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Targets of Suspicion:
The Impact of Post-9/11 Policies on Muslims,
Arabs and South Asians in the United States

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Targets of Suspicion: The Impact of Post-9/11 Policies on Muslims, Arabs and South Asians in the United States

EXECUTIVE SUMMARY

In response to the terrorist attacks of September 11, 2001, the U.S. government began a campaign of aggressive immigration enforcement targeted at Muslims, Arabs and South Asians. Rather than first seeking to identify suspected terrorists, the government initiated harsh law enforcement actions against whole communities with the hope that some of those caught might be terrorist suspects. Of all the post-9/11 policies, the National Security Entry-Exit Registration System (NSEERS), commonly referred to as Special Registration, has had the most serious impacts on the targeted communities. Interviews conducted with attorneys, community groups and registrants themselves indicate that the deportations and heightened immigration scrutiny resulting from NSEERS and other post-9/11 policies have created widespread fear, stress and alienation in the nation's Muslim, Arab and South Asian communities.

Confusion and Misinformation Result in Deportations:

The rules and deadlines of NSEERS were complex, confusing and poorly publicized. NSEERS has provided many opportunities for people to unintentionally violate regulations and therefore become subject to deportation. The confusion was complicated by missing, incomplete or incorrect instructions given out by immigration officials at registration. A December 2003 interim rule that lifted certain NSEERS requirements was widely misreported by the press as an end to NSEERS. In fact, important NSEERS requirements remain in effect.

Targeted Communities: Interviews with community groups indicate that NSEERS has created the widespread perception among Muslims, Arabs and South Asians that the federal government is applying immigration laws in a highly selective and discriminatory manner. Not only does NSEERS single out individuals from Muslim-majority countries (with the exception of North Korea), but it denies them avenues to avoid deportation that are commonly granted to people of other national origins. Con-

trary to popular perception, the people most affected by NSEERS have been non-Arab Muslims, in particular Pakistanis and Bangladeshis.

Economic and Social Impacts: Groups around the country report that the detention and deportation of fathers and husbands has divided families and deprived them of their primary sources of income. In some cases, American-citizen children with fathers subject to deportation have been pulled out of U.S. schools and taken to countries they have never known, such as Pakistan, Bangladesh and Egypt. NSEERS registration also applied to teenage boys 16 and older, who are often far more vulnerable to removal deportation than adults, with fewer opportunities for benefit eligibility or relief from removal.

Fear and Uncertainty: Interviews with community groups confirm that Muslims, Arabs and South Asians across the country have become wary of any contact with authorities, often too frightened to report domestic violence or other crimes or to seek help during emergencies. Numerous deportations for minor bureaucratic mistakes have led to a fear among lawfully-present immigrants, workers and students of targeted national origins that they could be deported at any time at the whim of an immigration official.

Unmet Legal Needs: In all four areas of the country examined in this report – New York, Los Angeles, Houston and Florida – local groups reported critical shortages of resources for pro bono legal assistance. As a result of the NSEERS program, about 14,000 people have been put into removal proceedings. Due to the sheer number of cases and the complex legal issues involved, existing pro-bono programs have been inadequate, leaving many thousands of people in proceedings with no legal representation. Even in areas where the immediate response to NSEERS was well-coordinated and effective, the demand for skilled representation poses a serious challenge to philanthropic organizations and the immigration bar.

I. INTRODUCTION

As part of its response to the terrorist attacks of September 11, 2001, the U.S. government began a series of law enforcement actions focused on Muslims, Arabs and South Asians living in the United States. While security and law enforcement experts have debated the appropriateness of many of these policies, there is little argument that they have taken a significant toll on the targeted communities. Under these policies, federal authorities have interviewed roughly 100,000 people of Muslim, Arab or South Asian origin, including citizens, permanent residents, applicants for permanent residency, individuals legally present in the country on student or work visas, and people who overstayed their visas. These interviews have resulted in thousands of people being put into removal (deportation) proceedings. Bearing the brunt of these restrictive policies and being the targets of suspicion under a heightened security regime has exerted enormous pressure on Muslim, Arab and South Asian communities and the organizations that serve them.

In June of 2002 the Bush administration launched the National Security Entry-Exit Registration System (NSEERS), commonly referred to as Special Registration. Arguably, of all the post-9/11 policies, NSEERS has had the most serious impacts on the targeted communities. Despite the announcement of an interim rule that lifted certain NSEERS requirements and confusing reports from the Department of Homeland Security (DHS) and the media that the program was ended, many requirements of the program remain in force. Perhaps more importantly, the lingering effects of the program continue to resonate within Muslim, Arab and South Asian communities. The perception that they have been singled out because of their religion or national origin has led many hard-working, law-abiding new Americans to question their future in this country.

In light of the impact it has had on the targeted communities and the fact that important aspects of the program continue to be enforced, NSEERS is the primary focus of this report.

In practical terms, the sanctions threatened against “the terrorists among us” were targeted at non-citizen Muslim, Arab and South Asian men living in the United States who had no suspected ties to terrorism.

Nationality-Based Immigration Enforcement as an Anti-Terrorism Tool

In the immediate aftermath of 9/11, the Department of Justice (DOJ) launched an aggressive campaign aimed at disrupting terrorist networks in the United States. U.S. Attorney General John Ashcroft declared in October 2001 that immigration rules would be a primary weapon in the effort:

Robert Kennedy’s Justice Department, it is said, would arrest mobsters for ‘spitting on the sidewalk’ if it would help in the battle against organized crime. It has been and will be the policy of this Department of Justice to use the same aggressive arrest and detention tactics in the war on terror. Let the terrorists among us be warned: If you overstay your visa – even by one day – we will arrest you.¹

What sets the post-9/11 policies apart from Robert Kennedy’s campaign against suspected members of organized crime, however, is the fact that the aggressive arrest and detention tactics after 9/11 were not focused on suspected terrorists. In practical terms, the sanctions threatened against “the terrorists among us” were targeted at non-citizen Muslim, Arab and South Asian men living in the United States who had no suspected ties to terrorism. Rather than identifying suspected terrorists and then using all available tools to arrest them, the DOJ initiated these aggressive tactics against whole communities with the hope that some of those caught might be terrorist suspects. The programs have singled out for intensive immigration enforcement people of national origins that comprise a small proportion of the total U.S. immigrant population, and have led to thousands of them being deported for alleged violations for which most immigrants face little risk of deportation.

In addition to the NSEERS program, other actions that have focused on Muslims, Arabs and South Asians include:

- **Initial Post-9/11 Detentions** – More than 1,200 people, mostly Arabs and Muslims, were rounded up and detained by the Federal Bureau of Investigation (FBI) and other law enforcement agencies in the days and weeks after 9/11. Many of them were detained after neighbors, coworkers or strangers phoned in tips to authorities based largely on their appearance, language or ethnic origin. Many were held for months without charge, and were denied access to attorneys and to their families. Most eventually were deported for minor immigration violations.
- **Voluntary Interview Project** – In November 2001 the DOJ initiated a program of “voluntary interviews” by the FBI and other law enforcement agencies of 5,000 non-immigrant men in the United States who claimed citizenship from countries with an al Qaeda terrorist presence or activity.²
- **Absconder Apprehension Initiative** – In January 2002 the DOJ launched this program aimed at locating 314,000 people who had violated deportation orders and remained in the country. Rather than prioritizing this effort based on the severity of the crime which resulted in the deportation order, the DOJ said it would first focus on about 6,000 men from countries with a known al Qaeda presence.³
- **Interviews of Iraqi-Americans and Iraqi Nationals in the United States** – In March and April 2003 the FBI’s Iraqi Task Force conducted almost 11,000 “voluntary interviews” of people of Iraqi origin living in the United States, many of them citizens, in preparation for the war with Iraq.⁴
- **Heightened Immigration Scrutiny** – Outside of formal programs, many Muslims, Arabs and South Asians say their communities have been singled out for a heightened degree of immigration scrutiny. They express a sense of vulnerability to being deported for minor violations of rules.

In addition, the FBI has aggressively used the threat of immigration enforcement as a means of recruiting informants in Arab and Muslim communities in the United States. Several people interviewed for this report said FBI officials threatened to cause – and in at least one case described by a prominent Florida attorney did cause – immigration problems for Arabs and Muslims who refused to act as informants in their own communities.

II. NSEERS - A LESSON IN CONTRADICTION AND CONFUSION

When NSEERS was first announced, it was portrayed primarily as an attempt to root out terrorists and, secondarily, as a response to Congressional mandates to keep better track of all foreign visitors. In the face of ongoing criticism regarding the negligible security value of NSEERS and the program’s discriminatory nature, government officials began to stress the second rationale as a justification for the program.

