex bribery of the former Vice Minister of Justice, and the strike of rail road employees, Lee accomplished a lot of achievements including activities to eliminate four social evils, the establishment of SVU, and operation of Police Investigation System Reform Committee. The Committee, in particular, joined by many external experts including university professors and lawyers, has largely contributed to increased expertise of Police investigation through widened structure, better balance between the investigative autonomy and taking guidance, and bigger convenience to the citizens. However, it is to be seen

whether the fairness and objectivity of the investigation will be ensured and the whole process will be completely free of inappropriate intervention of high-ranking officials. Moreover, various crime prevention activities related to a real life threat such as homicide and robbery are needed in the activities of the Police in 2013 despite the importance of addressing four social evils. It is worth paying attention to the criticism that the Police budget was disproportionately invested into the four social evils while the main tasks of the Agency is to prevent and investigate crimes. Eliminating the four social evils is meaningful in that it has set the basic direction of the Police under the new government, but not all the tasks of the Police can fit into the categories prescribed by four social evils. The approach calls into question whether the objective and means of the Police are properly being understood. Some police stations were simply too focused on the promotion of anti-four social evils such as "Four-social-evils-out concert," "UCC contest," or even "Soju confronting four social evils." Whether it was appropriate for police officers to have exerted more efforts in cracking down harmful foods than in doing patrol and crime prevention activities, doubts have arisen over the core responsibility of the Police. Of course after having received such criticisms, the KNPA changed their policy and showed flexibility by excluding micro and small business from the crackdown on harmful foods and rather focusing on chronic and ill-intended offenders. However, it still requires further self-reflection that the difficulties of frontline officers had been long neglected. One more noteworthy thing is how much independence of the chief executives of the Police was guaranteed in setting up the direction of the crime prevention activities in 2013, and how much of the policies were actually implemented. As mentioned earlier, the core activities of the Police in 2013 were concentrated on anti-four social evils, SVUs, Sexual Violence TF, Tourist Police Unit, Police Investigation System Reform Committee, the relocation of Police Investigation Academy, and

hiring additional workforce. But most of the policies were designed well before 2013, whose effect started to be realized only now, or the ones realigned in accordance with the national agenda of the new government. The SVUs, listed as one of the most notable changes in the Police organization, is on the spectrum of previous efforts including “One-stop Public Security Force Unit” established under the Commissioner General Kang Hee Rak, and the subsequent “Team 1319.” In order for the Police Agency to garner respect of the citizens, the KNPA should be able to independently make policy decisions while preemptively responding to social issues and taking responsibility. However, the activities of the Police in 2013 leaves ample room for improvement in that it only passively implements what had been decided by higher organizations. It is our hope that the KNPA plays more proactive roles, serving as a solid ground for the citizens in 2014.

Section 2 Public Prosecutors’ Office

1. Reform and Policy Trend

A. Policy direction

The 63rd Minister of Justice Hwang Kyo Ahn announced in his inauguration speech in 2013 that, seeing the gravity of the reality facing his Ministry and the Public Prosecutors’ Office, he would make sure the policies of the Ministry of Justice would be established and implemented in accordance with a people-centered paradigm. To this end, first, the law and order must take root; second, fair and balanced law enforcement shall be needed; third, human rights will be a top priority when enforcing the law; and fourth, Korean legal administration shall sharpen its competitive edge. His first official duty was sexual violence victims

protection. Hwang also instructed the Public Prosecutors' Office to respond to cyber attacks in a speedy and thorough manner with the cooperation of relevant organizations. Below are some major policies of the Ministry of Justice from 2013.

In order to realize a safe society free from crimes including the four social evils, i) the Ministry of Justice established Action Group Against Four Social Evils in March 2013 with a focus on strict punishment that would make people feel that justice has been done. The function of the Investigation Department of Crimes against Women and Children was expanded in five main Prosecutors' Offices. In addition, several Public Prosecutors' Offices were designated as a hub of food safety polices while a permanent joint TF for harmful foods was established in five major Prosecutors' Offices. ii) With a joint effort with the Ministry of Science, ICT and Future Planning and Ministry of Trade, Industry and Energy, the Ministry of Justice developed an intelligent electronic monitoring system that can detect crime signals in advance by analyzing the past M.O.s and travel patterns. Advanced probational detention was discussed where habitual violence offenders, serial killers, or others liable to commit crimes again are separated while the channel for the sex offenders registry, which is about to increase in size due to the retroactive application of the scope of disclosure, was unified under the Ministry of Justice. Furthermore, the information on wearing an electronic anklet was shared for investigation, and more correctional psychology centers and the second medical treatment and detention center were established as a way of providing better psychiatric intervention and treatment environment. Meanwhile, pharmacologic treatment of sexual impulse was further expanded in March 2013, and post-term probation started in June. iii) Teachers can now submit their opinions prior to the decision of a juvenile case while investigation is to be conducted by Probational Office before the decision of the Public Prosecutor in order to analyze the exact causes of school

or domestic violence. Orders to attend lectures including courses on preventing domestic violence were expanded in domestic violence cases, where many offenses had frequently been responded with “no authority to indict” or “suspension of indictment” decisions. Now, education regarding the problems of domestic violence, similar to John School, would be available to domestic violence offenders while probation would be adjusted in a more field-oriented way. iv) In order to provide safety information combining crime statistics and GPS, a crime map was created based on region-specific crime patterns and hourly statistics. In addition, local governments were given safety information so that they can each establish customized crime prevention policies.

Second core policy is to promote awareness for law and order.

i) To root out elite crimes and accomplish fair law enforcement, structural corruption crimes were specifically targeted in April 2013 for special crackdown: habitual bribery taking of public officials, favor-steering due to the political suppression, soliciting, or taking bribery for conciliation, and receiving bribery in exchange of the cover-up of financial or tax inspection. Furthermore, instruction was given to the Public Prosecutors’ Office across the nation with regards to the fair application of concerned regulations (custody, demanding sentences, appeals, the suspension of the execution of custody or sentence, bail, etc.). ii) Good law abidance records or social contribution will be considered in sentencing in summary orders cases. In addition, volunteer activities and other contributions made prior to the admission to correctional facilities will be fairly evaluated to be reflected in parole review. In the meantime, legal basis was established for spontaneous submission of donation to Probation Office or Juvenile Reformatory so that tax benefits confirmed through the issuance of receipts could be given to the donation. iii) In order to strengthen education regarding democratic citizenship education in elementary and secondary schools, Constitution Education Acting Group was organized in May by

the joint effort with the Ministry of Education. In the same month, the Ministry of Ministry developed courses given by specialized law instructors including Public Prosecutors while expanding a Citizen Law School Program and Law Concert for Citizens.

The third core policy is to restore public trust in the Public Prosecutors. i) As part of the movement to conduct fair investigation of corruption cases and maintain political impartiality, the Central Investigation Department was abolished. The current discussion going on is centered on filling the void by establishing a special department capable of managing, directing and supporting the investigation of corruption cases. ii) More support will be given to the Prosecutor General Candidate Recommendation Committee for a fairer operation while the Personnel Committee for Public Prosecutors is expected to play a more important role in appointing and promoting prosecutors in Supreme and High Public Prosecutors' Office. Meanwhile, multifaceted capacity and personality evaluation will be conducted at the point of appointing Public Prosecutors. iii) Inspection Planning Office and Special Inspection Department will be established in the Supreme Public Prosecutors' Office while hiring more personnel for more strict monitoring. Aptitude test periods will be shortened from the current seven years to less than four.

The fourth core task is to build a socially integrative human rights protection system. i) Legislation of a framework act on national human rights law was promoted while Citizens Group for Human Rights Policy Review was launched in March 2013. Meanwhile, 10 major human rights policy tasks were announced. ii) The Ministry promoted the enactment of special act where the punishment of the offenders and the protection of victimized children could be linked. Furthermore, the discussion about granting a court-appointed lawyer and statement assistant not only to female sexual violence victims but also to children victims of child abuse cases. The Ministry has also been working on establishing departments dedicated to women and children policies.

iii) In April 2013, a manual was made for domestic violence cases where marriage immigrants are the victims. Immigrant women can now be provided with interpretation service from the early stage of the investigation, emergency and temporary measures, medical and psychological treatment, and legal service, with the cooperation of Korea Victim Support Center and migrant women protection facilities. When migrant workers are forced to engage in prostitution and other activities violating their human rights, they are allowed to legitimately stay in Korea and work until the end of the remedy procedure. iv) Regarding human rights monitoring, Human Rights Guardians System for Women and Children Victims was introduced to protect the victims of sexual and domestic violence, child abuse and prostitution while also seeking to prevent a secondary damage during media exposure or criminal procedure.

The fifth core policy is to strengthen the protection of and support for crime victims. i) As for increasing medical and financial support, additional Smile Centers were built (two more in 2013) which provide psychological treatment and temporary shelter. Emergency living expenses, funeral cost, and student loans will be provided to crime victims and their families, and post-crime emergency support system will be established. The procedure of granting crime damage aid fund will be simplified for the sake of immediate support for crime victims of serious crimes. ii) In April 2013, "Crime Victim Support Legal Managers" were dispatched to Supreme Public Prosecutors' Office and 17 regional Offices to help with counseling and legal assistance, linking victims to related organizations, and the application for crime damage. Civil and Criminal legal support provided for crime victims and their families will also be strengthened with the cooperation of "Home Law Doctor System" and Korea Legal Aid Corporation. iii) With regards to providing customized damage restoration through a regionally integrative network, five regions were selected

for pilot programs “victim support coordinator system” and “customized assistance system.”

The sixth core policy is realizing a sound and creative economy.

i) Government Joint Investigation Unit was discussed with relevant organizations for a speedy investigation of stock crimes including stock manipulation. A cooperative system was established in April 2013 with National Tax Services, Korea Customs Service, Korea Financial Intelligence Unit and Financial Supervisory Service to share information about investigating and taxing the underground economy. A thorough crackdown was conducted on illegal private finance business and manufacture and sales of petroleum without permission while crime proceeds were restituted to discourage the crime incentive in the first place. In addition, in order to tax the related underground economy, special judicial police authority was given to relevant public servants under the amended “Act on the Persons Performing the Duties of Judicial Police Officers and the Scope of Their Duties.” ii) In order to strengthen the responses to intellectual property right violation and retribute the crime proceeds, “TF for paradigm shift in IP investigation” was established in January 2013 joined by Prosecutors in charge of IP rights. Meanwhile, a joint crackdown on online and mobile IP rights violation was conducted until June 2013 led by Cyber Crime Investigation Center of Supreme Public Prosecutors’ Office and joined by the Ministry of Culture, Sports and Tourism, Korea Copyright Association, and Korea Intellectual Property Office. Through this effort, advanced investigative methods were promoted so that investigation could clarify the exact amount of crime proceeds to be restituted. iii) As part of improving the system to monitor the illegal activities of dominant shareholders, an alternative system was built where small shareholders can independently appoint external directors while additional supervisory measures against the pursuit of private interest of dominant shareholders such as cumulative voting or electronic

voting were under consideration.

The seventh core task is addressing the complaints of people through legal administrative policies. i) Joint Investigative Department for Crimes of Disturbing the Livelihood of People was built at the Supreme Public Prosecutors' Office in March, while the departments and command for joint investigation were established in 18 Prosecutors' Offices and 40 branches across the nations. They deal with illegal private finance and credit collection, illegal Ponzy scheme, conducting business of fundraising without permission, voice phishing, extortion for a living, illegal speculative activities, and other crimes directly threatening the livelihood of low income families. The crime proceeds will be thoroughly restituted to eliminate a criminal motive and address structural problems. ii) Joint Investigation Department will take the lead in eliminating items under false or illegally borrowed name such as mobile phones, bank accounts, and cars, and cooperate with relevant organizations through an organic system. iii) The Ministry of Justice will work with the Ministry of Security and Public Administration and Korean Bar Association to introduce a community lawyer system. The first community lawyer was appointed on May 1, 2013. In addition, lawyers were placed in the social welfare council of each local government for Home Law Doctor service where legal assistance is provided through a phone, internet, and mails so that the socially vulnerable can get a primary legal and welfare service. iv) "A housing lease standard contract" and a guide book were published, while "Standard Regulations on Aggregate Buildings" was established in July 2013 to help residents living on long-term rent. v) "Administrative Procedure Act" was amended to simplify legal proceedings and lien system. vi) Online video visitation program for inmates and their families was first piloted in April 2013 in 12 organizations. Community Service Order was improved to better reflect real demands: programs were expanded to rural areas while a public contest

was held to seek new ideas.

B. Core policies

a) Anti-corruption Department launch and special investigation system reform

On November 29, 2013, “Regulations on Administrative Structure of the Public Prosecutors’ Office (Presidential Decree)” was promulgated and enacted, under which Central Investigation Department (CID) was abolished while Anti-corruption Department (ACD) was newly established. The Anti-corruption Department head was appointed on December 5, thereby officially initiating its responsibility. Unlike the CID, the ACD does not conduct investigation itself, and instead monitors and supports the special investigation of each Public Prosecutors’ Office. Investigation Direction Division and Investigation Support Division were established under the ACD that will conduct in-depth research and analysis of the cause of structural corruption and changing crime patterns in accordance with social development. The ACD will also continue with the investigation and procedure reform previously dealt with by the Special Investigation Reform TF. In the meantime, Investigation Direction Division will be responsible for directing, supervising and coordinating special investigation of Prosecutors’ Offices while Investigation Support Division will be in charge of conducting accounting analysis, tracking funds, restituting crime proceeds, studying investigative methods, coordinating international investigation, and collaborating with related agencies. By doing this, the investigative gap left with the elimination of the CID will be filled while balanced and consistent practice of authority will be possible. Furthermore, based on the recommendations and propositions of Public Prosecutors Reform Deliberation Committee, the reform effort will continue including

measures to uproot structural irregularities as well as monitor due process of law during the investigation to promote human rights protection.

b) Specialization of Public Prosecutors

As crime patterns become more diversified and specialized, the Ministry of Justice established “Prosecutors Specialization Support Team” at the Supreme Prosecutors’ Office in May in order to improve the quality of criminal service. Meanwhile, starting from December, cases may be forwarded to specialized prosecutors outside the jurisdiction upon the agreement of concerned parties. Accordingly, the first Special Prosecutors Certification Committee will be held on November 25, 2013, which is the beginning of path for just and sharp Public Prosecutors. The specialization can be approached in two ways: i) specialization by way of performing duties and ii) that of all Prosecutors instead of just a few elite members. Its main objective is to drastically increase the crime response capability of the Public Prosecutors to promote the quality of the criminal justice service.

c) Addressing crimes disturbing the livelihood of ordinary people

Since March 2013, the Public Prosecutors’ Office has engaged in an intense crackdown on crimes disturbing the livelihood of ordinary Koreans such as illegal private finance and credit collection, illegal Ponzy scheme, conducting business of fundraising without permission, voice phishing, extortion for a living, and illegal speculative activities. Supreme Public Prosecutors’ Office established a joint investigation unit to arrest 26,707 offenders with the cooperation of 18 regional police agencies, Ministry of Security and Public Administration, Ministry of Science, ICT and Future

Planning, National Police Agency, National Tax Services, Financial Services Commission, Financial Supervisory Service, and National Gaming Control Commission. Other related agencies additionally inspected on charges of tax evasion and evaluated registered loan businesses to cancel some of their registration. Regarding the prevention of new crimes such as voice phishing, pharming, and phishing, international call identification numbers were to be shown on the international internet calls while calls impersonating public or financial organizations were blocked. Anyone who transferred their bank book and cash card is banned from opening a new checking account for a year to prevent the account from being used under a false name. Financial/legal service was provided for the victims who report to the call center for illegal private finance while brokerage fees for illegal loan service were returned to the victims after relevant investigation started. And KRW 4 billion of damage from voice phishing was also returned to the victims.

Established in 2013, Joint Investigation Command is joined by relevant organizations to conduct effective prevention activities, restitute crime proceeds, collect evaded taxes, and protect victims. It also strengthened the crime-specific responses of related agencies through cooperation and role division. The government has since joined the effort to eradicate the use of items under the false name while engaging in international criminal justice cooperation including the conclusion of the MOUs with the countries that harbor the computer server required for crimes like phishing, pharming, and voice phishing.

d) Three-strike out for crimes of violence

Public Prosecutors' Office conducted a three-strike out system for violence offenders, previously subject to a very lenient punishment such as a fine or the suspension of indictment. It is

part of the plan to build a safe society free of violence by reinventing a social atmosphere. Under the system, those convicted more than twice with assault and with a criminal record of more than the suspension of the execution of imprisonment will be confined and indicted, and those convicted with more than four times who committed assault again will be subject to imprisonment. As a result of this system, 36% more violence offenders have gone through a formal proceeding. Before the system was implemented, those with a criminal record of suspended execution of imprisonment were subject to actual penalty added by the suspended sentence when committing crimes again. However, this system subjects offenders to imprisonment instead of a fine, thereby “disincentivizing” them from committing a crime while preventing small crimes of violence from advancing into serious ones like homicide and rape. The system is also expected to contribute to nurturing a social atmosphere that is, unlike in the past, intolerant to violence.

e) Strengthening the capacity of National Digital Forensic Center: opening of Digital Forensic Research Institute

As the number of evidence analyzed by the National Digital Forensic Center (NDFC) is on the increase, the NDFC established the Digital Forensic Research Institute in August 2013 in order to conduct investigation based on the respect for human rights and scientific analysis of evidence. To live up to its reputation of final appraisal organization that correctifies the errors in the early stage of investigation through accurate evidence analysis, the NDFC will continue to pursue research and development and utilize advanced technology to identify the truth. With the rapid development of the IT environment including converging digital information technology and cloud computing, existing equipment and analysis methods came to be faced with some limits. Complete

data deletion technology became common while encoding and data security technologies became advanced, revealing problems for digital forensics. Furthermore, regulations over the individual privacy and protection of corporate information are becoming more strict. In order to respond to this trend in a preemptive and proactive manner, the need to depart from the previous investigation support arose. Therefore, Digital Forensic Research Institute was established as a result of the awareness that more investment is needed in the R&D.

The main responsibility of the Institute is identifying the R&D tasks needed by Digital Investigation Unit, developing customized devices, verifying devices that can guarantee the integrity of evidence, and conducting technology standardization business while establishing standards regarding digital forensic process and researching high performance computing techniques. The Digital Forensic Research Institute is expected to conduct various other research in order to establish advanced and reasonable digital evidence law system that fits the global standard.

f) Eradicating harmful foods

With the awareness that food-related crimes threaten the safety and health of people, Supreme Prosecutors' Office mobilized "Joint Crackdown Units on Harmful Food" under each Office to engage in comprehensive clampdown on organized, malicious, and large-scale offenders. In particular, to take away the proceeds earned, i) manufacturing device used to make harmful foods were confiscated and disposed of, ii) crime proceeds were restituted through the collection preservation, iii) a fine was concurrently imposed with confinement, and iv) tax evasion cases were thoroughly reported to National Tax Services. With the cooperation of the KNPA, Ministry of Food and Drug Safety, National Agricultural Products Quality Management Service, Special Judicial

Police of regional governments and other related agencies, joint investigation units were organized in 59 Offices.

The Public Prosecutors' Office will continue to directly address organizational and chronic manufacturing and distribution of harmful foods while providing simple guidance or an opportunity for self-correction before deciding to refer the case to criminal procedure. Furthermore, the scope of crimes related to harmful foods subject to the crime proceed restitution will be expanded, and the confiscation and restitution measures will be added. Those who report a crime will be awarded properly, and regulation gap in current laws and regulations will be further identified for improvement. Furthermore, case manuals will be amended to strengthen the punishment of the food-related crimes so that the offenders will be investigated in custody in principle.

g) Stronger commitment to eradicating sexual violence

As serious sexual violence occurred more frequently in 2013, people demanded more strict punishment. Starting from June 19, 2013, amended provisions of the Criminal Law came into force, thereby requiring more strict sentencing standard be arranged. In addition, more and more cases occur where electronic anklets are destroyed, necessitating a stronger punishment. Accordingly, the Supreme Prosecutors' Office, after the discussion of sexual violence TF organized on April 30, 2013, i) changed from the summary indictment to formal court proceedings, ii) strengthened the sentencing standard of a fine and confinement, iii) subjected imitative rape under the Criminal Law to confined investigation, and iv) strengthened the appeal standard of those who committed sexual violence to children aged from 13 to full 18 and juveniles when court's sentence is less than the 2/3 of that demanded by the Prosecutors. Amended case manual also dictates that those who destroy their electronic monitoring device will be subject to

formal court proceedings in principle and that the Prosecutors must demand over two years of sentence. The Public Prosecutors' Office is expected to more assertively utilize electronic monitoring system and chemical castration to prevent the reoccurrence of sexual violence.

As of June 19, 2013, the victim's complaint required for sexual violence including crimes of rape was no longer needed with the amendment of the concerned provision. Now the Public Prosecutors' Office has been focusing on ways to minimize the secondary damage victims that might incur during the investigation or court proceedings. It has been communicating and cooperating with relevant organization as well as civil groups to come up with effective measures.

2. Streamlining of Relevant Legal System

Acts, directions, rules, and enforcement decrees established and amended by the Ministry of Justice are as follows. The amendment bill for "Enforcement Decree of Act on the Regulation of Violations of Public Order" passed at the State Council on May 7, 2013, and vehicles with sub-standard pressure vessels will have their license plate kept in custody and be fined for negligence. Furthermore, notification will be electronically processed and cancellation of the custody of license plate will be notified for convenience. The Ministry of Justice announced the legislation of the partial amendment of "Act on the Persons Performing the Duties of Judicial Police Officers and the Scope of their Duties" in order to grant more authority to the civil servant who will be in charge of fifteen areas of cracking down unregistered loan businesses, petroleum shops without permission, or daycare centers which illegitimately received subsidiaries. In addition, on June 19, 2013, the Ministry enacted six Acts and established 150 provisions including the "Criminal Law," "Act on Special Cases Concerning

the Punishment, etc. of Sexual Crimes,” and “Act on the Protection of Children and Juveniles from Sexual Abuse.” In 60 years, complaints required to constitute crimes of sexual crimes were scrapped. The amendment includes: i) scrapping of complaints from victims required for sexual crimes; regardless of complaints or agreement with the victims, the offenders will be punished. ii) Provision regarding imitative rape (by means of violence or intimidation, inserts his/her sexual organ into another's bodily part such as mouth or anus) was established, with aggravated punishment. iii) The subject of rape was expanded from woman to any person. iv) Peeping, recording with a hidden camera, and entering public restroom and public bath are also subject to the punishment as crimes of sexual violence. v) Possession of child or juvenile pornography will be subject to imprisonment. vi) Committing sex crimes while drinking is not entitled to the reduction of punishment. vii) Crimes without a period of prescription of prosecution were expanded to include rape, quasi rape, and indecent act by compulsion against children younger than 13, juveniles, and persons with disability. The period for prescription for “rape and murder” is limitless regardless of the age and sex of the victims. viii) Any sex crime victims are entitled to court-appointed lawyers while those younger than 13 or with disability may request statement assistants. ix) Sex criminal registry will be solely managed by the Ministry of Justice, while disclosure and notification will be handled by the Ministry of Gender Equality and Family. Sex convicts after completing their sentence may also be subject to probation. x) The scope of disclosure of the registered sex criminals was expanded to reveal the name of the street and number of the building. The photos taken by registration agency will be disclosed so public would recognize the face more easily. xi) At an emergency, electronic anklet data will be accessed without a warrant, while Probation Office and the NPA can share the personal information of those monitored. xii) Compulsory

education is imposed to national organizations, local governments, and public organizations, which are required to submit the result of the education. Also, Sexual Violence Prevention Education Support Organizations were established to develop education programs and train professional instructors. The Ministry of Justice announced the partial amendment of "Act on Discipline of Prosecutors" that may deprive up to five times of bribe and entertainments received by the Prosecutors while subjecting the Prosecutors to the discipline again who have their discipline cancelled by the Court.

Article 8 of "Act on the Prevention of Corruption and the Establishment and Management of the Anti-corruption and Civil Rights Commission" and the behavioral standards for public servants of Supreme Prosecutors' Office were newly established in accordance with the "Instruction on Supreme Prosecutors Office Public Servants' Behavior (Amended October 30, 2013, Directive no. 183)." Amended rules include "Manual on the Petition Regarding Correctional Affairs (July 3, 2013)," "Manual on Speedy Procedure of Discharge Direction (July 3, 2013)," "Manual on Crimes and Irregularities of Public Prosecutors (August 27, 2013)," "Rules on the Name of the Crimes in an Indictment and Non-indictment (SPO rules no. 649, June 20, 2013)," "Instructions on the Operation of Clean System in the Public Prosecutors' Office (SPO rules no. 659, July 3, 2013)," "Rules on Court Proceedings Record Management (SPO rules no. 659, July 3, 2013)," and "Rules on the Notification of Withdrawal of the Victims Claim in Sexual Crimes (SPO rules no. 659, July 3, 2013)." Amended directives include "Standards for Publishing the Result of Investigation to Protect Human Rights (July 11, 2013)" and "Operation Regulations of Public Prosecutors Reform Deliberation Committee (April 23, 2013)." In particular, "Rules on the Name of the Crimes in an Indictment and Non-indictment (no. 642, April 30, 2013)" reflected the amendment of the "Criminal Law" (Art. 114 Organization of

Criminal Groups, etc., Art. 247 Setting up Places for Gambling, etc., Art. 288 Kidnapping, Abduction, etc. for Purpose of Indecent Acts, etc., Art. 289 Trafficking in Persons, Art. 290 Inflicting or Causing Another's Bodily Injury while in Kidnapping, Abduction, Trafficking in Persons, Transportation, etc., Art. 294 Attempts, and Art. 296 Preparation and Conspiracy), revising the SPO rules no. 630. The same rules no. 649, June 20, 2013, reflected the amendment of the "Criminal Act (Art. 297-2 Imitative Rape, Art. 299 Quasi-imitative rape, Art. 305 Imitative rape against children, and the deleted Art. 304 Rape using the disguise of marriage)," the "Act on Special Cases Concerning the Punishment, etc of Sexual Crimes (Art. 2 Entry into Public Places for Crime Purpose)," and the "Act on the Protection of Children and Juveniles from Sexual Abuse (Art. 9 Bodily injury inflicted or caused by rape, and Art. 10 Murder and rape and death caused by rape)," revising the SPO rules no. 642 that entered into force from June 20, 2013. In addition, "Instructions on the Operation of Clean System in the Public Prosecutors' Office" regulate the establishment and operation of the Clean System for transparent and fair practice. Also, "Rules on the Notification of Withdrawal of the Victims Claim in Sexual Crimes" was revised so that when part of the accomplices was indicted and the other had their indictment suspended, the withdrawal would be notified to the investigation Prosecutor to hold the prosecution.

