



**Testimony of John C. Yang
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**Before the United States House of Representatives
Committee on the Judiciary
Subcommittee on the Constitution, Civil Rights, and Civil Liberties**

**Hearing On
“Discrimination and Violence Against Asian Americans”**

March 18, 2021

Asian Americans Advancing Justice | AAJC (Advancing Justice | AAJC) submits this written testimony to the U.S. House of Representative Committee on the Judiciary, Subcommittee on the Constitution, Civil Rights, and Civil Liberties for its hearing entitled “Discrimination and Violence Against Asian Americans” on March 18, 2021.

The Asian American community has long struggled for visibility and equity, and now our communities face additional physical and mental health harms arising out of the COVID-19 pandemic. Most notably, there has been a sharp increase in anti-Asian hate incidents, with web-based self-reporting tools hosted by the Asian Pacific Policy & Planning Council, Chinese for Affirmative Action, Asian Americans Advancing Justice, OCA – Asian Pacific American Advocates, South Asian Americans Leading Together, and other organizations recording over 4,000 incidents since late February 2020. While most of the incidents involve bullying, racial epithets, and verbal abuse and harassment, an increasing number of incidents have involved physical violence. For example, last spring a father and his two young children were stabbed at a Sam’s Club parking lot in Texas by an individual who thought that the Asian family had brought COVID-19 to the U.S.¹ At the beginning of this year, we have seen heartbreaking violent attacks on vulnerable Asian elders, including Vicha Ratanapakdee in San Francisco, Juanito Falcon in Phoenix, and Pak Ho in Oakland, who have died as a result of their injuries. And, just two days ago, the murder of eight individuals, most if not all of whom are Asian. Although the motivations for some of these attacks are unclear, the effect is clear: Asian Americans no longer feel safe, and live in fear of attacks because of their race and ethnicity.

¹ Caitlin Randle, *Man accused in Sam’s Club stabbing indicted*, Houston Chronicle (June 17, 2020), <https://www.chron.com/news/crime/article/Man-accused-in-Sam-s-Club-stabbing-indicted-15348034.php>

This hate is fueled by fear and misinformation. The health and economic fears caused by COVID-19 have led people to look for someone to blame. The use of racist terms, the focus on a society or culture as the “cause” for the COVID-19 pandemic, and policies that demonize immigrants all contribute to an atmosphere where racism and xenophobia is legitimized. It is also part of a broader structural racism that this country is continuing to confront. All of these factors have caused the Asian American community to become the target to be blamed for the current fears.

Addressing these issues requires a multi-faceted approach. First, we must have the data to make informed decisions about hate incidents and hate crime, and the most effective methods of prevention and response. Second, the needs and concerns of Asian Americans must be included in all aspects of policymaking at all levels of government, including robust enforcement of federal nondiscrimination laws and providing culturally competent and linguistically accessible services. Third, we need greater investment in and engagement of Asian American community organizations that work directly with impacted communities at the local level. Fourth, in the short-term, we must continue to educate communities providing tools to respond when they see or experience hate incidents, and in the long-term, we as a nation must provide education from the earliest grades on the histories of our diverse communities to ensure Asian Americans, and all Americans, are seen as equally integral to American history and American society. And finally, we must be vigilant in calling out and putting an end to xenophobic and racist rhetoric and scapegoating of our communities – whether it comes from elected officials, the media, or online platforms that have the potential to cause harm.

Organizational Information

Asian Americans Advancing Justice | AAJC (Advancing Justice | AAJC) is a national non-profit, non-partisan organization that works through policy advocacy, community education, and litigation to advance the civil and human rights of Asian Americans and to build and promote a fair and equitable society for all. Founded in 1991, Advancing Justice | AAJC is one of the nation’s leading experts on civil rights issues of importance to the Asian American community.

Asian Americans Advancing Justice | AAJC is a member of Asian Americans Advancing Justice (Advancing Justice), a national affiliation of five civil rights nonprofit organizations that joined together in 2013 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. The Advancing Justice affiliation is comprised of our nation’s oldest Asian American legal advocacy center located in San Francisco (Advancing Justice | ALC), our nation’s largest Asian American advocacy service organization located in Los Angeles (Advancing Justice | LA), the largest national Asian American policy advocacy organization located in Washington D.C. (Advancing Justice | AAJC), the leading Midwest Asian American advocacy organization (Advancing Justice | Chicago), and the Atlanta-based Asian American advocacy organization that serves one of the largest and most rapidly growing Asian American communities in the South (Advancing Justice | Atlanta).

