

The Complicated Story of Gangs and Immigration

By Jerry Grzeca and John Sesini
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Today, criminal street gangs are (rightly) a high priority target of law enforcement agencies. These groups exploit our nation's most vulnerable communities with the trade of illegal drugs and weapons. And they are all too often involved with violent crime. As a result, immigration authorities routinely target immigrant members of such organizations for deportation or deny immigration benefits to them. But this relatively uncontroversial principle is sometimes overly used with unintended consequences.

A fundamental challenge in combatting gangs is identifying their members. In many neighborhoods, gangs dominate the culture and social structure. Thus, it is often nearly impossible to stay completely away from the groups. And even those who do, have friends or relatives who are involved. Often then, mere gang ties do not mean that an individual is a dangerous criminal.



Nevertheless, local and federal law enforcement agencies maintain databases of individuals who have been linked with gangs. These lists can help disentangle the complicated web of rival gangs. So, law enforcement agencies try to create long and detailed lists of all suspected gang members. Such databases can be extremely important when investigating and preventing crimes, as well as keeping officers safe.

On the other hand, there is no easy way to remove oneself from such a list or correct errors. In fact, it is even hard to find out if a person's name is on that list. Furthermore, as

there are no standard practices around the country for formulating these lists, local police may simply add names to lists based on mere rumor or conjecture. And the government's monitoring of an individual's association raises fundamental concerns about liberty.

But perhaps more troubling is the increasing reliance of immigration authorities on these databases. Immigration and Customs Enforcement (ICE) regularly targets individuals on the list for deportation, or denies them bail during removal proceedings. The U.S. State Department uses such lists to deny immigrants entry into the United States. And the U.S. Citizenship and Immigration Services (CIS) denies benefits such as permanent residence or deferred action or childhood arrivals (DACA). As a result, individuals may be forever split up from their families based on former membership, or minor associations with friends and family.

The comprehensive immigration reform bill currently in the U.S. Senate, would potentially change this current system. Under S.B. 744, adult immigrants with gang connections fall in two categories: those who have committed crimes in furtherance of those organizations, and those who have merely participated in such groups. Mere participants may renounce former membership and seek a discretionary waiver.

By defining the law, the new bill goes a long way to create a more fair system for dealing with criminal street gangs. Those who were young or non-participants would not (and should not) be affected by the presence of their names in a gang database. And authorities would have the ability to determine whether an individual had reformed and moved on using the waiver system.

For more information about gang databases, any of the current immigration reforms, or for any other immigration matter, please contact Grzeca Law Group at (414) 342-3000 or visit our website at www.grzecalaw.com.

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