Government who is the head, or a person nominated to be head during the pendency of such nomination, of a department listed in section 101 of title 5 or the second ranking official in such department, the Director (or a person nominated to be Director during the pendency of such nomination) or Deputy Director of Central Intelligence, a major Presidential or Vice Presidential candidate (as defined in section 3056 of this title), or a Justice of the United States, as defined in section 451 of title 28, or a person nominated to be a Justice of the United States, during the pendency of such nomination, shall be punished as provided by sections 1111 and 1112 of this title.

(b) Whoever kidnaps any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.

(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished by imprisonment for any term of years or for life.

(d) If two or more persons conspire to kill or kidnap any individual designated in subsection (a) of this section and one or more of such persons do any act to effect the object of the conspiracy, each shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.

(e) Whoever assaults any person designated in subsection (a) of this section shall be fined under this title, or imprisoned not more than one year, or both; and if the assault involved the use of a dangerous weapon, or personal injury results, shall be fined under this title, or imprisoned not more than ten years, or both.

(f) If Federal investigative or prosecutive jurisdiction is asserted for a violation of this section, such assertion shall suspend the exercise of jurisdiction by a State or local authority, under any applicable State or local law, until Federal action is terminated.

(g) Violations of this section shall be investigated by the Federal Bureau of Investigation. Assistance may be requested from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.

(h) In a prosecution for an offense under this section the Government need not prove that the defendant knew that the victim of the offense was an individual protected by this section.

(i) There is extraterritorial jurisdiction over the conduct prohibited by this section.

(Added Pub. L. 91–644, title IV, §15, Jan. 2, 1971, 84 Stat. 1891; amended Pub. L. 97–285, §§1, 2(a), Oct. 6, 1982, 96 Stat. 1219; Pub. L. 99–646, §62, Nov. 10, 1986, 100 Stat. 3614; Pub. L. 100–690, title VII, §7074, Nov. 18, 1988, 102 Stat. 4405; Pub. L. 103–322, title XXXII, §320101(d), title XXXIII, §§330016(1)(K), (L), 330021(1), Sept. 13, 1994, 108 Stat. 2108, 2147, 2150; Pub. L. 104–294, title VI, §604(b)(12)(C), (c)(2), Oct. 11, 1996, 110 Stat. 3507, 3509.)

AMENDMENTS

1996—Subsec. (e). Pub. L. 104–294, §604(c)(2), substituted ''involved the use'' for ''involved in the use''.

Pub. L. 104–294, §604(b)(12)(C), repealed Pub. L. 103–322, §320101(d)(3). See 1994 Amendment note below.

1994—Pub. L. 103–322, §330021(1), substituted ''kidnapping'' for ''kidnaping'' in section catchline.

Subsec. (e). Pub. L. 103–322, §330016(1)(L), substituted ''shall be fined under this title'' for ''shall be fined not more than $10,000'' after ''personal injury results,''.

Pub. L. 103–322, §320101(d)(4), substituted ''imprisoned not more than ten years'' for ''imprisoned for not more than ten years''.

Pub. L. 103–322, §320101(d)(3), which provided for amendment identical to Pub. L. 103–322, §330016(1)(L), above, was repealed by Pub. L. 104–294, §604(b)(12)(C).

Pub. L. 103–322, §320101(d)(2), inserted ''the assault involved in the use of a dangerous weapon, or'' after ''and if''.

Pub. L. 103–322, §§320101(d)(1), 330016(1)(K), amended subsec. (e) identically, substituting ''shall be fined under this title'' for ''shall be fined not more than $5,000'' after ''subsection (a) of this section''.

1988—Subsec. (a). Pub. L. 100–690 inserted a comma after ''section 3056 of this title)''.

1986—Subsec. (a). Pub. L. 99–646, §62(1), inserted ''a major Presidential or Vice Presidential candidate (as defined in section 3056 of this title)''.

