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Students Spared Amid an Increase in Deportations

By JULIA PRESTON

The Obama administration, while deporting a record number of immigrants convicted of crimes, is sparing one group of illegal immigrants from expulsion: students who came to the United States without papers when they were children.

In case after case where immigrant students were identified by federal agents as being in the country illegally, the students were released from detention and their deportations were suspended or canceled, lawyers and immigrant advocates said. Officials have even declined to deport students who openly declared their illegal status in public protests.

The students who have been allowed to remain are among more than 700,000 illegal immigrants who would be eligible for legal status under a bill before Congress specifically for high school graduates who came to the United States before they were 16. Department of Homeland Security officials said they had made no formal change of policy to permit those students to stay. But they said they had other, more pressing deportation priorities.

"In a world of limited resources, our time is better spent on someone who is here unlawfully and is committing crimes in the neighborhood," John Morton, the head of Immigration and Customs Enforcement, said in an interview. "As opposed to someone who came to this country as a juvenile and spent the vast majority of their life here."

Still, Republicans say the authorities should pursue all immigrants who are here illegally.

"The administration appears to want to pick and choose what laws they will follow and which ones they don't," said Representative Brian P. Bilbray, Republican of California, who is

chairman of a House immigration caucus. "They are trying to legislate from the White House," he said.

The administration is debating how to handle immigration now that the chances for a broad overhaul that President Obama supports have faded for this year.

The issue of illegal immigrant students has become pressing because young immigrants have staged increasingly frequent and defiant protests to demand passage this year of the piece of the overhaul that would benefit them.

Lawmakers who support that legislation have asked the administration to halt student deportations until Congress takes it up. But most Republicans are opposed to any action that would weaken enforcement against illegal immigration.

An internal Homeland Security memorandum, released last month by Senator Charles E. Grassley of Iowa, set off a furor among his fellow Republicans because it showed immigration officials weighing steps they could take without Congressional approval to give legal status to some illegal immigrants — including suspending deportations of students.

The moratorium had been requested by Richard J. Durbin of Illinois, the second-highest-ranking Democrat in the Senate, and Senator Richard G. Lugar, Republican of Indiana, the leading sponsors of the student legislation, called the Dream Act.

But a White House official said that the administration had decided against the moratorium, preferring to push for the student bill, which could grant legal status to more than 700,000 young immigrants here illegally.

"Legislation does far more for Dream Act students than deferring deportations would, in that it puts them on a path to citizenship," said the official, who requested anonymity to discuss an internal policy debate.

Instead of a general moratorium, immigration authorities appear to be acting case by case to hold up deportations of young immigrants.

"We have not had a single student whose case we handled who has been deported," said Juan Escalante, a spokesman for the Dream Is Coming, an organization that has waged petition

campaigns and sit-ins to stop student deportations. “Obviously, there is some sort of pattern there in the fact they are not deporting students.”

According to figures from the immigration enforcement agency, known as ICE, the Obama administration has accelerated the pace of deportations over all. In 2009, the authorities deported 389,834 people, about 20,000 more than in 2008, the final year of the Bush administration.

Last year, Mr. Morton announced the agency’s new priorities, directing agents to focus on capturing immigrant criminals. In the past 10 months, ICE has deported 142,526 immigrants convicted of crimes, a record number, the figures show.

At the same time, deportations of immigrants with civil violations, but no crimes, dropped by 24 percent. (Under immigration law, being in the United States without legal status is a civil violation, not a crime.)

The figures confirm “an enormous shift in targeting toward criminals,” said Susan B. Long, co-director of the Transactional Records Access Clearinghouse at Syracuse University, which analyzes federal law enforcement data.

The vast majority of students who are illegal immigrants have clean criminal records, and they would have to keep it that way to qualify to become legal under the Dream Act. To meet its terms, immigrants must also have graduated from high school and lived in the United States for at least five years, and they must complete two years of college or military service.

Last month, the Migration Policy Institute, a nonpartisan research group in Washington, estimated that 726,000 young immigrants would be immediately eligible for legal status under the Dream Act, a big increase over earlier estimates.

Lawmakers from both parties say the student bill draws wider support than the broader overhaul — but still not enough to make it likely to pass before the election. Many young immigrants were brought to the United States illegally as small children by their parents. Often they learn of their illegal status only years later, when they are old enough to apply for a driver’s license or to attend college.

Senator Harry Reid of Nevada, the majority leader, said in recent days that he was willing to

bring up the Dream Act separately, but that he did not have the 60 votes required to bring it to the floor.

Some students, after years of hiding, have concluded that it may now be safer for them to come out in the open about their illegal status. Immigration authorities have appeared to respond to the students' public campaigns, student leaders said.

"What we have seen is it is better to be out there," said Carlos Saavedra, national coordinator of the United We Dream network, which links dozens of immigrant student groups from around the country.

On Thursday, after phone calls and petitions from more than 50 local student groups, immigration authorities deferred for one year the deportation of Marlen Moreno, a Mexican immigrant living in Arizona who has two children who are American citizens and who would qualify to become legal under the Dream Act.

Last month, students held a weeklong protest in Washington that ended with a mock graduation ceremony on Capitol Hill, where hundreds of immigrants wearing caps and gowns declared their illegal status.

Immigration agents have taken no action against 21 immigrant students who were arrested on July 20 by the Capitol Police in sit-in protests in Senate offices, according to David Bennion, their immigration lawyer. Several were detained in the offices of Senator Reid and Senator John McCain of Arizona, a Republican.

Earlier in the summer, students campaigned on behalf of Eric Balderas, a 19-year-old Mexican-born biology major at Harvard who was arrested by immigration agents in San Antonio in June when he was about to fly back to Cambridge after visiting his mother. With Harvard officials and Senator Durbin also weighing in, ICE deferred his deportation indefinitely.

ICE has not held up deportations of young immigrants who have committed more serious crimes or were previously deported.

Two immigrants who declared their illegal status during a sit-in in May in the offices of Mr. McCain in Tucson — Mohammad Abdollahi, 24, born in Iran, and Yahaira Carrillo, 25, born in Mexico — were briefly detained by ICE. But the agency has not filed charges against them in

immigration court that would advance their deportations, their lawyer, Margo Cowan, said last week.

Ms. Carrillo, who has returned to her home in Kansas City, Mo., said she felt relieved after she went public with her illegal status. Now a student at Rockhurst University she has been living in the United States since she was 7.

“I don’t have to hide,” she said. “I don’t have to make excuses as to why I can’t take certain jobs or scholarships. What is the worst that can happen to me now? I’m already in deportation proceedings.”