



**INCONSISTENCY, CONFUSION, AND CHAOS:
EXPERIENCES WITH CALL-IN SPECIAL
REGISTRATION**

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On August 12, 2002, Attorney General John Ashcroft issued final regulations to implement a National Entry-Exit Registration System (NSEERS) for nonimmigrants visiting the United States. On September 24, 2002, the Attorney General expanded the NSEERS program to include noncitizens from certain countries already in the United States on nonimmigrant visas. The requirements for Call-In Special Registration required males over the age of 16 from an eventual list of 25 countries¹ to visit INS offices, be fingerprinted, photographed and questioned by an inspections officer.

According to the Bureau of Citizenship and Immigration Services of the Homeland Security Department (formerly the Immigration and Naturalization Service), 54,484 individuals had registered at district offices as of March 18, 2003. Of those, 1,854 unlawfully present individuals had been detained as a part of the NSEERS Call-In Special Registration. As of March 18, 2003, 87 registrants remained in custody. Fifty-seven of those were detained for criminal convictions and had not been released on bond. Additionally, 5,636 Notices to Appear had been issued, commencing removal proceedings against those nonimmigrants.

The implementation of the Call-In Special Registration program has been plagued with confusion over registration requirements, inconsistent practices between INS offices, strains on INS resources, and the detention and removal of noncitizens en route to becoming permanent residents.

On December 18, 2002, a group of organizations set up a web based survey for individuals and attorneys to voluntarily report their experiences of the Call-In Special Registration process. Participating organizations are: the American Immigration Law Foundation (AILF), the American Immigration Lawyers Association, The Council on American-Islamic Relations, The National Immigration Forum, and The American-Arab Anti-Discrimination Committee. AILF monitored the survey and compiled the data. This report highlights six areas of concern the survey respondents experienced during the registration process. The response period was December 18, 2002 through March 3, 2003.

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¹ The countries are: Afghanistan, Algeria, Bahrain, Bangladesh, Egypt, Eritrea, Indonesia, Iran, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, North Korea, Oman, Pakistan, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Emirates, and Yemen.

DATA COLLECTION

The data for this report were collected from voluntary responses to a survey posted on the American Immigration Lawyers Association's public web site.² The survey was a free response survey with 26 questions about the respondents' immigration status, country of origin, and experiences at Call-In Special Registration. In all, 302 people responded to the survey; however, 46 of these responses were rejected, leaving 266 valid responses.³ The survey form asked each respondent to provide information about his country of origin, immigration status, how he heard about special registration, and at which INS office he attempted to register. The form then asked what documents the INS asked for at the interview, what questions the examiners asked during the interview, and whether the respondent had been detained or put in removal proceedings (by the issuance of a Notice to Appear). Finally, the form left space for respondents to write at length about any special problems, comments, or concerns.

Issues of confidentiality made it impossible to select a true random sample of people subject to Call-In Special Registration. The results of this voluntary survey are not a true random sample because of sample bias. First, it may be likely that the sample contains a disproportionate number of respondents who had legal representation, since many of the respondents heard about the survey through their attorneys. Second, the sample likely contains a disproportionate number of people who had difficulties at special registration, as people who have complaints may have more of an emotional incentive to respond to the survey.

² <http://www.aila.org/specialreg.html>

³ There were two main reasons for rejecting responses. The majority of rejected responses were rejected because the respondents answered five or fewer of the 26 questions on the form. The remainder were rejected because the respondents had not actually participated in Call-In Special Registration. Many wrote in to describe their experiences with Special Registration at the port of entry, and a few wrote in about other immigration matters, not related to Special Registration.

DATA ANALYSIS

Sample

Although sample bias may influence the validity of the survey, the survey does contain a roughly representative number of respondents, according to country of origin, INS office at which they registered, their immigration status, and the results of registration. Respondents to the survey represented 21 of the 25 countries subject to special registration. The number of respondents from each country is as follows:

No country listed:	6	Iran:	38	Pakistan:	80
Afghanistan:	5	Iraq:	6	Saudi Arabia:	3
Algeria:	13	Jordan:	1	Sudan:	4
Bahrain:	1	Lebanon:	32	Syria:	33
Bangladesh:	4	Libya:	1	Tunisia:	12
Egypt:	3	Morocco:	32	UAE:	2
Eritrea:	1	Oman:	1	Yemen:	5
Indonesia:	1				

* The four special registration countries not represented in the sample are Kuwait, North Korea, Qatar, and Somalia.

