

## **Immigration raids often spare employers**

'Bosses' make up only 2% of recent arrests, a number blamed on high evidence threshold

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WASHINGTON — Immigration and Customs Enforcement agents are staging dramatic raids across the country that routinely seize hundreds of undocumented workers at their jobs — and leave their employers free to work another day.

The appearance of separate justice that arose during federal authorities' surprise morning raid at Action Rags USA on Houston's east side fits a nationwide pattern.

Many of the 166 workers taken into custody on suspected immigration charges in Houston last week were paraded toward vans to be transported into detention. But immigration authorities spared company officials both immediate arrest and the embarrassing "perp walk" that exposed those arrested to news photographers.

"Once again the federal government has it backwards," said Rep. Ted Poe, R-Humble, a former state judge and prosecutor. "It is a waste of time if we don't go after the business owners who are knowingly hiring illegals.

"If we eliminate the illegal job opportunities, we can start to eliminate the problem."

Over the past eight months, federal immigration agents have arrested more than 2,900 suspected undocumented workers on administrative immigration charges and 775 more workers on criminal charges such as identity theft or Social Security fraud.

Only 75 "bosses" — business owners, supervisors or human resources workers — have been arrested on charges such as harboring or knowingly hiring undocumented immigrants.

That accounts for barely 2 percent of the total of 3,750 workplace immigration arrests since last October.

In a statement, the immigration agency said that "the presence of illegal aliens at a business does not necessarily mean the employer is responsible," adding: "Developing sufficient evidence against employers requires complex, white-collar crime investigations that can take years to bear fruit."

### **Must prove they knew**

Undocumented workers often face quick prosecution for so-called "status crimes" such as being in the country illegally — charges that are easy to prove. Many of those arrested quickly plead guilty and serve sentences averaging as little as a month. But to convict

employers, federal prosecutors must show that they knowingly hired undocumented immigrants, a threshold that demands more evidence.

"You have to show that the employer knowingly and willingly hired an illegal," said Rep. Michael McCaul, R-Austin, a former Justice Department official. "A lot of these guys carry multiple Social Security cards" — making it difficult for employers to determine whether they are legally in the U.S.

Homeland Security Secretary Michael Chertoff, whose Cabinet department handles immigration enforcement, defended the two-tiered practice of arresting undocumented workers at worksites while taking time to assemble criminal cases against employers.

"When we find evidence of persistent, widespread hiring of illegals, we're going in to try to build a case against the employer if there's a case to be built," said Chertoff, a former federal appeals court judge.

Federal prosecutors often take years to put together cases against employers.

Immigration authorities raided IFCO, a Houston-based pallet company, more than two years ago. Seven managers and 1,187 undocumented workers were arrested, with many taken into custody at the company's plants in Texas and 25 other states. But it won't be until Oct. 16 that at least two managers, each free on \$20,000 bond, will face sentencing after pleading guilty in the case.

Workers rather than managers also led the way into the courtroom after raids netted nearly 1,300 people at the Swift & Co. meat processing plant in Cactus and five other plants in five other states in 2006.

Eight undocumented workers pleaded guilty to felony charges within three months on such counts as illegally re-entering the United States after deportation and using someone else's Social Security number to obtain employment.

### **'A two-sided coin'**

Members of the Houston-area congressional delegation expressed concern about aspects of last week's raid.

Rep. Gene Green, D-Houston, whose congressional district includes the rag-sorting plant, said ICE's deployment of as many as 200 agents and helicopters scared children at a nearby elementary school.

"It sounded like maybe (ICE) had more assets than they really needed to go in and pick up those 160 people there," Green said. "Most of those ladies who worked there, granted they were here illegally, but they weren't holding up liquor stores or hurting people. They just needed a way to support their families."

Rep. John Culberson, R-Houston, called worksite enforcement "a two-sided coin."

"As employers, Action Rags broke the law and without question should be prosecuted for their violations," Culberson said. "ICE is equally obligated to enforce the law and be respectful and humane while carrying out their duties."