

Visa Violators Swept Up In Widening Dragnet

THE WALL STREET JOURNAL

By MIRIAM JORDAN

April 10, 2008; Page A1

CHICAGO -- Polish native Andrej "Peter" Dereziński came to the U.S. 18 years ago and was soon living the American dream. The 41-year-old father of three owns two homes, some commercial property and a thriving heating and cooling business here.



**Andrej "Peter"
Dereziński**

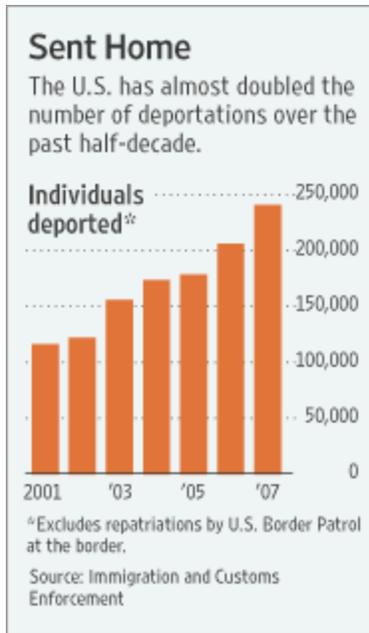
Thursday evening, Mr. Dereziński is scheduled to be deported. On July 13, 2006, a police officer stopped Mr. Dereziński for talking on his cellphone while driving, in violation of a ban here. The officer tapped the Polish man's name into a database and generated a "hit" that indicated Mr. Dereziński was in the U.S. unlawfully. He had overstayed a tourist visa when he initially came to the U.S. and then ignored a deportation order in the mid-1990s.

Mexicans and other Latin Americans, who often sneak into the U.S. on foot, are the face of today's rancorous debate over illegal immigration. But increasingly, other groups of undocumented immigrants -- known as "OTMs," or "other than Mexicans" within the Department of Homeland Security -- are being swept up, too.

Most came to the U.S. on planes, with valid visas and passports from Ireland, India, Poland or elsewhere. They stayed in the country after those visas expired, and eluded detection by immigration authorities as they went about their lives, often laying down roots in their new communities. The Pew Hispanic Center, a nonpartisan research group, estimates that up to 45% of the 12 million undocumented immigrants in the U.S. are visa overstayers. Europeans account for 400,000 of them.

In recent years, U.S. Immigration and Customs Enforcement (ICE) has implemented a new strategy to identify people who are here illegally: Get local police to nab them on an unrelated offense, such as a traffic infraction.

Historically, immigration enforcement has been the purview of federal agents posted primarily at ports of entry and border areas. After the Sept. 11, 2001, terrorist attacks, the federal government began expanding the role of local police in immigration enforcement. Initially, the goal was to help find potential terrorists. As the program has expanded, more immigrants are being turned in.



State and local law-enforcement officers can in many instances determine with a quick computer search or phone call whether a person stopped for a traffic violation or arrested for a crime has violated immigration law. If a match is confirmed, ICE instructs the police officer to detain the person until an agent can take custody.

In the fiscal year ended Sept. 30, 2007, ICE's Law Enforcement Support Center -- which operates around the clock handling immigration queries -- received a record 728,243 inquiries from local law enforcement, up from only 4,000 in fiscal 1996.

Rising Steadily

The number of foreigners deported from the U.S. has risen steadily, from 116,202 in the fiscal year ended Sept. 30, 2001, to 240,779 in fiscal 2007, according to ICE. These are foreign nationals caught inside the country and don't reflect the number of immigrants apprehended at the Mexican or Canadian borders.

Supporters of the latest crackdown say it is long overdue. They say many illegal immigrants, including visa overstayers, have been given a free pass by the government, thanks to lax enforcement. "If in the normal course of duty, police come across somebody they have reason to believe is in the country illegally, they ought to cooperate with immigration authorities," says Ira Mehlman, spokesman for the Federation for American Immigration Reform, a national group that calls for curbing all illegal immigration. "They might not be a child molester, but they are here illegally."

