

Porous Deportation System Gives Criminals Little to Fear

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Body

Jorge Luis Garza Gorena, a beefy man with tattoos like scrollwork, was first deported to Mexico 20 years ago. But within a week Mr. Garza, a thief, burglar and heroin addict, had walked back across the border, smiling at an immigration inspector as he falsely declared himself a United States citizen.

Over the next 15 years, immigration officers deported Mr. Garza five more times. And five more times he easily returned, flashing his California driver's license at inspectors who had no access to his records. Then, in 1989, after a bureaucratic slip-up, the Immigration and Naturalization Service lost track of Mr. Garza altogether, sticking his bulging case file into a drawer stuffed with lost causes.

In early August, it took The New York Times about four hours to find Mr. Garza in this Central Valley town, drawing only on the information in his I.N.S. file. It would have taken less time if a reporter had looked first in one of the most obvious places -- Mr. Garza's mother's house on Forrest Street, as listed in the file.

Mr. Garza fits the profile of the alien whom immigration officials most want to deport: the career criminal. At 42, he has spent half his life behind bars. His record includes at least 10 felony and 12 misdemeanor convictions, mostly for burglary, theft and drug possession. He is a multiple, flagrant violator of immigration laws. And yet, while technically on the lam, he lives in this country freely.

That is because the immigration agency, plagued by inefficiency, has not even begun to address the vast task of getting convicted criminal aliens out of the country.

Keeping track of people like Mr. Garza is a challenge for the agency. Expelling them is an even more elusive goal. Preventing criminal aliens from returning, officials said, is the final Sisyphean task.

Illegal aliens convicted of crimes in this country are deportable just by dint of their illegal immigration status; legal immigrants can be deported if they commit almost any drug crime, most violent crimes, money laundering, firearms sales or felonies loosely defined as "crimes of moral turpitude."

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Convicted **criminals** make up a minuscule fraction of this nation's 20 million immigrants and only about 5 percent of those who are eligible for **deportation**. Since the 3.75 million other candidates for **deportation** are mostly industrious immigrants, convicted **criminals** are the agency's focus -- by order of Congress.

But of an estimated 200,000 or more convicted **criminal** aliens, the agency **deported** only about 20,000 last year.

Mr. Garza was not one of them. As his mother mopped the kitchen floor, he fidgeted with his glasses and described the immigration agency's repeated pursuit of him through six **deportations** as **little** more than a nuisance. From the first time officers pushed him out the border gate at Calexico, Calif., he knew he had to come back, he said. He simply did not know how to survive in his homeland.

"One of the things about me," he explained, "I was always a good thief. Those were my means of support. But in Mexico, you don't do that. I couldn't get away with it."

Mr. Garza said he lived in real dread of only one official: Sgt. Dan Crumrine of the Gilroy Police Department, an unrelenting lawman known on the streets as "Deadeye." By comparison, he said, immigration agents were mere "mosquitoes."

Mr. Garza understood that by granting an interview he risked calling the immigration agency's attention to his whereabouts. But he said he felt that the risk was minimal.

"After all the funds and all the time that immigration wasted, I guess they finally just got tired of hassling me," Mr. Garza said. "I haven't heard from them for years."

The Priority

Focusing Efforts On **Criminals**

I.N.S. officials attribute many of the agency's difficulties to the nation's ambivalence about immigration, a profound empathy tempered by a **fear** of being overwhelmed.

But much of that empathy vanishes when it comes to **criminal** aliens. And the mandate from Congress and the governors of the major immigrant states could not be clearer: get rid of them.

Yet, as Mr. Garza's case shows, even high-priority immigration programs suffer from the poor financing, mismanagement and faulty oversight that cripple every aspect of the agency's work.

Eight years ago, Congress formally directed the agency to make **criminal** aliens a primary target. Since then, the number of **criminals deported** has increased twentyfold. But a majority of deportable **criminal** aliens still do not have to worry.

Immigration officials acknowledge that they seldom visit city and county jails and almost never check with parole offices.

Immigration agents, for example, never interview any of the prisoners in the 49 counties of Northern California, between Bakersfield and the Oregon border. And in the El Paso area alone, where the local immigration office plans to begin screening probationers soon, about 7,000 candidates for **deportation** have been ignored until now.

While the I.N.S. does pay more systematic attention to state prisons, agents miss many foreign-born inmates in them as well. And many of the inmates they do find are released from prison before their immigration cases have been processed. Then they are virtually free to disappear. About 11,000 "aggravated felons" -- convicted mostly of drug crimes and violent crimes -- had absconded from the **system** by 1992, the last year the agency counted.