3. Evaluation on Prosecutors' Office Reform Efforts

The policy reform in 2013 was focused on the Criminal Law amendment regarding sexual violence and victim protection, while also focusing on the Prosecutors reform resulting from the shutdown of the Central Investigation Department. Rooting out four social evils as well as realizing national happiness are also established as two of the core policy targets in accordance with

the national agenda of the new government. The Ministry of Justice emphasized the balanced law enforcement and human rights protection while the Public Prosecutors' Office focused on the investigation and victim support for the safety of people.

The core policy of the Public Prosecutors' Office was to protect the society from sexual and domestic violence by announcing comprehensive measures to prevent sexual violence and domestic violence as a result of the cooperation with relevant organizations. One-stop legal support centers for sexual violence victims were established and court-appointed lawyers were dispatched at five centers so that the victims could receive assistance from the early stage of investigation. At a Policy Coordination Meeting presided over by the Prime Minister held from September 12 to October 31, 2013, a crackdown on offenses disturbing the livelihood of ordinary people was decided, and the Public Prosecutors Office initiated its Joint Investigation Department, showing that it is committed to fighting those crimes. The standard for demanding a sentence was intensified while regulations were improved to prevent crimes and strengthen victim support. Three-strike out was introduced for violence offenders to raise alert against the atmosphere tolerant to violence.

By operating Joint Crackdown Unit on Harmful Foods, the Prosecutors' Office has been committed to eradicating unsafe foods with the cooperation of relevant organizations.

The Acts, Directives, Rules, and Enforcement Decrees described above that went through amendment in 2013 all show the strong will of the Public Prosecutors' Office to strengthen the effect of laws and regulations. In particular, provisions regarding sexual violence previously subject to victim's complaint were eliminated, and rules and instructions with regards to anti-corruption were strengthened.

As shown through the efforts, the Public Prosecutors' Office has been committed to reform efforts, while working to eradicate

four social evils and support crime victims. 2013 is truly a year for the reinvention of the Public Prosecutors' Office.

Section 3 Court

1. Major Trend

According to the 2013 Judiciary Annals, even though experienced judges were placed in the courts of the first instance in order to strengthen the principle of court-oriented trials, the quashing rate at the appellate court rose again to reach 40%. 64,618 cases were appealed, 68,490 of which got a court's decision, and 40.8% or 23,865 of them were reversed. The figure was 38.7% in 2010, and 37.9% in 2011. The cases appealed by the defendant was 18,046 while those by the Prosecutors were 2,452, and those by both were 3,367. There are opinions that high quashing rate of appellate court is not desirable; others argue that blind dismissals might violate the principle of three instances and the presumption of innocence guaranteed in the Constitution. In the meantime, the period taken during a criminal procedure is getting longer. Among the 78,157 cases filed at the court of first instance last year, only 63,249 cases were processed within the time limit recommended by law, which is a significant rise from 58,303 in 2010 and 61,049 in 2011. Cases that took more than two years are on the increase: 766 in 2010, 1,258 in 2011, and 1,722 last year. The prolonged period might reflect the principle of court-oriented trials or the difficulty to enforce the defendant to be present at the court. The rate of the defendant going through the first instance in custody was 9.7%, a history low. This seems to be the result of the consideration of the human rights of the defendant. The rate of release through a review of the legality of custody or bail also increased. The defendant released through a review of the legality of custody

was 21.3% or 447 out of 2,106, while those released through bail amounted to 2,541 or 38.4% out of 2,541.

A. Trend in system improvement

The task of the Judiciary directed by the Supreme Court was “Courts true to fact-finding proceedings and law-applying proceedings,” while seeking measures to improve appeal to the Supreme Court system.⁶⁶⁾ Appellate Court system was introduced to complement the first and second instance, and the discussion for the adoption of specialized court including bankruptcy court is ongoing. In particular, efforts to introduce Judge life-tenure system are positively recognized. The Court also focused on communicating with the public, by relaying the whole process of pleading of the grand bench case of parents kidnapping and transferring their minor children to overseas (2010 Do 14328) through KTV. The Supreme Court agreed with the National Audio Visual Information Service to promote the judiciary system and to continuously broadcast the open pleading of the Supreme Court grand bench cases.

Meanwhile, judges received a barrage of criticism for their inappropriate behaviors and remarks. To respond to this, consulting system on judges’ remarks and behavior during trial was to be expanded from 2014 to prevent judges to make some rude remarks. In addition, starting from May 1, 2013, all the proceedings of small claim cases and citizens-participated cases in regional courts and branch will be recorded, which is expected to make judges cautious about their behavior and establish the principle of pleading-oriented proceeding. And witness assistance will be strengthened to improve the quality of judiciary service. A new Unitary System introduced along with the disclosure of court decision of criminal cases was

66) It is also a main agenda of the second Judiciary Policy Advisory Committee.

initiated in 2013. In the meantime, a public hearing was held to decide upon the final format of citizens participation in criminal trials.

2. The Activities of Citizen Participation in Court Proceedings Planning Organization and the Resolution of Final Draft of Citizens Participation in Court Proceedings

Article 55 (1) of the “Act on Citizen Participation in Criminal Trials” states that Committee for Citizens' Participation in Judicial System be established, which is interpreted to hold the final right to decide on the format of the system.

A. Progress report

The Supreme Court organized a Committee for Citizens' Participation in Judicial System (led by Professor Shin Dong-woon of Seoul National University Law School) in July 2012, five years into the system. The Committee held seven rounds of meeting from July 2012 to determine how the system should be operated, and a final resolution was adopted.

B. Final resolution

(a) As time had passed since the introduction of citizens' participation in court trials, interim analysis on the progress and the decision on the final mechanism were required.

According to the final resolution of the Committee, judges should respect the verdict of the jury and must mention it in the decision.

(b) Details of the final resolution

a) Basic presumptions

Based on the last five years' performance, the Committee evaluated that the system had been mostly successful and had hugely contributed to the development of the criminal trials.

However, regarding the effect of the verdict, and the requirements of the participation that had been core issues from the early stage, the Committee decided that more discussion would be needed. The rest of the operation that revealed no major problems, however, would remain mostly the same.

b) The effect of the verdict

The "Act on Citizen Participation in Criminal Trials" states that the verdict does not bind the court, giving the verdict only recommendation effect.

The final resolution took a step further to grant the verdict "*de facto* binding force," and it will be stated in the Act that the verdict should be respected. In other words, the Court must respect the verdict in deciding whether the defendant is guilty except when the verdict has violated the Constitution and Acts in its deliberation process, under which the Court may decide otherwise. However, the opinion of the jury with regards to sentencing would only have recommendation effect.

The Committee also considered giving legal binding force to the verdict like in the United States, but i) there is still a debate going on over the constitutionality of the system, and ii) positive analysis shows that the society has not built a consensus over the introduction of an American-style jury. Therefore, the Committee had to settle for a "*de facto* binding force" as an alternative in the middle.

The current Act requires an express application from the defendant to proceed to a participatory trial (application-based).

There has been a persistent criticism that whether a trial would involve the participation of citizens solely depends on the application, thereby depriving major cases requiring a touch of common sense and sound opinions of the public of an opportunity from the first place.

The final resolution states that the Court may proceed to a participatory trial either *ex officio* or upon the request of the Prosecutor when deciding it would be necessary to promote democratic legitimacy and transparency of the judiciary.

c) Adoption of qualified majority

Currently, the Act requires a unanimous vote for a verdict, while allowing a simple majority for the failure to reach the unanimity.

The final resolution, instead of scrapping a simple majority, adopted a qualified majority in line with the de-facto binding force, where over 3/4 of the jurors need to be in agreement to constitute a verdict. In case of hung jury, however, the trial would continue without the jurors with their opinions working as only a reference.

The verdict should in principle be unanimous; therefore the final resolution maintained the current system under which if the jury fails to reach the unanimous agreement, it is required to go through the voting again after listening to the Judge's comment, even if it satisfied the quality majority quorum.

d) Position at a Court room

The Act provides that the Prosecutor and the defendant and his counsel sit facing each other. Accordingly, Prosecutor cannot see the facial expressions of the jurors while the defendant and the counsel cannot see the witnesses. So the final resolution provides that the Prosecutor and the defendant/counsel would sit facing the Judges.

e) Others

The rest of the system such as the discussion about and suggestion of sentencing by the jury, the court's authority to exclude the citizen participation, detailed procedure about jury composition and trial proceedings, and ground for appeal will remain mostly the same since no major problems have occurred for the past five years.

C. Future prospect

The Ministry of Justice once announced the legislation of amendment bill for the "Act on Citizen Participation in Criminal Trials," different from the resolution of the Committee for Citizens' Participation in Judicial System. The bill added that among all the cases participated by citizens subject to collegiate division, excluding violations of "Public Official Election Act" whose statutory punishment is less than a year's imprisonment, and when the defendant makes a request for the citizen participation, the Prosecutor has the authority to request for the exclusion of the citizen participation if he or she finds any grounds for concern that the jury would not conduct its duties in an unfairly manner. According to the bill, most of the violations including the hotly debated "publication of false facts" will be excluded from the citizen participation case.

Therefore, the problem here is that the resolution of the Committee and the bill of the Ministry of Justice are contradictory to each other. In this case, the final selection has yet to be made, but what the true objective of the citizen participation is and whether the final authority is entrusted to the Committee for Citizens' Participation in Judicial System should be the top consideration.

〈Table 2-2-5〉 Comparison between the provisions of current Act and amendment proposals by the Ministry of Justice

Current provisions	Proposed bill
<p>Article 5 (Eligible Cases)</p> <p>(1) A case enumerated in any of the following subparagraphs shall be eligible for a participatory trial (hereinafter referred to as "eligible case"):</p> <ol style="list-style-type: none"> 1. Cases falling under the jurisdiction of a collegiate panel under Article 32 (1) (excluding subparagraphs 2 and 5) of the Court Organization Act; 2. Cases of an attempt of, abetment, aiding, preparation, or conspiracy to commit an offense among cases falling under subparagraph 1; 3. Cases falling under subparagraph 1 or 2, and those falling under Article 11 of the Criminal Procedure Act, which are consolidated for a trial as a single case. <p>(2) If a defendant does not want a participatory trial or if a decision to exclude is made pursuant to Article 9 (1), such case shall not proceed to a participatory trial.</p> <p><Newly added></p> <p><Newly added></p>	<p>Article 5 (Eligible Cases)</p> <p>(1) A case enumerated in any of the following subparagraphs shall be eligible for a participatory trial (hereinafter referred to as "eligible case"):</p> <ol style="list-style-type: none"> 1. Cases falling under the jurisdiction of a collegiate panel under Article 32 (1) (excluding subparagraphs 2, 5 and 6) of the Court Organization Act; 2.~3. (Same as the current provision) <p>(2) If a decision to hold a participatory trial pursuant to Article 3, or defendant expressly wants it, a participatory trial shall take place. Provided that if a decision to exclude is made pursuant to Article 9 (1), such a case shall not proceed to a participatory trial.</p> <p>(3) The court may decide to proceed to a participatory trial upon the request of the Prosecutor made by the end of the first trial proceeding when it admits the necessity to promote democratic legitimacy and transparency of the Judiciary; Provided that the Court shall give the defendant an opportunity to state his opinion.</p> <p>(4) The decision of the paragraph (3) is not objectionable.</p> <p>Article 9 (Decision to Exclude)</p> <p>(1) A court may decide either ex officio or upon the request of the Prosecutor not to proceed to a</p>

Current provisions	Proposed bill
Article 9 (Decision to Exclude) (1) A court may decide not to proceed to a participatory trial for a period beginning after an indictment is filed and ending on the day after the closing of preparatory proceedings for a trial in any of the following cases:	participatory trial for a period beginning after an indictment is filed and ending on the day after the closing of preparatory proceedings for a trial in any of the following cases:

3. Current Status of the Citizen Participation in Criminal Trials (Review of Special Cases of Court of the First Instance)

A. a *** poet case

In December 2012, A, one of the co-chair of the election campaign committee of the presidential candidate Mun Jae In of the Democratic Party tweeted 17 times that “Candidate B has the stolen autograph of Ahn Jung Geun.” He was arrested and charged with the publication of false facts and defamation against candidates. On the proceeding on October 28, 2013, the jury unanimously found him not guilty on the charges, which was reversed by the Court. The Court decided that he was guilty and sentenced him to a fine of KRW one million with the suspension of sentence (2013 Go-hap 96).

In the written judgment, the Court said that “A’s tweet was to have the candidate B not elected by attacking his personality, not to argue his eligibility as a president; therefore, his act constitutes slandering against other candidates,” and also added that “but it is hard to assume that A believed what he tweeted was a false fact, thereby not constituting the publication of false facts.”

With regards to the reason the Court reversed the verdict, the Court said that “only when the opinion of the jury is not

in conflict with the occupational conscience of a judge, the verdict can have a binding force,” and that “it would not be easy for the jury, composed of laymen instead of legal experts, to decide whether the defendant is guilty or not from a judicial perspective and that from the nature of the case, the jurors would have been likely to be affected by their political position or the region of origin.” The court ruled, however, that it would suspend the sentencing of a fine of KRW one million as a way of respecting the verdict of the jury.

The decision brought with it a discussion about the legal effect of the verdict, followed by the claim that the Act on the Citizen Participation should be amended. The background of the introduction of the citizen participation system was to eliminate deep-rooted mistrust among public in the judiciary as well as to promote the transparency and trust of the judiciary branch. The Supreme Court having expanded the system to all the criminal collegiate cases starting on July 1, which had first been adopted in some cases regarding serious crime in 2008, shows the strong will of the Court to assertively embrace the intention of the system. In this context, therefore, we must seriously consider whether cases either politically sensitive or likely to draw attention from the public should preferably be referred to participation proceeding in order to serve as an opportunity to alleviate the mistrust and promote trust and transparency. Of course, in case when a politically sensitive case is expected to be regionally divisive or create a neck-and-neck voting of five to four, a complementary measure should be available such as a request for jurisdiction transfer or replacement of jurors. In the meantime, it has also been pointed out that the discretion given to the Court regarding the ground of exclusion of the participation is too broad, leading to the violation of the right of the defendant to be tried at a trial participated by citizens. Therefore, the scope of the exclusion should be minimal while more specific grounds need to be elaborated in the Act.

In addition, the qualified majority claimed by the Citizens' Judicial Participation Committee where at least three-fourths of the jurors must be in agreement to constitute a verdict should also be considered.

B. Incheon matricide case

The defendant was indicted on a charge of strangling his mother and his older brother to death at his mother's house in Yonghyun-dong, Nam-gu in Incheon on August 13, 2013. He requested for the pay participation. The Court, considering the gravity of the case and the voluminous amount of the case documents, decided to accept his request, and referred the case to a two-day proceeding from November 17 to 18 participated by citizen jury at Incheon District Court.

The Prosecutor demanded that the defendant be put to death considering the gravity of his charges of murdering his own mother and brother, brutally damaging their corpses, and abandoning them. The Prosecutor argued that the most important factor in sentencing the defendant is the result of the crime, describing the case as a crime against humanity in that the defendant brutally murdered his mother and brother. The Prosecutor ceded that "it could be understood that the defendant had a difficult time torn between his mother and his wife in their conflict, but that cannot be the motive for killing his mother who raised him for 28 years before his marriage and his brother who had nothing to do with the conflict." It was also pointed out that even though one cannot deny that there was no collusion of the crime with his wife, it is hard to say that he acted solely on the direction of his wife and that the crime was the result of the decision of the defendant as a competent adult.

The Court agreed with the verdict that found him guilty on all charges of murder, murder of ascendant, and damaging and

abandoning corpses, sentenced the defendant to death (2013 Go-hap 658). The Court said that the defendant, instead of showing remorse, tried to frame his brother for the crime during the investigation creating confusion, and he apologized to his wife, not to his dead mother and brother, making us seriously doubt whether he is truly sorry about what he did. In addition, the Court also said that even though the defendant being young and never having committed crimes of a kind was to be considered in his favor, there is simply no room for sympathy considering the unfair death the victims had to face and the panic he caused among the public.

C. Debate over a fine for negligence for the non-attendance of jurors

For the first time since 2008 when the citizen participation system was introduced, a fine for negligence of KRW 300,000 to 1,000,000 was imposed upon 20 citizens who had been summoned by the Court and failed to attend the jury selection meeting without any legitimate cause.

Article 60 of the “Act on Citizen Participation in Criminal Trials” provides that any jurors, alternate jurors, or prospective jurors who fail to appear on designated dates without legitimate causes will be subject to a fine for negligence not exceeding KRW 2,000,000. However, the Court had been rather reluctant to impose the fine considering that the citizen participation system was poorly promoted and that the request for attendance might be too demanding for low income families who could have difficulty taking time off from work.

The decision of the Court to impose a fine for negligence is interpreted as a message that the attendance as a juror when summoned is a civic duty since the citizen participation system would be impossible without the active participation of citizens when the Committee passed a resolution that gave the jury bigger

roles last March.

On the contrary, there are opinions that imposing a fine was too harsh. The prospective who were imposed a fine filed a complaint against the disposition, and the Court has completed an examination with the final decision pending. The Court said that it had to impose the fine because of the lack of prospective candidates, the application for challenge without reason submitted by a counsel and a prosecutor allowed up to five jurors were impossible to be made. For cases in need of nine jurors, the full bench usually summons 120 prospective jurors, but in this case, only 37 showed up, displaying a particularly low attendance rate.

The statistics by the National Assembly Legislation and Judiciary Committee in October 2013 reveal that the net attendance rate of prospective jurors is only 49.5%, showing that more than half of those summoned do not attend selection meeting. For cases requiring nine jurors, 120 prospective jurors are usually summoned, among whom only 30 attends on average. Office workers and the self-employed are absent because of their work. More absentees mean bigger cost for selecting and summoning more candidates as well as serving notifications for attendance, and paying travel expenses and daily allowances. But most importantly, it would compromise the meaning of the citizen participation system.

Considering the system has not fully taken root yet, and the promotion insufficient, the imposition of a fine for negligence would be unfair to prospective jurors. It has already been proven through real cases that those selected as jury are enthusiastic about their duty and took it very seriously. Therefore, prospective jurors should preferably be encouraged or motivated to attend the Court instead of being forced. Equally important is the promotion effort so that they could be proud of their experience as a juror. The key to success is the voluntary participation of the prospective jurors and a fair verdict they reach. It would be hard to expect that those summoned against their will would actively contribute to the jury.

4. The Activities of Sentencing Commission

A. Amended sentencing guidelines of crimes of homicide and sexual assault

On March 25, 2013, the Sentencing Commission of the Supreme Court passed a final resolution regarding the amended sentencing guidelines of crimes of homicide and sexual assault, with the former taking effect from May and the latter June.

According to the new guidelines, raping, and murdering children or juveniles falls under the category of “murder in combination with other serious crimes” thereby subject to life imprisonment or more than 22 of confinement. Previously, it was sentenced from 17 to 22 years in prison. In case the M.O. is too cruel or other aggravated factors exist, the murder in combination with other serious crimes may be subject to at least 25 years or more including life imprisonment or death. The basic sentence for murder with general motive also increased significantly from nine to 13 years to 12 to 17 years. This is in some way related to the situation where the punishment for sex crimes is becoming more strict, now heavier than that of murder.

The sentence for sexual assault was also strengthened. The Sentencing Commission decided to include rape and murder of juveniles 13 years or older in accordance with the “Act on the Protection of Children and Juveniles from Sexual Abuse”⁶⁷⁾ which will enter into effect coming June. The sentence for crimes of rape after robbery is elevated to nine to 13 years, and 12-17 years if there is an aggravating factor. For crimes of indecent act by compulsion after special robbery, the sentence is seven to 11 years

67) According to the amended Act that would enter into force on June 19, crimes of raping and murdering children and juveniles ages 13 or older shall be punished by death, imprisonment for life or for a fixed term of 10 years or more.

for basic range and nine to 13 years for aggravated range. As a move to further protect children under thirteen, juveniles, and persons with disability, “the use of fraudulent means or force” was deleted from mitigating factors.

The inclusion of rape etc. and murder of juveniles aged 13 years or older into the “murder in combination of other serious crimes” was because the same crime was newly established under the “Act on the protection of children and juveniles from sexual abuse.” According to the amended law that will take effect from June 19, those who rape and murder children aged 13 or older or juveniles will be punished by death, imprisonment for life, or for at least 10 years.

〈Table 2-2-6〉 Comparison of the sentencing guideline of homicide between the previous and amended criteria

Old				New			
Type	Mitigated	Standard	Aggravated	Type	Mitigated	Standard	Aggravated
Murder with Extenuating Motive	3 yrs - 5 yrs	4 yrs - 6 yrs	5 yrs - 8 yrs	Murder with Extenuating Motive	3 yrs - 5 yrs	4 yrs - 6 yrs	5 yrs - 8 yrs
Murder with General Motive	6 yrs - 10 yrs	9 yrs - 13 yrs	12 yrs - 17 yrs	Murder with General Motive	7 yrs - 12 yrs	10 yrs - 16 yrs	15 yrs or More, Life Imprisonment or More
Murder with Condemnable Motive	9 yrs - 13 yrs	12 yrs - 16 yrs	15 yrs or More, Life Imprisonment or More	Murder with Condemnable Motive	10 yrs - 16 yrs	15 yrs - 20 yrs	18 yrs or More, Life Imprisonment or More
Murder in Combination with Other Serious Crimes	14 yrs - 18 yrs	17 yrs - 22 yrs	20 yrs or More, Life Imprisonment or More	Murder in Combination with Other Serious Crimes	17 yrs - 22 yrs	20 yrs or More, Life Imprisonment	25 yrs or More, Life Imprisonment or More
Murder by Extreme Neglect for Human Life	18 yrs - 23 yrs	22 yrs - 27 yrs	25 yrs or More, Life Imprisonment or More	Murder by Extreme Neglect for Human Life	20 yrs - 25 yrs	23 yrs or More, Life Imprisonment	Life Imprisonment or More

In addition, the sentencing guidelines for killing in a brutal manner were arranged in such a way that no suspension of the execution will be granted. Previously, the cruel M.O. was only one of the general negative factors in sentencing the suspension of the execution, but the amended guidelines changed it into one of the major. Consequently, getting the suspension of the execution became more difficult regardless of other positive factors such as the scope of intimacy between the offender and the victim.

B. Stronger punishment for the corruption of legal circles

The Sentencing Commission of the Supreme Court passed an amendment bill for “Attorney-at-law Act” that enforces stronger punishment for the violations of the Act where non-attorneys (legal broker, etc.) who accept legal cases or affairs will be punished by imprisonment of up to seven years. The prohibited behaviors stipulated by the sentencing guidelines are to engage in the acceptance of legal cases; to conduct partnership by non-attorneys about legal affairs; to receive valuables etc. for the purpose of socializing with the court or investigation organization; and to receive valuables etc. for the purpose of soliciting or brokerage.

〈Table 2-2-7〉 Sentencing guidelines of crimes of handling legal affairs by or doing legal business with non-lawyers

Type	Classification	Mitigated	Standard	Aggravated
1	Less than KRW 10 million	4 months	2 months - 8 months	6 months - 1 yr
2	More Than KRW 10 Million, But Less Than KRW 30 Million	4 months - 8 months	6 months - 1 yr	10 months - 2 yrs
3	More Than KRW 30 Million, But Less Than KRW 50 Million	6 months - 1 yr 6 months	10 months - 2 yrs	1 yr - 3 yrs 6 months
4	More Than KRW 50 Million, But Less Than KRW 100 Million	1 yr - 2 yrs 6 months	1 yr 6 months - 3 yrs 6 months	2 yrs 6 months - 5 yrs
5	More Than KRW 100 Million	2 yrs - 4 yrs	3 yrs - 6 yrs	4 yrs - 7 yrs

The Sentencing Commission is planning to confirm the proposed amendment around March next year after listening to the opinions of related agencies as well as holding a public hearing.

5. Establishment of Judicial Policy Research Institute

A. Background

Judicial Policy Research Institute was established under the Supreme Court to conduct research about judicial systems and the improvement of trial systems. As the judicial environment has radically changed such as the occurrence of new type of legal conflicts, and the expansion of judicial exchanges with foreign countries brought by globalization, needs arose for an organization that is able to guarantee judicial accessibility to people, solve legal disputes and promote social integration through mid- to long-term research. The research needs to be interdisciplinary and be based on a new paradigm that is proactively and consistently participated by various expert groups from the Judiciary, non-governmental legal circle, academia, and civic groups. In this context, existing policy research departments under the National Court Administration and Commissions under the Supreme Court are bound to expose certain limits in their traditional research methods. Therefore, Judicial Policy Research Institute was built in order to design policies that will help the Judiciary, study the solutions to the questions previously not addressed by the traditional law studies, conduct organized research of judicial matters possibly stemming from the unification, carry out comparative research on the Judicial system of foreign countries, expand the judicial exchanges with foreign countries, and spread the Korean system. Therefore, Judicial Research Institute was built as a new specialized group under the Supreme Court.

B. Progress

With regards to the partial amendment bill of the “Court Organization Act” establishing the Institute, negative opinions exist that one should be more careful while admitting the need to respond to a rapidly changing judicial environment mostly resulting from globalization and the expanding guardianship of the State.

First, the judicial policy research conducted by the Judiciary might compromise the objectivity and fairness. In particular, a research institute, which was built by the Court itself and whose independence and neutrality might be in question, taking the lead in change of judiciary policies might push the Court into a political debate.

Second, there could be some ambiguity in the relationship between the Institute and Judicial Research & Training Institute. If added by Training Institute for Court Officials, the Court practically has three institutes dedicated to research and training under it, which is a bit redundant.

