

(containing) (portraying) (suggesting) (_____) certain obscene matters, to wit:_____.

95. Article 134—(Misprision of serious offense)

a. *Text of statute.* See paragraph 60.

b. *Elements.*

(1) That a certain serious offense was committed by a certain person;

(2) That the accused knew that the said person had committed the serious offense;

(3) That, thereafter, the accused concealed the serious offense and failed to make it known to civilian or military authorities as soon as possible;

(4) That the concealing was wrongful; and

(5) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

c. *Explanation.*

(1) *In general.* Misprision of a serious offense is the offense of concealing a serious offense committed by another but without such previous concert with or subsequent assistance to the principal as would make the accused an accessory. See paragraph 3. An intent to benefit the principal is not necessary to this offense.

(2) *Serious offense.* For purposes of this paragraph, a “serious offense” is any offense punishable under the authority of the code by death or by confinement for a term exceeding 1 year.

(3) *Positive act of concealment.* A mere failure or refusal to disclose the serious offense without some positive act of concealment does not make one guilty of this offense. Making a false entry in an account book for the purpose of concealing a theft committed by another is an example of a positive act of concealment.

d. *Lesser included offense.* Article 80—attempts

e. *Maximum punishment.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 3 years.

f. *Sample specification.*

In that _____(personal jurisdiction data), having knowledge that _____had actually committed a serious offense to wit: (the murder of _____) (_____), did, (at/on board—location) (subject-matter jurisdiction data, if required),

from about 20 , to about 20 , wrongfully conceal such serious offense by _____and fail to make the same known to the civil or military authorities as soon as possible.

96. Article 134—(Obstructing justice)

a. *Text of statute.* See paragraph 60.

b. *Elements.*

(1) That the accused wrongfully did a certain act;

(2) That the accused did so in the case of a certain person against whom the accused had reason to believe there were or would be criminal proceedings pending;

(3) That the act was done with the intent to influence, impede, or otherwise obstruct the due administration of justice; and

(4) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

c. *Explanation.* This offense may be based on conduct that occurred before preferral of charges. Actual obstruction of justice is not an element of this offense. For purposes of this paragraph “criminal proceedings” includes nonjudicial punishment proceedings under Part V of this Manual. Examples of obstruction of justice include wrongfully influencing, intimidating, impeding, or injuring a witness, a person acting on charges under this chapter, an investigating officer under R.C.M. 406, or a party; and by means of bribery, intimidation, misrepresentation, or force or threat of force delaying or preventing communication of information relating to a violation of any criminal statute of the United States to a person authorized by a department, agency, or armed force of the United States to conduct or engage in investigations or prosecutions of such offenses; or endeavoring to do so. See also paragraph 22 and Article 37.

d. *Lesser included offenses.* None.

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

f. *Sample specification.*

In that _____(personal jurisdiction data), did, (at/on board—location) (subject-matter jurisdiction data, if required), on or about 20 , wrongfully (endeavor to) (impede (a trial by court-martial) (an investigation) ()) [influence the

actions of _____, (a trial counsel of the court-martial) (a defense counsel of the court-martial) (an officer responsible for making a recommendation concerning disposition of charges) (_____) [(influence) (alter) the testimony of _____ as a witness before a (court-martial) (a preliminary hearing officer) (_____)] in the case of _____ by [(promising) (offering) (giving) to the said _____, (the sum of \$ _____) (_____, of a value of about \$ _____)] [communicating to the said _____ a threat to _____] [_____], (if) (unless) he/she, the said _____, would [recommend dismissal of the charges against said _____] [(wrongfully refuse to testify) (testify falsely concerning _____) (_____)] [(at such trial) (before such preliminary hearing officer)] [_____].

96a. Art 134—(Wrongful interference with an adverse administrative proceeding)

- a. *Text of statute.* See paragraph 60.
- b. *Elements.*
 - (1) That the accused wrongfully did a certain act;
 - (2) That the accused did so in the case of a certain person against whom the accused had reason to believe there was or would be an adverse administrative proceeding pending;
 - (3) That the act was done with the intent to influence, impede, or obstruct the conduct of such administrative proceeding, or otherwise obstruct the due administration of justice;
 - (4) That under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

c. *Explanation.* For purposes of this paragraph “adverse administrative proceeding” includes any administrative proceeding or action, initiated against a servicemember, that could lead to discharge, loss of special or incentive pay, administrative reduction in grade, loss of a security clearance, bar to reenlistment, or reclassification. Examples of wrongful interference include wrongfully influencing, intimidating, impeding, or injuring a witness, an investigator, or other person acting on an adverse administrative action; by means of bribery, intimidation, misrepresentation, or force or threat of force delaying or preventing communication of information relating to such administrative proceeding; and, the wrongful destruction or concealment of in-

formation relevant to such adverse administrative proceeding.

- d. *Lesser included offenses.* None.
- e. *Maximum punishment.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 5 years.
- f. *Sample specification.*

In that _____(personal jurisdiction data), did (at/on board-location) (subject-matter jurisdiction data, if required), on or about _____ 20 _____, (wrongfully endeavor to) [impede (an adverse administrative proceeding) (an investigation) (_____)] [influence the actions of _____, (an officer responsible for making a recommendation concerning the adverse administrative action) (an individual responsible for making a decision concerning an adverse administrative proceeding) (an individual responsible for processing an adverse administrative proceeding) (_____)] [(influence)(alter) the testimony of _____ a witness before (a board established to consider an administrative proceeding or elimination) (a preliminary hearing officer) (_____)] in the case of _____, by [(promising) (offering) (giving) to the said _____, (the sum of \$ _____) (_____, of a value of about \$ _____)] [communicating to the said _____ a threat to _____] [_____], (if) (unless) the said _____, would [recommend dismissal of the action against said _____] [(wrongfully refuse to testify) (testify falsely concerning _____) (_____)] [(at such administrative proceeding) (before such preliminary hearing officer) (before such administrative board)] [_____].

97. Article 134—(Pandering and prostitution)

- a. *Text of statute.* See paragraph 60.
- b. *Elements.*
 - (1) *Prostitution.*
 - (a) That the accused had sexual intercourse 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 to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.
 - (2) *Patronizing a prostitute.*