

### American citizens mistaken for illegal immigrants

By SUZANNE GAMBOA / Associated Press Writer

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In this photo taken on Friday, Oct. 17, 2008, detainees are shown resting on bunks inside the "B" cell and bunk unit of the Northwest Detention Center in Tacoma, Wash. The facility is operated by The GEO Group Inc. under contract from U.S. Immigrations and Customs Enforcement, and houses people whose immigration status is in question or who are waiting for deportation or

Pedro Guzman has been an American citizen all his life. Yet in 2007, the 31-year-old Los Angeles native -- in jail for a misdemeanor, mentally ill and never able to read or write -- signed a waiver agreeing to leave the country without a hearing and was deported to Mexico as an illegal immigrant.

For almost three months, Guzman slept in the streets, bathed in filthy rivers and ate out of trash cans while his mother scoured the city of Tijuana, its hospitals and morgues, clutching his

photo in her hand. He was finally found trying to cross the border at Calexico, 100 miles away.

These days, back home in California, "He just changes from one second to another. His brain jumps back to when he was missing," said his brother, Michael Guzman. "We just talk to him and reassure him that everything is fine and nobody is going to hurt him."

In a drive to crack down on illegal immigrants, the United States has locked up or thrown out dozens, probably many more, of its own citizens over the past eight years. A monthslong AP investigation has documented 55 such cases, on the basis of interviews, lawsuits and documents obtained under the Freedom of Information Act. These citizens are detained for anything from a day to five years. Immigration lawyers say there are actually hundreds of such cases.

It is illegal to deport U.S. citizens or detain them for immigration violations. Yet citizens still end up in detention because the system is overwhelmed, acknowledged Victor Cerda, who left Immigration and Customs Enforcement in 2005 after overseeing the system. The number of detentions overall is expected to rise by about 17 percent this year to more than 400,000, putting a severe strain on the enforcement network and legal system.

The result is the detention of citizens with the fewest resources: the mentally ill, minorities, the poor, children and those with outstanding criminal warrants, ranging from unpaid traffic tickets to failure to show up for probation

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hearings. Most at risk are Hispanics, who made up the majority of the cases the AP found.

"The more the system becomes confused, the more U.S. citizens will be wrongfully detained and wrongfully removed," said Bruce Einhorn, a retired immigration judge who now teaches at Pepperdine Law School. "They are the symptom of a larger problem in the detention system. ... Nothing could be more regrettable than the removal of our fellow citizens."

Jim Hayes, ICE director of detention and removal, said he is aware of only 10 cases of U.S. citizens detained over the past five years. Even if combined with the cases found by the AP, "that's not an epidemic," Hayes said. He refused to identify any cases, citing privacy laws.

He added that agents investigate any claims to U.S. citizenship, but they often turn out to be false. He said U.S. citizens sometimes claim to be foreign-born, and that immigration officials never knowingly hold someone they can "definitively" determine is a citizen.



Pedro Guzman. (AP Photo/ACI 11)

It's impossible to know exactly how many citizens have been detained or deported because nobody keeps track. Kara Hartzler, an attorney at the Florence Immigrant and Refugee Rights Project in Arizona, testified at a U.S. House hearing last year that her group alone sees 40 to 50 jailings a month of people with potentially valid claims to citizenship.

"These cases are surprisingly, painfully common," she said.

The nonprofit Vera Institute for Justice found 322 people with citizenship claims in 13

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immigration prisons in 2007, up from 129 the year before. That number does not include possible citizens in the nation's more than 300 other immigration prisons.

What is clear is that immigration detentions -- including those of citizens -- have soared in recent years. One reason is a heightened concern for security that arose out of the Sept. 11, 2001, terrorist attacks. Another is a political climate that encouraged a tough stance on illegal immigration, especially after Congress failed to pass immigration reform legislation almost three years ago.

After 2003, the nation launched several programs to detain more immigrants, including one that called on local police and sheriffs for help. Before 2007, just seven state and

local law enforcement agencies worked with immigration. By last November, more than 950 officers from 23 states had attended a four-week program on how to root out and jail suspected illegal immigrants.