Attorney General Ashcroft announced NSEERS in June 2002, describing it as a response to the 9/11 attacks. “In this new war, our enemy’s platoons infiltrate our borders, quietly blending in with visiting tourists, students, and workers,” Ashcroft said. “They move unnoticed through our cities, neighborhoods, and public spaces... Their tactics rely on evading recognition at the border and escaping detection within the United States. Their terrorist mission is to defeat America, destroy our values and kill innocent people.” NSEERS, he said, “will expand substantially America’s scrutiny of those foreign visitors who may pose a national security concern and enter our country. And it will provide a vital line of defense in the war against terrorism.”⁵

As a response to terrorism, however, NSEERS has achieved little or nothing in the way of demonstrable results – not one of the people who registered has been convicted of terrorism-related criminal offenses – and may have hurt anti-terror efforts by deeply alienating Muslim and Arab communities in the United States and abroad. [In November 2003 the DHS told the *New York Times* that of those who registered under NSEERS, 11 had

“links to terrorism.”⁶ In February 2004 U.S. Immigration and Customs Enforcement (ICE) spokesman Garrison Courtney said that of those 11, at least some were removed for immigration violations; he said he was “not sure” if there were any criminal convictions.⁷]

Indeed, the NSEERS program has suffered from contradictory goals. Though it is ostensibly an anti-terrorism program, it is hard to imagine a terrorist showing up to register himself at the local Federal building. The people hurt by NSEERS are those who chose to comply with the regulations by registering. This has caused dismay in the targeted communities. “People have been victimized for complying with the law, and that is a very unfortunate situation by itself,” said Parvez Ahmed, chair of the Florida chapter of the Council on American-Islamic Relations (CAIR). “People showed up because it was the right thing to do, and after they showed up, either they were put in deportation proceedings, or they were detained and had no access to counsel. That aspect itself is troubling from a civil rights perspective, a human rights perspective.”⁸

Confusion and Misinformation Result in Deportations

The rules and deadlines of NSEERS were complex, confusing, poorly publicized, and rolled out piecemeal in a long series of notices and revisions issued between June 2002 and February 2003. In implementation NSEERS had two parts: Special Call-In Registration (“Call-In Registration”) and Port-of-Entry Registration (“POE Registration”).

POE Registration began on September 11, 2002. Under the program, non-immigrant visitors from certain countries, or who met other non-specified criteria, would be registered, fingerprinted, and photographed upon arrival in the United States. Registrants were required to come to an immigration office for a follow-up interview within 30 to 40 days of their POE Registration and to another follow-up interview within 10 days of the one-year anniversary of their registration.

In announcing the program in June 2002, the DOJ said it would apply to nationals of Iran, Iraq, Libya, Sudan

and Syria, as well as “Certain nationals of other countries whom the State Department and the INS determine to be an elevated national security risk,” and “Aliens identified by INS inspectors at point of entry upon specific criteria to be established by the Department of Justice.”⁹ The government has never released a list of countries whose nationals are subject to POE Registration, but says people from more than 150 countries have been registered. However, it is widely believed to have been applied largely to nationals of the same Muslim countries covered by Call-In Registration.

Call-In Registration was launched in November 2002. It eventually required the “nationals” of 25 countries – two dozen Muslim nations and North Korea – to report to immigration authorities to be fingerprinted, photographed, interviewed, and asked to show documents. It applied to men and boys aged 16 and older who had entered the country during or before September 2002 and were non-immigrants, including students, non-immigrant workers and tourists. The registration deadlines varied according to nationality, with different nations being grouped into four separate Call-In groups. Individuals also were required to re-register within 10 days of the one-year anniversary of their initial registration.

Even attorneys were confused by rules that sometimes made little sense: a Canadian citizen living in the United States was considered a “national” of Iraq even if he had left Iraq as an infant and lived in Canada for nearly all his life. “There have been many people misadvised even by attorneys as to who is required to register,” said Faith Nouri, chair of the NSEERS committee of the Los Angeles County Bar Association.¹⁰

Among those who were given mistaken advice, many went for late registration. Prior to November 1, 2003, registration was handled by the immigration benefits agency, U.S. Citizenship and Immigration Services (CIS).¹¹ Under CIS, people registering late “could go and show there was misadvice, and it was not willful, you provided an affidavit, and the person was allowed to proceed with registration,” Nouri said. But, on November 1, NSEERS was taken over by an enforcement agency, U.S. Immigration and Customs Enforcement (ICE). “Right now

anyone who is going to late registration is getting put into [removal] proceedings by ICE.”

Adding to the confusion was the fact that the rules of NSEERS were disseminated primarily via publication in the Federal Register. Needless to say, few Americans or non-citizens regularly read through the Federal Register for new regulations that may apply to them. As a result, the rollout of NSEERS provided numerous opportunities for people to unintentionally violate newly-announced regulations and therefore become subject to deportation.

According to Mazen Sukkar, a Florida immigration attorney and former president of the South Florida chapter of the American Immigration Lawyers Association (AILA), “We were all caught by surprise. This was implemented in a very, very fast way. By the time the attorneys got around to writing articles in the various ethnic news-

papers, and advising the Arabic community that they have to register,” the deadlines for the first and second groups had already passed.¹²

The confusion was complicated by missing, incomplete, or incorrect instructions given out by DHS officials at registration. AILA and the American Civil Liberties Union (ACLU) together have conducted a nationwide review of these instructions, known as walk-away papers. “Our investigation indicated that quite a few people did not get walk-away papers,” said Robin Goldfaden, staff attorney with the ACLU Immigrants’ Rights Project.¹³ “We found that many people received no information, and that many people received some information but not all the information they needed for compliance.” They also found that “many call-in registrants were given papers designed for port of entry registrants, and were therefore given misleading and inaccurate information.”

AN EDUCATION CUT SHORT

For Imad Daou, an unintentional violation of complex NSEERS procedures had life-changing consequences. The 31-year-old Lebanese Christian arrived in the United States in June 2003 on his first trip outside Lebanon. He came to earn masters and Ph.D. degrees in information systems from Texas A&M International University. In his first term, Daou excelled in his studies, and fell in love with a Mexican-American MBA student named Maria. He attended church with Maria on Sundays, and the two made plans to marry.

Daou had gone through POE Registration when he first arrived at Houston’s airport. The DHS official who registered him told him nothing about the NSEERS requirement to report back to the DHS in 30 to 40 days for re-registration, and didn’t give him walk-away papers describing the requirements. Unaware of the rule, Daou did not return for re-registration.

Daou made four trips back and forth across the Mexican border with Maria to see her relatives. The first three times he returned from Mexico, DHS officials at the border thoroughly questioned him and then let him return. The fourth time, the night before Thanksgiving, Daou came through a different crossing in a car with Maria and her parents. DHS officers detained Daou for his failure to re-register.

The punishment was harsh: he was put into “expedited removal,” meaning he would be deported without a chance to plead

his case before a judge and ask for a penalty proportional to the violation. The senior immigration official at the crossing told Daou that “he tried to see if there was something he could do for him, but he couldn’t,” said Daou’s brother, an information systems manager who is in the United States on a work visa. “He contacted some people in Washington to ask what to do about this case. They told him that he needed to give him expedited removal, so that’s what he did.”

Daou spent December and January locked up in a detention center in Laredo, Texas. He was deported to Lebanon in February, shattering his plans for an education and leaving him adrift. “He’s miserable right now,” said his brother. “I’ve been talking to him once or twice a week just to keep him up a little bit.”

Daou has had some breaks in his misfortune. His professors arranged for him to take his final exams in Beirut, and he made straight A’s. And, while he was behind bars, he and Maria were married.

Though Daou hopes one day to return to the United States, he is barred from doing so for five years because of his deportation. Yet he isn’t bitter. “He still loves the United States, and wants to come back some day,” said his brother. “He wishes it could be very soon. His dream is to come back to the U.S., to continue his education, and to live with his wife.”

The DHS reported that between September 11, 2002 and September 30, 2003, 93,741 people registered through POE Registration, and 83,519 men and boys registered through Call-In Registration. Of the registrants, 13,799 people were put into removal proceedings and 2,870 were detained.¹⁴

NSEERS Did Not End with US-VISIT

On December 1, 2003, DHS announced an interim rule that lifted certain NSEERS requirements, including the requirement to re-register after 30-day and one-year intervals. This was widely misreported by the press as an end to NSEERS. In fact, important requirements remain: POE Registration continues; and anyone registered under NSEERS may depart only from specially-designated ports and must register their departure with a Customs and Border Protection officer – often at airport offices far away from the departure gates.