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Once **criminal** aliens disappear, the agency deploys few officers to chase them. With overwhelming caseloads, the nation's 284 **deportation** officers rarely get a chance to leave their desks, much less to search for fugitives and remove them from the country.

"We are not successful where removal is concerned, by and large," said Doris M. Meissner, the Commissioner of Immigration and Naturalization.

Many who are **deported** re-enter the country easily. They face stiff penalties -- up to 15 years in prison -- and each year the Justice Department prosecutes about 1,000 **criminal** aliens who have returned. But so many get away with it that in California many **criminal** aliens, once they have come back, even resume reporting to their state parole officers.

The Problem

In Custody, Out of Custody

The immigration agency does not know the size of the **criminal** alien population, or what proportion are illegal aliens. Congress ordered a census of **criminal** aliens in 1990. But a senior immigration official said the agency never did it because it would have taken three years and cost \$2.2 million, money that had not been allocated.

All the agency knows for sure is that Federal and state prisons hold about 90,000 foreign-born inmates and that most of them are deportable after they complete their sentences. Immigration agents concentrate their energies on finding these aliens, since they are already in government custody. But they consider it a daunting task to reach even them, since there are more than 4,700 penitentiaries in the country and only 33 I.N.S. district offices.

For years, the immigration agency has been negotiating with the states to funnel all foreign-born inmates through a handful of prisons for interviews and hearings.

To prepare their cases against **criminal** aliens, immigration agents must personally interview them and investigate their stories.

"Remember that people don't usually get arrested selling crack with their Dominican passport in their pocket," said Charles Ferrigno, chief of the **criminal** alien division in New York's immigration office. "If they're selling dope under a phony name, we have to prove who they are and that they are an alien."

A recent visit to the **deportation** screening program at New York City's jail on Rikers Island illustrated just how labor intensive each case is, especially **given** that many inmates do not tell the truth and that the agency's computer **system** is unreliable.

On a foggy morning in July, an immigration agent interviewed a Colombia-born inmate who had once pretended to be Ecuadorean. A 33-year-old with spiky hair, the inmate told the agent that, first, he was innocent of promoting prostitution and, second, he had a green card locked away with his wallet. The agent asked him if any relatives knew his green card number.

"We try to find a relative because often a computer screws up," said the agent, who would speak only anonymously. "We have to check with mom to get the correct information."

After that, the agent interviewed a 17-year-old Trinidadian, an illegal alien serving four months for attempted robbery. Tall, thin and scared, he blinked as his eyes welled with tears when he realized he faced **deportation**.

The young man insisted that his parents still lived in Trinidad, hoping the agent would not try to telephone them. But the agent had already spoken to the teen-ager's mother that morning, in Queens. "She was happy to tell me that he had overstayed his visa," the agent said. "She said, 'Please, send him home.' You'd be surprised how often parents contact us and say, 'Please, **deport** him and save his life.' "

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In all likelihood, immigration officials will release this young man, either on his own recognizance or on a bond. If he is subsequently ordered deported, then, as the system works, he will have a choice: turn himself in or remain here illegally.

The Honor System

Many Fugitives, Few Pursuits

The Immigration and Naturalization Service conducts most deportations on an honor system. It mails deportees notices asking them to turn themselves in on a given day. But so few surrender that deportation officers sarcastically refer to the notice as a "run letter." In New York, about 96 percent of those receiving the letter run.

Nationally, the agency has a docket of about 90,000 fugitives who failed to show up for either their court hearings or their scheduled deportations. Immigration officials say most are able to evade the system because the agency lacks the resources to go after them. Some deportation officers, however, bitterly noted that their supervisors had allowed others to spend the agency's paltry resources on apartment building raids while criminal aliens remained at large.

A few immigration districts, like Boston, assign squads to search for fugitives, but most only sporadically send officers out on what the agency calls a "bag and baggage" -- "bagging" a fugitive who then, theoretically, packs his baggage.

'Wall of Shame'

"Every now and then, we like to have each officer pick from his docket and have a chance to get out," said Tony Marian, an assistant district director in San Francisco. "But with 4,000 cases an officer, it's a losing proposition."

In that office, Bob Magee, a deportation officer, keeps 11 mug shots on his bulletin board. He calls it his "wall of shame." Are these the toughest criminals he has deported recently? No, he said, they are all the aliens he has deported in the last year.

