



# Anti-Asian Violence Toolkit

## Keeping Communities Safe

The COVID-19 pandemic spurred hashtags like #StopAsianHate, but Asian Americans have encountered violence since we arrived in the United States. More than a century ago, Chinatowns came into being when immigrants sought safe places to live, free from the mob violence that drove them out of established communities. Attempts to marginalize Asian people also took the form of exclusionary federal immigration laws and state laws barring Asian people from owning land. History repeated itself in subsequent decades when the federal government incarcerated Japanese Americans during World War II, and detained, deported, and surveilled South Asian and Muslim people after 9/11.

The pandemic brought unprecedented challenges for everyone, but for Asian Americans, the pandemic also brought a painful reminder that we don't belong. Instead, we are treated as a foreign peril and a threat. Blaming China for the pandemic and casting China as a threat to American people sets the stage for the next chapter of discrimination against Asian Americans.

With that history in mind, this toolkit is a guide for working together to keep our communities safe, based on our experience as a legal organization supporting community groups and community members. For many people, the law does not always offer the kind of resolution that they expect or need. Most acts of verbal harassment or discrimination, which comprise the majority of incidents, do not fall under criminal law, and other legal avenues can be time-consuming and expensive. We advise on various legal options, even when they offer limited relief. But, in our advocacy work and our work providing direct support, we also focus on the root causes of harm and building up communities so that people who are attacked feel less isolated and fearful.

The toolkit has two parts. Section one offers a framework for formulating demands and policies related to safety and anti-Asian sentiment. Section two offers guidance for supporting community members who have been harmed.

Asian American  
Legal Defense and  
Education Fund



# I. Guidance for Analyzing Anti-Asian Violence Policies and Solutions

We are fed up. Safety and belonging feels hard to come by, and change feels overdue. The good thing is, many people have been activated. New organizations, community groups, policies, and legislation have been created in response to the rise in anti-Asian violence.

Part of this has included demands from Asian communities for stronger enforcement and punishment in response to discrimination, attacks, and harm. But there are many pitfalls and unintended harm that can arise from this desire for punishment. Policing and prisons have well-documented discriminatory impacts on certain groups. Black, Latinx, queer, poor, refugee, and immigrant groups, including poor and working-class Asian Americans, have all suffered abuse and repression by the police and criminal legal system.

We offer the following questions as a tool for analyzing policy proposals crafted in response to anti-Asian violence. We hope this helps identify potential consequences so that communities can focus on the most effective proposals for improving public safety and belonging.

## 1. IMPACT ON AFFECTED COMMUNITY MEMBERS

### EVALUATE

- Will this policy prevent attacks and harassment in our community?
- What is the evidence that the policy reduces attacks, harassment, or bias?
- If the policy includes funding, staffing, or other resources, does the policy include mechanisms to ensure that the entities receiving those resources actually use them to support the most vulnerable survivors and victims?
- Does the policy empower affected communities to take an active role in addressing violence?
- Who created or proposed the policy? Are people working with their neighbors and community members to push for this policy?
- Does the policy ensure community input and participation in policy development and implementation?

### CONSIDER

- Many proposals respond to attacks after the harm has been done. Victims and survivors may seek some form of accountability, but often they are more interested in preventing future attacks than punishing attackers.
- Although some people feel safer knowing that the person who harmed them will be punished, incarceration is often just one stage of a cycle of violence that may predate and outlive a criminal sentence. Supporting the reintegration of people who have harmed others on multiple dimensions, from housing, health, education, and community support, can help prevent future harm.<sup>1</sup>
- Not all organizations and government agencies are equipped to fulfill the difficult mandate of stopping racial harm and attacks. Improvements in training and support for community-based organizations, trust building, flexibility, and accountability can help increase the impact of limited resources.
- No policy will succeed without community engagement. A policy meant to help victims or survivors will include practical measures to sustain meaningful buy-in and engagement from those individuals.
- While changing the laws can be an important step for defending our rights, real change comes from setting a goal together and showing up for our neighbors and other members of our community.

1. See, e.g., National Acad. of Sciences, Engineering, and Medicine, *The Limits of Recidivism: Measuring Success After Prison* (2022), <https://doi.org/10.17226/26459>.

