



*Via electronic submission*

February 28, 2024

President's Advisory Commission on Asian Americans, Native Hawaiians, and Pacific Islanders  
U.S. Department of Health and Human Services  
Office of the Secretary, Office for Civil Rights  
Hubert H. Humphrey Building, Room 620E  
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**RE: PACAANHPI: Response to Belonging, Inclusion, Anti-Asian Hate, Anti-Discrimination; Data Disaggregation; Immigration and Citizenship Status; and Language Access Subcommittees' Questions**

Asian Americans Advancing Justice | AAJC (“Advancing Justice | AAJC”) submit the following comment in response to the Department of Health and Human Services’ Announcement of the President’s Advisory Commission on Asian Americans, Native Hawaiians, and Pacific Islanders (“PACAANHPI”) Meeting and Solicitation for Written Comment.

Advancing Justice | AAJC is a national, non-profit, non-partisan organization that was founded in 1991. Our mission is to advance the civil and human rights of Asian Americans and to build and promote a fair and equitable society for all. Advancing Justice | AAJC is the civil rights voice of the Asian American community—among the fastest-growing populations in the U.S.—fighting for our civil rights through education, litigation, and public policy advocacy. We serve to empower our communities by bringing local and national constituencies together and ensuring that Asian Americans are able to participate fully in our democracy.

**Belonging, Inclusion, Anti-Asian Hate, Anti-Discrimination Subcommittee Questions:**

*a) Please describe policies, programs, models, or best practices that have been effective in reducing race-based violence, cyberbullying, or bias targeting AA and NHPI communities, including any programs geared toward children or youth.*

Addressing race-based violence, bias, and the climate of fear that Asian American communities continue to face requires a multi-faceted approach. First, we must address anti-Asian hate, including calling out and putting an end to xenophobic and racist rhetoric and scapegoating of our communities.<sup>1</sup>

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<sup>1</sup>Advancing Justice | AAJC has submitted information on our work with Right To Be to provide bystander intervention training as a means to reduce race-based violence and bias against Asian American and Native

As we have shared in past comments, better data are vital to support informed decision-making about hate crime and hate incidents, and to determine the most effective methods of prevention and response.

In addition, the needs and concerns of Asian Americans must be included in all aspects of policymaking at all levels of government, including providing culturally competent and linguistically accessible services and improving enforcement of federal nondiscrimination laws. This includes ending profiling and taking care not to perpetuate harmful programs like the recently terminated “China Initiative.” Furthermore, we must take care not to create new laws and advance policies that perpetuate discrimination and systemic racism. We also must have greater investment in and engagement of the Asian American community, including engagement with organizations that work directly with impacted communities at the local level.

Finally, in the short term, we must continue to educate communities and provide tools people can use to respond when they see or experience hate and harassment. 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.

#### Improve Hate Crimes Reporting and Data Collection

In order to combat racism effectively, we must have good data to make informed decisions about prevention. Passage of the COVID-19 Hate Crimes Act in May 2021, particularly with the incorporation of the Jabara-Heyer NO HATE Act, was an important step forward to promote better hate crimes reporting and data collection. Advancing Justice | AAJC is working with policymakers and advocates on implementation of this law that will assist in providing oversight and understanding of the scope of the issue, including reporting that is linguistically accessible and culturally competent. We appreciate that this legislation aims to improve law enforcement policies on identifying, investigating, and reporting hate crimes; enables states to establish hate crimes hotlines; and creates opportunities to restore communities and address the root causes of hate crimes through alternative sentencing for offenders. However, we continue to have concerns about the steps being taken to improve data collection and reporting, particularly with the transition to the National Incident-Based Reporting System (NIBRS). We urge greater effort to expedite and improve the transition to full implementation of NIBRS and to monitor discrepancies in data that may continue to manifest during the transition period.

#### Reach Out to and Invest in Impacted Communities

We must have 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 who work directly with impacted communities. Federal agencies must engage in outreach and community education focused on Asian American communities, including investing in community resources and collaborating directly with community-based organizations for both prevention and response to anti-Asian hate crimes and hate incidents.

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Hawaiian and Pacific Islander communities to the White House in the lead-up to its United We Stand Summit convened on September 15, 2022. Please see the Case Study included as an appendix to this comment.

We would like to see greater information-sharing about the training and support provided to law enforcement entities around responding to hate crimes and hate incidents. We would also welcome greater transparency about how law enforcement responds to both hate crimes and hate incidents, including regular reporting to the public on complaints received and how these complaints are resolved.

Here we must note: while the media and public perception may focus on law enforcement and prosecution as the primary response to hate crimes and hate incidents, this is not the model that many in our community are prioritizing. Local organizers and advocates are calling for different solutions for community safety instead of responses that will further criminalize communities of color. While facing hate crimes and hate incidents, Asian American communities also confront violence from the police—those meant to help keep them safe. We make note of the December 2020 killing of 30-year-old Filipino American Angelo Quinto, who died after police knelt on him for five minutes. Quinto’s death parallels the murder of George Floyd at the hands of police. We recognize that systemic inequities in law enforcement practices have victimized communities of color, including Asian American communities. We stand in solidarity with all communities of color, in particular Black communities, who face 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 otherwise pit communities of color against each other. We must focus on community-based approaches, where government collaborates closely with community organizations on multi-pronged solutions that prioritize the specific needs on the ground. A law enforcement-focused approach fails to address the underlying environment and inequities that allow hate to flourish.

Moreover, we have no wish to see domestic terrorism, including white nationalist violence, used as a reason to create new laws and government programs that disproportionately target communities of color. The federal government has a plethora of tools available to it, including terrorism-related crimes and criminal statutes, that it can use to address domestic terrorism.

Building reporting systems that are not inextricably linked to law enforcement and the criminal justice system will help build community trust and encourage reporting. Strengthening response systems will aid individuals impacted by hate crimes and hate incidents, aiding them in understanding what assistance is available to them and facilitating their access to supportive services. Important resources already exist within the federal government, but often these are not well-known to the community. Promoting the assistance available through the Department of Justice Community Relations Service, for example, can encourage improved community response to hate crimes and hate incidents.

All government programs, including those tasked with security and public safety, should be proactive about outreach to and engagement with Asian American communities—and all diverse 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 expect greater effort to ensure that Asian American communities receive vital information that is linguistically accessible. This will raise awareness of key programs and funding and support better access government services. A key aspect of this is to provide interpretation assistance and translated documents. Critically, priority should be placed on hiring

frontline service staff with the cultural competence and language ability to effectively reach out to and communicate in the languages spoken by impacted communities. Federal agencies also must hold community roundtables, listening sessions, and other engagements focused on Asian American communities—and it is equally important that these programs are accessible for individuals with limited proficiency in English.

The administration should support state and local efforts to prevent discrimination, bullying, harassment, and hate crimes against Asian Americans. Federal agencies implementing the Presidential Memorandum Condemning and Combating Racism, Xenophobia, and Intolerance Against Asian Americans and Pacific Islanders in the United States and the COVID-19 Hate Crimes Act should engage 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.

We need government to make itself more responsive to Asian American communities and empower community-based organizations to bolster their capacity to meet community needs. Community-based organizations that provide social services, legal assistance, and mental health programs often do tremendous work with extremely limited resources. The federal government must invest in those community organizations that deliver these critical services and resources. The same community organizations that are well-versed in reaching and serving vulnerable communities have been impacted by hate, harassment, and discrimination. Despite these challenges, these organizations can be valuable partners to the government. With greater investment and support, including evaluating and eliminating barriers to equitable access to federal grant programs, these organizations can do even more to support community health and well-being. Collaborations with community-based organizations should be a priority for grants to government entities. We also strongly recommend creating grant programs to directly resource non-profit organizations that work with communities impacted by hate crimes and hate incidents.

