

Ask the Lawyer: “Little White Lies” Not Worth the Risk of an Article 107

By Mathew B. Tully

Q:

How much trouble would I get into for telling a lie, or stretching the truth, on a military form?

A:

In the military, even what some might consider innocuous “little white lies” can stain your service record.

Any signed official document or official statement made in the line of duty and containing information a service member knows to be false could merit a charge under Article 107 of the Uniform Code of Military Justice, if there is an intention to deceive behind it.

It doesn't even matter if the member stood to gain anything from such deception or whether it was made to a person of higher or lower rank. A lie is a lie, and the military doesn't split hairs on this issue.

While the expectation of material gain is not a component of an Article 107 offense, its existence could be used as circumstantial evidence against a service member in a court-martial.

The reach of Article 107 also extends beyond false statements to other military personnel. A service member's false statements to civilian law enforcement officials also could be considered as having been made “in the line of duty.”

Telling only half the truth is not enough to save you from an Article 107 charge.

For example, people who want to enlist but are worried about past illegal drug use might downplay that — admitting on a Defense Department form to experimenting with marijuana but failing to mention their methamphetamine addiction and treatment in a drug rehab program. That was the case in *U.S. v. Holbrook*, in which a Coast Guardsman was convicted of fraudulent enlistment under Article 83 and false statements under Article 107.

Similarly, in *U.S. v. White*, an airman was sentenced to dismissal after she failed to truthfully answer criminal history questions in a 2007 security clearance application.

She did not mention in the forms that she had faced misdemeanor and felony charges in the mid-1980s, though she had admitted in a 1995 military credentialing form to previously being liable in a civil suit. Service members should not believe they'll get away with lying on official forms if no one calls them on it shortly after a document was submitted.

Article 107 charges tend to crop up after service members get in trouble for unrelated

offenses and military prosecutors take a closer look at their files. Article 107 offenses are punishable by dishonorable or bad-conduct discharges, up to five years of confinement and total forfeiture of all pay and allowances.

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. The information in this column is not intended as legal advice.