## 2. POTENTIAL FOR LONG-TERM CHANGE

### EVALUATE

- How does the policy contribute to long-term safety and address the root causes of violence?
- Are there improvements to the physical environment, social programs, healthcare access, or employment opportunities that can help reduce violence and bias over the long haul?
- Does the policy provide any rehabilitation or support that helps prevent harm in the future?
- Do any of the methods or personnel involved in the policies have the potential to increase violence?

### CONSIDER

- The Department of Justice, the chief law enforcement agency in the United States, has found that “sending an individual convicted of a crime to prison isn’t a very effective way to deter crime” and “increasing the severity of punishment does little to deter crime.”<sup>2</sup>
- Focusing on securing a punishment can distract from the nature of criminal punishment in the United States. At the state level, increased incarceration may actually lead to higher crime rates and there is some evidence that spending time in jail or prison actually increases the risk of future harms.<sup>3</sup>
- Some policies that have a demonstrated impact on reducing crime and violence include improvements to the physical environment (like streetlights and green spaces), better school programs, employment opportunities, Medicaid expansion, access to mental health treatment, and affordable housing.<sup>4</sup>

## 3. INTERSECTIONAL APPROACHES

### EVALUATE

- What can we add to our policy to ensure that disabled, queer, trans, limited-English proficient, immigrant, survivors of violence, people with past criminal system contact, and poor and working class people can access the benefits that are meant to help people who have suffered violence?
- What are the existing helplines and community support? What are some reasons that people are not utilizing them?
- Is a helpline or community support accessible to people who do not feel comfortable speaking English?
- Is a helpline or community support available with accommodations for deaf, blind, or restricted mobility individuals so that they can report incidents?
- Are directly impacted people informing how best to access helplines and other resources?
- Who can receive calls for help from people who may not feel comfortable going to police to report incidents of violence or harassment, due to past negative experiences or because of their immigration status?

### CONSIDER

- Many towns and cities are setting up helplines for people who experience harassment or violence, but community groups often report having to significantly help the impacted person and family navigate the system because of language, cultural, or other barriers that go unaddressed or unnoticed.

2. Nat'l Inst. of Justice, Five Things about Deterrence, 2 (May 2016), <https://perma.cc/2KJL-SAE8>.

3. Don Stemen, The Prison Paradox: More Incarceration Will Not Make Us Safer (July 2017), [https://www.vera.org/downloads/publications/for-the-record-prison-paradox\\_02.pdf](https://www.vera.org/downloads/publications/for-the-record-prison-paradox_02.pdf).

4. Thea Sebastian et al., Civil Rights Corps, Getting Smart on Safety: Evidence on Non-Carceral Investments that Work to Prevent Violence & Harm, [https://civilrightscorps.org/wp-content/uploads/2023/05/Getting-Smart-On-Safety\\_03\\_17\\_23-1-2.pdf](https://civilrightscorps.org/wp-content/uploads/2023/05/Getting-Smart-On-Safety_03_17_23-1-2.pdf).

## CONSIDER (cont.)

- Some individuals have less time, resources, ability, or contacts to participate in advocacy. But the changes that we advocate for will impact these groups. If you are not already in a relationship with a diverse range of people working on anti-violence initiatives, now is the time to learn how to meet some more people and bring them in.
- Take time to review methodologies and frameworks rooted in intersectional, holistic models of harm reduction and justice, including Healing Justice Lineages (Page and Woodland).

## 4. REDUCING SYSTEMIC HARMS

### EVALUATE

- Does this policy improve outcomes for people who have been harmed by existing legal systems and institutions?
- Is the policy proportional to the harm it's trying to prevent?
- Is the policy administered by a government agency?
  - If so, do people in the community have negative perceptions of past experiences with this agency?
  - Are there reasons to be skeptical or critical of the agency's ability to administer the policy?
  - What other agencies could step in?
- Who has been disproportionately impacted by the legal systems and institutions involved with this policy?
- Who is missing from the available data?
- If the policy is related to the criminal legal system (police, prisons, prosecutors):
  - What populations experience disproportionate policing, surveillance, prosecution and incarceration based on local and national data?
  - Are Asian subgroups included in this data?
  - Are Pacific Islander subgroups included in this data?

### CONSIDER

- Some government agencies have very negative reputations in the community. Ethnic communities set up their own in-language systems and services due to lack of language access and outreach by mainstream agencies. Services should meet people where they are and support the building up of already existing systems and community networks.
- Police are the first responders or go-to for crime reporting and can often route people to other resources or services they need. But this excludes people who will not reach out because of negative past experiences with police. Building up community-based organizations can create safe spaces for people to receive advice about the criminal system and report incidents without exposing them to neglect or disappointment.
- Many of our policies, laws, systems, and norms create and maintain unequal outcomes for certain groups of people. Policies that rely on the structures we have in place run the risk of making inequality worse, or indirectly endorsing unequal outcomes.