#### Improve Enforcement of Nondiscrimination Laws

In May 2020, the U.S. Commission on Civil Rights offered recommendations to reduce the dangerous and hateful spread of anti-Asian sentiment that were already on the rise during the pandemic.<sup>2</sup> Specifically, the Commission recommended that “all federal civil rights offices...use enforcement where necessary to secure rights violated within their jurisdictions.” Advancing Justice | AAJC supports these recommendations. 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 and advised that the federal government take note of “the particular needs of the Asian American community.” The Commission specifically referenced discrimination impacting Asian Americans “in relation to education, employment, hate crimes, health, housing, and immigration enforcement.” Vigilant enforcement of civil rights laws is vital to address anti-Asian hate in the short term and discrimination against our communities in the long term.

#### End Profiling and Continue to Address Harms Associated with the “China Initiative”

We encourage the federal government to review and take measures across agencies at all levels

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<sup>2</sup> U.S. Commission on Civil Rights, Letter regarding anti-Asian discrimination, (May 8, 2020), <https://www.usccr.gov/press/2020/05-14-CLhamon-Letter-to-Senators-re-Anti-Asian-Discrimination.pdf>.

of government to combat racial bias against Asian American and Asian immigrant scientists and federal employees, including but not limited to anti-bias training. Intelligence agencies must examine existing procedures to find ways to address and eliminate bias, both explicit and implicit. The Justice Department should review training materials, testimony, and presentations to academic, research, and trade organizations regarding economic espionage for evidence of bias, remove those references, and take action to address such bias.

While we were pleased by the Justice Department's termination of its "China Initiative," which was based upon the bigoted premise that all scientists of Chinese descent or with connections to China should be treated with suspicion and investigated without evidence of wrongdoing, our work here is not done. The Justice Department must review all related prosecutions, including pending cases and investigations closed prior to prosecution under the "China Initiative" to determine whether these cases targeted individuals based on their race, ethnicity, or ancestry, and, if so, take remedial action to prevent such profiling in the future. Federal resources devoted to economic espionage prosecutions should focus on cases in which evidence indicates that foreign governments directed the illegal activity under investigation, regardless of what nation is involved.

Advancing Justice | AAJC also continues to monitor and speak out against vitriolic anti-China rhetoric used by government officials and individuals running for public office because of concerns that such language may inflame hostility and could even provoke violence against individuals of Asian descent, including Chinese Americans. We encourage the Biden Administration and PACAANHPI to do the same.

#### Supporting Anti-Harassment Training and Education in Asian American History

We must continue to educate communities about how to stand up to racism and hate incidents. These efforts can serve to counter the spread of racist and white nationalist sentiment and help to prevent the radicalization that leads to domestic terrorism. The government can lead in providing education and training. It cannot allow itself to be limited in its efforts to carry out anti-discrimination and anti-bias training by those who label such efforts as "unpatriotic."

As noted above, Advancing Justice | AAJC has partnered with Right to Be (formerly named "Hollaback!"), 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 Right To Be have trained more than 150,000 people on how to intervene safely to stop a hate incident or mitigate the harm from that hate. Importantly, these tools are equally applicable to any type of harassment, whether it is based on race, gender, or any other vulnerable class. We have brought this training to a wide variety of different audiences and welcome opportunities to scale our reach even further.

Building on our efforts to date, Advancing Justice | AAJC is expanding our partnership with Right To Be. We are also supporting a number of organizations to provide anti-harassment and resilience training directly to Asian immigrant communities nationwide. These organizations

offer in-person training in ten Asian languages.

Addressing bias and prejudice is important in tackling the root causes of racism. Often, these behaviors and attitudes are acquired early. Without education to counter stereotypes and learned biases, these harmful behaviors and attitudes are given fertile ground to flourish. As a long-term objective, we need to educate Americans about the history of communities of color in the United States—including Asian American experiences—and provide education about these communities' contributions to the U.S. and the challenges that they have faced. Such education will break down the image of Asian Americans as “perpetual foreigners” and help the country better understand how 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 these cultural myths, which is critical to develop 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 violence.

### **Data Disaggregation Subcommittee Questions:**

*a.) What obstacles do AA and NHPI communities face regarding federal datasets?*

The biggest obstacle Asian American and NHPI communities face regarding federal datasets is the lack of disaggregated data collection. Given how little data collection, analysis, and reporting is available for Asian American and NHPI communities at the disaggregated level, we believe that this is of critical importance throughout the federal government. Below, we offer specific improvements that will help Asian American and NHPI communities overcome obstacles they face when using federal datasets with respect to requiring detailed reporting, balancing data collection and confidentiality, prioritizing granular data, not collapsing Asian Americans and NHPIs into an “other” category, ensuring equitable data collection methods, and emphasizing the need to modernize race and ethnicity data collection and reporting. Then we outline how the Federal Government could improve data collection, analysis, and reporting for different issue areas: immigration, education, and anti-Asian hate to help Asian American and NHPI communities overcome obstacles they face when using federal datasets.

#### Requiring Detailed Reporting by Default

We support the initial proposal as outlined in the Initial Proposals for Updating OMB's Race and Ethnicity Standards (Document Citation: 88 FR 5375) to require all federal departments and agencies to collect, analyze, use, report, and disseminate disaggregated data as a default. As we detailed in our response,<sup>3</sup> it is imperative for OMB to address the rapid diversity and change our country is facing by updating the standards to reflect our ever-increasing diversity. Not moving in this direction would mean that we would not have proper data to inform our civil rights enforcement, our planning, or our work to serve our vulnerable communities. We know from history and past practices that most agencies will not disaggregate data on their own accord, even when the standards allow for such disaggregation. OMB must move the ball forward by requiring data disaggregation as a default. Failure to do so will compromise the statistical integrity of the

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<sup>3</sup> <https://www.advancingjustice-aaajc.org/publication/re-initial-proposals-updating-ombs-race-and-ethnicity-standards>.

federal government’s data, actively undermining the civil rights of our most vulnerable—and statistically invisible—community members.

Moving from a permissive system to a mandatory one with respect to data disaggregation is significant to Asian Americans and NHPs. Detailed data collection is critical for Asian Americans and NHPs, who are among our nation’s fastest growing and most diverse racial groups.<sup>4</sup> Often viewed as homogenous, these communities include more than 50 detailed subgroups that 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.<sup>5</sup> Among NHPs, about 49% of Marshallese Americans live below the poverty line, compared to only 5% of Fijian Americans.<sup>6</sup> Roughly 73% of Taiwanese Americans hold a bachelor’s degree, yet only 12% of Laotian Americans do.<sup>7</sup> Similarly, while almost 18% of NHP adults overall have a bachelor’s degree, only 3% of Marshallese Americans do.<sup>8</sup> Another example is pay equity. While Asian American and NHP 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.<sup>9</sup> Although Asian Americans have the lowest uninsured rate of any racial or ethnic group in the aggregate, 2015 data showed that the top 10 highest uninsured groups in the U.S. include five Asian Americans subgroups: Pakistanis at 20.9%, Koreans at 20.5%, Cambodians at 18.9%, Vietnamese at 18.5%, Bangladeshis at 18.2%. Two NHP subgroups also fall into this category: Micronesians at 18.3% and Samoans at 16.7%.<sup>10</sup>

The COVID-19 pandemic provides another example of the importance of having disaggregated data for our communities. The global pandemic revealed unaddressed systemic issues that exposed ongoing disparities for many communities, including Asian Americans and NHPs. Several data collection issues existed with respect to the pandemic and Asian Americans and NHPs. Some states simply failed to provide data on Asian Americans and NHPs, while others aggregated the two racial groups, thereby making invisible the larger risk that the NHP

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<sup>4</sup> Bill Chappell, “Census Finds A More Diverse America, As Whites Lag Growth,” NPR (June 22, 2017), <http://www.npr.org/sections/thetwo-way/2017/06/22/533926978/census-finds-a-more-diverse-america-as-whites-lag-growth>; Press Release U.S. Census Bureau, 2010 Census Shows Asians are Fastest-Growing Race Group (March 21, 2012), [https://www.census.gov/newsroom/releases/archives/2010\\_census/cb12-cn22.html](https://www.census.gov/newsroom/releases/archives/2010_census/cb12-cn22.html).

