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Living in FEAR

SWFL family weathers
deportation process

BY EVAN WILLIAMS

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A GLARING LATE AFTERNOON SKY STRETCHING over a single-story housing complex on the outskirts of LaBelle where the Garcia family lives seemed as vast as the federal apparatus that deals with immigration. Lazaro Poblano Garcia, 23, and his wife, Maria Garcia, 35, are two of a very roughly estimated 12 million undocumented immigrants, or aliens, living in the United States. They've both been here since they were children themselves, Mrs. Garcia said. She and her husband have been working and raising their own U.S.-born children, relatively unnoticed, until the apparatus caught up with them.

On a late-March evening, her two girls were getting ready to do homework, their papers laid out on the kitchen table. They're doing well in school, Ms. Garcia said, adding that her 7-year-old recently received high marks on a reading assignment. Her husband, an agricultural laborer, had not yet returned from the

SEE FEAR, A8 ▶



Lazaro Poblano Garcia sits in limbo as his family waits to see if he will be deported.

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COURTESY PHOTO

Wicked Dolphin rum, made in Cape Coral, is expected to go on sale this fall.

Wicked Dolphin poised to create a rum of our own

BY ATHENA PONUSHIS

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JoAnn Elardo sat on her lanai reading some financial report on U.S. Sugar and drinking a cocktail. Upon taking a sip, her look held to her glass and she suddenly thought, "This is wrong." The rum she was drinking was brewed somewhere untropical and tasted so un-

authentic. She looked out past her coconut palm trees, over her Caloosahatchee view and her immediate, ensuing thought was, "Florida should be rum."

Her thought proved more than some happy-hour musing, as two years later on a mid-April Friday afternoon, Ms. Elardo sits in her soon-to-be Cape Coral distillery.

SEE RUM, A11 ▶

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FEAR

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fields. It wasn't an unusual day, other than the fact that new legal problems — both from local and immigration courts — now loom over their daily lives.

On March 6, Mr. Garcia was arrested by a Lee County sheriff's deputy near Fort Myers, on Palm Beach Boulevard just east of Interstate 75, for driving without a license. That event set the deportation process in motion for him, even though Immigration and Customs Enforcement says its priority is dangerous criminals. There are no public records showing Mr. Garcia has a criminal history, other than being in the U.S. illegally. Since ICE only has the resources to deport 400,000 undocumented immigrants per year, said spokesperson Danielle Bennett, it chooses largely based on which aliens commit the most serious crimes.

Mr. Garcia, the family's primary breadwinner, was nevertheless jailed until mid-March at the Broward County Transitional Center, throwing the family into chaos. Then he was sent home to await a hearing with an immigration judge in Miami in late August, and a likely conviction for driving without a license, a misdemeanor, in Lee County. That conviction would target him for deportation in the eyes of ICE, albeit as one of the lowest priority "criminal aliens" in a three-tier ranking system that begins with the most violent or egregious crimes, such as murder, rape and child molestation.

Ms. Garcia said her husband is "a stand-up guy. Doesn't drink, doesn't smoke. Goes to work and comes back to his family." And Mr. Garcia's attorney, Luigi Perdomo, said there is a good chance the court or prosecutor will exercise "prosecutorial discretion," rather than split up a family.

Even so, it's common for undocumented people who have committed lesser offenses to face deportation, said Lena Graber, an attorney with the Boston-based National Immigration Project, an advocacy group that provides advice to criminal defense attorneys, as well as undocumented immigrants facing deportation. That's especially true for driving without a license, she adds, in part because in most states, such as Florida, they can't get one; and it's reasonable to assume they'll drive at some point.

"ICE doesn't have a good track record of going after those people (who commit more serious crimes)," Ms. Graber said. "There are a lot of theories (why that is). One of the most common is they have a quota for deporting 400,000 people a year. And those who are stopped without a license are the easiest to find and deport. They tend to treat anyone arrested as a criminal. And ICE people around the country don't necessarily subscribe to orders from above. It's sort of a bureaucratic management issue in some cases as well."

Speeding to the ER

The Lee County Sheriff's Office booking report shows Mr. Garcia was pulled over March 6 for speeding and subsequently arrested for not having a license. The arrest report doesn't mention that he was taking the family's 14-year-old son to the emergency room, Ms. Garcia said, due to a pain in his side, vomiting, and because he wouldn't eat anything. The couple is also caring for three daughters, she said, ages 11, 7, and a newborn. The newborn came down with the flu in recent weeks, said Mrs. Garcia, and her own diabetes is an issue as well.



ERIC RADDATZ / FLORIDA WEEKLY

The Garcia family enjoys a moment together, despite the uncertainty in their lives.

Undocumented people often wait until the last minute to seek medical treatment because they're afraid of getting arrested or deported, said Dr. Mark Asperilla, founder of the Virginia B. Andes Volunteer Community Clinic in Port Charlotte. That concerns him because their own health, as well as the health of the community at large, is at stake.