**Example:** It is well known that mass incarceration disproportionately affects Black Americans. While it is little discussed, Asian Americans, Pacific Islanders, and Native Hawaiians are also impacted by mass incarceration. Between 1999 and 2004, the AAPI prison population increased by 30%.<sup>5</sup> In 2006, Samoan youth in Oakland, California had the highest arrest rates of any racial or ethnic group, and Cambodian and Vietnamese youth also had high arrest rates.<sup>6</sup> The outcomes of policies that allow the criminal legal system to cast a wider net will likely reflect these same disparities and exacerbate existing disparities in housing, income, and other basic needs.

5. Raymond Magsaysay, Asian Americans and Pacific Islanders and the Prison Industrial Complex, 26 Mich. J. of Race & L. 443, 454 (2021), <https://repository.law.umich.edu/mjrl/vol26/iss2/5>.

6. Id.

## CONSIDER (cont.)

- Individual acts of bias and hate need to be addressed. But looking at the bigger picture can reorient us around the structures and systems that cultivate individual bias and hate. This can bring us into fellowship and struggle with other groups of people who have been systemically marginalized or excluded.

**Example:** Domestic violence advocates sought mandatory arrest and prosecution policies, arguing that it would send a strong statement against domestic violence and reduce gender-based violence. Decades later, the evidence on whether these harsher penalties improved safety is inconclusive.<sup>7</sup> However, because of the systemic biases of the criminal legal system, these policies caused disturbingly disproportionate arrests of Black and Latino men.<sup>8</sup> This was true even though most of the survivors advocating for these changes, and their partners, were white. Today, many people who have survived domestic violence are at the forefront of advocating for more resources instead of harsher punishments.

## 5. CHALLENGING DISCRIMINATORY VIEWS

### EVALUATE

- Are there sources of bias beyond individual attitudes that could be addressed by this policy?
- Does the policy help educate people about the connection between discriminatory policies and individual harms committed against Asian Americans?
- What are the stereotypes addressed by this policy?
- Does the policy rely on “positive,” yet harmful, stereotypes for buy in?

### CONSIDER

- The current and previous Presidential Administrations have made many statements supporting Asian Americans and denouncing acts of racism. At the same time, escalating conflict and rhetoric that paints China as a threat have activated xenophobic views and physical violence toward Asian people who live in the United States. We have experienced this in the recent past with Arab, Middle Eastern, South Asian, and Muslim communities after 9/11, and with refugee resettlement and Japan-bashing in the 1980s.
- When Asian American communities respond to xenophobic harassment, they often promote the community’s loyalty and patriotism to the U.S. However, we should not have to prove how “American” we are in order to be respected and feel safe. This reinforces the idea that Asians are “good” when they assimilate and suspicious until they do.
- Our history of discrimination can be used against us. The idea that “hardworking” Asian people have made it, despite facing discrimination, makes it seem like other people who are struggling to get by just aren’t trying hard enough. This lets people with power continue to stack the deck against the working class, poor, and people of color in our communities and neighborhoods.
- The past has shaped the present. Public and K-12 education can fight misinformation and contextualize the current moment within a longer history of inequality through newly required curricula on the history of colonialism, immigrant exclusion, genocide against indigenous people, and slavery. Teaching Asian American history alongside Black, indigenous, and Latinx history helps us understand how racial groups have formed in relation to one another, and how rights and privileges have been distributed among them.

7. Aya Gruber, *The Feminist War on Crime*, 92 *Iowa L. Rev.* 807, <https://scholar.law.colorado.edu/cgi/viewcontent.cgi?article=1322&context=faculty-articles>.

8. *Id.*

## II. Guidance for Responding to Individual Anti-Asian Violence Incidents

The day-to-day work of supporting each other when we are harmed informs the big picture demands and policies that we push for.

There is a lot to consider after someone experiences racial violence or harassment. Every meeting should have the goal of listening to the person and helping them feel safe and secure. It should also be an opportunity to identify the survivor/victim/loved one's goals. These goals can change over time. Consider the process to be dynamic and continuous, with goals that should be revisited throughout your relationship with the victim/survivor/loved one.

