

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 pre- ferral 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) (a preliminary hearing) (____)) [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) (an investigating officer) (a preliminary hearing) (____)] 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 investigating officer) (before such preliminary hearing officer)] [____].