

## **Thousands Confront Deportation Dragnet's Longer Reach**

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### **Body**

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Wayne Smith once wandered the District streets late at night, trying to score one more hit of cocaine and begging God to deliver him from his addiction. He wound up serving three years at Lorton Reformatory on drug charges, and when he was released in 1992, he was determined to build a new life.

Today, Smith owns a janitorial service with 25 employees -- some of them former offenders and addicts he is trying to help. He is married, active in a church prison ministry, and, at age 40, studying to be a registered nurse.

"It's been rough, but I finally came out of my addiction. Now I want to give something back to the community," said Smith. "My children see me as a strong man and a good provider. My employees say I have inspired them. For the first time, I see a real future."

But Smith, a legal immigrant from Trinidad who came here at age 10, may have to pay a second time for his crime. Last spring, federal immigration agents knocked on his door and arrested him. Several months later, he was ordered **deported** by an immigration judge in Baltimore, based on his original drug charges. He has appealed the order, but he and his lawyer say his chances of winning are slim.

Last year, a tough new immigration law retroactively expanded the range of crimes for which federal authorities can **deport** legal residents. In addition to such serious felonies as murder, armed robbery and drug trafficking, which already were grounds for **deportation**, the list now includes lesser offenses such as shoplifting, credit card fraud, simple assault and drug use, as **long** as the defendant was sentenced to at least one year's probation.

The new law also severely limits an immigration judge's authority to grant exceptions, no matter how **long** ago the immigrant committed the crime, or how well he has behaved since then. It also makes it possible to block any immigrant convicted of such a crime from reentering the United States, meaning that if he travels abroad and tries to return he can consequently be held in custody until **deported**.

Supporters say the law is a necessary tool for getting rid of undesirable immigrants, especially violent or habitual criminals who have escaped **deportation** for years. Over the past year, the Immigration and Naturalization Service has **deported** more than 45,000 foreigners convicted of crimes by U.S. courts.

In the Washington area, 1,043 criminal aliens were arrested in the past year, an increase from the previous year of nearly 200 percent. In one Texas operation in March, INS agents arrested and **deported** more than 1,000 immigrants who had been convicted of charges that included murder, armed robbery and child molestation.

"I feel that law-abiding people, not hardened criminals, should be filling our priceless immigration slots," Sen. Spencer Abraham said in a speech last week. The Michigan Republican chairs a Senate immigration subcommittee. "Until last year's bill," Abraham said, "only a tiny percentage of deportable criminal aliens had actually been **deported**."

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But critics argue that the new law is unduly harsh, often sweeping up decent people in a dragnet that ought to be aimed at serious offenders. They note that many of the crimes for which immigrants can now be deported are misdemeanors under criminal law, for which judges rarely sentence offenders to jail.

In recent weeks, an especially dramatic case in New York has focused public attention on the law's far-reaching consequences. Jesus Collado, a 43-year-old legal immigrant and restaurant manager from the Dominican Republic, was returning from a vacation in his homeland last spring when he was arrested by immigration agents at John F. Kennedy International Airport and imprisoned.

It turned out that 23 years before, when Collado was 19, he had been convicted of sexual misconduct and sentenced to one year's probation after the mother of his 15-year-old girlfriend complained to police that they were having sex. Under the new law, Collado can be deported for his misdemeanor and held without bond in the meantime.

Collado's family mounted a campaign to publicize his plight, and a documentary film about him was released two weeks ago. Even the mother of his long-ago girlfriend wrote the immigration authorities, saying she now feels "extremely guilty" about having gotten him in trouble, and comparing their teenage romance to Romeo and Juliet.

On Friday, immigration officials released Collado after more than six months in federal custody, citing a new INS rule on detentions that took effect this week. The rule gives INS district directors temporary authority to free certain legal immigrants who were stopped when reentering the country, although they still face eventual deportation under the law.

"This is the most terrible thing I have ever been through," Collado said by telephone shortly after his release from a detention center in York, Pa. "I understand they are trying to stop crime, but this new law is also destroying families as a result. I have always worked hard for my wife and children. To take me away from them is just so cruel."