In January 2004 DHS began rolling out US-VISIT, an entry/exit tracking system mandated by Congress in 1996. Under US-VISIT, all visitors, except Mexicans traveling with a border crossing card and Canadians, are fingerprinted and photographed upon entry to the United States.¹⁵ Federal authorities had portrayed NSEERS as an interim step towards US-VISIT. However, key components of the NSEERS program are unaffected by the implementation of US-VISIT, meaning that Muslims, Arabs and South Asians are still subject to different requirements than other visitors. “It remains unclear what the relationship between NSEERS and US-VISIT is, and the government has done a poor job of articulating what are the continuing NSEERS obligations, particularly with regard to the departure requirements,” commented Judith Golub, Senior Director of Advocacy and Public Affairs for AILA. Moreover, according to the ACLU’s Goldfaden, “By announcing this program while maintaining the confusing and discriminatory NSEERS requirements, the government is continuing to trap unwary immigrants who have made every effort to comply with the law and who have not been provided meaningful and accurate information about their obligations.”¹⁶

In its interim rule amending the NSEERS program, the DHS reserved the right to require individuals to re-

DHS has not disclosed the number of people who are now in removal proceedings for failing to follow NSEERS requirements such as the 30-day re-registration.

register on a case-by-case basis. The interim rule says the DHS may notify individuals of this requirement by any means, including regular mail, e-mail, or publication of a notice in the Federal Register. DHS can provide as little as 10 days from the time it publishes or sends the notice for the person to report for the interview, meaning that the notice may actually arrive only six or seven days before the interview.¹⁷

This kind of discretionary authority creates an even greater risk that those required to re-register will never receive notification. “It is unreasonable to assume that temporary visitors to this country will be checking the Federal Register to see if they are required to re-register with DHS,” AILA’s Golub said. “These new procedures may simply be setting otherwise law-abiding people up to fail.”

DHS has not disclosed the number of people who are now in removal proceedings for failing to follow NSEERS requirements such as the 30-day re-registration; ICE spokesman Garrison Courtney did not respond to several requests for this information. This group is likely to number at least several hundred people, and the termination of re-registration does not halt removal proceedings against them. Nor does the termination of re-registration help those who inadvertently failed earlier to comply with the Call-In Registration requirements and are now applying for a benefit, such as an extension of a visa or a green card through marriage to a U.S. citizen. In addition, people arriving at U.S. airports are being turned away when immigration officers conclude they have previously failed to follow departure registration requirements.

As a result, in February 2004 AILA released a comment letter to DHS urging it to end the program. If the program is to continue, “AILA urges that the surviving aspects of the program be adequately publicized, to avoid the traps that the program now sets for the innocent and unwary.”¹⁸

III. IMPACTS, RESPONSES AND UNMET NEEDS: LEGAL, ECONOMIC AND SOCIAL

NSEERS and related government actions have had strongly negative, sometimes devastating impacts on Muslim, Arab and South Asian families in the United States. Families have been divided and deprived of their primary breadwinners when husbands and fathers have been detained or deported. American-citizen children with fathers subject to deportation have been pulled out of U.S. schools and taken to countries they have never known, such as Pakistan, Bangladesh and Egypt. Muslims, Arabs and South Asians across the country have become wary of any contact with authorities, too frightened to report domestic violence or other crimes or to seek help during emergencies.

The government's actions have led even U.S. citizens of Muslim or Arab ancestry to wonder about their future in this country. Some young people fear that the post-9/11 atmosphere of distrust of Arabs and Muslims, heightened by government actions, will limit their job opportunities. While the post-9/11 measures have spurred groups representing Muslims, Arabs and South Asians to become more active, many individuals have responded by lowering their profile to avoid attention – even U.S. citizens report greater fear of random encounters with police officers and other authorities.

A. Targeted Communities

Through interviews with attorneys, community groups, and registrants, this report examines the impacts of and responses to NSEERS in four parts of the country: New York City, Los Angeles, Houston and Florida.

Non-Arab Muslims Suffer the Greatest Impact from NSEERS

A common misconception is that the government's post-9/11 policies have been targeted mainly at Arabs, since it was a group of Arabs who hijacked the airplanes on 9/11. However, the people in the United States who have been most affected by NSEERS are in fact non-Arab Muslims, in particular Pakistanis and Bangladeshis.

The U.S. Arab community is well-established, dating back to the 1870s. More than 80 percent of people of Arab origin in the United States are U.S. citizens who are not subject to NSEERS.¹⁹ By contrast, many of the Pakistanis and Bangladeshis in the United States arrived in the 1990s, and therefore are far more vulnerable to policies based on immigration status.

NSEERS triggered a mass migration of Pakistanis out of the United States. As the NSEERS registration deadline for Pakistanis approached in March 2003, between 4,000 and 5,000 Pakistanis fled to Canada, estimates Imran Ali, Second Secretary at the Embassy of Pakistan in Washington.²⁰ Ali said the embassy's "ballpark" estimate is that 15,000 Pakistanis have left the United States since 9/11. Of those who left, about 1,480 were deported, Ali said, some in mass deportations. Six planes chartered by ICE, carrying a total of 527 deportees, were sent to Pakistan between June 2002 and October 2003.²¹

Yet Jagajit Singh, director of programs at the Council Of Pakistan Organization (COPO) in Brooklyn, points out that some estimates of the Pakistani flight are much higher. COPO estimates that in New York alone, "the community has lost about 20,000 people, of a total of about 150,000 to 200,000."²² Brooklyn, with its large Pakistani community, suffered perhaps the most concentrated impact from NSEERS. As Pakistani families fled the United States, business for stores in Brooklyn's Coney Island section fell by 30 percent to 40 percent, according to a survey conducted by COPO.

Bangladeshis also were hard-hit. According to the Embassy of Bangladesh in Washington, 7,238 Bangladesh nationals registered under NSEERS. Shahidul Islam, political counselor at the embassy, reports that of this group, 855 were put into removal proceedings.²³ He cited estimates by New York-based Bangladeshi newspapers that more than 5,000 Bangladeshis had fled the United States before the registration deadline.

In Houston, Selina Rahman, chairperson of the Bangladesh Association of Houston, describes a group of 29 Bangladeshis who sold their belongings, quit their

jobs, pulled their children from school, and set out by road for Canada. Nearly half were allowed across the border after interviews with Canadian officials. The rest were asked to return the next day. Fearing trouble with authorities, they turned back to Houston, arriving with nothing. “They had to start from scratch,” said Rahman. “They didn’t even have cups or pillows.”²⁴

As one of the country’s newer immigrant groups, Bangladeshis often lack the financial resources, political contacts and familiarity with the legal system that immigrant groups develop over time. Many were unable to afford immigration attorneys to help them navigate NSEERS. Although Bangladeshi organizations exist in a number of U.S. cities, they have not developed the capacity to provide legal assistance and other costly services. According to Rahman, pro bono legal representation for NSEERS registrants was “something we were hoping we could get, because there are a lot of Bangladeshis who were barely making it, and didn’t have money to pay for it. But we couldn’t find much in that area.”

The situation was very similar in New York. According to Ehsan Imdad, president of the Bangladesh Association of New York, “Unfortunately there is no such organization [providing legal assistance] for Bangladeshi people living here. The people who suffered most were the poor immigrants, those who had been in the country less than five years.” These immigrants typically drive taxis, run newsstands, and work in restaurants and gas stations. “Those who own businesses are usually U.S. citizens or green card holders already, so they didn’t have to leave the country,” he said.²⁵

NSEERS also has deterred Bangladesh’s best students from attending American universities. “Special Registration created serious anxiety and fear among prospective visitors and students,” said Islam of the embassy. “Bangladeshi students now prefer going to Australia, the UK and Canada for higher studies as opposed to the USA, which was the most coveted destination for them prior to Special Registration. Many of my friends have sent their children to Canada despite the fact that they have close relatives among the Bangladeshi-American community.”

More than 80 percent of people of Arab origin in the United States are U.S. citizens who are not subject to NSEERS. By contrast, many of the Pakistanis and Bangladeshis in the United States arrived in the 1990s, and therefore are far more vulnerable to policies based on immigration status.

