



Council on American-Islamic Relations

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**TESTIMONY SUBMITTED BY  
THE PHILADELPHIA CHAPTER OF  
THE COUNCIL ON AMERICAN-ISLAMIC RELATIONS  
TO THE  
PHILADELPHIA CITY COUNCIL COMMITTEE ON PUBLIC SAFETY  
REGARDING ICE DETAINERS**

**MARCH 12, 2014**

Thank you for holding this important hearing concerning immigration detainers issued by U.S. Immigration and Customs Enforcement (“ICE”). Philadelphia, the cradle of American liberty, should neither condone nor participate in abuse-prone warrantless arrests at the request of federal officials. Investigatory detention breeds resentment and distrust, especially among Muslim immigrants who have been the principal targets of improper immigration practices in recent years. CAIR-Philadelphia urges the City to prohibit compliance with ICE detainers.

**About CAIR-Philadelphia**

The Philadelphia Chapter of the Council on American-Islamic Relations (CAIR) is a nonprofit, nonpartisan organization that empowers Philadelphia’s Muslims in efforts to enhance understanding of Islam, encourage dialogue, protect civil liberties, and build coalitions that promote justice and mutual understanding.

**American Muslims’ Justified Concerns about U.S. Immigration Authorities**

American Muslims are a diverse group that includes thousands of Philadelphians who were born abroad. For Muslim immigrants, like all immigrants, America’s immigration policies represent a path to freedom and opportunity. Unfortunately, because there are relatively few judicial checks on many aspects of the immigration system (and generally no right to an attorney), in recent years the federal government has abused its immigration enforcement powers to obtain what it could not through normal, lawful means, causing many immigrants to view their status as a source of vulnerability and anxiety instead of hope.

After September 11, 2001, immigration authorities arrested thousands of immigrants, mostly Muslims, in the kind of dragnet attempt at criminal investigation that the Fourth Amendment was designed to prohibit. These men, women, and children were targeted and detained based on things like an anonymous tip that there were “too many” Middle Eastern men working in a local convenience store. The government refused to release their names publicly, to notify them or their families of the reason for the detention, and allowed only secret hearings not listed on public dockets. After months or sometimes

years of detention and investigation for terrorism connections, nearly all of the detainees were either released or deported for petty immigration offenses unrelated to their initial detention. Not one of the detainees was ever charged with terrorism.<sup>1</sup>

During this same period, the federal government used another aspect of the immigration system, the National Security Entry-Exit Registration System (NSEERS), to target citizens of Muslim-majority nations for heightened registration requirements, from additional screening and tracking to limitations on points of departure. These burdens placed on thousands of Muslims (and others) did not result in a single terrorism-related conviction, and the program was suspended indefinitely in 2011.<sup>2</sup>

Despite the failures of these efforts to use the immigration system for unrelated criminal investigations and the widespread and highly counter-productive distrust they engendered, the federal government continues to use its immigration powers as a tool for coercing Muslim immigrants. Recently, federal authorities have used the vulnerable status of Muslim immigrants as a means to recruit informants and coerce cooperation, threatening to deny citizenship or withhold other immigration benefits.<sup>3</sup> In one case handled by CAIR-Philadelphia, ICE delayed an individual's green card application for seven years—withholding from him a great number of privileges and a pathway to citizenship—while simultaneously seeking his cooperation in an investigation. ICE finally granted the application once CAIR filed suit calling attention to this form of intimidation.

### **ICE Detainers Seek Local Complicity in Abusive Federal Practices**

An ICE detainer is a request that local authorities continue to hold an individual they have arrested but are planning to release, ostensibly to give ICE more time to decide whether to take the individual into federal custody. These requests for warrantless detention of a person are often based on little more than a desire to investigate him or her, rather than probable cause to believe that he or she has broken the law, the quantum of evidence normally required for arrest in this country.

ICE detainers are fertile ground for abuse and improper profiling. There are no practical checks on ICE's decision to ask for these detentions, since there is no

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<sup>1</sup> The Constitution Project, *THE USE AND ABUSE OF IMMIGRATION AUTHORITY AS A COUNTERTERRORISM TOOL: CONSTITUTIONAL AND POLICY CONSIDERATIONS*, at 6 (2008), available at <http://www.constitutionproject.org/wp-content/uploads/2012/10/48.pdf>

<sup>2</sup> *Id.* at 9; Removing Designated Countries From the National Security Entry-Exit Registration System (NSEERS), 76 Fed. Reg. 82 (April 28, 2011) (suspending the program).

<sup>3</sup> See generally Jennie Pasquarella (ACLU), *MUSLIMS NEED NOT APPLY: HOW USCIS SECRETLY MANDATES THE DISCRIMINATORY DELAY AND DENIAL OF CITIZENSHIP AND IMMIGRATION BENEFITS TO ASPIRING AMERICANS* (2013), available at <http://www.aclusocal.org/CARRP/>.

requirement of a warrant or clearly stated reasons for suspecting this person of immigration violations. The practice of detaining individuals on mere suspicion of possible immigration violations disproportionately impacts those individuals who are appear to be foreign-born—making a Canadian immigrant less likely to be detained than a Pakistani one. Consequently, even when the authorities are acting in good faith, the burdens of investigatory detention fall most heavily on people who look, dress, or talk differently.

Under federal law, Philadelphia is not required to comply with ICE's requests for detention. The federal government's recent abuse of such power combined with the discriminatory impact of such detention, even when used in good faith, should persuade Philadelphia to choose not to comply. The more local cooperation there is with immigration authorities, the more Muslim-Americans justified mistrust of the immigration authorities is extended to the local police, discouraging these immigrants from any contact with the police out of a fear that it may result in immigration detention. Our country and our city need more trust and voluntary cooperation between Muslim-Americans and law enforcement, not less.

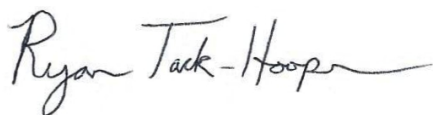
## **Conclusion**

CAIR-Philadelphia applauds the work of City Council and Mayor Michael A. Nutter in examining Philadelphia's role in ICE detainees.

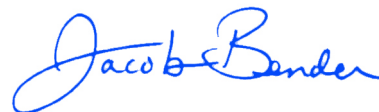
Mayor Nutter has recently recognized the need to limit this practice. But a policy that permits such detention under limited circumstances such as felony charges does not solve the problems posed by ICE detainees. And depending on how the policy is crafted, it may perversely incentivize more severe charging practices. Today CAIR-Philadelphia calls upon City Council and the Mayor to end all ICE holds in Philadelphia and to work with CAIR and others to create a new and more just local policy.

No Philadelphian should ever be jailed based on the mere request of a federal officer or loose suspicions about how that person came to live or work in our great city. Joining the other jurisdictions who have decided not to imprison people based on ICE detainees is a step toward disentangling legitimate law enforcement from abusive practices of the federal government, and toward greater trust and cooperation between American Muslims and local law enforcement officials. We encourage you to take that step.

Sincerely,



Ryan Tack-Hooper, *Staff Attorney*  
CAIR-Philadelphia



Jacob Bender, *Executive Director*  
CAIR-Philadelphia