

# **MISDEAMEANORS: WHAT ARE THEY AND HOW DO WE GET THEM?**

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## **“Who wants to be a felon?”**

Nobody! We all have plenty of clients who do not seem to mind picking up their second or third or twelfth felony. However, nobody wants to suffer that first felony conviction. The felony conviction is a stigma. It generally connotes a loss of freedom. It deprives one of valuable rights. The losses are enumerable . For each individual, it may mean something different. For everyone, it has a negative meaning.

When I received the call asking whether I would be willing to do a presentation on misdemeanors, I thought, “No problem.” In nineteen years, I have handled my share of misdemeanors. As a Special Municipal Judge for the City of Oklahoma City, I disposed of hundreds of misdemeanors, including one direct contempt of court that my best friend reminded me of recently. But, that is another story.

My biggest fear regarding the upcoming presentation was how would I make it interesting. Having been a part of one of these audiences on more than one occasion, I was strongly cognizant of the fact that I would be playing to a tough crowd, not a hostile audience, but certainly one that could not be taken

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lightly. So where was I to go? War Stories? No, everybody has them. A primer in handling misdemeanors? No, too basic. After mulling over the premise for several days, I finally broke down and began to ask around.

One of my compatriots down the hall suggested, “Hey, how about a list of all the federal misdemeanors. Don’t we get ‘helpdesk’ E-mail from time to time asking the question, ‘Does anyone know of a misdemeanor for yada, yada, yada?’.”

That comment caused me to search the E-mail “Helpdesk” archives.

Sure enough, there were several specific inquiries. They read something like....

*Subject: Misdemeanor for False Statement?*  
*Date: 8/12/99 2:13 PM*

*Does anyone know of a misdemeanor alternative to 18 U.S.C. 1001? The facts are the client lied to the FBI about being kidnapped. Thanks for any suggestions.*

Or;

*Subject: Misdemeanor for internet death threats*  
*Date: 1/22/99 4:25 PM*

*I have a client who is accused of sending death threats over the internet, in violation of 18 U.S.C. § 875(c). He had stock in a start up computer company, which went up and up and then tanked. he suspected foul play on the part of the directors and allegedly sent very explicit death threats several times to the directors he felt were responsible. The e-mails threatened a .22*

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*slug in the brain if the stock did not reach a certain price by a certain date.  
Ah silicon valley!  
The prosecutor has said he would settle for a misdemeanor if I could find one  
for which a factual basis could be established. Does anyone have any ideas?*

And;

*Subject: Find me a misdemeanor . . .  
Date: 12/15/98 2:54 PM*

*A Dr. who worked in an AIDS research project was subpoenaed before a Grand Jury in a Health Fraud Investigation. He appeared on several occasions before the Grand Jury and after being de-briefed by the FBI and an Assistant US Attorney, he was assigned to our office for legal representation and advise. By this time, he had been convinced him that his best effort was to be directed at cooperating with the authorities. The specter of an indictment loomed in his shadow. Because the information he gave was so good, the benevolent prosecutors decided to permit him to plead to a misdemeanor that would not affect his profession. As you might imagine he cannot be convicted of a felony. Please help me find something he can plead to, that is a misdemeanor or less, which might be in some way related to the circumstances of this factual scenario.  
Facts: Under pressure from his boss, he helped write as part of the research project, a justification for funds expended which included false info... Any ideas?*

Finally;

*Subject: Misdemeanor in Check-Cashing Cash  
Date: 4/19/99 11:44 AM*

*I have a client who has received a target letter alleging she violated 18 U.S.C. Sections 472 (counterfeit securities) and 1344 (bank fraud). She allegedly was involved in (what I understand) is a not uncommon New York scheme whereby men recruit women to deposit bad checks into their own accounts in small branches of banks out of state, and then withdraw the money. My client allegedly deposited one check for \$36,000, withdrew it, and got \$14,000 for*

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*her trouble. She also allegedly "recruited" (in the government's characterization) friends of hers to do likewise.*

*My client is willing to cooperate, and to try to lead the Secret Service to the men in New York who are getting the checks. They, in turn, should be able to give the Service the person inside the company who is funneling them the checks or the means to counterfeit them, and also to conceal the scam from the company.*

*My client does not want to go to jail, but the AUSA is going to insist on a plea--to something. Can anyone suggest an arguably available misdemeanor I could offer up?*

Do these inquiries sound familiar? Have you had one of those cases where you and your client would have done almost anything to turn a felony into a misdemeanor? Maybe you have had a case (or several) that made you want to send out a nationwide "Help!" broadcast. My advice: Just do it! It can not hurt and you just might get a response that solves your problem or stirs your creative juices enough for you to solve it yourself.

Those E-mails initiated a string of E-mail to the original authors. "Did you ever find the misdemeanor you were looking for?" Unfortunately, the responses were all negative. However, there was a shining light. Lisa Hay, in Portland, wrote back, saying she had heard that Fred Kay in Arizona had a "list of federal misdemeanors." Pay dirt!

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Immediately, an E-mail went out to Fred Kay. “I’m working on a seminar presentation on misdemeanors. I’ve heard thru the grapevine that you had an old list. If that’s true, could you, would you E-mail or fax it to me for updating and inclusion in the seminar materials, with the appropriate credits going to you, of course. After all, why re-invent the wheel?”

Fred came through and sent me his list. He was careful to send it with a caveat . . . “I have had these for years and may have sent hard copies to your offices in years past. The lists are probably quite dated but nevertheless are useful in trying to find a lesser included or related offense.”

“Quite dated” was an understatement. While reviewing the list, it became obvious the list originated in the late seventies or early eighties, possibly predating my own admission to the bar. Some of the statutes cited were repealed many years ago. Despite these obvious shortcomings, the list proved invaluable, so a basketful of kudos go out to Fred and whoever he got the list from.

Attempting to bring the list up to date proved to be a monumental undertaking. Even with help, I was unable to verify all the statutes listed.

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Therefore, priorities were established. Appendix A, the Title 18 offenses and Appendix B, Title 8 offenses are relatively accurate. It should be noted that they include some fine only misdemeanors, some civil penalties and some two year felonies which may be worth looking into if a your facts fit a plea to “accessory after the fact.” Appendix C was derived from the original list provided by Fred Kay. Nobody will vouch for its completeness or accuracy. If time had permitted, we might have been able. But for now, we will all have to settle for the list as presented. After all, nobody wants to do your work for you. These lists are offered as a starting point only. All authorities presented herein, or orally during presentation, should be independently researched when dealing with any specific problem or issue.

Anyone who wants to add to the lists or make corrections, are invited, no, encouraged, to do so, and credit will be given where credit is due. E-mail me and I will send you the WordPerfect© version of the list or add your suggestions to the materials.

Now, with list in hand, I was ready to embark on the preparation of materials. The first draft of the materials was in the works. Proudly, I banged

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out a few pages and a rough outline. The “lists” were a prominent feature. I gave it to a colleague to read. “Be honest. I wouldn’t expect less.”

Sometimes the truth hurts. My biggest fear was realized. Trying not to hurt my feelings, she wrote back, “It’s kind of boring. Don’t you think?” She was right. “Kind of” was an understatement.

So, maybe I needed smoke and mirrors, a little magic, some pizzazz. One day, while I was sitting at my desk fretting, our Computer System Administrator walked in and asked, “Waz up?”

“I need help with a presentation.” I looked at the Draft Agenda and repeated slowly, “Misdemeanors: What are they and how do we get them?”

Are we all familiar with that “Well? Duh!” look? That is exactly what I got. As if I had asked the simplest question, he answered, “Anything that’s not a felony.”

In that moment, it started to come to me. He was absolutely right. It was elementary. Start with the “What are they?” question and roll with it. Here goes.

## **Misdemeanors: What are they?**

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Many years ago, Congress defined a “felony” in one sentence: Notwithstanding any Act of Congress to the contrary, any offense punishable by death or imprisonment for a term exceeding one year is a felony. [18 U.S.C. §1(1), Repealed, October 12, 1984]. Our C.S.A. was right. “Any other offense is a misdemeanor.” [18 U.S.C. § 1(2), Repealed, October 12, 1984]. Well, almost. Any misdemeanor, the penalty for which does not exceed imprisonment for a period of six months or a fine of not more than \$5,000<sup>1</sup>, or both, is a petty offense. [18 U.S.C. § 1(3), Repealed, October 12, 1984].

Okay. What is a petty offense? The term “petty offense” means a Class B Misdemeanor, a Class C Misdemeanor, or an Infraction. 18 U.S.C. § 19.

The new classification of offenses are set forth in 18 U.S.C. §§ 3559, 3571 and 3581. A Class A misdemeanor is an offense punishable by imprisonment of at least six months and one day but not more than one year. 18 U.S.C. §§ 3559(a)(6) and 3581(b)(6). If the Class A misdemeanor results in death the authorized fine is up to \$250,000.00. Otherwise, the fine shall not exceed \$100,000.00. 18 U.S.C. §3571(b)(4 & 5). A Class B misdemeanor is

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<sup>1</sup> For an individual and \$10,000 for a person other than an individual.

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an offense punishable by imprisonment of at least thirty one days but not more than six months. 18 U.S.C. §§ 3559(a)(7) and 3581(b)(7). A Class C misdemeanor is an offense punishable by imprisonment of at least six days but not more than thirty days. 18 U.S.C. §§ 3559(a)(8) and 3581(b)(8). As long as the Class B or C misdemeanor did not result in death, the maximum fine is \$5,000.00. 18 U.S.C. § 3571(6). An infraction is an offense punishable by imprisonment of five days or less. 18 U.S.C. §§ 3559(a)(9) and 3581(b)(9). The maximum fine for an infraction is \$5,000.00. 18 U.S.C. § 3571(7).

Be aware of the consequences of willfully failing to pay a fine or restitution order. If a defendant knowing fails to pay a delinquent fine or restitution order, the Court may resentence the defendant to any sentence which might have been imposed originally. 18 U.S.C. § 3614.

Besides the obvious differences in terms of imprisonment and the potential fines, what are some of the other differences between felonies and misdemeanors?

A sentence for an offense punishable by imprisonment for one year or less shall not be served in a penitentiary without the consent of the defendant.

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18 U.S.C. § 4083. There are also security classification issues relating to imprisonment on a misdemeanor. You will find these in the Bureau of Prisons Designation Manual. If you do not have copy of the manual, you can download it from the Bureau's website, [www.bop.gov](http://www.bop.gov) .

A person convicted of a misdemeanor is never, as far as I have determined, precluded from receiving a probationary sentence. 18 U.S.C. § 3561. The maximum authorized term of probation for a misdemeanor for both felonies and misdemeanors is five years. The maximum term of probation for an infraction is one year. 18 U.S.C. § 3561(c).

The probation laws are applicable to misdemeanors. The Court has the power to grant probation and to revoke, modify, or reinstate the probation of any person granted probation on a misdemeanor offense. 18 U.S.C. § 3401(d).

If a defendant violates a condition of probation at any time prior to the expiration or termination of the term of probation, the Court may, after a hearing pursuant to Rule 32.1, of the Federal Rules of Criminal Procedure, and after considering the factors set forth in 18 U.S.C. § 3553(a), continue the probation, extend the term, modify or enlarge the conditions, or revoke the probation. If

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the Court revokes the term of probation and resentsences the defendant, the court is limited to maximum punishment which could have been imposed originally. 18 U.S.C. § 3565.

An issue under this section arose recently in our district. A defendant pleaded guilty to a Class C misdemeanor. The maximum punishment under the assimilated state statute provided for a fine up to \$500.00 and imprisonment of not more than 30 days. The defendant was sentenced to one year probation. The defendant violated his conditions. (Of course, or why would I be relating the story.) The magistrate judge modified the probation and ordered the defendant to confinement in a halfway house for a period of ninety days. The question presented is whether the enlarged condition is reasonable. It appears the Court has the authority to require a defendant to “reside at, or participate in the program, of a community corrections facility (including a facility maintained or under contract to the Bureau of Prisons) for all or part of the term of probation.” We are taking the position that the condition is not reasonably related to the factors set forth in 18 U.S.C. 3553(a)(1) and (a)(2) and that the

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length of the community confinement “involves a deprivation of liberty which is not reasonably necessary for the purposes indicated in 18 U.S.C. § 3553(a)(2).

On a special note, have you ever seen a person placed on federal probation for one year without having a judgment entered? Title 18 U.S.C. § 3607, allows the Court to place a person charged 21 U.S.C. § 844, with first offense simple possession of a controlled substance, on probation for one year and if the person successfully completes the probationary term, the Court can dismiss the charge without entering a judgment of conviction. Even better, the record can be expunged. 18 U.S.C. § 3607(c).

The maximum authorized term of supervised release for a misdemeanor (other than a petty offense), is not more than one year. 18 U.S.C. § 3583 (b)(3).

If at least one year of imprisonment is ordered, the Court must also impose a term of supervised release. Class B and C misdemeanors are treated differently.

If the Court imposes a sentence of imprisonment on a Class B or C misdemeanor, it can not impose a term of supervised release. 18 U.S.C. §3583(b)(3).

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The Court has the power to revoke, modify, or terminate the supervised release of any person sentenced to a term of supervised release on a misdemeanor conviction. 18 U.S.C. § 3401(h). It is possible for a person convicted of a Class A misdemeanor to serve an initial term of imprisonment of one year and then if the supervised release is revoked to serve an additional term of one year imprisonment. 18 U.S.C. § 3583(e)(3).

