

11/17/99

Asian Pacific American Executive Order:

The Community will likely express their appreciation for the Asian Pacific American Executive Order, which was signed by the President on June 7, 1999, and may ask questions about the implementation of the Order.

Background:

- On June 7, 1999, the President signed an Executive Order to improve the quality of life of Asian Americans and Pacific Islanders through increased participation in Federal programs where they may be underserved (e.g. health, human services, education, housing, labor, transportation, and economic and community development.)
- The EO establishes a President's Advisory Commission -- 15 Asian Americans and Pacific Islanders appointed by the President, who have a history of involvement with the APA community, with expertise in a specific field (e.g. health, human services, education, housing, labor, transportation, economic and community development, civil rights, and business.)
- The Commission will advise the President on:
 - 1) How the federal government can better serve the needs of the APA Community,
 - 2) Ways to increase public-sector and private-sector involvement in improving the health and well-being of APA's; and
 - 3) Ways to foster research and data on APA's including data on specific subgroups.
- The EO also establishes a White House initiative on increasing participation of Asian and Pacific Islanders in Federal programs, which will be developed by an interagency working group within the federal government. HHS is the agency that will implement the EO. An Executive Director will be hired to oversee the implementation.
- The idea for an Executive Order originated from an initiative that HHS put together to address the health and human services needs of the APA community. Many APA organizations were key in working with HHS on their initiative as well as the Executive Order.

Talking Points:

- The Executive Order on Asian Pacific Americans is this Administration's most comprehensive effort to address the concerns and needs within the Asian Pacific American Community.
- It will establish a President's Advisory Commission on Asian Americans and Pacific

Islanders, and a White House Initiative, which will be developed by an interagency working group.

- The Executive Order is truly an example of how government can be responsive to the concerns of a community. The Executive Order originated from an initiative on Asian Pacific American at HHS, which I understand, came about because of concern raised by the APA community.
- Through this order we will be able to address so many of the concerns that you and others have raised including health disparities, civil rights, immigration, youth, education and employment issues to name a few.
- Initial steps are being taken to hire an Executive Director and Presidential Personnel will be working on the appointment process for the Commission.



June 7, 1999

EXECUTIVE ORDER

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

June 7, 1999

EXECUTIVE ORDER

- - - - -

INCREASING PARTICIPATION OF ASIAN AMERICANS
AND PACIFIC ISLANDERS IN FEDERAL PROGRAMS

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App.), and in order to improve the quality of life of Asian Americans and Pacific Islanders through increased participation in Federal programs where they may be underserved (e.g., health, human services, education, housing, labor, transportation, and economic and community development), it is hereby ordered as follows:

Section 1. (a) There is established in the Department of Health and Human Services the President's Advisory Commission on Asian Americans and Pacific Islanders (Commission). The Commission shall consist of not more than 15 members appointed by the President, one of which shall be designated by the President as Chair. The Commission shall include members who: (i) have a history of involvement with the Asian American and Pacific Islander communities; (ii) are from the fields of health, human services, education, housing, labor, transportation, economic and community development, civil rights, and the business community; (iii) are from civic associations representing one or more of the diverse Asian American and Pacific Islander communities; and (iv) have such other experience as the President deems appropriate.

(b) The Secretary of the Department of Health and Human Services (Secretary) shall appoint an Executive Director for the Commission.

Sec. 2. The Commission shall provide advice to the President, through the Secretary, on: (a) the development, monitoring, and coordination of Federal efforts to improve the quality of life of Asian Americans and Pacific Islanders through increased participation in Federal programs where such persons may be underserved and the collection of data related to Asian American and Pacific Islander populations and sub-populations; (b) ways to increase public-sector, private-sector, and community involvement in improving the health and well-being of Asian Americans and Pacific Islanders; and (c) ways to foster research and data on Asian Americans and Pacific Islanders, including research and data on public health.

Sec. 3. The Department of Health and Human Services shall establish the White House Initiative on Asian Americans and Pacific Islanders (Initiative), an interagency working group (working group) whose members shall be appointed by their respective agencies. The Executive Director of the Commission shall also serve as the Director of the Initiative, and shall report to the Secretary or the Secretary's designee. The working group shall include both career and noncareer civil service staff and commissioned officers of the Public Health Service with expertise in health, human services, education, housing, labor, transportation, economic and community development, and other relevant issues. The working

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(OVER)

2

group shall advise the Secretary on the implementation and coordination of Federal programs as they relate to Asian Americans and Pacific Islanders across executive departments and agencies.

Sec. 4. The head of each executive department and each agency designated by the Secretary shall appoint a senior Federal official responsible for management or program administration to report directly to the agency head on activity under this Executive order, and to serve as a liaison to the Initiative. The Secretary also may designate additional Federal Government officials, with the agreement of the relevant agency head, to carry out the functions of the Initiative. To the extent permitted by law and to the extent practicable, each executive department and designated agency shall provide any appropriate information requested by the working group, including data relating to the eligibility for and participation of Asian Americans and Pacific Islanders in Federal programs. Where adequate data are not available, the Initiative shall suggest the means of collecting such data.

Sec. 5. Each executive department and designated agency (collectively, the "agency") shall prepare a plan for, and shall document, its efforts to improve the quality of life of Asian Americans and Pacific Islanders through increased participation in Federal programs where Asian Americans and Pacific Islanders may be underserved. This plan shall address, among other things, Federal efforts to: (a) improve the quality of life for Asian Americans and Pacific Islanders through increased participation in Federal programs where they may be underserved and the collection of data related to Asian American and Pacific Islander populations and sub-populations; (b) increase public-sector, private-sector, and community involvement in improving the health and well-being of Asian Americans and Pacific Islanders; and (c) foster research and data on Asian Americans and Pacific Islanders, including research and data on public health. Each agency's plan shall provide appropriate measurable objectives and, after the first year, shall assess that agency's performance on the goals set in the previous year's plan. Each plan shall be submitted at a date to be established by the Secretary.

Sec. 6. The Secretary shall review the agency plans and develop for submission to the President an integrated Federal plan (Federal Plan) to improve the quality of life of Asian American and Pacific Islanders through increased participation in Federal programs where such persons may be underserved. Actions described in the Federal Plan shall address improving access by Asian Americans and Pacific Islanders to Federal programs and fostering advances in relevant research and data. The Secretary shall ensure that the working group is given the opportunity to comment on the proposed Federal Plan prior to its submission to the President. The Secretary shall disseminate the Federal Plan to

appropriate members of the executive branch. The findings and recommendations in the Federal Plan shall be considered by the agencies in their policies and activities.

Sec. 7. Notwithstanding any other Executive order, the responsibilities of the President that are applicable to the Commission under the Federal Advisory Committee Act, as amended, except that of reporting to the Congress, shall be performed by the Secretary in accordance with the guidelines and procedures established by the Administrator of General Services.

Sec. 8. Members of the Commission shall serve without compensation, but shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service (5 U.S.C. 5701-5707). To the extent permitted by law and

more

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appropriations, and where practicable, agencies shall, upon request by the Secretary, provide assistance to the Commission and to the Initiative. The Department of Health and Human Services shall provide administrative support and funding for the Commission.

Sec. 9. The Commission shall terminate 2 years after the date of this Executive order unless the Commission is renewed by the President prior to the end of that 2-year period.

Sec. 10. For the purposes of this order, the terms: (a) "Asian American" includes persons having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent; and

(b) "Pacific Islander" includes the aboriginal, indigenous, native peoples of Hawaii and other Pacific Islands within the jurisdiction of the United States.

WILLIAM J. CLINTON

THE WHITE HOUSE,
June 7, 1999.

#

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February 26, 1999

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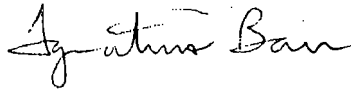
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Bruce Reed
Domestic Policy Council
The White House
1600 Pennsylvania Avenue N.W.
Washington, D.C. 20500

Dear Mr. Reed:

Please find enclosed an op-ed piece about the Department of Health and Human Services' Asian American and Pacific Islander Initiative recently published in AsianWeek. We look forward to continuing to work with you to implement the Initiative as well as obtaining an Executive Order to institutionalize the Initiative through the White House. Please do not hesitate to contact me at phone 415/954-9951 or by e-mail at [<ibau@apiahf.org>](mailto:ibau@apiahf.org) if you have any questions.

Sincerely,



Ignatius Bau
Health Policy Director

Encl.

*True -
Good piece
BR*

*Asian & Pacific
Islander American
Health Forum*

National Advocates for Asian & Pacific Islander Health

We're Not All a Picture of Health

BY IGNATIUS BAU

FACT: There are 2 million Asian Pacific Americans without health insurance, with Korean Americans being the most likely to be uninsured of any ethnic group.

FACT: Cervical cancer is nearly five times more likely among Vietnamese American women than white women.

FACT: The incidence of tuberculosis is the highest among APAs: 41.6 per 100,000, compared to 2.8 per 100,000 for whites, 22.4 for blacks, 16 for Hispanics and 14.5 for American Indians/Alaskan Natives.

FACT: Liver cancer among Vietnamese Americans is more than 11 times higher than among whites.

FACT: The age-adjusted death rate for Native Hawaiians is 901 per 100,000 persons, compared to 524 per 100,000 for the total U.S. population.

These facts are not the reports of APA community advocates but the official findings of the U.S. Department of Health and Human Services (DHHS) in announcing an action plan last year for its Asian American and Pacific Islander Initiative.

