

Indonesian • Japanese • Korean • Nepali • Laotian • Pakistani • Nepali • Sri Lankan • Thai • Vietnamese  
Asian • Native Hawaiian • Samoan • Micronesian • Chinese • Chamorro • Filipino • Guamanian • Hmong • Indonesian • Japanese • Korean • Nepali •  
2012 POLICY PLATFORM



*Framing Issues and Recommendations  
to Improve the Lives of Asian  
American, Native Hawaiian and  
Pacific Islander Communities*



# NCAPA MEMBER LIST

## ABOUT

The National Council of Asian Pacific Americans (NCAPA), founded in 1996, is a coalition of thirty-one Asian Pacific American organizations around the country. Based in Washington, D.C., NCAPA serves to represent the interests of Asian American, Native Hawaiian, and Pacific Islander (AA & NHPI) communities and to provide a national voice for AA & NHPI issues.

## COALITION MEMBERS

Asian & Pacific Islander American Health Forum  
Asian & Pacific Islander American Scholarship Fund\*  
Asian & Pacific Islander American Vote\*  
Asian American Justice Center  
Asian Pacific American Institute for Congressional Studies\*  
Asian Pacific American Labor Alliance, AFL-CIO  
Asian Pacific Partners for Empowerment, Advocacy & Leadership  
Association of Asian Pacific Community Health Organization  
BP SOS  
Center for Asian Pacific American Women\*  
Hmong National Development, Inc.  
Japanese American Citizens League  
Laotian American National Alliance  
Leadership Education on Asian Pacifics, Inc.\*  
National Asian American Pacific Islander Mental Health Association  
National Asian Pacific American Bar Association  
National Asian Pacific American Families Against Substance use Disorder  
National Asian Pacific American Women's Forum  
National Asian Pacific Center on Aging  
National Association of Asian American Professionals\*  
National Council of Asian Pacific American Physicians  
National Coalition for Asian Pacific American Community Development  
National Federation of Filipino American Associations  
National Japanese American Memorial Foundation\*  
National Korean American Service & Education Consortium  
National Queer Asian Pacific Islander Alliance  
OCA  
Sikh American Legal Defense and Education Fund  
South Asian Americans Leading Together  
Southeast Asia Resource Action Center

\* indicates Affiliate Members

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# ENDORSE THE NCAPA 2012 POLICY PLATFORM:

## Framing Issues and Recommendations to Improve the Lives of Asian American, Native Hawaiian and Pacific Islander Communities

AA & NHPI organizations and community members are invited to support the principles and recommendations set forth within the National Council of Asian Pacific Americans (NCAPA) 2012 Policy Platform. To endorse the 2012 Policy Platform, please complete the following form:

Name: \_\_\_\_\_

Organization (if any): \_\_\_\_\_

Title (if any): \_\_\_\_\_

Address: \_\_\_\_\_

City/State/ZIP Code: \_\_\_\_\_

Phone Number: \_\_\_\_\_ E-Mail: \_\_\_\_\_

Please send the completed endorsement form to:

**National Council of Asian Pacific Americans (NCAPA)**  
**6930 Carroll Avenue, Suite 506**  
**Takoma Park, MD 20912**  
**Fax: 301-270-1882**

Organizations and individuals can also submit their endorsement electronically by emailing NCAPA at [info@ncapaonline.org](mailto:info@ncapaonline.org)





# INTRODUCTION

Asian Americans, Native Hawaiians, and Pacific Islanders (AA & NHPI)—the fastest growing racial group in the United States according to the most recent Census—represent 6% of the total United States population.<sup>1</sup> The AA & NHPI community contributes to civic and economic life across the country, from major metropolitan cities to small rural towns. Although often referred to as one homogenous group, AA & NHPs constitute an extremely diverse community representing many generations of American-born citizens, native peoples, and immigrants.

This Policy Platform follows a tradition the National Council of Asian Pacific Americans (NCAPA), a project of the Tides Center, began in 2004 to present a comprehensive set of policy recommendations related to the AA & NHPI community in the issue areas of Civil Rights, Education, Health, Housing and Economic Justice, and Immigration every four years. Although the Policy Platform is intended for anyone to use, NCAPA hopes that this document can once again inform candidates today and policy makers the next four years about the opportunities and challenges facing the AA & NHPI community and the United States.

Founded in 1996 as an informal coordinating body of the few national Asian American organizations in existence at that time, today's NCAPA includes a robust coalition of 31 non-partisan national AA & NHPI non-profit organizations who have staff working on federal and local policy issues. In the pages that follow, NCAPA—through the leadership and expertise of its five committees—presents the issues, concerns and opportunities that are critical to the success of AA & NHPs and the United States. While the Platform is not comprehensive in its scope or reach, its wide ranging analysis presents a launching pad to discuss issues relevant to AA & NHPI communities.

NCAPA hopes this is the beginning of a national dialogue at all levels of policy making. On behalf of the membership of NCAPA, we invite you to review the issues and recommendations presented in the 2012 Policy Platform.



# HOW TO USE THIS PLATFORM

NCAPA's 2012 Policy Platform is intended to be used by policymakers, community-based organizations, media, and community members to gain a deeper understanding about the issues affecting AAs & NHPIs, and to take proactive measures to best address them. Below are examples of how various stakeholders can use the 2012 Policy Platform:

## FOR POLICYMAKERS AND GOVERNMENT AGENCIES

- As guidance on what stance or action to take on a particular policy issue that may affect AA & NHPI community members.
- As recommendations on how to engage with the community when developing policies.
- As a resource on organizations that work with AA & NHPI community members.

## FOR COMMUNITY-BASED ORGANIZATIONS

- As guidance if approached to take a stance on a particular local or national policy issue that may affect AA & NHPI community members.
- As background information for speeches, media inquiries, action alerts, newsletters, or coalition meetings.
- As talking points for meetings with local policymakers, government agencies, coalitions, or elected officials.
- As educational materials for an organization's membership, staff, board members, volunteers, or constituents.

## FOR THE MEDIA

- As background materials for articles on policies affecting the AA & NHPI community.
- As a resource on organizations that work with AA & NHPI community members.

## FOR COMMUNITY MEMBERS

- As background information to learn more and raise awareness around issues affecting the AA & NHPI community.
- As talking points for individuals engaging in advocacy efforts with local, state, and national policymakers on issues affecting the AA & NHPI community.

NCAPA encourages all stakeholder to use the 2012 Policy Platform to highlight the issues facing the AA & NHPI community. Contact us online at [ncapaonline.org](http://ncapaonline.org) or by emailing [info@ncapaonline.org](mailto:info@ncapaonline.org).

# ABOUT ASIAN AMERICAN, NATIVE HAWAIIAN AND PACIFIC ISLANDER COMMUNITIES

Asian Americans, Native Hawaiians, and Pacific Islanders (AA & NHPIs) represent 6% of the total United States Population.<sup>2</sup> The 18.5 million AA & NHPIs (including multi-racial and multi-ethnic community members) residing in the United States represent over 50 ethnic groups and speak over 100 different languages in addition to English.<sup>3</sup>

Between 2000 and 2010, the Asian American population grew by 46% and the Native Hawaiian and Pacific Islander population grew by 40%. The five states where AA & NHPI communities grew the most are Nevada, Arizona, Georgia, North Carolina, and Florida. The largest Asian American populations in the United States include Chinese, Filipino, Indian, Vietnamese, Korean, and Japanese communities. Native Hawaiians and Pacific Islanders trace their ancestry to the original peoples of Hawaii, Guam, Samoa, and other Pacific Islands.

Between 2000 and 2010, the United States citizen voting age population of Asian Americans grew 63%, from 2.8% of the total United States citizen voting age population in 2000 to 4.1% of it in 2010. Between 2000 and 2010, the United States citizen voting age population of NHPI communities grew 39%. States with the highest Asian American share of citizen voting age population include Hawaii, California, Nevada, Washington, New Jersey, New York, Virginia, Maryland, and Massachusetts.

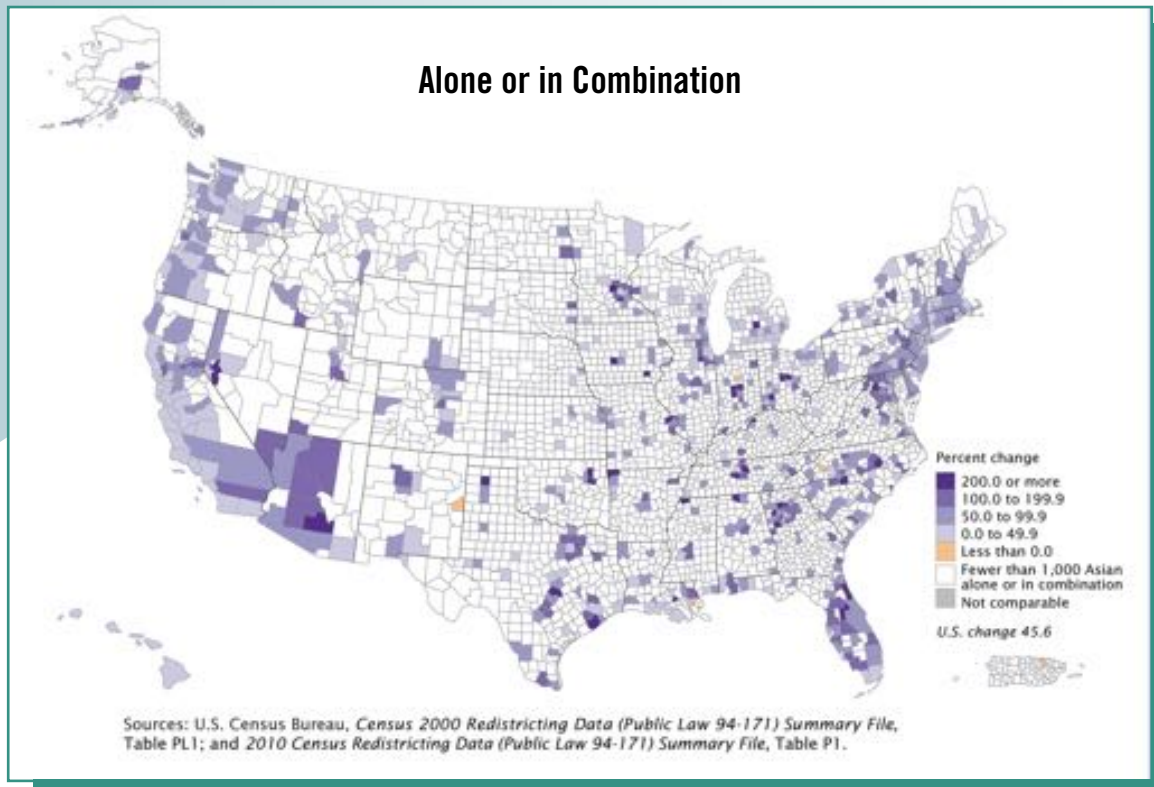
Some of the ethnic groups represented within the AA & NHPI community include:

Asian Indian	Malaysian
Bangladeshi	Marshallese
Bhutanese	Melanesian
Cambodian	Micronesian
Chamorro	Napalese
Chinese	Native Hawaiian
Fijian	Pakistani
Filipino	Polynesian
Guamanian	Samoan
Hmong	Sri Lankan
Indonesian	Taiwanese
Japanese	Thai
Korean	Tongan
Laotian	Vietnamese

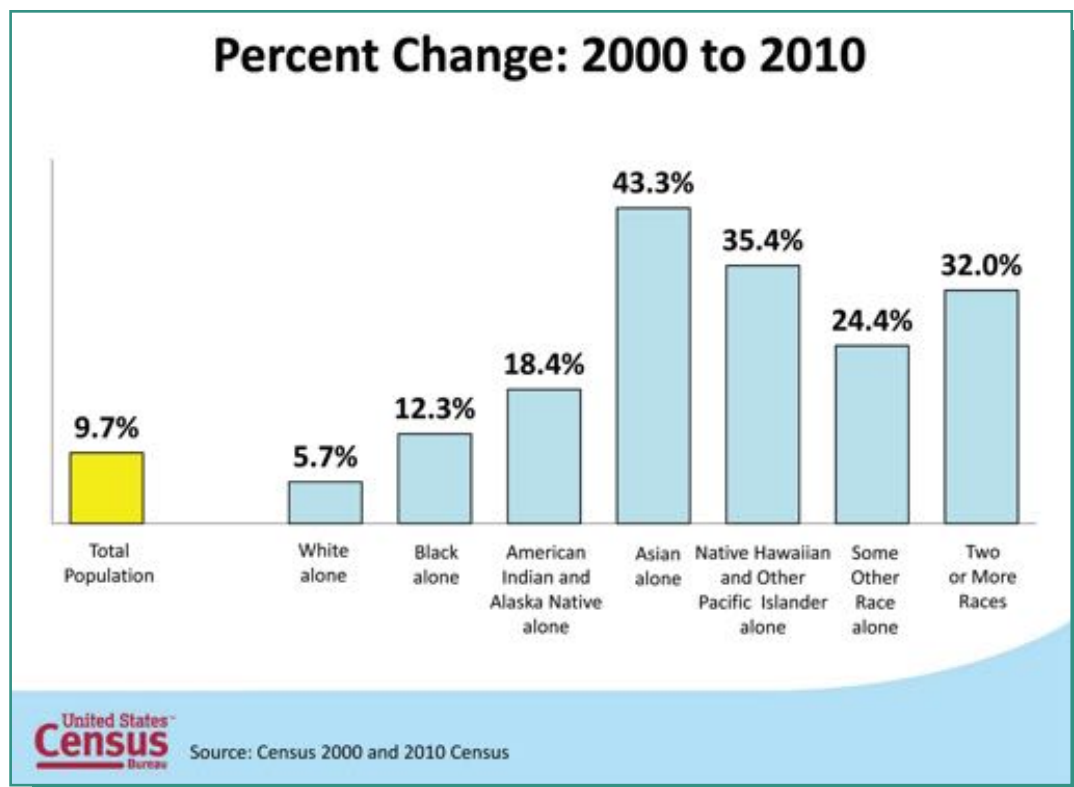
Throughout the NCAPA 2012 Policy Platform, the document will refer collectively to the Asian American, Native Hawaiian, and Pacific Islander (AA & NHPI) community. Where it may be more relevant and useful to the reader, this Policy Platform will clearly and uniformly identify specific ethnicities or groupings of ethnicities that are affected by a specific issue. The Policy Platform also seeks to incorporate the implications on women, lesbian, gay, bisexual, and transgendered community members, youth and seniors in the various issues that are presented here.

## PERCENT CHANGE IN ASIAN POPULATION: 2000 TO 2010

(Counties with an Asian population of at least 1,000 in 2010 are included in the map.  
For information on confidentiality protection, nonsampling error, and definitions, see  
[www.census.gov/prod/cen2010/doc/pl94-171.pdf](http://www.census.gov/prod/cen2010/doc/pl94-171.pdf))



## 2010 CENSUS DATA RESULTS FOR THE ASIAN POPULATION AND THE NATIVE HAWAIIAN AND OTHER PACIFIC ISLANDER POPULATION



# ABOUT NCAPA

NCAPA's 31 member organizations are as diverse as the communities they represent. Some organizations focus on specific issues important to the AA & NHPI community, while others represent specific ethnic groups. NCAPA is led by an elected volunteer Executive Committee and accomplishes most of its day-to-day work through its five issue-specific committees (civil rights, education, health, housing and economic justice, and immigration). The Chair, Vice Chair for Programs, Vice Chair for Membership, Treasurer, and Secretary are all Executive Directors of NCAPA-member organizations. In addition, each of the five committees is led by Co-Chairs who staff the issue area for NCAPA-member organizations. To learn more about each of NCAPA-member organizations, please visit [www.ncapaonline.org](http://www.ncapaonline.org).

NCAPA and its member organizations strive to represent the collective interests of AA & NHPs and the United States, but we do not speak on behalf of all AA & NHPI community members and AA & NHPI organizations. In this 2012 Policy Platform, NCAPA will focus on issues of general importance to the AA & NHPI community and highlight issues NCAPA-member organizations are collaboratively engaged in on a regular basis. The 2012 NCAPA Policy Platform does not address all issues relevant to AA & NHPI communities.

# ADVANCING CIVIL AND HUMAN RIGHTS

## INTRODUCTION

Asian Americans, Native Hawaiians, and Pacific Islanders (AA & NHPs) confront discrimination in every facet of their public life. Each day, members of the AA & NHP community face ethnic bias and stereotypes at the workplace, voting booth, classroom, and political arena. Furthermore, the discrimination is not limited to stereotypes drawn from the perception of the group as “perpetual foreigners;” individuals are also targeted for their actual or perceived religion, gender, gender expression, sexuality, and economic status.

The history of AA & NHPs is riddled with violations of the community's civil rights. In 1882, Congress enacted the Chinese Exclusion Act—a direct legislative response to the threat many Americans felt by the influx of non-Europeans to the United States during a period of economic depression. This Act, and its progeny, lasted until 1952 and was the first piece of legislation in the United States that targeted a specific ethnic group. During World War II, Japanese American citizens and lawful permanent residents were denied many constitutionally protected rights and incarcerated in American detention camps around the country. Decades later, Congress acknowledged and apologized for these violations through resolutions and official statements.

It wasn't until the early 1980s that AA & NHP leaders intensified efforts to create a collective national voice to defend the civil rights of the community after justice was denied to the family of Vincent Chin. A week before his wedding, Chin was murdered by two Caucasian men who called him a “jap” and blamed him and foreign

automakers for their unemployment. The men bludgeoned Chin, a Chinese American, to death with a baseball bat—the two men ultimately served no time in jail.

Although AA & NHP community leaders and members have become increasingly vigilant against discrimination, some policy makers sought to strip away constitutionally-guaranteed rights from minority group members following the attacks on 9-11. Government policies directed or selectively enforced against people, mostly men, from certain Asian, Middle Eastern and Islamic countries continue to deny civil rights to members of the AA & NHP community and other communities on the basis of national origin and religion.

The AA & NHP community has been shaped greatly by the ups and downs of United States civil rights policies. Even today, each individual community member and their family continue to navigate an often-hostile environment simply to pursue life, liberty and happiness.

The NCAPA Civil Rights Committee presents the following issues and recommendations for careful consideration.

## PRINCIPLES

- **ASIAN AMERICAN, NATIVE HAWAIIAN, AND PACIFIC ISLANDER CIVIC ENGAGEMENT**—Civic engagement, including political engagement, ensures AA & NHPIs have a voice in shaping policies and receiving concrete benefits from their communities and governments. Increasing levels of civic participation, as well as protecting against efforts to suppress the AA & NHPI community's participation, is critical to elevate the AA & NHPI community to the next level of being recognized and valued in public discourse.
- **DISCRIMINATION**—The attacks on 9-11, the housing crisis, and the global economic downturn had a dramatic effect on the lives of all Americans, including the AA & NHPI community. For segments of the community, particularly South Asians, Sikhs, and Muslims, the backlash that resulted in the aftermath of 9-11 continues to uniquely affect community members. Religious and racial profiling, employment discrimination, hate crimes, and bias-based bullying are some examples of such discrimination faced by the AA & NHPI community and underscore the need for strong protections to ensure community members are treated as full and equal members of society.
- **LANGUAGE RIGHTS AND ACCESS**—Nearly 3 out of 4 Asian Americans speak a language other than English at home, and roughly one-third is limited English proficient. Many individuals cannot speak, read, write or understand English at a level that permits them to interact effectively with housing providers, medical institutions, immigration officials, or social service agencies. Without protecting the community's language rights and ensuring language access, Asian Americans with limited English proficiency are less likely to understand and exercise their rights and obligations, less able to access government services, and less able to achieve economic stability.



Mr. Chum Awi of Chin Development Association and Mr. Khara Bhandari of the Organization of Bhutanese Society waiting to hear Cabinet Secretary, Chris Lu

# CIVIC ENGAGEMENT

## ISSUE #1.1 – CENSUS

A community's ability to fully participate in civil and political life is greatly tied to the Census. An accurate count of the AA & NHPI community in the decennial census and the American Community Survey (ACS) is needed to ensure government services are provided to the AA & NHPI community and decision makers understand the AA & NHPI community's importance. Every ten years, the decennial census, the United States Census Bureau counts the total number of people in the United States for the purpose of reapportionment. The ACS is a survey conducted on a rolling basis by the United States Census Bureau that provides communities with critical economic, social, demographic, and housing information; identifies changes in an area's population; and gives an up-to-date statistical picture every year.

The Census and ACS provide quality detailed data, disaggregated for different ethnicities, which is key to the United States' ability to understand and address the AA & NHPI community's needs. NCAPA member organizations work to increase the Census Bureau's outreach to the AA & NHPI community, particularly those who are limited English proficient—the people who stand to lose the most if they are not accurately represented.