To expedite the deportations, the immigration service began an "institutional hearing program" eight years ago. The idea is to hold deportation hearings in state prisons before inmates are released rather than afterward in immigration courts. But the program has met with only limited success because lawyers and judges are reluctant to make the trek to the far-flung prisons.

Still, the agency believes that the hearing programs are the key to exerting some control over the problem of criminal aliens. And it is negotiating with the states to make the system work better. But critics of the I.N.S. distrust the prison hearings, saying the aliens have limited access to counsel.

The critics also note a contradiction: the agency is eager to speed deportations, yet it does not have a nationwide system that allows inmates to waive their right to a hearing and leave the country immediately.

The Revolving Door

One Deportation After Another

Born in the northeast Mexico state of Tamaulipas, Mr. Garza, who now lives with his mother here in Gilroy, moved to the United States at the age of 2. That was 40 years ago, and now George, as he calls himself, is thoroughly Americanized. He speaks better English than Spanish, with a singsong inflection but no accent. He refers to Gilroy, "the garlic capital of the world," as his home.

Mr. Garza started getting into trouble early. By the time he was 18 he had been arrested 10 times and spent a term at a correctional ranch. From that point on, addicted to heroin, he thieved, burgled and sold drugs to support his

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habit. He often bungled his crimes. One time he stole a leather jacket from a department store and got caught only because, tags dangling, he courteously held the door for a security guard.

"George is a stone-cold burglar but not a very good one," said Sergeant Crumrine, who said he has arrested Mr. Garza at least 10 times.

Mr. Garza was first found deportable in 1974, when a judge ruled that a string of burglary convictions reflected "moral turpitude." But Mr. Garza lasted just 10 days in Mexico. Within a year of his return to the United States, he ended up back in state prison. On his sentencing, a local assistant district attorney noted: "This man is an incurable heroin addict. Although he is an alien, deportation would solve nothing since he would only return illegally."

With every new deportation, Mr. Garza walked out the border gate, lingered a few hours in Mexicali or Nogales, Mexico, and then marched back through inspections. It is unlikely that an inspector ever received word from a deportation officer to look out for him, officials said. That is not procedure.

Each time Mr. Garza returned, he fell into the agency's net only after he landed back in prison. In 1988, while he was serving time for parole violations, the immigration service opened Mr. Garza's most recent deportation proceeding. But a genial immigration judge released him on \$5,000 bail because of his "good work history." Between sentences, Mr. Garza had held down jobs as a furniture deliveryman, painter and factory worker.

Mr. Garza never showed up for his subsequent deportation hearing, but he had a good excuse. He was back behind bars. This time, immigration officials placed a detainer on him at the Santa Clara County Jail. Still, officials there released him, probably because they had a shortage of beds or because the agency did not get him promptly.

And that was that. The agency dropped his case.

Then, this summer, Juan Bustos, a deportation officer in San Francisco, inherited 1,000 cases from an officer who had been transferred. He stumbled upon Mr. Garza's thick file, which was so disorganized that Mr. Bustos did not realize that he had been deported so many times. But he did shake his head. "What's wrong here?" he said. "This guy should be picked up."

But Mr. Bustos rarely gets permission to leave the office. And Gilroy, a two-hour drive south of San Francisco, lies outside the radius of his deportation activities. So, as Mr. Garza's file shows, Mr. Bustos sent a memorandum to the Border Patrol station in Salinas, Calif., asking that office to "assign this case for location."

Mr. Bustos suspected that the Border Patrol would do nothing. He was, he said, just covering his behind.

Chaos at the Gates

TODAY: The most wanted: A poor record of deporting criminal aliens.

SUNDAY: Immigration agency is mis-managed; its ranks, demoralized. YESTERDAY: The corruption virus: It spread through the Washington office.

TOMORROW: A Border Patrol success story fell on deaf ears in Washington.

THURSDAY: Cold, rude and insensitive: The agency ill serves its clients.

Graphic

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Photos: Immigration agents **gave** up looking for Jorge Luis Garza Gorena. (pg. A1); "I was always a good thief," said Jorge Luis Garza Gorena, pictured with his mother at her home in Gilroy. Calif. (pg. B9) (Jim Wilson/The New York Times)

Map/Diagram: "SNAPSHOT: In the United States and Serving Time"

The Immigration and Naturalization Service says that an overwhelming majority of foreign-born inmates in Federal and state prisons are deportable. Below, foreign-born convicts serving time in Federal prisons nationwide, or in prisons of the top immigration states. (Sources: I.N.S.; Corrections Departments in California, New York, Texas, Florida and Arizona) (pg. B9)

Classification

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