**CDC Crimes**

483 U.S. Section 371 :107, 128 (1987)

Hammerschmidt, 265 U.S. at 188.

The general purpose of this part of the statute is to protect governmental functions from frustration and distortion through deceptive practices. Section 371 reaches "any conspiracy for the purpose of impairing, obstructing or defeating the lawful function of any department of Government." Tanner v. United States, 483 U.S. 107, 128 (1987); see Dennis v. United States, 384 U.S. 855 (1966). The "defraud part of section 371 criminalizes any willful impairment of a legitimate function of government, whether or not the improper acts or objective are criminal under another statute." United States v. Tuohey, 867 F.2d 534, 537 (9th Cir. 1989).

The word "defraud" in Section 371 not only reaches financial or property loss through use of a scheme or artifice to defraud but also is designed and intended to protect the integrity of the United States and its agencies, programs and policies. United States v. Burgin, 621 F.2d 1352, 1356 (5th Cir.), cert. denied, 449 U.S. 1015 (1980); see United States v. Herron, 825 F.2d 50, 57-58 (5th Cir.); United States v. Winkle, 587 F.2d 705, 708 (5th Cir. 1979), cert. denied, 444 U.S. 827 (1979). Thus, proof that the United States has been defrauded under this statute does not require any showing of monetary or proprietary loss. United States v. Conover, 772 F.2d 765 (11th Cir. 1985), aff'd, sub. nom. Tanner v. United States, 483 U.S. 107 (1987); United States v. Del Toro, 513 F.2d 656 (2d Cir.), cert. denied, 423 U.S. 826 (1975); United States v. Jacobs, 475 F.2d 270 (2d Cir.), cert. denied, 414 U.S. 821 (1973).

Thus, if the defendant and others have engaged in dishonest practices in connection with a program administered by an agency of the Government, it constitutes a fraud on the United States under Section 371. United States v. Gallup, 812 F.2d 1271, 1276 (10th Cir. 1987); Conover, 772 F.2d at 771. In United States v. Hopkins, 916 F.2d 207 (5th Cir. 1990), the defendants' actions in disguising contributions were designed to evade the Federal Election Commission's reporting requirements and constituted fraud on the agency under Section 371.

The intent required for a conspiracy to defraud the government is that the defendant possessed the intent (a) to defraud, (b) to make false statements or representations to the government or its agencies in order to obtain property of the government, or that the defendant performed acts or made statements that he/she knew to be false, fraudulent or deceitful to a government agency, which disrupted the functions of the agency or of the government. It is sufficient for the government to prove that the defendant knew the statements were false or fraudulent when made. The government is not required to prove the statements ultimately resulted in any actual loss to the government of any property or funds, only that the defendant's knew the statements were false or fraudulent when made. The government is not required to prove the statements ultimately resulted in any actual loss to the government of any property or funds, only that the defendant's activities impeded or interfered with legitimate governmental functions. See United States v. Puerto, 730 F.2d 627 (11th Cir.), cert. denied, 469 U.S. 847 (1984); United States v. Tuohey, 867 F.2d 534 (9th Cir. 1989); United States v. Sprecher, 783 F. Supp. 133, 156 (S.D.N.Y. 1992)(Ã¾it is sufficient that the defendant engaged in acts that interfered with or in acts that interfered with or obstructed a lawful governmental function by deceit, craft, trickery or by means that were dishonest"), modified on other grounds, 988 F.2d 318 (2d Cir. 1993).obstructed a lawful governmental function by deceit, craft, trickery or by means that were dishonest"), modified on other grounds, 988 F.2d 318 (2d Cir. 1993).

<https://www.justice.gov/usam/criminal-resource-manual-923-18-usc-371-conspiracy-defraud-us>

18 U.S.C. § 1001 CRM 905. Items Not Required to be Proved

The courts have concluded that 18 U.S.C. § 1001 does not require any proof of the following:

any financial or property loss to the Federal government (though one often exists), United States v. Richmond, 700 F.2d 1183, 1188 (8th Cir.1983);

that the false statement be made or submitted directly to the federal government, United States v. Uni Oil Co., 646 F.2d 946, 954-55 (5th Cir. 1981), cert. denied, 455 U.S. 908 (1982);

any favorable agency action based upon the statement, Brandow v. United States, 268 F.2d 559 (9th Cir. 1959); United States v. Quirk, 167 F. Supp. 462 (E.D. Pa. 1958), aff'd, 266 F.2d 26 (3d Cir. 1959);

reliance by the government, United States v. Lichenstein, 610 F.2d 1272, 1278 (5th Cir. 1980);

the defendant's actual knowledge of Federal agency jurisdiction, United States v. Yermian, 468 U.S. 63 (1984); on remand, 741 F.2d 267 (1984) ; or

that the false statement be written, signed or sworn, United States v. Beacon Brass Co., 344 U.S. 43, 46 (1952).

