

## INVESTIGATIONS

# Amid deportation push, no Michigan businesses charged over hiring undocumented workers



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Despite detaining hundreds of people in Michigan accused of being in the country illegally, federal authorities have yet to indict a business owner accused of hiring such workers. A former federal prosecutor says such cases are tough and can take time, suggesting going after people allegedly unauthorized to be in the U.S. is easier.

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A little after noon on Aug. 3, a 32-year-old man from Honduras accidentally drove onto the Ambassador Bridge in Detroit. When he turned around, [immigration officials](#) stopped him. He told them he was “on his way home from a construction job he had just completed and traveled onto the bridge to Canada by mistake.”

He was charged with entering the country illegally [and will likely be deported](#). Yet federal prosecutors [have not charged his employer](#), or any other business owners, with knowingly hiring undocumented workers in Michigan.

The Free Press found federal prosecutors in Michigan have yet to bring such a charge against an employer in the state this year, [despite promises from the Trump administration](#) to go after scofflaw businesses that employ people unauthorized to work in the country.

Local officials have prosecuted hundreds of people accused of being in the country illegally, taking a blistering pace that far outstrips recent years. And immigration officials have already arrested more than 1,400 people in the state through July, according to publicly available records [from the Deportation Data Project](#).

Representatives from the U.S. attorneys in Michigan’s eastern and western districts recently acknowledged they had no current cases against someone for hiring undocumented workers. Typically, prosecutors won’t acknowledge if they have an open investigation that has yet to result in criminal charges.

Gina Balaya, spokeswoman for the U.S. Attorney’s Office in Detroit, said they have prosecuted about 200 people this year on charges of illegally returning to the U.S. after being removed. She did not answer additional questions about prosecuting business owners.

Jamie Calouette, a spokeswoman for the western district, said in late July that their office had yet to prosecute business owners but had brought roughly 34 immigration-related cases since the start of the year. In late August she declined to provide updated numbers, and did not answer additional questions about prosecuting business owners.

A former prosecutor told the Free Press the U.S. attorney can only pursue cases brought to it by law enforcement. He noted business-related immigration convictions are harder to pull off than pursuing individual people accused of living in the U.S. without authorization.

But Anna Hill Galendez, a managing attorney with the Michigan Immigrant Rights Center, argues that the administration is more concerned with striking fear in workers than going after bad employers.

“What we see from this administration, the goal is not really to address abusive labor practices or to ensure that U.S. citizens have access to good jobs,” Hill Galendez told the Free Press.

“Really, the goal is about terrorizing and scapegoating immigrants.”

Worksite investigations can lead to actions short of criminal charges, including fines. A local spokesman for U.S. Immigration and Customs Enforcement did not respond to questions about worksite investigations in Michigan this year.

## 'Too scared to file a complaint'

President Donald Trump campaigned on a promise to institute the largest deportation effort in U.S. history. That effort is well underway — in addition to the swell in arrests, [federal lawmakers recently approved roughly \\$75 billion in additional money](#) for ICE over the next four years.

Part of that effort is supposed to target those who employ undocumented immigrants. Generally, it falls on federal officials to take action against businesses that knowingly employ undocumented immigrants.

In June, border czar Tom Homan told the publication Semafor that workforce investigations would “massively expand.”

“They’re coming here for a better life and a job, and I get that,” Homan said in the interview. “The more you remove those magnets, the less people are going to come. If they can’t get a job most of them aren’t going to come.”

There are a handful of examples across the country of this happening. In February, federal officials charged owners of a Texas bakery with knowingly hiring undocumented workers, [according to the Texas Tribune](#). On Aug. 13, a jury convicted both owners of “harboring aliens and conspiracy to do so,” [according to a U.S. Department of Justice news release](#). They both face up to 10 years in prison and a maximum fine of \$250,000 when sentenced later this year.

But such cases are rare: A June analysis from the [Washington Post](#) suggested only one indictment of an employer this year stemming from a “worksite enforcement” action by ICE.

There have been comparable cases in Michigan, but not recently: Records show in 2011, [the owners of a Bad Axe dairy farm](#) admitted hiring 78 people unauthorized to work in the U.S. from roughly 2000 to 2007.

