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**STATEMENT OF
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**BEFORE THE
COMMITTEE ON IMMIGRATION
NEW YORK CITY COUNCIL**

**FOR A HEARING CONCERNING
OVERSIGHT - THE IMPACT OF NEW IMMIGRATION ENFORCEMENT TACTICS
ON ACCESS TO JUSTICE AND SERVICES.**

**PRESENTED
MARCH 15, 2017**

* My sincerest thanks to Nadim Damluji and Chadbourne & Parke LLP for their incredible assistance in researching and drafting these remarks and for their ongoing support for CAIR-NY.

Good morning, my name is Albert Fox Cahn, and I'm the Legal Director for the New York Chapter of the Council on American-Islamic Relations ("CAIR-NY"). CAIR-NY is a leading civil rights advocacy organization for the Muslim community here in New York City and across New York State. Since his inauguration, President Trump has signed several executive orders that directly impact immigrant communities residing in, and traveling to, New York City.¹ In combination with the Department of Homeland Security's (DHS) new internal guidance, these orders implement an enforcement regime that is destabilizing to immigrant communities and their full participation in civic life.²

On March 6, 2017, President Trump signed the most recent immigration related executive order, which takes effect tomorrow, March 16.³ This latest order is a clear continuation of this administration's efforts to restrict entry from Muslim majority countries. CAIR-NY views it as nothing less than an effort to fulfil President Trump's campaign pledge of a "Muslim ban." This "Muslim ban 2.0" prohibits citizens of six Muslim majority countries from obtaining new or renewed U.S. visas for at least 90 days.⁴ In addition, the "Muslim ban" suspends the U.S. Refugee Admissions Program for 120 days, drastically reducing the number of refugees that can be resettled in 2017.⁵

We expect that federal courts will find this latest attempt at a "Muslim ban" is unconstitutional, as it violates Muslim Americans' constitutional rights and exceeds the president's power under the

¹ Enhancing Public Safety in the Interior of the United States, Exec. Order No. 13,768, 82 Fed. Reg. 8799 (Jan. 30, 2017); Border Security and Immigration Enforcement Improvements, Exec. Order No. 13,767, 82 Fed. Reg. 8793 (Jan. 30, 2017); Protecting the Nation From Foreign Terrorist Entry Into the United States, Exec. Order No. 13,780, 82 Fed. Reg. 13209 (Mar. 9, 2017).

² Enforcement of the Immigration Laws to Serve the National Interest (Feb. 20, 2017), <https://www.dhs.gov/publication/enforcement-immigration-laws-serve-national-interest> (last visited Mar 14, 2017); Implementing the President's Border Security and Immigration Enforcement Improvement Policies (Feb. 20, 2017), <https://www.dhs.gov/publication/implementing-presidents-border-security-and-immigration-enforcement-improvement-policies> (last visited Mar 14, 2017).

³ *Id.* at 13218.

⁴ *Id.* at 13209-13212. Impacted countries include Syria, Iran, Libya, Somalia, Sudan, and Yemen, but additional countries can be added at a later date.

⁵ *Id.* at 13215-13216 (reducing 2017 refugee admissions from 122,000 to 50,000).

Immigration and Nationality Act.⁶ This new order is more sophisticated than the administration's initial efforts, but it is born from the same discriminatory intent, and it will clearly have discriminatory effects on the Muslim community.

The "Muslim ban" targets countries that are majority Muslim, while failing to provide any evidence that citizens of those six countries pose a threat to national security.⁷ Moreover, the President's surrogates have made it clear this was intended to be a "Muslim ban," a factor that courts found relevant when assessing the constitutionality of an earlier executive order.⁸ Federal courts have also cited the President's own words, his promises to discriminate, in evaluating the constitutionality of executive orders.⁹ We hope and expect that the same will occur here.

Because of the "Muslim ban," CAIR-NY has seen a surge in calls from individuals who are unsure if they will be permitted to travel to the U.S. Prior to the Trump Administration, we already saw evidence that Muslim travellers were more likely to be subjected to secondary screening and invasive searches, but the horror stories of people being held and handcuffed for hours at the boarder have made many Muslim New Yorkers, including many U.S. Citizens, reluctant to travel abroad. Although the President cannot enact an executive order that blocks U.S. Citizens from traveling abroad, the fear and uncertainty he created does exactly that.