### OUTREACH AND INITIAL CONNECTION

Sometimes, people reach out for support after they have been attacked or discriminated against. Other times, we hear about something that happened in the community and affirmatively reach out to offer our support. But it is not unusual for someone to be private, skeptical, or too distraught to engage with other people or organizations about what happened.

If you reach out to someone, it can be helpful to acknowledge that they might be overwhelmed. Let them know about any specific services, expertise, experience, or language fluency that your organization has and invite them to a meeting or to reach out if they want support, when they are ready. They might be inundated with organizations contacting them and may be confused about who to trust. Give them some breathing room before reaching out again.

### FIRST STEPS

#### *In a first meeting...*

**Listen.** Let the person openly share what happened in their own words before hammering in on the details or asking specific questions.

- If the conversation allows, asking the basic “who, what, when, where” of what happened can be helpful for both processing the incident and also accurately recording what happened.

**Assess personal safety.** Is the person's situation stable? Is the environment that they are in safe?

**Identify the community member's goals.**

- Some common goals are
  1. Rebuilding a sense of safety (medical, counseling, support);
  2. Procuring financial assistance (benefits, victims' assistance, or civil damages); and
  3. Accountability (mediation, education, prosecution, penalties).
- By building trust, we try to understand what the person's priorities are and identify how to support people without retraumatizing or burdening them with more to think about.
- Depending on the person's goals, you may want to jump to a specific section in this guide to help draw out additional thoughts so that you can help with next steps.

## **ISSUES TO KEEP IN MIND**

What follows is a list of issues we screen for in the ongoing meetings with a survivor/victim/loved one following an incident.

### **1. Health and Safety Needs**

- Medical
- Mental Health
- Housing

### **2. Other Immediate Needs**

- Financial Assistance and Compensation
- Caregiving and Day-to-Day
- Employment and School
- Immigration

### **3. Reporting and Navigating Legal Systems**

- The Criminal Legal Process
- The Civil Legal Process

### **4. Advocacy and Organizing**

#### **This list is...**

- A general overview of the types of issues that might come up in the wake of an incident.
- Based on our experiences as legal advocates using a holistic approach. The list is not meant for legal professionals only, but it is meant to help advocates and supporters spot legal issues or consider questions that might come up. Having community advocates collaborate with legal professionals to work through these issues may be beneficial.

#### **This list is NOT...**

- A script. The #1 priority is to make sure the person feels heard and to build trust. Deploying these questions like a script can jeopardize or undermine trust building. Questions should be open-ended and invite individuals to speak freely about their experiences.
- A meeting template. This list covers many issues that could arise. It is not appropriate to fit into a single meeting and would likely take multiple conversations to reach some of these topics, if they come up at all.
- A substitute for counseling or emotional support.
- Exhaustive. Every person is different. This list is the set of issues that come up most frequently in our work and that of our community partners, who are on the frontlines in responding to the needs of survivors and victims.

## 1. HEALTH & SAFETY NEEDS

### MEDICAL

#### Physical injuries

After an attack, some people are in a state of shock and have not assessed their injuries. Some people will minimize their injuries. Some people will not have physical injuries. Take a moment and see whether the person needs to see a medical professional. Acknowledge and make space for the harm experienced even if there was no physical contact.

#### Accessing medical care

If the person does not have a primary care provider or a clinic they prefer, find out where they can go to get medical treatment. Look out for services that offer language or culturally competent services, or low-cost services if the person has financial concerns. Ask if the person needs assistance getting to the clinic or hospital or would like someone to accompany them to navigate the process.

#### Health insurance coverage

If insured, individuals can call their insurance company to see what services are covered. If the individual is low-income or elderly, they might be eligible for Medicaid or Medicare. If the individual is undocumented, some states may provide emergency medical health insurance coverage for accidents. Some hospitals also have financial assistance programs for people who are uninsured. It can be helpful to reach out to the hospital's financial or social services departments to ask about those programs.

Depending on the state or city, some government agencies can help with medical bills for those with financial need. In addition, community organizations may be able to provide case management support to help find better quality long-term care and support with insurance and payment issues following an emergency room or doctor's visit. Some states offer free health insurance information and counseling for people on Medicare, including choosing which insurance is best for an individual.