In an interview last week in the Manhattan restaurant he manages, Collado's family recounted how his 18-year-old daughter, Julissa, had nearly died in a car accident while he was in prison, and how desperate he had been to visit her in the hospital. Wearing a metal body brace, Julissa tearfully described Collado as a doting but strict father, who had been especially critical when she dated older boys.

Immigration officials said the year-old law leaves them no choice but to start deportation proceedings against people who committed crimes that are now considered "aggravated felonies," whenever they are encountered. Usually, the INS discovers the immigrant's criminal record either because he applied for citizenship or returned from a trip abroad and was questioned by an inspector at an airport.

As a result, thousands of immigrants across the country face expulsion for past crimes. Some are recent, violent crimes, but others are minor offenses that occurred a decade or more ago. Among those who are vulnerable under the new law:

\* Oscar Pereira, a 29-year-old District man from El Salvador who works at a late-night parking lot. He was convicted of carrying an unregistered pistol in 1992 -- he said he needed it for protection from muggers -- and given one year's probation. Now, immigration authorities have ordered him deported, and he has appealed. In the past, he could have sought an exemption because of his otherwise clean record and U.S.-born children, but the new law does not allow it.

\* An Iranian cab driver from Virginia, who asked that his name not be used. He was arrested at a student protest outside the White House in the late 1970s, convicted of assault and given 18 months' probation. This year, the 40-year-old man was planning to apply for citizenship, but his lawyer has advised him that if he submits his application, or leaves the country and tries to return, he will probably be ordered deported.

\* A 22-year-old Salvadoran man from Boston, Rafael Bardales, who was involved in a street gang when he was a teenager, and convicted of robbery and assault. He received two years' probation, joined a Catholic church and

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became an active volunteer in its missions. In July, the group traveled to the Dominican Republic to build churches. When they reentered the United States, the man was arrested and is awaiting **deportation**.

After a Washington Post reporter **reached** Bardales at the detention center in York, more than a dozen other immigrants being detained there for past crimes, most of whom had been arrested while returning from trips abroad, called The Post seeking help.

Abraham charged that authorities "seem to be pursuing some admittedly minor cases aggressively . . . while letting some hardened criminals in jail go free." He said he plans to hold hearings on the matter.

Immigration officials acknowledged that the new law is having a harsh impact on one-time minor offenders, but said their hands are tied because Congress, in seeking to crack down on immigrants who commit crimes, left both the INS and immigration judges with little room for flexibility or leniency in applying the rules.

"They cast a big net, and they're catching some dolphins in it," said Russ Bergeron, an INS spokesman. He added, however, that "probably only a handful" of such cases are as extreme as Collado's. The way the new law is written, Bergeron said, immigration officials do not "have sufficient discretionary authority any **longer** to adequately address exceptional circumstances."

Short of changing the law, immigration lawyers say, the only remedies for former offenders facing **deportation** are expensive, time-consuming and often fruitless. One is to ask a member of Congress to submit a private bill on behalf of the immigrant. Another is to request a pardon from the governor of one's state. A third is to seek to have the original conviction overturned or expunged from the record.

In interviews, several immigrants facing **deportation** said they tried to have their original convictions reviewed, without success. Lawyers said state executives rarely pardon people for such cases, and that submitting a private bill in Congress requires expensive legal work and takes many months to work its way through the political process.

Stephen Converse, a lawyer in Pennsylvania who represents Collado and a number of other immigrants awaiting **deportation** for past criminal convictions, explained the problem: "In theory, you can do something, but you need time and money. So you get an ordinary immigrant who committed a youthful indiscretion, and suddenly it comes back as a horrible offense, and there's virtually nothing he can do."

## Graphic

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Photo, ap/mark lennihan , Jesus Collado and daughter Julissa embrace amid cheers upon his release from INS facility. "This is the most terrible thing I have ever been through," he said.

## Classification

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