

# Treason – Obama – U.S. Law vs. Generally

What is the general definition of treason?

## Definition of Treason

### noun

1. the offense of acting to overthrow one's government or to harm or kill its sovereign.
2. a violation of allegiance to one's sovereign or to one's state or country.
3. the betrayal of a trust or confidence; breach of faith; treachery.

What is the definition of treason per the U.S. Constitution and/or per the most relevant and specific U.S federal statute?

## U.S. Definition of Treason

### U.S. Constitution

Article III, Section 3 of the Constitution narrowly defines treason against the United States as follows: "Treason against the United States shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court."

### Federal Statute (18 U.S.C. § 2381)

Title 18, Section 2381 of the United States Code codifies treason in nearly identical terms and prescribes its penalties: "Whoever, owing allegiance to the United States, levies war against them or adheres to their enemies, giving them aid and comfort within the United States or elsewhere, is guilty of treason and shall suffer death, or shall be imprisoned not less than five years and fined under this title but not less than \$10,000; and shall be incapable of holding any office under the United States."

So both the Constitution and federal law agree on the core elements: levying war or aiding enemies, with high evidentiary standards and severe penalties.

## Additional Context

- Evidentiary requirements for conviction
  - Testimony of two witnesses to the same overt act or
  - Open-court confession
- Punishments under federal law
  - Death penalty (rarely imposed)

- Minimum five years' imprisonment
- Minimum \$10,000 fine
- Lifetime disqualification from federal office
- Related offenses often charged instead of treason include seditious conspiracy (18 U.S.C. § 2384) and rebellion or insurrection (18 U.S.C. § 2383), which carry lower evidentiary burdens and statutory penalties.

**Note:** To convict someone of treason requires either:

- Testimony of two witnesses to the same overt act, or
- Confession in open court.

This strict definition was designed to prevent the government from abusing treason charges to silence dissent or political opposition.

[What is the definition of sedition per the same resources?](#)

## Definition of Sedition

### U.S. Constitution

The Constitution does not expressly define “sedition.” The closest it comes is in Article I, Section 9’s Suspension Clause—allowing suspension of the writ of habeas corpus “when in Cases of Rebellion or Invasion”—but it leaves the precise meaning of sedition to Congress.

### Federal Statutes

#### 18 U.S.C. § 2384 – Seditious Conspiracy

“If two or more persons ... conspire to overthrow, put down, or to destroy by force the Government of the United States, or to levy war against them, or to oppose by force the authority thereof, or by force to prevent, hinder, or delay the execution of any law of the United States, or by force to seize, take, or possess any property of the United States contrary to the authority thereof, they shall each be fined under this title or imprisoned not more than twenty years, or both.”

#### 18 U.S.C. § 2385 – Advocating Overthrow of Government

“Whoever knowingly or willfully advocates, abets, advises, or teaches the duty, necessity, desirability, or propriety of overthrowing or destroying the Government of the United States ... by force or violence ... shall be fined under this title or imprisoned not more than twenty years, or both, and shall be ineligible for employment by the United States ... for the five years next following his conviction.”

## Constitutional Context

Unlike treason, sedition is not defined in the U.S. Constitution. However, it has been shaped by judicial interpretation and historical statutes like the **Alien and Sedition Acts of 1798** and the **Sedition Act of 1918**, both of which were controversial for limiting free speech.

Modern sedition laws aim to balance national security with First Amendment protections, requiring that speech or actions go beyond mere dissent and involve real plans or conspiracies to disrupt government functions by force.

In the U.S., what, if any, law makes it a crime for one or more persons to plan and/or conspire to carry out an action intended to undermine a high government official and their authority or to replace them without due process or under false pretenses; for example by spreading false information hoping the people or the DOJ will rise up against the president?

## Federal Laws Addressing Conspiracy to Undermine or Overthrow Government Authority

### 18 U.S.C. § 2384 – Seditious Conspiracy

Two or more persons who conspire

- to overthrow or destroy by force the Government of the United States,
- to levy war against them,
- to oppose by force the authority thereof,
- to prevent, hinder, or delay the execution of any U.S. law by force, or
- to seize, take, or possess U.S. property by force

are each guilty of seditious conspiracy. Penalty: up to 20 years' imprisonment.

### 18 U.S.C. § 2385 – Advocating Overthrow of Government

Whoever knowingly or willfully:

- advises, advocates, or teaches the duty or necessity of overthrowing or destroying the Government of the United States by force or violence, or
- publishes or circulates materials advocating such overthrow

is subject to fines and up to 20 years' imprisonment, plus a five-year ban on federal employment.

## 18 U.S.C. § 2383 – Rebellion or Insurrection

Whoever incites, assists, or engages in any rebellion or insurrection against the authority of the United States, or gives aid or comfort to its enemies, faces:

- fines,
- up to 10 years' imprisonment, and
- inability to hold future federal office.

## 18 U.S.C. § 371 – General Conspiracy Statute

This catch-all conspiracy provision makes it a crime for two or more persons to conspire:

1. to commit any offense against the United States, or
2. to defraud the United States in any manner or for any purpose.