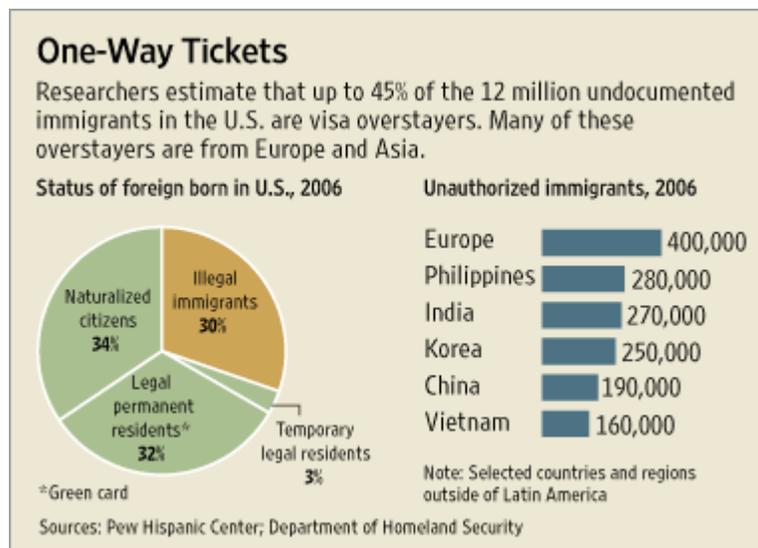
ICE says it lacks the manpower to go after the hundreds of thousands of people who are here illegally, so it prioritizes going after people with criminal records and employers who hire undocumented workers. Even when it has the address of someone who has evaded deportation -- as was the case for many years with Mr. Derezinski -- it says it

doesn't necessarily make an arrest. The intensified coordination between federal agents and local police thus has helped fill a gap.

Critics say the federal government is diverting local police from basic priorities, like community safety, to arrest immigrants who usually don't pose a security threat. The strategy can also lead to ethnic profiling, they say, because police officers might be more likely to run checks on people who have accents or who they think look foreign.

"It's a huge program that has rapidly expanded, without meaningful management or oversight," says Michael Wishnie, a professor of law at Yale University who specializes in immigration. Mr. Wishnie has filed a federal lawsuit in Connecticut on behalf of several people arrested by the Danbury, Conn., police and placed in immigration proceedings. The suit alleges officers pulled drivers over for traffic violations as a pretext for checking their immigration status. Federal authorities and the town have moved to dismiss the case; those motions are pending.

Chicago is home to some 70,000 Polish illegal immigrants, second only to the city's undocumented Mexican population. Many Poles came in the 1980s to flee military rule; others settled here in the '90s to seek economic opportunity.



These days, Polish enclaves are abuzz about immigration, community leaders say. Illegal immigration "isn't just a Latino issue," says Frank Spula, president of the Polish-American Alliance, a local advocacy group. "Polish people who overstayed their visas are here with family and property, and they can't just pack up and leave."

Mr. Derezinski entered the U.S. on a tourist visa in 1990 at the age of 23. He eventually began working as a trucker, a job that took him to 48 states, he says. In October 1991, he and his Polish wife, Joanna, gave birth to their first son, Peter Jr. By then, both had overstayed their tourist visas, but remained in the U.S. "to give our son a better a life,"

says Mrs. Derezinski. Regarding her visa situation, a spokesman for ICE said in an email that the agency doesn't discuss potential cases.

In 1994, Mr. Derezinski was arrested on immigration violations after personnel at a truck weigh station near the Mexican border reported him to border patrol. U.S. immigration authorities took him into custody when he failed to produce proof that he was in the country legally. They released him and said he would be notified of a court date for a deportation hearing in Chicago.

Mr. Derezinski says he never received the notice and didn't appear; his file with immigration officials includes an unopened registered letter that was returned to authorities.

Regardless, a hearing was held in his absence and a judge ordered him deported. Mr. Derezinski received the notification by mail; his attempts to appeal the order were rejected.

Despite the outcome, Mr. Derezinski and his family continued living in the U.S. He had studied engineering in Poland and began working as a heating and air-conditioning repairman. In 1998, he completed an entrepreneurial course at the College of Business Administration of the University of Illinois. He thrived as a subcontractor doing maintenance, installation and repair work for residential and commercial properties, especially during the construction boom of recent years.

Members of Society

Many illegal immigrants have become productive members of society, who pay taxes, own homes and contribute to the economy. The Department of Homeland Security says there are no mechanisms in place for it to be notified when someone here illegally registers a new business or applies for a mortgage.

