

EXHIBIT E-1
AGGRAVATING FACTORS
ORS 144.120, 144.785, 144.787, OAR 255-35-013-014

- A.** Threat or violence toward witness or victim by producing or using any weapon; or representing by word or conduct threats of death or physical injury. (11/1/89)
-
- B.** Crime committed as a result of prejudice regarding the status of the victim (e.g., race, religion, gender, sexual orientation) (11/1/89)
-
- C.** Knew or had reason to know the victims were particularly vulnerable i.e., aged, handicapped, very young. (Pursuant to ORS 144.787, in cases of physical or sexual assault, a victim's particular vulnerability to injury shall constitute an aggravating factor.) (Explanation added 7/1/88 and amended 11/1/89)
-
- D.** Ability to make restitution or reparation and failed to do so. (1985 to present)
-
- E.** Violation of position of trust or recognized professional ethics. (7/1/88 to present)
-
- F.** Degree of property loss, personal injury or threatened personal injury substantially greater than characteristic for the crime. (1985 to present)
-
- G.** There is a single conviction for a crime involving multiple victims or incidents. (1985 to present)
-
- H.** Concurrently imposed sentences not arising out of the same criminal episode. (Amended 11/1/89)
-
- I.** Verified instances of repetitive assaultive conduct only when criminal episode(s) involved assaultive behavior. (7/1/88 to present)
-
- J.** More than 3 trust violations in last 5 years as relates to Item E of the Matrix Computation. (7/1/88 to present)
-

K. Persistent involvement in similar criminal offenses. (7/1/88 to present)

 L. Repetition of behavior pattern which contributes to criminal conduct (e.g., return to drug or alcohol abuse). (7/1/88 to present)

 M. Criminal history more extensive or serious than reflected by History/Risk Score. (7/1/88 to present)

 N. Pursuant to a Guilty or No Contest plea, other crimes were dismissed or not prosecuted. (1985 to present)

 O. Consecutive sentences pursuant to Section 4. Chapter 634, Oregon Laws 1987. (7/1/88 to present)

 P. Crime committed as a part of gang related activity. (11/1/89)

 Q. Other. _____

Inmate: _____

Inst. _____

EXHIBIT E-1 AGGRAVATING FACTORS

[_____ A. Production or use of any weapon during the criminal episode.]

[_____ B. Threat or violence toward witness or victim.]

_____ A. Threat or violence toward witness or victim by producing or using any weapon; or representing by word or conduct threats of death or physical injury. (11/1/89)

_____ B. Crime committed as a result of prejudice regarding the status of the victim (e.g., race, religion, gender, sexual orientation) (11/1/89)

_____ C. Knew or had reason to know the victims were particularly vulnerable i.e., aged, handicapped, very young. (Pursuant to ORS 144.787, in cases of physical or sexual assault, a victim's particular vulnerability to injury shall constitute an aggravating factor [, whether or not it is an element of the crime].) (Explanation added 7/1/88 and amended 11/1/89)

_____ D. Ability to make restitution or reparation and failed to do so. (1985 to present)

_____ E. Violation of position of trust or recognized professional ethics. (7/1/88 to present)

_____ F. Degree of property loss, personal injury or threatened personal injury substantially greater than characteristic for the crime. (1985 to present)

_____ G. There is a single conviction for a crime involving multiple victims or incidents. (1985 to present)

_____ H. Concurrently imposed [convictions] sentences not arising out of same criminal episode. (Amended 11/1/89)

- _____ I. Verified instances of repetitive assaultive conduct only when criminal episode(s) involved assaultive behavior. (7/1/88 to present)
-
- _____ J. More than 3 trust violations in last 5 years as relates to Item E of the Matrix Computation. (7/1/88 to present)
-
- _____ K. Persistent involvement in similar criminal offenses. (7/1/88 to present)
-
- _____ L. Repetition of behavior pattern which contributes to criminal conduct (e.g., return to drug or alcohol abuse). (7/1/88 to present)
-
- _____ M. Criminal history more extensive or serious than reflected by History/Risk Score. (7/1/88 to present)
-
- _____ N. Pursuant to a Guilty or No Contest plea, other crimes were dismissed or not prosecuted. (1985 to present)
-
- _____ O. Consecutive sentences pursuant to Section 4. Chapter 634, Oregon Laws 1987. (7/1/88 to present)
-
- [_____ P. Persistent criminal misconduct while under supervision.]
-
- _____ P. Crime committed as a part of gang related activity.
(11/1/89)
-
- _____ Q. Other. _____