Penalty: up to five years' imprisonment (unless the underlying offense carries a higher maximum).

## How These Statutes Apply to Undermining a High-Level Official

- **Planning** or agreeing to spread false information aimed at provoking force against a president or cabinet member can trigger seditious conspiracy (§ 2384) or general conspiracy (§ 371).
- **No overt act** beyond agreement is required under § 2384 once the plan involves force against authority.
- **Speech-related acts** fall under § 2385 if they explicitly advocate removal of government by violence.

## Next Steps

You might explore how courts have interpreted “force” or “aid and comfort” in high-profile seditious conspiracy prosecutions, or review landmark cases under each statute to see real-world applications.

On and before July 23, 2025 DNI head, Tulsi Gabbard, released documents and evidence and made statements; which can be found at this URL...

[C-SPAN.org/program/white-house-event/white-house-daily-briefing/662932](https://www.c-span.org/program/white-house-event/white-house-daily-briefing/662932)

Her comments concerned legal referrals to the DOJ claiming that one or more persons (in the Obama administration) carried out illegal activities against DONALD TRUMP both before and after he became president in January of 2017. Considering the laws

we have reviewed thus far, which if any of them may apply, given these allegations, if they are determined to be true?

## Potentially Applicable Federal Statutes

Assuming the DNI's referrals accurately allege that one or more persons schemed to undermine President Trump's lawful authority—whether before or after he took office—several of the statutes we've reviewed could come into play.

### 18 U.S.C. § 2384 – Seditious Conspiracy

- Elements
  - Two or more persons
  - Conspire to overthrow, put down, or destroy by force the U.S. Government or to oppose by force its authority
- Application
  - If the plan involved using force to impede or remove the President's authority, § 2384 may apply
  - No actual outbreak of violence is required—agreement and an overt act in furtherance suffice

### 18 U.S.C. § 371 – General Conspiracy

- Elements
  - Two or more persons
  - Conspire either (a) to commit any offense against the United States, or (b) to defraud the United States
- Application
  - A covert scheme—such as spreading false information to trick DOJ into taking action—could fall under the “defraud the United States” prong
  - Maximum penalty up to five years (or higher if underlying crime carries greater punishment)

### 18 U.S.C. § 2383 – Rebellion or Insurrection

- Elements
  - Inciting, assisting, or engaging in rebellion or insurrection against U.S. authority
- Application
  - If the referrals allege encouragement of armed resistance or uprising against the President, § 2383 is triggered
  - Penalty up to ten years plus disqualification from federal office

## 18 U.S.C. § 2385 – Advocating Government Overthrow

- Elements
  - Knowingly or willfully advocates, abets, advises, or teaches the overthrow or destruction of the U.S. Government by force or violence
- Application
  - Public or private materials urging the populace or DOJ to rise up could meet this threshold

## Treason (Art. III, § 3 & 18 U.S.C. § 2381)

- Elements
  - Levying war against the United States, or adhering to its enemies by giving them aid and comfort
  - Requires two witnesses to the same overt act or confession in open court
- Application
  - Extremely narrow—mere political plotting or false-evidence campaigns would almost certainly not qualify

## Next Steps

- Examine the referrals for allegations of “force” or “overt acts” supporting a seditious-conspiracy charge.
- Scrutinize communications and coordination to assess whether the “defraud the United States” standard under § 371 is met.
- Determine whether any public or private advocacy rose to the level of incitement or instruction to commit violence under §§ 2383–2385.
- Evaluate whether the evidence could ever satisfy the high bar for treason.

Tulsi Gabbard said that in her opinion the alleged acts were "treasonous". And she also said she was not an attorney and implied it would depend on the DOJ to file any appropriate charges. Was her claim of "treason" a legal claim or a more generally understood claim based on a dictionary or more common definition of treason?

## Legal vs. Colloquial Use of “Treason”

### Legal Definition of Treason

In U.S. law, treason is narrowly defined by Article III, Section 3 of the Constitution and by 18 U.S.C. § 2381. It requires levying war against the United States or adhering to its enemies by giving them aid and comfort, and conviction demands testimony from two eyewitnesses to the same overt act or an open-court confession.

## Colloquial Definition of Treason

In everyday usage, “treason” often describes any act of extreme betrayal against one’s country or its leaders, regardless of violence or adherence to a foreign enemy. Major dictionaries echo this broader sense, equating treason with disloyalty or betrayal.

## Why Gabbard’s Claim Was Not a Formal Legal Accusation

- She prefaced her remarks by noting she is not an attorney and that any criminal referral must be vetted and charged by the DOJ.
- She did not cite Article III or 18 U.S.C. § 2381, nor did she outline the statutory elements required to prove treason.
- Her choice of the adjective “treasonous” functioned as a forceful, political characterization of the alleged conduct, not a statement that a treason indictment is imminently warranted under federal law.

## Takeaway

Tulsi Gabbard’s use of “treason” reflected a strong, non-technical critique rather than a precise legal assertion. Determining whether any conduct meets the constitutional or statutory criteria for treason remains within the exclusive purview of the DOJ and, ultimately, the federal courts.