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MANY IN U.S. ILLEGALLY OVERSTAYED THEIR VISAS

By Sara Murray
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Proponents of overhauling the U.S. immigration system increasingly point to the fact that about 40% of the 11 million undocumented workers in the country aren't low-wage workers who sneaked over the southern border illegally, but rather foreigners who arrived legally and simply never left.

Those working to create a path to citizenship for people here illegally often make the distinction to highlight the diverse immigration issues the U.S. faces. Little is known about the demographics of the so-called overstayer population, but some studies suggest they tend to be better educated and more fluent in English than those who crossed the border illegally. They also are more likely to hail from European, Asian and African countries. And in many cases, they used tourist visas to enter the U.S.

A bipartisan Senate group, returning this week from its spring recess, is in the final stretch of an effort to produce legislation. But senior lawmakers disagreed on Sunday news shows about whether it would be ready this week. New York Sen. Charles Schumer, a Democrat, said negotiators were on track to reach an agreement by the end of the week. But Sen. Lindsey Graham, a South Carolina Republican, was more cautious, saying it could take a couple of weeks for senators to hash out details on low-skilled guest-worker programs and high-skilled visas.

The Senate effort has been repeatedly delayed, in part because so many facets of immigration are more complex than many realized. Among those issues: the 40% of unauthorized immigrants who overstay their visas.

"Whenever I use that statistic, people seem completely surprised," said Sen. Jeff Flake (R., Ariz.), part of the Senate group working on immigration. "They assume that, yeah, some people overstay—but 40% of the illegal population here?" A good chunk of those, he said, could prove to be people who overstayed H-1B visas, which are given to highly skilled workers.

Madeleine Sumption, a senior policy analyst at the Migration Policy Institute, a nonpartisan think tank, said that "visa overstayers would benefit more from a legalization program. They have higher levels of skills but are being held back by their legal status." They may have difficulty landing high-skilled jobs because of their illegal status and instead settle for low-skilled positions, she said.

Wei Lee's family came to San Francisco from Brazil when he was 16 years old, using a mix of tourist and student visas. Mr. Lee, now 24, said his family was persecuted in Brazil because of its Chinese heritage. They applied for legal status through the proper channels, he said, but their application hadn't progressed in years.

In the U.S., Mr. Lee finished high school and college. But unable to work, he relies on his father's income as an undocumented worker installing tile.

"Right now I have a degree in psychology, but my degree is just there at home on a table because I can't work," Mr. Lee said.

The government doesn't compile information on the estimated four million to five million people who have stayed beyond their legal visits, leaving outside experts to piece together a snapshot of who they are and where in the U.S. they live.

This group had, on average, 13.2 years of education, compared with 9.4 years for those who crossed the border illegally, according to a study by the nonpartisan Public Policy Institute of California of more than 8,500 immigrants who gained permanent legal status in 2003. Some 55% of visa overstayers spoke English well or very well, compared with 39% of those who crossed the border illegally. The same study showed racial and ethnic differences.

Experts are quick to caution that they know relatively little about the overstayers because the government doesn't actively study them. The Department of Homeland Security takes fingerprints and photos of foreigners who enter the U.S., but there is no similar system to track their exits. The department has been comparing entry data with flight manifests and similar lists of those who leave to determine the overstay population's size. It hopes to be able to measure the rate of overstays by year's end.

Studies show that over the past decade the number of new arrivals overstaying their visas has fallen sharply, likely due in large part to stringent security measures put in place after the Sept. 11, 2001, terrorist attacks.

Tourist visas are one common route for people who want to overstay, according to advocates and immigration data. Of the people who gained legal status in 2003 and also spent time in the U.S. illegally, 13% overstayed tourist visas by more than six years, according to previously unpublished analysis by Guillermina Jasso, a sociologist at New York University.

"We see that over and over again," said Alison Pennington, an immigration-rights attorney at the Asian Law Caucus, adding that many already tried applying through legal channels. "The backlogs are taking so long that it's just not realistic for them to wait."

There are signs the public has little tolerance for people who overstay their visas. A recent Rasmussen Reports survey shows 61% of likely voters support a plan that secures the borders and offers legal status to those in the U.S. illegally, but 55% said people who overstayed their visas should be sent home.