

forces) (to the prejudice of good order and discipline in the armed forces and was of a nature to bring discredit upon the armed forces).

104. Article 134—(Indecent conduct)

a. *Text of statute.* See paragraph 91.

b. *Elements.*

(1) That the accused engaged in certain conduct;

(2) That the conduct was indecent; and

(3) That, under the circumstances, the conduct of the accused was either: (i) to the prejudice of good order and discipline in the armed forces; (ii) was of a nature to bring discredit upon the armed forces; or (iii) to the prejudice of good order and discipline in the armed forces and of a nature to bring discredit upon the armed forces.

c. *Explanation.*

(1) “Indecent” means that form of immorality relating to sexual impurity which is grossly vulgar, obscene, and repugnant to common propriety, and tends to excite sexual desire or deprave morals with respect to sexual relations.

(2) Indecent conduct includes offenses previously proscribed by “Indecent acts with another” except that the presence of another person is no longer required. For purposes of this offense, the words “conduct” and “act” are synonymous. For child offenses, some indecent conduct may be included in the definition of lewd act and preempted by Article 120b(c). See subparagraph 91.c.(5)(a).

d. *Maximum punishment.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 5 years.

e. *Sample specification.*

In that _____ (personal jurisdiction data), did (at/on board—location) (subject-matter jurisdiction data, if required), on or about _____ 20____, commit indecent conduct, to wit: _____, and that said conduct was (to the prejudice of good order and discipline in the armed forces) (of a nature to bring discredit upon the armed forces) (to the prejudice of good order and discipline in the armed forces and was of a nature to bring discredit upon the armed forces).

105. Article 134—(Indecent language)

a. *Text of statute.* See paragraph 91.

b. *Elements.*

(1) That the accused orally or in writing communicated to another person certain language;

(2) That such language was indecent; and

(3) That, under the circumstances, the conduct of the accused was either: (i) to the prejudice of good order and discipline in the armed forces; (ii) was of a nature to bring discredit upon the armed forces; or (iii) to the prejudice of good order and discipline in the armed forces and of a nature to bring discredit upon the armed forces.

[Note: If applicable, add the following additional element:]

(4) That the person to whom the language was communicated was a child under the age of 16.

c. *Explanation.* Indecent language is that which is grossly offensive to modesty, decency, or propriety, or shocks the moral sense, because of its vulgar, filthy, or disgusting nature, or its tendency to incite lustful thought. Language is indecent if it tends reasonably to corrupt morals or incite libidinous thoughts. The language must violate community standards. See paragraph 62 if the communication was made in the physical presence of a child.

d. *Maximum punishment.*

(1) *Communicated to any child under the age of 16 years.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 2 years.

(2) *Other cases.* Bad-conduct discharge; forfeiture of all pay and allowances, and confinement for 6 months.

e. *Sample specification.*

In that _____ (personal jurisdiction data), did (at/on board—location) (subject-matter jurisdiction data, if required), on or about _____ 20____, (orally) (in writing) communicate to _____, (a child under the age of 16 years), certain indecent language, to wit: _____, and that such conduct was (to the prejudice of good order and discipline in the armed forces) (of a nature to bring discredit upon the armed forces) (to the prejudice of good order and discipline in the armed forces and of a nature to bring discredit upon the armed forces).

106. Article 134—(Pandering and prostitution)

a. *Text of statute.* See paragraph 91.

b. *Elements.*

(1) *Prostitution.*

(a) That the accused engaged in a sexual act with another person not the accused's spouse;

(b) That the accused did so for the purpose of receiving money or other compensation;

(c) That this act was wrongful; and

(d) That, under the circumstances, the conduct of the accused was either: (i) to the prejudice of good order and discipline in the armed forces; (ii) was of a nature to bring discredit upon the armed forces; or (iii) to the prejudice of good order and discipline in the armed forces and of a nature to bring discredit upon the armed forces.

(2) *Patronizing a prostitute.*

(a) That the accused engaged in a sexual act with another person not the accused's spouse;

(b) That the accused compelled, induced, enticed, or procured such person to engage in a sexual act in exchange for money or other compensation;

(c) That this act was wrongful; and

(d) That, under the circumstances, the conduct of the accused was either: (i) to the prejudice of good order and discipline in the armed forces; (ii) was of a nature to bring discredit upon the armed forces; or (iii) to the prejudice of good order and discipline in the armed forces and of a nature to bring discredit upon the armed forces.

(3) *Pandering by inducing, enticing, or procuring act of prostitution.*

(a) That the accused induced, enticed, or procured a certain person to engage in a sexual act for hire and reward with a person to be directed to said person by the accused;

(b) That this inducing, enticing, or procuring was wrongful;

(c) That, under the circumstances, the conduct of the accused was either: (i) to the prejudice of good order and discipline in the armed forces; (ii) was of a nature to bring discredit upon the armed forces; or (iii) to the prejudice of good order and discipline in the armed forces and of a nature to bring discredit upon the armed forces.

(4) *Pandering by arranging or receiving consideration for arranging for a sexual act.*

(a) That the accused arranged for, or received valuable consideration for arranging for, a certain person to engage in a sexual act;

(b) That the arranging (and receipt of consideration) was wrongful; and

(c) That, under the circumstances, the conduct of the accused was either: (i) to the prejudice of good order and discipline in the armed forces; (ii) was of a nature to bring discredit upon the armed forces; or (iii) to the prejudice of good order and discipline in the armed forces and of a nature to bring discredit upon the armed forces.

c. *Explanation.*

(1) *Sexual act.* Sexual act as used in this paragraph shall be as defined in paragraph 60.a.(g)(1).