Subsec. (h). Pub. L. 99–646, §62(2), substituted ''individual'' for ''official''.

1982—Pub. L. 97–285, §2(a), substituted ''Congressional, Cabinet, and Supreme Court assassination, kidnaping, and assault; penalties'' for ''Congressional assassination, kidnaping, and assault'' in section catchline.

Subsec. (a). Pub. L. 97–285, §1(a), expanded coverage of subsec. (a) to cover the killing of any individual who is a member of the executive branch of the Government and the head, or a person nominated to be head during the pendency of such nomination, of a department listed in section 101 of title 5 or the second ranking official in such department, the Director (or a person nominated to be Director during the pendency of such nomination) or Deputy Director of Central Intelligence, or a Justice of the United States, as defined in section 451 of title 28, or a person nominated to be a Justice of the United States, during the pendency of such nomination.

Subsecs. (h), (i). Pub. L. 97–285, §1(b), added subsecs. (h) and (i).

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of Title 50, War and National Defense.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

REPORT TO MEMBER OF CONGRESS ON INVESTIGATION CONDUCTED SUBSEQUENT TO THREAT ON MEMBER'S LIFE

Pub. L. 95–624, §19, Nov. 9, 1978, 92 Stat. 3466, provided that: ''The Federal Bureau of Investigation shall provide a written report to a Member of Congress on any investigation conducted based on a threat on the Member's life under section 351 of title 18 of the United States Code.''

CHAPTER 19—CONSPIRACY

Sec.
371. Conspiracy to commit offense or to defraud United States.

Sec.
372. Conspiracy to impede or injure officer.
373. Solicitation to commit a crime of violence.

AMENDMENTS

1984—Pub. L. 98–473, title II, § 1003(b), Oct. 12, 1984, 98 Stat. 2138, added item 373.

§ 371. Conspiracy to commit offense or to defraud United States

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both.

If, however, the offense, the commission of which is the object of the conspiracy, is a misdemeanor only, the punishment for such conspiracy shall not exceed the maximum punishment provided for such misdemeanor.

(June 25, 1948, ch. 645, 62 Stat. 701; Pub. L. 103–322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 88, 294 (Mar. 4, 1909, ch. 321, § 37, 35 Stat. 1096; Mar. 4, 1909, ch. 321, § 178a, as added Sept. 27, 1944, ch. 425, 58 Stat. 752).

This section consolidates said sections 88 and 294 of title 18, U.S.C., 1940 ed.

To reflect the construction placed upon said section 88 by the courts the words ''or any agency thereof'' were inserted. (See *Haas v. Henkel*, 1909, 30 S. Ct. 249, 216 U. S. 462, 54 L. Ed. 569, 17 Ann. Cas. 1112, where court said: ''The statute is broad enough in its terms to include any conspiracy for the purpose of impairing, obstructing, or defeating the lawful functions of any department of government.'' Also, see *United States v. Walter*, 1923, 44 S. Ct. 10, 263 U. S. 15, 68 L. Ed. 137, and definitions of department and agency in section 6 of this title.)

The punishment provision is completely rewritten to increase the penalty from 2 years to 5 years except where the object of the conspiracy is a misdemeanor. If the object is a misdemeanor, the maximum imprisonment for a conspiracy to commit that offense, under the revised section, cannot exceed 1 year.

The injustice of permitting a felony punishment on conviction for conspiracy to commit a misdemeanor is described by the late Hon. Grover M. Moscowitz, United States district judge for the eastern district of New York, in an address delivered March 14, 1944, before the section on Federal Practice of the New York Bar Association, reported in 3 Federal Rules Decisions, pages 380–392.

Hon. John Paul, United States district judge for the western district of Virginia, in a letter addressed to Congressman Eugene J. Keogh dated January 27, 1944, stresses the inadequacy of the 2-year sentence prescribed by existing law in cases where the object of the conspiracy is the commission of a very serious offense.

