

THE PLAIN DEALER



How undocumented workers skirt job paperwork requirements: Q & A

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June 22, 2018

WASHINGTON, D. C. - Over the past month, more than 250 workers from Mexico and Central America were detained in high-profile Immigration and Customs Enforcement (ICE) raids at Ohio companies.

On June 5, border patrol agents rounded up 114 workers at Corso's Flower and Garden Center locations in the Sandusky area. On June 19, Homeland Security agents arrested 146 workers at Fresh Mark, a meat processor in Salem.

Toledo Democratic Rep. Marcy Kaptur said the Corso's arrests were part of an ongoing investigation into document falsification. ICE said it expected criminal charges including identity theft and tax evasion to stem from the Corso's raid. It said the action at Fresh Mark was part of a year-long investigation into whether the company knowingly hired illegal aliens who were using fraudulent identification that belonged to U.S. citizens.

"Unlawful employment is one of the key magnets drawing illegal aliens across our borders," said a statement released by Steve Francis, the Homeland Security Investigations special agent in charge for Michigan and Ohio. "Businesses who knowingly harbor and hire illegal aliens as a business model must be held accountable for their actions."

The workplace raids outraged immigrant rights activists like Cleveland attorney David Leopold, who is past president of the American Immigration Lawyers Association. He called the Trump administration's crack down on immigrants "racist" and said it's intended to divide the country and attack "people of color" in Ohio and elsewhere. He says those taken into custody merely wanted to get jobs, and their arrests didn't make Northeast Ohio any safer.

Corso's released a statement that said it demands proper documentation from all those who seek employment at its facilities, wasn't aware that any of its workers used "false, fraudulent or otherwise disingenuous identification to secure employment."

A statement from Fresh Mark confirmed Homeland Security visited its facilities and directed inquiries about the arrests to the agency "because of the law enforcement nature" of the incident.

Since 1986, federal laws have required employers to complete an Employment Eligibility Verification Form (I-9) to verify all workers identities, as well as their authorization to work in the United States. But the law apparently didn't keep some foreign workers from getting jobs in Ohio without proper documentation.

Q: What kind of documents must workers provide for the I-9 ?

A: They can provide current documents that establish both identity and employment authorization to work, such as a U.S. passport, Permanent Resident Card, or a foreign passport with an authorization to work. Workers can also submit current documents that establish identity, like a drivers' license or school ID card with a photograph, along with a document that establishes employment authorization, like a Social Security Card or birth certificate.

Some employers also use a free supplemental program called E-Verify program that feeds workers' I-9 information into a variety of federal databases to confirm that new hires are authorized to work in the United States. Congress created it as a way to deny jobs to illegal immigrants and deter them from coming to the United States. Its use isn't yet required nationwide, but many large employers use it and several states have mandated its use to various degrees.

Q: How do undocumented workers get around these requirements and land jobs in the United States?

A: Sometimes they work under the table without documents. In that case, the employer won't report them for tax purposes. They can also buy fake "green cards" and fake Social Security cards in their own names from illicit vendors, or steal or borrow work documents belonging to a U.S. citizen or legal permanent resident.

According to Alex Nowrasteh, an immigration policy analyst at the libertarian Cato Institute think tank in Washington, D.C, there's a large-scale black market for falsified identity documents to satisfy the paperwork requirements that undocumented immigrants need to get jobs. Falsely using another person's identity is a misdemeanor.

He said many employers who'd like to hire a worker will look the other way if they're provided with fake Social Security numbers and other false documents. The employers aren't experts at verifying identity documents, and either can't tell or don't care if they are provided with fakes.

What's more, he said that an employer who suspects a job applicant is an illegal immigrant but can't prove it and doesn't hire the person for that reason risks a lawsuit for discriminating against someone on the basis of their national origin.

"Working in the United States is extremely valuable but government immigration laws make it very difficult for foreigners to do so lawfully," Nowrasteh says. "Most illegal immigrants have to work on a legal or false identity in order to earn a wage, which incentivizes identity loans and identity theft."