<sup>5</sup> 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](http://www.advancingjustice.org/pdf/Community_of_Contrast.pdf) [hereinafter “Asian American Report”].

<sup>6</sup> Asian Americans Advancing Justice & Empowering Pacific Islander Communities, A Community of Contrasts: Native Hawaiians and Pacific Islanders in the United States, 2014, 18 (2014), [https://www.ajsocal.org/wp-content/uploads/2021/06/A\\_Community\\_of\\_Contrasts\\_NHPI\\_US\\_2014.pdf](https://www.ajsocal.org/wp-content/uploads/2021/06/A_Community_of_Contrasts_NHPI_US_2014.pdf) [hereinafter “NHPI Report”].

<sup>7</sup> Asian American Report, 31 (note data points are for the population of those 5 years or older).

<sup>8</sup> NHPI Report, 11.

<sup>9</sup> Miriam Yeung, American Association of University Women, Overcoming the “Model Minority” Myth: AAPI Women Are Not Paid Equally (Mar. 15, 2016), on file with author.

<sup>10</sup> The Commonwealth Fund, Gap Closed: The Affordable Care Act’s Impact on Asian Americans’ Health Coverage, <https://www.commonwealthfund.org/publications/issue-briefs/2020/jul/gap-closed-aca-impact-asian-american-coverage>; National Council of Asian Pacific Islander Physicians, The Impact of the Affordable Care Act on Asian Indian, Chinese, Filipino, Korean, Pakistani, & Vietnamese Americans, [https://www.searac.org/wp-content/uploads/2018/04/2015\\_ACA\\_policy\\_brief\\_v13\\_final.pdf](https://www.searac.org/wp-content/uploads/2018/04/2015_ACA_policy_brief_v13_final.pdf).



community often experienced and continues to experience. For example, in California, 2020 data showed the death rate per 100,000 people was 84 for the entire state. A combined Asian American and NHPI death rate of 75 people per 100,000 masked the much higher NHPI death rate of 123 people per 100,000. Looking at disaggregated data exposed greater risks for certain subgroups, including the Samoan and Tongan populations, which had even higher death rates than the NHPI rate, at 182 and 124 respectively.<sup>11</sup> Similarly in Wisconsin, the Hmong population was disproportionately impacted by COVID with respect to the number of cases, hospitalizations, and deaths, particularly at the local level. This was true even when that was not the case for Asian Americans across the state.<sup>12</sup>

In the Decennial Census, American Community Survey, and other Federal datasets, the requirements for mandatory data disaggregation should be standardized. Past experience has taught us that many agencies have mistakenly misinterpreted these standards as delimiting the only permissible reporting categories. To avoid this problem in the future, OMB should implement its initial proposal to make data disaggregation the default. As part of the move to mandatory data disaggregation, *OMB could implement a process by which an agency can receive an exemption from such requirement after demonstrating that the potential benefit of the detailed data would not justify the additional burden to the agency and the public or the additional risk to privacy or confidentiality.* The burden should be on the agency to explain why the “additional burden” outweighs the important benefits to government programs, communities, researchers, and advocates collecting, analyzing, using, reporting, and disseminating detailed data.

Moreover, agencies themselves should not make the determination as to whether the potential benefit of the detailed data would not justify the additional burden to the agency. Instead, we propose an adjudication process whereby a third party makes the final decision about granting the requested exemption. Above all, this process must allow for public input and transparency. Only after completing this process would agencies be allowed to “opt-out” and use the proposed example for self-response data collections: combined question with minimum categories. Put another way, we believe the current “default” structure of the recommendation is appropriate. The standards proposed in the Office of Management and Budget’s 2023 proposals for revising the Federal Race and Ethnicity Standards (Statistical Policy Directive 15) should not pursue a more voluntary approach to the collection of disaggregated data.<sup>13</sup> We recommend that the Revised Standards outline explicit instructions about gathering the racial and ethnic categories proposed in Figure 2, and to instruct and encourage agencies to collect more than the bare minimum.

In particular, we believe that the Revised Standards should require the collection of detailed data on Chinese, Filipino, Asian Indian, Vietnamese, Korean, and Japanese checkbox options, with Pakistani, Cambodian, and Hmong listed as “for example” write-in groups. The Revised Standards should also require the collection of detailed data on Native Hawaiian, Samoan,

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<sup>11</sup> UCLA Center for Health Policy Research, Disaggregating California’s COVID-19 Data for Native Hawaiians and Pacific Islanders and Asians (May 2021), <https://healthpolicy.ucla.edu/sites/default/files/2023-04/covid-19-data-nhpi-asians-factsheet-may2021.pdf>

<sup>12</sup> Jess Langlois, WQOW, Local Hmong community hit harder by COVID-19 (Feb. 3, 2021), [https://www.wqow.com/news/local-hmong-community-hit-harder-by-covid-19/article\\_c3602a34-61f0-5825-af1c-3583b18e10a7.html](https://www.wqow.com/news/local-hmong-community-hit-harder-by-covid-19/article_c3602a34-61f0-5825-af1c-3583b18e10a7.html).

<sup>13</sup> 88 Fed Reg. 5375 (Jan. 27, 2023), <https://www.govinfo.gov/content/pkg/FR-2023-01-27/pdf/2023-01635.pdf>.



Chamorro, Tongan, Fijian, and Marshallese checkbox options, with Palauan, Tahitian, and Chuukese listed as “for example” write-in groups (see Figure 2 in Federal Register Notice). This approach performed the best in research conducted by the Census Bureau prior to the 2020 Census. This is critical for understanding which Asian American, Native Hawaiian, and Pacific Islander groups are being served by agencies and which are underserved.

Without accurate data by detailed subgroup, some of the most disadvantaged in the Asian American and NHPI communities are rendered invisible to policy makers, leaving their critical needs unmet. Past research has demonstrated that decreasing both the number of separate checkboxes and lists of examples for Asian American and NHPI race groups are both ineffective and a threat to accuracy. Thus, the following practices should be avoided:

1. Removing checkboxes used to capture detailed race groups. This also decreased the amount of detailed race reporting among Asian Americans. Indeed, these formats yielded the lowest detailed race reporting among Asian Americans of any format tested.
2. Removing a subgroup or national origin from the list of examples for each broad race category. This reduced reporting for that group. Testing conducted as part of the 2005 National Census Test suggests that limiting or removing the list of examples has a negative impact on detailed reporting.

In addition to the recommendations above regarding checkboxes and examples, we recommend the following to ensure more accurate data on Asian American and NHPI communities:

1. Oversampling Asian Americans and NHPIs by ethnic group in future testing protocols, ensuring an adequate sample of both large and small groups across all panels;
2. Providing adequate language assistance to ensure meaningful responses from limited-English proficient Asian Americans and NHPIs and to ensure results are not biased by English-fluent respondents.