The special assessment for a Class A misdemeanor is \$25.00. The special assessment for a Class B misdemeanor is \$10.00. The special assessment for a Class C misdemeanor is \$5.00. 18 U.S.C. § 3013.

Let us not forget how misdemeanors affect future “Criminal History.” Hey! You got a misdemeanor! Don’t be getting any more points. If they simply paid the collateral forfeiture, there would not be any points to worry about. For more information on this subject review Chapter Four of the United States Sentencing Guidelines.

A felony conviction may deprive a person of valuable civil rights including the right to vote, the right to hold public office, the right to serve on a jury, the right to possess any kind of firearm, destructive device or ammunition,

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and may result in ineligibility for certain government benefits and assistance.

There may be immigration and deportation consequences. Specifically, examine the denial of some or all federal benefits Up to one year for a misdemeanor rather than five years for a felony. 18 U.S.C. §§ 862 & 862a.

Enough on the “what are they” subject. Now, how do we get them.

## **Misdemeanors: How do we get them?**

I can not say enough about the necessity of creativity. Do not expect your prosecutors to do your work or even help you with it. The Appendices will prove to be important aids.

Starting with the premise that for every plea of guilty, the Court must be satisfied there is a factual basis for the plea, it becomes necessary to manipulate the facts. In other words, look at the elements of the offense of the government’s original case and then examine which of those elements can be left out, softened or simply fit some other offense. Leave out the aggravating elements. Be creative.

Here are some examples:

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1. The client is charged under 18 U.S.C. § 1341 for using the mails to fraudulently obtain unemployment insurance benefits. We have successfully negotiated the offense down to a single count of stealing a thing of value of the United States by making a false certification to the Employment Security Commission, in violation of 18 U.S.C. § 641. This was a misdemeanor, since the value of the federal government's portion of the unemployment benefit on a single check was less than \$1,000.00.
2. Your client is charged under 18 U.S.C. § 912 for falsely pretending to be an United States Marshal. We have successfully negotiated the offense down to possession of an imitation badge, in violation of 18 U.S.C. § 701.
3. The client is charged under 18 U.S.C. § 1344 for bank fraud. We have successfully negotiated the offense down to a single count of theft from a bank, in violation of 18 U.S.C. § 656. This was a misdemeanor, since a single incident was less than \$1,000.00.

Again, it is worth saying, be creative!

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Where do you find the misdemeanors? A good computer assisted research query is a good start. Try, for example, your elements (not the government's) and "less than \$1,000."

Once you have found the offense you are looking for, how do you sell the prosecutor? Remember what was said about the prosecutor not doing the work for you? How about the logistics of avoiding a trial? That seems to work for some reason. Otherwise, I tend to go for begging, pleading, groveling and supplication. Not to mention, waiving rights, such as appeals. Prosecutors love that one. I am willing to give up a lot to avoid that felony conviction. Your clients will be too.

Will it work for all clients? Probably not. You may want to be selective. For example, pleading a felony to a misdemeanor works quite well in the case of a first offender. It also is a great way to avoid loss of your client's professional license. You may even find a prosecutor who is willing to reward his or her favorite snitch. Would your drug client be willing to give three counts of 21 U.S.C. 844 for a single count of 21 U.S.C. § 841(a)? I think so.

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Get your creative juices flowing. Find that misdemeanor. Sell that prosecutor. Your client will be served well by your efforts. Live on the edge. If you are not living on the edge, you are taking up too much room.

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A giant “Thank You” goes out to Sherri Katz, Research and Writing Specialist, Del Rio, Texas, for her inspiration and assistance in the preparation of this presentation.

## APPENDIX A

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### TITLE 18 MISDEMEANOR OFFENSES

18 U.S.C. § 3: Accessory after the fact (One half of the maximum punishment).

18 U.S.C. §§ 7 & 13: Special Maritime and territorial jurisdiction & Laws of States adopted for areas within federal jurisdiction

*Aircraft and Motor Vehicles*

18 U.S.C. § 35(a): Aircraft and Motor Vehicles - importing or conveying false information.

*Animals, Birds, Fish and Plants*

18 U.S.C. § 41: Hunting, fishing, trapping; disturbance or injury on wildlife refuges

18 U.S.C. § 42(5)(b): Importation or shipment of injurious mammals, birds, fish, amphibia and reptiles

18 U.S.C. § 43(a): Animal enterprise terrorism

18 U.S.C. § 46: Transportation of water hyacinths

18 U.S.C. § 47: Use of aircraft or motor vehicles to hunt certain wild horses or burrows; pollution of watering holes

*Assault*

18 U.S.C. § 111: Assaulting, resisting, or impeding certain officers or employees (simple).

18 U.S.C. § 112(b): Protection of foreign officials, official guests, and internationally protected persons

18 U.S.C. § 113(a)(4-5): Assaults within maritime and territorial jurisdiction

18 U.S.C. § 115: Influencing, impeding, or retaliating against a federal official by threatening or injuring a family member (as punishable under 18 U.S.C. § 111).

*Bankruptcy*

18 U.S.C. § 154: Bankruptcy - adverse interest and conduct of referees and other officers.

18 U.S.C. § 155: Fee Agreements in cases under title 11 and receiverships

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18 U.S.C. § 156: Knowing disregard of bankruptcy law or rule

*Bribery, Graft, and Conflicts of Interest*

18 U.S.C. § 201(c): Bribery of public officials and witnesses (A two year offense. However, accessory after the fact would constitute a misdemeanor)

18 U.S.C. §§ 203-205, 207-209: These bribery and graft crimes provide for misdemeanors where the defendant “engages” in the conduct versus “willfully engages.”

18 U.S.C. § 210: Offer to procure appointive public office

18 U.S.C. § 211: Acceptance or solicitation to obtain appointive public office

18 U.S.C. § 212: Offer of loan or gratuity to bank examiner

18 U.S.C. § 213: Acceptance of loan or gratuity by bank examiner

18 U.S.C. § 214: Offer for procurement of federal reserve bank loan and discount of commercial paper

18 U.S.C. § 215: Receipt of commissions or gifts for procuring loans (under \$1,000.00)

18 U.S.C. § 217: Acceptance of consideration for adjustment of farm indebtedness

18 U.S.C. § 219(a): Officers and employees acting as agents of foreign principals (A two year offense. However, accessory after the fact would constitute a misdemeanor)

18 U.S.C. § 217: Acceptance of consideration for adjustment of farm indebtedness.

*Child Support*

18 U.S.C. § 228: Failure to pay legal child support obligations (first offense)

*Civil Rights*

18 U.S.C. §§ 242-248: These civil rights crimes provide for misdemeanors, dependent on the type of activity and the gravity of the injury, eg. whether the defendant causes bodily harm.

*Claims and Services in Matters Affecting Government*

18 U.S.C. § 288: False claims for postal losses

18 U.S.C. § 290: Discharge papers withheld by claim agent

18 U.S.C. § 291: Purchase of claims for fees by court officials (fine only)

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18 U.S.C. § 292: Solicitation of employment and receipt of unapproved fees concerning federal employee's compensation

*Coins and Currency*

18 U.S.C. § 333: Mutilation of national bank obligations

18 U.S.C. § 336: Issuance of circulating obligations of less than \$1

18 U.S.C. § 337: Coins as security for loans

*Congressional, Cabinet, and Supreme Court Assassination, Kidnapping and Assault*

18 U.S.C. § 351(e): Congressional, Cabinet, and Supreme Court Assassination, Kidnapping and Assault; penalties (simple assault)

*Conspiracy*

18 U.S.C. § 371: Conspiracy to commit offense or to defraud U.S. (if the offense, the commission of which is the object of the conspiracy, is a misdemeanor, otherwise, maximum fine may be as much as \$10,000).

*Contempts*

18 U.S.C. § 402: Contempts constituting crimes

18 U.S.C. § 403: Protection of the privacy of child victims and child witnesses crimes.

*Contracts*

18 U.S.C. § 435: U.S. employee making contracts in excess of specific appropriation.

18 U.S.C. § 438: Whoever receives money contrary to 25 U.S.C. 81,82 for Indian contracts generally.

18 U.S.C. § 439: (Receipt of money, etc.)- on Indian enrollment contracts.

18 U.S.C. § 440: Mail Contracts

18 U.S.C. § 441: Postal Supply contracts.

18 U.S.C. § 442: (Illegal interest in) printing contracts.

*Counterfeiting and Forgery*

18 U.S.C. § 475: Imitating obligations or securities; advertisements (of U.S.)

18 U.S.C. § 480: Possessing counterfeit foreign obligations or securities.

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18 U.S.C. § 483: Uttering counterfeit foreign banknotes.

18 U.S.C. § 489: Making or possessing likeness of coins.

18 U.S.C. § 491: Tokens or paper used as money.

18 U.S.C. § 492: (Custody or control) - forfeiture of counterfeit paraphernalia.

18 U.S.C. § 498: Military or navel discharge papers

18 U.S.C. § 510: Forging endorsements on Treasury checks or bonds or securities of the united states (less than \$1,000.00)

18 U.S.C. § 511A: Unauthorized application of theft prevention decal or device.

*Customs*

(Two year offenses. However, accessory after the fact would constitute a misdemeanor)

Elections and Political Activities

18 U.S.C. § 594: Intimidating voters

18 U.S.C. § 595: Interference by administrative employees of Federal, State, or Territorial Governments.

18 U.S.C. § 596: Polling armed forces.

18 U.S.C. § 597: Expenditures to influence voting

18 U.S.C. § 598: (Elections) - coercion by means of relief appropriations

18 U.S.C. § 599: Promise of appointment of candidate (Two years if willful.)

18 U.S.C. § 600: Promise of employment or other benefit for political activity

18 U.S.C. § 601: Deprivation of employment or other benefit for political contribution

18 U.S.C. § 604: Solicitation from persons on relief (for political activity).

18 U.S.C. § 605: Disclosure of names of persons on relief.

18 U.S.C. § 611: Voting by Aliens

*Embezzlement and Theft*

18 U.S.C. § 641: (Embezzlement, etc.) - Public money, property or records (if not in excess of \$1,000).

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- 18 U.S.C. § 643: (Embezzlement) - Accounting generally for public money (if does not exceed \$1,000).
- 18 U.S.C. § 644: (Embezzlement) - Banker receiving unauthorized deposit of public money (if not in excess or \$1,000).
- 18 U.S.C. § 645: (Embezzlement) - Court officers generally (if amount does not exceed \$1,000).
- 18 U.S.C. § 646: (Embezzlement) - Court officers depositing registry moneys (if amount does not exceed \$1,000).
- 18 U.S.C. § 647: (Embezzlement) - Receiving loan from court officer (if amount does not exceed \$1,000).
- 18 U.S.C. § 648: (Embezzlement) - Custodians, generally, misusing public funds (if amount does not exceed \$1,000).
- 18 U.S.C. § 649: (Embezzlement) - Custodians failing to deposit moneys (if amount does not exceed \$1,000).
- 18 U.S.C. § 650: (Embezzlement) - Depositories failing to safeguard deposits (if amount does not exceed \$1,000).
- 18 U.S.C. § 651: Disbursing officer falsely certifying full-payment . (if amount does not exceed \$1,000)
- 18 U.S.C. § 652: Disbursing officer paying lesser in lieu of lawful amount (if amount does not exceed \$1,000).
- 18 U.S.C. § 653: Disbursing officer misusing public fund (if amount does not exceed \$1,000).
- 18 U.S.C. § 654: Officer or employee of U.S. converting property of another (if does not exceed \$1,000).
- 18 U.S.C. § 655: Theft by bank examiner (if amount does not exceed \$1,000).
- 18 U.S.C. § 656: Theft, embezzlement, or misapplication by bank officer or employee (if amount does not exceed \$1,000).
- 18 U.S.C. § 657: (Embezzlement) - Lending, credit and insurance institutions. (if amount does not exceed \$1,000).
- 18 U.S.C. § 658: (Fraud, etc.) - Property mortgaged or pledged to farm .  
credit agencies (if amount does not exceed \$1,000).
- 18 U.S.C. § 659: (Embezzlement, etc.) - Interstate OK foreign baggage express or freight (if amount does not exceed \$1,000).
- 18 U.S.C. § 661: (Steals, etc. personal property of another) - within special maritime and territorial jurisdiction (if value does not exceed \$1,000).
- 18 U.S.C. § 662: Receiving stolen property within special maritime and territorial jurisdiction (if property does not exceed \$1,000).

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18 U.S.C. § 665: Theft or embezzlement from employment and training funds; improper inducement; obstruction of investigations (if property does not exceed \$1,000).

18 U.S.C. § 669: Theft or embezzlement in connection with health care (if sum does not exceed \$100)

*Emblems, Insignia, and Names*

18 U.S.C. § 700: Desecration of the flag

18 U.S.C. § 701: (Mfg., sells, possesses) - official badges, identification cards, other insignia.

18 U.S.C. § 702: (Unlawful wearing, etc.) - uniform of armed forces and public health service.

18 U.S.C. § 703: (Unlawful wearing, etc.) - uniform of a friendly nation.

18 U.S.C. § 704: (Unlawful wearing, etc.) - military medals or decorations.

18 U.S.C. § 705: (Unlawful mfg., possessing, etc.) - badge or medal of veterans' organizations.

18 U.S.C. § 706: (Unlawful wearing, etc.) - sign, insignia of Red Cross.

18 U.S.C. § 707: 4-H Club emblem fraudulently used.

18 U.S.C. § 708: (Unlawful use, etc.) - Swiss Confederation Coat of Arms.

18 U.S.C. § 709: False advertising or misuse of names to indicate Federal agency.

18 U.S.C. § 710: (Unlawful use, etc.) - cremation urns for military use.

18 U.S.C. § 711: (Unlawful use, etc.) - "Smokey Bear" character or name.

18 U.S.C. § 711a: (Unlawful use, etc.) - "Woodsy Owl" character, name or slogan..

18 U.S.C. § 712: Misuse of names by collecting agencies or private detective agencies to indicate Federal Agency.

18 U.S.C. § 713: (Unlawful use, etc.) - Presidential Seal, congressional seals

18 U.S.C. § 715: (Unlawful use, etc.) - "Golden Eagle Insignia"

*Escape and Rescue*

18 U.S.C. § 751(a)(b): (Escape) - Prisoners in custody of institution or officer (if held on misdemeanor).

18 U.S.C. § 752(a)(b): Instigating or assisting escape from Federal Officers (if held on charge of misdemeanor).

Misdemeanors:  
What are they and  
how do we get them?

