Arrest in Mollie Tibbetts murder raises questions about E-verify program

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August 23, 2018

When she heard that the man accused of murdering Iowa college student Mollie Tibbetts is an undocumented immigrant from Mexico, Agnes Gibboney felt her own wounds reopen.

Her son, Ronald da Silva, was shot to death by an undocumented immigrant 16 years ago in El Monte, east of Los Angeles.

"This one hit home really hard," said Gibboney, a Rancho Cucamonga resident who immigrated legally to the U.S. from Hungary. "Just thinking about the fact that the family was hoping to bring their daughter home and find out, a month later, that she'd been laying in a shallow grave in a corn field. ... No lives should be lost at the hands of an illegal immigrant because they should not be in this country to begin with."

The arrest Tuesday of Cristhian Bahena Rivera, 24, has thrust a white-hot immigration debate to the forefront of national politics, exploding on social media from a state in America's heartland where Iowa's Republican governor, Kim Reynolds, condemned "a broken immigration system (that) allowed a predator like this to live in our community."

For Republicans like Gibboney who want to see a crackdown on illegal immigration, Tibbetts' murder proved once again the need for tighter borders. The case also raised a host of questions, including why the Iowa dairy farm that employed Rivera apparently failed to check his immigration status through E-verify — a 21-year-old electronic program designed to filter out undocumented immigrants who apply for jobs.

U.S. Citizenship and Immigration Services spokesman Michael Bars said Wednesday the agency has found "no record in our systems" indicating Rivera has any lawful immigration status. The agency declined to provide additional details.

Rivera was a good employee who showed up to work on time to take care of the cows and got along well with his co-workers, said Dane Lang, manager of Yarrabee Farms in Brooklyn, Iowa. But he used a stolen identification card to clear his employment background check when he was hired four years ago, Lang said Wednesday, retracting the farm's earlier claim that the employee was cleared to work legally in the U.S.

"Our employee is not who he said he was," Lang said at a news conference at the farm, near where Tibbetts, who lived in Oakland as a young girl, was allegedly abducted during a jog last month. "This was shocking to us."

When Rivera was hired in 2014, he presented an out-of-state government-issued photo identification and a matching Social Security card, he said. That information was run through the Social Security Administration's employment-verification system and checked out, he said. He claimed in Wednesday's news conference that a family member mistakenly believed that system was the same as E-verify, which specifically looks at whether an applicant can legally work in the U.S.

"They are not the same systems," Lang acknowledged Wednesday, correcting the farm's earlier claims that it had used E-verify to ensure it was legal to employ Rivera.

Immigration authorities said they've gradually improved the E-verify program over the years to fix flaws and close loopholes. But it's still pretty easy to fool the system, according to Alex Nowrasteh, an immigration policy analyst at the Cato Institute, a libertarian think tank in Washington, D.C.

He called it the "Swiss cheese" of government programs because, "it's full of holes and it doesn't work."

"E-verify looks at the paperwork that people give to their employer," Nowrasteh said. "It approves the documents. It doesn't approve the worker. That's a big loophole."

Under E-Verify, once employees provide documents to prove they're living in the U.S. legally, employers use a device that looks a lot like the credit-card machines that stores use. A software program runs the information on the documents through U.S. Department of Homeland Security and Social Security Administration databases to confirm whether the job applicant is here legally.

If the information clears the system, the employer will receive an "Employment Authorized" message almost immediately. If the job applicant isn't able to work in the U.S., the employer will receive a "tentative non-confirmation" message and is required to notify the employee, who is given a brief window of time to fix the issue. Those who are unable to provide documentation are not allowed to work.

To crack down on people using fake documents, USCIS in 2007 added a "photo tool" feature that allows employers to enter new hires into the system to check the photo on the identification card they used and compare it to the photo of the person who was originally granted the green card or work authorization documents. It's unclear if that was used in Rivera's case.

Immigration and Customs Enforcement officials have lodged an immigration detainer for Rivera, a move that means the agency has probable cause to believe he is subject to deportation.

Rivera's defense attorney, Allan M. Richards, claimed his client had been recruited to work at the farm and paid taxes for years. He lashed out at President Trump in a court filing Wednesday for publicly declaring Rivera guilty at a rally Tuesday night in which he called the nation's immigration system a disgrace. He said Rivera was a minor when he came to the U.S. with the equivalent of an eighth-grade education and described him as a hard worker with no prior criminal record.

"Sad and Sorry Trump has weighed in on this matter in national media which will poison the entire possible pool of jury members," Richards wrote in a court filing.

While Rivera's arrest doesn't add a new narrative to the immigration debate, "it gives President Trump a new image to replace those of families being torn apart," said Thad Kousser, a politics expert and UC San Diego political science professor.

"This was Page 1 of candidate Trump's playbook on immigration, linking illegal immigration to crime," he said. "Candidate Trump was very adept at using a single tragic incident to crystallize public opinion to turn immigration into a law and order issue."

The White House piled on the rhetoric Wednesday tweeting out a video of Gibboney and others whose family members had been "permanently separated" in killings by an "illegal alien," a twist on the backlash over the Trump administration's separating families at the U.S.-Mexico border.

Several studies, including one from Cato Institute, have concluded that Trump is wrong to claim that undocumented immigrants are more likely to commit crimes than legal U.S. residents. States with a higher share of people living in the country illegally have lower violent crime rates, studies show.But like in the slaying of Kate Steinle, who was shot to death on San Francisco's Pier 14 by an undocumented immigrant, Tibbetts' murder has deepened the divide between supporters of sanctuary policies and those calling for a crackdown on illegal immigration.

In a Facebook post Tuesday, as outrage was intensifying over her niece's death, Billie Jo Calderwood shared a message that she hoped would transcend the division:

"Please remember, Evil comes in EVERY color," she said. "Our family has been blessed to be surrounded by love, friendship and support throughout this entire ordeal by friends from all different nations and races. From the bottom of our hearts, thank you."