Unfortunately, except for *AsianWeek's* coverage ("A Healthy Initiative for U.S.," Nov. 19), the an-

nouncement of this major initiative went unnoticed by the mainstream press. Both the scope and the scale of attention focused on APAs under this initiative is unprecedented. The initiative, under development since June 1997, involves programmatic and fiscal commitments by all DHHS operating divisions to address the health service needs of APAs. Over the last year and a half, department officials have been educated about our diversity and are being held accountable for responding to our communities' needs.

The initiative has six components:

- Improving access to and utilization of health, mental health and social services by APAs.
- Improving the collection of health data on APAs.
- Increasing the number of funded research projects and programs targeted toward APAs.
- Improving training for APA and other health-care professionals to enhance cultural competence.
- Increasing APA participation in the Department of Health workforce.
- Enhancing customer service to APAs, ensuring consideration of APAs in all Department of Health initiatives.

The action agenda details specific programs to implement the initia-



ILLUSTRATIONS BY CALVIN LIU
Cancer creates a feeling of disjointed surrealism ...

tive. Among the departments goals:

- To fund new research projects on diet, lifestyle and cancer among Native Hawaiians and other APAs.
- Conduct a mammography screening project in the Midwest targeting Asian American women.
- Implement a campaign in Boston to educate the Chinese, Cambodian and Vietnamese communities about Hepatitis B and encourage vaccinations.
- Work in New York to enhance genetic screening and counseling and maternal and child health care among Chinese and Southeast Asian immigrants.
- Fund the development of a manual for improving the cultural competence of health providers for APAs living with HIV.

The Department of Health and Human Services also has amended its definition of "primary care health-care professional shortage areas" to include areas where much of the population is linguistically isolated or made up of those who neither speak English well nor have a household member who can translate. This definition is critical for a community's qualification for federal funds for placing health professionals and for supporting community health centers.

Significantly, the initiative does not shy away from addressing difficult issues. For example, the department has committed to recruiting more APAs to its advisory panels and review bodies that make recommendations for federal funding. Such representation is vital in ensuring appropriate funding for APAs. The department also will implement objectives for addressing the underrepresentation of APAs within its own workforce, especially at senior executive staff levels. The

recruitment, promotion and retention of APAs by DHHS, especially in senior executive positions, will help ensure staff support for the implementation of the initiative.

The action plan also acknowledges the contemporary context for assessing our communities' health and well-being: "For Asian Americans and Pacific Islanders living in the U.S., some health disparities may be exacerbated by recent changes in welfare laws that exclude new immigrants from a wide variety of federally financed benefits and services. The new restrictions could have a chilling effect on how Asian American and Pacific Islander communities around the country access health and human services."

Accordingly, the department will continue to fund a research project by the Urban Institute and the University of California at Los Angeles on impact of welfare reform on the health status of immigrants.

Department Deputy Secretary Kevin Thurm should be commended for his commitment to develop and implement this initiative. In announcing the initiative, he said: "We are making it clear, not just to Asian Americans and Pacific Islanders, but to everyone, that ensuring the good health and well-being of Asian Americans and Pacific Islanders in this country is a major part of our agenda."

Key Asian Americans in the department, especially Dennis Hayashi and Kathleen Buto, co-chairs of the DHHS working group that developed the initiative, and Fetty Lee Hawks and Lisa Hasegawa from the Office of Minority Health that provided much of the background research and staff support, also should be recognized for their tremendous work to move the initiative forward.

However, APAs will need to carefully monitor the initiative's implementation and continue its momentum. Planning is taking place for the federal fiscal year 2000 budget, and

the many needs of APAs identified in the initiative must be addressed. The programmatic commitments already made in the initiative's action plan must be monitored to ensure their complete implementation. Community advocates must continue to educate the department's staff and collaborate to maximize our resources and effectiveness.

As Thurm noted in his letter announcing the action plan: "The response from the Asian American and Pacific Islander communities and those serving Asian American and Pacific Islander communities has been tremendous. ... What we have heard clearly substantiates the importance of this initiative, and underscores the amount of work that DHHS still needs to do to better seek out, serve and involve the Asian American and Pacific Islander communities."

As part of an effort to ensure a continued commitment to the initiative, many APA advocates are urging the White House to issue an executive order institutionalizing the initiative. This would give the initiative equal stature with the other three initiatives focused on African Americans, Latinos and Native Americans that have been mandated by executive orders. It also would establish an advisory body to formally monitor the implementation of the initiative. Finally, an executive order would authorize DHHS to work with other federal departments such as the Department of Education to implement the goals and objectives of the initiative.

Asian Americans and Pacific Islanders are often characterized as a model minority. This initiative focuses much needed attention on the health service needs of APAs. At the same time, it recognizes the many resources and the significant experience within our communities in providing human services. The initiative represents a new paradigm for identifying and utilizing our assets to meet our needs. As APAs, we have a responsibility to seize this unique opportunity to ensure the health and well-being of our families and our communities.

Ignatius Bau is the health policy director at the Asian and Pacific Islander American Health Forum.



... and sometimes it's hard to reach out.

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Clinton Courts Asian-Americans



But Some See Dangers in Race-Based Approach

President Clinton has issued an executive order creating a government-wide committee aimed at improving the lives of Asian-Americans. But some question whether it's needed. (Susan Walsh/AP Photo)

By Josh Gerstein
ABCNEWS.com



WASHINGTON, Aug. 16 — In early June, President Clinton did something unprecedented. He issued an executive order creating a government-wide committee and a

White House initiative aimed at improving the lives of Asian-Americans.

While that may not seem extraordinary, White House officials and other experts interviewed for this story said it has been at least 30 years since the federal government undertook such a broad effort on behalf of a particular racial or ethnic group. Some drew parallels to the Kerner Commission on racial issues created by President Johnson in 1967 or to long-standing government efforts to aid Native Americans.

On its face, the new effort to reach out to Asian-Americans is extraordinarily wide-ranging. It aims "to improve the quality of life of Asian-Americans and Pacific Islanders through increased participation in federal programs where they may be underserved."

Why Now?

All of which begs the question: Are Asian-Americans worse off than others in this country?

The perception of Asian-Americans as the "model minority" is somewhat accurate. Statistics show that about 42 percent of Asian-Americans adults have a

SUMMARY

The White House is creating a new panel to improve the lives of Asian-Americans, but is it really needed?

ARCHIVE

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Clinton Courts Vets

HELPERS

about 42 percent of Asian-Americans adults have a bachelor's degree, far outpacing whites, blacks and Hispanics. Asian-Americans have half the divorce rate of whites.

In terms of income, Asian-Americans do about as well as whites. In the few categories where they lag behind the average, Asians generally are better off than African-Americans and Hispanics.

Even the strongest advocates for the president's new initiative acknowledge that it's hard to make the case that Asian-Americans, as a whole, are suffering.

"In the aggregate, many of the socioeconomic statistics come out pretty good," said Ignatius Bau of the Asian Pacific Islander American Health Forum in San Francisco.

But Bau and others point out that some Asian subgroups, especially those composed of more recent immigrants, are in great distress.

Few Americans with roots in Cambodia, Laos or Vietnam have graduated from college and many suffer from serious health problems, such as tuberculosis.

Preferential Treatment?

For those who support the White House initiative, the diversity of the Asian-American community is what requires the government's attention. For those who are skeptical of the effort, the disparity among Asians weakens the claimed justification for the White House's actions.

"So many problems facing all of America cut across group boundaries," said Eugene Volokh, a UCLA law professor who is opposed to what he calls "race preferences."

"It seems to me much more sensible to look to their problems as problems that affect everybody," he said.

Volokh also criticized the Asian-American and Pacific Islander, or AAPI, classification as contrived.

"If you ask someone in Japan or China, they won't say they're Asian," he said.

Critics of the AAPI grouping can even be found here at the White House. In his writings, former Clinton speechwriter Eric Liu has questioned the value of the classification, suggesting that it is artificial and could deepen racial differences. Liu, who recently rejoined the White House staff as an adviser on domestic policy, said he is unfamiliar with the proposed commission and declined to comment on it.

Data Gap

Longtime activist Angela Oh, who served on an advisory board President Clinton set up to examine racial issues, said the Asian-American designation is flawed, but necessary.

"This is a category we've had to work with, unfortunately," Oh said. "That's the way the rest of non-Asian America sees Asian faces."

*Consider
Asian in US can be
flawed but necessary
Asian. As he can
about the Japanese
& Chinese*

One of Oh's biggest complaints is that the federal government gathers little data on Asian-Americans. "The experts who were called [before the race panel] didn't have any data on Asians," she said.

The data gap is one of the problems the new initiative is charged with correcting. In preparing this article, I found that many government agencies can't provide numbers on the Asian community. Federal health officials had no information on Asian-American life expectancy. The Justice Department's surveys of prisons lump Asian-Americans in with Native Americans and others.

Suspicious Minds

But the breadth of Clinton's order makes some suspect that race politics are at work. The order specifically mentions possible problems in the areas of "health, human services, education, housing, labor, transportation, and economic and community development." Do Asian-Americans really face transportation problems others don't?

"Clinton is just trying to buy off Asian political support by setting up something," said John Yoo, a law professor at UC/Berkeley.

In 1997, after the scandal broke over improper foreign donations to the Democratic Party, Asian-American leaders complained bitterly that President Clinton refused to meet with them. They also accused the Democratic National Committee of insensitively investigating the affair. Lawyers working for the DNC asked many donors with Asian-sounding names to prove that they were U.S. citizens.

