

(1) That the accused inflicted a certain injury upon a certain person;

(2) That this injury seriously disfigured the person's body, destroyed or disabled an organ or member, or seriously diminished the person's physical vigor by the injury to an organ or member; and

(3) That the accused inflicted this injury with an intent to cause some injury to a person.

c. *Explanation.*

(1) *Nature of offense.* It is maiming to put out a person's eye, to cut off a hand, foot, or finger, or to knock out a tooth, as these injuries destroy or disable those members or organs. It is also maiming to injure an internal organ so as to seriously diminish the physical vigor of a person. Likewise, it is maiming to cut off an ear or to scar a face with acid, as these injuries seriously disfigure a person. A disfigurement need not mutilate any entire member to come within the article, or be of any particular type, but must be such as to impair perceptibly and materially the victim's comeliness. The disfigurement, diminishment of vigor, or destruction or disablement of any member or organ must be a serious injury of a substantially permanent nature. However, the offense is complete if such an injury is inflicted even though there is a possibility that the victim may eventually recover the use of the member or organ, or that the disfigurement may be cured by surgery.

(2) *Means of inflicting injury.* To prove the offense it is not necessary to prove the specific means by which the injury was inflicted. However, such evidence may be considered on the question of intent.

(3) *Intent.* Maiming requires a specific intent to injure generally but not a specific intent to maim. Thus, one commits the offense who intends only a slight injury, if in fact there is infliction of an injury of the type specified in this article. Infliction of the type of injuries specified in this article upon the person of another may support an inference of the intent to injure, disfigure, or disable.

(4) *Defenses.* If the injury is done under circumstances which would justify or excuse homicide, the offense of maiming is not committed. See R.C.M. 916.

d. *Lesser included offenses.*

(1) Article 128—assault; assault consummated by a battery

(2) Article 128—assault with a dangerous weapon

(3) Article 128—assault intentionally inflicting grievous bodily harm

(4) Article 80—attempts

e. *Maximum punishment.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 20 years.

f. *Sample specification.*

In that \_\_\_\_\_ (personal jurisdiction data), did, (at/on board—location) (subject-matter jurisdiction data, if required) on or about \_\_\_\_ 20 \_\_, maim \_\_\_\_\_ by (crushing his/her foot with a sledge hammer) ( \_\_\_\_\_ ).

**51. Article 125—Sodomy**

a. *Text of statute.*

**(a) Any person subject to this chapter who engages in unnatural carnal copulation with another person of the same or opposite sex or with an animal is guilty of sodomy. Penetration, however slight, is sufficient to complete the offense.**

**(b) Any person found guilty of sodomy shall be punished as a court-martial may direct.**

b. *Elements.*

(1) That the accused engaged in unnatural carnal copulation with a certain other person or with an animal.

[Note: Add any of the following as applicable]

(2) That the act was done with a child under the age of 12.

(3) That the act was done with a child who had attained the age of 12 but was under the age of 16.

(4) That the act was done by force and without the consent of the other person.

c. *Explanation.* It is unnatural carnal copulation for a person to take into that person's mouth or anus the sexual organ of another person or of an animal; or to place that person's sexual organ in the mouth or anus of another person or of an animal; or to have carnal copulation in any opening of the body, except the sexual parts, with another person; or to have carnal copulation with an animal.

d. *Lesser included offenses.*

(1) *With a child under the age of 16.*

(a) Article 125—forcible sodomy (and offenses included therein; see subparagraph (2) below)

(b) Article 80—attempts

(2) *Forcible sodomy.*

(a) Article 125—sodomy (and offenses included therein; *see* subparagraph (3) below)

(b) Article 134—assault with intent to commit sodomy

(c) Article 80—attempts.

(3) *Sodomy.* Article 80—attempts

[Note: Consider lesser included offenses under Art. 120, depending on the factual circumstances in each case.]

e. *Maximum punishment.*

(1) *By force and without consent.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for life without eligibility for parole.

(2) *With a child who, at the time of the offense, has attained the age of 12 but is under the age of 16 years.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 20 years.

(3) *With a child under the age of 12 years at the time of the offense.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for life without eligibility for parole.

(4) *Other cases.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 5 years.

f. *Sample specification.*

In that \_\_\_\_\_ (personal jurisdiction data), did, (at/on board—location) (subject-matter jurisdiction data, if required), on or about \_\_\_\_ 20 \_\_, commit sodomy with \_\_\_\_\_, (a child under the age of 12) (a child who had attained the age of 12 but was under the age of 16) (by force and without the consent of the said \_\_\_\_\_).

**52. Article 126—Arson**a. *Text of statute.*

(a) **Any person subject to this chapter who willfully and maliciously burns or sets on fire an inhabited dwelling, or any other structure, movable or immovable, wherein to the knowledge of the offender there is at the time a human being, is guilty of aggravated arson and shall be punished as a court-martial may direct.**

(b) **Any person subject to this chapter who willfully and maliciously burns or sets fire to the property of another, except as provided in subsection (a), is guilty of simple arson and shall be punished as a court-martial may direct.**

b. *Elements.*(1) *Aggravated arson.*(a) *Inhabited dwelling.*

(i) That the accused burned or set on fire an inhabited dwelling;

(ii) That this dwelling belonged to a certain person and was of a certain value; and

(iii) That the act was willful and malicious.

(b) *Structure.*

(i) That the accused burned or set on fire a certain structure;

(ii) That the act was willful and malicious;

(iii) That there was a human being in the structure at the time;

(iv) That the accused knew that there was a human being in the structure at the time; and

(v) That this structure belonged to a certain person and was of a certain value.

(2) *Simple arson.*

(a) That the accused burned or set fire to certain property of another;

(b) That the property was of a certain value; and

(c) That the act was willful and malicious.

c. *Explanation.*

(1) *In general.* In aggravated arson, danger to human life is the essential element; in simple arson, it is injury to the property of another. In either case, it is immaterial that no one is, in fact, injured. It must be shown that the accused set the fire willfully and maliciously, that is, not merely by negligence or accident.

(2) *Aggravated arson.*

(a) *Inhabited dwelling.* An inhabited dwelling includes the outbuildings that form part of the cluster of buildings used as a residence. A shop or store is not an inhabited dwelling unless occupied as such, nor is a house that has never been occupied or which has been temporarily abandoned. A person may be guilty of aggravated arson of the person's dwelling, whether as owner or tenant.

(b) *Structure.* Aggravated arson may also be committed by burning or setting on fire any other structure, movable or immovable, such as a theater, church, boat, trailer, tent, auditorium, or any other sort of shelter or edifice, whether public or private, when the offender knows that there is a human being inside at the time. It may be that the offender