
Hate Crimes Against Asian American Pacific Islander Communities in Massachusetts

**Massachusetts Advisory Committee
to the U.S. Commission on Civil Rights**

August 2021

The United States Commission on Civil Rights

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The Massachusetts Advisory Committee, as part of its responsibility to advise the Commission on civil rights issues within the state, submits this report, “Hate Crimes in Massachusetts.” The report was unanimously approved by the Advisory Committee on August 26, 2021.

Sincerely,

David Harris, *Chairperson*

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The Massachusetts Advisory Committee the briefing participants, listed in Appendix A, for sharing their personal experience and expertise.

Table of Contents

EXECUTIVE SUMMARY	3
INTRODUCTION	5
BACKGROUND	5
Federal Hate Crime Laws	5
Massachusetts Hate Crime Laws	7
FINDINGS	8
CONCLUSION.....	15
RECOMMENDATIONS.....	16
APPENDIX A.....	19
APPENDIX B.....	20

EXECUTIVE SUMMARY

Hate crimes and harassment targeting Asian-Americans and Pacific Islanders surged during the pandemic, demanding action, and on May 21, 2021, President Biden signed the COVID-19 Hate Crimes Act. Memorializing the women murdered in attacks on Atlanta massage parlors, the Act focuses partly on improving reporting, data collection, and prevention and education at the federal and state level. Its strong bi-partisan support was a welcome acknowledgment of the dangers confronted daily by Asian Americans and Pacific Islanders. As press reports have made clear, a recent spate of violent attacks have made some people, especially the elderly, fearful of venturing outside.

How distressing, if not dangerous, is daily life for them? Harassment and hate-fueled acts are difficult to count, even when they might constitute crimes or civil offenses, since accurate data requires self-reporting. Still the numbers indicate a worrisome trend: Between March 2020 and March 2021, Stop AAPI Hate compiled some 6600 reports of hate incidents; the Public Policy Institute of California survey found that one in eight Asian-Americans and Pacific Islanders reported being targeted by hate incidents in 2020, amounting to about 2 million people. But Anti-Asian hate incidents in Massachusetts were increasing disproportionately before the pandemic, starting in 2015. For many people in the AAPI community, hate crimes and harassment are inescapable parts of daily life. In addition to being targeted by racist taunting and slurs, people report being threatened, assaulted, and having garbage thrown at them.

In Massachusetts, AAPI identifying residents number over 450,000. People of Chinese descent constitute the largest sub-group, followed by refugees -- Vietnamese, Cambodian, Thai, and Hmong. Many are underserved and vulnerable to hate crimes and harassment. Current data shows a 47 percent increase in anti-AAPI hate crimes in Massachusetts between 2015 and 2020, while total hate crimes have increased only 2 percent over the same period.

The Commonwealth defines hate crimes as acts of bias motivated by a victim's country of origin, among other protected characteristics. Acts that are not criminally prosecuted may be subject to civil enforcement actions by the Attorney General. But the effectiveness of anti-bias laws depends on access to justice and trust in the justice system by targeted individuals, which are lacking in the AAPI community because of language barriers, past experiences, poverty, or fear of retaliation. As a result, hate crimes and incidents against Asian-Americans and Pacific Islanders in Massachusetts appear to be substantially under-reported and, consequently, un-addressed.

Newly enacted federal law, the COVID-19 Hate Crimes Act, should help states and localities improve reporting and data collection. The Massachusetts legislature is also considering an amendment to the Commonwealth's hate crime statute that would broaden the definition of hate crimes, ease their prosecution, and increase sentences for offenders. But it is not universally popular among AAPI advocates concerned with mass incarceration who favor restorative justice initiatives and other structural reforms. Moreover, criminal sanctions, while necessary and appropriate in some cases, have limited educational or deterrent effect; they punish a relatively small number of bias motivated acts while doing little to mitigate the hatred underlying them.

Civil law reforms, greatly improved social services, and new research protocols offer more promise. Less punitive immigration laws providing paths to legal residency or citizenship for undocumented Asian-Americans and Pacific Islanders would ease access to justice and social services for victims of bias, as would expanded linguistic services by law enforcement and other civil agencies. Education reforms providing for ethnic studies curricula and instruction in the American histories of Asians and Pacific Islanders would address the ignorance that helps nurture hate. Data disaggregation would more accurately portray the linguistic, cultural, economic, and ethnic diversity of Asian-Americans and Pacific Islanders, revealing the wide range of legal and social disadvantages for public policymakers to address.

No civil or penal laws or policies will eliminate bias and hatred, but they can help limit their spread, alleviate their effects, and make clear to their victims that they are valued members of the American community.

INTRODUCTION

The Massachusetts State Advisory Committee to the United States Commission on Civil Rights (Committee) held a virtual multi-lingual briefing on May 6, 2021, to discuss hate incidents and hate crimes against people of Asian American and Pacific Islander (AAPI) descent. Interpretation was provided for Mandarin, Cantonese, Vietnamese, Khmer, and Lao speakers.

The Committee sought to learn more about historic harassment and violence targeting Asian-Americans and Pacific Islanders, the recent rise of such attacks during the pandemic, the impact of anti-Asian sentiment on Massachusetts residents today, the most effective responses to hate incidents and crimes, and best practices and policies for protecting the civil rights of the Commonwealth's AAPI residents.