Dr. Asperilla has worked as a volunteer serving the health-care needs of migrant communities in Charlotte County, Immokalee and near Arcadia. "They're always afraid and they're always on the lookout," he said. "We take care of patients regardless, because they're human beings. The way I see them is they're here to better their life, the same thing that the Irish did, what the Germans did, what the rest of the migrant community did. They fear for their lives; they fear that they're going to be deported, and fear that they won't be able to sustain the families they started here."

Nevertheless, living here illegally is against the law, no matter what other offenses you have or haven't committed, points out Paula Schaff, president of the Punta Gorda Tea Party. At the same time she feels compassion should be extended to children, "legal or not."

"Are we supposed to legalize millions of illegals and their extended families, and then our taxpayers, which are fewer and fewer, end up paying the bill to support all these people," asked Ms. Schaff. "What your heart wants to do is say, 'OK, you can stay, you've got a serious problem.'"

"Well, this guy (Mr. Garcia) was arrested because he was here illegally, he was driving illegally. So should you give him a regular driver's license? Does it give them the right to bring their extended family here also? It's just a really complicated issue."

Carmen Mederos, owner of Soluciones, a tax preparation company in Cape Coral that serves the Hispanic community, said many undocumented immigrants work and pay taxes.

"I have had many (undocumented) men tell me I'm going to drive because I'm the sole support of my family and I have to work," Ms. Mederos said. "They're driving anyway. They're not going to go away. Given the choice of going back to their countries where they're suffering oppression and hunger, they're going to stay..."

"I see both sides. I don't agree with illegal immigration, but I deal with the

pain... I deal with people who are here for many, many years and are hard-working. And I mean two full-time jobs and a part-time job on the weekend. I feel a lot of the undocumented people have jobs no one else wants to do... And I see the taxes that they pay."

Neighborhood stories

Grey Torrico, 25, is a self-described community organizer who seeks out local immigrant families who need help, and records stories of their encounters with law enforcement. It's part of an initiative she started last September, a volunteer group called the Collier County Neighborhood Stories Project.



TORRICO

The Garcia family is unique among others she and other members of the Project have been in touch with, and whose identities she protects, because they've risked coming forward publicly with their plight.

For Ms. Torrico, her work recording the stories and helping the immigrant community in Southwest Florida is personal. Growing up in Collier, she had high school friends who were undocumented.

"I knew of many of them were so depressed, especially around senior year because they knew their future was almost hopeless," she said. "A lot of them had thoughts of suicide at one point. Some of their grades dropped at some times, because they were feeling so unmotivated to continue."

Later she graduated from the University of Florida, where she studied political science and Spanish. While there, Ms. Torrico said she formed an organization on campus to "give a voice to undocumented students."

"This is a very human issue," she said. "It's not just about immigration."

Financial backing, in the form of a fellowship from Open Society Foundations, is allowing her to work on Neighborhood Stories full-time for a year and a half. After that, she plans to continue working "to protect my community."

One of her goals is to end immigration enforcement programs that encourage federal agencies to collaborate with local law enforcement, in Southwest Florida and elsewhere. Ms. Torrico and other critics say two

federal immigration enforcement policies, 287 (g) and Secure Communities, create an environment of fear and mistrust between immigrant communities and officers or deputies; and that they result in families like the Garcias, otherwise outstanding members of the community, being ensnared in deportation proceedings.

Secure Communities

One of the programs, 287(g), began in Collier County in 2007. It trains local deputies to, in effect, be federal immigration agents. The other, called Secure Communities, is more widespread. It is used in an increasing number of states nationwide since 2008, and statewide in Florida. The program allows the Federal Bureau of Investigation and the Department of Homeland Security to share information about criminal aliens, in large part through fingerprinting, a procedure anyone who has been arrested is familiar with.

In addition, local law enforcement officers, including those in Lee, Collier, and Charlotte counties, report to ICE on a daily basis any arrests they made of people who were "foreign born." That includes U.S. citizens as well as suspected aliens.

Ms. Grey and Boston attorney Ms. Graber say the collaborations between local law enforcement and ICE means that all officers represent a threat to the immigrant community at all times.

"What it means is that for the immigrant community is that people who are supposed to be responsible for general safety and community (law enforcement), it means it's not safe to call them," Ms. Graber said. "Even if you're a citizen, if you have undocumented members of your family, you're putting them at risk."

ICE spokesperson Ms. Bennett noted in an e-mail, however, that ICE personnel are directed to use "prosecutorial discretion to ensure that victims of and witness to crimes are properly protected. ICE has seen no evidence of a victim or witness of a crime being removed from the country."

Since Secure Communities began in Collier County in Feb. 2009, 1,023 criminal aliens were deported, records show. In Charlotte County in the same time period, 48 were deported. In Lee, the program started in July 2010, and since then 240 have been deported.

287(g)

The Collier County Sheriff's Office has taken immigration enforcement a step beyond Secure Communities by having some officers attend a "rigorous four-week training course" in ICE's 287(g) program, giving some sheriff's deputies similar responsibilities to federal immigration agents.

