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Employers face immigration crackdown, too

By JENS MANUEL KROGSTAD,
Courier Staff Writer

POSTVILLE -- Though managers and owners of the Agriprocessors kosher meat processing plant aren't facing charges, some experts say recent prosecutions suggest the federal government is stepping up enforcement against employers.

Critics complain Immigration and Customs Enforcement agents made an unprecedented effort to press criminal charges within days against most of the 389 illegal immigrants arrested in the raid May 12. They claim federal officials haven't pursued cases against employers with the same zeal. Rep. Bruce Braley, D-Iowa, for one, has repeatedly urged ICE to pursue criminal charges against Agriprocessors.



ICE police guard the entrance of Electric Park on the Cattle Congress grounds last month.

Some experts — even those who question the effectiveness of a tough enforcement-only strategy to curb illegal immigration — claim ICE is aggressively prosecuting employers by pursuing heavy fines, forfeiture of company profits and even prison time.

"They have changed tactics to criminalizing not only employees, but also employers," said Lori Chesser, lead immigration attorney with Davis Brown Law Firm in Des Moines. "I think they're taking it pretty seriously now. They're typically going after the big fish to make a big statement and get convictions. Some people are going to jail."

Despite the efforts, arrests of employers still lag far behind those of workers, said Lynn Tramonte, policy director for America's Voice, an immigration reform advocacy group.

Of last year's 863 criminal arrests from workplace raids, 92 were employers. That same year, 4,940 workers were arrested on immigration charges.

"(ICE officials) are really only doing half of what they say they are doing," Tramonte said.

But ICE officials and attorneys familiar with immigration law point out most companies contain many more employees than managers or owners, so a greater number of worker arrests should be expected.

ICE is tight-lipped about the status of its investigation into Agriprocessors, but agency spokeswoman Pat Reilly said people shouldn't be surprised if the government eventually presses charges against the company or its management.

In other cases, ICE established people at the top or in management were hiring illegal workers, Reilly said.

"In some more egregious cases, those with more convictions, it was part of the business model," she added.

In court documents filed before the raid, ICE alleged about 78 percent of the company's 968 workers were using false or fraudulent Social Security numbers. The agency also noted between 2000 and 2005, Agriprocessors was notified in five letters from the federal government about problems with 500 Social Security numbers.

Documents detailed 39 workplace safety citations in October and a current child labor investigation by the state. The effort halted when federal agents confiscated documents related to the state's investigation.

Occupational Safety and Health Administration records also show five amputations and dozens of broken bones, eye injuries and reports of hearing loss between 2001 and 2006.

Tramonte said in conducting the raid despite a labor investigation by the state, ICE chose to deport the workers instead of protect them.

Depending on the outcome of a labor investigation, some immigrants now slated for deportation might have been eligible for visas available to crime victims. Instead, after pleading guilty to criminal identity theft they will automatically be deported following five months in prison.

"They should've coordinated with (the state) instead of disrupting the investigation," Tramonte said.

Democratic leaders of the House Education and Labor Committee last month pressed the U.S. Department of Labor to answer questions about how the raid affected the investigation.

In response to criticism, ICE officials argued prosecuting employers often requires investigations that can last years. They highlight cases that lasted several years but led to the conviction of CEOs and other high-ranking company officials.

In the most notable case, the president of Rosenbaum-Cunningham International, a janitorial company based in Florida, received a 10-year prison term in March for harboring illegal immigrants and conspiracy to defraud the United States. The company's vice president and comptroller were sentenced to more than four years and more than two years, respectively. The convictions came more than two years after the initial raid and more than a year after indictments.

Chesser, the immigration attorney, said federal immigration cases often take more than a year to result in charges. Davis Brown used to represent Agriprocessors, so the firm's attorneys declined to comment specifically on the company's situation.

"If you look at the pattern, you can see it takes a while to make a case," she said.

But does the tough enforcement strategy reduce illegal immigration? In the two years since ICE stepped up its efforts — a move in response to Congress' failure to pass an immigration law, experts say — no conclusive evidence exists that more raids and more arrests deter illegal immigration.

Crossings at the U.S.-Mexico border dropped 17 percent from Oct. 1 to March 31, according to government statistics. But the decrease, Chesser said, came at a time when the American economy was slowing, particularly in the housing market, which relies on immigrant labor for home construction.

The United States has also stepped-up physical enforcement, with National Guard troops stationed along the border with Mexico, increased hiring of immigration agents and expansion of border fences.

An ICE official recently pointed out that unemployment among Hispanics is higher than the national average, according to a recent Pew Hispanic Trust survey, and suggested a possible connection to the agency's efforts. However, the survey did not distinguish between illegal and legal Hispanic immigrants and did not attempt to measure the effectiveness of increased raids.

"This isn't an endorsement for the Pew Center, but they do some good work, and everybody is looking around for evidence that this is working," said Reilly, the ICE spokeswoman.

In the absence of any evidence, most advocates say aggressive enforcement only serves to terrorize immigrants and their families and does nothing to curtail illegal immigration.

Mary Bauer, director of the Immigrant Justice Project at the Southern Poverty Law Center, says the solution has to be some sort of immigration reform.

"These enforcement actions, we know they are doomed to failure. We know they are not going to effectively round up 12 million people," Bauer said.

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