BACKGROUND

A hate crime is targeted criminal behavior motivated by the victim's real or perceived personal, protected characteristics. The United States Federal Bureau of Investigation (FBI) defines a hate crime as a "criminal offense¹ against a person or property motivated in whole or in part by an offender's bias against a race, religion, disability, sexual orientation, ethnicity, gender, or gender identity."²

Federal Hate Crime Laws

The Civil Rights Act of 1968 criminalized a new class of hate motivated acts in an effort to address racial violence against civil rights workers and people engaged in federally protected activities.³ It permits federal prosecution of anyone who willfully "injures, intimidates, or interferes with another person, or attempts to do so, by force, because of the victim's race, color, religion, or national origin," provided that the offense occurred while the victim was attempting to engage in a statutorily protected activity.⁴ The Civil Rights Act includes as protected activities: voting; enrolling in or attending any institution of public education; applying for or enjoying employment by any private or public employer; and enjoying the benefits or services of any establishment of

¹ A criminal offense or "crime" is any act or omission in violation of a law prohibiting it, or omitted in violation of a law ordering it. Each state, and the federal government, decides what sort of conduct to criminalize. *See Criminal Law*, LEGAL INFO. INSTITUTE, CORNELL U. SCH. OF L., https://www.law.cornell.edu/wex/criminal_law (last visited May 24, 2019).

² *Hate Crimes Overview*, FBI, <https://www.fbi.gov/investigate/civil-rights/hate-crimes> (last visited Sept. 7, 2021).

³ The Civil Rights Act of 1968, 18 U.S.C. § 245(b)(2) (2012).

⁴ *Id.*

public accommodation such as hotels, restaurants, movie theaters, and sports arenas.⁵ Prosecutions under the Act are limited to hate incidents against people engaged in such specified activities.⁶

Official federal data on bias motivated violence was not collected until 1990 with passage of the Hate Crimes Statistics Act.⁷ It requires the Attorney General to collect data “about crimes that manifest evidence of prejudice based on race, religion, sexual orientation, or ethnicity.”⁸ In September 1994, the Violent Crime Control and Law Enforcement Act amended the Hate Crimes Statistics Act to add disability as a protected category.⁹ The Act mandated hate crimes data collection for five years, but the FBI considers it an ongoing obligation of the Uniform Crime Reports Program.¹⁰ The 1994 Violent Crime Control and Law Enforcement Act also included a hate crime sentencing enhancement provision.¹¹ It designated ethnicity, gender, disability, and sexual orientation as protected categories, in addition to race, color, religion, and national origin.¹²

Fifteen years later, the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009 provided additional authority for federal officials to investigate and prosecute hate crimes.¹³ It expanded federal jurisdiction to cases in which the victim was not engaged in a protected activity under the 1968 Civil Rights Act¹⁴ and “authorize[d] the Department of Justice to investigate and prosecute certain bias-motivated crimes based on the victim’s actual or perceived sexual orientation, gender, gender identity, or disability.”¹⁵ It “provide[d] limited jurisdiction for federal law enforcement officials to investigate certain bias-motivated crimes in states where current law is inadequate” and offered federal aid and technical assistance to state, local, and tribal jurisdictions to facilitate investigations and prosecutions of hate crimes and improve prevention.¹⁶

⁵ *Id.*

⁶ *Id.* For a successful case using 18 U.S.C. § 245(b)(2) (1996), *see* *United States v. Nelson*, 277 F.3d 164 (2nd Cir. 2002).

⁷ Hate Crimes Statistics Act, 34 U.S.C. § 41305 (2018) [hereinafter Hate Crimes Statistics Act (1990)].

⁸ *Id.*

⁹ Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. §§ 13701–14223 (2018).

¹⁰ The Church Arson Prevention Act of July 1996, 18 U.S.C. § 247 (2018) (indefinitely extended the mandate for collection of hate crime statistics, making it a permanent part of the Uniform Crime Report program).

¹¹ Violent Crime Control and Enforcement Act of 1994, Pub. L. No. 103-322, § 280003, 108 Stat. 2096, 2096 (1994) (“Direction to United States Sentencing Commission Regarding Sentencing Enhancements for Hate Crimes,” codified as amended at 28 U.S.C. § 994)..

¹² *Id.*

¹³ Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009, Pub. L. No. 111-84, §§ 4701-4713, 123 Stat. 2835, 2835-2844 (2009) (codified as amended at 18 U.S.C. § 249 (2009)) [hereinafter Hate Crimes Prevention Act (2009)].

¹⁴ Hate Crimes Prevention Act (2009); *See* ANTI-DEFAMATION LEAGUE, MATTHEW SHEPARD AND JAMES BYRD, JR. HATE CRIMES PREVENTION ACT (HCPA) WHAT YOU NEED TO KNOW, <http://www.adl.org/assets/pdf/combating-hate/What-you-need-to-know-about-HCPA.pdf> (last visited January 10, 2017) [hereinafter HCPA: WHAT YOU NEED TO KNOW].

¹⁵ HCPA: WHAT YOU NEED TO KNOW; *See* 18 U.S.C. § 249(a)(1)-(2).