The Perception of Selective Enforcement

Because NSEERS targets individuals from Muslim-majority countries (with the exception of North Korea), it has created the widespread perception in Muslim, Arab and South Asian communities that the federal government is applying immigration laws in a highly selective and discriminatory manner. This selective enforcement is difficult to justify as an immigration-control tool, given that NSEERS has had a negligible impact on reducing the number of undocumented immigrants. The 14,000 Muslim, Arab and South Asian people put into removal proceedings, even if all were indeed illegal immigrants, represent less than one-fifth of one percent of the 8 million to 10 million undocumented immigrants in the country. Of these undocumented immigrants, an estimated 3 million to 5 million are from Mexico.

“The government policy usually says that this is a war against terror, it’s not a war against Islam or Muslims,” remarked Aziz A. Siddiqi, president of The Islamic Society of Greater Houston. “But when you look at the realities, all the people who have been targeted are Muslims. Even when you look at immigration policies, a majority of illegal immigrants may be from south of the border, but the target is not them, the target is people who come from Islamic countries.”²⁶

Beyond singling out Muslims, Arabs and South Asians, NSEERS also denies them avenues to avoid deportation that are commonly granted to people of other national origins. Immigration authorities have gone to great lengths to deport even permanent residents who are Muslims or Arabs for alleged infractions of little consequence. As a result, many men who reported for Call-In Registration were put into removal proceedings, and are

being ordered removed in their court hearings, despite having circumstances where relief from removal might be possible in the near future. These circumstances include:

- Pending green card petitions based on family in the United States (having filed I-130 petitions);
- Pending labor certification applications based on labor skills; and
- Eligibility for relief under section 245(i) of the Immigration and Nationality Act, which allows undocumented immigrants who qualify for immigrant visas based on family relationships or job skills to apply for their visa in the United States (after paying an additional fee) without having to return to their home countries for final processing.²⁷

"Nobody is sympathetic toward them," said Nouri of the Los Angeles County Bar Association. "If they're placed into proceedings, they're going to stay in proceedings

until they're deported. It doesn't matter if they're 245(i) or I-130 or I-140. The courts are refusing to give continuances, and are refusing to assist this type of clients."

In its comments to the NSEERS regulation, AILA argued that the policy of the former INS "to use prosecutorial discretion in moving against 245(i) applicants should not have been abandoned in favor of what turned out to be an 'arrest everyone' mentality. These cases continue to clog the immigration courts, even as the applicants continue to wait for a seriously-backlogged U.S. government to act on their years-old applications and petitions."²⁸

Immigration lawyers around the country reported being told by local immigration officials that the harsh policy was demanded by Washington. According to Ban Al-Wardi, an immigration attorney who is president of the Los Angeles / Orange County Chapter of the American-Arab Anti-Discrimination Committee (ADC), the Los Angeles office in the past had exercised discretion in such cases. That discretion vanished under NSEERS.

BOUQUET OF FLOWERS PUTS PERMANENT RESIDENT INTO REMOVAL PROCEEDINGS

In March 2003 two government agents came to interview Shayma Yousif, an Iraqi-born woman, at her Orlando home, as part of nationwide interviews of Iraqi-Americans. While there, they met her husband, Kussay "Gus" Al-Sabunchi, an IBM computer engineer who is a naturalized Canadian citizen and a U.S. permanent resident. When they found he was born in Iraq, they interviewed him as well.

On an early morning in April, Federal agents returned to the house with their guns drawn, interrupting Al-Sabunchi in his shower and arresting him in front of his son and his pregnant wife, who nearly had a miscarriage. He was led from his house in handcuffs and leg chains.

In 1997 Al-Sabunchi had sent an \$80 bouquet of flowers to his now former wife in an attempt to patch things up with her. He was arrested and charged with violating a court order prohibiting contact with her. He pleaded no contest to the misdemeanor.

In his 2003 arrest, he was accused of making a false statement on his application for permanent residency by answering "no" to the question asking whether he had ever been arrested. Al-

Sabunchi said a New York law firm filled out and submitted those papers. When he saw a copy of the form, he realized the arrest was left out. But, he said, the law firm told him the incident didn't require reporting.

In June 2003, a federal judge acquitted him of the charge of making a false statement on his application for permanent residency. Judge G. Kendall Sharp in Orlando ruled that Al-Sabunchi did not intentionally mislead the immigration bureau. Immigration authorities then filed an identical charge in immigration court, moving to deport him. Judge Sharp blasted the move as "overzealous" and "outrageous." "Al-Sabunchi's conduct in sending flowers to his ex-wife six years ago was inconsequential," Judge Sharp wrote. "His misdemeanor ... 'offense' qualified as nothing more than a misplaced effort to save a troubled marriage."³⁰

Al-Sabunchi's immigration court hearing is scheduled for October 2004. In the meantime, his infant daughter is struggling with injuries from her breach birth and his son is scared to sleep alone in his bedroom. "Every time the doorbell rings we freak out," Al-Sabunchi said. "I and my family have been going through a nightmare. The psychological stress alone is indescribable."³¹

“They said, ‘This came from above, we cannot question it, we cannot do anything to accommodate it.’”²⁹

The DHS has also sought to remove Arabs and Muslims who are married to U.S. citizens but who have allegedly violated an immigration rule in the past. In Florida, immigration attorney Sukkar represented a Jordanian man with an American wife and a pending green card application. He reported to Call-In Registration, appeared nervous during questioning, was sent to the Investigations unit, and was put into removal proceedings for an alleged status violation.

NSEERS Fosters Alienation, Not Cooperation

The perception that federal authorities are using immigration law as a blunt weapon against Muslims, Arabs and South Asians was reinforced by the often chaotic and heavy-handed way in which Call-In Registration was implemented. This was particularly true in Los Angeles in December 2002, when the first group was required to register. According to a report from the Migration Policy Institute,

In many instances, no policies had even been made available to INS staff, who were uncertain of the process to follow to register individuals. The result was not only chaotic—resulting in long waits and significant inconvenience to those seeking to comply with the registration requirements—but also raised serious procedural concerns regarding the uniformity and consistency with which the call-in registration rule was being implemented across the country.

Worse, as the chaos of hundreds of men filing into understaffed INS offices began to worsen, INS officials decided to err on the side of heavy-handed enforcement. They detained individuals about whom questions arose, and issued Notices to Appear to dozens if not hundreds of men who were present in the United States legally, awaiting the adjudication of their pending adjustment-of-status applications.³²

In New York, Minneapolis, Atlanta and other INS offices, some registrants were blocked from bringing their attorneys into interviews. Some registrants were given access to interpreters and others were not. While later rounds of registration were conducted more smoothly, the initial detentions led to considerable fear among Muslims, Arabs and South Asians.

Adding to this pervasive sense of fear are reports that FBI officials have threatened to cause immigration problems for individuals who refuse to inform on their communities. “A common denominator we’re seeing with a lot of these cases is an aggressive way of recruiting informants,” said Ahmed Bedier, communications director for the Florida chapter of CAIR. “They’re basically being pursued by the government to spy for them in the Arab and Muslim community, in exchange for not being deported.”³³

One of Sukkar’s clients, with a wife and children who are all U.S. citizens, was repeatedly asked by the FBI to spy on community members. When the man refused, the FBI sent a letter to the DHS alleging “apparent fraud” on his application for permanent residency. The DHS detained him and issued a notice of intent to revoke his legal immigration status.

Despite the alienation and sense of persecution that such actions foster in Muslim, Arab and South Asian communities, federal authorities refuse to acknowledge that mistakes have been made or that some post-9/11 policies may actually hinder anti-terrorism investigations by discouraging cooperation. In a June 2003 report, the DOJ’s Inspector General said that some of the individuals detained immediately after 9/11 had suffered serious rights violations. Many were physically and verbally abused by corrections officers, held in cells with 24-hour lighting, blocked from access to their attorneys and families for weeks at a time, and held for more than a month without charge, among other abuses.³⁴ Most were eventually deported for minor immigration violations.

In responding to the report, however, DOJ Public Affairs Director Barbara Comstock refused to acknowledge that the department had been excessively harsh to some detainees. “Our policy is to use all legal tools avail-

able to protect innocent Americans from terrorist attacks," she said. "We make no apologies for finding every legal way possible to protect the American public from further terrorist attacks."³⁵

This kind of public pronouncement by a federal official, which appears to excuse even illegal actions committed by government authorities, reinforces the belief among Muslims and Arabs that post-9/11 policies have singled them out for persecution. Altaf Ali, executive director of the Florida chapter of CAIR, noted:

Many people who left their countries to come here, they're highly educated professionals, and they look at this country with great respect as to the rule of law and respect for civil liberties. So you find a sense of hopelessness, where people have sacrificed so much to come, hoping to find a better life for themselves and their children, and finding very similar tactics to those used in third world countries and dictatorships. Muslims are now rethinking if they've made a wise decision in coming here. Living the life of a Muslim or Arab in America is no longer the way it used to be prior to 9/11.³⁶

B. Legal Responses to NSEERS and Unmet Legal Needs

In all four places in the country examined in this report, local groups were unable to provide more than limited legal assistance to registrants. Although many groups held seminars to inform community members about registration requirements, groups in all regions were critically short of resources to provide pro bono legal assistance on specific cases, leaving many unrepresented during registration and in removal proceedings. The lack of legal representation is particularly onerous given the confusing nature of the NSEERS rules and the potentially disastrous consequences of violating any of them.

