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MEMBERS OF  
ASIAN AMERICAN CENTER  
FOR ADVANCING JUSTICE

MEETING THE  
CHALLENGE:

# National Platform for Advancing Justice

Policy Priorities & Recommendations for  
Achieving Equity, Equality, and Justice in  
Asian American & Pacific Islander Communities

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## Foreword

In deepening our affiliation and coming together to form Asian American Center for Advancing Justice, we at the Asian American Justice Center, the Asian Law Caucus, the Asian American Institute, and the Asian Pacific American Legal Center of Southern California are building a more powerful and unified voice for Asian Americans and Pacific Islanders (AAPIs) who are deeply committed to the cause of civil and human rights.

All four of our organizations are well known for our individual work over the past several decades. But the world is rapidly changing so we seek to ensure that we are ready to tackle the challenges and seize opportunities that come with such profound change. Transformation of this kind is not easy, but we share a vision of a just and equitable society. This *National Platform for Advancing Justice* is a road map for advancing us towards that shared vision. It embodies our principles and our approach to social justice. It is the basis on which we will build campaigns to eliminate the barriers and challenge the discrimination that keeps our nation from fully living up to its highest ideals.

This *National Platform for Advancing Justice* is not intended to be comprehensive of all of the issues facing AAPI communities or all of the possible solutions. Instead, the *National Platform* seeks to highlight major issues being addressed by Asian American Center for Advancing Justice along with key policy recommendations. Our work to advance justice will continue to develop to reflect economic, political and cultural shifts with changes in the economy, political system, and larger American society. Ultimately this is a living document that guides us but also evolves with us.

We would like to thank Rini Chakraborty for helping us draft this joint platform. We would also like to acknowledge THE WALLACE ALEXANDER GERBODE FOUNDATION for providing funding to create and produce this platform. Finally, we deeply appreciate the staffs and boards of our four organizations for their patience, their commitment, and their hard work in meeting the challenge that is inherent in any major transformation such as this one.

In justice and unity,



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## Introduction

Asian Americans and Pacific Islanders (AAPI) are among the fastest growing populations in the country. Originating from nearly 50 countries and speaking more than 100 languages and major dialects, AAPIs are among the most diverse racial groups in the United States. AAPIs are richly diverse in everything from culture, language, and religion to politics and socioeconomic characteristics.

Despite the rapid growth and increasing prominence of AAPI communities across the country, Asian Americans and Pacific Islanders continue to be stereotyped, misunderstood, and marginalized by the broader society. The persistent stereotype of Asian Americans and Pacific Islanders as successful “model minorities” masks significant disparities and inequities within AAPI communities. Many Asian American and Pacific Islander ethnic groups are among the most economically disadvantaged Americans, yet their unique economic and social needs are frequently overlooked by policymakers. Misperceptions of Asian Americans and Pacific Islanders as “perpetual foreigners” who are incapable of adopting the values and beliefs of American culture have fueled widespread discrimination and even violence against AAPI individuals. When Asian Americans and Pacific Islanders are not stereotyped in the media or public discourse, they are otherwise forgotten as the invisible minority and excluded from polling, academic research, and public policy debates.

The *National Platform for Advancing Justice* seeks to elevate the concerns and needs of Asian American and Pacific Islander communities in the United States. It articulates long-term priorities and public policy recommendations for promoting the strength, vitality, and inclusion of this growing population.

The *National Platform* is proudly presented by the Asian American Center for Advancing Justice, an alliance among four of the leading Asian American civil and human rights organizations in the country. Our mission is to promote a fair and equitable society for all by working for civil and human rights and empowering Asian Americans and Pacific Islanders and other underserved communities.

Each of the four groups – the Asian American Institute in Chicago; the Asian American Justice Center<sup>1</sup> in Washington, DC; the Asian Law Caucus in San Francisco; and the Asian Pacific American Legal Center in Los Angeles – has a long and distinguished history of advancing the civil and human rights of AAPI communities. Central to the Center for Advancing Justice’s work is building progressive alliances across racial, ethnic, gender, sexual orientation, class, and other lines to achieve justice and equality for all Americans.

The *National Platform* addresses many of the most salient issues affecting the lives of Asian Americans and Pacific Islanders:

**CHAPTER I** provides a brief demographic overview of Asian American and Pacific Islander communities in the U.S. The AAPI community is characterized by rapid growth, increased ethnic diversity, and startling contrasts in socioeconomic characteristics. While certain segments of the AAPI community have achieved significant economic success, large parts of the population live in poverty, face challenges learning English, and are among the most economically disadvantaged Americans. Given the rapid growth of AAPI communities across the country, policymakers, government agencies, and other institutions must develop a deeper understanding of the Asian American and Pacific Islander population in their local communities. Because AAPI communities encompass a wide spectrum of socioeconomic conditions, a key recommendation is to disaggregate data by ethnicity in order to address the unique needs of specific AAPI groups more effectively.

**CHAPTER II** highlights the primary vehicles for promoting the full participation of Asian Americans and Pacific Islanders in civil society and the political process. A growing number of Asian Americans and Pacific Islanders are becoming U.S. citizens, voting, serving on local commissions and boards, running for office, supporting political campaigns, and organizing within their local communities. Yet many AAPI individuals, particularly those who are low-income or limited English proficient, still face significant hurdles that hamper their political participation

and civic engagement. Promoting citizenship, increasing Census participation, guaranteeing equal access to voting, and increasing voter turnout within AAPI communities are key recommendations in this chapter for boosting the civic and political participation of Asian Americans and Pacific Islanders.

**CHAPTER III** addresses the most salient social justice issues facing AAPI communities today. Asian Americans and Pacific Islanders have faced a long history of discrimination and exclusion in the U.S., from immigration restrictions and employment discrimination, to hate-based violence and laws banning interracial marriage. Although AAPI communities have made great strides in fulfilling the promise of our nation’s civil rights laws, the fight for equality and justice for all Americans is far from over, just as AAPIs also face challenges in how we are defined and perceived publicly. Key recommendations in this chapter include: banning racial and ethnic profiling by law enforcement officials; preventing and addressing hate-based violence; ensuring equal opportunity in workplaces, public contracting, and education; ending discrimination against lesbian, gay, bisexual, and transgender Americans; promoting Native Hawaiian self-determination, promoting access to broadband technology; and increasing diversity in television and the media.

**CHAPTER IV** presents an overview of language challenges for immigrants. Because the majority of Asian Americans are foreign-born and over one in three Asian Americans and Pacific Islanders are limited English proficient, developing English language skills and overcoming language barriers are especially high priorities in AAPI communities. Helping immigrants learn English is essential for newcomers to succeed in school, gain meaningful employment, attain economic self-sufficiency, and fully contribute to the communities in which they settle. At the same time, foreign-born Asian Americans and Pacific Islanders, especially those who are low-income, need help accessing basic government services in a language they understand. This chapter includes the following recommendations: addressing the educational needs of children who are English language learners; improving workforce development programs for adults who are not fluent in English; and ensuring meaningful access to government programs and services for limited English proficient individuals.

**CHAPTER V** covers immigration laws and policies affecting Asian Americans and Pacific Islanders today. With AAPI immigrants composing roughly 40 percent of all immigrants in the U.S., comprehensive immigration reform and the national immigration debate are critical public policy issues affecting AAPI communities. This chapter includes recommendations for reforming the broken immigration system, including the need to reaffirm the importance of family unity, provide a path to legalization for undocumented immigrants, and address the plight of undocumented students, bi-national same-sex couples, Filipino veterans, workers, and immigrant women. This chapter also addresses the dramatic escalation of immigration enforcement and recommends curtailing immigration enforcement by state and local police; redirecting the focus of worksite enforcement efforts to unscrupulous employers who violate labor laws; restoring judicial discretion, fairness, and due process in immigration hearings; and overhauling the immigration detention system.

**CHAPTER VI** provides an overview of core economic justice issues affecting AAPI communities. Many Asian Americans and Pacific Islanders are unable to access good jobs, quality health care, and affordable housing due to limited English skills or immigration status. As a result, a large segment of the AAPI population suffers from poor health outcomes, substandard housing, and economic instability. Recommendations in this chapter include: protecting the rights of all workers, regardless of their immigration status; ensuring access to quality, affordable health care; and expanding affordable housing and homeownership opportunities for AAPI families.

Across the country, Asian Americans and Pacific Islanders are making a positive impact in their local communities. AAPI communities are contributing to the US economy by starting businesses, generating jobs, and stimulating economic growth through increased consumer spending. At the same time, Asian Americans and Pacific Islanders face significant hurdles to actualizing their American dreams. We hope that the *National Platform* will enable policymakers, government agencies, and public institutions to better understand and address the needs of this growing population.

## CHAPTER ONE

# Asian Americans & Pacific Islanders: A Demographic Overview

Asian Americans and Pacific Islanders are a fast-growing population.<sup>2</sup> From 1990 to 2000, the Asian American population grew as much as 72 percent and the Pacific Islander community as much as 140 percent.<sup>3</sup> Today, there are roughly 15.5 million Asian Americans and 1.1 million Pacific Islanders in the U.S., composing 5 percent of the population.<sup>4</sup> By 2050, the AAPI population is projected to grow to 40.6 million, or 9 percent of the population.<sup>5</sup> The growth has been dramatic not only in states with traditionally large and well-established AAPI communities, such as California, Hawai'i, and New York, but has spread to new states, including Georgia, Minnesota, Nevada, Texas, and Washington.

Asian Americans and Pacific Islanders are also among this country's most diverse racial groups, each possessing its own language, culture, and history. This richness creates a community of striking social, cultural, political, and socio-economic diversity, which makes breaking down data by ethnicity essential to addressing each group's unique challenges. Policymakers, government agencies, and other institutions must develop a deeper understanding of their local AAPI communities.

## Income & Poverty

While Asian Americans and Pacific Islanders as a group have incomes above the national average,<sup>6</sup> data broken down by ethnicity reveal stark disparities among AAPI ethnic groups.

AAPI groups are among those who have the highest and lowest levels of income in the country. For example, per capita income for Native Hawaiians and Pacific Islanders is substantially lower than that of AAPIs as a whole.<sup>7</sup> Five AAPI ethnic groups have per capita incomes higher than the overall population: Asian Indians, Japanese, Chinese, Filipinos, and Koreans. In stark contrast, nine AAPI groups have per capita incomes below the national average: Hmong, Cambodians, Bangladeshis, Samoans, Laotians, Guamanians or Chamorros, Vietnamese, Pakistanis, and Thais. Moreover, Hmong and Cambodians have per capita incomes below that of *all* of major racial or ethnic groups.

Contrary to the widely held stereotype that AAPIs are “model minorities,” many live in poverty. More than one in 10 Asian Americans and one in six Pacific Islanders live in poverty.<sup>8</sup> Seven Asian American and Pacific Islander ethnic groups have poverty rates above the national average: Hmong, Cambodians, Pakistanis, Bangladeshis, Thais, Koreans, and Samoans.<sup>9</sup>

Poverty rates are particularly acute among refugees from Southeast Asia. More than one in five Cambodians and more than one in four Hmong live below the poverty line;<sup>10</sup> the rate for Hmong is higher than that of any major racial or ethnic group. With little or no formal education and very limited English skills, many Southeast Asian refugees begin their American lives with few opportunities to improve their economic situation.

With income inequalities widening in the U.S., low-income Asian Americans and Pacific Islanders face even greater challenges to achieving economic stability. Access to better jobs, higher education, quality health care, and affordable housing are critical to addressing these disparities.

## English Language Learners

While the majority of Asian Americans and Pacific Islanders speak English, more than 4.5 million are learning English. More than one in three (36 percent) Asian Americans and one in seven (14 percent) Pacific Islanders have some difficulty speaking English and are considered “limited English proficient” (LEP).<sup>11</sup>

For some groups, nearly half the population has difficulty speaking English. The following percentages, broken down by ethnicity, say they speak English “less than very well:” Vietnamese, 53 percent; Cambodians, 48 percent; Chinese, 47 percent; Koreans, 47 percent; Laotians, 46 percent; Hmong, 44 percent; Thais, 44 percent; and Bangladeshis, 44 percent. More than a fifth of the Pakistani, Japanese, Filipino, and Asian Indian populations are not fluent in English.

Additionally, nearly 1.9 million AAPI adults live in “linguistically isolated” households, meaning no one older than 14 speaks English without some difficulty.<sup>12</sup> Significantly, more Asian-American households are linguistically isolated than those of other minorities.<sup>13</sup>

Because nearly two-thirds of Asian Americans and Pacific Islanders were born abroad, learning English and overcoming language barriers are especially high priorities in AAPI communities. Without language assistance and opportunities to learn English, LEP individuals are denied educational and employment opportunities, meaningful access to health care and vital services, and the ability to integrate with the broader community. Helping newcomers learn English is essential for Asian Americans and Pacific Islanders to achieve economic self sufficiency and thrive in American society.

## Immigration

Immigration has fueled the rapid growth of the Asian American and Pacific Islander population. The abolition of discriminatory, race-based immigration quotas in 1965 enabled newer generations of Asians to immigrate. In addition, U.S. involvement in the Vietnam War and other conflicts in Southeast Asia displaced millions of refugees, many of whom settled in this country. The growth of the high-tech industry has attracted hundreds of thousands more from countries such as India and China.

Given these factors, a disproportionate number of the AAPI population is foreign born and, at 67 percent, more AAPIs are foreign born than any other group. Furthermore, an estimated 980,000 undocumented immigrants originating from Asian countries live in the U.S.: 270,000 from the Philippines; 200,000 from Korea; 200,000 from India; and 120,000 from China.<sup>14</sup> Within the Pacific Islander community, many are U.S. nationals but nearly a quarter are foreign born and share many of the challenges faced by other immigrants.<sup>15</sup>

With Asian immigrants composing roughly 40 percent of all immigrants, comprehensive immigration reform is a top priority for the AAPI community.

## Citizenship

Contrary to persistent stereotypes of Asian Americans and Pacific Islanders as “perpetual foreigners,” most AAPI immigrants possess a strong desire to become citizens and fully integrate into American society.

Asian Americans and Pacific Islanders have higher naturalization rates than most other immigrant groups. More than half of Asian American immigrants and more than a third of Pacific Islanders have become citizens, compared to 43 percent of all immigrant groups.<sup>16</sup> Naturalization rates are particularly high among Vietnamese (72 percent), Filipino (63 percent), Laotian (63 percent), Cambodian (62 percent), and Chinese (60 percent) immigrants.

However, more than 3.8 million Asian Americans and more than 60,000 Pacific Islanders are not citizens because of language barriers, bureaucratic backlogs, delays, and other obstacles. More English classes, citizenship assistance, voter registration, and get-out-the-vote efforts are needed so that AAPI immigrants can become citizens and participate fully in American society.

## Economic Contributions

Asian Americans and Pacific Islanders make significant economic contributions by starting businesses, creating jobs, and consumer spending.<sup>17</sup>

Asian American and Pacific Islander entrepreneurs own more than 1 million businesses nationwide — 5 percent of all business and 10 percent of all new businesses created between 1997 and 2002.<sup>18</sup> AAPI businesses have created *more than 2.2 million jobs*. Of the estimated 319,468 AAPI-owned businesses with paid employees, their receipts total more than \$291 billion.<sup>19</sup>

In addition, the buying power of Asian Americans and Pacific Islanders tripled during the ‘90s. According to the Selig Center for Economic Growth, the buying power of AAPI communities increased from \$116 billion in 1990 to \$363 billion in 2004.<sup>20</sup> That buying power is growing fastest in Nevada (1,020 percent increase), North Carolina (730 percent increase), and Georgia (699 percent increase).<sup>21</sup>

Both private and public institutions should remove discriminatory barriers and create programs and policies supporting AAPI entrepreneurs and workers alike so they can contribute fully to our economy.

## CHAPTER TWO

# Democracy: Fulfilling the Promise of Democracy for Asian Americans & Pacific Islanders

A growing number of Asian Americans and Pacific Islanders are becoming citizens, voting, serving on local commissions and boards, running for office, supporting political campaigns, and organizing within their communities. Yet significant hurdles hindering their full political participation and civic engagement remain. The explosive growth in the AAPI population has not been met with a proportionate increase in political representation. Civic and political participation is critical to meaningfully addressing major community issues such as immigration backlogs, language barriers, and racial discrimination. This chapter is divided into four sections: naturalization; Census participation; voting rights; and voter empowerment.



## Naturalization

Despite relatively high rates of naturalization among AAPIs, a sizeable number of Asian Americans encounter hefty fees and bureaucratic roadblocks in their quest to attaining citizenship.<sup>22</sup> The redesigned naturalization exam and steady hike in citizenship fees have been particularly burdensome to a large percentage of AAPI immigrants who have difficulty speaking English and/or low-income.



Justice In Action

In 2007, ALC joined with the ACLU of Northern California, ACLU Immigrant Rights Program and the Council on American-Islamic Relations San Francisco challenge the lengthy delays faced by immigrants seeking to become citizens. The delays were because of FBI “name checks” that searched vast national security digital archives for anyone with an identical or similar name and flagged any record that appeared to match. Once the database made a possible match, a government employee had to determine whether the negative record actually related to the naturalization applicant, a process that could take years and very rarely resulted in a confirmed match. The name check delays particularly affected the Chinese American and the Muslim American communities. While federal law requires a decision on naturalization applications within 120 days of the applicant’s interview, many of ALC’s clients were forced to wait years only to be told that the database “match” had been determined not to relate to them.

In published reports, plaintiff Alia Ahmadi stated, “I am so thankful to the United States for giving us a place to live. We built our home here. I have all my children and grandchildren here. My husband is buried here. This is a democratic country, a free country, and all I want is to become a citizen of this country, my home.” Ahmadi waited through five years of bureaucratic delays in the name of national security.

Since the filing of this lawsuit in Northern California and others across the country, U.S. Citizenship and Immigration Services (USCIS) has drastically improved the processing time for name checks stemming from naturalization applications.

The new naturalization test, which was implemented in October 2008, includes many difficult questions and poses challenges for seniors and applicants with limited English skills. Prospective applicants often have difficulty finding adult English Language Learner (ELL) and civics classes that are accessible or offered at a time they can attend. Applicants who are unable to learn English and/or civics due to a disability or impairment may ask to be excused from these requirements by having a medical professional file a “disability waiver” request. Immigration officers, however, often demand more information and supporting documentation than may be reasonably required, resulting in processing delays, application denials, and undue frustration to applicants, their families, and their doctors.

In addition, exorbitant fee hikes for naturalization and various immigration benefits have placed a nearly insurmountable obstacle in the path of hardworking AAPI families with limited financial resources. The U.S. Citizenship and Immigration Services (USCIS) has raised fees for naturalization seven times since the 1988 law established that immigration applications should be funded by user fees. The fee for an adult citizenship applicant was set at \$60 in 1989 and raised to \$90 in 1991, \$95 in 1994, \$225 in 1999, \$260 in 2002, \$320 in 2003, \$330 in 2005, and \$675 in 2007.<sup>23</sup>

The latest increase in citizenship application fees is part of massive fee hikes adopted by USCIS in July 2007 for all immigration and naturalization applicants. Applications for green cards and other immigration benefits dropped off sharply after the 2007 fee increases because many low-income immigrants could no longer afford to apply. With the exponential increases in citizenship application fees over the past several years, wealth has become a *de facto* naturalization requirement that many low-income immigrants and their families are unable to meet.

Asian Americans and Pacific Islanders seeking to become U.S. citizens are ready to pledge their allegiance to this country and participate fully in American society as citizens. Decreasing barriers to naturalization and extending a strong welcome to immigrants ensure that citizenship is an attainable goal for immigrants seeking full inclusion in American society.