We believe ongoing research into the best groups to use for checkboxes and examples is critical for ensuring that the most up-to-date information is used to serve our communities. Moreover, we ask for further study into how to best frame the questions, using the most effective language and instructions possible. Lastly, we recommend that appropriate examples and options are given when collecting and providing detailed race and ethnicity data for *all* categories.

#### Balancing Data Collection with Confidentiality

We believe Federal agencies should be required to collect detailed race and ethnicity data even when such data could not be responsibly reported due to statistical reliability and confidentiality concerns. This provides the option to aggregate the data across time for the same group, (i.e., by pooling the responses across a period of time), which could address statistical reliability and confidentiality concerns.

#### Prioritizing Granular Data

In addition to disaggregating data by racial and ethnic groups, the federal government must ensure the data it produces illuminates geographical differences by providing Asian American

and NHPI data at different geographic levels: local, state, and federal. The more granular the data—for example, drilling down to the county or city level—the more likely it is that demographic issues can be identified in specific localities. While collecting geographic data should be a priority, granular data on socio-economic status and language ability also provide targeted information that can help address the most pressing issues in the Asian American and NHPI community and improve civil rights outcomes. Overlaying geographic data with disaggregated data by Asian American and NHPI subgroups is a first, crucial step. The collection of intersectional data can provide evidence of continued discrimination and address problems to begin driving systemic solutions.

### Not Collapsing Asian Americans or NHPs into an “Other” Category

We believe it is a necessary step for the federal government, academic institutions, and other organizations that collect data to end the use of an “All Other Races” category. The practice may have made the presentation of data easier for agencies and others, whereby they could present data on select racial and ethnic groups, such as white, Black, and Latino, and then presented the rest as “All Other Races.” However, the practice does not serve the public at large, particularly those that comprise the “All Other Races” demographic.

For example, combined, Asian Americans and NHPs are the “majority” populations in the state of Hawaii.<sup>14</sup> Communities of color are the majority populations in the state of California.<sup>15</sup> Demographics have significantly changed over the last few decades. Asian Americans remain among the fastest growing groups in the United States, with 38.6% growth between the 2010 and 2020 Censuses.<sup>16</sup> The NHPI population also grew rapidly between 2010 and 2020, at 29.5%.<sup>17</sup> These communities are often lumped into “All Other Races,” rendering these fast-growing communities invisible. The practice moving forward should be to have agencies report on the data, at a minimum, for all racial and ethnic categories, with the addition of data on detailed groups as available. We hope that this sets a precedent in academia and other industries. Regardless of why the “All Other Races” category was initially constructed, it is no longer acceptable. The diversity represented by the “All Other Races” category renders this information useless. If “All Other Races” is used because the study does not have enough data to disaggregate by race, this should be addressed in survey methodology. Similarly, if the researchers are not motivated to collect disaggregated data at the onset, the results cannot be relied upon. Ultimately, there is no acceptable reason for the use of “All Other Races” given the constantly evolving state of our pluralistic society in the United States.

### Equitable Data Collection Methods

While the content of collected data matters tremendously, the data collection methods used should also reflect our commitment to equity and civil rights. For example, surveys should be available in-language. Before these are widely distributed, they should be reviewed by community members to ensure translations are accurate and intelligible. We must also guarantee

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<sup>14</sup> <http://aapidata.com/wp-content/uploads/2018/05/HI-2018.pdf>.

<sup>15</sup> <https://www.ppic.org/publication/californias-population/>.

<sup>16</sup> <https://www.census.gov/library/visualizations/interactive/race-and-ethnicity-in-the-united-state-2010-and-2020-census.html>.

<sup>17</sup> Id.

that translated documents are distributed widely, including to households lacking internet access, communal housing situations, and other hard-to-reach individuals.

Specific agencies can also make changes to improve equitable data collection for the AA and NHPI community. The Census Bureau should use innovative technology to make responding to the census faster and easier for everyone. The bureau should conduct user-centered design research to develop intuitive and time-saving processes for the self-response portal, and research reasons for non-completion and points of disengagement. These findings should inform the development of new tools such as pop-up response guidance embedded within the online form. It might also include automatic prompts delivered via email, text, or phone call to encourage completion of the survey if a respondent leaves the online survey unfinished. The Bureau should also analyze non-ID response rates through the online portal and research more effective methods to accommodate non-ID responses. Finally, the Bureau should continue to offer multiple modes of response including both paper and online forms. This is important so that Asian Americans impacted by the digital divide—and particularly older Asian Americans who may be less digitally literate—are not missed or overlooked.

Part of equitable data collection requires consulting carefully with community members. This close collaboration is necessary to avoid errors like the misclassification of the Hmong community. The current Race and Ethnicity Codes in Appendix F of PL94-171 Redistricting Summary File Technical Documentation and the anticipated coding for the Detailed DHC-A include an incorrect regional classification for the Hmong American community. As flagged in the sign-on letter of 57 Hmong American, Southeast Asian American, and Asian American and NHPI organizations sent on March 2, 2023, to the Census Bureau, Hmong is incorrectly included in the East Asian regional group. As the letter stated:

Hmong Americans’ origins are as refugees from Southeast Asia [and that] Southeast Asian American (SEAA) is not only a geographic identity, but also a political identity that comes from the shared experiences of people who came to this country as refugees from Cambodia, Laos, and Vietnam [...]The U.S. Census Bureau’s own data describes this history. According to the American Community Survey, nearly all foreign-born Hmong Americans migrated from Southeast Asia, which the Bureau defines as including the following countries: Myanmar, Cambodia, Indonesia, Laos, Malaysia, Philippines, Singapore, Thailand, and Vietnam. The most recent American Community Survey estimates show that 95.6% of Hmong Americans reported Southeast Asia as their region of origin, while only 1.6% reported East Asia.<sup>18</sup>

In addition to the community’s understanding of Hmong as Southeast Asian American, this is also well-established in academic literature.<sup>19</sup> The Census Bureau stated in a presentation that

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<sup>18</sup> Southeast Asia Resource Action Center (SEARAC), “Re: Feedback on Hmong Coding in the Detailed DHC-A Proof of Concept,” March 2, 2023, <https://www.searac.org/wp-content/uploads/2023/04/2023.03.2-Hmong-Census-Letter.pdf>.

<sup>19</sup> For a selection, see, Wayne Carroll, “Economic Progress of Hmong Americans: The First Twenty-Five Years,” *Hmong Studies Journal* 23 (January 2021): 1–49, accessed March 2, 2023, [https://www.hmongstudiesjournal.org/uploads/4/5/8/7/4587788/carroll\\_hsj\\_23.pdf](https://www.hmongstudiesjournal.org/uploads/4/5/8/7/4587788/carroll_hsj_23.pdf); and David Schaffer,

“[i]n accordance with the ‘original peoples’ concept in the 1997 OMB Standards, the decision was made to classify Hmong as a unique group within the East Asian regional group” despite recognition by Census Bureau subject matter experts that “the majority of the Hmong population in the U.S. immigrated from Laos as refugees after the Vietnam war.”<sup>20</sup> OMB's definitions should only apply to the broad racial and ethnic categories and should not be misapplied to subgroups. This can be achieved by making clear that their definitions for the racial group are specific for the broader racial group and not for any subregional or subgroup definition.

Below, we provide case studies of how datasets can be improved for immigration, education, and Anti-Asian hate.