A Government Accountability Office investigation has since found that ICE did not ensure local officials properly used their authority and failed to collect data to assess the program. As a result, ICE is rewriting agreements with 67 agencies.

The program came under fire partly because it gives local officers so much leeway to decide who to stop. Almost one in 10 Hispanic adults born in the U.S. report that police or other authorities stopped them and asked about their immigration status in 2007, according to a Pew Hispanic Center survey of more than 2,000 people.

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It was a local sheriff's office that sent Guzman out of the country.

He was picked up near his home in Lancaster, Calif., on March 31, 2007, by Los Angeles County sheriff's department officers on a misdemeanor trespassing charge. He had tried three times to board a private plane, showing lottery tickets for passage on one attempt, officers said in a report. He had also stolen a car and told officers his mother's car was broken.

A judge gave him three years' probation and



In this undated family photo provided by Rennison Castillo, Castillo is shown while on active duty in the U.S. Army. Castillo, who is originally from Belize, but who became a U.S. citizen while serving in the Army, was detained for seven months by U.S. Immigration and Customs Enforcement at the Northwest Detention Center in Tacoma, Wash. until his citizenship could be removed. (AP Photo/Courtesy Rennison Castillo)

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three months in jail for vandalism.

At the jail, Guzman told officers he was born in California, a response noted in official records. But a sheriff's employee still got Guzman to sign an agreement to leave the country without a hearing.

On the day he arrived in Mexico, Guzman called a relative to say he didn't know where he was, and asked a passer-by. The answer: Tijuana. Then the phone cut off.

Guzman was finally returned to California legally in August 2007.

Now he can no longer stand the sun because it reminds him of Mexico. His family will not let him talk about the ordeal because it upsets him. He has frequent counseling sessions, but he is shaky, stutters and seems to hear voices, according to his brother.

"He is our brother, somebody's son, that they deported," said Michael Guzman. "California is like the main capital of Latin Americans. It doesn't matter whether you are a citizen or not. If you look Hispanic, they can question you. Deportation can happen to anybody."

Neither the sheriff's office nor immigration officials would discuss the case, citing pending litigation. The family has sued Los Angeles County and the federal government.

"When the whole story is told, people will see and understand what has occurred," said Steve

Whitmore, spokesman for the Los Angeles County Sheriff's Office.

In the meantime, Guzman's mother, Maria Carbajal, often works the graveyard shift at a Jack in the Box because she is afraid to leave him alone during the day.

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American citizens also have been caught in the net of increased workplace arrests and jail sweeps.

Workplace arrests rose from 517 in fiscal year 2003 to 6,274 in 2008. Julie Myers, former Homeland Security assistant secretary overseeing ICE, said agents quickly sort out which workers are citizens during raids. She added that federal law, court decisions and search warrants give immigration agents the authority to enter workplaces to question everyone inside, including citizens.

But the raids have already led to several lawsuits.

In 2007, 114 U.S. citizens and permanent residents sued after a raid on Micro Solutions Enterprises, a computer printer equipment recycler in Van Nuys, Calif. They alleged illegal detention and sought \$5,000 damage each.

In 2008, the union representing workers at six Swift & Co. meatpacking plants sued on behalf of eight citizens and legal residents caught up in raids.

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In one case, three citizens and nine others, all Hispanic, sued after ICE agents raided their New Jersey homes as part of what was dubbed Operation Return To Sender. The lawsuit alleges that an immigration agent pulled a gun on one of the citizens, a 9-year-old boy.

A program to sweep jails and deport immigrants who have committed crimes is more popular. But critics fear the temptation is to deport anyone for anything because they are seen as bad seeds, even if they are American citizens.

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Rennison Castillo arrived early at the Seattle immigration office on Oct. 28, 1998, to take his citizenship oath. He was dressed in a freshly starched Army uniform and was eager to grab a good seat. He sat in the second row.

Born in Belize, Castillo had lived in the U.S. since he was 7 and had served two years in the Army. But his superiors told him he could not stay in the Army without citizenship. So he took the citizenship test and passed easily, missing only one question, on the name of a locally elected official.

