'Bad Hombres' Aren't the Only Ones Trump's Scary New Surveillance Tool Will Catch

Big Brother could go after American citizens too.

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President Trump inherited vast immigration enforcement and surveillance capabilities from his predecessor. These capabilities were worrying enough under Obama, but they are Thomas Leuthard via Foter.comdownright terrifying under Trump, given his enthusiasm for surveillance and his anti-immigration animus. The net impact of these measures won't be just to snag "bad hombres," but all undocumented aliens while giving the government powerful new tools to go after other Americans for other reasons that future administrations deem a danger to the Republic.

During his campaign, Trump described what came to be regarded as his plans for a "deportation force." In February, Department of Homeland Security Secretary John Kelly released two memos outlining his department's enforcement priorities and expanding the list of removable aliens. Under current policy, Immigration and Customs Enforcement (ICE) will "not exempt classes or categories of removable aliens from potential enforcement." This means that all of the roughly 11 million undocumented aliens in the country—with the possible exception of Dreamers (those brought here illegally as minors)—would be fair game for detention and deportation. One of Kelly's memos directed the Commissioner of Customs and Border Protection (CBP) and the ICE director to "expand their detention capabilities and capacities at or near the border with Mexico."

But in order for ICE to effectively execute these deportations, it'll need access to vast amounts of data. Thanks to new intelligence tools, ICE will soon have it.

In 2014, the Obama administration awarded Peter Thiel's Palantir Technologies a $41 million contract to build an intelligence system called Investigative Case Management (ICM), which is scheduled to become fully operational by September this year. As originally conceived, its purpose was to give the Homeland Security Investigations (HSI) unit in the Department of

Homeland Security the means to investigate serious cross-border criminal activity ranging from money laundering and commercial fraud to human smuggling. But the Trump administration may well turn it into a general tool to assist ICE deportations, reports *The Intercept*'s Spencer Woodman. And also go after other Americans in the future.

How?

ICM allows ICE agents to access data housed in the Drug Enforcement Administration, the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco, Firearms and Explosives, and others. In addition, another intelligence system called FALCON, also designed by Palantir, grants ICM users access to information from the Central Intelligence Agency and the Defense Intelligence Agency.

Some of the information in these government databases might be gathered legitimately when suspects are booked for crimes. But some might actually be gleaned from information that citizens share for official business. An ICM requirements document lists the numerous sources it has access to including the Financial Crimes Enforcement Network, which tracks suspicious financial behavior, travel and border crossing data from CBP's Automated Targeting System, and Black Asphalt, an intelligence system that allows law enforcement to share information (e.g. Social Security numbers, addresses) about motorists, including those never charged with a crime. Clearly, the information accessible via ICM isn't limited to immigrants or criminals.

Using all this information in various government databases, ICE is able to piece together a detailed portrait of their target, including not only biographical information, but also information about their financial history, physical features (scars, tattoos, etc.), education, and employment

But ICE uses ICM not only to collect information about its targets but also people who come in contact with them such as their associates and employers, citizen and non-citizen alike. In fact, an ICM funding document explicitly acknowledges as much. All of this is reminiscent of the scrapped 2003 Total Information Awareness program that sought to create a comprehensive database of virtually everyone to flag prospective criminals.

This hypothetical situation that ICE outlined to illustrate how ICM would snag drug dealers engaged in cross-border trafficking shows how it'll work:

A special agent named Jones from HSI responds to a "duty call" from a Customs and Border Protection officer about a suspect called "John Doe" they have stopped at a port of entry. Doe's vehicle contains contraband.

Jones enters Doe's information in the ICM and finds that he has a drug trafficking conviction and that Doe's business was the subject of a previous HSI investigation. Furthermore, CBP data reveals that Doe's vehicle has crossed the border 30 times in the last two months without being searched.

Jones interrogates Doe and discovers that a man named "Caliber" hired Doe. Caliber is, according to Doe, a 40-year-old white man who drives a Ford Mustang, is a "silent partner" in Doe's business, and uses a Cessna—a small plane—to import drugs into the U.S. Jones takes

what he has learned and inputs it into ICM, discovering an HSI record for a case concerning "Calvin Clark," who looks a lot like "Caliber."

Now, Jones can open an ICM case linking all of the information he's discovered about Doe and Clark. Jones' investigation leads to Clark's arrest.

The ICE presentation obviously focuses on what many would consider the least objectionable case: aiding the arrest of a drug trafficker. But the problem is that ICM is a powerful tool that allows ICE to carry out "investigative research"—fishing expeditions in ordinary parlance—and query the system in order to identify targets within the Trump administration's sights without establishing reasonable suspicion or probable cause. It's this feature that makes ICM an ideal tool for identifying undocumented aliens for mass deportation.

But even supporters of the Trump administration's harsh immigration policies should worry about these intelligence systems. If the Trump administration can use this system to snag undocumented workers, a future administration could use it to go after its preferred category of lawbreakers. For example, marijuana dispensary owners in Colorado, not to mention their customers, are breaking federal law and could be considered fair game by President Jeff Sessions. Is a strict immigration enforcement regime worth intrusive government surveillance that would make ever-more Americans vulnerable to Big Brother scrutiny?

It is not clear if the ICM genie can be put back in the bottle. However, at the very least, Congress needs to ensure that this troubling tool is only used during criminal investigations based on individual reasonable suspicion as opposed to going on fishing expeditions to catch any category of lawbreaker that an administration fancies.

The Obama administration left dangerous tools in the hands of the Trump administration. These tools will hardly be swept under the rug when Trump leaves the Oval Office. What use will future administrations put them to? That question ought to spook everyone.

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