Inmate: _____
Inst. _____

Permanent effective 11/1/89

EXHIBIT E-1 AGGRAVATING FACTORS

- _____ A. Production or use of any weapon during the criminal episode.
-
- _____ B. Threat or violence toward witness or victim.
-
- _____ C. Knew or had reason to know the victims were particularly vulnerable i.e., aged, handicapped, very young. (Pursuant to ORS 144.787, in cases of physical or sexual assault, a victim's particular vulnerability to injury shall constitute an aggravating factor, whether or not it is an element of the crime.)
-
- _____ D. Ability to make restitution or reparation and failed to do so.
-
- _____ E. Violation of position of trust or recognized professional ethics.
-
- _____ F. Degree of property loss, personal injury or threatened personal injury substantially greater than characteristic for the crime.
-
- _____ G. There is a single conviction for a crime involving multiple victims or incidents.
-
- _____ H. Concurrently imposed convictions not arising out of same criminal episode.
-
- _____ I. Verified instances of repetitive assaultive conduct only when criminal episode(s) involved assaultive behavior.
-
- _____ J. More than 3 trust violations in last 5 years as relates to Item E of the Matrix Computation.
-

_____ K. Persistent involvement in similar criminal offenses.

_____ L. Repetition of behavior pattern which contributes to criminal conduct (e.g., return to drug or alcohol abuse).

_____ M. Criminal history more extensive or serious than reflected by History/Risk Score.

_____ N. Pursuant to a Guilty or No Contest plea, other crimes were dismissed or not prosecuted.

_____ O. Consecutive sentences pursuant to Section 4, Chapter 634, Oregon Laws 1987.

_____ P. Persistent criminal misconduct while under supervision.

_____ Q. Other. _____

Inmate: _____

Inst. _____

EXHIBIT E-1 - AGGRAVATING FACTORS

- A. Production or use of any weapon during the criminal episode.

- B. Threat or violence toward witness or victim.

- C. Knew or had reason to know the victims were particularly vulnerable (i.e., aged, handicapped, very young).

- D. Ability to make restitution or reparation and failed to do so.

- E. Violation of position of public trust or recognized professional ethics.

- F. Degree of property loss, personal injury or threatened personal injury substantially greater than characteristic for the crime.

- G. There is a single conviction for a crime involving multiple victims or incidents.

- H. Concurrently imposed convictions not arising out of same criminal episode.

- I. Verified instances of repetitive assaultive conduct.

- J. More than 3 trust violations in last 5 years as relates to Item E of the Matrix computation.

- K. Persistent involvement in similar criminal offenses.

- L. Repetition of behavior pattern which contributes to criminal conduct (e.g., return to drug or alcohol abuse).

- M. Criminal history more extensive or serious than reflected by History/Risk score.

- N. Pursuant to a Guilty or No Contest plea, other crimes were dismissed or not prosecuted.

- O. New criminal activity while on escape or reduced custody status.

- P. Persistent criminal misconduct while under supervision.

- Q. Other. _____

Inmate: _____ Inst: _____

Amending Exhibit E under OAR 255-35-035 as follows:

EXHIBIT E

AGGRAVATING AND MITIGATING FACTORS

AGGRAVATION

Production or use of any weapon during the criminal episode.

Threat or violence toward witness or victim. Held at gunpoint, verbal threats of death.

Knew or had reason to know the victims were particularly vulnerable (i.e., aged, handicapped, very young).

Ability to make restitution or reparation and failed to do so.