This year, Asian-Americans have expressed concern about stereotyping and discrimination in the wake of the controversy over alleged espionage at U.S. nuclear laboratories. Wen Ho Lee, a Taiwanese-American who is suspected in the espionage case but has not been charged with any crime, says he was singled out because he was the only Asian in his division at the lab.

A few weeks ago, the president issued an unusual statement saying it was "intolerable" that the patriotism of some Asian-Americans had been questioned.

White House spokesman Barry Toiv denies any politics were at work in the president's decision to propose the Asian-American initiative.

"This initiative is aimed at looking at government programs and how they work and whether they adequately serve this community," he said.

The White House called little attention to the Asian outreach project when it was ordered in June. It distributed no information on the effort beyond the text of the order itself. However, the Democratic Party issued a press release the next day commending Clinton for his action.

why unusual?

who pays for this?

sent an email

Critics of the White House initiative said they understood the president's desire to offer an olive branch to the Asian community, but that establishing a government-wide commission to advance that group's interests could spur other minorities to seek similar assistance. The results could be troubling, they said.

"This kind of Balkanization is a mistake," cautioned Volokh, the UCLA professor.

No Hard Feelings

Advocates for other minority groups were generally positive about the new initiative for Asian-Americans, but they didn't rule out seeking a similar effort for their own constituents.

"It's good to see the administration being responsive," said Hillary Shelton, Washington representative of the NAACP. Shelton added that it was good "to know that if we have the same kinds of needs, we'll get a similar response."

Lisa Navarrete of the Hispanic group La Raza said Latino activists "would contemplate" seeking a similar committee, although she played down the notion of competition among the various minority advocacy groups. "We don't want to begrudge anyone anything," she said.

Oh sided with the critics on this issue, saying that it would be unfortunate if other ethnic or racial groups tried to seek the same kind of structure the president has set up for Asian-Americans. "I think it would be very unhealthy for all these different ethnic groups to start demanding a commission like this," she said. "I think this one is unique."

Navarrete also warned that the committee's mandate might be so broad as to make its task impossible. A presidential-level committee on education of Hispanics has encountered many obstacles, she said. "There's been trouble getting agencies to cooperate with what already exists. Getting it to work will be the real battle."

Josh Gerstein is a White House producer for ABCNEWS.

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Ignition

Day

APA ED - 7/13

- Commission Appointment - Formal process

- Refers to one place - clearly confusion

• Self-nominate

• Slate by broker

- E-mail from CPL + Personnel ^{+ conference call} on process
Sent to Bob Nash cc: Laura

~~ED~~ Deadline -

~~ED~~ broker says of name

(WAPAFAC) What ~~responsibility~~ Comm. on responsibility
(OCA)

- Agency - wait until ED on board

APA appointment

~~for~~ PACAC -

AAGEN * 7/27

- Cab. Affairs - COS mtg

- Letter from POTUS on ED ^{to agency} - OMB doesn't do. - Cab. Affairs

- Comm. ED ^{serve} as facilitator of interagency coordination
Long-term ~~of~~ vision.

- FY2001 Budget - set aside \$ - resource + program -

- Role of Tom

Meet
w/ Barbara

②

- Outreach

o Whirl

o Follow-up

- Regional Office -

Informal Network

The following is the definition section to be added to the Asian American and Pacific Islander Executive order:

"Sec. 10. For the purposes of this order, the terms: (a) 'Asian American' includes persons having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent; and

(b) 'Pacific Islander' includes the aboriginal, indigenous, native peoples of Hawaii and other Pacific Islands within the jurisdiction of the United States."

6-1-99

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May 28, 1999 456-7927

The Honorable William Jefferson Clinton
President of the United States
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. President:

We write with regard to an Executive Order that may soon be issued, and the potential impact of the Executive Order on litigation that is pending before the U.S. Supreme Court.

The litigation before the Supreme Court is *Rice v. Cayetano*. In the *Rice* case, the petitioner challenges his right to vote in an election for the Office of Hawaiian Affairs (OHA). The Office was established by the citizens of Hawaii in 1978 through the amendment of the Hawaii State Constitution. OHA administers programs designed to address the conditions of Native Hawaiians. OHA's authority arises out of a 1959 Federal delegation of authority to the State of Hawaii, when as a condition of its admission into the Union, the State agreed to incorporate the provisions of a Federal law, the Hawaiian Homes Commission Act of 1920, into the Hawaii State Constitution, to accept a trust responsibility for the Hawaiian home lands, and to expend a portion of ceded land revenues for the "betterment of the conditions of Native Hawaiians". The Office of Hawaiian Affairs was later established to carry out the State's responsibilities to Native Hawaiians. At its essence, the *Rice* litigation challenges the authority of the Congress to enact legislation to address the conditions of any of the aboriginal, indigenous, native people of the United States who are not organized into tribal entities.

Pursuant to numerous sources of Constitutional authority, including Article I, Section 8, clause 3 of the Constitution, and the authority to enact legislation affecting U.S. territories, or to implement treaties to which the United States is party, or to provide

for the general welfare, the Congress has approved, and succeeding Presidents have signed into law, hundreds of Federal statutes intended to address conditions of the aboriginal, indigenous, native people of this land — American Indians, Alaska Natives and Native Hawaiians — in recognition of the fact that these Native Americans have a special relationship with the United States.

We believe that through these enactments, the United States has made clear that Native Hawaiians are Native Americans, as opposed to a group which can be defined only by reference to racial or ethnic criteria, as the petitioner in the *Rice* litigation maintains in order to advance his claim.

The Executive Order designed to increase the participation of Asian Americans and Pacific Islanders in Federal Programs is an initiative which we fully support, and we look forward to working with you to assure its effective and comprehensive implementation. We have been advised that the Executive Order would establish a Commission that would provide advice to the President on the development, monitoring and coordination of Federal efforts to improve the quality of life of Asian Americans and Pacific Islanders through increased participation in Federal programs where they may be under-served and the collection of data related to Asian American and Pacific Islander populations and sub-populations. While it is our understanding that the Executive Order establishes no definitions of the targeted populations, because the collection of data by the Federal government is governed by Office of Management and Budget (OMB) Directive Number 15, we assume the definitions contained therein would be those which would be applied in carrying out the Executive Order's mandates.

As you may know, OMB Directive No. 15 establishes a category in which Native Hawaiians and Pacific Islanders are grouped together and defined as follows: "The 'Native Hawaiian or Other Pacific Islander' category will be defined as 'A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.'" Our concern lies with the obvious relationship between the Executive Order and the category established in OMB Directive No. 15 which links Native Hawaiians not with other Native Americans of the United States, but with descendants of the original people of the Pacific Island nations.

We are concerned that in the absence of some clarifying language in the Executive Order, the petitioner in the *Rice* litigation is likely to assert that the Executive Order, taken together with OMB Directive No. 15, makes clear that the Executive branch of our government has a different view of whether Native Hawaiians are aboriginal, indigenous, native people of the United States, or Native Americans.

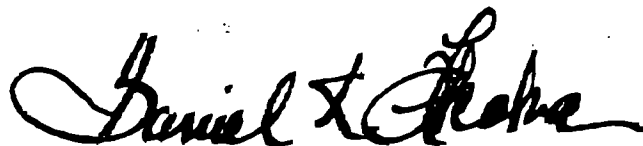
Accordingly, we would propose, for your consideration for inclusion in the Executive Order, the following definitions as alternatives to the current absence of definitional provisions in the Executive Order.

"For the purpose of this Executive Order, 'Pacific Islander' includes the aboriginal, indigenous, native people of Hawaii and other Pacific Islanders," or

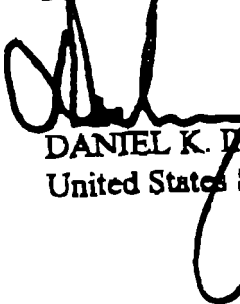
"For the purpose of this Executive Order, the term 'Pacific Islander' means a person having origins in the original peoples of Guam, Samoa, or other Pacific Islands, or the aboriginal, indigenous, native people of Hawaii."

We believe that both of these proposed definitions retain the scope and intent of OMB Directive No. 15, while avoiding the potential for mischaracterization of the United States' position as it relates to the manner in which our government has entered into a course of dealings with the aboriginal, indigenous, native citizens of the United States.

We would very much appreciate the opportunity to meet with you prior to the issuance of the Executive Order to discuss this matter, for it is a matter of considerable and significant importance not only to the citizens of the State of Hawaii, but to the Constitutional authority of the United States Congress.


DANIEL K. AKAKA
United States Senator

Sincerely,


DANIEL K. INOUE
United States Senator

UERNER LIPFERT

FAX NO. 1 2023716279

Office of Hawaiian Affairs

711 Kapi'olani Boulevard
Suite 500
Honolulu, Hawai'i 96813-5249

May 21, 1999

SENATOR DANIEL K. AKAKA
WASHINGTON, D.C.
99 MAY 21 PM 12:17

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

We are writing to express our concern regarding an Executive Order on health that you are considering that will affect the Native Hawaiian community.

We understand that your Administration has been working to develop an Executive Order to meet the health needs of Native Hawaiians, Pacific Islanders, and Asians. While we applaud these efforts, we are concerned that Native Hawaiians, who represent the largest Pacific island population in the nation, have not been consulted in this process and are incorrectly categorized among Asians.

In 1997, your Administration issued Office of Management and Budget (OMB) Statistical Policy Directive No. 15, creating a new federal category for "Native Hawaiians and other Pacific Islanders." This designation was intended for use in all administrative, statistical, and civil rights compliance reporting. In order to remain consistent with OMB No. 15, we urge you to include a similar designation for Native Hawaiians in the Executive Order on health.