¹⁶ *Id.*

In 2021, the COVID-19 Hate Crimes Act was enacted in response to an increase in hate crimes against Asian-Americans during the COVID-19 pandemic.¹⁷ It requires the Department of Justice to expedite reviews of federal hate crimes and reports of such crimes to federal, state, local, or Tribal law enforcement agencies and to issue guidance to these agencies on establishing online reporting, disaggregating data collection, and expanding public education. It also requires guidance on raising awareness of hate crimes during the pandemic and establishes grants to states and local governments to establish hate crime reporting hotlines, implement the National Incident-Based Reporting System, and improve law enforcement measures to address and prevent hate crimes. The Act allows courts to require individuals convicted of hate crimes to participate in education programs or community service as a condition of being on supervised release.¹⁸

Massachusetts Hate Crime Laws

The Commonwealth of Massachusetts defines hate crimes as crimes motivated by the offender's bias toward the victim because of the victim's membership in a protected group. The law provides:

any criminal act coupled with overt actions motivated by bigotry and bias, including, but not limited to, a threatened, attempted or completed overt act motivated at least in part by racial, religious, ethnic, handicap, gender, sexual orientation or gender identity prejudice, or which otherwise deprives another person of his constitutional rights by threats, intimidation or coercion, or which seek to interfere with or disrupt a person's exercise of constitutional rights through harassment or intimidation¹⁹

The primary Massachusetts hate crime statute establishes three elements of hate crimes:

- Underlying criminal offense: The offender committed an assault or a battery upon the victim or damaged the victim's property.
- Offender's intent: The offender acted with the intent to intimidate the victim.
- Victim's protected characteristic: The offender targeted the victim because of the victim's race, religion, national origin, sexual orientation, gender identity, disability, or other protected characteristic.²⁰

Although people accused of hate crimes may be criminally prosecuted, the Attorney General can also bring civil prosecutions to obtain an injunction, compensation for the victim, and, in some cases, civil penalties "against a perpetrator who threatens, intimidates, or coerces another person

¹⁷ The Covid-19 Hate Crimes Act, Pub. L. 117-13, 135 Stat. 265 (2021)

¹⁸ *Id.*

¹⁹ MASS. GEN. LAWS, ch. 22C, § 32 (2012).

²⁰ Protections Against Hate Crimes, Mass.gov, <https://www.mass.gov/service-details/protections-against-hate-crimes>.

on the basis of that person’s membership in a protected group” or engagement in a protected activity.²¹

Recently, the surge in hate crimes has sparked proposals to reform Massachusetts’ hate crime law to broaden its reach, ease prosecutions, and increase punishments.²² H.1819, “An Act to Reform the Hate Crime Statute” was proposed this term and referred to the Joint Committee on the Judiciary.²³ Its provisions include: adding ethnicity, caste, immigration status, and gender as protected characteristics to currently protected categories of race, religion, national origin, sexual orientation, gender identity, and disability; expanding the range of underlying criminal conduct of alleged hate crimes and increasing maximum sentences for them; and criminalizing conspiracies and attempts to commit hate crimes.²⁴ It also applies to anyone who “willfully threatens, harasses, intimidates, or assaults” a person “in the free exercise or enjoyment of any right or privilege secured by the constitution or laws of the commonwealth or by the constitution or laws of the United States.”²⁵ There is additional legislation proposed that aims to clarify issues regarding restitution for property damage.²⁶

FINDINGS

*“I am afraid. We have always been afraid ... I’ve been called a chink, a gook... I’ve been spat on... I’ve been asked if I understand English or can read English ... I’ve been told to go back to my country countless times, but this is this is my country. I’ve been here since I was two months old...But I am not White American, so I will always be treated as a foreigner in my own country.” Ani Vong, daughter of Cambodian survivors of the Khmer Rouge; her father was beaten to death by white men in a traffic dispute when Vong was a preschooler.*²⁷

“When I was young, I was beaten up almost every day...I came here as a small child leaving behind genocide. And when I came here, I’ve been met with hatred and violence.” Bora Chiemruon, Executive Director Lowell Telemedia Center and

²¹ Ibid. (A protected group is defined as race, national origin, religion, age, gender, gender identity, sexual orientation, or disability and protected activity includes the right to vote or the right to associate.).

²² Maura Healy, Adam Hines, & Tram Nguyen, *Massachusetts needs a hate crime law; Our current hate crime statutes are critically ineffective*, bostonglobe.com (Apr. 12, 2021),

<https://www.bostonglobe.com/2021/04/12/opinion/massachusetts-needs-hate-crime-law/>.

²³ 2021 MA H.B. 1819. (Available at <https://malegislature.gov/Bills/192/H1819>).

²⁴ *Id.*

²⁵ *Id.*

²⁶ See 2021 MA S.B. 959 (An Act to amend the definition of hate crime). (Available at <https://malegislature.gov/Bills/192/S959>).

²⁷ Ani Vong, AAPI Hate Crimes in Massachusetts, Briefing Before the Massachusetts Advisory Committee to the U.S. Comm’n on Civil Rights, May 6, 2021, transcript, p. 3 (hereafter cited as Massachusetts Briefing).

*member of Asian American Commission, emigrated to the U.S. with the first wave of Cambodian refugees.*²⁸

*“For many Asians, acts of violence, committed by [their] own neighbors in their own neighborhoods, occur in such overwhelming proportions that they have become a part of daily life.” Carolyn Chou, Executive Director Asian American Resource Workshop.*²⁹

*“The number one fear of Asian-Americans is not this disease that can kill them, it’s ... the person walking down the street who could actually impose harm on them and their children and their family.” Paul Watanabe, public participant and Director of the Institute for Asian American Studies and Professor of Political Science, University of Massachusetts, Boston.*³⁰

Hate crimes and incidents against Asian-Americans and Pacific Islanders increased in number and visibility during the pandemic but did not start with it. Over a century ago, Chinese laborers experienced hatred, harassment, and discrimination, as did Cambodian and Vietnamese refugees who arrived in the U.S. over 40 years ago; South Asians who were targeted by increased surveillance and abusive policing in the wake of 9/11.