### Policy Recommendations:

#### **Ensure sufficient funding for USCIS to process citizenship applications expeditiously and to make naturalization and immigration fees affordable.**

As an alternative to raising application fees, Congress should provide USCIS with adequate resources to process naturalization and immigration applications in a timely fashion and to relieve immigrants of the responsibility for funding the full range of USCIS duties and overhead costs. Because U.S. citizenship is the cornerstone for participation in our democracy, it should not be effectively denied to low-income immigrants who must choose between daily necessities and extraordinarily high fees to become U.S. citizens. USCIS should also provide an open and effective process by which to address general fee waiver requests.

#### **Support community-based programs that provide citizenship outreach, education, and assistance and facilitate immigrants’ ability to become U.S. citizens.**

These programs are essential for promoting citizenship, helping eligible immigrants navigate the increasingly complex citizenship process, and encouraging broader civic participation among AAPI communities.

#### **Provide training, support, and resources that USCIS officers need to ensure proper consideration of disability waiver requests.**

USCIS officers should be prepared to fairly review and approve disability waiver requests that are completed as required and clearly show the applicant’s eligibility for the waiver without second-guessing the doctor’s responses or requiring additional unnecessary documentation.

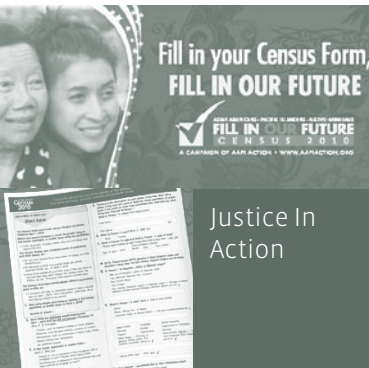
## Census

As part of the decennial census, the U.S. Census Bureau counts each and every person living in the United States every 10 years. The data collected by the U.S. Census Bureau is used to determine the apportionment of Congressional seats, redistricting, and the distribution of more than \$440 billion in federal funding per year for education, public health, transportation, and much more.<sup>24</sup> In addition, census demographic information is utilized for a wide variety of other significant purposes – from enforcing civil rights laws and addressing language barriers; to providing education, job training, health care, and housing assistance in local communities. Asian Americans and Pacific Islanders have a particular stake in participating in census surveys because the Census Bureau is one of the few entities that collects and reports quality data about AAPI communities disaggregated by ethnicity.

Since it began providing measurements on the undercounts for Latinos, Asian Americans, American Indians, and Alaska Natives, the U.S. Census Bureau has found that the undercount rates for AAPI communities along with other communities of color are disproportionately higher than for the overall population.<sup>25</sup> The undercounts can result in the unequal distribution of federal and state funds, often to the detriment of communities who are most in need of government programs and services.

With assistance from organizations like members of the Asian American Center for Advancing Justice, the Census Bureau has started to target its outreach and advertising to various AAPI ethnic groups and improve its count of the overall American population starting with the Census 2000 campaign. Despite these improvements, however, AAPI communities and other communities of color continue to suffer from higher undercounts due to a number of linguistic and socioeconomic barriers.<sup>26</sup>

Because more than one in three Asian Americans and Pacific Islanders are not fluent in English, the lack of translated materials and in-language assistance poses a major barrier for many AAPI households to participate in the census. Even when the Census Bureau provides translated questionnaires,



As an appointed member of the U.S. Secretary of Commerce's 2010 Census Advisory Committee, AAJC has been a major voice in census policy and community outreach. AAJC's work has led to improving outreach to Asian Americans, Pacific Islanders, and Native Hawaiians, particularly those who are limited English proficient - the people who stand to lose the most if they are not accurately counted.

In 2009, AAJC, Asian American Federation, Asian American Institute, the Asian Pacific American Legal Center, and the Asian Pacific Fund launched the *Fill in Our Future* campaign focused on pursuing a fairer and accurate census count of Asian Americans and Pacific Islanders in the 2010 census. The campaign worked to decrease the chances of AAPI communities being undercounted during the 2010 census.

The *Fill in Our Future* campaign included an online resource center, [www.fillinourfuture.org](http://www.fillinourfuture.org), which provides census information in 25 languages. This resource center served as a central location so that communities across the country could readily access, download, and use the information for educational outreach on the census, as well as reduce duplication of efforts.

AAJC and its *Fill in Our Future* partners also coordinated a network of more than 50 organizations to ensure that outreach and educational efforts were conducted at the national and local levels to maximize the number of Asian Americans, Pacific Islanders, and Native Hawaiians reached through materials dissemination, workshops and trainings, and technical assistance.

language assistance guides, and in-language assistance to certain AAPI communities, it fails to cover an adequate number of AAPI languages and ethnic groups. For example, while the 2000 campaign targeted AAPI groups with the highest number of limited English proficient (LEP) individuals, it left out smaller ethnic groups who have the highest rates of limited English proficiency and linguistic isolation of any racial or ethnic group.

Another barrier to participation is concerns around the security and confidentiality of census data. In an age of burgeoning identity theft, individuals are reluctant to voluntarily provide personal information to the government. Combined with the disclosure that the Census Bureau turned over confidential information about Japanese Americans during World War II,<sup>27</sup> many persons of color are increasingly wary of providing even the most basic information to the government. Moreover, high-profile immigration raids, post-9/11 dragnets, and anti-immigrant rhetoric have led many within AAPI communities and other immigrant communities to fear that responding to the census questionnaire will leave them vulnerable to government scrutiny and possibly deportation. A significant number of individuals living in mixed status households, where family members have varying citizenship and immigration statuses, have been discouraged from participating in the census altogether. Finally, in part due to the fact that AAPI communities are more than a majority foreign-born, there is simply a lack of knowledge and understanding about what the census is and why it is important. This lack of knowledge combined with existing fears discourages participation by many in the AAPI community.

Similar barriers exist with the American Community Survey (ACS), which has replaced the long form of the decennial census and provides communities with critical demographic, social, economic, and housing information on an annual basis instead of once every 10 years. Despite its importance, however, the ACS does not include a comprehensive Asian or Pacific Islander language program to facilitate responses from hard-to-reach AAPI populations. Without a strong and aggressive language assistance program in AAPI languages, the quality of the ACS data runs the risk of being inferior to that of past decennial long forms. If the Census Bureau fails to convince Asian Americans and Pacific Islanders who are not fluent in English to respond to the ACS, an undercount may result in many AAPI voters not receiving the language assistance they are otherwise entitled to receive under Section

203 of the Voting Rights Act.<sup>28</sup> As a result, AAPI civic engagement could suffer from lower levels of voter registration and turnout without in-language assistance.

Complete and accurate census data is critical for ensuring Asian Americans and Pacific Islanders access to critical services, civil rights protections, and political representation. With the rapid growth of AAPI communities across the country and increasing ethnic diversity of the AAPI population in the U.S., the Census Bureau must continue to address unique barriers to participation amongst hard-to-reach communities in order to achieve the most accurate snapshot of the U.S. population.

Beyond the U.S. Census, state and local (city, county) agencies also collect a great deal of critical socioeconomic and other data (e.g., health care, education, housing, job training, etc.) and the vast majority of this data is not disaggregated by AAPI ethnic groups. Since state and local agencies may collect data more frequently than the Census Bureau or track other data not included in the Census or ACS, the need for disaggregated AAPI data extends to the local level as well. Without this data, it is extremely difficult for policymakers to fully understand or address the needs of AAPI subgroups, like Hmong refugees who often lack literacy in both their native language and English or Korean Americans who lack insurance at higher rates than other Asian American groups.

#### Policy Recommendations:

**Provide translated materials and language assistance to Asian American and Pacific Islander communities for all Census Bureau surveys, including the decennial census and the ACS.** The Census Bureau must address linguistic barriers that prevent the full participation of AAPI communities in census surveys. This is particularly true of the annual ACS. Because federal, state, and local lawmakers rely on ACS data for planning, policy development, program evaluations, and the allocation of funds, it is important that the ACS captures data for hard-to-count communities and provides an accurate portrait of growing AAPI communities.

The Census Bureau must integrate language access into all components of its surveys. A comprehensive language assistance program should include: providing translated questionnaires, language assistance guides, and other materials; hiring a sufficient number of bilingual staff, telephone operators, and interviewers; developing a glossary of terms and concepts in various languages; and targeting language minority communities through paid advertising campaigns. In addition, the Census Bureau should expand their primary language assistance to more than a handful of languages because language assistance is critical to getting LEP individuals to respond to census surveys.

**Establish meaningful partnerships with community leaders in AAPI communities and other hard-to-reach communities in order to reach every U.S. resident and ensure a more accurate count in 2020.** To ensure an accurate census in 2020, the Census Bureau should prioritize outreach and partnership programs to communities of color and other hard-to-

count communities through every stage of the planning process. Leveraging the support, insight, and relationships of trusted community leaders is imperative to reaching traditionally undercounted communities, determining cultural and linguistic barriers in local communities, and achieving a more accurate count of the U.S. population.

In addition, the Census Bureau should continue to collaborate with the network of AAPI community leaders and other community based groups it convened for the 2010 Census in order to seek input and guidance on reaching AAPI communities through the American Community Survey.

**Collect and report disaggregated data for specific AAPI ethnic groups, at all levels.** Because AAPI communities encompass a wide array of socioeconomic conditions, disaggregating data by ethnicity is essential for addressing the unique needs and challenges of specific AAPI groups. Quality, detailed data on AAPI subgroups is critical for government agencies, research organizations, and academics to analyze and report on AAPI populations. While the U.S. Census collects and provides detailed ethnic-specific data, the majority of state and local agencies and other institutions, such as county health departments or school districts, do not.

**Protect the privacy and confidentiality of personal information provided to the U.S. Census Bureau.** Maintaining the Census Bureau's strict confidentiality obligations and guarding against government misuse of census information are essential for increasing the public's trust and willingness to participate in future census surveys.



## Voting Rights

The right to vote is a cornerstone of American democracy. Since the passage of the Voting Rights Act in 1965 and subsequent adoption of Section 203 in 1975, an increasing number of Asian Americans and Pacific Islanders have been casting ballots in national, state, and local elections and exercising their rights and responsibilities as U.S. citizens.

Although decades of struggle have achieved voting rights for many, AAPI citizens continue to experience significant discrimination at the polls and innumerable barriers that effectively disenfranchise certain communities. Poll monitoring efforts by members of the Asian American Center for Advancing Justice have documented incidents of voter intimidation and harassment against AAPI voters, many of whom are newer citizens or limited English proficient.<sup>29</sup> Asian American, Pacific Islander, and Latino voters across the country are often singled out for discrimination because of “foreign-sounding names” or “foreign appearances”<sup>30</sup> and subjected to selective challenges based on their race or ethnicity,<sup>31</sup> inappropriate requests for passports or citizenship papers,<sup>32</sup> and the denial of provisional ballots by poll workers.<sup>33</sup>

A number of federal and state laws provide U.S. citizens who are not yet fluent in English with the opportunity to be informed voters and to participate effectively in the electoral process. Section 203 and Section 4(f)(4) of the Voting Rights Act, which require certain jurisdictions to provide translated written materials and other language assistance to limited English proficient voters, remain powerful tools for providing AAPI citizens with equal access to the ballot and for increasing voter participation among disenfranchised groups. Section 208 of the Voting Rights Act guarantees voters with limited English skills or disabilities the right to be assisted and accompanied by persons of their choice at the voting booth. In addition, certain states have enacted laws that supplement the language assistance provisions of the Voting Rights Act.<sup>34</sup> When these laws are properly implemented, AAPI voter registration and voter participation increase significantly in covered jurisdictions.<sup>35</sup>

Despite these laws, jurisdictions frequently fall short in their legal obligations to provide language assistance and language minorities are effectively excluded from participating in the electoral process. This includes systemic failures by election administrators to comply with Section 203 such as the failure by election officials in Harris County, Texas to provide Vietnamese language ballots.<sup>36</sup> Members of the Asian American Center for Advancing Justice have also found overwhelming evidence of poll worker reluctance to properly implement Section 203 as well as outright hostility toward AAPI voters who are not fluent in English. Many poll workers refuse to offer language assistance even when mandated by law, such as providing translated materials and allowing voters with limited English to bring an assistor of choice into the voting booth. Language minority voters experience discrimination by poll workers or even other voters, who degrade them, use racial slurs when speaking to them, challenge their right to vote, or refuse to assist them.<sup>37</sup> When they are denied needed assistance, they either have trouble voting or leave without casting their vote.

Moreover, a number of states have enacted photo identification requirements, which disproportionately disenfranchise people of color, seniors, persons with disabilities, rural and Native voters, young people, low-income individuals, homeless people, and others who are far less likely to carry a photo ID. Eight states have already passed laws that require some form of photo identification in order to vote.<sup>38</sup> These voter ID requirements threaten the ability of every eligible American to vote by investing poll workers with absolute power to decide whether or not to accept the ID provided and by giving poll workers a license to discriminate against Asian Americans, Pacific Islanders, and other minority voters.

Voting discrimination, language barriers, and voter ID requirements have contributed to low voter participation rates in AAPI communities and other communities of color, particularly in those communities with a substantial number of new citizens. For example, despite record voter turnout in the November 2008 Presidential Elections,<sup>39</sup> voter participation rates among Asian American voting-age U.S. citizens (47.6 percent) and Latino voting-age U.S. citizens (49.9 percent) lagged behind the percentage of eligible white voters (64.4 percent) who participated in the 2008 election.<sup>40</sup> Even in jurisdictions where they comprise substantial portions of the population, AAPI and other communities of color lag significantly in voting participation. For example, in California communities of color make up more than half of the state’s population but only 3 out of 10 likely voters.<sup>41</sup>

Redistricting can also pose a challenge for AAPI communities and other communities of color to participate meaningfully in elections and elect candidates of their choice.<sup>42</sup> Historically, racial and linguistic minority voters have been deprived of political power when cities, counties, and states draw district lines in a way that divide communities and weaken the ability of minority voters to elect the candidates of their choice. Vote dilution most commonly occurs when those who draw redistricting plans cripple the voting power of AAPI communities and other communities of color by either “splitting” communities of color into multiple districts or “packing” communities into a small number of districts when such communities are large enough to have strong representation in more than one district.

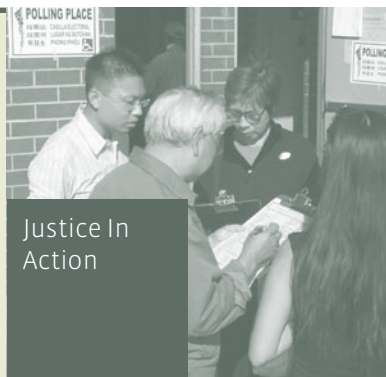
The quality, integrity, and legitimacy of the U.S. political system depends on guaranteeing every citizen meaningful access to the ballot box. Ensuring the full participation of all eligible voters in the electoral process is critical for giving Asian American and Pacific Islander citizens the power to influence policies that impact their communities and for fulfilling the promise of America’s multi-ethnic democracy.

Only within the last 50 years have the last of the citizenship restrictions against Asian Americans and Pacific Islanders been lifted, finally giving all AAPI adults the right to become citizens and to vote. However, Asian Americans and Pacific Islanders continue to face significant discrimination at the polls when attempting to vote, including hostile poll workers and outright challenges to their right to vote based on race.

The Voting Rights Act of 1965 (VRA) is designed to combat voting discrimination and to break down language barriers to ensure that all Americans can vote. Three key provisions were set to expire in 2007, including Section 203 which requires certain jurisdictions provide language assistance to voters. Because the VRA is so important to the AAPI community, members of the Center for Advancing Justice worked together with other leading civil rights organizations to reauthorize the VRA.

AAJC helped lead a coalition of the nation’s leading civil rights organizations to educate the general public and policymakers on discrimination still experienced by African Americans, Asian Americans, Latinos, and Native American voters. The regional Center for Advancing Justice members provided testimony at the National Voting Rights Act Commission field hearings, AAJC testified before Congress in support of the reauthorization of the VRA. To complement the policy work, the Center for Advancing Justice members worked to educate and mobilize the community to speak up for the Voting Rights Act.

All the hard work paid off with the reauthorization of the Voting Rights Act in 2006 for another 25 years, by a vote of 390-33 in the House and 98-0 in the Senate.



Justice In Action

### Policy Recommendations:

**Combat discriminatory voting practices that deny or abridge the right of AAPI and other communities of color to vote by vigorously enforcing existing voter protection laws.** Laws such as the Voting Rights Act and Help America Vote Act have been instrumental in prohibiting electoral practices and procedures that have a discriminatory impact on persons of color, including Asian Americans and Pacific Islanders. The Department of Justice should ensure that state and local officials comply with voter protection and anti-discrimination laws, including Sections 2 and 5 of the Voting Rights Act, to ensure meaningful participation of AAPI voters in elections.

**Reduce barriers to voting for U.S. citizens who are not fluent in English by increasing both mandatory and voluntary compliance with federal and state voting language assistance laws.** Robust implementation of federal and state laws that mandate language assistance would ensure that every minority language voter has the same access as any other voter to cast a ballot and participate fully in elections.

**Strengthen implementation of Section 203 of the Voting Rights Act by neutralizing any adverse effects that inaccurate ACS data may have on Section 203 determinations for AAPI communities.** The American Community Survey (ACS) has replaced the Census decennial long form in determining which languages will be covered under Section 203.<sup>43</sup> Because the Census Bureau is not conducting the ACS in any Asian or Pacific Islander languages, however, the ACS will most likely undercount AAPI residents who are not fluent in English. As a result, AAPI populations that are currently eligible for Section 203 language assistance may no longer be eligible to receive the assistance they need to vote. In order to mitigate any negative impact from ACS undercounts, the Census Bureau should adopt a policy that allows any language minority population which falls just short of Section 203's numerical threshold for coverage to still qualify for Section 203 language assistance as long as the margin of error accounts for the difference.

**Ensure uniform and nondiscriminatory treatment of voters by putting training systems in place for poll workers and other election officials.** Many of the discriminatory practices that AAPIs and voters with limited English encounter are attributable to poorly trained and insensitive poll workers. Election officials in states and localities should work with local AAPI communities to develop comprehensive plans for recruiting and training poll workers to ensure that poll

workers are familiar with the rights of voters and know how to assist voters who have limited English skills or come from diverse cultural backgrounds. In addition, jurisdictions that are covered under Sections 203 and 208 of the Voting Rights Act should develop specific plans to recruit bilingual poll workers and target poll sites for language assistance.

**Oppose policies and practices that impose additional barriers to voting and further deter AAPI voter participation, such as onerous and unnecessary voter identification measures.** States and localities should steer clear of erecting barriers to voting which turn away eligible voters, including photo ID and proof of citizenship requirements. In addition, state and local election officials should collect and report information on the impact of identification requirements on voters, especially persons of color, persons with disabilities, seniors, young people, and the homeless. The government should be encouraging full participation of its citizenry, not devising ways to limit the right to vote.

**Ensure Asian Americans and other communities of color have an equal opportunity to influence elections and elect representatives who consider their communities' needs by guarding against the dilution of racial and ethnic minority voting strength during redistricting.** Line drawers must take into account the voting power of AAPI communities and other communities of color when drawing maps. Redistricting efforts should prioritize the protection of minority voting strength and involve close collaboration with groups that represent and serve the interests of diverse communities of color, including Asian Americans and Pacific Islanders. AAPI communities must work collaboratively with other communities of color to ensure fair representation for historically underrepresented minority communities and to propose district lines that respect minority voting power.<sup>44</sup>

After spending more than a decade developing its expertise to analyze voter data, APALC has leveraged that expertise to target get-out-the-vote efforts aimed at AAPI voters.