### Immigration

Some overarching principles undergird the equitable collection of immigration data. It is important to ensure immigration data are accessible to the community and utilizable by community members and experts. More dashboards like those available from Customs and Border Patrol (CBP) would increase opportunities for community-based organizations (CBO) to use equitable data to hold government accountable to the American public. Regular updates of the data are far more useful than end-of-year reports. Quarterly reports allow researchers to review the rate at which family-based immigration visas are being processed.

There are specific actions federal agencies can take to improve data equity in the immigration space. Immigration and Customs Enforcement (ICE) presents the most problems in terms of access to equitable data. ICE’s data are often late, incomplete, and not publicly available except through outside organizations like Transactional Records Access Clearinghouse (TRAC), which analyzes ICE data obtained through Freedom of Information Act (FOIA) requests. This makes it difficult, for example, to get a sense of whether deportations of Southeast Asian Americans have decreased. It also poses challenges in studying how ICE implements its enforcement priorities.

While the yearly annual report for ERO (Enforcement and Removal Operations) usually includes data on removals by country of citizenship, the reporting is not perfect.<sup>21</sup> The data are presented in pdf format and are not cross-tabulated. This poses challenges to analyzing trends in terms of enforcement across different categories, for example, how many individuals from a particular country of citizenship have criminal convictions when apprehended by ICE. In addition, most data is available only for “top” countries of origin. This makes it difficult to understand the trends within our communities.

CBP’s approach to data is preferred over ICE’s approach. CBP provides publicly available

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“Employment and Wages of Hmong and Other Southeast Asian Refugees in the United States,” *Journal of Immigrant & Refugee Studies* 19, no. 4 (2021): 526–539; Bic Ngo and Stacey J. Lee, “Complicating the Image of Model Minority Success: A Review of Southeast Asian American Education,” *Review of Educational Research* 77, no. 4 (2007): 415–453; Arthur Sakamoto, John Iceland, and Thomas Siskar, “The Socioeconomic Attainments of Second-Generation Southeast Asian Americans in the 21st Century: Evidence from the American Community Survey, 2012–2016,” *Population Research and Policy Review* 41, no. 1 (2022): 59–88.

<sup>20</sup> “Classification of Hmong in the 2020 Census and American Community Survey: Update for Census Partners” United States Census Bureau. Online. March 27, 2023.

<sup>21</sup> <https://www.ice.gov/information-library/annual-report>.

dashboards<sup>22</sup> that allow for deeper analysis, including a dashboard<sup>23</sup> that includes some enforcement statistics for the current fiscal year-to-date. CBP also has datasets in CSV format available for download that allow for some independent analysis/manipulation. For example, CBP offers a data tool to explore data around southwest land border encounters.<sup>24</sup> The data can be filtered by fiscal year, CBP component, certain characteristics related to family, country of citizenship, and legal authority. It is useful for CBP to have all its datasets available on one website, with CSV files for download and data dictionaries available. Nevertheless, the datasets are not as useful as they could be, especially because they lose crucial information about the country of citizenship. The datasets vary in terms of how many countries are included in the “other” category. For southwest border encounters, for example, the citizenship variable only includes El Salvador, Guatemala, Honduras, Mexico, and Other, despite “other” accounting for almost half of all encounters.

United States Citizenship and Immigration Services (USCIS) has some data available, but mostly in pdf format.<sup>25</sup> Expanding the types of files available for download will improve data accessibility and impact. Department of Homeland Security (DHS) publishes data about legal immigration and migration flows online. These data are also better than ICE. It includes possibly the most comprehensive breakdown of legal immigration and adjustment of status information.<sup>26</sup> Immigration statistics are centralized on one page.<sup>27</sup> However, issues persist. First, options for cross-tabulations are limited. For example, there is no raw dataset with information about the age of different refugees by country of origin. Second, unlike CBP, there is a dearth of dashboards that allow for easy manipulation of the data. Third, in the case of family-immigration statistics, reports are often delayed. For example, it is unclear how close USCIS and the State Department are to reaching the cap on family-based immigrant visas for this fiscal year, because data are only available for the first two quarters of the fiscal year.

Thus, many organizations rely on TRAC immigration data to have access to some of those tools.<sup>28</sup> However, those data are based on federal data recovered through FOIA requests. It would be far more efficient if ICE presented the same kind of data without TRAC having to issue FOIA requests to ICE and others.

## Education

Disaggregated data is especially important when it comes to improving educational outcomes for Asian Americans and NHPs. Data should be disaggregated by Chinese, Asian Indian, Filipino, Japanese, Korean, Vietnamese, Pakistani, Cambodian, Hmong, Laotian, Thai, Taiwanese, Burmese, Bangladeshi, and Nepalese sub-populations, “Other Asian” sub-populations (to capture less-populated communities), and Native Hawaiian, Samoan, Chamorro, Tongan, iTaukei, Marshallese, and “Other Pacific Islander” sub-populations. If possible, subgroups such as the lu Mien and Montagnards under Asian American should also be disaggregated. This is not only true for students; these data must also be collected about staff and teachers. When available,

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<sup>22</sup> <https://www.cbp.gov/newsroom/stats/cbp-public-data-portal>.

<sup>23</sup> <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics>.

<sup>24</sup> <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>.

<sup>25</sup> <https://www.uscis.gov/tools/reports-and-studies>.

<sup>26</sup> <https://www.dhs.gov/immigration-statistics/special-reports/legal-immigration>.

<sup>27</sup> <https://www.dhs.gov/immigration-statistics>.

<sup>28</sup> <https://trac.syr.edu/immigration/>.

disaggregated data provides insight into educational disparities within the Asian American and NHPI community. The implications of not disaggregating education data for Asian Americans and Pacific Islanders has been well-documented in scholarship.<sup>29</sup>

More granular data will provide further insight into educational disparities as they apply to Asian Americans and NHPIs. Specifically, data on English learner status, sex, disability, college and career readiness, staffing and finance (e.g., teacher experience and per-pupil expenditures), household income, and parental education should be collected. More data on curriculum, specifically the number of Asian American Studies classes and data on how many credit-hours are spent teaching different subjects, would help address curricular inequalities. Data should also be collected on anti-Asian hate incidents in schools. Moreover, data on the English language ability/language preference of parents should be tracked.

We strongly support the collection of school climate and safety data, as these are especially important for our communities. At a national level, a 2016 study showed U.S.-born Laotian and Cambodian men, ages 18-39 years, were reported to have the highest incarceration levels of all Asian Americans and NHPIs at 7.26% of their total population. Many Southeast Asian American males report being stereotyped by their teachers as troublemakers, gang members, delinquents, and failures.<sup>30</sup> Students with disabilities are disproportionately disciplined, further highlighting the importance of this particular data collection.<sup>31</sup> We are hopeful that such data will continue to be gathered and recommend that further analyses be conducted to investigate disproportionate discipline of other disadvantaged groups, specifically English learners and recent arrivals to the United States.

Finally, it is essential that these data are made available to the public, as parents and students can use this information to make informed decisions about their education. Recently, the availability of user-friendly data has allowed students, parents, and advocates to access data regarding their own schools as well as schools attended by others, which has helped to shape advocacy and build greater understanding of differences in educational opportunity. All data should be publicly reported for transparency, civil rights enforcement, monitoring, and research. These data are especially important in the wake of the COVID-19 pandemic, when access to educational opportunity was not equitably available. Data can help make those inequalities transparent and provide the impetus for remediation.