The history of AAPI residents in Massachusetts is a history of violence, police abuse, neglect, legalized exclusion or banishment, labor exploitation, and poverty. It dates back to the late 19th century and the arrival of the first wave of Chinese immigrants. Previously, the few Asians living in Massachusetts were primarily Chinese servants of wealthy White merchants engaged partly in the opium trade.³¹ In the 1870s, Chinese workers began arriving from the Western U.S. where many had sought refuge from the opium wars.³² They were fleeing anti-Chinese laws in Western and Mountain states and state-sanctioned violence by White settlers,³³ but they encountered violence in Massachusetts as well, tolerated by state authorities.³⁴ Chinatowns emerged across the Commonwealth in response to violence; these ethnic enclaves became places of safety and community.³⁵

Chinese workers were easily exploited by factory owners across Massachusetts who used them as strikebreakers to challenge union organizing, making them targets of the predominantly White labor movement. Unions in Massachusetts explicitly excluded Chinese (and other AAPI) workers

²⁸ Bora Chiemruon, Massachusetts Briefing, transcript p. 4, p. 6

²⁹ Carolyn Chou, transcript p. 8

³⁰ Paul Watanabe, transcript p. 37

³¹ Chinatown Atlas, <https://www.chinatownatlas.org/era/bachelor-exclusion-era-1875-wwi/>.

³² Ibid.

³³ Ibid.

³⁴ Chinatown Atlas, <https://www.chinatownatlas.org/era/bachelor-exclusion-era-1875-wwi/>.

³⁵ Michael Liu, 2020, *Forever Struggle: Activism, Identity, and Survival in Boston's Chinatown, 1880-2018*, UMass Press.

from manufacturing, construction, and other industrial jobs. Confined to Chinatowns for safety and excluded from higher paying jobs, many Chinese worked in laundries.³⁶

Anti-AAPI prejudice was institutionalized nationally through public policy and practice. The federal Chinese Exclusion Act of 1882 was the first U.S. law to exclude an entire nationality from entry into the country.³⁷ It reinforced existing anti-Asian prejudice and sanctioned discrimination against Chinese and other AAPI residents at all levels of government.³⁸ For example, Boston city officials often refused marriage licenses to Chinese men marrying White women even though Massachusetts repealed its anti-miscegenation laws in 1843.³⁹ As late as 1895, the Boston City Registrar would only grant such a marriage license upon “an order of the Supreme Court.”⁴⁰

Repeated extensions and expansions of the Chinese Exclusion Act justified both widespread anti-Chinese sentiment and police harassment into the 20th century. In 1903, Boston police and immigration officials raided Boston’s Chinatown and arrested almost 250 Chinese men, mostly laundry workers.⁴¹ Fifty were deported for being “unregistered” as required under the Geary Act of 1892.⁴² The police frequently conducted warrantless raids on restaurants, private homes, and businesses, arresting Chinese residents on gambling or minor drug charges.⁴³

Anti-Japanese sentiment was pervasive in Massachusetts during WWII. Immediately after the attack on Pearl Harbor, all Japanese residents in the US became suspected “enemy aliens” and were subject to surveillance and detention.⁴⁴ Japanese people living on the East Coast were not subject to forced removal and internment in concentration camps under Executive Order 9066.⁴⁵ Japanese heritage Bostonians could, however, be detained at the East Boston Immigration and

³⁶ Chinatown Atlas, <https://www.chinatownatlas.org/era/bachelor-exclusion-era-1875-wwi/>.

³⁷ Ibid..

³⁸ Chinese Exclusion Act (American Experience film) <https://www.pbs.org/wgbh/americanexperience/films/chinese-exclusion-act/> [hereinafter Chinese Exclusion Act (film)].

³⁹ Ibid.

⁴⁰ 28 April 1895, Bride of a Celestial: Miss Nellie White Becomes Mrs. Moy Dong. *Boston Daily Globe*; Shauna Lo and Laura Wai Ng, 2013, Beyond bachelorhood: Chinese American interracial marriage in Massachusetts during the exclusion era. *Chinese America: History and Perspectives*: 29-37. Retrieved from https://link.gale.com/apps/doc/A403167051/AONE?u=mclin_oweb&sid=googleScholar&xid=403d7ba1.

⁴¹ http://archive.boston.com/news/local/articles/2003/10/12/yellow_peril_yellow_press/.

⁴² Liu, *Forever Struggle*; K. Scott Wong, “‘The Eagle Seeks a Helpless Quarry’: Chinatown, the Police, and the Press; The 1903 Boston Chinatown Raid Revisited,” in *Asian American Studies: A Reader*, Eds. Jean Yu-wen Shen Wu & Min Song, Rutgers University Press: 67-83.

⁴³ See for example, 11 November 1907, Raid in Chinatown, *Boston Daily Globe*; 7 Mar 1910, TWO CHINATOWN RAIDS.: Police Visit Oxford St and Harrison Av Buildings and Take 18 Prisoners on Gambling Charges, *Boston Daily Globe*; 13 August 1915, TAKE 25 CHINESE IN RAID, *Boston Daily Globe*; 21 January 1935, POLICE OPEN DRIVE ON CHINATOWN GAMBLING: Arrest Four in One Place, Find All Others Closed, *Daily Boston Globe*; 2 November 1942, Chinatown Raid Nets Narcotics Valued at \$2500, *Boston Daily Globe*.

⁴⁴ 9 December 1941, Roundup U. S. Seizes Enemy Businesses, Nationals 700 to 1000 Japs Locked Up as Dangerous to Security, *Boston Globe*; 10 December 1941, Alien Enemies in U. S. Under Rigid Rules, *Boston Globe*; 16 January 1942, Enemy Aliens Ordered to Apply for Certificates, *Boston Globe*.

⁴⁵ Exec. Order No. 9066, 28 C.F.R. § 74.3 (2018).