Historically, the census has undercounted the AA & NHPI population and other minority groups.<sup>4</sup> For the 2010 decennial census, language resources were available in 24 languages common to AA & NHPIs. Advertisements regarding the 2010 decennial census were made in 28 languages. These collaborative outreach and promotion campaigns involving the Census Bureau and community advocates, as well as the AA & NHPI campaign led by community-based organizations, were critical to the accuracy of the 2010 Census. While it appeared that there was a generally accurate count of the Asian American community, it also appeared that thousands of Native Hawaiian and Pacific Islanders may have been missed during the 2010 Census. Because the evaluation results do not show whether the census counted all AA & NHPI subgroups with equal accuracy, more work needs to be done to ensure accuracy for the AA & NHPI community for Census 2020 and the ACS.

## RECOMMENDATION #1.1 – CENSUS

- Increase the AA & NHPI community's awareness and understanding of the importance of participating in the decennial census and the American Community Survey. Continued efforts between the Census Bureau and national and local community leaders, through partnership programs, must remain in place.
- Secure adequate funding for the Census Bureau to conduct the necessary research, plan an effective census and ACS and implement a multifaceted outreach campaign, especially for a permanent partnership program with AA & NHPI organizations to ensure the accuracy and effectiveness of the surveys.
- Analyze the challenges regarding outreach and data disaggregation as it relates to the AA & NHPI communities with the 2010 decennial census and develop ongoing improvements.
- Ensure that research conducted by the Census Bureau to improve their understanding of hard-to-count communities are done in a manner that provides useful information on the AA & NHPI community.
- Implement programs that provide in-language assistance and materials in languages spoken by AA & NHPI communities for the decennial census and the American Community Survey, and other necessary surveys.
- Fully implement OMB 15—which provides standards for the classification of Federal data on race and ethnicity, including the “Native Hawaiian or Other Pacific Islander” category—within all federal agencies.



## ISSUE #1.2 – VOTING RIGHTS

The AA & NHPI community has lower voter registration numbers when compared to the White community. Language barriers are a major obstacle to overcome for many AA & NHPIs—largely due to the fact that approximately 60% of the community is foreign-born and approximately one-third are limited English proficient.<sup>5</sup> Voters who are limited English proficient and are also racial minorities, are particularly susceptible to discrimination at polling places. AA & NHPIs face many types of discrimination at the polls, from hostile poll workers to being denied the opportunity to vote. Section 203 of the Voting Rights Act (VRA) requires certain communities, which meet certain threshold requirements, to provide for language assistance and translated voting materials in the time leading up to and including Election Day. Section 203 has helped increase voter participation and has the potential to be a powerful tool in the protection of the right to vote.

Another barrier to voting for members of the AA & NHPI community is the ongoing push by states to enact voter suppression laws, such as requiring photo identification in order to vote or proof of citizenship in order to register. At least 180 restrictive bills have been introduced since the beginning of 2011 in 41 states.<sup>6</sup> Fifteen states have passed restrictive voting laws that have the potential to impact the 2012 election (Florida, Georgia, Illinois, Iowa, Kansas, Mississippi, Ohio, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, Wisconsin, and West Virginia). These states account for 210 electoral votes, or nearly 78% of the total needed to win the presidency. Many of these states that are increasing voting restrictions also have high AA & NHPI population growth. For example, Florida and Texas saw numerous restrictive laws passed and have AA & NHPI populations that are fast growing—almost 575,000 and over 1,110,000 respectively, and both with a 72% growth rate.

Such voter ID policies will put an undue burden on many groups, including naturalized United States citizens. One in five AA & NHPIs do not have valid government-issued photo ID. In addition to the barriers to obtaining the necessary documents and photo IDs, AA & NHPIs are susceptible to profiling by voter ID provisions as AA & NHPIs are often perceived as “foreigners,” somehow “un-American,” or as “other.” Other voter suppression efforts will have similar

disproportionate, negative impacts on the AA & NHPI community. Also, some policymakers have introduced bills attempting to ban head coverings in government issued photo IDs, which would seriously impact citizens of many faiths. Even in the absence of these bills, many Sikh and Muslim voters have been asked to remove their turbans or have endured lengthy and unnecessary questioning at the polls.

There is also a nationwide, organized push to place over a million poll challengers at polling stations in the upcoming 2012 election. These challenge campaigns target minority voters, based on the color of their skin, their accents, and any language barriers they may have. These sorts of challenges are not new in American history, but this well-resourced effort is unprecedented in recent history, and will further disenfranchise AA & NHPI communities.

## RECOMMENDATION #1.2 – VOTING RIGHTS

- Make funding available to educate and train state officials as well as provide cultural sensitivity training on language, minority voters’ rights and needs to poll workers.
- Defeat attempts to pass federal and state legislation to require photographic identification in order to vote, while ensuring appropriate religious exceptions exist if any such bill is passed.
- Enact legislation that increases access to voting, including improving election administration processes and addressing minority voters’ language needs, and defeat attempts to restrict voting access.
- Utilize existing laws and statutes to protect minority voters against discriminatory activities by private or public actors, such as voter challenges based on race or language ability.
- Enforce and utilize existing statutes to protect the rights of language minority voters, such as Section 203 of the Voting Rights Act.

To find out if your jurisdiction meets the requirements of Section 203 and for which languages, please visit [http://www.justice.gov/crt/about/vot/sec\\_203/2011\\_notice.pdf](http://www.justice.gov/crt/about/vot/sec_203/2011_notice.pdf). For more information on how to ensure your jurisdiction is properly implementing Section 203, and for provisions for non-covered jurisdictions, please visit <http://www.advancingequality.org/section-203>.

## ISSUE #1.3 – XENOPHOBIA IN POLITICAL DISCOURSE

There is no room for xenophobic rhetoric in political discourse, yet racist remarks and sentiments continue to pervade throughout electoral campaigns and statements by public officials. Since the 9-11 attacks, there has been a marked increase in such comments, particularly aimed at South Asian, Sikh, Muslim, and Arab Americans characterizing community members as threats to national security. Anti-China sentiments within the political discourse have also increased, often-hearkening fears of China's growing economic powers that can be used to blame AA & NHPIs for economic woes in the United States. In addition, remarks are often made by candidates and policymakers that undermine the proposition that the United States is a religiously pluralistic nation by framing certain faiths as incompatible with American values.

Such racially charged comments typically increase in the run-up to elections and along the campaign trail. During recent election cycles, in particular, a steady rise of racist and xenophobic rhetoric on both sides of the political aisle has targeted the AA & NHPI community specifically. In 2012 election season alone, NCAPA documented at least 15 disparaging comments rooted in racism and religious bias about AA & NHPI communities and candidates. In addition to the rhetoric aimed at the AA & NHPI population as a whole, members of the AA & NHPI community who run as candidates seeking political office have been called racial slurs or accused of being unable to relate to voters because of their ethnic or religious background. By attacking the loyalty, religion (actual or perceived), and "foreign" names and accents of community members, opponents continue to marginalize entire communities, and fuel the false concept that only those candidates in the majority should be eligible to run for elected office.

By playing on racial and religious biases, such statements made by candidates and public officials can contribute to a climate that fosters discrimination, and even violence, against community members. Community members have been vilified by members of the general public as undesirable immigrants, disloyal outsiders, and suspicious terrorists - a trend that spiked following the attacks on 9-11 as well as during the national debate around proposed construction of the Park51 Muslim community center near Ground Zero. To this day, hate crimes based on these stereotypes continue. While violence

may not directly result from racist and xenophobic rhetoric in the political sphere, it is important for public officials, political parties, and candidates to recognize that promoting harmful stereotypes can add fuel to existing anti-immigrant sentiment within American society.

On August 5, 2012, a mass shooting took place at a Sikh temple in Oak Creek, Wisconsin, with a single gunman killing six people and wounding several others. The gunman, Wade Michael Page, was a white supremacist. The massacre in Oak Creek is part of a history of bias and violence that members of the Sikh, Muslim, Arab and South Asian communities have endured in the decade following 9-11. Community members continue to report discrimination, and places of worship are routinely targeted. Within 24 hours of the Wisconsin shooting, a suspicious fire destroyed a mosque in Joplin, Missouri.

### RECOMMENDATION #1.3 – XENOPHOBIA IN POLITICAL DISCOURSE

- Adopt an articulated and publicized policy condemning racism and xenophobia in the political sphere.
- Take immediate public action, at the highest levels, to condemn all racist and xenophobic comments made by candidates.
- Urge candidates using racist and xenophobic rhetoric and advertisements to apologize for and retract the material or statements in question.
- Ensure that, when framing and articulating policy positions, candidates should not alienate or target communities on the basis of race, ethnicity, national origin, religion, gender, sexual orientation, or immigration status.
- Incorporate accurate information about the community within programming and trainings offered to candidates.

In June 2012, several members of Congress sent a letter to the Deputy Inspector General of the Department of State requesting an investigation into the influence of anyone associated with the Muslim Brotherhood on State Department policy, specifically citing unsubstantiated claims that Huma Abedin, deputy chief of staff and aide to United States Secretary of State Hillary Clinton, has family members connected to Muslim Brotherhood operatives or organizations. Leaders from both sides of the political aisle defended Abedin against the allegations and condemned such rhetoric.

# DISCRIMINATION

## ISSUE #1.4 – RELIGIOUS AND RACIAL PROFILING

After the devastating attacks of 9-11, Muslims and anyone perceived to be Muslim became a public enemy literally overnight.<sup>7</sup> This occurred through arrests, questioning, surveillance, and detention. Such sanctioned discrimination—carried out by law enforcement—has fostered stereotypes that cast community members as terrorists based on religion, national origin, and ethnicity. Over ten years later, South Asian, Muslim, Sikh, and Arab American community members continue to encounter heightened government scrutiny simply based on their race, national origin, and religion. Racial and religious profiling also undermines the trust in law enforcement by targeted communities and diverts limited government resources away from genuine threats to national security and public safety.

For example, premised on the faulty presumption that these communities are more prone to “radicalization” leading to homegrown terrorism, interrogations of community members and infiltration of places of worship by local police departments and the Federal Bureau of Investigation has become routine.<sup>8</sup> Discriminatory airport screening practices by entities within the United States Department of Homeland Security (DHS), including United States Customs and Border Protection (CBP) and the United States Transportation Security Administration (TSA), have made the phrase “flying while brown” a fixture in the American lexicon. And the merger between national security and immigration laws, including increasingly punitive immigration enforcement and deportation policies, has led to the families being torn apart.

During late 2011 and the early months of 2012, a series of reports by the Associated Press shed light on the New York City Police Department’s (NYPD) focus on Muslim communities.<sup>9</sup> Activities included infiltration of Muslim student groups throughout universities in the Northeast; monitoring of Shia mosques; continuous and widespread screenings during police trainings of the film, *The Third Jihad*, which proclaimed that Muslims want to “infiltrate and dominate” the United States; and, with the help of the Central Intelligence Agency, spying and demographic mapping of Muslims within and beyond the city. Despite the considerable resources devoted towards this discriminatory program, in August 2012, it was revealed that the NYPD’s surveillance efforts generated no leads for counterterrorism purposes.

In addition, Muslims, and those perceived to be Muslim, are routinely pinpointed at United States ports of entry. CBP agents, often based on no reasonable suspicion or credible evidence, regularly question Muslims about their religious

identity and practices—trampling their First Amendment rights. In some cases, their personal electronic devices are searched and the data confiscated. According to results from a survey of South Asian New Yorkers conducted by various South Asian organizations, 34% of respondents who indicated that they had been subject to additional questioning by government officials stated that they had been isolated by agents for this purpose. Among the same respondents who were made to undergo such questioning, 41% stated that CBP agents questioned them about their religious or political beliefs.<sup>10</sup>

As a result of religious attire, such as turbans and headscarves, Muslim and Sikh passengers have also been disproportionately subjected to secondary screening procedures by TSA as part of domestic air travel within the United States. In October 2007, a “bulky clothing” screening procedure was implemented that left it to an individual TSA officer’s discretion if they believed the head covering was bulky and eligible for further screening. It also required a TSA officer to provide the choice of a private turban screening or use of a puffer machine, a self pat-down and test for chemical traces through a finger swab, or a pat down of the turban by a TSA officer. Then, in October 2010, following the initial roll-out of new Advanced Imaging Technology machines in airports across the country, DHS and TSA informed Sikh advocacy groups that turbaned Sikh travelers at United States airports should always expect to undergo secondary screening in the form of a turban pat-down and/or a metallic detector wand over the turban. Such procedures negatively affect the public perception of these communities in the rest of the population.

Another alarming trend involves the detention of Muslim immigrants for minor violations, which would not normally warrant detention. Many Muslim immigrants are brought up against weak immigration charges, or never charged at all, all the while prejudicing their own cases through no fault of their own. In addition, many of these trends with immigration officials continue because of a lack of transparency. Most of these policies and procedures are hidden under a veil of secrecy, in the name of national security, making oversight increasingly difficult. These policies jeopardize basic rights that all Americans are constitutionally guaranteed—such as the right to freedom of religion, due process, and the right to equal protection.

The right to be free from racially-motivated profiling by law enforcement has also been eroded for many in the AA & NHPI community as a result of the increase in the amount of joint enforcement among federal, state, and local officials

## ISSUE #1.4 – RELIGIOUS AND RACIAL PROFILING CONT.

regarding immigration policies. Some programs allow local law enforcement to question someone's immigration status with little or no basis, making it possible for law enforcement to act on a person's perceived ethnicity. Profiling of any sort strips people of basic protections against unequal treatment, and the presumption of innocence. [Read more about Enforcement-only Policies in the Immigration Section on page 53]

Finally, much more data collection and research is needed to study the adjudication and treatment of AA & NHPIs in the criminal justice system. The enforcement of the Office of Management and Budget Revised Directive 15, which provided a federal standard for disaggregated data collection between Asian Americans and Native Hawaiian or Other Pacific Islanders, is also necessary to explore the possibility of institutional racism within law enforcement agencies. Native Hawaiian and Pacific Islanders also face discrimination in situations where officers mistake them for other racial or ethnic minorities, including African Americans and Hispanics or Latinos.

## RECOMMENDATION #1.4 – RELIGIOUS AND RACIAL PROFILING

- Issue an executive order prohibiting racial profiling by federal law enforcement and ban law enforcement practices that disproportionately target individuals for investigation and enforcement based on race, ethnicity, national origin, sex, or religion. The order should also mandate that federal agencies collect data on stops and searches that are disaggregated by these categories.
- Pass legislation, such as the End Racial Profiling Act, which would prohibit the use of profiling on the basis of race, religion, gender, ethnicity, or national origin by federal, state, and local law enforcement agencies; require law enforcement agencies to conduct anti-profiling trainings, monitor their activities with respect to race and other protected statutes; and create effective complaint resolution processes.
- Strengthen and amend the Department of Justice's 2003 Guidance Regarding the Use of Race by Federal Law Enforcement to include national origin and religion as bases for prohibiting profiling; remove the national security and border integrity loopholes within the guidance; and ensure its application to state and local law enforcement agencies. DOJ should also require all federal, state, and local agencies to report on their compliance with the guidance.

- Commence investigations and file lawsuits against federal, state, and local law enforcement agencies that engage in racial and religious profiling under federal civil rights laws. These include investigations and litigation under Title VI of the Civil Rights Act of 1964 and "pattern or practice" provisions. Such lawsuits and investigations should be instituted for the range of racial and religious profiling that has occurred in the post-September 11th context.
- Undertake comprehensive reviews of existing law enforcement training materials and establish robust review mechanisms for future trainings to ensure that speakers, films, and curricula used do not promote stereotypes about South Asian, Muslim, Sikh, and Arab communities as terrorists.
- Completely dismantle the regulatory framework of NSEERS in its entirety and instead adopt programs that target individuals based on legitimate and particularized evidence, not identity-based criteria such as race, religion, ethnicity, gender, or nationality. Remove residual NSEERS penalties, both immigration and criminal, by regulation for all individuals affected by NSEERS and apply such regulations retroactively. Discontinue the use of data collected through NSEERS by DHS and other law enforcement agencies for other purposes
- Separate intelligence-gathering and community outreach strategies rather than conflating the two engagement strategies. Maintain consistent communication with community-based organizations to better understand the

Asian Americans have been explicitly targeted with selective enforcement of the law because of their national origin, ethnicity or religion. Since the attacks on 9-11, programs such as the National Security Entry-Exit Registration System (NSEERS) required certain male nationals from predominantly Muslim or Arab-majority countries, including Bangladesh, Indonesia, North Korea, and Pakistan to register with the United States government. Despite the fact that no one was found to be connected to terrorist organizations through the life of the program, over 13,000 men were placed in deportation proceedings. Furthermore, individuals who did not know to comply with the program faced immigration challenges, such as deportation and denial of immigration benefits. While the program was modified by the Department of Homeland Security in early 2011, many community members continue to face its adverse immigration consequences to this day.



## RECOMMENDATION #1.4 – RELIGIOUS AND RACIAL PROFILING CONT.

community impact of their protocols and directives and provide opportunities to provide input on proposed policies.

- Insist that TSA and Customs and Border Protection adopt a fair and equitable screening policy (including adequate trainings and an auditing structure) for all travelers, regardless of race, ethnicity, religion, nationality or origin.
- Increase appropriations for more sophisticated airport security technology that can uniformly screen passengers in a respectful and religiously sensitive manner.
- Fully implement OMB 15 within all federal agencies.

## ISSUE #1.5 – INDEFINITE DETENTION

Eight days after the 9-11 attacks, Congress passed the Authorized Use of Military Force (AUMF), which gave the President the authority to “use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on 9-11, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons.” This law has dramatically broadened the power of the Executive in its pursuit of terrorists without an expiration date. The AUMF has been used as justification for the indefinite detention of hundreds of suspected terrorists without charge or trial.

Passed in December 2011, The National Defense Authorization Act for the Fiscal Year 2012 (NDAA FY 2012) continues the pattern of civil rights infringement in the United States under the pretense of national security. The law’s disturbing provisions on the treatment of prisoners violate constitutional rights to due process, “a speedy and public trial,” and the United Nations Convention Against Torture. Part of Section 1021 reads that a person may be “[detained] under the law of war without trial until the end of the hostilities.” The NDAA FY 2012 extends beyond the AUMF by specifically allowing for indefinite detention without charge or trial for any person believed to be associated with the Taliban, al-Qaeda or “associated forces.” The vaguely worded provision allows the President to authorize the detention of an American citizen or lawful permanent resident that is apprehended in the United States. While President Obama has put forth a policy directive that ensures that all prisoners have

the right to trial, his successor could reverse this stance and put in motion the injustice of indefinite detention.

The AA & NHPI community is all too familiar with the wrongs caused by indefinite detention invoked in the name of national security and wartime protections. During World War II, President Roosevelt signed Executive Order 9066, which authorized the illegal detention of 110,000 Japanese Americans, most of them United States citizens, in incarceration camps across the Western United States. These men, women, and children committed no crime against the United States, these families were detained simply for being Japanese. While the United States government has admitted that the incarceration was a grave mistake, it has repeated these same injustices in the post-9-11 context.

## RECOMMENDATION #1.5 – INDEFINITE DETENTION

- Repeal of Sections 1021 and 1022 of the National Defense Authorization Act for Fiscal Year 2012.
- Enact policies that ensure the government is not allowed to suspend any person’s constitutional right to due process.
- Enact legislation that establishes a clear end-date for the AUMF.

## ISSUE #1.6 – EMPLOYMENT DISCRIMINATION

AA & NHPIs face many types of employment discrimination, including discrimination based on age, disability, equal pay/compensation, genetic information, national origin, race/color, religion, retaliation, gender, gender identity, pregnancy and sexual orientation. Discrimination can also occur on an intersectional basis, such as being discriminated against because one is an Asian woman. Additionally, in the workplace—particularly regarding management opportunities and career advancement—AA & NHPIs are routinely passed up for promotions.

In 2011, the United States Equal Employment Opportunity Commission (EEOC) reported 35,395 race-based charges, 28,534 sex-based charges and 11,833 national-origin charges.<sup>11</sup> Unfortunately, the federal government still does not provide explicit employment discrimination protections for lesbian, gay, bisexual, transgender, and queer (LGBTQ) persons.

## ISSUE #1.6 – EMPLOYMENT DISCRIMINATION CONT.

For Asian Americans, 3,369 charges were filed in 2011, 52% of which were Asian race-based or East Indian National Origin-based.

