

Appendix 12B

Offense Category	Months
1	0–12
2	1–36
3	30–120
4	120–240
5	240–480
6	Confinement for life with eligibility for parole

Sentencing Parameter Table – Confinement Range Categories

Note: For all above categories, if the confinement portion of the maximum authorized punishment for the offense is less than the Offense Category’s confinement maximum, the lesser confinement portion of the maximum authorized punishment shall control as the recommended maximum confinement time for that offense. At a special court-martial, for an offense that is a category 3 offense or greater, the jurisdictional maximum period of confinement (12 months) constitutes the parameters; however, the military judge may impose a period of confinement less than the jurisdictional maximum period of confinement upon finding specific facts that warrant such a sentence.

Appendix 12C – Offense Category Chart

<i>Article</i>	<i>Offense</i>	<i>Offense Category</i>
77	Principals	Dependent on underlying offense
78	Accessory after the fact	Dependent on underlying offense
79	Conviction of offense charged, lesser included offenses, and attempts	Dependent on underlying offense
80	Attempts	Dependent on underlying offense
81	Conspiracy	Dependent on underlying offense
82	Soliciting commission of offenses	
	Solicitation of espionage	Category 4
	Solicitation of desertion, mutiny or sedition, misbehavior before the enemy if committed or attempted	Dependent on underlying offense
	Solicitation of desertion in time of war if not committed or attempted	Criteria
	Solicitation of desertion if not committed or attempted	Category 1
	Solicitation of mutiny or sedition if not committed or attempted	Category 3
	Solicitation of misbehavior before enemy if not committed or attempted	Category 3
	Solicitation of other offense regardless of whether committed or attempted	Dependent on underlying offense
83	Malingering	
	Feigning illness, physical disablement, mental lapse, or mental derangement	
	In time of war or in a hostile fire pay zone	Criteria
	Other	Category 1
	Intentional self-inflicted injury	
	In time of war or in a hostile fire pay zone	Criteria
	Other	Category 2
84	Breach of medical quarantine	
	Breach of medical quarantine involving a quarantinable communicable disease defined by 42 CFR 70.1	Category 1
	Breach of medical quarantine	Category 1
85	Desertion	
	In time of war	Criteria
	Intent to avoid hazardous duty or to shirk important services	Category 2
	Other cases	
	Terminated by apprehension	Category 2
	Terminated otherwise	Category 1
86	Absence without leave	
	Failing to go, going from appointed place of duty	Category 1
	Absence from unit, organization, etc.	
	Not more than 3 days	Category 1
	More than 3, not more than 30 days	Category 1
	More than 30 days	Category 1
	More than 30 days and terminated by apprehension	Category 1
	Absence from guard or watch	Category 1
	Absence from guard or watch with intent to abandon	Category 1
	Absence with intent to avoid maneuvers or field exercises	Category 1
87	Missing movement; jumping from vessel	
	Missing movement	
	Design	Category 2
	Neglect	Category 1
	Jumping from vessel into the water	Category 1
87a	Resistance, flight, breach of arrest, and escape	
	Resisting apprehension	Category 1
	Flight from apprehension	Category 1
	Breaking arrest	Category 1
	Escape from custody, pretrial confinement, or confinement pursuant to Article 15	Category 1
	Escape from post-trial confinement	Category 2
87b	Offenses against correctional custody and restriction	
	Escape from correctional custody	Category 1
	Breach of correctional custody	Category 1
	Breach of restriction	Category 1

<i>Article</i>	<i>Offense</i>	<i>Offense Category</i>
88	Contempt toward officials	Category 1
89	Disrespect toward superior commissioned officer; assault of superior commissioned officer	
	Disrespect toward superior commissioned officer	
	In command	Category 1
	In rank	Category 1
	Striking, drawing, or lifting up a weapon or offering any violence to superior commissioned officer in execution of office	
	In time or war	Criteria
	Other	Category 2
90	Willfully disobeying superior commissioned officer	
	In time of war	Criteria
	Other	Category 2
91	Insubordinate conduct toward warrant officer, noncommissioned officer, or petty officer	
	Striking or assaulting	
	Warrant officer	Category 2
	Superior noncommissioned or petty officer	Category 2
	Other noncommissioned or petty officer	Category 1
	Willfully disobeying	
	Warrant officer	Category 1
	Noncommissioned or petty officer	Category 1
	Contempt or disrespect	
	Warrant officer	Category 1
	Superior noncommissioned or petty officer	Category 1
	Other noncommissioned or petty officer	Category 1
92	Failure to obey order or regulation	
	Violation of or failure to obey general order or regulation	Category 1
	Violation of or failure to obey other lawful order	Category 1
	Dereliction in performance of duties	
	Through neglect or culpable inefficiency	Category 1
	Through neglect or culpable inefficiency resulting in death or grievous bodily harm	Category 2
	Willful	Category 1
	Willful dereliction of duty resulting in death or grievous bodily harm	Category 2
93	Cruelty and maltreatment	Category 1
93a	Prohibited activities with military recruit or trainee by person in position of special trust	Category 2
94	Mutiny or sedition	Criteria
95	Offenses by sentinel or lookout	
	Drunk or sleeping on post, or leaving post before being relieved	
	In time of war	Criteria
	While receiving special pay under 37 USC 310	Criteria
	In all other places	Category 1
	Loitering or wrongfully sitting on post by a sentinel or lookout	
	In time of war or while receiving special pay under 37 USC 310	Criteria
	Other cases	Category 1
95a	Disrespect toward sentinel or lookout	Category 1
96	Release of prisoner without authority; drinking with prisoner	
	Releasing a prisoner without authority	Category 2
	Allowing a prisoner to escape through neglect	Category 1
	Allowing a prisoner to escape through design	Category 2
	Drinking with prisoner	Category 1
97	Unlawful Detention	Category 2
98	Misconduct as prisoner	Criteria
99	Misbehavior before the enemy	Criteria
100	Subordinate compelling surrender	Criteria
101	Improper use of countersign	Criteria
102	Forcing a safeguard	Criteria
103	Spies	Category 5
103a	Espionage	
	Espionage as a capital offense	Category 5
	Espionage or attempted espionage	Category 5