Advancing Justice | AAJC was a key player in collaboration with other civil rights groups in creating the Communities Against Hate coalition in 2016, which includes the Leadership Conference for Civil & Human Rights and the Lawyers Committee for Civil Rights Under Law. Advancing Justice | AAJC also serves as a co-chair for the National Council for Asian Pacific Americans, an umbrella organization for 37 Asian American Pacific Islander national advocacy organizations. The Asian Americans Advancing Justice affiliation has a web-based hate incident reporting tool, www.standagainsthated.org, and had previously issued reports on hate crimes and hate incidents since the mid-1990s until the early 2000s.

Through our anti-hate work, Advancing Justice | AAJC strives to ensure that the civil rights and human rights of Asian Americans are protected. Advancing Justice | AAJC works to advance laws and policies that address anti-Asian hate, including improvements to hate crimes laws and government data collection, and advocating for increased resources to respond to hate crimes and hate incidents. Advancing Justice | AAJC works with policy makers on the Hill, in the White House, and in executive agencies; with civil rights advocates, including the Leadership Conference on Civil and Human Rights Hate Crimes Task Force; community leaders, including our Community Partners Network of over 160 Asian American and Pacific Islander (AAPI)-serving community-based organizations; and the media to address anti-Asian racism and xenophobia.

The Dual Pandemics of COVID-19 and Anti-Asian Hate

The lives and livelihoods of Asian Americans, just as all Americans, have been hit hard by the COVID-19 pandemic.

While the lack of disaggregated data on Asian Americans clouds the true health impact of the COVID-19 pandemic, data at the state and local level show a glimpse of the disparities across our communities. In California, the Los Angeles Times reported that “Native Hawaiian and other Pacific Islanders are dying the most disproportionately — at four times their share of the state’s population. They are followed by black and Asian Californians.”² This is particularly devastating given California has the highest number of Pacific Islanders in the contiguous U.S. In Nevada, the death rate of Asian Americans is twice that of Whites.³ At the local level, in San Francisco, Asian Americans accounted for 13.7% of cases but 52% of deaths.⁴ Furthermore, Asian American workers hold “high-contact essential jobs” with higher health risk at a disproportionately higher rate.⁵

²Ben Poston, Tony Barboza, Alejandra Reyes-Velarde, *Younger black and Latinos are dying of COVID 19 at higher rates in California*, L.A. Times (April 25, 2020), <https://www.latimes.com/california/story/2020-04-25/coronavirus-takes-a-larger-toll-on-younger-african-americans-and-latinos-in-california>

³ McKinsey & Company, *COVID-19 and advancing Asian American recovery*, 6 (August 2020) [hereinafter “McKinsey Report”].

⁴ *Id.*

⁵ *Id.* at 2

Despite popular misconceptions, including misleading surveys that excluded Asian Americans with limited English proficiency,⁶ Asian Americans have suffered tremendous financial hardships during the course of the pandemic. For example, in New York city, in a report by our community partner Asian American Federation, the pandemic has created record job losses for Asian American New Yorkers, with a 6000% increase in unemployment benefit applications in February through June 2020.⁷ In fact, Asian Americans suffered the largest increase in unemployment amongst all racial groups, going from 3.4% in February 2020 to 25.6% in May 2020.⁸ Furthermore, the pandemic has had an immense negative impact on Asian Americans who were already socioeconomically disadvantaged. In California, according to a UCLA report, 83% of Asian Americans with a high school education or less filed unemployment claims, a rate more than twice the rest of California’s labor force at the same education level.⁹

Compounding the devastating health and financial impacts on the Asian American community is the onslaught of anti-Asian hate. We have seen racist harassment and violence toward Asian Americans who are wrongly blamed for COVID-19 since the emergence of the pandemic.

An Ipsos survey published in April 2020 revealed that over 30 percent of those surveyed witnessed someone blaming Asian people for the COVID-19 pandemic, and over 60 percent of Asian Americans witnessed the same behavior.¹⁰ A Pew Report published in July 2020 revealed similar findings, with a majority of Asian adults (58%) saying it is more common for people to express racist or racially insensitive views about people who are Asian than it was before the COVID-19 outbreak.¹¹ These fears are real.

Since February 2020, over 4,000 hate incidents targeting Asian Americans have been reported, predominantly to Stop AAPI Hate (<https://stopaapihate.org/>) and also to the Asian American Advancing Justice affiliation’s Stand Against Hatred reporting site (<https://www.standagainsthared.org/>). The reports shared through our website enable us to speak about the many examples of real harm reported by community members who have suffered hate and harassment. Through their reports to *StandAgainstHatred.org*, Asian Americans of many different ethnic origins have recounted being targeted with racial slurs; being called “dirty” or “diseased;” being accused of causing, bringing, or spreading the coronavirus;

⁶ See, e.g., NPR/Robert Wood Johnson Foundation/Harvard T.H. Chan School of Public Health, *The Impact of Coronavirus on Households by Race/Ethnicity*, 24 (Survey methodology: “Data collection was conducted in English and Spanish”).