Third, if basic positions like the President of the Institute, Chief Researcher, and Researchers are filled by mostly judges within a closed system, it would be perceived as a disguise for employment security or post-retirement plan. Therefore, more open hiring system needs to be adopted to guarantee the impartiality and independence as a research institute.

Fourth, redundant research areas are also a big concern. Civil, commercial, and criminal affairs are the responsibilities of the Ministry of Justice: civil and commercial legislation policies are supported by Korea Legislation Research Institute, while criminal areas are supported by the Korea Institute of Criminology. If the research activities of the Judiciary Policy Research Institute expands into the legislation, which is the precondition of the judiciary, the redundancy would be inevitable. Furthermore, unification judicial support, foreign judicial exchanges, and legal education are already

covered by the Ministry of Justice, Public Prosecutors' Office, Korean Bar Association, and other related organizations. Particularly, the unification judicial support requires State-level policy development efforts.

Going through a series of discussions, an amendment bill reflecting the measures to promote the independence and transparency of the operation of the Institute was passed in the National Assembly in July 2013. The amendment bill is characterized by the following elements:

First, the President and Chief Researcher of the Institute will be appointed with the consent of the Council of Supreme Court Justices, and the full-time judges working at the Institutes will be within the quota of the judges; second, the Operation Committee will be established and more than half of the committee members shall be appointed from those who are not judges; and third, the Institute shall publish an annual report to report to the National Assembly on research plan for the next year as well as the research performance for the concerned year.

C. Major provisions of the partial amendment bill for the Court Organization Act

Part VII Chapter III of the Court Organization Act amended on August 13, 2013 provides regulations on the establishment, organization, and structure of the Judicial Policy Research Institute.

The Act provides the appointment procedure of the President and Chief Researcher while full-time judges at the Institute shall be operated within the number of judges stipulated by the "Act on the Fixed Number of Judges at Various Levels of Courts." In order to promote independence and transparency, an operation committee will be established, more than half of its members shall be composed of non-judges. In the meantime, the Institute shall publish an annual report to be reported to the National Assembly

about their research activities and the future research plans, as a way of securing the objectivity of the research through a control of the National Assembly.

There shall be one President, one Chief Researcher, Researchers, and Researching Members (Article 76-2 (1), Court Organization Act). The President and Chief Researcher shall be appointed as a judge or a public official in political service with the consent of the Council of Supreme Court Justices (Art. 76-3 (1), the Act). Researcher and Researching Members shall be either directly appointed by Chief Justice or appointed by the Chief Justice with the nomination of the President of the Institute, among those who i) have qualifications for a judge or lawyer (including foreign lawyer qualifications), or ii) have a Master's or Bachelor's degree and have experience or accomplishments stipulated by the Regulations of the Supreme Court, or iii) have a Ph.D. degree (Art. 76-3 (2)).

In order to deliberate on important affairs regarding the operation and research of the Institute, the Operation Committee, composed of nine members appointed by the Chief Justice of the Supreme Court. Their official term is two years and could be extended only once. More than half of the members shall be non-judges (Art. 76-6).

The Institute shall publish an annual report about the research plan for the coming year as well as the research activities of the passing year, and submit it to the National Assembly (Art. 76-7).

D. Prospects

The Judicial Policy Research Institute is expected to contribute to the development of judicial policies as a think tank of the Judiciary that conduct research on major judicial policies such as post-unification legal institution or judicial systems.

6. Raising Labor House Detention Limit

The converted value of a day's detention in a labor center is a daily standard for the amount of money deducted from the fine that is imposed when the convicted person fails to or chooses not to pay it. Currently, there are no provisions or standards set by certain acts or regulations. The Court has imposed KRW 50,000 per day with the total number of days of detention not exceeding three years purely based on practice.

However, the amount of fine has not increased for the past 10 years even though the scale of economy has grown significantly. Considering that fines or those converted to labor has a general or special prevention effect of crimes, the standard amount needs to be aligned in accordance with the reality. In particular, the latter is a so-called alternative punishment restricting physical freedom, with practically the same impact as the execution of traditional punishment. Therefore, different amount of deduction applied by different courts will lead to debates over the fairness of trials.

According to the survey done by Criminal Law Research Association on judges, roughly 7 out of 10 (296 out of 419, or 70.6%) responded that the current amount of deduction is too low and needs to be increased. To the question of the most appropriate amount of fine, 130 judges or 43.3% chose KRW 100,000, followed by KRW 80,000 answered by 98 judges or 32.6%, KRW 70,000 by 64 or 21.3%, and others by 8 or 2.6% of the total respondents. KRW 100,000 was thought to be the most appropriate amount considering the urban daily labor cost of KRW 83,975 as of September 1, and the practice of imposing the fine by the unit of KRW 100,000. In the meantime, shorter days of detention stemming from increased deduction amount would potentially weaken the warning function of fine. In other words, many people would then prefer to be detained than to pay the fine.

7. Consulting System on Judges' Remark and Behaviors during Trials

In this system, communication specialists observe the proceedings of each judge and provide customized solutions. It was piloted for six months from April to October 2013 for 50 judges at six courts including Seoul Central District Court, Incheon District Court, and Daejeon District Court. The judges all reportedly were satisfied with the system in that they could discuss the solutions with the specialists and share the know-hows of other judges.

8. Major Court Decisions

A. The confiscation of the land and things used for prostitution (Supreme Court Decision 2012Do11586, decided May 23, 2013)

<Main issues and holdings>

[1] Where the criminal proceeds are confiscated in accordance with Article 9 (1) of the "Act on Regulation of Punishment of Criminal Proceeds Concealment," whether the things belonging to the accomplice are subject to the confiscation (positive) and the method to confiscate the things that belong to one of the accomplices.

[2] Whether Article 2 (1) 2 (c) of the "Act on the Punishment of Acts of Arranging Prostitution" stating "providing funds, land, or buildings in awareness that they are used for prostitution" includes the case where offender him/herself arranges, solicits, induces, and urges the prostitution or provides place for prostitution (positive).

[3] When criminal proceeds are confiscated under the "Act on Regulation of Punishment of Criminal Proceeds Concealment," whether the principle of proportionality applies (positive) and the criteria to judge the violation of the principle.

[4] The defendant was title-entrusted with land and buildings from A and finished the registration of transfer, and the defendant, in awareness of its usage, provided the real estate to be used for prostitution, which was jointly run by A. The defendant was found guilty with the charges of the violation of the “Act on the Punishment of Acts of Arranging Prostitution” and the original court has not erred in imposing the confiscation of the land and the building.

<Summary of decision>

[1] The “criminal” in Article 48 (1) of the “Criminal Court” also includes accomplice; therefore, the things that belong not only to the defendant but also the accomplice may be confiscated regardless of their indictment status. The same applies to the interpretation of the “criminal” in Article 9 (1) of the “Act on Regulation of Punishment of Criminal Proceeds Concealment.” Considering that the punishment should be individually imposed on each of the accomplice, the confiscation, which is a supplementary punishment, should also be imposed individually.

[2] Article 8 (1) of the “Act on Regulation of Punishment of Criminal Proceeds Concealment (Criminal Proceeds Act hereinafter)” states that the criminal proceeds may be confiscated, while Article 2 (2) (b) i) of the Act defines the funds or property related to Article 19 (2) (1) of the “Act on the Punishment of Acts of Arranging Prostitution (Punishment Act hereinafter).” However, it should be interpreted that Article 2 (1) (2) (c) not only includes where funds, land, and buildings are provided for those who arrange, solicit, induce, or urge prostitution (Article 2 (1) (2) (a) of the Punishment Act) or provide places for prostitution (Article 2 (1) (2) (b) of the Act) but also where the owner of the property commits the aforementioned crime.

[3] The confiscation stated in Article 48 (1) (1) of the “Criminal Act” is optional; therefore, it is completely in the discretion of

the Court whether to confiscate certain things or not even though all the requirements are satisfied. However, the decision is also subject to the universal principle of proportionality, which also applies to Article 8 (1) of the “Act on Regulation of Punishment of Criminal Proceeds Concealment.” The criteria in judging the compliance of the principle, the following needs to be considered: i) the scope of the usage and significance of the things subject to confiscation (things hereinafter), ii) the role and responsibility of the owner of the things in a crime, iii) the scope of infringement of the legal interest done by the execution of the crime, iv) a crime motive, v) the proceeds of the crime, vi) the separability of the part of the things used for the execution of the crime, vii) the correlation and balance of the actual value of the things and the crime, viii) the inevitability of the things to the performer, ix) the likelihood of the performer committing a crime of a kind using the things in case they are not confiscated, and other circumstances.

[4] When the defendant jointly arranged, etc. the prostitution for business with A, from whom the defendant had been title-entrusted with land and the buildings (real estate hereinafter), which were provided for the purpose of prostitution, and was charged and found guilty on charges of the violation of the “Act on the Punishment of Acts of Arranging Prostitution” by providing the real estate in awareness that they would be used for such a purpose, the original Court has not erred in confiscating the real estate for the following reasons: i) A purchased and title-entrusted the real estate to have them provided for prostitution, which continued for about a year, ii) the nature of the prostitution requires the continuous provision of the place, iii) most of the rooms from the second to fourth floors of the five-story building were provided for prostitution, iv) the defendant was the manager of the proceeds of the prostitution, who with A controlled the crime by conducting business through the prostitution, v) the actual value of the real estate was far smaller compared to the proceeds,

vi) A had previously been convicted twice with the same crime while the defendant was the first-timer, and vii) other factors such as the duration of the arranging activities, and the fact that A continued the offense after the crackdown.

B. The meaning of the principle of prohibition of changes disadvantageous to the defendant at a formal proceeding (Supreme Court Decision 2011Do14986, decided February 28, 2013)

<Main issues and holdings>

[1] The meaning of the principle of prohibition of changes disadvantageous to the defendant stipulated in Article 457-2 of the “Criminal Procedure Act.”

[2] Where only the defendant requested a formal trial against a summary order, and the Prosecutor changed the indictment facts at the first instance by preliminarily adding counterfeiting and uttering private sign to the previous charges of counterfeiting and uttering private document, the original court has erred in maintaining the decision of the court of the first instance that had not allowed the change and found the defendant not guilty on the original charges.

<Summary of decision>

[1] The principle of prohibition of changes disadvantageous to the defendant stipulated in Article 457-2 of the “Criminal Procedure Act” means that in a case where the defendant requested a formal trial against a summary order, the Court cannot impose in its main decisions heavier punishment than that from the summary order. Therefore, it is not a violation of the principle when the title of the crime or provisions applied changed to heavier ones as long as the imposed punishment is the same as or lighter than that of the summary order.

[2] Only the defendant requested a formal proceeding against a summary order, and the Prosecutor changed the indictment facts by preliminarily adding the charges of counterfeiting and uttering private signature to the previous ones of counterfeiting and uttering private document. The two charges have normative identicalness in terms of basic social facts including time, location, pattern, and methods of the crime while the preliminary facts will be absorbed when the defendant is found to be guilty on main indictment facts. In addition, when the defendant is guilty on charges of counterfeiting and uttering private signature, the judge can impose a fine as a result of the principle of prohibition of disadvantageous changes even though the statutory punishment of those crimes has only imprisonment with limited term. Therefore, the original court has erred in not reversing the decision of the first court that had misinterpreted legal principles by not allowing the change of the indictment facts and finding the defendant not guilty on all charges.

C. The provisions aggravating the minimum period of attachment of electronic monitoring device for minors (Supreme Court Decision 2013Do6181 and Supreme Court En Banc Decision 2013Do122, decided on July 25, 2013)

<Main issues and holdings>

Whether the minimum period of wearing an electronic devices stipulated in the proviso of Article 9 (1) of the “Act on the Probation and Electronic Monitoring of Specific Criminal Offenders” also retroactively applies to persons younger than 19 who committed specific crimes before the entry into force of the Act (negative).

<Summary of decision>

“Act on the Probation and Electronic Monitoring of Specific Criminal Offenders” provides in Article 5 (1) that the Prosecutor

may file a request with the Court to issue an order to attach a device to persons who are liable to recommit a crime and who committed sexual assault against minors under 19 or those with mental or physical disability. The proviso of Article 9 (1) states that when a specific crime is committed against a person under 19 years of age, the minimal period of attachment shall be the double the minimal periods, alleviating the requirements of the attachment while increasing the aggravated minimum period compared to the previous Act (the one before the amendment on December 18, 2012 as Act No.11558). The addenda of the Act state in Article 2 (2) that “A request for an attachment order made under the amended provisions of Article 5 (1) (4) and (5) shall also apply to a sex crime committed before this Act enters into force,” allowing Article 5 (1) (4) of the Act to be applied to the violations of the “Act on Special Cases Concerning the Punishment etc. of Sexual Crimes” committed against victims ages 18 before the Monitoring Act entered into force. In the meantime, the addenda have no provisions regarding the retroactive application of the proviso of Article 9 (1). The Act was amended in a way that causes the defendant substantial disadvantage, and the Act has no provisions that expressly regulate the retroactive application. Then the retroactive application should be denied both in terms of protecting the rights and interest of the defendant and respecting legislators’ intention.

D. The right of the suspect to remain silent and the admissibility of the protocol containing the examination of suspect
(Supreme Court Decision 2010Do3359, decided March 28, 2013)

<Main issues and holdings>

[1] Where the response of a suspect on the exercise of his/her right to remain silent violated the method stipulated in Article

244-3 (2) of the “Criminal Procedure Act,” whether the protocol of the examination of the suspect is admissible as evidence (negative in principle)

[2] The admissibility of a protocol containing the examination of a suspect written while excluding the participation of a counselor whose presence was expressly requested by the suspect (negative)

<Summary of decision>

[1] Reviewing Article 12 (2) of the Constitution, Articles 244-3 (1), (2), and 312 (3) of the “Criminal Procedure Act,” one can conclude that if a suspect’s answer regarding the exercise of his/her right to remain silent was not written in accordance with the method provided in Article 244-3 (2), that was not written by the suspect him/herself, or his/her name plus seal (or signature alone) was not inscribed on the protocol, then the protocol cannot be admissible as evidence as it was not written pursuant to the due process and methods provided in Article 312 (3) of the “Criminal Procedure Act.”

[2] Considering the objective of legislation of Article 12 (1) and the main sentence of Article 12 (4) of the Constitution, and Article 243-2 (1) of the “Criminal Procedure Act,” the protocol of the examination of a suspect written excluding the participation of a counselor whose presence had expressly been requested by the suspect cannot be admissible as evidence, as it was not only in violation of the due process and methods prescribed in Article 312 of the “Criminal Procedure Act” but also evidence collected in violation of the due process in Article 308-2 of the same Act.

**E. Whether a legal wife can be an object of rape
(Supreme Court Decision 2012Do14788, decided May 16, 2013)**

<Main issues and holdings>

Whether a legal wife can be included in “woman” prescribed

in Article 297 of the “Criminal Act” (positive), whether a husband can “rape” his legal wife, while the marriage is maintained, by using force or intimidation that can make impossible or substantially difficult the resistance of his wife (positive), and the criteria to judge whether the assault or intimidation made impossible or substantially difficult the resistance of the wife.

<Summary of decision>

[Majority opinion]

(A) Article 297 of the “Criminal Law (the one before the amendment on December 18, 2012 as Act No.11574)” provides that any person who rapes a woman is punishable, and the woman here includes all females, married or unmarried, adult or minor. The literal interpretation of the Act also dictates that a legal wife is also included in the object of rape since the Act has no provisions that states otherwise. Meanwhile, the Criminal Law No. 293 established on September 18, 1953 had the provisions of rape in Part 2 Chapter 32 under the title of “Crimes of chastity,” which was amended on December 29, 1995 as Act No. 5057 to “Crimes of rape and indecent act.” The change reflected universal social awareness and legal perception that the legal interest infringed upon by rape is sexual self-determination enjoyed by a free and independent woman, not some chastity or sexual purity that is based upon the existence of current or potential spouse. A married couple has a legal obligation of cohabitation, which by no means includes an obligation to endure a sexual intercourse forced by assault or intimidation. Getting married should never mean giving up one’s sexual self-determination, nor it should be a process of enduring a sexually suppressed life.

(B) In conclusion, considering the marriage and family life protected by the Constitution, change in social awareness of domestic sexual violence, the structure of the “Criminal Law” and the amendment process, the legal interest of crimes of rape, and

the legal obligation of a married couple to live together, the woman in Article 297 also shall include a legal wife. This applies not only in a case where a marriage is no longer practically maintained, but also where it is maintained under which a husband has a sexual intercourse with his wife by use of assault or intimidation that can render the resistance of his wife either impossible or substantially difficult. However, from a perspective of minimizing the State intervention in the domestic matters, in judging the scope of the assault or intimidation, the Court should consider whether the violent measures essentially violate the sexual self-determination of the wife, the details of how a husband came to exert violence, the pattern of the marriage, the usual behaviors of the couple, and the situations at the time of and after the sexual intercourse.

[Dissenting opinion of Justice Lee Sang-hun, and Justice Kim Yong-duk]

(A) We cannot agree with the majority opinion that the Supreme Court should change its position that previously denied a legal wife could be an object of rape by means of forced sexual intercourse.

(B) The literal definition of “Adultery,” which is the translation of [Gan-eum], is a man and a woman not married to each other having a sexual intercourse, while rape is a forced adultery. Therefore, the literal crime of rape is where a man and a woman not married to each other have a sexual intercourse by means of assault or intimidation. The object of rape is woman: logically, the literal definition of rape is where a man by means of assault or intimidation has a forced sexual intercourse with a woman who is not his wife. The punishment of rape was based on the intrusive nature of the crime where a woman is forced to have sexual intercourse by a man who is not her husband. Therefore, it would be a violation of the principle of offense-punishment balance by subjecting sexual intercourse between spouses to harsh punishment to expand the crimes of rape to a married couple solely based

on the changes of the title of Chapter 32. If we have to choose to punish, considering the unique nature of marriage and family life, it would be much better to apply crimes of violence or intimidation in order to effectively respond to the various types of sexual self-determination and protect a marriage life and the right of wife.

F. Admissibility of evidence in a homicide case without a body

<Main issues and holdings>

The intention of Article 254 (4) of the “Criminal Procedure Act” that states the indictment facts must be specified using the time, location, and method of a crime is to clarify the scope of the object of trials for the Court while facilitating the defense activity of the defendant. Therefore, based on the nature of the crime indicted, if the time, location, method, and objective of the crime were specified enough to distinguish the indictment facts from others, they are sufficiently written. If part of them are rather unclear, if they can be specified with the help of other facts written on the indictment, and if they do not compromise the ability to defend of the defendant, one cannot say that the indictments are not specified (Supreme Court Decision 2003Do8077).

Furthermore, time, location, and method are, even in a serious crime like homicide, not essential requirements of the crime. In case these facts cannot be confirmed specifically, it would be permissible to clarify in a general manner (Supreme Court Decision 86Do1073). By the same token, the Original Court has not erred in maintaining the decision of the Court of the first instance that had decided that the indictment facts could fully be specified as a result of comprehensive interpretation of other facts even though the time and location of the crime was not specifically presented, and that no part of the defending right of the defendant had been

compromised by this.

Conviction in a criminal procedure must be based on the evidence that has enough probative power to free judges from reasonable doubt and convince them that the indicted facts are truthful, and if no evidence is strong enough, then the judge must decide in favor of the defendant despite his leaning toward the defendant being guilty. However, the probative power can not only be formed by direct evidence but also by indirect evidence that does not go against common experience and logic. When indirect evidence as a whole can prove to have a comprehensive probative power, which an individual piece cannot have, then it is possible to confirm the indicted facts based on it (Supreme Court Decision 99Do3273). However, in a case where a body was not found, in order to find the defendant guilty who is pleading not guilty on the whole charge, the confirmation of death must be preceded while that the death occurred as a result of the act of the defendant who had the intention of murdering must also be proven to the extent of freeing the judge from reasonable doubts (Supreme Court Decision 2008Do2792).

G. The effect of the decision of the Court of the first instance where no explanatory materials regarding the application for a court-appointed counsel were submitted at the appellate court (Supreme Court Decision 2012Do3839, decided on June 27, 2013)

<Summary of decision>

Where the defendant is unable to appoint a defense counsel because of poverty or any other reason, if the defendant requests, the court shall appoint a defense counsel (Article 33 (2) of the “Criminal Procedure Act”), and the defendant is required to submit the explanatory materials about the reasons except when it could be recognized that they were already explained through the record

(the proviso of Article 17-2 of the “Regulations of Criminal Procedure Act”). According to the record, the defendant filed a request with the Original Court for the reason that his current financial situation could not afford a private counsel; the Court rejected the application at the first proceeding on February 28, 2013 and continued with the examination with the presence of only the defendant. The Court ended the oral argument on March 21, 2013 and reversed the decision of the first court that had found the defendant not guilty, sentencing him to 10 months of imprisonment and arresting him at the court. The defendant, even though he did not submit the materials to explain why he could not afford a private counsel, was determined by the first court that he is jobless without any income source, has no real estate, movables, or savings account, and as a credit delinquent, was burdened with debts worth of KRW 10,000,000 to financial organizations and about KRW 5,000,000 to 10,000,000 to individuals. He was living with his son and daughter in a rented house paying a monthly rent of KRW 300,000 with KRW 10,000,000 kept as a deposit money. The evidence backing the facts above had been submitted.

Since it is recognized that the request for a court-appointed counsel was made by the defendant, the Original Court should have appointed a counsel for the defendant that would participate in the trial examination. The Original Court has erred in rejecting the request to continue with the proceeding by violating the provisions of the “Criminal Procedure Act” regarding the appointment of the defense counsel and thereby preventing the defendant from exercising his effective defense assisted by the State-appointed defense counsel.

H. Conscientious objection to military service not accepted (Supreme Court Decision 2013Do4995, decided June 27, 2013)

<Case>

Choi, who is a believer in Jehova's Witnesses Church, received a conscription notice in July 2012 and did not join the army until three days after September 4, which was the due date, without any reason. Two conscientious objectors from Korea submitted a petition in 2006 to the UN Human Rights Committee to ask for the recognition of the right to conscientious objection, which led to the four decisions prompting the Korean government to arrange relief measures for conscientious objectors. Based on these decisions, 333 Jehova's Witnesses believers filed an application with the Constitutional Court on September 18, claiming that it is unconstitutional for the National Assembly not to legislate the Acts that recognize the conscientious objection (2013Hun-Ma431).

<Reasons for decision>

The Constitutional Court once decided that provisions intended to punish dodging the conscription is not unconstitutional, and the Supreme Court decided that conscientious objection is not a justifiable reason that exempts the punishment under the "Military Service Act." Furthermore, "International Covenant on Civil and Political Rights" to which the Republic of Korea is a party cannot be what conscientious objectors can cite as a legal ground to claim the exemption from military service. Even if the UNHCR issued a recommendation, it does not have a legal binding force on the Korean government.

**I. Appeal to the Supreme Court for the reason of inappropriate sentence not accepted
(Supreme Court Decision 2013Do6219, decided July 25, 2013)**

<Reasons for the rejection of appeal>

The interpretation of the “Criminal Procedure Act” dictates that even when death, life imprisonment, or confinement of more than 10 years are imposed on the defendant, Prosecutor cannot appeal to the Supreme Court arguing that the sentence of the Original Court was too light or that, to the disadvantage of the defendant, the Court has erred in judging the facts.

In the meantime, the Supreme Court decided in April 1962 that the reason the amended “Criminal Procedure Act” allowed appeal to the Supreme Court for the reason of inappropriate sentencing only when a serious punishment was imposed was to leave the last resort for the defendant, not for the Prosecutor: therefore, the latter cannot appeal to the Supreme Court for reasons disadvantageous to the defendant (Supreme Court Decision 62Do32). Since then, the Court has been consistently denying the appeal of the Prosecutor for inappropriate sentencing. In addition, at a time when Prosecutors have been increasingly citing inappropriate sentencing as a ground for appeal, especially in cases drawing public criticism, the Supreme Court seems to have made it clear that there is no clear need to change the precedents.

Section 4 Constitutional Court

1. Major Trend

Since Justice Lee Gang-guk and Justice Song Du-hwan resigned, the Constitutional Court had to go through an organizational

vacuum in 2013, which was later filled by the appointment of Justice Park Han-chul, the President, the fifth Constitutional Court launched. The personnel arrangement was completed by appointing Justice Cho Yongho and Justice Seo Kiseog. The Court selected and announced “10 major decisions of the Constitutional Court” and held academic forums under the theme of unification and welfare. President Justice Park Han-chul said in his speech commemorating the 25th anniversary of the Court that the Constitutional Court would keep doing what it has to do: providing a venue for reasonable discussions and sensible communication and setting future value and directions. He particularly emphasized that the Court will be fully prepared for unification by preemptively conducting research on specific constitutional affairs and orders that can occur during the course of change in the relationship between the two Koreas as well as the process of unification. Meanwhile, public interest in the dissolution of political parties has unprecedentedly peaked as the request for the dissolution of the Unified Progressive Party (UPP), and the provisional disposition to suspend the activities of the Party have been filed with the Constitutional Court. Justice Park also showed his commitment to addressing this case in a fair manner while providing timely information regarding the progress.

A. The Fifth Constitutional Court

On January 21, 2013, President Justice Lee Gang-guk resigned after a full term. As the former Justice Lee Dong-heup, a candidate for the president of the Constitutional Court nominated by President Lee Myung Bak stepped down on February 13 on the accusations regarding the embezzlement of the public funds raised during a personnel hearing, some were raising their concerns over a potential long-term vacuum of the President of the Constitutional Court. During the term of Justice Song Du-hwan, the then-acting President

of the Court, was due on March 22, President Park Geun Hye appointed Justice Park Han-chul as the new President of the Constitutional Court on March 21. Justice Park was the first candidate who built his career as a Public Prosecutor. Justice Park was appointed as the new President of the Constitutional Court on April 12 after completing a personnel hearing, thereby launching the Fifth Constitutional Court and completing the personnel lineup with the appointment of Justices Cho Yong Ho and Seo Ki Seog.

