

ARAB AMERICAN INSTITUTE

NATIONAL SECURITY ENTRY EXIT REGISTRATION SYSTEM

Background

The National Security Entry-Exit Registration System (NSEERS), otherwise known as INS Special Registration, was a system for registration of certain non-citizens within the United States, initiated in September 2002 as a domestic component of the “War on Terror.” NSEERS required nonimmigrant men and boys from predominantly Muslim countries to report to an immigration office to be photographed, fingerprinted and interviewed. Those targeted by the NSEERS program were only permitted to leave the United States from specified ports, and failure to comply with the program often resulted in arrest and deportation.

There were criminal and civil penalties associated with NSEERS, including arrest, detention, monetary fines and/or removal from the United States. The domestic “call-in” registration program resulted in hundreds of detentions and confusion at understaffed local immigration offices. More than 13,000 men who complied with call-in registration were placed in removal proceedings. Publicly available information from DHS indicates that approximately 84,000 individuals registered through this process. In addition, thousands of men who were required to register but failed to do so were susceptible to NSEERS penalties.

Although conceived as a program to thwart terrorist attacks, NSEERS proved ineffective as a counterterrorism tool. Among the tens of thousands of men and boys forced to register under NSEERS, none were ever convicted by the U.S. government for a terrorism-related crime. In practice, NSEERS led to the deportations of thousands of people from Muslim-majority countries for minor civil immigration violations and brought an abrupt end to their productive jobs, property ownership and community ties, including to U.S. citizen family members. It also caused egregious civil liberties offenses including racial profiling, unlawful arrests, and detentions of individuals who were not even required to register under the program.

The Problem

On April 27, 2011, the Department of Homeland Security announced that it would be shutting down the NSEERS registration process—a significant step forward in DHS’s continuing efforts to eliminate redundancies, streamline data collection for persons of all nationalities exiting or entering the United States, and improve upon the skills of security personnel.

Shutting down the NSEERS registration process only ceased the collection of data, but it did not eradicate the potential for misuse of the already-collected data. A careful reading of the Federal Register announcement that ended NSEERS shows that this is not, in fact, a comprehensive termination of the program. Margo Schlanger, DHS Officer for Civil Rights and Civil Liberties, said in an April 27, 2011 letter: “The underlying NSEERS regulation will remain in place in the event a special registration program is again needed.” Additionally, no clarification has been issued regarding the status of those individuals (a) placed in removal proceedings as a result of violating a requirement under NSEERS; (b) who did not register; and (c) who registered improperly. Over a hundred men are still stuck in “NSEERS limbo.” While NSEERS principally impacted men from Muslim-majority countries who were required to register, the government’s decision to retain the regulatory framework of NSEERS means that every foreign national in the United States is at risk of the program’s reinstatement.

While DHS announcement suspending NSEERS is a step in the right direction, it is only a first step. Discriminatory enforcement is illegitimate and its effects must be reversed and corrected. The inactive NSEERS regulations have been likened by organizations such as the ACLU to the Supreme Court's decision upholding Japanese-American internment during World War II, which also remains on the books.

Recommendations

- The Administration should expunge data already collected by the NSEERS program and ensure that those who did not register or did not register properly under NSEERS are no longer denied immigration benefits if they are otherwise eligible.
- The federal government should take every available step to reverse adverse immigration consequences that resulted for individuals because of NSEERS, including wrongful deportations and denied benefits.
- The Department of Justice and Department of Homeland Security should clarify whether and how data collected through NSEERS is currently being used by government agencies.
- The Administration and Congress should prohibit the implementation of future programs or policies that single out individuals based on race, religion, national origin, or ethnicity.