<https://www.justice.gov/usam/criminal-resource-manual-905-items-not-required-be-proved>

18 U.S.C. § 1001 :910. Knowingly and Willfully

The prohibition of 18 U.S.C. § 1001 requires that the false statement, concealment or cover up be "knowingly and willfully" done, which means that "The statement must have been made with an intent to deceive, a design to induce belief in the falsity or to mislead, but § 1001 does not require an intent to defraud -- that is, the intent to deprive someone of something by means of deceit." United States v. Lichenstein, 610 F.2d 1272, 1276-77 (5th Cir.), cert. denied, 447 U.S. 907 (1980). The government may prove that a false statement was made "knowingly and willfully" by offering evidence that defendants acted deliberately and with knowledge that the representation was false. See United States v. Hopkins, 916 F.2d 207, 214 (5th Cir. 1990).The false statement need not be made with an intent to defraud if there is an intent to mislead or to induce belief in its falsity. Reckless disregard of whether a statement is true, or a conscious effort to avoid learning the truth, can be construed as acting "knowingly." United States v. Evans, 559 F.2d 244, 246 (5th Cir. 1977), cert. denied, 434 U.S. 1015 (1978).

A defendant is not relieved of the consequences of a material misrepresentation by lack of knowledge when the means of ascertaining truthfulness are available. In appropriate circumstances, the government may establish the defendant's knowledge of falsity by proving that the defendant either knew the statement was false or acted with a conscious purpose to avoid learning the truth. See United States v. West, 666 F.2d 16, 19 (2d Cir. 1981); Lange, 528 F.2d at 1288; United States v. Clearfield, 358 F. Supp. 564, 574 (E.D. Pa. 1973). Proof that the defendant acted with reckless disregard or reckless indifference may therefore satisfy the knowledge requirement, when the defendant makes a false material statement and consciously avoids learning the facts or intends to deceive the government. See United States v. Schaffer, 600 F.2d 1120, 1122 (5th Cir. 1979).

The term "willfully" means no more than that the forbidden act was done deliberately and with knowledge, and does not require proof of evil intent. McClanahan v. United States, 230 F.2d 919, 924 (5th Cir. 1955), cert. denied, 352 U.S. 824 (1956); McBride v. United States, 225 F.2d 249, 255 (5th Cir. 1955), cert. denied, 350 U.S. 934 (1956). An act is done "willfully" if done voluntarily and intentionally and with the specific intent to do something the law forbids. There is no requirement that the government show evil intent on the part of a defendant in order to prove that the act was done "willfully." See generally United States v. Gregg, 612 F.2d 43, 50-51 (2d Cir. 1979); American Surety Company v. Sullivan, 7 F.2d 605, 606 (2d Cir. 1925)(Hand, J.); United States v. Peltz, 433 F.2d 48, 54-55 (2d Cir. 1970),cert. denied, 401 U.S. 955 (1971) (involving 15 U.S.C. § 32(a). See also 1 E. Devitt, C. Blackmar, M. Wolff & K. O'Malley, Federal Jury Practice and Instructions, § 17.05 (1992).

[cited in USAM 9-42.001]jury may conclude from a plan of elaborate lies and half-truths that defendants deliberately conveyed information they knew to be false to the government. Id. at 214-15.

As used in the statute, the term "knowingly" requires only that the defendant acted with knowledge of the falsity. See United States v. Lange, 528 F.2d 1280, 1287-89 (5th Cir. 1976). As in other situations, to commit an act "knowingly" is to do so with knowledge or awareness of the facts or situation, and not because of mistake, accident or some other innocent reason. See Fifth Circuit Pattern Jury Instructions, § 1.35 (1990). Knowledge of the criminal statute governing the conduct is not required.

The 1996 statute effectively overrules Hubbard, and expressly provides that section 1001 covers false statements that are made to all three branches of the federal government, without regard to whether the entity may be categorized as a "department" or "agency."