Many AA & NHPIs are perceived as “foreigners” and thus face national origin discrimination in many aspects of their lives. National origin discrimination involves treating people (applicants or employees) unfavorably because they are from a particular country or part of the world, because of ethnicity or accent, or because they appear to be of a certain ethnic background (even if they are not). Discrimination also occurs if an employer imposes an English-only rule, which requires employees to speak only English on the job, unless such a rule is needed to ensure the safe or efficient operation of the employer’s business and is put in place for nondiscriminatory reasons. Employers are also not allowed to discriminate based upon an individual’s citizenship or immigration status.

The EEOC has also seen an increase in religious-based charges in the workplace. In 2011, there were nearly 4,151 complaints made in this area - almost twice as many religious-based charges than in 2001. Although a violation of federal law, Sikh and Muslim Americans are routinely asked to remove their religious articles of faith in order to even obtain a job. They are essentially forced to choose between their religion or employment. And when they are permitted to maintain their faith in the workplace, it is not unusual for them to face harassment from fellow employees or customers that goes undisciplined by managers and human resource departments.

## RECOMMENDATION #1.6 – EMPLOYMENT DISCRIMINATION

- Enact legislation, such as the Employment Non-Discrimination Act, which would prohibit discrimination in hiring and employment on the basis of sexual orientation or gender identity by civilian, nonreligious employers with at least 15 employees.
- Enact legislation, such as the Equal Employment Opportunity Restoration Act, which would restore workers’ ability to effectively bring discrimination claims as a group and would reverse a Supreme Court’s decision that prohibited women from joining together to challenge discrimination in a single lawsuit and put in place stringent new standards for bringing class action employment discrimination claims.

- Support legislation that restores Congress’ original intent for the provisions in the Civil Rights Act of 1964 - specifically those relating to religious accommodation in the workplace.
- Enhance enforcement of EEOC guidelines. The EEOC must also exercise its regulatory authority to protect employees and job applicants from workplace segregation based on religion.
- Educate AA & NHPI communities as to their rights and responsibilities, encouraging those that face any form of discrimination to use the laws that protect them.
- Assist AA & NHPI communities by providing language assistance and in-language documents from the EEOC to outline their rights and responsibilities and guides them through the process.

## ISSUE #1.7 – HATE CRIMES

Criminal offenses that are committed against a person or their property motivated by an offender’s bias against a protected class are considered hate crimes. In 2010, the Federal Bureau of Investigation (FBI) reported there were 8,208 total victims of hate crimes; 3,949 people were victims of racially motivated hate crimes, of which 19.5% were due to an anti-AA & NHPI bias.<sup>12</sup> Of the 1,552 victims of anti-religion hate crimes, 7.9% were due to anti-Islam bias. In fact, 2010 FBI statistics show hate crimes against AA & NHPIs were up by nearly 20% since 2009 and incidents against Muslims were up by nearly 50%. In addition, there were 1,122 victims of national-origin bias, and 1,528 victims targeted due to sexual-orientation bias.

Despite the startling number of hate crimes against community, comprehensive and disaggregated data on hate crimes is incomplete and inconsistent. For example, while hate crimes continue to be perpetrated against Sikh community members and places of worship at an alarming rate, the FBI does not track anti-Sikh crimes or anti-Hindu crimes on its Hate Crime Incident Report form. In addition, local law enforcement often lacks the training, awareness, and funding to effectively report and track hate crimes. In addition, many hate crimes are never reported for a variety of reasons. Victims may have limited-English proficiency, distrust law enforcement, or not understand what constitutes a hate crime. These factors only exacerbate existing problems with the availability of reliable disaggregated data on the AA & NHPI community. As a result, hate crime statistics, as reported by the FBI, are consistently low and can only serve as a low-end estimate instead of an accurate reflection of hate crimes annually.

Although it has been over 10 years since the attacks of 9-11, hate crimes targeted against Muslims, Arabs, Sikhs, and South Asians continues. From homicides and physical assaults to vandalism of places of worship, these perpetrators continue their efforts to instill fear among these communities. Such perpetrators must be charged under the applicable hate crimes statutes and prosecuted to the fullest extent of the law.

In the weeks after the Oak Creek, Wisconsin shooting [see page 10], hate crimes against Muslims, Arabs, Sikhs, and South Asians increased at an alarming rate. Visit <http://blog.saalt.org/?p=2108> for a list of incidents.

## RECOMMENDATION #1.7 – HATE CRIMES

- Include separate Anti-Sikh and anti-Hindu categories in federal and state hate crimes incident report forms and publish such statistics disaggregated by race and religion.
- Increase community partnerships between community leaders and federal and local enforcement in order to effectively respond, track, and report hate crimes within communities
- Ensure adequate funding for federal, state, and local civil rights agencies charged with authority to investigate and prosecute hate crimes
- Provide dedicated staff to the Department of Justice's Initiative to Combat Post-9-11 Discriminatory Backlash

## ISSUE #1.8 - BIAS-BASED BULLYING & HARASSMENT

A recent increase in bullying-related suicides among young people highlights the lack of resources and training teachers and school districts have for preventing harassment and bullying. Students are not aware of effective ways to report harassment, and schools predominantly fail to properly investigate incidents they are made aware of. In New York City

schools, 76% of students were not aware of means to report bullying, and only 42% knew the staff member at their school who was to be notified regarding harassment.<sup>13</sup> Eighty percent of alleged victims were not offered any follow up counseling after reporting the incident.

Specifically in the AA & NHPI community, the rate of school bullying has increased significantly. In a recent study, Asian American students reported the highest rate of classroom bullying, almost 20% higher than any other race or ethnic group. The number of Asian American students bullied on school grounds was also 10% higher than any other race or ethnic group. Asian American students experience bullying on the basis of other forms of bias as well, such as homophobia, gender bias, xenophobia, and more.

In the past year, the culture of military harassment, abuse, and hazing has been shown to affect the AA & NHPI community severely. In April 2011, Lance Corporal Harry Lew shot himself to death in a foxhole in Afghanistan after brutal hazing by fellow Marines. In October 2011, Private Danny Chen of New York died of non-combat injuries after weeks of racially charged abuse and mistreatment by fellow United States Army platoon members. The culture of these being acceptable practices within the United States military is shameful and displays a disturbing trend. NCAPA groups are dedicated to seeking reforms in the military for zero tolerance of harassment and abuse.

## RECOMMENDATION #1.8 – BIAS-BASED BULLYING & HARASSMENT

- Support legislation that broadens incentives for state and local educators to adopt appropriate measures and resources to combat bullying and make schools safer.
- Support legislation that provides changes to training in the United States armed forces; as well as seeking reforms that ensure accountability for harassment, abuse and hazing in the military.
- Support legislation that allow schools to notify families of grievance procedures and prohibited conduct with regard to bullying and harassment.
- Provide resources for individuals and families affected by bias-based bullying and harassment in languages spoken by AA & NHPI communities.



## EQUAL OPPORTUNITIES

NCAPA strongly supports equal opportunity policies. NCAPA reaffirms this position in light of the U.S. Supreme Court's upcoming review of the University of Texas at Austin's undergraduate admissions policy that uses race as one of many factors in its individualized, holistic consideration of a portion of its total applicant pool. In *Fisher v. University of Texas at Austin*, a former applicant asserts that the school's admissions policy is unconstitutional. However, the University's policy complies with the Court's 2003 *Grutter v. Bollinger* decision, which permits colleges to take into account an individual's race among other factors in furthering their compelling interest in advancing the educational benefits of a diverse student body.

Race-conscious policies must be preserved in achieving educational equity and opportunity for all AA & NHPIs. Since their implementation in the 1960s, such policies have been essential in promoting a more

equitable playing field for all AA & NHPIs. In addition to ensuring equal access to opportunity, race-conscious policies promote diversity that prepares students to become more effective leaders in an increasingly multicultural workforce. Many organizations in the private and public sectors continue to embrace and seek future employees who demonstrate the ability to interact and work with others who have different backgrounds, cultures, and perspectives.

A significant majority of AA & NHPIs support race-conscious policies. The 2001 Pilot Study of the National Asian American Political Survey found that 63% of Asian Americans felt that "affirmative action is a good thing." Contrary to the divisive and inaccurate perception that AA & NHPI communities are harmed by race-conscious policies, this statistic demonstrates our community's groundswell of support for equal opportunity initiatives.

# LANGUAGE RIGHTS AND ACCESS

## ISSUE #1.9 – LANGUAGE RIGHTS

The majority of AA & NHPIs speak English, but a significant portion of community members (over 4.5 million) is learning English.<sup>14</sup> Although there are variances within ethnic groups, 36% of Asian Americans and 14% of Pacific Islanders have some difficulty speaking English. These limited English proficient (LEP) individuals often face difficulties in participating in English language acquisition programs and are, therefore, denied access to health services, the legal system, voting, any further education, and makes things difficult in the workplace.

Language access is required by law—Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin by any recipient of federal funding. In addition, several states and local governments have laws requiring agencies to provide language access in the form of multilingual services. Nevertheless, agencies often fall short of these mandates and fail to provide properly translated materials and interpretation services to Asian American and Pacific Islander and other LEP community members

The continuing growth of the English-only movement is an additional cause for concern. The federal government does not require or specify an official national language. Thirty states, on the other hand, do specify English as the official language of the state, and two states have pending legislation on this

issue. Most often motivated by a dislike of perceived foreigners, English-only laws include restrictions or bans on the use of non-English languages. These policies include eliminating bilingual government services, access to bilingual voting materials, bilingual education, and bilingual citizenship tests.

English-only legislation violates the First and Fourteenth Amendments of the United States Constitution and deny tax-paying minorities equal access to government services. Furthermore, these misguided policies do nothing to help LEP individuals learn English. Asian Americans and Pacific Islander immigrants are already highly motivated to learn English and their children grow up to speak English fluently. What is missing is adequate English language acquisition classes to meet the demand from LEP individuals.

The United States Supreme Court, in *Alexander v. Sandoval* held that individuals could no longer bring private lawsuits to enforce disparate impact regulations, restricting that enforcement authority to government agencies. As a result, federally-funded activities that have a harmful and disproportionate effect on people of color and language minorities can only be challenged in court by the victims themselves if they can demonstrate intentional discrimination—something difficult to prove since discrimination, especially if it's institutionalized, is rarely blatant or overt.

## RECOMMENDATION #1.9 – LANGUAGE RIGHTS

- Strengthen and enforce federal, state and local laws requiring meaningful access to government services and the courts.
- Oppose English-only and other anti-immigrant legislation and policies.
- Support and fully fund English language acquisition programs tailored to Asian and Pacific Islander immigrants.
- Restore a private right of action to challenge policies and practices that have a disparate impact based on race, color or national origin.

## RECOMMENDATION #1.10 – UNEQUAL TREATMENT OF AA & NHPI VETERANS

- Support and pass legislation providing equity to AA & NHPI veterans.
- Improve access for AA & NHPI veterans and their families to structures and resources that support veterans, such as Veterans Service Organizations.
- Support education around the contributions of AA & NHPI veterans to the United States, including (but not limited to) Japanese American military regiments in World War II, Filipino soldiers in the United States Armed Forces of the Far East, Hmong guerrillas in the CIA's secret war in Laos, and other Southeast Asian combatants that supported United States military interests in the Vietnam War.

## VETERANS' RIGHTS

### ISSUE #1.10 – UNEQUAL TREATMENT OF AA & NHPI VETERANS

During World War II, over 200,000 Filipinos fought in defense of the United States in the Pacific theater of military operations, where more than half died. As a commonwealth of the United States before and during the war, Filipinos were legally American nationals and were promised all the benefits afforded to those serving in the armed forces of the United States. In 1946, Congress passed the Recession Act, which stripped Filipinos of the benefits they were promised. In 2009, a one time payment of at least \$9,000 to eligible non-United States Citizens and \$15,000 to eligible United States Citizens was signed into law. Nevertheless, full equity for Filipino World War II veterans remains elusive, as do other forms of relief including legislation to allow eligible veterans to have expedited petitions to bring their families to the United States in their twilight years.

In the 1950s, Communists were making a push to spread communism throughout Southeast Asia. Once the Vietnam War began, the relationship between the Laotian and the United States military strengthened and continued for years – the relationship was a secret, hence the name, the Secret War. During the war 50,000 Lao soldiers were killed, with 120,000 wounded, thousands Missing in Action, and millions of civilian Laotians displaced. Many of the Laotian soldiers that fought alongside Americans soldiers were imprisoned, brutally tortured, and killed in reeducation camps. Among those that survived, some were able to resettle in the United States. None of these soldiers have been given eligibility to benefits from the Veteran's Administration.

## NATIVE HAWAIIANS AND PACIFIC ISLANDERS

### ISSUE #1.11 – FEDERAL RECOGNITION OF NATIVE HAWAIIAN GOVERNANCE

Native Hawaiians are a Pacific Island peoples, whose homelands are located in the Hawaiian Islands, and the 50th state of United States. Under the United States Constitution, the Congress has the plenary power to address the conditions of Native peoples of the 50 States, including Native Hawaiians, Alaska Natives and American Indians. These groups of first peoples, that predate the United States are not immigrants, are also not treated by the federal government as only a racial class of peoples, but rather political classifications with the right to self determination and self governance. Therefore, and unlike other Asian Americans or other Pacific Islanders, Native Hawaiians are recognized as Native by the federal government, a non-racial classification.

The Native Hawaiian Reorganization Act would provide a federal policy of self-governance and self-determination that has previously not been extended to Native Hawaiians. This Act would recognize sovereignty, which is inherent to Native Hawaiians, and allow them to organize a Native government.

## ISSUE #1.11 – FEDERAL RECOGNITION OF NATIVE HAWAIIAN GOVERNANCE CONT.

It would establish a process for the reorganizing of a Native Hawaiian governing entity for the purpose of a federally recognized means to formally interact with the U.S. government. This would allow the U.S. government, the State of Hawaii, and Native Hawaiians, through their governing entity, a formal means to address longstanding issues and grievances, jurisdictional issues, as well as control of natural resources, lands, and assets.

## RECOMMENDATION #1.11 – FEDERAL RECOGNITION OF NATIVE HAWAIIAN GOVERNANCE

- Support Native Hawaiian self-governance by administratively or legislatively implementing federal recognition afforded to other indigenous peoples, including American Indians and Alaska Natives.

## ISSUE #1.12 – GUAM WORLD WAR II LOYALTY RECOGNITION

American Samoa, the Northern Mariana Islands, and Guam are all United States unincorporated territories or insular areas, which are one of the four political divisions of the United States. American Samoa is self-governing under authority

of the United States Department of the Interior. People born in American Samoa are American nationals, but are not American citizens unless one of their parents is a United States citizen. Guam was organized as a territory under the Guam Organic Act of 1950, which granted the people United States citizenship. The Northern Mariana Islands are a commonwealth organized under a 1977 Covenant and qualified descendants of the Northern Marianas were granted United States citizenship in 1986.

In 1941, Imperial Japanese forces invaded and occupied the island of Guam. The occupation lasted for years, and the people of Guam were interned and suffered terribly. Once hostilities ended, Congress decided to provide immediate relief for the island population. Later, a Guam War Claims Review Commission found that a lack of parity existed for the people of Guam when compared to other war claims programs for other similarly affected U.S. citizens and nationals.

## RECOMMENDATION #1.12 – GUAM WORLD WAR II LOYALTY RECOGNITION

- Support legislation to recognize the suffering and loyalty of the people of Guam during its occupation by the Japanese during World War II.

### Definition of Native Hawaiian or Other Pacific Islanders Used in the 2010 Census

According to the Office of Management and Budget (OMB), “Native Hawaiian or Other Pacific Islander” refers to a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands. The Native Hawaiian and Other Pacific Islander population includes people who marked the “Native Hawaiian” checkbox, the “Guamanian or Chamorro” checkbox, the “Samoan” checkbox, or the “Other Pacific Islander” checkbox. It also includes people who reported entries such as Pacific Islander; Polynesian entries, such as Tahitian, Tongan, and Tokelauan; Micronesian entries, such as Marshallese, Palauan, and Chuukese; and Melanesian entries, such as Fijian, Guinean, and Solomon Islanders.

## PRIORITIES

- **Voting Rights:** Support the continuing vitality of the Voting Rights Act, including full enforcement of Section 203 (requiring language assistance in the elections process in specific jurisdictions); and ensure access to the voting process for all United States citizens by opposing voter suppression efforts, such as voter photo identification requirements
- **Racial and Religious Profiling:** Support legislation, such as the End Racial Profiling Act, prohibiting racial and religious profiling by federal, state, and local law enforcement; strengthen the existing Department of Justice guidance on racial profiling; and oppose measures allowing indefinite detention of individuals without charge
- **Employment Discrimination and Bias-Based Bullying and Harassment:** Support enforcement of existing anti-discrimination policies and passage of legislation, such as the Employment Non-Discrimination Act, Workplace Religious Freedom Act and Student Non-Discrimination Act, expanding anti-discrimination policies to preserve rights of those discriminated against on the basis of race and national origin, as well as gender identity and sexual orientation; and support legislation to combat bias-based bullying in schools, such as the School Safety Improvement Act, and bias-based harassment in other institutions, such as the military.



**AJJC Staff Attorney conducting voter registration at a Buddhist Temple in Alabama**

# PRESERVING EDUCATIONAL OPPORTUNITIES AND ACCESS

## INTRODUCTION

There is a strong correlation between the level of education one achieves, and their lifetime earnings. A person without a high school diploma who works less than full time, year-round earns \$11,000/year.<sup>15</sup> On the other end of the spectrum, a person with a professional degree, who does work full time, year-round, earns \$100,000/year. Over the course of a lifetime of work, 40 years, a male high school graduate can earn \$766,000. That same person can earn \$4,266,000 with a professional degree in the same amount of time.

Asian American, Native Hawaiian, and Pacific Islander (AA & NHPI) students and families face diverse educational challenges, including disparities in accessing high quality educational opportunities to culturally competent and linguistically appropriate resources. AA & NHPIs are far too often stereotyped by the so-called “model minority myth,” which is rooted in the misconception that all AA & NHPIs are exceptional students, and face no barriers on their path to higher education. This draws attention away from the diversity and the needs of individual AA & NHPI communities, which often face significant challenges to educational achievement and attainment due to unique historical or socioeconomic factors, including refugee status, long-term disenfranchisement, and poverty.

Recent research confirm that AA & NHPI communities experience differential postsecondary outcomes with the majority of Southeast Asian and Pacific Islander groups experiencing lower rates of educational attainment. For example, 51.1% of Vietnamese, 63.2% of Hmong, 65.5% of Laotian, and 65.8% of Cambodian adults (25 years or older) have not enrolled in or completed any postsecondary education.<sup>16</sup> Similar trends are found among Pacific Islanders with 49.3% of Native Hawaiian, 53% of Guamanian, 56.8% of Samoan, and 57.9% of Tongan adults who have not

enrolled in any form of postsecondary education. These statistics are much lower for East Asians (Chinese, Japanese, and Korean) and South Asians (Asian Indian and Pakistani), where only 20.4%-34.5% have not enrolled in or completed any postsecondary education.

The NCAPA Education Committee presents the following issues and recommendations for careful consideration.

## PRINCIPLES

- **DATA AND DISPARITIES**—The “model minority myth” is sometimes “proven” by one-dimensional data. Without disaggregated data, AA & NHPI students are often left out of the educational reform discussion or used as policy wedge against reform. Disaggregated data will help identify and eliminate disparities between AA & NHPI and other student populations, as well as within AA & NHPI subgroups.
- **ACCESSIBLE AND INCLUSIVE LEARNING ENVIRONMENTS**—AA & NHPI students are entitled to an educational system that is accessible and inclusive of the diversity within the United States. The educators and curriculum should also reflect this diversity and be competent in the needs of the AA & NHPI community.
- **LIFETIME OF LEARNING**—From early childhood development programs to adult English language acquisition courses, AA & NHPI students of all ages need resources to match their desire to learn and improve themselves.



## DATA AND DISPARITIES

### ISSUE #2.1 – DISAGGREGATED RESEARCH AND DATA

Data on AA & NHPI student educational achievement and growth is grouped in overall averages by state departments of education and as a result, the United States Department of Education. This sort of collection falls short of any useful purpose. Additionally, inconsistencies in data collection, with some states collecting data on “Asians,” and others grouping “Asian” with “Other,” rules out meaningful use of data across state lines. One key to improving education for AA & NHPI students is the ability to disaggregate data within the AA & NHPI category to better contextualize the diverse historical and socioeconomic characteristics of the AA & NHPI community.