18 U.S.C. § 755: Officer (negligently) permitting escape.

*Espionage and Censorship*

18 U.S.C. § 795: Photographing and sketching defense installations.

18 U.S.C. § 796: Use of aircraft for photographing defense installations

18 U.S.C. § 797: Publication and sale of photographs of defense installations.

18 U.S.C. § 799: Violations of NASA regulations

*Explosives, etc.*

18 U.S.C. § 836: Transportation of fireworks into State prohibiting sale or use.

18 U.S.C. § 844(b): Certain § 842 violations

*Extortions and Threats*

18 U.S.C. § 872: Extortion by officers or employees of U.S. (if amount does not exceed \$100).

18 U.S.C. § 873: Blackmail

18 U.S.C. § 875: Interstate Communications (Two year statute. Accessory after the fact may make it a misdemeanor.)

18 U.S.C. § 876: Mailing threatening communications (Two year statute. Accessory after the fact may make it a misdemeanor.)

18 U.S.C. § 877: Mailing threatening communications from foreign country (Two year statute. Accessory after the fact may make it a misdemeanor.)

*False Impersonation*

18 U.S.C. § 916: (Defrauds, etc.) - 4-H Club Members or Agents.

18 U.S.C. § 917: (Defrauds, represents, etc.) - Red Cross Members or Agents.

*Firearms*

18 U.S.C. §§ 924: Penalties: False statements by dealers, violations of § 922(m), 922(q), 922(s), 922(t), and 922(x).

18 U.S.C. § 930: Possession of firearms and dangerous weapons in Federal Facilities.

*Foreign Relations*

Misdemeanors:  
What are they and  
how do we get them?

18 U.S.C. § 961: (Aids, etc.) - Strengthening armed vessel of foreign nation.

*Fraud and False Statements*

18 U.S.C. § 1003: (Fraudulent, etc.) - Demands against the U.S. (if amount does not exceed \$1,000).

18 U.S.C. § 1012: (False, etc.) - HUD transactions.

18 U.S.C. § 1013: (False, etc.) - Farm loan bonds and credit bank debentures.

18 U.S.C. § 1016: Acknowledgment of appearance or oath (Two year offense)

18 U.S.C. § 1018: (False statements, etc.) - Official certificates or writings.

18 U.S.C. § 1024: Purchase or receipt of military, naval, or veteran's facilities property (Two year offense)

18 U.S.C. § 1025: False pretenses on high seas and other waters (if amount does not exceed \$1,000).

18 U.S.C. § 1026: (False statement, etc.) - Compromise, adjustment and cancellation of farm indebtedness.

18 U.S.C. § 1028(b)(6): Certain Identification fraud.

18 U.S.C. § 1030(c)(2)(A): Certain Computer fraud

*Gambling*

18 U.S.C. § 1082: (Gambling Ships). (Two year offense)

18 U.S.C. § 1083: (Gambling). - Transportation between shore and ship.

*Indians*

18 U.S.C. § 1154: (First offense) - Intoxicants dispensed in Indian country.

18 U.S.C. § 1156: (First offense) - Intoxicants possessed in Indian country.

18 U.S.C. § 1163: Embezzlement and theft from Indian tribal organizations  
(if amount does not exceed \$1,000).

18 U.S.C. § 1164: Destroying (Indian) boundary and warning signs.

18 U.S.C. § 1165: Hunting, trapping, or fishing on Indian land.

18 U.S.C. § 1167: Theft from gaming establishments on Indian Land (sum less than \$1,000)

18 U.S.C. § 1168: Theft by officers or employees of gaming establishments on Indian Land (sum less than \$1,000)

Misdemeanors:  
What are they and  
how do we get them?

18 U.S.C. § 1169: Reporting Child Abuse.

18 U.S.C. § 1170: Illegally trafficking in Native American human remains and cultural items (first offense)

*Liquor Traffic*

18 U.S.C. § 1262: Transportation (liquor, etc.) into State prohibiting sale.

18 U.S.C. § 1263: (Misrepresented, etc.) - marks and labels on packages (liquor).

18 U.S.C. § 1264: (Unlawful) - Delivery to consignee (liquor).

18 U.S.C. § 1265: (Unlawful) - C.O.D. Shipments (liquor).

*Lotteries*

18 U.S.C. § 1301: Importing or transporting lottery tickets (a two year offense)

18 U.S.C. § 1302: Mailing lottery tickets (a two year offense)

18 U.S.C. § 1303: Postmaster or employee as lottery agent.

18 U.S.C. § 1304: Broadcasting lottery information

18 U.S.C. § 1306: Participation by financial institutions

*Malicious mischief*

18 U.S.C. § 1361: (Malicious mischief) - Government property or contracts (if damage does not exceed \$1,000).

*Military and Navy*

18 U.S.C. § 1382: Entering military, Naval, or Coast Guard property.

18 U.S.C. § 1384: Prostitution near military and naval establishments.

18 U.S.C. § 1385: Using Army or Navy as pose comitatus. (A two year offense)

*Obscenity*

18 U.S.C. § 1460: Possession with intent to sell on federal land (A two year offense)

18 U.S.C. § 1464: Broadcasting obscene language (A two year offense)

18 U.S.C. § 1468: Distributing obscene material by cable or subscription TV (A two year offense)

Misdemeanors:  
What are they and  
how do we get them?

*Obstruction of Justice*

18 U.S.C. § 1501: Assault on Process Server.

18 U.S.C. § 1502: Resistance to extradition agent.

18 U.S.C. § 1503: Influencing or injuring officer or juror. (if offense being prosecuted was a misdemeanor)

18 U.S.C. § 1504: Influencing juror by writing.

18 U.S.C. § 1507: Picketing or parading

18 U.S.C. § 1508: Recording, listening to, or observing proceedings of grand or petit juries while deliberating or voting

18 U.S.C. § 1507: Obstruction of Court Orders

18 U.S.C. § 1512(c): Tampering (harassing) witness, victim or informant

18 U.S.C. § 1507: Retaliating against witness, victim or informant in a misdemeanor case.

*Postal Service*

18 U.S.C. § 1693: (Postal Service) - Carriage of mail generally.

18 U.S.C. § 1694: (Postal Service) - Carriage of matter out of mail over post routes.

18 U.S.C. § 1695: (Postal Service) - Carriage of matter out of mail on vessels.

18 U.S.C. § 1696: (Postal Service) - Private express for letters and packets.

18 U.S.C. § 1697: (Postal Service) - Transportation of persons acting as private express.

18 U.S.C. § 1698: (Postal Service) - Prompt delivery of mail from vessel.

18 U.S.C. § 1699: (Postal Service) - Certification of delivery from vessel.

18 U.S.C. § 1700: Desertion of mails.

18 U.S.C. § 1701: Obstruction of mails generally.

18 U.S.C. § 1703(b), (c): Delay or destruction of mail or newspapers (employee).

18 U.S.C. § 1707: Theft of property used by postal service (if value does not exceed \$1,000).

18 U.S.C. § 1710: (Postal Service) - Theft of newspapers.

Misdemeanors:  
What are they and  
how do we get them?

- 18 U.S.C. § 1711: Misappropriation of Postal funds (if value does not exceed \$1,000).
- 18 U.S.C. § 1713: Issuance of money orders without payment
- 18 U.S.C. § 1716: (Postal Service, Certain -) - Injurious articles as non-mailable (without intent to kill).
- 18 U.S.C. § 1716A: Nonmailable locksmithing devises and motor vehicle master keys
- 18 U.S.C. § 1716B: Nonmailable Plants
- 18 U.S.C. § 1716C: Forged agricultural certificates
- 18 U.S.C. § 1716D: Nonmailable injurious animals , plants illegally taken fish, animals and plants
- 18 U.S.C. § 1718 (Postal Service) - Libelous matters on wrappers or envelopes.
- 18 U.S.C. § 1719 (Misuse) - Franking privilege
- 18 U.S.C. § 1720 (Misuse of - if not postal employee) - Cancelled stamps and envelopes.
- 18 U.S.C. § 1721: Sale or pledge of stamps.
- 18 U.S.C. § 1722:(Postal Service) - False evidence to secure second-class rate
- 18 U.S.C. § 1723:(Postal Service) - Avoidance of postage by using lower class matter
- 18 U.S.C. § 1725:(Postal Service) - Postage unpaid on deposited mail matter.
- 18 U.S.C. § 1726: Postage collected unlawfully.
- 18 U.S.C. § 1729: Post Office conducted without authority.
- 18 U.S.C. § 1730: (Postal Service unlawful wearing) - uniforms of carriers
- 18 U.S.C. § 1731:(Postal Service) - Vehicles falsely labeled as carriers.
- 18 U.S.C. § 1732:(Postal Service) - Approval of Bonds or sureties by postmaster.
- 18 U.S.C. § 1733:(Postal Service) - Mailing periodicals without prepayment of postage
- 18 U.S.C. § 1734:(Postal Service) - Editorials and other matters as "advertisements
- 18 U.S.C. § 1738:(Postal Service) - Mailing private identification documents without disclaimers

*Presidential and Presidential Staff Assassination, Kidnapping and Assault*

Misdemeanors:  
What are they and  
how do we get them?

18 U.S.C. § 1751: Simple assault on staff

18 U.S.C. § 1752: Temporary residences and offices -trespass and disruption

*Prison Made Goods*

18 U.S.C. § 1761: (Unlawful) - Transportation or importation (Two year offense).

18 U.S.C. § 1762: (Prison-made goods) - marking packages

*Prisons*

18 U.S.C. § 1791: Providing or possessing contraband (Certain items)

*Professions and Occupations*

18 U.S.C. § 1821:(Unlawful) - Transportation of dentures.

*Public Lands*

18 U.S.C. § 1851:(Public Lands) - Coal depredations.

18 U.S.C. § 1852:(Public Lands) - Timber removed or transported

18 U.S.C. § 1853:(Public Lands) - Trees cut or injured.

18 U.S.C. § 1854: (Public Lands) - Trees, boxed for pitch or turpentine.

18 U.S.C. § 1856:(Public Lands) - Fires left unattended and unextinguished.

18 U.S.C. § 1857:(Public Lands) - Fences destroyed; livestock entering

18 U.S.C. § 1858:(Public Lands) - Survey marks destroyed or removed

18 U.S.C. § 1860:(Public Lands) - Bids at land sales.

18 U.S.C. § 1861:(Public Lands) - Deception of prospective purchasers

18 U.S.C. § 1863:(Public Lands) - Trespass on National forest lands.

18 U.S.C. § 1864: Hazardous or injurious devices on Federal lands (certain offenses).

*Public Officers and Employees*

18 U.S.C. § 1901:(Public Employees) - Collecting or disbursing officer trading in public property

Misdemeanors:  
What are they and  
how do we get them?

18 U.S.C. § 1903:(Public Employees) - Speculation in stocks or commodities affecting crop insurance (A two year offense)

18 U.S.C. § 1905:(Public Employees) - Disclosure of confidential information generally

18 U.S.C. § 1906: Disclosure of information from bank examination report

18 U.S.C. § 1907: Disclosure of information from farm credit examiner

18 U.S.C. § 1909: Examiner providing other services

18 U.S.C. § 1911: Receiver mismanaging property

18 U.S.C. § 1912: Unauthorized fees for inspection of vessels.

18 U.S.C. § 1913: Lobbying with appropriated moneys

18 U.S.C. § 1915: Compromise of customs liabilities ( a two year offense)

18 U.S.C. § 1916: Unauthorized employment and disposition of lapsed appointments

18 U.S.C. § 1917: Interference with civil service examinations

18 U.S.C. § 1918: Disloyalty and asserting the right to strike against the government (One year and a day)

18 U.S.C. § 1919: False statement to obtain unemployment compensation for federal service

18 U.S.C. § 1920: False statement or fraud to obtain federal employee's compensation

18 U.S.C. § 1921: Receiving Federal Employee's compensation after marriage

18 U.S.C. § 1922: False or withheld report concerning Federal employee's compensation

18 U.S.C. § 1923: Fraudulent receipt of payments of missing persons

18 U.S.C. § 1924: Unauthorized removal and retention of classified documents or material

*Railroads*

18 U.S.C. § 1991: Entering train to commit (certain) crimes

*Records and Reports*

18 U.S.C. § 2074: False weather reports.

18 U.S.C. § 2075: Officer failing to make returns or reports.

Misdemeanors:  
What are they and  
how do we get them?