Survey respondents registered at 52 of the 76 total INS offices where Call-In Special Registration took place. The number of respondents who registered at each office is as follows:

Albany:	1	Fresno:	2	Philadelphia:	9
Arlington:	15	Hartford:	2	Phoenix:	4
Atlanta:	9	Houston:	15	Pittsburgh:	1
Baltimore:	5	Indianapolis:	9	Portland:	1
Bloomington, MN:	3	Jacksonville, FL:	1	Providence:	2
Boston:	16	Kansas City, MO:	2	Sacramento:	4
Buffalo:	3	Los Angeles:	8	Salt Lake City:	1
Charleston:	1	Manchester, NH:	1	San Antonio:	2
Charlotte:	7	Memphis:	3	San Bernardino, CA:	1
Cherry Hill, NJ:	1	Miami:	8	San Diego:	2
Chicago:	14	Milwaukee:	5	San Francisco:	6
Cincinnati:	1	Minneapolis:	2	San Jose:	5
Cleveland:	1	New Orleans:	2	Santa Ana, CA:	6
Columbus:	2	New York City:	25	Seattle:	3
Dallas:	8	Newark:	5	Tampa:	1
Denver:	3	Norfolk:	2	Wichita, KS:	2
Des Moines:	1	Oklahoma City:	4		
Detroit:	4	Orlando:	4	No office specified:	22

Survey respondents represented a wide range of immigration statuses. All of the respondents entered the United States on nonimmigrant visas (people who entered the U.S. without inspection are not required to comply with Call-In Special Registration). Of these, 134 of the 266 respondents were still in a valid nonimmigrant status, such as student, exchange visitor, business visitor, temporary worker, investor, or tourist. Also, 17 had entered using a nonimmigrant visa, but their visa had expired and they had filed no new applications for immigration status. In addition, 102 had visas that had expired, but had applied for lawful permanent residency, sponsored either by their employers or by a U.S. citizen or lawful permanent resident relative. A total of nine respondents were already in removal proceedings at the time they complied with special registration, and four respondents did not specify their immigration status on the survey form. The fact that so few respondents in our sample were out of status and had no applications pending may be a result of sample bias. It may, however, indicate that few people with expired visas and no applications pending complied with Call-In Special Registration, having little incentive to come forward to INS and risk being put in removal proceedings or in detention.

RESPONDENTS' EXPERIENCES

In status, on-time registrants

Of the 134 respondents who had valid nonimmigrant visas, 125 registered before the deadline, and all but one registered at INS without being arrested or put into removal proceedings. The exception was a man who had come to the United States on a fiancé visa. When he attempted to register at the Arlington INS office, the registration officer could not find any record of his visa, and did not believe the man's own statements that he had a valid immigration status. He was arrested and taken to a county jail, but was released later that day after his fiancée hired an attorney to represent him, and the attorney convinced INS that the man was in a valid nonimmigrant status.

Some registrants reported that INS officers were polite and friendly, while others complained that INS officers were rude and "treated them like criminals." One respondent complained that an INS officer insulted him and his African-American wife with racial epithets, and another complained that INS officers doubted the validity of his marriage and asked intrusive questions about the sexual relationship between him and his wife.

Many respondents complained that the registration process was disorganized, and that they had to wait an excessively long time before being called for their interview. Of the 50 respondents who specified how long they had to wait, the amount of time spent waiting ranged from less than an hour to over 19 hours. The average wait time was six and a half hours. Three respondents waited at INS all day only to be asked to return the next day, and two respondents had to report to INS three times before finally being allowed to register.

Late registrants:

There were nine respondents who were otherwise in status but who registered with INS past the deadline. Of these, four respondents registered late because they had not heard about the special registration program in time. The other five registered late because they had dual citizenship and did not think, at first, that they had to register. There is evidence that INS policy towards late registrants has been inconsistent. In four of the cases of late registrants, INS accepted their excuse for arriving late and allowed them to maintain their lawful immigration status. In the other five cases, INS put the registrants in removal proceedings and two of these five were arrested and incarcerated in county jails.

Registrants with a pending application for lawful permanent residency:

Of the 102 respondents whose nonimmigrant visas had expired, but who had applications for lawful permanent residence pending with INS, 71 were allowed to continue

pursuing these applications and 31 were put into removal proceedings. Of the 31 put into proceedings, 27 also were arrested. With 4 exceptions, all of these were released after paying a bond. Of the 19 respondents who specified the amount of their bond, 11 were released after paying the minimum bond of \$1,500, seven paid bonds ranging from \$2,000 to \$10,000, and one respondent's bond was set at \$30,000.