"I earned the respect of my clients," says Mr. Derezinski, brandishing letters from home builders attesting to the quality of his work and his personal integrity. "I grew the business 10 times over," he adds. The Derezinskis bought a home and commercial property in Chicago, as well as a vacation cottage in Wisconsin. Mr. Derezinski paid income tax and property taxes. He invested in the stock market.

By 2001, however, the couple had two sons and Mr. Derezinski began worrying about his immigration status. He frequently refers to a speech on immigration reform delivered by President Bush in 2004, which he says brought him new hope. But reform efforts, which could have adjusted the status of millions of illegal immigrants, stumbled in Congress. In 2005, a psychiatrist began prescribing Mr. Derezinski medication for anxiety.

A year later, after more than a decade eluding authorities, Mr. Derezinski's fears were realized. On July 13, 2006, he drove down his neighborhood's commercial artery, which is lined with Polish video stores, Indian beauty salons and other immigrant businesses.

When he was caught talking on his cellphone, Mr. Derezhinski waited in his car while the policeman wrote the citation.

When the officer returned, he handcuffed him and took him to a local police station. An ICE spokesperson confirms Mr. Derezhinski was cited for a traffic violation and screened by an officer who was informed that Mr. Derezhinski's name matched the deportation record held by the agency. ICE's law-enforcement support center asked that he be detained until an agent arrived to take custody.

Holding Facility

An ICE agent transported Mr. Derezhinski from a local police station to an agency holding facility. There, he says he was asked to sign forms by wardens who intimidated that he would be deported the very same day by flapping their arms to connote that he'd be flying away. "They told me I wouldn't see my family," he recalls. A spokeswoman for ICE says it is the agency's policy "to treat all detainees in our custody with dignity and respect."

Within days, Mr. Derezhinski was transferred to a detention center in Kenosha, Wis., about a 90 minute-drive from Chicago. ICE rents beds at the facility, which mainly incarcerates U.S. citizens charged with crimes.

On July 25, 2006, an attorney filed a motion to reopen Mr. Derezhinski's old case in immigration court, thus delaying his deportation. Mr. Derezhinski's wife was eight-and-a-half months pregnant, and his lawyer asked ICE to release his client for the birth of his third child, given that he had no criminal history. ICE declined, citing the fact that Mr. Derezhinski had been a fugitive for 12 years and had a deportation order outstanding. Mr. Derezhinski wasn't eligible for bond.

About 580,000 illegal immigrants currently living in the U.S. are individuals who failed to heed their deportation orders, according to ICE. Some move frequently; others live on the run or go underground to elude immigration officials. "Mr. Derezhinski continued to live the American Dream," says his attorney, Ashley Dworsky. "If he was hiding, he was hiding in plain sight of everyone."

John Paul -- the Derezhinskis' third child, named after the late Polish pope -- was born on Aug. 18, 2006. Kindergartener Damian, their middle child, thought his father was in the hospital when he visited Mr. Derezhinski at the detention center, where his father wore an orange jumpsuit and communicated with his family from behind a glass divider. The older son wrote a letter to Sen. John McCain and other politicians seeking help.

After six months in detention, Mr. Derezhinski was released in January 2007 -- on condition that he report on a monthly basis to ICE. An agency official said that ICE will "sometimes release people who have protracted legal processes, as long as they are not a threat to the community."

In October 2007, Mr. Derezinski's case was argued before the Seventh Circuit Court of Appeals. The essence of the appeal: Mr. Derezinski's case should be reopened because in 1994 he hadn't received the certified letter to appear in court for his original deportation hearing. "All I wanted was a day in court," says Mr. Derezinski.

In February, Judge Richard Posner denied Mr. Derezinski's appeal on the grounds that the government had fulfilled its obligation to notify him of the hearing. Mr. Derezinski started to wind up his affairs, which he says is especially difficult amid a depressed real-estate market. He has spent about \$35,000 fighting to remain in the U.S., he says.

On March 25, Mr. Derezinski, his eldest son and his attorney reported at 8:15 a.m. to the ICE office in Chicago for his required monthly visit -- his first since the February ruling. He was told that he must leave the country by April 8, which was later postponed to Thursday, April 10.

Mr. Derezinski listened carefully. He then turned to his son and said, "This should teach you about the consequences of choices you make in life."