⁷ Asian American Federation, *Impact of COVID-19 on Asian Employment in New York City*, (2020).

⁸ *Id.*

⁹ Donald Mar and Paul Ong, *COVID-19’s Employment Disruptions to Asian Americans*, (July 20, 2020) http://www.aasc.ucla.edu/resources/policyreports/COVID19_Employment_CNK-AASC_072020.pdf

¹⁰ Ipsos and Center for Public Integrity, *Survey: More than 30 Percent of Americans Have Witnessed COVID-19 Bias Against Asians*, (April 28, 2020), <https://publicintegrity.org/health/coronavirus-and-inequality/survey-majority-of-asian-americans-have-witnessed-covid-19-bias/>

¹¹ Pew Research Center, *Many Black and Asian Americans Say They Have Experienced Discrimination Amid the COVID19 Outbreak*, (July 1, 2020), <https://www.pewresearch.org/social-trends/2020/07/01/many-black-and-asian-americans-say-they-have-experienced-discrimination-amid-the-covid-19-outbreak/>

being told to “go back to your country;” and being threatened with deportation. Asian Americans have also reported being coughed at and spit on, yelled at both for wearing masks and not wearing masks, enduring threats of violence, and suffering physical assault.

It is important to note that anti-Asian racism and hate are not new phenomena and come on the heels of years of attacks on immigrant communities by the Trump Administration. In fact, the Advancing Justice affiliation launched the Stand Against Hatred website¹² in January 2017 in response to the increase in hate incidents against Asian Americans connected to the xenophobic, anti-immigrant, and racist rhetoric of Trump’s presidential campaign in the 2016 election cycle. It comes as no surprise that the racist rhetoric used by former President Trump and other elected officials blaming China for COVID-19, and calling it the “Chinese virus,” “Wuhan virus,” “kung flu,” and “China plague” poured fuel on the fire of anti-immigrant and anti-Asian sentiment that was slowly burning for years.

While hate incidents targeting Asian Americans sharply rose with the onset of the pandemic and have continued over the past year, the recent spate of violent attacks against elderly Asian Americans captured on video¹³ has drawn previously unseen media attention. Vicha Ratanapakdee, an 84-year old Thai American man, died after he was assaulted while on a walk in his San Francisco neighborhood in January.¹⁴ Juanito Falcon, a 74-year old Filipino American man, died after he was assaulted, also while on a walk, in Phoenix in February.¹⁵ And just last week, Pak Ho, a 75-year old man from Hong Kong, died following an attack while he was on his morning walk in Oakland’s Chinatown.¹⁶ While many feel that these attacks resulted from racial animus, the motivation is not immediately apparent in a number of these cases. What is clear is that we must do more to protect our vulnerable elders. At a time when we are still afraid of COVID-19, we should not have to also fear for our safety – or that of our elderly parents, aunts, uncles, and grandparents.

Furthermore, anti-Asian hate and discrimination has impacted almost every aspect of life for Asian Americans during the pandemic, including housing, employment, and places of public accommodation like restaurants, stores, and so much more.¹⁷ In Indiana, two Hmong men were denied lodging by a motel employee who asked if they were Chinese and refused to give them a

¹² Asian Americans Advancing Justice, www.standagainsthatred.org

¹³ Kyung Lah and Jason Kravarik, *Family of Thai immigrant, 84, says fatal attack ‘was driven by hate’*, CNN, (February 16, 2021), <https://www.cnn.com/2021/02/16/us/san-francisco-vicha-ratanapakdee-asian-american-attacks/index.html>

¹⁴ Evan Sernoffsky, *Family of 84-year-old killed in SF believe attack was racially motivated*, FOX 2 KTVU (February 1, 2021), <https://www.ktvu.com/news/family-of-84-year-old-killed-in-sf-believe-attack-was-racially-motivated>; Thomas Fuller, *He Came From Thailand to Care For Family, Then Came a Brutal Attack*, The New York Times, (February 27, 2021), <https://www.nytimes.com/2021/02/27/us/asian-american-hate-crimes.html>

¹⁵ Chris Harris, *Ariz. Man, 74, Is Killed on Street, and Family Believes He Was Victim of Anti-Asian Hate Crime*, PEOPLE, (March 10, 2021), <https://people.com/crime/arizona-man-killed-family-believes-anti-asian-hate-crime/>

¹⁶ Dion Lim, *75-year-old Asian man warned about increase in attacks days before murder in Oakland*, ABC7 NEWS (March 12, 2021), <https://abc7news.com/oakland-asian-attack-teaunte-bailey-pak-ho-chesa-boudin/10412069/>