Starting in 2006, APALC spearheaded non-partisan efforts, working with diverse organizations and hundreds of volunteers to call AAPI voters in Los Angeles County. These efforts focused on turning out limited English speaking voters who are typically ignored by political campaigns and helping them overcome common election barriers, such as not knowing the location of their polling sites. During 2006 and 2008, APALC targeted more than 60,000 AAPI voters through phone calls and mailers. In the November 2008 presidential election, phone calls by APALC volunteers increased turnout among contacted AAPI voters by six percentage points, which is considerable given that there was already substantial interest and inclination to vote in the election even among infrequent voters. Through targeting and education AAPI voters, particularly in their native language, APALC's efforts clearly demonstrate that AAPI voters can make a critical difference, particularly in close elections.



Justice In Action

## Voter Empowerment

As one of the fastest growing segments of the electorate, Asian Americans and Pacific Islanders are playing a pivotal role in elections across the country. Between 1990 and 2000, the AAPI population more than doubled in 19 states – growing fastest in key electoral battlegrounds such as Nevada, New Hampshire, Florida, and Georgia.<sup>45</sup> Indeed, in 6 of the 9 states that went from “red” to “blue” in the 2008 presidential election (Colorado, Florida, Indiana, Nevada, New Mexico, and North Carolina), the number of AAPI and Latino voters far exceeded Barack Obama's margin of victory over his challenger.<sup>46</sup>

The rising political power of AAPI communities is underscored by the dramatic increase in the total number of AAPI voters in several states. Between 2004 and 2008, the number of AAPI voters grew from 43,000 to 136,000 in Virginia (216.3 percent); from 17,000 to 48,000 in Arizona (182.4 percent); from 18,000 to 48,000 in Colorado (166.7 percent); and from 20,000 to 51,000 in Ohio (155 percent).<sup>47</sup> In California, home to more than one-third of all Asian Americans and Pacific Islanders in the U.S., the number of AAPI voters increased by 20.7 percent – from 1.1 million voters in 2004 to 1.3 million in 2008.<sup>48</sup>

While the AAPI electorate has grown in sheer numbers and as a proportion of the overall electorate, Asian Americans and Pacific Islanders have yet to fully translate these numbers into greater political clout. For example, Asian Americans and Pacific Islanders continue to be vastly under represented in political office, with AAPIs composing less than 1 percent of the House of Representatives and 1.1 percent of state legislators in 2006.<sup>49</sup>

Moreover, AAPI registered voters participate in elections at lower rates than the general population of voters. For example, despite record voter turnout in the November 2008 Presidential elections,<sup>50</sup> voter participation rates among eligible Asian American voters (47.6 percent) lagged behind those of white voters (64.4 percent).<sup>51</sup>

A significant factor in low voter turnout in the AAPI community is that Asian Americans and Pacific Islanders face numerous barriers to casting ballots. Lack of access to translated election materials and information is a significant impediment for many AAPIs.<sup>52</sup> The Asian Pacific American Legal Center and Orange County Asian and Pacific Islander Community Alliance (OCAPICA), which have devoted significant efforts to ensuring ballot access for AAPI voters in Southern California, have documented other barriers to voting in AAPI communities, including: lack of easy-to-understand information about candidates and ballot measures; failure to receive sample ballots or statewide voter information guides; and lack of basic information about the voting process such as the location of polling sites.<sup>53</sup>

Another key component to empowering AAPI voters is ensuring an accessible voting process and system. For this reason, Congress enacted the National Voter Registration Act of 1993 (“NVRA” or “Motor Voter Act”), to make it easier for all Americans to register to vote and to maintain their registration. In addition to requiring states to allow registration when applying for a drivers’ license or social services, the NVRA created the National Mail Voter Registration Form, which can be used to register to vote, update personal information, or register with a political party. In 2010, the U.S. Election Assistance Commission translated the National Mail Voter Registration Form into Chinese, Japanese, Korean, Tagalog, and Vietnamese, making voter registration more accessible to qualified voters who understand little English. Beyond voter registration, election reform debates seek to improve the administration of elections as well as access for voters through issues such as voting systems, provisional ballots, voter challenges, same-day registration, voting machines, and poll worker training.

These barriers to voting are compounded by the fact that most political campaigns and candidates neglect voter registration targeting AAPIs, especially amongst low-propensity AAPI voters and the growing segment of AAPI voters who lack clear partisan loyalties. Although AAPI voters are more likely to be contacted by a campaign or political party than by another type of organization,<sup>54</sup> the rate of contact by political parties is noticeably less for AAPI registered voters (37 percent) than for the all registered voters (43 percent).<sup>55</sup> Because mainstream political campaigns tend to ignore AAPI voters, many AAPI voters never receive any personal contact and encouragement to vote through voter mobilization efforts.

Beyond the underrepresentation of AAPIs at the ballot box, there is insufficient data to understand who votes, why they vote, and how they vote within AAPI groups. At the national level, most voter polls survey only a handful of Asian Americans and Pacific Islanders, if at all. And because interviews are typically not conducted in AAPI languages, polls that do include AAPIs are biased toward those who are better educated, more affluent, and English proficient. While 2008 saw a step forward in surveying AAPI communities and voting (e.g., the *National Asian American Survey*), studies that explicitly survey AAPI communities are still somewhat constrained by the fact that they typically focus on just one or several cities or disproportionately sample only a few AAPI ethnic groups.<sup>56</sup>

Even so, in the few cases where AAPI voter data (including in-language data) has been captured, the data demonstrates the complexity, diversity, and potential power of AAPI voters. For example, the Asian Pacific American Legal Center has found during 15 years of exit polling in Southern California that AAPI voters buck common misperceptions. In recent years, APALC’s polling shows that record numbers of AAPIs are going to the polls,<sup>57</sup> more are registered Democrat than Republican,<sup>58</sup> and the few AAPI ethnic groups who are disproportionately registered Republican are among those most likely to support greater health care access through increasing employer-sponsored benefits.<sup>59</sup>

## Justice In Action

AAI’s Catalyst for Responsive Civic Leadership program aims to more equitably distribute resources to the AAPI community by increasing Asian American and Pacific Islander representation in the leadership of key mainstream civic institutions (nonprofit organizations, foundations, and governmental commissions) in metropolitan Chicago.

In partnership with community-based organizations and leaders, the program works on the following:

- developing an inventory of Asian American and Pacific Islander leaders;
- offering a leadership training program addressing board-related skills and AAPI community issues;
- building relationships with civic institutions to advocate for the placement of qualified candidates; and
- hosting educational roundtables with board and commission members and community leaders.

In 2008, AAI, in collaboration with the South Asian American Policy and Research Institute, released *Expanding the Circle*, a report on the status of Asian American and Pacific Islander participation in key civic institutions in metropolitan Chicago. The “Expanding the Circle” board leadership trainings involve partnerships with national and local trainers and speakers to address individual and group leadership skills, AAPI community issues, and board roles and responsibilities. To date, 28 leaders have graduated from the program, and AAI has recommended more than 25 Asian American and Pacific Islander leaders for state and city board and commission positions.

## Justice In Action

With the AAPI electorate growing at a pace surpassing that of the electorate as a whole, politicians can ill-afford to ignore the concerns of AAPI communities without paying a price at the polls. Promoting political participation within AAPI communities is critical to increasing the responsiveness of elected officials and boosting the political clout of Asian Americans and Pacific Islanders in the U.S., as is ensuring that the voting process is accessible to all AAPI voters.

### Policy Recommendations:

**Invest in voter mobilization efforts targeting Asian American and Pacific Islander communities, including AAPI voters who are not fluent in English.** Voter engagement and mobilization efforts targeting AAPI communities are critical for Asian Americans and Pacific Islanders to realize their full political power. APALC and OCAPICA have found that personally contacting and providing encouragement to AAPI voters can boost turnout rates among low-propensity AAPI voters. In the June 2008 primary election, APALC’s phone calls increased turnout by 17 percentage points and OCAPICA’s phone calls increased turnout by 11 percentage points – far in excess of the typical 3- to 4-point increase attributable to get-out-the-vote phone banks. In both cases, the turnout rate of low-propensity voters contacted by APALC and OCAPICA volunteers actually surpassed that of general population voters.<sup>60</sup> Political parties, candidates, and campaigns should provide resources to boost voter registration and turnout within this growing sector of the electorate.

**Include diverse Asian American and Pacific Islander populations in opinion polling, including pre-election surveys and exit polls.** News outlets, think tanks, and other institutions should include larger samples of diverse AAPI communities in their election surveys to better understand the voting behavior of AAPIs. Interviews should be conducted in multiple languages to capture the opinions and viewpoints of AAPI voters who are limited English proficient. In addition, resources should be invested in exit and phone polling targeting AAPI voters specifically, including message development, to help ensure inclusion of AAPI voters in voting and civic participation.

**Increase the number of qualified Asian Americans and Pacific Islanders to serve on boards and commissions.** Serving on boards and commissions is a gateway to greater civic involvement for Asian Americans and Pacific Islanders in their local communities. It provides a venue for AAPIs to participate in policy-making, especially when they are not represented in legislative bodies. It can also be an important training ground for AAPI individuals who are interested in running for elected office.

**Encourage use of the translated NVRA forms and ensure compliance with the NVRA.** Having translated NVRA forms in Asian languages will not be useful unless the forms are actually used by AAPIs to register to vote. Organizations that provide information on voting and voter registration should make sure to provide these translated forms as a resource for their constituents, regardless of whether they focus solely on serving the AAPI community. Additionally, groups should monitor whether or not states are accepting the translated NVRA forms and bring instances of rejection to the appropriate agencies and organizations, including the Justice Department and Center for Advancing Justice.

**Ensure that election reform discussions take into account the impact of any reform on all communities, including language minorities.** While there is clearly a need to improve the election system, any changes should be carefully evaluated against potential downsides or harms to AAPI voters (e.g., limited English speaking AAPI voters benefit greatly from having access to voting machines).



## CHAPTER THREE

## Achieving Equality &amp; Justice for Asian Americans &amp; Pacific Islanders

Asian Americans and Pacific Islanders have made great strides in realizing the promise of our nation’s civil rights laws. Generations of Asian Americans and Pacific Islanders have challenged discriminatory laws and policies in the courts, advocated for fundamental rights in the halls of Congress, organized within their local communities, and built bridges with diverse communities in order to achieve justice and equality for all Americans. This section provides a snapshot of the salient and wide-ranging social justice issues facing AAPI communities today: banning racial and ethnic profiling by law enforcement authorities; preventing and addressing hate violence; ensuring equal opportunity in workplaces, public contracting, and education; supporting Native Hawaiian self-determination, promoting equal rights for lesbian, gay, bisexual, and transgender Americans; ensuring services and protections for immigrant survivors of domestic violence; and promoting access to broadband technology; and increasing diversity in television and the media.

## Racial &amp; Ethnic Profiling

Racial profiling by law enforcement agencies at the federal, state, and local levels remains a rampant and egregious form of discrimination affecting the lives of millions of people in the African American, Latino, Asian American, Arab, and Muslim communities.<sup>61</sup> By scrutinizing individuals because of their race, religion, ethnicity, or national origin, racial profiling is unconstitutional, unjust, and an affront to the promise of equality before the law.

Following the tragic events of September 11, 2001, the U.S. government sanctioned the use of racial and religious profiling against Arabs, Muslims, and South Asians under the guise of national security. In the wake of 9/11, more than 80,000 men from predominantly Muslim countries were fingerprinted, photographed, and interrogated as part of the notorious special registration program called the National Security Entry-Exit Registration System, or NSEERS.<sup>62</sup> More recently, many Muslims, Arabs, and South Asians who call America home have been pulled aside by Customs and Border Patrol agents and have faced intrusive questioning, invasive searches, and lengthy detentions.<sup>63</sup> In addition, the FBI has instilled widespread fear and mistrust within Muslim communities by utilizing informants and other questionable tactics to infiltrate mosques, charities, and other places where Muslims gather.<sup>64</sup>

The problem of racial profiling is also rampant in the area of immigration enforcement. Historically, the U.S. government has enforced federal immigration laws. However, in recent years, the federal government has actively shifted the responsibility of enforcing civil immigration laws to state and local law enforcement, through formal and informal programs (such as the 287(g) program) and by putting state criminal enforcement systems at the service of civil immigration enforcement (through programs such as the Secure Communities Initiative, Criminal Alien Program (CAP), etc.). These programs, which result in sweeping and indiscriminate arrests instead of prioritizing those who pose a real danger to others, encourage racial profiling and undermine the civil rights of both immigrants and U.S. citizens.

Imam Tahir Anwar is the spiritual leader of a mosque in San Jose, California and an active participant in his community, serving as a human rights commissioner for the city of San Jose and a board member for several interfaith groups. In 2008, he was awarded a Santa Clara County “Unity in Diversity” award honoring his service. Anwar has also traveled as a guest of the U.S. State Department to speak abroad about the experiences of American Muslims. Despite Anwar’s broad civic engagement and community work, the U.S. Customs and Border Protection agency has pulled him aside a dozen times for questioning and extensive luggage searches.

On one occasion, when Anwar was returning from a conference in Europe to which he had been invited by the U.S. government, agents examined a stack of business cards he had collected from other conference participants and took them to another room, leading him to suspect that they photocopied the business cards. On other occasions, border agents searched his laptop computer and cell phone. As Anwar wrote in a letter to federal officials, he teaches moderation, respect, and partnership with government agencies to his congregation, but his experiences at the border make him question why law enforcement officers fail to accord him the same respect he urges community members to show the government.

In spring 2009, ALC issued a report that highlighted Anwar’s story and dozens like it in order to address how profiling practices by the U.S. government at our borders have undermined civil liberties and diverted law enforcement attention from those individuals who may actually present a threat. The report, “Returning Home: How U.S. Government Practices Undermine Civil Rights at Our Nation’s Doorstep,” makes key recommendations geared toward ending intrusive profiling practices targeting U.S. citizens and legal permanent residents.



These dragnet investigations have eroded local communities' basic trust in law enforcement and alienated the very communities whose cooperation is vital to intelligence gathering. Moreover, the U.S. government's policies and actions post-9/11 send the message that law enforcement is more concerned with targeting particular groups rather than promoting public safety. As long as racial profiling remains a widespread practice amongst law enforcement, national security, the rule of law, and the dignity of all Americans will be compromised.

#### Policy Recommendations:

**Pass federal legislation that would compel all law enforcement agencies to ban racial profiling at the federal, state, and local levels.** The End Racial Profiling Act would prohibit law enforcement agencies from relying on race, ethnicity, national origin, or religion in investigatory decisions. Moreover, the bill would require law enforcement agencies to collect comprehensive data on stops, searches, and arrests broken down by race and gender as a means of monitoring law enforcement practices and documenting potential violations.

**Revise the 2003 Department of Justice guidance on racial profiling to include profiling based on religion and national origin, to eliminate the border and national security loophole, and to ensure that the guidance is enforceable.** The Justice Department's *Guidance Regarding the Use of Race by Federal Law Enforcement Agencies* "does not cover profiling based on religion, religious appearance, or national origin; does not apply to state or local law enforcement agencies; does not include any enforcement mechanisms; does not specify punishment for violating officers/agencies [not in compliance]; and contains a blanket exception for 'national security' and 'border integrity' cases. [Finally,] [t]he [g]uidance is an advisory, and hence is not legally binding."<sup>65</sup> According to the ACLU and Rights Working Group, instead of curbing racial profiling, the exceptions in the guidance have actually promoted profiling and created a stronger justification for state and local law enforcement agencies to engage in racial profiling of Arab, Muslim and South Asian individuals.<sup>66</sup>

**Require enhanced data collection by state and local law enforcement agencies.** Regardless of whether there is adequate federal guidance on the matter, state and local law enforcement agencies should collect and breakdown their data on enforcement activities by the race and ethnicity of the subject, so that enforcement activities can be monitored for any pattern of racial profiling. The breakdown must include a specific

category for AAPIs to ensure there is adequate data on the impact of law enforcement activities on AAPI communities.

**Terminate programs and policies that target Arabs, Muslims, South Asians and other people of color without a concrete basis for suspicion, such as the NSEERS and 287(g) programs.** Official government programs and policies that discriminate against any racial, religious, national origin or ethnic group for surveillance are inefficient. Instead of focusing on real security threats, these types of programs misappropriate valuable resources and make our country less safe. They should be discontinued indefinitely in favor of more reliable and effective practices. In addition, the inadvertent failure by some U.S. residents to comply with the NSEERS program should no longer be a basis for denial of immigration petitions or for removal from the country.

**Ensure full compliance with international human rights treaties and norms, including the Convention on the Elimination of All Forms of Racial Discrimination.** Human rights can be a powerful framework for asserting the universal dignity and equality of every person. To date, the United States has ratified four major international treaties: the International Covenant on Civil and Political Rights; the International Convention on Genocide; the International Convention on the Elimination of All Forms of Racial Discrimination; and the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment. The U.S. must ensure full compliance with these international instruments, which expand upon the civil, political, economic, social, and cultural rights enshrined in the Universal Declaration of Human Rights. In addition, federal, state, and local governments should ratify several important treaties that the U.S. government has refused to sign, including the Convention on the Elimination of Discrimination Against Women.

## Anti-Asian Violence & Hate Crimes

Hate crimes and racially-motivated attacks are on the rise. According to the FBI, the total number of hate incidents reported by law enforcement agencies was 7,783 in 2008 – up from 7,624 reported in 2007.<sup>67</sup> More than half of the attacks were racially-motivated, with anti-Asian bias accounting for 3.4 percent of the incidents and anti-Muslim bias for 7.5 percent.<sup>68</sup> Actual figures are likely to be higher due to underreporting. Additionally, hate crimes figures also tend to undercount intersectional hate crimes (e.g., where the hate crime victim is gay and Asian, or female and Asian) since such crimes are usually classified as one or the other, but not both.

The members of Center for Advancing Justice assist victims of hate crimes and work to raise the visibility of the issue. Despite being one of the most racially and ethnically diverse regions of the country, Southern California has witnessed significant anti-Asian violence. Many of the victims have been young people, such as 24-year-old Thien Minh Ly and 17-year-old Kenneth Chiu, killed in separate hate crimes in 1996 and 2001, or the 60 AAPI students at the University of California, Irvine who received e-mailed death threats in 1996. Other victims have included Joseph Iletto, who was shot to death while delivering mail in 1999, and the many South Asian and Muslim Americans singled out for violence after September 11th. In many of these cases, Ly, Chiu, and Iletto, the perpetrators were white supremacists. In all cases, the victims were innocent targets of misplaced hatred — including Sundeep, an Indian American man viciously beaten by strangers shouting racial slurs and blaming him for September 11th.

In all of these cases, APALC worked closely with the victim or their families and, in some cases, advocate for policy changes. APALC has worked particularly closely with Iletto's relatives, who have become inspiring champions for greater cross-racial understanding and strong advocates against hate motivated violence. Together, APALC and the Iletto family have hosted regular events in memory of Joseph Iletto and also established the Joseph Santos Iletto Hate Crimes Prevention Fellowship Fund to build resources to sustain ongoing education and advocacy.