"I felt pretty good. I felt I definitely accomplished something, because having a citizenship to the United States was something that I felt proud of," Castillo said.

Seven years later, the U.S. government locked Castillo in a Tacoma, Wash., immigration jail. He had been picked up at the Pierce County jail,

where he had spent eight months for violating a restraining order and for residential burglary.

At the holding cell, an officer asked if he wanted to go home. He thought she meant his home in Lakewood, Wash. "Yes," he answered. "I'd love to go home."

She chained him up and told him he would be deported.

Over and over, Castillo said, he told officers he was a citizen. He pleaded with them to check their computer files.

But officials said nothing in their records confirmed his citizenship or his military service. One officer actually recognized Castillo from their Army days at Fort Lewis, Wash., and mentioned their battalion, but told Castillo he couldn't help.

Then Castillo saw a number posted on the wall for the Northwest Immigration Rights Project. On the group's advice, he contacted a friend who pulled his military document from the trunk of his car.

Nearly eight months after he was transferred to ICE custody, Castillo was released. He discovered that immigration officials had two files on him, with different numbers, and has since filed a lawsuit. ICE declined to comment because the lawsuit is pending.

"I understand that nothing is perfect, nothing will be perfect, but I don't understand how they

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could make a grave mistake like that," he said. "Because if this happened to me, I'm quite sure it's happened to somebody else. What's going to happen to the next person it happens to?"

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For Ricardo Martinez, born in McAllen, Texas, it was not being able to get back into his own country.

Even though he was a U.S. citizen, Martinez lived in Mexico between the ages of 5 and 17.

Like many border residents with family on the other side, he made frequent trips to Mexico. When he tried to return to the U.S. after a visit to Mexico in July 1999, he was turned away by border officers at Nogales, Ariz., because two copies of his birth certificate, issued years apart, had different hospital registration dates. Not proficient in English, Martinez said he had never noticed the error.

Told to get his documents in order, he got a U.S. passport and was able to get into the country. But the problem was not over.

In January 2006, he went back to Mexico to be with his dying grandmother. When he tried to cross back at Laredo, Texas, in March, he carried his birth certificates, his birth registration card, his passport and state ID cards from Nebraska, California and Texas, where he had worked.

But by that time border security had become far stricter. Agents looked up Martinez in their

database and found the earlier problem at Nogales. They claimed his U.S. passport was fake, he said.

Martinez was taken to an inspection room, forced to remove his shoes, searched, handcuffed to a chair and held for two hours while officers questioned his documents, he said. He was told unless he confessed to fraud, he would be sent to prison for six to eight months, according to a court document filed in Martinez's lawsuit against the government.

"They told me if I didn't say I was from over there, they would put me in jail. I was frightened," Martinez said.

He said he asked to call his mother to help prove his citizenship, but was refused.

Martinez's stepfather, Florentino Mireles, said in a Feb. 27, 2008, affidavit that he called border inspectors to ask why they had taken Martinez's documents. The response, he said: An officer didn't believe Martinez was a U.S. citizen because he didn't speak English.

Afraid of jail, Martinez signed the papers. In an affidavit in his lawsuit, Martinez said he didn't understand that by signing he was admitting to not being born in the U.S.

It took his parents two years to find an affordable attorney. Finally, at a meeting in Hidalgo, attorney Lisa Brodyaga showed border officers a copy of Martinez' birth certificate from his parents that included his footprints and a

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thumbprint and tax records showing he had worked legally in the U.S. Officials agreed he was a U.S. citizen and allowed him to cross the border.

Lloyd Easterling, spokesman for Customs and Border Protection, declined comment because Martinez has sued. In court filings, the agency said Martinez denied being physically assaulted or subjected to excessive force and never filed a complaint against the officers.

Brodyaga said the cases of U.S. citizens detained or deported show more than bureaucratic bungling.

"I've been doing this for 30 years and I've seen bureaucratic bungling. This is more than that," she said. "This is an atmosphere of suspicion and hostility, particularly for Mexican-Americans on the border."

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Associated Press staff writers Traci Carl and Peter Prengaman contributed to this report.

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