We are further concerned that this Executive Order is being issued without having consulted the Native Hawaiian community. Therefore, we respectfully request that we be permitted to meet and confer with you or your staff to assure that any Executive Order issued be consistent with OMB Policy Directive No. 15 in order to better meet the health needs of Native Hawaiians.

I look forward to meeting with you in the near future. In the meantime, if I may be of any assistance to you, please do not hesitate to contact me.

Sincerely,



Rowena Akaka
Chair
Office of Hawaiian Affairs

cc: Senator Daniel K. Inouye
Senator Daniel K. Akaka
Representative Neil Abercrombie
Representative Patsy Mink

182/9234rs r44

CONFIDENTIAL

URGENT

TO: Mona Pasquil
FROM: Chantale Wong
DATE: June 1, 1999
SUBJECT: Asian Pacific Islander (API) Executive Order

The API E.O. has caused some concerns among the native Hawaiian groups that they would be considered an ethnic minority group while this issue is before the Supreme Court (*Rice v. Cayetano*)

BACKGROUND

HHS had initiated an API health initiative. This initiative have expanded it to an Executive Order that would have broader implications for access for the Asian Pacific Islander community to government programs and the collection of statistical data on API's. The E.O. has been in the works for about 2 years and OPL would like to have a signing ceremony for the POTUS and VPOTUS this coming Monday. OPL had taken the lead because Doris Matsui was working on it with HHS.

Rice V. Cayetano is a case before the Supreme Court (who granted Cert just a month ago) in which the petitioner challenges his right to vote in an election for the Trustee of the Office of Hawaiian Affairs. (See attached Akaka and Inouye's letter to POTUS). The case hinges on whether native Hawaiians are considered ethnic minorities and therefore does not deserve special treatment under the Constitution or are they an aboriginal people with whom the United States government have a special relationship. The Department of the Interior (in a confidential memo to the Solicitor General) has argued that indeed Congress in more than 40 statutes have established that special relationship. Justice Department (Civil Rights and Tribal Justice) would also be in agreement with DOI.

OMB Directive 15, "Race and Ethnic Standards for Federal Statistics and Administrative Reporting" was changed in October 30, 1997 to separate Asian or Pacific Islander category into two categories - "Asian" and "Native Hawaiian or Other Pacific Islander" and it goes on to define the latter category as "a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands."

ISSUE

Should the API EO confer a different definition upon the native Hawaiian people? If it inadvertently does so, what implications would this have with the Solicitor General's pleading before the Supreme Court? The native Hawaiian community is very concern that this EO would predefine their community as an ethnic minority and would adversely impact this court case.

This would have significant political consequences for the native Hawaiians. If considered an ethnic minority, the Adarand would govern their access to all sorts of programs. The potential for their rights as indigenous people of this country would be severely jeopardized.

The native Hawaiian community does not feel that they have been thoroughly consulted on this E.O. nor does the Hawaii delegation (witness by the letter that they sent).

There will be a meeting at the VP's Ceremonial Office tomorrow morning at 10:30 am (called by Victoria Lynch). I asked her whether Bill Lann Lee was coming. She told me that he couldn't make it. He is very important to the *Rice* case and so is the opinion of the Solicitor General.

RECOMMENDATION

I would recommend the postponement of the signing of the E.O. until we can sort this thing out. At a minimum, the Solicitor General should weigh in. I am sure that he and the AG would feel very strongly because the case is before the Supreme Court.

I'll be available on my cell if you need to chat (202)489-8788

May 28, 1999

The Honorable William Jefferson Clinton
President of the United States
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. President:

We write with regard to an Executive Order that we are advised is soon to be issued, and the potential impact of the Executive Order on litigation that is now pending before the U.S. Supreme Court.

The litigation before the Supreme Court is *Rice v. Cayetano*. In the *Rice* case, the petitioner challenges his right to vote in an election for the Office of Hawaiian Affairs. The Office was established by the citizens of Hawaii in 1978 through the amendment of the Hawaii State Constitution. The authority exercised by the Office of Hawaiian Affairs for the provision of programs designed to address the conditions of Native Hawaiians arises out of a Federal delegation of authority to the State of Hawaii, when in 1959, as a condition of its admission into the Union, the State agreed to incorporate the provisions of a Federal law, the Hawaiian Homes Commission Act of 1921, into the Hawaii Statehood Act and the Hawaii State Constitution, to accept a trust responsibility for the Hawaiian home lands, and to expend a portion of ceded land revenues for the "betterment of the conditions of Native Hawaiians". The Office of Hawaiian Affairs was later established to carry out the State's responsibilities to Native Hawaiians. At its essence, the *Rice* litigation challenges the authority of the Congress to enact legislation to address the conditions of any of the aboriginal, indigenous, native people of the United States who are not organized into tribal entities.

Pursuant to numerous sources of Constitutional authority, including Article I, Section 8, clause 3 of the Constitution, and the authority to enact legislation affecting

U.S. territories, or to implement treaties to which the United States is party, or to provide for the general welfare, the Congress has approved, and succeeding Presidents have signed into law, hundreds of Federal statutes intended to address conditions of the aboriginal, indigenous, native people of this land — American Indians, Alaska Natives and Native Hawaiians — in recognition of the fact that these Native Americans have a special relationship with the United States.

We believe that through these enactments, the United States has made clear that Native Hawaiians are Native Americans, as opposed to a group which can be defined only by reference to racial or ethnic criteria, as the petitioner in the *Rice* litigation maintains in order to advance his claim that an election for the Office of Hawaiian Affairs in which only beneficiaries of the trusts administered by the Office of Hawaiian Affairs are authorized to participate, violates his rights under the Fourteenth and Fifteenth Amendments to the U.S. Constitution.

The Executive Order designed to increase the participation of Asian Americans and Pacific Islanders in Federal Programs is an initiative which we fully support, and we look forward to working with you to assure its effective and comprehensive implementation. We have been advised that the Executive Order would establish a Commission that would provide advice on the development, monitoring and coordination of Federal efforts to improve the quality of life of Asian Americans and Pacific Islanders through increased participation in Federal programs where they may be under-served and the collection of data related to Asian American and Pacific Islander populations and sub-populations. While it is our understanding that the Executive Order establishes no definitions of the targeted populations, because the collection of data by the Federal government is governed by Office of Management and Budget (OMB) Directive Number 15, we assume the definitions contained therein would be those which would be applied in carrying out the Executive Order's mandates.

As you may know, OMB Directive No. 15 establishes a category in which Native Hawaiians and Pacific Islanders are grouped together and defined as follows: "The 'Native Hawaiian or Other Pacific Islander' category will be defined as 'A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.'" Our concern lies with the obvious relationship between the Executive Order and the category established in OMB Directive No. 15 which links Native Hawaiians not with other Native Americans of the United States, but with descendants of the original people of the Pacific Island nations.

We are concerned that in the absence of some clarifying language in the Executive Order, the petitioner in the *Rice* litigation is likely to assert that the Executive Order, taken together with OMB Directive No. 15, makes clear that the Executive branch of our

5310

government has a different view of whether Native Hawaiians are aboriginal, indigenous, native people of the United States, or Native Americans.

Accordingly, we would propose, for your consideration for inclusion in the Executive Order, the following definitions as alternatives to the current absence of definitional provisions in the Executive Order.

① "For the purpose of this Executive Order, 'Pacific Islander' includes the aboriginal, indigenous, native people of Hawaii and other Pacific Islanders," or *within jurisdiction in the U.S.*

② *WSS* "For the purpose of this Executive Order, the term 'Pacific Islander' means a person having origins in the original peoples of Guam, Samoa, or other Pacific Islands, or the aboriginal, indigenous, native people of Hawaii." ✓

We believe that both of these proposed definitions retain the scope and intent of OMB Directive No. 15, while avoiding the potential for mischaracterization of the United States' position as it relates to the manner in which our government has entered into a course of dealings with the aboriginal, indigenous, native citizens of the United States.

We would very much appreciate the opportunity to meet with you prior to the issuance of the Executive Order to discuss this matter, for it is a matter of considerable and significant importance not only to the citizens of the State of Hawaii, but to the Constitutional authority of the United States Congress.

Sincerely,

DANIEL K. AKA'KA
United States Senator

DANIEL K. INOUE
United States Senator

99 MAY 20 PM5:29



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

May 20, 1999

6-5581

THE DIRECTOR

MEMORANDUM FOR THE PRESIDENT

FROM:

Jacob J. Lew
Director

SUBJECT:

Proposed Executive Order Entitled "Increasing Participation of Asian Americans and Pacific Islanders in Federal Programs"

SUMMARY: This memorandum forwards for your consideration a proposed Executive order that was prepared by the Department of Health and Human Services. The proposed order would create a Federal advisory committee and an interagency working group to provide advice to the President and the Secretary of Health and Human Services ("Secretary") on ways to increase the participation of Asian Americans and Pacific Islanders in Federal programs where they may be underserved.

BACKGROUND: The proposed Executive order would create in the Department of Health and Human Services the "President's Advisory Commission on Asian Americans and Pacific Islanders" ("Commission"). The Commission would be composed of not more than 15 members who: (a) have a history of involvement with the Asian American and Pacific Islander communities; (b) are from the fields of health, education, civil rights, and the business community; (c) are from civic associations representing Asian American and Pacific Islander communities; and (d) have such other experience as appropriate. The Commission would provide advice to the President, through the Secretary, on: (a) Federal efforts to increase participation of Asian Americans and Pacific Islanders in Federal programs where they are underserved and the collection of data related to Asian Americans and Pacific Islanders; (b) ways to increase public sector, private sector, and community involvement in improving the health and well-being of Asian Americans and Pacific Islanders; and (c) ways to foster research and data on Asian Americans and Pacific Islanders, including research and data on public health.