¹⁷ Catherine Thorbecke and Deena Zaru, *Asian Americans face coronavirus ‘double whammy’: Skyrocketing unemployment and discrimination*, ABC News, (May 20, 2020), <https://abcnews.go.com/Business/asian-americans-face-coronavirus-double-whammy-skyrocketing-unemployment/story?id=70654426>

room.¹⁸ Other reports include Asian American renters being refused housing based on their race. In New York City alone, between February and April 2020, there were 105 reports of anti-Asian incidents reported to the New York Commission on Human Rights, including 5 reports of housing discrimination, 9 reports of discrimination in public accommodation, and 91 reports of harassment.¹⁹

This same anti-Asian hate has expectedly impacted Asian American-owned businesses. As noted in a report by McKinsey & Company, “misguided fears of the virus effectively shuttered businesses in many Asian American cultural districts” a full month before lockdowns began nationwide.²⁰ Adding to the hit to Asian American-owned businesses, they are overrepresented in some of the sectors that have suffered the worst economic effects of the pandemic, including accommodations and food service (26%), retail (17%), and education-services (11%).²¹ And with the hateful acts of anti-Asian violence instilling fear in business owners, employees,²² and customers, Asian Americans are doubly threatened with both their physical and financial security at risk.

Racist sentiment towards Asian Americans is not a passing trend but a continuing reality, fueled in recent years by a growing xenophobic and racist backlash against immigrants. Numerous hate crimes have been directed against Asian Americans either because of their minority group status or because they are perceived as unwanted immigrants. More generally, this anti-Asian racism and xenophobia are part of the deep structural racism that many communities of color are facing at this moment. Despite the long history many of our communities have in the U.S, Asian Americans are often still viewed as foreign, as not fully American. This racism has manifested itself at many points throughout U.S. history, including with the “Yellow Peril” and the Chinese Exclusion Act of 1882, the incarceration of over 120,000 Japanese Americans during World War II, and the scapegoating and violence directed against the Arab, Middle Eastern, Muslim, and South Asian communities after 9/11.

The current geopolitical tensions between the U.S. and China likewise have fanned the flames of xenophobia. To be clear, the United States has legitimate differences with the Chinese Communist Party on issues related to human rights, freedom of the press, and transparency. Such differences, however, should not lead to generalizations about “the Chinese” or characterizations that fail to distinguish between the government and the people and culture. Stereotypes and overgeneralizations have caused Chinese Americans – as well as other Asian Americans – to be targeted, profiled, and harassed.

¹⁸ Shawn Nottingham and Dave Alsup, *Hmong men record alleged coronavirus discrimination at Indiana hotels*, CNN, (February 15, 2020), <https://www.cnn.com/2020/02/14/us/hmong-men-hotel-refusals/index.html>

¹⁹ Stephanie Yang, *New York City Has Logged 248 Complaints of Coronavirus Discrimination*, Wall Street Journal, (April 19, 2020), <https://www.wsj.com/articles/new-york-city-has-logged-248-complaints-of-coronavirus-discrimination-11587308400>

²⁰ McKinsey Report at 8.

²¹ *Id.*

²² Elizabeth Elkind, *CEO of Chinese food chain speaks out about attacks on Asian Americans*, CBS News, (March 4, 2021) <https://www.msn.com/en-us/news/us/ceo-of-chinese-food-chain-speaks-out-about-attacks-on-asian-americans/ar-BB1efjVm?ocid=uxbndlbing>

The Diversity of Asian American and Pacific Islander Communities

As in all other areas, AAPIs cannot be treated as a monolith when discussing racial justice. In fact, many of the needs of our community are hidden by the myth of the model minority. Our community is bi-modal with high concentrations at the high and low end of various socioeconomic indicators – educational attainment, income, poverty, etc. – but lower numbers in the middle. These disparities within the AAPI community are not apparent when data is not disaggregated.

Often viewed as homogenous, these communities include more than 50 ethnicities²³ speaking over 100 languages²⁴, and can differ dramatically across key social and economic indicators. Among Asian Americans, only 6% of Filipino Americans nationwide live below the poverty line, compared to 26% of Hmong Americans.²⁵ Among Native Hawaiian and Pacific Islanders (NHPIs), about 49% of Marshallese Americans live below the poverty line, compared to only 5% of Fijian Americans.²⁶ Roughly 73% of Taiwanese Americans hold a bachelor’s degree, yet only 12% of Laotian Americans do.²⁷ Similarly, while almost 18% of NHPI adults overall have a bachelor’s degree, only 3% of Marshallese Americans do.²⁸ Another example is pay equity. While AANHPI women are paid an average of 86 cents for every dollar a white man is paid, disaggregated data demonstrate that, for example, Native Hawaiian women are paid only 66 cents for every dollar a white man is paid; for Vietnamese, Laotian, and Samoan American women, 61 cents; for Burmese American women, 53 cents; and for Bhutanese American women, only 38 cents.²⁹