Although some hate crimes are committed by violence-prone neo-Nazis or "skinheads," the vast majority of hate crimes are carried out by otherwise law-abiding individuals who hold prejudicial beliefs or stereotypes about their targeted victims.<sup>69</sup> The American Psychological Association has observed that such hate incidents are usually driven by prejudice "rooted in an environment that disdains someone who is 'different' or sees that difference as threatening. One expression of this prejudice is the perception that society sanctions attacks on certain groups."<sup>70</sup> Moreover, many hate crimes are committed by people of color against other people of color, including Asian Americans and Pacific Islanders.

The persistent stereotype of Asian Americans as "perpetual foreigners" has fueled discrimination, hostility, and even violence against AAPI individuals. Political or economic tensions between the U.S. and Asian countries during rough economic times have also lead to increased violence against Asian Americans and Pacific Islanders in the past. During the recession of the 1980s, Vincent Chin was killed in Detroit by two unemployed, white autoworkers who were angry about the growth of the Japanese auto industry.

But past hate violence against the AAPI community has been eclipsed by the scale and intensity of the backlash that followed the September 11, 2001 terrorist attacks. Scanning news articles published within a week following September 11<sup>th</sup>, South Asian Americans Leading Together found 645 reported hate incidents nationwide – including 49 physical assaults.<sup>71</sup> In California, the Attorney General reported a 2,333 percent increase in anti-Muslim hate crimes in 2001 over the previous year.<sup>72</sup>

Justice In Action



More recently, inflammatory rhetoric targeting immigrants has fueled an increase in hate-based violence. Over the past four years, the number of hate crimes committed against Latinos and those perceived to be immigrants has steadily increased – even though the number of hate crimes committed against other racial, ethnic, and religious groups has stayed the same during the same period.<sup>73</sup> The escalation in the level of anti-immigrant vitriol on the public airwaves has created a toxic climate that encourages some individuals to violently target immigrants and those perceived to be immigrants.

As this country’s population becomes increasingly diverse and xenophobic rhetoric reaches a fevered pitch, policymakers, law enforcement authorities, and other institutions must adopt a comprehensive set of policies and programs that both brings justice to hate crime victims and actively works to prevent hate violence in local communities. Additionally, restorative justice methods as an alternative to incarceration should be adopted because of its demonstrated effectiveness in achieving justice for the community. Restorative justice is an approach to addressing violations of legal rights that focuses on directly repairing the harm caused to victims and the broader community while reducing recidivism.

#### Policy Recommendations:

##### **Expediently and fully implement the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act.**

Congress and the administration should ensure full funding for implementation of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act. The Justice Department and the FBI should work in partnership with community stakeholders to institute the new training, education, and hate crime data collections aspects of the Act.

##### **Improve law enforcement’s investigation of hate crimes by establishing clear protocols and improving officer training on how to respond to reported hate crimes.**

The California Attorney General’s Civil Rights Commission on Hate Crimes found that a primary source of underreporting of hate crimes is the failure of law enforcement to recognize, investigate, and report these crimes.<sup>74</sup> Police officers often do not recognize that violence directed at AAPIs a hate crime even after the issue has been raised by the victim. Instead, these incidents are often investigated as robberies, assaults, or other crimes more familiar to law enforcement. Local police departments’ ability to recognize and respond in a proper manner to hate crimes needs to be improved so that these crimes can be documented, reported, and appropriately addressed through the courts or a restorative justice alternative.

##### **Reduce barriers for immigrants and limited-English-speaking victims to report hate crimes.**

The lack of linguistically accessible and culturally appropriate services within law enforcement agencies contributes to the underreporting of hate crimes within the Asian American community. In order to communicate effectively with victims and obtain more accurate

information, law enforcement agencies should offer limited-English-speaking victims the assistance of interpreters during the investigative process and require law enforcement officers to become familiar with immigrant cultures in their local communities.

In addition, law enforcement agencies should actively build trust with immigrants so that immigrants are more likely to report crimes and help with investigations. Those without legal immigration status are particularly afraid to interact with police agencies. Law enforcement agencies must reassure immigrants that reporting hate crimes will not affect their immigration status or ability to remain in the U.S.

##### **Promote restorative justice as an alternative to incarceration for hate crime perpetrators.**

Policymakers should support the adoption of restorative justice models to address incidents of hate violence. Under the restorative justice model, victims of crime achieve much higher rates of satisfaction than through the traditional criminal justice system.<sup>75</sup> For example, victims who participate in the restorative justice process are more likely to be informed about what is happening in their case, to play an active role in the delivery of justice, receive an apology from the offender, and regain a sense of safety and security. Additionally, by participating in the restorative justice process, perpetrators of hate violence are more likely to understand the harm their actions had on victims and also are more likely to rehabilitate and less likely to recidivate.<sup>76</sup> By relying upon a restorative justice model, the public costs of imprisonment for hate crime perpetrators are reduced. The community is also made safer because perpetrators are less likely to become repeat offenders.

##### **Strengthen community-based networks that prevent hate violence and respond to hate incidents.**

Policymakers should fund and support community-based networks that provide: programs to prevent hate incidents and crimes; community education and training to help individuals understand their rights and how to report hate incidents or crimes; services for victims of hate incidents or crimes; data collection and analysis of hate incidents and crimes; improved collaboration with local law enforcement agencies; and the development of restorative justice programs.

##### **Address the growing number of hate incidents in public schools by urging schools to adopt and enforce anti-hate policies and to provide training to teachers and school administrators.**

An increasing number of hate crimes committed against Asian Americans and Pacific Islanders occurs in schools. The Associated Press found that “Asian students say they’re often beaten, threatened and called ethnic slurs by other young people, and school safety data suggest that the problem may be worsening.”<sup>77</sup> School districts should develop specific cultural competency and diversity trainings for school administrators, teachers, and students as well as procedures for identifying and responding to hate-motivated behavior and inter-

group tensions. The Education Department’s Office for Civil Rights should aggressively investigate charges of harassment and hostile school environments based on race, religion, or national origin. Anti-bias education, anti-bullying, cyber-bullying initiatives, and hate crime prevention initiatives should be included and fully funded as part of the Elementary and Secondary Education Act reauthorization.

##### **Fund and support successful models of intergroup relations programs for youth and adults.**

Proactive approaches to intergroup relations must be implemented and expanded to school environments and communities, to develop community leaders who are fully equipped to bridge differences and bring other diverse community. Effective programs must focus on practical skills-building as a response to intergroup tensions, support participants’ transitions from learning about race, culture, and communication on a personal level, and develop community-level interventions that will have a long lasting impact on communities. APALC’s Leadership Development in Interethnic Relations (LDIR) program is one effective model that teaches cultural and racial awareness and conflict resolution, as well as provides leadership development and multiracial learning experiences.

## Equal Opportunity Programs

Equal opportunity programs, or affirmative action, have been vital tools for leveling the playing field and ensuring equal access to jobs, public contracts, and higher education for all Americans, regardless of their race, ethnicity, or gender. These programs, which include recruitment, outreach, and training initiatives, have opened doors to educational and professional opportunities that were previously closed to women and people of color due to a legacy of discrimination and exclusion. By diversifying schools, universities, and workplaces across the country, equal opportunity programs and policies have played a critical role in ensuring that the nation’s institutions and economy benefits from the full spectrum of talents and skills that all Americans have to offer.<sup>78</sup>

While Asian Americans and Pacific Islanders have made significant progress toward full inclusion in American economy and society, they (like other communities of color) continue to face cultural stereotypes, systematic discrimination, and institutional barriers that hamper their educational and professional advancement.

Studies by the Equal Employment Opportunity Commission, Glass Ceiling Commission, and U.S. Commission on Civil Rights have shown that despite achieving higher levels of formal education than other groups, Asian Americans and Pacific Islanders receive lower returns on their education in terms of less pay than their white counterparts and limited access to promotional and hiring opportunities.<sup>79</sup> A recent study found that Asian American men born in the U.S. are paid 13 to 20 percent less than white workers with comparable levels of education and work experience, due in large part to wage discrimination against Asians.<sup>80</sup> Foreign-born Asian American men earn even less – 23 to 25 percent less – than similarly situated whites.<sup>81</sup>



## Justice In Action

AAI's Legal Advocacy Program aims to protect the civil rights of the Asian American and Pacific Islander community by advocating for laws and policies that promote social, economic, educational, and political equity. In 2004, AAI spearheaded community efforts to advocate against the exclusion of Asian Americans from Chicago's public contracting affirmative action program. While Asian Americans were removed as a presumptive group covered by the City's affirmative action program, there were still successes. All but one of the 14 Asian American contractors were recertified into the program. AAI continued its advocacy work by creating a handbook, training manual, and workshops for organizations around the country to use in defending affirmative action programs.

By April 2007, as a result of legislative testimony, renewed analysis and collection of disparity studies, and submission of additional individual testimony, AAI won a huge victory, ensuring the presumptive inclusion of Asian American business enterprises in public contracting affirmative action programs of the City of Chicago, Cook County, and the Water Reclamation District of Greater Chicago.

AAI continues to defend and advance the participation of Asian Americans in minority contracting programs in the public and private sector. We took an active role to ensure the continued inclusion of Asian Americans in the City of Chicago's construction contracting program, which was renewed in July of 2009. AAI is currently conducting research about the experiences of Asian American contractors to educate lawmakers and the general public on the continuing need for minority contracting programs.

Moreover, in spite of their educational and professional achievements, Asian Americans and Pacific Islanders face an invisible "glass ceiling" that blocks their upward mobility and prevents them from reaching the highest levels of the corporate ladder, government, academia, and other professions. Although Asian American and Pacific Islander males are strongly represented as professionals in the labor force (23 percent), they are underrepresented in executive and managerial positions (14 percent). In sharp contrast, white males comprise a smaller share of professional workers (14 percent) but are more likely to advance into executive and managerial positions (17 percent).<sup>82</sup> The U.S. Commission on Civil Rights found that even after controlling for education, work experience, English ability, and other variables, "Asian descent" has a negative effect on one's chances of moving into management.<sup>83</sup>

Similarly, within the judicial system, Asian Americans and Pacific Islanders number more than 40,000 in the legal profession and comprise 6.3 percent of all law students and 5.3 percent of lawyers at the nation's largest law firms.<sup>84</sup> However, out of a total of 876 authorized seats in the federal judiciary nationwide, there were only six active judges of Asian American or Pacific Islander descent at the end of the Bush administration.<sup>85</sup> Until 2010, only fourteen Asian Americans and Pacific Islanders had ever served on the federal bench, and only two of them were AAPI women.<sup>86</sup> AAPIs are similarly underrepresented as state and local judges.

In public contracting, AAPI small business owners suffer from ongoing discrimination which hinders their ability to compete on an equal footing for government contracts. In 2006, the size of federal procurement reached more than \$412 billion.<sup>87</sup> Without equal opportunity programs, AAPI and minority-owned businesses are typically shut out of public contracting opportunities and excluded from the "old boys" networks that provide the most lucrative jobs and contracts to predominantly white- and male-owned businesses. In addition, like many minority-owned businesses, Asian Americans and Pacific Islanders seeking to participate in public contracting face innumerable barriers to success, including: lack of access to credit and working capital; lack of notice of

government procurement opportunities; inability to obtain the resources needed to prepare bids for government contracts; and discriminatory attitudes and practices by officials involved in the public procurement process.<sup>88</sup> As a result, Asian American and Pacific Islander businesses receive far less than their fair share of public contracting dollars. The Urban Institute found that Asian-owned businesses receive only 39 percent of the dollars they would be expected to receive based on the percentage of "ready, willing, and able" Asian American firms.<sup>89</sup>

In higher education, affirmative action is necessary to improve opportunities for underrepresented Asian Americans, Pacific Islanders, and other students of color at academic institutions. Contrary to the misperception that AAPI students gain from the end of affirmative action,<sup>90</sup> a number of scholars and researchers have found that AAPI students actually suffer from "negative action" – not affirmative action – in which they are less likely to be admitted into colleges and universities than white students with comparable test scores and grades.<sup>91</sup> In fact, the end of affirmative action policies can have disastrous consequences for certain AAPI students. For example, after the passage of Proposition 209 in California, Filipino Americans (like African Americans) were "zeroed out" at UC Berkeley's law school – despite the fact that the Bay Area contains one of the largest Filipino American communities in the U.S.

For AAPI communities, affirmative action programs in higher education are essential for improving educational opportunities and closing the achievement gap for underrepresented AAPI groups. Contrary to the model minority myth, a number of Asian Americans and Pacific Islanders have high school graduation rates far below the national average. A large percentage of Cambodians (40.3 percent), Hmong (39.6 percent), Laotians (31.6 percent), Vietnamese (26 percent), and Samoans (16 percent) never graduate from high school, compared to 15 percent of the U.S. population.<sup>92</sup> Moreover, affirmative action enhances learning for all students by promoting a multiracial educational environment and ensuring that educational institutions reflect the diversity of our society.

Equal opportunity programs and policies remain essential tools for breaking down barriers to opportunity and ensuring that all Americans have a fair chance to demonstrate their talents and abilities. For Asian Americans, Pacific Islanders, and many persons of color, affirmative action is still necessary for overcoming systematic discrimination and making the promise of fairness and equality a reality.

## Policy Recommendations:

**Promote and protect affirmative action programs in education, employment, and public contracting.**

Preserving equal opportunity programs for women and people of color helps ensure that all Americans, regardless of their race, national origin, or gender, have an equal opportunity to succeed. For Asian Americans and Pacific Islanders, affirmative action can help shatter the "glass ceiling" and remove barriers to advancement at the workplace.

**Include Asian Americans and Pacific Islanders in equal opportunity programs, particularly minority public contracting programs.**

Because Asian Americans continue to face discrimination and exclusion in government contracting, they should be included as a presumptive category in minority set-aside programs and allowed to compete on an equal footing for public contracting dollars.

## LGBT Rights

Asian Americans and Pacific Islanders have faced a long history of discrimination and exclusion in the U.S., from immigration restrictions and employment discrimination, to hate crimes and laws banning interracial marriage. Sadly, this shameful legacy of discrimination and unequal treatment remains as pervasive today for lesbian, gay, bisexual, and transgender (LGBT) members of AAPI communities.

Asian Americans and Pacific Islanders who are LGBT face multiple levels of discrimination, harassment, and unfair treatment based on their race, ethnicity, sexual orientation, and gender identity. A landmark national survey of AAPI LGBT individuals found that nearly every respondent (98 percent) had experienced discrimination and/or harassment in their lives.<sup>93</sup> Of all respondents, 85 percent reported having experienced discrimination or harassment based on their race or ethnicity, and 75 percent reported experiencing discrimination or harassment based on their sexual orientation.<sup>94</sup> An overwhelming majority experienced verbal harassment at one time in their lives for being AAPI (77 percent) or LGBT (74 percent), and nearly one in five reported having experienced physical harassment for being AAPI (19 percent) or LGBT (16 percent).<sup>95</sup>

Working in conjunction with civil rights organizations and the LGBT community, the Asian American Justice Center was successful in passing the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act in 2009. For the first time in U.S. history, the new law condemns violence against LGBT individuals by extending the federal hate crimes statute to include sexual orientation, gender identity, gender, and disability to the existing federal hate crime protections for race, religion, and national origin. Although the law marks a historic milestone for LGBT rights, much work remains to be done in order to bring full equality and recognition to the LGBT community – in workplaces, families, and the military.

Employment discrimination against lesbian, gay, bisexual, and transgender Americans is rampant in workplaces across the country. In its meta-analysis of 50 independent studies of workplace discrimination against LGBT individuals, the Williams Institute found that up to 68 percent of LGBT people reported experiencing employment discrimination and up to 17 percent had been fired or denied employment.<sup>96</sup> A survey conducted by the National Gay and Lesbian Task Force and the National Center for Transgender Equality found that employment discrimination against transgender people is a nearly universal experience, with 97 percent of respondents having been mistreated or harassed on the job.<sup>97</sup>

Discrimination against LGBT workers remains a serious problem in large part because LGBT individuals have no legal protections from workplace discrimination in the vast majority of the country. Today, a worker can be fired from a job or denied a job simply for being lesbian, gay, or bisexual in 29 states or for being transgender in 37 states.<sup>98</sup> An estimated 3.1 million LGBT adults live in states that do not provide any protection against workplace discrimination.<sup>99</sup> Thousands of LGBT Americans have lost their jobs and their livelihoods solely based on prejudice and malice. Without specific legal protections, LGBT workers will continue to be vulnerable to mistreatment and discrimination at the workplace.

In addition, federal law does not allow individuals in committed same-sex relationships the right to marry. Since enactment of the Defense of Marriage Act in 1996, the federal government can only recognize marriages between a man and a woman. States are not required to recognize marriages between same-sex couples – even if marriages are recognized in other jurisdictions – and in fact, most states have banned marriage equality.

Center for Advancing Justice members support marriage equality as part of their civil rights advocacy and education efforts. There are striking parallels between the current struggles of gay and lesbian couples and the earlier struggles against interracial marriage prohibitions, especially in California, where anti-miscegenation laws specifically singled out Asian immigrants.

Since 2005, APALC has led educational and media campaigns in the AAPI community in support of marriage equality. In 2007, APALC helped file an amicus brief, endorsed by 63 AAPI organizations, in the state Supreme Court in support of gay and lesbian couples seeking the right to marry, a right the Court bestowed in May 2008. When that right was threatened, APALC worked with LGBT organizations including API Equality-LA to campaign against Proposition 8, which sought to amend the state constitution to outlaw marriage equality.

Although it passed by a small margin in November 2008, APALC's work helped to significantly shift AAPI voters on this issue, from a 70-30 percent margin against marriage equality in 2000 (far greater than the 60-40 split among all voters) to a 54-46 split in 2008 (nearly equal with the overall 52-48 split). APALC also played a leading role in challenging its implementation, working with other civil rights groups to file an amicus brief with the state Supreme Court raising concerns that allowing a majority vote to strip a fundamental right from a protected minority group put the rights of all minority groups at risk. In public comments, state Supreme Court Justice Carlos Moreno, the lone dissenting voice, cited APALC's work as being influential to his position.

Banning marriages between committed, same-sex couples denies a fundamental right to LGBT individuals. Family recognition and the many rights and protections it provides is essential to the well-being of the LGBT community. Same-sex couples, even those legally recognized by their states, are denied more than 1,100 federal benefits available to married opposite-sex couples.<sup>100</sup> Moreover, for Asian Americans and Pacific Islanders, the denial of marriage equality to same-sex couples is a potent reminder of discriminatory laws that not too long ago prohibited AAPI individuals from marrying the person they love because of their race. It also denies LGBT AAPIs basic recognition of one of the most fundamental tenets of most Asian and Pacific Islander cultures – the central importance of family and family relationships.

Courageous and qualified LGBT people who are willing to serve their country and defend their fellow citizens also face discrimination and exclusion, at a time when AAPIs compose a growing proportion of the U.S. military.<sup>101</sup> The “Don’t Ask, Don’t Tell” policy, which prohibits lesbians and gays from serving openly in the U.S. military, forces LGBT service members to live a lie and deny their loved ones and families. In fact, the policy is the only law in the country that requires people to be dishonest about their personal lives or face the possibility of being fired. An estimated 48,500 LGBT individuals are serving on active duty or in the ready reserve in the U.S. military, and an additional 22,000 are in the standby and retired reserve forces.<sup>102</sup> Since its inception in 1994, the policy has cost the military up to half a billion dollars.<sup>103</sup> Although Defense Secretary Robert Gates announced changes to the policy in March 2010,<sup>104</sup> the announcement falls short of repealing this immoral and unnecessary policy altogether.

