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**WRITTEN STATEMENT OF
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"H.R. 2278, the Strengthen and Fortify Enforcement Act (The SAFE Act)" Hearing

**UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON THE JUDICIARY**

June 13, 2013

South Asian Americans Leading Together (SAALT) welcomes the opportunity to submit a statement for the record for the June 13, 2013 hearing on "H.R. 2278, the Strengthen and Fortify Enforcement Act (The SAFE Act)" before the House Judiciary Committee. Comprehensive immigration reform greatly impacts South Asian Americans and as such, it is important and timely for the House Judiciary Committee to work towards an equitable and just immigration enforcement system that echoes our nation's shared values of inclusion, plurality, equal opportunity and due process under the law. In this statement, SAALT focuses on the importance of holistic immigration reform, rather than an enforcement-only approach that results in profiling, which is both ineffective and destructive for South Asians as well as all Americans. As with many programs and legislation that came before it, the SAFE Act would result in discriminatory, ineffective, and costly measures that ultimately undermine the rights of all Americans and destroy community relationships, thereby, making all Americans less safe.

SAALT is a national, nonpartisan, non-profit organization that elevates the voices and perspectives of South Asian individuals and organizations to build a more just and inclusive society in the United States. SAALT works with a base of individual members and advocates and is the coordinating entity of the National Coalition of South Asian Organizations (NCSO), a network of 41 organizations across the country that provide direct services to, organize, and advocate on behalf of South Asians in the United States.

South Asian Americans are the fastest growing major ethnic group in the United States, increasing by 81% from 2000 to 2010 to approximately 3.4 million people.¹ As almost three-quarters of South Asian Americans are foreign-born,² our community is made up of undocumented immigrants, dependent and temporary workers on various visas, refugees and

¹ South Asian Americans Leading Together (SAALT), *A Demographic Snapshot of South Asians in the United States* (July 2012) available at <http://saalt.org/wp-content/uploads/2012/09/Demographic-Snapshot-Asian-American-Foundation-20121.pdf>.

² See Gryn, Thomas and Gambino, Christine, U.S. Census Bureau, *Asia: 2011 American Community Survey Briefs* (October 2012) available at <http://www.census.gov/prod/2012pubs/acsbr11-06.pdf>; Asian American Center for Advancing Justice, *A Community of Contrasts: Asian Americans in the United States: 2011* available at http://www.advancingjustice.org/pdf/Community_of_Contrast.pdf.

asylum-seekers, lawful permanent residents, and United States citizens. According to the Department of Homeland Security, there were approximately 240,000 undocumented Indians alone in 2011, making India the seventh-highest country of origin for undocumented individuals in the United States.³ Additionally, South Asians, especially those from Bangladesh, India and Pakistan, are often separated from their families for years at a time as a result of the family and employment visa backlogs. As a result, immigration reform is of the utmost importance to the South Asian community and it is essential that such reform encompass large-scale change that unite families, provide individuals and their family members with options to obtaining visas and citizenship, and end unjust enforcement measures that have resulted in profiling of our community members, particularly in the past decade.

The United States is a nation that was built by and thrives upon the hard work of immigrants. Socially, culturally, and economically, South Asian Americans and all immigrants contribute to the strength of our nation and its success both nationally and internationally. The happiness and success of our community directly contributes to that of the country and without just and humane avenues towards these goals, our nation does not move forward as a whole. SAALT urges that immigration reform be holistic and make all-encompassing changes, rather than focusing on one area, particularly problematic enforcement measures. Enforcement measures like the SAFE Act result in profiling against numerous communities of color and shift already limited resources in an inefficient and detrimental manner. It is essential that immigration programs and practices do not profile individuals and communities and that instead, we develop holistic measures for reform, including enforcement measures that do not continue to or further harm South Asian Americans, all immigrants, and our society as a whole.

COMPREHENSIVE IMMIGRATION REFORM MUST BE HOLISTIC IN ORDER TO TRULY BENEFIT SOCIETY

South Asian Americans contribute to our society in numerous capacities, socially, culturally, and economically. Our community members fill the gaps in low- and high-skilled jobs, start their own businesses, provide support to their loved ones, and desire an education and opportunity like any other American. Unfortunately, the current immigration system often does not allow South Asian Americans the opportunity to achieve these goals for the betterment of themselves, their families, or our society. Not only do they face numerous barriers to obtaining status, but they are often separated from their families, not provided with effective worker protections, suffer the consequences of harsh enforcement measures frequently based on profiling, and denied due process, basic human rights, and ancillary services and benefits, such as health care. All of these issues make it increasingly difficult for South Asian Americans as well as many other immigrants to successfully contribute to our country and therefore, impinge upon our progress as a nation.