Limited Resources

As a response to the shortage of resources, the Fund for New Citizens, which funded NSEERS work by a coalition of legal and community groups in New York, de-

veloped a triage system to "ensure that direct representation is targeted toward those individuals for whom relief is possible. But even then, it is likely that the need for representation for all those with viable claims for relief won't be fully met. [There is a] serious shortfall ... in the availability of experienced immigration attorneys who can provide mentoring, supervision, and case consultation to pro bono attorneys, as the complexity of immigration cases requires substantial expertise."³⁷

Under the program supported by the Fund for New Citizens, "Registrants were placed into one of four categories: those for whom relief was immediately available; those who had adjustment of status applications pending; those with potential asylum, Convention Against Torture, or withholding of removal claims; and those for whom voluntary departure was the only recourse."³⁸

The Fund for New Citizens quickly came to an important realization: "the reality that a large number of individuals counseled at clinics had no meaningful avenues of relief available to them. This reality – that thousands are subject to deportation, without any hope of a remedy – has far-reaching implications in the affected communities, as families are torn apart and placed under tremendous strain."³⁹

According to Ra'id Faraj, public relations director at the Los Angeles chapter of CAIR, "the biggest challenge has been legal assistance. We've struggled as an organization; we don't have attorneys to provide free legal assistance."⁴⁰

Groups connecting registrants with pro bono lawyers also have reported a shortage of skilled interpreters. "Most of the community belongs to a low income group and has very little proficiency in English," said Mohammed Razvi, Executive Director of the Council Of Pakistan Organization in Brooklyn.⁴¹

The lack of legal representation for people in removal proceedings or detention due to NSEERS reflects a long-standing problem with the U.S. immigration system. In 2002 only 45 percent of all immigrants appearing in immigration court had legal representation.⁴²

“At the very least, what is needed is more funding to non-profits who can provide quality legal representation to low-income immigrants with complex issues. Ultimately, the solution would be to develop a right to counsel, especially for those in removal proceedings.” - Cyrus Mehta

According to a report by Human Rights Watch, among detained immigrants the proportion represented by legal counsel in immigration court is far lower.⁴³

It is clear that existing pro bono efforts are not up to the task of responding to the legal needs created by NSEERS. New York attorney Cyrus Mehta, Vice Chair of the American Immigration Law Foundation (AILF), noted that while lawyers at large non-immigration law firms are being successfully trained to handle specific relief applications, such as those for asylum, it is “more difficult to train lawyers not experienced in immigration law to spot the gamut of potential relief avenues affecting an NSEERS registrant in removal proceedings.” Further, Mehta said:

It is my personal opinion that the immigration bar could have done more to step up to this challenge and organize a large national pro bono program to help deal with this crisis, although lawyers at local bar associations and organizations contributed significantly. At the very least, what is needed is more funding to non-profits who can provide quality legal representation to low-income immigrants with complex issues. Ultimately, the solution would be to develop a right to counsel, especially for those in removal proceedings.

Legal Responses in Selected Regions

The legal response to NSEERS in New York shows how a well-funded, coordinated campaign can directly benefit hundreds of people impacted by immigration policies. In contrast, lack of funding in Florida meant that little legal assistance was available for NSEERS registrants. In Houston, cooperation between community groups and immigration officials averted a repeat of the

disastrous mass detentions that occurred during Group One registration in Los Angeles.

I. New York

New York has the nation’s third-largest Arab-American community, with a population of some 400,000, according to the Arab American Institute,⁴⁴ along with the country’s largest concentrations of immigrants from Pakistan and Bangladesh.⁴⁵

After the first NSEERS registration deadline resulted in a large number of detentions, the Fund for New Citizens, administered by the New York Community Trust, quickly mobilized. It circulated proposals to its funders in January 2003, and money was coming in within a month.

The Fund devised a two-phase program. The first phase “was to deal with the immediate crisis, the folks facing registration deadlines,” said Karen Kaminsky, program officer at the Fund.⁴⁶ In this phase, the Fund provided about \$160,000 to eight community groups and legal services providers, including the New York Immigration Coalition and the Association of the Bar of the City of New York.⁴⁷ The funds were used for community outreach and legal services while the registration process was underway, and also to serve people placed into proceedings as a result of registration. The New York groups also set up mentoring programs, in which experienced immigration attorneys advised pro bono attorneys on strategies for defending clients. Through June 30, 2003, the Fund’s initiative held 89 legal clinics that served 1,054 individuals. It trained 180 pro bono attorneys, and took on 99 cases for direct representation.⁴⁸

The second phase of grants, totaling \$320,000, was made in September 2003, and supported the direct representation of people placed into proceedings due to registration, case management by community groups, and advocacy and monitoring.

2. Los Angeles

California has more than 700,000 people of Arab ancestry, the most of any state. A third of them live in

Los Angeles County, with large groups nearby in San Diego and Orange Counties.⁴⁹ The city also hosts a large Iranian community, and a diversity of other Muslim and South Asian groups rivaled only by New York.

Among the Los Angeles groups most involved in providing legal and other services related to NSEERS are the Muslim Public Affairs Council (MPAC), the South Asian Network (SAN), the Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA), and the local branches of the ADC and CAIR. MPAC and several other groups had previously received funding from the County of Los Angeles Committee on Human Relations to deal with hate crimes. Because of that funding, and the alliances that had sprung up among groups funded by the Committee on Human Relations, “we were able to have a coordinated response to Special Registration,” said Sarah Eltantawi, communications director of MPAC in Los Angeles.⁵⁰

After the chaos of the Group One registration in Los Angeles, MPAC began an INS monitoring program that spread to several cities around the country. MPAC trained community activists and volunteers who were stationed in front of INS offices during registration wearing bright yellow T-shirts that said “Human Rights Monitor.” The volunteers would register men going in for questioning, getting their names, asking if they had any special medical needs, and asking for a contact name in case of emergency. They gave each man a piece of paper with a number, and collected numbers from the men as they exited. “At the end of the day we matched up the numbers with the questionnaires, so if there were people who never came out, we would call their family,” Eltantawi said.

3. Florida

Unlike in New York and Los Angeles, there was little organized assistance to people affected by NSEERS in Florida, despite the state’s large population of Muslims, Arabs and South Asians. While Florida has active immigrant aid groups, they are focused primarily on Latin Americans. Florida has an estimated 255,000 people of Arab ancestry, the nation’s fourth-largest community, according to the Arab American Institute.⁵¹ They range

from third-generation Lebanese- and Syrian-Americans to Egyptians and Palestinians who arrived in the 1990s. CAIR’s Bedier estimated there are 200,000 to 300,000 Muslims in Florida, of whom 90,000 are citizens and registered voters.

CAIR and the Florida Immigrant Advocacy Center (FIAC) conducted presentations on NSEERS during the registration period. Sukkar, a past president of AILA’s South Florida chapter, helped coordinate the dissemination of information among local immigration attorneys, the affected communities, CAIR’s Florida chapter, and FIAC.

However, no Florida groups had the resources to provide substantial legal representation to NSEERS registrants (although FIAC took on at least one case). According to Bedier, “We’re having difficulty finding enough people who are willing to take on these cases. A lot of it has to do with money – a lot of these people don’t have a lot of money, and lawyers aren’t going to work for free. And there are not any big or established legal funds to provide assistance.”