<i>Article</i>	<i>Offense</i>	<i>Offense Category</i>
103b	Aiding the enemy	Criteria
104	Public records offenses	Category 2
104a	Fraudulent enlistment, appointment, or separation	
	Fraudulent enlistment or appointment	Category 2
	Fraudulent separation	Category 2
104b	Unlawful enlistment, appointment, or separation	Category 2
105	Forgery	Category 2
105a	False or unauthorized pass offenses	
	Possessing or using with intent to defend or deceive, or making, altering, counterfeiting, tampering with, or selling	Category 2
	All other cases	Category 1
106	Impersonation of officer, noncommissioned or petty officer, or agent or official	
	With intent to defraud	Category 2
	All other cases	Category 1
106a	Wearing unauthorized insignia, decoration, badge, ribbon, device, or lapel button	
	Wrongful wearing of the Medal of Honor; Distinguished Service Cross; Navy Cross; Air Force Cross; Silver Star; Purple Heart; or a valor device on any personal award	Category 1
	All other cases	Category 1
107	False official statements; false swearing	
	False official statement	Category 2
	False swearing	Category 1
107a	Parole violation	Category 1
108	Military property of United States—Loss, damage, destruction, or wrongful disposition	
	Selling or otherwise disposing	
	Of a value of \$1,000 or less	Category 1
	Of a value of more than \$1,000 or any firearm or explosive	Category 2
	Damaging, destroying, losing or suffering to be lost, damaged, destroyed, sold, or wrongfully disposed	
	Through neglect, of a value or damage of	
	Of a value of \$1,000 or less	Category 1
	Of a value of more than \$1,000	Category 1
	Willfully, of a value or damage of	
	\$1,000 or less	Category 1
	More than \$1,000 or of any firearm or explosive	Category 2
108a	Captured or abandoned property	
	Captured, abandoned property; failure to secure, etc.	
	Of a value of \$1,000 or less	Category 1
	Of a value of more than \$1,000 or any firearm or explosive	Category 2
	Looting or pillaging	Criteria
109	Property other than military property of United States— Waste, spoilage, or destruction	
	Wasting, spoiling, destroying, or damaging non-military property	
	Of a value of \$1,000 or less	Category 1
	Of a value of more than \$1,000	Category 2
109a	Mail matter: wrongful taking, opening, etc.	Category 2
110	Improper hazarding of vessel or aircraft	
	Willfully and wrongfully	Criteria
	Negligently	Category 2
111	Leaving scene of vehicle accident	Category 1
112	Drunkenness and other incapacitation offenses	
	Drunk on duty	Category 1
	Incapacitation for duty from drunkenness or drug use	Category 1
	Drunk prisoner	Category 1