It was not clear what criteria INS used to decide whether to initiate removal proceedings or to detain a registrant with a pending application. Practices varied among INS offices and within the same INS office. At some offices, such as those in Atlanta, Dallas, and Houston, few registrants with pending applications were placed in removal proceedings. At other offices, such as those in Boston, Miami, and Los Angeles, INS initiated removal proceedings against most registrants with pending applications. In most offices, only a few of these registrants also were detained, but in Miami, Santa Ana, and Los Angeles, the INS detained more than half of the registrants with pending INS applications against whom proceedings were initiated.

Registrants with a pending application for lawful permanent residence status, who were married to a U.S. citizen:

The INS policy of initiating removal proceedings and detaining registrants was particularly inconsistent and puzzling in the cases of those registrants who are married to United States citizens. Twenty-eight respondents were married to U.S. citizens. Four of these had recently married, and their wives had not yet filed immigrant visa petitions for them. INS initiated removal proceedings against four of these men. The other 24 men had immigrant visa petitions already filed; INS allowed 17 of them to continue waiting for the petitions to be processed, but initiated removal proceedings against the other seven men.

It is unclear what criteria INS used to decide whether to initiate removal proceedings in these cases. Procedures varied among INS offices and within a single INS office. For example, two respondents to our survey, both Moroccan citizens married to a U.S. citizen, went to the same INS office, the Milwaukee District Office. INS allowed one of the men to continue waiting for his application for lawful permanent residency to be approved, but initiated removal proceedings against the other man.

Respondents with dual citizenship:

The Department of Justice required that people who are citizens of designated countries register, notwithstanding any dual citizenship. The Department did not and still has not announced an interpretation of dual citizenship, however. INS treatment of dual citizens, or registrants who might be dual citizens, varied.

Thirty-seven dual citizens responded to our survey, or 14% of the total number of respondents. All the dual citizen respondents had been born in one of the special registration countries, but later acquired citizenship in a non-registration country. A few of these respondents had lived in their second country of citizenship since their early childhood, and did not even know whether they still retained citizenship in their country of birth. Some respondents fled their countries of birth after having been granted refugee status.

The most common country of second citizenship was Canada (15 respondents), followed by France (four) and the United Kingdom (four). Other countries of second citizenship were Belize, Brazil, Ethiopia, Germany, Israel (two), Jordan, Norway, South Africa, Sri Lanka, Sweden (two), Togo, and Turkey.

Three of the 37 survey respondents who had dual citizenship tried to comply with special registration, only to be turned away by INS officers who insisted that they did not have to register. On the other hand, two other dual citizens did not register at first because they did not realize that that the requirement applied to them. When they became aware of their obligation and attempted to register late, INS initiated removal proceedings for their failure to comply. Both men were in a valid immigration status at the time, and their only violation of U.S. immigration law was their failure to register before the deadline.

One of these men, a Canadian citizen, had been born in Syria but left the country at the age of two. He later came to the United States to work on a H1-B visa. Having spent nearly his entire life in Canada, he did not consider himself a citizen or national of Syria. The other man was a native of Iran who had fled that country and had been granted refugee status in Norway, later becoming a Norwegian citizen. At first, he did not realize that the special registration regulations applied to him. When he did attempt to register late, the INS initiated removal proceedings although his immigration status was otherwise valid.

Registrants with credit cards:

A total of 82 of the 266 registrants were required to provide INS with their credit card or debit card numbers. This occurred at 37 of the 52 offices at which survey respondents registered. Many respondents expressed their concern about having to provide INS with their credit card numbers. There is nothing in the special registration legislation and regulations, or in any other provision of immigration law, that requires noncitizens to provide INS with their credit card numbers. It is unclear why INS wanted credit card information, or what it plans to do with that information.

CONCLUSION

Although our report is limited to those registrants who found this survey and were willing to complete it, its results provide empirical evidence of what has been reported widely in the media, by immigration practitioners, and by community and ethnic groups. The INS has been woefully unprepared to handle Call-In Special Registration. Few if any instructions came from INS headquarters, hence local offices have been left to develop their own procedures and policies. Practices and interpretations have varied between INS offices and sometimes within the same office. The result has been confusion, inconsistency, and at times, chaos.

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The American Immigration Law Foundation is a 501(c)(3) non-profit organization dedicated to increasing public understanding of immigration to American society; to promoting public service and excellence in the practice of immigration law; and to advancing fundamental fairness and due process under the law for immigrants.



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