### Anti-Asian Hate

The flaws with hate crimes data are systemic—largely arising out of the fact that reporting by

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<sup>29</sup> Bach-Mai Dolly Nguyen, Mike Hoa Nguyen, and Tu-Lien Kim Nguyen, “Advancing the Asian American and Pacific Islander Data Quality Campaign: Data Disaggregation Practice and Policy,” *Asian American Policy Review* 24, no. 2013/2014 (2014 2013): 55–67 and Michael Omi, Mike Hoa Nguyen, and Jason Chan, “Panethnicity and Ethnic Heterogeneity: The Politics of Lumping and Disaggregating Asian Americans and Pacific Islanders in Education Policy” *Measuring Race: Why Disaggregating Data Matters for Addressing Educational Inequality*. Edited by Robert T. Teranishi, Bach Mai Dolly Nguyen, Cynthia M. Alcantar, and Edward R. Curammeng. New York, NY: Teachers College Press, 2020.

<sup>30</sup><http://store.samhsa.gov/product/A-Snapshot-of-Behavioral-Health-Issues-for-Asian-American-Native-Hawaiian-Pacific-Islander-Boys-and-Men-Jumpstarting-an-Overdue-Conversation/SMA16-4959>.

<sup>31</sup><https://www2.ed.gov/programs/osepidea/618-data/LEA-racial-ethnic-disparities-tables/disproportionality-analysis-by-state-analysis-category.pdf>.



law enforcement agencies is not mandatory but voluntary. The anti-Asian hate crimes and hate incidents that make the news—as well as those reported to Asian American Advancing Justice’s Stand Against Hatred site, Stop AAPI Hate, and other community groups—are deeply troubling. And yet we know that they very likely are only a fraction of what our communities are facing since hate crimes are chronically un- and under-reported.<sup>32</sup> As detailed in a recently-released report from the Movement Advancement Project, only an estimated 3.6% of hate crimes are reported to the FBI each year.<sup>33</sup> There is a significant gap between the FBI’s Uniform Crime Reporting Program’s database of reported hate crimes and overall hate crime experiences of people living in the United States, as collected by the Department of Justice’s National Crime Victimization Survey.<sup>34</sup>

Even with concerns about under-reporting, we saw a significant increase in hate crimes against Asian Americans starting in 2020. While hate crimes motivated by anti-Asian bias were lower in 2022 (499 crimes [4%]) compared to the historic high recorded by the FBI in 2021 (753 crimes [7%]), hate crimes overall are still at all-time high levels.<sup>35</sup> Moreover, the reported levels of hate crimes motivated by anti-Asian bias continue to be significantly higher than pre-pandemic levels. The data below are drawn from the FBI Crime Data Explorer,<sup>36</sup> accessed on February 21, 2024:

	<b>TOTAL HC REPORTED</b>	<b>Anti-Asian Bias #</b>	<b>Anti-Asian Bias %</b>
<b>2022</b>	11,613	499	4%
<b>2021</b>	10,875	753	7%
<b>2020</b>	9,944	334	3%
<b>2019</b>	7,864	188	2%

Passage of the COVID-19 Hate Crimes Act, which incorporates the Jabara-Heyer NO HATE Act, was an important step forward to promote better hates crimes reporting and data collection.<sup>37</sup> But it is not enough. To combat racism effectively, we must have data to make informed decisions about prevention. In addition to following the guiding principles provided here (e.g., not collapsing Asian American data into an “other” category, disaggregated by subgroups, etc.), we urge the Department of Justice and other agencies involved in collecting hate crime data to address the systemic issues that prohibit accurate data reporting on anti-Asian hate.

**Immigration and Citizenship Status Subcommittee Questions:**

*b. How can the U.S. Department of Homeland Security (DHS) better conduct outreach to impacted communities in order to more effectively disseminate accurate immigration*

<sup>32</sup> <https://www.npr.org/2021/03/11/975592502/asian-americans-experience-far-more-hate-incidents-than-numbers-indicate>.

<sup>33</sup> <https://www.lgbtmap.org/file/2021-report-hate-crime-laws.pdf>.

<sup>34</sup> Id.

<sup>35</sup> While we provide data on hate crimes that were reported to have been motivated by anti-Asian bias, the FBI also documented hate crimes motivated by anti-NHPI bias as well as hate crimes motivated by religious animus and other forms of bias.

<sup>36</sup> <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/hate-crime>.

<sup>37</sup> Public Law No: 117-13.



*information? What can DHS subagencies offer to local community organizations to increase the spread of accurate information?*

DHS should rely on community-based organizations to disseminate accurate immigration information to affected communities. More specifically, DHS should offer subgrants for outreach on specific programs and policies. In addition, DHS should offer informational materials in multiple languages, and ensure that those translated materials are vetted by trusted community-based organizations.

Different DHS subagencies have different reputations in our community, and thus the approach of those agencies will have to differ. For example, the primary modes of interaction between ICE and our communities are punitive and carceral in nature. These practices have caused enormous harm to our communities. As the Defund Hate coalition has noted, ICE's detention has included widespread abuse, including medical neglect, sexual abuse, torture and inhumane treatment, scarcity of basic necessities, violent retaliation by guards, and death.<sup>38</sup> Advancing Justice | AAJC has previously provided testimony to the U.S. Senate Committee on the Judiciary that highlighted the inhumane use of detention centers against Asian immigrants.<sup>39</sup> In that testimony, we noted the historical criminalization and detention of Asian immigrants and the children of immigrants, including the incarceration of 120,000 Americans of Japanese ancestry during World War II. Given this historical context, and the ongoing harm that immigration enforcement is causing in our communities, we recommended budget cuts to ICE and Customs and Border Patrol. Given the ongoing harm caused by ICE policies in particular to our communities, information flowing from ICE to the community is not likely to be trusted. Community-based organizations may be unwilling to accept ICE-branded materials because of the fear such materials might cause. If ICE and CBP wish to build trust in communities, they must, at minimum, cease engaging activities that hurt our communities. Otherwise, there is no incentive for the community to trust or engage with those subagencies.

As for USCIS, it is crucial that it continues to expand its language access services. In the most recent Language Access Plan currently available on their website, USCIS says in their Policy Statement that it will take "...reasonable steps to provide meaningful access for individuals with limited English proficiency to its services, resources, activities, and programs, consistent with, *and without unduly burdening*, the agency's fundamental mission."<sup>40</sup> This statement falsely assumes a tension between USCIS's "fundamental mission" and language access. We reject the idea that USCIS could fulfill its fundamental mission without taking language access into account.

USCIS is tasked with administering our immigration system and its benefits in a fair and efficient manner. As such, USCIS must take language access into account. To do otherwise

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<sup>38</sup> Defund Hate, *Beyond the Enforcement Paradigm: A vision for a transformative budget for U.S. immigration 10* (2022), [https://defundhate.org/wp-content/uploads/2022/05/DH-Beyond-the-Enforcement-Paradigm\\_2022.pdf](https://defundhate.org/wp-content/uploads/2022/05/DH-Beyond-the-Enforcement-Paradigm_2022.pdf).

<sup>39</sup> <https://www.advancingjustice-aajc.org/publication/senate-testimony-examining-best-practices-incarceration-and-detention-during-covid-19>.

<sup>40</sup> Department of Homeland Security, U.S. Citizenship and Immigration Services, *Language Access Plan 2* (2019) (emphasis added), <https://www.dhs.gov/sites/default/files/publications/uscisc-updated-language-access-plan-2020.pdf>.

would center immigration from countries where English is more prevalent.<sup>41</sup> This would neither be fair nor efficient, especially given the demographic trends in immigration today,<sup>42</sup> and given the fact that 65% of noncitizens age 5 and above in the U.S. have limited English proficiency (LEP).<sup>43</sup>

Advancing Justice | AAJC recommends that USCIS translate, at minimum, the instructions for all forms and accompanying forms related to naturalization, family-sponsored immigration, and humanitarian programs (including TPS and VAWA-related applications). This would help improve access to these immigration benefits for most Asian immigrants, and specifically help vulnerable immigrants in our communities. In fiscal year 2020, for example, family-sponsored immigrants (including immediate relatives) made up about 56 percent of all green cards issued to immigrants from Asia.<sup>44</sup> If Diversity Visa winners and refugees and asylees are included, about 66 percent of immigrants from Asia fall within this category.<sup>45</sup>

Translation of these key documents and breaking news from USCIS would go a long way in helping the spread of accurate information to our communities.