<i>Article</i>	<i>Offense</i>	<i>Offense Category</i>
112a	Wrongful use, possession, etc., of controlled substances	
	Wrongful use, possession, manufacture, or introduction of controlled substance	
	Wrongful use or possession of amphetamine, cocaine, heroin, lysergic acid diethylamide, marijuana, methamphetamine, opium, phencyclidine, secobarbital, and Schedule I, II, and III controlled substances	Category 1
	Wrongful manufacture or introduction of amphetamine, cocaine, heroin, lysergic acid diethylamide, marijuana, methamphetamine, opium, phencyclidine, secobarbital, and Schedule I, II, and III controlled substances	Category 2
	Wrongful use, possession, manufacture, or introduction of phenobarbital and Schedule IV and V controlled substances	Category 1
	Wrongful distribution, possession, manufacture, or introduction of controlled substance with intent to distribute, or wrongful importation or exportation of a controlled substance	
	Amphetamine, cocaine, heroin, lysergic acid diethylamide, marijuana, methamphetamine, opium, phencyclidine, secobarbital, and Schedule I, II, and III controlled substances	Category 2
	Phenobarbital and schedule IV and V controlled substances	Category 2
113	Drunken or reckless operation of a vehicle, aircraft, or vessel	
	Resulting in personal injury	Category 2
	No personal injury involved	Category 1
114	Endangerment offenses	
	Carrying concealed weapon	Category 1
	Discharging firearm, willfully, under such circumstances as to endanger human life	Category 1
	Reckless endangerment	Category 1
	Dueling	Category 1
115	Communicating threats	
	Threats and false threats generally	Category 2
	Threats and false threats concerning use of explosives, etc.	Category 3
116	Riot or breach of peace	
	Riot	Category 3
	Breach of the peace	Category 1
117	Provoking speeches or gestures	Category 1
117a	Wrongful broadcast or distribution of intimate visual images	Category 2
118	Murder	
	Article 118(1) or (4)	Category 6
	Article 118(2) or (3)	Category 5
119	Manslaughter	
	Voluntary manslaughter	Category 4
	Involuntary manslaughter	Category 3
	Voluntary manslaughter of a child under 16 years of age	Category 4
	Involuntary manslaughter of a child under 16 years of age	Category 3
119a	Death or injury of an unborn child	
	Injuring or killing an unborn child	Dependent on underlying offense
	Attempting to kill an unborn child	Dependent on underlying offense
	Intentionally killing an unborn child	Dependent on underlying offense
119b	Child endangerment	
	Endangerment by design resulting in grievous bodily harm	Category 3
	Endangerment by design resulting in harm	Category 2
	Other cases by design	Category 2
	Endangerment by culpable negligence resulting in grievous bodily harm	Category 2
	Endangerment by culpable negligence resulting in harm	Category 2
	Other cases by culpable negligence	Category 1

<i>Article</i>	<i>Offense</i>	<i>Offense Category</i>
120	Rape and sexual assault generally	
	Rape	Category 4
	Sexual assault	Category 3
	Aggravated sexual contact	Category 3
	Abusive sexual contact	Category 2
120a	Mails: deposit of obscene matter	Category 2
120b	Rape and sexual assault of a child	
	Rape of a child	Category 5
	Sexual assault of a child	Category 4
	Sexual abuse of a child	
	Cases involving sexual contact	Category 3
	Other cases	Category 3
120c	Other sexual misconduct	
	Indecent viewing	Category 1
	Indecent recording	Category 2
	Broadcasting or distributing of an indecent recording	Category 2
	Forcible pandering	Category 3
	Indecent exposure	Category 1
121	Larceny and wrongful appropriation	
	Larceny	
	Property of a value of \$1,000 or less	Category 1
	Military property of a value of more than \$1,000 or of any military motor vehicle, aircraft, vessel, firearm, or explosive	Category 2
	Property other than military property of a value of more than \$1,000 or any motor vehicle, aircraft, vessel, firearm, or explosive.	Category 2
	Wrongful appropriation	
	Of a value of \$1,000 or less	Category 1
	Of a value of more than \$1,000	Category 1
	Of any motor vehicle, aircraft, vessel, firearm, explosive, or military property of a value of more than \$1,000	Category 1
121a	Fraudulent use of credit cards, debit cards, and other access devices	
	Fraudulent use of a credit card, debit card, or other access device to obtain property of a value of \$1,000 or less	Category 1
	Fraudulent use during any 1-year period of a credit card, debit card, or other access device to obtain property the aggregate value of which is more than \$1,000	Category 2
121b	False pretenses to obtain services	
	Of a value of \$1,000 or less	Category 1
	Of a value of more than \$1,000	Category 2
122	Robbery	
	When committed with a dangerous weapon	Category 3
	All other cases	Category 3
122a	Receiving stolen property	
	Receiving, buying, or concealing stolen property of a value of \$1,000 or less	Category 1
	Receiving, buying, or concealing stolen property of a value of more than \$1,000	Category 2
123	Offenses concerning Government computers	
	Unauthorized distribution of classified information obtained from a Government computer	Category 3
	Unauthorized access of a Government computer and obtaining classified or other protected information	Category 2
	Causing damage to a Government computer	Category 3
123a	Making, drawing, or uttering check, draft, or order without sufficient funds	
	For the procurement of any article or thing of value, with intent to defraud, in the face amount of:	
	\$1,000 or less	Category 1
	More than \$1,000	Category 2
	For the payment of any past due obligation, or for any other purpose, with intent to deceive	Category 1