Asian Americans have the greatest income disparity amongst all racial groups in the United States. While income inequality has grown in the United States overall in the past half century, the Asian Americans at the top of the income distribution experienced more growth than any other group in the U.S., while Asian Americans at the bottom experienced the least growth, less than any other group in the U.S. – resulting in the top 10% of Asian American income earners making over 10 times what Asian Americans in the bottom 10% make – the biggest disparity amongst all racial groups in the U.S.³⁰

²³ Asian Pacific Institute on Gender Based Violence, *Census Data & API Identities*, <https://www.api-gbv.org/resources/census-data-api-identities/>

²⁴ White House Initiative on Asian Americans and Pacific Islanders, *Critical Issues Facing Asian Americans and Pacific Islanders* (2011), <https://www2.ed.gov/about/inits/list/asian-americans-initiative/criticalissues.html>

²⁵ Asian Pacific American Legal Center & Asian American Justice Center, *A Community of Contrasts: Asian Americans in the United States: 2011*, 36 (2011), http://www.advancingjustice.org/pdf/Community_of_Contrast.pdf [hereinafter “Asian American Report”].

²⁶ Asian Americans Advancing Justice & Empowering Pacific Islander Communities, *A Community of Contrasts: Native Hawaiians and Pacific Islanders in the United States, 2014*, 18 (2014), http://empoweredpi.org/wp-content/uploads/2014/06/A_Community_of_Contrasts_NHPI_US_2014-1.pdf [hereinafter “NHPI Report”].

²⁷ Asian American Report at 31.

²⁸ NHPI Report at 11.

²⁹ Miriam Yeung, American Association of University Women, *Overcoming the “Model Minority” Myth: AAPI Women Are Not Paid Equally* (Mar. 15, 2016), <http://www.aauw.org/2016/03/15/aapi-equal-pay-day/>.

³⁰ Pew Research Center, Social & Demographic Trends, *Income Inequality in the U.S. Is Rising Most Rapidly Among Asians*, (July 12, 2018), <https://www.pewresearch.org/social-trends/2018/07/12/income-inequality-in-the-u-s-is-rising-most-rapidly-among-asians/>

These disparities are often reflective of the circumstances under which different communities settled in the United States – as students seeking higher education, as professionals and investors, as families seeking democracy and a better life for their children, as refugees of war – or in prior centuries, as laborers who built this nation’s continental railroad, or indigenous peoples whose roots preexist by centuries America’s annexation of their sovereign land. These roots, whether new or centuries old, are varied, myriad, and equally American – and the needs and disparities emerging from these roots should not be erased by the so-called myth of the model minority.

Often lost in the broad brush of the model minority myth are the inequities created by lack of language access. Nearly two-thirds of the Asian American population are immigrants, with 52% of Asian American immigrants having limited English proficiency (LEP). LEP rates vary sharply across Asian American communities.

The top languages spoken among Asian immigrants are Chinese, Tagalog, Vietnamese, Korean, and Hindi. The rates of limited English proficiency among these groups vary: 66% of immigrants from China are LEP, as are 35% of immigrants from the Philippines, 72% of immigrants from Vietnam, 64% of immigrants from Korea, and 29% of immigrants from India. At 79%, immigrants from Burma have the highest LEP rates among Asian Americans, and it is notable that even among the Asian American immigrant groups with lower LEP rates, about one-third of the population face challenges communicating in English.³¹

Even prior to the pandemic, LEP individuals have limited employment opportunities and often have difficulty accessing educational and training opportunities, as well as other critical services. During the pandemic, we heard many stories of peoples’ inability to access unemployment benefits – these access issues were compounded for people with limited proficiency in English. Furthermore, information about relief programs may have been slow to be relayed to LEP individuals – if the information reached them at all. Even assuming they were able to access information about such programs, navigating application processes would be challenging for LEP individuals. Furthermore, contrary to popular perception, there are segments of the Asian American community that lack reliable internet access or may not know how to navigate online platforms.³²

The Path Forward

First, we must combat racism head on. To do so, we must have the data to make informed decisions about prevention. Passage of legislation such as the Jabara-Heyer NO HATE Act is critical to promoting better hates crimes data collection. The legislation would also enable states to establish reporting hotlines, and would improve law enforcement policies on identifying, investigating, and reporting hate crimes. Furthermore, this legislation would create opportunities to restore communities and address the root causes of hate crimes through alternative sentencing

³¹ Asian Americans Advancing Justice – AAJC and Asian Americans Advancing Justice – Los Angeles, *Inside the Numbers: How Immigration Shapes Asian American and Pacific Islander Communities* (June 2019), <https://advancingjustice-aajc.org/inside-the-numbers-report-2019>.