#### **Language Access Subcommittee Questions:**

- a) *How can the Federal Government promote the preservation, teaching, learning of, maintenance and utilization of AA and NHPI languages?*

Improving outreach and access to services for non-English speakers, including incorporating language access into the “regular course of business” for government, will not only support the advancement of equity, but will also send a message that other languages, including Asian American and NHPI languages, are important and valued. While Advancing Justice | AAJC supports efforts to preserve, teach, learn, maintain and utilize Asian American and NHPI languages, advocacy on these matters is beyond the scope of our current work. We would like, however, to reiterate the recommendations we made in June 2023 on how meaningful access to government benefits and services could be improved for LEP individuals.

- b) *Are there any programs you recommend the Commission examine that provide meaningful language access to government benefits and services to persons with limited English proficiency?*

In 2022, when Advancing Justice | AAJC joined with fellow Asian American-serving advocacy organizations through the National Council of Asian Pacific Americans to offer language access

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<sup>41</sup> English proficiency is not a requirement for many immigration benefits. And while English proficiency is a requirement for some immigrants looking to naturalize, many immigrants are exempt based on age or disability.

<sup>42</sup> DHS’s own statistics show that immigrants from Asia make up a significant proportion of all legal immigration to the U.S. <https://www.dhs.gov/immigration-statistics/special-reports/legal-immigration>.

<sup>43</sup> ACS 1-Year Estimates Public Use Microdata Sample (2021).

<sup>44</sup> [https://www.dhs.gov/sites/default/files/2022-07/2022\\_0308\\_pley\\_yearbook\\_immigration\\_statistics\\_fy2020\\_v2.pdf](https://www.dhs.gov/sites/default/files/2022-07/2022_0308_pley_yearbook_immigration_statistics_fy2020_v2.pdf).

<sup>45</sup> Id.

recommendations to the Biden Administration and WHIAANHPI,<sup>46</sup> we expressed that language access should be considered regular business for Federal agencies. Today, we offer an additional recommendation to make it easier to identify much-needed best practices for providing meaningful language access to government benefits and services. It would be helpful to have a resource that indexes all language access practices, including translated materials and websites, that are currently available across the Federal government. If an inventory of this nature does not already exist, it would be an excellent place to start to find programs and resources to emulate, as well as weak points where there is the most need for improvement.

As we have shared in written comments to the Commission before, when examining existing programs that attempt to expand language access or when envisioning new practices, the following considerations should be taken into account.

Allocation of proper resources for meaningful access by Federal agencies is overdue. This includes day-to-day process: having designated language access coordinators, regularly updating language access plans, and establishing and maintaining measures for quality control and accountability. Advancing Justice | AAJC was pleased when Attorney General Garland called upon federal agencies to review their language access procedures and update their language access plans. We look forward to ongoing dialogue with agencies as they update and implement their language access plans.

When it comes to serving the public, we understand that there will be practical limitations on which languages can be covered for translated materials. However: language access cannot be limited to only the most-commonly spoken languages. Agencies and Federally funded entities must also provide oral language assistance, particularly for smaller language populations and those who do not have access to the internet. Furthermore, agencies must be proactive about informing individuals with limited English proficiency (LEP) about the availability of language assistance. Civil rights do not flow only to LEP individuals whose language needs happen to correlate to a handful of more commonly spoken languages.

In order to ensure accountability, we encourage establishing regular review of best practices and proactively educating the public about their language access rights. This should encompass how to complain when these rights are violated. Complaint processes must be accessible and transparent.

While federal agencies should lead the way, we expect that recipients of Federal financial assistance should also implement practices that could be good models to be expanded upon.

When it comes to Federal grant-making, we would like to see the ability to serve different language groups be made a prerequisite for grant applicants. At the very least, some incentive and recognition should be given to grant applicants that demonstrate language capacity and cultural competency to effectively serve target populations. Grant applicants that have no ability to effectively serve LEP individuals should not be awarded Federal funding that is intended to reach the general public.

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<sup>46</sup> Available at <https://www.ncapaonline.org/wp-content/uploads/2022/03/3.28-NCAPA-POTUS-Language-Access-Recommendations-Letter.pdf>.

Advancing Justice | AAJC offers the following recommendations for how the Federal Government can better conduct outreach to and address the needs of Asian American and NHPI LEP communities:

1. The Federal Government can better conduct outreach to and address the needs of Asian American and NHPI LEP communities by working with and through community-based organizations that have earned the trust of the communities they serve. Additional considerations include:
  - a. These organizations should not, however, be called upon to donate their time and expertise. Their language skills, experience, and community connections should be valued. Community-based organizations should be compensated for their services.
  - b. It is important to note that government grants are notoriously challenging to administer. Effort must be made to lower barriers to entry and engagement, especially for smaller organizations with limited capacity that still provide vital assistance to the communities that they serve—the very communities that are considered by the Federal Government to be hard-to-reach/hard-to-serve.

As one example, Advancing Justice | AAJC has engaged in intensive outreach and education campaigns through several cycles of the Decennial Census. It has been our practice to draw on our policy expertise to develop community education materials, which we (working together with community partner organizations) then translate into multiple Asian and Pacific Islander languages. For the 2020 Census, this encompassed 15 Asian languages and 8 Native Hawaiian and Pacific Islander languages.<sup>47</sup> Advancing Justice | AAJC also subgranted to community-based organizations across the country to support our outreach and education efforts. These subgrantee organizations were critical in distributing materials and deepening our reach into different segments of Asian American and NHPI populations nationwide.

We have also seen interesting examples of engaging and equipping community members to assist with outreach and education and support access to services, such as health promoter programs and Affordable Care Act navigators.<sup>48</sup>

In addition to working with and through community-based organizations, faith communities can also be of great assistance in reaching particular communities.

2. The Federal Government can better conduct outreach to and address the needs of Asian American and NHPI LEP communities by researching the ways that different communities access information and developing outreach tools accordingly:

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<sup>47</sup> As two examples, see <https://www.advancingjustice-ajc.org/census> and <https://www.countusin2020.org>.

<sup>48</sup> <https://www.cdc.gov/minorityhealth/spanish/promotores/#print>;  
<https://www.cdc.gov/minorityhealth/promotores/index.html>.

community news outlets (print and online), community radio and television programs/stations, social media (including platforms such as WeChat and others that serve different immigrant populations), podcasts, etc. With community media, many of these outlets are local rather than national in scope. Efforts will need to be localized, and key resources should also be made available on agency websites so that they are accessible by those who need them.

Since many of these resources will be distributed and housed online, the Federal Government should do more to support and fund programs to equip low-income individuals and communities with free or low-cost broadband access. We also recommend greater investment in libraries and community centers to facilitate and increase access to information that will increasingly be made available online.