#### Cultural and Personal Sensitivity to Health Care Needs

Not everyone will feel comfortable going to a hospital or doctor's office. Some Limited English proficient people feel anxiety about speaking with medical professionals. Others may be concerned about cost, lack of insurance, or past experiences with the healthcare system that made them feel neglected.

**INDIANAPOLIS, IN:** A man in Indiana was physically attacked by four people in front of the store where he worked. He spent some time coming to his senses after returning to the store and did not speak with the police or anyone else. He attempted to care for his injuries at home, but ultimately had to see a doctor later on, including surgery to treat his eye and mouth injuries. Community support can ensure injuries are treated competently and quickly.

Offering to help find interpreters, navigators, or providers in their language may encourage treatment of injuries that otherwise would be left untreated. Without pressuring an individual to take specific legal action, it is helpful to inform them that documentation of any injuries or a doctor's evaluation could be useful in a court case.



## 1. HEALTH & SAFETY NEEDS (cont.)

### MENTAL HEALTH

#### **Counseling, therapy, and mental health support**

Even more than the physical injuries, violence and harassment can also shatter someone's emotional and mental well-being. It can become difficult to focus on daily responsibilities and work. People may feel depressed, anxious, and helpless. This layers on top of other issues, such as existing social isolation, the toll of navigating the criminal legal system and other public agencies set up to deal with survivors of violence, or existing financial hardship and housing insecurity.

Culturally competent care in a person's native language can be difficult to find. Where mental health professionals who speak a particular language are not available, an interpreter may be able to help bridge the gap. Mental health workers who receive Medicare or Medicaid reimbursements are required to provide interpretation services. In addition, with the increasing popularity of telehealth, many mental health professionals have become certified to provide support by phone or video from other states, expanding the reach of therapists who speak multiple languages. Even if a bicultural, bilingual mental health professional is available, it can take some time and conversation before people want to reach out to discuss their emotional and mental well-being.

#### **Family and Loved One Support**

Not everyone will want to see a mental health professional, but they may feel comfortable relying on family, friends, coworkers, caregivers, or neighbors for support. Check to see if they have support, and if you are not in a position to offer that type of support, connect them and their family members with local organizations that provide social activities and networks so people do not feel isolated.

#### **Sensitivity to Community and Family Dynamics**

There may already be other organizations or loved ones involved in rapid response. There can also be complex family dynamics around what to do. Make sure you get a sense of the people or organizations involved, coordinate with them, and continue to build trust. Be aware that these dynamics may change as the situation progresses. Having conversations up front about what roles family members are serving, as well as observing whether those roles might change, is critical. Also be aware of cultural contexts. Closer friends or family may be referred to with "aunty," "uncle", "sister," and "brother" designations that are not legal relationships.

### HOUSING

#### **Secure Housing**

Some people may need help with relocation if they do not feel secure living near the person who harmed them, such as a neighbor. If emergency shelter is not available or not what the individual wants, you may want to find legal assistance to help a person leave their lease without penalty. In cases where an individual does not want to move but wants the harassment to end, a civil protective order may help keep the harasser away from them. Note that some victims' compensation funds reimburse people for relocation costs related to a crime.

## 1. HEALTH & SAFETY NEEDS (cont.)

### HOUSING (cont.)

#### Public Housing Specific Issues

Residents in public housing may want to request a transfer to a different complex and may be given priority. Local housing authorities that manage public housing have a list of priorities and preferences to determine who is offered housing and in what order. Some may have priority statuses for victims of certain types of violence or individuals referred by the district attorney's office. Navigating the public housing process is confusing and bureaucratic, so translation, interpretation, and navigation support may be needed.

**LOS ANGELES, CA:** A woman living in public housing was harassed by her neighbors, who repeatedly threatened her verbally and damaged her car. She reported the issues to her building management, but she was not taken seriously. Due to financial circumstances, she was unable to move apartments easily.

## 2. OTHER IMMEDIATE NEEDS

### FINANCIAL ASSISTANCE & COMPENSATION

#### Financial Support

Property damage, medical bills, leave from work, counseling – the costs start to add up quickly. All states put aside money in Victim Compensation Funds to pay for medical costs, mental health costs, lost wages, property damages, dependent care and other costs associated with the incident. But actually getting paid through the fund is difficult. The money can take months to come through, if an individual is even eligible in the first place. Bars to eligibility include lack of a police report/cooperation with police, past criminal legal system contact, or contributing to the incident in some way, like using an insult or fighting back. The applicant also has to demonstrate that they have exhausted all their insurance policies or other funding sources such as community fundraising. Reimbursement can take anywhere from a few weeks to years.

