

U.S. Considers Expanding FBI Database; Names of Noncriminal Deportees and Student Visa Violators Would Be Added

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Body

Homeland security officials want to add tens of thousands of illegal immigrants and foreign students to an FBI database designed primarily to help police apprehend wanted criminals, allowing them to instantly identify foreign nationals who have been deported or have violated student visas.

The proposal -- part of a broad push by the Bush administration to more closely monitor foreign nationals since the Sept. 11, 2001, terrorist attacks -- is raising concerns among some civil liberties advocates and law enforcement groups that fear it will bring police heavily into the business of apprehending immigration violators who have committed no serious crimes. In some cases, they said, that could violate state rules that prohibit police from enforcing federal immigration laws.

Spokesman Jorge Martinez stressed that the Justice Department has not yet made a decision on the plan.

Under the proposal, the FBI's main fugitive database would be expanded to include the names of 140,000 immigrants who are deported each year for noncriminal reasons, officials said. An unknown number return to the country and are here illegally. Authorities also would add the names of thousands of foreign students who do not show up for class or otherwise violate their visas.

The FBI's database, known as the National Crime Information Center (NCIC), includes the names of more than 40 million felons, fugitives, missing persons and others being sought by law enforcement agencies. It is used by more than 80,000 law enforcement agencies.

The database had been expanded to include immigrants who were deported for felony crimes, failed to show up for deportation hearings, or registered during a special program aimed at visa holders from Muslim nations that was implemented after the Sept. 11, 2001, attacks.

But adding the names of noncriminals who were deported and student visa violators would significantly expand the number of foreign nationals on the list, officials said.

"It's adding more information out there," one Department of Homeland Security official said. "The last thing we want is for an encounter to occur, they can't do something and then this person commits a crime or something else that is detrimental to the community."

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Three of the Sept. 11, 2001, attackers entered the United States on student visas, including one, Hani Hanjour, who never showed up for classes. Hanjour was ticketed for speeding in Arlington six weeks before he piloted the airplane that crashed into the Pentagon.

The proposal comes at the same time that President Bush is beginning to revive an immigration proposal that would allow some people illegally in the United States to work toward legal status.

Even before the latest proposal, several major law enforcement groups have raised serious concerns about the inclusion of immigration violators in the FBI's criminal database. And the American Civil Liberties Union is expected to file a lawsuit as early as today challenging the practice.

"This is another step in what appears to be the Justice Department's calculated plan to try to obliterate the separation between criminal law enforcement and immigration status violations," said Lucas Guttentag of the ACLU's Immigrants Rights Project.

Many states and localities prohibit police from enforcing civil immigration laws or even inquiring about an individual's immigration status, often because of state constitutional concerns. Many police officers say they are wary of detaining immigration violators without a warrant for fear a court could hold them accountable for an unlawful arrest.

The International Association of Chiefs of Police has urged the federal government to limit the database to individuals who have warrants for their arrest and to issue clear guidelines for local law enforcement. A committee of police chiefs that advises the FBI's database division recently raised similar concerns about the proposed expansion.

"We want to help if it's somebody DHS believes is a threat to the country," said Bill Casey, deputy superintendent of the Boston Police Department, who chairs the advisory committee. "But our position is that you have to have a warrant on the individual."

The issue is also part of a broader debate over the proper role of local police, many of whom fear that illegal immigrants will stop reporting crime if they cannot trust law enforcement and that relations with Hispanics will be strained if police are seen as an arm of federal immigration authorities.

"There's this issue, which is dealing with NCIC, and the broader issue of law enforcement getting into the business of enforcing immigration, which is a philosophical problem," said Gene Voegtlin, legislative counsel for the police chiefs' association. "It's an area state and local law enforcement hasn't been involved in before, and it's an area that is yet to be resolved."

The Justice Department issued an internal legal opinion last year arguing that states and localities have the "inherent authority" to enforce civil and criminal violations of immigration law, sources have said. Alabama and Florida have begun pilot projects that allow troopers in those states to enforce immigration laws, and bills to widen the practice are pending in Congress.

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