



Council on American-Islamic Relations

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**STATEMENT OF
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BEFORE THE COMMITTEES ON GENERAL WELFARE AND HEALTH
NEW YORK CITY COUNCIL
FOR A HEARING CONCERNING
OVERSIGHT – THE IMPACT OF THE PROPOSED “PUBLIC CHARGE”
PRESENTED
Thursday, NOVEMBER 15, 2018**

Good afternoon, my name is Albert Fox Cahn, and I serve as 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. Today, I speak in support of the pre-determined resolution and of the council submitting a comment to the U.S. Department of Homeland Security (“DHS”) in opposition to its threatened expansion of public charge. I also thank and applaud Chairs Menchaca, Levin, and Levine and Speaker Johnson for calling today’s hearing on this vital topic.

Historically, public charge was a narrow ban for immigrants who received the majority of their income from Temporary Assistance for Needy Families (“TANF”) or other cash assistance programs or who lived in a residential care facility paid for by Medicaid.¹ Sadly, the Trump administration is radically expanding the rule, threatening thousands of immigrant families right here in New York City. Under the proposed rule, programs that are essential to New Yorkers’ health, housing and nutrition would trigger public charge. These include Medicaid, the Supplemental Nutrition Assistance Program (“SNAP”), housing assistance, and even Medicare Part D prescription drug benefits.

The threat of public charge will force immigrant New Yorkers to make impossible choices, choosing between keeping their immigration status and survival. They will need to choose whether to continue to get medical care or risk being designated a public charge – chemotherapy or permanent residency? This choice is even more harrowing for mixed-status families, parents who risk either being separated from their children or taking those children from the only country they’ve ever called home. We are grateful for the City’s proactive efforts to oppose this human tragedy.²

Under the proposed rule, the most “vulnerable children” will suffer the most acute consequences.³ If parents choose to dis-enroll from city and community services, their children also lose access to these vital programs. This harm is not theoretical. Despite the fact that visa-holders cannot be punished for using benefits during the rule’s pendency, we already have alarming reports of disenrollment. While city leaders are correct to be vocal in opposition to public charge, we must also be clear that every New Yorker should continue to use services without fear until the rule is finalized.

The proposed changes will be particularly severe for Muslim immigrants. Many immigrant New Yorkers are from Muslim-majority countries that were already the target of the President’s unconstitutional Muslim Bans. Since these countries are, on average, less economically developed, these families are more likely to need the social safety net programs President Trump is now attacking.⁴ The expansion of public charge is, in part, just the latest effort in President Trump’s ongoing, nativist campaign against Muslim Americans.

Disturbingly, expanding public charge will invade New Yorkers’ most private decisions. The proposed rules will necessitate extensive data collection and surveillance, allowing the Federal

¹ Douglas Jacobs, *A Tortured Choice for Immigrants: Your Health or Your Green Card?* N.Y. TIMES (Oct. 10, 2018), available at <https://www.nytimes.com/2018/10/10/opinion/immigration-trump-health-public-charge.html>

² Liz Robbins, *How Trump’s Plan for Immigrants on Welfare Could Hurt a Million New Yorkers*, N.Y. TIMES (Aug. 13, 2018), available at <https://www.nytimes.com/2018/08/13/nyregion/welfare-immigrants-trump-public-charge-rule.html>

³ Children’s Rights, *Expanded “Public Charge Regulation Puts Thousands of Children at Risk* (Sept. 24, 2018), available at <https://www.childrensrights.org/expanded-public-charge-regulation-puts-children-at-risk/>

⁴ Lucy Pasha-Robinson, *Donald Trump’s travel ban on Muslim countries is not the same as their ban on Israelis, says expert*, THE INDEPENDENT (Jan. 31, 2017), available at <https://www.independent.co.uk/news/world/americas/donald-trump-muslim-ban-travel-ban-israel-six-seven-countries-blocked-us-president-bar-israeli-arab-a7555756.html>

Government to verify which services New Yorkers use. This sort of data collection is disturbing for all New Yorkers, but especially for Muslim immigrants, who live under the spectre of President Trump’s campaign threat of a Muslim registry. The impacted benefits programs are a repository of highly sensitive personally identifiable information. For example, a visa-holder who receives Medicaid would be forced to reveal the fact of medical treatment, and possible even the nature of their health and treatment.⁵

The proposed rule change would, effectively, open deeply private information of individuals and their relatives to the eyes of the U.S. Citizenship and Immigration Services (USCIS). The proposed changes create an overly invasive net of potential data points far beyond what USCIS reasonably requires to make status determinations. Furthermore, data collection on relatives of visa-holders is truly beyond the pale and may exacerbate the chilling effecting that these policies are already having on benefit use by our most needy families.

At a time where New Yorkers are more concerned about their privacy than ever, in the face of consistent, privacy violations by public and private actors, it is crucial that we keep this Pandora’s Box of government intrusion firmly shut. I’m proud that our city, a city committed to diversity and tolerance, recognizes the dangers of such measures and will fight them.