This flawed data often leads to overlooking the educational needs of AA & NHPI students and resulting in a void of high quality resources and services for AA & NHPI students. This results in low numbers of their enrollment in rigorous courses, low graduation rates, and record numbers of students unprepared for life after college, regardless of whether this results in college, work, or some combination of those two paths. AA & NHPI students also face other barriers due to a lack of access to extracurricular activities, immigration status, or economic background. The current policies and manner of data collection perpetuate the model minority myth, thus failing the entire community by masking weaknesses in the education system as a whole.

### RECOMMENDATION #2.1 – DISAGGREGATED RESEARCH AND DATA

- Develop and implement federal, state, and local policies with accompanying resources that mandate state education departments to collect and disseminate comprehensive student data that is disaggregated by ethnicity, native language, socioeconomic status, English Language Learner (ELL) status, and ELL program type. At a minimum, states, school districts, and individual schools should collect, standardize, and report data by ethnicity on student achievement and growth, access to and enrollment in honors and advanced placement courses, graduation rates, average GPA by grade level, and college enrollment rates.

## ACCESS & INCLUSIVITY

### ISSUE #2.2 – INCLUSION OF AA & NHPIs IN THE CURRICULUM

Inadequate attention is paid to history and contributions of AA & NHPIs. By excluding this significant information, all students are led to the perception that this population remains somehow foreign and have not contributed to the American story. Students, regardless of their background, can learn from an expanded curriculum that reflects the diversity of the students it serves. In addition, this allows for AA & NHPI students to appreciate their own histories and accomplishments, thus raising their own self-worth, as well as that of their communities.

### RECOMMENDATION #2.2 – INCLUSION OF AA & NHPIs IN THE CURRICULUM

- Encourage and support the inclusion of AA & NHPI history, culture, and languages in school curricula at all levels.



**SEARAC's education policy advocate, Quyen Dinh, and participants of SEARAC's Leadership and Advocacy Training at a meeting with legislators on Capitol Hill**

## ISSUE #2.3 – CAPACITY OF SCHOOLS TO SERVE AA & NHPI STUDENTS

As one of the fastest growing populations in the country, AA & NHPI students face a shortage of resources and services to meet their needs. In communities where resources like English-language acquisition and afterschool programs do exist, AA & NHPI students are still unable to access these programs. In recent years, federal funding has been increasingly limited for many programs that directly impact the education of AA & NHPI students. These include programs that serve low-income and disadvantaged students by strengthening teacher quality, English-language acquisition, as well as safe and drug-free schools.

## RECOMMENDATION #2.3 – CAPACITY OF SCHOOLS TO SERVE AA & NHPI STUDENTS

- Fully fund Elementary and Secondary Education Act (ESEA) programs designed to meet the needs of minority, disadvantaged and AA & NHPI students (e.g. Titles I, II, III, and IV), especially programs serving English Language Learner students.

## ISSUE #2.4 – ENGLISH LANGUAGE LEARNER STUDENTS

English Language Learner (ELL) students can come from a variety of language backgrounds. Some can come from households where some English is spoken, or where no English is spoken.<sup>17</sup> Currently, 10.5% of the nation's entire K-12 enrollment is composed of ELLs. There is no single profile that fits all ELL students. In many school districts, Spanish is the predominant language spoken by most ELL students. But, if the number of ELLs speaking Asian languages is aggregated, it can also be a predominant language block in some school districts, especially those in urban areas. For example, in California's Alhambra Unified school district, 32.7% of ELL students speak Spanish as a native language and the next highest native language is Cantonese with 30.6%. Additionally, the aggregate of all the Asian languages in the district represents two-thirds of the ELL student body.

Nearly one out of every four AA & NHPI students is an ELL or lives in a linguistically isolated home. There is a need for language resources specific for ELLs that speak Asian languages, especially those spoken in Southeast Asia in large urban districts.

There is a shortage of bilingual and ESL educators. In addition, districts with large numbers of ELL students need professional development in ELL methodologies made available for all teachers, not just those that are ESL teachers. More focus and development is needed for alternative dual language bilingual programs and for maintaining and supporting transitional bilingual education.

The diversity of AA & NHPI ELL students must also be considered. Some students may benefit from native language assessments, and still others may not have written proficiency in their native language, or be able to read it. Provisions should be made to accommodate these diverse language skills for AA & NHPI ELL students.

## RECOMMENDATION #2.4 – SERVICES FOR ELLs

- Create and fund policies in ESEA that require schools and districts to provide robust educational programs for ELL students.
- Provide incentives for states to develop, implement, and maintain funding for bilingual programs where large ELL populations exist.
- Encourage school districts to improve the processes for assessing newly enrolled students for ELL services and for identifying when ELL students become proficient in English.
- Provide incentives for states to develop and utilize native language assessments for ELL populations, and use population triggers at the district or county level to determine mandated use.
- Ensure that school accountability systems are designed to bring additional resources to diverse school populations, instead of diverting resources.



## ISSUE #2.5 – PARENTAL INVOLVEMENT

Parents of AA & NHPI students can face many linguistic and cultural barriers when trying to achieve any level of involvement in their child's life. Nearly one in every four AA & NHPI student lives in a household where at least one parent has limited-English proficiency. In New York City, 49% of AA & NHPI youth reported they “always/a lot” translated for their parents, and only 9% reported they “never” did.<sup>18</sup> In addition, 83.1% of these youth translated notes/letters from school for their parents. Many parents face a role reversal, and rely on their children to translate information, and guide them through all matters related to public life in the United States.

When students are asked to translate school notices, requests for meetings, and in some cases, interpret the meetings themselves, parents can miss crucial information. This results in stunted growth for the child, and prevents them from actively participating in activities, or living out their childhood. These barriers prevent parents from being effectively involved. Without removing these barriers, critical information can be missed, putting an added burden on the education of AA & NHPI students.

## RECOMMENDATION #2.5 – PARENTAL INVOLVEMENT

- Fully enforce the language access and parent engagement provisions of Title VI of the Civil Rights Act and Title I of NCLB.
- Provide funding for school districts to provide mandated interpretation for important school meetings and translation services for school documents.
- Create and fund policies that require schools to implement parental-involvement plans that are culturally compatible and linguistically accessible.
- Support policies and funding for community-based organizations working in AA & NHPI communities to engage parents in local schools.
- Fully fund schools to provide culturally and linguistically competent home-school coordinators.

“[We] need to help parents understand the educational system, and help them to become advocates. Parents tend to be deferential to the school district”

Michele Lew, Executive Director,  
Asian Americans for Community  
Involvement.

“Parents work all the time and don’t have the resources/skills to help their kids, so lots of kids don’t have support at home and no one to keep them accountable. And parents don’t know how to guide their kids about classes for going to college, financial aid, etc, so they fall further behind.”

Vu Le, Executive Director,  
Vietnamese Friendship  
Association.

## ISSUE #2.6 – TEACHER PREPARATION

Teachers work with students from many differing cultural, linguistic, and economic backgrounds. Despite this, teachers receive little to no preparation on effective methods to teach AA & NHPI students. Teachers are thus forced to rely on cultural stereotypes to understand their AA & NHPI students. By dismissing differences between the teacher and this group of students, a great disservice is being done to both. Teachers must be given adequate resources in order to understand their student body, thus eliminating any stereotypes held between the two groups.

## RECOMMENDATION #2.6 – TEACHER PREPARATION

- Provide resources in Title II of the Higher Education Act and Title II of ESEA for pre-service and in-service teacher education and professional development programs so that the linguistic, cultural, and other needs of AA & NHPI students can be more adequately addressed.

- Under Title II of ESEA, require local education agencies to provide all teachers (regardless of subject area), administrators, and staff that work directly with ELL students with professional development, so that they may better understand the diverse needs of ELL and other different language learners.
- Create and fund programs that increase the number of bilingual educators and the ability of all educators to teach students with limited English proficiency.

## ISSUE #2.7 – SAFE ENVIRONMENTS FOR ALL STUDENTS

AA & NHPI students are particularly vulnerable to bullying, intimidation, and discrimination from their fellow students. Approximately 2.9% of public schools reported student racial/ethnic tensions happening daily or at least once a week.<sup>19</sup> Roughly 18% of AA & NHPI students reported being bullied.<sup>20</sup> All students deserve to feel safe in their schools, regardless of their perceived and actual differences. Students should be allowed to join and form student clubs, and these associations should be respected.

## RECOMMENDATION #2.7 – SAFE ENVIRONMENTS FOR ALL STUDENTS

- Strengthen Title IV, Part A, of the ESEA covering “Safe and Drug-Free Schools and Communities” by requiring schools to take additional steps to prevent, keep records of, and report bullying and harassment, and to educate school staff and students about these issues. Districts should keep and publicly release data that is disaggregated by ethnicity, ELL status, sexual orientation, and gender.

## ISSUE #2.8 – OFFICE FOR CIVIL RIGHTS: ENFORCEMENT AND INVESTIGATION

The purpose of the Office for Civil Rights (OCR) is to serve students and institutions that may be facing discrimination through compliance reviews and technical assistance. AA & NHPI students and parents may not be aware of this resource.

## RECOMMENDATION #2.8 – OFFICE FOR CIVIL RIGHTS: ENFORCEMENT AND INVESTIGATION

- Enable OCR to initiate more compliance reviews under Title VI of the Civil Rights Act. OCR should continue to build on its momentum and recent direction.
- Enable OCR regional offices to pursue more discrimination and harassment claims.
- Encourage OCR to partner with community-based organizations on outreach and education to AA & NHPI communities to build greater awareness of OCR’s functions and the availability of assistance in different languages.
- Restore the ability of individuals to directly challenge practices that have racially inequitable outcomes without needing to meet the heavy burden of proving discriminatory intent. For more than 35 years, civil rights advocates effectively used Title VI regulations to dismantle segregation and quash discriminatory practices. However, in *Alexander v. Sandoval*, the United States Supreme Court held that individuals could no longer bring private lawsuits to enforce disparate impact regulations, restricting that enforcement authority to government agencies.

## ISSUE #2.9 – TURNAROUND LOWEST-ACHIEVING SCHOOLS

Too many AA & NHPI students in high-poverty communities do not have access to a high-achieving public school because their schools are often chronically underfunded, understaffed, and unsupported. Nationwide, 28% of minority students are enrolled in the lowest-achieving high schools, of which 14% are AA & NHPI.<sup>21</sup> Through the American Recovery and Reinvestment Act of 2009, the Department of Education awarded \$3.5 billion in Title I School Improvement Grants (SIGs) to turn around the nation’s lowest performing schools through their choice of four models: Transformation, Turnaround, Restart, or Closure.

## RECOMMENDATION #2.9 – TURNAROUND LOWEST-ACHIEVING SCHOOLS

- Require that at-risk students, including ELL students, are closely monitored and supported to ensure that such students are not illegally discharged or pushed out during turnaround process.
- Ensure that restructuring does not reduce the number of seats available in a particular school and that new schools enroll and serve the student populations of the communities in which these schools are located.
- Ensure that capacity of ELL programs is maintained and make sure that ELLs and other vulnerable populations are fully served during the restructuring process.
- Encourage additional models of public school innovation, including magnet or themed public schools and other innovative collaboration or partnerships.
- Conduct thorough studies to measure the lasting effects of school restructuring.
- Focus on sustainability of school improvement efforts after the expiration of SIG funds, with an emphasis on effective and holistic long-term planning that addresses key issues such as resource allocation, education funding policy, community infrastructure, school modernization, teacher preparation and recruitment, and class-size reduction.

## ISSUE #2.10 – DIVERSITY IN EDUCATIONAL WORKFORCE

“For many years, we had few staff who spoke Cambodian [in Philadelphia]. The Superintendent met with us in April 2010 at a community meeting, learned about issues affecting community, and began to hire bilingual staff. Then, we faced budget cuts, and most staff have been laid off.”

Rorng Sorn, Executive Director,  
Cambodian Association of Greater  
Philadelphia.

Increasing the representation of AA & NHPIs working in the education sector is particularly important for the AA & NHPI community. AA & NHPI students make up 4% of all public K-12 schools, but AA & NHPI educators make up less than 2% of all educators.<sup>22</sup> The disparity is even larger in particular states and districts. The largest gap is in California, where AA & NHPIs make up 11.3% of the students in elementary and secondary schools, but AA & NHPI educators comprise only 4.9% of the teaching force. The level of retention of AA & NHPI educators is also low, which means not many reach the level of administrator within their school system. Without addressing these obvious shortcomings, these gaps will remain.

## RECOMMENDATION #2.10 – DIVERSITY IN EDUCATIONAL WORKFORCE

- Create enforceable and funded policies that remove barriers to the recruitment and retention of AA & NHPIs in higher education.
- Under Title II of the Higher Education Act, promote and support recruitment of a diverse teacher workforce, especially those that are culturally and linguistically competent.
- Encourage and incentivize an increase of multicultural and multilingual teachers in every school district to reflect and represent student demographics.

## ISSUE #2.11 – K-12 PUBLIC EDUCATION ADMISSIONS

The landmark United States Supreme Court decision of *Plyler v. Doe* guarantees the right to K-12 education for children regardless of their immigration status. This case provides that a school may not deny initial admission to a student, or at any other time, on the basis of their immigration status. A school cannot treat students differently to determine their residency, or engage in practices that restrict access to public schools. Parents and students are not to be forced to disclose their immigration status, nor are they to be forced to disclose Social Security numbers. Access to programs in public schools cannot be denied based on immigration status. Despite this ruling, many school systems continue to deny undocumented immigrant students access to schools, either

due to blatant discrimination, or due to misinterpretation of the law. States with significant AA & NHPI populations, such as Arizona, Georgia, and Virginia have attempted to enact laws to undermine this ruling. They have tried to gain immigration related information from their students in order to make determinations related to their ability to access public education, thus creating harmful barriers for these students.

## RECOMMENDATION #2.11 – K-12 PUBLIC EDUCATION ADMISSIONS

- Enforce the *Plyer v. Doe* ruling to preserve the rights of access to public education for undocumented students.
- Enforce the Family Education Rights and Privacy Act (1974), which prevents public schools from providing any outside agency including the Department of Homeland Security with any information from a student's school file that would expose his or her immigration status without first receiving permission from the parents.
- Raise awareness amongst public school systems that they have no legal obligation to enforce United States immigration laws.
- Oppose state-legislation that attempts to dismantle access to K-12 education for undocumented students or create a chilling effect on student enrollment.

## ISSUE #2.12 – ACCESS TO HIGHER EDUCATION: MINORITY OUTREACH PROGRAMS

Many AA & NHPI students face barriers to education at the elementary and secondary level that also lead to barriers in attaining higher education. For example, 34.3% of Laotian, 38.5% of Cambodian, and 39.6% of Hmong adults do not even have a high school diploma or equivalent.<sup>23</sup> Students who come from these families may have limited knowledge on the higher education system, and the importance of a college education. By increasing support for programs, AA & NHPI communities can receive the resources necessary to help decrease these barriers.

## RECOMMENDATION #2.12 – ACCESS TO HIGHER EDUCATION: MINORITY OUTREACH PROGRAMS

- Increase support for programs such as GEAR UP and TRIO.
- Increase support for dropout prevention programs.

## ISSUE #2.13 – THE DREAM ACT

Many undocumented high school students have lived in the United States for most of their lives. These students are unable to continue to move towards higher education because of their undocumented status. By passing the DREAM Act, these students would be able to gain lawful permanent resident status, allowing them to go to college, and putting them on the path to legalization. On a daily basis, undocumented students live in fear of deportation. The psychological impact of this is tremendous. Their feelings of hopelessness and depression, particularly related to realizing their educational and professional goals, can cause these students to perform poorly in school, or ultimately even drop out.

Although it is difficult to assess the total number of AA & NHPI students that are in this category, overall, there are approximately two million undocumented students below the age of 18. These students would be eligible for any legislated immigration relief. In schools where there is a substantial AA & NHPI population, such as the University of California system, undocumented Asian American and Pacific Islander undergraduate students make up approximately 40–44% of the undocumented undergraduate population.<sup>24</sup> For many of these undocumented students, the United States is the only home they have known, and they will continue to contribute in many ways, well beyond their college years. In June 2012, the Administration announced it will stop deporting young illegal immigrants who meet certain requirements previously proposed under the DREAM ACT.

## RECOMMENDATION #2.13 – THE DREAM ACT

- Pass and sign into law legislation that would provide students a path to legalization and remove barriers for these students to go on to college and work legally in the United States

## ISSUE #2.14 – POST–SECONDARY EDUCATION

Currently there are no federal or state laws that prohibit undocumented students from attending public colleges, or universities. However, some public colleges and universities have taken it upon themselves to broadly interpret restrictions for certain valid visa holders. In recent years, some California public colleges have mistaken students with expired visas as ineligible for enrollment. In some cases, colleges have actively sought to ban admissions of undocumented students. In North Carolina, the State Community College Board has attempted to ban undocumented students from enrolling altogether. They have changed their admissions policy four times in nine years, and in 2009, decided to allow admission to undocumented students who must pay out-of-state tuition. States such as Alabama have enacted laws, such as HB 56, that would prohibit undocumented immigrants from attending school altogether.

## RECOMMENDATION #2.14 – POST–SECONDARY EDUCATION

- Require states to work with public colleges and universities to accurately define undocumented status so that appropriate access can be offered to all immigrant students, including those who have become undocumented after their visas have expired.
- Oppose state-led attempts to restrict access to public institutions for post-secondary education.

## ISSUE #2.15 – IN-STATE TUITIONS

The difference between in- and out-of-state tuition is substantial, and is often the determining factor for low-income immigrant students in deciding to continue with school. For example, undergraduate students at the University of California, Los Angeles must add over \$22,000 to their base tuition and fees if they are considered non-residents of California, for the 2011–2012 academic year.<sup>25</sup> Currently, twelve states (California, Connecticut, Illinois, Kansas, Maryland, Nebraska, New York, Oklahoma, Texas, Utah, and Washington) have residency based tuition laws that allow eligible undocumented students, who have attended school for a set number of years as residents of the state, to pay in-state tuition at their public institutions of higher education. Additionally,

another ten states have introduced in-state tuition bills in their state legislatures, and are awaiting passage. The difficulty arises, because despite the existence of these provisions, students are largely unaware of them, or find it difficult to apply for in-state tuition because their high school counselors and teachers are unaware of their existence, thus unfamiliar with the process.

## RECOMMENDATION #2.15 – IN-STATE TUITION

- Require states to work with public colleges and universities to accurately define undocumented status so that appropriate access can be offered to all immigrant students, including those who have become undocumented after their visas have expired.
- Pass in-state tuition bills that will allow students, if they meet the residency requirements, to receive in-state tuition rates as their peers.
- Where there are in-state tuition laws, public school teachers and counselors should be made aware of and trained on the laws. They should be able to assist students in filling out the application.

## ISSUE #2.16 – THE ASIAN AMERICAN AND NATIVE AMERICAN PACIFIC ISLANDER SERVING INSTITUTIONS PROGRAM

Authorized by the Higher Education Opportunity Act of 2008, the Asian American and Native American Pacific Islander Serving Institutions (AANAPISI) program increases the self-sufficiency of eligible higher education institutions by improving academic programs, institutional management, and fiscal stability. AANAPISIs seek to increase participation and academic attainment of all low income, high-need students, and serve communities with high poverty and limited-English proficiency rates.



## RECOMMENDATION #2.16 – THE ASIAN AMERICAN AND NATIVE AMERICAN PACIFIC ISLANDER SERVING INSTITUTIONS PROGRAM

- Provide increased and sustainable support and funding for the AANAPISI Capacity Building Grant Program.
- Support the development of a sustainable entity, like the Asian American and Pacific Islander Association of Colleges and Universities (APIACU) that would be able to provide support to AANAPISI grantees and potential grantees. Ensure that the required thresholds for the AANAPISI Capacity Building Grants are reflective of the changing demographics in the United States.
- Leverage existing knowledge and expertise of the AANAPISI program to increase awareness about the needs of AA & NHPI students in higher education, and strategies to alleviate these needs.
- Pursue new research on the AANAPISI program to provide information about best practices and challenges so that the program is best utilized to support students.

## RECOMMENDATION #2.17 – EARLY CHILDHOOD EDUCATION

- Provide increased funding to promote free quality public school pre-kindergarten programs and full-day kindergarten programs.

## ISSUE #2.18 – ADULT ENGLISH AS A SECOND OR OTHER LANGUAGE (ESOL) EDUCATION

English proficiency is a key factor in the successful integration of immigrants. It allows for higher rates of successful naturalization, increased participation in civic activities, economic mobility and success, effective parenting, and increased access to health care, legal and other systems. In addition, it decreases the risk of exploitation in their communities and by their employers. With the increase in immigrant populations, the ESOL education system has been unable to meet the increase in demand. The system is backlogged, overburdened, and far less productive than its actual potential.

