



Appleton  
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## Illegal immigration issue roils below surface in election

*By J.E. Espino*

*Post-Crescent staff writer*

APPLETON — The list is long. It names scores of people taken into custody last year by the Outagamie County Sheriff's Department.

Some stood accused of minor offenses, such as traffic violations. Others were arrested for violent crimes, including first-degree reckless homicide.

All have this much in common: Jailers suspected they were undocumented immigrants and reported them to federal authorities through the Criminal Alien Program, a revamped federal initiative that in the past two years has identified immigrants for deportation.

But there are problems with the list. Most of the people it names are not illegal immigrants. Many, in fact, are U.S. citizens, including an American Indian, a Korean-American and two black people, one born in Ohio and one from Eau Claire.

"Probably adopted," someone wrote in the sheriff's department log after U.S. Immigration and Customs Enforcement agents confirmed the citizenship of the Korean-American. "U.S. citizen born in OH," reads a log entry next to the name of one of the black men.

The sheriff's department's list illustrates why illegal immigration is such a conundrum. The issue is complex and emotional, often breeding misunderstanding and prompting impulsive responses.

The current economic crisis and other pressing concerns have relegated immigration to a blip on the radar screen during this presidential election, but what happened in Outagamie County illustrates how the divisive issue roils just below the surface.

The sheriff's department targeted many of the people on the list at the height of an anti-immigrant backlash in northeastern Wisconsin.

The Criminal Alien Program, a partnership between local and federal authorities, sifts out illegal immigrants by checking the status of suspected foreign nationals who are in custody for serious crimes or who have extensive criminal histories.

Though referrals to the program came from most county jails in Wisconsin, Outagamie, with the seventh-largest jail, outpaced some larger facilities in more diverse areas. From October 2006 to February — a 17-month period — Outagamie jailers referred 352 inmates to the Milwaukee field office. Federal agents detained or filed deportation charges against an estimated 129 inmates.

In Brown County, home of the state's fourth-largest jail, that number was 269 — over a seven-year period.

Of the 352 referrals from Outagamie, federal agents took no action in two-thirds of the cases.

One in five was an American citizen. Some of those were unaware immigration authorities were investigating them.

State advocacy groups denounced the operation.

"The fact that they seem to be referring U.S. citizens to (Immigration and Customs Enforcement) shows a lack of authority, a lack of training, a lack of knowledge, a whole lot of problems in terms of what they are doing," said Karyn Rotker, an attorney with the American Civil Liberties Union of Wisconsin, upon learning of the department's practices.

"What if someone is an undocumented Canadian? Sounds like they might never catch that person," she said.

For groups like the Milwaukee-based Voces de la Frontera (Voices of the Border), the operation raised concerns about racial profiling.

"People who look or sound foreign are going to be treated differently," said Christine Neumann-Ortiz, executive director of the immigrant rights organization.

Outagamie County Sheriff Brad Gehring responded to the criticism philosophically. "If you want me to say it is a reflection of a bad federal policy, then that's what it is," he said. "But it is what we have to deal with."

The sheriff's department has since reassigned the employee who was in charge of reporting suspected illegal immigrants through the Criminal Alien Program.

The reassignment had nothing to do with job performance, Gehring says; he maintains that his office has not changed the way it cooperates with immigration authorities. But the numbers suggest the department is taking a more measured approach now.

During the three-month period from May through July, records show that fewer inmates were queried. Jailers zeroed in on men only. The only races and ethnicities were Asian and Hispanic. The majority of inmates listed were found to be illegal immigrants.

## Convenient scapegoats

Immigration is not a new issue, said Ed A. Fallon, an immigration expert and professor of law at Marquette University Law School. U.S. history is full of instances in which Americans anxious about the economy or perceived enemies vented their fear and anger at the expense of immigrants.

"Someone who looks different than you and has an accent and lives next door is a convenient scapegoat," Fallon said.

In such an environment, emotional or impulsive responses are not uncommon. "I get very concerned when there is hostile rhetoric in the media and when people get whipped in a frenzy because what happens is you get vigilantism," Fallon said.

Fallon said he is not surprised that immigration, once a hot-button issue, has not figured prominently in the national conversation generated by the presidential election.

Concerns about the failing economy largely have supplanted worries about the porous nature of America's borders. That probably doesn't bother the candidates, Fallon said; neither wants to risk losing voters and both likely welcome taking an emotional and potentially polarizing issue off the table.

The stakes are especially high for Republican John McCain.

"President Bush and McCain have indicated they come down on the side of business and want to promote some sort of immigration reform that benefits business, but it will upset a large segment of the Republican base, people who are cultural conservatives and oppose immigration on cultural grounds," Fallone said.

Buffeted by these political winds are immigrants such as Jose Vargas of Appleton. Ten years ago, the Mexico native was a withdrawn and homesick 11-year-old trying to adapt to the Fox Cities. But in his teens he veered off course and took up with the wrong crowd. He picked fights, habitually cut classes and drove without a license.

Last year, his bad choices caught up with him. Vargas sat in a jail cell in January 2007, unsure if he would be deported, despite having legal-permanent residence, for being convicted of assisting in a burglary. He had reported to the Outagamie County Jail expecting a 60-day sentence with work-release privileges but was detained on suspicion he was in the United States illegally.

"It's hard to explain what you feel. You're there to get out of trouble," he said. "Discrimination, that's what it is."

## Screening inmates

Under former jail supervisor Lt. Ron Yow, who oversaw the program until February, Outagamie screened all inmates.

"I'm not one to pat myself on the back, but I've been told by (Immigration and Customs Enforcement) officials that we were really the ground-floor people in Wisconsin on these things," Yow said. "I've been congratulated by ICE people and other organizations. And I've been condemned by some, too."

