

someone other than the driver or a passenger in the driver's vehicle. It also covers accidents caused by the accused, even if the accused's vehicle does not contact other people, vehicles, or property.

(2) *Knowledge.* Actual knowledge that an accident has occurred is an essential element of this offense. Actual knowledge may be proved by circumstantial evidence.

(3) *Passenger.* A passenger other than a senior passenger may also be liable under this paragraph. See paragraph 1 of this Part.

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

e. *Maximum punishment.* Bad-conduct discharge, forfeiture of all pay and allowances, and confinement for 6 months.

f. *Sample specification.*

In that \_\_\_\_\_ (personal jurisdiction data), (the driver of) (\*a passenger in) (the senior officer/noncommissioned officer in) ( \_\_\_\_\_ in) a vehicle at the time of an accident in which said vehicle was involved, and having knowledge of said accident, did, at \_\_\_\_\_ (subject-matter jurisdiction data, if required), on or about \_\_\_\_\_ 20 \_\_\_\_ (wrongfully leave) (\*by \_\_\_\_\_, assist the driver of the said vehicle in wrongfully leaving) (wrongfully order, cause, or permit the driver to leave) the scene of the accident without (providing assistance to \_\_\_\_\_, who had been struck (and injured) by the said vehicle) (making his/her (the driver's) identity known).

[\*Note: This language should be used when the accused was a passenger and is charged as a principal. See paragraph 1 of this part.]

**83. Article 134—(Fraternization)**

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

b. *Elements.*

(1) That the accused was a commissioned or warrant officer;

(2) That the accused fraternized on terms of military equality with one or more certain enlisted member(s) in a certain manner;

(3) That the accused then knew the person(s) to be (an) enlisted member(s);

(4) That such fraternization violated the custom of the accused's service that officers shall not fraternize with enlisted members on terms of military equality; 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.* The gist of this offense is a violation of the custom of the armed forces against fraternization. Not all contact or association between officers and enlisted persons is an offense. Whether the contact or association in question is an offense depends on the surrounding circumstances. Factors to be considered include whether the conduct has compromised the chain of command, resulted in the appearance of partiality, or otherwise undermined good order, discipline, authority, or morale. The acts and circumstances must be such as to lead a reasonable person experienced in the problems of military leadership to conclude that the good order and discipline of the armed forces has been prejudiced by their tendency to compromise the respect of enlisted persons for the professionalism, integrity, and obligations of an officer.

(2) *Regulations.* Regulations, directives, and orders may also govern conduct between officer and enlisted personnel on both a service-wide and a local basis. Relationships between enlisted persons of different ranks, or between officers of different ranks may be similarly covered. Violations of such regulations, directives, or orders may be punishable under Article 92. See paragraph 16.

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

e. *Maximum punishment.* Dismissal, forfeiture of all pay and allowances, and confinement for 2 years.

f. *Sample specification.*

In that \_\_\_\_\_ (personal jurisdiction data), did, (at/on board—location) (subject-matter jurisdiction data, if required), on or about \_\_\_\_\_ 20 \_\_\_\_ , knowingly fraternize with \_\_\_\_\_ , an enlisted person, on terms of military equality, to wit: \_\_\_\_\_ , in violation of the custom of (the Naval Service of the United States) (the United States Army) (the United States Air Force) (the United States Coast Guard) that officers shall not fraternize with enlisted persons on terms of military equality.

**84. Article 134—(Gambling with subordinate)**

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

b. *Elements.*

(1) That the accused gambled with a certain servicemember;