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[HOME](#)   [INDEX](#)   [SEARCH](#)   [U.S. ATTORNEYS](#)

[U.S. Attorneys](#) » [Resources](#) » [U.S. Attorneys' Manual](#) » [Criminal Resource Manual](#) » [CRM 500-999](#) » [Criminal Resource Manual 901-999](#)

## 903. False Statements, Concealment—18 U.S.C. § 1001

For a period of time, prosecutors will be dealing with two versions of § 1001: the one in existence before the 1996 amendments and the post-October 11, 1996 version. This USAM section (and those that follow) primarily discuss the old statute; the previous section discusses the 1996 statute.

Before its amendment on October 11, 1996, 18 U.S.C. § 1001 provided:

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry . . . .

See Project, *Tenth Annual Survey of White Collar Crime*, 32 Am. Crim. L. Rev. 137, 323-346 (1995) (discussing Section 1001); O. Obermaier and R. Morvillo, *White Collar Crime: Business and Regulatory Offenses*, § 10.02 (1990)(discussing Section 1001).

Before its amendment, Section 1001 had been read to create three separate offenses, as follows: (1) "falsifies, conceals or covers up by any trick, scheme or device a material fact," (2) "makes any false, fictitious or fraudulent statements or representations" and (3) "makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry."

An often-raised defense is the claim that because the alleged act or activity has no reasonable relation to the Federal government, no Federal jurisdiction exists. This defense focuses on the language of Section 1001 that requires that the conduct occur "in any matter within the jurisdiction of any department or agency of the United States." In describing the situations in which the prohibited conduct must occur, the courts have construed the statute broadly and stressed that Section 1001 protects the government "from the perversion which might result from the deceptive practices described." *Bryson v. United States*, 396 U.S. 64 (1969).

PRACTICE TIP: Because of Section 1001's wide application to government activities, there are scores of reported cases construing the law. As with other broad fraud statutes (see §§ 1341 and 1343), the prosecutor should carefully research the issue of jurisdiction to determine what unique requirements will apply to the case.

[cited in [USAM 9-42.001](#)]

[◀ 902. 1996 Amendments to 18 U.S.C. § 1001](#)

[up](#)

[904. Purpose of Statute ▶](#)