Under both the pre-1996 and post-1996 statutes, the government is not required to prove that the defendant had actual knowledge that the false statement in question was within the jurisdiction of a Federal department or agency. See United States v. Yermian, 468 U.S. 63, 68 (1984); on remand, 741 F.2d 267 (1984). Nor must the government prove that the defendant had the specific intent to deceive the Federal government. Yermian, 468 U.S. at 73. After United States v. Gaudin, 115 S.Ct.2310 (1995), the element of agency jurisdiction is probably a jury issue. But cf. United States v. Rodgers, 466 U.S. 475, 479 (1984); United States v. Diaz, 690 F.2d 1352 (11th Cir. 1982); United States v. Goldstein, 695 F.2d 1228 (10th Cir. 1981), cert. denied, 462 U.S. 1132 (1983). The requirement that the statement must be "within the jurisdiction" of a federal agency is to be interpreted broadly. Rodgers; United States v. Notarantonio, 758 F.2d 777, 787 (1st Cir. 1985). For liability under Section 1001 to attach, it is necessary only that the "false statements . . . result in the perversion of the authorized functions of a federal department or agency." United States v. Gilliland, 312 U.S. 86, 93 (1941); Notarantonio, 758 F.2d at 787.

In United States v. Candella, 487 F.2d 1223 (2d Cir. 1973) cert. denied, 415 U.S. 977 (1974), for example, false affidavits submitted by movers were executed on forms prepared by the City of New York and not by the Department of Housing and Urban Development; but the false affidavits were within the purview of 18 U.S.C. § 1001, because the city had entered into a contract with the United States prompting the move, the government was ultimately responsible for paying the moving expenses, and the movers were aware of the relationship between the government and the city.

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<https://www.justice.gov/usam/criminal-resource-manual-910-knowingly-and-willfully>

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**8-3.000 - Enforcement Of Civil Rights Criminal Statutes**

8-3.010 - Introduction

The United States Attorney is responsible for the enforcement of criminal civil rights statutes in accordance with the procedures set forth below. The Criminal Section oversees the enforcement of the criminal civil rights statutes administered by the Civil Rights Division. The principal statutes are 18 U.S.C. § 241 (conspiracy to injure citizens in the exercise of federal rights); 18 U.S.C. § 242 (willful deprivations of federal rights under color of law); 18 U.S.C. § 245 (interference with federally protected activities) […].

8-3.130 - Cases of National Interest

A case is of "national interest" if it is a case that presents important public policy considerations; a novel issue of law; a case that because of peculiar facts and circumstances, may set important precedent; a case with simultaneous investigations in multiple districts (unless the United States Attorney's Office (USAO) in each district and the Civil Rights Division conclude that national interests are not involved); a case with international or foreign policy implications; an urgent or sensitive case; or a case that substantially affects the uniform application of the law**. A case involving a violation of the federal criminal civil rights laws resulting in death is presumed to be a case of national interest.** **(My Italics)**  In a case of national interest, the Assistant Attorney General, in consultation with the United States Attorney, may require that the USAO and the Civil Rights Division participate jointly as co-counsel from the initiation of the investigation through prosecution, taking in to consideration all of the circumstances, including the experience of the particular USAO and the efficient use of government resources. The Assistant Attorney General for Civil Rights shall have the ultimate authority to determine whether a case is of "national interest", considering all relevant factors and in consultation with the United States Attorney.

2 U.S. Code § 194 - Certification of failure to testify or produce; grand jury action

Whenever a witness summoned as mentioned in section 192 of this title fails to appear to testify or fails to produce any books, papers, rec­ords, or documents, as required, or whenever any witness so summoned refuses to answer any question pertinent to the subject under inquiry before either House, or any joint committee established by a joint or concurrent resolution of the two Houses of Congress, or any committee or subcommittee of either House of Congress, and the fact of such failure or failures is reported to either House while Congress is in session or when Congress is not in session, a statement of fact constituting such failure is reported to and filed with the President of the Senate or the Speaker of the House, it shall be the duty of the said President of the Senate or Speaker of the House, as the case may be, to certify, and he shall so certify, the statement of facts aforesaid under the seal of the Senate or House, as the case may be, to the appropriate United States attorney, whose duty it shall be to bring the matter before the grand jury for its action.

(R.S. § 104; July 13, 1936, ch. 884, 49 Stat. 2041; June 22, 1938, ch. 594, 52 Stat. 942.)

<https://www.law.cornell.edu/uscode/text/2/194>