The order would also direct the Department of Health and Human Services to establish an interagency working group called the "White House Initiative on Asian American and Pacific Islanders" ("Initiative"). The Initiative would consist of civil service staff and commissioned officers with expertise in health, education, housing, labor, and economic and community development. The Initiative would provide advice to the Secretary on the implementation and coordination of Federal programs as they relate to Asian Americans and Pacific Islanders across Executive departments and agencies.

The order would also direct Executive Departments and designated agencies to prepare a plan for agency efforts to improve the quality of life of Asian Americans and Pacific Islanders through increased participation in Federal programs where they may be underserved.

None of the affected agencies object to the proposed Executive order.

RECOMMENDATION: I recommend that you sign the proposed Executive order.

Attachment

EXECUTIVE ORDER

INCREASING PARTICIPATION OF ASIAN AMERICANS
AND PACIFIC ISLANDERS IN FEDERAL PROGRAMS

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App.), and in order to improve the quality of life of Asian Americans and Pacific Islanders through increased participation in Federal programs where they may be underserved (e.g., health, human services, education, housing, labor, transportation, and economic and community development), it is hereby ordered as follows:

Section 1. (a) There shall be established in the Department of Health and Human Services the President's Advisory Commission on Asian Americans and Pacific Islanders ("Commission"). The Commission shall consist of not more than 15 members, including the Chair, to be appointed by the President. The Commission shall include members who: (i) have a history of involvement with the Asian American and Pacific Islander communities; (ii) are from the fields of health, human services, education, housing, labor, transportation, economic and community development, civil rights, and the business community; (iii) are from civic associations representing one or more of the diverse Asian American and Pacific Islander communities; and (iv) have such other experience as the President deems appropriate.

(b) The Secretary of HHS ("Secretary") shall appoint an Executive Director for the Commission.

Sec. 2. The Commission shall provide advice to the President, through the Secretary, on: (a) the development, monitoring, and coordination of Federal efforts to improve the quality of life of Asian Americans and Pacific Islanders through increased participation in Federal programs where they may be underserved and the collection of data related to Asian American and Pacific Islander populations and sub-populations; (b) ways to increase public-sector, private-sector, and community involvement in improving the health and well-being of Asian Americans and Pacific Islanders; and (c) ways to

foster research and data on Asian Americans and Pacific Islanders, including research and data on public health.

Sec. 3. The Department of Health and Human Services shall establish the White House Initiative on Asian Americans and Pacific Islanders ("Initiative"), an interagency working group ("working group") whose members shall be requested by the Secretary and appointed by their respective agencies. The Executive Director for the Commission shall also serve as the Director for the Initiative, and shall report to the Secretary or the Secretary's designee. The working group shall include both career and non-career civil service staff and commissioned officers with expertise in health, human services, education, housing, labor, transportation, economic and community development, and other relevant issues. The working group shall advise the Secretary on the implementation and coordination of Federal programs as they relate to Asian Americans and Pacific Islanders across Executive departments and agencies.

Sec. 4. The head of each Executive department and each agency designated by the Secretary shall appoint a Federal senior official responsible for management or program administration to report directly to the agency head on activity under this Executive order, and to serve as a liaison to the Initiative. The Secretary also may designate additional Federal Government officials, with the agreement of the relevant agency head, to carry out the functions of the Initiative. To the extent permitted by law and to the extent practicable, each Executive department and designated agency shall provide any appropriate information requested by the working group, including data relating to the eligibility for and participation of Asian Americans and Pacific Islanders in Federal programs. Where adequate data are not available, the Initiative shall suggest the means of collecting such data.

Sec. 5. Each Executive department and designated agency (collectively, the "agency") shall prepare a plan for, and shall document, that agency's efforts to improve the quality of life of Asian Americans and Pacific Islanders through increased participation in Federal programs where Asian Americans and Pacific Islanders may be underserved. This plan shall address, among other things, Federal efforts to: (a) improve the quality of life for Asian Americans and Pacific Islanders through increased

participation in Federal programs where they may be underserved and the collection of data related to Asian American and Pacific Islander populations and sub-populations; (b) increase public-sector, private-sector, and community involvement in improving the health and well-being of Asian Americans and Pacific Islanders; and (c) foster research and data on Asian Americans and Pacific Islanders, including research and data on public health. Each agency's plan shall provide appropriate measurable objectives and, after the first year, shall assess that agency's performance on the goals set in the previous year's annual plan. Each plan shall be submitted by a date and time to be established by the Secretary.

Sec. 6. The Secretary shall review the agency plans and develop for submission to the President an integrated Federal plan ("Federal Plan") to improve the quality of life of Asian American and Pacific Islanders through increased participation in Federal programs where they may be underserved. Actions described in the Federal Plan shall address improving access by Asian Americans and Pacific Islanders to Federal programs, and fostering advances in relevant research and data. The Secretary shall ensure that the working group is given the opportunity to comment on the proposed Federal Plan prior to its submission to the President. The Secretary shall disseminate the Federal Plan to appropriate members of the Executive branch. The findings and recommendations in the Federal Plan shall be considered by the agencies in their policies and activities.

Sec. 7. Notwithstanding any other Executive order, the responsibilities of the President that are applicable to the Commission under the Federal Advisory Committee Act, as amended, except that of reporting to the Congress, shall be performed by the Secretary in accordance with the guidelines and procedures established by the Administrator of General Services.

Sec. 8. Members of the Commission shall serve without compensation, but shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service (5 U.S.C. 5701-5707). To the extent permitted by law and appropriations, and where practicable, agencies shall, upon request by the Secretary, provide assistance to the Commission and to the Initiative. The Department of Health and Human Services shall provide administrative support and

funding for the Commission.

Sec. 9. The Commission shall terminate two years after the date of this Executive order unless the Commission is renewed by the President prior to the end of that two-year period.

THE WHITE HOUSE,

Irene Bueno

 06/01/99 06:39:55 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: Laura Emmett/WHO/EOP, Devorah R. Adler/OPD/EOP
Subject: Asian American and Pacific Islander Executive Order

First, I apologize if this e-mail is long but this is a complicated issue and I wanted to give you a heads up.

I have been invited to attend a meeting on Wed. 6/2 convened by Mary Beth Cahill and attended by Chuck Ruff, Interior, Solicitor General Waxman, etc. to find a solution to an issue that has raised as to how Native Hawaiians are treated in the Asian American and Pacific Islander Executive Order (EO). The EO is scheduled to be signed next Monday, 6/7. The EO seeks to increase participation of Asian Americans and Pacific Islanders in federal programs where they are underrepresented particularly in health, housing, education, labor, community development programs.

Senators Inoyue, Akaka, former Governor Waihe'e, Rep. Underwood, Chairman of the Congressional Asian Pacific Caucus, have weighed in on this issue to specifically name Native Hawaiians in the EO. There is an OMB Directive 15 in which Native Hawaiians are specifically designated and these members are asking that the EO somehow recognize that Native Hawaiians are a different category which is consistent with the OMB Directive.

This is a new issue to me but my understanding is that the reason the Hawaiian Congressional members and former Governor feel so strongly is related to case that is pending before the Supreme Court in which the petitioner challenges to have a right to vote in the election for the Office of Hawaiian Affairs (OHA) that was established by delegation of Congressional authority to the State of Hawaii to address the conditions of Native Hawaiians. Native Hawaiians are only allowed to vote in OHA elections. Petitioner alleges that Native Hawaiians are not a aboriginal, indigenous, native people of the US but rather an ethnic minority and therefore is discriminatory to prohibit non-Native Hawaiians from voting in OHA elections. The 9th Circuit found upheld the OHA practice finding that Native Hawaiians are part of a special aboriginal group.

The Congressional members from Hawaii and former Governor are concerned that if the EO omits any reference to Native Hawaiians as a separate category that this may affect the outcome of the case because it could be evidence in support of petitioner's claim (i.e. the Federal Government does not recognize Native Hawaiians as a special indigenous category but rather an ethnic minority and therefore only allowing Native Hawaiians to vote in the OHA elections is unconstitutional).

The Congressional members make proposals that I think will address this issue without delaying the signing ceremony. For example, clarifying that Pacific Islanders include native people of Hawaii and other Pacific Islands. This solution would be consistent with OMB Directive 15 in which Native Hawaiians are specifically designated.

