

BusinessWeek

IMMIGRATION January 3, 2008, 5:00PM EST

Illegals and Business: A Glimpse of the Future?

At a time of mounting opposition to undocumented workers, Immigration's fierce probe at Swift is a sign that things will get tougher for employers

by [Susan Berfield](#)

Sometime soon, perhaps by the end of this month, Christopher Lamb may plead guilty to harboring an illegal alien. Lamb, 37, was a human resources assistant manager at Swift & Co., among the largest beef and pork processors in the U.S. As immigration emerges as one of the most contentious issues of this election season, his case is emblematic of newly aggressive tactics against management by the U.S. Immigration & Customs Enforcement Agency (ICE). "Swift was just the beginning," says Cynthia J. Lange, a partner at Fragomen, Del Rey, Bernsen & Loewy, a law firm specializing in immigration issues. "ICE is looking for the next company. They're looking for brand names."

For years there has been an implicit understanding among businesses that need workers, illegal immigrants willing to do those jobs, communities that benefit from such commerce, and a government that rarely intervened. Now that understanding has been torn apart. Of 1,500 people surveyed in June by the Pew Research Center, 55% said the most effective way to reduce illegal immigration from Mexico is to increase penalties on employers. In a Democratic Presidential debate in November, Barack Obama said: "An employer has more of a chance of getting hit by lightning than being prosecuted for hiring an undocumented worker. That has to change." All of the candidates, with varying degrees of vigor, have expressed the same sentiment.

ICE made 863 criminal arrests at companies last year; 59 of those were owners and 33 lower-level managers, most charged with knowingly hiring illegal workers. Two years ago, ICE made only 176 such arrests. Operation Wagon Train—which included simultaneous raids on six Swift meatpacking plants on Dec. 12, 2006, and led to Lamb's arrest—was dramatic, public, and the largest worksite sweep in ICE's history. At the heart of the subsequent investigation is a tactic that could become familiar in the years ahead: using threats of jail and deportation to persuade an illegal immigrant to cooperate and inform on a superior. "Usually the way it works is we get a couple of hundred administrative or criminal arrests and a few supervisors," says ICE spokesperson Pat Reilly. "Then we work our way up."

That's how the agency caught Lamb. After the raid on Swift's slaughterhouse in Marshalltown, Iowa, ICE wired a Mexican line worker who knew Lamb, sent him to Lamb's house, and recorded what it says is an incriminating conversation between the two men. Lamb, through his lawyer, declined to comment. And it isn't clear if he will cooperate with the government as part of a guilty plea. Swift, which in July was sold to the Brazilian company JBS, also declined to discuss the investigation and has not been implicated in any criminal wrongdoing.

White-collar prosecutions of this kind are difficult, since senior managers and executives rarely involve themselves directly in lower-level staffing. But it might not matter: Already, there are signs that ICE's tactics have made companies reassess their hiring practices.

SUSPICIOUS DOCUMENTS

The official investigation into Swift employees began in February, 2006. In routine interviews with people facing deportation, ICE investigators discovered that several had suspect identification documents and held jobs at Swift, Marshalltown's biggest employer. And many of them had given Swift the Social Security numbers of U.S. citizens from Puerto Rico. "That was a red flag for us," says Claude Arnold, a special agent involved in the investigation.

On Mar. 1 an ICE agent delivered a subpoena to the Marshalltown plant for its I-9 forms, the documents that verify someone's eligibility to work in the U.S. This would not necessarily have alerted Swift that an investigation was under way, since the request to review these forms is fairly common. Swift also had reason to believe it was in good standing with the immigration authorities: It was one of a handful of companies that voluntarily used the government's Basic Pilot Program, which helps employers determine whether new hires are authorized to work and whether their Social Security numbers are valid. The online program (now called E-Verify) has its limits, though. It can detect counterfeit Social Security numbers, but not those that may have been stolen or bought from a U.S. citizen.

As part of its crackdown, ICE was focusing on identity theft, a felony that was becoming increasingly common among illegal immigrants. And when agency investigators looked over more than 2,100 of Swift's I-9 forms, they concluded that 664 employees were illegal immigrants who had assumed the identities of U.S. citizens in order to obtain employment (some of the victims of the ID thefts had filed complaints with the Federal Trade Commission). According to court documents, Lamb had certified a number of those forms.

As ICE's investigation continued over the summer, it sent at least one undercover agent into the Marshalltown slaughterhouse. On Aug. 22 the agent recorded an orientation speech that union representative Braulio Pereyra gave in Spanish to about a dozen new employees. Pereyra, 58, was a vice-president of Local 1149, an affiliate of the United Food & Commercial Workers union and a Swift employee. According to court documents, Pereyra told workers how to protect false identities. Giving that advice led to the accusation that Pereyra knew illegals were working at Swift and did nothing about it. He was later charged with harboring illegal aliens.

Pereyra began his talk by recounting his arrival as an illegal immigrant from Argentina in the 1980s. (He later became an American citizen.) Pereyra, according to the government, then told the employees not to use their documents outside of work and that if they were ever stopped by the police to hand over their real identification. "You can lie to your boss or whomever, but not the police," he said. If the police find evidence of identity theft, "that's a federal offense," he explained.

Pereyra's attorney, J. Keith Rigg, argues that the charge against his client seems to stretch the common understanding of what constitutes "harboring" an illegal alien. "If we have a very broad-based statute where any kind of conduct that would help someone remain in the country, however indirectly, counts as a crime, then we have a lot of employers who are doing things that could be potentially considered criminal," says Rigg. The case is pending, and Rigg declined to make Pereyra available to comment.

On Dec. 12, 2006, came the raids on Swift plants around the country. At 7:30 a.m., 200 agents descended on the Marshalltown slaughterhouse. Supervisors shut down production and told everyone to report to the cafeteria. There, the agents, armed with handguns and in many cases wearing bulletproof vests, ordered those working legally to move to one side of the room and those who were not to gather on the other. Standing among the illegals was a line worker named Alejandro Vazquez.

By 3 p.m., Vazquez and 98 others had been handcuffed and driven away in Homeland Security Dept. buses and vans as family members looked on. A week later, Vazquez was charged with using the stolen identification of a U.S. citizen, a felony that could have put him in jail for a couple of years, followed by deportation. In hopes of getting a better deal,

Vazquez decided to inform on Lamb—a man Vazquez had known for more than a decade.

According to court documents, Vazquez said he had worked on and off at the Marshalltown plant over the past decade and most recently had been hired in October, 2002, using an assumed identity. Vazquez said he first met Lamb in 1995, when Lamb was his supervisor, and that he'd been to Lamb's home a number of times and had helped put new siding on the house. And he told the investigators he believed that if he spoke with Lamb, the HR manager would rehire him.

ICE agents provided Vazquez with a valid Social Security card, Texas birth certificate, and South Dakota picture ID in the name of Anthony Gomez. Then they wired Vazquez with a microphone and sent him in to talk with Lamb at his home on Sunday, June 3.

Copyright 2000-2008 by The McGraw-Hill Companies Inc. All rights reserved.

The McGraw-Hill Companies