Detention Center upon the flimsiest of suspicions, like getting their shoes shined across the street from the GE plant in Boston or carrying a rosary with a small opening.⁴⁶

The Chinese Exclusion Act was repealed in 1943, but abuse of AAPI residents persisted.⁴⁷ Continuing immigration restrictions, federal initiatives like the Chinese Confession Program, and Cold War Red Scares fueled anti-AAPI suspicion and hostility.⁴⁸ The general tolerance of harassment and violence targeting Asian residents, as well as abuse by police, continued well into the 1980s, occasionally capturing public attention. In 1985, for example, Boston Police Detective Frank Kelly assaulted Long Guang Huang, a non-English speaking restaurant worker accused of engaging a prostitute.⁴⁹ Huang was quickly acquitted, and an internal review found that Kelly had used excessive force, suspending him for one year.⁵⁰ Kelly appealed, eventually losing before the Supreme Judicial Court, but he still received a settlement of \$115,000 in back pay and legal fees from the City of Boston.⁵¹ Huang received \$85,000 in exchange for dropping a civil rights suit against the Boston Police Department.⁵²

Today, Chinese Americans remain the largest AAPI group in Massachusetts, but the AAPI community is increasingly diverse. Vietnamese, Cambodian, Laotian, Thai, and Hmong refugees began arriving in the mid-1970s and constitute the second largest group.⁵³ Like Chinese migrants before them, Southeast Asians arrived in Massachusetts seeking sanctuary from violence and persecution.⁵⁴ Then President Gerald Ford argued that the U.S. had a “moral obligation” to welcome them after the U.S. military withdrawal from Vietnam and Cambodia, and the federal government creatively interpreted existing immigration law to facilitate their entry and resettlement.⁵⁵ This did not, however, reduce resistance to the presence of Southeast Asian refugees in many communities across the Commonwealth.

Southeast Asians were regularly targeted by violence and abuse. Incidents and patterns of harassment, assault, and arson were widely reported by *The Boston Globe*, *New York Times*, and even the *CBS News Sunday Morning*, and Asian American activists demanded that attention be

⁴⁶ Martha Nakagawa, 18 November 2003, *Snow Country Prison Exhibit Opening Brings Internees Back to Internment Camp*, German American Internee Coalition. Retrieved from <https://gaic.info/wp-content/uploads/2016/02/nakagawa20031118.pdf>; Densho Encyclopedia, East Boston (detention facility). Retrieved from [https://encyclopedia.densho.org/East_Boston_\(detention_facility\)#cite_ref-ftnt_ref11_11-0](https://encyclopedia.densho.org/East_Boston_(detention_facility)#cite_ref-ftnt_ref11_11-0).

⁴⁷ Chinese Exclusion Act (film).

⁴⁸ Mae M Ngai, 2004, *Impossible Subjects: Illegal Aliens and the Making of America*, Princeton University Press.

⁴⁹ Doris Sue Wong, 15 October 1988, SJC Justice found grounds for detective’s suspension, *Boston Globe*; Steve Marantz, 15 July 1989, 2-way Settlement ends police suit: 1985 brutality charges dropped, *Boston Globe*.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ Jeff Carson & Neenah Estrella-Luna, *Promises Made: The Resettlement of our Allies*, Shirley St. Publishing.

paid.⁵⁶ Still, the Boston Police Department refused to acknowledge the increase in anti-AAPI violence evidenced by the data. In 1984, 36 percent of restraining orders issued under Massachusetts' civil rights laws were provided to protect Vietnamese and Cambodian refugees in Boston, Worcester, Revere, and Lowell; that percentage increased to 57 percent in 1985.⁵⁷

Bias against refugees was sometimes shared and openly expressed by government officials. In 1992, Boston City Councilor Albert "Dapper" O'Neil denigrated the Vietnamese businesses and storefronts in Fields Corner during the Dorchester Day Parade.⁵⁸ His comments were video recorded and broadcast on local news media, but O'Neil refused to apologize and suffered no meaningful consequences for his bigotry.⁵⁹ Over the years persistent cultural tolerance of racist rhetoric like this, even—or especially—when couched in "jokes," has excused anti-Asian sentiment.⁶⁰

Some Southeast Asian refugees, like the small businesses owners targeted by O'Neil, managed to become economically secure in the face of bigotry, but many were economically disadvantaged by public policy and practice, despite enjoying a slightly smoother legal path to residency and citizenship than other immigrants. Since the Displaced Persons Act of 1948, federal law has emphasized achieving "economic self-sufficiency" within one year of entry for all refugees.⁶¹ Current regulations strictly prioritize employment over learning English, obtaining education or training, or attending to physical or mental health needs.⁶² Federal policy, combined with pervasive prejudice, has effectively forced many Southeast Asian refugees into insecure, low-wage jobs procured through ethnic networks.⁶³ According to 2010 American Community Survey data, only 26 percent of Cambodian or Vietnamese workers in Massachusetts are employed in management or similar occupations.⁶⁴

In addition, like other immigrant groups, longtime Southeast Asian residents may be subject to deportation under the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996.⁶⁵ It significantly broadened categories of deportable offenses, providing the basis for the

⁵⁶ Stephanie Chavez, 8 May 1983, 25 Left Homeless in E. Boston Fire, 2 Boys Arrested, *Boston Globe*; Ed Siegel, 24 August 1983, It's not Boston's Problem Alone, but ... *Boston Globe*; 11 August 1983, Assaults on Asian Immigrants Increase in Boston, *New York Times*; Doris Sue Wong, 11 January 1987, 300 march in Revere against violence toward Cambodians, *Boston Globe*.