Given the challenges, an individual may prefer to fundraise or rely on mutual aid networks to cover immediate costs.

Some civil rights or other civil laws may offer monetary damages if a person incurs injuries, incurs financial losses, proves that their civil rights were violated, or proves that they were repeatedly harassed or discriminated against. See more below under Civil Legal Processes (pages 14-15).

#### Issues with Public Benefits

Fundraising can impact certain benefits that have income and asset limits like Supplemental Security Income (SSI), food stamps, and Medicaid. Donations can push an individual above asset or income limits for benefits, which may cause a period of ineligibility. Community organizations or community members can fundraise on a person's behalf and then make the money available to the person as needed.

## 2. OTHER IMMEDIATE NEEDS (cont.)

### FINANCIAL ASSISTANCE & COMPENSATION (cont.)

#### Issues with Public Benefits (cont.)

The timing of donations affects income and asset limits differently. Help the person research their public benefits and figure out how to cover their costs through donations without jeopardizing their applications. Free financial planning services for benefits recipients are available. Make sure an interpreter is present if the person needs it.

### CAREGIVING & DAY-TO-DAY

#### Errands

An aggressive or violent encounter can make it difficult for people to go to work and take care of themselves. This can be especially hard for people who are living alone or are responsible for caring for another individual in their household. Mutual aid groups are especially helpful for running errands, getting groceries, prescriptions, paperwork, and just checking in. These groups can also help develop low stakes but supportive new relationships when people may feel depressed or anxious about social activity. Community organizations may offer similar services.

#### Caretaking

Many Asian families share child, elder, and loved one care. Ask questions to assess whether the individual needs support taking care of loved ones while they recover. Learning more about the broader family support networks and dynamics can be helpful or harmful in these situations. Depending on the state, the government may offer respite services that can relieve a primary caregiver for a temporary period. Community organizations may be able to help find language-proficient and culturally appropriate volunteers or services to cover these responsibilities.

### EMPLOYMENT & SCHOOL

#### Ability to Continue Working

Many people feel shaken up after an attack, and sometimes incidents happen in the workplace. Check the employer's policies and local laws about discrimination and paid leave to see whether the individual can take time from work without penalty.

#### Workplace Incidents

An act of harassment or discrimination that happens at work is complex. A person may not trust a supervisor or human resources department to adequately address the incident. They may fear retaliation for reporting harassment.

Filing a formal complaint may have benefits. A written report creates an important record for someone who wants to pursue a legal case against their employer. Some HR policies offer paid leave to someone who has been harmed in the workplace. If the person wants to pursue legal action, help them get a consultation with a labor or discrimination attorney before they navigate a workplace process. The person may also be eligible for workers' compensation if they end up out of work.

## 2. OTHER IMMEDIATE NEEDS (cont.)

### EMPLOYMENT & SCHOOL (cont.)

#### School Incidents

Students may feel hesitant to report racist bullying or vandalism for fear of retaliation. But students have the right to learn in a safe environment. Laws in most states require schools to take action in response to bullying, and federal law protects students from race-based harassment.

Filing a complaint with the Department of Justice or Department of Education can trigger an investigation into public schools where discrimination and harassment have occurred. Outcomes include orders to take action to end the harassment and to remedy the hostile learning environment. There are also informal ways to meet with administrators, teachers, students, and parents to address the situation.

### IMMIGRATION

#### Identifying Immigration Issues

Some people are undocumented or have a vulnerable immigration status that makes them hesitant to talk about immigration concerns, even with trusted community organizations. Vulnerable immigration statuses can weigh heavily on a person's mind, even if they do not raise their concerns immediately.

While reassuring the person that everyone has basic rights when they are harmed, ask whether the person has any questions about the incident as it relates to immigration. Sometimes connecting the person with a trusted immigration attorney can also help ease concern.

Each state has its own laws about how much they collude with and share information with ICE. In states where police work closely with ICE, police contact has the potential to trigger contact with immigration authorities. Police sometimes arrest an individual who was attacked or harassed, even when they did not instigate a conflict. Arrest information is automatically shared with ICE. This does not mean that ICE will definitely try to initiate a deportation process, but it does increase the risk that someone will appear on ICE's radar.

