

(2) That in committing the offense the accused—

(A) Knowingly created a grave risk of substantial damage to the national security of the United States; or

(B) Knowingly created a grave risk of substantial damage to a mission, system, or function of the United States, provided that this subparagraph shall apply only if substantial damage to the national security of the United States would have resulted had the potential damage been effected;

(3) That the offense caused substantial damage to the national security of the United States, regardless of whether the accused intended such damage, except that this factor shall not apply in case of a violation of Article 118;

(4) That the offense was committed in such a way or under such circumstances that the life of one or more persons other than the victim was unlawfully and substantially endangered, except that this factor shall not apply to a violation of Articles 103a or 103b;

(5) That the accused committed the offense with the intent to avoid hazardous duty;

(6) That, only in the case of a violation of Article 118, the offense was committed in time of war and 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 active hostilities;

(7) That, only in the case of a violation of Article 118(1)—

(A) The accused was serving a sentence of confinement for 30 years or more or for life at the time of the murder;

(B) The murder was committed while the accused was engaged in the commission or attempted commission of a separate murder, or any robbery, rape, rape of a child, sexual

assault, sexual assault of a child, aggravated sexual contact, sexual abuse of a child, aggravated arson, burglary, kidnapping, mutiny, sedition, or piracy of an aircraft or vessel; or while the accused was engaged in the commission or attempted commission of any offense involving the wrongful distribution, manufacture, or introduction or possession, with intent to distribute, of a controlled substance; or, while the accused was engaged in flight or attempted flight after the commission or attempted commission of any offense listed in this subparagraph (R.C.M. 1004(c)(7)(B)).

(C) The murder was committed for the purpose of receiving money or a thing of value;

(D) The accused procured another by means of compulsion, coercion, or a promise of an advantage, a service, or a thing of value to commit the murder;

(E) The murder was committed with the intent to avoid or to prevent lawful apprehension or effect an escape from custody or confinement;

(F) The victim was the President of the United States; the President-elect; the Vice President, or, if there was no Vice President, the next officer in the order of succession to the office of President of the United States; the Vice President-elect; any individual who is acting as President under the Constitution and laws of the United States; a Member of Congress (including a Delegate to, or Resident Commissioner in, the Congress) or Member of Congress-elect; a justice or judge of the United States; a chief of state or head of government (or the political equivalent) of a foreign nation; or a foreign official (as such term is defined in 18 U.S.C. § 1116(b)(3)(A)), if the official was on official business at the time of the offense and was in the United States or in a place described in Mil. R. Evid. 315(c)(2) or (c)(3);