<i>Article</i>	<i>Offense</i>	<i>Offense Category</i>
124	Frauds against the United States	
	Article 124(1) and (2)	Category 2
	Article 124(3) and (4)	
	When amount is \$1,000 or less	Category 1
	When amount is more than \$1,000	Category 2
124a	Bribery	Category 2
124b	Graft	Category 2
125	Kidnapping	Category 3
126	Arson; burning property with intent to defraud	
	Aggravated arson	Category 3
	Simple arson, where property value is:	
	\$1,000 or less	Category 1
	More than \$1,000	Category 2
	Burning with intent to defraud	Category 2
127	Extortion	Category 2
128	Assault	
	Simple assault	
	Generally	Category 1
	When committed with an unloaded firearm	Category 2
	Battery	
	Assault consummated by a battery	Category 1
	Assault upon a commissioned officer of the armed forces of the United States or of a friendly foreign power, not in the execution of office	Category 2
	Assault upon a warrant officer, not in the execution of office	Category 2
	Assault upon a noncommissioned or petty officer, not in the execution of office	Category 1
	Assault upon a sentinel or lookout in the execution of duty, or upon any person who, in the execution of office, is performing security police, military police, shore patrol, master at arms, or other military or civilian law enforcement duties	Category 2
	Assault consummated by a battery upon a child under 16 years	Category 2
	Assault with intent to commit murder or rape	Category 3
	Assault with intent to commit voluntary manslaughter, robbery, arson, burglary, or kidnapping	Category 3
	Aggravated assault	
	Aggravated assault with a dangerous weapon	
	When committed with a loaded firearm	Category 3
	When committed upon a child under the age of 16 years	Category 3
	Other cases	Category 2
	Aggravated assault in which substantial bodily harm is inflicted	
	When the injury is inflicted with a loaded firearm	Category 3
	When the injury is inflicted upon a child under the age of 16 years	Category 3
	Other cases	Category 2
	Aggravated assault in which grievous bodily harm is inflicted	
	When the injury is inflicted with a loaded firearm	Category 3
	When the injury is inflicted upon a child under the age of 16 years	Category 3
	Other cases	Category 2
	Other cases	Category 2
	Aggravated assault by strangulation or suffocation	
	When committed upon a child under the age of 16 years	Category 3
	Other cases	Category 2
128a	Maiming	Category 3
128b	Domestic Violence	
	Commission of violent offense against spouse, intimate partner, or immediate family member of that person	Dependent on underlying offense
	Commission of UCMJ violation against any person with intent to threaten or intimidate spouse, intimate partner, or immediate family member of that person	Dependent on underlying offense

<i>Article</i>	<i>Offense</i>	<i>Offense Category</i>
	Commission of UCMJ violation against any property, including animal, with intent to threaten or intimidate spouse, intimate partner, or immediate family member of that person	Dependent on underlying offense
	Violation of protection order with intent to threaten or intimidate spouse, intimate partner, or immediate family member of that person	Category 2
	Violation of protection order with intent to commit a violent offense against spouse, intimate partner, or immediate family member of that person	Category 2
	Assaulting spouse, intimate partner, or immediate family member of that person by strangulation or suffocation	
	Aggravated assault by strangulation or suffocation when committed upon a child under 16 years	Category 3
	Other cases	Category 2
129	Burglary; unlawful entry	
	Burglary (with intent to commit an offense punishable under Article 118–120, 120b–121, 122, 125–128a, or 130)	Category 3
	Burglary (with intent to commit any other offense punishable under the UCMJ)	Category 2
	Unlawful entry	Category 1
130	Stalking	Category 2
131	Perjury	Category 2
131a	Subornation of perjury	Category 2
131b	Obstructing justice	Category 2
131c	Misprision of serious offense	Category 2
131d	Wrongful refusal to testify	Category 2
131e	Prevention of authorized seizure of property	Category 1
131f	Noncompliance with procedural rules	
	Unnecessary delay in disposing of case	Category 1
	Knowingly and intentionally failing to enforce or comply with provisions of the UCMJ	Category 2
131g	Wrongful interference with adverse administrative proceeding	Category 2
132	Retaliation	Category 2
133	Conduct unbecoming an officer.	Criteria
134	General article	Criteria
	Animal abuse	
	Abuse, neglect, or abandonment of an animal	Category 1
	Abuse, neglect, or abandonment of a public animal	Category 1
	Sexual act with an animal or cases where the accused caused the serious injury or death of the animal	Category 2
	Bigamy	Category 1
	Check, worthless making and uttering – by dishonorably failing to maintain funds	Category 1
	Child pornography	
	Possessing, receiving, or viewing child pornography	Category 2
	Possessing child pornography with intent to distribute	Category 3
	Distributing child pornography	Category 3
	Producing child pornography	Category 4
	Debt, dishonorably failing to pay	Category 1
	Disloyal statements	Category 1
	Disorderly conduct, drunkenness	
	Disorderly conduct	
	Under such circumstances as to bring discredit upon the military Service	Category 1
	Other cases	Category 1
	Drunkenness	
	Aboard ship or under such circumstances as to bring discredit upon the military Service	Category 1
	Other cases	Category 1