(2) *Other regulations.* This offense does not preempt any other lawful regulations or orders prescribed by a proper authority that proscribe other forms of sexual conduct for compensation by military personnel. Violations of such regulations or orders may be punishable under Article 92. See paragraph 18.

d. *Maximum punishment.*

(1) *Prostitution and patronizing a prostitute.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 1 year.

(2) *Pandering.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 5 years.

e. *Sample specifications.*

(1) *Prostitution.*

In that _____ (personal jurisdiction data), did, (at/on board—location) (subject-matter jurisdiction data, if required), on or about ____ 20 __, wrongfully engage in (a sexual act) (sexual acts), to wit: _____, with _____, a person not (his) (her) spouse, for the purpose of receiving (money) (_____), and that such conduct was (to the prejudice of good order and discipline in the armed forces) (of a nature to bring discredit upon the armed forces) (to the prejudice of good order and discipline in the armed forces and of a nature to bring discredit upon the armed forces).

(2) *Patronizing a prostitute.*

In that _____ (personal jurisdiction data), did, (at/on board—location) (subject-matter jurisdiction data, if required), on or about ____ 20 __, wrongfully (compel) (induce) (entice) (procure) _____, a person not (his) (her) spouse, to engage in (a sexual act) (sexual acts), to wit: _____, with the accused in exchange for (money) (_____), and that such conduct was (to the prejudice of good order and discipline in the armed forces) (of a nature to bring discredit upon the armed forces) (to the prejudice of good order and discipline in the armed forces and of a nature to bring discredit upon the armed forces).

(3) *Inducing, enticing, or procuring act of prostitution.*

In that _____ (personal jurisdiction data), did (at/on board—location) (subject-matter jurisdiction data, if required), on or about _____ 20 __, wrongfully (induce) (entice) (procure) _____ to engage in (a sexual act) (sexual acts), to wit: _____, for hire and reward with persons to be directed to (him) (her) by the said _____, and that such conduct was (to the prejudice of good order and discipline in the armed forces) (of a nature to bring discredit upon the armed forces) (to the prejudice of good order and discipline in the armed forces and of a nature to bring discredit upon the armed forces).

(4) *Arranging, or receiving consideration for arranging for a sexual act.*

In that _____ (personal jurisdiction data), did, (at/on board—location) (subject-matter jurisdiction data, if required), on or about _____ 20 __, wrongfully (arrange for) (receive valuable consideration, to wit: _____ on account of arranging for) _____ to engage in (a sexual act) (sexual acts) to wit: _____, with _____, and that such conduct was (to the prejudice of good order and discipline in the armed forces) (of a nature to bring discredit upon the armed forces) (to the prejudice of good order and discipline in the armed forces and of a nature to bring discredit upon the armed forces).

107. Article 134—(Self-injury without intent to avoid service)

a. *Text of statute.* See paragraph 91.

b. *Elements.*

(1) That the accused intentionally inflicted injury upon himself or herself;

(2) That, under the circumstances, the conduct of the accused was either: (i) to the prejudice of good order and discipline in the armed forces; (ii) was of a nature to bring discredit upon the armed forces; or (iii) to the prejudice of good order and discipline in the armed forces and of a nature to bring discredit upon the armed forces.

[Note: If the offense was committed in time of war or in a hostile fire pay zone, add the following element:]

(3) That the offense was committed (in time of war) (in a hostile fire pay zone).

c. *Explanation.*

(1) *Nature of offense.* This offense differs from malingering (see paragraph 7) in that for this offense, the accused need not have harbored a design to avoid performance of any work, duty, or service which may properly or normally be expected of one in the military service. This offense is characterized by intentional self-injury under such circumstances as prejudice good order and discipline or discredit the armed forces. It is not required that the accused be unable to perform duties, or that the accused actually be absent from his or her place of duty as a result of the injury. For example, the accused may inflict the injury while on leave or pass. The circumstances and extent of injury, however, are relevant to a determination that the accused's conduct was prejudicial to good order and discipline, or Service discrediting.

(2) *How injury inflicted.* The injury may be inflicted by nonviolent as well as by violent means and may be accomplished by any act or omission that produces, prolongs, or aggravates a sickness or disability. Thus, voluntary starvation that results in debility is a self-inflicted injury. Similarly, the injury may be inflicted by another at the accused's request.

Discussion

Bona fide suicide attempts should not be charged as criminal offenses. When making a determination whether the injury by the Servicemember was a bona fide suicide attempt, the convening authority should consider factors including, but not limited to, health conditions, personal stressors, and DoD policy related to suicide prevention.

d. *Maximum punishment.*

(1) *Intentional self-inflicted injury.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 2 years.

(2) *Intentional self-inflicted injury in time of war or in a hostile fire pay zone.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 5 years.

e. *Sample specification.*

In that _____ (personal jurisdiction data), did, (at/on board—location) (subject-matter jurisdiction data, if required) (in a hostile fire pay zone) on or about _____ 20 __, (a time of war,) intentionally injure (himself) (herself) by _____ (nature and circumstances of injury), and that such conduct was (to the prejudice of good order and discipline in the armed forces) (of a nature to bring discredit upon the armed