**BOSTON, MA:** A low-income, undocumented individual was assaulted and robbed on his way home from work. He did not want to report the incident to the police for fear of being arrested by ICE. He also did not go to the hospital because he was uninsured and worried about costs. He went to a local pharmacy for pain medication instead.

#### Immigration Screening

If you identify that the person's immigration status is more vulnerable, connecting them with legal services or a trusted immigration attorney is important. The immigration advocate can answer more specific immigration questions and will be able to assess whether the incident, being the victim of a crime, or other over-looked circumstances from the person's background could lead to possibilities for immigration relief. An attorney or legal representative can also help them request their immigration file, apply for work authorization, or renew their identification or status down the road.

## 3. REPORTING & NAVIGATING LEGAL SYSTEMS

### THE CRIMINAL LEGAL PROCESS

#### Police Intervention

Some conflicts have already escalated to the point of court intervention, such as a restraining order, or police contact, such as filing a police report. If the person has already been in contact with the police, they may want help following up with the police or getting a copy of the police report for other legal action. Often times, having a community advocate or case manager support them in this can put police on alert that there is a watchful eye.

**PENNSYLVANIA:** A Chinese family had their car vandalized by their neighbor, a child who was instructed by the parents to do it. Because the parent was a local police officer, the family was unsure of how to report the incident. In addition, they did not want to subject the child to the harsh punishments of the criminal legal system.

#### Crime Reporting

Some people will want advice on whether to go to the police in the first place. It may be helpful to walk through what the process of reporting or “pressing charges” actually looks like.

Once the police make a report, the police decide whether to investigate the incident, which involves collection of evidence and looking for a suspect. Many times, the police do not investigate, especially if there is no physical injury. If the police decide to open an investigation and identify a suspect, the local prosecutor will then decide whether to press charges against the person. If the prosecutor declines to prosecute, the criminal process ends without any formal action taken.

Most incidents that do not involve serious physical injury or an extended pattern of harassment will result in no formal action. Most incidents of harassment and discrimination are not covered by criminal law. Also note that many prosecutors are hesitant to try and “prove” a hate crime in court. If an individual is focused on getting the person charged for a hate crime, they should know at the outset that this is an uphill battle.

Immigrants should also be aware of state laws around law enforcement cooperation with ICE. See above (page 12) for more on immigration.

If the prosecutor decides to bring a case, it can go on for several months or even years before it is resolved. Case resolution can involve prison time, paying a fine, community service, or other programs. Once the case is in the hands of the prosecutor, the person reporting the crime does not have the final say over what happens in the case or how it is resolved.

Even when there is physical harm, set expectations. Prepare an individual for the possibility that the police will not take further action beyond logging the incident, although a police report can be important documentation for a civil lawsuit or victim compensation. It is also good to prepare individuals for the possibility that police will question and second guess their testimony, especially facts related to racial bias.

## 3. REPORTING & NAVIGATING LEGAL SYSTEMS (cont.)

### THE CRIMINAL LEGAL PROCESS (cont.)

#### The Role of the Prosecutor

If police are unhelpful or decline to investigate, but an individual still wants to seek criminal penalties, you can also report an incident to a local prosecutor's office. But all of the same precautions about reporting to police also apply to the prosecutor's office.

Victim's advocate departments from district attorney's offices sometimes contact people to offer support while the case is pending, including help explaining the process and answering questions. Sometimes this communication is confusing for people, particularly those who do not speak English. They may not understand why this department is contacting them. You can explain that this is a service provided by the district attorney's office as an extra form of support during the case.

#### Criminal Lawyer

A criminal case is between the state and the person who committed harm. Victims do not need a lawyer because they are not a party in the criminal case. An individual may, however, want a lawyer to pursue civil legal relief.

### CIVIL LEGAL PROCESSES

#### Reporting to Non-Criminal Government Agencies

Community surveys show that many people, especially older people and people with limited English proficiency, do not feel comfortable reporting incidents to the police.

Various town, city, and state agencies have reporting hotlines. Some local and federal prosecutors' offices have their own reporting hotlines as well. StopAAPIHate is a national organization that collects community incident reports and is not tied to law enforcement or government agencies. See if the person has contacted any other agencies, social services, or community organizations. There are a range of options for reporting depending on the person's goals.

#### City or State Government Agencies

Some towns, cities, and states have human rights commissions or other governmental agencies that can open independent investigations into incidents. These investigations can result in monetary damages paid to the individual who was harmed.