³ Hoffer, Michael, Rytina, Nancy, and Baker, Bryan, U.S. Department of Homeland Security, *Estimates of the Unauthorized Immigration Populations Residing in the United States: January 2011* (March 2012) available at http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_ill_pe_2011.pdf.

In order for South Asian Americans to effectively contribute to society, these barriers and penalties must be eradicated. SAALT urges that immigration reform (1) creates accessible and affordable pathways to legalization and citizenship for all undocumented individuals; (2) keeps families together, eliminates visa backlogs, and increases caps for family and employment visas; (3) creates legislation that provides equal immigration benefits and protections to and prohibits discrimination against same-sex couples; (4) provides avenues and protections for immigrant workers and their families; (5) rejects enforcement-only approaches to immigration and terminates profiling based on race, ethnicity, national origin, and religion; (6) ensures due process and human rights standards for immigrants, including within the detention and deportation system; (7) creates policies that support the empowerment of women, including victims of domestic violence and trafficking; (8) provides access to services and benefits, including health care, regardless of immigration status; and, (9) promotes support for integration programs, including English as a Second Language, and naturalization.⁴

It is only with this holistic approach to immigration reform that South Asian Americans and all other immigrants will be able to effectively contribute to our society in a way that allows our nation to flourish, prosper, and succeed.

ENFORCEMENT-ONLY APPROACHES ARE DETRIMENTAL TO SOCIETY, PARTICULARLY WHEN THEY ENGAGE IN PROFILING

For a significant amount of time, immigration enforcement has been on the rise, particularly in the last decade. While there have been fewer border apprehensions, this decrease seems to be a result of fewer people crossing the border under the current patrol programs.⁵ On the other hand, deportation rates are now at their highest with over 400,000 people deported in 2012 alone.⁶ Similarly, the number of individuals in detention almost doubled from 2001 to 2010, rising to almost 392,000 individuals in 2010.⁷ In fact, from 2009 to 2011, the number of Indian national

⁴ These standards of comprehensive immigration reform have been called for by the National Coalition of South Asian Organizations (NCSO), a coalition of 41 groups around the United States that works closely with South Asian immigrants, including aspiring citizens. National Coalition of South Asian Organizations, *South Asian Organizations Call for Just and Humane Reform of the Immigration System* (February 1, 2012) available at <http://saalt.org/wp-content/uploads/2012/09/South-Asian-Organizations-Call-for-Just-Humane-Immigration-Reform.pdf>.

⁵ Golash-Boza, Tanya, *Mapping the Shift from Border to Interior Enforcement of Immigration Laws During the Obama Presidency* (January 25, 2013) available at http://stopdeportationsnow.blogspot.com/2013/01/mapping-shift-from-border-to-interior_7232.html.

⁶ U.S. Department of Homeland Security, *Removal Statistics, Immigration & Customs Enforcement* available at <http://www.ice.gov/removal-statistics/>.

⁷ National Immigration Forum, *The Math of Immigration Detention: Runaway Costs for Immigration Detention Do Not Add Up to Sensible Policies* (August 2012) available at <http://www.immigrationforum.org/images/uploads/MathoffImmigrationDetention.pdf>.

detainees has almost doubled every year, rising to approximately 3,438 in 2011.⁸ By next year, it is estimated that more than two million people will have been deported in the last six years – that will be more deportations than there were from 1892 to 1997.⁹ Additionally, these deportations frequently separate families, often through enforcement against the parents of U.S. citizen children.¹⁰ In fact, more families have been separated under enforcement measures over the last five years, than have ever been separated, rising to almost one-fourth of the total number of deportations from July 2010 to September 2012.¹¹ As has been seen through our family-based system as well, separating families only hinders the success of immigrants in the United States because our nation benefits when immigrant families are able to come together and support each other.¹² Enforcement measures must be just and humane, rather than misdirecting resources to engage in methods that undermine the rights of all Americans, are ineffective, and have a detrimental impact on our safety under the guise of national security.

The SAFE Act is particularly problematic in that it focuses solely on enforcement measures, not on fixing the entirety of our broken immigration system. Among other things, this bill places immigration authority in the control of state and local officials, creating a system which runs the risk of local immigration practices and policies that are inconsistent with federal immigration enforcement. In fact, this legislation further expands the problematic nature of programs like 287(g), creating more leniency in instituting agreements and giving the locality control over the agreement, rather than the federal government. By placing immigration authority and enforcement in the hands of state and local officials, the SAFE Act, like many similar programs before it, will result in the profiling of communities of color frequently based on physical appearance alone, which have proven ineffective and detrimental to relationships with community members. Engaging in such actions and methods like those prescribed in the SAFE Act only inhibit our success as a nation, while providing a false sense of security.