As a result, observed Randy McGroarty, executive director of Catholic Charities Legal Services in Miami, “almost all of the people who had representation had representation from private attorneys. This is such a huge immigrant population [in Florida], that the numbers and the priorities for our office were elsewhere, and there was no way we could have accommodated it.” He noted that the funding his group receives from its largest funder, the federal Office of Refugee Resettlement, is restricted to programs for Cuban and Haitian asylees.⁵²

For immigration detainees of all nationalities, lack of access to legal representation is particularly acute outside of South Florida. Many immigration detainees in Florida are held in rural county jails, like Clay County Jail, where they are mixed in with the criminal population. Those detained at Clay County include people who had registered under NSEERS in Orlando, a two-and-a-half hour drive away, far from their attorneys. According to Charu al-Sahli, advocacy coordinator for detention at FIAC, “The only coordinated efforts I’m aware of are in

South Florida. It's been very difficult to get interest in this in other parts of the state. There are about 69 facilities in Florida that Immigration uses to detain people in. So there's a vast need that's virtually impossible to meet."⁵³

4. Houston

There are more than 200,000 Muslims in the greater Houston area, with 60,000 or 70,000 Pakistanis alone, said Siddiqi of the Islamic Society of Greater Houston. Texas also has the country's seventh-largest community of people of Arab ancestry, at 210,000, according to the Arab American Institute.⁵⁴

For the two months prior to the deadline for Pakistani registration, the Pakistani-American Association of Greater Houston held weekly seminars where people could meet with pro bono attorneys. Ghulam Bombaywala, the group's president, reports that several thousand people attended the seminars. The group invited the Pakistani ambassador to the United States to speak to the community, and it had volunteers outside the immigration office during registration, helping people review their files before going inside.⁵⁵

In the weeks leading up to the registration, local Muslim and South Asian leaders met repeatedly with the INS district director in Houston, Hipolito "Poli" Acosta. "He pledged to us that those things won't happen in Houston," said Siddiqi, referring to the events in Los Angeles.

"They've been pretty lenient, letting people take care of their papers, and giving them some time," noted Bombaywala. "Overall, we were really fortunate that we didn't go through the tough times that New York and LA did." The reason, he said, is that Houston had "a good [INS] director here who understood the problem, plus we were more proactive, working with them."

C. Economic and Social Impacts

NSEERS has had wide-ranging economic and social impacts on the targeted communities. Some of these, such as increased fear of law enforcement authorities, are a

product not only of NSEERS, but the entire range of post-9/11 government actions, as well as the greater racial discrimination experienced by Muslims, Arabs and South Asians in the post-9/11 era.

Disruption of Families

In Muslim, Arab and South Asian families, the male is often the primary breadwinner. As a result, many families not only suffered the shock of separation from husbands and fathers when men were detained under NSEERS, but also lost their main source of income.

"When they targeted all the males, they're basically attacking one of the core elements of a family unit, especially in our society," said Al-Wardi of ADC in Los Angeles. "So you have a lot of people who were destabilized not only emotionally, but also economically, destabilized in planning for the future. Their kids were disrupted, their academic development was disrupted."⁵⁶

According to Faraj of CAIR in Los Angeles, "certainly the biggest impact was on individual families. With the detentions [of the men], they were completely cut off financially. That created a trauma for the family, psychologically and emotionally. They felt frustrated, depressed, they felt helpless. Their children can't imagine not having their father present."⁵⁷

Groups such as Islamic Circle of North America (ICNA) have provided financial help to cover rent and emergency expenses for families whose male head-of-household is in detention. Mosques and religious centers have also been sources of economic aid, as in Northern Virginia, where many families needing assistance were helped by the Dar Al-Hijrah Islamic Center in Falls Church.

It was not only men who were affected. NSEERS registration also applied to teenage boys 16 and older, who are often far more vulnerable to removal than adults, with fewer opportunities for benefit eligibility or relief from removal. According to AILF's Mehta, "If an adult male is put into removal proceedings he may have a better chance of seeking relief. He may have an employer with a labor

certification in the pipeline, whereas a teenage male, brought here not on his own volition, won't have the same relief options. He will be too young to have an employer to back him."

The deportation of entire families due to NSEERS is an even greater shock for teenagers than for adults. "They're all Americanized, they have gone to school here, and they are being deported to countries they've come out of when they're very young," Mehta said.

Psychological Impacts: Fear and Uncertainty

NSEERS and other post-9/11 policies, combined with an increase in anti-Muslim and anti-Arab public sentiment since 9/11, have had far-reaching psychological effects extending well beyond those households that have experienced the detention of family members. Hamid Khan, executive director of the South Asian Network (SAN) in Los Angeles, reports that in the post-9/11 atmosphere of distrust, South Asian children are "not going to the parks, they're being harassed at schools. Even young adults, they're second-guessing their future, with their names and

national origins, worried about when they will be seeking employment in the future." According to Khan, this effect applies to U.S. citizens as well as non-citizens: "If she wears a hijab, how is she going to be seen by employers? Even if she has a Muslim-sounding name, where would they place her when she sends out resumes?"⁶¹

According to Sukkar in Florida, Arabs and Muslims now feel "the stigma and the fear, having to deal with the hate of everyone around you, the fear of everyone around you."⁶²

After 9/11, the Virginia state government set up the Community Resilience Project in four northern Virginia counties, funded by the Federal Emergency Management Agency, to help people cope with 9/11 and its aftermath.⁶³ One of the groups targeted by the project was the area's "Middle Eastern" community. Two years after 9/11, the Project found that this community was still shaken:

The general Middle Eastern community continues to experience high degrees of stress and anxiety as the federal government continues to arrest individuals in our community. Many express to our staff, "Will I be next?"⁶⁴

"MODEL AMERICAN FAMILY" DEPORTED TO REFUGEE CAMP

Afnan Kesbeh is an American girl, born and raised in Texas. She was 10 years old when she was deported. She now lives in a trash-strewn refugee camp in Jordan.

Afnan's father, Sharif Kesbeh, was born in what is now the West Bank. He migrated to Jordan, then to Saudi Arabia, where he met and married his wife, Asmaa. After the Gulf War broke out, Saudi Arabia began expelling Palestinians, so the couple fled to the United States in 1992, bringing with them their six children. Afnan was born after they arrived.

"All of the kids grew up in America, they went to American schools," said DeeDee Baba, a civil litigation attorney in Houston who is active in the ADC. "The father owned a flag business. Post-9/11 he had donated more than 500 American flags. They were like the model American dream family."⁵⁸

In March 2002 FBI and INS agents dressed in black combat uniforms entered the Kesbeh's home in a pre-dawn raid carrying

guns and flashlights. They detained Sharif and his oldest son, and told the rest to prepare to be deported to Jordan.⁵⁹

The Kesbehs were rounded up as part of the Absconder Apprehension Initiative. Sharif Kesbeh had applied for asylum for his family during the 1990s, but two courts rejected the application. He was issued a final order of deportation in 1998, but he and his family remained in Houston.

In March 2003 the government deported the Kesbehs. They found a windowless one-room in a refugee camp on the outskirts of Amman. Afnan, then 11 years old, wrote to U.S. Rep. Sheila Jackson Lee in December with a plea for help: "I need to go back to my school and my friends. I need a better life, I can't keep living here smelling trash and gasoline all day. I just want to go back with my family and return to our same life."⁶⁰

LOSING EVERYTHING

Some who left the United States due to NSEERS did so voluntarily – humiliated and disillusioned by registration and detention. One was a Moroccan man who had lived in the United States for nearly half of his 34 years, arriving in 1988 at age 17. He gave a statement to the Florida Immigrant Advocacy Center, which shared the statement but asked that his name not be published.

“It took me some time when I first came here to adjust, but I came to feel that America was my home,” he wrote. He worked his way up from restaurant busboy to owner of a successful business, a dollar store. “I’ve always paid my taxes. I speak English and Spanish fluently and I felt like I was part of this community.”

He went to register in January 2003, against the advice of friends, and was detained. Though the INS had repeatedly renewed his work authorization, his permanent residency application was still pending after years of waiting. “I was handcuffed. I was totally shocked because I knew I was innocent... When I was being led away I said to the officer, ‘Why are you doing this to me?’ He said, ‘You people come bomb our country, what do you expect we’re going to do?’”

He spent a month locked up at the Krome Detention Center in Miami. The processing room “was packed full when we arrived... We were all treated like animals—everyone, all the detainees. It smelled terrible because there were too many people, and someone had vomited on the floor. There was no air-condition-

ing and I felt like I couldn’t breathe.” Krome was so full that there were no beds available, and he was given a cot on the floor to sleep on. He suffered from a relapse of digestive problems, and could not get access to a telephone the entire month.

“Krome broke me and destroyed my dreams. I followed the law and I was humiliated and locked up for it. I remember thinking at Krome that it was impossible—how could it be in the United States of America, which promotes human rights in other countries, that my rights could be taken away, my life destroyed and I could be so humiliated?”