For example, the New York City Commission on Human Rights reviews discrimination claims, typically against entities like employers and landlords, and awards monetary damages. Provide information about these processes as an alternative to the criminal process. This is especially useful when an individual is frustrated with the police or prosecutor's response.

#### Other Litigation Options

Civil law offers some alternative options for compensation. For civil lawsuits, local bar associations, including the local Asian Pacific American Bar Association chapter, may be able to provide legal support, as these cases are less commonly served by low-cost or free legal service organizations.

### 3. REPORTING & NAVIGATING LEGAL SYSTEMS (cont.)

#### CIVIL LEGAL PROCESSES (cont.)

##### Other Litigation Options (cont.)

Depending on what occurred, a person may be able to bring a personal injury case. If a case involves discrimination by a company or school, there may be legal claims available under antidiscrimination or employment law. A minority of states (4) have laws that make it easier to sue gun manufacturers in limited circumstances. People should know from the outset that all of these civil lawsuits can take years to resolve.

Legal representation can be costly and burdensome. In some states, the civil division of a law enforcement agency, such as the state Attorney General or federal prosecutor, can bring civil rights or discrimination cases on someone's behalf. They may be more likely to engage if there is pattern of harassment or multiple incidents.

##### “Accountability”

Accountability looks different to everyone. Some people don't want a person to “get away with it” but don't necessarily want the person to go to jail or be saddled with a criminal record.

Some cities or states may offer neighborhood mediation services, or restorative justice processes through the criminal legal system or outside of it. Other cities or states may provide educational or other diversion programs. Restorative justice programs typically require both parties to agree to the process. Even if these solutions are available, the prosecutor or police may not tell the individual that this is an option, so independent research, advocacy, and support is needed.

### 4. ADVOCACY & ORGANIZING

#### Balancing Privacy and Advocacy

Some individuals may not want to speak publicly at all, while others clearly express a desire to raise awareness about the incident and anti-Asian violence generally. Still others may fall somewhere in between. Assessing comfort level and goals are important.

If individuals want to be more public, they may seek support and training if they want to take a primary role in speaking with media or decisionmakers. Consider whether media coverage would be helpful or harmful to their goals. It may be helpful to assess the local political climate or dynamics.

Advocacy can be helpful for certain demands or outcomes. For example, media coverage of discrimination or harassment can support a civil legal strategy. If the person is facing deportation, a community campaign can pressure the government to close the case. If they need to raise funds, sharing their stories can help increase donations. Anonymous stories are also an option. Be careful not to pressure someone to go public with their story when they are not fully comfortable.

#### Community Engagement

Have loved ones and the community heard about the incident? Are they outspoken or motivated to make change? If the individual is comfortable, community organizing can be an opportunity to make them feel supported, raise awareness, contribute to community building, and develop demands. For example, if someone was harassed at a university, other students or faculty might be willing to support the student to pressure the administration into taking specific actions and keeping an eye on any formal investigations.

## 4. ADVOCACY & ORGANIZING (cont.)

### Community Engagement (cont.)

But this is a lot of work. Burnout for individuals who have been harmed and their families is acute. Retelling an anti-Asian violence incident can cause the person to physiologically relive their trauma. Is there time and capacity to do this work responsibly? Are there community organizations, particularly with trauma-informed staff, who can provide support?

### Opportunities for Organizing

If the person is comfortable with being more public, is there an opportunity to call a community safety meeting? There may be others in the community who are also feeling unsafe or experienced harassment but didn't tell anyone. This can be a good way to build power and figure out what people want and need to feel safe. The meeting itself also builds safety. People meet new people who live nearby, expanding their support network.

What forms of safety can the community create? Are people willing to join a phone tree to help their neighbors if something happens? Can people in a certain block or neighborhood create a group text message or private Facebook group?

Do people want to protest a local business that has discriminated against Asian customers? Can you engage local businesses to create a "safety zone" where people can shop and run errands knowing that staff are welcoming and prepared to intervene if there is an incident? Interpersonal violence, harassment, and discrimination are tied to bigger picture issues as well. Organizing locally is a starting point to discuss other issues facing the community.

Asian American  
Legal Defense and  
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The **Asian American Legal Defense and Education Fund (AALDEF)**, founded in 1974, is a New York-based national organization that protects and promotes the civil rights of Asian Americans. By combining litigation, advocacy, education, and organizing, AALDEF works with Asian American communities across the country to secure human rights for all.