18 U.S.C. § 2076: (Failing to make reports) - Clerk of U.S. District Court.

*Robbery and Burglary*

18 U.S.C. § 2113(b): Bank robbery and incidental crimes (if does not exceed \$1,000).

*Seamen and Stowaways*

18 U.S.C. § 2194: Shanghaiing sailors.

18 U.S.C. § 2195: Abandonment of sailors.

18 U.S.C. § 2196: Drunkenness or neglect of duty by seamen.

18 U.S.C. § 2199: Stowaways.

*Searches and seizures*

18 U.S.C. § 2233: Rescue of seized property (a two year offense)

18 U.S.C. § 2234: Authority exceeded in executing warrant

18 U.S.C. § 2235: Search warrant procured maliciously

18 U.S.C. § 2236: Searches without warrant

*Sexual Abuse*

18 U.S.C. § 2243(b): Sexual abuse of a ward

18 U.S.C. § 2244a(4) & (b): Abusive sexual contact

*Sexual Exploitation of children*

18 U.S.C. § 2258: Failure to report child abuse

*Shipping*

18 U.S.C. § 2277: Explosives or dangerous weapons aboard vessels.

18 U.S.C. § 2278: Explosives on vessels carrying steerage passengers.

18 U.S.C. § 2279: Boarding vessels before arrival.

*Stolen Property*

Misdemeanors:  
What are they and  
how do we get them?

18 U.S.C. § 2319: Criminal infringement of a copyright (less than \$2,500.00)

*Stored Wire and Electronic Communications and Transactional Records Access*

18 U.S.C. § 2701(b)(2): Unlawful access to stored communications

*Prohibition on release and use of certain personal information from state motor vehicle records*

18 U.S.C. § 2723(a): Penalties

*Pen Registers and Trap and Trace devices*

18 U.S.C. § 3121(d): General prohibition on Pen Registers and Trap and Trace device use.

*Release and Detention*

18 U.S.C. § 3164(b): Penalty for failure to appear on a misdemeanor charge or material witness bond.

18 U.S.C. § 3167: Penalty for a misdemeanor committed while on release on a misdemeanor

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Misdemeanors:  
What are they and  
how do we get them?

## APPENDIX B

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### TITLE 8 MISDEMEANOR OFFENSES

8 U.S.C. § 1221(d): Penalties against noncomplying shipments or aircraft (Aliens - entry and exclusions). \$300.00 penalty for each person concerning whom list is not prepared. Penalty paid to the Commissioner.

8 U.S.C. § 1281(d): (Alien Crewman) - violations.

8 U.S.C. § 1282(c): (Alien Crewman) - conditional permits to land temporarily - penalties.

8 U.S.C. § 1284(a): Control of alien crewmen - penalties for failure. \$3000.00 penalty paid to the Commissioner for each alien crewman with respect to which failure occurs.

8 U.S.C. § 1285: Employment on passenger vessels of aliens with certain disabilities.

8 U.S.C. § 1286: Discharge of alien crewmen; penalties.

8 U.S.C. § 1287: Alien crewmen brought into the United States with intent to evade immigration laws.

8 U.S.C. § 1304(e): Personal possession of registration or receipt card; penalties. Up to \$1000.00 fine, and/or up to 30 days imprisonment.

8 U.S.C. § 1306(a): (Aliens) - Willful failure to register. Penalty is up to \$1,000.00 fine and/or up to 6 months imprisonment.

8 U.S.C. § 1306(b): (Aliens) - Failure to notify change of address. Penalty is up to \$200.00 fine and/or up to 30 days imprisonment. In addition, a conviction under this section can be cause for removal under Title 8, Chapter 4.

8 U.S.C. § 1306(c): (Aliens) - Fraudulent statements. Penalty is up to \$1,000.00 fine and/or up to six months imprisonment.

8 U.S.C. § 1321: (Aliens) - Prevention of unauthorized landing of aliens; failure to report; penalties. Penalty is up to \$3,000.00 fine for each violation, imposed by the Attorney General.

8 U.S.C. § 1324(a)(B)(2)(A): Unlawful bringing of aliens into U.S. Penalty is \$3,000.00 fine for each alien, paid to the Commissioner.

8 U.S.C. § 1325: Entry of Alien at improper time or place; misrepresentation and concealment of facts (first offense). Penalty is up to six months imprisonment and/or a fine imposed pursuant to Title 18.

Misdemeanors:  
What are they and  
how do we get them?

## APPENDIX C

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### OTHER MISDEMEANORS

The following list of statutes originated from an “ancient” file the saved in *Adobe Acrobat*. The list was provided by Fred Kay, F.P.D. Arizona.

The age of the original document is unknown , but appears to predate 1981.

Code of Federal Regulation offenses and assimilative crimes are not included.

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#### Title 2

2 U.S.C. § 167(a): (Library of Congress) - Public Use.

2 U.S.C. § 167(b): (Library of Congress) - Sale of articles; signs; solicitations.

2 U.S.C. § 167(c): (Library of Congress) - injuries to property (if does not exceed \$100).

2 U.S.C. § 167(d): (Library of Congress) - Firearms or fireworks; speeches; objectionable language (if no damage which exceeds \$100).

2 U.S.C. § 167(e): (Library of Congress) - Parades or assemblages; display of flags (if no damage which exceeds \$100).

2 U.S.C. § 167(f): (Library of Congress) - Additional regulations; publication. effective date (if does not exceed \$100).

2 U.S.C. § 167(g): (Library of Congress) - prosecution and punishment of offenses.

2 U.S.C. § 212: (Contested elections) - Penalty for failure to attend or testify.

#### Title 4

4 U.S.C. § 3: (District of Columbia) - Use of flag for advertising purposes.

#### Title 5

5 U.S.C. § 60: Disposition of moneys accruing from lapsed salaries or unused appropriations for salaries.

#### Title 7

Misdemeanors:  
What are they and  
how do we get them?

7 U.S.C. § 85:(Cotton standards) - Penalties for violations.

7 U.S.C. § 86: (Grain standards) - Penalties for violations.

7 U.S.C. § 86: (Department of Agriculture - Penalty for interference with execution of official duties.

7 U.S.C. § 135f (a)&(b): (Insecticides) - Penalties (for violations).

7 U.S.C. § 150gg: (Plant Pests) - Penalty (violations and altering and defacing documents).

7 U.S.C. § 163: (Nursery stock and other plants and plant products) -Violations; forgery, alterations, etc., of certificates; punishment, proof of violations by common carrier.

7 U.S.C. § 166: (Agriculture products in U.S. Mails) - transmission of mailed packages for State inspection.

7 U.S.C. § 203: Registration of stockyard dealer or market agency;- penalty for failure to register.

7 U.S.C. § 207(g): (Stockyards and Stockyard dealers) - Schedule of rates; filing and exhibition; change in rates; suspension; penalties.

7 U.S.C. § 207(h): (Stockyards and Stockyard dealers) - Schedule of rates; filing and exhibition; change in rates; suspension; penalties.

7 U.S.C. § 215: (Stockyards and Stockyard dealers) - Failure to obey orders; Punishment.

7 U.S.C. § 218(a>: (Live Poultry Dealers and Handlers) - penalty for dealing without license.

7 U.S.C. § 270: GUARDHOUSES) (Fraud etc.) - Punishment for penalties.

7 U.S.C. § 282: (Honeybees) - Punishment for unlawful importation.

7 U.S.C. § 472: (Cotton Statistics and Estimates) - Information furnished of confidential character; penalty for divulging information.

7 U.S.C. § 473: (Cotton Statistics and Estimates) - Persons required to furnish information; request; failure to furnish; false information.

7 U.S.C. § 473(c)-2: (Cotton Statistics and Estimates) - Offenses in relation to sampling of cotton for classification.

7 U.S.C. § 499(c): (Perishable Agricultural Commodities) (Licenses) - penalty for failure to obtain.

7 U.S.C. § 503: (Tobacco Statistics) - Reports necessity; by whom made, penalties.

7 U.S.C. § 511(k): (Tobacco control) - penalties.

Misdemeanors:  
What are they and  
how do we get them?

7 U.S.C. § 608(a)(4) - (Sugar quotas) - penalties.

7 U.S.C. § 620: Falsely ascribing deductions or charges to taxes; penalty.

7 U.S.C. § 953: (Peanut Statistics) - Reports; by whom made; penalties.

7 U.S.C. § 1153: (Excise Taxes with Respect to Sugar) -.Rules and regulations; violations.

7 U.S.C. § 1156: (Excise taxes with respect to sugar) - Duty to furnish 'information; penalty.

7 U.S.C. § 1596: (Foreign Commerce) - Penalties (As applied to first violation only; penalty of up to \$2,000 thereafter.

7 U.S.C. § 1642(c): (Stabilization of International Wheat Market) -Penalty for violation.

5 2048: (Farm Labor Contractor Registration) - Penalties.

**Title 12**

12 U.S.C. § 16:(c): (Bank Examinations) - Reports of affiliates...penalties.

12 U.S.C. § 164: (Bank Examinations) - Penalty for failure to make reports.

12 U.S.C. § 334: (Mutual Savings Banks - Reports from affiliates; penalty for failure to furnish.

12 U.S.C. § 481: (Bank Examinations) - Penalties.

12 U.S.C. § 1723a(e): (Federal National Mortgage Association) - Prohibition against use of name; penalty for violation.

12 U.S.C. § 1828(h): (F.D.I.C.) - Penalties.

**Title 13**

13 U.S.C. § 212: (Census) - Refusal or neglect of employees to perform duties.

13 U.S.C. § 221(a)(b): (Census) - Refusal or neglect to answer questions; false answers.

13 U.S.C. § 222: (Census) - Giving suggestions or information with intent to cause inaccurate enumeration of population.

13 U.S.C. § 223: (Census) - Refusal, by owners, proprietors, etc. to assist census employees.

**Misdemeanors:  
What are they and  
how do we get them?**

13 U.S.C. § 224: (Census) - Failure to answer questions affecting companies, businesses, religious bodies, and other organizations, false answers; (as applied only to failure to answer; willfully false answer has a fine of up to \$10,000).

13 U.S.C. § 305: (Census - Collection and Publication of Foreign Commerce and Trade Statistics) -Violations, penalties.

**Title 14**

14 U.S.C. § 83: Unauthorized aids to maritime navigation; penalty.

14 U.S.C. § 84: Interference with aids to navigation; penalty.

14 U.S.C. § 85: Aids to maritime navigation on fixed structures; penalty.

14 U.S.C. § 639: Penalty for unauthorized use of words "Coast Guard".

14 U.S.C. § 892: (Coast Guard Reserve and Auxiliary) - Penalty.

**Title 15**

15 U.S.C. § 68(d): (Labeling of Wool Products) (records, penalties).

15 U.S.C. § 69f: (Labeling of Fur Products) (records, penalties).

15 U.S.C. § 78ff(b): (Securities and Exchanges) (failure to file information) Penalties.

15 U.S.C. § 78(u): (Securities and Exchanged) - Investigations; injunctions and prosecution of offenses.

15 U.S.C. § 79r(d): (Public Utility Holding Comp.). Penalty for refusal to testify.

15 U.S.C. § 80-b: (Investment Advisors) - Investigations, etc.; penalties.

15 U.S.C. § 233: (Standard Barrels) - Penalty for violations.

15 U.S.C. § 235: Sale or shipment of barrel of less capacity than standard; punishment.

15 U.S.C. § 241: Penalty for selling lime in unmarked barrels and containers.

15 U.S.C. § 253: Failure to conform to standards; penalty (baskets and containers).

15 U.S.C. § 257(d): (Hampers - round stove baskets) - Violations; what constitutes; punishment.

15 U.S.C. § 298: (Gold and Silver) - Violations of law; penalty.

15 U.S.C. § 717t(b): (Natural Gas) - General penalties.

Misdemeanors:  
What are they and  
how do we get them?

15 U.S.C. § 1004: (Golden Gate Bridge Tolls) - Penalties.

15 U.S.C. § 1007: (San Francisco-Oakland Bay Bridge) - Penalties

15 U.S.C. § 1212: (Household Refrigerators) - Violations, misdemeanor; penalties.

15 U.S.C. § 1233: (Disclosure of Automobile Information) - Violations and penalties.

15 U.S.C. § 1302: (Brake Fluid Regulation) - Prohibited Acts; penalties.

15 U.S.C. § 1322: (Seat Belt Regulations) - Prohibited ,Acts; penalties.

**Title 16**

16 U.S.C. § 9a: (National Parks) - Violation of regulations as misdemeanor.

16 U.S.C. § 26: (Hunting and Fishing in Parks) - Punishment for violations.

16 U.S.C. § 45e: (Sequoia and Yosemite National Parks) - Violations, penalty.

16 U.S.C. § 98: (Colonial National Historical Park) - forfeitures and  
punishments.

16 U.S.C. § 117c: (Mesa Verde National Park) - violations of statutes and rules.

16 U.S.C. § 127: (Crater Lake National Park) - rules and regulations; punishment.

16 U.S.C. § 146: (Wind Cave National Park) - Offenses.

16 U.S.C. § 170: (Glacier National Park) - regulations; punishment.

16 U.S.C. § 198c: (Rocky Mountain National Park) - Prohibited Acts; rules . and regulations; penalties.

16 U.S.C. § 204c: (Lassen Volcanic National Park) - Violations of statutes and rules; penalties.

16 U.S.C. § 256b: (Olympic National Park) - violation of statutes or rules; penalties.

16 U.S.C. § 354: (Mount McKinley National Park) - offenses; punishments.

16 U.S.C. § 373: (Hot Springs National Park) - injuries to property.

16 U.S.C. § 374: (Hot Springs National Park) - Violations of rules and regulations.

16 U.S.C. § 403c-3: (Shenandoah National Park) - Criminal offenses concerning hunting, fishing, and property.

16 U.S.C. § 403h-3: (Great Smoky Mountains National Park) - penalties for violating laws and rules.

Misdemeanors:  
What are they and  
how do we get them?