The worst impact was psychological, and stayed with him after he was released from Krome on bond:

I feel like everyone looks at me as if I’m a terrorist. And I feel like people don’t just *think* we’re terrorists because we’re Muslim and Arab, they *believe* we are terrorists. There is no hope... I have decided that I don’t want to fight my case to stay here. I’m going to ask the judge to go back to Morocco. It’s not an easy decision, because I have no ties there anymore and I really did feel that America was my home. But not anymore... I’m just so tired, physically and emotionally. I’ve given up on this country. I struggled to be successful here only to have it all taken away. And why? Because I’m Moroccan and Muslim.⁶⁵

Withdrawal from Society

In response to the detentions and deportations under NSEERS, many people in the Muslim, Arab and South Asian communities have adopted a low profile, afraid even to open up to organizations working on their behalf. This fear has made it harder for community-based organizations to stay plugged into their communities.

In the past, when SAN conducted outreach at fairs or religious centers or went door-to-door, people would gladly write their contact information on signup sheets. According to Khan, after the government’s actions, “we saw an intense reduction in how people were even talking to us. It’s made it very difficult for the community to speak up and share their experiences with us. For us to even get some basic information, to organize town hall meetings, becomes very difficult.”⁶⁶

One impact, community organizations say, is that Muslims have more frequently turned to mosques for help, perhaps feeling safer there than they do with other community groups.

Domestic Violence

People working with Muslim, Arab and South Asian communities anecdotally have reported an increase in domestic violence after 9/11, coupled with greater fear of reporting abuse to authorities. Before 9/11, SAN in Los Angeles was handling four to five cases of domestic violence a month, according to Kripa Upadhyay, program coordinator for the anti-violence unit. That figure rose to nine to 10 cases per month in the immediate aftermath of 9/11, and remains higher than before 9/11, running an average of six to seven cases a month.⁶⁷

In a typical case from mid-2003, SAN received a call about a Bangladeshi woman who was being battered by her husband. The woman would not call the police, for fear her husband would be deported. She was also afraid to ask SAN for help. Instead, she turned to a neighbor. The neighbor called SAN and brought the woman in for an interview. Afterward, “we took her to the police station and lodged a complaint,” Upadhyay said. “She wasn’t willing to go alone, so we went with her.” The woman then moved into SAN’s shelter, where she had been for six months as of December 2003.

Violence against children has risen as well. Upadhyay reports that:

The other thing we’re seeing in the South Asian community is parents mandated to take parenting classes by the court. We’ve recognized that outside pressures have taken a toll on family members. Outside factors have had an influence on violence against the spouse or violence against children. I’m definitely seeing a trend where people are staying longer in abusive relationships, where they avoid calling the police.

Indeed, the increase in domestic violence has been accompanied by “a huge decrease in reporting it,” said Sharifa Alkhateeb, president of the North American Council for Muslim Women in Great Falls, Virginia. “The reason is because they’re scared to death of having anything to do with any public authorities. They believe that if you somehow get connected with a government agency, you will wind up in deportation proceedings.”⁶⁸

Fear of Local Law Enforcement

The fear of authorities has been compounded both by the DOJ’s post-9/11 efforts to enlist local and state police into enforcing federal immigration laws, and by numerous cases in which local police have called in immigration authorities after encountering Muslims in traffic stops and other routine incidents.

Soon after 9/11, the DOJ began asserting that local and state police officers have “inherent authority” to en-

force immigration law. The DOJ also began seeking to sign memoranda of understanding with local and state police departments to take on immigration enforcement. Florida was one of the few places that embraced the offer. Its Department of Law Enforcement authorized 35 officers to be cross-trained as immigration agents.

But beyond this handful of agents, a much larger group of local law enforcement officers in Florida has taken up immigration enforcement. Florida stands out for the frequent instances of Arabs, Muslims and South Asians being turned over to immigration officials by local police officers, as well as numerous complaints of harassment by local police.

Anne Marie Mulcahy, a detention attorney at Catholic Legal Immigration Network in Florida, argues that “It’s a big problem here. In random traffic stops, everyone in the car is being asked for papers, proof of status, and Immigration is being called right there.” Of the people she has encountered in detention centers who were picked up under such circumstances, most were picked up by officers of the Sheriff’s Office of Broward County, which is just north of Miami and includes Fort Lauderdale.⁶⁹

“We get a lot of complaints from community members who have been the victims of overzealous law enforcement,” said CAIR’s Ahmed. “Many times it had to do with community members feeling they were identified either as immigrants or Muslims, sometimes both.”⁷⁰

By contrast, the Los Angeles Police Department operates under Special Order 40, a 1979 measure that prohibits police officers from asking about a person’s immigration status. Many big-city police departments believe involvement in immigration enforcement undermines the community’s trust in police, making people afraid to report crimes and come forward as witnesses.

Avoidance of Emergency Medical Services

Just as women are avoiding reporting domestic violence to the police, many Muslims, Arabs and South Asians have been afraid to seek treatment for medical problems.

Mohammed Razvi returned to his Brooklyn home on an autumn day in 2003 to find a Pakistani man “crying on the doorstep of my house,” he recounted. “He said he was unable to urinate for the last 12 1/2 hours. I said, ‘Are you crazy, why don’t you go to the hospital?’ He said, ‘I’m undocumented.’” Razvi, of the Council of Pakistan Organization in Brooklyn, took the man to the hospital, where he was operated on for three hours and then hospitalized for four days. A doctor told Razvi that if the man had come in any later, his bladder would have burst.

In Artesia, California, firefighter paramedic Frank Forman describes responding to a post-9/11 medical call for a South Asian man. The man had been suffering from symptoms of a heart attack. Rather than call 911, his family sought out a neighbor for help. The neighbors eventually called 911, but by the time the paramedics arrived the man was near death.⁷¹

“Obviously this is a targeted community, both in the public and private domain,” explains Khan of SAN. “The policies coming out were based on this notion of fear and distrust. The perpetrators were framed as such that the larger community got criminalized because of their religion, ethnicity, and national origin. It created an environment where people were afraid to seek out any assistance.”

IV. CONCLUSION

Weeks after 9/11, Attorney General John Ashcroft pledged to go after the “terrorists among us” by deporting people who had overstayed their visas by even one day. Through NSEERS and other measures, this pledge was applied broadly to non-citizen males of Muslim, Arab and South Asian descent who had no ties to terrorist groups. As a result of this unfocused approach, NSEERS has produced no demonstrable results in fighting terrorism, nor has it significantly reduced the number of undocumented immigrants. Instead, it has singled out particular immigrant communities for harsh and selective application of immigration laws based on nationality and religion.

The varying degrees of success in responding to NSEERS in different locales reveal that needed assistance can be effectively delivered through local coalitions that bring together ethnicity-based organizations with groups focused on immigration law and civil rights.

The targeted communities have suffered and continue to suffer under these policies. Immigration authorities have gone to great lengths to deport even permanent residents who are Muslims or Arabs for alleged immigration infractions of little consequence. These actions have destabilized Muslim, Arab and South Asian communities in the United States, creating a climate of fear, alienation and disillusionment.

Communities in different parts of the country have had different experiences with NSEERS. In Houston a relatively cooperative relationship between community groups and immigration officials reduced the disruptiveness of the registration process. In Los Angeles, on the other hand, the heavy-handed approach of immigration officials antagonized and terrified the Muslim and Arab communities.

Despite these regional differences, all of the affected communities have an urgent need for legal assistance. While there is a chronic shortage of pro bono legal help for all types of immigration cases, this shortage is particularly acute for immigrants trying to navigate the complex, confusing and poorly-publicized NSEERS rules.

The varying degrees of success in responding to NSEERS in different locales reveal that needed assistance can be effectively delivered through local coalitions that bring together ethnicity-based organizations with groups focused on immigration law and civil rights. These coalitions can be catalyzed by a funder, a role served in New York by the Fund for New Citizens and in Los Angeles by the County of Los Angeles Committee on Human Relations.

The case of New York in particular provides an example of how services can be rolled out effectively by organizations with sufficient funding and coordination. Grants from the Fund for New Citizens enabled eight groups to coordinate efforts to assist NSEERS registrants. Work was divided up among the groups, with some focusing on legal assistance and others providing social assistance. More than 1,000 people benefited from these programs.

Florida, in contrast, stands out in terms of its need for assistance. Florida has one of the country's largest populations of Muslims, Arabs and South Asians, yet community groups have received little funding to undertake coordinated efforts to respond to NSEERS. Existing Florida immigration groups are oriented primarily towards helping immigrants from Latin America.

Florida has two other dubious distinctions: numerous reports of Muslims, Arabs and South Asians being pulled over in traffic stops by local police and turned over to immigration authorities; and reports of FBI agents using the threat of immigration sanctions to coerce Muslims and Arabs into spying on their own communities.