B. 10 Major Decisions of the Constitutional Court

In commemorating its 25th anniversary on September 1, 2013, the Constitutional Court announced “10 Major Decisions of the Constitutional Court.” 3,604 (3,344 citizens, 87 correspondent journalists, and 173 employees of the Constitutional Court) participated in a survey conducted both on- and off-line from August 19 to 30. They chose five decisions that they thought were the most important among 25 proposed by the Constitutional Court. The case winning the biggest vote was the case where “Confiscation of Property Awarded for Pro-Japanese Collaboration During Japanese Occupation Case, etc.,” was found constitutional (2008Hun-Ba141), delivered March 31, 2011. The case won 1,554 votes or 8.6% out of 18,020. The Constitutional Court decided the confiscation is not retroactive legislation banned by the Constitution, based on the Preamble that claims to uphold the cause of the Provisional Government of the Republic of Korea. The result of the survey seems to reflect the public interest in the legitimacy of rectifying history involving pro-Japanese activities during the Japanese Occupation Period. The second most popular case was the one where judgments against persons violating Presidential Emergency Measures under the Yushin Constitutions are all unconstitutional (2010Hun-Ba132), winning 1,477 votes or 8.2% of the total, followed by the case No. 2004Hun-Na1 delivered on May

14 with 1,458 votes or 8.1%, where the request for the impeachment of the then-President Roh Moo-hyun was rejected. Meanwhile, the survey also allowed the participants to choose additional decisions that they felt important other than the listed 25. Among them are “Dismantling of Gukje Group (Unconstitutional, 89Hun-Ma31)” delivered on July 29, 1993, “Granting additional points in national exams to men who finished obligatory military service (Unconstitutional, 98Hun-Ma363)” delivered on December 23, 1999, and “Criminal immunity for drivers whose vehicle is covered by general auto insurance (Unconstitutional, 2005Hun-Ma764)” delivered on February 26, 2009.

C. The very first request for the dissolution of a political party

The Ministry of Justice filed a request with the Constitutional Court (2013Hun-Da1) on November 5, 2013, for the dissolution of the UPP whose member Lee Seog-ki was indicted under custody with the charge of conspiracy of insurrection along with the request for provisional measurement for the suspension of the activities of the Party (2013Hun-Sa907). Under the Lee Seung-man administration, the Progressive Party once had its registration cancelled in the form of administrative disposition in 1958, but no requests had been filed since the 1960 Constitution amendment that introduced the system of dissolution of a political party. Therefore, the very first request for the UPP dissolution was bound to create social disturbance regarding the legal procedure of dissolution judgment as well as academic resonance within law circles with regards to the constitutional discussions and issues at hand. Responding to such attention paid to the case, the Constitutional Court highlighted the requirements, procedures, and cases of the dissolution of a political party through news release while promising to deal with the case in a swift manner in accordance with the Constitution and related acts.

D. The trend of Constitutional Research Institute

Established with the objective of seeking the development of the Constitution and constitutional litigation, Constitutional Research Institute has been conducting various constitutional studies with huge social impacts while engaging in education designed to promote public awareness about basic rights. On June 4, 2013, President of the Constitutional Court Justice Park Han-chul appointed the second President of the Institute, Professor Kim Mun-hyun of Ewha Women's University, succeeding the former President Hur Young. In the meantime, Justice Park announced in his speech commemorating the 25th anniversary of the Institute that the Institute would carry out a study about specific constitutional affairs and new order possibly stemming from unification. An academic conference under the same topic was held under the leadership of the Institute on September 12, 2013, participated by the Ministry of Justice, Ministry of Unification, and other academic organizations related to unification. Active discussions and presentations took place under the topic of "Constitutional affairs stemming from the unification process" as well as various agenda including "Constitutional issues of Inter-Korean Basic Agreement," "Ensuring basic human rights of North Koreans and main issues of North Korea Human Rights Law," and "Constitutional issues of the unification process of Germany." Furthermore, an International Academic Symposium was held on December 10, 2013 to commemorate the 25th anniversary of the Constitutional Research Institute under the theme of "The role of constitutional litigation in welfare." Experts from the United States, Germany, France, and many other countries participated in the symposium to introduce the reality of welfare and the role of the highest constitutional court in each country. Participants reached a consensus that the role of the State in the area of welfare needs to be strengthened, and some argued that

Constitutional Court must present the constitutional standard for material life by appropriately reflecting social and economic reality.

2. Important Decisions in 2013

A. Presidential Emergency Decrees under the Yushin Constitution (Unconstitutional)

A decision of a case 2010Hun-Ba132 and others delivered on March 21, 2013 reviewed the constitutionality of the Presidential Emergency Decree No. 1, 2, and 9, invoking Article 53 of the Yushin Constitution (the Constitution of the Fourth Republic of Korea) of the 1970s. First of all, the measures that prohibited any act of denial, rejection, distortion, or slander of the Yushin Constitution, any act of speech, suggestion, or petition for revising or repealing the Yushin Constitution and any act of fabrication and distribution of rumors and tried any person who violated the Decrees by court-martial for punishment are equivalent to statutes; therefore, the Constitutional Court shall have the jurisdiction over the constitutional review of the Decrees at issue. And the review standard shall accord with the current Constitution. In the meantime, even though the constitutionality was not a precondition of the adjudication of the Court case because either the defendant had been found not guilty or the request for retrial had been rejected, for the cause of the protection of the constitutional order and the remedy for individual rights, the pre-conditionality in this case must be recognized as an exception for the following reasons: a) the authority to review the constitutionality of emergency measures exclusively belongs to the Constitutional Court; b) an elucidation is needed from a constitutional viewpoint about the constitutionality of the Decrees; c) the Constitutional Court decision, unlike the Supreme Court decision in this case, have a universal binding force and serves as a ground for the request for retrial

against a confirmed decision of conviction; and d) persons who were punished during the Yushin Constitution for the violations of the Decree were under a normative barrier due to which they were not able to argue the constitutionality of the Decree at a trial proceeding.

Meanwhile, Decree No. 1 and 2 that comprehensively prohibit and punish any criticism against the government are not compatible with the national sovereignty and fundamental order of liberal democracy, the two basic principles of the Constitution of the Republic of Korea. Therefore, the legislative purpose was not legitimate and the legislative methods inappropriate, either. Furthermore, those Decrees control any opposing movement against the Yushin Constitution and violate freedom of political expression of the people, abusing the State power beyond the legitimate restrictions. In addition, Decrees No. 1 and 2 punish any act of expressing the opponent or negative opinion against the Yushin Constitution, including any expression with regard to the Constitution regardless of the necessity of the invocation of the national emergency right, at the Emergency Court-Martial despite an act subject to the punishment cannot be specified. Therefore, Decree No. 1 and 2 violate the Constitution in that they abused the state punishment power beyond the legitimate restriction on the freedom of expression; violated the principle of clarity under the principle of *nulla poena*; and infringed the political rights regarding the revision of the Constitution, the right to national referendum, the doctrine of warrants, freedom of body, and right to trial. Next, Decree No. 9 is not legitimate under the principle of sovereignty that is the fundamental principle of the Constitution in that it stipulates a complete ban on any argument regarding the revision or repeal of the Yushin Constitution. And the unified public opinion is presupposed by totalitarianism that suppressed the freedoms of the people. Therefore, the means taken by Decree No. 9 is not appropriate in that the free discussion

protected under the freedom of expression is an ideal means to reach to the public consensus in diversified democratic society. Furthermore, Decree No. 9 prohibited any assembly, protest, or political activity of students and authorized the relevant minister to take measures to expel students from school, to temporarily or permanently close down the schools which affiliated students attended, thereby infringing the freedom of assembly of students, freedom of learning, autonomy of universities, and principle of personal responsibility by punishing the school or organization where the said person was affiliated. It also violates the principle of clarity under the principle of *nulla poena*, the political right regarding the revision of the Constitution, freedom of expression, freedom of assembly, doctrine of warrants, freedom of body, and academic freedom (Constitutional Court Decision 2010Hun-Ba132 etc., delivered on March 21, 2013).

B. Punishment of crimes of slanders against candidates under the “Public Official Election Act” (Constitutional)

The 2011Hun-Ba75 case delivered on June 27, 2013 reviewed the constitutionality of Article 251 (Slanders against candidates) of the “Public Official Election Act (amended on August 4, 2005 as Act No. 7681).”⁶⁸⁾ Whether “including a person who intends to be a candidate” and “public interest” violate the principle of

68) Article 251 (Slanders against Candidates) of the “Public Official Election Act (amended on August 4, 2005 as Act No. 7681)”

Any person who slanders a candidate (including a person who intends to be a candidate), his spouse, lineal ascendants or descendants, or siblings by pointing out any fact openly through a speech, broadcast, newspaper, communication, magazine, poster, propaganda document, or other means, with the intention of getting elected or getting another person to be or not to be elected, shall be punished by imprisonment for not more than three years or by a fine not exceeding KRW five million: provided that where it is a true fact and concerns public interest, he shall not be punished.

clarity was argued. The Court ruled that “a person who intends to be a candidate” means a person who had an objective sign of intention to become a candidate at the time when he/she committed an act of defamation while “public interest” can be understood by any persons with common sense and sensible legal perception and is not prone to arbitrary interpretation of a judge, thereby not violating the principle of clarity. The second point of the argument was whether the provision infringes upon the freedom of election campaign or political expression. The legislative purpose of the provision is legitimate and the methods to accomplish it are also appropriate: it aims to prevent excessive character assassination and protects the honor of the potential candidates and their families, while preventing the evasion of the restriction on the campaign period under the “Public Official Election Act” and allowing voters to make right decisions about potential candidates thereby ensuring the fairness of public elections. The Constitutional Court also decided that it would be more appropriate to judge whether a person “intends to be a candidate” by comprehensively understanding specific situations rather than pinpointing a certain period that would impact the result of the election. Meanwhile, the provision is also not in violation of the balance among legal interests in that the public interest of protecting the honor of potential candidates and preventing voters from making wrong decisions based on groundless accusations is far more conspicuous while what is written is a true fact and concerns a public interest will not be punishable. Therefore, the provision at issue does not violate the principle of proportionality of the Constitution (2011Hun-Ba75, delivered on June 27, 2013).

On a separate note, opinion of unconstitutionality outnumbered that of constitutionality by five to four, only to fall short of the six required to adjudicate the decision of unconstitutionality, thereby prompting the Court to decide constitutional. The

dissenting opinion argued that it would be extremely hard to know whether any person would intend to run for election considering the diversity of the objective, nature, and political stance of the person as well as the high variability of the election process. Also, the scope of the potential candidate can expand without limit in that there is no standard regarding what type of election it would be in which any person who intends to become a candidate. Furthermore, the Act has a system of preliminary candidate registration; therefore, punishing the slandering of preliminary candidates would be sufficient in accomplishing the legislative intent of the provision at issue. In addition, slanders against those who completed preliminary registration are punishable by defamation under the Criminal Law; therefore, there is no punishment vacuum. In sum, the five Justices found the provision in violation of the principle of least infringement if it includes those who completed the preliminary registration, and the principle of the balance among legal interests in that the public interests protected by the provision are abstract such as honor or fairness of election and cannot be more grave than the freedom of election campaign or freedom of political expression limited by the provision (Dissenting opinion: Justices Park Han Chul, Lee Jung Mi, Kim Yi Su, Lee Jin Sung, and Kang Il Won).

D. Meeting with a legal counsel at a place where the facilities to prevent contact have been installed (Unconformable)

In this case (2011Hun-Ma122) delivered on August 29, 2013, the Constitutional Court found Article 58 (4) of the “Enforcement Decree of the Administration and Treatment of Correctional Institution Inmates Act” that stipulates that a meeting of a prisoner with an outside person other than his/her legal counsel shall be conducted at a place where the facilities to prevent contact have been installed unconstitutional by violating the constitutional right

of the inmates to be tried by judges. However, the Court adjudicated a decision of unconformable considering the need to secure legal stability and ordered the provision be amended by July 31, 2014. According to the provision at issue, inmates, in a case related to legal disputes of non-criminal affairs such as civil, administrative, and constitutional litigation, are required in principle to meet a legal counsel at a place with the facilities to prevent the contact. As a result, inmates not only would have difficulty preparing for the trial but also would have “the principle of equal arms” compromised by leaving all the litigation documents and materials exposed to the other party in a case where an inmate filed a lawsuit against the treatment at a correctional facility and the opposite party is the State authorities. In the meantime, a legal counsel is liable for public good, morality, and social responsibility, making it unlikely for an inmate to harm the order of the correctional facility through a meeting with his/her counsel, and even if it does, such a case could be regulated by allowing a restriction as an exception under justifiable circumstances. Therefore, the provision at issue is in violation of the principle of proportionality.⁶⁹⁾ However, since the immediate repealing of the provision might likely cause disturbance in terms of legal stability, the Constitutional Court decided that the provision continue its effect until the administrative legislators amend it in line with the Constitution (Constitutional Court Decision 2011Hun-Ma122, delivered on August 29, 2013).⁷⁰⁾

69) Dissenting opinion by Justices Kim, Chang Jong and Cho, Yong Ho argue that the provision at issue is constitutional in that a broad exception is recognized where inmates can meet at a place without the preventive facilities while inmates can fully be assisted by legal counsels through measures other than meeting them.

70) Administrative legislators shall establish the legislation by July 31, 2014 at the latest, and if not, the provision at issue shall become void from August 1, 2014.

E. Recording and writing a meeting between an inmate and legal counsel (Unconstitutional)

2011Hun-Ma398 delivered on September 26, 2013 reviewed the constitutionality of the recording and writing of a meeting between an inmate and his legal counsel by the warden of the prison. The Constitutional Court judged that such an act would make it hard for an inmate to have a quality legal counseling due to the fear of the exposure of what is being discussed during the meeting. In particular, if the meeting was in preparation of a lawsuit filed by the inmate against the correctional facility or State authorities, it would compromise the so-called principle of equal weapons. In addition, considering that the other party of the meeting is a legal counsel, liable for public good, it is very unlikely for an inmate to engage in activities that will violate any statutes and regulations or disturb the order of the correctional facility. When there is a possibility that such a situation occurs, the meeting can be banned based on the proviso of Article 41 (1) of the “Administration and Treatment of Correctional Institution Inmates Act” in order to accomplish the correctional objective. Therefore, the Constitutional Court found the recording and writing of the meeting by the warden of the facility between the inmate and the legal counsel unconstitutional in that it violated the right of the inmate to be tried by judges (Constitutional Court Decision 2011Hun-Ma398, delivered on September 26, 2013).

F. Statement from a child victim of sexual violence contained in an image recording without the statement at a court being admitted as evidence (Constitutional)

2011Hun-Ba108 case delivered on December 26, 2013 reviewed the constitutionality of Article 18-2 (5)⁷¹⁾ of the “Act on the Protection of Children and Juveniles from Sexual Abuse (before the

amendment on April 15, 2010 as Act No. 10260 and on February 1, 2012 as Act No. 11287)" that provides that the statement contained in an image recording is admissible as evidence without the statement of the child at the Court. First of all, the Court decided that the legislative intent of the provision at issue is legitimate in that it aims to prevent secondary damage that a child victim might incur while attending the Court trial in person as a witness by restricting the cross examination of the defendant. Furthermore, the provision does not fundamentally violate the defense right since it allows the possibility for the Court to discretionally grant the defendant participatory right or examination right while enabling the defendant to alternatively impeach the witness through a person who is in fiduciary relationship and has sat in company with the victim at the investigation. Meanwhile, image recording merely mechanically plays the statement scene; therefore, the need to verify the statement through a cross examination is not that high compared to other evidence. In addition, examination through relay equipments where a child victim has to repeatedly recall the horrible experience cannot replace the role of the provision at issue. The Constitutional Court traditionally viewed the cross examination as an important means to realize the right to a fair trial. However, in this case, after considering the public interest on the protection of the child victim of sexual violence, the scope of restrictions on the cross examination of the defendant, and the substantial impact the image recording would have on the defense right of the defendant, the Court adjudicated that the provision at issue is constitutional and does not violate the right of the defendant to a fair trial by infringing the principle of proportionality

71) Article 26 (6) of the "Act on the Protection of Children and Juveniles from Sexual Abuse" provides the same: The statement of a victim contained in the images recorded in accordance with the procedures may be used as evidence when the veracity of its constitution is acknowledged by the victim or a person who is in fiduciary relationship and has sat in company with the victim on the date of preparation of a trial or on the date of a trial.

(Constitutional Court Decision 2011Hun-Ba108, delivered on December 26, 2013).⁷²⁾

⁷²⁾ The dissenting opinion argued that, admitting that the protection of the child victim is an important public interest, ensuring the right of cross examination is the core element of the right to be tried by judges. In addition, the provision at issue indiscriminately excludes the cross examination by the defendant despite the possibility of resorting to other alternatives to protect the child victim, thereby not meeting the minimum procedural justice and being unconstitutional (Justices Lee Jinsung, Ahn Changho, and Seo Kiseog).

CHAPTER

3



Trends in Criminal Legislation

3

Trends in Criminal Legislation

Section 1 Legislation Trend in Criminal Law

1. Criminal Law

1) Amended Act

Criminal Law was amended twice in 2013. The first amendment was promulgated and entered into force on April 5, 2013 mainly characterized by the establishment of provisions regarding human trafficking. The second amendment on December 18, 2012 discarded the report requirement of victim of sexual crimes and took effect from June 19, 2013.

A. Act enforced on April 5, 2013 (11th partial amendment, No. 11731)

(a) Overview

The major amendment involves the following: crimes of organization of criminal groups, etc. was improved, setting up places for gambling that are the main sources of profit for criminal organizations was expanded, while various provisions regarding human trafficking for profits were established. The amended Act was promulgated on April 5, 2013,⁷³⁾ and entered into force on

the same day.⁷⁴⁾

(b) Background and details of the amendment

The amended Act was to domestically enforce the United Nations Convention against Transnational Organized Crime and Protocol to Prevent Trafficking in Persons, which the Republic of Korea signed on December 13, 2000. Reflecting the requirement of the Convention and Protocol, it newly established the provisions for punishment of activities to sustain crime organizations and groups; elevated statutory punishment for opening gambling places or selling lottery tickets, which are usually used for source of profits for those groups; and established new provisions regarding human trafficking for exploitation thereby effectively preventing and eradicating international organizational crimes while strengthening international cooperation.

〈Table 2-3-1〉 Details of Criminal Law enforced on April 5, 2013

Amendment		Details
Organization of criminal groups	Limiting the scope	A person who organizes a syndicate or group or who joins such syndicate or group → A person who organizes a syndicate or group with the intent to commit a crime punishable by death or imprisonment for life or for at least four years or who joins or becomes a member of such syndicate or group (Article 114)
Crimes concerning gambling and lottery tickets	Expansion of the object of gambling	Gambling with property → gambling (value included) (Article 246)
	Expansion of the requirements of	Sets up a place → sets up a place or space for gambling (Article 247)

73) The amendment bill was submitted by the Executive on August 13, 2012 and passed the regular session of the National Assembly on March 5, 2013.

74) However, the amendment of Article 296 of the partially amended Criminal law (No. 11574) and Article 2 (10) of the addenda entered into force on June 19, 2013.

Amendment		Details
	crimes of setting up places for gambling	
Crimes of kidnapping and abduction	Change of the title of chapter	“Crimes of kidnapping and abduction” → “Crimes of kidnapping, abduction and trafficking in persons”
	Expansion of crimes of kidnapping and abduction that require special purpose	To the previous “for the purpose of indecent acts, sexual intercourse, marriage, gain, and transporting out of the Republic of Korea,” “labor exploitation, sex trafficking, sexual exploitation, or the acquisition of organs” was added.
	Establishment of crimes of trafficking in persons	A new provision was added
	Internationalist /universal legislation	All the provisions apply to aliens (Article 296-2 established)

B. Act enforced on June 19, 2013 (10th partial amendment, No. 11574)

(a) Overview

The partially amended Act includes: eliminating victim’s report from the requirement of rape, expanding the object of sex crimes, and abolishing crimes of rape under the disguise of marriage that had no legal effectiveness. The Act was promulgated on December 18, 2012, and took into effect from June 19, 2013.⁷⁵⁾

⁷⁵⁾ The amendment bill was proposed by the following members of the National Assembly: You Seung Hee (No. 1056), Kim Hyun Sook (No. 1123), Cho Kyoung Tae (No. 1590), Kwon Seong Dong (No. 1742), and Kim Sang Hee (No. 1874). It was decided at the 14th meeting of the Legislation and Judiciary Committee (November 22, 2012) at the 311th regular session of the National Assembly that the bill was not to be referred to the voting, and instead to be replaced by the alternative proposed by the Committee. The alternative bill passed the regular session on November 22, 2012. Following the amendment, the

(b) Background and detail of the amendment

As the society is becoming stratified and complex, the pattern of sex crimes is also getting diverse, which Criminal Law has failed to catch up with. Sexual acts without penetration of the vagina or annus: in other countries such as German and France “rape” is defined as forced penetration of the vagina or annus of any person with any part of the body. However, Korean law only strictly interprets the term rape which is limited to sexual intercourse while other sexual activities are punished only as indecent assault.

Meanwhile, indictment of sexual crimes including kidnapping, abduction, etc. for the purpose of indecent act, sexual intercourse, and crime of rape required the complaint of the victim for the sake of protecting privacy and dignity of the victims, which had been wrongfully exploited by offenders who threaten or accuse them on a charge of libel to have the complaint canceled.

It has always been pointed out that victim’s complaint required for the indictment of rape is in contradiction with the system of the Criminal Law that regards rape as one of the serious crimes. The sexual intercourse under the disguise of marriage, etc. has also been criticized as effectless with its near-zero rate of punishment, as well as defamatory to women, as the provision posited only women without the habit of unchastity can be the object of the crime.

Consequently, provisions regarding imitative rape was established while the object of sex crimes was expanded from a woman to a person, and victim’s report as a requirement to indict sexual crimes was eliminated. Sexual intercourse under the disguise of marriage, etc. was also abolished.

“Act on Special Cases Concerning the Punishment, etc. of Sexual Crimes” and “Military Criminal Act” were also amended (April 5, 2013).

〈Table 2-3-2〉 Details of Criminal Law enforced on April 5, 2013

Amendment	Details
Deletion of victim's complaint	Kidnapping, inducement, trafficking, and concealment for the purpose of sexual intercourse, and victim's complaint required for sex crimes including rape abolished (Article 296 and 306 deleted.)
Expansion of the object of sexual assault	Object of sexual assault changed from a woman to a person (Article 242, 288(2), 297, 303(1) and (2), 305, 339 and 340(3))
Establishment of imitative rape	The Act of "inserting his/her sexual organ into another's bodily part (excluding a genital organ), such as mouth or anus, or inserting his/her finger or other bodily part (excluding a genital organ) or any instrument into another's genital organ or anus" (Article 297-2 newly established) Related Articles were rearranged (From Article 299 to 301, 301-2, 305 and 305-2)
Abolition of sexual intercourse under the disguise of marriage, etc.	Article 304 deleted

2) Proposed Bill

A. Current status

In 2013, a total of 20 partial amendment bills for Criminal Law were registered pending the deliberation (all proposed by members of the National Assembly, from January 1, 2013 to December 31, 2013). Nine bills were for General Provisions while 11 were for Individual Provisions.

〈Table 2-3-3〉 Progress on proposals for partial amendment of Criminal Law in 2013

Type	General Provisions	Individual Provisions	Total
Amendment bills	9	11	20

B. Details

Among the 20 bills, there were propositions regarding Article 10 (Persons with mental disorders), day-fine (daily-amount-based system), and the suspension of the execution of fine (two for each). The rest of them were concerned with establishing a provision stating the principle of *nulla poena*, reducing of the number of punishment, increasing the maximum years of imprisonment with a limited term, clarifying criteria used by judges for extenuative mitigation of punishment, suspending the prescription of punishment, expanding the scope of espionage and rape, expressly stating grounds of circumstances precluding wrongfulness in the publication of facts of a suspected crime and interference with business, alleviating the requirements regarding defamation, introducing illegal inspection, insurance fraud, and using the symbol of Japanese imperialism, and increasing the upper limit of statutory punishment of crimes related to public servants.

〈Table 2-3-4〉 Details of partial amendment of Criminal Law in 2013

Bill No.	Date	Proposing National Assembly member (number of seconds)	Reason for proposition	Details
3592	Feb 04	Park, In Sook (11)	Serious crimes committed under the influence of alcohol to the point of losing control of his act going unpunished or weakly punished go against the common sense of justice of the public. The mental disorder due to alcohol needs to be excluded from mitigated punishment.	<ul style="list-style-type: none"> • The title of Article 10 “Persons with mental disorders” was changed into “Mental disorders” while the mandatory mitigation of the punishment for the mentally-weak changed to optional one. • Legal ground was established for punishing complete inebriety (Article 10-2 established).
3593	Feb 04	Lee, Man Woo (10)	Suspension of qualifications or disqualifications no longer effectively serve as a valid	<ul style="list-style-type: none"> • The punishment deleted.