- 16 U.S.C. § 404c-3: (Mammoth Cave National Park) - rules and regulations.
- 16 U.S.C. § 408k: (Isle Royale National Park) - violation of statutes or rules; penalties.
- 16 U.S.C. § 413: (National Military Parks) - Offenses relating to structures and vegetation.
- 16 U.S.C. § 414: (National Military Parks) - trespassing for hunting, or shooting.
- 16 U.S.C. § 422d: (Moore's Creek National Military Park) - monuments, etc. protected.
- 16 U.S.C. § 423f: (Petersburg National Battlefield) - protection of monuments etc.
- 16 U.S.C. § 425g: (Various Parks in Virginia) - protection of monuments etc.
- 16 U.S.C. § 426l: (Stones River National Battlefield) - protection of monuments, etc.
- 16 U.S.C. § 430q: (Monocacy National Military Park) - offenses.
- 16 U.S.C. § 460k-3: (National Conservation Recreation Areas) - Charges and fees; permits; regulations; penalties.
- 16 U.S.C. § 460m-5: (Lake Mead National Recreation Area) - violations and penalties.
- 16 U.S.C. § 606: (Cutting timber on certain mineral lands) - offenses; punishment.
- 16 U.S.C. § 631f: Pribilof Islands a special reservation; landing on islands unlawful; penalties.
- 16 U.S.C. § 631k: (Fur seals and fur bearing animals) - punishment for violation of law.
- 16 U.S.C. § 666a: (Game, fur-bearing animals and fish) - penalties.
- 16 U.S.C. § 668: Bald and golden eagles; acts prohibited, penalty.
- 16 U.S.C. § 690g: (Game and Bird Preserves; Protection) - violation of laws and regulations; penalty.
- 16 U.S.C. § 693a: (Cheyenne Bottoms Migratory Bird Refuge) - rules and regulations, violations; penalties.
- 16 U.S.C. § 707a: (Migratory Bird Treaty) - violations and penalties.
- 16 U.S.C. § 715m: (Migratory Bird Conservation) - violations of provisions, penalty.
- 16 U.S.C. § 750: (Upper Mississippi River Wild Life and Fish Refuge) - violation of law or regulations; punishment.
- 16 U.S.C. § 772e: (Northern Pacific Halibut Act of 1937) - penalties and forfeitures.

**Misdemeanors:  
What are they and  
how do we get them?**

16 U.S.C. § 772f: (Northern Pacific Halibut Act of 1937) - penalties; relative to records and reports.

16 U.S.C. § 776c: (Sockeye or Pink Salmon Fishing) - penalties and forfeitures.

16 U.S.C. § 783: (Regulation of Sponges) - punishment for violations of law.

16 U.S.C. § 811: (F.P.C.) - operation of navigation facilities; rules and regulations; -penalties.

16 U.S.C. § 825o(b):(F.P.C.) - rules and regulations; penalties.

16 U.S.C. § 853: (Regulation of Interstate Transportation of Black Bass and Other Fish) - penalty.

16 U.S.C. § 916e: (Regulation of Whaling) - failure to keep returns, records, reports.

16 U.S.C. § 957e: (Tuna Conventions) - violations; fines and forfeitures (as applied only to first violation; \$5,000 penalty for subsequent violations).

16 U.S.C. § 989: (Northwest Atlantic Fisheries) - penalties.

**Title 17**

17 U.S.C. § 14: (Copyrights) - failure to deposit; demand; penalty.

17 U.S.C. § 18: (Copyrights) - making false affidavit.

17 U.S.C. § 104: (Copyrights) - willful infringement for profit.

**Title 19**

19 U.S.C. § 81s: (Customs Duties) - offenses.

19 U.S.C. § 292: (Customs - vessels) - penalty for neglect.

19 U.S.C. § 1341(b): (Tariff Commission, interference) - penalty.

19 U.S.C. § 1436: Failure to report or, enter vessel; additional penalty where vessel carrying nonimportable goods or liquor.

19 U.S.C. § 1445: (Vessels) - Penalties for failure to have permit and certified manifest.

19 U.S.C. § 1454: (Vessels) - Unloading of passengers; penalty.

19 U.S.C. § 1460: (Vessels) - Penalties for failure to report or file manifest.

19 U.S.C. § 1465: (Vessels) - Penalties in connection with supplies.

Misdemeanors:  
What are they and  
how do we get them?

19 U.S.C. § 1497: (Customs) - Examination of baggage; penalties (equal to value)

19 U.S.C. § 1510: (customs) - Penalties for refusal to give testimony.

19 U.S.C. § 1584: (Customs) - Falsity or lack of manifest; penalties.

19 U.S.C. § 1595(a): (Customs) - Penalty for aiding unlawful importation (set at value of goods).

**Title 21**

21 U.S.C. § 23: (Apples - commerce) -penalty for violations.

21 U.S.C. § 63: (Filled milk) - penalty for violations of law.

21 U.S.C. § 122: (Livestock - diseases) - offense; penalty.

21 U.S.C. § 134(e): (Livestock - diseases - regulations) - penalties.

21 U.S.C. § 158: (Viruses, serums, etc.) - offenses; punishment.

21 U.S.C. § 191: Opium importation by Chinese prohibited; penalty.

21 U.S.C. § 193: (Opium) - Importation, transportation, and trafficking in China, by citizens prohibited.

21 U.S.C. § 212: (Practice of Pharmacy and Sale of Poisons in Consular Districts of China) - Offenses; punishment.

21 U.S.C. § 333: (Food and Drugs) - penalties (only on first conviction).

21 U.S.C. § 841(b)(1)(D): Manufacturing, distributing, possessing with intent to distribute Schedule V controlled substances

21 U.S.C. § 841(b)(4): Distributing small amount of marihuana for no remuneration.

21 U.S.C. § 842(c)(2)(A): Dispensing violations.

21 U.S.C. § 844: Simple possession

21 U.S.C. § 844a: Simple possession: Civil Penalty

21 U.S.C. § 961: Shipment violations under § 954.

**Title 22**

22 U.S.C. § 157: (Consul) :- Punishment for contempt o f Court.

Misdemeanors:  
What are they and  
how do we get them?

**Title 24**

24 U.S.C. § 286: Penalty for defacing cemeteries.

**Title 26**

26 U.S.C. § 5603(b): (Income Taxation, etc.) - failure to keep certain records.

26 U.S.C. § 5806: Penalty relating to containers of distilled spirits.

26 U.S.C. § 5661(b): Penalty and forfeiture for violation of laws, regulations relating to wine, other offenses.

26 U.S.C. § 5662: Penalty for alteration of wine labels.

26 U.S.C. § 5672: Penalty for failure of brewers to comply with requirements and failure to keep records and file returns.

26 U.S.C. § 5674: Penalty for unlawful removal of beer.

26 U.S.C. § 5675: Penalty for intentional removal or defacement of brewers' marks and brand.

26 U.S.C. § 5676: Penalties relating to beer stamps.

26 U.S.C. § 5681(a): (Liquors) - Failure to post required sign.

26 U.S.C. § 5681(b): (Liquors) - Posting or displaying false sign.

26 U.S.C. § 5681(c): (Liquors) - Premises where no sign is placed or kept.

26 U.S.C. § 5683: Penalty and forfeiture for removal of liquors under improper brands.

26 U.S.C. § 5687: (Liquors) - Penalty for offenses not specifically covered.

26 U.S.C. § 5762(b): (Tobacco) - other offenses.

26 U.S.C. § 7203: Willful Failure to file return, supply information, or pay tax

26 U.S.C. § 7204: (Taxation) - Fraudulent statement or failure to make statement to employees.

26 U.S.C. § 7205: (Taxation) - Fraudulent withholding exemption certificate or failure to supply information.

26 U.S.C. § 7207: (Taxation) - Fraudulent returns, statements, or other documents.

26 U.S.C. § 7209: (Taxation) - Unauthorized use or sale of stamps.

Misdemeanors:  
What are they and  
how do we get them?

- 26 U.S.C. § 7210: (Taxation) - Failure to obey summons.
- 26 U.S.C. § 7211: (Taxation) - False statements to purchasers or lessees relating to tax.
- 26 U.S.C. § 7212: Attempts to interfere with administration of internal revenue laws (threats only)
- 26 U.S.C. § 7213(b): (Taxation) - Unauthorized disclosure of information.
- 26 U.S.C. § 7213A: (Taxation) - Unauthorized inspection of returns or return information
- 26 U.S.C. § 7214(b): (Taxation) Interest of Internal Revenue officer or employee in tobacco or liquor production.
- 26 U.S.C. § 7215: Offenses with respect to collected taxes
- 26 U.S.C. § 7216: Disclosure or use of information by preparers of returns
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- 26 U.S.C. § 7234(b): (Oleomargarine) - Removal or defacement of stamps, marks, or brands.
- 26 U.S.C. § 7234(c): (Oleomargarine) - Failure of wholesale dealers to keep or permit inspection of books, OK render returns.
- 26 U.S.C. § 7234(d)(2)(A)(B): (Oleomargarine) - Empty packages, failure to destroy stamps, trafficking.
- 26 U.S.C. § 7234(d)(4): (Oleomargarine) - Fraud by importer.
- 26 U.S.C. § 7235(b): (Butter) - Failure of wholesale dealers to keep or permit inspection of books, or render returns.
- 26 U.S.C. § 7235(c): Failure to comply with provisions relating to manufacture storage, and marking of processed or renovated butter..
- 26 U.S.C. § 7235(d): (Taxation) - dealers in adulterated butter.
- 26 U.S.C. § 7236: (Filled cheese) - false branding, sale, packaging, or stamping in violation of law.
- 26 U.S.C. § 7241: Penalty for fraudulent equalization tax certificates.
- 26 U.S.C. § 7261: Representation that retailers' excise tax is excluded from price of article.
- 26 U.S.C. § 7263(a): Penalties relating to cotton futures, withholding information.
- 26 U.S.C. § 7265(a)(b)(c): other offenses relating to oleomargarine or adulterated butter operations.
- 26 U.S.C. § 7266(a)-(f): Offenses relating to filled cheese (display sign, labels, nonpayment of tax, not branded

Misdemeanors:  
What are they and  
how do we get them?

26 U.S.C. § 7267(d): Offenses relating to white phosphorus matches.

26 U.S.C. § 7268: Possession with intent to sell in fraud of law or to evade tax.

26 U.S.C. § 7271: Penalties for offenses relating to stamps (taxation).

26 U.S.C. § 7272: (Taxation) - Penalty for failure to register.

26 U.S.C. § 7273: Penalties for offenses relating to special taxes.

26 U.S.C. § 7273: Penalty for offenses relating to white phosphorus matches.

26 U.S.C. § 7274: Offenses relating to white phosphorus matches.

26 U.S.C. § 7342: Penalty for refusal to permit entry or examination (taxation).

**Title 27**

276 U.S.C. § 207: (Intoxicating Liquors)

26 U.S.C. § 208(d): (Intoxicating Liquors)

**Title 29**

26 U.S.C. § 530: (Labor) - Deprivation of rights by violence; penalty. Penalties. - interlocking directorates) penalty.

**Title 30**

30 U.S.C. § 480(d): (Mine Safety) - penalty for violations for refusal to admit inspecting official.

**Title 33**

33 U.S.C. § 157(a): Regulations for navigation or operation under bridges over navigable waters; penalties.

33 U.S.C. § 158: (Navigation) - Penalty for violations by pilot, engineer, mate or pilot.

33 U.S.C. § 159: (Navigation) - Penalty for violations by vessel.

33 U.S.C. § 244: (Navigation-Great Lakes) - Penalty for violation of provisions.

33 U.S.C. § 354: (Coast Guard Rules) - Penalties for violation by pilot, engineer, mate or master.

33 U.S.C. § 355: (Coast Guard Rules) - Penalty for violations by vessel.

Misdemeanors:  
What are they and  
how do we get them?

- 33 U.S.C. § 361: (Navigation) - Report of accidents generally; penalty.
- 33 U.S.C. § 362: (Navigation) - Report of the probable loss of vessel; penalty.
- 33 U.S.C. § 421: Deposit of refuse, etc.; in Lake Michigan near Chicago.
- 33 U.S.C. § 443: Permit for dumping;. penalty for taking or towing boat or scow without permit.
- 33 U.S.C. § 445: Equipment and marking of boats or scows.
- 33 U.S.C. § 447: Bribery of inspector; penalty.
- 33 U.S.C. § 448: (Navigation) - Return of permit; penalty for failure to return.
- 33 U.S.C. § 449: Disposition of dredged matter; persons liable; penalty.
- 33 U.S.C. § 452: Taking shellfish or otherwise interfering with navigation in New York Harbor channels; penalty.
- 33 U.S.C. § 506: (Tolls) - Hearings to determine reasonableness; attendance of witnesses; punishments for failure to attend.
- 33 U.S.C. § 507: (Navigation) - Failure to obey order prescribing toll; punishment.
- 33 U.S.C. § 728: (Presidential Inaugural Ceremonies) - Duration of regulations and licenses; violations and penalties.
- 33 U.S.C. § 931: (Longshoremen's and Harbor Workers Compensation) - Penalty for misrepresentation.
- 33 U.S.C. § 938: (Longshoremen's and Harbor Workers Compensation) - Penalty for failure to secure payment of compensation.
- 33 U.S.C. § 1008: (Oil record book; entries; penalties).