While major immigrant destinations such as New York, Los Angeles, and (for Latin American immigrants) Miami have well-developed programs for aiding immigrants, the dispersal of new immigrants to rural areas, secondary cities, and non-traditional receiving states leaves growing numbers of immigrants without access

to the skilled assistance they may require during any encounter with immigration authorities. This points to the need for programs that reach detainees without legal representation in places like Florida's Clay County Jail or in the Laredo, Texas, detention facility where Imad Daou's plans for an American education were destroyed.

The 14,000 people in removal proceedings as a result of NSEERS present an important challenge to the legal and philanthropic communities. Even in places like New York where groups were able to provide legal services, these services were focused more on initial NSEERS registration. It appears that no city has been able to meet the need for representation of people who are now in removal proceedings.

Existing pro bono efforts, under which lawyers at non-immigration law firms are being trained to handle specific relief applications, are not up to this task. It is more difficult to train lawyers not experienced in immigration law to spot the range of potential relief avenues available to an NSEERS registrant in removal proceedings.

Grantmakers could do much to alleviate the shortage of legal services by increasing their funding to non-profits for providing quality legal representation to low-income immigrants with complex immigration cases. Further, the immigration bar, which has yet to organize a large, national pro bono program for representing NSEERS registrants in removal proceedings, could do far more.

APPENDIX Call-In Registration Deadlines, By Group⁷²

GROUP	CITIZENS OR NATIONALS OF:	ORIGINAL DEADLINE	EXTENDED DEADLINE
One	Iran, Iraq, Libya, Sudan and Syria	12/16/2002	2/7/2003
Two	Afghanistan, Algeria, Bahrain, Eritrea, Lebanon, Morocco, North Korea, Oman, Qatar, Somalia, Tunisia, United Arab Emirates and Yemen	1/10/2003	2/7/2003
Three	Pakistan and Saudi Arabia	3/21/2003	
Four	Bangladesh, Egypt, Indonesia, Jordan and Kuwait	4/25/2003	

ENDNOTES

- ¹ "Attorney General John Ashcroft Prepared Remarks for the US Mayors Conference," Department of Justice, October 25, 2001, available at http://www.usdoj.gov/ag/speeches/2001/agcrisisremarks10_25.htm.
- ² U.S. General Accounting Office, *Homeland Security: Justice Department's Project to Interview Aliens after September 11, 2001*, GAO-03-459, April 11, 2003, p. 7, available at <http://www.gao.gov/new.items/d03459.pdf>.
- ³ "Guidance for Absconder Apprehension Initiative," internal memorandum from Deputy Attorney General Larry Thompson, January 25, 2002.
- ⁴ Associated Press, "FBI wraps up interviews with 11,000 Iraqis," published in *USA Today*, April 17, 2003.
- ⁵ "Attorney General Prepared Remarks On The National Security Entry-Exit Registration System," Department of Justice, June 6, 2002, available at <http://www.usdoj.gov/ag/speeches/2002/060502agpreparedremarks.htm>.
- ⁶ Rachel L. Swarns, "Special Registration for Arab Immigrants Will Reportedly Stop," *New York Times*, November 22, 2003, p. A30.
- ⁷ Interview with U.S. Customs and Immigration Enforcement (ICE) spokesman Garrison Courtney, February 26, 2004.
- ⁸ Interview with Parvez Ahmed, chair of the Florida chapter of the Council on American-Islamic Relations, November 17, 2003.
- ⁹ "National Security Entry-Exit Registration System," fact sheet, Department of Justice, June 5, 2002, available at <http://www.usdoj.gov/ag/speeches/2002/natlsecentryexittrackingsys.htm>.
- ¹⁰ Interview with Faith Nouri, chair of the NSEERS committee of the Los Angeles County Bar Association, November 24, 2003.
- ¹¹ On March 1, 2003, the Immigration and Naturalization Service (INS) was split into three separate bureaus and absorbed into the new Department of Homeland Security (DHS). The benefits function of the INS became U.S. Citizenship and Immigration Services (CIS), and its enforcement functions were folded into U.S. Immigration and Customs Enforcement (ICE) and the Bureau of Customs and Border Protection.
- ¹² Interview with Mazen Sukkar, former president of the South Florida chapter of the American Immigration Lawyers Association, February 20, 2004.
- ¹³ Interview with Robin Goldfaden, staff attorney at the ACLU's Immigrants' Rights Project, January 5, 2004.
- ¹⁴ "Fact Sheet: Changes to National Security Entry/Exit Registration System (NSEERS)," Department of Homeland Security, December 1, 2003, available at <http://www.ice.gov/graphics/news/newsrel/articles/NSEERSfactsheet120103.pdf>.
- ¹⁵ As of the writing of this report, visitors from Visa Waiver Program (VWP) countries, Mexican travelers carrying a border crossing card and Canadians are exempted from US-VISIT. However, on April 2, 2004, the Department of Homeland Security announced that it will begin processing visitors traveling under the VWP in US-VISIT beginning by September 30, 2004, at air and sea ports of entry.
- ¹⁶ "ACLU Says New Border Fingerprinting System Likely To Sow Confusion, Tracking of Arab and Muslims Based on National Origin Will Continue," press release, American Civil Liberties Union, January 5, 2004, available at <http://www.aclu.org/SafeandFree/SafeandFree.cfm?ID=14649&c=206>.
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- ¹⁹ "Arab American Demographics," web page, Arab American Institute, available at <http://www.aaiusa.org/demographics.htm>.
- ²⁰ Interview with Imran Ali, Second Secretary of Embassy of Pakistan, Washington, D.C., January 5, 2004.
- ²¹ Embassy of Pakistan, "Deportation of Detainees," press release, Washington, D.C., October 23, 2003, available at <http://embassyofpakistan.org/news24.php>.
- ²² Interview with Jagajit Singh, director of programs, Council Of Pakistan Organization in Brooklyn, October 16, 2003.
- ²³ E-mail correspondence from Shahidul Islam, political counselor of the Embassy of Bangladesh, Washington, April 8, 2004.
- ²⁴ Interview with Selina Rahman, chairperson of the Bangladesh Association of Houston, April 9, 2004.
- ²⁵ Interview with Ehsan Imdad, president of the Bangladesh Association of New York, March 25, 2004.
- ²⁶ Interview with Aziz A. Siddiqi, president of The Islamic Society of Greater Houston, November 7, 2003.
- ²⁷ See Andorra Bruno, "Immigration: Adjustment to Permanent Resident Status Under Section 245(i)," Congressional Research Service, updated April 18, 2002, available at <http://usinfo.state.gov/regional/ea/chinaaliens/10087.pdf>.
- ²⁸ "AILA's Comments," *supra*.
- ²⁹ Interview with Ban Al-Wardi, immigration attorney and president of the Los Angeles / Orange County Chapter of the American-Arab Anti-Discrimination Committee, November 10, 2003.
- ³⁰ Pedro Ruz Gutierrez, "Judge Slams Bid To Deport Orange Man," *Orlando Sentinel*, September 13, 2003.
- ³¹ Interview with Kussay "Gus" Al-Sabunchi, January 19, 2004.
- ³² *America's Challenge: Domestic Security, Civil Liberties, and National Unity After September 11*, Migration Policy Institute, June 2003, pp. 44-45.
- ³³ Interview with Ahmed Bedier, communications director for the Florida chapter of the Council on American-Islamic Relations, October 27, 2003.
- ³⁴ "The September 11 Detainees: A Review of the Treatment of Aliens Held on Immigration Charges in Connection with the Investigation of the September 11 Attacks," Office of the Inspector General, Department of Justice, April 2003 (released June 2003).
- ³⁵ "Statement Of Barbara Comstock, Director of Public Affairs, Regarding the IG's Report on 9/11 Detainees," Department of Justice, Office of Public Affairs, June 2, 2003, available at: http://www.usdoj.gov/opa/pr/2003/June/03_opa_324.htm.
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- ⁴⁰ Interview with Ra'id Faraj, public relations director at the Los Angeles chapter of CAIR, December 10, 2003.
- ⁴¹ Interview with Mohammed Razvi, Executive Director of the Council Of Pakistan Organization in Brooklyn, December 17, 2003.

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- ⁴⁵ Interviews with embassy officials.
- ⁴⁶ Interview with Karen Kaminsky, program officer at the Fund for New Citizens, October 24, 2003.
- ⁴⁷ Other recipients were The Legal Aid Society, Asian American Legal Defense and Education Fund, Lutheran Family and Community Services, Arab American Family Support Center, American-Arab Anti-Discrimination Committee and Council of Pakistan Organization. "Report from the Fund For New Citizens at the New York Community Trust," 2003.
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