

APPENDIX 12A

PRESIDENTIALLY-PRESCRIBED LESSER INCLUDED OFFENSES PURSUANT TO ARTICLE 79(b)(2), UNIFORM CODE OF MILITARY JUSTICE

This authoritative list provides actual notice of factually similar lesser included offenses designated by the President, pursuant to Article 79(b)(2), that are “reasonably included” in the greater offense. The military justice system has unique, but closely related, military offenses, which are not “necessarily included” lesser offenses under the “elements test.” See *United States v. Teters*, 37 M.J. 370 (C.A.A.F. 1993); see also *United States v. Jones*, 68 M.J. 465 (C.A.A.F. 2009). This list is exhaustive as to those lesser included offenses (called “reasonably included offenses” in the chart below) that the President has designated pursuant to Article 79(b)(2). However, this list is not intended to address, and does not address, those offenses that are necessarily included in a charged offense and are therefore lesser included offenses pursuant to Article 79(b)(1).

Article	Offense (Part IV Citation)	Reasonably Included Offense (RIO) Article	RIO (Part IV Citation)
85 - Desertion	Para. 9.b.(1)-(3)	85 - Desertion	Para. 9.b.(4)
87a - Resistance, flight, breach of arrest, and escape	Par. 12.b.(5)	86 - Absent without leave	Para. 10.b.(3)
87b - Offenses against correctional custody and restriction	Para. 13.b.(1)	86 - Absent without leave	Para. 10.b.(3)
93a - Prohibited activities with military recruit or trainee by person in position of special trust	Para. 20.b.(1); 20.b.(2)	93 - Cruelty and maltreatment	Para. 19.b.
94 - Mutiny or sedition	Para. 21.b.(1)	94 - Mutiny or sedition	Para. 21.b.(6)
100 - Subordinate compelling surrender	Para. 28.b.(1)	100 - Subordinate compelling surrender	Para. 28.b.(2)
103a - Espionage	Para. 32.b.(1)	103a - Espionage	Para. 32.b.(2)
103b - Aiding the enemy	Para. 33.b.(1)	103b - Aiding the enemy	Para. 33.b.(2)
104b - Unlawful enlistment, appointment, or separation	Para. 36.b.	107 - False official statements; false swearing	Para. 41.b.(1)
118 - Murder	Para. 56.b.(1); 56.b.(2); 56.b.(3); 56.b.(4)	114 - Endangerment Offenses	Para. 52.b.(1)
119 - Manslaughter	Para. 57.b.(1)	114 - Endangerment Offenses	Para. 52.b.(1)

APPENDIX 12A

119a - Death or injury of an unborn child	Para. 58.b.(2); 58.b.(4)	119a - Death or injury of an unborn child	Para. 58.b.(3)
120 - Rape and Sexual Assault	Para. 60.b.(1)	128 - Assault with intent to commit specified offenses (rape)	Para. 77.b.(3)
120 - Rape and Sexual Assault	Para. 60.b.(2)	128 - Assault with intent to commit specified offenses (sexual assault)	Para. 77.b.(3)
120b - Rape of a child	Para. 62.b.(1)	128 - Assault with intent to commit specified offenses (rape of a child)	Para. 77.b.(3)
120b - Rape of a child	Para. 62.b.(2)	128 - Assault with intent to commit specified offenses (sexual assault of a child)	Para. 77.b.(3)
128 - Assault	Para. 77.b.(2); 77.b.(3); 77.b.(4); 77.b.(5)	128 - Assault	Para. 77.b.(1)
134 - Check, worthless making and uttering by dishonorably failing to maintain funds	Para. 94.b.	134 - Debt, dishonorably failing to pay	Para. 96.b.
134 - Child pornography	Para. 95.b.(1); 95.b.(2); 95.b.(3); 95.b.(4)	134 - Indecent conduct	Para. 104.b.
134 - Disloyal statements	Para. 97.b.	88 - Contempt toward officials	Para. 14.b.