**Title 36**

- 36 U.S.C. § 181: (Service Flags and lapel buttons) - approved by Secretary of Defense; license to manufacture and sell; penalties.
- 36 U.S.C. § 379: (U.S. Olympic Committee) - Penalty for fraudulent pretense of membership or use of insignia.

**Title 38**

- 38 U.S.C. § 787(a): (U.S. Government Life Insurance) - Penalties (only as applied to conspiracy for fraudulent application or claim; false swearing carries fine of up to \$5,000 with possible , two year imprisonment.

**Title 40**

Misdemeanors:  
What are they and  
how do we get them?

40 U.S.C. § 181: Laws of District extended to public buildings and grounds.

40 U.S.C. § 193(h): (U.S. Capitol) - prosecution and punishment of offenses.

40 U.S.C. § 193(s): (Smithsonian Institution) - prosecution and punishment (if does not exceed \$100).

40 U.S.C. § 332: (Hours of Labor on Public Works) - Violations; penalties.

**Title 42**

42 U.S.C. § 262: (Public Health) - Regulation of biological products, penalties for offenses.

42 U.S.C. § 271(a): (Public Health) - Penalties for violation of quarantine laws.

42 U.S.C. § 408: (Social Security Act) Penalties.

42 U.S.C. § 1307: (Social Security Act) - Penalty for fraud.

42 U.S.C. § 1368: (Unemployed Compensation for Federal Employees) - penalties.

42 U.S.C. § 1400f: (Temporary Unemployment Compensation Program) - false statements on representations; penalties.

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42 U.S.C. § 1400(s): (Social Security - Extended Program for 1961-1962) -false statements or representations; penalties.

42 U.S.C. § 1422: (Public Housing Administration) - Penalties; applicability of general penal statutes concerning money.

42 U.S.C. § 1713: (Compensation for injury, death, or detention of employees of contractors with the U.S. outside the U.S.) - Fraud; penalties.

42 U.S.C. § 1714: (Compensation for injury, death, or detention of employees of contractors with the U.S. outside the U.S.)-Legal services.

42 U.S.C. § 1872(a)(3): (National Science Foundation) - violations and penalties

42 U.S.C. § 1974: (Federal Election Records) - penalty for violation.

42 U.S.C. § 1995: (Civil Rights) - Criminal contempt proceedings - penalties.

42 U.S.C. § 2000 (c)-10: (Equal Employment Opportunity) - Posting of notices; penalties.

42 U.S.C. § 2000(e)-5: (Equal Employment Opportunity) - Enforcement provisions, penalties.

42 U.S.C. § 2000(e)-8: (Equal Employment Opportunity) - Prohibited disclosures; penalties.

**Misdemeanors:  
What are they and  
how do we get them?**

42 U.S.C. § 2278(a): (Atomic Energy Act) - Trespass upon Commission installations, issuance and posting of regulations; penalties for violation (with respect to non-enclosed installations only; fine of up to \$5,000 if trespass on property enclosed by a fence, wall, etc.).

42 U.S.C. § 2278(b): (Atomic Energy Act) - Photographing, etc., of Commission Installations; penalty.

**Title 43**

43 U.S.C. § 315(a): (Grazing Lands) - Protection, administration, regulation, and improvement of district; rules and regulations; offenses.

43 U.S.C. § 1064: (Unlawful inclosures or occupancy; obstructing settlement or transit) - violations of chapter; punishment.

42 U.S.C. § 1333(e): (Outer Continental Shelf Lands) - Coast Guard' regulations, marking of islands and structures; offenses and penalties.

**Title 45**

45 U.S.C. § 18: (Railroads) - Penalty for violations and action therefor.

45 U.S.C. § 34: (Railroads) - Penalty for violations by carrier.

45 U.S.C. § 39: (Railroad accidents) - Penalty for failure to make report.

45 U.S.C. § 60: (Railroads, liability for injuries to employees) - penalty for suppression of voluntary information incident to accidents.

45 U.S.C. § 63: (Railroads, Hours of Service to Employees) -: Penalty.

45 U.S.C. § 66: (Railroads - Eight Hour Day) - Penalty for Violations.

45 U.S.C. § 73: (Railroads, animals) - Penalty for failure to comply with law.

**Title 46**

46 U.S.C. § 38: (Shipping) - Penalty for not obtaining new registry.

46 U.S.C. § 45: (Shipping),- Numbers for vessels.

46 U.S.C. § 46: (Shipping) - Names and home ports marked on bow and stern.

46 U.S.C. § 58: (Shipping) - Penalty for misconduct by officers.

46 U.S.C. § 59: (Shipping) - Penalty for neglect by officers.

Misdemeanors:  
What are they and  
how do we get them?

46 U.S.C. § 85g: (Shipping, load lines) - Penalties for violations (except for obliterating ship markings where possible \$2,000 fine).

46 U.S.C. § 88g: (Shipping, load lines for vessels engaged in coast-wide trade) - penalties for violations (except for obliterating ship markings where penalty same as in 85g).

46 U.S.C. § 108: (Shipping, clearance and entry) - Penalty for violation.

46 U.S.C. § 155: (Shipping, passengers) - (penalty as to) - Hospitals, surgeon, and medicine.

46 U.S.C. § 156: (Shipping, passenger) - Discipline and cleanliness; space for exercise of passengers.

46 U.S.C. § 156(a): Transportation of animals by vessels carrying steerage passengers.

46 U.S.C. § 157: Visiting parts of vessel occupied by passengers.

46 U.S.C. § 158: Boarding vessel on arrival; passenger lists.

46 U.S.C. § 161: Vessel carrying emigrant passengers to foreign countries withholding clearance papers.

46 U.S.C. § 163: Regulations as to boarding arriving vessels before inspection.

46 U.S.C. § 170(16): (Shipping, auto with gasoline, etc.) - penalty for violations,

46 U.S.C. § 203: (Shipping) - Penalty for omitting entries (log book).

46 U.S.C. § 229(b): (Shipping, radiotelegraph operators) - penalty.

46 U.S.C. § 229(f): (Shipping, radiotelegraph operators) - exhibition of license.

46 U.S.C. § 232: (Shipping, licenses) - Exhibition of licenses

46 U.S.C. § 246: (Shipping, Great Lakes) - offenses, penalties.

46 U.S.C. § 249(c): (Shipping) - Regulations governing manufacture, sale, possession, or display of decorations; penalties.

46 U.S.C. § 251: (Vessels in domestic commerce) - penalties (fish).

46 U.S.C. § 311: (Shipping) - Penalty for touching at foreign port without permission.

46 U.S.C. § 312: (Shipping) - Report of arrival at port other than that of destination.

46 U.S.C. § 315: Penalty against foreign vessels trading coastwise.

46 U.S.C. § 316: Towing U.S. vessels; fines and penalties.

Misdemeanors:  
What are they and  
how do we get them?

- 46 U.S.C. § 319: (Shipping) - fine for trading without license
- 46 U.S.C. § 321: (Shipping) - penalty for illegal enrollment or license.
- 46 U.S.C. § 322: (Shipping) - penalty for malfeasance.
- 46 U.S.C. § 323: (Shipping) - penalty for forgery and alteration.
- 46 U.S.C. § 324: (Shipping) - penalty for obstructing officers.
- 46 U.S.C. § 355: (Passports and papers of vessels engaged in Foreign commerce) - penalty for failure.
- 46 U.S.C. § 390d: (Small passenger-carrying vessels) - violations, penalty
- 46 U.S.C. § 391a(7): (Vessels; inspection of records etc.) - penalties.
- 46 U.S.C. § 402: (Shipping) - Penalty for receiving passengers in absence of unexpired certificate of approval.
- 46 U.S.C. § 403: (Vessels, hulls) - Punishment for certifying falsely.
- 46 U.S.C. § 407: (Shipping) - punishment for improper construction.
- 46 U.S.C. § 452: (Shipping) - penalty for carrying too many passengers.
- 46 U.S.C. § 457: (Shipping, passenger) - Penalties for violations c: regulations.
- 46 U.S.C. § 461: (Shipping) - penalty for failure to keep I&t of passengers.
- 46 U.S.C. § 471: (shipping) - punishment for failure to keep watch.
- 46 U.S.C. § 479: (Shipping) - penalty for not providing proper accommodations for passengers.
- 46 U.S.C. § 4gl(c): (Shipping, regulations on lifesaving, etc.) - penalty for(certain) violations.
- 46 U.S.C. § 495: (Shipping) - penalty for omission of duty by customs officer:.
- 46 U.S.C. § 497: (Shipping, steam vessels) - penalty for failure o comply with provisions.
- 46 U.S.C. § 498: (Shipping, steam vessels) - penalty in cases not provided for.
- 46 U.S.C. § 526: (Motorboats, regulations) - violations, generally, penalties.
- 46 U.S.C. § 527(c): (Motorboats, numbering, etc.) - violations, generally, penalties.
- 46 U.S.C. § 542(a): (Merchant seamen) - Demanding or receiving remuneration for supplying seamen for merchant vessels, penalty.

Misdemeanors:  
What are they and  
how do we get them?

- 46 U.S.C. § 546: (Merchant seamen) - penalty for personating shipping commissioner.
- 46 U.S.C. § 567: (Merchant seamen) - penalty for shipping without agreement.
- 46 U.S.C. § 568: (Merchant seamen) - penalty for knowingly shipping seamen without articles.
- 46 U.S.C. § 571: (Merchant seamen) (Shipping seamen in foreign ports) - penalty for violations.
- 46 U.S.C. § 571: (Merchant seamen) - penalty for shipping without articles.
- 46 U.S.C. § 623: (Merchant seamen) - penalty for neglect of master.
- 46 U.S.C. § 660(a)(b): (Merchant seamen) - inspection of crew; withdrawal of certificate of inspection.
- 46 U.S.C. § 667: (Merchant seamen) - penalty for failure to keep medicines.
- 46 U.S.C. § 669: (Merchant seamen) - clothing and heat.
- 46 U.S.C. § 670: (Merchant seamen) - slop chests.
- 46 U.S.C. § 672(a)(d): (Merchant seamen) - Nationality of crews, penalty.
- 46 U.S.C. § 676: (Merchant seamen) - Rules as to list of crew.
- 46 U.S.C. § 677: (Merchant seamen) - production of copy of list on return of vessel; production of persons named.
- 46 U.S.C. § 679: (Merchant seamen) - Transportation of destitute seamen to U.S.
- 46 U.S.C. § 701: (Merchant seamen) - various offenses; penalties (except for assault of officer or mate, etc., where there is possible two year imprisonment).
- 46 U.S.C. § 709: (Merchant seamen) - soliciting seamen as lodgers.
- 46 U.S.C. § 710: (Merchant seamen) - carrying sheath knives.
- 46 U.S.C. § 738(b): (Shipping) - Operator of vessel to give notice of routes; avoidance of ice regions; penalty.
- 46 U.S.C. § 738(c): (Shipping) - speed of vessel in ice region; penalty.
- 46 U.S.C. § 820: (Shipping Act, false, etc.) - reports by carriers required.
- 46 U.S.C. § 883(a): (Merchant Marine Act) - penalty for failure to report.
- 46 U.S.C. § 1132: (American Seamen) - Citizenship of officers and crew; penalty for violations.

Misdemeanors:  
What are they and  
how do we get them?

46 U.S.C. § 1224: (Shipping) - Collusion with respect to bidding.

46 U.S.C. § 1354: Receiving persons on board to be sold as slaves; penalty.

**Title 47**

47 U.S.C. § 22: (Submarine Cable) - negligent injury to; punishment.

47 U.S.C. § 24: (Submarine Cable) - vessels laying cables; signals; avoidance of buoys.

47 U.S.C. § 25: (Submarine Cable) - fishing vessels; duty to keep nets from. cables.

47 U.S.C. § 502: (Wire and radio) - violation of rules and regulations.

47 U.S.C. § 506: (Wire and radio) - coercive practices; penalties.

47 U.S.C. § 507: (Wire and radio) - violation of Great Lakes Agreement.

**Title 49**

49 U.S.C. § 19(a)(k): (Transportation) - Receivers and trustees of carriers affected; non-compliance with law; penalty.

49 U.S.C. § 322: (Interstate Commerce Act, Part II, Motor Carriers) -unlawful operations (with respect to unjust discrimination, only first offense; subsequent offenses may incur \$2,000 fine).

49 U.S.C. § 917: (Interstate Commerce Act, Part III, Water Carriers) -unlawful acts and penalties.

49 U.S.C. § 1021: (Interstate Commerce Act, Part IV; Freight forwarders) -unlawful acts and penalties.

49 U.S.C. § 1159: (International Aviation Facilities) - powers, penalties.

49 U.S.C. § 1472(a)(10)(m): (Federal Aviation Program) - Criminal penalties, generally.

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Append. 473: (Department of Defense) - regulations governing liquor, sales; penalties.

Append. 530: Eviction of distress during military service; stay; penalty for noncompliance.

Append. 535: (Soldiers and Sailors' Civil Relief Act) - Protection of assignor of life insurance policy; enforcement of storage liens; penalties.

Append. 783: (Defense installations, etc., photographing, etc.) -penalties for violations.

Append. 2165: (Defense Production Act) - persons disqualified for employment; penalties.

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Append. 2284: (Civil Defense) - Identify insignia; manufacture, possession, or wearing; penalties.