Most of those reported to federal authorities on Yow's watch were not illegal immigrants, however. One such case file concludes: "Detainer canceled; born in Puerto Rico. Same name wanted by ICE is from Peru. Fingerprints proved this one is Puerto Rican."

Yow said he was only enforcing laws, and ethnicity and race played no role in his referrals.

"You have to remember every person who is in this jail has been arrested for some offense," he said. "We didn't walk out on the streets and ask someone, 'Hey, are you an illegal alien? Let me take you into custody.' Every person that we're dealing with has been arrested for some offense."

Overall, federal immigration officials say the program has been successful. Agents in the Midwest filed deportation charges against 20,423 inmates from Oct. 1, 2006, through Feb. 29 who served time in Illinois, Wisconsin, Indiana, Kentucky, Kansas and Missouri jails.

Some critics question the criteria jailers use to refer an inmate. Typically, a person being booked is asked a battery of questions about his background, from eating habits to medical history. But much is left to the discretion of local authorities.

"Say the person is Laotian and the person is 35 years old," Yow said. "Along with that, they report their birthplace is Laos or Thailand. Those send up signals.

"We have a person whose last name might be Garcia. He has no Social Security number but he reports he's a roofer. Those things send up flags."

In the first five months after Yow was reassigned in February, the number of inmates reported to be suspected of illegal-immigrant status dropped. Outagamie submitted the names of 33

inmates from May through July. Twelve of them resulted in federal authorities filing detention orders.

Gehring said Yow's reassignment was a routine change designed to prevent an employee from being pigeonholed by performing the same task.

Yow, known for his frequent updates on the program at staff meetings and his thoroughness in the job, said the change took him by surprise.

## Fox Valley mirrors trend

The Fox Valley generally has reflected what's happening nationwide with regard to immigration. In 2006 and 2007, forums were held at churches and college campuses. Immigrants from the Fox Valley marched along with the rest of the nation in the "El Gran Paro" boycotts in May 2006 and 2007.

In June 2007, Green Bay passed an ordinance punishing businesses that hired undocumented workers. About the same time, a cluster of supervisors on the Outagamie County Board tried unsuccessfully to put forth a plan that would have denied all services to undocumented immigrants.

Appleton's foreign-born population was 3,559 in 2000, according to the Federation of American Immigration Reform's most recent data. It was an increase of 93.5 percent from 1990. The native-born population, meanwhile, grew by 4.3 percent.

The organization concluded that the immigrant population has been increasing more than 20 times faster than the native-born population.

Green Bay's foreign-born population increased by 202.6 percent to 7,006, FAIR reported.

Statewide, immigrant settlement accounted for 15.3 percent of the population increase during that decade.

Fallone said he wonders how helpful local referrals through the Criminal Alien Program are when already there is coordination between Homeland Security agents and corrections officials to identify and deport criminal aliens after they have served their sentences.

The rise in deportation proceedings has created a new set of challenges for defense lawyers who do not specialize in immigration law. "I'm consulting with criminal defense attorneys on what is an acceptable plea so they don't affect their (client's) permanent-residency status, because even some misdemeanors are deportable," said John Sesini, an immigration lawyer in Milwaukee.

ICE spokeswoman Gail Montenegro projects deportation proceedings will jump to 200,000 given increased personnel and funding for Criminal Alien Program. For the 2008 budget, Congress authorized \$200 million for the program's expansion and an additional \$40 million for Criminal Alien Program teams.

Nationally, 164,000 immigrants went through proceedings for fiscal year 2007.

Many of them are serving long sentences for violent crimes in U.S. prisons and will not be done serving their sentences for years to come, Montenegro said.

The numbers posted in 2007 nearly increased threefold from the previous year when ICE officials filed deportation charges against 64,000 inmates. They include everyone arrested under all ICE programs including human smuggling, worksite enforcement, identity theft and foreign-born street gang-members.

"It's not a perfect system by any means," Gehring said. "We struggle with it, but it's not our program. It's a federal program, and we're trying to do our best to provide accurate information."

## Processing deportations

The deportation process varies with each case. ICE may interview an inmate, place a detainer and issue charging documents, but that person won't come into custody for deportation until he or she has finished serving his or her sentence.

Once that inmate has satisfied the sentence, ICE has 48 hours (excluding holidays and weekends) to pick up that individual. ICE keeps the person in custody until a hearing is scheduled before an immigration judge, who will make the final determination whether to order the person to depart the United States.

This process can take several weeks or months, depending on the case, country of origin and the person's attorney requesting an extension.

On average, it takes about 30 days to remove someone. Those who are removed are housed at one of four county jails with which the Chicago ICE office contracts detention space. Those are Dodge and Kenosha county jails in Wisconsin and Tri County and McHenry County jails in Illinois.

Each person goes through the deportation process individually.

"It causes me to wonder what the positive impact of that is and what purposes are really being served because individuals are here and if they are of such public threat that they need to be removed from the country, (how is it that) they can be back in the country three to six months later," Gehring said.

Since serving his time, Vargas tried to make changes in his lifestyle.

Two months ago, however, Vargas stopped reporting to his probation agent.

For a while he was a full-time stay-at-home father to his two children, Harmony Annahi, 2, and Paco, 1.

A judge had provided some guidance at sentencing. He ordered him not to have contact with those friends he was caught up with in the burglary. Vargas said he had not talked with any of them since then. He must obtain his General Equivalency Diploma, work he has yet to complete.

"People can change. I know I (made) a mistake, but people need a second chance," Vargas said.

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