Q: Are stolen identity documents taken from unwilling victims?

A: In many cases, the foreign workers have the owners' consent to borrow their identity papers to secure jobs, said Nowrasteh. Research on the issue by a University of Colorado scholar found that most immigrant farmworkers use borrowed identity papers arranged through a supervisor, friend, colleague or fourth party. The "identity loan" arrangement helps the worker get a job, and provides financial benefits for the donor when payroll tax deductions from the foreign worker's wages go into the donor's Social Security account and boost the donor's unemployment checks.

According to the report by University of Colorado Anthropology professor Sarah Bronwen Horton, relatives often volunteer to share each others' documents.

"For example, an uncle who has legal status but has decided to depart for Mexico permanently may lend his nephew his Social Security number so that he can find a better job," her report said. "Or a daughter may find work using papers from her recently-legalized mother in order to boost her mother's Social Security account."

Her report said labor supervisors who help undocumented immigrants secure jobs sometimes force them to use documents supplied by the supervisors, which is called "working as a ghost." The supervisors can get kickbacks from the documents' owners, and also get away with wage and work hour violations.

"Under California law, for instance, farm workers are required to receive overtime for more than 60 hours a week," her report said. "But my interviewees said that employers universally require workers with loaned documents to labor without overtime pay on Sundays, which they call 'the day of the ghost.' "

Q: How common is it for immigrants to work in the underground economy or use fake or stolen Social Security cards?

A: The Social Security Administration estimates that 1.8 million immigrants were working in the United States with fake or stolen Social Security cards in 2010, and predicts the number will grow to 3.4 million by 2040. It also estimates that 3.9 million foreigners worked "under the table" in 2010, and the number will rise to 9 million in 2040.

Q: How do authorities catch workers and companies violating immigration laws?

A: According to Nowrasteh, ICE sometimes gets tips that companies are employing lots of undocumented immigrants. Government audits of I-9 forms that show names and Social Security numbers of people who don't exist is another giveaway. In 2017, ICE did I-9 audits at 1,360 companies. That number climbed to 2,282 in 2018, as of May 4, according to statistics provided by ICE.

Q: What are the penalties for violations?

A: Employers who hire undocumented immigrants may be subject to civil or criminal penalties that include a prison sentence of up to six months and fines that range from \$110 to \$16,000 for each unauthorized alien, depending on circumstances such as the number of prior offenses at the company. The unauthorized workers face deportation.

ICE said it made 135 criminal arrests in work site enforcement cases in 2017, and had made 594 in 2018, as of May 4. Its administrative arrests were 172 in 2017 and 610 in 2018.

The agency says it collected \$97.6 million from violators in judicial forfeitures, fines and restitution last year. It did not provide a 2018 total.

Q: Why have those statistics climbed so rapidly since last year?

Trump's administration has increased its compliance efforts to "scare employers" and "try to identify and deport" illegal immigrants, said Nowrasteh. He says the Obama administration did plenty of I-9 audits, but didn't do as many workplace raids.

Q: Why do these workers want to come here, and why do companies want to hire them?

A: Nowrasteh says wages in the United States are 2.5 times higher than in Mexico and 4 to 6 times higher than in Central America. He said illegal hires are usually paid slightly less money than legally employed workers because hiring them creates a risk for the employers.

"From an employer's standpoint, these are willing workers in a growing economy who want to be employed," said Nowrasteh.

He said that some industries that hire lots of immigrant workers could probably attract more U.S. employees if they paid higher wages, but would go out of business because their wage costs would be too high.

"The economy would adjust if illegal immigrants disappeared and wages for some workers would increase," he said. "But the net effect would be a smaller economy with fewer services provided. On the flip side, illegal immigrants are also consumers who buy goods and services. If you deport them, you are also getting rid of the jobs that person supports."