³² Asian Americans Advancing Justice – AAJC, *Telecommunications and Technology, Lifeline Backgrounder*, https://advancingjustice-aajc.org/sites/default/files/2020-02/Lifeline_Backgrounder.pdf

for offenders. Congresswoman Grace Meng and Senator Mazie Hirono’s legislation focused on COVID-19 hate crimes likewise would assist in providing oversight and understanding of the scope of the issue, including reporting that is linguistically accessible and culturally competent.

Second, the needs and concerns of the Asian American community must be included in policy initiatives at all levels of government.

Robust Enforcement of Nondiscrimination Laws

In May 2020, the U.S. Commission on Civil Rights offered recommendations³³ to reduce the dangerous and hateful spread of anti-Asian sentiment that were already on the rise during the pandemic. Specifically, the Commission recommended that “all federal civil rights offices... use enforcement where necessary to secure rights violated within their jurisdictions.” Vigilant enforcement of civil rights laws is vital to address anti-Asian hate in the short time and discrimination against our communities in the long term.

The Commission noted that the federal government must communicate and act in a manner that demonstrates to communities that it will protect all Americans regardless of race, national origin, or other protected characteristics. We were pleased to see President Biden take action on these recommendations within a week of taking office by signing a Memorandum Condemning and Combating Racism, Xenophobia, and Intolerance Against Asian Americans and Pacific Islanders in the United States.³⁴ In addition to recognizing the role that the federal government has played in furthering xenophobic sentiment and stoking unfounded fears and stigma about Asian Americans and Pacific Islanders, contributing to “increasing rates of bullying, harassment, and hate crimes against AAPI persons,” the Memorandum noted that “these actions defied the best practices and guidelines of public health officials and have caused significant harm to AAPI families and communities that must be addressed.”

The Commission also advised that the federal government take note of “the particular needs of the Asian American community,” specifically referencing discrimination impacting Asian Americans “in relation to education, employment, hate crimes, health, housing, and immigration enforcement.”³⁵

³³ U.S. Commission on Civil Rights Unanimously Issues Recommendations to Secure Nondiscrimination in the COVID-19 Pandemic Context, and Specifically to Address Anti-Asian Racism and Xenophobia (May 8, 2020), <https://www.usccr.gov/press/2020/05-14-CLhamon-Letter-to-Senators-re-Anti-Asian-Discrimination.pdf> [*hereinafter* “USCCR Recommendations”]

³⁴ Memorandum Condemning and Combating Racism, Xenophobia, and Intolerance Against Asian Americans and Pacific Islanders in the United States, 86 Fed. Reg. 7485, (January 26, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/26/memorandum-condemning-and-combating-racism-xenophobia-and-intolerance-against-asian-americans-and-pacific-islanders-in-the-united-states/> [*hereinafter* “AAPI Presidential Memorandum”]

³⁵ USCCR Recommendations

Language Access

In its May 2020 letter, the U.S. Commission on Civil Rights emphasized that government efforts to address discrimination against Asian Americans “must always take into account the critical requirement to provide for language access for limited English proficient populations.”³⁶

In order to access essential government services, Asian American communities need to know about the services that are available to them and that language support is available to help them access services. In-language outreach and education are critical, as are ensuring that translated materials are readily available and agency staff are trained to assist individuals with limited English proficiency.

Under Executive Order 13166, federal agencies, and entities receiving federal funding, are required to provide “meaningful access” to agency services for LEP individuals.³⁷ While the expectation under this requirement is that federally-funded agencies have robust language access plans and self-monitor for compliance with EO 13166 and their obligation under Title VI to provide meaningful access to LEP individuals, in practice, we have seen significant gaps leaving LEP populations underserved.

Especially during this pandemic, LEP Asian Americans have faced language barriers to accessing financial relief programs. According to an August 2020 report by McKinsey & Company, none of the four financial-relief services offered by the U.S. Small Business Administration provided translations in any Asian languages on their websites.³⁸ Only the Paycheck Protection Plan enacted last year offered translated application forms for seven Asian languages,³⁹ but without sufficient and linguistically accessible outreach to Asian American businesses, Asian Americans lost out on critical business aid. In fact, a survey by the Asian/Pacific Islander American Chamber of Commerce & Entrepreneurship (ACE) found that 61 percent of Asian American businesses did not apply for federal relief because they did not know they were eligible.⁴⁰

³⁶ *Id.*

³⁷ Exec. Order No. 13,166, 65 Fed. Reg. 50121 (August 11, 2000), <https://www.justice.gov/crt/executive-order-13166>

³⁸ McKinsey Report at 8.

