



Testimony of the Immigrant Justice Network

Submitted to the

Committee on the Judiciary of the U.S. House of Representatives

Hearing on June 13, 2013

H.R. 2278, the “Strengthen and Fortify Enforcement Act” (SAFE Act)

The Immigrant Justice Network (IJN), a collaboration between the Immigrant Defense Project in New York, the Immigrant Legal Resource Center in San Francisco, and the National Immigration Project in Boston, works towards the elimination of unjust penalties for immigrants entangled in the criminal justice system and to end the criminalization of immigrant communities. Our organizations are among the foremost immigration advocacy and defense organizations with expertise in the intersection between the immigration and criminal justice systems. As specialists in these areas, our organizations have worked to provide legal and technical support to immigrant communities, legal practitioners, and all advocates seeking to advance the rights of noncitizens.

During the last two decades we have seen an unprecedented increase in immigration enforcement policies, resulting in massive deportation of immigrants who pose no risk to public safety and whose only desire is to work, and live with their family members who are in the United States. Legislative efforts targeting immigrants through an “enforcement” only approach have been introduced repeatedly in Congress. Congressman Gowdy’s “Strength and Fortify Enforcement Act” (H.R. 2278) continues in the same shameful vein. Designed to criminalize immigrants and drive them further into the shadows, this bill provides no real reform solutions; it merely offers an expanded version of the “enforcement” only strategies, a discredited approach divorced from current realities. This bill makes clear that a minority group of extremists are committed to holding real immigration reform hostage at taxpayers’ expense.

The obstructionists clamoring for the old, discredited and offensive strategies outlined in the Gowdy bill must step aside and allow the work of real, common-sense reform to proceed. We ask the House Judiciary Committee to heed the voices of the American people and immigrant communities who have made clear that they want Congress to enact the kinds of laws that are needed to bring about real, fair and just reform that fixes what is broken, respects the rights and dignity of all immigrants and their families, and grounds the use of government resources in 21st century realities.

The following snapshots of the draconian measures contained in the Gowdy Bill make clear that its punitive, worn-out provisions would be wasteful, ineffective and bring about further deformation, not reformation of our immigration system:

- **Results in the “Arizonification” of all states by turning state and local law enforcement officers into immigration police.** The bill contains several provisions which promote and nearly mandate racial profiling. Allowing local law enforcement to enforce federal immigration with the same authority as though they were ICE agents, will surely result in racial profiling and violations of constitutional rights.

- **Undermines public safety and community trust by shifting necessary law enforcement resources away from their core mission of protecting and serving our communities to rounding up suspected immigrants for deportation.** Effective law enforcement is premised on community trust, where the community reports and cooperates with local law enforcement. As current practice has already demonstrated, turning local police officers into ICE agents results in scared, uncooperative communities.
- **Diverts scarce public resources and straps state and local governments with costly burdens of enforcing immigration laws.** The bill's attempts to fund this grafting of local law enforcement into the immigration enforcement system fall far short. Already struggling local governments will face crushing financial burdens as they are usurped into mandatorily participating in this draconian scheme.
- **Overburdens an immigration court system that is already in crisis.** In addition to ensuring that more immigrants are unnecessarily funneled into the deportation system, this bill eliminates bedrock legal procedures that will result in more cumbersome legal proceedings, further weighing down immigration judges and their caseloads. Immigration judges already have severe limitations on their power to consider granting a pardon from deportation based on family hardship and other factors. This bill extends those limitations to refugees and asylum seekers facing deportation.
- **Flies in the face of the Constitution and the U.S. Supreme Court by barring immigration judges and immigration law enforcement from recognizing decisions overturning an immigrant's conviction where it was obtained on the basis of bad advice from their defense attorney.** Our Constitution and laws attempt to ensure that people are not wrongly convicted of crimes because of their lawyer's mistakes. When they are, these convictions can and should be overturned. This bill would permit noncitizens to still be deported or denied lawful status based on the conviction, even where it was overturned.
- **Unnecessarily expands the scope of criminal convictions for which a noncitizen can be deported to include minor misdemeanors from long ago.** The current immigration law already has in place insurmountable barriers that prevent many individuals from obtaining legal status or strips them of legal status they already have for broad categories of criminal offenses. These categories include minor offenses, mistakes that occurred years ago, and offenses for which they have already been held accountable. This bill will add additional overlapping offenses to an already overly broad list, making individuals ineligible for legal status and subject to deportation.