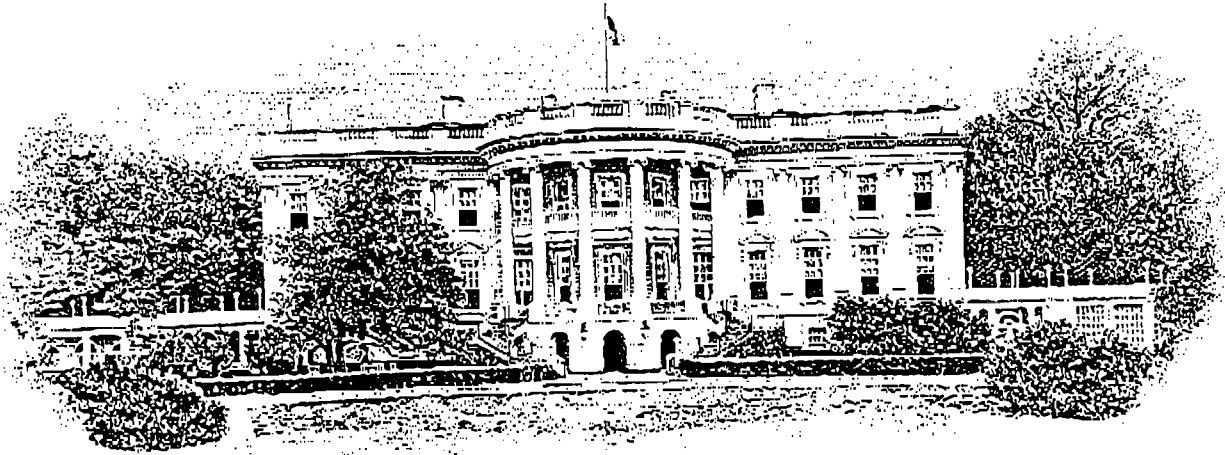
I will let you know how this is resolved or let me know if you need more info.

Thanks.

Message Sent To:

Bruce N. Reed/OPD/EOP
Elena Kagan/OPD/EOP
Thomas L. Freedman/OPD/EOP
Mary L. Smith/OPD/EOP
Christopher C. Jennings/OPD/EOP
Paul J. Weinstein Jr./OPD/EOP

THE WHITE HOUSE
OFFICE OF INTERGOVERNMENTAL AFFAIRS



FAX COVER SHEET

To: IRENE BUENO

From: TODD BLEDSOE

Date: _____

No. of Pages: 4

Phone: _____

Fax: 65581

Phone: 202/456-2896

Fax: 202/456-2889

Message: _____

Kathie

VERNER, LIFFERT, BERNHARD, MCPHERSON AND HAND

CHARTERED

745 Fort Street, Suite 600
Honolulu, Hawaii 96813

Direct: (808) 535-4105

Telephone: (808) 566-0999

Telecopier: (808) 566-0995

TELECOPIER COVER PAGE

Toad
Can you
track this
down?

DATE: May 24, 1999

TO: Mr. Frederick P. DuVal
Deputy Assistant to the President and Deputy Director
of Intergovernmental AffairsFROM: John Waihee *JW*

CLIENT NO: 8130.0001

TELECOPIER NO.: (202) 456-2889

TOTAL PAGES: 3

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Per our telephone conversation today, I am forwarding to you a copy of my fax to Lynn Cutler transmitting a May 21, 1999 letter to The President from Rowena Akana regarding the proposed Executive Order. I would appreciate any help that you can give us on this matter.

Please call me or Denis Dwyer at (202) 371-6131 or 371-6000.

Law Offices
VERNER, LIPFERT, BERNHARD, McPHERSON AND HAND
Chartered
Suite 700
901-15th Street, N.W.
Washington, D.C. 20005-2301
(202) 371-6000
TELECOPIER # (202) 371-6279

TELECOPIER COVER PAGE

DATE: May 21, 1999

TO: Lynn Cutler

COMPANY: The White House

FROM: Gov. John Waihees

TEL. NO.: 202-371-6131

TELECOPIER NO.: 202-456-2889

TOTAL NO. OF PAGES 2

(INCLUDING COVER PAGE)

CONFIRMATION TEL. NO.: 202-456-5019

CLIENT/MATTER NO.: 08130.0001

The attached letter describes the concerns that I called you about and that you discussed with Denis Dwyer of my office. By not acknowledging Native Hawaiians separately in the Executive Order as proposed in the attached letter, the President will not have appropriately recognized this community. The letter merely requests that the Native Hawaiians be recognized in the Executive Order consistent with OMB Policy Directive No. 15. Thanks very much for your attention to this important issue. Please feel free to contact me at (808) 535-4105 or Denis Dwyer at (202) 371-6131 if you have any questions.

FOR TELECOPIER OPERATOR ONLY

TRANSMITTED: DATE: TIME: OPERATOR:

TELECOPIER CANNON FAX L-910 (202) 371-6279
FOR ASSISTANCE CALL TELECOPIER OPERATOR AT (202) 371-6245

Office of Hawaiian Affairs

711 Kapi'olani Boulevard
Suite 500
Honolulu, Hawai'i 96813-5249

May 21, 1999

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

We are writing to express our concern regarding an Executive Order on health that you are considering that will affect the Native Hawaiian community.

We understand that your Administration has been working to develop an Executive Order to meet the health needs of Native Hawaiians, Pacific Islanders, and Asians. While we applaud these efforts, we are concerned that Native Hawaiians, who represent the largest Pacific island population in the nation, have not been consulted in this process and are incorrectly categorized among Asians.

In 1997, your Administration issued Office of Management and Budget (OMB) Statistical Policy Directive No. 15, creating a new federal category for "Native Hawaiians and other Pacific Islanders." This designation was intended for use in all administrative, statistical, and civil rights compliance reporting. In order to remain consistent with OMB No. 15, we urge you to include a similar designation for Native Hawaiians in the Executive Order on health.

We are further concerned that this Executive Order is being issued without having consulted the Native Hawaiian community. Therefore, we respectfully request that we be permitted to meet and confer with you or your staff to assure that any Executive Order issued be consistent with OMB Policy Directive No. 15 in order to better meet the health needs of Native Hawaiians.

I look forward to meeting with you in the near future. In the meantime, if I may be of any assistance to you, please do not hesitate to contact me.

Sincerely,



Rowena Akaka
Chair
Office of Hawaiian Affairs

cc: Senator Daniel K. Inouye
Senator Daniel K. Akaka
Representative Neil Abernethy
Representative Patsy Mink

APIAHE

Asian & Pacific Islander American Health Forum
 942 Market Street, Suite 200 San Francisco CA 94102
 Phone 415/954-9951 Fax 415/954-9999
 E-Mail <bau@apiant.org> www.apiant.org

DATE: Thursday, May 20, 1999

CONFIDENTIAL FAX (3 PAGES) TO:

Pua'alaokalani Au
 Mohammad Akhter
 Kekuni Blaisdell
 Rogene Calvert
 Art Chen
 Moon Chen
 Mary Chung
 Clayton Fong
 Kalpalatha Guntupalli
 Jennie Chen-Hansen
 Sherry Hirota
 Stephen Jiang
 Howard Koh
 Stevenson Kuatini
 Theeray Kuoch
 Ford Kuramoto

Percival Leha'uli
 Harry Lee
 Samuel Lin
 Jane Lin-Fu
 Roland Lowe
 Norman Mineta
 Karen Narasaki
 Lola Sablan-Santos
 Susan Shinagawa
 David Takeuchi
 Ho Tran
 Dorothy Wong
 KaYing Yang

Papa Ola Lokahi
 American Public Health Association
 John Burns School of Medicine
 Asian American Health Coalition
 Alameda County Health Care Service
 Asian American and Pacific Islander Health Promotion
 National Asian Women's Health Organization
 National Asian Pacific Center on Aging
 American Association of Physicians of Indian Origin
 On Lok
 Asian Health Services
 Association of Asian Pacific Community Health Organizations
 Executive Office of Health and Human Services
 Ministry of Health Services
 Khmer Health Advocates
 National Asian Pacific American Families Against Substance Abuse
 Tongan Community Service Center
 Chinese Hospital
 Pharmacia-Upjohn Co.
 Asian Pacific American Institute for Congressional Studies
 National Asian Pacific American Legal Consortium
 Guam Communications Network
 Intercultural Cancer Council
 Indiana University Dept. of Sociology
 Center for Minority and Refugee Health
 International District Community Health Center
 Southeast Asian Resource Action Center

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 713-884-6089
 510-628-7894
 814-766-5219
 415-989-9758
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 202-452-1495
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 202-667-6449

FROM: Ignatius Bau and Dong Suh/Asian and Pacific Islander American Health Forum

Please find enclosed some **CONFIDENTIAL** background materials about the Executive Order establishing the White House Initiative on Asian Americans and Pacific Islanders that we expect to be signed by President Clinton next week. These materials are based on information that we have received to date about the Executive Order and are subject to change as the Executive Order is finalized. **PLEASE KEEP THESE MATERIALS CONFIDENTIAL** until we know that the Executive Order will be signed. The White House has asked us to keep the signing of the Executive Order confidential and embargoed from the media and general public.

If you have any questions, please do not hesitate to call Ignatius Bau at 415/954-8951 or Dong Suh at 703/841-9128.

CONFIDENTIAL**BACKGROUND ON EXECUTIVE ORDER ESTABLISHING
THE WHITE HOUSE INITIATIVE ON ASIAN AMERICANS AND PACIFIC ISLANDERS****DRAFT****What is the White House Initiative on Asian Americans and Pacific Islanders?**

The White House Initiative on Asian Americans and Pacific Islanders (AAPI Initiative) will seek to improve the quality of life of Asian Americans and Pacific Islanders through increasing their participation in federal government programs where they may be underserved (e.g. health, education, housing, labor, economic and community development, etc.). The Department of Health and Human Services (DHHS) will establish an office for the AAPI Initiative and convene an Executive Branch Interagency Working Group to implement the AAPI Initiative. President Bill Clinton's Executive Order institutionalizes and broadens efforts begun two years ago by DHHS by elevating it to a White House initiative.

How was the AAPI Initiative developed?