³⁹ *Id.*

⁴⁰ Press Release, National Asian/Pacific Islander American Chamber of Commerce and Entrepreneurship, Survey: Largest Survey focused on AAPIs Business Owners Show More Businesses Face Closures and Employee Layoffs, (February 5, 2021), <https://www.issuewire.com/survey-largest-survey-focused-on-aapis-business-owners-shows-more-businesses-face-closures-and-employee-layoffs-1690887698538157>

The federal government must ensure compliance with Executive Order 13166 to ensure that critical government services reach Asian American communities in a linguistically accessible way.⁴¹

Third, we need greater investment in and outreach to our communities. Long term solutions cannot take hold without fully engaging and increasing the capacity of local Asian American community organizations working directly with impacted communities. Federal agencies must engage in outreach and community education focused on Asian American communities, including investing in community resources and working directly with community-based organizations for both prevention and response to anti-Asian hate incidents.

Here we must note that, while the media and public perception may focus on law enforcement and prosecution as the primary response to hate crimes and hate incidents, that is not the model that our community is prioritizing. Local organizers and advocates are calling for different solutions for community safety, and not responses that could further criminalize communities of color. In fact, while facing hate incidents, our communities are also facing police violence. A recent example is the December 2020 killing of 30-year-old Filipino American Angelo Quinto who died after police knelt on him for 5 minutes.⁴² The parallels to the murder of George Floyd at the hands of police cannot be denied. We recognize that systemic inequities in law enforcement practices have victimized communities of color, including Asian American communities, but in particular Black communities, and we stand in solidarity with all communities of color in facing injustice in the criminal justice system. We call on policymakers to seek solutions to hate incidents and hate crimes that do not further criminalize communities of color or pit communities of color against each other. We must focus on a community-based approach, where government works closely with AAPI community organizations on multi-pronged solutions that work for the specific needs on the ground. A law enforcement-focused approach fails to address the underlying environment and inequities that allow hate to flourish.

We lift up this recommendation in particular in the implementation of the Presidential Memorandum Condemning and Combating Racism, Xenophobia, and Intolerance Against Asian Americans and Pacific Islanders in the United States.⁴³ In supporting state and local efforts to prevent discrimination, bullying, harassment, and hate crimes against Asian Americans, federal agencies should engage fully with national Asian American advocacy organizations and AAPI-serving local community-based organizations, to ensure approaches are culturally competent, linguistically accessible, and reflect the diverse and specific needs of the local communities.

For all government programs, whether it is the Community Relations Services of the U.S. Department of Justice that is tasked with community outreach, or the Office of Justice Programs which may have grant opportunities for local communities, or the many others tasked with

⁴¹ The challenges facing the AAPI community in language access needs is not limited to government services. In fact, this “dual pandemic” of COVID and anti-Asian hate has had a significant impact on the Asian American community’s mental health. However, many are unable to access mental health services as many providers do not offer services in Asian languages. (McKinsey Report at 6)

⁴² Jacey Fortin, *California Man Died After Police Knelt on Him for 5 Minutes, Family Says*, The New York Times, (February 25, 2021), <https://www.nytimes.com/2021/02/25/us/angelo-quinto-death-police-kneel.html>

⁴³ AAPI Presidential Memorandum

engaging diverse communities, these agencies should be proactive about outreach to and engagement with AAPI communities to share information about the work they do and the services they provide. In light of the Biden administration's commitment to equity and better supporting underserved communities, we would expect greater effort to ensure that AAPI communities receive vital information that is linguistically accessible so that they are aware of key programs and funding, and that they are provided support in order to better access government programs and services. It is important that federal agencies hold community roundtables, listening sessions, and other engagements focused on AAPI communities – and it is equally important that these programs are accessible for LEP individuals.

Prioritization of community needs could also come in the form of reinstating the position of an ombudsman within the Civil Rights Division of the Department of Justice to field and direct issues related to anti-Asian discrimination. Such a role was created in the aftermath of hate violence scapegoating Muslim Americans post-9/11. A similar role in an official capacity should be explored.

Fourth, we must continue to educate communities about how to stand up to racism and hate incidents. Advancing Justice | AAJC has partnered with Hollaback! Inc., an organization dedicated to ending harassment in all its forms, to adapt their bystander intervention training to address anti-Asian harassment connected to COVID-19. This training, developed to build the knowledge and capacity of our community partners and ally networks to respond to hate includes a primer on the long history of anti-Asian xenophobia and racism in this country. Since launching our joint bystander intervention trainings in April 2020, Advancing Justice | AAJC and Hollaback! have trained about 18,500 people on how to intervene safely to stop or minimize a hate incident in progress. Importantly, these tools are equally applicable to any type of harassment, whether it is based on race, gender, or any other vulnerable class.