3. The Federal Government can create a multi-lingual directory for government services and programs. In order to facilitate access to services, particularly in response to the increased anti-Asian hate our communities have experienced since the COVID-19 pandemic, Advancing Justice | AAJC launched its Asian Resource Hub, a searchable directory of service providers that focus on Asian American communities.<sup>49</sup> This directory, which is populated with the information of organizations working with Asian Americans Advancing Justice on anti-hate efforts, is searchable by type of service (social services, legal services, mental health services, etc.), language need, and location. As we move beyond the pilot phase of this project, we will add more organizations to the directory and aim to make it accessible in multiple Asian languages. While we recognize that a great deal of information already exists regarding government programs and services, building a similar basic multi-lingual directory for government services and programs could be an important step forward in creating an accessible starting point for LEP individuals interested in learning more about what assistance may be available to them.
4. In terms of its own capacity, the Federal Government should assess the language capacity of staff members in public contact positions across agencies and consider creating or increasing outreach specialist positions within agencies and prioritizing the hiring of bilingual staff representing underserved populations. As part of this effort, the Federal Government will need to ensure funding for the creation of multilingual materials and the means to distribute them.
5. In order to effectively reach and serve Asian American and NHPI LEP communities, the Federal Government will need to assure immigrant communities that accessing services and benefits to which they are entitled will not jeopardize their immigration status or continued ability to legally remain in the United States. Developing clear and transparent messaging on who is eligible for service and benefits will be vital to this effort. Again, community-based organizations can be important partners to this effort.

To provide meaningful access, Advancing Justice | AAJC calls for larger structural change in

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<sup>49</sup> <https://www.advancingjustice-aajc.org/asian-resource-hub>.

how the Federal Government handles language access. Providing language support for individuals with limited proficiency in English cannot be an afterthought; language access should be built into service delivery at all stages—on program planning and design, budgeting, and all phases of implementation.

We thank the Commission for the opportunity to write written comments for the meeting of the President's Advisory Commission on Asian Americans, Native Hawaiians, and Pacific Islanders. Advancing Justice | AAJC has provided the above recommendations with the goal of supporting the Commission's critical work in developing recommendations on ways to advance equity, justice, and opportunity for Asian American, Native Hawaiian, and Pacific Islander Communities.

We look forward to the continued work with the Commission throughout the coming years. For further information please contact Marita Etcubanez, Vice President of Strategic Initiatives ([metcubanez@advancingjustice-aaajc.org](mailto:metcubanez@advancingjustice-aaajc.org)), Martin Kim, Director of Immigration Advocacy ([mkim@advancingjustice-aaajc.org](mailto:mkim@advancingjustice-aaajc.org)), and Terry Ao Minnis, Vice President of Census and Voting Programs ([tminnis@advancingjustice-aaajc.org](mailto:tminnis@advancingjustice-aaajc.org)).

Sincerely,

Asian Americans Advancing Justice | AAJC

**Please briefly describe the case study (i.e. geography, intervention model, etc.)**

BYSTANDER INTERVENTION TRAINING: Asian Americans Advancing Justice-AAJC and Right To Be have partnered to help people learn tactics and feel empowered to safely intervene in and respond to anti-Asian hate and harassment. Together, we have held hundreds of free online training sessions, including sessions in 7 Asian languages, and have reached more than 150,000 people since launching our partnership in April 2020.

These trainings are clearly meeting an important need as people have sought out ways to learn about what they can do to support Asian American communities during the pandemic and take action against hate and harassment. Through these trainings, we have been able to reach diverse audiences and engage people on subjects including Asian American history, intersectionality, implicit bias, and systemic racism -- which we hope opens space for deeper reflection about race, racism, and other forms of bias and discrimination. We are proud of the work we have done over the last two-plus years with Right To Be and look forward to being able to reach, teach, and empower more people to become part of our movement to end harassment in all of its forms.

**Please explain how this particular case study is preventing hate-fueled violence, helping communities to respond and recover when hate-fueled violence does occur, or renewing communities to promote bridge-building and foster national unity. (Please limit your response to no more than 2,000 characters.)**

In the spring of 2020, Advancing Justice-AAJC partnered with Right To Be (then named Hollaback!), an organization whose mission is to end harassment in all its forms by transforming the culture that perpetuates hate and harassment, to adapt their bystander intervention training to address the anti-Asian hate and harassment we saw rising during the COVID-19 pandemic. We drew on the expertise and deep community roots of fellow advocates to develop and refine training focused on addressing anti-Asian and xenophobic harassment.

In these one-hour virtual trainings, we discuss how our identities impact how we experience public spaces, help people identify harassment in our discussion of a “spectrum of disrespect,” share historical context of anti-Asian discrimination, and take people through current examples of the harassment and violence that Asian American communities have been facing during the pandemic. Then we teach participants practical, actionable tactics – Right To Be’s “5Ds of Bystander Intervention” – to help them feel empowered to intervene in and respond to anti-Asian hate and harassment.

While our work with Right To Be has focused on addressing anti-Asian hate and discrimination, bystander intervention is applicable to all forms of harassment, and Right To Be offers training for many communities and different contexts.

These trainings are meeting an important need as people have sought out ways to learn about what they could do to stand up to hate and harassment, and support Asian American communities during the pandemic. Working with Right To Be has enabled us to reach broad audiences and engage people about the Asian American community, our history in the U.S., and subjects including intersectionality, implicit bias, and systemic racism. We are proud of the work



we have done with Right To Be and look forward to leveraging these trainings as a vehicle to reach, teach, and empower more people to join our movement to end harassment in all of its forms.

**Please explain the impact that this case study is having on communities and how its impact is being measured. (Please limit your response to no more than 2,000 characters.)**

Advancing Justice-AAJC and Right To Be offer three different trainings (bystander intervention, conflict de-escalation, and an Asian American-community focused training on “how to respond to harassment when it happens to you”) to the public free-of-charge as one-hour interactive workshops over Zoom. We were pleased to have trained 16,000 people by the end of 2020. In early 2021, demand increased as accounts of violent physical assaults against Asian elders drew greater attention, and then spiked dramatically following the shootings at three Asian spas in Atlanta in March. With our Advancing Justice affiliates, we have trained more than 150,000 individuals, building and strengthening a community of people who are equipped to stand up to take care of themselves and others in the face of anti-Asian hate and harassment.

We have received overwhelmingly positive feedback from training participants. RTB reports that 98% of people who have attended their trainings “leave confident that there is at least one thing they can do to address harassment the next time they see it.” Furthermore, of the participants who have witnessed harassment since their training, “75% reported that they intervened.” (From I’VE GOT YOUR BACK: THE INDISPENSABLE GUIDE TO STOPPING HARASSMENT WHEN YOU SEE IT, Jorge Arteaga & Emily May of Right To Be [2022])

In order to bring this training to broader audiences, we now provide bystander intervention training in Chinese (Cantonese and Mandarin), Hindi, Korean, Tagalog, Thai, and Vietnamese. In addition, in response to inquiries from parents and educators, Advancing Justice-AAJC and RTB worked with the Woori Show<sup>57</sup> to create animated videos featuring music and clear and actionable messages for young children about how to react to bullying and racism. Finally, we have partnered with AARP to produce a series of animated videos on the 5Ds of bystander intervention,<sup>58</sup> which are available in several Asian languages. The links to these videos are provided above.

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<sup>57</sup> To access the “Be a Super Ally with the 5Ds” videos produced with the Woori Show, see <https://www.ihollaback.org/empowering-children-against-aapi-hate-bullying/>.

<sup>58</sup> For information about the videos produced with AARP, see New Bystander Intervention Animated Videos Show Methods Everyday People Can Do to Fight Rise in Hate Incidents, <https://www.advancingjustice-aajc.org/press-release/new-bystander-intervention-animated-videos-show-methods-everyday-people-can-do-fight>.