

Special Registration Required by Immigration Authorities

By Alice Yardum-Hunter

Since the tragic events of September 11th, our sensitivity to diverse peoples has been challenged in a way that Americans have not faced since WWII. At that time, ethnic Japanese were sequestered in camps. Today, our enemy is more dispersed, not citizens of just a couple of countries. The former Immigration and Naturalization Service (INS) has issued a regulation and memoranda that similarly target a wider group of threatening individuals.

The INS has been broken into three agencies and is now within the Department of Homeland Security (DHS). Two of these agencies are involved in Special Registration: the Bureau of Immigration and Customs Enforcement (BICE, responsible for internal enforcement) and the Bureau of Customs and Border Protection (BCBP, responsible for border enforcement).

Men between the ages of 16 and 45 who are citizens or nationals of a growing net of countries, now numbering 25 are subject to Special Registration. The program has come in waves with more countries being added over time. There is no end in sight and no one knows how many countries will be included. There are two types of Special Registration: One prompted by entry into the United States. The other applies to those already here. The latter is known as "Call-In" Special Registration.

Those subject to Special Registration at arrival come through a port of entry, in legal nonimmigrant status. They are photographed and fingerprinted. Thirty days later, they must go to the BICE to register. And on an annual basis, they must re-register. Finally, they must depart through only certain designated ports of departure.

Call-In Special Registration requires many, but not all males to register who are not permanent residents or citizens of the U.S. It includes, amongst others, nonimmigrants (temporary, limited status) and those waiting in line for permanent residence ("green card", permanent status). Oddly, entrants without inspection are not subject to special registration. A terrorist from one of the named countries can completely disregard the law by crossing the border illegally from Mexico or Canada and not be required to register. It also places many male aliens into deportation proceedings who otherwise qualify for permanent residence under existing law. This dichotomy is stunning.

The media in Los Angeles during December was a-buzz with stories of hundreds of arrests, detentions and commencements of deportation proceedings prompted by Special Registration. Many of the men affected had applications for green cards in process. Several lawsuits have been filed regarding these cases, and at least, the registration procedures while still somewhat disparate throughout the U.S. are more consistent and humane. Nevertheless, well intended as it may be, the substance and procedures used must be commensurate to those we associate with a civilized society, guided by the Rule of Law. Unless we follow such rules, how can we expect enemy countries less advanced

to do so? It is incumbent upon constituents and advocates to continue to make our elected officials, as well as the DHS aware of the pitfalls of Special Registration.

If aliens are citizens or nationals of any of the named countries and also have a second nationality, then they are considered nationals of one of the countries included on the list. For example, an Israeli who has Iranian nationality (allegiance) through his parents' citizenship and who never steps foot in Iran must register. It does not apply though to U.S. citizens who are also nationals of one of the countries. The cleverest terrorist is one who infiltrates our country by going so far as to become a U.S. citizen. He would not be subject to Special Registration and would go undetected about his deadly business.

All registrants, as well as all other aliens in the U.S. including permanent residents are now being held accountable for failure to notify INS of a change in address within 10 days. Changes of address are filed on form AR-11. Failure to register, re-register or file change of address notices can result in deportation and criminal sanctions.

The end of registration is not in sight. In fact, there is a debate among experts as to whether the list will continue to grow to encompass the entire world, including us. Others believe that it will only continue to target Muslim and other enemy countries. There is a constitutional tension either way. If it applies to everyone, then there may be an unconstitutional violation of the right of privacy, and if applies only to certain nationalities, then it could be viewed as unconstitutionally discriminatory. However, as we know by the advent of military tribunals shortly after 9/11, even American citizens can be arrested and detained indefinitely without being charged or given the right to counsel in order to protect our country. And if such rules can apply to us, surely they can be applied to people from abroad. This is despite the confines of the Constitution that we otherwise so readily enjoy during times of peace.

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