

CONSPIRACY

18 U.S.C. 371 makes it a separate Federal crime or offense for anyone to conspire or agree with someone else to do something which, if actually carried out, would amount to another Federal crime or offense. So, under this law, **a 'conspiracy' is an agreement or a kind of 'partnership' in criminal purposes in which each member becomes the agent or partner of every other member.**

In order to establish a conspiracy offense it is not necessary for the Government to prove that all of the people named in the indictment were members of the scheme; or that those who were members had entered into any formal type of agreement; or that the members had planned together all of the details of the scheme or the 'overt acts' that the indictment charges would be carried out in an effort to commit the intended crime.

Also, because the essence of a conspiracy offense is the making of the agreement itself (followed by the commission of any overt act), it is not necessary for the Government to prove that the conspirators actually succeeded in accomplishing their unlawful plan.

What the evidence in the case must show beyond a reasonable doubt is:

First: That two or more persons, in some way or manner, came to a mutual understanding to try to accomplish a common and unlawful plan, as charged in the indictment;

Second: That the person willfully became a member of such conspiracy;

Third: That one of the conspirators during the existence of the conspiracy knowingly committed at least one of the methods (or 'overt acts') described in the indictment; and

Fourth: That such 'overt act' was knowingly committed at or about the time alleged in an effort to carry out or accomplish some object of the conspiracy.

An 'overt act' is any transaction or event, even one which may be entirely innocent when considered alone, but which is knowingly committed by a conspirator in an effort to accomplish some object of the conspiracy.

A person may become a member of a conspiracy without knowing all of the details of the unlawful scheme, and without knowing who all of the other members are. So, if a person has an understanding of the unlawful nature of a plan and knowingly and willfully joins in that plan on one occasion, that is sufficient to convict him for conspiracy even though he did not participate before, and even though he played only a minor part.

A combination or agreement of two or more persons to join together to attempt to accomplish some unlawful purpose. It is a kind of 'partnership in criminal purposes,' and willful participation in such a scheme or agreement, followed by the commission of an

overt act by one of the conspirators is sufficient to complete the offense of 'conspiracy' itself even though the ultimate criminal object of the conspiracy is not accomplished or carried out. To establish the offense of 'conspiracy' the Government must prove:

(1) That two or more persons in some way or manner, came to a mutual understanding to try to accomplish a common and unlawful plan, as charged in the indictment; (2) That the person willfully became a member of such conspiracy; (3) That one of the conspirators during the existence of the conspiracy knowingly committed at least one of the methods (or 'overt acts') described in the indictment; and (4) That such 'overt act' was knowingly committed at or about the time alleged in an effort to effect or accomplish some object or purpose of the conspiracy.

A person may become a member of a conspiracy without full knowledge of all of the details of the unlawful scheme or the names and identities of all of the other alleged conspirators. So, if a person has an understanding of the unlawful nature of a plan and knowingly and willfully joins in that plan on one occasion, that is sufficient to convict him for conspiracy even though he had not participated before and even though he played only a minor part.

Of course, mere presence at the scene of a transaction or event, or the mere fact that certain persons may have associated with each other, and may have assembled together and discussed common aims and interests, does not necessarily establish proof of a conspiracy. Also, a person who has no knowledge of a conspiracy, but who happens to act in a way which advances some purpose of one, does not thereby become a conspirator.

To remedy these evils the guilty persons may be indicted. Conspiracies against individuals are such as have a tendency to injure them in their persons, reputation, or property.

In order to render the offence complete, there is no occasion that any act should be done in pursuance of the unlawful agreement entered into between the parties, or that anyone should have been defrauded or injured by it. **The conspiracy is the gist of the crime.**

If any two or more persons shall conspire **to cheat and defraud any person of any property, by any means which are in themselves criminal,** or

To cheat and defraud any person of any property, by means which, if executed, would amount to a cheat, or to obtaining property by false pretenses.