The proposed rule does not just affect receivers of healthcare benefits, but also the countless doctors, nurses, medical students, and other immigrants who form the backbone of New York’s healthcare system. Immigrants make up nearly one-fifth of health care workers and 30% of doctors and surgeons in the United States.⁶ Here, in New York City, the numbers are even higher. According to Comptroller Scott M. Stringer, immigrant workers make up roughly half of New York City’s healthcare workers.⁷ Ironically, Iran and Syria, two countries targeted by the Muslim Ban, are among the top ten countries that send physicians and surgeons to the U.S. The proposed rule will not only impact immigrant communities but will potentially harm the countless American citizens who depend on immigrant doctors and nurses for lifesaving care.

The financial justifications for the proposed rule are just a pretext, an unconvincing disguise for the Administration’s animus towards immigrants, especially Muslim immigrants.⁸ Given the asymmetrical impact on immigrants from Muslim-majority countries, we fear public charge will constitute a new, *sub silentio*, Muslim Ban.

During his Presidential Campaign, then-candidate Trump proposed a “total and complete shutdown” on Muslims entering the United States, and Trump’s own advisors referred to the policy as a “Muslim Ban.”⁹ Earlier Muslim Bans are still being litigated in the courts, but they are limited

⁵ Jennifer Huber, *Stanford psychiatrist focuses on mental health needs of Muslims*, STANFORD SCOPE (Aug. 28, 2018), available at <https://scopeblog.stanford.edu/2018/08/28/stanford-psychiatrist-focuses-on-mental-health-needs-of-muslims/>

⁶ Julia Belluz and Sarah Frostenson, *How Trump’s travel ban threatens healthcare, in 3 charts*, VOX (June 26, 2018), available at <https://www.vox.com/2017/2/1/14470746/trump-travel-ban-health-care-doctors>

⁷ New York City Comptroller, *Our Immigrant Population Helps Power NYC Economy*, available at <https://comptroller.nyc.gov/wp-content/uploads/documents/Our-Immigrant-Population-Helps-Power-NYC-Economy.pdf> (last accessed November 11, 2018).

⁸ See, e.g., Sabrina Siddiqui, *Muslim candidates rise above Trump hostility to focus on issues*, THE GUARDIAN (Jul. 1, 2018), available at <https://www.theguardian.com/us-news/2018/jul/01/midterms-muslim-candidates-trump-hostility-democrats>

⁹ Amy B. Wang, *Trump Asked for a ‘Muslim ban,’ Giuliani says – and ordered a commission to do it ‘legally,’* WASHINGTON POST (Jan. 29, 2017), available at https://www.washingtonpost.com/news/the-fix/wp/2017/01/29/trump-asked-for-a-muslim-ban-giuliani-says-and-ordered-a-commission-to-do-it-legally/?noredirect=on&utm_term=.2bcc03bcfd4f

to restrictions on visas for those residing abroad.¹⁰ Alarming, this effort will go much farther, targeting families that already live in the U.S. As advocates, we see how, given the overlap between anti-immigrant and anti-Muslim bias, public charge further stigmatizes Muslim immigrants.

These tactics of repression are not new; history is repeating itself. In this pivotal time of change, it is important that we, as a city, stand up against measures that challenge our most fundamental values. Sadly, our city has not always lived up to our highest principles when our immigrant communities are attacked. One need only look back to the NSEERS program that terrorized and traumatized Muslim immigrants throughout the 2000s. We must not be silent now, in the face of such potential heartbreak.

The proposed resolution and public comment are important steps, but they are not enough. I urge each and every member of the council to submit their own comments in opposition to public charge and to your constituents to do the same. We must flood Washington with our opposition. A single comment is a symbol; a million comments is a breakthrough.

I thank you for giving me the opportunity to address this urgent issue, and I look forward to working with the Council to safeguard the rights of all New Yorkers targeted by the Trump Administration’s proposed expansion on the rule of on public charge.

¹⁰ In Executive Order 13769 (the first “Muslim Ban”), Trump severely limited immigration, revoked visas, and turned away refugees from numerous Muslim-majority countries. This was superseded by Executive Order 13780, or “Muslim Ban 2.0”, a temporary measure which ordered a worldwide scrutinization of countries and a 90-day ban on visa issuance for nationals of six majority-Muslim countries, including Iran, Libya, Somalia, Sudan, Syria, and Yemen. After the 90-day period Muslim Ban 2.0 expired, and the Administration issued a Presidential Proclamation, “Muslim Ban 3.0”, which put into full effect travel and immigration restrictions for individuals from Iran, Libya, North Korea, Somalia, Syria, Venezuela, and Yemen. This third Muslim Ban went into effect on December 2017, and applied to individuals who were outside the United States on that date, who did not have a valid visa on that date, and who did not obtain a waiver.