## RECOMMENDATION #2.18 – ADULT ENGLISH AS A SECOND OR OTHER LANGUAGE (ESOL) EDUCATION

- Create funded policies that establish strong standards for quality ESOL education at levels sufficient to meet current needs.
- Strengthen and reauthorize the Workforce Investment Act to provide better access to training services, flexible performance measures, and English instruction that meets the needs of adult English Language Learners.

## LIFETIME OF LEARNING

### ISSUE #2.17 – EARLY CHILDHOOD EDUCATION

Minority children, including AA & NHPIs, face many challenges when entering the education system for the first time. Generally, these children enter school with lower levels of preparedness for school than their counterparts, and much of this is attributed to socioeconomic status. Among those challenges are language and cultural barriers. Forty-three percent of immigrant children, aged 3 to 5, do not have any sort of regular care arrangement and are likely in the care of a parent.<sup>26</sup> In 2009, there were a total of 904,153 children enrolled in Head Start, of which only 1.7% was Asian American, and 0.6% was NHPI. Access to free pre-kindergarten programs would allow for these children to acclimate to their surroundings before these barriers negatively impact their education. Research shows that this sort of focus before a child turns five produces long-term benefits for communities, as well.

## PRIORITIES

- Ensure that voices of underrepresented and often misrepresented AA & NHPI students are heard and recognized in federal education policy.
- Data and Disparities – Collect and analyze disaggregated data to help identify and eliminate disparities between AA & NHPI and other student populations, as well as within AA & NHPI subgroups.
- Accessible and inclusive learning environments – Create a safe, accessible and inclusive educational system with educators and curriculum that reflect the diverse needs of the AA & NHPI community.
- Lifetime of learning – Provide resources to match AA & NHPI students and family's desire to continuously learn and improve themselves and their community.



**South Asian Americans Leading Together (SAALT) inaugural Youth Leadership Institute, May 2012, Washington D.C.**



# PRESERVING HEALTH EQUITY

## INTRODUCTION

This section describes the primary health care concerns and priorities for NCAPA's Health Committee as it works to benefit the health outcomes of the Asian American, Native Hawaiian, and Pacific Islander (AA & NHPI) community. At its core is the recognition that eliminating health and health care disparities for AA & NHPIs requires an approach that integrates primary health, mental health and substance use disorder services. In addition, care must provide culturally and linguistically competent, and include prevention and early intervention strategies that benefit all populations and communities that have been traditionally underserved.

The March 2010 enactment of the Patient Protection and Affordable Care Act (ACA) represents an historic opportunity to reform the United States health care system. The ACA makes significant advances in the amount of resources and services aimed at communities of color and other underserved populations, who disproportionately bear the burden of high uninsurance rates, negative health outcomes and disparities in health and health care access.

### Health Care Reform

- Lowers the cost of health care
- Expands the number of health care providers
- Holds health insurance companies accountable
- Enhances the quality of health care

The AA & NHPI community will benefit from the gains provided under the ACA, however additional steps are needed to eliminate health disparities. Currently, more than 2.3 million

Asian Americans and 162,000 Native Hawaiians and Pacific Islanders are uninsured.<sup>27</sup> Moreover, the AA & NHPI community is disproportionately affected by obesity, certain types of cancer, diabetes, Hepatitis B, HIV/AIDS, mental illness, substance use disorder, and domestic violence. Yet AA & NHPIs have low utilization rates for preventive care and actual treatment services.

The NCAPA Health Committee presents the following issues and recommendations for careful consideration.

## PRINCIPLES

- **AFFORDABLE CARE ACT**—The ACA will expand coverage to an estimated 32 million uninsured Americans and strengthen existing coverage programs. The continued funding and implementation of the ACA will improve access and care for the many AA & NHPIs who are currently uninsured or underinsured.
- **DATA**—Consistent, accurate, and standardized data collection and reporting is a key strategy to identifying and addressing health disparities. While the ACA makes important strides in improving data collection and reporting, additional efforts are needed to improve understanding of AA and NHPI health and health care disparities.
- **HOLISTIC ACCESSIBLE CARE**—The AA & NHPI community is overwhelmingly immigrant, can trace its heritage to more than 50 ethnic groups, and speak more than 100 different languages. It is estimated that 46% of the community is also limited English proficient (LEP). In addition, a large number of the LEP population is also low-income. Communities that face these barriers need culturally and linguistically accessible care to overcome significant health disparities.

**ANTON'S STORY: ANTON SALEH IS A 16 YEAR OLD WHO WAS DIAGNOSED WITH STAGE 3 CANCER IN 2009.**

*"When I was diagnosed [with Stage 3 cancer] I needed to take a powerful cancer drug and get intensive UV light treatment three times per week. Despite significant hardship, my family has been able to pay for my cancer treatment. A decade ago, my father purchased medical insurance for our family. Then, my cancer came and this diagnosis revealed the deficiencies in our coverage. The prescription needed to treat my disease was not on the pre-approved list. The cost of my medication is nearly \$5,000 per month, \$60,000 per year. Despite knowing that this medication is necessary to save my life, the insurance company repeatedly declined further support. My parents, of course, did whatever they could. In fact, my father sold our family home, which he had lived in for 50 years, to make certain we had the money for my medicine. The Affordable Care Act is a lifesaver for people like me. Because of the law, my family was able to change our insurance without worry because of my pre-existing condition and I will be able to remain on my parents' health insurance up to age 26. For cancer patients, coverage is now required for routine patient care costs and existing insurance plans are barred from imposing lifetime caps on coverage. While the healthcare reform law has faced many challenges, what remains clear is that many of the key provisions provide vital protections for many of us."*



March 1, 2012 NPAWF Chicago Reproductive Justice Community Conversation at University of Illinois Chicago's AARCC (photo by Karen Su)

# AFFORDABLE CARE ACT

## ISSUE #3.1 – COVERAGE EXPANSIONS AND IMPROVED CARE UNDER THE AFFORDABLE CARE ACT

The ACA will expand coverage to an estimated 32 million uninsured Americans and strengthen existing coverage programs. These reforms will improve access and care for the many AA & NHPIs who are currently uninsured or underinsured.

**MEDICAID**—Nearly 1 in 10 Asian Americans and 1 in 7 Native Hawaiians and Pacific Islanders currently receive Medicaid coverage.<sup>28</sup> Medicaid also serves as the primary source of health insurance for vulnerable populations within the AA & NHPI community including low-income women, people with disabilities and seniors. In fact, over 70% of Medicaid beneficiaries are women, and an increasing number of them are women of color.<sup>29</sup> Under the ACA's expansion of Medicaid in 2014, an additional 9% of the Asian American population and 13% of the Native Hawaiian and Pacific Islander population will have health insurance under the program.

**STATE HEALTH INSURANCE EXCHANGES**—By 2014, each state will have a health insurance exchange operated by the state or the federal government. The exchanges are one-stop shops for individuals, families and small businesses to purchase insurance coverage, and have a minimum package of benefits included in the plan. Individuals and families with incomes between 133% to 400% of the Federal Poverty Level will also be eligible for tax subsidies to purchase plans offered through the exchanges. The exchanges will open the door to insurance coverage for approximately one in five families who are currently uninsured.

**COVERAGE FOR PRE-EXISTING CONDITIONS**—Before health care reform, insurance companies could deny coverage to individuals with pre-existing conditions such as cancer, diabetes and other chronic conditions. Nearly 1 in 5 adults with a chronic condition currently lacks health insurance. Many of them are members of the AA & NHPI community. With the ACA, high-risk pools have been created to provide eligible individuals living with chronic diseases a new coverage option.

**ACCESS FOR SMALL BUSINESSES**—In 2014, small businesses will begin to be able to purchase health coverage through the state-based Small Business Health Options Program Exchange. In addition, a small business tax credit will help approximately four million small businesses provide health coverage for

their employees. AA & NHPIs stand to benefit from these new coverage options, as many are employed by small businesses or are themselves small business owners.

**MEDICARE**—Over 14% of AA & NHPI seniors currently rely on Medicare and Medicaid for health coverage. The ACA also provides no-cost preventive services and lowers the cost of prescription drugs. These changes will help 48 million people and Medicare beneficiaries gain access to better health care services.

### PARITY FOR MENTAL ILLNESS AND SUBSTANCE USE

**DISORDER**—Many communities face challenges to accessing prevention and treatment services for mental illness and substance use disorder. The ACA removes some of these barriers, will provide parity, and integrate mental illness and substance use disorder prevention and treatment into health care.

**LONG TERM CARE**—Long-term care services and supports are crucial for elders who are disabled and have limited mobility. For AA & NHPI elders, however, it is crucial that long-term care services are also able to serve elders outside of institutionalized care and nursing homes, such as those who prefer to live in “family households” as opposed to institutionalized settings.<sup>30</sup> This is particularly true for Southeast Asian Americans, where a high percentage of individuals over the age of 65 are disabled. The ACA will better support home and community-based services for older adults through the Community First Choice option and Money Follows the Person grants.

**WOMEN**—AA & NHPI women and girls are critical beneficiaries of the ACA. The ACA prevents private insurance companies from gender rating, an industry practice to charge women higher premiums than men for the same health care coverage, even for policies that do not include maternity care. Before the ACA, many companies considered pregnancy and even domestic violence as pre-existing conditions, thus discriminating against women. Under the ACA, such discrimination is no longer tolerated. Moreover, the requirement that pre-existing conditions like cancer cannot preclude coverage benefits many AA & NHPI women. For example, the cervical cancer rate for Vietnamese women is higher than that of any other racial or ethnic group, which in the past unfairly left many of these women without access to health insurance. Now, most health insurance plans are required to cover women's preventive services, including well-woman visits and hormonal contraception, without charging cost sharing.

**INSURING YOUNG ADULTS**—Parents can now elect to keep their young adult children on their health plans until age 26.

This expansion will help the 25% of Asian American and 30% of Native Hawaiian, and Pacific Islander young adults that are currently uninsured. Approximately 300,000 AA & NHPI young adults will gain insurance under this reform.<sup>31</sup>

**LIMITED COVERAGE FOR IMMIGRANTS**—Over 60% of Asian Americans and 30% of Native Hawaiians and Pacific Islanders living in the United States are foreign-born and represent the full spectrum of immigration status categories. The ACA maintains current federal immigrant eligibility restrictions in Medicaid, including the five-year waiting period for lawfully residing immigrants. Lawfully present immigrants, however, are eligible for the new affordability tax credits and may purchase plans offered in the health insurance exchanges. However, undocumented immigrants are not allowed to purchase private plans in the individual exchange, and continue to be ineligible for Medicaid, Medicare and most other public programs. These complicated rules make it difficult for mixed-immigration status families to understand and apply to programs for which they are eligible.

**PARITY FOR TERRITORIES**—Guam, American Samoa and the Commonwealth of the Northern Mariana Islands participate in federal health programs like the Medicaid program. Unfortunately, unlike the regular Medicaid program in the states, territories operate under Medicaid funding caps written in statute. Similarly, the federal matching assistance percentage (FMAP) is also set in statute at the lowest rate of 50%. In the United States Territories, the structure of the Medicaid program essentially operates as a block grant. Once a territory exhausts its annual allocation, the cost to provide indigent care is borne solely by the territorial treasury. Additionally, the territories under the Affordable Care Act face different challenges in implementation compared to the states. For example, the health insurance exchange program, which is a central component of the law, has funding caps assigned to the territories. Other parts of the law, like the Pre-existing Insurance Condition Pool program, exclude residents in the territories, despite the large population living with chronic disease. Finally, the health infrastructure of the territories is less developed than the states. Given their geographic isolation, many residents must take long and costly plane trips to receive treatment in Hawaii or the continental United States for conditions like cancer, surgeries or other treatments. Existing grant programs often overlook the territories because the local departments of health lack the capacity to apply for competitive grants to improve their health infrastructures.

## RECOMMENDATION #3.1 – COVERAGE EXPANSIONS UNDER THE AFFORDABLE CARE ACT

- Fund and fully implement the ACA.
- Implement policies that maximize participation of AA and NHPIs, including AA- and NHPI-owned small businesses.
- Ensure that information about the changes in the health reform law is communicated in plain language and in a culturally and linguistically appropriate manner.
- Ensure parity of prevention and treatment of mental illness and substance use disorder in ACA implementation.
- Support and work with community organizations that target underrepresented populations.
- Pass legislation to increase the FMAP of the territories and abolish the statutory set limits within the Medicaid program.
- Ensure that the territories are included in all aspects of the ACA and if there is a statute barring them from doing so, make all efforts to ensure parity through administrative action.
- Set aside existing federal funds at the United States Department of Health and Human Services (HHS) for increasing and expanding health and allied-health workforce development for Native Hawaiians and Pacific Islanders. HHS should also work with territorial health agencies for technical assistance to ensure that they are able to access all the resources available to improve local health infrastructure.

# DATA AND DISPARITIES

## ISSUE #3.2 – DATA COLLECTION AND REPORTING

Consistent, accurate, and standardized data collection and reporting is a key strategy to identifying and addressing health disparities. While the ACA makes important strides in improving data collection and reporting, additional efforts are needed to improve understanding of AA and NHPI health and health care disparities.

**GRANULAR RACE AND ETHNICITY DATA**—Section 4302 of the ACA requires that HHS develop standards for collecting race, ethnicity, primary language, sex and disability status data for all federally-conducted population health surveys. The granular race and ethnicity data should align with the standards recommended by the 2009 Institute of Medicine Report on Race, Ethnicity, and Language Data (IOM Report), and aggregated to the broader Office of Management and Budget (OMB) race categories. This will help improve understanding of and address the health disparities that affect the AA & NHPI populations because of increased accuracy in data collection, analysis, and reporting.

**OVERSAMPLING**—Oversampling is one strategy for overcoming the methodological issues (e.g. small sample size, confidentiality issues) that often prevent AA & NHPI data from being reported or analyzed. Oversampling should continue to be utilized past 2014 and be extended to the NHPI population to help ensure an accurate portrayal of all AA & NHPI communities. In addition, HHS-federally conducted and supported health programs should utilize sampling strategies appropriate to the target populations in the collection, reporting, and analysis of race and ethnicity data.

**THE LGBTQ COMMUNITY**—The data collection needs of lesbian, gay, bisexual, transgender, and queer (LGBTQ) communities have been historically limited, with even less attention paid to LGBTQ AA & NHPIs. The lack of research, cultural isolation, racism, and homophobia make this group particularly vulnerable to high rates of depression, substance use disorder, and increased rates of HIV/AIDS infection. In addition, this community faces barriers to accessing quality health care due to stigma and cultural stereotyping in the health care system.

## RECOMMENDATION #3.2 – DATA COLLECTION AND REPORTING

- Adopt the recommendations from the Institute of Medicine's 2009 report, Race, Ethnicity, and Language Data: Standardization for Health Care Quality Improvement, on standardization of race, ethnicity, and language data across all surveys supported by HHS. In addition, provide an open-ended option of "Other, please specify: \_\_\_\_" for persons whose granular ethnicity is not listed as a survey response option.
- Support partnerships between federal agencies, private philanthropy, and community stakeholders to improve and refine existing surveys on AA & NHPIs to develop new methods, promote and finance oversampling and identify other opportunities to improve data sets on AA and NHPIs.
- Conduct research to reduce bias in sexual orientation estimates, as well as data collection strategies on gender identity, consistent with the goals of Healthy People 2020 and implementation of the ACA.
- Collect data on AA & NHPI women's reproductive health care service usage, including prevention services, contraceptive use, abortion access, and family planning services.

## HOLISTIC ACCESSIBLE CARE

### ISSUE #3.3 – CULTURALLY AND LINGUISTICALLY APPROPRIATE SERVICES (CLAS)

The AA & NHPI community is overwhelmingly immigrant, and can trace their heritage to more than 50 ethnic groups, and speak more than 100 different languages. It is estimated that while 11% of this group speaks only English, 46% are LEP.<sup>32</sup> In addition, a large number of the LEP population is also low-income. Communities that face these barriers are linguistically isolated and encounter significant health and health care disparities.

**LANGUAGE ACCESS** – Language access is a crucial aspect to receiving proper care for AAs & NHPIs. Language barriers



negatively impact the ability to correctly diagnose ailments or prescribe the appropriate medicine, reduce rates of enrollment in prevention, treatment, and patient education programs, and lower the quality and effectiveness of them. Although Title VI of the Civil Rights Act seeks equal access to health care services, regardless of language ability, LEP patients continue to have significant disparities. Section 1557 of the Affordable Care Act prohibits discrimination by forbidding any federally conducted program or entity that receives funding or assistance from discrimination on the grounds of race, color, national origin, gender and disability.

**HEALTH LITERACY** – While there is evidence that supports a high correlation between English-language proficiency in speaking, reading, and writing ability, differences in education level and health literacy can have an impact on an individual's reading comprehension. Language access alone is insufficient to guarantee the correct care.

**QUALITY OF CARE** – When health systems lack cultural and linguistic competence, they fail to meet the standards of quality care. AA and NHPs often face cultural and language barriers when seeking health care services, and are also underrepresented in many sectors of the professional and allied health care workforce. Despite having higher rates of certain health conditions, many AA & NHPs do not receive the recommended levels of prevention, counseling or care they need.

**Carlos L.'s personal story:** *I am a single dad with a thirteen-year old son, and I now have a much more enjoyable life as a parent and my son is not being neglected or being abused by my gambling addiction anymore. Needless to say, I never made any money gambling, but lost tons of it to the point of almost losing my business and my son's custody to foster care. I am trilingual of Korean descent, raised in Mexico, and living in the United States. Therefore, I have been attending three Gamblers Anonymous (GA) meetings a week since February 2009: Mondays in Spanish, Tuesdays in Korean, and Wednesdays in English. I gambled in all three languages, and recovery requires that I am treated in all three languages. Any set-back would be a perfect excuse to go back to gambling, but I haven't. Thanks to the help of these services in multiple languages, I am still on the road of recovery.*

## RECOMMENDATION #3.3 – CULTURALLY AND LINGUISTICALLY APPROPRIATE SERVICES (CLAS)

### LANGUAGE ACCESS AND HEALTH LITERACY

- Standardize translations of common applications and notices used in HHS-federally funded programs using the Department of Justice threshold of the primary language spoken by the lesser of 5% or 1,000 persons “eligible to be served or likely to be affected or encountered,” with the 1,000 person threshold used at the national aggregate level.
- Notices and common applications should be presented in a “user friendly” manner and written between a fourth and sixth-grade reading level or below, as provided in recommendations by the National Institutes of Health.
- Review Title VI language access policy guidance and LEP plans to ensure all HHS-federally funded programs are given clear, specific guidelines on how to ensure meaningful access. Work related activities, including work search, job training, and job experience should be linguistically accessible.
- Ensure proper allocation of resources for written translation and spoken interpretation assistance. National surveys should increase language access by hiring bilingual interviewers and translators, and translate and administer surveys in multiple languages.

### QUALITY OF CARE

- Identify cultural and linguistic competence as a quality measure to strengthen quality improvement programs and equip health care systems to respond to the unique needs of AA & NHP communities.
- Fund distance learning and tele-medicine strategies for AA & NHP communities to receive cultural competency training, technical assistance and other services through these technologies.
- Set aside training funds at the Bureau of Health Professions at the Health Resources and Services Administration for AA & NHP service providers.



## ISSUE #3.4 – CHRONIC DISEASE REDUCTION

AA & NHPIs suffer from disproportionately high rates of cervical cancer, stomach cancer, hepatitis B, mental health issues, and many other serious health impairments. Over half of the approximately 1-2 million people living in the United States with chronic hepatitis B infection are AA & NHPI.<sup>33</sup> AA & NHPIs also have the highest incidence rates for liver and stomach cancer and are twice as likely to die from these cancers as others.<sup>34</sup> Approximately 10% of the Asian American population has diabetes, 90% of which is Type 2. The Center for Disease Control and Prevention (CDC) estimates that nearly 30% of AA & NHPIs living with HIV/AIDS are unaware of their status, which is the highest proportion across all racial/ethnic groups. Studies have found that Vietnamese and Hmong women have the highest cervical cancer rates for any racial or ethnic group while Native Hawaiian and Pacific Islander women have higher cervical cancer death rates than other women. Regarding mental health, post-traumatic stress disorder is the most prevalent psychiatric disorder, specifically within the large Southeast Asian refugee population. Depression rates are also high and Asian American women are more likely to attempt suicide than other groups. Young habitual AA & NHPI smokers smoke more cigarettes daily than any other group of youth.

AA & NHPI communities also have a gap in knowledge when it comes to prevention and ways to achieve and sustain good health, preventing effective access to and communication with health care providers. Cultural barriers and stigma often create barriers to accessing family planning, reproductive and sexual health care, and mental health and substance use disorder prevention and treatment services.

