

Criminal Implications of Interference with Immigration Enforcement Activities

The following is a summary of the statutes pursuant to which the federal government could bring charges against someone for conduct alleged to interfere with or impede immigration enforcement actions.

18 U.S.C. § 1505: Obstructing or impeding a proceeding before a department or agency of the United States.

- This statute criminalizes conduct that corruptly, or by threats of force, influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States.
- Requires showing that: (1) there was a proceeding pending before a department or agency of the United States; (2) the defendant knew of or had a reasonably founded belief that a proceeding was pending; and (3) the defendant intentionally endeavored to corruptly influence, obstruct, or impede the due and proper administration of the law under which the proceeding was pending. (*United States v. Price*, 951 F.2d 1028, 1031 (9th Cir. 1991).)
- The term “corruptly” means acting with an improper purpose, personally or by influencing another, including making a false or misleading statement, or withholding, concealing, altering, or destroying a document or other information. (18 USC § 1515(b).)
- “Proceeding” is defined broadly and covers a range of actions that could impede the proper function of government processes, including investigative matters. (*United States v. Kirst*, 54 F.4th 610, 620 (9th Cir. 2022); *United States v. Browning, Inc.*, 572 F.2d 720, 724 (10th Cir. 1978).)
- Conduct that constitutes obstruction could include falsifying documents, tampering with evidence, and encouraging someone to lie or withhold information during an investigation.
- Penalties: the punishment shall be a fine as set forth in 18 USC § 3571, or imprisonment for up to five years, or both. (18 USC § 1505.)

18 USC § 111: Assaulting or impeding officers.

- This statute criminalizes forcibly assaulting, resisting, impeding, or interfering with federal officers or employees in the performance of their official duties.
- A violation of the statute may include actions such as physically blocking agents or providing false information.
- Penalties: for simple assault, the punishment shall be a fine as set forth in 18 USC § 3571, or imprisonment up to one year, or both. Where such acts involve physical contact with

the victim of that assault or the intent to commit another felony, the punishment shall be a fine as set forth in 18 USC § 3571, or imprisonment up to eight years, or both. (18 USC § 111.)

18 USC § 1501: Assault on process server.

- This statute criminalizes obstructing and resisting officers who are serving documents issued by the court, as well as assaults on officers who are serving such documents.
- A charge under this statute is a misdemeanor, while a charge under 18 USC § 111 is a felony.
- Penalties: the punishment shall be a fine as set forth in 18 USC § 3571, or imprisonment up to one year, or both.

18 USC § 1071: Concealing an individual to prevent their discovery and arrest.

- This statute criminalizes the harboring or concealing of any person for whom an arrest warrant or process has been issued, so as to prevent the person's discovery and arrest.
- Requires showing that the defendant had notice or knowledge of the fact that a warrant or process had been issued for someone. (*United States v. Bekowies*, 432 F.2d 8, 14 (9th Cir. 1970).)
- Penalties: the punishment shall be imprisonment for up to one year, a fine of not more than \$1,000, or both. If the warrant or process is on a felony charge or after a criminal conviction, the punishment shall be a fine of not more than \$5,000, or imprisonment for up to five years, or both. (18 USC § 1071.)

8 USC § 1324: Bringing in and harboring certain aliens.

- The statute prohibits individuals from concealing, shielding, or harboring unauthorized individuals who come into and remain in the United States without authorization.
- To establish harboring or concealing, the government must prove: (1) the person being concealed entered or stayed in the United States unlawfully; (2) the person accused of concealing helped someone by harboring, hiding, or shielding them from detection; and (3) the person accused of concealing knew or should have known that the person was in the United States unlawfully.
- "Harbor" has been held to mean "afford shelter to." (*United States v. Acosta De Evans*, 531 F.2d 428, 430 (9th Cir. 1976).) Thus, conduct such as hiding or shielding someone so they

avoid detection by immigration enforcement officials or warning individuals that immigration officials are looking for them may violate the statute.

- Penalties: the punishment shall be a fine as set forth in 18 USC § 3571, or imprisonment for up to five years, or both. (8 USC § 1324(a)(1)(B)(ii).) There are greater penalties if the offense was done for the purpose of commercial advantage or private financial gain. (8 USC § 1324(a)(1)(B)(i).)