Lesbian, gay, bisexual, and transgender individuals are an integral part of Asian American and Pacific Islander communities. Today's struggle to end discrimination against LGBT individuals parallels many of the struggles faced by AAPI communities throughout history. It also serves as a reminder that the fight for equality and justice for all Americans is far from over and requires diverse communities to come together.





**Policy Recommendations:**

**Protect LGBT Americans from workplace discrimination by extending federal anti-discrimination protections to LGBT individuals.** For more than thirty years, Congress has considered expanding federal anti-discrimination laws to prohibit sexual orientation or gender identity discrimination. Passage of the Employment Non-Discrimination Act, which would ban employment discrimination on the basis of sexual orientation and gender identity, is long overdue. Congress should enact legislation that would bar employers from firing, refusing to hire, or refusing to promote workers based solely on sexual orientation or gender identity. Nondiscrimination laws help ensure that LGBT individuals have access to the same opportunities, benefits, and protections granted to everyone else, including the ability to work in an environment where people are judged by their job performance, not their sexual orientation or gender identity.<sup>105</sup>

**Repeal the federal Defense of Marriage Act and state laws that do not recognize marriage between committed, same-sex partners.** When the Defense of Marriage Act was signed into law, LGBT couples could not marry anywhere in the U.S. or the world. As of the beginning of 2010, six states - Massachusetts, Connecticut, Iowa, Vermont, Maine, and New Hampshire - grant the freedom to marry to same-sex couples. Lesbian, gay, bisexual, and transgender families deserve the same respect, recognition, and protection as all families.

**End the military's "Don't Ask, Don't Tell" policy.** Secretary of Defense Robert Gates, Chairman of the Joint Chiefs of Staff Adm. Michael Mullen, Gen. Colin Powell, Gen. John Shalikashvili, retired Gen. James Jones, and former Vice President Dick Cheney have all indicated their support for repealing this policy.<sup>106</sup> In addition, the military should immediately halt all discharges of service members based on their sexual orientation until Congress fulfills its responsibility to overturn this unjust law.

## Native Hawaiian Self-Determination

While Congress has sometimes treated Native Hawaiians in a manner similar to that of American Indians and Alaskan Natives, the federal policy of self governance and self-determination has not been formally extended to Native Hawaiians. In 1993, Congress passed a joint resolution called the "Apology Resolution" (US Public Law 103-150) which apologized "to Native Hawaiians on behalf of the people of the United States for the overthrow of the Kingdom of Hawai'i" and "the deprivation of the rights of Native Hawaiians to self-determination." Subsequently, Senator Daniel Akaka introduced legislation that would extend formal recognition to Native Hawaiians as an indigenous people in the United States.

**Policy Recommendations:**

**Congress should pass legislation providing greater formal federal recognition to Native Hawaiians**

## Public Perceptions & Diversity In The Media

What the average American thinks of Asian Americans and Pacific Islanders is shaped heavily by media images. In particular, television and film have emerged as one of the most powerful mediums for shaping people's perceptions and attitudes about the world around them. Studies have shown that the public tends to rely on characterizations from film and television to formulate beliefs about groups to which they do not belong and with whom they are less familiar.<sup>107</sup> Consequently, images and character portrayals of minority groups seen on television may affect people's perception and treatment of people of color in the real world.<sup>108</sup> Moreover, entertainment and news media is a vast industry providing millions of jobs and small business opportunities that have historically not been available to persons of color.

While opportunities for AAPI actors to appear in starring roles on television have improved over the past decade, Asian Americans and Pacific Islanders remain significantly underrepresented in the world of prime time television.<sup>109</sup> In 2006, the Asian American Justice Center released a report that systematically investigated the portrayal of Asian Americans and Pacific Islanders on the six national television broadcast networks during the fall 2005 prime time season.<sup>110</sup> Among the key findings of the study:

The percentage of regular AAPI characters on prime time television comprises only 2.6 percent of all prime time television regulars, despite Asian Americans and Pacific Islanders making up 5 percent of the U.S. population.<sup>111</sup>

Among the 102 prime time programs, only 14 programs feature at least one Asian American or Pacific Islander regular.<sup>112</sup>

AAPI regulars remain absent from shows set in cities with sizeable Asian American and Pacific Islander populations. With the exception of *Half and Half* (on UPN), none of the programs set in San Francisco include a single Asian American or Pacific Islander regular - even though Asian Americans and Pacific Islanders comprise 33.8 percent of San Francisco residents. Although 13.2 percent of Los Angeles residents are AAPI, all 13 programs set in Los Angeles completely exclude AAPI regulars from their casts. Aside from *Law and Order: SVU* (on NBC), none of the programs set in New York City feature any AAPI regulars, despite Asian Americans and Pacific Islanders comprising 10.3 percent of New Yorkers.<sup>113</sup>

Additionally, AAPI characters are often portrayed in ways that cement racial stereotypes. For example, AAPI-identified characters are only found in dramas in which all characters occupy professional occupations. The exclusion of AAPI-identified characters from other genres serves to reinforce the "model minority" stereotype of Asian Americans and Pacific Islanders. Moreover, Asian Americans and Pacific Islanders are often portrayed as the "foreigner" on television. These stereotypes are all problematic because they generalize attributes of some members of the AAPI community to the entire community.

Sadly, the majority of prime time network television and news programs continue to under represent communities of color and to ignore the racial diversity we see every day. The lack AAPI anchors, news reporters, and characters in leading roles as well as the stereotypical portrayal of the few AAPI characters who appear on television are compounded by the virtual absence of Asian Americans and Pacific Islanders behind the camera – as writers, show runners, producers, and directors. Television and film should better reflect the diversity of the viewing audience and the world in which we live. Given the profound influence of film and television on how the public may perceive and treat persons of color, networks should boost the participation of people of color both in front of and behind the camera.

Cable had provided a potential avenue for Asian American and Pacific Islander channels and programming, but the consolidation of that segment of the television industry has led to the demise of AAPI programming that had been offered by the now defunct AZN channel and other fledgling operations.

Although there may be a greater presence of AAPIs on the radio waves through small in-language radio stations in major metropolitan areas, AAPIs are largely missing from the mainstream radio industry. Couple this with the high profile examples of AAPIs, particularly AAPI immigrants, being the frequent subjects of racist and racially-based stereotyping and commentary on mainstream radio stations, radio in addition to television and film remains a hostile environment for AAPI communities despite the incredible reach and influence of such media.

#### Policy Recommendations:

##### **Urge media and news companies to increase diversity on-air and behind the camera and microphone.**

To address the lack of Asian Americans and Pacific Islanders on air, on screen and behind the scenes, all media companies should deepen their efforts to increase the number and quality of AAPI roles on television programs. Even though great strides have been made to include Asian Americans and Pacific Islanders in primary roles in large ensemble casts, the television networks should also consider developing at least one show that features an Asian American or Pacific Islander as the central character.

In addition, not enough Asian Americans and Pacific Islanders are writers, show runners, producers, and directors. Increasing the number of Asian Americans

and other people of color who work behind the camera or the microphone will help lead to the further development of quality news and entertainment depictions of Asian Americans, Pacific Islanders, and their communities.

##### **Urge radio stations and the companies that own them to take responsibility for hate speech and the use of racial epithets and stereotypes on air.**

Station owners should create and enforce standards of discourse concerning hate speech and provide training for radio personalities, producers, and others radio employees. Station owners should also seek to increase the diversity of their on-air talent, producers and other radio employees.

## Access To Broadband & Other Communications Services

While AAPIs are faring better in the diversity of content provided in the new frontier of the internet, a significant number of AAPIs face barriers to owning and accessing various communications mediums from high tech broadband to low tech radio.

Media, telecommunications and the internet are converging – and access to high speed internet services is increasingly critical to accessing government information, job opportunities, education, and other services. In particular, broadband has the ability to provide critically needed in-language information to limited English proficient AAPIs (e.g., English language training programs). As a result, closing the digital divide and achieving 100 percent broadband access is an important priority.

Few existing broadband access studies include AAPIs. The recently released and often cited Pew study on Home Broadband Adoption 2009 does not make a single reference to the AAPI community.<sup>114</sup> The majority of studies that comment on AAPIs only note that Asian Americans collectively lead the nation in at-home access to high speed internet. However, in one study from the California Emerging Technology Fund, limited disaggregated Asian American data showed clear disparities among Asian ethnic groups, with adoption and access among Hmong and Filipinos much lower than other Asian American communities.<sup>115</sup>

Beyond broadband, in 2000, the Federal Communications Commission created low power FM radio stations, which are community-based, non-commercial stations operating at 100 watts or less. They empower diverse local voices to serve their community with relevant news, resources, and entertainment. However, the Radio Broadcasting Preservation Act eliminated about 75 percent of the available licenses of this spectrum.<sup>116</sup>

It is important that policies are pursued that achieve the goal of universal access to broadband, as well as other forms of low-cost community media, for people of color, immigrants, and other underserved communities.

#### Policy Recommendations:

**The FCC, Congress and the industry stakeholders should work together to ensure an open, affordable and accessible internet.**

**The FCC should commission research analyzing the barriers to access and adoption of broadband in AAPI communities, including data disaggregated by ethnicity. In addition, in developing its regulations**

**and programs, the FCC should assess the impact of broadband access on marginalized communities and also fund or support studies and programs that address barriers to media ownership for people of color and other.**

**Congress should also specifically lift restrictions on the licensing of low power FM radio stations.**



## CHAPTER FOUR

# Promoting the Integration of English Language Learners

Because more than one in three Asian Americans and Pacific Islanders are limited English proficient, developing English language skills while overcoming language barriers are both high priorities in AAPI communities. Policymakers, community leaders, academics, and immigrants alike recognize that English language proficiency is the gateway to full participation and inclusion in American society. Learning English is essential for newcomers to succeed in school, gain meaningful employment, attain economic self-sufficiency, and fully contribute to the communities in which they settle. Additionally, because it can take time for immigrants to learn English, Asian Americans and Pacific Islanders should have equal access to government services regardless of language ability.

This section provides an overview of key priorities for effectively providing AAPI newcomers with opportunities to become fluent in English, specifically: addressing the educational needs of children who are English language learners; and improving workforce development programs for adults who are not fluent in English. At the same time, policies must ensure that limited English proficient (LEP) individuals have meaningful access to government programs and services.

## K-12 English Language Learners

English language learners represent a large, growing, and critically underserved segment of the public school population. Over the past 15 years, the number of English language learner (ELL) students has nearly doubled. By 2025, nearly one-quarter of all public school students will be English language learners.<sup>117</sup>

Twenty years ago, Josephine Chen was a young immigrant mother struggling to support her children through a confusing American school system. The system was very different than the one she knew from her native Taiwan, and her limited English made it challenging to communicate with school administrators or teachers. Flash forward two decades and the current Josephine Chen is nearly unrecognizable. She is now a leader in her community, helping other parents become champions for their children and leading them in working for a better education system.

Josephine works as a school/community liaison at Alhambra High School, with a predominantly Asian and Latino student body, where she helps facilitate the involvement of immigrant parents in APALC's Parent Academies. Since 2005, APALC has empowered low-income immigrants through the Academies' evening workshops, conducted in Cantonese, Mandarin, Spanish, Vietnamese and English, and trained them to be effective advocates on critical issues such as budget cuts, school meals, and college access. At a recent parent organizing conference, Josephine stood before 400 people and said:

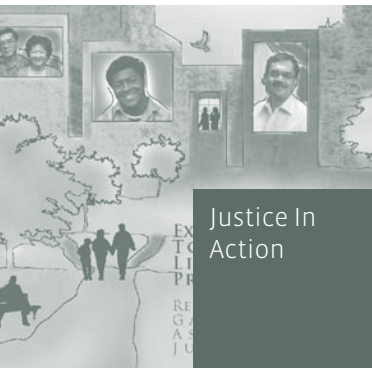
"We are no longer working by ourselves but together for one purpose – which is to improve our children's education. Sitting here with all ethnicities, for many of us is a new experience. We need to move out of our comfort zone, our own communities, and join others to discuss and to plan how we can help our children. We have a lot to learn from each other. Every ethnic group has something to contribute to other groups. We need to integrate our lives because we want to educate our next generation to be better citizens, not only for our country but also for our global village."

Despite federal efforts to reduce educational inequities, there is a large and persistent gap in academic achievement between ELL and non-ELL students. In the 2007 National Assessment of Education Progress, nearly half (44 percent) of fourth-grade ELL students and nearly three-quarters (69 percent) of eighth-grade ELL students scored "below basic" in math, compared to less than one-quarter of English-speaking students. Similarly in reading, nearly three-quarters (70 percent) of fourth-grade and eighth-grade ELL students scored below basic, compared to one-quarter of their English-speaking peers.<sup>118</sup> In addition, ELL students are extremely vulnerable to dropping out of school. Nearly one-third (31 percent) of language minority students fail to complete high school, compared to 10 percent of students who speak English at home.<sup>119</sup>

Many Asian American and some Pacific Islander youth learn English as a second language and are classified initially as English language learners. Similar to other ELL students, these AAPI youth lag behind their English-speaking peers on nearly every measure of academic performance due to the public school system's failure to address the educational challenges of ELL students. Relatively few schools offer linguistically and culturally appropriate programs for AAPI students, including teachers who are trained in ESL and knowledgeable about these communities. Moreover, many educators do not intervene when AAPI students are struggling and underperforming.

Because many AAPI parents are not fluent in English, the challenges ELL students face are often compounded by the significant barriers parents of ELL students must overcome in order to actively participate in their children's education. Although the No Child Left Behind Act (NCLB) reaffirms parental involvement as a core principle of quality education, few schools make an effort to





On December 11, 2008, AAJC convened approximately 50 leaders from a wide variety of sectors to discuss adult English language learning (ELL). The meeting continued the networking, strategizing, and sharing of resources that began at a similar convening in 2006 by AAJC among research and policy experts and providers of adult ELL from workforce development, adult education, and immigrant integration sectors. In 2008, the discussion focused on creating a stronger advocacy voice at the national level, and stronger networks and coalitions at the national and local levels.

The central questions were: What does the ELL field look like from different perspectives – including the business sector, literacy groups, faith-based groups, and others? What do we know about ELL and what do we still need to learn? How can we make better use of new technologies? How can we most effectively communicate as proponents of a stronger ELL system? And finally, how should we advance our agenda through advocacy? In addition, AAJC used this opportunity to share and seek feedback on communications strategies for the ELL field that it had developed based on public opinion research it has conducted.

From these two meetings, AAJC created a series of recommendations and a tool kit for stakeholders seeking to improve the delivery of and increase the support for adult ELL that is available on its website, [www.advancingequality.org](http://www.advancingequality.org)

engage and communicate with limited English proficient parents. Unless a school translates notices, provides interpreters, or hires bilingual personnel, AAPI parents who are not fluent in English are locked out of their children's education – leaving their children to struggle in school by themselves.

The public school system must address the academic and linguistic needs of the nation's 5.5 million English language learner students – the vast majority of whom are U.S. citizens.<sup>120</sup> The academic success of AAPI youth and ELL students is not only critical for the future of these students, but also for the economic productivity of American society as a whole. Lawmakers can ill-afford to neglect the unique educational challenges of ELL students, who have existed in the shadows of the U.S. public education system for far too long.

#### Policy Recommendations:

**Ensure that the reauthorization of the No Child Left Behind Act (NCLB) and other educational reforms address the educational needs of AAPI English language learners.** As Congress considers the reauthorization of NCLB, lawmakers at all levels of government must take into account the educational challenges faced by ELL students and help ELL students close the achievement gap. Specifically, Congress should consider: extending from one year to a maximum of three years the time for ELL students to master English before being tested in English in core content areas; improving the quality of assessments for ELL students (including the provision of additional native language tests); ensuring that ELL students receive quality academic content knowledge as well as English language instruction; and improving teacher training so that teachers can better meet the needs of diverse student populations, including students

learning English.<sup>121</sup> Training of teachers should address effective parental involvement strategies for ELL students, as well as strategies designed to reduce dropout rates and close the achievement and skills gap among the ELL population.

In addition, federal and state funding for the K through 12 systems (including Title I and Title III of NCLB) should provide sufficient resources to help ELL students develop their English language skills and achieve high levels of academic success.

**Support high-quality bilingual education that promotes English language acquisition as well as academic achievement.** Public schools must ensure that ELL students receive the full range of educational instruction and services they need, both to help them become proficient in English and improve their performance in academic content areas. Providing

high-quality instruction in students' native language can help ELL students learn educational content (such as math, science, and social studies) at the same time they acquire English literacy skills.

In addition, schools should support dual language instruction programs where English-speaking students and ELL students become fluent in both English and another language. By capitalizing on the linguistic resources that ELL students bring to the classroom, dual language instruction enables ELL students to develop bilingual skills that are essential for an increasingly multilingual, multicultural society.<sup>122</sup>

**Increase parental involvement in children's educational success by improving communications between schools and limited English proficient parents who are Asian Americans and Pacific Islanders.** Meaningful parental involvement is critical to the academic success of children. School districts should comply with federal and state laws that require school districts to translate forms, notices, and other correspondence that are sent to parents.<sup>123</sup> In addition, schools should prepare district staff fluent in languages spoken in their local community to serve as community liaisons.<sup>124</sup>

## Workforce Development & Learning English

For Asian Americans and Pacific Islanders, English language acquisition is an important pathway out of poverty. Immigrants and refugees who are fluent in English earn 24 percent more<sup>125</sup> and tend to have higher employment rates than those who do not speak the language. In sharp contrast, immigrants who are not fluent in English are more likely to be trapped in low-wage jobs and to face higher rates of poverty and unemployment.

Although AAPI immigrants are highly motivated to learn English, few have meaningful opportunities to do so. ELL classes and related literacy programs have been severely under funded and overcrowded for many years – leaving many limited English proficient adults with few or no options for improving their English skills. Even in localities with large immigrant populations, the demand for high-quality English acquisition programs far exceeds availability. Courses can be scarce, so limited English proficient adults face daunting waiting lists. A study by the National Association of Latino Elected and Appointed Officials (NALEO) found that 57 percent of the ELL providers they surveyed maintained waiting lists because providers could not accommodate the high demand for services.<sup>126</sup> Waiting times range anywhere from a few weeks to more than three years.<sup>127</sup> Because of the scarcity of vocational training programs for adults who are not fluent in English, ELL providers have been forced to over-enroll participants in existing classes as well as place students at the wrong skill level until more appropriate courses become available. Other providers have had to discontinue classes altogether due to lack of funding.

Even when ELL programs are available, few institutions have integrated their ELL and vocational training programs so that newcomers can develop job skills while they learn English. The vast majority of English instruction programs continue to rely on the traditional model, in which participants are taught “basic” English skills. While these courses are appropriate for some newcomers, many limited English speaking adults need not only language training but skills development to find good-paying jobs.<sup>128</sup>

Lawmakers must provide sufficient resources and support for effective English acquisition programs that help AAPI immigrants attain economic self-sufficiency and succeed in American society. By offering ELL programs to immigrants who are eager to learn English, the U.S. will be creating a workforce that can meet the demands of the 21<sup>st</sup> century and maintaining the nation's competitive edge in the global economy.