Bill No.	Date	Proposing National Assembly member (number of seconders)	Reason for proposition	Details
			and independent main punishment while minor fine is no longer used at all.	
3607	Feb 05	Park, In Sook (10)	Crimes of violence have dramatically increased during the enforcement of public duties, showing that public authorities are not taken seriously.	• Stronger punishment for obstruction of rightful exercise of official duties
3809	Feb 21	Lim, Nae Hyun (11)	Publication of facts of suspected crimes need to be reinterpreted to protect the personal rights of individuals and prevent the leakage of investigative secrets.	• Only designated PR managers at each Prosecutors' Office as well as police officers in charge of the investigation shall be allowed to publicize the facts related to the investigation, and that done by other persons shall be punished with the crimes of publication of facts of suspected crimes.
3832	Feb 22	Chung, Hee Soo (11)	Explanations for the reasons of extenuative mitigation of the punishment are not included in the written judgment, leading to the possibility of arbitrary decision of the judge.	• Judges shall elaborate the justifiable circumstances considered for the mitigation such as "sincere remorse for committing the crime, efforts to restore the damage, victim's opposition to punishment, lack of criminal record of the same or similar crimes, etc."
4103	Mar 18	Hong, Ihk Pyo (12)	Stronger punishment is needed for acts of leaking military and defense secrets to foreign countries.	• Adjusting the meaning of the term "enemy country" to the one that includes "foreign countries or foreigners' organizations"
4388	Apr 04	Park, Young Sun (11)	Public servants collecting non-disclosed information from civilians by abusing the authorities beyond the legitimate scope must be stopped.	• Crimes of illegal inspection newly established.
4517	Apr	Kim,	Insurance fraud needs to	• Provisions regulating

Bill No.	Date	Proposing National Assembly member (number of seconders)	Reason for proposition	Details
	15	Hack Yong (12)	be punished separately from general fraud considering its unique nature and thus alert the public on the danger of the crime.	insurance fraud newly established.
4758	Apr 30	Chun, Soon Ok (13)	The Court has been very rigid in recognizing the labor disputes that justify the obstruction of business, leading to more than necessary numbers of workers being punished.	• Circumstances justifying the obstruction of business (acts related to collective bargaining or labor disputes) shall be elaborated.
5361	Jun 07	Ham, Jin Gyu (10)	The Court has been applying the narrowest interpretation of intimidation and violence, which needs to be addressed through legislation.	• The level of intimidation and violence constituting crimes of rape must be the same as that of indecent acts by compulsion, which will be expressly written in a provision.
5550	Jun 20	Ahn, Hyo Dae (50)	Comments regionally and racially discriminatory both on- and off-line are creating a serious social conflicts.	• Hate Crimes newly established.
5635	Jun 26	Kim, Sang Min (15)	For those who voluntarily induced the mental disorder through alcohol or substance should not have his punishment mitigated or exempted.	• Restrictions on the mitigation of punishment of crimes (Article 10-3)
5835	Jul 02	Lee, Chun Suak (10)	Light punishment on the crimes of bribery and embezzlement/breach of trust by public servants might create public backlash.	• Punishment for crimes of bribery and embezzlement/breach of trust by public servants elevated.
5935	Jul 10	Park, Wan Ju (12)	Total-amount-based fine system either has no effect or extremely harsh effect depending on the financial position of the defendant.	• Daily-amount-based fine system introduced.
6404	Aug	Kim,	Total-amount-based fine	• Daily-amount-based fine

Bill No.	Date	Proposing National Assembly member (number of seconders)	Reason for proposition	Details
	16	Yung Rok (11)	system either has no effect or extremely harsh effect depending on the financial position of the defendant. Even a fine of KRW hundreds of million can easily be replaced with a short-term labor.	system introduced. • Extension of payment period and installment payment • Abolishing the limit of period of labor house detention
6664	Sept 03	Kim, Young Hwan (14)	Inhumane and malicious crimes like sexual crimes against children need to be punished more strongly.	• Absolute life imprisonment established. • Increasing the upper limit of imprisonment with a limited term
6925	Sept 23	Sohn, In Chun (10)	History distortion needs to be rectified.	• Crimes of use, etc. of emblems, etc. representing Japanese imperialism established.
7911	Nov 20	Park, Min Soo (10)	Human rights must be fully protected and international crimes violating the common legal interest of humanity must be effectively addressed.	• Provision regarding the principle of <i>nulla poena</i> and internationalism • Suspension of the execution of fine
8278	Dec 04	Kim, Do Eup (10)	With the increase of trial on non-custody, more and more convicts are fleeing to foreign countries to evade the execution of the punishment.	• The prescription period for the execution of punishment shall be stopped while the convict stays abroad
8698	Dec 04	You, Seung Hee (32)	Considering the international trend of and the recommendation of international organizations of decriminalizing defamation, amendment is needed while protecting the freedom of expression and speech and publication ensured in the Constitution.	• Abolishing imprisonment while lowering the upper limit of fine for crimes of defamation • Deletion of crimes of defamation by publicly alleging facts • Deletion of crimes of defamation through printed materials • Deletion of crimes of insult (Article 311). • Victim's complaint needed to prosecute the crimes of defamation

C. Evaluation

Segmented and sporadic attempts to amend the Criminal Law, which are still ongoing in 2013, could cause serious problems in terms of dogmatic and structural point of view as well as consistency with special criminal acts. The amendment proposal for Criminal Act Individual Provisions by the Ministry of Justice was submitted in March 2011 and is about to expire. It needs to be reviewed in a way that reflects various opinions of academia so that the general amendment of the Criminal Law could be conducted.⁷⁶⁾

2. Special Criminal Acts

1) Act on Special Cases Concerning the Punishment, etc. of Crimes of Domestic Violence

The Act was once amended in 2013: the 18th partial amendment was passed at regular session of the National Assembly on December 31, 2013 (entry into force on September 29, 2014). Four amendment bills of the Act were submitted (date: January 1-December 31, 2013) by members of the National Assembly pending a vote.

76) See "The current status and future task of the amendment of individual provisions of Criminal Law," Oh, Young Geun, Korean Criminological Review No. 128 (Winter Issue 2013) p.13; "The trend and tasks of the amendment of Criminal Law in 2013," Lee, Cheon Hyun, Id., p. 6.

A. Amended Act No. 12340, passed at the regular session of the National Assembly on December 31, 2013

(a) Overview

As the “Act on Special Cases Concerning the Punishment, etc. of Crimes of Child Abuse” was established, the “Act on Special Cases Concerning the Punishment, etc. of Crimes of Domestic Violence” needed to be amended so that the Child Abuse Act could apply first in a child abuse case. The amendment was passed at a regular session of the National Assembly on December 31, 2013, promulgated on January 28, 2014 and will take effect on September 29, 2014.⁷⁷⁾

(b) Background and details of the amendment

In a case of child abuse, the “Act on Special Cases Concerning the Punishment, etc. of Crimes of Child Abuse,” a newly established act, will precede the “Act on Special Cases Concerning the Punishment, etc. of Crimes of Domestic Violence,” requiring the latter to be amended.

B. Proposed bill

(a) Details of the proposed bill

The three proposed bills are characterized by intensifying the punishment against the offenders of serious domestic violence or with higher likelihood of recidivism, while the other three by

⁷⁷⁾ The amendment bill (No. 1561) was submitted by the member of National Assembly Ahn Hong Joon on September 4, 2012 and assumes the resolution of the amendment bill for the “Act on Special Cases Concerning the Punishment of Child Abuse (No. 1560)” submitted by the same person.

strengthening the protection of the victims of domestic violence.

〈Table 2-3-5〉 Details of partial amendment of Act on the Special Cases Concerning the Punishment etc. of Crimes of Domestic Violence in 2013

Bill No.	Date	Proposing National Assembly member (number of seconders)	Reason for proposition	Details
3234	Jan 03	Kim, Hack Yong (11)	Significant number of the cases under the Act go unpunished, revealing the limit in effectively preventing domestic violence and protecting the human rights of the victims and their family members.	<ul style="list-style-type: none"> • More specified criteria for the transference to the probational jurisdiction • Mandatory attendance of the educational program designed to prevent the recurrence of crimes for convicted offender (excluding the suspension of sentencing)
3643	Feb 06	Kang, Eun Hee (14)	Protective order for victims needs be operated more effectively.	<ul style="list-style-type: none"> • Ban on the using, benefitting from, and disposing of a collective residence by domestic violence offenders as well as the visitation right with the children
4432	Apr 08	Nam, In Soon (13)	The nature of domestic violence is that it occurs habitually and repeatedly at the same place. That it is a crime needs to be recognized by people, and responded more strictly.	<ul style="list-style-type: none"> • Expansion of the scope of domestic violence • Pro-arrest and prosecution • Clarification on the standard for probational jurisdiction • Abolishment of suspension of indictment on the condition of receiving counseling
5974	Jul 15	Kim, Sang Hee (11)	The victims of domestic violence need to proceed with the divorce lawsuit or visitation process without feeling threatened.	<ul style="list-style-type: none"> • The Court may request a personal safety measure be taken by the Prosecutor for the victims of domestic violence who attend the Court or exercise a visitation right.

(b) Evaluation

Domestic violence is ruled by a special relationship where the offender and the victim is family. However, it is prone to

higher recidivism and risk of habitual pattern. Even though it is understandable to be tempted to intensify the punishment against the offenders, the consideration of the peace and restoration of the family should never be forgotten as the nature domestic violence is different with that of other crimes.

2) Act on Regulation of Punishment of Criminal Proceeds Concealments

The Act was amended once in 2012 and promulgated on May 28, 2013, and entered into force on the same day.⁷⁸⁾

Seven partial amendment bills were submitted in 2013 (from January 1 to December 31), one (Bill No. 5188) of which was abolished after reviewing the alternative. Another one was proposed by the Executive.

A. Amended Act No. 11824, entry into force on May 28, 2013

(a) Amendment

The amended Act characterized by payment of reward to those who contributed to the collection of criminal proceeds and addition of serious crimes was promulgated and entered into force on May 28, 2013.⁷⁹⁾

78) The amendment of Article 13 shall enter into force one year after the promulgation.

79) The amendment bill was proposed by the following members of the National Assembly: Lee, Nak Hyun (No. 2278) and Shim, Jae Chul (No. 3184), as well as the Executive (No. 2680). It was decided at the 18h meeting of the Legislation and Judiciary Committee (April 29, 2013) at the 315th ad hoc session of the National Assembly that the bill was not to be referred to the voting, and instead to be replaced by the alternative proposed by the Committee. The alternative bill passed the regular session on April 30, 2013.

(b) Background and details of the proposals

The payment of reward will be given to those who contributed to collecting and additionally collecting the criminal proceeds acquired through organizing illegal groups or taking bribes to be concealed and accumulated and used for another crime. Meanwhile, the concealment, disguise, and receipt of the criminal proceeds will also be punished acquired through seriously damaging crimes such as sending advertisement information via SMS or e-mail for illegal acts, manufacturing and distributing fake petroleum products, operating businesses using children and juveniles, and receiving interest at a rate exceeding the legal limit.

〈Table 2-3-6〉 Details of the Act enforced on May 28, 2013

Title	Details
Payment of Rewards	Where the property subject to confiscation belongs to the National Treasury after being confiscated and collected, the Minister of Justice may pay a reward to a person who reports to competent law enforcement authorities or who is meritorious for confiscation or collection: Provided, That where a public official reports with relation to his/her duty or a person employed by a financial company, etc. reports, such reward may be reduced or may not be paid to such person (Article 13 newly established).
Newly added serious crimes	The concealment, disguise and receipt of the criminal proceeds acquired through seriously damaging crimes such as sending advertisement information via SMS or e-mails for illegal acts, manufacturing and distributing fake petroleum products, operating businesses using children and juveniles, or receiving interest at a rate exceeding the legal limit shall also be punished while the proceeds shall be returned (Attached table 1-(xiv) and 24 amended, while 29-32 established).

B. Proposed bill

(a) Details of the bill

The proposed bill (No. 5188) characterized by extending the prescription period of confiscation and additional collection of the criminal proceeds to 10 years was abolished with the proposition of alternative bills.⁸⁰⁾ There are another three bills about expanding the application of the Act to other crimes like financial fraud via telecommunications, crimes regarding food, and tax evasion, another one characterized by disclosing the personal information of those in arrears of additional collection, another one about punishing title lenders, and another one regarding stronger

80) The partial amendment bill for the "Act on Special Cases Concerning Forfeiture for Offenses of Public Officials" submitted on July 9, 2012 by Representative Yoo Kihong, the partial amendment bill for the "Act on Special Cases Concerning Forfeiture for Offenses of Public Officials" submitted on November 15, 2012 by Representative Kim Jenam, the partial amendment bill for the "Act on Special Cases Concerning Forfeiture for Offenses of Public Officials" submitted on May 24, 2013 by Representative Choi Jaesung, the bill for the "Act on Special Cases Concerning Additional Collection Against Specific High-ranking Public Officials" submitted on June 18, 2012, the partial amendment bill for the "Act on Regulation of Punishment of Criminal Proceeds Concealment" submitted on November 15, 2012 by Representative Kim, Je Nam, the partial amendment bill for the "Act on Regulation of Punishment of Criminal Proceeds Concealment" submitted on May 30, 2013 by Representative Woo, Won Shik, the partial amendment bill for the "Act on Special Cases Concerning the Confiscations and Return of Property of Acquired through Corrupt Practices" submitted on November 15, 2013 by Representative Kim Jenam, and the partial amendment bill for the "Criminal Law" submitted on November 15, 2013 by the same man were all replaced by the alternative proposal of the partial amendment bill for the "Act on Special Cases Concerning Forfeiture for Offenses of Public Officials" submitted by the Legislation and Judiciary Committee by the resolution of the second meeting of the First Small Committee to review the bills (June 25, 2013) during the 316th ad hoc session of the National Assembly, in accordance with Article 51 of the National Assembly Act. The alternative bill was promulgated on July 12, 2013 and entered into force on the same day as the Act No. 11883.

execution of confiscation and additional collection by allowing personal properties hidden under the title of other person to be included as well.

〈Table 2-3-7〉 Details of partial amendment bill for Act on Regulation of Punishment of Criminal Proceeds Concealment in 2013

Bill No.	Date	Proposing National Assembly member (number of seconders)	Reason for proposition	Details
5188	May 30	Woo, Won Shik (26)	Current prescription period of three years for confiscation and additional collection is too short, extremely disturbing social justice.	<ul style="list-style-type: none"> • Prescription period for the confiscation and additional collection of the criminal proceeds is extended to ten years (Article 14 newly established). * Replaced by an alternative bill
5329	Jun 04	Kim, Young Joo (16)	In line with the amendment of the "Act on Special Cases Concerning the Refund of the Damaged Amount from Telecommunications Financial Fraud", the criminal proceeds gained through financial fraud using telecommunications need to be confiscated and collected.	<ul style="list-style-type: none"> • Legal ground was established for the confiscation and additional collection of the criminal proceeds gained through financial fraud using telecommunications.
5551	Jun 20	Seo, Ki Ho (17)	In order to protect the right of people to know, to encourage reporting on the amount of additional collection in arrears, and to effectively enforce the execution, the names of persons in arrears of large amount of money additionally collected need to be disclosed.	<ul style="list-style-type: none"> • The names shall be disclosed in arrears for additional collection is KRW 500 million or more.
6691	Sept 04	Min, Byung Joo (12)	Illegal profits gained through crimes related to harmful foods need to be all confiscated or collected.	<ul style="list-style-type: none"> • Illegal profits gained through crimes related to harmful foods are criminal proceeds, and thus shall all be confiscated or additionally collected.

Bill No.	Date	Proposing National Assembly member (number of seconds)	Reason for proposition	Details
6734	Sept 06	Ahn, Cheol Soo (11)	There is a limit in punishing money laundering related to general tax evasion and local tax evasion.	<ul style="list-style-type: none"> • Transferring, transporting and handing and the attempt thereof of the criminal proceeds with the awareness of the money laundering shall be punishable. • Evasion of general and local tax shall be punished as specific crimes.
7633	Nov 07	Lee, Jong Kul (10)	Lending name to other person with the awareness that it is going to be used to conceal or disguise the criminal proceeds is not punishable under the current law.	<ul style="list-style-type: none"> • Provisions were established to punish those who lend names to other person with the awareness that it is going to be used to conceal or disguise the criminal proceeds.
7714	Nov 12	Executive	Properties under the name of a third person needs to be confiscated in order to promote the execution rate of confiscation and additional collection.	<ul style="list-style-type: none"> • Properties acquired by a person other than the offender with the awareness that they are the proceeds related to organized crimes and other specific crimes may also be confiscated and additionally collected. • Investigative authorities may request the attendance of the related parties and provision of information on taxation and financial transactions, while conducting seizure, search, and verification by a writ.

(b) Evaluation

“Act on Regulation of Punishment of Criminal Proceeds Concealment” was established on September 27, 2001 and entered into force on November 28, 2001. Since then, the Act has been amended 14 times, with the most recent partial amendment on May 28, 2013. Going through continuous revisions for 12 years,

the Act has been incorporating various types of crimes, a trend which is expected to continue for some time in the future.

The Act regulates money laundering where criminal proceeds are disguised as legitimate financial source through organized crimes and flight of domestic properties. It also provides exceptions to the provisions of Criminal Law regarding the confiscation and additional collection of criminal proceeds in order to fundamentally eliminate the economic factors conducive to crimes and prevent anti-social crime activities in advance. The scope of punishment prescribed in the attached table of the Act was the result of considering a) relatedness with the crime organizations, b) the amount of criminal proceeds, c) the need for international cooperation, d) minimal economic impact, and e) necessity for punishment (frequency of crimes). However, even though the Act started out as a way to address the enormous amount of proceeds created from narcotics and organized crimes, it has gradually been expanding its territory to include large-scale economic crimes, bribery committed by public servants, and other general crimes.

The standard to confirm the scope of serious crimes is a matter of legislation policy, but excessive expansion of the Act without the considering its legislative intent would have to be avoided.

3) Act on the Punishment of Acts on Arranging Prostitution, etc.

A. Proposed bill

In 2013 (from January 1 to December 31, 2013), six partial amendment bills for the Act were submitted awaiting the vote at the National Assembly (all by members of the National Assembly).

Two of them are about establishing provisions punishing public servants who received sexual engagement as bribe, while another two

are characterized by decriminalizing women involved in prostitution.

〈Table 2-3-8〉 Details of partial amendment bill for Act on the Punishment of Acts of Arranging Prostitution in 2013

Bill No.	Date	Proposing National Assembly member (number of seconders)	Reason for proposition	Details
4011	Mar 08	Han, Sun Kyo (11)	As more and more prostitution occurs through the exchange of information on the Internet, a clear ground for punishment is needed.	<ul style="list-style-type: none"> • Prosecutors or judiciary police officers may request the Internet providers to delete the information exchanged online regarding prostitution. • Providers of information about prostitution shall be punishable by a fine.
4712	Apr 29	Jeon, Jeong Hee (15)	The punishment for prostitution is too light compared to the seriousness of the crime, while there is no provision regulating the minor prostitution.	<ul style="list-style-type: none"> • Punishment shall be strengthened. • Buying and soliciting or inducing the purchase of sex of a person under 19 years of age shall be punishable.
4942	May 13	Kim, Choon Jin (11)	A clear provision punishing public servants who received an enjoyment of sexual engagement is needed.	<ul style="list-style-type: none"> • Public servants who are at the buying end of the sexual prostitution using the valuables or profits offered by a third person shall be punished.
4999	May 16	You, Seung Hee (11)		<ul style="list-style-type: none"> • The meaning of receiving sexual enjoyment was clarified. • Provisions were established punishing public servants for offering or receiving sexual enjoyment.
5246	May 31	Kim, Sang Hee (12)	Bills related to prostitution need to be reviewed in order to grant immunity for female prostitutes.	<ul style="list-style-type: none"> • Female prostitutes are excluded from punishment by regarding them as victims. • Foreigners are also regarded as victims regardless of gender.

Bill No.	Date	Proposing National Assembly member (number of seconders)	Reason for proposition	Details
6803	Sept 12	Nam, In Soon (13)		<ul style="list-style-type: none"> • Immunity to prostitutes • Stronger enforcement of special provisions on buyers • Further protection of foreign prostitutes • Abolishing probation from punishment • Orders to attend lectures and programs designed to prevent prostitution

B. Evaluation

Decriminalizing women involved in prostitution and subjecting buyers of sex to criminal punishment by deleting all of the provisions regarding probation is a matter that needs to be examined from the fundamental perspective of how much State may intervene in the sex act among adults with its criminal authorities.

Provisions regulating public servants receiving bribe in the form of sexual engagement do not seem to be compatible with the legislative intent of the Act of eliminating prostitution, arrangement of the act, and human trafficking for the purpose of prostitution. In addition, the newly proposed provision that seeks to punish those engaged in prostitution with children younger than 19 needs to be fully reviewed for the regulatory redundancy with the “Act on the Protection of Children and Juveniles from Sexual Abuse.”

4) Act on Special Cases Concerning the Punishment, etc. of Sexual Crimes

“Act on Special Cases Concerning the Punishment, etc. of

Sexual Crimes” was amended once in 2013. The new Act was promulgated on April 5 and entered into force on June 19, 2013.

13 amendment bills were proposed by members of the National Assembly during the year (from January 1 to December 31) pending votes at the National Assembly.

A. Amended Act: entry into force on June 19, 2013 (Act No. 11729)

(a) Amendment

The exceptions to the restrictions on victim’s complaint, the extension of complaint period, exceptions to the prescription period, and other special regulations regarding criminal procedure introduced in the Act that were amended and promulgated on December 18, 2012 and entered into force from June 19, 2013 (the 6th whole amendment, No. 11556)⁸¹⁾ were also applied to the

81) The major amendments are as follows:

- a. “Cohabiting relatives” is included in the consanguineous relationship (Article 5).
- b. The object of the rape against was changed from the female to person (Articles 6 and 7).
- c. Crimes of unlawful entry into public places for sexual purpose (Article 12).
- d. Victim’s complaint required to indict sexual crimes was abolished (Article 15 deleted).
- e. The Court may request the head of the probational office that the defendant including physical and mental characteristics and status, and process of the defendant’s psychological and sexual development be examined when imposing probation, community service, or orders to attend lectures on the defendant charged with sexual assault (Article 17).
- f. Crimes of indecent acts by compulsion and quasi-indecent acts by compulsion were added where the prescription period of indictment is not applied (Article 21).
- g. The victims of sexual assault may be assisted with the State-appointed legal counsel (Article 27).
- h. In order to protect and support witnesses coming to the Court, support facilities shall be established with designated assistant officials available (Article 32).
- i. Statement assistance system shall be established to help the victims of sexual

military criminal procedure through the amendment (the 7th partial amendment, No. 11729). The Act was promulgated on April 5, 2013 and took effect from June 19, 2013.⁸²⁾

(b) Background

“Act on Special Cases Concerning the Punishment, etc. of Sexual Crimes” was amended and promulgated on December 18, 2012 and entered into force on June 19, 2013. The same needs to be applied to military criminal procedure.

(c) Details

i) Article 266 of the “Military Court Act” was added to the provisions of exceptions to the restrictions on complaint (Article 18 of the bill)

ii) The extension of the victim’s complaint regarding the crimes of sexual assault was introduced to military criminal procedure by adding Articles 272 (1) and (2) of the “Military Court Act” (Article 19 (1), (2) of the bill).

iii) Article 294 (1) of the “Military Court Act” was added to the special provision regarding the prescription period for indictment (Article 21 (1) of the bill).

assault who have problem communicating and expressing their opinions (Articles 35-39).

j. Registered sex offenders shall be required to attend the Police Station of their jurisdiction of address to have their color photos taken and updated every year (Article 43).

k. The disclosure of registry shall be executed by the Minister of Gender Equality and Family (Article 47).

l. The notification of the registry under the “Act on the Protection of Children and Juveniles from Sexual Abuse” shall apply *mutatis mutandi* (Article 49).

82) The amendment bill (No. 3677) was submitted by the member of National Assembly Kweon, Seong Dong and was revised before passing the regular session of the National Assembly on March 5, 2013.

iv) “Military Court” will be deemed as “Court,” “Military Investigation Agency” as “Investigation Agency,” “Military Prosecutor” as “Prosecutor,” “Military Police Officer” as “Police Officer,” and “Officers admitted to the bar” as “State-appointed attorney” (Article 49-2 of the bill).

B. Proposed bill

(a) Overview

The proposed bill contains stronger punishment on serious sex criminals such as more intense punishment on public servants, higher limit of the punishment on the crimes against children or persons with disability, and new provisions of punishment as well as more protection of the victims of sexual violence such as right of victims to watch a trial proceeding through a video.

〈Table 2-3-9〉 Details of partial amendment bill for Act on Special Cases Concerning the Punishment, etc. of Sexual Crimes in 2013

Bill No.	Date	Proposing National Assembly member (number of seconds)	Reason for proposition	Details
3782	Feb 19	Choi, Min Hee (17)	Regardless of age and disability, most victims of sexual violence have problems stating the damage during investigation or court trials.	• All victims of sexual violence shall be supported by statement assistant during the investigation and court proceedings.
4190	Mar 21	Lee, Myoung Su (10)	The punishment of the offenders against children and persons with disability is too light, more likely leading to retaliation or recidivism rather than guilt or remorse.	• Fine was deleted from the punishment on the crimes against children and persons with disability.
5316	Jun 04	Yoon, Sang	Sexual assault by family or relatives often gets	• The prescription period of indictment under the

Bill No.	Date	Proposing National Assembly member (number of seconders)	Reason for proposition	Details
		Hyun (13)	unreported to the authorities mostly because the offender is the guardian of the victim.	Criminal Law and Military Court Act is not applied to the crimes of sexual assault committed by families or relatives.
5362	Jun 07	Ham, Jin Gyu (13)	Female victims of sexual assault are exposed to a secondary damage during court trials.	• Questioning past sexual experience, taste, and behaviors
6055	Jul 18	Kim, Sang Hee (10)	A series of sexual molestation and assault are disturbing the integrity of public service society, compromising trust, and degrading the honor of the nation.	• The punishment for crimes of indecent acts by abuse of occupational authority committed by public officials listed among Article 3 (1) of the "Public Service Act" shall be aggravated by up to the 1.5 times of the original punishment.
6094	Jul 22	Choi, Min Hee (14)	The Court decided that when special rape proceeding to robbery does not constitute crimes of special robbery and rape, finding the defendant not guilty.	• The same punishment of special robbery and rape shall apply to the crimes of special rape proceeding to robbery.
6286	Jul 22	Hong, Moon Jong (10)	Reflecting the seriousness of the crimes of sexual assault against children who are physically and mentally immature, the punishment needs to be elevated.	<ul style="list-style-type: none"> • Crimes of rape inflicting bodily injury shall be punishable by maximum of death. • The lower limit of the punishment for crimes of rape shall be imprisonment with limited term of five years or more. • Crimes of imitative rape shall be punished by up to life imprisonment.
6288	Aug 06	Chung, Hee Su (10)	There are no provisions punishing those who, through a web-cam chat, record the body parts of others that can possibly trigger sexual humiliation and distribute the image.	• Provisions were established to punish the act of re-recording the image of the body parts that can possibly trigger sexual humiliation recorded against the will of a person.