<i>Article</i>	<i>Offense</i>	<i>Offense Category</i>
134	Drunk and disorderly	
	Aboard ship	Category 1
	Under such circumstances as to bring discredit upon the military	
	Service	Category 1
	Other cases	Category 1
	Extramarital sexual conduct	Category 1
	Firearm, discharging – through negligence	Category 1
	Fraternization	Category 1
	Gambling with subordinate	Category 1
	Homicide, negligent	Category 2
	Indecent conduct	Category 2
	Indecent language	
	Communicated to any child under the age of 16 years	Category 2
	Other cases	Category 1
	Pandering and prostitution	
	Prostitution and patronizing a prostitute	Category 1
	Pandering	Category 2
	Self-injury without intent to avoid service	
	In time of war or in a hostile fire pay zone	Criteria
	Intentional self-inflicted injury	Category 1
	Sexual harassment	Category 2
	Straggling	Category 1

Appendix 12D - List of Sentencing Criteria Offenses

UCMJ Article	Title
82	Solicitation to desert (in time of war)
83	Malingering (in time of war or in hostile fire pay zone)
85	Desertion (in time of war)
89	Striking, drawing, or lifting up a weapon or offering any violence to superior commissioned officer in execution of office (in time of war)
90	Willfully disobeying a lawful order of superior commissioned officer (in time of war)
94	Mutiny or sedition
95	Offenses by sentinel or lookout (in time of war or while receiving special pay under 37 U.S.C. 310)
98	Misconduct as prisoner
99	Misbehavior before the enemy
100	Subordinate compelling surrender
101	Improper use of countersign
102	Forcing a safeguard
103b	Aiding the enemy
108a	Captured or abandoned property (looting or pillaging)
110	Improper hazarding of vessel or aircraft (willfully and wrongfully)
133	Conduct unbecoming an officer
134	General article
134	Self-injury without intent to avoid service (in time of war or in a hostile fire pay zone)

SENTENCING CRITERIA

The military judge shall consider the sentencing criteria established for the following offenses:

Article 82. Solicitation to desert (*in time of war*).

The age and experience of the accused;

Any mental impairment or deficiency of the accused;

Whether the offense disrupted or, in any way, impacted the operations of any organization;

Whether the offense caused damage to the national security of the United States, regardless of whether the accused intended such damage;

Whether the offense was committed in a way or under circumstances that unlawfully and substantially endangered the life of one or more persons; and

Whether the offense was committed in territory in which the United States or an ally of the United States was then an occupying power or in which the United States Armed Forces were then engaged in a contingency operation or active hostilities.

Article 83. Malingering (*in time of war or in hostile fire pay zone*).

The age and experience of the accused;

Any mental impairment or deficiency of the accused;

Whether the offense was committed before or in the presence of the enemy;

Whether the offense disrupted or, in any way, impacted the operations of any organization;

Whether the offense caused damage to the national security of the United States, regardless of whether the accused intended such damage;

Whether the offense was committed in a way or under circumstances that unlawfully

and substantially endangered the life of one or more persons;

Whether the offense was committed to avoid the movement of a vessel or hazardous duty or shirk important service; and

Whether the offense was committed in territory in which the United States or an ally of the United States was then an occupying power or in which the United States Armed Forces were then engaged in a contingency operation or active hostilities.

Article 85. Desertion (*in time of war*).

The age and experience of the accused;

Any mental impairment or deficiency of the accused;

Whether the offense was committed before or in the presence of the enemy;

Whether the offense was committed while the accused was under charges, investigation, or adverse action;

Whether the offense caused damage to the national security of the United States, regardless of whether the accused intended such damage;

Whether the offense disrupted or, in any way, impacted the operations of any organization;

Whether the offense was committed to avoid the movement of a vessel or hazardous duty or shirk important service;

Whether the offense was committed in a way or under circumstances that unlawfully and substantially endangered the life of one or more persons; and

Whether the offense was committed in a way or under circumstances such that the location from which the accused absented himself or remained absent was a territory in which the United States or an ally of the United States was then an occupying power or in

which the United States Armed Forces were then engaged in a contingency operation or active hostilities.

Article 89. Striking, drawing, or lifting up a weapon or offering any violence to superior commissioned officer in execution of office (*in time of war*).

The age and experience of the accused;

Any mental impairment or deficiency of the accused;

Whether the offense disrupted or, in any way, impacted the operations of any organization;

Whether the offense was committed to avoid the movement of a vessel or hazardous duty or shirk important service;

Whether the offense was committed before or in the presence of the enemy;

Whether the offense was committed before or in the presence of other members of the accused's or the superior commissioned officer's unit;

Whether the offense caused damage to the national security of the United States, regardless of whether the accused intended such damage;

The status of the superior commissioned officer and command relationship to the accused;

Whether the accused abused a position of trust or authority, or used specialized skill or training, in a manner that significantly facilitated the offense;

The amount of force or violence used or threatened by the accused and other participants in the offense;

The nature or extent of any injuries suffered by the victim;

Whether the offense was committed in a way that created, or under circumstances

creating, a substantial risk of bodily harm or death to any person;

Whether the offense involved the conscious or reckless disregard of a risk of death or serious bodily harm to any person;

Whether the offense involved possession of a dangerous weapon; and

Whether the offense was committed in territory in which the United States or an ally of the United States was then an occupying power or in which the United States Armed Forces were then engaged in a contingency operation or active hostilities.

