

Myth vs. Fact: Worksite Enforcement

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Opponents of immigration enforcement continue to propagate mythical objections to the Department's enforcement efforts. Some have claimed we are unfairly targeting low-level employees and not the employers who hire them. Others have misstated the facts about our E-Verify system, claiming it is riddled with errors and harms legal workers at the expense of identifying illegal ones.

For the benefit of journal readers, I'd like to take a few minutes to separate these myths from the facts.

1) Has the Department stepped up its worksite enforcement efforts?

Yes. As you can see in the table below, arrests in worksite cases have jumped from a total of 850 in 2004 to 4,940 last year, including 863 arrests based on criminal charges. We have already exceeded the number of criminal arrests this year and expect that figure to continue to rise.

Fiscal Year	Worksite Criminal Arrests	Worksite Administrative Arrests
2004	165	685
2005	176	1,116
2006	716	3,667
2007	863	4,077
2008 (as of May 31)	875	3,000

Source: U.S. Immigration and Customs Enforcement

2) Is it true that U.S. Immigration and Customs Enforcement (ICE) is only arresting low-level employees and not managers and supervisors?

No. Of the 863 criminal arrests in worksite cases last year, 92 were in the company's supervisory chain. Already this year, ICE has arrested 80 individuals in the supervisory chain. This follows the arrests of 389 illegal aliens on administrative immigration violations, the most ever arrested in a single-site worksite enforcement operation. Additionally, 302 of those arrested have been charged with criminal offenses, including identity theft, false use of a Social Security number, illegal re-entry into the United

States, and other crimes.

Of course, when comparing employer to employee arrests, it's important to keep in mind that in most companies there will be a larger number of employees than employers and top-level managers. Moreover, cases against supervisors and employers are more complex, and often depend on proving knowledge and intent. Therefore, it often takes time to build a criminal case against an employer, but the charges and penalties will likely be more serious as a result.

3) Are these worksite enforcement efforts random or do they unfairly target well-established employers, as some have suggested?

No. Our efforts focus on three priority areas. We target employers who have built their business model on hiring an illegal workforce. We also focus on disrupting the infrastructure that supports illegal immigration, which includes aggressively targeting those who engage in identity theft, document fraud and/or human smuggling. And we want to ensure that our nation's critical infrastructure sites, like our airports, seaports, military bases and nuclear facilities are staffed with individuals authorized to work in the country. The vast majority of ICE's worksite enforcement efforts fall into at least one of these categories.

4) Does ICE conduct its worksite operations in cooperation with state and local authorities?

Yes. When ICE conducts an enforcement action, it coordinates with state and local law enforcement and those responsible for public safety in a manner that will not compromise the operation. ICE goes to great lengths to identify and address any humanitarian concerns of the individuals it encounters. ICE's worksite enforcement operations are the result of long and careful criminal investigations, not random targeting or haphazard planning.

5) Is the Department's E-Verify program riddled with errors and does it hurt legal workers at the expense of identifying illegal workers?

No. E-Verify is a proven tool currently used by more than 73,000 employers nationwide, with another 1,000 employers enrolling every week. I'd venture to say that if the system didn't work or was riddled with errors, very few employers would want to use it.

Under E-Verify, almost everyone who is authorized to work in the United States is immediately verified by the system. Only about 0.5 percent of those queried who are ultimately confirmed as legal workers receive what is called a "tentative non-confirmation" and need to correct their records.

An employee who receives a tentative non-confirmation has a right to contest it and update his or her information while he or she continues working. E-Verify does *not* require these workers to be immediately fired.

Of course, many non-confirmations relate to employees who are not legally authorized to work in our country – estimated to be around 5 percent of all workers sent through the system. But those who employ illegal workers have no grounds to complain when the system uncovers that illegality.

6) Can worksite enforcement alone solve our nation's immigration problems?

An enforcement-only approach will not fix this problem. We must find a way to meet our nation's temporary workforce needs in a legal manner while also securing the border and enforcing the interior. Ultimately, this will require Congress to act on comprehensive reform. Nevertheless, our Department will not turn a blind eye toward illegality. We will continue to meet our obligations to the American people under the law, which includes enforcing the rules at worksites.

Michael Chertoff