Bill No.	Date	Proposing National Assembly member (number of seconders)	Reason for proposition	Details
6610	Aug 30	You, Seung Hee (16)	Victims need to watch the trial of the offender more comfortably.	• The victims of crimes of violence or the legal counsel shall watch the trial relayed through equipments without having to face the defendant in person.
6661	Sept 03	Kim, Young Hwan (14)	Crimes of rape against a minor under 13 needs to be punished more gravely reflecting the inhumane and cruel nature of the crimes.	• Crimes of raping a minor under 13 years of age may be punishable by life imprisonment without parole or mitigation.
8241	Dec 02	Seo, Young Gyo (10)	Legal ground for the punishment of sexual harrassment that occur at places other than crowded public place or out of the employment relationship is not clear.	• The scope of indecent acts at public places shall be widened, while the punishment strengthened. A general legal ground for the punishment of sexual harrassment was established.
8266	Dec 03	Nam, In Soon (15)	The legislative objective does not contain the protection of the victims' human rights, not only the punishment of the offenders.	• Purpose of "protecting the human rights of the victims" was added to the objective.
8573	Dec 16	Lee, Jae Young (10)	Information required to be submitted to the sex offender registry does not include the contact information, making it hard to track the offenders who move out of their residence or change work without reporting to the system.	• Contact information was added to the list of information mandatorily submitted to the registry.

(b) Evaluation

Measures to further protect the criminal victims of sexual violence such as watching trials through video, banning questions related to private sex life or denying the admissibility of the answer to the question would all seem relevant. However, providing

statement assistance to all the victims seems a little inappropriate considering the purpose of the system.

In addition, adding provisions regarding the punishment of public servants seems incompatible with the objective of this Act while excessive increase of higher limit of punishment must also beg to be reconsidered in terms of the balance between other similar crimes. Meanwhile, general provisions regarding sexual molestation would not only lead to concerns about over-criminalization but also the problem of legal structure in that the provision would be established in special act instead of "Criminal Law."

Adding contact information of sex criminals on the registry is needed for effective management; however, adding "protection of the human rights of the victims" to the objective seems to be inappropriate considering the legal structure.

5) Act on Special Cases Concerning the Punishment of Specific Violent Crimes

2013 saw the only one amendment of this Act. The 13th partial amendment bill was passed at the regular session of the National Assembly on December 19, 2013 (entry into force on January 7, 2014).

Two proposals regarding the partial amendment bill of the "Act on Special Cases Concerning the Punishment of Specific Violent Crimes" have been submitted by the members of the National Assembly, pending the next step.

A. Amended Act: passed at the regular session on December 19, 2013 (Act No. 12198)

(a) Overview

The amendment was to subject the crimes or attempted crimes of Article 337 of the “Criminal Law” to the aggravated provision under the “Act on the Aggravated Punishment, etc. of Specific Crimes.” It passed the regular session of National Assembly on December 19, 2013 and was promulgated and entered into force on January 7, 2014.⁸³⁾

(b) Background and details

When a person commits bodily injury resulting from robbery (Article 337 of the Criminal Law) within three years of completion of or exemption from the execution of sentence of specific violent crimes, the double application of the “Act on the Aggravated Punishment, etc. of Specific Crimes” and “Act on Special Cases Concerning the Punishment of Specific Violent Crimes” violate the principle of personal responsibility in that the lower limit of the punishment is higher when the imprisonment with a limited term under the “Act on the Aggravated Punishment, etc. of Specific Crimes” gets aggravated for repeated offenses under the “Act on Special Cases Concerning the Punishment of Specific Violent Crimes” than when choosing the life imprisonment. Furthermore, the term of the imprisonment becomes the same as crimes of death resulting from rape, death resulting from robbery, and bodily injury resulting from piracy, which have far bigger unlawfulness, infringing the principle of equality.

83) The bill (No. 4704) was submitted by the National Assembly man Kim Young-gwan on April 29, 2012.

The Constitutional Court decided that the double application of the “Act on Special Cases Concerning the Punishment of Specific Violent Crimes” on the aggravated punishment under the “Act on the Aggravated Punishment, etc. of Specific Crimes” of bodily injury inflicting from robbery (Article 337 of the Criminal Law) is unconstitutional (2007Hun-Ka10, 16, delivered on December 26, 2008).

Therefore, according to the decision of the Constitutional Court, the amendment bill was proposed so that the crimes or attempted crimes of Article 337 of the Criminal Law would not only be subject to the aggravated punishment under the Act on the Aggravated Punishment, etc. of Specific Crimes in order to realize the principles of personal responsibility and equality (Article 3 of the proposal).

B. Proposed bill

Bill No. 5563 and No. 8388 are proposed bills that assume the amendment of the bill No. 5566 and No. 8387, which are partial amendment bills for Juvenile Act.

〈Table 2-3-10〉 Details of partial amendment bill for Act on Special Cases Concerning the Punishment of Specific Violent Crimes in 2013

Bill No.	Date	Proposing National Assembly member (number of seconders)	Reason for proposition	Details
5563	Jun 21	Lee, Choon Suak (10)	The Act that aggravatingly punishes the juveniles who committed specific violent crimes frequently fails to be applied.	• The aggravated punishment moves to the special provision of the “Juvenile Act.”
8388	Dec 06	Kang, Gi Youn (10)	The amendment in line with the amendment of the “Juvenile Act”	• Article 4 (1) providing exceptions to the “Juvenile Act” regarding the punishment of juveniles shall be deleted.

Including special provisions in a general statute (“Juvenile

Act”) just because the application of the “Act on Special Cases Concerning the Punishment of Specific Violent Crimes” gets omitted in the criminal practice does not seem compatible with the current legal system. Of course, it is true that this phenomenon is undesirable.

6) Act on the Aggravated Punishment, etc. of Specific Economic Crimes

A total of three proposals for the partial amendment of the “Act on the Aggravated Punishment, etc. of Specific Economic Crimes” were submitted by members of the National Assembly (from January 1, 2013 to December 31, 2013).

One of them seeks to expand the scope of economic crimes subject to an aggravated punishment while the other two seeks to specify the section of aggravated punishment and increase the sentence for each section.

〈Table 2-3-11〉 Details of partial amendment bill for Act on the Aggravated Punishment, etc. of Specific Economic Crimes in 2013

Bill No.	Date	Proposing National Assembly member (number of seconds)	Reason for proposition	Details
5313	Jun 04	Kim, Young Joo (16)	The need arose as the “Act on Special Cases Concerning the Refund of the Damaged Amount from Telecommunications Financial Fraud” is planned to be amended.	• Crimes of telecommunications financial fraud shall be aggravatingly punished when the amount of damage exceeds KRW 500 million.
5836	Jul 02	Lee, Choon Suak (10)	The standard amount for aggravated punishment of specific property crimes including embezzlement and breach of trust and receiving	• Amount of profits or money received of “KRW 300 billion or more” and “KRW 500 million or more” shall be added to the

Bill No.	Date	Proposing National Assembly member (number of seconders)	Reason for proposition	Details
			bribe by financial institution fails to reflect the social and economic change such as inflation.	punishment range while the punishment for each one shall be strengthened. • The punishment of receiving bribe by financial institution shall be strengthened.
8207	Nov 29	Park, Min Shik (13)	Punishment for business owners who committed embezzlement and breach of trust causing damage worth of large sum of money needs to be strengthened.	• A new range of “KRW 30 billion or more” was added (from two to three ranges) • The lower limit of the punishment for “KRW 500 million to KRW 5 billion” gets increased • Punishment for each range gets increased.

While there is a need to subject organized economic crimes with a more broad damage to aggravated punishment according to the amount of damage, uniformly strengthening the punishment might run the risk of violating the principle of proportionality and personal responsibility. More discreet approach seems to be needed.

7) Act on the Aggravated Punishment, etc. of Specific Crimes

The Act was amended only once during 2013, with the amended Act promulgated on July 30, 2013 and entering into force on October 30, 2013.

A total of five bills were proposed for the partial amendment of the “Act on the Aggravated Punishment, etc. of Specific Crimes” (from January 1, 2013 to December 31, 2013), all by members of the National Assembly.

A. Amended Act: entry into force on October 30, 2013 (Act No. 11955)

(a) Overview

The 31st partial amendment bill containing the aggravated punishment of the act of fleeing a ship without sufficient rescue efforts for the victims of ship collision passed the regular session on June 27, 2013 and entered into force on October 30, 2013.⁸⁴⁾

(b) Background

The danger of accidents on the sea is increasing day by day with the growing sea traffic, higher speed of ships, and the changing environment of sea traffic. In particular, when the collision of ships occurs, escaping the scene without engaging in an immediate rescue effort on people and ship would lead to a massive disaster involving countless deaths and missing persons.

Currently, only light punishment is imposed on the captain of the ship who failed to take all the measures necessary to rescue human lives and ships under the “Seafarers Act.” No other operators of the ship are subject to the aggravated punishment.

However, compared to the provisions of the “Road Traffic Act” that impose the aggravated punishment on the drivers who flee the scene, the lack of the appropriate penal provision against the operators who escaped the ship would compromise the principle of equal punishment, considering the relatively lower possibility of emergency rescue due to the unique nature of the accidents on the sea.

The amendment was to discourage the operators of a ship

⁸⁴⁾ The bill (No. 4524) was submitted by member of the National Assembly Kim, Seung Nam on April 15, 2013, which was revised before being passed.

from leaving the scene of ship collision without taking sufficient rescue efforts, to prevent the collision of ships, and to establish the order of sea traffic by imposing aggravated punishment.

(c) Details

Captains or seafarers who commit the crime of Article 268 of the “Criminal Law” and escape the scene without taking any measures under the proviso of Article 18 (1) of the “Rescue and Aid At Sea and In the River Act” shall be punished aggravatingly as follows (Article 5-12 established):

Escape after resulting in the death of the victims or death of the victims after escape shall be punished by death or imprisonment with the term of five or more years

Inflicting bodily injury of the victims shall be punished by imprisonment with a limited term of over a year or a fine ranging from KRW 10,000,000 to KRW 100,000,000.

B. Proposed bill

(a) Details

The five proposed bills are characterized by the aggravated punishment on the tax evasion of high-ranking officials via international transactions, stronger punishment on the crimes of bribery by public servants, new provisions of aggravated punishment on the bribe offering for mediation, aggravated punishment on the driver who inflicted death or bodily injury by negligence after failing to comply with a request for a breath alcohol testing, and aggravated punishment on hate crimes.

〈Table 2-3-12〉 Details of partial amendment bill for Act on the Aggravated Punishment, etc. of Specific Crimes in 2013

Bill No.	Date	Proposing National Assembly member (number of seconds)	Reason for proposition	Details
5291	Jun 03	Lee, Jae Oh (14)	Considering higher level of integrity is required of high-ranking public officials, the punishment on the tax evasion via international transactions needs to be strengthened.	<ul style="list-style-type: none"> • High-ranking public officials who evaded tax via international transactions shall be punishable by life imprisonment or imprisonment with limited term of five years or more.
5837	Jul 02	Lee, Choon Suak (10)	The standard amount of aggravated punishment of crimes of bribery by public servants fails to reflect the economic and social changes including inflation. The punishment of receiving bribe for the purpose of mediation is too light compared to the grave nature of the crime, failing to promote the integrity of the public arena.	<ul style="list-style-type: none"> • The punishment will be further segmented by adding the section of “more than KRW 500,000,000” to the standard amount of bribe received. The punishment shall become stronger. • The punishment of crimes of receiving bribe for the purpose of mediation by public servants shall be elevated.
6573	Aug 28	Park, Jie Won (16)	Receiving or soliciting bribe for the purpose of mediation committed by public servants is punishable under the current statutes while the act of giving the bribe for the same purpose is not.	<ul style="list-style-type: none"> • Promising, giving, or expressing the intent to give for the purpose of mediation and handing the bribe to a third person with the same purpose are also punishable by the same punishment of the crimes of receiving bribe by public servants for the same purpose.
6927	Sept 23	Hong, Ji Man (12)	Drivers of vehicle who escape at the request of breath alcohol testing are more likely to cause massive accidents, rushed by the need to flee.	<ul style="list-style-type: none"> • Drivers who, after failing to comply to the request of breath alcohol testing, run to inflict bodily injury or death by occupational negligence shall be subject to aggravated punishment.

Bill No.	Date	Proposing National Assembly member (number of seconders)	Reason for proposition	Details
8190	Nov 29	Lee, Jong Kurl (11)	Discriminatory and insulting remarks and behaviors both on- and off-line targeting the different regions of origin, race, belief, and political opinions are creating conflicts among people	<ul style="list-style-type: none"> • Crimes of homicide, bodily injury, destruction of things, and insult with the purpose of expressing a sense of hate formed by a personal and social prejudice stemming from regions of origin, country, or race shall be aggravatingly punished.

(b) Evaluation

When establishing a new provision, it is important to clarify what constitutes the crime. In that context, terms like “international transactions,” and “sense of hate created from personal and social prejudice” might violate the principle of clarity of *nulla poena*. Furthermore, basing the aggravated punishment solely on the motive of a crime like “sense of hate” is not compatible with the legislative methods of Korea. Imposing the same amount of punishment on both offering and acceptance of bribe is also incompatible with the current statute system in which both acts are differently punished.

8) Punishment of Violences, etc. Act

One bill for the partial amendment of the “Punishment of Violences, etc. Act” was submitted during 2013 (from January 1 to December 31) by the Executive, pending at the National Assembly.

A. Amendment bill by the Executive

(a) Overview on the proposition and progress on discussion

Amendment bill (No. 6644) proposed by the Executive on September 2, 2013 was referred to Legislation and Judiciary Committee of the National Assembly the next day, under the review for easier legal terms.

(b) Reasons for proposition

Sentences in the statutes in the State ruled by law must be easy to understand and comply with, as well as good enough to be an example for proper language usage. However, in reality, legal sentences are oftentimes too complicated to understand because of the jargons and special terms. Their lingual structure has also been criticized as being too detached from the norm generally trusted by non-lawyers.

As such, the amendment aims to change terms into Korean characters, elaborating difficult words in easy terms and simplifying complicated sentences for better readability as part of an effort to fill the gap between legal and non-legal languages.

(c) Details

a) Replacing Chinese characters with Korean words except for the cases in which Korean words alone would create confusion in understanding (Chinese characters will be written in parentheses)

b) Changing difficult words and Japanese words into easy ones, e.g. remissly → by negligence, as long as it does not convert the provision

c) Increasing compliance with Korean language norms when it comes to word spacing in the names of the Acts, and punctuations

like comma and middle point (.).

d) Arranging more accurate and natural sentences

Better correspondence between subject and predicate, adverb and predicate, and object and predicate

Correct and natural word order instead of redundancy for better understanding

Expressions and words that are more commonly used during everyday language use

e) Clarifying sentences that are too long and contain too much information by breaking them down or simplifying the expressions.

B. Evaluation

The overall efforts are in a very desirable direction and we hope the same shift would occur in many other Special Criminal Acts.

Section 2 Legislative Trend in Criminal Adjective Law

1. Criminal Procedure Act

A total of 23 bills for the partial amendment of the Act were submitted (22 by the members of the National Assembly and one by the Executive) during 2013 (from January 1 to December 31).

1) Proposed Bill

Four bills are about the prevention of the abuse of the suspension of the execution of sentence (No. 5365, 5542, 5973, and 8066). Two of the bills aim to allow the family of the deceased

defendant who died during appellate trials and thus had the indictment dismissed to request a re-trial to restore the honor of the defendant (No. 4579 and 4617) while another two seek to strengthen the rights of suspects (No. 4679 and 7434).

The rest of the bills include requiring explanation about the ground for extenuative mitigation of punishment, granting the prosecutor the right to appeal on the ground of inappropriate sentence, allowing exceptions to the detention for review on the legality of the writ, extending prescription period of indictment, putting restrictions on discretionary bail, imposing on relevant ministries and agencies an obligation to notify in cases of violation of "Food Sanitation Act," and improving the confiscation process of the items belonging to public offices, streamlining the operation of exclusion, challenge and evasion of the court, strengthening the protection of victims, securing the legal ground for pre-sentencing review system, increasing the application period for financial compensation, operating exclusion, challenge and evasion of the Prosecutors, expanding the application of the apprehension of flagrant offenders, and restricting the visitation right of the defendant or suspect confined with the charges of crimes disturbing the constitutional order. The Executive-proposed bill seeks to improve the operation of the confiscation and additional collection.

〈Table 2-3-13〉 Details of partial amendment bill for Criminal Procedure Act in 2013

Bill No.	Date	Proposing National Assembly member (number of seconders)	Reason for proposition	Details
3835	Feb 22	Chung, Hee Soo (11)	Because judges are not required to include any explanation about the details of extenuative mitigation of the punishment, leaving it	<ul style="list-style-type: none"> • The judge shall include the explanation about the ground and reason for mitigation when doing a extenuative mitigation of

Bill No.	Date	Proposing National Assembly member (number of seconders)	Reason for proposition	Details
			prone to the discretion of the judge while making it difficult for appellate court to evaluate the judgment of the original court.	the punishment under Article 53 of the "Criminal Act."
3938	Mar 04	Lee, Han Sung (10)	Under the current system where the Prosecutors cannot appeal to the Supreme Court on the ground of inappropriate sentencing, there is no way the conspicuously inappropriate sentence made in the lower court that fails to meet the sentencing guideline could be rectified through appeal.	<ul style="list-style-type: none"> • Not only the defendant but also the Prosecutor may appeal to the Supreme Court in case it is conspicuous that the sentencing was inappropriate.
4575	Apr 18	Kim, Ki Hyun (11)	<p>The judge requested to issue a writ of custody of a non-apprehended suspect must first issue the writ to detain him for an examination (particularly when the suspect is the member of the National Assembly, an agreement to the apprehension is to be submitted, and if the agreement gets passed, it shows that the NA admits the accusation while if it does not review on the writ would become impossible during the same session even when the accusations are obvious)</p> <p>The Judge requested to issue a writ of custody must first examine the suspect. Meanwhile, the National Assembly must consent to the detention of its member under the "National Assembly Act." Even when the suspect wants to attend the review by giving up the</p>	<ul style="list-style-type: none"> • When a suspect voluntarily appears for questioning, no writ of custody shall be issued. • During the session of the National Assembly, where the suspect is the member, the Court may decide whether to issue a writ of custody ex officio or upon the request of the suspect without going through a procedure of confinement and examination.

Bill No.	Date	Proposing National Assembly member (number of seconders)	Reason for proposition	Details
			privilege of non-apprehension, there is no provision allowing this to happen.	
4579	Apr 18	Kim, Seung Nam (21)	When the defendant dies during the appellate trials, the indictment gets dismissed, to which no retrial is allowed. Therefore, when the defendant is found innocent after his death, there is no way to restore his honor by having the not-guilty decision delivered through retrial.	<ul style="list-style-type: none"> • The defendant who was convicted at the lower court and appealed, only to die and have the indictment dismissed, may request a retrial.
4617	Apr 22	Lee, Jong Kurl (10)		
4679	Apr 26	Seo, Young Gyo (NA)	Even when the statement needs to be recorded to protect the human rights of the suspect and secure accurate evidence during the investigation, the lack of related provision makes it impossible.	<ul style="list-style-type: none"> • When the legal counsel of the suspect requests, the statement of the suspect shall be mandatorily image-recorded.
4771	May 01	Park, In Sook (11)	When the prescription period for indictment is too short, realizing social justice and maintaining order becomes challenging.	<ul style="list-style-type: none"> • By increasing the prescription period of three or one year to five years, the minimum prescription period of all the crimes would become five years.
5194	May 30	Bae, Ki Un (15)	Frequent bail granted upon the CEO of large corporations or high ranking officials on the ground of health concern has been the target of criticism.	<ul style="list-style-type: none"> • To request a bail on the ground of the health concern of the defendant, one must submit a medical opinion as well as medical history issued at State-run hospitals designated by the Minister of Justice.
5365	Jun 07	Rhee, Mok Hee (12)	Socially privileged “rich and powerful” take advantage of the suspension of the execution of the punishment by submitting false documents about the health concern and being hospitalized at a healthcare facility with a connection.	<ul style="list-style-type: none"> • Medical institutions eligible to examine the ground of the suspension shall be strictly limited while the procedure thereof shall be strengthened (the review of “Deliberative Committee of Suspension of Punishment Execution”)

Bill No.	Date	Proposing National Assembly member (number of seconders)	Reason for proposition	Details
5542	Jun 20	Jung, Cheong Rae (11)	• Medical institutions eligible to examine the ground of the suspension shall be strictly limited while the hospital of detention after the suspension will be limited to the ones designated by the decree of the Minister Justice	• Medical institutions eligible to examine the ground of the suspension shall be strictly limited while the hospital of detention after the suspension will be limited to the ones designated by the decree of the Minister Justice
5973	Jul 15	Kim, Tae Won (10)		
6614	Aug 30	Lee, Un Ju (10)	The information of the manufacturer being caught by the investigation authorities for selling products beyond their expiration dates or manufacturing foods with unsanitary ingredients is not disclosed, raising concern among consumers.	• Cases of violation of the “Food Sanitation Act” shall be notified to the Minister of Food and Drug Safety when the investigation is initiated.
6714	Sept 05	Park, Young Sun (10)	The things belonging to or kept by current or former public official a) shall not be seized without the permission of the public office he/she works for or supervising agency when reported as secret related to public affairs and b) the public office or supervising agency shall not deny the permission except when a grave national interest is at stake. This not only hampers the fact-finding but also makes impossible the investigation of serious crimes where public officials are involved, resulting in sanctifying public arena where compliance of the Constitution and statutes is more important.	• Reporting of occupational secrets shall require a legal ground in related laws. The report must be immediately after acquiring or keeping the items. • Concerned public offices or supervisory agency shall not deny the permission except under the circumstances of war, serious incidents, grave economic crisis, or rapidly changing developments surrounding the inter-Korean relationship where the basic rights of people are infringed.
7136	Oct 04	Seo, Young Gyo (13)	The lack of the provisions related to record-keeping of the exclusion, challenge and evasion of the judges makes	• The record of the application or decision of the exclusion, challenge, and evasion of the judges

Bill No.	Date	Proposing National Assembly member (number of seconders)	Reason for proposition	Details
			it hard to monitor the proper operation of the system.	shall be separately kept in order to promote fair and legitimate operation of the system.
7434	Nov 01	Park, Duk Hyum (11)	When a protocol of the examination of the suspect is being written, the rights of the suspect must be further protected while the effectiveness of the court trial be increased.	<ul style="list-style-type: none"> • Suspect can check his/her statement on a real time basis through two-sided monitor while protocol is being written.
7713	Nov 12	Executive	Increase of concealment of personal property under others' name including family members with the intent of evading the confiscation or additional collection is leading to a low execution rate of the punishment.	<ul style="list-style-type: none"> • When a person other than the offender acquires the things with the awareness that they were provided to the act of crime, they also shall be collected. • When necessary for the execution of the confiscation and additional collection, the Prosecutor may request the attendance of a related person, provision of the information about taxation and financial transactions, and conduct seizure, search, and verification by writ.
8066	Nov 26	Jeon, Hae Cheol (16)	Cases of abusing the suspension of the execution of punishment have frequently occurred. ex. Murder of a college girl by a hit man hired by the wife of the CEO of a large corporation	<ul style="list-style-type: none"> • Deliberative Committee on Suspension of Punishment Restricting Physical Freedom shall be established under each High Prosecutors' Office to deliberate on the grounds for suspension, extension and cancellation of the suspension.
8222	Nov 29	Joo, Ho Young (13)	For appropriate sentencing during criminal procedure, examination is needed of circumstances to be considered for sentencing, especially with the sentencing guideline in operation.	<ul style="list-style-type: none"> • When necessary, the presiding judge may order for the Sentencing Review Committee for examination of the sentencing documents, while provisions shall be established

Bill No.	Date	Proposing National Assembly member (number of seconders)	Reason for proposition	Details
				regulating the authority of the Committee, a right to statement of the prosecutor, defendant, or legal counsel.
8365	Dec 05	Kim Gwang Jin (13)	The period for the defendant found not guilty to apply for the compensation for the legal cost spent for the trial is too short.	<ul style="list-style-type: none"> • The period shall be extended to three years from when the defendant know that the decision of the Court is confirmed, five years from when it is confirmed.
8382	Dec 06	Kang, Gi Youn (11)	Not only victims of sexual assault but also other victims more broadly are in need of legal assistance.	<ul style="list-style-type: none"> • Victims of crime and the legal proxy may appoint a legal counsel to prevent damage that might occur during a criminal procedure. • Statement assistants shall be provided to the victims of crime under the age of 13 or suffering from mental or physical disability causing difficulty in communication.
8430	Dec 09	Lee, No Keun (14)	There are no provisions regarding the exclusion, challenge, and evasion of the prosecutors, compromising the neutral position of the prosecutors.	<ul style="list-style-type: none"> • Related provisions shall be established.
8443	Dec 09	Sohn, In Chun (10)	It is provided that flagrant offenders punishable with fine not exceeding KRW 500,000 for the maximum amount, disciplinary lockup, or minor fine shall not be arrested except where their dwelling is uncertain. However, the provision has been under harsh criticism that it is excessively restricting the public authorities, hampering the proper law enforcement.	<ul style="list-style-type: none"> • Flagrant offenders must be arrested even when the dwelling is certain.

Bill No.	Date	Proposing National Assembly member (number of seconders)	Reason for proposition	Details
8921	Dec 31	Kim, Jin Tae (NA)	Visitation right with a legal counsel of a person who creates violence for the purpose of usurping the national territory or subverting the Constitution needs to be limited for the purpose of national security. However, there is no related provision, leading to the abuse of the right by those who were recently arrested for the charges of conspiracy of insurrection.	<ul style="list-style-type: none"> • When there is justifiable reasons to believe that serious harms will be caused to the national security, the defendant, suspect, or the legal counsel arrested under the “Act on Special Cases Concerning the Prescription for Public Prosecution, etc. Against Crimes Disrupting Constitutional Order” will have limited or no access to the visitation right with a legal counsel.

2) Evaluation

Allowing the Prosecutors the right to appeal on the ground of inappropriate sentence would likely violate the benefit of the defendant while allowing the family of the deceased defendant who was found guilty and died during appellate trials, and thus had the indictment dismissed to request a re-trial to restore the honor of the defendant is not compatible with the essence of the retrial system. Requiring statements of suspects to be recorded needs to be reviewed in line with the restrictions on the admissibility of the statement contained in the image recording under the current law. Extending the lower limit of the prescription period of the indictment to five years needs to be fully reviewed from the perspective of legal stability.

