

Lying Is a Crime When...

The real lesson of the case, they say, is that it once again proves the potency of a little-known federal law that has become a crucial weapon for prosecutors.

The law, which lawyers usually call 1001, for the section of the federal code that contains it, prohibits lying to any federal agent, even by a person who is not under oath and even by a person who has committed no other crime.

That disturbs civil libertarians, who say that 1001 charges typically criminalize behavior that most people would not recognize as illegal.

"This 1001 law is really a remarkable trap," said Harvey Silverglate, a criminal defense lawyer in Boston.

People lie all the time to colleagues, friends and family, Mr. Silverglate said, and unless they are legal experts they probably do not know that lying to any federal investigator is illegal even if they are not under oath.

And F.B.I. agents and other investigators usually do not tape-record their conversations, so people can be convicted of making false statements based only on an investigator's notes, which may not exactly reflect what was said.

"Any casual conversation between a citizen and a person of the executive branch is fraught with the possibility that you can be convicted of lying," Mr. Silverglate said. If the government wants to make sure it is being told the truth, he added, it should put people under oath. "That's why we have perjury laws - because we tell people this time you're under a special formal obligation to tell the truth," he said. "And by the way, you'll notice it doesn't run in both directions, so a federal agent can lie to you, can trick you, in order to get information."

But prosecutors, and even some defense lawyers, say that 1001 charges are an essential tool that allow the government to punish witnesses or defendants who mislead investigators. Even if the prosecutors eventually decide not to bring criminal charges for the actions that initially prompted their investigation, lying should be taken seriously, Mr. Taube said.

"The fact that lying to the government can be a crime when the government doesn't charge the underlying offense doesn't bother me," he said. "You have an absolute right in this republic not to talk to the government, but it makes sense if you open your mouth that you should choose your words wisely."

Mr. Taube said an important lesson to anyone being interviewed by the F.B.I. or other federal agencies. "Fundamentally, if they make an appointment with you and sit down, you've got to know you're on the record," he said. "With the government, you're always on the record."

[Excerpts:](#) (heavily edited from a Martha Stewart story) NY Times – March 7, 2004 – *There's a Reason Your Mother Told You Not to Lie* – By **ALEX BERENSON**