## RECOMMENDATION #3.4 – CHRONIC DISEASE REDUCTION

- Develop a comprehensive regional approach to communicable disease management. Decrease health disparities of AA & NHPI populations who are unaware of their status by increasing early testing and linkage to care.
- Decrease chronic hepatitis B and liver cancer health disparities in AA & NHPI populations by: increasing awareness in AA & NHPI communities through community-driven, targeted public awareness campaigns; increasing early identification through appropriate screening, testing and

referral to culturally appropriate health care; increasing hepatitis B vaccination rates in underserved AA & NHPI communities; and conducting surveillance research to inform the development of a Healthy People 2020 objective on hepatitis B screening in minority communities.

- To address disparities in diabetes care and prevention, increase awareness of patho-physiological differences, and tailor treatments as a result of these differences. Recognize the need for additional, detailed data on specific AA & NHPI subpopulations in regards to diabetes.
- Decrease HIV/AIDS transmission in AA & NHPI communities by: creating interagency cooperation between CDC, HRSA, Substance Abuse and Mental Health Services Administration, and HHS OS to develop and implement an action plan to reduce the proportion of HIV-positive AA & NHPI individuals with undiagnosed HIV infection; provide education programs to prevent HIV among LGBTQ AA & NHPI individuals; and convene consultations to address HIV prevention and ensure organization representation from AA & NHPI communities across the United States and Pacific Island jurisdictions.
- Address health disparities impacting LGBTQ communities, particularly for HIV/AIDS, by expanding efforts to evaluate adaptations of specific interventions for LGBTQ populations, including AA & NHPIs; and by developing strategies affecting MSM (men who have sex with men) and transgendered populations, including approaches directly targeted to AA & NHPIs.
- Decrease the rates of cervical cancer by creating community education campaigns to increase utilization of pap tests, HPV vaccines, and preventive care services; and develop culturally sensitive materials about cervical cancer, preventive care, and HPV for young women and their families.
- Ensure sufficient resources are invested in prevention and treatment of substance use disorder that include efforts to address cultural stigma that prevents accessing mental health and substance use disorder professionals. In addition, enforce parity of mental health and substance use disorder treatments with primary care.

## ISSUE #3.5 – COMPREHENSIVE REPRODUCTIVE HEALTH

AA & NHPI women contribute significantly to the American economy via many paths. Still, they continue to face unique barriers to achieving self-sufficiency and independence. In fact, 18% of AA & NHPI women lack health insurance, creating an enormous barrier to accessing preventive services and care. As a result, many AA & NHPI women suffer from a significant number of reproductive and other health disparities.

**PREVENTIVE CARE**—Some sub-groups of AA & NHPI women have disproportionately high rates of preventable diseases such as cervical cancer. Studies have also found that AA & NHPI women have higher rates of fatality associated with domestic violence than any other racial group. The ACA now requires that health insurance plans cover preventive services, including contraception, mammograms, screening and counseling for intimate partner violence and sexually transmitted diseases, and cervical cancer screenings without charging a co-pay or deductible.

**FAMILY PLANNING**—Studies have proven that women who have access to reproductive health and family planning services have better health outcomes from themselves, their children and their family. Yet, abortion, unintended pregnancy, and teen pregnancy rates have increased among AA & NHPI women over the past decade. South East Asian women in particular have higher teen pregnancy rates than other groups, demonstrating the need for expanded access to contraception and comprehensive sexual health education. Barriers to comprehensive reproductive health care must be removed in order to eliminate these disparities and promote positive health outcomes.

## RECOMMENDATION #3.5 – COMPREHENSIVE REPRODUCTIVE HEALTH

- Fully implement the ACA to increase access to comprehensive reproductive health care and prevention services, such as pap smears, mammograms, and contraception through Medicaid expansion for low-income women and immigrants.
- Protect and expand access to regular contraception, emergency contraception, abortion, and family planning services, especially through full funding of the Title X program and repealing the Hyde Amendment.

- Support comprehensive sex education and teen pregnancy programs that include accurate information about abstinence, contraception, and STD prevention, and that address the cultural values and beliefs of AA & NHPI communities.
- Provide for policies that improve women's independence and self-sufficiency by increasing awareness and education to combat domestic violence in AA & NHPI communities.

## ISSUE #3.6 – MENTAL HEALTH AND SUBSTANCE USE DISORDER

Despite the interwoven connection of mental illness and substance use disorder to primary care, there has often been only secondary support for prevention and treatment of mental illness and substance use disorder. Practitioners working with AA & NHPIs recognize that quality and effective health care must treat the entire person and cannot ignore issues of mental illness and substance use disorder.

**MENTAL HEALTH**—The most recent national data on the mental health of Asian Americans from the National Latino and Asian American Study (NLAAS), found the overall lifetime rate of any mental disorder was 17% and the twelve-month mental disorder rate was 9% among Asian Americans and that United States-born Asian Americans were more likely to experience a mental disorder compared to foreign-born Asian Americans. Yet, there is very low utilization of mental health services by Asian Americans. NLAAS data reveal that in a twelve-month period, less than 4% of Asian Americans receive formal mental health services, 3% receive informal mental health services, and 9% use mental health-related services. In comparison to other racial and ethnic groups, Asian Americans appear to be the least likely to utilize mental health services. No national data exists on rates of mental disorder for Native Hawaiians, and Pacific Islanders.

**SUBSTANCE USE DISORDER**—Similarly, the National Survey on Drug Use and Health (NSDUH) has surveyed and collected granular data on AAs & NHPIs aged 12 years old or older. Although Asian American youth collectively have the least risk for abuse of alcohol, tobacco, and other drugs, there are wide differences among specific subgroups. For example, nearly one third of Filipino youth have used alcohol in the past year. Asian American youth were found to smoke more cigarettes per day (16.8) than any other group. Rates of MDMA (ecstasy) use by AA youth are significantly higher than African American and Latino counterparts. In Hawaii, one in every ten youth treated for substance use disorder was using methamphetamine.

**BARRIERS TO TREATMENT**—Culture, language, and stigma serve as barriers to mental health and substance use disorder treatment. For example, mental health professionals and paraprofessionals unfamiliar with somatic expressions of distress may fail to accurately diagnose and appropriately treat AA & NHPI clients. Yet shame and stigma can have devastating effects on mental health problems. Shame experienced by the individual and the family often results in denial of mental health issues and lack of professional treatment. Similarly, stigma prevents AA & NHPIs from seeking preventative measures or treatment related to substance use disorder. Other risk factors likely include acculturation stresses, devalued ethnicity, lack of culturally supportive institutions, and disconnection between home and school.

The low utilization of mental health services likely results from a complex array of factors including cultural factors (i.e., cultural manifestations of mental disorders and stigma), poor access to care due to systemic barriers (i.e., health insurance policies that limit or bar coverage to certain groups of individuals such as new legal immigrants, lack of affordable health insurance coverage options, and insurance policies that do not cover mental health services), and lack of culturally competent and linguistically accessible services.

## RECOMMENDATION #3.6 – MENTAL HEALTH AND SUBSTANCE USE DISORDER

- Fully implement the provisions of the ACA that require mental health and substance use disorder parity with primary health care.
- The National Institutes of Health (NIH) should support and increase trans-disciplinary research that seeks to fill in the knowledge gaps related to the behavioral health of AA & NHPI ethnic subgroups. This should include the development of a framework concerning ethnic specific risk and protective factors related to substance use disorder.
- SAMHSA's Office of Minority Health should address as one of their priorities mental health and substance use disorder stigma among racial and ethnic minorities.
- HHS should support funding for local efforts at examining mental health and substance use in densely populated ethnic specific Asian American, Native Hawaiian, or Pacific Islander communities to provide increased granular data.

## PRIORITIES

- Defend the funding and implementation of the Patient Protection and Affordable Care Act.
- Protect and promote access to quality, affordable, and culturally and linguistically competent health care for AA & NHPIs.
- Reduce health disparities in the AA & NHPI community and expand access to prevention and treatment of chronic diseases such as hepatitis B, diabetes, cancer, mental health, and substance use disorder.
- Advocate for the collection of standardized, disaggregated demographic and health data on AA & NHPIs in order to reduce health disparities and eliminate barriers to quality health services.
- Protect and expand access to comprehensive reproductive health services, especially for low-income AA & NHPI women and girls.



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# HOUSING & ECONOMIC JUSTICE

## INTRODUCTION

Access to economic stability and a decent home for families is central to the American promise of opportunity. Despite the progress the United States has made, unequal opportunity and discrimination in employment and housing based on race and ethnicity have meant that Asian Americans, Native Hawaiians and Pacific Islanders (AA & NHPI) among other communities of color have been among the hardest hit by this economic crisis. Neighborhoods continue to face significant job losses, and declining community wealth and assets. As a result, many AA & NHPIs are stripped of their financial security and ability for upward mobility.

While some AA & NHPIs live in prosperity, or are at least financially stable, AA & NHPIs living in poverty increased by over 450,000 from 2007 to 2010, for an increase of 30.9% for Asian Americans and 40.0% for Native Hawaiians and Pacific Islanders compared with 21.5% for the national population.<sup>35</sup> In 2010, the Asian American poverty rate was approximately 12.5% and 18.8% for Native Hawaiians and Pacific Islanders, compared to 10.6% for non-Hispanic Whites. A significant number of AA & NHPIs live in economically distressed urban ethnic enclaves, with more than half of all AA & NHPIs living in poverty concentrated in just 10 Metropolitan Statistical Areas in the United States. AA & NHPIs in these areas are more likely to suffer from linguistic isolation, have limited access to financial services, have lower educational attainment rates and generally lack economic opportunity. Moreover, these neighborhoods face development and transit projects that threaten existing community assets, while overlooking the current needs of its residents. For AA & NHPIs living in rural areas, these issues are often compounded by geographic isolation. For Native Hawaiians and residents of Pacific Island jurisdictions, the development in their communities and the access to services and resources are impacted by federal policies and programs that have been designed or changed to take into consideration the historical and political relationship with the United States.

The accumulation of wealth, whether through homeownership or other investments, has long been the means of climbing out of poverty and achieving economic security. As AA & NHPIs look for economic opportunities, the limited access to culturally and linguistically-appropriate services and support place them at risk for loan modification scams, pyramid schemes, and other predatory alternative financial services. This financial instability of AA & NHPI families, in turn, affects the long-term vitality of the neighborhoods in which they reside.

Despite a growing demand for assistance and local investment, much-needed federal programs continue to be threatened with harmful cuts. Federal policies and programs are falling further behind in addressing the unmet housing and economic needs of most Americans. Low-income communities are left to deal with the challenges of the economic downturn with weakened safety net programs. There are also trends in legislation that will undermine workers' rights and diminish and weaken living standards.

The NCAPA Housing and Economic Justice Committee present the following issues and recommendations for careful consideration.

## PRINCIPLES

To adequately address the needs of low-income AA & NHPIs, community development, asset building and financial security policies and strategies should be:

- Culturally and linguistically competent to ensure full access.
- Place-based, targeting both metropolitan areas and specific neighborhoods within the specified regions.
- Focus on a broader, more comprehensive approach to community development, asset building and financial security.



# AFFORDABLE HOUSING

## ISSUE #4.1 – ACCESS TO HOMEOWNERSHIP AND STOPPING NEEDLESS FORECLOSURES

The housing and economic crisis continues to devastate AA & NHPI households as foreclosures remain prevalent and communities face increasing barriers to accessing homeownership opportunities. Homeownership rates of Asian Americans (59%) and Native Hawaiians and Pacific Islanders (48%) continue to lag behind the total population (66%). AA & NHPIs are also concentrated in some of the hardest-hit areas, where they faced the steepest declines in home prices and experienced a disproportionate number of foreclosures. The property value loss of Asian Americans between 2007 and 2009 was -\$42,900 and -\$47,000 for Native Hawaiians and Pacific Islander homeowners compared with losses of -\$9,100 for the total population. Further, between 2005 and 2009, Asian Americans lost 54% of wealth during this period, mostly due to foreclosure and lost property values during the economic crisis.

The foreclosure crisis underlined the gaps that existed in preparing AA & NHPI communities regarding their options on foreclosure. Evidence shows that after controlling for other factors such as income and borrower risk, there clearly remains a segment of the AA & NHPI population that is vulnerable to higher rates of default and foreclosure suggesting the need to develop culturally and linguistically relevant foreclosure prevention resources. Research on the incidence of loan modifications among subprime loans made in 2005 to borrowers in California, Oregon and Washington, found that AA & NHPIs, like Latinos, were more likely to lose their homes in foreclosure after controlling for other variables. Subsequently, they are also more likely to have a higher risk of being targeted with predatory lending and loan scam tactics, are more likely than their white counterparts to experience foreclosure, and have experienced the steepest decline of homeownership rates in the nation. AA & NHPI homebuyers experienced adverse treatment in the housing market more than 20% of the time, comparable to the level of discrimination faced by African American homebuyers and significantly higher than the level reported against Latino homebuyers.

In the aftermath of the foreclosure crisis, there has been a return to more stringent credit guidelines and lending standards among private lenders. Innovation in affordable

lending products made available by the Community Reinvestment Act and local government programs, which once provided opportunities for lower and moderate-income communities to achieve homeownership in a responsible manner, have all but disappeared. Further, the future role of the federal government particularly through Government Sponsored Entities (GSEs), Freddie Mac and Fannie Mae to provide affordable mortgage options to lower- and moderate income families remains uncertain.

## RECOMMENDATION #4.1 – ACCESS TO HOMEOWNERSHIP AND STOPPING NEEDLESS FORECLOSURES

- Support federal funding for linguistically and culturally appropriate homeownership assistance and counseling programs delivered by community organizations that assist potential and current homeowners in navigating mortgage transactions.
- Hold the Consumer Financial Protection Bureau accountable for adopting and enforcing strong consumer protections, ensuring the availability of fair and sustainable mortgages, enforcing fair lending laws, and adopting national servicing standards that increase the incidence and quality of loan modifications for homeowners.
- Reform and expand the Home Affordable Modification Program (HAMP) and ensure proper outreach to AA & NHPI homeowners.
- Expand principal reductions in loan modifications made available by the United States Department of Treasury and Federal Housing Finance Agency on loans secured by Freddie Mac and Fannie Mae.
- Enact positive and equitable reform of Government Sponsored Entities (GSE) to ensure the availability of affordable and sustainable mortgage products to all qualified home buyers and owners.
- Expand the collection of disaggregated data on AA & NHPIs on mortgage originations, successful loan modifications, refinances, principal reductions, short sales and other foreclosure prevention efforts.

## ISSUE #4.2 – AFFORDABLE RENTAL HOUSING

With increasing numbers of AA & NHPI households in poverty growing or forced out of homeownership, affordable rental housing opportunities and the rights of tenants remain critically important. Unfortunately, because AA & NHPIs are disproportionately concentrated in the nation's most expensive housing markets, median gross rents for AA & NHPIs are significantly higher than any other racial or ethnic community.

According to the Census, the median gross rent in 2010 was \$1,058 for Asian Americans and \$1,011 for Native Hawaiians and Pacific Islanders, with the national median for the total population at \$841 per month and no other major racial or ethnic group paying more than \$900 per month. These high housing costs most directly impact communities with higher proportions of low-income renters. For example, in 2010, Mongolian, Bhutanese, Marshallese, Tongan, Burmese, Vietnamese, Cambodian, Korean, Pakistani, Indonesian and Thai all had higher rates of rent burdened households (i.e., paying more than 30% of their household income in rent) than the national average. In addition, Sri Lankan, Samoan, Laotian, Hmong, Taiwanese, Native Hawaiian, Chinese (non-Taiwanese) and Malaysian all had a higher rate of rent burdened households than non-Hispanic Whites.

Further, AA & NHPIs experience adverse treatment level of 21.5% in accessing rental opportunities at levels comparable or higher than other minority groups when searching for housing. Limited English Proficient (LEP) AA & NHPI communities also face significant language access challenges in everything from getting basic information about available options to acquiring stable affordable housing.

Today, a large percentage of affordable rental housing is located in historic, inner-city ethnic enclaves. Many AA & NHPIs reside in these areas, which generally offer language-accessible businesses and services to LEP populations. These communities have evolved into safe havens for recent immigrants and refugees, providing not only a social and economic safety net for these recent arrivals, but a critical place where cultural and historic preservation takes place.

But, in more recent years, reinvestment and redevelopment strategies in these urban centers have given rise to high levels of displacement and gentrification. Developers and business interests face growing pressure to price low-income families and small businesses out of these areas for redevelopment projects that accommodate more affluent, lucrative growing markets.

## RECOMMENDATION #4.2 – AFFORDABLE RENTAL HOUSING

- Support and expand federal funding for linguistically and culturally appropriate housing counseling programs delivered by community organizations that address fair housing, tenant's rights, homeless/displacement counseling, and rental search and assistance.
- Expand and enforce tenant protections for renters in foreclosed properties.
- Support federal funding that expands affordable rental production and rehabilitation.
- Support the full and immediate capitalization of the National Housing Trust Fund that will generate resources for the production, rehabilitation and preservation of rental homes that are affordable for extremely and very low-income households.
- Support federal funding for affordable housing programs, including the HOME Investment Partnership, Community Development Block Grant, Native Hawaiian Housing Block Grant, Section 202 elderly housing, public housing, and housing vouchers programs.
- Incorporate earnings incentives and asset-building objectives into the basic structure of rental housing assistance for all families in subsidized housing.



# ECONOMIC AND COMMUNITY DEVELOPMENT

## ISSUE #4.3 – SMALL BUSINESS, ACCESS TO CAPITAL, WORKFORCE DEVELOPMENT, AND JOB SECURITY

Like homeownership, business ownership is a fundamental asset that can be a key component for expanding financial empowerment for AA & NHPI families. Moreover, immigrant enterprises and ethnic small business districts have become important, vital centers of AA & NHPI communities, and have played a major role in the revitalization of many neighborhoods. However, through gentrification, urban redevelopment, perceptions of safety, and other factors, these business districts are being threatened. Further, minority-owned small businesses face challenges due to restrictive lending practices and discrimination in public contracting, displacement by “smart growth” projects, and increased competition by chain retail. In rural and farming communities, limited access to capital and linguistically and culturally appropriate resources make it difficult for AA & NHPIs to develop technical expertise necessary to succeed and grow in the agriculture industry.

Overall, there are one million AA & NHPI-owned businesses in the United States.<sup>36</sup> Together, they employ over two million workers, and generate more than \$500 billion in sales. Approximately 52% of all minority businesses with paid employees and approximately 25% of all minority-owned businesses (includes sole-proprietorships and partnerships that do not have employees other than the owners) are AA & NHPI-owned. Approximately 6% of all United States small businesses are AA & NHPI-owned.

While creating a favorable business climate can help in fostering job creation in AA & NHPI communities, limited English proficiency constrains employment options for many, often forcing immigrants and refugees into low-wage work with few benefits and little opportunity for advancement. Moreover, AA & NHPI workers often face exploitative employers who take advantage of workers’ immigration status or language barriers.

Wage theft is particularly pervasive in industries with a sizable AA & NHPI workforce, including the garment, restaurant, construction, and service industries. A survey conducted in 2008 found that 76% of those who worked overtime were not paid the legally required overtime pay, and that foreign born workers, including AA & NHPIs, were twice as likely as United States-born workers to have encountered wage and

hour violations in their workplace. The misclassification of employees as independent contractors also denies AA & NHPI workers important benefits and legal protections such as workers’ compensation, minimum wage and overtime pay, employer’s health insurance and pension plans, unemployment benefits, and family and medical leave. Further, unsafe and hostile working conditions expose AA & NHPI workers to extremely high rates of fatal traumatic injuries (e.g., small, late-night retail workers, taxi drivers, commercial fishers), non-fatal traumatic injuries (restaurant workers, hotel housekeeping workers, home care providers, nurses), or chemical exposures (dry cleaning operators, nail salon workers).

In these cases, unions and the right to organize play an instrumental role in supporting and protecting AA & NHPI workers. Union workers receive better wages and benefits, with union workers earning 30% more than those without a union. Specifically, unions help to narrow the income gap for Asian Americans by increasing their median weekly earnings by 9%. Today, over 10% of AA & NHPI belong to unions, representing over 600,000 people. Approximately 12.8% of AA & NHPI women have membership in a union, with 46.6% of them in the public sector.<sup>37</sup>

Unfortunately, millions of dollars are spent each year to make it difficult to form unions. As many as 91% of employers force their employees to attend mandatory anti-union meetings, while 49% threaten to close a worksite during a union organizing drive. When the right of workers to form a union is violated, wages fall, race and gender pay gaps widen, workplace discrimination increases and job safety standards deteriorate.

