

Unauthorized Access of a Computer

18 U.S.C. § 1030(a)(2), (a)(4)

Chapter IV, Section F.

Offense under § 1030(a)(2)—Unlawfully accessing or attempting to access a computer to obtain information

Whoever intentionally accesses [or attempts to access] a computer without authorization or exceeds authorized access, and thereby obtains—

(A) information contained in a financial record of a financial institution, or of a card issuer as defined in section 1602(n) of title 15, or contained in a file of a consumer reporting agency on a consumer, as such terms are defined in the Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*)

(B) information from any department or agency of the United States
OR

(C) information from any protected computer

Protected computer: a computer (i) exclusively for the use of a financial institution or the United States Government, or, in the case of a computer not exclusively for such use, used by or for a financial institution or the United States Government and the conduct constituting the offense affects that use by or for the financial institution or the Government; or (ii) which is used in or affecting interstate or foreign commerce or communication, including a computer located outside the United States that is used in a manner that affects interstate or foreign commerce or communication of the United States

Enhancement pursuant to 18 U.S.C. § 1030(c)(2)(B)

(i) the offense was committed for purposes of commercial advantage or private financial gain;

(ii) the offense was committed in furtherance of any criminal or tortious act in violation of the Constitution or laws of the United States or of any State; or

(iii) the value of the information obtained exceeds \$5,000.

Statutory maximum penalty

1 year's imprisonment and fine of \$100,000

Enhanced statutory maximum penalties

5 years' imprisonment (second offense: 10 years' imprisonment) and fine of \$250,000 or twice the gain/loss (individual); fine of \$500,000 or twice the gain/loss (organization)

Guideline section: United States Sentencing Guideline § 2B1.1

Offense under § 1030(a)(4)—Unlawfully accessing or attempting to access a protected computer to further a fraud

Whoever knowingly and with intent to defraud, accesses [or attempts to access] a protected computer without authorization, or exceeds authorized access, and by means of such conduct furthers the intended fraud and obtains anything of value, unless the object of the fraud and the thing obtained consists only of the use of the computer and the value of such use is not more than \$5,000 in any 1-year period.

Statutory maximum penalties

5 years' imprisonment and fine of \$250,000 or twice the gain/loss (first offense), 10 years' imprisonment and fine of \$250,000 or twice the gain/loss (second offense)

Guideline section: United States Sentencing Guideline § 2B1.1

Interstate Transportation, Sale, or Receipt of Stolen Property

18 U.S.C. §§ 2314, 2315

Chapter II, Section F. & Chapter IV, Section F.

Transportation offense under § 2314

Whoever transports, transmits, or transfers in interstate or foreign commerce any goods, wares, merchandise, securities or money, of the value of \$5,000 or more, knowing the same to have been stolen, converted or taken by fraud; or

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transports or causes to be transported, or induces any person or persons to travel in, or to be transported in interstate or foreign commerce in the execution or concealment of a scheme or artifice to defraud that person or those persons of money or property having a value of \$5,000 or more

Sale or receipt offense under § 2315

Whoever receives, possesses, conceals, stores, barters, sells, or disposes of any goods, wares, or merchandise, securities, or money of the value of \$5,000 or more, or pledges or accepts as security for a loan any goods, wares, or merchandise, or securities, of the value of \$500 or more, which have crossed a State or United States boundary after being stolen, unlawfully converted, or taken, knowing the same to have been stolen, unlawfully converted, or taken

Statutory maximum penalties

10 years' imprisonment and fine of \$250,000 (\$500,000 for organizations) or twice the gain/loss

Guideline section: United States Sentencing Guidelines §§ 2B1.1, 2B1.5

Mail and Wire Fraud Statutes

18 U.S.C. §§ 1341, 1343, 1346

Section F. of Chapters II, III, IV, and VI

Mail Fraud Offense Under § 1341

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing

Wire Fraud Offense Under § 1343

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice

Theft of Honest Services Under § 1346

[T]he term “scheme or artifice to defraud” includes a scheme or artifice to deprive another of the intangible right of honest services.

Statutory maximum penalties

20 years’ imprisonment and fine of \$250,000 or twice the gain/loss (individual); fine of \$500,000 or twice the gain/loss (organization)

If affecting a financial institution or in relation to any benefit paid in connection with a presidentially declared major disaster or emergency: 30 years' imprisonment and fine of \$1,000,000 or twice the gain/loss

Guideline section: United States Sentencing Guideline §§ 2B1.1, 2C1.1