On the ground in Michigan today though, it’s unclear what’s happening to employers. But Hill Galendez said the worksite enforcement system is largely predicated on tips: Immigration enforcement relies on whistleblowers to learn about bad actors. But those with the most knowledge are often afraid to speak out, worried they’ll get deported.

This fear is not without merit. Earlier this year, the Free Press reported on the case of a woman who went to Van Buren Township police after she says a coworker attacked her. In the process of creating a file for the case, the police department inadvertently tipped off immigration officials about the woman who reported the assault. She was quickly arrested and deported.

“During this administration, we’ve been hearing more and more from clients that are calling us saying they haven’t been paid. But when we talk about their options for addressing that, they’re too scared to file a complaint,” Hill Galendez said.

“I can’t overstate how important it is that we address those deep fears of retaliation if we really want to create better work environments for everyone. Employers that take advantage and engage in these abusive practices will continue to do so unless they’re held accountable.”

Broadly, she said the problem is about more than just going after wayward employers. Instead, she said the administration needs to ensure better working conditions for everyone laboring in these jobs.

“If all we do is prosecute employers for hiring undocumented workers without doing anything to address labor protections for all workers, regardless of immigration status, then we’re going to continue to see this kind of race to the bottom with workplace conditions,” Hill Galendez said.

Asked if she was optimistic of sweeping policies instituting some of these workplace improvements in the near future, she said, “Certainly not.”

### **'The prosecutor's got a real challenge'**

This is not to say all employers who hire people who are not authorized to work in the U.S. knowingly do so or are trying to take advantage of workers; rather, several experts said this situation can get complicated quickly.

**More:** [Detroit 'Families First' rallies protest Trump immigration crackdowns, cuts to health care](#)

**More:** [Trans immigrant woman in Michigan detained by Border Patrol and ICE alleges abuse](#)

Typically, when an employer wants to hire someone, the person trying to get the job needs to fill out lots of paperwork. One of those documents, called an I-9, is a form designed to capture and verify someone’s ability to legally work in the U.S.

It’s a relatively short form. But Sarah Bileti, a lawyer with Detroit-based Warner Norcross and Judd who advises businesses on immigration issues, said that companies should not mistake it as being straightforward.

“It’s sort of the most complicated, simple form there is. There are a lot of ways to fill it out incorrectly,” she said.

She noted that as immigration rules and regulations change, dictating who is or is not allowed to work in the country, that makes life more difficult for employers.

In addition to the form, employers are generally supposed to verify a person’s work status. If a worker is a U.S. citizen, often that can mean presenting a passport or a combination of other forms of identification, like a driver’s license and Social Security card.

This can get tricky quickly for employers, many of whom aren’t necessarily trained to spot complicated forgeries. U.S. Citizenship and Immigration Services indicate an employer reviewing a document presented with the I-9 must ensure it “reasonably appears to be genuine.”

This process is also key for potential prosecutions, said John Freeman, a private lawyer in Troy who worked on immigration and border issues as a federal prosecutor in Detroit immediately after the Sept. 11 attacks.

“Once that file is presented, then the prosecutor’s got a real challenge. And that is to prove the knowledge of the employer, that they’re employing undocumented folks or that they should have known that they were employing undocumented folks,” Freeman said.

“The lower-hanging fruit is the (undocumented) individual, rather than the business owner.”

Federal prosecutors have many priorities that could rank higher than these kinds of cases, he argued. He also repeatedly said prosecutors can’t bring charges if immigration enforcement officials are not presenting them with cases. Even if something comes in the door though, Freeman said it’s not easy.

He does think prosecuting business owners who do break the law could serve as a deterrent to others. But in order to garner substantial attention, he said the case needs to be egregious.

“One factor is going to be what are the conditions that the workers find themselves in? Are they living in employer-sponsored housing that’s just inhumane conditions? Almost sort of an indentured servitude kind of situation, where there’s real safety concerns?” Freeman said.

“That’s going to get the attention of a prosecutor a lot more than someone who’s driving to Home Depot and picking up day laborers.”

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