Article 90. Willfully disobeying a lawful order of superior commissioned officer (*in time of war*).

The age and experience of the accused;

Any mental impairment or deficiency of the accused;

Whether the offense disrupted or, in any way, impacted the operations of any organization;

Whether the offense was committed to avoid the movement of a vessel or hazardous duty or shirk important service;

Whether the offense was committed before or in the presence of the enemy;

Whether the offense was committed before or in the presence of other members of the accused's or the superior commissioned officer's unit;

Whether the offense caused damage to the national security of the United States, regardless of whether the accused intended such damage;

The status of the superior commissioned officer and command relationship to the accused;

Whether the accused abused a position of trust or authority, or used

specialized skill or training, in a manner that significantly facilitated the offense;

Whether the offense was committed in a way that created, or under circumstances creating, a substantial risk of bodily harm or death to any person;

Whether the offense involved the conscious or reckless disregard of a risk of death or serious bodily harm to any person;

Whether the offense involved possession of a dangerous weapon; and

Whether the offense was committed in territory in which the United States or an ally of the United States was then an occupying power or in which the United States Armed Forces were then engaged in a contingency operation or active hostilities.

Article 94. Mutiny or sedition.

The age and experience of the accused;

Any mental impairment or deficiency of the accused;

The accused's relationship to the military or civil authority against which the accused committed the mutiny or sedition;

Whether the offense disrupted or, in any way, impacted the operations of any organization;

Whether the offense was committed to avoid the movement of a vessel or hazardous duty or shirk important service;

Whether the offense was committed before or in the presence of the enemy;

Whether the offense caused damage to the national security of the United States, regardless of whether the accused intended such damage;

Whether the accused was the actual perpetrator of the offense or was a principal whose participation in the offense was major;

Whether the accused was an organizer, leader, manager, or supervisor in the

offense and the number of other participants in the offense;

Whether the accused was a minimal or minor participant in the offense;

Whether the accused abused a position of trust or authority, or used specialized skill or training, in a manner that significantly facilitated the offense;

The amount of force or violence used or threatened by the accused and other participants in the offense;

The nature or extent of any injuries suffered by any victims of the offense;

The nature or extent of any public or private property damage related to the offense;

Whether the offense was committed in a way or under circumstances that unlawfully and substantially endangered the life of one or more persons;

Whether the offense involved the conscious or reckless disregard of a risk of death or serious bodily harm to any person;

Whether the offense involved possession of a dangerous weapon;

Whether the offense involved the conscious or reckless disregard of a risk of serious damage to public or private property; and

Whether the offense was committed in territory in which the United States or an ally of the United States was then an occupying power or in which the United States Armed Forces were then engaged in a contingency operation or active hostilities.

Article 95. Offenses by sentinel or lookout (*in time of war or while the accused was receiving special pay under 37 U.S.C 310*).

The age and experience of the accused;

Any mental impairment or deficiency of the accused;

Whether the offense disrupted or, in any way, impacted the operations of any

organization;

Whether the offense was committed to avoid the movement of a vessel or hazardous duty or shirk important service;

Whether the offense was committed before or in the presence of the enemy;

Whether the offense caused damage to the national security of the United States, regardless of whether the accused intended such damage;

Whether the offense was committed in a way or under circumstances that unlawfully and substantially endangered the life of one or more persons; and

Whether the offense was committed in territory in which the United States or an ally of the United States was then an occupying power or in which the United States Armed Forces were then engaged in a contingency operation or active hostilities.

Article 98. Misconduct as prisoner.

The age and experience of the accused;

Any mental impairment or deficiency of the accused;

Whether the offense caused damage to the national security of the United States, regardless of whether the accused intended such damage;

Whether the accused was the actual perpetrator of the offense or was a principal whose participation in the offense was major;

Whether the accused was an organizer, leader, manager, or supervisor in the offense and the number of other participants in the offense;

Whether the accused was a minimal or minor participant in the offense;

Whether the accused abused a position of trust or authority, or used specialized skill or training, in a manner that significantly facilitated the offense;

The nature of any maltreatment inflicted on other prisoners;

The amount of force or violence used or threatened by the accused and other participants in the offense;

The nature or extent of any injuries suffered by any victims of the offense;

Whether the offense was committed in a way or under circumstances that unlawfully and substantially endangered the life of one or more persons;

Whether the offense involved the conscious or reckless disregard of a risk of death or serious bodily harm to any person;

Whether the offense involved possession of a dangerous weapon;

The nature of any benefits or improvements enjoyed by the accused as a result of his or her conduct; and

Whether the offense was committed in territory in which the United States or an ally of the United States was then an occupying power or in which the United States Armed Forces were then engaged in a contingency operation or active hostilities.

