

armed forces and was of a nature to bring discredit upon the armed forces).

103. Article 134—(Seizure: destruction, removal, or disposal of property to prevent)

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

b. *Elements.*

(1) That one or more persons authorized to make searches and seizures were seizing, about to seize, or endeavoring to seize certain property;

(2) That the accused destroyed, removed, or otherwise disposed of that property with intent to prevent the seizure thereof;

(3) That the accused then knew that person(s) authorized to make searches were seizing, about to seize, or endeavoring to seize the property; 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.* See Mil. R. Evid. 316(e) concerning military personnel who may make seizures. It is not a defense that a search or seizure was technically defective.

d. *Lesser included offenses.* See paragraph 3 of this part and Appendix 12A.

e. *Maximum punishment.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 1 year.

f. *Sample specification.*

In that _____ (personal jurisdiction data), did, (at/on board—location) (subject matter jurisdiction data, if required), on or about ____ 20 ___, with intent to prevent its seizure, (destroy) (remove) (dispose of) _____, property which, as _____ then knew, (a) person(s) authorized to make searches and seizures were (seizing) (about to seize) (endeavoring to seize), 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).

103a. Article 134—(Self-injury without intent to avoid service)

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

b. *Elements.*

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

(2) 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.

[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 40) 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.

Discussion

Bona fide suicide attempts should not be charged as criminal offenses. When making a determination whether the injury by the service member 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.

(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 a debility is a self-inflicted injury. Similarly, the injury may be inflicted by another at the accused's request.

d. *Lesser included offenses.* See paragraph 3 of this part and Appendix 12A.

e. *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.

f. *Sample specification.*

In that _____ (personal jurisdiction data), did, (at/on board—location) (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 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).

104. Article 134—(Sentinel or lookout: offenses against or by)

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

b. *Elements.*

(1) *Disrespect to a sentinel or lookout.*

(a) That a certain person was a sentinel or lookout;

(b) That the accused knew that said person was a sentinel or lookout;

(c) That the accused used certain disrespectful language or behaved in a certain disrespectful manner;

(d) That such language or behavior was wrongful;

(e) That such language or behavior was directed toward and within the sight or hearing of the sentinel or lookout;

(f) That said person was at the time in the execution of duties as a sentinel or lookout; and

(g) 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) *Loitering or wrongfully sitting on post by a sentinel or lookout.*

(a) That the accused was posted as a sentinel or lookout;

(b) That while so posted, the accused loitered or wrongfully sat down on post; and

(c) 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.

[Note: If the offense was committed in time of war or while the accused was receiving special pay under 37 U.S.C. § 310, add the following element after element (a): That the accused was so posted (in time of war) (while receiving special pay under 37 U.S.C. § 310).]

c. *Explanation.*

(1) *Disrespect.* For a discussion of “disrespect,” see paragraph 13c(3).

(2) *Loitering or wrongfully sitting on post.*

(a) *In general.* The discussion set forth in paragraph 38c applies to loitering or sitting down while posted as a sentinel or lookout as well.

(b) *Loiter.* “Loiter” means to stand around, to move about slowly, to linger, or to lag behind when that conduct is in violation of known instructions or accompanied by a failure to give complete attention to duty.

d. *Lesser included offenses.* See paragraph 3 of this part and Appendix 12A.

e. *Maximum punishment.*

(1) *Disrespect to a sentinel or lookout.* Confinement for 3 months and forfeiture of two-thirds pay per month for 3 months.

(2) *Loitering or wrongfully sitting on post by a sentinel or lookout.*

(a) *In time of war or while receiving special pay under 37 U.S.C. § 310.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 2 years.

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

f. *Sample specifications.*

(1) *Disrespect to a sentinel or lookout.*

In that _____ (personal jurisdiction data), did, (at/on board—location), on or about ____ 20 __, then knowing that _____ was a sentinel or lookout, (wrongfully use the following disrespectful language “ _____,” or words to that effect, to _____) (wrongfully behave in a disrespectful manner toward _____, by