The punishment provision of said section 294 of title 18 was considered for inclusion in this revised section. It provided the same penalties for conspiracy to violate the provisions of certain counterfeiting laws, as are applicable in the case of conviction for the specific violations. Such a punishment would seem as desirable for all conspiracies as for such offenses as counterfeiting and transporting stolen property in interstate commerce.

A multiplicity of unnecessary enactments inevitably leads to confusion and disregard of law. (See reviser's note under section 493 of this title.)

Since consolidation was highly desirable and because of the strong objections of prosecutors to the general application of the punishment provision of said section 294, the revised section represents the best compromise that could be devised between sharply conflicting views.

A number of special conspiracy provisions, relating to specific offenses, which were contained in various sections incorporated in this title, were omitted because adequately covered by this section. A few exceptions were made, (1) where the conspiracy would constitute the only offense, or (2) where the punishment provided in this section would not be commensurate with the gravity of the offense. Special conspiracy provisions were retained in sections 241, 286, 372, 757, 794, 956, 1201, 2271, 2384 and 2388 of this title. Special conspiracy provisions were added to sections 2153 and 2154 of this title.

AMENDMENTS

1994—Pub. L. 103–322 substituted ''fined under this title'' for ''fined not more than $10,000''.

§ 372. Conspiracy to impede or injure officer

If two or more persons in any State, Territory, Possession, or District conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof, or to induce by like means any officer of the United States to leave the place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties, each of such persons shall be fined under this title or imprisoned not more than six years, or both.

(June 25, 1948, ch. 645, 62 Stat. 701; Pub. L. 107–273, div. B, title IV, § 4002(d)(1)(D), Nov. 2, 2002, 116 Stat. 1809.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 54 (Mar. 4, 1909, ch. 321, § 21, 35 Stat. 1092).

Scope of section was enlarged to cover all possessions of the United States. When the section was first enacted in 1861 there were no possessions, and hence the use of the words ''State or Territory'' was sufficient to describe the area then subject to the jurisdiction of the United States. The word ''District'' was inserted by the codifiers of the 1909 Criminal Code.

AMENDMENTS

2002—Pub. L. 107–273 substituted ''under this title'' for ''not more than $5,000''.

§ 373. Solicitation to commit a crime of violence

(a) Whoever, with intent that another person engage in conduct constituting a felony that has as an element the use, attempted use, or threatened use of physical force against property or against the person of another in violation of the laws of the United States, and under circumstances strongly corroborative of that intent, solicits, commands, induces, or otherwise endeavors to persuade such other person to engage in such conduct, shall be imprisoned not more than one-half the maximum term of imprisonment or (notwithstanding section 3571) fined not

more than one-half of the maximum fine prescribed for the punishment of the crime solicited, or both; or if the crime solicited is punishable by life imprisonment or death, shall be imprisoned for not more than twenty years.

(b) It is an affirmative defense to a prosecution under this section that, under circumstances manifesting a voluntary and complete renunciation of his criminal intent, the defendant prevented the commission of the crime solicited. A renunciation is not ''voluntary and complete'' if it is motivated in whole or in part by a decision to postpone the commission of the crime until another time or to substitute another victim or another but similar objective. If the defendant raises the affirmative defense at trial, the defendant has the burden of proving the defense by a preponderance of the evidence.

(c) It is not a defense to a prosecution under this section that the person solicited could not be convicted of the crime because he lacked the state of mind required for its commission, because he was incompetent or irresponsible, or because he is immune from prosecution or is not subject to prosecution.

(Added Pub. L. 98–473, title II, §1003(a), Oct. 12, 1984, 98 Stat. 2138; amended Pub. L. 99–646, §26, Nov. 10, 1986, 100 Stat. 3597; Pub. L. 103–322, title XXXIII, §330016(2)(A), Sept. 13, 1994, 108 Stat. 2148.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–322 inserted ''(notwithstanding section 3571)'' before ''fined not more than one-half''.

