Is Illegal Immigration a Crime? Improper Entry v. Unlawful Presence
By Brett Snider, Esq. on July 9, 2014 8:19 AM

What's the "illegal" part of being an illegal immigrant? Is it a crime to simply be an undocumented immigrant residing in the United States? What about sneaking across the border?

The confusion lies in the legal difference between improper entry and unlawful presence. Here's what you need to know:

**Im proper Entry Is a Crime**

To be clear, the most common crime associated with illegal immigration is likely improper entry. Under federal criminal law, it is misdemeanor for an alien (i.e., a non-citizen) to:

- Enter or attempt to enter the United States at any time or place other than designated by immigration officers;
- Elude examination or inspection by immigration officers; or
- Attempt to enter or obtain entry to the United States by willfully concealing, falsifying, or misrepresenting material facts.

The punishment under this federal law is no more than six months of incarceration and up to $250 in civil penalties for each illegal entry. These acts of improper entry -- including the mythic "border jumping" -- are criminal acts associated with illegally immigrating to the United States.

Like all other criminal charges in the United States, improper entry must be proven beyond a reasonable doubt in order to convict.

**Unlawful Presence Is Not a Crime**

Some may assume that all immigrants who are in the United States without legal status must have committed improper entry. This simply isn't the case. Many foreign nationals legally enter the country on a valid work or travel visa, but fail to exit before their visa expires for a variety of reasons.

But mere unlawful presence in the country is not a crime. It is a violation of federal immigration law to remain in the country without legal authorization, but this violation is punishable by civil penalties, not criminal. Chief among these civil penalties is deportation or removal, where an unlawful resident may be detained and removed from the country. Unlawful presence can also have negative consequences for a resident who may seek to gain re-entry into the United States, or permanent residency.

Both improper entry and unlawful presence should be avoided by any immigrant to the United States, but an illegal alien cannot be criminally charged or incarcerated simply for being undocumented. To learn more, check out FindLaw's section on Immigration Law.

- See more at: http://blogs.findlaw.com/blotter/2014/07/is-illegal-immigration-a-crime-improper-entry-v-unlawful-presence.html#sthash.Pc48gO2n.dpuf