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## APPENDIX C

### SELECTED STATUTES AND RULES

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#### § 3006A. Adequate representation of defendants

- (1) Representation shall be provided for any financially eligible person who--
- (A) is charged with a felony or a Class A misdemeanor;
  - (B) is a juvenile alleged to have committed an act of juvenile delinquency as defined in section 5031 of this title;
  - (C) is charged with a violation of probation;
  - (D) is under arrest, when such representation is required by law;
  - (E) is charged with a violation of supervised release or faces modification, reduction, or enlargement of a condition, or extension or revocation of a term of supervised release;
  - (F) is subject to a mental condition hearing under chapter 313 of this title;
  - (G) is in custody as a material witness;
  - (H) is entitled to appointment of counsel under the sixth amendment to the Constitution;
  - (I) faces loss of liberty in a case, and Federal law requires the appointment of counsel; or
  - (J) is entitled to the appointment of counsel under section 4109 of this title.
- (2) Whenever the United States magistrate or the court determines that the interests of justice so require, representation may be provided for any financially eligible person who--
- (A) is charged with a Class B or C misdemeanor, or an infraction for which a sentence to confinement is authorized; or
- (b) Appointment of counsel.**--Counsel furnishing representation under the plan shall be selected from a panel of attorneys designated or approved by the court, or from a bar association, legal aid agency, or defender organization furnishing representation pursuant to the plan. In every case in which a person entitled to representation under a plan approved under subsection (a) appears without counsel, the United States magistrate or the court shall advise the person that he has the right to be represented by counsel and that counsel will be appointed to represent him if he is financially unable to obtain counsel. Unless the person waives representation by counsel, the United States magistrate or the court, if satisfied after appropriate inquiry that the person is financially unable to obtain counsel, shall appoint counsel to represent him. Such

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appointment may be made retroactive to include any representation furnished pursuant to the plan prior to appointment. The United States magistrate or the court shall appoint separate counsel for persons having interests that cannot properly be represented by the same counsel, or when other good cause is shown.

**(c) Duration and substitution of appointments.**--A person for whom counsel is appointed shall be represented at every stage of the proceedings from his initial appearance before the United States magistrate or the court through appeal, including ancillary matters appropriate to the proceedings. If at any time after the appointment of counsel the United States magistrate or the court finds that the person is financially able to obtain counsel or to make partial payment for the representation, it may terminate the appointment of counsel or authorize payment as provided in subsection (f), as the interests of justice may dictate. If at any stage of the proceedings, including an appeal, the United States magistrate or the court finds that the person is financially unable to pay counsel whom he had retained, it may appoint counsel as provided in subsection (b) and authorize payment as provided in subsection (d), as the interests of justice may dictate. The United States magistrate or the court may, in the interests of justice, substitute one appointed counsel for another at any stage of the proceedings.

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**§ 3041. Power of courts and magistrates**

For any offense against the United States, the offender may, by any justice or judge of the United States, or by any United States magistrate, or by any chancellor, judge of a supreme or superior court, chief or first judge of common pleas, mayor of a city, justice of the peace, or other magistrate, of any state where the offender may be found, and at the expense of the United States, be arrested and imprisoned or released as provided in chapter 207 of this title, as the case may be, for trial before such court of the United States as by law has cognizance of the offense. Copies of the process shall be returned as speedily as may be into the office of the clerk of such court, together with the recognizances of the witnesses for their appearances to testify in the case.

A United States judge or magistrate shall proceed under this section according to rules promulgated by the Supreme Court of the United States. Any state judge or magistrate acting hereunder may proceed according to the usual mode of procedure of his state but his acts and orders shall have no effect beyond determining, pursuant to the provisions of section 3142 of this title, whether to detain or conditionally release the prisoner prior to trial or to discharge him from arrest.

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**§ 3060. Preliminary examination**

**(a)** Except as otherwise provided by this section, a preliminary examination shall be held within the time set by the judge or magistrate pursuant to subsection (b) of this section, to determine whether there is probable cause to believe that an offense has been committed and that the arrested person has committed it.

**(b)** The date for the preliminary examination shall be fixed by the judge or magistrate at the initial appearance of the arrested person. Except as provided by subsection (c) of this section, or unless the arrested person waives the preliminary examination, such examination shall be held within a reasonable time following initial appearance, but in any event not later than--

**(1)** the tenth day following the date of the initial appearance of the arrested person before such officer if the arrested person is held in custody without any provision for release, or is held in custody for failure to meet the conditions of release imposed, or is released from custody only during specified hours of the day; or

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(2) the twentieth day following the date of the initial appearance if the arrested person is released from custody under any condition other than a condition described in paragraph (1) of this subsection.

(c) With the consent of the arrested person, the date fixed by the judge or magistrate for the preliminary examination may be a date later than that prescribed by subsection (b), or may be continued one or more times to a date subsequent to the date initially fixed therefor. In the absence of such consent of the accused, the date fixed for the preliminary hearing may be a date later than that prescribed by subsection (b), or may be continued to a date subsequent to the date initially fixed therefor, only upon the order of a judge of the appropriate United States district court after a finding that extraordinary circumstances exist, and that the delay of the preliminary hearing is indispensable to the interests of justice.

(d) Except as provided by subsection (e) of this section, an arrested person who has not been accorded the preliminary examination required by subsection (a) within the period of time fixed by the judge or magistrate in compliance with subsections (b) and (c), shall be discharged from custody or from the requirement of bail or any other condition of release, without prejudice, however, to the institution of further criminal proceedings against him upon the charge upon which he was arrested.

(e) No preliminary examination in compliance with subsection (a) of this section shall be required to be accorded an arrested person, nor shall such arrested person be discharged from custody or from the requirement of bail or any other condition of release pursuant to subsection (d), if at any time subsequent to the initial appearance of such person before a judge or magistrate and prior to the date fixed for the preliminary examination pursuant to subsections (b) and (c) an indictment is returned or, in appropriate cases, an information is filed against such person in a court of the United States.

(f) Proceedings before United States magistrates under this section shall be taken down by a court reporter or recorded by suitable sound recording equipment. A copy of the record of such proceeding shall be made available at the expense of the United States to a person who makes affidavit that he is unable to pay or give security therefor, and the expense of such copy shall be paid by the Director of the Administrative Office of the United States Courts.

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**§ 3118. Implied consent for certain tests**

(a) **Consent.**--Whoever operates a motor vehicle in the special maritime and territorial jurisdiction of the United States consents thereby to a chemical test or tests of such person's blood, breath, or urine, if arrested for any offense arising from such person's driving while under the influence of a drug or alcohol in such jurisdiction. The test or tests shall be administered upon the request of a police officer having reasonable grounds to believe the person arrested to have been driving a motor vehicle upon the special maritime and territorial jurisdiction of the United States while under the influence of drugs or alcohol in violation of the laws of a State, territory, possession, or district.

(b) **Effect of Refusal.**--Whoever, having consented to a test or tests by reason of subsection (a), refuses to submit to such a test or tests, after having first been advised of the consequences of such a refusal, shall be denied the privilege of operating a motor vehicle upon the special maritime and territorial jurisdiction of the United States during the period of a year commencing on the date of arrest upon which such test or tests was refused, and such refusal may be admitted into evidence in any case arising from such person's driving while under the influence of a drug or alcohol in such jurisdiction. Any person who operates a motor vehicle in the special maritime and territorial

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jurisdiction of the United States after having been denied such privilege under this subsection shall be treated for the purposes of any civil or criminal proceedings arising out of such operation as operating such vehicle without a license to do so.

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**§ 3401. Misdemeanors; application of probation laws**

(a) When specially designated to exercise such jurisdiction by the district court or courts he serves, any United States magistrate shall have jurisdiction to try persons accused of, and sentence persons convicted of, misdemeanors committed within that judicial district.

(b) Any person charged with a misdemeanor, other than a petty offense that is a class B misdemeanor charging a motor vehicle offense, a class C misdemeanor, or an infraction, may elect, however, to be tried before a district judge for the district in which the offense was committed. The magistrate judge shall carefully explain to the defendant that he has a right to trial, judgment, and sentencing by a district judge and that he may have a right to trial by jury before a district judge or magistrate judge. The magistrate judge may not proceed to try the case unless the defendant, after such explanation, expressly consents to be tried before the magistrate judge and expressly and specifically waives trial, judgment, and sentencing by a district judge. Any such consent and waiver shall be made in writing or orally on the record.

(c) A magistrate who exercises trial jurisdiction under this section, and before whom a person is convicted or pleads either guilty or nolo contendere, may, with the approval of a judge of the district court, direct the probation service of the court to conduct a presentence investigation on that person and render a report to the magistrate prior to the imposition of sentence.

(d) The probation laws shall be applicable to persons tried by a magistrate under this section, and such officer shall have power to grant probation and to revoke, modify, or reinstate the probation of any person granted probation by a magistrate judge.

(e) Proceedings before United States magistrates under this section shall be taken down by a court reporter or recorded by suitable sound recording equipment. For purposes of appeal a copy of the record of such proceedings shall be made available at the expense of the United States to a person who makes affidavit that he is unable to pay or give security therefor, and the expense of such copy shall be paid by the Director of the Administrative Office of the United States Courts.

(f) The district court may order that proceedings in any misdemeanor case be conducted before a district judge rather than a United States magistrate upon the court's own motion or, for good cause shown, upon petition by the attorney for the Government. Such petition should note the novelty, importance, or complexity of the case, or other pertinent factors, and be filed in accordance with regulations promulgated by the Attorney General.

(g) The magistrate judge may, in a petty offense case involving a juvenile, that is a class B misdemeanor charging a motor vehicle offense, a class C misdemeanor, or an infraction, exercise all powers granted to the district court under chapter 403 of this title. The magistrate judge may, in any other class B or C misdemeanor case involving a juvenile in which consent to trial before a magistrate judge has been filed under subsection (b), exercise all powers granted to the district court under chapter 403 of this title. For purposes of this subsection, proceedings under chapter 403 of this title may be instituted against a juvenile by a violation notice or complaint, except that no such case may proceed unless the certification referred to in section 5032 of this title has been filed in open court at the arraignment. No term of imprisonment shall be imposed by the magistrate in any such case.

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(h) The magistrate judge shall have power to modify, revoke, or terminate supervised release of any person sentenced to a term of supervised release by a magistrate judge.

(i) A district judge may designate a magistrate judge to conduct hearings to modify, revoke, or terminate supervised release, including evidentiary hearings, and to submit to the judge proposed findings of fact and recommendations for such modification, revocation, or termination by the judge, including, in the case of revocation, a recommended disposition under section 3583(e) of this title. The magistrate judge shall file his or her proposed findings and recommendations.

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**§ 3607. Special probation and expungement procedures for drug possessors**

**(a) Pre-judgment probation.**--If a person found guilty of an offense described in section 404 of the Controlled Substances Act (21 U.S.C. 844)--

(1) has not, prior to the commission of such offense, been convicted of violating a Federal or State law relating to controlled substances; and

(2) has not previously been the subject of a disposition under this subsection;

the court may, with the consent of such person, place him on probation for a term of not more than one year without entering a judgment of conviction. At any time before the expiration of the term of probation, if the person has not violated a condition of his probation, the court may, without entering a judgment of conviction, dismiss the proceedings against the person and discharge him from probation. At the expiration of the term of probation, if the person has not violated a condition of his probation, the court shall, without entering a judgment of conviction, dismiss the proceedings against the person and discharge him from probation. If the person violates a condition of his probation, the court shall proceed in accordance with the provisions of section 3565.

**(b) Record of disposition.**--A nonpublic record of a disposition under subsection (a), or a conviction that is the subject of an expungement order under subsection (c), shall be retained by the Department of Justice solely for the purpose of use by the courts in determining in any subsequent proceeding whether a person qualifies for the disposition provided in subsection (a) or the expungement provided in subsection (c). A disposition under subsection (a), or a conviction that is the subject of an expungement order under subsection (c), shall not be considered a conviction for the purpose of a disqualification or a disability imposed by law upon conviction of a crime, or for any other purpose.

**(c) Expungement of record of disposition.**--If the case against a person found guilty of an offense under section 404 of the Controlled Substances Act (21 U.S.C. 844) is the subject of a disposition under subsection (a), and the person was less than twenty-one years old at the time of the offense, the court shall enter an expungement order upon the application of such person. The expungement order shall direct that there be expunged from all official records, except the nonpublic records referred to in subsection (b), all references to his arrest for the offense, the institution of criminal proceedings against him, and the results thereof. The effect of the order shall be to restore such person, in the contemplation of the law, to the status he occupied before such arrest or institution of criminal proceedings. A person concerning whom such an order has been entered shall not be held thereafter under any provision of law to be guilty of perjury, false swearing, or making a false statement by reason of his failure to recite

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or acknowledge such arrests or institution of criminal proceedings, or the results thereof, in response to an inquiry made of him for any purpose.

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**§ 3614. Resentencing upon failure to pay a fine or restitution**

**(a) Resentencing.**--Subject to the provisions of subsection (b), if a defendant knowingly fails to pay a delinquent fine or restitution the court may resentence the defendant to any sentence which might originally have been imposed.

**(b) Imprisonment.**--The defendant may be sentenced to a term of imprisonment under subsection (a) only if the court determines that--

**(1)** the defendant willfully refused to pay the delinquent fine or had failed to make sufficient bona fide efforts to pay the fine; or

**(2)** in light of the nature of the offense and the characteristics of the person, alternatives to imprisonment are not adequate to serve the purposes of punishment and deterrence.

**(c) Effect of indigency.**--In no event shall a defendant be incarcerated under this section solely on the basis of inability to make payments because the defendant is indigent.