1986—Subsec. (a). Pub. L. 99–646 substituted ''property or against the person of another'' for ''the person or property of another'' and inserted ''life imprisonment or'' before ''death''.

CHAPTER 21—CONTEMPTS

Sec.
401. Power of court.
402. Contempts constituting crimes.
403. Protection of the privacy of child victims and child witnesses.

AMENDMENTS

1990—Pub. L. 101–647, title II, §225(b)(2), Nov. 29, 1990, 104 Stat. 4806, added item 403.

1949—Act May 24, 1949, ch. 139, §8(a), (b), 63 Stat. 90, struck out ''CONSTITUTING CRIMES'' in chapter heading and substituted ''Contempts constituting crimes'' for ''Criminal contempts'' in item 402.

§401. Power of court

A court of the United States shall have power to punish by fine or imprisonment, or both, at its discretion, such contempt of its authority, and none other, as—

(1) Misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;

(2) Misbehavior of any of its officers in their official transactions;

(3) Disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

(June 25, 1948, ch. 645, 62 Stat. 701; Pub. L. 107–273, div. B, title III, §3002(a)(1), Nov. 2, 2002, 116 Stat. 1805.)

HISTORICAL AND REVISION NOTES

Based on section 385 of title 28, U.S.C., 1940 ed., Judicial Code and Judiciary (Mar. 3, 1911, ch. 231, §268, 36 Stat. 1163).

Said section 385 conferred two powers. The first part authorizing courts of the United States to impose and administer oaths will remain in title 28, U.S.C., 1940 ed., Judicial Code and Judiciary. The second part relating to contempt of court constitutes this section.

Changes in phraseology and arrangement were made.

AMENDMENTS

2002—Pub. L. 107–273 inserted ''or both,'' after ''fine or imprisonment,'' in introductory provisions.

§402. Contempts constituting crimes

Any person, corporation or association willfully disobeying any lawful writ, process, order, rule, decree, or command of any district court of the United States or any court of the District of Columbia, by doing any act or thing therein, or thereby forbidden, if the act or thing so done be of such character as to constitute also a criminal offense under any statute of the United States or under the laws of any State in which the act was committed, shall be prosecuted for such contempt as provided in section 3691 of this title and shall be punished by a fine under this title or imprisonment, or both.

Such fine shall be paid to the United States or to the complainant or other party injured by the act constituting the contempt, or may, where more than one is so damaged, be divided or apportioned among them as the court may direct, but in no case shall the fine to be paid to the United States exceed, in case the accused is a natural person, the sum of $1,000, nor shall such imprisonment exceed the term of six months.

This section shall not be construed to relate to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States, but the same, and all other cases of contempt not specifically embraced in this section may be punished in conformity to the prevailing usages at law.

For purposes of this section, the term ''State'' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(June 25, 1948, ch. 645, 62 Stat. 701; May 24, 1949, ch. 139, §8(c), 63 Stat. 90; Pub. L. 101–647, title XII, §1205(c), Nov. 29, 1990, 104 Stat. 4830; Pub. L. 103–322, title XXXIII, §§330011(f), 330016(2)(E), Sept. 13, 1994, 108 Stat. 2145, 2148.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on sections 386, 387, 389, and 390a of title 28, U.S.C., 1940 ed., Judicial Code and Judiciary (Oct. 15, 1914, ch. 323, §§1, 21, 22, 24, 38 Stat. 730, 738, 739).

Section 21 of the Clayton Act, section 386 of title 28, U.S.C., 1940 ed., Judicial Code and Judiciary, is here consolidated with parts of sections 1, 22, and 24 of the same act. Section 1 of said act, section 390a of title 28 U.S.C., 1940 ed., Judicial Code and Judiciary, defined person or persons. Section 22 of said act, section 387 of title 28, U.S.C., 1940 ed., Judicial Code and Judiciary,