An AAPI Initiative was begun by DHHS Deputy Secretary Kevin Thum in response to a request in May 1997 by national Asian American and Pacific Islander health organizations to begin an DHHS-wide initiative on Asian Americans and Pacific Islanders. During the summer of 1997, a DHHS Department Working Group (DWG) drafted a framework for its AAPI Initiative, including recommendations for improving a) Asian American and Pacific Islander access to and utilization of health and human services, b) Asian American and Pacific Islander data, c) research on Asian American and Pacific Islander health, d) training of Asian American and Pacific Islander health professionals and researchers, e) representation of Asian Americans and Pacific Islanders in the DHHS workforce and participation in DHHS operations and f) cross-cutting collaboration to enhance DHHS customer service to Asian Americans and Pacific Islanders. The DWG also sought and received comments on the draft framework from the Asian American and Pacific Islander communities. In the fall of 1997 through early 1998, each DHHS Operating and Staff Division developed an implementation plan in response to the framework and community comments. One Operating Division, the Health Resources and Services Administration (HRSA), sponsored a meeting with Asian American and Pacific Islander community leaders in March 1998 to review and comment on its implementation plan. In November 1998, DHHS released an Action Agenda for the AAPI Initiative, including implementation plans from each of the Operating and Staff Divisions. The Executive Order now institutionalizes the AAPI Initiative at DHHS and broadens its scope to include all Executive Branch departments and agencies.

Are there similar initiatives in other communities of color?

There are similar White House Initiatives involving Historically Black Colleges and Universities, Tribal Colleges and Universities and the Hispanic Agenda for Action. These initiatives have focused on working with the educational institutions within those communities of color to increase their communities' participation in federal government educational and health programs.

Why was an Executive Order issued?

An Executive Order is the highest level of official action that a President can take. Executive Orders provide authority for coordinated action across Executive Branch departments and agencies. This Executive Order institutionalizes the AAPI Initiative at DHHS and authorizes DHHS to work with other Executive Branch departments and agencies (e.g. the Department of Education, Department of Interior, Department of Labor, etc.) to implement the AAPI Initiative.

CONFIDENTIAL**What is the President's Advisory Commission on Asian Americans****Pacific Islanders?**

The President's Advisory Commission on Asian Americans and Pacific Islanders will be a fifteen-member group that will advise the President, through the DHHS Secretary, on a) the development, monitoring and coordination of federal government efforts to improve the quality of life of Asian Americans and Pacific Islanders through increased participation in federal programs where they may be underserved and through the collection of data related to AAPI populations and subpopulations, b) ways to increase public sector, private sector and community involvement in the health and well-being of Asian Americans and Pacific Islanders, and c) ways to foster research and data on public health as related to Asian American and Pacific Islander populations and subpopulations. Members, appointed by the President, will be individuals who a) have a history of involvement with the Asian American and Pacific Islander communities, b) are from the fields of health, education, housing, labor, economic and community development, civil rights and business, or c) are from civic associations representing one or more of the diverse Asian American and Pacific Islander communities. Members will serve without compensation but can be reimbursed for travel expenses.

Why is the Advisory Commission on Asian Americans and Pacific Islanders limited to two years?

The Federal Advisory Commissions Act (FACA) limits the creation and functions of advisory groups to the federal government. The FACA only authorizes such advisory groups for two years and limits the terms of its members to two years. However, this Commission, like other advisory groups, can be extended every two years and its members can be reappointed to serve additional two-year terms.

How will the AAPI Initiative be implemented?

Each Executive Branch department and agency that is represented in the Interagency Working Group will be preparing plans that document that department or agency's efforts to improve the quality of life of Asian Americans and Pacific Islanders through increased participation in federal programs where Asian Americans and Pacific Islanders are underserved. The plans will include appropriate measurable objectives to a) improve the quality of life of Asian Americans and Pacific Islanders through increased participation in federal programs where Asian Americans and Pacific Islanders are underserved and through the collection of data related to Asian American and Pacific Islander populations and subpopulations, b) increase public sector, private sector and community involvement in the health and well-being of Asian Americans and Pacific Islanders, and c) foster research and data on public health as related to Asian American and Pacific Islander populations and subpopulations. The DHHS Secretary will review these plans and develop an integrated annual federal government plan to enhance the delivery of health and human services to Asian Americans and Pacific Islanders. The integrated annual plan will be presented to the President and the DHHS Secretary will be responsible for making every effort to ensure that the findings and recommendations of the Interagency Working Group are taken into account in the policies and actions of every Executive Branch department and agency.

What are the next steps in implementing the Executive Order?

The President will be appointing members of the Advisory Commission on Asian Americans and Pacific Islanders and DHHS will be establishing the AAPI Initiative office by naming its Director and staff. DHHS also will be convening the AAPI Initiative's Interagency Working Group.

For more information: Ignatius Bau 415/954-9951 or Dong Suh 703/841-9128
Asian and Pacific Islander American Health Forum www.apiaf.org

- ~~Office of~~ ~~State~~ Hawaiian Affairs (OHA)
- Returned land when became a state for settlement

- Elected by native ~~men~~ as Hawaiian only

- White guy challenge - meet national bars - not ethnic minority
- 9th circuit - ²¹¹ ~~higher~~ on special Absor ~~sex~~

- Sup Ct granted ~~ex~~ cert.

- EPR - NO ethnic

- ~~12~~ Cont- Rt - 15th Am case not apply

Some language that recognizes an Native Hawaiian

They met w/ them - no change b/c of timing

lf don't ~~like~~ in

+

- 10:30 am - ~~at~~ Seth Worman - ~~Debra~~ VP



PRELIMINARY

FACSIMILE

**From the Immediate Office of the Secretary
Executive Secretariat**

To: Mac Reed And Victoria Lynch
 Fax#: 395-7294 / 456-6218
456-3111
 Re: AAPL Executive Order
 Date: 1/12/99
 Pages: including this cover sheet 5

From the desk of:

☐ LaVarne Burton	☐ Jackie White
☐ Sandy Bart	☐ John Gallivan
☐ Kimberly Harold	☐ Carlos McCormick
☐ Christy Quigley	☐ Martina Varnado
☒ Mirtha Beadle	☐ Ann White
☐ Scott Boule	☐ Melvin Whitfield
☐ LaJuana Caldwell	☐ Other _____
☐ Carlos Cano	
☐ Sean Donohue	
☐ Neleen Eisenger	
☐ Lorraine Fishback	
☐ Johnathan Frieber	

Comments:

Thanks for your call. I will await
your review and following call.

U.S. Department of Health and Human Services
 Immediate Office of the Secretary- Executive Secretariat

200 Independence Avenue SW
 Washington, DC 20201
 Fax: 205-8870 or 205-2135

mirtha - trying to get out.
~~mirtha - trying to get out.~~

Executive Order

INCREASING PARTICIPATION OF ASIAN AMERICANS
AND PACIFIC ISLANDERS IN FEDERAL PROGRAMS**PRELIMINARY**Draft
1-13-99
1:00

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App.), and in order to increase participation of Asian Americans and Pacific Islanders in Federal health ^{where they may be underserved} ~~and related~~ programs (e.g., education, housing, labor, and economic and community development), it is hereby ordered as follows:

Section 1. There shall be established in the Department of Health and Human Services the President's Advisory Commission on Asian Americans and Pacific Islanders ("Commission"). The Commission shall consist of not more than 15 members ^{to be appointed by the President.} and include a senior government official ^{through the chair} ~~who shall be appointed by the President to serve as chair and shall~~ report ^{of the Commission} to the Secretary of Health and Human Services ("Secretary"). The Commission shall be composed of members who:

- (a) have a history of involvement with the Asian American and Pacific Islander communities;
- (b) are from the fields of health, education, housing, labor, economic and community development, civil rights, and/or from the business community; or
- (c) are from civic associations representing one or more of the diverse Asian American and Pacific Islander communities.

In addition, the President may appoint other members within the 15 member limit ^{and for such term limits} as he deems appropriate. ~~Members shall serve for overlapping four-year terms, except that an appointment made to fill a vacancy occurring before the expiration of a term shall be made for the balance of the unexpired term. A Member may continue to serve until his or her successor is appointed.~~ In

~~the event a Member fails to serve a full term, an individual appointed to replace that Member will serve the remainder of that term. All terms will expire upon termination of the Commission.~~

PRELIMINARY

The Commission shall terminate two years after the date of this Executive Order unless the Commission is renewed by the President prior to the end of that two-year period. The Department of Health and Human Services shall provide administrative support and funding for the Commission.

The Secretary shall appoint an Executive Director for the Commission.

Sec. 2. The Commission shall provide advice to the President, through the Secretary on:

- (a) the development, monitoring, and coordination of Federal efforts to promote and improve ~~the access to health and related programs~~ ^{where they may be underserved} and collection of relevant data related to Asian American and Pacific Islander populations and sub-populations;
- (b) ways to increase public sector, private sector, and community involvement in improving the health and well-being of Asian Americans and Pacific Islanders; and
- (c) ways to foster research and data on public health as related to Asian American and Pacific Islander populations and sub-populations.

Sec. 3. The Department of Health and Human Services shall establish the White House Initiative on Asian Americans and Pacific Islanders ("Initiative"). The Initiative shall be an interagency working group ("working group") whose members shall be ^{requested} ~~selected~~ by the Secretary. The Secretary shall also ^{request and select} ~~select~~ a senior level Federal ^{HHS} official to serve as Director of the working group. The Director shall report to the Secretary or the Secretary's designee. The working group shall include both career and non-career civil service staff and commissioned officers with ^{health, education, housing, and labor} ~~expertise in health-related~~ issues. The working group shall provide advice to the Secretary on the implementation and coordination of ~~health and related Federal programs~~ ^{as they relate to Asian Americans and Pacific Islanders} across Executive

departments and agencies.