Violation of position of public trust or recognized professional ethics.

Degree of property loss, personal injury or threatened personal injury substantially greater than characteristic for the crime.

There is a single conviction for a crime involving multiple victims or incidents.

Concurrently imposed convictions not arising out of same criminal episode.

Verified instances of repetitive assaultive conduct, only two or more.

More than three trust violations in last five years as relates to Item D of matrix computation.

Persistent involvement in similar criminal offenses, three or more convictions for same criminal behavior.

Repetition of behavior pattern which contributes to criminal conduct (e.g., return to drug or alcohol abuse) on two or more recent releases.

Criminal history more extensive or serious than reflected by history/risk score (e.g., more than 5 convictions or four incarcerations).

Pursuant to a Guilty or No Contest plea, other crimes were dismissed or not prosecuted.

New criminal activity while on escape or reduced custody status and points were lost for same item.

Persistent criminal misconduct while under supervision.

Other:

MITIGATION

Victim provoked the crime to a substantial degree, or other evidence that misconduct by victim contributed to the criminal episode.

Special effort on the part of the perpetrator to withdraw or minimize the harm or risk.

Peripheral involvement in the criminal episode (e.g., passive accessory).

Sustained effort to make restitution or reparation.

Cooperation with criminal justice agencies in resolution of other criminal activity.

Degree of property loss, personal injury or threatened personal injury substantially less than characteristic for the crime.

Evidence of withdrawal, duress, necessity or lack of sustained criminal intent.

Ordered to pay restitution after imprisonment.

Successful period of community supervision, at least 24 months.

Effort to deal with problems associated with past criminal conduct (e.g., successful completion of treatment program, abstinence from substance abuse).

Evidence of no new criminal activity while on escape or abscond status.

Criminal history less extensive or serious than reflected by history/risk score (e.g., primarily ~~the~~ minor vehicular offenses).

Consecutive sentences imposed for convictions resulting from single criminal episode.

Probation violation is non-criminal in nature and not indicative of on-going criminal pattern.

Other:

Any aggravating or mitigating circumstances which constitute a defining element of the crime or subcategory of the crime of which the prisoner was convicted, or resulted in a lower history/risk score, shall not justify variation from the guidelines. Additionally, such circumstances should not be the basis for more than one finding of aggravation or mitigation. The Board may find mitigation, when enhanced penalties have been imposed for multiple convictions, if it finds that the crimes are part of a "crime spree" and that the spree is not indicative of a persistent criminal orientation or proclivity.

The purpose of this exhibit, a crime spree is a set of criminal activities congruent in time or actually overlapping that so joined by place and circumstance as to be the product of a continuous disposition or intent.

Permanent effective 5/19/82

EXHIBIT E

AGGRAVATING AND MITIGATING FACTORS

AGGRAVATION

Production or use of any weapon during the criminal episode.

Threat or violence toward witness[es] or victim[s].

[The prisoner] Knew or had reason to know the victims were particularly vulnerable (i.e., aged, handicapped, very young).

Ability to make restitution or reparation and failed to do so.

Violation of position of public trust or recognized professional ethics.

Degree of property loss, personal injury or threatened personal injury substantially greater than characteristic for the crime.

There is a single conviction for a crime involving multiple victims or incidents.

[More than one concurrently imposed conviction, not arising out of the same criminal episode.]

More than three trust violations in last five years as relates to Item D of matrix computation.

Persistent involvement in similar criminal offenses.

Repetition of behavior pattern which contributes to criminal conduct (e.g., return to drug or alcohol abuse).

Criminal history more extensive or serious than reflected by history/risk score.

Pursuant to a Guilty or No Contest Plea, other crimes were dismissed or not prosecuted.

New criminal activity while on escape or reduced custody status.

Persistent criminal misconduct while under supervision.

Efforts to conceal crime.

Other, (including judicial findings)

MITIGATION

Victim[s] provoked the crime to a substantial degree, or other evidence that misconduct by victim contributed to the criminal episode.

Cooperation with criminal justice agencies in resolution of other criminal activity.

