

May 17, 2011

The Honorable Janet Napolitano  
Secretary  
U.S. Department of Homeland Security  
Washington, D.C. 20528

Dear Secretary Napolitano:

The undersigned organizations are writing to request a meeting with you and your delegates to discuss the residual populations affected by the National Security Entry-Exit System (NSEERS) program, and possible remedies for such individuals. In light of the President's Executive Order directing agencies to review existing regulations that "may be outmoded, ineffective, insufficient or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned," we are also recommending that the Department of Homeland Security (DHS) repeal the regulations that govern NSEERS or special registration. We appreciate DHS' recent rule published in the Federal Register<sup>1</sup> suspending the NSEERS program for nationals and citizens from 25 predominantly-Muslim countries previously required to register. However, we believe the intent and spirit of the rule (characterized as "effectively ending [the] registration process" by DHS itself<sup>2</sup>) requires DHS to implement a specific policy reprieving the scores of individuals who are currently or have been affected by NSEERS; to provide information on databases of individuals who participated in the program; and to consider eliminating the underlying regulatory framework entirely.

As you know, the NSEERS program was controversial from its inception in 2002 because of its discriminatory nature, lack of notice and procedures by DHS about the program, and the inability

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<sup>1</sup> "Removing Designated Countries from the National Security Entry-Exit Registration System (NSEERS), 76 Federal Register 82 (April 28, 2011), pp.23830-23831. Available at <http://edocket.access.gpo.gov/2011/pdf/2011-10305.pdf>.

<sup>2</sup> U.S. Department of Homeland Security, Press Office, "Fact Sheet: DHS Streamlines Collection of Data for Individuals Entering and Exiting the United States." (April 27, 2011). Available at <http://photos.state.gov/libraries/singapore/231771/PDFs/NSEERS.pdf>

of DHS to process NSEERS cases. The program's ineffectiveness as a national security tool was highlighted by DHS itself when it confirmed, "As threats to the United States evolve, DHS seeks to identify specific individuals and actions that pose specific threats, rather than focusing on more general designations of groups of individuals, such as country of origin."<sup>3</sup>

A less publicized impact of the NSEERS program are the scores of individuals who currently are "stuck" in the immigration process, have been denied a benefit by United States Citizenship and Immigration Services (USCIS), have been denied admission, placed in removal proceedings, and/or ordered removed due to an NSEERS-related issue. The impact of NSEERS on individuals and their families is striking when considering the number of individuals who are happily married to a U.S. citizen, gainfully employed and/or squarely eligible for removal relief, but who are treated differently and unequally because of an NSEERS issue. To this end, we believe that DHS must issue guidance that calls for the favorable exercise of discretion for individuals facing an immigration consequence as a result of NSEERS. This guidance must be adopted by USCIS, CBP and ICE to ensure that individuals who are seeking a benefit, may be eligible for a benefit, facing removal, or seeking admission into the U.S. are treated similarly and favorably.

Also attached is a report issued by the American-Arab Anti-Discrimination Committee and Penn State Dickinson Law School's Immigrant Rights Clinic, *NSEERS: The Consequences of America's Efforts to Secure Its Borders* which illustrates the importance of addressing the residual impact of NSEERS and the impact that it continues to have on community members. <http://www.adc.org/PDF/nseerspaper.pdf>

Thank you for your attention. If you have any questions, please contact Shoba Sivaprasad Wadhia at [ssw11@psu.edu](mailto:ssw11@psu.edu).

American-Arab Anti-Discrimination Committee, Abed Ayoub  
American Immigration Lawyers Association

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<sup>3</sup> *Supra* note 1, at 23830.

**Muslim Public Affairs Council**

**Penn State Law's Center for Immigrants' Rights, Shoba Sivaprasad Wadhia\***

**Rights Working Group**

**South Asian American Leaders of Tomorrow, Priya Murthy**

**\*affiliation listed for informational purposes only**

**Enclosure**

**cc: John Sandweg, Counselor to the Secretary and Deputy Secretary, DHS  
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