⁵⁷ Gregory Witcher, 31 March 1986, TATTERED DREAMS: Once in America, some Asians find bigotry, violence, *Boston Globe*.

⁵⁸ Peter Kiang, transcript p.27; Michael Rezendes, 1 June 1992, Vietnamese leaders hit O'Neil remarks, *Boston Globe*.

⁵⁹ Id.

⁶⁰ Id.

⁶¹ Displaced Persons Act of 1948, ch. 647, 62 Stat. 1009.

⁶² Carson & Estrella-Luna, *Promises Made*.

⁶³ Id.

⁶⁴ US Census Bureau, 2010 5-year American Community Survey, Table DP03

⁶⁵ Illegal Immigration Reform and Immigrant Responsibility Act of 1996, incorporated as a subsection of the Omnibus Appropriations Act of 1997, [Pub. L. 104-208](#), Div. C, 110 Stat. 3009 (1996) (codified as amended in scattered sections of 8 and 18 U.S.C.).

enhanced detention and deportation initiatives of former President Trump.⁶⁶ Asian-Americans and Pacific Islanders constitute 26 percent of the Commonwealth's undocumented residents; they have been and remain at risk.⁶⁷ Children brought to the U.S. as refugees in the 1980s who were charged as teens or young adults with assault for defending themselves from violent attacks, who joined gangs for self-protection, or who were convicted of minor, non-violent drug offenses became subject to deportation, often times decades later. When initially charged, lacking adequate representation, many pled guilty to lesser offenses in order to save face with their families and communities not knowing that their pleas could lead to mandatory permanent deportation.⁶⁸ Without access to affordable legal assistance today, many lack the means to try vacating their underlying convictions or seek pardons. The specter of deportation stalks refugee communities and devastates individuals who have only known a life in the U.S. but are still regarded and treated as foreigners.

The sense of “perpetual foreignness” imposed on AAPI communities could be mitigated through education, but the history and contributions of Asian Americans and Pacific Islanders are not widely taught. Massachusetts' K-12 history and social studies standards lack any references to AAPI history. “... that has been the reality for more than one generation educated in Massachusetts' public schools.”⁶⁹ Educators tried unsuccessfully to remedy this in the mid-1990s during a comprehensive review of the state's curriculum. Today non-AAPI and AAPI students alike are still not taught the history of Asian Americans and Pacific Islanders in the Commonwealth or the nation.

The diversity of the AAPI community also tends to be unknown or ignored, hidden by flawed data collection and stereotypes of Asians as “model” minorities (*i.e.*, of being economically and socially successful). “There are so many different communities under [the AAPI] umbrella,” many of which are invisible due to lack of systematic data collection.⁷⁰ But “low data does not equal low need,”⁷¹ and researchers should “not assume that all Asians are doing well.”⁷² There is significant diversity in income and educational attainment between sub-groups (as in other non-White ethnic and racial groups), and some AAPI ethnic groups are living in abject poverty. Indeed, the majority of Asian ethnic groups fall under the median income. Groups like the Bhutanese, Burmese, and Nepalese, who are among the newest AAPI immigrants, have particularly low income and education levels, and “many older Cambodians have limited education [and] can't read in Khmer

⁶⁶ Human Rights Watch, 2007, *Forced Apart: Families Separated and Immigrants Harmed by United States Deportation Policy*, Retrieved from <https://www.hrw.org/reports/2007/us0707/us0707web.pdf>.

⁶⁷ Center for Migration Studies, State-Level Unauthorized Population and Eligible-to-Naturalize Estimates. Retrieved from <http://data.cmsny.org/>.

⁶⁸ Carson & Estrella-Luna, *Promises Made*.

⁶⁹ Peter Kiang, p.27-28

⁷⁰ Alvina Yeh, transcript, p. 20

⁷¹ Dawn Sauma, transcript p. 13

⁷² Lisette Le, transcript p. 18

either. These differences are dismissed into simplistic racial categories”⁷³ More accurate and nuanced data collection would produce more accurate and nuanced understandings of the needs and concerns of different AAPI ethnic and language groups.

Recent immigrants and refugees from a range of countries confront “systemic language access barriers,” depriving them of social services, adequate education, health care, and access to civil and criminal justice systems. More than half of AAPI language speaking households experience language isolation, which is highest among Vietnamese.⁷⁴ The Asian America Resource Workshop documented the need for language access nearly 35 years ago, and very little has changed since then.⁷⁵ Lack of language access produces a number of harms. Inadequate interpretative services can generate incomplete and inaccurate police reports, and “Asian victims of violence . . . risk being mistreated and misinterpreted with consequences that can last years and generations.”⁷⁶ In domestic violence cases, the failure to meet the linguistic needs of a victim can “[result] in a failure to arrest the perpetrator.”⁷⁷ Sometimes victims are arrested instead, endangering their employment, immigration status, and child custody claims.⁷⁸ Inadequate language access as well as the cultural insensitivity of law enforcement and the courts, combined with over-policing, foster deep mistrust within the AAPI community.

The pandemic has exposed and exacerbated the particular vulnerabilities of disadvantaged Asian-American and Pacific Island immigrants who are overlooked by model minority stereotypes. The pervasiveness of this stereotype also supports the animosity underlying harassment and violence. Many AAPIs lost their jobs in “decimated” industries, and those still employed “have been facing increased racism on the job.”⁷⁹ Workers have been “spat on, fired, and confronted with customers who request non-Asian workers.”⁸⁰ The plight of AAPI nail salon workers is instructive. They work “at the intersection of race, gender, and class,” in what is often an invisible service industry.⁸¹ Many workers are targeted by racial slurs or threats from customers that they will “talk to their bosses,” putting their jobs – as well as their immigration status – at risk.⁸² “So you will make yourself invisible. You will simply just work every day” in fear, as racism has become more “emboldened.”⁸³

The model-minority stereotype has also long been used as a wedge between the AAPI community and other non-White racial groups. The stereotype is often used to compare the alleged financial

⁷³ Dawn Sauma, transcript pp. 10

⁷⁴ US Census Bureau, 2019 5-year American Community Survey, Table #B16001.

