

Lying to Civilian May Violate UCMJ

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When would a service member's lie to a civilian count as a false official statement?A.

A service member's lie to a civilian can indeed qualify as a false official statement in violation of Article 107 of the Uniform Code of Military Justice. However, much depends on what the service member says as well as what the civilian is doing at the time of the statement. For a false statement to violate Article 107, it must be "official," meaning it was made in the line of duty. The service member must have known the statement was false and must have had the intent to deceive in making it, according to the Manual for Courts Martial. It is important to note that the government can point to any false statement, whether or not it is material to an investigation or court-martial. In contrast, under federal law, there must be some showing that the statement is material to the case. The big question is whether either the civilian is performing a military function at the time the statement is made, or whether "the statement bears a clear and direct relationship to the speaker's official duties," the U.S. Court of Appeals for the Armed Forces noted in the 2013 case *U.S. v. David G. Spicer Jr.* The bottom line, the court added, is Article 107 concerns "statements affecting military functions." The Spicer case, for example, involved an Army private who told a civilian police detective that his baby sitter kidnapped his son and demanded ransom. When the police grew skeptical of this story, he then claimed to have witnessed a drug deal, and that those drug dealers kidnapped his son. Both of these statements were false. Nevertheless, the court found they did not constitute an Article 107 violation because they were not made in the line of duty and they bore no clear and direct relationship to his official duties. Further, "civilian law enforcement officials ... were not conducting any military function at the time the statements were made." More specifically, the civilian detectives "were not operating a joint investigation with military officials or performing any other military functions." Service members charged with making a false official statement under the UCMJ should immediately contact a military law attorney. Depending on the circumstances, an attorney can show that the service member did not know a statement was false, did not intend to deceive anyone by making it, or that it was not made in the line of duty.