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**§ 3663. Order of restitution**

**(a)(1)(A)** The court, when sentencing a defendant convicted of an offense under this title, section 401, 408(a), 409, 416, 420, or 422(a) of the Controlled Substances Act (21 U.S.C. 841, 848(a), 849, 856, 861, 863) (but in no case shall a participant in an offense under such sections be considered a victim of such offense under this section), or section 46312, 46502, or 46504 of title 49, other than an offense described in section 3663A(c), may order, in addition to or, in the case of a misdemeanor, in lieu of any other penalty authorized by law, that the defendant make restitution to any victim of such offense, or if the victim is deceased, to the victim's estate. The court may also order, if agreed to by the parties in a plea agreement, restitution to persons other than the victim of the offense.

**(B)(i)** The court, in determining whether to order restitution under this section, shall consider--

**(I)** the amount of the loss sustained by each victim as a result of the offense; and

**(II)** the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate.

**(ii)** To the extent that the court determines that the complication and prolongation of the sentencing process resulting from the fashioning of an order of restitution under this section outweighs the need to provide restitution to any victims, the court may decline to make such an order.

**(2)** For the purposes of this section, the term "victim" means a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered including, in the case of an offense that

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involves as an element a scheme, conspiracy, or pattern of criminal activity, any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern. In the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, may assume the victim's rights under this section, but in no event shall the defendant be named as such representative or guardian.

**(3)** The court may also order restitution in any criminal case to the extent agreed to by the parties in a plea agreement.

**(b)** The order may require that such defendant--

**(1)** in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense--

**(A)** return the property to the owner of the property or someone designated by the owner; or

**(B)** if return of the property under subparagraph (A) is impossible, impractical, or inadequate, pay an amount equal to the greater of--

**(i)** the value of the property on the date of the damage, loss, or destruction, or

**(ii)** the value of the property on the date of sentencing,

less the value (as of the date the property is returned) of any part of the property that is returned;

**(2)** in the case of an offense resulting in bodily injury to a victim including an offense under chapter 109A or chapter 110--

**(A)** pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;

**(B)** pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and

**(C)** reimburse the victim for income lost by such victim as a result of such offense;

**(3)** in the case of an offense resulting in bodily injury also results in the death of a victim, pay an amount equal to the cost of necessary funeral and related services;

**(4)** in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and

**(5)** in any case, if the victim (or if the victim is deceased, the victim's estate) consents, make restitution in services in lieu of money, or make restitution to a person or organization designated by the victim or the estate.

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**(c)(1)** Notwithstanding any other provision of law (but subject to the provisions of subsections (a)(1)(B)(i)(II) and (ii), [FN1] when sentencing a defendant convicted of an offense described in section 401, 408(a), 409, 416, 420, or 422(a) of the Controlled Substances Act (21 U.S.C. 841, 848(a), 849, 856, 861, 863), in which there is no identifiable victim, the court may order that the defendant make restitution in accordance with this subsection.

**(2)(A)** An order of restitution under this subsection shall be based on the amount of public harm caused by the offense, as determined by the court in accordance with guidelines promulgated by the United States Sentencing Commission.

**(B)** In no case shall the amount of restitution ordered under this subsection exceed the amount of the fine ordered for the offense charged in the case.

**(3)** Restitution under this subsection shall be distributed as follows:

**(A)** 65 percent of the total amount of restitution shall be paid to the State entity designated to administer crime victim assistance in the State in which the crime occurred.

**(B)** 35 percent of the total amount of restitution shall be paid to the State entity designated to receive Federal substance abuse block grant funds.

**(4)** The court shall not make an award under this subsection if it appears likely that such award would interfere with a forfeiture under chapter 46 or chapter 96 of this title or under the Controlled Substances Act (21 U.S.C. 801 et seq.).

**(5)** Notwithstanding section 3612(c) or any other provision of law, a penalty assessment under section 3013 or a fine under subchapter C of chapter 227 shall take precedence over an order of restitution under this subsection.

**(6)** Requests for community restitution under this subsection may be considered in all plea agreements negotiated by the United States.

**(7)(A)** The United States Sentencing Commission shall promulgate guidelines to assist courts in determining the amount of restitution that may be ordered under this subsection.

**(B)** No restitution shall be ordered under this subsection until such time as the Sentencing Commission promulgates guidelines pursuant to this paragraph.

**(d)** An order of restitution made pursuant to this section shall be issued and enforced in accordance with section 3664.

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**FEDERAL RULES OF CRIMINAL PROCEDURE**

**Rule 38. Stay of Execution**

(a) Death. A sentence of death shall be stayed if an appeal is taken from the conviction sentence.

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(b) Imprisonment. A sentence of imprisonment shall be stayed if an appeal is taken from the conviction or sentence and the defendant is released pending disposition of appeal pursuant to Rule 9(b) of the Federal Rules of Appellate Procedure. If not stayed, the court may recommend to the Attorney General that the defendant be retained at, or transferred to, a place of confinement near the place of trial or the place where an appeal is to be heard, for a period reasonable necessary to permit the defendant to assist in the preparation of an appeal to the court of appeals.

(c) Fine. A sentence to pay a fine or a fine and costs, if an appeal is taken, may be stayed by the district court or by the court of appeals upon such terms as the court deems proper. The court may require the defendant pending appeal to deposit the whole or any part of the fine and costs in the registry of the district court, or to give bond for the payment thereof, or to submit to an examination of assets, and it may make any appropriate order to restrain the defendant from dissipating such defendant's assets.

(d) Probation. A sentence of probation may be stayed if an appeal from the conviction of sentence is taken. If the sentence is stayed, the court shall fix the terms of the stay.

(e) Criminal forfeiture, notice to victims and restitution. A sanction imposed as part of the sentence pursuant to 18 U.S.C. 3554, 3555, or 3556 may, if an appeal of the conviction sentence is taken, be stayed by the district court or by the court of appeals upon such term the court finds appropriate. The court may issue such orders as may be reasonably necessary to ensure compliance with the sanction upon disposition of the appeal, including the entering of a restraining order or an injunction or requiring a deposit in whole or in of the monetary amount involved into the registry of the district court or execution of a performance bond.

(f) Disabilities. A civil or employment disability under a Federal statute by reason of the defendant's conviction or sentence, may, if an appeal is taken, be stayed by the court or by the court of appeals upon such terms as the court finds appropriate. The court may enter a restraining order or an injunction, or take any other action that may be reasonably necessary to protect the interest represented by the disability pending disposition of the appeal.

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**Rule 58. Procedure for Misdemeanors and Other Petty Offenses**

(a) Scope.

(1) In general. This rule governs the procedure and practice for the conduct of proceedings involving misdemeanors and other petty offenses, and for appeals to judges of the district courts in such cases tried by United States magistrate judges.

(2) Applicability of other Federal Rules of Criminal Procedure. In proceedings concerning petty offenses for which no sentence of imprisonment will be imposed the court may follow such provisions of these rules as it deems appropriate, to the extent not inconsistent with this rule. In all other proceedings the other rules govern except as specifically provided in this rule.

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(3) Definition. The term "petty offenses for which no sentence of imprisonment will be imposed" as used in this rule, means any petty offense as defined in 18 U.S.C. § 19 as to which the court determines, that, in the event of conviction, no sentence of imprisonment will actually be imposed.

(b) Pretrial procedures.

(1) Trial document. The trial of a misdemeanor may proceed on an indictment, information, or complaint or, in the case of a petty offense, on a citation or violation notice.

(2) Initial appearance. At the defendant's initial appearance on a misdemeanor or other petty offense charge, the court shall inform the defendant of:

(A) the charge, and the maximum possible penalties provided by law, including payment of a special assessment under 18 U.S.C. § 3013, and restitution under 18 U.S.C. § 3663;

(B) the right to retain counsel;

(C) unless the charge is a petty offense for which appointment of counsel is not required, the right to request the assignment of counsel if the defendant is unable to obtain counsel;

(D) the right to remain silent and that any statement made by the defendant may be used against the defendant;

(E) the right to trial, judgment, and sentencing before a judge of the district court, unless the defendant consents to trial, judgment, and sentencing before a magistrate judge;

(F) unless the charge is a petty offense, the right to trial by jury before either a United States magistrate judge or a judge of the district court; and

(G) if the defendant is held in custody and charged with a misdemeanor other than a petty offense, the right to a preliminary examination in accordance with 18 U.S.C. § 3060, and the general circumstances under which the defendant may secure pretrial release.

(3) Consent and arraignment.

(A) Trial before a United States magistrate judge. If the defendant signs a written consent to be tried before the magistrate judge which specifically waives trial before a judge of the district court, the magistrate judge shall take the defendant's plea. The defendant may plead not guilty, guilty, or with the consent of the magistrate judge, *nolo contendere*.

(B) Failure to consent. If the defendant does not consent to trial before the magistrate judge, the defendant shall be ordered to appear before a judge of the district court for further proceedings on notice.

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(c) Additional procedures applicable only to petty offense for which no sentence of imprisonment will be imposed. With respect to petty offenses for which no sentence of imprisonment will be imposed, the following additional procedures are applicable:

(1) Plea of guilty or nolo contendere. No plea of guilty or nolo contendere shall be accepted unless the court is satisfied that the defendant understands the nature of the charge and the maximum possible penalties provided by law.

(2) Waiver of venue for plea and sentence. A defendant who is arrested, held, or present in a district other than that in which the indictment, information, complaint, citation or violation notice is pending against that defendant may state in writing a wish to plead guilty or nolo contendere, to waive venue and trial in the district in which the proceeding is pending, and to consent to disposition of the case in the district in which that defendant was arrested, is held, or is present. Unless the defendant thereafter pleads not guilty, the prosecution shall be had as if venue were in such district, and notice of the same shall be given to the magistrate judge in the district where the proceeding was originally commenced. The defendant's statement of a desire to plead guilty or nolo contendere is not admissible

against the defendant.

(3) Sentence. The court shall afford the defendant an opportunity to be heard in mitigation. The court shall then immediately proceed to sentence the defendant, except that in the discretion of the court, sentencing may be continued to allow an investigation by the probation service or submission of additional information by either party.

(4) Notification of right to appeal. After imposing sentence in a case which has gone to trial on a plea of not guilty, the court shall advise the defendant of the defendant's right to appeal including any right to appeal the sentence. There shall be no duty on the court to advise the defendant of any right of appeal after sentence is imposed following a plea of guilty or nolo contendere, except that the court shall advise the defendant of any right to appeal the sentence.

(d) Securing the defendant's appearance; payment in lieu of appearance.

(1) Forfeiture of Collateral. When authorized by local rules of the district court, payment of a fixed sum may be accepted in suitable cases in lieu of appearance and as authorizing the termination of the proceedings. Local rules may make provision for increases in fixed sums not to exceed the maximum fine which could be imposed.

(2) Notice to Appear. If a defendant fails to pay a fixed sum, request a hearing, or appear in response to a citation or violation notice, the clerk or a magistrate judge may issue a notice for the defendant to appear before the court on a date certain. The notice may also afford the defendant an additional opportunity to pay a fixed sum in lieu of appearance, and shall be served upon the defendant by mailing a copy to the defendant's last known address.

(3) Summons or Warrant. Upon an indictment or a showing by one of the other documents specified in subdivision (b)(1) of probable cause to believe that an offense has been committed and that the defendant has

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committed it, the court may issue an arrest warrant or, if no warrant is requested by the attorney for the prosecution, a summons. The showing of probable cause shall be made in writing upon oath or under penalty for perjury, but the affiant need not appear before the court. If the defendant fails to appear before the court in response to a summons, the court may summarily issue a warrant for the defendant's immediate arrest and appearance before the court.

(e) Record. Proceedings under this rule shall be taken down by a reporter or recorded by suitable sound equipment.

(f) New trial. The provisions of Rule 33 shall apply.

(g) Appeal.

(1) Decision, order, judgment or sentence by a district judge. An appeal from a decision, order, judgment or conviction or sentence by a judge of the district court shall be taken in accordance with the Federal Rules of Appellate Procedure.

(2) Decision, order, judgment or sentence by a United States magistrate judge.

(A) Interlocutory appeal. A decision or order by a magistrate judge which, if made by a judge of the district court, could be appealed by the government or defendant under any provision of law, shall be subject to an appeal to a judge of the district court provided such appeal is taken within 10 days of the entry of the decision or order. An appeal shall be taken by filing with the clerk of court a statement specifying the decision or order from which an appeal is taken and by serving a copy of the statement upon the adverse party, personally or by mail, and by filing a copy with the magistrate judge.

(B) Appeal from conviction or sentence. An appeal from a judgment of conviction sentence by a magistrate judge to a judge of the district court shall be taken within 10 days after entry of the judgment. An appeal shall be taken by filing with the clerk of court a statement specifying the judgment from which an appeal is taken, and by serving a copy of the statement upon the United States Attorney, personally or by mail, and by filing a copy with the magistrate judge.

(C) Record. The record shall consist of the original papers and exhibits in the case together with any transcript, tape, or other recording of the proceedings and a certified copy of the docket entries which shall be transmitted promptly to the clerk of court. For purposes of the appeal, a copy of the record of such proceedings shall be made available at the expense of the United States to a person who establishes by affidavit the inability to pay or give security therefor, and the expense of such copy shall be paid by the Director of the Administrative Office of the United States Courts.

(D) Scope of appeal. The defendant shall not be entitled to a trial de novo by a judge of the district court. The scope of the appeal shall be the same as an appeal from a judgment of a district court to a court of appeals.

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(3) Stay of execution; release pending appeal. The provisions of Rule 38 relating to stay of execution shall be applicable to a judgment of conviction or sentence. The defendant may be released pending appeal in accordance with the provisions of law relating to release pending appeal from a judgment of a district court to a court of appeals.