Article 99. Misbehavior before the enemy.

The age and experience of the accused;

Any mental impairment or deficiency of the accused;

Whether the offense disrupted or, in any way, impacted the operations of any organization.

Whether the offense caused damage to the national security of the United States, regardless of whether the accused intended such damage;

Whether the accused abused a position of trust or authority, or used specialized skill or training, in a manner that significantly facilitated the offense;

Whether the accused was the actual perpetrator of the offense or was a principal whose participation in the offense was major;

Whether the accused was an organizer, leader, manager, or supervisor in the offense and the number of other participants in the offense;

Whether the accused was a minimal or minor participant in the offense;

Whether the offense was committed in a way or under circumstances that unlawfully and substantially endangered the life of one or more persons;

Whether the offense involved the conscious or reckless disregard of a risk of death or serious bodily harm to any person;

Whether the offense involved possession of a dangerous weapon;

Whether the offense was committed in a way that created, or under circumstances creating, a substantial risk of bodily harm or death to any person; and

Whether the offense was committed in territory in which the United States or an ally of the United States was then an occupying power or in which the United States Armed Forces were then engaged in a contingency operation or active hostilities.

Article 100. Subordinate compelling surrender.

The age and experience of the accused;

Any mental impairment or deficiency of the accused;

The nature of the conflict or hostilities in which the accused's unit was engaged;

Whether the offense was committed in the immediate presence of the enemy;

Whether the offense caused damage to the national security of the United States, regardless of whether the accused intended such damage;

Whether the offense impacted the operations of any organization in addition to the unit of the accused;

Whether the offense was committed in a way or under circumstances that unlawfully and substantially endangered the life of one or more persons;

Whether the offense was committed in territory in which the United States or an ally of the United States was then an occupying power or in which the United States Armed Forces were then engaged in a contingency operation or active hostilities;

Whether the accused abused a position of trust or authority, or used specialized skill or training, in a manner that significantly facilitated the offense;

Whether the offense was committed for the purpose of receiving money or a thing of value;

Whether the accused was the actual perpetrator of the offense or was a principal whose participation in the offense was major;

Whether the accused was an organizer, leader, manager, or supervisor in the offense and the number of other participants in the offense; and

Whether the accused was a minimal or minor participant in the offense.

Article 101. Improper use of countersign.

The age and experience of the accused;

Any mental impairment or deficiency of the accused;

Whether the offense was committed before or in the presence of the enemy;

Whether the offense caused damage to the national security of the United States, regardless of whether the accused intended such damage;

Whether the offense was committed in a way or under circumstances that unlawfully and substantially endangered the life of one or more persons;

Whether the offense was committed in territory in which the United States or an ally of the United States was then an occupying power or in which the United States Armed Forces were then engaged in a contingency operation or active hostilities;

Whether the accused abused a position of trust or authority, or used specialized skill or training, in a manner that significantly facilitated the offense; and

Whether the offense was committed for the purpose of receiving money or a thing of value.

Article 102. Forcing a safeguard.

The age and experience of the accused;

Any mental impairment or deficiency of the accused;

That nature of the person or persons, place, or property intended to be protected by the safeguard;

Whether the offense was committed before or in the presence of the enemy;

Whether the offense caused damage to the national security of the United States, regardless of whether the accused intended such damage;

Whether the offense was committed in a way or under circumstances that unlawfully and substantially endangered the life of one or more persons;

Whether the offense was committed in territory in which the United States or an ally of the United States was then an occupying power or in which the United States Armed Forces were then engaged in a contingency operation or active hostilities;

Whether the accused abused a position of trust or authority, or used specialized skill or training, in a manner that significantly facilitated the offense;

Whether the offense was committed for the purpose of receiving money or a thing of value;

Whether any person or persons, place, or property intended to be protected by the safeguard was injured or damaged;

Whether the accused was the actual perpetrator of the offense or was a principal whose participation in the offense was major;

Whether the accused actually knew of the safeguard;

Whether the accused was an organizer, leader, manager, or supervisor in the offense and the number of other participants in the offense; and

Whether the accused was a minimal or minor participant in the offense.

Article 103b. Aiding the enemy

The age and experience of the accused;

Any mental impairment or deficiency of the accused;

Whether the accused abused a position of trust or authority, or used specialized skill or training, in a manner that significantly facilitated the offense;

Whether the offense disrupted or, in any way, impacted the operations of any organization;

Whether the accused intended to cause damage to national security;

Whether the offense caused damage to the national security of the United States, regardless of whether the accused intended such damage;

Whether the offense involved the conscious or reckless disregard of a risk of death or serious bodily harm to any person;

Whether the offense involved possession of a dangerous weapon;

Whether the offense was committed in a way or under circumstances that unlawfully and substantially endangered the life of one or more persons; and

Whether the offense was committed in territory in which the United States or an ally of the United States was then an occupying power or in which the United States Armed

Forces were then engaged in a contingency operation or active hostilities.