AA & NHPI workers have been hit hard by the economic downturn, with unemployment increasing 4.1 points since 2007. Younger AA & NHPIs (age 20-24) have been the hardest hit with a 6 point increase in unemployment. Specifically, NHPIs experienced a significant drop in employment, from 73% employed in 2007 to 68% employed in 2010. Concurrently, there was a slight rise in employment amongst AA & NHPIs aged 55 or over, possibly due to retirees having to find work to offset dwindling pensions.<sup>38</sup>

Studies also show that AA & NHPIs remain unemployed longer than any other ethnic group and have a harder time finding new employment due to language barriers.<sup>39</sup> For instance, according to the California Employment Development Department, nearly half of all jobless Asian Americans in California had been out of work for 27 weeks or longer, compared with 40% of Latinos and 42% of whites.

## RECOMMENDATION #4.3 – SMALL BUSINESS, ACCESS TO CAPITAL, WORKFORCE DEVELOPMENT AND JOB SECURITY

- Support increased federal funding and eligibility of United States Pacific Island territories for economic development programs to better serve AA & NHPIs, including the Community Services Block Grants, community development financial institutions (CDFI) fund, Small Business Association's (SBA) Microloan Program, 7(a) and 504 guaranteed loan programs, Social Services Block Grants, the Office of Community Services' Economic Discretionary grants, the Job Opportunities for Low Income Individuals program, and the Workforce Investment Act program.
- Establish a set-aside within the HHS Administration for Native Americans program to support the impact of the federal government's plan to place 4,000 marines in Guam on the cultural, social and economic well-being of the Chamorro peoples.
- Strengthen AA & NHPI participation in public minority contracting programs like the SBA 8(a) Business Development Program and build a record of evidence that accurately depicts AA & NHPI participation in these programs and include technical assistance resources and other improvements to increase the economic and small business success of eligible AA & NHPI organizations.
- Support increased federal funding for programs that support minority entrepreneurs, including the Minority Business Development Agency at the United States Department of Commerce and the SBA's PRIME, Microloan and Women's Business Centers programs.
- Support access to capital for alternative financing entities such as community development corporations (CDCs), CDFIs, credit unions, and nonprofit loan funds to invest in small business and social ventures.
- Support rural development and outreach programs that will assist AA & NHPIs enter the farming industry, including the Beginning Farmer and Rancher Development Program, Rural Microentrepreneur Assistance Program, Value-Added Producer Grants, Beginning Farmer and Rancher Individual Development Accounts, and the Outreach and Technical Assistance for Socially Disadvantaged Farmers and Ranchers.

- Include in federal programs, the eligible geographic definition of Substantially Under Served Trust Areas enacted in the 2008 Farm Bill, to ensure that Indian Reservations, Alaska Native Villages and Hawaiian Home Lands are eligible for capital programs such as the United States Treasury New Market Tax Credits, and United States Department of Energy renewable energy programs.
- Support digital literacy programs that bridge the digital divide and Lifeline and Linkup programs to ensure households have the opportunities and security that telephone and broadband access bring, including jobs, family and emergency services.
- Support workers' rights to form a union and to collective bargaining and ensure worker protections that hold employers accountable for wage and hour violations including wage theft and misclassification.

## ISSUE #4.4 - ASSET BUILDING AND FINANCIAL SECURITY

The economic crisis has led to major declines in wealth among communities of color, including the average wealth in Asian American households that have declined from an average of \$168,103 in 2005 to \$78,066 in 2009, a 54% decline. Opportunities for asset building and access to formal financial services are critical to reversing this growing wealth gap and ensuring the long-term economic security and mobility of American families and households.

Unfortunately, many low-income AA & NHPIs, including recent refugee and immigrant communities, still lack access to programs and institutions intended to build assets and maintain community wealth. Many neighborhoods, for example, still have few or no mainstream bank branches, limiting financial education opportunities while resulting in high rates of "unbanked" and "under-banked" households. Many LEP borrowers also face language barriers, tighter lending standards, restrictive identification requirements, and higher overdraft fees, which contribute to an environment of suspicion and distrust of the financial service industry. In many cases, AA & NHPI households operate primarily in cash or utilize other fringe lending services that can severely undermine financial security for consumers. As a result, many AA & NHPI communities turn to check cashers, payday lenders, fringe and other predatory lending services that systematically drain wealth from low-income communities. Furthermore, unbanked families must bear the risks associated

## ISSUE #4.4 - ASSET BUILDING AND FINANCIAL SECURITY CONT.

with holding large amounts of cash with no access to consumer protections like deposit insurance.

The barriers to private financial services and asset building opportunities also lead to economic insecurities that extend into retirement. For many low-income AA & NHPs, Social Security is a necessary tool for long-term savings and to ensure an adequate quality of life and economic independence upon retirement. In 2010, 18.5% of older Asian American males and 22.7% of Asian American women relied on Social Security to keep them above the poverty level. The economic downturn, erosion of private pension plans, weakened savings, and limited access to asset-building opportunities have underscored the importance of Social Security as a critical lifeline for many older AA & NHPs.

Supplemental Security Income (SSI) is a vital source of income for blind or disabled elders aged 65 and above who have limited resources. Unfortunately, SSI is currently restricted to a seven-year limit for elderly and disabled refugees and humanitarian immigrants, who are often unable to naturalize within that timeframe. This policy systematically excludes many elderly and disabled refugees and immigrants from benefits that provide the bare minimum for survival.

## RECOMMENDATION #4.4 - ASSET BUILDING AND FINANCIAL SECURITY

- Support federal funding for linguistically and culturally appropriate financial literacy programs and financial counseling.
- Support federal funding for matched savings programs that assist low-income families to build assets, including the Administration for Children and Families' Assets for Independence program and the Office of Refugee Resettlement's Individual Development Account program.
- Remove savings disincentives and reform asset limits for social safety net programs such as the Temporary Assistance for Needy Families, Supplemental Security Income, and Medicaid.
- Support federal funding for tax programs that benefit low- and medium-income individuals and families, including the Earned Income Tax Credit and the Volunteer Income Tax Assistance program as opportunities for building wealth.

- Support federal funding for increased and improved outreach efforts in multiple languages by local, state, and federal agencies to educate AA & NHPs about public benefits including Unemployment Insurance, Special Supplemental Nutrition Program for Women, Infants, and Children, Supplemental Nutrition Assistance Program, and free school lunches.
- Support policies and legislation that restore the long-term fiscal solvency of the Social program for future generations, including raising the payroll wage tax cap.
- Support policies and legislation that ensure the adequacy of Social Security benefits, including not raising the retirement age and supporting the experimental Consumer Price Index (CPI-E) as a more accurate measure of cost-of-living adjustments.
- Remove citizenship as an eligibility requirement for Supplemental Security Income.

Mr. Vang is a refugee. He was resettled in Minneapolis in 2004 after living for more than a decade in a makeshift refugee camp in Thailand. Like thousands of Hmong men, he proudly fought alongside United States forces during America's secret war in Laos in the 1970s. Because of his allegiance to the United States, Mr. Vang became a refugee after United States forces pulled out of Southeast Asia. The United States agreed to resettle Mr. Vang and his family as legal refugees to the United States under its international humanitarian treaty obligations.

Nevertheless, today, Mr. Vang faces another crisis that leaves him fearful for his well-being. At 63, he faces the cutoff of his SSI if he does not successfully naturalize. He has already attempted to naturalize once, but did not pass the test because of his limited English and his disability. The disability both qualifies him for SSI and simultaneously makes attaining citizenship more difficult. Today's problem began in 1996, when Congress restricted SSI to no more than seven years for elderly and disabled refugees - with the misconception that they should be able to naturalize within this time and thus remain eligible for benefits.

# CALLING FOR IMMIGRATION REFORM

As the fastest growing minority group in the country, it is projected that the Asian American, Native Hawaiian and Pacific Islander (AA & NHPI) population will grow to approximately 40 million people by 2050.<sup>40</sup> In 2010, 12.9% of the total United States population was foreign born, and of this, 28.2% came from Asian countries.<sup>41</sup> Nearly two-thirds of Asian Americans are foreign born. Of the estimated 11.2 million undocumented people in the country, approximately one million are of Asian origin.<sup>42</sup>

Asian Americans and Pacific Islanders have a long and deep history of immigration to the United States, dating back hundreds of years. Asians have long faced a history of exclusion as it relates to immigration. Racist and restrictive immigration laws prohibited Asians from immigrating to the United States, barred Asians from naturalizing as United States citizens, and even stripped United States citizens of their citizenship. In 1965, amendments to the Immigration and Nationality Act abolished the national origins quotas and Asians were able to immigrate and naturalize in the United States in more significant numbers.

Asian Americans and Pacific Islanders continue to come to the United States to start their own businesses, to fill gaps in both low and high-skilled jobs, or to be reunited with their loved ones. They are all seeking to build a better life for themselves and their families. Unfortunately, today's broken immigration system makes it difficult for Asian American and Pacific Islander individuals to fully contribute to this country. There are few channels that allow workers to immigrate to the United States legally, and worker protections are restrictive and often not implemented. There are long wait times in the family-based immigration system. In part because of these restrictions, many individuals become undocumented, living in fear of deportation with little chance to adjust their status. Among these are immigrant, young people.

In addition, inhumane detention and deportation policies have torn families apart and endangered the lives of loved ones, particularly for refugees, whose most recent arrivals are Southeast Asian. Issues of deportation and detention in particular, disproportionately impact this community. They face additional barriers in the immigration system in accessing resources, services, and information on how they are affected by immigration policies.

The NCAPA Immigration Committee presents the following issues and recommendations for careful consideration.

## PRINCIPLES

- **COMPREHENSIVE IMMIGRATION REFORM**—The United States needs a comprehensive solution to its broken immigration system. The reform must include a path to citizenship, worker protections, family unification, due process and dignity, and immigrant integration.

## ISSUE #5.1 – PATH TO LEGALIZATION

Asian Americans and Pacific Islanders make up approximately one million of the nearly 11.2 million undocumented individuals in the United States. Several countries in Asia rank among the top ten sources for undocumented immigrants, including China, India, Korea, the Philippines and Vietnam. Included in this group are young people who were brought to the United States at a very young age, thus growing up as an American in every sense, yet lacking the proper documentation.

Undocumented immigrants, many of whose family members are United States citizens, contribute substantially to their communities and to the economy. Still, they are excluded from fully participating in society, forced to live and work in the shadows due to their status. Undocumented women face unique challenges as their status renders them susceptible to exploitation and sexual harassment in the workplace and limits their ability to work and provide for their families when their immigration status is tied to their spouse.

The United States Department of Homeland Security (DHS), through a process called prosecutorial discretion, may determine that an individual is a low priority for immigration enforcement and choose to exercise its discretion and not deport the individual. The Administration recently announced that it will offer deferred action: temporary relief from deportation for young immigrants who were brought to the country as minors and meet other specific requirements. [See DREAM Act in Education section on page 26]. While deferred action offers temporary relief, it does not provide a path to a green card or citizenship. Furthermore, it does not extend to any family members of the person granted deferred action.

## RECOMMENDATION #5.1 – PATH TO LEGALIZATION

- Provide a pathway to citizenship for the undocumented population as part of a larger fix to the current broken immigration system.
- Support the Development, Relief and Education for Alien Minors (DREAM) Act, which would provide a path to citizenship for undocumented young people. Individual Development Account program.

**Angela Kim was born in South Korea 22 years ago. As her father was a traveling businessman, her family moved from Australia to Brazil and eventually settled in the United States with the hopes of a better life. However, while she and her family were living in Brazil, Angela got into a severe accident that left her in a coma for two weeks. When she awoke, she discovered that the right side of her body was paralyzed and she had to relearn how to do just about everything. Moving to the United States, her family hoped she could avoid the stigma associated with being disabled that is prevalent in South Korea as well as receive a better education and medical care. But due to complications with their legal paperwork, Angela and her family became undocumented and she could not receive proper physical care for her condition. As a result, her body is rapidly deteriorating. The limitations her physical condition posed in tandem with her undocumented status left her in a state of worsening health and an uncertain future. But Angela eventually realized that she could not let her fear consume her and instead, could use her story to inspire others. Thus, she came out as undocumented and continues to share her story with others. Today, Angela is a recent graduate from UCLA with a degree in Psychology and hopes to one day become a social worker**



## ISSUE #5.2 – KEEPING FAMILIES TOGETHER

Family unity is a cornerstone of the American immigration system. With nearly two-thirds of AA & NHPIs being foreign born, a family-based immigration system is crucial to ensuring the reunification of families. AA & NHPIs are disproportionately impacted by the failures of the United States family immigration system, which imposes protracted waits on close family members abroad. While AA & NHPIs only make up 6% of the United States population, they sponsor more than one-third of all family-based immigrants.<sup>43</sup> Currently, 4.5 million family members are waiting in line abroad for an available visa.<sup>44</sup> AA & NHPI United States citizens petitioning on behalf of their adult children and siblings must wait between eight and 23 years, and lawful permanent residents petitioning for their unmarried adult children must wait between ten and 19 years, to be eligible for immigrant visas.<sup>45</sup>

In November 2011, the United States State Department determined that four of the top five countries with the highest number of individuals waiting abroad for reunification with family members in the United States are Asian countries. Only Mexico (1,374,294) has more than the Philippines (503,266), India (343,401), Vietnam (281,439), and China (248,494). The most backlogged Asian countries are also the countries of origin for a large number of undocumented Asians in the United States.

For LGBTQ families, current immigration laws prevent many families from staying together in the United States. Some families not only face the pain of enforced separation due to their citizenship status, but also the fear of what might happen if the non-United States citizen partner must return to a country with deeply anti-gay social and religious attitudes and policies.

Family-based immigration positively impacts United States economic growth. When these immigrants are able to rely on their family networks to pool their resources, they are more likely to start small- and medium-sized businesses, thus creating jobs, not just for other immigrants, but native-born workers, too. These immigrant-owned businesses have helped to revitalize large metropolitan areas and contribute to job growth in their communities.

## RECOMMENDATION #5.2 – KEEPING FAMILIES TOGETHER

- Reclassify the spouses and minor children of LPRs as immediate relatives.
- Recapture unused visas from past years to reduce backlogs and allow rollover of unused visas in the future.
- Increase and retain family visas at adequate levels.
- Exempt children of Filipino WWII veterans from numerical caps.
- Allow United States citizens and LPRs to sponsor their same-sex partners for immigration to the United States.
- Allow discretion to waive bars of admission for those who qualify for visas, or in situations where denying admission would cause extreme hardship to United States citizen or LPR spouse or child.
- Support legislation such as the Reuniting Families Act and the Uniting American Families Act.

## ISSUE #5.3 – PROTECTING IMMIGRANT WORKERS

Asian American and Pacific Islander immigrant workers, regardless of documentation, often face substandard workplace conditions by unscrupulous employers, including wage discrimination and wage theft. Immigrant workers' rights have been eroded by legal rulings, such as *Hoffman Plastics Compound, Inc. v. NLRB*, in which the United States Supreme Court ruled that despite the company's violations

**Aung Oo, a Karen refugee from Burma and iron-worker in Pennsylvania, testified to the unequal treatment he faced in contrast to American-born workers: “I have worked there for three years now and make \$9.50 per hour but the company pays me half compared to the American workers. There is wage discrimination for the other refugee workers at the plant. Most of the refugees in the plant make half of what the Americans make. We believe that we should be equal to them. We do the same work.”**

Saravanachelvan Narasamy is one of more than 500 Indian H-2B guestworkers who were lured to the United States by the Louisiana shipyard company Signal International with false promises of a green card and charged \$20,000 per person to immigrate to America. Signal workers were bunked 24 people to a room and charged \$1,050 a month, deducted from their paychecks, which meant that the workers were essentially indentured servants. When they organized and accused the company of illegal human trafficking, they faced intimidation and the threat of reprisals, not simply from Signal, but also from the United States Immigration and Customs Enforcement (ICE), which cooperated with company management in providing strategic guidance on how to fire the workers and force them to leave the country, including covert surveillance of workers. “For the last two years, we have defended ourselves against attacks by ICE. Why, because we are guestworkers who organized, because we put our faith in the American justice system and because we told the truth in public. We did not know if we would be arrested and deported. The only thing we knew is that we had to keep marching. Is this America, the home of the free, where I might be deported tomorrow because I am standing here in public and telling the truth today?”

## ISSUE #5.3 – PROTECTING IMMIGRANT WORKERS CONT.

of the National Labor Relations Act, an undocumented worker who had been laid off for trying to form a union could not receive back pay for lost wages. The case law and policies apply penalties to immigrant workers that are not imposed on native born workers, and further limits the ability of government agencies to enforce labor laws, weakening rights for all workers, not just immigrants.

Marginalized immigrant workers include AA & NHPI nail salon workers, domestic workers and taxicab drivers, who are excluded from the National Labor Relations Act, leaving them vulnerable to employer exploitation and abuse. Existing guest worker programs operate with few safeguards to ensure employer accountability and work conditions free from exploitation. In the garment, domestic, agricultural, and restaurant industries, workers are often unpaid or underpaid, and forced to work long hours in conditions that violate health and safety standards. Various labor protection laws related to union organizing and worker conditions currently fail to cover domestic workers or agricultural workers as protected classes of employees.

The demand for cheap labor, absence of effective regulations, and lack of labor law enforcement contribute to the problem of human trafficking. The Department of State estimates that between 14,500 and 17,500 people, most of whom are women, are trafficked into the United States annually with people from Asia representing the largest segment.<sup>46</sup>

## RECOMMENDATION #5.3 – PROTECTING IMMIGRANT WORKERS

- Include excluded workers under the National Labor Relations Act.
- Increase resources for local, state, and federal government agencies to uphold existing labor, health, and safety laws.
- Extend statute of limitations for wage theft violations so that government and independent investigators can fully investigate claims of wage theft.
- Ensure that unscrupulous employers and recruiters do not exploit immigrant workers by encouraging government agents to use all sanctions available under the Federal Labor Standards Act including criminal prosecutions for employers who willfully engage in wage theft.
- Strengthen and expand existing labor protection laws and agencies. Current labor laws and their implementation must be improved to ensure that all workers have the ability to organize and bargain collectively, and to protect vulnerable workers in all industries. Labor law enforcement agencies must be adequately funded to ensure full enforcement of existing labor protections. In addition, there must be an increase in resources, and the use of testing for wage and hour, safety, and anti-discrimination laws.
- Increase standards and scrutiny for recruiters, and crack down on unscrupulous recruiters, who have a history of exploiting immigrant workers.

## ISSUE #5.4 – STRENGTHENING AVENUES FOR EMPLOYMENT-BASED CHANNELS FOR IMMIGRATION

There are a limited number of employment-based visas available to immigrants. This is not a sufficient number to fulfill the needs of American employers. The demand far exceeds supply for specific Asian countries such as China, India, and the Philippines. Immigrants from Asia are disproportionately impacted by lengthy wait times. Temporary AA & NHPI immigrant workers fulfill a variety of roles in the United States workforce. Specifically, some fill the needs of employers who require technical expertise needs in specialized fields, and are eligible for the H-1B visa. Others provide temporary non-agricultural skills, and are eligible for the H-2B visa. Both have statutory annual caps, which are met very quickly, each fiscal year.

In 2010, approximately 225,000 AA & NHPIs entered the United States with an H-1B visa.<sup>47</sup> This visa provides a number of benefits to the United States, as it brings in highly specialized immigrants into the American workforce, allowing United States businesses to remain competitive with their international counterparts. In return, this allows for growth in these specialized fields, while creating new jobs. There are many challenges for the H-1B worker. Limitations on portability increase chances for employers to commit fraud, exploit their immigrant workers, and depress workers' wages. Additionally, lengthy waits for green cards force workers to remain with

their sponsoring employers for up to 12 years. Moreover, if an H-1B worker loses their job, it becomes difficult for them to remain in status, and can only do so if they are able to receive immediate sponsorship from a new employer

In 2010, 3200 AA & NHPIs entered the United States with an H-2B temporary visa. Much like their H-1B counterparts, H-2B workers are tied to their employers, and unable easily to change jobs. However, unlike their counterparts, these workers are prohibited from bringing family members with them for the duration of their temporary stay and are unable to eventually apply for permanent residency. This visa category also has very minimal labor law protections. This lack of oversight has subjected these workers to harsh working environments and exploitation by their employers. H-2B workers have limited legal or advocacy channels.<sup>48</sup> For example, they are ineligible for legal aid services, remedies for injuries received on the job, and unfair or unpaid wage disputes. Laws also do not protect workers from abuse of third party recruiters.

