

Immigrant Workers Caught in Net Cast for Gangs

The New York Times

November 25, 2007

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GREENPORT, N.Y. — It was still dark the morning of Sept. 27 when armed federal immigration agents, guided by local police officers, swept into this village on the East End of Long Island. Within hours, as the team roused sleeping families, 11 men were added to a running government tally of arrests made in Operation Community Shield, a two-year-old national program singling out violent gang members for deportation.

“Violent foreign-born gang members and their associates have more than worn out their welcome,” Julie L. Myers, assistant secretary of Immigration and Customs Enforcement, said at an October news conference announcing the arrests of 1,313 people in the operation over the summer and fall nationwide. “And to them I have one message: Good riddance.”

But, to the dismay of many of Greenport’s 2,500 residents, the raid here did not match her words.

Only one of the 11 men taken away that morning was suspected of a gang affiliation, according to the Southold Town police, who patrol Greenport and played the crucial role of identifying targets for the operation.

The 10 others, while accused of immigration violations, were not gang associates and had no criminal records.

Instead, they were known as good workers and family men. When they suddenly vanished into the far-flung immigration detention system, six of their employers hired lawyers to try to find and free them. Some went further, like Dan and Tina Finne, who agreed to take care of the 3-year-old American-born daughter of a Guatemalan carpenter who was swept up in the raid, if her mother was detained, too.

“This is un-American,” said Ms. Finne, 41, a Greenport native, echoing other citizens who condemned the home raids in public meetings and letters to The Suffolk Times, a weekly newspaper. “We need to do something about immigration, but not this.”

Greenport’s experience with Operation Community Shield sheds light on the inner workings of an antigang crackdown that has brought immigration raids to private homes across the country. The crackdown relies heavily on local police forces to identify suspects, often based on loosely defined or subjective criteria.

But the raid in Greenport also underscores the potential for backlash from local residents and officials when results conflict with expectations.

As the details of the Sept. 27 raid spread through this village, where about 17 percent of residents are Hispanic, some citizens began to protest the very premise of the operation — and the participation of local officers.

David Nyce, Greenport's mayor, said, "The whole gang issue is something to keep the white majority scared about the Latino population, and to come in and bust as many people as they want."

"I spoke to the police chief," he added, "and I said, 'This is going to set you back a lot.'"

Elsewhere in Suffolk County, many welcomed the sweep. The Suffolk County police, who patrol towns in the western part of the county, had only praise for the operation.

'Collateral Arrests'

But the county executive and the county police commissioner in neighboring Nassau County disagreed. They said that the vast majority of those arrested in their county were not gang associates, and that residents and police alike had been endangered by what they called the agents' "cowboy mentality," including armed raids on the wrong homes.

Officials at Immigration and Customs Enforcement dismiss such criticism. They say that the operation was properly conducted and methodically planned, based on intelligence provided by the local police departments themselves. "Collateral arrests" of illegal immigrants who are not gang suspects are always appropriate to the agency's mission, they said.

"We're not here stomping all over anybody's rights," said Peter J. Smith, the special agent in charge of the Long Island operation, which led to the roundup of 186 men.

"We've got immigration powers."

One of the things that clearly unsettled residents of Greenport was that the immigrants were arrested in their homes, without warrants, an immigration enforcement tactic that has been used more and more since 2005.

By law, immigration agents without judicial warrants may enter homes only with the consent of the residents. They may not use racial or ethnic profiling to single people out. But they have broad authority to detain anyone they encounter if they have grounds for suspicion that the person is not in the country legally. The legality of recent home raids has been challenged in federal court in New York and elsewhere.

Case law on the constitutional limits of immigration powers in home raids is still unsettled, said Prof. Daniel Kanstroom, a legal historian of deportation at Boston College. For decades, such raids were rare, in part because the idea of home as an inviolable space has been enshrined by the Fourth Amendment's protection against unreasonable search and seizure. "We are now in the midst of a major resurgence" in home raids, Professor Kanstroom said.

The operation in Greenport began a month before the raid, with a phone call from Agent Smith to the Southold Town police, said Detective Sgt. John Sinning. The federal agency was planning an antigang sweep on Long Island, and he was asked if he had names of gang members who might also be deportable immigrants.

Like many police departments, the Southold force keeps a database of young men suspected of gang ties, in many cases because of their clothes, their tattoos or the company they keep.

Planning the Raids

Since there is no legal definition of criminal street gang membership, officers have tremendous discretion in deciding whom to classify as a gang associate, notes Jennifer Chacon, a law professor at the University of California, Davis, who has written critically about Operation Community Shield.

In Greenport, Detective Sinning, 43, took the lead. He speaks no Spanish, but after years of regional meetings on the topic, he said, he knows the signs of gang participation.

“I gave them 15 or 16 names that we had as gang members or gang associates,” he said. “They ran them through their systems and came back with four, late the night before the raid.”

Detective Sinning said he suspected that two of the four, Salvadore Salazar-Orellana and Carlos Enrique Campos, were already in custody on assault and robbery charges. But he plugged all four names into a general database, and came up with six or seven home addresses roughly associated with the names he had been given.

The next day, accompanied by two uniformed officers, he guided the federal agents to those addresses.