⁷⁵ Dawn Sauma, transcript p.10

⁷⁶ Id.

⁷⁷ Id.

⁷⁸ Id, transcript p. 11

⁷⁹ Id.

⁸⁰ Alvina Yeh, transcript pp. 13-14

⁸¹ Id.

⁸² Id.

⁸³ Lisette Le, transcript p. 7

and educational achievements of (a minority of) AAPIs to the alleged shortcomings and failures of African Americans as a whole, ignoring the very different histories of racial subjugation, discrimination, and social acceptance between the two groups. Federal immigration policy since the repeal of the Chinese Exclusion Act explicitly favoring highly educated AAPI immigrants and refugees is partly responsible for the pervasiveness of this myth and contributes to divisiveness within the AAPI community and with other non-White racial groups.⁸⁴ This harms the AAPI community by preventing the kind of cross-racial solidarity needed to address racial disparities.⁸⁵ Several speakers noted the importance of such solidarity in addressing the root causes of gender and race based violence generally: “And now it seems more so like all the communities are coming together and standing in solidarity. And I think if we continue to do that, hopefully we're able to get to a point where we're all on the same understanding of what's going on and what needs to be done”;⁸⁶ “And to me, solidarity, allyship across communities of color, across marginalized communities is really about investment resources, policy shifts, structural change. ... let's fight for real systemic change in the criminal legal system and [in regards to] prior convictions, which we know will impact many, many Black folks as well as will impact ... deportation orders in Southeast Asian communities.”⁸⁷

All speakers at the May 6, 2021, hearing, as well as a public commenter, shared personal experiences with harassment or violence, reporting that much of this abuse was tolerated by people in authority, including teachers or other adults in public schools. “(O)ur experiences ... they are the truth,”⁸⁸ but speakers stressed that anti-AAPI behavior and rhetoric is often downplayed, ignored, or dismissed, which makes many victims afraid to fight back and reinforces their marginalization. The trauma of fleeing violence only to encounter abuse and discrimination in the U.S. compels many people to withdraw to the safety of their own community: “[T]he coping mechanism for many of our community members has been, we take care of ourselves because we know that society is not going to take care of us in the same way.”⁸⁹

CONCLUSION

Many Asian Americans and Pacific Islanders in Massachusetts live in relative poverty and linguistic isolation, lacking safe, well-paying jobs, access to basic services, affordable housing, and health care. And while the majority of the Commonwealth’s AAPI residents are U.S. citizens,

⁸⁵ Robert G. Lee, 2010, “The Cold War Origins of the Model Minority Myth,” In *Asian American Studies Now*, pp. 256-271. Rutgers University Press.; Ellen D. Wu, 2015, *The Color of Success: Asian Americans and the Origins of the Model Minority*. Princeton University Press.; Kat Chow, 19 April 2017, ‘*Model Minority*’ Myth Again Used As A Racial Wedge Between Asians And Blacks, CodeSwitch (NPR), Retrieved from <https://www.npr.org/sections/codeswitch/2017/04/19/524571669/model-minority-myth-again-used-as-a-racial-wedge-between-asians-and-blacks>.

⁸⁶ Ani Vong, transcript p. 13.

⁸⁷ Carolyn Chou, transcript p. 14, 18.

⁸⁸ Ani Vong, transcript p. 17.

⁸⁹ Lisette Le, transcript p. 7.

others are trapped by a punitive immigration system and the threat of deportation.⁹⁰ All these inequities increase the vulnerability of Asian-Americans and Pacific Islanders to bigotry and violence. They also help shape the climate in which violence routinely occurs without accountability.

Prosperity does not protect people from hate; harassment and violence occur across economic lines. Asian-Americans are “now the fastest growing racial group in the U.S. ... as the country moves toward becoming majority non-white, we’re seeing attacks from various directions.”⁹¹ Current data shows a 47 percent increase in anti-AAPI hate crimes in Massachusetts between 2015 and 2020, while total hate crimes increased only 2 percent in the same period.⁹²

The Massachusetts legislature is considering a bill to ease prosecutions of alleged hate crimes and increase punishments for offenders,⁹³ but speakers at the May 6, 2021, briefing did not favor more aggressive policing and prosecutions or increased incarceration. “Calling for policing, offering cash rewards, asking for hate crime-related legislation or stricter punishments, [doesn’t] solve the problems of violence in our community and only creates more racial division ... the safest communities don't have more police. They don't have more surveillance. They are abundantly resourced [so that] all members of our community are thriving, and that's the community safety plan we should all be working towards.”⁹⁴

Again, the alienation experienced by AAPI residents and the bigotry directed against them have been horribly exacerbated by the pandemic. Elders are afraid to leave their home. Children are afraid to return to school. Still, the anti-AAPI violence today follows nearly two centuries of bigotry and marginalization. The current surge in hate and harassment is part of a historic effort “to eliminate Asian-Americans as part of the [US] American family.”⁹⁵

RECOMMENDATIONS

1. Seek to institute community-based restorative justice programs as alternatives to enhanced policing, prosecutions, and punishments of alleged hate crimes.
2. Expand opportunities for victims of violence to report their alleged attacks anonymously in their own language or the language of their communities.
3. Integrate and fund bystander training into existing community based safety initiatives.
4. Refine and enforce culturally-competent, responsive guidance and linguistically appropriate mental health services at health facilities receiving public funding or

⁹⁰ US Census Bureau, 2015 5-year American Community Survey, Table #B05001.