"The training includes coursework in immigration law, how to use ICE databases, multi-cultural communication and the avoidance of racial profiling," it says on ICE's website. "The agreement and training enable officers to legally identify criminal and illegal aliens that they may encounter, and to initiate removal proceedings for those found to be in the country illegally."

Collier deputy Lt. Keith Harmon is the jail supervisor with Collier's Criminal Alien Task Force. There are 10 full-time 287 (g) deputies at the jail and roughly that many in the community, he said.



HARMON

Although the worst criminals are a priority, undocumented people are always investigated if they're arrested, and a determination is made whether or not to set the deportation process in motion.

"If they're here illegally and in vio-

lation of state law, we look at everything," Lt. Harmon said. "Even if they're not necessarily a dangerous person, they can still end up with an immigration detainer...They will still be in the removal process."

He's heard the criticism that the immigrant community won't report crimes because they're afraid of law enforcement. He refers to it as "the chilling effect."

"We haven't had any concrete evidence to show that's happening," he said.

Ms. Torrico with Neighborhood Stories has heard otherwise. "I have the stories of evidence people are scared to report crimes," she said.

Ms. Garcia also said she is convinced that racial profiling was a factor in her husband's recent ordeal.

"I know I have a lot of clients come in and they say they see a lot of racism from police officers, that they get pulled over for almost nothing," said her husband's attorney, Mr. Perdomo.

Secure Communities and 287(g) are designed to prevent racial profiling, Ms. Bennett wrote in an e-mail. "Racial profiling is simply not something that will be tolerated; and any indication of racial profiling will be treated with the utmost scrutiny and fully investigated."

Free to go

During the time her husband was being held, Ms. Garcia was able to find work at a plant nursery. Mr. Garcia has an immigration hearing scheduled before a Miami judge in late August. The best-case scenario and expectation, said his attorney, is that he'll be granted "prosecutorial relief." He still won't be living here legally, but the judge will in effect set his case aside to focus on more dangerous criminals.

At some point, Mr. Perdomo said,

he might be able get a judge to grant him a "cancelation of removal." But as an undocumented person, Mr. Garcia would have to prove he'd lived here for more than a decade. He would have to also demonstrate that his deportation would create "extreme or unusual" hardship for his children, a high legal standard. If he did that he could get a green card, making it legal for him to be here, but not necessarily ever become an American citizen.

"The immigration field is daunting," agrees Mr. Perdomo, a 26-year-old who said he is at his first job as an attorney, with the Fort Myers-based Pablo Hurtado Law Firm. "It's this monster you're trying to attack every day. It encompasses three different departments of government (Department of State, Department of Justice, and Department of Homeland Security [which encompasses ICE])."

Although she's worked hard to help the family recover financially from her husband's arrest, Ms. Garcia said, "It's been really difficult both when he was gone and now as well. I've been trying to act both as a mother and father to my kids... I feel that I'm still in a state of confusion and chaos. Nothing is for certain at this point."

Except maybe that her children, citizens by birth, are growing up with more freedom than she or her husband have ever enjoyed. With no family left in her hometown of Acapulco on southern Mexico's coast, there is little reason for Ms. Garcia to go back and see it again. Still, she suggests, it would be nice to be able to visit there if she wanted to.

"The fact that you can just pick up and go," she said. "That's something that many parents who are undocumented are unable to do — move around and travel freely." ■

in the know

How ICE decides whom to deport

Immigration and Customs Enforcement only has the resources to deport up to 400,000 people per year, while there many millions of undocumented immigrants in the United States. So to prioritize, it uses a three-tier system to decide which are criminal aliens, and of those, which are the most dangerous. Critics say ICE deports too many low-level offenders.

Level 1 are the most dangerous criminal aliens, including those convicted of murder, rape and child molestation. Level 2 are those convicted of any felony or three or more misdemeanors. And Level 3 includes aliens convicted of offenses punishable by less than a year.

Since ICE started using the Secure Communities program — which allows the FBI and ICE to share information through local jails' fingerprinting systems — a look at their records in five South Florida counties shows about the same level of Level 3 and Level 1 criminal aliens were deported. ICE notes that if someone is a Level 3, there can be other reasons he or she was targeted for deportation, such as gang affiliations.

Below is the date ICE's information-sharing program, Secure Communities, began in various Southwest Florida counties. The data also shows the level of offense committed by criminal aliens deported in each county from the time the program began to Feb. 29, 2012.



>> Charlotte County figures since Feb. 18, 2009

Level 1: 14
Level 2: 9
Level 3: 25

>> Collier County figures since Feb. 24, 2009

Level 1: 273
Level 2: 314
Level 3: 436

>> Lee County figures since June 22, 2010

Level 1: 55
Level 2: 81
Level 3: 104

>> Hendry County figures since June 22, 2010

Level 1: 14
Level 2: 18
Level 3: 41

>> Miami-Dade County figures since Feb. 24, 2009

Level 1: 700
Level 2: 279
Level 3: 486



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