

An officer's conduct need not violate other provisions of the UCMJ or be otherwise criminal to violate Article 133. The gravamen of the offense is that the officer's conduct disgraces the officer personally or brings dishonor to the military profession in a manner that affects the officer's fitness to command the obedience of the officer's subordinates so as to effectively complete the military mission. The absence of a "custom of the service," statute, regulation, or order expressly prohibiting certain conduct is not dispositive of whether the officer was on sufficient notice that such conduct was unbecoming.

(3) *Examples of offenses.* Instances of violation of this article include knowingly making a false official statement; dishonorable failure to pay a debt; cheating on an exam; opening and reading a letter of another without authority; using insulting or defamatory language to another officer in that officer's presence or about that officer to other military persons; being drunk and disorderly in a public place; committing or attempting to commit a crime involving moral turpitude; and failing without good cause to support the officer's family.

(4) *Relation to Other Punitive Articles:* This article includes acts made punishable by any other article, provided these acts amount to conduct unbecoming an officer. Thus, a commissioned officer who steals property violates both this article and Article 121. Whenever the offense charged is the same as a specific offense set forth in this Manual, the elements of proof are the same as those set forth in the paragraph that treats that specific offense, with the additional requirement that the act or omission constitutes conduct unbecoming an officer."

(w) Paragraph 91.c.(4)(a)(1)(iii) is as amended to read as follows:

(iii) The Federal Assimilative Crimes Act (18 U.S.C. § 13) is an adoption by Congress of state criminal laws for areas of exclusive or concurrent federal jurisdiction, provided federal criminal law, including the UCMJ, has not defined an applicable

offense for the misconduct committed. The Act applies to state laws validly existing at the time of the offense without regard to when these laws were enacted, whether before or after passage of the Act, and whether before or after the acquisition of the land where the offense was committed. For example, if a person committed an act on a military installation in the United States at a certain location over which the United States had either exclusive or concurrent jurisdiction, and it was not an offense specifically defined by federal law (including the UCMJ), that person could be punished for that act by a court-martial if it was a violation of a noncapital offense under the law of the State where the military installation was located. This is possible because the Act adopts the criminal law of the State wherein the military installation is located and applies it as though it were federal law. As amended, the Act provides that: “Whoever within or upon any of the places now existing or hereafter reserved or acquired as provided in section 7 of this title, or on, above, or below any portion of the territorial sea of the United States not within the jurisdiction of any State, Commonwealth, territory, possession, or district is guilty of any act or omission which, although not made punishable by any enactment of Congress, would be punishable if committed or omitted within the jurisdiction of the State, Territory, Possession, or District in which such place is situated, by the laws thereof in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment.”

Section 4. Part V of the Manual for Courts-Martial, United States, is amended as follows:

(a) Paragraph 1.f.(4) is amended to read as follows:

“(4) *Statute of limitations.* Except as provided in Article 43(c) and (d), nonjudicial punishment may not be imposed for offenses which were committed more than 2 years before the date of imposition, unless knowingly and voluntarily waived by the member. *See* Article 43(b)(3).”