Effort to make restitution or reparation[particularly before required to do so by sentencing].

Degree of property loss, personal injury or threatened personal injury substantially less than characteristic for the crime.

Special effort on the part of the perpetrator to minimize the harm or risk.

Peripheral involvement in the criminal episode (e.g., passive accessory).

Evidence of withdrawal, duress, necessity or lack of sustained criminal intent [, or diminished mental capacity, e.g., mental retardation, which is insufficient to constitute a defense but is indicative of reduced culpability].

Evidence of reduced responsibility or lack of mental capacity (e.g., mental retardation, which is insufficient to constitute a defense but is indicative of reduced culpability).

[Sentence] Ordered to pay restitution after [a] term of imprisonment.

No prior parole or probation difficulty.

Efforts to deal with problems associated with past criminal conduct.

Criminal history less extensive or serious than reflected by history/risk score

Evidence of no new criminal activity while on escape or abscond status.

Consecutive sentences imposed for convictions resulting from single criminal episode.

Probation violation is technical in nature and not indicative of on-going criminal pattern.

Substantial period, but less than ten years, conviction free in the community.

Other (including judicial findings)

[Judge's sentence and reasons under rule 254-135-030(1)(d) and plea bargained offenses under rule 254-135-010(1)(c) may be considered as either an aggravating or mitigating circumstance.]

Any aggravating or mitigating circumstances which constitute a defining element of the crime or subcategory of the crime of which the prisoner was convicted, or resulted in a lower history/risk score, shall not justify variation from the guidelines. Additionally, such circumstances should not be the basis for more than one findings in aggravation or mitigation.

The Board may find mitigation, when enhanced penalties have been imposed for multiple convictions, if it finds that the crimes are part of a "crime spree" and that the spree is not indicative of a persistent criminal orientation or proclivity.

For the purpose of this exhibit, a crime spree is a set of criminal activities congruent in time or actually overlapping that are so joined by place and circumstance as to be the product of a continuous disposition or intent.

Temporary effective 11/25/81 to 5/23/82
but see permanent effective 5/19/82

OREGON ADMINISTRATIVE RULES
CHAPTER 255 — BOARD OF PAROLE

EXHIBIT E

AGGRAVATION/MITIGATION UNDER RULE 255-35-035

AGGRAVATION

Production or use of any weapon during the criminal episode.

Threat or violence toward witness(es) or victim(s).

The prisoner knew or had reason to know the victims were particularly vulnerable (i.e., aged, handicapped or very young).

Ability to make restitution or reparation and failure to do so.

Violation of position of public trust or of recognized professional ethics.

The degree of property loss, personal injury or threatened personal injury was substantially greater than is characteristic for the crime.

There is a single conviction for a crime involving multiple victims.

More than one concurrently imposed conviction, not arising out of the same criminal episode.

Verified instances of repetitive assaultive conduct.

Judge's sentence and reasons under rule 254-135-030(1)(d) and plea bargained offenses under rule 254-135-030(1)(c) may be considered as either an aggravating or mitigating circumstance.

Any aggravating or mitigating circumstances which constitute a defining element of the crime or subcategory of the crime of which the prisoner was convicted, or resulted in a lower history/risk score, shall not justify variation from the guidelines.

MITIGATION

Victim(s) provoked the crime to a substantial degree, or other evidence that misconduct by victim contributed substantially to criminal episode.

Cooperation with criminal justice agencies in resolution of other criminal activity.

Effort to make restitution or reparation, particularly before required to do so by sentencing.

The degree of property loss, personal injury or threatened personal injury was substantially less than is characteristic for the crime.

Special efforts on the part of the perpetrator to minimize the harm and risk involved in the crime.

Peripheral involvement in the criminal episode (e.g., passive accessory).

Evidence of withdrawal, duress, necessity, lack of sustained criminal intent, or diminished mental capacity, e.g., mental retardation, which is insufficient to constitute a defense but is indicative of reduced culpability.

Sentence to pay restitution after a term of imprisonment.