**Policy Recommendations:**

**Provide sufficient funding and resources to meet the growing demand for English language acquisition programs among AAPI immigrants.** For the past two decades, federal funding for English language instruction has failed to keep pace with the significant increase in demand for adult ELL education, which in turn has impeded the ability of AAPI immigrants to learn English. Policymakers should revisit the current allocation of ELL and employment services through adult education, workforce development, and welfare programs and increase funding for English language acquisition programs through the Workforce Investment Act (WIA) in order to better address the needs of limited English proficient workers.<sup>129</sup>

In addition, state and local funds can play an important role in supplementing federal dollars, especially if monies are directed toward limited English proficient populations that are ineligible for federally funded programs.<sup>130</sup> States should increase funding to better serve workers who are not fluent in English by: making state appropriations to fund ELL programs; ensuring that formulas distributing ELL funds match the geographic distribution of populations needing such services; incorporating ELL goals in state plans for Temporary Assistance for Needy Families (TANF) as well as WIA Titles I and II; and funding remedial ELL classes through a full-time equivalent funding formula (like community colleges in California and Oregon).<sup>131</sup>

Develop incentives for educational institutions and ELL providers to offer integrated training programs that help AAPI immigrants develop both language and vocational skills.

The most effective English language acquisition programs for adults either combine English instruction with job skills training or teach students workplace English vocabulary. A growing number of community colleges, adult schools, and community organizations have begun to integrate vocational training with English instruction so that immigrants can become more work-ready as they are learning English. These integrated programs have proven to be successful in training and finding good jobs for limited English proficient workers in a number of growth industries, including construction, manufacturing, healthcare, childcare, and culinary services.<sup>132</sup>

**Encourage greater collaboration with AAPI community-based organizations that provide adult learners with culturally and linguistically appropriate counseling and services.** Immigrants are more likely to seek services from community organizations that have the cultural and linguistic competence to address the unique needs of limited English proficient individuals. Many AAPI community groups provide job training, adult literacy classes, employment counseling, workforce services, and case management. Lawmakers should promote and support community-based instruction that is both accessible and responsive to AAPI immigrants who are learning English.

**Language Access**

Learning English takes time, even when language acquisition programs are effective and available. Given that many Asian Americans and some Pacific Islanders arrive in the U.S. with limited English skills, it is critical for government agencies to make services accessible to immigrants while they learn English and build a new life in America.

Language access is required by law, under Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin by any recipient of federal funding. Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency,” which was issued by President Clinton in August 2000 and is still in effect, further clarifies the scope of the government’s responsibilities with respect to Title VI and requires federal agencies to develop guidance for complying with these legal obligations.<sup>133</sup> In addition, a number of states and localities have laws on their books that require public agencies to provide multilingual services.<sup>134</sup>

Fueled by anti-immigrant sentiment, English-only laws and policies have frequently targeted Asian immigrants. In 1990, APALC brought a Title VII challenge to an English-only policy amidst a wave of English-only ordinances sweeping through the country and Southern California. In *Dimaranan v. Pomona Valley Hospital Medical Center*, APALC represented Aida Dimaranan, a Filipina American nurse, against the hospital where she worked because the hospital implemented a “No Tagalog” policy. The policy prohibited Filipina American nurses from speaking their native language at all times, including during their lunch breaks and while calling home. In a published decision, the U.S. district court found that Dimaranan suffered retaliation for using Tagalog and ordered back pay and reinstatement. Over the years, APALC has also supported policies upholding bilingual education and advocated against English-only local ordinances. For example, APALC successfully argued that a city’s requirements that business signs appear only in English were discriminatory against immigrant businesses.

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Although there are strong federal and state civil rights laws that mandate equal access to government services regardless of language ability, AAPI immigrants who are limited English proficient face significant barriers to accessing public services and communicating with government agencies. Public agencies routinely fail to provide translated materials and oral assistance, despite state and federal laws. As a result, AAPI immigrants who are not fluent in English are less likely to access essential services, understand their rights and obligations, and achieve economic stability.

Language barriers can have a devastating impact on AAPI individuals deprived of services as well as on the broader community. When limited English-speaking individuals cannot communicate with police officers or health workers, crimes go unsolved and illnesses go untreated – potentially endangering public health and safety. When immigrants are unable to report workplace violations, unscrupulous employers can exploit them and undercut wages and working conditions for all workers, especially in low-wage industries. During emergencies and disasters, communicating with the public is critical for conveying vital instructions and procedures – especially when lives are at stake.

For example, the lack of emergency communication in languages other than English can result in disastrous consequences for limited English proficient communities. During Hurricanes Katrina and Rita, Asian Americans and Pacific Islanders in the Gulf Coast were one of the largest LEP segments ever affected by a natural disaster in the U.S. Emergency officials and mainstream relief organizations could not communicate with AAPI evacuees and assist victims who spoke limited English. Moreover, evacuation notices were not provided in languages other than English – even in cities with sizeable immigrant and refugee populations. A Vietnamese man in Mississippi spent five days in a wrecked fishing boat and was nearly killed because he did not understand the evacuation orders issued prior to Hurricane Katrina.<sup>135</sup>





After major welfare reform legislation passed in 1996, the five-year time limits on welfare benefits coupled with the major shift to a welfare-to-work program threatened to leave behind a large number of AAPIs, particularly those with limited English skills and little formal education or job skills. Amongst the most impacted welfare recipients were former refugees from Southeast Asia, particularly Vietnamese and Cambodian families.

In 1999, APALC led a team that included the Legal Aid Foundation of Los Angeles, Neighborhood Legal Services, and Western Center on Law & Poverty in the filing of a landmark civil rights complaint against the Los Angeles County Department of Public & Social Services (DPSS). Filed under Title VI of the 1964 Civil Rights Act, the complaint alleged that DPSS failed to provide equal access to limited English speaking welfare-to-work participants. After years of negotiation, the Department of Health and Human Services (HHS), which investigated the complaint, reached a settlement with DPSS that included major changes in the county's services for limited English speakers and \$1.7 million in back benefits to those illegally terminated from benefits due to language barriers. The agreement promised that families on welfare who are LEP would be treated fairly by DPSS and would receive the same treatment as families on welfare who are fluent in English.

Language barriers can also impede the ability of AAPI individuals who are not fluent in English to navigate the legal system and seek justice. Meaningful access to the lawyers and courts is essential for the resolution of civil disputes, redress of civil rights violations, and due process rights. Yet, LEP Asian Americans and Pacific Islanders have limited access to the justice system when they are unable to communicate with the courts or counsel, much less convey the facts of their own case. In the absence of linguistically and culturally appropriate services, many AAPI individuals are forced to rely on family members, minor children, friends, and untrained volunteers to translate for them. Deprived of meaningful access to lawyers and the courts, AAPI immigrants who are not fluent in English become more vulnerable and disenfranchised.<sup>136</sup>

The failure of agencies to meet their legal obligations means that AAPI English learners do not have access to vital services that can help them improve their lives and achieve self-sufficiency. Government agencies should hire sufficient bilingual staff or interpreters, translate important government documents, and respond to the specific language needs of the local community. Given the substantial number of AAPI immigrants who are not fluent in English, lawmakers must increase language access in government programs and services in order to communicate with and help integrate AAPI immigrants into American society.

#### Policy Recommendations:

##### **Enforce federal and state civil rights laws to ensure that AAPI immigrants who are not fluent in English have meaningful access to government services.**

Government agencies must follow through in implementing Executive Order 13166 and Title VI, as well as relevant state laws, in order to communicate with and serve all residents, regardless of language ability. For the past decade, civil rights enforcement has been dwindling and is no longer a top priority for federal agencies. A revitalized civil rights commitment under the current administration needs sufficient resources, across all Cabinet agencies, to ensure that the nation's civil rights laws are effectively enforced.

##### **Ensure that federal, state and local agencies address the specific needs of AAPI and LEP individuals.**

Government agencies at all levels provide many critical services that affect limited English speakers, particularly those that are poor or recently arrived. However, these agencies generally cannot meet the language needs of AAPI clients. For example, before another disaster strikes, state and local agencies should incorporate the needs of LEP residents during emergency preparedness planning, trainings, and exercises. Agencies should make sure that emergency officials are able to communicate with LEP residents through all phases of an emergency by providing information in languages spoken in the local community and hiring bilingual emergency personnel. In addition, state and local agencies should incorporate ethnic media and local community-based organizations in their communications plans so LEP residents can be properly alerted with emergency information in a language they understand.<sup>337</sup> Other key areas affected by language barriers are health care, public benefits, education, courts, and voting.

**Create and implement a comprehensive set of policies to guarantee LEP individuals' access to the legal system and the courts.** In order to ensure the fair and efficient administration of justice, language assistance in the legal system, including the courts, is essential so that LEP individuals can understand legal documents, communicate with clerks or court staff, and participate in court proceedings. Legal services programs for low-income clients must prioritize providing language assistance for LEP clients – without such assistance, many immigrants never seek legal help for critical issues such as child custody, domestic violence, or eviction defense. Courts should develop uniform standards and policies designed to guarantee equal access for

LEP individuals, including: adequate funding to provide for qualified interpretation and translation services; translation of standard court documents in languages used by a significant number of the population; and training and resources to assist court staff, administrators, and judges in identifying and addressing language issues.<sup>338</sup> In addition, lawmakers should encourage state courts to develop court interpreter programs, administer language certification examinations, and recruit qualified court interpreters.

##### **Restore the ability of victims of discrimination to directly challenge practices that have an unjustified discriminatory effect based on race, color, or national origin.**

For more than 35 years, civil rights advocates effectively used Title VI regulations to dismantle segregation and quash discriminatory practices. However, in *Alexander v. Sandoval*,<sup>339</sup> the U.S. Supreme Court held that individuals could no longer bring private lawsuits to enforce disparate impact regulations, restricting that enforcement authority to government agencies. As a result of the court's decision, federally-funded activities that have a harmful and disproportionate effect on people of color and language minorities can only be challenged in court by the victims themselves if they can demonstrate intentional discrimination – something difficult to prove since discrimination, especially if it's institutionalized, is rarely blatant or overt. Congress must restore the ability of individuals to directly challenge practices that have racially inequitable outcomes without needing to meet the heavy burden of proving discriminatory intent.

##### **Oppose English Only laws and other attempts to undermine civil rights protections for language minorities.**

English Only laws, which seek to make English the official language of the government and preclude agencies from using documents in any other languages, foster a climate of fear and division in local communities and encourage discrimination against individuals who are not fluent in English. In addition, restrictive English Only laws can deny or restrict access to voting, education, health, safety, and law enforcement services to which LEP individuals are entitled. Rather than pursue policies that isolate LEP individuals, lawmakers should take affirmative steps to support English language acquisition and immigrant integration.

## CHAPTER FIVE

# Advancing Immigrant Rights

Beginning with the arrival of Chinese immigrants during the Gold Rush era, the fate of Asian Americans and Pacific Islanders has been inextricably linked to U.S. laws, policies, and attitudes toward immigrants. Restrictive and discriminatory immigration laws, such as the Chinese Exclusion Act of 1882, systematically excluded virtually all Asians from immigrating into the United States and becoming part of American society. It was not until 1965 that the national origin quotas were lifted and Asians were able to immigrate and become U.S. citizens in significant numbers.

Today, more than 16.6 million Asian Americans and Pacific Islanders live in the U.S., of whom nearly two-thirds are immigrants.<sup>140</sup> With Asian immigrants comprising roughly 40 percent of all immigrants to the U.S., comprehensive immigration reform and the national immigration debate are particularly salient issues for AAPI communities. This section provides an overview of key immigration laws and policies affecting AAPI communities today, including: reforming the broken immigration system; curtailing immigration enforcement by state and local police; redirecting the focus of worksite enforcement efforts; overhauling the immigration detention system; and restoring judicial discretion, fairness, and due process in immigration courts.

## Comprehensive Immigration Reform

AAPI immigrants are major contributors to the economy, diversity, and cultural vibrancy of the U.S. Immigrants arrive in the U.S. seeking a better life for themselves and their families. They share a common investment in values such as democracy, opportunity, fairness, and equality with all Americans.

In August 2009 and January 2010, the partnerships between AAJC, AAI, ALC, APALC, and dozens of other national, regional, and local organizations made possible two groundbreaking AAPI Weeks of Action for comprehensive immigration reform. Community members shared personal stories with the media, engaged in blogging campaigns, reached out to their elected officials, and joined a family immigration postcard campaign.

In March 2010, AAJC helped spearhead efforts to convene hundreds of AAPIs in Washington, DC for the March for America, a watershed event in the broader comprehensive immigration reform movement that brought more than 200,000 people to the National Mall. A 100-plus member strong Chicago group led by AAI and its local partner, the Coalition for a Better Chinese American Community, represented the largest local AAPI delegation at the event.



Yet the fate of aspiring immigrants hinges on a broken immigration system. Under the existing immigration system, immigrants are separated from their families, exploited by unscrupulous employers, denied meaningful educational and employment opportunities, and prevented from contributing fully to American society. Moreover, current immigration policies waste billions of taxpayer dollars on enforcing these broken, outdated laws.

Family unity has been the bedrock of U.S. immigration law and policy. For more than a hundred years, siblings and other close family members have been able to join family members under a first-in-line system. The majority of U.S. immigration visas are granted to the spouses, children, parents, and siblings of current U.S. residents so families can remain intact. For Asian Americans, family-based immigration has been the primary avenue with 60 percent of Asian immigrants obtaining legal permanent residency through family sponsorship in 2009.<sup>141</sup> Asian Americans and Pacific Islanders sponsor nearly one-third of all family-based immigrants, although they comprise less than 5 percent of the entire U.S. population.<sup>142</sup>

Despite the importance of family unity, an estimated 1.5 million AAPI families are stuck in U.S. immigration backlogs and must wait years, even decades, before they can be reunited with their loved ones. Asian Americans and certain Pacific Islanders suffer from some of the worst immigration backlogs in the world. Nearly half of the family members caught in visa backlogs are the spouses, children, and siblings of Asian Americans and Pacific Islanders.<sup>143</sup> Chinese, Filipino, and Indian immigrants face wait times of *more than 10 years* to join their family members in the U.S.<sup>144</sup>

The impact of these lengthy backlogs on families can be devastating. Newer immigrants must live without the love and support of their spouses, children must grow up without the guidance of one or both parents, and seniors must live without the assistance of their families when they need their families most.<sup>145</sup>



With few choices and little recourse, some immigrants overstay their visas or come to the U.S. without their papers rather than wait up to 20 years for their petitions to be processed through the immigration system. In 2009, the Department of Homeland Security estimated that close to one million undocumented immigrants originated from Asian countries, of which 270,000 arrived from the Philippines; 200,000 from Korea; 200,000 from India; and 120,000 from China.<sup>146</sup>

Not surprisingly, Asian American groups that face the lengthiest immigration backlogs are also the ones with a significant number of undocumented individuals residing in the U.S. Undocumented immigrants live productive lives, contribute to our economy, pay taxes, and become integral members of the AAPI community and broader society. Because they lack legal immigration status, these immigrants are vulnerable to exploitation and abuse. No matter how long they live and work in the U.S. or how much they contribute to U.S. economy and society, undocumented immigrants will never be able to gain lawful immigration status and become fully integrated members of this country – without fundamental changes to U.S. immigration laws and policies.

This is particularly true for undocumented children who grow up in the U.S. and consider America to be their home. An estimated 65,000 undocumented immigrant students graduate from U.S. high schools every year, many of whom are AAPI students who came to this country as young children. Due to their lack of immigration status, these students face limited educational and employment opportunities and live in constant fear of deportation – even though they have spent the vast majority of their lives in the U.S. Many find it prohibitively expensive to attend public colleges and universities because they are charged out-of-state tuition rates – even though they have satisfied the residency requirements for in-state tuition rates and their parents have worked and paid taxes to the state.

While many AAPI groups face lengthy backlogs and obstacles to sponsor their family members, AAPI bi-national couples who are in committed same-sex relationships are completely shut out of the family immigration system. According to the 2000 Census, approximately 35,000 bi-national, same-sex couples currently reside in the U.S.<sup>147</sup> Unlike married opposite-sex couples, U.S. citizens and legal permanent residents who are in committed same-sex relationships cannot sponsor their partners through the family immigration system. As a result, thousands of lesbian and gay bi-national couples are either torn apart or forced to stay together in the U.S. illegally – living in constant fear of detection by immigration authorities. Others have already been separated or forced into exile outside the U.S.

Thousands of aging Filipino veterans also remain separated from their families and are spending their twilight years without the love and support of their family members. Under the 1946 Rescission Act, Filipino veterans who served with the U.S. Armed Forces during WWII, when the Philippines was a U.S. territory, were stripped of their ability to become U.S. citizens. It was not until 1990 when these veterans were finally given the opportunity to obtain U.S. citizenship and spend their remaining years in the U.S. But these veterans soon found themselves separated from their children and families, who must wait years to pass through the family immigration system.

Similar to the family immigration system, employment-based immigration has been fraught with backlogs and delays as well as exploitation and abuse. A significant number of AAPI immigrants utilize temporary work-related visas under the H-1B program. Inflexible caps in the H-1B program, however, make it difficult for skilled AAPI immigrants to come to the U.S. or for highly talented students from Asian countries studying in the U.S. to remain here upon graduation. Furthermore, while many AAPI workers enter the U.S. on these long-term but temporary visas, they find it

Tiza Burke is a social worker with the Illinois Department of Children and Family Services. Tiza came to the United States from the Philippines in 1978 and became a citizen 27 years ago. When Tiza became a citizen, she petitioned for her four sisters to join her from the Philippines. Only her youngest sister Teodora was approved. At the time of petition, Tiza was informed that it could be 10 years before Teodora could join her. Immigration officials never responded regarding Tiza's petition for her other sisters.

A visa was finally available for Teodora 24 years after Tiza petitioned for her. However, within those decades, Teodora had gotten married and had a family of her own and the timing could not have been worse. She wanted to see her son graduate from college in the Philippines, so she made the difficult decision to forgo her visa because she did not want to be separated from her son. Tiza has re-petitioned for Teodora and is waiting to hear from U.S. Citizenship and Immigration Services.

Tiza has been active in immigration reform work with AAI for many years. She has been a spokesperson for family reunification and has spoken at both local and national rallies and met with various legislators. Immigration policy is a priority for all the members of Center for Advancing Justice. AAJC is a national leader in the fight for comprehensive immigration reform. AAJC's leadership role in key coalitions has helped to ensure not only an AAPI voice at the decision-making table, but also the inclusion of AAPI community priorities in the broader narrative for reform of our broken immigration system.

Justice In Action



overly difficult to change jobs and transition to a more permanent immigration status due to visa backlogs, government bureaucracy, lack of sufficient wage and labor protections, and limitations on the portability of their visas.

Moreover, skilled workers who come to the U.S. under the H-2B program often suffer from abuse at the hands of their employers but cannot escape the exploitative situation due to the terms of their temporary visas. Under the H-2B visa program, workers cannot leave their jobs or change employers without losing their immigration status – leaving these workers at the mercy of unscrupulous employers. As a result, many exploited workers are left with little choice but to remain in abusive work environments. For example, approximately 100,000 guest workers from Asia, Latin America, and Africa were recruited to help rebuild the hurricane-devastated regions of the Gulf Coast. Hundreds of workers, who were recruited from India to work in Mississippi, endured cramped, unsanitary living conditions and verbal abuse from their employers. When the workers attempted to assert their rights and organize a union, their employers fired them and withdrew their immigration sponsorship – rendering many of these workers undocumented and unprotected.<sup>148</sup>

Immigrant women who are victims of domestic violence often feel trapped in abusive marriages due to immigration laws, language barriers, and lack of financial resources.<sup>149</sup> Domestic violence is a serious problem for many Asian American and Pacific Islander women, with 41 to 60 percent experiencing physical or sexual violence by an intimate partner during their lifetime.<sup>150</sup> Typically, a batterer controls and manipulates the immigrant spouse by using her unsettled immigration status against her and threatening deportation. Since she may be dependent on her husband to lawfully immigrate her, many immigrant women feel they have little choice but to remain in their violent marriage or risk losing their immigration status.