⁹¹ Paul Watanabe, transcript p. 36.

⁹² Massachusetts Hate Crimes Data Portal available at <https://masscrime.chs.state.ma.us/public/View/dispsview.aspx>.

⁹³ 2021 MA H.B. 1819. (Available at <https://malegislature.gov/Bills/192/H1819>).

⁹⁴ Alvina Yeh, transcript pp. 14-15.

⁹⁵ Paul Watanabe, transcript pp. 38.

reimbursement. In addition, fund the development of such guidance in collaboration with AAPI community serving organizations.

5. Pass the Data Equity Bill, H.2681, requiring government agencies collecting data on race and ethnicity of Massachusetts residents to disaggregate data for diverse Asian Americans and Pacific Islanders from a broad range of countries, as well as for other racial and ethnic groups.
6. Integrate ethnic studies in the K-12 social studies and history curriculum frameworks. An ethnic studies curriculum framework serves to expand students' understanding of ongoing and historic racism as well as provides opportunities to reduce prejudice and be active participants in a diverse democracy. A good first step would be the legislative establishment of a committee to consult with educators and a diverse group of advocates to develop this curriculum framework with a commitment to implement a final version into Massachusetts' schools.
7. Greatly expand interpretative capabilities to limit, if not eliminate, linguistic barriers to social services and the justice system. Pass the Language Access and Inclusion bill H.3199/S.2040. It requires state agencies and state-funded programs to translate websites and documents as well as provide oral interpretation services for non-English languages residents.
8. Improve funding for community-based organizations serving the AAPI community to help address barriers to safety, inclusion, and prosperity. Funding is needed, in part, to support access to: basic social services including culturally responsive mental health care; community-based responses to victimization, especially for the elderly; bystander and ally training; and community based legal assistance for people subject to deportation, labor market exploitation, housing insecurity, and discrimination.
9. Pass the Work and Family Mobility Act, H.3456/S.2289, allowing qualified Massachusetts residents to obtain drivers licenses, regardless of immigration status. It would provide undocumented AAPI residents, and other immigrants, freedom of movement without fear of arrest during traffic stops.
10. Pass the Safe Communities Act, H.2418/S.1579, which, in part, prohibits unnecessary immigration status inquiries by law enforcement personnel or courts and ends participation in 287(g) programs. This would help improve trust in public institutions, particularly law enforcement agencies.
11. Pass the COVID Housing Equity Bill, H1434/S.891, to forestall evictions and foreclosures of people impoverished by the pandemic. Housing security would also be enhanced by passing H.1428, codifying the Rental Voucher program.

APPENDIX A

Massachusetts Advisory Committee U.S. Commission on Civil Rights

May 6, 2021, Thursday; 2 pm (ET)

Briefing Agenda

Ani Vong, Community Activist

Bora Chiemruom, Commissioner and Former Executive Director
Massachusetts Asian American Commission

Lisette Le, Executive Director
Vietnamese American Initiative for Development

Carolyn Chou, Executive Director
Asian American Resource Workshop

Dawn Sauma, Co-Executive Director
Asian Task Force Against Domestic Violence

Alvina Yeh, Executive Director
Asian Pacific American Labor Alliance

Peter Kiang, Professor and Director of Asian American Studies
University of Massachusetts, Boston

Question and Answer by Committee Members

Open/Public Session

APPENDIX B

Summary of population characteristics of the Asian American and Pacific Islander community in Massachusetts

According to the US Census Bureau, there are over 450,000 AAPI identifying residents living in Massachusetts. The largest sub-group are Chinese identifying. As a whole, refugee groups (Vietnamese, Cambodian, Laotian, Thai, Hmong) are the second largest group but they have smaller numbers when seen as individual subgroups. The majority of AAPI identifying residents are US citizens with wide variation among different subgroups. Hmong have the highest and the Nepalese have the lowest citizenship rates.⁹⁶

	Total	% of AAPI identifying residents	% of MA residents	% US Citizen - Total	% US Citizen – By Birth	% US Citizen – Naturalized
Chinese	167,089	42%	2%	70%	37%	33%
Asian Indian	95,343	24%	1%	63%	35%	28%
Vietnamese	52,944	13%	1%	84%	35%	49%
Cambodian	32,943	8%	0.5%	84%	47%	37%
Korean	31,898	8%	0.5%	70%	40%	29%
Filipino	19,923	5%	0.3%	84%	51%	33%
Japanese	17,299	4%	0.3%	63%	54%	9%
Pakistani	6,868	2%	0.1%	74%	43%	30%
Nepalese	5,890	1%	0.1%	33%	16%	17%
Laotian	4,423	1%	0.1%	83%	49%	35%
Thai	4,260	1%	0.1%	64%	40%	24%
Hmong	971	0.2%	0.01%	92%	59%	33%
All others	8,664	2%	0.1%	52%	25%	27%
Total AAPI Identifying ¹	400,675	-	6%	70%	38%	32%

Source: U.S. Census Bureau, 2015 5-year American Community Survey, Tables #B01001 and B05001

¹Total AAPI is less than the sum of individual groups because individuals can choose to identify as a single category alone or in combination with other

⁹⁶ U.S. Census Bureau, 2015 5-year American Community Survey, Tables #B01001 and B05001.