

persons from the punishment provisions of this section. The Articles of War and Articles for the Government of the Navy are sufficiently complete in themselves to authorize the adequate punishment of military or naval personnel for violations of general criminal statutes as well as for disobedience of orders. See Articles of War, Article 96, section 1568 of title 10, U.S.C., 1940 ed., Army, and Articles for the Government of the Navy, Articles 1, 4, 22, 23, section 1200, of title 34, U.S.C., 1940 ed., Navy.

The revised section, in this respect, places violations on the same basis as other misdemeanors in violation of the general statutes of the United States and authorizes punishment of persons subject to military or naval law under such law, or in case the military or naval authorities turn the violator over to the civil authorities, the trial and punishment may be under the general law.

The phrase “and/or” appearing twice in section 581a of title 18, U.S.C., 1940 ed., was deleted to avoid uncertainty and ambiguity.

Words “shall be deemed guilty of a misdemeanor” were omitted because of definition of misdemeanor in section 1 of this title.

Changes were made in phraseology.

1949 ACT

This section [section 35] makes the following changes in section 1384 of title 18, U.S.C.:

1. In the first paragraph, substitutes “Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, and any two or all of them” for “Secretary of the Army or the Secretary of the Navy, or both”, and substitutes “Army, the Navy, or the Air Force,” for “Army or the Navy, or both,” in view of the establishment in 1947 of the Department of the Air Force, headed by a Secretary.

2. In the second paragraph, substitutes “The Secretaries of the Army, Navy, and Air Force” for “The Secretaries of the Army, and Navy”, for the same reason given in item 1 above.

3. In the third paragraph, substitutes “Department of the Army, Navy, or Air Force” for “War or Navy Department” for the same reason given in item 1 above.

AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$1,000” in first par.

1949—Act May 24, 1949, made section applicable to the Air Force which was established as a separate department in 1947, headed by a Secretary.

TRANSFER OF FUNCTIONS

Secretary and Department of Health, Education, and Welfare redesignated Secretary and Department of Health and Human Services by section 3508(b) of Title 20, Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

§ 1385. Use of Army and Air Force as posse comitatus

Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined under this title or imprisoned not more than two years, or both.

(Added Aug. 10, 1956, ch. 1041, §18(a), 70A Stat. 626; amended Pub. L. 86-70, §17(d), June 25, 1959,

73 Stat. 144; Pub. L. 103-322, title XXXIII, §330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1385 .....	10:15.	June 18, 1878, ch. 263, §15, 20 Stat. 152; Mar. 3, 1899, ch. 429, §363 (proviso); added June 6, 1900, ch. 786, §29 (less last proviso), 31 Stat. 330.

This section is revised to conform to the style and terminology used in title 18. It is not enacted as a part of title 10, United States Code, since it is more properly allocated to title 18.

AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$10,000”.

1959—Pub. L. 86-70 struck out provisions which made section inapplicable in Alaska.

§ 1386. Keys and keyways used in security applications by the Department of Defense

(a)(1) Whoever steals, purloins, embezzles, or obtains by false pretense any lock or key to any lock, knowing that such lock or key has been adopted by any part of the Department of Defense, including all Department of Defense agencies, military departments, and agencies thereof, for use in protecting conventional arms, ammunition or explosives, special weapons, and classified information or classified equipment shall be punished as provided in subsection (b).

(2) Whoever—

(A) knowingly and unlawfully makes, forges, or counterfeits any key, knowing that such key has been adopted by any part of the Department of Defense, including all Department of Defense agencies, military departments, and agencies thereof, for use in protecting conventional arms, ammunition or explosives, special weapons, and classified information or classified equipment; or

(B) knowing that any lock or key has been adopted by any part of the Department of Defense, including all Department of Defense agencies, military departments, and agencies thereof, for use in protecting conventional arms, ammunition or explosives, special weapons, and classified information or classified equipment, possesses any such lock or key with the intent to unlawfully or improperly use, sell, or otherwise dispose of such lock or key or cause the same to be unlawfully or improperly used, sold, or otherwise disposed of,

shall be punished as provided in subsection (b).

(3) Whoever, being engaged as a contractor or otherwise in the manufacture of any lock or key knowing that such lock or key has been adopted by any part of the Department of Defense, including all Department of Defense agencies, military departments, and agencies thereof, for use in protecting conventional arms, ammunition or explosives, special weapons, and classified information or classified equipment, delivers any such finished or unfinished lock or any such key to any person not duly authorized by the Secretary of Defense or his designated representative to receive the same, unless the per-