## Justice In Action

The first time Helen Huang (pseudonym) called APALC, she was eight months pregnant. Her husband had beaten her in the middle of the night, and the police had arrested him. Helen spoke to APALC, but she was not ready to leave her husband. She thought she should try to salvage the marriage because of the baby.

A year later, Helen called APALC again – this time from a domestic violence shelter. After her daughter was born, she had tried to save her marriage. But when her husband became violent again, grabbing her hair and throwing her to the ground, she decided to leave.

To help Helen build a new, safe life, APALC helped her gain sole custody of her daughter and secured her legal immigration status. Although Helen had a college degree from China, she could not legally work in the U.S. (and thus had no financial support) because she did not have a green card. APALC filed a self-petition for her under the Violence Against Women Act (VAWA), which allows victims of domestic violence to petition for their legal status without relying on an abusive spouse. In just a month, Helen received prima facie approval, which allowed her to access cash benefits. A year later, Helen received legal status under VAWA and became a legal permanent resident.

As a result of APALC’s help, Helen was able to continue her education and obtain a degree in accounting. Today, she is both a successful accountant and single mother. Every year, she sends a holiday card to APALC expressing her gratitude for her new life.

The Violence Against Women Act (VAWA), which allows domestic violence survivors married to U.S. citizens or green card holders to “self-petition” for lawful immigration status without relying on their abuser, has provided an important avenue for abused immigrant women to establish healthy, independent lives. Others may qualify for other immigration options, such as a T-visa for trafficking victims or a U-visa for victims of violent crimes. But many immigrants do not qualify for existing legal remedies. But many immigrants do not qualify for existing legal remedies. Moreover, language barriers, traditional gender role expectations, and lack of familiarity with U.S. laws prevent many AAPI women from seeking help and leaving their abusers.<sup>151</sup> And those that do seek assistance frequently encounter shelters, counseling programs, or legal services organizations that cannot accommodate their linguistic or cultural needs.

Congress and the president must enact comprehensive immigration reform to address the myriad failures of U.S. immigration policy and to uphold the values and principles we cherish most as Americans. Any comprehensive immigration reform legislation must reaffirm the importance of family unity, provide a path to legalization for undocumented immigrants, and address the plight of undocumented students, bi-national same-sex couples, Filipino veterans, skilled workers, and domestic violence survivors. The future of our country depends on passing a sensible, fair, and humane immigration policy today.

## Policy Recommendations:

**Promote family unity as a priority of U.S. immigration law and policy.** Family-based immigration enhances an individual’s ability to integrate, contribute, and thrive in the U.S. As part of comprehensive immigration reform, lawmakers should clear out bureaucratic backlogs for family-based immigration visas and facilitate the timely reunification of immigrant families. In addition, Congress should provide adequate numbers of family-based visas per year, update family preference

categories, adjust per country limits, and remove bars to reentry and adjustment of status so immigrants can reunite with their family members and loved ones in the U.S.

**Provide a clear path to legalization and citizenship for undocumented immigrants who are living and working in the U.S.** Any comprehensive immigration reform legislation must recognize the contributions of undocumented workers and enable undocumented

immigrants to contribute more fully to our economy and society. The U.S. needs to create a reasonable, fair process for immigrants to obtain legal immigration status. This process should be workable and humane, without imposing unnecessary and overly punitive measures for immigrants who are seeking the American Dream.

**Create a process for immigrant students who have lived in the U.S. for most of their lives to obtain legal residency.** These hard-working, promising students deserve a chance to become fully contributing members of society. Congress should enact bipartisan legislation such as the DREAM Act, which would allow approximately 65,000 immigrant students who have grown up in the U.S. and graduated from American high schools to eventually obtain permanent legal status, if they satisfy certain conditions.<sup>152</sup> In addition, lawmakers at the federal and state levels should support legislation allowing students who attend and graduate from U.S. high schools to be eligible for in-state tuition rates at public colleges and universities, regardless of their immigration status.

**Allow U.S. citizens and permanent residents to sponsor their same-sex, foreign-born partners for immigration purposes.** Congress should support legislation such as the Uniting American Families Act and amend the immigration laws so lesbian and gay citizens and lawful permanent residents can sponsor their foreign-born partners for the same immigration benefits that other immigrants receive.<sup>153</sup>

**Support the Filipino Veterans Family Reunification Act.** Congress should exempt the children of Filipino WWII veterans who are U.S. citizens from the annual family-based immigration quotas. Creating exemptions for these elderly Filipino veterans would provide humanitarian relief for veterans who served and defended the U.S. in a time of war.

**Expand legal channels for workers to come to the U.S. with full labor and immigration protections.** Congress should raise the number of employment-based visas granted to high-skilled and less-skilled workers each year in order to meet the changing demands of the U.S. labor market. In addition, any worker visa program must provide the full panoply of labor protections to these workers, such as allowing workers to bring their families with them, change jobs freely, and apply for lawful permanent residency. Congress must also amend immigration and labor laws to ensure that the Department of Labor and other agencies can enforce prevailing wage requirements and monitor workplace conditions under these visas.

**Expand policies and services that enable immigrant women who are domestic violence survivors to leave their abusive spouses and achieve economic independence.** Congress should amend immigration laws to allow more categories of domestic violence survivors to be eligible for permanent legal status through the VAWA self-petitioning process. The Justice Department funds legal and other services for domestic violence survivors and should ensure that adequate funds are directed to cities and organizations serving AAPIs impacted by domestic violence. State and local governments should provide or fund vocational training, social services, legal services, and other support for domestic violence survivors and their families. Particularly critical are linguistically and culturally appropriate services, including access to interpreters in shelters, legal services, and courts.

**Support national, state, and local efforts to foster immigrant integration and civic participation.** The U.S. should help newcomers learn English and adjust to their new lives in America by providing quality ELL classes, promoting naturalization and civic participation, and ensuring access to health, education, social services, and job training programs for recently arriving immigrants and refugees. Increased funding and support for citizenship classes, ELL classes, and other programs and services would better facilitate and promote immigrant integration into U.S. society. States and localities with sizable immigrant populations should also consider enacting policies that foster healthy and safe communities, such as issuing municipal ID cards to all residents regardless of their immigration status. In addition, federal, state and local policies and programs should target resources toward specific programs to support and integrate refugees and asylum seekers, particularly from Southeast Asia, who face additional challenges based on war, persecution or other trauma.

**Address the root causes of migration by stimulating fair development and economic growth in developing countries.** Migrants come to the U.S. seeking jobs and better lives that often are not available to them in their home countries. In order to address the root causes of migration, the U.S. should make strategic economic investments in developing countries to improve the economy, infrastructure, and job prospects in migrant sending countries. Furthermore, current development and trade policies should be examined and revised in order to mitigate impact on so-called sending countries, including the displacement of its citizens.

## Immigration Enforcement

Ever since Congress failed to pass comprehensive immigration reform and the Bush administration launched its “Secure Border Initiative,” the federal government has expended tremendous amounts of resources to apprehend and detain undocumented immigrants in workplaces and communities across the country. Between 1998 and 2007, a total of 49,973 Asian immigrants were removed from the U.S. – the vast majority of whom (38,064 immigrants) were removed on non-criminal charges.<sup>154</sup>



Violeta Cabanatuan (pseudonym) emigrated legally from the Philippines when she was nine years old in 1964. Forty years later, after serving honorably in the U.S. Army during the Vietnam War and working for decades in other jobs, she was laid off from work. Unable to locate her 40-year-old green card, she was barred from applying for unemployment benefits and was told she could not renew her driver’s license.

When she met with an immigration officer, she was shocked to discover that her immigration file had been lost during the federal government’s transfer to a computer-based record system many years earlier. Despite being a legal immigrant and a veteran, she was unable to get a new job and could not claim the unemployment benefits for which she had paid during years of working. She was trapped in a limbo period without her green card while her immigration record was tracked down. ALC represented Violeta in successfully obtaining her green card.

Although the Obama administration has shifted its enforcement priorities from paramilitary style workplace raids to massive I-9 audits and from street-based immigration patrols to jail-based immigration screenings, the dramatic escalation in immigration enforcement continues to take its toll on immigrant families and local communities. As more and more local police collaborate with federal immigration authorities, immigrants who are domestic violence survivors, crime victims, and witnesses of crimes are increasingly afraid to contact and assist local law enforcement. With the expansion of immigration enforcement at the workplace, immigrant workers are afraid to report labor violations and sweatshop conditions under threat of deportation by their employers. In addition, immigrants who have well-established roots in the U.S. are being detained and deported for low-level offenses, often committed years ago. Immigrants who face removal proceedings are being denied access to fair hearings, legal representation, and basic due process. And immigrants who pose no flight risk and no danger to public safety are being detained in immigration facilities under appalling, if not inhumane, conditions.

The absence of comprehensive immigration reform has spawned a range of enforcement-only initiatives that rip apart AAPI families, waste taxpayer dollars, and instill a climate of fear and division within local communities. The trauma and hardship caused by the explosive growth in immigration enforcement underscore the urgent need for enacting immigration reform and restoring justice, fairness, and due process to the immigration system.

### Policy Recommendations:

**End programs that authorize state and local police to enforce federal immigration laws.** The Homeland Security Department has continued to expand controversial programs, such as the 287(g) program, Criminal Alien Program, and Secure Communities, that increase collaboration between federal immigration authorities and local law enforcement agencies.<sup>155</sup> Since 2006, these programs have grown exponentially – despite reports by the Government Accountability Office, the Inspector General, and a number of civil rights and human rights groups that these programs have resulted in a sharp increase in racial profiling, pretextual traffic stops and arrests, and the deportation of immigrants for low-level offenses within participating jurisdictions.<sup>156</sup> Numerous law enforcement officials across the country recognize that deputizing local police to enforce civil immigration laws detracts from their primary mission to protect and serve all residents in their local communities. These programs divert scarce resources, increase localities’ exposure to liability and litigation, and exacerbate fear in communities that are already distrustful of police.<sup>157</sup> State and local police have no business enforcing federal immigration laws. So long as these programs remain in effect, DHS must mandate disaggregated data collection regarding the implementation of these programs by states and localities to monitor potential indications of racial profiling and rescind delegated enforcement authority from those jurisdiction that fail to properly abide by the terms of enforcement programs.

**Redirect the focus of worksite immigration enforcement to unscrupulous employers who are violating labor laws.** Although the Obama administration has scaled back the use of large-scale workplace raids that were a hallmark of the Bush administration’s enforcement strategy, the recent expansion of I-9 audits as an immigration enforcement tool has resulted in massive dismissals of immigrant workers. During the first week of July 2009, ICE sent audit letters to 652 businesses nationwide – more letters than the agency issued in all of 2008. In November 2009, ICE conducted a second round of I-9 audits, notifying 1,000 companies that they would have to undergo such a review.<sup>158</sup>

These “silent raids” have proven to be just as devastating for immigrant families as worksite raids, resulting in substantial job losses for immigrants and devastating local economies and businesses. In addition, a number of the higher profile targets of the I-9 audits have been a far cry from the “bad

apple” employers on which DHS should be focusing its worksite enforcement efforts. DHS should coordinate with the Department of Labor and shift its worksite enforcement priorities toward employers who are violating labor laws rather than those who are merely employing undocumented workers.

**Oppose the mandatory use of flawed electronic employment verification systems.** Employment verification systems that rely on government databases, such as the E-Verify program, are riddled with unacceptably high error rates, especially for foreign-born individuals.<sup>159</sup> Nearly 10 percent of foreign-born U.S. citizens are mistakenly found to be unauthorized to work in the U.S., compared to 0.1 percent of native-born U.S. citizens.<sup>160</sup> SSA estimates that if E-Verify were to become mandatory, SSA database errors alone could result in 3.6 million workers a year being misidentified as not authorized for employment.<sup>161</sup> If the E-Verify program expands without more accurate databases and stronger worker protections, large numbers of immigrants are likely to face discrimination, adverse employment actions, and restricted job opportunities.

National, state, and local lawmakers should oppose any efforts to expand the use of flawed employment verification systems, such as E-Verify. At a minimum, the government should ensure that existing and proposed electronic employment verification systems have adequate safeguards, such as data accuracy, anti-discrimination protections, and due process and privacy rights for all workers.

**Establish rational and humane border enforcement policies.** Since the launch of Operation Gatekeeper in 1994, the militarization of the U.S.-Mexico border has forced migrants to cross the border through the perilous mountains and deserts of the Southwest. Several thousand migrants have died trying to cross the border, from dehydration, hypothermia, and heat stress. Congress must address the growing humanitarian crisis at the U.S.-Mexico border by: creating a U.S.-Mexico border enforcement review commission; halting construction of the border wall between the U.S. and Mexico; training Border Patrol agents to respect the civil rights and human rights of migrants; and eliminating border deaths.

**Restore judicial discretion, fairness, and due process to immigration hearings.** As ICE has ramped up its immigration enforcement activities in workplaces and local communities, the number of immigrants



caught up in the enforcement system has skyrocketed. For fiscal year 2008, ICE apprehended nearly 800,000 immigrants, detained 379,000 individuals, and initiated 291,217 removal proceedings in immigration courts.<sup>162</sup> It deported 358,856 non-citizens, of whom 113,464 were removed through expedited procedures that offered neither formal hearings nor review by an immigration judge. In fiscal year 2009 under the Obama administration, 387,790 immigrants were forced to leave the country – a figure higher than any year under the Bush administration.<sup>163</sup>

Unfortunately, the escalation in immigration enforcement activities has coincided with the drastic curtailment in the legal rights of individuals facing detention and removal. Most legal observers concede that the current immigration adjudication system simply does not have capacity to provide meaningful hearings and due process to immigrants who are fighting their deportation. The abysmal quality of adjudications in immigration cases has led the American Bar Association to call on Congress to scrap the current system and create an entirely new, independent court system to hear immigration cases.<sup>164</sup>

Congress must reform the immigrant adjudication system to ensure that immigrants are guaranteed fair court proceedings and meaningful review of their individual cases. Furthermore, Congress should amend provisions of the 1996 immigration and anti-terrorism laws that impose mandatory detention and deportation for immigrants who commit certain nonviolent crimes, permit expedited removal procedures, and restrict judicial discretion and review in immigration cases.

**Overhaul the immigration detention system by establishing enforceable detention standards, expanding alternatives to detention, and limiting the detention of vulnerable populations.** The number of individuals detained for immigration violations has swelled ever since Congress passed two laws in 1996 that impose mandatory detention and deportation on immigrants convicted of a wide range of criminal offenses. In absolute terms, however, the largest increase in

immigration detentions started in 2005, after the Bush administration announced that it would detain most unauthorized immigrants until the government could deport them.

The dramatic expansion in immigration detention has led ICE to rely on a patchwork of local jails and privately run facilities to house apprehended non-citizens.<sup>165</sup> As exposed in a series of investigative pieces published by the Washington Post and New York Times, many detainees face inhumane conditions in crowded facilities that have little regard for oversight and standards.<sup>166</sup> More than 80 immigrants have died in custody since 2003, largely due to inappropriate or negligent medical care.<sup>167</sup> The neglect and abuse within the walls of immigration detention go largely unseen because immigrants face formidable barriers to obtaining counsel, communicating with family members, or participating effectively in removal proceedings. Frequently, detained immigrants are pressured to sign removal orders within hours of arrest and moved to detention centers far from their homes, making communications with family members and lawyers difficult.

ICE should adopt legally binding standards for immigration detention to ensure that all detainees have access to legal counsel, family members, interpretation and translation assistance, and quality medical care. In addition, ICE should expand the use of alternatives to detention for vulnerable populations and expedite the release of individuals who pose no flight risk or threat to the community.

**Oppose state and local policies that divide communities and criminalize immigrants who seek jobs and better lives.**

In the absence of fair and humane immigration reform, a number of cities, counties, and states have enacted local ordinances that deny basic rights to immigrants and encourage discriminatory employment and housing practices against immigrants and those who may appear “foreign.” These ordinances are divisive, discriminatory, and unconstitutional. Such anti-immigrant policies only serve to foster a climate of hatred and fear in local communities.

## CHAPTER SIX

# Ensuring Economic Security, Health, & Wellness of Asian Americans & Pacific Islanders

The prevalence of the “model minority” myth to describe Asian Americans and Pacific Islanders obscures the economic needs and concerns of AAPI communities. More than one in 10 Asian Americans and one in six Pacific Islanders live in poverty. Certain communities, including Hmong, have poverty rates higher than any other racial or ethnic group in the U.S.<sup>168</sup> Many Asian Americans and Pacific Islanders are unable to access good jobs, quality health care, and affordable housing due to limited English skills or immigration status. As a result, a large segment of the AAPI population suffers from poor health outcomes, substandard housing, and economic instability.

This section provides an overview of core economic justice issues affecting AAPI communities, including worker rights, access to quality health care, and affordable housing.



## Worker Rights

From the Filipino farm workers who went on strike in 1965 and joined together with Latino farm workers to create the United Farm Workers of America, to the seventy-two Thai garment workers who were discovered in the El Monte slave sweatshop in 1995 and joined forces with Latina garment workers to demand justice, Asian American and Pacific Islander workers have been at the forefront of the labor rights movement in the U.S. Today, the struggle of these courageous pioneers continues in the efforts of taxi drivers, nail salon workers, domestic workers, restaurant workers, and other low-wage AAPI workers who are forging cross-racial alliances and organizing for decent wages and working conditions – often in the face of exploitation and abuse.

Due to their immigration status and limited English skills, many AAPI workers find themselves trapped in low-wage jobs and vulnerable to exploitation. These workers are routinely cheated out of their wages and forced to work long hours in unhealthy, unsafe environments. A recent survey of more than 4000 low-wage workers in Chicago, Los Angeles, and New York found that immigrant workers are almost twice as likely as U.S.-born workers to be paid less than the legally required minimum wage – the most basic labor protection.<sup>169</sup> The study also found that among all racial and ethnic groups, Asian immigrant workers suffer from the highest rate of overtime violations (84.9 percent) and AAPI workers are most likely to be forced to work off-the-clock (81.1 percent) and be denied meal breaks (68.2 percent).

A disproportionate number of immigrants, including AAPI immigrants, work in dangerous jobs and experience high rates of workplace injuries and fatalities. Nail salon workers in California – eighty percent of who are Vietnamese – typically work long hours and suffer prolonged exposure to a wide range of carcinogens and toxic chemicals.<sup>170</sup> Taxi drivers – fifteen percent of whom are South Asian in the Chicago, New York, San Francisco, and Washington, DC metropolitan areas<sup>171</sup> – are 60 times more likely than other U.S. workers to be killed on the job.<sup>172</sup>

In 1995, 72 Thai garment workers were discovered working in a sweatshop in suburban Los Angeles, where they lived and worked under armed guard and behind barbed wire, sewing garments for the nation's leading manufacturers and retailers. The workers were held for up to seven years, suffering severe physical and psychological injuries while working in deplorable conditions. APALC represented the Thai workers, along with 22 Latino workers, in a lawsuit against manufacturers and retailers.

In the first federal lawsuit of its kind, the workers alleged violations and negligence theories against companies whose garments were sewn in sweatshop conditions, establishing precedent for holding manufacturers and retailers accountable for the conditions in which their clothes are made. The case resulted in two published opinions and total settlements in excess of \$4 million.

