



Immigration Worksite Enforcement Surged in 2018

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Immigration worksite investigations, Form I-9 audits and employee arrests spiked in fiscal year (FY) 2018 compared to the previous year, according to U.S. Immigration and Customs Enforcement (ICE) data.

Worksite investigations rose by more than 300 percent, and the agency set 10-year highs for the number of I-9 audits conducted and criminal charges filed.

"President [Donald] Trump's administration has increased immigration enforcement at worksites, just as he promised," said Alex Nowrasteh, a senior immigration policy analyst at the Cato Institute in Washington, D.C.

ICE opened 6,848 worksite investigations in FY 2018, which ended Sept. 30, compared to 1,691 in the previous 12 months, and it initiated 5,981 I-9 audits, compared to 1,360 in FY 2017. Over 2,300 people were arrested at work in FY 2018—more than seven times the amount in the previous year.

Derek Benner, executive associate director of ICE's Homeland Security Investigations (HSI), the arm responsible for worksite enforcement, said his agency is committed to help protect jobs for U.S. citizens and others who are lawfully employed, reduce the incentivizing of illegal immigration, and eliminate unfair competitive advantages for companies that hire workers who are in the U.S. illegally.

Nowrasteh explained that workplace arrests fall into two categories: criminal, for violations such as identity fraud, and administrative, for civil violations of the Immigration and Nationality Act, such as being in the country without authorization. ICE made 779 criminal arrests and 1,525 administrative worksite-related arrests in FY 2018, compared to 139 and 172, respectively, the year before.

"The number of arrests peaked in 2008 at 6,287 after several steady years of increases, but then declined during [Barack] Obama's presidency with a single blip in 2011," Nowrasteh said.

"President Trump's ICE is making more administrative arrests, and a greater percentage of those come from worksite enforcement. As a share of all ICE administrative arrests, those conducted at worksites are up about 10.7 times over 2016, the last year of the Obama administration, and 8.8-fold since 2017."

Criminal indictments and convictions remained steady. In FY 2018, 72 managers were indicted, compared to 71 the year before, and 49 managers were convicted versus 55 in FY 2017. But those numbers are expected to rise due to many ongoing investigations still in development, according to ICE.

Enforcement on Two Fronts

While ICE has reinvigorated the workplace raids and arrests last seen in large measure during the George W. Bush administration, it has also significantly ramped up Form I-9 audits, which were a focus of the Obama administration.

"The I-9 worksite audit was a major innovation in immigration enforcement unrolled during Obama's administration, which Trump's administration is [also] using with alacrity," Nowrasteh said.

From 2010 to 2013, ICE conducted more than 2,000 paperwork audits a year before falling to just above 1,000 audits annually from 2014 to 2016. The Trump administration quadrupled I-9 audits from 2017 to 2018, sending out 88 percent of the 5,981 notices of inspection during two periods: Jan. 29 through March 30 and July 16-20.

"ICE uses the I-9 inspection program to promote compliance with the law, part of a comprehensive strategy to address and deter illegal employment," Benner said.

Several high-profile enforcement actions took place in 2018, including:

- A nationwide sweep in January of nearly 100 7-Eleven stores. Twenty-one workers were arrested.
- An April raid on a Bean Station, Tenn., slaughterhouse that resulted in the arrests of 104 workers. In September, the owner of the company pleaded guilty in federal court to tax fraud, wire fraud and employing unauthorized workers.
- An August raid on a trailer manufacturer in Sumner, Texas, during which 160 workers were arrested.

In addition to arrests disrupting the workplace, employers were ordered to pay \$10.2 million in civil penalties in FY 2018 for employing unauthorized workers, up from \$7.8 million in FY 2017. Businesses were ordered to pay another \$10.2 million in judicial fines, forfeitures and restitutions in FY 2018, down from \$96.7 million the year before. The 2017 figure was warped by a record \$95 million judgment against a tree-trimming company for knowingly hiring unauthorized workers, a settlement that stemmed from an investigation begun during the Obama administration.

Benner said that the agency is in the process of hiring 60 additional auditors and is planning to conduct more direct outreach to employers, adopt new technology to speed up audits and create a centralized auditing center to streamline the entire process.

Tamar Jacoby, president of ImmigrationWorks USA, a national federation of small-business owners, said that the increase in worksite enforcement punishes employers struggling to find enough workers to meet demand and called for reforms to guest-worker programs to make it easier for U.S. businesses to maintain their workforces.