In addition, legislation that restricts the system based on the basic principle of the “Criminal Procedure Act” triggered by the occurrence of a special case requires a more careful approach. Strict restrictions on discretionary bail might excessively limit the right

of the defendant, while those in the process of the suspension of the execution of a sentence might affect the right of the inmates who are actually in need of suspension. Allowing anyone to apprehend any flagrant offenders of minor offenses with the maximum fine of KRW 500,000 or under as well as making it legal to confine flagrant offenders for 48 hours even though the confirmable address would excessively violate the freedom of body. In addition, establishing the restrictions on the visitation right of the defendant with a legal counsel in the statutes might substantially hamper the exercise of the defending right of the suspect or the defendant.

In the meantime, too much focus on the effectiveness of investigation, trial, and execution would infringe the general principle of law. In other words, enforcing the decision of additional collection against the defendant on a third person would go against the general principle of confiscation and additional collection. Disproportionate protection of the defendant's right might lead to the weakening of the victim's rights. This is also true in the opposite case. For example, granting the participatory right to the legal counsel of the victim in the investigation and trial proceeding without considering the nature of the crime and case would run the risk of putting the defendant at a disadvantage in terms of the defense right.

Requiring explanation for the extenuative mitigation of punishment would encourage judges to be more discreet and fair when presiding over trials, while extending the application period of the financial compensation for decision of not guilty would lead to better protection of the innocent defendant especially considering the balance between the application period of criminal compensation.

2. Act on Citizen Participation in Criminal Trials

1) Amendment Bill proposed by the National Assembly

Four bills for the partial amendment of the “Act on Citizen Participation in Criminal Trials” were submitted during 2013 (all by the members of the National Assembly).

〈Table 2-3-14〉 Details of partial amendment bill for Act on Citizen Participation in Criminal Trials in 2013

Bill No.	Date	Proposing National Assembly member (number of seconders)	Reason for proposition	Details
3657	Feb 07	Seo, Gi Ho	<ul style="list-style-type: none"> • When the judge or the prosecutor is the concerned party of an eligible case, it shall proceed to a participatory trial regardless of the opinion of the defendant. • The requirements for decision of the Court to exclude or to proceed to non-participatory trial become more strict 	
4043	Mar 12	Seo, Young Gyo	<ul style="list-style-type: none"> • The Court may make decision to exclude when the defendant or the legal counsel of the crime of piracy and rape of Article 340 (3) of the “Criminal Law” does not want to proceed to a participatory trial. • Over a certain number of female jurors shall be included in the jury for a crime of sexual assault and domestic violence. 	

Bill No.	Date	Proposing National Assembly member (number of seconders)	Reason for proposition	Details
8204	Nov 29	Chung, Hee Su	• Cases under the “Public Officials Election Act” that are prone to public opinion and in need of legal expertise shall be excluded from participatory trials.	
8344	Dec 05	Seo, Young Gyo	• Any person shall be punished who dismisses or treats unfavorably jurors, alternate jurors, or prospective jurors.	

The proposals are mostly about the eligibility of criminal cases and requirements. What is noticeable is Bill No. 8344 that aims to ban the measures unfavorable to prospective jurors in order to increase the attendance rate of the jurors and Bill No. 4043 that seeks to include a certain mandatory number of females in the jury.

2) Notice of Legislation by the Executive

A. Progress

Committee for Citizens' Participation in Judicial System that was established based on Article 55 of the “Act on Citizen Participation in Criminal Trials” resolved the final format of the citizen participation at the 8th meeting on March 6, 2013 after six months’ of review and public hearing. The final system chosen at the meeting was pre-announced for legislation on October 11, 2013 in the form of partial amendment bill by the Ministry of Justice (Notice No. 2013-221), which was amended again to be re-notified on December 31, 2013 (No. 2013-288).⁸⁵⁾

B. Notice of legislation by the Ministry of Justice (December 31, 2013)

The second notification of the legislation by the Ministry of Justice contain the following.

a) Effect of verdict (*de facto* binding force: express provision ordering the Court to respect the verdict): Taking a step further from the current recommendatory effect, a *de facto* binding force shall be given to the verdict which is prescribed as a provision. In other words, the court shall respect the verdict in judging the guilty status of the defendant, provided that the Court may judge differently when the procedure or substance of the discussion or verdict violate the Constitution, statutes, orders, regulations, or Supreme Court decisions (Article 46 (5) of the bill). However, the opinion of the jury regarding sentencing shall still remain recommendatory.

b) Verdict (qualified majority): Instead of the current simple majority, qualified majority shall be required where at least three-fourths of the jurors need to consent. In case of a hung jury, the Court may adjudicate without the verdict of the jury, with the opinion of the jury working as only a reference (Article 46 (3) and (6) of the bill).

c) Eligible cases: "Cases falling under the competence of the collegiate panel of the district court under other Acts (Article 32 (1) 5 of the Court Organization Act)" were excluded.

d) Requirements: The request of the Prosecutor, not only that of the defendant, may prompt the Court to decide whether to proceed to a participatory trial (Article 5 (3))

e) The final statement of the defendant and the statement of the prosecutor requesting the re-deliberation (newly added): In case the defendant or his/her legal counsel mentioned new issues

85) http://www.moj.go.kr/HP/COM/bbs_04/ShowData.do

and opinions about the fact during the final statement, the presiding judge shall give the prosecutor an opportunity to state his/her opinion about this. After that, the defendant and the legal counsel may state the opinion with the permission of the presiding judge (Article 45-2 of the bill).

f) The prosecutor's right to request a decision to exclude and the grounds for exclusion added: The Court may decide to exclude at the request of the prosecutor (Article 9 (1)). If there is a concern that the nature of the crime might lead to an unfair decision, the Court may decide to exclude (Article 9 (1) (4) of the bill).

g) The number of jurors: Instead of abolishing five-juror trials, those participated by seven or nine jurors shall be maintained (the proviso of Article 13 (1) and 30 (1) deleted from the current Act)

h) Others: The age requirement of the prospective jurors will be lowered to 19 from the current 20 (Article 22 (1)), the presiding judge shall also explain the gist of the prosecutor's argument (Article 46 (1)), and the number of the jurors, guilty or not-guilty, and the opinion of the jury on the sentencing shall be included in the written judgment (Article 49 (1)).

3. Sentencing Guideline System

In 2013, Sentencing Commission of Supreme Court established a new sentencing guideline for three crimes related to taxation (promulgated on February 4, 2013, effective on July 1, 2013), crimes of extortion (promulgated on February 4, 2013, effective on July 1, 2013), and crimes of arson (promulgated on February 4, 2013, effective on July 1, 2013).

Guidelines for crimes of homicide (promulgated on April 22, 2013, effective on May 15, 2013) and sexual assault (promulgated on April 22, 2013, effective on June 19, 2013) were amended.

1) Sentencing Guidelines for Crimes related to Taxation (Promulgated on February 4, 2013, entry into force on July 1, 2013)

A. Criteria for the classification of crime types

“General tax evasion” and “Giving or receiving false tax invoices, etc.” are two major types of the crime act.

“General tax evasion” is divided into two types: tax evasions under Article 3 (1) of the “Tax Evaders Punishment Act” and that under Article 8 (1) of the “Aggravated Punishment Act,” both of which are then categorized again under different amount of evaded tax. “Giving or receiving false tax invoices, etc.” is divided into two types: one under Article 10 (3) of the “Tax Evaders Punishment Act” and the other under Article 8-2 (1) of the “Aggravated Punishment Act,” both of which are then categorized again under different amount of total supply price.

B. Types of offenses and sentencing periods

Type	Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
1	Less than KRW 300 million	- 8 months	6 months - 10 months	8 months - 1yr 2 months
2	More than KRW 300 million, less than KRW 500 million	6 months - 1 yr	8 months - 1 yr 2 months	1 yr - 2 yrs
3	More than KRW 500 million	8 months - 1 yr 6 months	1 yr - 2 yrs	1 yr 6 months - 2 yrs 6 months

* For cases where the amount of tax evasion and etc. involves more than KRW 300 million and less than KRW 500 million, and is more than 30% of the filed or paid taxes or more than 30% of the tax amount which shall be determined and notified by the Government fall under Type 3.

(1) General tax evasion

Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> - Passive Participation Resulting From Outside Pressure - Cases Where Profits Gained From the Offense is Not Substantial - Offense Evidently Committed As a Result of Postponing Tax Payments - Willful Negligence of Tax Evasion 	<ul style="list-style-type: none"> - Premeditated and Organized Crime - Prolonged and Repeated Commission of the Crime for More than 2 Years - Instigating the Subordinate Person to Commit the Offense
	Actor /Etc.	<ul style="list-style-type: none"> - Those with Hearing and Speaking Impairments - Those with Mental Incapacity - Voluntary Surrender to Investigative Agencies, Cases of Whistle-Blowing of Corruption, or Modifying Tax Reports or Filing Taxes After the Deadline - Payment Substantially Made on the Evaded Tax Amount 	<ul style="list-style-type: none"> - Repeated Offenses of Same Type under the Criminal Act - Habitual Offender - Offense Committed Through Act of Coordinating, Arranging, Instigating by Tax Accountants, Certified Public Accountants, or Attorney-at-Law Who Conducts Taxation Business by Proxy Arrangements, or Offense Committed by a Revenue Officer
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> - Tax Evasion Committed As a Result of Financial Distress - Portion of the Tax Evaded is Collected or is Expected to be Collected - Passive Participation 	<ul style="list-style-type: none"> - Concealing Property to Avoid Payment of the Evaded Tax - Continued Offense Notwithstanding the Written Warnings, Financial Audits or Actual Survey by the Tax Service - Offense Committed As a Result of Collusion with the Revenue Officer - Obstructing Tax Investigation
	Actor /Etc.	<ul style="list-style-type: none"> - Expresses Sincere Remorse - No Prior Criminal History - There is Genuine Efforts to Pay the Evaded Tax 	<ul style="list-style-type: none"> - Repeated Offenses of Different Type under the Criminal Act, Criminal History of Imprisonment by the Same Type of Offenses or by Crime of Violence that Does not

Classification		Mitigating Factor	Aggravating Factor
			Constitute Repeated Offense under the Criminal Act (This Applies When the Criminal History is Within Ten Years After Completion of Sentence)

(2) General tax evasion under the “Aggravated Punishment Act”

Type	Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
1	More than KRW 500 million, Less than KRW 1 billion	1 yr 6 months - 2 yrs 6 months	2 yrs - 4 yrs	3 yrs - 5 yrs
2	More than KRW 1 billion, Less than KRW 20 billion	2 yrs 6 months - 5 yrs	4 yrs - 6 yrs	5 yrs - 8 yrs
3	More than KRW 20 billion	4 yrs - 7 yrs	5 yrs - 9 yrs	8 yrs - 12 yrs

Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> - Passive Participation Resulting From Outside Pressure - Cases Where Profits Gained From the Offense is Not Substantial - Offense Evidently Committed As a Result of Postponing Tax Payments - Willful Negligence of Tax Evasion 	<ul style="list-style-type: none"> - Premeditated and Organized Crime - Instigating the Subordinate Person to Commit the Offense
	Actor/ Etc.	<ul style="list-style-type: none"> - Those with Hearing and Speaking Impairments - Those with Mental Incapacity - Voluntary Surrender to Investigative Agencies, Cases of Whistle-Blowing of Corruption, or Modifying Tax Reports or Filing Taxes After the Deadline - Payment Substantially Made on the Amount of Tax Evaded 	<ul style="list-style-type: none"> - Repeated Offenses of Same Type under the Criminal Act - Offense Committed Through Act of Coordinating, Arranging, Instigating by Tax Accountants, Certified Public Accountants, or Attorney-at-Law Who Conducts Taxation Business by Proxy Arrangements, or Offense Committed by a Revenue Officer

Classification		Mitigating Factor	Aggravating Factor
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> - Tax Evasion Committed As a Result of Financial Distress - Portion of the Tax Evaded is Collected or is Expected to be Collected - Passive Participation 	<ul style="list-style-type: none"> - Concealing Property to Avoid Evaded Tax Payment - Continued Offense Notwithstanding the Written Warnings, Financial Audits or Actual Survey by the Tax Service - Offense Committed As a Result of Collusion with the Revenue Officer - Obstructing Tax Investigation
	Actor/ Etc.	<ul style="list-style-type: none"> - Expresses Sincere Remorse - No Prior Criminal History - There is Genuine Efforts to Pay the Evaded Tax 	<ul style="list-style-type: none"> - Repeated Offenses of Different Type under the Criminal Act, Criminal History of Imprisonment by the Same Type of Offenses or by Crime of Violence that Does not Constitute Repeated Offense under the Criminal Act (This Applies When the Criminal History is Within Ten Years After Completion of Sentence)

(3) General offense of giving or receiving false tax invoices, etc.

Type	Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
1	Less than KRW 3 billion	- 10 months	6 months - 1 yr	10 months - 1 yr 2 months
2	More than KRW 3 billion, less than KRW 5 billion	6 months - 1 yr	8 months - 1yr 2 months	1 yr - 2 yrs
3	More than KRW 5 billion	8 months - 1 yr 6 months	1 yr - 2 yrs	1 yr 6 months - 2 yrs 6 months

Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> - Passive Participation Resulting From Outside Pressure - Cases Where Profits Gained From the Offense is Not Substantial - Absence of Purpose to Commit Tax Evasion or Absence of the Tax Evasion 	<ul style="list-style-type: none"> - Premeditated and Organized Crime - Prolonged and Repeated Commission of the Crime for Profit (Type 1) - Instigating the Subordinate Person to Commit the Offense
	Actor/ Etc.	<ul style="list-style-type: none"> - Those with Hearing and Speaking Impairments - Those with Mental Incapacity - Voluntary Surrender to Investigative Agencies, Cases of Whistle-Blowing of Corruption 	<ul style="list-style-type: none"> - Repeated Offenses of Same Type under the Criminal Act - Offense Committed Through Act of Coordinating, Arranging, Instigating by Tax Accountants, Certified Public Accountants, or Attorney-at-Law Who Conducts Taxation Business by Proxy Arrangements, or Offense Committed by a Revenue Officer
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> - Offender Failed to Consume or Retain Substantial Amount of Profit from the Crime - Passive Participation 	<ul style="list-style-type: none"> - Offense Committed As a Result of Collusion with the Revenue Officer - Obstructing Tax Investigation - Demanding False Tax Invoices to Clients Using their Standing in Business Relations As an Advantage Such As Threatening to End Business Relations
	Actor/ Etc.	<ul style="list-style-type: none"> - Expresses Sincere Remorse - No Prior Criminal History 	<ul style="list-style-type: none"> - Repeated Offenses of Different Type under the Criminal Act, Criminal History of Imprisonment by the Same Type of Offenses or by Crime of Violence that Does not Constitute Repeated Offense under the Criminal Act (This Applies When the Criminal History is Within Ten Years After Completion of Sentence)

(4) General offense of giving or receiving false tax invoices,
etc under the “Aggravated Punishment Act”

Type	Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
1	Less than KRW 300 million	6 months - 1 yr 6 months	1 yr - 2 yrs	1 yr 6 months - 3 yrs
2	More than KRW 300 million, less than KRW 500 million	1 yr 6 months - 2 yrs 6 months	2 yrs - 4 yrs	3 yrs - 5 yrs
3	More than KRW 500 million	2 yrs - 4 yrs	3 yrs - 6 yrs	5 yrs - 7 yrs

Classification	Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct <ul style="list-style-type: none"> - Passive Participation Resulting From Outside Pressure - Cases Where Profits Gained From the Offense is Not Substantial - Absence of Purpose to Commit Tax Evasion or Absence of the Tax Evasion 	<ul style="list-style-type: none"> - Premeditated and Organized Crime - Instigating the Subordinate Person to Commit the Offense
	Actor/ Etc. <ul style="list-style-type: none"> - Those with Hearing and Speaking Impairments - Those with Mental Incapacity - Voluntary Surrender to Investigative Agencies, Cases of Whistle-Blowing of Corruption 	<ul style="list-style-type: none"> - Repeated Offenses of Same Type under the Criminal Act - Offense Committed Through Act of Coordinating, Arranging, Instigating by Tax Accountants, Certified Public Accountants, or Attorney-at-Law Who Conducts Taxation Business by Proxy Arrangements, or Offense Committed by a Revenue Officer
General Sentencing Determinant	Conduct <ul style="list-style-type: none"> - Offender Failed to Consume or Retain Substantial Amount of Profit from the Crime - Passive Participation 	<ul style="list-style-type: none"> - Offense Committed As a Result of Collusion with the Revenue Officer - Obstructing Tax Investigation - Demanding False Tax Invoices to Clients Using their Standing in Business Relations As an Advantage Such As Threatening to End Business Relations
	Actor/ Etc. <ul style="list-style-type: none"> - Expresses Sincere Remorse - No Prior Criminal History 	<ul style="list-style-type: none"> - Repeated Offenses of Different Type under the Criminal Law, Criminal History of Imprisonment by

Classification		Mitigating Factor	Aggravating Factor
			the Same Type of Offenses or by Crime of Violence that Does not Constitute Repeated Offense under the Criminal Act (This applies when the criminal history is within ten years after completion of sentence)

2) Crimes of Extortion (Promulgated on February 4, 2013, entry into force on July 1, 2013)

A. Criteria for the classification of crime types

“General extortion” and “Habitual extortion, repeated extortion, and special extortion” are two major types of crime act.

“General extortion” is divided into five categories depending on the amount of profit, while “Habitual extortion, repeated extortion, and special extortion” into two depending on the types of acts.

B. Types of offenses and sentencing periods

(a) General extortion

Type	Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
1	Less than KRW 30 Million	- 8 months	6 months - 1yr	10 months - 2 yrs 6 months
2	More than KRW 30 Million, Less than KRW 100 Million	4 months - 1yr 2 months	10 months - 2 yrs	1 yr 6 months - 3 yrs
3	More than KRW 100 Million, Less than KRW 500 Million	10 months - 3 yrs	1 yr 6 months - 4 yrs	3 yrs - 7 yrs
4	More than KRW 500 Million, Less than KRW 5 Billion	1 yr 6 months - 4 yrs 6 months	3 yrs - 7 yrs	5 yrs - 9 yrs
5	More than KRW 5 Billion	3 yrs - 7 yrs	5 yrs - 9 yrs	7 yrs - 11 yrs

Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> - Extent of the Offense is Slight - Special Considerations can be Taken into Account for Engaging in Offense - Extortion Committed to Exercise Right 	<ul style="list-style-type: none"> - Active Role in Organizing the Commission of the Crime - Offense Against Unspecified Multiple Victims or for Continued and Repeated Offense - Usage of Malicious Methods to Commit Crime - Offense Caused Significant Damage to the Victim - Offense Committed Toward Vulnerable Victims - Instigating the Subordinate Person to Commit the Offense
	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 Law
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> - Offense Committed for Basic Living Expenses or Medical Expenses - Cases Where the Offender Failed to Consume or Retain Most of the Profit from the Crime - Passive Participation 	<ul style="list-style-type: none"> - Two or More Co-Offenders - Premeditated Crime - Condemnable Motives - Deliberate Concealing of Profits Made from the Offense
	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 - Genuine Efforts to Reverse Harm Caused 	<ul style="list-style-type: none"> - Destroying Evidence or Attempting to Conceal Evidence After Commission of the Offense - Repeated Offenses of Different Type under the Criminal Law 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.

(b) Habitual extortion, repeated extortion, and special extortion

Type	Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
1	Habitual Extortion, Repeated Extortion, Special Extortion	1 yr 6 months - 3 yrs	2 yrs - 5 yrs	4 yrs - 7 yrs
2	Habitual Extortion, Repeated Extortion, Special Extortion	2 yrs 6 months - 5 yrs	4 yrs - 7 yrs	6 yrs - 9 yrs

* When the profit from the offense under Type 1 or Type 2 is KRW 500 million or more and thus falls under Type 4 or Type 5 of General Extortion, compare the maximum and minimum limits of the sentencing range and apply the more severe sentencing range.

Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> - Extent of the Offense is Slight - Special Considerations can be Taken into Account for Engaging in Offense - Extortion Committed to Exercise Right (Limited to Special Extortion) 	<ul style="list-style-type: none"> - Active Role in Organizing the Commission of the Crime - Offense Against Unspecified Multiple Victims or for Continued and Repeated Offense - Offense Caused Significant Damage to the Victim - Offense Committed Toward Vulnerable Victims - Instigating the Subordinate Person to Commit the Offense
	Actor/ Etc.	<ul style="list-style-type: none"> - Those with Hearing and Visual Impairments - Those with Mental 	

Classification		Mitigating Factor	Aggravating Factor
General Sentencing Determinant		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	
	Conduct	- Offense Committed for Basic Living Expenses or Medical Expenses - Cases Where the Offender Failed to Consume or Retain Most of the Profit from the Crime - Passive Participation	- Premeditated Crime - Condemnable Motives - Deliberate Concealing of Profits Made from the Offense
	Actor/ Etc.	- Those with Mental Incapacity (These are cases where the offender can be held liable) - Expresses Sincere Remorse - No Prior Criminal History - Genuine Efforts to Reverse Harm Caused	- Destroying Evidence or Attempting to Conceal Evidence After Commission of the Offense - 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)

3) Crimes of Arson (Promulgated on February 4, 2013, entry into force on July 1, 2013)

A. Criteria for the classification of crime types

Crimes of arson is divided into “General standard” and “Setting fire to a present dwelling structure resulting in injury or death,” with a separate category of “Setting fire to special properties (cultural heritage and forest).”

“General standard” is categorized into three types depending

on the object of arson and the structure of punishment, while “Setting fire to a present dwelling structure resulting in injury or death” into three depending on the results. “Setting fire to special properties” is divided into two types depending on the object.

B. Types of offense and sentencing periods

(a) General standard

Type	Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
1	Setting Fire to a Present Dwelling Structure	1 yr 6 months - 3yrs	2 yrs - 5 yrs	4 yrs - 7 yrs
2	Setting Fire to a Building Structure, etc. Owned by Another	1 yr - 2yrs	1 yr 6 months - 3 yrs	2 yrs 6 months - 5 yrs
3	Setting Fire to Goods in Another's Ownership	6 months - 1yr	10 months - 2 yrs	1 yr 6 months - 4 yrs

Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> - Special Considerations can be Taken into Account for Engaging in Offense or Motive - Actual Damage is Slight 	<ul style="list-style-type: none"> - Prolonged and Repeated Commission of the Crime Resulted in Multiples of Victims - Extent of Harm is Serious or Inflicting Serious Harm to the Victim - Crime Against Special Property with High Social, Cultural, or Economical Value - Condemnable Motives - Instigating the Subordinate Person to Commit the Offense
	Actor/ Etc.	<ul style="list-style-type: none"> - Those with Hearing and Speaking Impairments - Those with Mental Incapacity (Cases Where the Offender Cannot be Held Liable) - Voluntary Surrender to Investigative Agencies - Offender Expresses Remorse and the Victim Opposes Punishment 	Repeated Offenses of Same Type under the Criminal Law

Classification		Mitigating Factor	Aggravating Factor
General Sentencing Determinant	Conduct	Passive Participation	<ul style="list-style-type: none"> - Premeditated Crime - Causing Multiples of Victims or the Risk of Inflicting Serious Harm to the Victim is Substantial (This Excludes Type 3)
	Actor/ Etc.	<ul style="list-style-type: none"> - Efforts to Prevent the Spread of Fire or Damages - Offender Injured Severely Due to the Fire - Those with Mental Incapacity (Cases Where the Offender Can be Held Liable) - Expresses Sincere Remorse - No Prior Criminal History - There is Genuine Efforts to Reverse Harm 	<ul style="list-style-type: none"> - Repeated Offenses of Different Type under the Criminal Law, Criminal History of Imprisonment by the Same Type of Offenses or by Crime of Violence that Does not Constitute Repeated Offense under the Criminal Law (This Applies When the Criminal History is Within Ten Years After Completion of Sentence)

(b) Setting fire to special properties

Type	Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
1	Setting Fire to a Cultural Heritage	2 yrs 6 months - 4 yrs	3 yrs - 8 yrs	6 yrs - 12 yrs
2	Setting Fire to a Forest	3 yrs - 6 yrs	5 yrs - 9 yrs	8 yrs - 13 yrs

Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> - Special Considerations can be Taken into Account for Engaging in Offense or Motive - Actual Damage is Slight - Offender Did Not Intend to Set Fire on Special Properties (Type 1) 	<ul style="list-style-type: none"> - Prolonged and Repeated Commission of the Crime Resulted in Multiples of Victims - Extent of Harm is Serious or Inflicting Serious Harm to the Victim - Crime Against Special Property with High Social, Cultural, or Economical Value - Condemnable Motives - Instigating the Subordinate Person to Commit the Offense

Classification		Mitigating Factor	Aggravating Factor
General Sentencing Determinant	Actor/ Etc.	<ul style="list-style-type: none"> - Those with Hearing and Speaking Impairments - Those with Mental Incapacity (Cases Where the Offender Cannot be Held Liable) - Voluntary Surrender to Investigative Agencies - Offender Expresses Remorse and the Victim Opposes Punishment 	Repeated Offenses of Same Type under the Criminal Law
	Conduct	Passive Participation	<ul style="list-style-type: none"> - Premeditated Crime - Causing Multiples of Victims or the Risk of Inflicting Serious Harm to the Victim is Substantial
	Actor/ Etc.	<ul style="list-style-type: none"> - Efforts to Prevent the Spread of Fire or Damages - Offender Injured Severely Due to the Fire - Those with Mental Incapacity (Cases Where the Offender Can be Held Liable) - Expresses Sincere Remorse - No Prior Criminal History - There is Genuine Efforts to Reverse Harm 	<ul style="list-style-type: none"> - Repeated Offenses of Different Type under the Criminal Law, Criminal History of Imprisonment by the Same Type of Offenses or by Crime of Violence that Does not Constitute Repeated Offense under the Criminal Law (This Applies When the Criminal History is Within Ten Years After Completion of Sentence)

(c) Setting fire to a present dwelling structure resulting in injury or death

Type	Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
1	Setting Fire to a Present Dwelling Structure Resulting in Injury or Death	2 yrs 6 months - 5 yrs	4 yrs - 7 yrs	6 yrs - 11 yrs
2	Setting Fire to a Present Dwelling Structure Resulting in Death (Without Intent to Commit Murder)	4 yr - 9 yrs	7 yrs - 13 yrs	10 yrs - 17 yrs
3	Setting Fire to a Present Dwelling Structure Resulting in Death (With Intent to Commit Murder)	9 yrs - 13 yrs	12 yrs - 16 yrs	More than 15 yrs, More than Life Imprisonment

- ▷ In case of Type 3, compare the maximum and minimum limit of the recommended sentencing range with the Homicide Crime and apply the sentencing range that is more severe.

Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> - Special Considerations Can be Taken into Account for Engaging in Offense or Motive - Minor Bodily Injury (Type 1) - Offender's Conduct is Not the Direct Cause of Death (Type 2) - Willful Negligence of Murder (Type 2) 	<ul style="list-style-type: none"> - Prolonged and Repeated Commission of the Crime - Resulted in Multiples of Victims, Extent of Harm is Serious or Inflicting Serious Harm to the Victim (Latter is Applied to Type 1 Only) - Usage of Cruel Methods to -Commit Crime - Offense Committed Against Vulnerable Victims - Condemnable Motives - Instigating the Subordinate Person to Commit the Offense
	Actor/ Etc.	<ul style="list-style-type: none"> - Those with Hearing and Speaking Impairments - Those with Mental Incapacity (Cases Where the Offender Cannot be Held Liable) - Voluntary Surrender to Investigative Agencies - Offender Expresses Remorse and the Victim Opposes Punishment 	Repeated Offenses of Same Type under the Criminal Act
General Sentencing Determinant	Conduct	Passive Participation	<ul style="list-style-type: none"> - Premeditated Crime - Causing Multiples of Victims or the Risk of Inflicting Serious Harm to the Victim is Substantial
	Actor/ Etc.	<ul style="list-style-type: none"> - Efforts to Prevent the Spread of Fire or Damages - Offender Injured Severely Due to the Fire - Those with Mental Incapacity (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, Criminal History of Imprisonment by the Same Type of Offenses or by Crime of Violence that Does not Constitute Repeated Offense under the Criminal Act (This Applies When

Classification		Mitigating Factor	Aggravating Factor
		- Victim Opposes Punishment (This Includes Genuine Efforts to Reverse Harm)	the Criminal History is Within Ten Years After Completion of Sentence)

4) Homicide and Sex Crimes Sentencing Guideline Revision (Revised on April 22, 2013, entry into force on June 19, 2013)

A. Major revisions

As serious crimes of sexual assault against minors and homicide have happened frequently, the sentencing guidelines for those crimes have dramatically strengthened.

The sentencing range of imprisonment for murder has been upward: 10 to 16 years for murder with general motive, 15 to 20 years for murder with condemnable motive, 20 years or more / life imprisonment for murder in combination with other serious crimes, and 23 years for murder by extreme neglect for human life. Punishment for murder with aggravating factors became also more strict: murder with general motive with aggravating factor is punished by life imprisonment or more while murder by extreme neglect for human life is punished by only life imprisonment or more. However, murder with extenuating motive is punished by 4 to 6 years (standard range) or 5 to 8 years (aggravated range) reflecting more cautious approach about this type. And in accordance with the amended "Act on the Protection of Children and Juveniles from Sexual Abuse" effective on June 2013, crimes of rape and murder against juveniles ages 13 and older were established as part of murder in combination with other serious crimes.

Meanwhile, the sentencing periods for robbery and rape were

also elevated: 8 to 12 years for standard range while 10 to 15 years for aggravating range. The standard range for Indecent acts by compulsion after robbery is seven to 11 years while aggravating range is nine to 13 years. Reflecting the amendment of the “Act on the Protection of Children and Juveniles from Sexual Abuse,” sexual crimes against victims aged under 13 were established while adjusting the sentencing period of other sex crimes. The standard range for the Crimes of rape against victims aged under 13 is eight to 12 years, six to nine years for sexual penetration by compulsion, four to 7 years for indecent acts by compulsion, two and half to five years for statutory rape, and eight months to two years for statutory indecent acts by compulsion.

B. Types of offenses and sentencing periods

(a) Homicide

Type	Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
1	Murder with Extenuating Motive	3 yrs - 5 yrs	4 yrs - 6 yrs	5 yrs - 8 yrs
2	Murder with General Motive	7 yrs - 12 yrs	10 yrs - 16 yrs	15 yrs or More, Life Imprisonment or More
3	Murder with Condemnable Motive	10 yrs - 16 yrs	15 yrs - 20 yrs	18 yrs or More, Life Imprisonment or More
4	Murder in Combination with Other Serious Crimes	17 yrs - 22 yrs	20 yrs or More, Life Imprisonment	25 yrs or More, Life Imprisonment or More
5	Murder by Extreme Neglect for Human Life	20 yrs - 25 yrs	23 yrs or More, Life Imprisonment	Life Imprisonment or More

To determine the recommended sentencing range for Attempt of Murder, apply a two-thirds reduction to the minimum, and one-third reduction to the maximum sentencing range. However, “Life Imprisonment” shall be reduced to 20 yrs or more, and ‘Life

Imprisonment or More' shall be reduced to '20 yrs or More, Life Imprisonment'.

Classification			Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct	General Application	<ul style="list-style-type: none"> - Special Considerations can be Taken into Account for Engaging in Offense - Use of Excessive Self-Defense - Willful Negligence to Commit Murder - (Strong) Provocation by the Victim 	<ul style="list-style-type: none"> - Premeditated Crime - Vulnerable Victims - Damaging the Physical Remains of the Body of the Deceased Victim - Usage of Cruel Methods to Commit Crime - Cases where the Victim is an -Ascendant of the Offender - Abduction or Inducement with Condemnable Purpose (Type 4) - Cases where the Offender also Committed Rape with the Crime of Robbery (Type 4) - Instigating the Subordinate Person to Commit the Crime
		Attempt	Minor Bodily Injuries (Includes Cases Without Bodily Injuries)	Serious Bodily Injuries
	Actor/Etc.		<ul style="list-style-type: none"> - Those with Hearing and Visuals Impairments - Those with Mental Incapacity (Cases Where the Offender Cannot be Held Liable) - Voluntary Surrender to Investigative Agencies - Offender Expresses Remorse and the 	<ul style="list-style-type: none"> - Absence of Remorse (Excludes Cases Where the Offender is Merely Pleading Not Guilty) - Special Violent Crime Act (Applies to Repeated Offenses)

Classification		Mitigating Factor	Aggravating Factor
General Sentencing Determinant		Victim Opposes Punishment (This includes genuine efforts to reverse harm)	
	Conduct	<ul style="list-style-type: none"> - Passive Participation in the Committed Crime - (Average) Provocation by the Victim 	Abandoning the Physical Remains of the Body of the Deceased Victim
	Actor/Etc.	<ul style="list-style-type: none"> - Rescuing or Transferring the Victim to the Hospital After Committing the Crime - Deposited Significant Amounts of Money - Those with Reduced Mental Capacity (These are cases where the offender can be held liable but does not apply to Type 4 Category Crimes of Murder after Committing Rape/Sexual Penetration or Indecent Acts by Compulsion, Murder after Abduction or Inducement against the Minor, or murder after taking Hostage) - Sincere Remorse for Committing the Crime 	<ul style="list-style-type: none"> - Repeated Offenses of Different Type under the Criminal Act that Does Not Constitute Repeated Offenses under the Special Violent Crime Act, Criminal History of Imprisonment by the Same Type of Offenses, or by Crime of Violence that Does not Constitute Repeated Offense under the Criminal Act (This applies when the criminal history is within ten years after completion of sentence)

For cases of committing Murder after Rape/Sexual Penetration/ Murder After Indecent Acts by Compulsion under the influence of alcohol or other drugs, sentencing criteria described in Sentencing Guideline on Crimes of Sexual Assault (Amended, Effective on July 15, 2010) shall be applied.

(b) Sexual assault

a) General applicable principles

i) Rape (of victim 13 years of age or older)

Type	Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
1	Standard Rape	1 yr 6 months - 3 yrs	2 yrs 6 months - 5yrs	4 yrs - 7 yrs
2	Rape by Relative/Rape After Intrusion Upon Habitation, etc./Special Rape	3 yrs - 5 yrs 6 months	5 yrs - 8 yrs	6yrs - 9 yrs
3	Rape After Robbery	5 yrs - 9 yrs	8 yrs - 12 yrs	10 yrs - 15 yrs

* Sexual Penetration by Compulsion against the adult falls within Type 1. However, the maximum and the minimum sentencing range shall be reduced to two thirds.

* Rape/Sexual Penetration by Compulsion against the minor (including sexual intercourse by deceptive schemes or by use of force/quasi-sexual intercourse) falls within Type 2.

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

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

Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct		<ul style="list-style-type: none"> - Sadistic, Perverse Conduct or with Extreme Level of Sexual Humiliation - Constant and Repeated Offense Against Multiple Victims - Vulnerable Victims - Offenders of Special Robbery

Classification		Mitigating Factor	Aggravating Factor
			<p>Under the Special Sexual Crime Act, Article 3, paragraph 2 (Type 3)</p> <ul style="list-style-type: none"> - Offender Commits Rape After Intrusion Upon Habitation or Other Similar Settings or in a Special Rape Where the Victim is a Relative - Gang-rape (Type 2,3) - Pregnancy - Instigating the Subordinate Person to Commit the Offense
	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 - Offender Expresses Remorse and the Victim Opposes Punishment 	<ul style="list-style-type: none"> - Repeated Offenses of the Same Type Under the Aggravated Punishment Act or the Criminal Act that Does Not Constitute Repeated Offenses Under the Special Violent Crime Act - Offenses Committed by the Person under Legal Obligation to Report or by Employee of Protection Facilities - Habitual Offenders
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> - Passive Participation - Participation as a Result of Duress or Threat of Another 	<ul style="list-style-type: none"> - Premeditated Crime - Multiple Acts of Rape in Commission of the Same Offense - Condemnable Motives - Offense Committed by Causing - Diminished Physical or Mental Capacity to the Victim - Offense Committed by a Relative - Offense Against a Minor
	Actor/ Etc.	<ul style="list-style-type: none"> - Significant Amount of Money Deposited - Expresses Sincere Remorse - No Prior Criminal History 	<ul style="list-style-type: none"> - Abuse of Trust in Relationships of Trust - Repeated Offenses of Different Type under the Criminal Act that Does Not Constitute Repeated Offenses under the Aggravated Punishment Act or the Special Violent Crime Act, Criminal History of Imprisonment by the Same Type of Offenses or by Crime of Violence that Does not Constitute Repeated Offense

Classification		Mitigating Factor	Aggravating Factor
			under the Criminal Act (This Applies When the Criminal History is Within Ten Years After Completion of Sentence) - Harm caused in the Course of Reaching an Agreement (This Excludes Cases Where the Act Constitutes the Crime of Coercion)

Apply the following classification in cases where sexual offenses was committed while intoxicated by the use of alcohol or drugs (including cases of Indecent Acts by Compulsion, Sexual Crimes against the Disabled Person, Sexual Crimes against Victim under Thirteen Years of Age, offenses that results in injuries or death): 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 Cases where the offender had no intention of committing the offense or could not foresee the commission of such offense, but past behavior reveals possibility of harm caused to others while under 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.
- ③ Even if the cases do not fall within ① or ②, 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.

ii) Indecent acts by compulsion (of victim thirteen years of age or older)

Type	Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
1	Indecent Acts by Compulsion (Standard)	- 1 yr	6 months - 2yrs	1 yr 6 months - 3 yrs
2	Indecent Acts by Compulsion by Relative/ Indecent Acts by Compulsion After Intrusion Upon Habitation, etc./Special Indecent Acts by Compulsion	1 yr 6 months - 3 yrs	2 yrs 6 months - 5 yrs	4 yrs - 7 yrs
3	Indecent Acts by Compulsion After Robbery	5 yrs - 8 yrs	7 yrs - 11 yrs	9 yrs - 13 yrs

* Indecent Acts by Compulsion (including sexual intercourse by deceptive schemes or by use of force) against the minor falls within Type 2. However, the maximum and the minimum sentencing range shall be reduced to two thirds.

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

Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> - Cases where the Extent of Violence is Extremely Slight - Cases where the Degree of Indecent Acts is Slight 	<ul style="list-style-type: none"> - Sadistic, Perverse Conduct or with Extreme Level of Sexual Humiliation - Constant and Repeated Offense Against Multiple Victims - Vulnerable Victims - Offender Commits Rape After Intrusion Upon Habitation or Other Similar Settings; or in a Special Rape Where the Victim is a Relative - Instigating the Subordinate Person to Commit the Offense
	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 - Offender Expresses Remorse and the Victim Opposes Punishment 	<ul style="list-style-type: none"> - Repeated Offenses of Same Type under the Criminal Law that Does Not Constitute Repeated Offenses under the Special Violent Crime Act - Offenses Committed by the Person under Legal Obligation to Report or by Employee of Protection Facilities Habitual Offenders
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> - Passive Participation - Participation as a Result of Duress or Threat of Another 	<ul style="list-style-type: none"> - Premeditated Crime - Condemnable Motives - Offense Committed by Causing Diminished Physical or Mental Capacity to the Victim - Offense Committed by a Relative - Offense Against a Minor
	Actor/ Etc.	<ul style="list-style-type: none"> - Significant Amount of Money Deposited - Expresses Sincere Remorse - No Prior Criminal 	<ul style="list-style-type: none"> - Abuse of Relationships of Trust - Repeated Offenses of Different Type under the Criminal Law that Does Not

Classification		Mitigating Factor	Aggravating Factor
		History	<p>Constitute Repeated Offenses under the Special Violent Crime Act, Criminal History of Imprisonment by the Same Type of Offenses or by Crime of Violence that Does not Constitute Repeated Offense under the Criminal Act (This applies when the criminal history is within ten years after completion of sentence)</p> <p>- Harm caused in the Course of Reaching an Agreement (This excludes cases where the act constitutes the crime of coercion)</p>

iii) Sexual crimes against disabled victim (13 years of age or older)

Type	Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
1	Statutory Indecent Acts by Compulsion	- 10 months	8 months - 2 yrs	1 yr 6 months - 3 yrs
2	Statutory Rape/Indecent Acts by Compulsion	1 yr 6 months - 3 yrs	2 yrs 6 months - 5 yrs	4 yrs - 6 yrs
3	Sexual Penetration by Compulsion	2 yrs 6 months - 5 yrs	4 yrs - 7 yrs	6 yrs - 9 yrs
4	Rape	4 yrs - 7 yrs	6 yrs - 9 yrs	8 yrs - 12 yrs

* Indecent Acts by Deceptive Scheme or by Use of Force falls within Type 2 (However, the maximum and the minimum sentencing range shall be reduced to half). Sexual penetration by deceptive scheme or by use of force falls within Type 4.

* In cases of Rape After Robbery (including special rape after robbery), Special Indecent Acts by Compulsion After Robbery (including special sexual penetration by compulsion after robbery), apply the sentencing guidelines set forth in Indecent Acts by Compulsion (against victim of 13 years of age or older) and adjust sentencing range according to the sentencing factors set forth in Sexual crimes against victim under 13 years of age.

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

Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct	Cases where the Extent of Indecent Acts is Slight (Type 1, 2)	<ul style="list-style-type: none"> - Sadistic, Perverse Conduct or with Extreme Level of Sexual Humiliation - Constant and Repeated Offense Against Multiple Victims - Offense Committed With Special Robbery Prescribed in Special Sexual Crime Act, Article 3, paragraph 2 (Type 4) - Gang-rape (Type 2, 4) - Pregnancy (Type 2, 4) - Instigating the Subordinate Person to Commit the Offense
	Actor/ Etc.	<ul style="list-style-type: none"> - Those with Hearing and Speaking Impairments - Those with Mental Incapacity (Cases where the offender cannot be held liable) - Voluntary Surrender to Investigative Agencies - Offender Expresses Remorse and the Victim Opposes Punishment 	<ul style="list-style-type: none"> - Repeated Offenses of Same Type under the Criminal Act that Does Not Constitute Repeated Offenses under the Special Violent Crime Act - Offenses Committed by the Person under Legal Obligation to Report or by Employee of Protection Facilities - Habitual Offenders
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> - Passive Participation - Participation as a Result of Duress or Threat of Another 	<ul style="list-style-type: none"> - Premeditated Crime - Multiple Acts of Rape in Commission of the Same Offense (Type 2, 4) - Condemnable Motives - Falls within Offense Prescribed in Sexual Crime Act, Article 3, Paragraph 1, Article 4, or 5 - Offense Committed by Causing Diminished Physical or Mental Capacity to the Victim
	Actor/ Etc.	<ul style="list-style-type: none"> - Deposited Significant Amounts of Money - Expresses Sincere Remorse - No Prior Criminal History 	<ul style="list-style-type: none"> - Abuse of Relationships of Trust - Repeated Offenses of Different Type under the Criminal Act that Does Not Constitute Repeated Offenses under the Special Violent Crime Act, Criminal History of Imprisonment by the Same Type of Offenses or by Crime of Violence that Does not Constitute Repeated Offense under the Criminal Act (This applies when the criminal

Classification		Mitigating Factor	Aggravating Factor
			history is within ten years after Completion of Sentence) - Harm Caused in the Course of Reaching an Agreement (This excludes cases where the act constitutes the crime of coercion)

iv) Sexual crimes against victim under 13 years of age

Type	Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
1	Statutory Indecent Acts by Compulsion	- 10 months	8 months - 2 yrs	1 yr 6 months - 3 yrs
2	Statutory Rape	1 yr 6 months - 3 yrs	2 yrs 6 months - 5 yrs	4 yrs - 6 yrs
3	Indecent Acts by Compulsion	2 yrs 6 months - 5 yrs	4 yrs - 7 yrs	6 yrs - 9 yrs
4	Sexual Penetration by Compulsion	4 yrs - 7 yrs	6 yrs - 9 yrs	8 yrs - 12 yrs
5	Rape	6 yrs - 9 yrs	8 yrs - 12 yrs	11 yrs - 15 yrs

* Statutory Sexual Penetration by Compulsion falls within Type 2. However, the maximum and the minimum sentencing range shall be reduced to two-thirds of the original range.

* Indecent Acts by Deceptive Scheme or by Use of Force falls within Type 3, Quasi-sexual Intercourse by Deceptive Scheme or by Use of Force falls within Type 4, Sexual Intercourse by Deceptive Scheme or by Use of Force falls within Type 5.

* In cases of Special Indecent Acts by Compulsion After Robbery (including special sexual penetration by compulsion after robbery), apply the sentencing guidelines set forth in Indecent Acts by Compulsion (against victim of thirteen years of age or older) and adjust sentencing range according to the sentencing factors set forth in Sexual Crimes Against Victim Under Thirteen Years of Age.

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

Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct	Cases where the Extent of Indecent Acts is Slight (Type 1, 3)	- Sadistic, Perverse Conduct or with Extreme Level of Sexual Humiliation - Constant and Repeated Offense

Classification		Mitigating Factor	Aggravating Factor
			<ul style="list-style-type: none"> - Against Multiple Victims - Offense Committed With Special Robbery Prescribed in Special Sexual Crime Act, Article 3, paragraph 2 (Type 5) - Gang-rape (Type 2, 5) - Pregnancy (Type 2, 5) - Instigating the Subordinate Person to Commit the Offense
	Actor/ Etc.	<ul style="list-style-type: none"> - Those with Hearing and Speaking Impairments - Those with Mental Incapacity (Cases where the offender cannot be held liable) - Voluntary Surrender to Investigative Agencies - Offender Expresses Remorse and the Victim Opposes Punishment 	<ul style="list-style-type: none"> - Repeated Offenses of Same Type under the Criminal Act that Does Not Constitute Repeated Offenses under the Special Violent Crime Act - Offenses Committed by the Person under Legal Obligation to Report or by Employee of Protection Facilities - Habitual Offenders
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> - Passive Participation - Participation as a Result of Duress or Threat of Another 	<ul style="list-style-type: none"> - Premeditated Crime - Multiple Acts of Rape in Commission of the Same Offense (Type 2, 5) - Condemnable Motives - Falls within Offense Prescribed in Sexual Crime Act, Article 3, paragraph 1, Article 4, or 5 - Offense Committed by Causing Diminished Physical or Mental Capacity to the Victim
	Actor/ Etc.	<ul style="list-style-type: none"> - Deposited Significant Amounts of Money - Expresses Sincere Remorse - No Prior Criminal History 	<ul style="list-style-type: none"> - Abuse of Relationships of Trust - Repeated Offenses of Different Type under the Criminal Act that Does Not Constitute Repeated Offenses under the Special Violent Crime Act, Criminal History of Imprisonment by the Same Type of Offenses or by Crime of Violence that Does not

Classification		Mitigating Factor	Aggravating Factor
			Constitute Repeated Offense under the Criminal Act (This applies when the criminal history is within ten years after completion of sentence) - Harm Caused in the Course of Reaching an Agreement (This excludes cases where the act constitutes the crime of coercion)

b) Cases resulting in bodily injury

i) Injury against victim or victim of 13 years of age or older

Type	Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
1	Indecent Acts by Compulsion (Standard)	2 yrs 6 months - 4yrs	3 yrs - 5 yrs	4 yrs - 6 yrs
2	Rape (Standard)	2 yrs 6 months - 5yrs	4 yrs - 7 yrs	6 yrs - 9 yrs
3	Indecent Acts by Compulsion by the Relative of the Victim	3 yrs 6 months - 6yrs	5 yrs - 8 yrs	7 yrs - 10 yrs
4	Rape by the Relative of the Victim	4 yrs - 7 yrs	6 yrs - 9 yrs	8 yrs - 12 yrs
5	Indecent Acts by Compulsion after Intrusion of Habitation, etc./Special Indecent Acts by Compulsion	5 yrs - 8 yrs	7 yrs - 11yrs	10 yrs - 14 yrs
6	Rape after Intrusion of Habitation, etc./Special Rape	6 yrs - 9 yrs	8 yrs - 13yrs	12 yrs - 16 yrs

* Indecent Acts by Compulsion (including Indecent Acts by Deceptive Scheme or by Use of Force) against a Juvenile and Sexual Penetration by Compulsion against an Adult fall within Type 2.

* Rape (including Sexual Intercourse by Deceptive Scheme or by Use of Force) against a Juvenile and Sexual Penetration by Compulsion (including Sexual Penetration by Deceptive Scheme or by Use of Force) against a Juvenile falls within Type 3.

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

- * Apply sentencing factors set forth in Rape (against victim of thirteen years of age or older) or Indecent Acts by Compulsion (against victim of thirteen years of age or older) and for cases when injury results but the base offense is attempt and minor injuries result add to special mitigating factors and for cases when serious bodily injuries result add to special aggravating factors.
- * Cases where the bodily injury results from Rape after Robbery (including the case of special robbery), this falls within Type 6. For cases where the bodily injury results by Indecent Acts by Compulsion after Special Robbery, this falls within Type 5.
- * In such cases, add serious bodily injury to special aggravating factors, and non-serious bodily injury to general aggravating factors to the relevant sentencing factors (Rape or Indecent Acts by Compulsion against victim of thirteen years of age or older).

ii) Injury against disabled or victim under 13 years of age

Type	Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
1	Statutory Indecent Acts by Compulsion	2 yrs 6 months - 4 yrs	3 yrs - 5 yrs 6 months	5 yrs - 8 yrs
2	Statutory Rape	2 yrs 6 months - 5 yrs	4 yrs - 7 yrs	6 yrs - 9 yrs
3	Indecent Acts by Compulsion	5 yrs - 8 yrs	7 yrs - 11 yrs	10 yrs - 14 yrs
4	Sexual Penetration by Compulsion	5 yrs - 9 yrs	8 yrs - 12 yrs	11 yrs - 15 yrs
5	Rape	6 yrs - 10 yrs	9 yrs - 14 yrs	More than 13 yrs or Life Imprisonment

- * Statutory Sexual Penetration by Compulsion falls within Type 2, Indecent Acts by Deceptive Scheme or by Use of Force falls within Type 3, Sexual Intercourse by Deceptive Schemes or by use of Force falls within Type 5.
- * When the offense falls within Repeated Crimes set forth in the Special Violent Crimes Act, increase the minimum and maximum sentencing range each by multiplying 1.5.
- * Apply sentencing factors set forth in Sexual Crimes Against Disabled Victims (13 years of age or older) or Sexual Crimes Against Victims under 13 years of age and for cases where injury results but the base offense is attempt and minor injuries result add to the special mitigating factors and for cases when serious bodily injuries result add to the special aggravating factors.
- * Cases where the bodily injury results from Rape after Robbery (including the case of Special Robbery), this falls within Type 5. Indecent Acts by Compulsion after Special Robbery results in bodily injury falls within Type 3 and Sexual Penetration by Compulsion after Special Robbery resulting in bodily injury falls in Type 3.
- * In such cases, add serious bodily injury to special aggravating factors, and non-serious bodily injury to general aggravating factors to the relevant sentencing

factors (Sexual Crimes Against Disabled Victims (13 years of age or older) or Sexual Crimes Against Victims under 13 years of age) respectively.

c) Cases resulting in death

Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
Rape Resulting in Death/Sexual Penetration by Compulsion Resulting in Death/Indecent Acts by Compulsion Resulting in Death	9 yrs - 12 yrs	11 yrs - 14 yrs	More than 13 yrs or Life Imprisonment

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

Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct	- Offender's Conduct was Not Direct Cause of Death	- Vulnerable Victim - Instigating the Subordinate Person to Commit the Offense
	Actor/ Etc.	- Those with Hearing and Visual Impairments - Those with Mental Incapacity (Cases where the offender cannot be held liable) - Voluntary Surrender to Investigative Agencies - Offender Expresses Remorse and the Victim Opposes Punishment (This includes genuine efforts to reverse harm)	- Absence of Remorse (This excludes cases where the offender merely denies offense) - Repeated Offenses of Same Type under the Criminal Act that Does Not Constitute Repeated Offenses under the Special Violent Crime Act
General Sentencing Determinant	Conduct	- Indecent Acts by Compulsion is the Base Offense - Passive Participation	
	Actor/ Etc.	- Deposited Significant Amounts of Money - Offender Expresses Sincere	- Repeated Offenses of Different Type under the Criminal Law that Does

Classification		Mitigating Factor	Aggravating Factor
		Remorse - No Prior Criminal History	Not Constitute Repeated Offenses under the Special Violent Crime Act, Criminal History of Imprisonment by the Same Type of Offenses or by Crime of Violence that Does not Constitute Repeated Offense under the Criminal Law (This applies when the criminal history is within ten years after completion of sentence)

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