Although the United States immigration system is often seen as the employment-sponsored immigrant versus the family-based immigrant, immigration reform is not a choice between the two. Both systems must be in balance to foster economic growth, and promote social welfare and family values.

**The H-1B visa program for workers employed in “specialty occupations” is heavily used by South Asians entering the United States. In fact, over 130,000 South Asian H-1B workers and their dependents came to the country in 2006. Yet spouses of H-1B workers who enter the United States on H-4 visas suffer from various immigration restrictions under immigration law. Under the terms of their visas, many dependents are unable to work, gain public benefits, or get a social security number; in some states, it is difficult to even get a driver’s license without spousal consent. As a result, many women are prevented from progressing in their careers and becoming self-sufficient as they await their green cards. These problems are magnified for H-4 visa holders in abusive marriages. Due to their inability to work and become financially independent, many of these women are reluctant to leave these relationships. While some provisions are in place to allow abused H-4 visa holders to self-petition and gain work authorization under VAWA when it was reauthorized in 2005, only interim regulations have been passed. Because final regulations have yet to be implemented, many South Asian H-4 visa holders are reluctant to step forward as survivors of violence without the assurance that they will be able to work.**

## RECOMMENDATION #5.4 – STRENGTHENING AVENUES FOR EMPLOYMENT-BASED CHANNELS FOR IMMIGRATION

- Allow visa portability for individuals on H-1B and H-2B visas.
- Provide a grace period prior to initiating removal proceedings against laid-off H-1B and H-2B workers.
- Provide H-1B and H-2B workers the ability to self-petition for green cards.
- Allow dependent H-4 visa holders the ability to gain work authorization.
- Ensure the Department of Labor can enforce prevailing wage requirements and employment contracts for H-2B workers.
- Authorize the Department of Labor to have oversight over H-2B employers and recruiters to protect workers against exploitation; ensure that all workers have the ability to organize and bargain collectively, and to protect vulnerable workers in all industries.
- Labor law enforcement agencies must be adequately funded to ensure full enforcement of existing labor protections. In addition, there must be an increase in resources and the use of testing for wage and hour, safety, and anti-discrimination laws.
- Employers must pay for all costs that H-1B and H-2B workers incur on their first day (transportation, visa, recruitment, etc.) and cannot deduct them from paychecks.
- Protect workers against employer retaliation for organizing.

## ISSUE #5.5 – PROTECTING RIGHTS AND DUE PROCESS

Due process applies to everyone in the United States, regardless of immigration status. Although lawful permanent residents and undocumented immigrants have the same constitutional right to be heard in court as any citizen, immigrants have been routinely denied effective access to the courts. Many are detained for civil

violations of immigration law and are denied a fair day in court. In addition, there are no safeguards against profiling, and there is selective enforcement of immigration laws.

In 1996, Congress enacted the Antiterrorism and Effective Death Penalty Act (AEDPA) and the Illegal Immigration Reform and Responsibility Act (IIRAIRA). Both dramatically increased the number and types of offenses for which immigrants can be mandatorily detained and deported; and retroactively applied. The laws also severely restricted a judge's authority to hear cases of long-time permanent residents and consider the circumstances for which they should be able to remain in the United States. Judicial discretion is necessary because of the complications often involved in immigration deportation cases.

Many offenses deemed to be “aggravated felonies” under the 1996 immigration laws, are often neither aggravated nor felonies under criminal law. AEDPA created expedited removal, resulting in arriving immigrants being deprived of a hearing before an immigration judge, and authorized immigration officers to issue removal orders. In addition, it greatly expanded the definition of aggravated felonies and made cancellation of removal much more restrictive. IIRAIRA also added three- and ten-year bars to admissibility for unlawful presence and greatly restricted judicial review of final orders of removal. Rather than fixing the broken system, these laws and others like them have undermined the United States system of justice and eviscerated due process.

Consequently, AA & NHPI lawful permanent residents (LPRs), even those with minor or decade-old convictions and those who have served all of their time, can face deportation. There is no regard for having paid their dues to society, their subsequent rehabilitation, or any resulting hardship placed on remaining family members when they are removed.

In the last ten years, the United States has deported lawful immigrant parents of over 100,000 children, 88,000 of which were United States citizens. More than 68% of LPRs are deported for minor, non-violent offenses. The forced removal of an LPR parent can detrimentally impact the psychological and emotional well being of a child, leading to negative behavioral changes and disruption in their health and education.

Chally Dang, 29, went in for what should have been a routine check-in with ICE. His pregnant fiancée, Ana Maria Cruz waited outside, and after an hour, knew there was a problem. Dang was in ICE custody, where he remained for nine months, until he was eventually deported to Cambodia. Dang had come to the United States as a refugee from Cambodia, in 1983. As a 15 year old, Dang was arrested for firing an illegal handgun into the air. He was sentenced to 5½ years in prison, which he completed. Because there was a retroactive removal order against him, he was considered deportable at any time. Despite having reformed his ways, and obtaining a green card, he is now in Cambodia, a country he fled from as a child. “They should give Americans, refugees and permanent residents who have reformed (themselves) chances to prove that they are of good character, regardless of any mistakes that they have made in their past,” said Cruz, who is now raising their children as a single parent.

## RECOMMENDATION #5.5 – PROTECTING RIGHTS AND DUE PROCESS

- Reject all efforts to further restrict the rights of immigrants and unnecessarily detain them indefinitely.
- Restore judicial discretion of immigration judges to weigh circumstances such as long time LPR status, minor convictions, rehabilitation, contribution to the community, and the impact of deportation on an individual’s family. In the case where immigrants have committed minor non-violent offenses, they should not be subject to removal or deportation.
- Enact legislation, such as the Child Citizen Protection Act, which provides immigration judges discretion to prevent the removal of a parent of a United States citizen child.
- Narrow the definition of “aggravated felony” to reflect proportionality.
- Remove the retroactivity of the AEDPA and IIRAIRA laws. Ensure that future immigration enforcement and national security initiatives are not selectively enforced against certain communities on the basis of race, religion, national origin, nationality, or ethnicity.

## ISSUE #5.6 – DETENTION AND DEPORTATION

In recent years, there has been a surge in the number of immigrants who have been held in detention and deported.<sup>49</sup> Immigrants who are unable to be repatriated can be faced with long or indefinite detention. The long-term impact of these facts is multifaceted. Detainees are indefinitely separated from their families. Parents caught in the detention

system may be unable to communicate with their minor children. Separation has resulted in the loss of their parental rights, as their children have been placed in foster care through child protective services. Individuals in detention can also be moved across the country, at any time, without adequate notice to families.

Detention centers are not equipped to handle long-term medical or mental health issues. There is a lack of any enforceable standards that govern detention centers. Many detention centers are under-staffed, and have a severe backlog of detainees seeking medical or mental health treatment. Female detainees, LGBTQ, and other marginalized populations in detention (such as those with mental illnesses and disabilities) are at increased risk for sexual abuse.<sup>50</sup> Approximately 200,000 detainees were sexually assaulted in 2008.<sup>51</sup> Detained women are routinely denied access to routine gynecological care, including access to abortion services.<sup>52</sup>

In addition, there have been numerous threats to the erosion of the few resources and limited types of relief available for immigrants. This includes an attempt to undercut previous United States Supreme Court decisions, such as *Zadvydas v. Davis*, which had set limitations on the length of detention and would authorize DHS to indefinitely detain many immigrants.

Provisions rolling back important rulings like *Zadvydas*, allow for indefinite detention that would not only be unconstitutional, it would unnecessarily detain men and women who are fully rehabilitated, and who should be with their families and communities. Supreme Court rulings against prolonged and indefinite detention prevent unnecessary and indefinite detention before removal. Alternatives to detention work, and blanket policies of indefinite or prolonged detention of immigrants fail to consider the individual and totality of circumstances faced by those affected.



At the age of 9, Sam (not his real name) and his mother were resettled in the United States as refugees fleeing persecution from Cambodia in the aftermath of the Khmer Rouge genocide. His family was resettled in an impoverished community in Philadelphia, Pennsylvania, where he grew up. Thirteen years ago, at the age of 21, Sam was involved in a neighborhood fight resulting in a conviction that made him deportable. He served his entire sentence in a correctional facility. Sam was placed in deportation proceedings but because ICE was unable to obtain the proper documents for his deportation, Sam was released on supervision in accordance with the Supreme Court rulings on indefinite detention and reported regularly to ICE. Since his release seven years ago, Sam has been an outstanding resident and contributing member of his community. He started his own thriving small business as a barber, became a role model and advocate for youth in his community through volunteer work, and is the proud father of two young children.

## RECOMMENDATION #5.6 – DETENTION AND DEPORTATION

- Ensure prompt filing of charges for those in immigration detention – detainees held for 48 hours without charge should automatically be brought before court to determine detention's legality.
- Develop enforceable detention standards, particularly for women, LGBTQ and other marginalized communities, that ensure access to appointed counsel, legal orientation programs, medical care, hormone therapy, and space to practice one's religion. The Prison Rape Elimination Act (PREA) should be implemented fully and consistently within the immigration detention context.
- Implement non-custodial community-based "alternatives to detention," particularly for those who do not pose a flight risk and are not a danger to public safety.
- Enact provisions of the Child Citizen Protection Act.

## ISSUE #5.7 – BARRIERS TO NATURALIZATION AND CIVIC ENGAGEMENT

The integration of immigrants and refugees in the United States is essential to their success and full participation in society. However, numerous barriers can prolong and complicate this process. Immigrant integration is viewed as a two-way process in which immigrants and the receiving society work together to build secure, vibrant and cohesive communities. As an intentional effort, integration engages and transforms all community members, reaping shared benefits and creating a new whole that is greater than the sum of its parts.

The United States has a long history of welcoming immigrants and has fostered the ability of all people to fully participate and contribute to society. This means making available and facilitating access to health care and labor markets, education, community safety and language access as one in three AA & NHPIs are limited-English proficient. Ensuring effective integration means a multi-pronged approach to multi-faceted issues that impacts immigrants.

Citizenship and naturalization processes stand as a key cornerstone of immigrant integration. However, numerous barriers can prolong and complicate this process. Unfortunately, the system is not always designed to meet the needs of immigrants, and culturally sensitive and intentional efforts to reach the diverse AA & NHPI communities is often lacking. Rising fees for immigration related petitions and services and existing backlogs and administrative and database errors that create undue delays in processing immigration paperwork are some barriers to citizenship. In addition, many AA & NHPI immigrants - particularly in the South Asian community - have been required to pass lengthy security-related background checks when applying for lawful permanent residency and naturalization.

These barriers can lead to barriers to integration such as precluding applicants from registering to vote, or to securing jobs that require United States citizenship. It is an investment in the United States' future that all members of this society are encouraged to fully contribute to its economic, social, and political culture. Democracy is strengthened when eligible immigrants become citizens and participate fully in society and the political system.

## RECOMMENDATION #5.7 – BARRIERS TO NATURALIZATION AND CIVIC ENGAGEMENT

- Support local, state and federal policies that ensure English language classes, job training and welcome centers for new immigrants are accessible to Asian and Pacific Islander immigrants.
- Inform AA & NHPI community members about changes to immigration and naturalization processes through a robust outreach program by USCIS. Special attention should be paid to the needs of elderly and disabled refugees and immigrants.
- Expedite security-background check delays plaguing change of status applications, and ensure that such checks do not disproportionately target individuals based on their national origin or religious affiliation.
- Ensure that administrative and database errors will not negatively impact community members.
- Require independent assessment and data collection in order to ascertain the costs and benefits of increased application fees and changes in requirements for immigration-related benefits among AA & NHPIs.
- Ensure that integration programs and services, including naturalization testing, fees, and waivers are adequately accessible to those who are low income, English Language Learners, or elderly.

## ISSUE #5.8 – REJECTION OF ENFORCEMENT-ONLY APPROACHES TO IMMIGRATION

Whether it is at the federal, state or local levels, enforcement-only methods target minority and immigrant communities through racial and ethnic profiling, instill fear and distrust of law enforcement and other government officials, and make all communities less safe. Federal immigration enforcement programs, such as 287(g), which authorizes local law

enforcement agents to enforce federal immigration laws, and Secure Communities, which allows state and local police to check the fingerprints of an individual they are booking into a jail against Department of Homeland Security (DHS) immigration databases, have resulted in a great increase in racial profiling and deportation of immigrants charged with low-level offenses.

As of October 2011, five states (Georgia, Alabama, Indiana, South Carolina, and Utah) have passed Arizona S.B. 1070 “copycat laws”, which essentially allow or mandate local law enforcement officers to conduct immigration status checks of those they stop, and additional states are considering these types of enforcement-only bills. On June 25, 2002, the Supreme Court blocked three sections of S.B. 1070, but allowed to go forward the section requiring police officers to ask everyone they stop about their immigration status if they think there is “reasonable suspicion” that the person is undocumented. The Supreme Court did leave the door open for future challenges based on preemption or other constitutional claims.

While bills like S.B. 1070 are largely regarded as targeting the Latino community, these bills will impact AA & NHPIs, including United States citizens and green card holders, who will be stopped at disproportionate frequency simply because they are perceived to look or sound “foreign.” These bills will especially impact newer immigrants, who are limited-English proficient. Nationally, 48% of AA & NHPIs reported speaking English “less than very well.” As a result, AA & NHPIs will be afraid to emerge from their homes out of fear that they will be stopped.

In the end, these laws will push many in the AA & NHPI immigrant population further into the shadows. It will deter undocumented AA & NHPI immigrants, and even green card holders and citizens who have undocumented family members and friends, from reporting crimes, sharing information, or serving as witnesses for fear of being deported. These individuals will become more susceptible as targets of crime, since the perpetrator knows the target will not report the incident. The laws will especially affect survivors of domestic violence, who will choose not to seek protection for fear that doing so would lead to the deportation of their husbands or themselves. AA & NHPI survivors of domestic violence, who already tend to underreport abuse at home, will be even more afraid to call for help.

These laws will harm all communities and the country as a whole. They will divert scarce resources to investigating immigration status rather than solving serious crimes. Instead of protecting the community, police will be forced to undertake the difficult and time-consuming job of seeking undocumented immigrants, depleting already limited resources in a time of already severe budget shortages.

## RECOMMENDATION #5.8 – REJECTION OF ENFORCEMENT-ONLY APPROACHES TO IMMIGRATION

- Eliminate the 287(g) program.
- Immediately suspend the Secure Communities program.
- Enforce civil rights laws and protections for non-citizens during all enforcement actions.
- Provide civil rights and anti-profiling training for police officers charged with enforcing immigration law.
- Create independent oversight mechanisms to monitor and enforce the protection of civil rights.
- Mandate disaggregated data collection by participating states and localities to monitor potential indications of racial profiling and rescind delegated enforcement authority from those jurisdictions that fail to properly abide by the terms of enforcement programs.
- Oppose all state enforcement of federal civil immigration laws as unconstitutional.

## ISSUE #5.9 – RIGHT TO CITIZENSHIP

The Fourteenth Amendment to the United States Constitution says, “[a]ll persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.” This amendment has been an important part of American and AA & NHPI history. In the landmark 1898 United States Supreme Court case of *U.S. v. Wong Kim Ark*, the justices ruled that the American-born son of a Chinese national (the father was unable to naturalize due to the Chinese Exclusion Act) should not be deprived of his citizenship because of his father’s status.

In the decades since, anti-immigrant legislators and groups have made attempts to restrict or repeal this right to citizenship nationally, and even at the state level. United States citizen children of undocumented immigrants are the current

targets of these attempts, but many more groups may be affected. Immigrant women are being targeted with detention solely if they are pregnant. This focus on “anchor babies” and the resulting push for laws to prevent birthright citizenship has demonized immigrant women and devalued their families.

## RECOMMENDATION #5.9 – RIGHT TO CITIZENSHIP

- Oppose any efforts to undermine the Citizenship Clause, whether by federal statute or through state legislation.

## ISSUE #5.10 – EMPLOYMENT VERIFICATION

E-Verify, a federal electronic employment verification system, would have a harmful impact on AA & NHPI workers and business owners, and further weaken the United States economy. The program has an error rate for foreign-born workers, which is 20 times higher than that of their United States-born counterparts. In addition, E-Verify will be extremely difficult to navigate for the large number of limited-English proficient members of the AA & NHPI community. E-Verify also unfairly burdens small-business owners—1.5 million small businesses are AA & NHPI owned—many of which lack the resources or infrastructure to support such a program. Employers lack the training necessary to make judgment calls regarding a worker’s right to be hired. USCIS is limited in its ability to prevent misuse and mostly unable to penalize employers who are found noncompliant. At the federal level, a bill making E-Verify mandatory in all states has been introduced. States have also introduced bills, requiring all employers to use E-Verify. If made mandatory, E-Verify would disproportionately harm AA & NHPI workers and business owners.

## RECOMMENDATION #5.10 – EMPLOYMENT VERIFICATION

- Oppose any expansion of E-Verify at the federal level.
- Oppose all state efforts to mandate E-Verify for public or private workers.

## PRIORITIES

In order to address these issues NCAPA supports a comprehensive reform to the immigration system that:

- Creates a broad and simple process that seeks to provide a path to citizenship for undocumented immigrants, including immigrant young people.
- Keeps American families together, including same-sex households.
- Improves and strengthens avenues and protections for immigrant workers and their families to live and work in the country.
- Protects fundamental rights and due process for all.
- Enforces immigration laws with judicial review, access to the federal courts, and limited and humane detention.
- Supports full integration of immigrants, including removal of barriers to naturalization and encourages broader civic participation.

In the absence of comprehensive immigration reform that addresses the needs of the AA & NHPI community in a just and humane way, NCAPA also:

- Rejects enforcement-only approaches to immigration, including anti-immigrant proposals and initiatives at the state-level.
- Protects the right to citizenship from attacks.



Immigration Rally in March 2010





# CONCLUSION

The Asian American, Native Hawaiian, and Pacific Islander (AA & NHPI) community has long been an integral part of the United States society and economy; and in recent years, a growing political power as well. Although extremely diverse, the AA & NHPI community shares the challenges and successes the United States embraces. In the areas of civil rights, education, health, housing and economic justice, and immigration, AA & NHPs have unique experiences and perspectives that speak to the needs of the community, but also the opportunities for the United States.

In this 2012 Policy Platform, NCAPA lays out many issues and recommendations for policy makers and community members to consider. Throughout the sections of the Policy Platform, some overarching themes become apparent. First, disaggregated data is so important to understanding and addressing the needs of the AA & NHPI community. Second, linguistically accessible services and programs are fundamental to providing all Americans, including AA & NHPs, with a fair and equal chance at the pursuit of life, liberty and happiness.

NCAPA well understands the changing public policy and political landscape in the United States. So, this 2012 Policy Platform will serve as a starting point to discuss and address these and other issues. NCAPA, its 31 member organizations, and the 5 committees will continue to produce additional factsheets, reports, and studies on specific and broader issues in the future.

NCAPA encourages community-based organizations and leaders to leverage the recommendations in the 2012 Policy Platform in order to bring greater attention to the needs faced by AA & NHPI community members. NCAPA also urges policymakers, allies, and stakeholders to better understand the impact of public policy on the AA & NHPI community and work with NCAPA to ensure that AA & NHPs are always a part of policy solutions.

# APPENDIX A

## NCAPA LEADERSHIP & STAFF

### 2012 – 2014 EXECUTIVE COMMITTEE MEMBERS

**Chair:** Deepa Iyer, Executive Director, South Asian Americans Leading Together

**Vice Chair of Programs:** Lisa Hasegawa, Executive Director, National Coalition of Asian Pacific American Community Development

**Vice Chair of Membership:** Doua Thor, Executive Director, Southeast Asia Resource Action Center

**Treasurer:** Miriam Yeung, Executive Director, National Asian Pacific American Women's Forum

**Secretary:** Gregory Cendana, Executive Director, Asian Pacific American Labor Alliance, AFL-CIO

### COMMITTEE CO-CHAIRS

#### Civil Rights

Marita Etcubanez, Asian American Justice Center

Manar Waheed, South Asian Americans Leading Together

#### Education

Monica Thammarath, Asian Pacific American Labor Alliance, AFL-CIO

Quyen Dinh, Southeast Asian Resource Action Center

#### Health

Paulo Pontemayor, Asian and Pacific Islander American Health Forum

Shivana Jorwar, National Asian Pacific American Women's Forum

#### Housing & Economic Justice

Gregory Cendana, Asian Pacific American Labor Alliance, AFL-CIO

Melvin Tabilas, National Coalition of Asian Pacific American Community Development

#### Immigration

Jessica Chia, Asian American Justice Center

Morna Ha, National Korean American Service & Education Consortium

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# APPENDIX B

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