Addressing biases and prejudice early is important in addressing root causes of racism. Often, these behaviors and attitudes are learned early, and without education to counter stereotypes and learned biases in the environments of children and students, these harmful behaviors and attitudes are given fertile ground to flourish. Long term, we need to educate Americans about the history of Asian Americans and other communities of color in the United States – education about these communities' contributions to the United States and the challenges that they have faced. Such education will help break down the image of Asian Americans as “perpetual foreigners,” and help the country better understand that Asian Americans are just as much part of America as any other community. Including comprehensive curricula for K-12 schools on Asian Americans and other communities of color is important in dispelling myths and developing a greater understanding of the diverse communities that comprise the fabric of American society. By showing that Asian Americans are part of all aspects of America, we can break down stereotypes that lead to misinformation, disinformation, bias, prejudice, and ultimately violence

Finally, we cannot expect that anti-Asian hate will end once the COVID-19 pandemic is behind us. We know from the experiences of Muslim, Arab, and South Asian communities, who continue to face discrimination and harassment nearly twenty years after 9/11, that anti-Asian hate will not dissipate quickly. Furthermore, tensions between the U.S. government and the Chinese government will remain. This tension will continue to fuel backlash against Asian

Americans in the U.S. A direct historic reference would be to the 1980s and the anti-Japanese sentiment that arose out of competition over trade. One result of that trade war was the murder of Vincent Chin in Detroit, Michigan by two out-of-work autoworkers who blamed him, a Chinese American man, for the woes of the U.S. auto industry. Recent attacks suggest that we already may be repeating history. We must curtail this violence and hate.

Leaders on both sides of the aisle must be challenged if they engage in “China-bashing” without the proper nuance between the actions of the Chinese government and Chinese or Asian culture generally. Here, words matter. Use of terminology that experts have recognized to stigmatize communities must not be used. There is no scientific or medical benefit to such terminology, and the cost to the Asian American community is clear. Likewise, media must be vigilant to avoid similar offensive terminology or photographs when discussing COVID-19. When the pandemic first hit the United States, media used stock photos of Asian American neighborhoods or Asians in masks even though the story had nothing to do with Asia or Asian Americans but rather increasing infection rates in areas of the United States. Such imagery promoted misinformation that Asians bore a special responsibility for bringing the virus to the United States, or that areas with Asian American populations were more susceptible to outbreaks.

Just as anti-Asian hate was fomented across multiple media and governmental platforms, moving forward, we must call out anti-Asian hate on all of these platforms. That includes the continued good work of journalists who have covered this issue in recent weeks, and the longstanding work of the Asian American Journalists Association issuing guidance against the use of language fueling xenophobia and racism from the outset of the pandemic⁴⁴ and calling on the prioritization of coverage of anti-Asian racism and violence.⁴⁵ This includes the welcome efforts of the Biden Administration in condemning anti-Asian hate and violence in no uncertain terms.⁴⁶ This also includes the participation of industry and celebrities, calling out anti-Asian hate from the platforms they hold. And this includes, in particular, the cooperation of online platforms in developing and enforcing policies against content fomenting racism, xenophobia, and violence.

CONCLUSION

Given the immense diversity of the AAPI community, and the extreme disparity in needs across socioeconomic status, language, geography, and much more, any efforts to address racial inequities, discrimination, and violence in this nation must address the true needs of the AAPI community that are masked by the model minority myth. The other myth is that of “perpetual foreigner” – that we, no matter the centuries of American history we have been part of building –

⁴⁴ Press Release, Asian American Journalists Association, Joint Statement Denouncing Anti-Asian Racism During Coronavirus Outbreak, (March 19, 2020), <https://aaja.org/2020/03/19/joint-statement-denouncing-anti-asian-racism-during-coronavirus-outbreak/>

⁴⁵ Press Release, Asian American Journalists Association, AAJA Condemns Anti-Asian Racism and Challenges Newsrooms to Prioritize Coverage of Anti-Asian Violence, (February 11, 2021), <https://aaja.org/2021/02/11/aaja-condemns-anti-asian-racism-and-challenges-newsrooms-to-prioritize-coverage-of-anti-asian-violence/>

⁴⁶ AAPI Presidential Memorandum, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/26/memorandum-condemning-and-combating-racism-xenophobia-and-intolerance-against-asian-americans-and-pacific-islanders-in-the-united-states/>

do not belong. These dual myths have, in this moment of the COVID-19 pandemic, resulted in a lack of access to critical government services for many AAPIs across this country at the exact time we are suffering from vicious acts of racist and xenophobic hate. While we urgently work with communities, businesses, and government to raise awareness, provide trainings, and create support systems for our communities targeted by anti-Asian hate, we also call on policymakers to enact long-term institutional change to address not only the crises at hand, but to focus on changing the systems and environment that have allowed these inequities to thrive.

Elements of racism – including against the Asian American community – are deeply imbedded in many societies, including in the U.S. Deep structural changes are necessary to protect Black Lives, to prevent “China bashing,” and other forms of racism, prejudices, and biases. There is no single solution that will cure racism quickly. Rather, it will be through a combination of different efforts that will produce lasting change.