Specifically, enforcement-only methods that target minority and immigrant communities through profiling not only violate our community's civil rights, but are also ineffective methods that divert government resources. For example, programs like 287(g) and Secure Communities allow local law enforcement agents to enforce federal immigration laws or check fingerprints of individuals against immigration databases with the Department of Homeland Security, respectively. It has been found that practices like that of 287(g) have led to substantial profiling

⁸ Simanski, John and Sapp, Lesley M., U.S. Department of Homeland Security, *Annual Report: Immigration Enforcement Actions 2011* (September 2012) available at http://www.dhs.gov/sites/default/files/publications/immigration-statistics/enforcement_ar_2011.pdf.

⁹ Golash-Boza, Tanya, *Mapping the Shift from Border to Interior Enforcement of Immigration Laws During the Obama Presidency* (January 25, 2013) available at http://stopdeportationsnow.blogspot.com/2013/01/mapping-shift-from-border-to-interior_7232.html.

¹⁰ *Id.*

¹¹ *Id.*

¹² See Asian American Justice Center, *The Economic Impact of Family-Based Immigration* available at <http://www.advancingequality.org/attachments/wysiwyg/7/FamilyImmigrationEconomy.pdf>.

of individuals as well as unlawful detentions.¹³ Additionally, the 287(g) program has received widespread criticism, including that of the Office of the Inspector General, finding that the program has inadequate protections against profiling as well as insufficient training and oversight, sometimes resulting in the deportation of U.S. citizens and legal permanent residents.¹⁴ As a result of these discriminatory programs, in 2010, 27,871 individuals were deported through 287(g)¹⁵ and, in 2011, 78,246 people were deported through Secure Communities.¹⁶ Additionally, local laws like Arizona S.B. 1070 and similar copycat laws allow law enforcement to ask individuals about their status where there is “reasonable suspicion” that the individual is undocumented. Similarly, these programs have also resulted in the profiling of communities of color and the unlawful detention of individuals as well.

These programs and thereby their resulting deportations are frequently the result of profiling. Individuals in the South Asian community are likely to be stopped or asked about their status at disproportionate frequency based on stereotypes regarding those that are “foreign” or “un-American.” Already, stories have emerged of those who are profiled and stopped for minor violations which are later dismissed, but only after removal proceedings are commenced, sometimes separating families for over a year. The South Asian community has already suffered many years of targeted enforcement, particularly post-9/11, which has furthered stereotypes about South Asians and pushed community members into the shadows. For example, following 9/11, the National Security Exit-Entry Registration System (NSEERS) required certain male nationals from predominantly Muslim and Arab countries to report to immigration authorities for interviews and processing. As a result, approximately 13,000 men were placed in removal proceedings, though not one was ever prosecuted for a terrorism-related crime.¹⁷ History has shown that law enforcement is less effective when focused on race, ethnicity, religion, national origin, or gender in deciding who to stop or investigate, rather than focusing on criminal activity.¹⁸ These types of immigration enforcement program that ultimately result in profiling

¹³ See Garner, Trevor, II and Kolhi, Aarti, *The C.A.P. Effect: Racial Profiling in the ICE Criminal Alien Program*, The Warren Institute (September 2009) available at

http://www.law.berkeley.edu/files/policybrief_irving_FINAL.pdf; see e.g. Department of Justice, *Justice Department Releases Investigative Findings on Alamance County, N.C., Sheriff’s Office*, (September 18, 2012) available at <http://justice.gov/opa/pr/2012/September/12-crt-1125.html>.

¹⁴ Rights Working Group, *Racial Profiling and Immigration Enforcement by State and Local Police*, Issue Brief, available at http://www.rightsworkinggroup.org/sites/default/files/ImmigrationEnforcement_IssueBrief.pdf.

¹⁵ U.S. Department of Homeland Security, *287(g) Identified Aliens for Removal, U.S. Immigration and Customs Enforcement* (2010) available at <http://www.ice.gov/doclib/foia/reports/287g-masterstats2010oct31.pdf>.

¹⁶ U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security, *Secure Communities: IDENT/IAFIS Interoperability, Monthly Statistics through September 20, 2011* (October 14, 2011) available at http://www.ice.gov/doclib/foia/sc-stats/nationwide_interoperability_stats-fy2011-to-date.pdf.