Article 108a. Captured or abandoned property (*looting or pillaging*)

The age and experience of the accused;

Any mental impairment or deficiency of the accused;

Whether the offense was committed before or in the presence of the enemy;

Whether the offense caused damage to the national security of the United States, regardless of whether the accused intended such damage;

Whether the offense was committed in territory in which the United States or an ally of the United States was then an occupying power or in which the United States Armed Forces were then engaged in a contingency operation or active hostilities;

Whether the accused was the actual perpetrator of the offense or was a principal whose participation in the offense was major;

Whether the accused was an organizer, leader, manager, or supervisor in the offense and the number of other participants in the offense;

Whether the accused was a minimal or minor participant in the offense;

Whether the accused abused a position of trust or authority, or used specialized skill or training, in a manner that significantly facilitated the offense;

Whether the offense involved the conscious or reckless disregard of a risk of death or serious bodily harm to any person;

Whether the offense involved possession of a dangerous weapon;

Whether the offense was committed in a way or under circumstances that unlawfully and substantially endangered the life of one or more persons;

Whether the offense involved the conscious or reckless disregard of a risk of serious

damage to public or private property;

The amount of force or violence used or threatened by the accused and other participants in the offense;

The value and nature of the captured or abandoned property; and

The amount of restitution, if any, paid by the accused.

Article 110. Improper hazarding of vessel or aircraft (*willfully and wrongfully*).

The age and experience of the accused;

Any mental impairment or deficiency of the accused;

The position, responsibility, and authority of the accused at the time of the offense;

Whether the offense caused damage to the vessel or aircraft and the amount and type of damage;

Whether the accused committed the offense with the intent to prevent the vessel's or aircraft's deployment, movement, or departure;

Whether the offense occurred in a time of active hostilities;

Whether the offense disrupted or, in any way, impacted the operations of any organization;

Whether the offense caused damage to the national security of the United States, regardless of whether the accused intended such damage;

Whether the offense involved the conscious or reckless disregard of a risk of death or serious bodily harm to any person;

Whether the accused abused a position of trust or authority, or used specialized skill or training, in a manner that significantly facilitated the offense;

Whether the accused was an organizer, leader, manager, or supervisor in the offense

and the number of other participants in the offense; and

Whether the accused was the actual perpetrator of the offense or was a principal whose participation in the offense was major.

Article 133. Conduct unbecoming an officer.

The age and experience of the accused;

Any mental impairment or deficiency of the accused;

The sentencing parameter for the most analogous enumerated offense;

The grade of the accused;

Whether the offense occurred in a time of active hostilities;

Whether the offense disrupted or, in any way, impacted the operations of any organization;

Whether the offense caused damage to the national security of the United States, regardless of whether the accused intended such damage;

Whether the offense involved a severe lack of integrity and judgment;

Whether the offense involved the conscious or reckless disregard of a risk of death or serious bodily harm to any person; and

Whether the accused abused a position of trust or authority, or used specialized skill or training, in a manner that significantly facilitated the offense.

Article 134. General article.

(A) For offenses under Article 134's "disorders and neglects to the prejudice of good order and discipline" or "conduct of a nature to bring discredit upon the armed forces" clause that are not listed in Part IV of the Manual for Courts-Martial:

(1) For offenses for which the maximum punishment is calculated pursuant to

Rule for Courts-Martial 1003(c)(1)(B)(i), the sentencing parameter for the offense that provided the maximum punishment.

(2) For offenses for which the maximum punishment is calculated by reference to a provision of the United States Code pursuant to Rule for Courts-Martial 1003(c)(1)(B)(ii), the Federal Sentencing Guideline range for the offense that provided the maximum punishment.

(3) For offenses for which the maximum punishment is calculated by reference to a custom of the applicable service pursuant to Rule for Courts-Martial 1003(c)(1)(B)(ii), the sentencing parameter for the most analogous enumerated offense.

(B) For offenses under Article 134's "crimes and offenses not capital" clause, the Federal Sentencing Guideline range for the underlying offense.

Article 134. Self-injury without intent to avoid service in a time of war or in a hostile fire pay zone.

The age and experience of the accused;

Any mental impairment or deficiency of the accused;

Whether the offense was committed before or in the presence of the enemy;

Whether the offense disrupted or, in any way, impacted the operations of any organization;

Whether the offense caused damage to the national security of the United States, regardless of whether the accused intended such damage;

Whether the offense was committed in a way or under circumstances that unlawfully and substantially endangered the life of one or more persons; and

Whether the offense was committed in territory in which the United States or an ally of the United States was then an occupying power or in which the United States Armed Forces were then engaged in a contingency operation or active hostilities."