PRELIMINARY

Sec. 4. Each Executive department and each agency designated by the Secretary shall

appoint a Federal senior official responsible for management or program administration to report directly to the agency head on activity under this Executive order, and to serve as a liaison to the Initiative. The Secretary also may designate additional Federal Government officials to carry out the functions of this Initiative. To the extent permitted by law and to the extent practicable, each Executive department and designated agency shall provide any appropriate information requested by the working group, including data relating to the eligibility for and participation of Asian Americans and Pacific Islanders in Federal programs, ~~that provide effective access to and utilization of health and related programs.~~ Where adequate data are not available, the Initiative shall suggest the means of collecting such data.

Sec. 5. Each Executive department and designated agency (collectively, the "agency") shall prepare a plan for, and shall document, that agency's efforts to increase the participation of Asian Americans and Pacific Islanders in ~~applicable~~ Federal programs wherein Asian Americans and Pacific Islanders are underserved and improve health and related outcomes for Asian Americans and Pacific Islanders that are affected by such programs. This plan shall address, among other things:

- of Federal*
- (a) increasing access to and utilization of health and related programs by Asian Americans and Pacific Islanders;
 - (b) increasing and improving collection, analysis and dissemination of data about Asian American and Pacific Islander populations and sub-populations; and
 - (c) increasing outreach to Asian Americans and Pacific Islanders in community-based organizations.

Each agency's plan shall provide appropriate measurable objectives and after the first year, shall assess that agency's performance on the goals set in the previous year's annual plan. These plans shall be submitted by a date and time to be established by the Secretary.

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Sec. 6. The Secretary shall review the agency plans and develop for submission to the President an integrated annual Federal plan ("Annual Federal Plan") to enhance ^{the participation} health and ^{new Federal programs} ~~related programs~~ to Asian Americans and Pacific Islanders. Actions described in the Annual Federal Plan shall address improving access by Asian Americans and Pacific Islanders to ^{Federal} health ~~and related~~ programs, and fostering advances in relevant research and data. The Secretary shall ensure that the working group is given the opportunity to comment on the proposed Annual Federal Plan prior to its submission to the President. The Secretary shall disseminate the Annual Federal Plan to appropriate members of the Executive branch, and shall seek to ensure that the findings and recommendations of the working group are considered by the agencies in their policies and activities.

Sec. 7. Notwithstanding any other Executive order, the responsibilities of the President that are applicable to the Commission under the Federal Advisory Committee Act (as amended), except that of reporting to the Congress, shall be performed by the Secretary in accordance with the guidelines and procedures established by the Administrator of General Services.

Sec. 8. Members of the Commission shall serve without compensation, but shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service (5 U.S.C. 5701-5707). To the extent permitted by law and appropriations, and where practicable, agencies shall, upon request by the Secretary, provide assistance to the Commission and to the Initiative.



February 26, 1999

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1998 - 1999

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Irene Bueno
Domestic Policy Council
The White House
1600 Pennsylvania Avenue N.W.
Washington, D.C. 20500

Dear Irene:

Please find enclosed an op-ed piece about the Department of Health and Human Services' Asian American and Pacific Islander Initiative recently published in AsianWeek. We look forward to continuing to work with you to implement the Initiative as well as obtaining an Executive Order to institutionalize the Initiative through the White House. Please do not hesitate to contact me at phone 415/954-9951 or by e-mail at <ibau@apiahf.org> if you have any questions.

Sincerely,

Ignatius Bau
Health Policy Director

Encl.

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*Asian & Pacific
Islander American*
Health Forum

National Advocates for Asian & Pacific Islander Health

We're Not All a Picture of Health

BY IGNATIUS BAU

FACT: There are 2 million Asian Pacific Americans without health insurance, with Korean Americans being the most likely to be uninsured of any ethnic group.

FACT: Cervical cancer is nearly five times more likely among Vietnamese American women than white women.

FACT: The incidence of tuberculosis is the highest among APAs: 41.6 per 100,000, compared to 2.8 per 100,000 for whites, 22.4 for blacks, 16 for Hispanics and 14.5 for American Indians/Alaskan Natives.

FACT: Liver cancer among Vietnamese Americans is more than 11 times higher than among whites.

FACT: The age-adjusted death rate for Native Hawaiians is 901 per 100,000 persons, compared to 524 per 100,000 for the total U.S. population.

1 facts are not the reports of APA community advocates but the official findings of the U.S. Department of Health and Human Services (DHHS) in announcing an action plan last year for its Asian American and Pacific Islander Initiative.

Unfortunately, except for *AsianWeek's* coverage ("A Healthy Initiative for U.S.", Nov. 19), the an-

nouncement of this major initiative went unnoticed by the mainstream press. Both the scope and the scale of attention focused on APAs under this initiative is unprecedented. The initiative, under development since June 1997, involves programmatic and fiscal commitments by all DHHS operating divisions to address the health service needs of APAs. Over the last year and a half, department officials have been educated about our diversity and are being held accountable for responding to our communities' needs.

The initiative has six components:

- Improving access to and utilization of health, mental health and social services by APAs.
- Improving the collection of health data on APAs.
- Increasing the number of funded research projects and programs targeted toward APAs.
- Improving training for APA and other health-care professionals to enhance cultural competence.
- Increasing APA participation in the Department of Health workforce.
- Enhancing customer service to APAs, ensuring consideration of APAs in all Department of Health initiatives.

The action agenda details specific programs to implement the initia-



ILLUSTRATIONS BY CALVIN LIU
Cancer creates a feeling of disjointed surrealism ...

tive. Among the departments goals:

- To fund new research projects on diet, lifestyle and cancer among Native Hawaiians and other APAs.
- Conduct a mammography screening project in the Midwest targeting Asian American women.
- Implement a campaign in Boston to educate the Chinese, Cambodian and Vietnamese communities about Hepatitis B and encourage vaccinations.
- Work in New York to enhance genetic screening and counseling and maternal and child health care among Chinese and Southeast Asian immigrants.
- Fund the development of a manual for improving the cultural competence of health providers for APAs living with HIV.

The Department of Health and Human Services also has amended its definition of "primary care health-care professional shortage areas" to include areas where much of the population is linguistically isolated or made up of those who neither speak English well nor have a household member who can translate. This definition is critical for a community's qualification for federal funds for placing health professionals and for supporting community health centers.

Significantly, the initiative does not shy away from addressing difficult issues. For example, the department has committed to recruiting more APAs to its advisory panels and review bodies that make recommendations for federal funding. Such representation is vital in ensuring appropriate funding for APAs. The department also will implement objectives for addressing the underrepresentation of APAs within its own workforce, especially at senior executive staff levels. The

recruitment, promotion and retention of APAs by DHHS, especially in senior executive positions, will help ensure staff support for the implementation of the initiative.

The action plan also acknowledges the contemporary context for assessing our communities' health and well-being: "For Asian Americans and Pacific Islanders living in the U.S., some health disparities may be exacerbated by recent changes in welfare laws that exclude new immigrants from a wide variety of federally financed benefits and services. The new restrictions could have a chilling effect on how Asian American and Pacific Islander communities around the country access health and human services."

Accordingly, the department will continue to fund a research project by the Urban Institute and the University of California at Los Angeles on impact of welfare reform on the health status of immigrants.

Department Deputy Secretary Kevin Thurm should be commended for his commitment to develop and implement this initiative. In announcing the initiative, he said: "We are making it clear, not just to Asian Americans and Pacific Islanders, but to everyone, that ensuring the good health and well-being of Asian Americans and Pacific Islanders in this country is a major part of our agenda."

Key Asian Americans in the department, especially Dennis Hayashi and Kathleen Buto, co-chairs of the DHHS working group that developed the initiative, and Betty Lee Hawks and Lisa Hasegawa from the Office of Minority Health that provided much of the background research and staff support, also should be recognized for their tremendous work to move the initiative forward.

However, APAs will need to carefully monitor the initiative's implementation and continue its momentum. Planning is taking place for the federal fiscal year 2000 budget, and

the many needs of APAs identified in the initiative must be addressed. The programmatic commitments already made in the initiative's action plan must be monitored to ensure their complete implementation. Community advocates must continue to educate the department's staff and collaborate to maximize our resources and effectiveness.

As Thurm noted in his letter announcing the action plan: "The response from the Asian American and Pacific Islander communities and those serving Asian American and Pacific Islander communities has been tremendous. ... What we have heard clearly substantiates the importance of this initiative, and underscores the amount of work that DHHS still needs to do to better seek out, serve and involve the Asian American and Pacific Islander communities."

As part of an effort to ensure a continued commitment to the initiative, many APA advocates are urging the White House to issue an executive order institutionalizing the initiative. This would give the initiative equal stature with the other three initiatives focused on African Americans, Latinos and Native Americans that have been mandated by executive orders. It also would establish an advisory body to formally monitor the implementation of the initiative. Finally, an executive order would authorize DHHS to work with other federal departments such as the Department of Education to implement the goals and objectives of the initiative.

Asian Americans and Pacific Islanders are often characterized as a model minority. This initiative focuses much needed attention on the health service needs of APAs. At the same time, it recognizes the many resources and the significant experience within our communities in providing human services. The initiative represents a new paradigm for identifying and utilizing our assets to meet our needs. As APAs, we have a responsibility to seize this unique opportunity to ensure the health and well-being of our families and our communities.

Ignatius Bau is the health policy director at the Asian and Pacific Islander American Health Forum.

AsianWeek

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... and sometimes it's hard to reach out.