¹⁷ South Asian Americans Leading Together (SAALT), *In Our Own Words: Narratives of South Asian New Yorkers Affected by Racial and Religious Profiling* (March 2012) available at <http://saalt.org/wp-content/uploads/2012/09/In-Our-Own-Words-Narratives-of-South-Asian-New-Yorkers-Affected-by-Racial-and-Religious-Profiling.pdf>.

¹⁸ Rushing, Keith, *Advocacy Efforts Defeat Racial Profiling Amendments in Mark up; Problematic Graham Amendment Passes*, Rights Working Group (May 21, 2013) available at

have proven ineffective in the past, diverts our limited governmental resources, and threatens the civil rights of all Americans.

Government policies such as profiling and surveillance of South Asian, Sikh, Muslim, and Arab American individuals and communities also send the message to the public that individuals from these communities are a threat or danger to society.¹⁹ Furthermore, these programs deter South Asian Americans from reporting crimes, sharing information, or serving as witnesses based on their valid fears of being profiled and deported. They destroy the South Asian community's relationship with law enforcement and government generally, thereby, preventing individuals from reporting hate crimes and incidents of domestic violence. In turn, if immigrants are afraid to seek out the assistance of law enforcement and do not trust government agencies, this lack of communication and collaboration only makes it harder for law enforcement and government to do their jobs and thereby, make all of our communities and society less safe.

Such discriminatory and destructive enforcement measures are not effective solutions to our broken immigration system. In fact, enforcement mechanisms must be addressed with a holistic response to immigration reform that improves all aspects of our system in order for immigration reform to truly benefit American society socially, culturally, and economically. To amplify an already enforcement heavy immigration system that engages in activities that profile immigrant communities, including the South Asian community, would be counter-productive and volatile to effective immigration enforcement as well as the safety of our nation. Immigration reform must reject these enforcement-only approaches to immigration, prohibit all forms of profiling, and ensure due process and human rights standards for immigrants, including within the detention and deportation system. Only with the combination of these changes to immigration enforcement and the previously mentioned pieces of immigration reform might our society move forward economically, socially, and culturally.

RECOMMENDATIONS

The current immigration system is more than flawed, damaging our ability as a nation to move forward successfully. This system must be reformed in a comprehensive and holistic manner in order to truly allow our society and economy to succeed. To reform pieces of the system such as increasing already heavy and ineffective enforcement and legitimizing methods that profile would only deepen the problem without providing holistic solutions.

<http://www.rightsworkinggroup.org/content/advocacy-efforts-defeat-racial-profiling-amendments-mark-problematic-graham-amendment-passes>.

¹⁹ For example, these perceptions are fostered by actions such as the Transportation Security Administration's profiling of these individuals in airports, the Department of Homeland Security's discriminatory practice towards these individuals, and the New York City Police Department's surveillance of local communities. See South Asian Americans Leading Together (SAALT), *In Our Own Words: Narratives of South Asian New Yorkers Affected by Racial and Religious Profiling* (March 2012) available at <http://www.saalt.org/filestore/Reports/In%20Our%20Own%20Words%20Web%20FINAL.pdf>.

For these reasons, SAALT strongly opposes the SAFE Act and instead urges that comprehensive immigration reform take a broad-scale approach to immigration by:

- (1) Creating accessible and affordable pathways to legalization and citizenship for all undocumented individuals;
- (2) Keeping families together, eliminating visa backlogs, and increasing caps for family and employment visas;
- (3) Creating legislation that provides equal immigration benefits and protections to and prohibits discrimination against same-sex couples;
- (4) Providing avenues and protections for immigrant workers and their families;
- (5) Rejecting enforcement-only approaches to immigration and prohibiting all forms of profiling, including race, ethnicity, religion, and national origin;
- (6) Ensuring due process and human rights standards for immigrants, including within the detention and deportation system;
- (7) Creating policies that support the empowerment of women, including victims of domestic violence and trafficking;
- (8) Providing access to services and benefits, including health care, regardless of immigration status; and,
- (9) Promoting support for integration programs, including English as a Second Language, and naturalization.

Together, we can ensure that our country creates immigration reform that is holistic, just, and humane for South Asian Americans, all immigrants, and society as a whole. Thank you for the opportunity to submit this statement for the record.

For further information about the comprehensive immigration reform as it relates to the South Asian community, please contact Manar Waheed, SAALT's Policy Director at manar@saalt.org or (301) 270-1855.