In the end, only one of the men they were seeking was found: Pedro Rodriguez, a 19-year-old Greenport High School graduate who was facing his first criminal indictment, for assault. He had been released on bail to his mother’s house, protesting innocence.

The fourth man sought by the team was José Fuentes, an 18-year-old with no criminal record, who had been designated a gang associate by a Southold officer, Detective Sinning said. But at each address they were told he had moved or had never lived there.

One address on the list turned out to be the home of a Greenport firefighter, James Berry, who lives across the street from the mayor. Mr. Berry, 48, an American citizen, said a dozen armed agents and officers were on his lawn. “I thought they were going to kick the door in,” he recalled. But when he opened the door with a curse, an agent said, “I think we have the wrong address.”

Detective Sinning said agents also left an address where the residents who opened their door did not appear to be Hispanic. But at several other houses on the detective’s list, Latino residents answered the door, and the agents gained entry. They searched the premises, demanded immigration papers, and arrested any man who could not produce the right documents. Women and children were left behind.

At one house where the agents were looking for Mr. Fuentes, they arrested three men who had been asleep in separate bedrooms when an aunt opened the door. Two were cousins from El Salvador, Marvin Lopez, 21, a packer of baby vegetables at Satur Farm in Cutchogue, and Omar Lopez, 25, a Shelter Island landscaper, who had been asleep with his fiancée and infant son. The third man, Valentin Rudy Escobar Montenegro, a Guatemalan carpenter, also was with his wife and baby.

At an apartment mistakenly linked to Mr. Campos, one of the men who were in jail, the agents instead arrested Israel Salazar, 54, a full-time gardener for a retired couple in nearby Orient.

At Mr. Rodriguez’s home, agents handcuffed him in the basement bedroom he shared with his American fiancée, who was pregnant. Then they took six other men in the house:

Mr. Rodriguez's cousin, Arturo, 17; Walter Tzun, the Guatemalan carpenter who worked for Mr. Finne; and — from a separate apartment upstairs — four Guatemalan landscapers who had worked for the same Shelter Island company for five years.

For the first six to eight days, the Lopez cousins and Mr. Salazar were held incommunicado, without access to counsel, at the maximum-security Metropolitan Detention Center in Brooklyn, where Muslim immigrants considered terror suspects were held after 9/11.

Moving From Jail to Jail

Eberhard Müller, the former executive chef of Lutèce, who runs Satur Farms with his wife, hired a lawyer to find Marvin Lopez, the vegetable packer. Two weeks after the raid, the lawyer found him: he had been sent in shackles from Brooklyn to a detention center in Rhode Island, and on to a New Jersey jail.

Mr. Tzun was sent through two county jails to a federal detention center in York, Pa. But even as his boss was driving to York to hire a Pennsylvania lawyer to seek bond, Mr. Tzun was being flown to a privately run prison in rural New Mexico.

Until recently, men like these, with no criminal record or outstanding deportation orders, would have been released pending a deportation hearing. But none of those arrested in the September sweep in New York were released by the New York field office. The whereabouts of four of the men — the Guatemalan landscapers — could not be learned.

Still, several of the others eventually managed to return to Greenport, and some are fighting to stay. Mr. Salazar, after three weeks behind bars, was released from the jail in Hudson County, N.J., on \$10,000 bond paid by Charlotte Gemmel and Maureen Sanders, the retirees who employed him as a gardener. Marvin Lopez is also out on \$10,000 bond, posted by the owners of Satur Farms. Both are applying for asylum.

Omar Lopez hopes to do so, too, based on his fear of violent gangs in El Salvador. For now, though, he worries what will happen to his fiancée, Yanci, and son, Kevin, if he is deported.

“I cry here inside prison, just thinking about Yanci,” he said recently from jail in Monmouth County, N.J.

Mr. Tzun, who overstayed a visa in 2000, was released on \$10,000 bond on Nov. 6 after he agreed to leave for Guatemala by Dec. 15. He has returned to say goodbye to his daughter, Sarah, and her mother, Amanda Rodriguez, with whom he had lived for six years. Mr. Tzun considered himself the stepfather of Ms. Rodriguez's three other children, including Pedro Rodriguez, who was on the original target list. Pedro Rodriguez said he was persuaded in detention to sign deportation papers — as were his cousin Arturo and Mr. Montenegro. Mr. Rodriguez, who was 12 when his mother brought him to the United States, was deported to Mexico in late October.

But that deportation left unresolved the misdemeanor assault case that Detective Sinning had brought against him in August — to the frustration of both the detective and the defendant.

The detective wanted a grand jury to indict Mr. Rodriguez for a gang-related felony in the case. The defendant wanted to clear his name, and had asked to testify and to bring alibi witnesses to a grand jury.

Mr. Rodriguez's criminal defense lawyer, Luis A. Pagan, said he was startled to learn that Detective Sinning had given Mr. Rodriguez's name to immigration agents as a target while the case was pending.

"That's scary," Mr. Pagan said. "They're not even giving this guy the right to defend himself."

The misdemeanor charge remains on the defendant's record, but because he was deported before he could be heard by the grand jury, prosecutors say they can no longer pursue a felony indictment. That matters, the detective said, because he expects Mr. Rodriguez to eventually make his way back to Greenport, where he has family and a child on the way.

Detective Sinning said he stood ready to help immigration agents again. But he added, "In this case, the one system is working against the other system."