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UCSB Scholar Examines Illegal Detention and Deportation of U.S. Citizens

Although no circumstances exist under which a United States citizen can be deported legally by any government agency, research conducted by a legal scholar at the University of California, Santa Barbara indicates that U.S. Immigration and Customs Enforcement (ICE) has been doing just that. Her findings are published in the current issue of *The Nation*.

Collecting data from a variety of sources, including the Southern California chapter of the American Civil Liberties Union, the Florence Immigrant and Refugee Rights Project, private immigration attorneys in Los Angeles, and three nonprofit legal clinics that focus on immigration issues, Jacqueline Stevens, a professor of law and society at UCSB, identified 31 cases from across the country of U.S. citizens who were held as aliens for as long as five years. Of the 31, five remain in detention and 14 were deported.

"ICE has no jurisdiction over U.S. citizens," said Stevens. "In reality, ICE detains thousands of people who were born in the United States and puts the burden of proving citizenship on them. Often they are people who have limited communication skills and even more limited knowledge about their rights."

Her article cites several cases, including that of Robert, a U.S. citizen from Covina, who in 2000 served an 18-month sentence for driving while under the influence of alcohol and evading arrest. Upon his release, he was detained for one year by ICE in El Centro and deported to Mexico. Robert returned to the U.S. and was deported a second time. Caught in the hills of El Centro trying to reenter the country, he was found guilty of falsely impersonating a U.S. citizen and sentenced to serve three years in prison. In 2006, he went before an immigration judge who finally believed his claims of citizenship and released him so he could go to U.S. Citizenship and Immigration Service -- with legal documents in hand -- where an agent told him, 'Congratulations, you've been a citizen since 1983.'

Stevens also discusses the case of Peter, who in February 2007 was arrested for trespassing and served 41 days in the Los Angeles County Jail. Upon his release, Guzman, a U.S. citizen by birth, was deported to Mexico. ICE officials would not allow him to call family members who could have provided a copy of his birth certificate as proof. A few months later he was allowed to enter the U.S. at Calexico and was taken into custody by the Los Angeles Sheriff's Department on a warrant for failure to appear at a probation hearing. The sheriff's department claims Guzman had signed a voluntary departure agreement.

Testifying before Congress in February 2007, Gary Mead, ICE assistant director for detention and removal, claimed that such actions by the agency are rare. But, at least a few legislators believe otherwise. At a hearing convened by Zoe Lofgren, chair of the U.S. House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, the California congresswoman expressed outrage over ICE practices.

"Detaining and deporting U.S. citizens amounts to false imprisonment, which is a felony," said Stevens. "In cases such as these the only consequences are civil law suits, and that's just going to boost the bill for taxpayers rather than discipline the people involved."

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