We have responded to the community's needs with an expanded offering of know your rights trainings across New York State. These trainings equip Muslim travellers with the tools to better navigate invasive Customs and Border Patrol (CBP) questioning, especially when CBP uses secondary inspection as an opportunity to question travellers about their political or religious beliefs. We also educate community members about a variety of other topics, including their rights if visited at home by law enforcement or Immigration and Customs Enforcement (ICE).

Unfortunately, our trainings cannot fully counter the growing climate of fear, fear that robs New Yorkers of the ability to go about their lives in peace. This is especially true for those New Yorkers who are undocumented. Unlike the Obama administration, which largely targeted New York immigration enforcement efforts at those convicted of committing a violent crime, the Trump

⁶ 8 U.S.C. 1152(a)(1)(A) ("[N]o person shall receive any preference or priority or be discriminated against in the issuance of an immigrant visa because of the person's race, sex, nationality, place of birth, or place of residence.")

⁷ Ron Nixon, *People From 7 Travel-Ban Nations Pose No Increased Terror Risk, Report Says*, NEW YORK TIMES, February 25, 2017, <https://www.nytimes.com/2017/02/25/us/politics/travel-ban-nations-terror-risk.html> (last visited Mar 14, 2017).

⁸ *Washington v. Trump*, 847 F.3d 1151 (9th Cir. 2017).

⁹ *Aziz v. Trump*, No. 1:17-CV-116-LMB/TCB, 2017 WL 580855 (E.D. Va. Feb. 13, 2017)

Administration treats individuals as removal priorities for merely being charged with a crime.¹⁰ Similarly, immigration officers have been given discretion to unilaterally label an individual “a risk to public safety or national security,” also prioritizing their deportation. The net result appears to be a system where nearly anyone who is out of status can be deported at the whim of an ICE official.

This broader enforcement framework makes many immigrant New Yorkers worry that they cannot access city services without risking deportation. Many parents are scared to visit their children’s schools, many crime victims are scared to go to the police, and many victims of discrimination are reluctant to assert their rights in court or before city agencies. New York State and New York City’s human rights laws provide a powerful bulwark against discrimination, but many immigrant New Yorkers are unwilling to assert those rights under the Trump Administration. We are able to reassure clients that city officials won’t ask about immigration status, but clients also ask us if ICE officials will target them when visiting schools, hospitals, or houses of worship. Sadly, under the Trump Administration’s new enforcement policies, we simply don’t know the answer.

This new enforcement paradigm creates opportunities for criminals and scam artists to target immigrant communities. We’ve seen a rise in extortion attempts, where criminals pretend to be ICE agents, shaking down victims for bribes at the threat of immediate deportation. We’ve seen reports of merchants who refuse to deliver merchandise and threaten to report their victims to immigration officials. While we assist some of these victims with reporting their experience to city officials, all too often the victims are too scared to do anything, fearful that the person who targeted them will make good on their threat to call ICE.

In light of this heart-breaking trend, we urge the city to expand its resources for direct legal service providers who can help respond to the impact of the Trump Administration’s enforcement efforts. No matter what orders the President enacts, this will remain a city of immigrants, but it is up to us to ensure that it is also a city that stands for the principals of justice and equality for all. Thank you for giving me the opportunity to address these urgent issues; I look forward to working with the Council to safeguard the rights of Muslim New Yorkers in the weeks and months to come.

¹⁰ Enhancing Public Safety in the Interior of the United States, Exec. Order No. 13,768, 82 Fed. Reg. 8799 (Jan. 30, 2017). Priority is given for the removal of any deportable immigrants who “have been convicted of any criminal offense; have been charged with any criminal offense, where such charge has not been resolved; have committed acts that constitute a chargeable criminal offense; have engaged in fraud or willful misrepresentation in connection with any official matter or application before a governmental agency; have abused any program related to receipt of public benefits; are subject to a final order of removal, but who have not complied with their legal obligation to depart the United States; or in the judgment of an immigration officer, otherwise pose a risk to public safety or national security.”