But the case was more than just a legal success. APALC also helped obtain visas for the Thai workers who were at risk of deportation, by successfully advocating for them to obtain S visas, which are issued to persons who assist U.S. law enforcement in investigating and prosecuting crimes. This was one of the first instances in which a large group of low-wage workers obtained S visas, giving them a path to legal permanent residency and eventual citizenship and paving the way for other trafficking victims to remain in the U.S., such as through T-visas for trafficked workers who aid the U.S. in prosecuting their traffickers. In 2008, many of the Thai workers found themselves in a place few of them would have imagined possible in August 1995, when they realized the American dream of freedom and opportunity in becoming naturalized U.S. citizens.

Shortly after September 11, 2001, thousands of seasoned airport security screeners nationwide lost their jobs when the Transportation Security Administration (TSA) fired all existing screeners and required them to apply for their jobs anew. The TSA also required screeners to pass a new hiring test that many workers felt was discriminatory and unrelated to their ability to do the job. Immigrants, people of color, women, and older workers lost their jobs in disproportionate numbers. In the San Francisco Bay Area, these changes hit the Filipino community particularly hard, since many Filipino workers had held airport jobs in San Francisco, Oakland, and San Jose.

In 2002, with the support of several local Filipino community groups, pro bono partners, and co-counsel, ALC brought discrimination claims on behalf of former airport screeners against the TSA and the private company that had designed and administered the new hiring test based on TSA guidelines. An uphill legal battle ensued. Several courts in other cases around the country found that the statute creating the TSA shielded the agency from many workers' rights claims.

At the end of 2007, ALC successfully helped 18 former Bay Area airport screeners settle their claims against the testing company. The resolution followed a 2006 finding by the Equal Employment Opportunity Commission that the hiring test discriminated on the basis of race, national origin, gender, and age.

Moreover, while federal labor and anti-discrimination laws apply to most workers, certain classes of employees fall outside the protection of specific labor laws. Domestic workers, for example, are not covered under the National Labor Relations Act (NLRA), which protects union organizing activities, and live-in domestic workers are also excluded from the Fair Labor Standards Act (FLSA).<sup>173</sup> Other workers, including taxi drivers, garment workers, and farm workers, do not receive the full protections under the FLSA because of deliberate industry structures that serve to obscure the relationship between the workers and those who profit from their labor. In addition, the federal government's expansion of worksite immigration enforcement has emboldened unscrupulous employers to underpay unauthorized workers and violate labor laws by using the threat of deportation against immigrant workers.

Weak labor protections, lackluster enforcement of labor laws, and the demand for cheap labor have contributed to the flourishing market for forced labor.<sup>174</sup> Human trafficking, which involves subjecting trafficking victims to sexual exploitation or forced labor, is a modern-day form of slavery. Asian American and Pacific Islander women comprise the largest segment of persons trafficked into the U.S. They are typically forced to work in domestic service, garment sweatshops, hotels, agriculture, and the sex industry. Trafficking survivors are often afraid to report the abuse to law enforcement because their captors have threatened to come after them or their families if they attempt to escape. Many survivors are limited English proficient, low income, and unaware of their legal rights and existing community resources.

The global recession has only intensified the downward pressure on wages and working conditions, especially for low-wage workers. Lawmakers must invest in a robust economic recovery by ensuring that all workers are able to earn a decent wage in a safe, healthy work environment.

Justice In Action



Justice In Action

### Policy Recommendations:

#### Ensure vigorous enforcement of employment and labor laws, especially in low-wage industries where wage theft and health and safety violations are rampant.

For years, labor enforcement by federal and state agencies has been severely understaffed and under-funded. Lawmakers must prioritize funding to hire an adequate number of labor investigators and health and safety inspectors in order to crack-down on unscrupulous employers and level the playing field for businesses that play by the rules.

#### Extend labor rights and protections to all workers, regardless of their employment or immigration status.

Efforts to reduce workplace violations must guarantee that all workers, regardless of their immigration or employment status, can assert their rights without fear of retaliation or reprisal by their employers. The U.S. Supreme Court's decision in *Hoffman Plastic Compounds, Inc. v. NLRB*<sup>375</sup> created a significant gap in legal protections for undocumented immigrant workers, who can be illegally fired for engaging in union organizing activities and denied back pay as a result of the ruling. Congress and state legislatures must send a clear message that labor violations will not be tolerated against any workers, including immigrants. In addition, lawmakers must restore worker protections that were undermined by *Hoffman Plastic* and broaden the class of workers who enjoy full labor rights and protections under the law.

**Guarantee workers' right to form a union by passing the Employee Free Choice Act.** The right to organize is critical for workers to counter exploitation in the workplace and demand better wages and working conditions. Although the National Labor Relations Act protects workers' right to unionize, many employers suppress workers' efforts to organize and challenge unfair employment practices. Congress and state legis-

latures should enact policies that protect the freedom of workers to choose whether or not to form a union, regardless of their employment or immigration status.

#### Strengthen policies aimed at preventing all forms of human trafficking and providing support to survivors.

Under the Trafficking Victims Protection Act, trafficking survivors may apply for a T-visa and remain in the U.S. if they cooperate in the prosecution of their traffickers. Even if survivors choose to cooperate with prosecutors, however, their safety is not guaranteed. In addition, eligibility requirements for T-visas leave many survivors unprotected because these visas are limited to survivors of "severe trafficking." Congress should study whether the stringent eligibility requirements for T-visas serve the best interests of human trafficking survivors. In addition, Congress and state legislatures should support policies that enhance law enforcement's ability to identify and assist trafficking survivors and that provide social services and benefits to survivors, regardless of their immigration status.

#### Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and affirm the U.S.' commitment to protect the human rights of migrant workers.

Since its adoption by the United Nations General Assembly on December 18, 1990, the Convention has been ratified by 42 countries and signed by 16 countries. The Convention recognizes the specific vulnerabilities of migrant workers and promotes humane and lawful working and living conditions. It provides guidance on the elaboration of national migration policies based on respect for human rights and the rule of law. It also sets out provisions to combat abuse and exploitation of migrant workers and members of their families throughout the migration process.<sup>376</sup>

## Access To Health Care

The enactment of the historic health care reform law in 2010 marks a significant step forward in advancing access to affordable, quality health care for Asian American and Pacific Islander communities. Without improvements in health care coverage and delivery for underserved populations, however, considerable health disparities will persist within AAPI communities. Common barriers within the AAPI population include lack of health care coverage, limited English proficiency, and citizenship status. Moreover, the lack of health data on specific AAPI communities limits the quality of care these populations receive.

Significant health disparities and challenges exist across Asian American and Pacific Islander communities. AAPI communities suffer from disproportionately high rates of cancer, heart disease, stroke, and diabetes.<sup>177</sup> AAPI groups also account for the largest proportion of all tuberculosis and chronic hepatitis B cases. In 2007, tuberculosis was 24 times more common among Asian Americans as among Whites. The rate of hepatitis B, which is strongly correlated with liver cancer, is twice as high among Asian Americans and Pacific Islanders as among whites.<sup>178</sup>

In addition, Asian Americans and Pacific Islanders are the only racial group in the country for whom cancer is the leading cause of death. In 2006, the rate of deaths caused by cancer for Asian Americans and Pacific Islanders was 26.4 percent, compared to 23.2 percent for Whites, 21.8 percent for African Americans, 20 percent for Latinos, and 17.4 percent for Native Americans.<sup>179</sup> Cancer deaths have increased at a faster rate among AAPI communities than any other racial and ethnic population due in large part to relatively low screening rates and late stage diagnoses among Asian Americans and Pacific Islanders. For example, in 2008, Asian American women were least likely of all racial and ethnic groups to have had a Pap test.<sup>180</sup>

Lack of health insurance and limited availability of affordable health coverage are significant barriers to eliminating health disparities in AAPI communities and to receiving quality health care for Asian Americans and Pacific Islanders. One in 6 AAPI adults lives without health coverage, and one in ten Asian American and Pacific Islander children is uninsured.<sup>181</sup> Specific groups lack insurance at extremely high rates, including one in four Native Hawaiians and one in three Korean Americans.<sup>182</sup> A contributing factor within certain communities is the lack of employment-based insurance for AAPI workers in small businesses and low-wage industries.

For the uninsured, the absence of preventive care and early intervention can result in more serious illnesses and more costly treatments – jeopardizing individuals' productivity and health. Without health insurance, preventable diseases such as cardiovascular disease, diabetes, and hypertension remain undetected, and diseases that are treatable with early intervention such as cervical, breast, and colorectal cancer go untreated.

Furthermore, current coverage for those who are insured is often limited to medical benefits and frequently does not include mental health services. Even amongst those who have health insurance, access to mental health services is often restricted. In California, for example, 20 percent of insured adults do not have coverage for mental health care. Within the AAPI community, 28 percent of insured Chinese and 34 percent of insured Vietnamese do not have mental health coverage. The highest proportion of insured Californians without mental health coverage is the Vietnamese community, which is particularly troubling since many Southeast Asian refugees are at risk for post-traumatic stress disorder.<sup>183</sup>

Compounding these barriers is the lack of culturally and linguistically appropriate health care for Asian Americans and Pacific Islanders. The Commonwealth Fund found that Asian Americans and Pacific Islanders are more likely than other groups to report communication problems with their physicians and less likely to report positive patient-physician interactions. AAPI individuals were "the least likely to feel that their doctor understands their background and values, to have confidence in their doctor, and to be as involved in decision-making as they would like to be."<sup>184</sup>

In particular, limited English proficient (LEP) individuals experience tremendous barriers in communicating with health care providers and accessing services. Studies indicate that individuals with limited English skills are less likely to have health insurance and less likely to access preventive care through public health programs.<sup>185</sup> Many AAPI individuals who qualify for public programs remain uninsured because of confusion and misinformation about the enrollment process. Further-

more, miscommunication between doctors and LEP patients due to linguistic and cultural barriers can result in the misdiagnosis of illnesses, inappropriate treatment plans, and denial of care.

Citizenship and immigration status keep health insurance out of reach for many Asian Americans and Pacific Islanders. Overall, immigrants are far less likely to be enrolled in and to utilize public health programs due to restrictions in eligibility, access barriers, confusion over complex eligibility requirements, and fears surrounding family immigration status. Unfortunately, the new health care law leaves out a significant number of immigrants from health coverage. Newly arrived immigrants must still wait five years or more before they can receive affordable health coverage under Medicaid and the Children's Health Insurance Program (CHIP).<sup>186</sup> Undocumented immigrants, who are ineligible for health insurance under Medicare, Medicaid, and CHIP, will not be allowed to purchase private health insurance through the new exchanges – even if they can pay the full price of coverage.

Lack of access to quality, affordable health care carries both individual and societal costs. Achieving health equity in AAPI communities begins with a focus on the underlying factors that lead to health disparities, such as lack of preventive care, linguistic and cultural barriers, and immigration status. Health care reforms must eliminate disparities in quality care and improve health outcomes in order to guarantee the health and well-being of all communities, including Asian Americans and Pacific Islanders.

#### Policy Recommendations:

**Increase data collection and dissemination of information about Asian Americans and Pacific Islanders, disaggregated by ethnic group.** Differences across AAPI groups in terms of demographics, socioeconomic status, and health disparities point to the need to collect and examine data both holistically and disaggregated by each AAPI group. Yet the paucity of disaggregated data makes it difficult to identify, much less address, the unique needs of diverse AAPI communities. Federal, state, and local agencies should collect and report data on AAPI populations consistent with the 1997 Office of Management and Budget revised standards and further disaggregated by ethnicity to ensure that programs and services are targeted at the communities in greatest need.

**Ensure meaningful access to quality health care for persons who are not fluent in English.** Individuals with limited English proficiency have the right to access public health programs regardless of their ability to speak English. In order to eliminate cultural barriers and ensure quality care, agencies must develop mechanisms for culturally and linguistically appropriate care, including the provision of timely, accurate, and appropriate medical interpretation and translation services. Lawmakers must increase funding and support for health interpretation and translation by

enhancing federal reimbursement of language services through Medicare, Medicaid, and CHIPRA and by disbursing grants to improve access to language services. Exchanges should require all qualified health plans to reimburse for language services.

In addition, lawmakers should support and expand AAPI focused community health centers, which play an indispensable role in local communities by providing linguistically and culturally competent care to underserved and uninsured populations. Lawmakers should also ensure that health plans provide coverage to treat mental health conditions, which many currently do not do.

**Expand access to affordable health care coverage for all U.S. residents, including immigrants.** With the growing ranks of the uninsured and underinsured, policymakers should take immediate steps toward guaranteeing affordable and adequate health insurance coverage for all U.S. residents, regardless of their immigration status. Congress should remove the five-year bar and mandate that all lawfully residing immigrants who are low-income can access Medicaid and CHIP without a waiting period. Lawmakers should also allow undocumented immigrants to purchase unsubsidized coverage in the new exchanges.

In addition, lawmakers should remove burdensome and discriminatory barriers to enrollment, such as proof of citizenship requirements for Medicaid applicants and recipients. This requirement has resulted in delays and drops in Medicaid enrollment among eligible, low-income U.S. citizens, particularly residents of rural areas, persons with disabilities, and African Americans.<sup>187</sup>

States and localities must preserve safety net programs that protect the health and safety of all residents, regardless of their immigration status. These programs provide critical economic support for the

working poor and a vital lifeline for the most vulnerable members of our communities.

**Support effective outreach and education on health care reform measures, including anti-discrimination protections.** In 2010, Congress passed significant health care reform measures with new antidiscrimination provisions – this legislation has the potential to reduce (although not eliminate) disparities affecting AAPI communities. The implementation of this legislation needs to take into account the needs of AAPI communities, including translated outreach and education information.

## Housing

The absence of quality, affordable housing is a key barrier to economic stability and self-sufficiency for many Asian American and Pacific Islander families. AAPIs are less likely to own their homes and homeownership rates of Asian Americans (53 percent) and Pacific Islanders (47 percent) consistently lag behind the national average (66 percent).<sup>188</sup> Faced with rising rents and housing costs, many AAPI families are forced to live in housing that is crowded and substandard. More than 20 percent of Asian Americans and Pacific Islanders live in overcrowded housing, compared to 6 percent of the overall population.<sup>189</sup> In certain cities, a high percentage of AAPI households live in subsidized housing.

For decades, ALC has been a defender of the rights of low-income immigrant tenants. A significant barrier to the organization's work in California is the Ellis Act, a state law passed in 1986 that authorizes the removal of housing from the rental market. In practice, the law offers a means for landlords to speculate on real estate by purchasing rent-controlled housing and selling it at market value.

A key battle in ALC's eviction defense work dates back to 1999 when the tenants of a 23-unit single room occupancy property in San Francisco's Chinatown received eviction notices to move out within three months. Many of the tenants were seniors, such as Ms. Chow, age 96, and Ms. Tam, age 72, who had been living at this building for more than 20 years. When Ms. Tam was served with her notice, she was paying \$306 a month for her room.

Working in coalition with Chinatown Community Development Center (CCDC) and the Community Tenants Association, ALC facilitated tenant organizing against the mass evictions including a picket line at the building, television and newspaper stories, and meetings with City Hall. ALC represented the tenants, delaying their eviction. In the meantime, as community pressure mounted, the owners agreed to negotiate with CCDC to sell the building. An agreement was finalized and subsidized with municipal funding. Ultimately, the tenants were not evicted, and affordable housing was preserved.

ALC has defended numerous Ellis Act eviction cases and advocated for more effective city policies to stem the loss of affordable housing and to ease the impact on displaced tenants.





Asian American and Pacific Islander seniors in particular face a number of obstacles to securing affordable housing. More than one in ten AAPI seniors live in poverty and a majority of AAPI seniors speak little or no English.<sup>190</sup> Few facilities offer assisted living situations and appropriate supportive services, such as bilingual nursing staff. The ones that do are typically over-subscribed with long waiting lists. With declining federal support for senior housing programs, many AAPI seniors do not have access to supportive housing programs.<sup>191</sup>

Gentrification has resulted in the loss of affordable housing through the displacement of lower income residents by higher income households. Lower income persons of color, immigrants, seniors, and LEP residents are most vulnerable to being displaced. Because these residents are more likely to be tenants, evictions are one of the standard tools by which affordable housing may be converted to market-rate property.

The acute shortage of affordable housing for AAPI communities and other low-income communities of color has been exacerbated by the foreclosure crisis and predatory lending practices. According to a recent study by the Federal Reserve Bank of San Francisco, Asian Americans and Pacific Islanders in California are at a 60 percent greater risk of foreclosure than whites.<sup>192</sup> Without access to conventional lenders and translated information, AAPI communities are especially vulnerable to predatory lending. Predatory lenders target immigrant communities by steering borrowers to high risk loans that lack adequate regulation and consumer protections. Once these loans fail, immigrants are unable to find reliable and trustworthy foreclosure counseling in a language they understand. As a result of abusive lending practices, many AAPI homeowners have lost their homes as well as their savings.<sup>193</sup>

With people losing their jobs and their homes, the financial crisis poses new challenges for communities seeking to revitalize their neighborhoods and provide affordable housing to families, seniors, and others in need. Housing policies must expand affordable housing and promote homeownership, which are critical strategies for AAPI families to build their assets and achieve long-term economic stability.

#### Policy Recommendations:

**Expand the development of quality, affordable housing.** Federal spending on HOME Investment Partnership, Section 202, Community Development Block Grant, and other programs has failed to keep up with the growing need for affordable and supportive housing. Federal and state lawmakers should increase funding and support for programs that create more affordable housing for families and seniors. AAPI communities need housing that is located in urban areas, able to accommodate extended families, and linguistically and culturally accessible. In addition, Congress should increase the supply of housing vouchers and enhance funding for the Section 8 program to stabilize and strengthen the supply of affordable housing for the lowest income families.<sup>194</sup>

**Fund legal services for low-income tenants who are facing unlawful evictions or other landlord abuses.** Eviction defense work is vital to preserving affordable and decent housing and promoting equitable development.

**Prohibit predatory lending practices that target immigrant communities, individuals with limited English proficiency, and other vulnerable communities.** Congress and state legislatures should support and enforce legislation that expands consumer protections against abusive lending practices; better regulates the lending industry; and improves access to foreclosure and housing counseling services, particularly for persons with limited English skills. In addition, federal and state agencies should disaggregate lending data to document discriminatory lending practices against specific Asian American and Pacific Islander populations.

## Endnotes

- 1 The Asian American Justice Center is formerly known as the National Asian Pacific American Legal Consortium.
- 2 Throughout this report, we use the phrase "Asian American and Pacific Islander" to denote individuals who are based in the US and originated from countries in either Asia or the Pacific. We use this phrase consistently throughout the report in lieu of alternative terminology, such as "Asians," "Asian Americans," "Asian Pacific Americans," or "Asian Americans, Native Hawaiians, and Pacific Islanders" – unless making a distinction between Asian Americans and Pacific Islanders.
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31 A number of states have enacted voter challenge laws, which permit private individuals to challenge the right of other citizens to vote. Many of these states permit such challenges based on the challenger's "reasonable belief" that a voter is ineligible. Improper challenges can have the effect of intimidating voters, especially newer citizens and persons of color. For example, a private citizen from Washington State attempted to challenge the right to vote of more than 1,000 people with names that he believed "have no basis in the English language" and "appear to be from outside the United States" while eliminating from his challenge voters with names "that clearly sounded American-born, like John Smith, or Powell." He ended up primarily targeting Asian and Latino voters. See: Asian American Justice Center, "Factsheet: Voter Challenges at the Polls," available at: <http://www.advancingequality.org/attachments/files/70/Voterpercent20challengespercent20atpercent20thepercent20Pollspercent20Factsheet.pdf>.

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