ASIAN AMERICAN ACCESS TO DEMOCRACY IN THE 2008 ELECTIONS

Local compliance with the Voting Rights Act and Help America Vote Act (HAVA) in NY, NJ, MA, MI, IL, PA, LA, NV, TX, VA, MD, and DC

A Report of the
Asian American Legal Defense and Education Fund

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

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I. INTRODUCTION

Like many minority voters in Florida in 2000, Asian Americans across the nation have encountered a range of discriminatory barriers when they exercised their right to vote. In 2000 in New York, mistranslated ballots flipped the party headings so that Democrats were listed as Republicans and vice versa; in San Francisco, a lack of interpreters resulted in limited English proficient Asian American voters being turned away; and in Los Angeles, translated materials were hidden from voters. In many states, Asian American voters faced hostile poll workers and outright discrimination.

For nearly twenty years, the Asian American Legal Defense and Education Fund (AALDEF) has monitored elections for anti-Asian voter disenfranchisement, compliance with the federal Voting Rights Act's language assistance provisions (Section 203) and non-discrimination protections (Section 2), and implementation of the Help America Vote Act (HAVA). Section 203 requires Asian language ballots and interpreters in covered jurisdictions. HAVA requires voting signs, provisional ballots for voters who may otherwise be prevented from voting and identification of certain first-time voters. Since 2004, AALDEF has successfully persuaded several jurisdictions to voluntarily provide language assistance to voters.

This report reviews our observations from monitoring 229 poll sites during the 2008 Presidential Elections on November 4, 2008 in 52 cities in eleven states and the District of Columbia. 1,500 volunteer attorneys, law students, and community volunteers inspected 137 poll sites for mandatory language assistance and required postings under HAVA. They also surveyed 16,665 Asian American voters, in 11 Asian languages, at 113 poll sites about their voting encounters. We observed first-hand a number of problems and also received complaints from Asian American voters, interpreters, and other poll workers.

Although local election officials sought to comply with federal laws and provide assistance to voters, in 2008, we found the following obstacles:

- Limited English proficient Asian Americans had much difficulty in voting. Interpreters and translated voting materials, if any, were inadequate. Some poll workers were completely unaware of their responsibilities under the Voting Rights Act or outright refused to make language assistance available to voters.
- Poll workers were hostile and made racist remarks toward Asian American and limited English proficient voters. Poorly trained poll workers made voting difficult and frustrated voters.
- Asian American voters' names were missing or incorrectly listed in voter lists located at poll sites. Although HAVA requires that these voters be offered provisional ballots, poll workers denied voters this right.
- Poll workers made improper or excessive demands for identification – often only from Asian American voters – and misapplied HAVA's ID requirements.
- Inadequate notice of poll sites and misdirection to voting booths created much confusion and discouraged voters.

Vigorous enforcement of voting rights laws as well as concerted effort by local election officials can remedy many of these problems. AALDEF's recommendations to ensure and expand access to the vote are listed at the end of this report.

II. BACKGROUND

A. Legal Background

1. The Voting Rights Act

Voting is a fundamental constitutional right.[1] Democracy works best when all voters understand how to participate in the electoral process. Equal access and opportunity to vote are the first steps towards safeguarding the fundamental right to vote.

In the early 1970s, Congress found that limited English proficiency was a serious barrier to the political participation of Asian Americans, Latinos, Alaskan Natives, and Native Americans. Asian American citizens were registered to vote at much lower rates than non-Hispanic whites.[2] As a result, Congress adopted the language assistance provisions of the Voting Rights Act in 1975, and reauthorized them in 2007.[3] In enacting these provisions, Congress found that:

> [T]hrough the use of various practices and procedures, citizens of language minorities have been effectively excluded from participation in the electoral process. Among other factors, the denial of the right to vote of such minority group citizens is ordinarily directly related to the unequal educational opportunities afforded them resulting in high illiteracy and low voting participation.[4]

The provisions, codified at Section 203, mandate bilingual ballots and oral language assistance at voting booths and poll sites in certain jurisdictions with large populations of limited English proficient voting-age citizens. Section 203 has helped 700,000 Asian Americans, particularly first-time voters, fully exercise their right to vote.[5]

Section 203 covers counties when the census finds 5% or more than 10,000 voting-age (over 18 years old) citizens who speak the same Asian, Hispanic, or Native American language have limited English proficiency, and, as a group, have a higher illiteracy rate than the national illiteracy rate.[6] After the 2000 Census, sixteen counties in seven states – Alaska, California, Hawai'i, Illinois, New York, Texas, and Washington – were required to provide Asian language assistance.[7]

Another provision of the Voting Rights Act, Section 208, guarantees that limited English proficient voters may obtain assistance by persons of their choice.[8] These individuals may be friends, relatives, or official election interpreters, but not the voters' employers or union representatives. These individuals may also accompany the voters inside the voting booth to translate the ballot.

Finally, Section 2 of the Voting Rights Act guards against minority voter discrimination.[9] Asian American voters who were subjected to discrimination in voting can seek remedies that may include language assistance. The U.S. Department of Justice has brought lawsuits under Section 2 involving Asian Americans in which it sought translated voting materials and interpreters to ameliorate the harms that were perpetuated.[10]

2. The Help America Vote Act

Following the presidential election debacle in Florida in 2000, former Presidents Gerald Ford and Jimmy Carter co-chaired the National Commission on Federal Election Reform. The Commission's Report, *To Assure Pride and Confidence in the Electoral Process*

(August 2001), laid the basis and findings for the Help America Vote Act (HAVA), which Congress enacted in December 2002.

HAVA provides voters with new rights, mandates a series of changes in how states conduct elections, and provides federal funds to update voting systems and expand access to the vote. HAVA provides all voters with the opportunity to cast provisional ballots and make voting information more accessible by providing sample ballots, instructions on how to vote, and information about voters' rights.[11]

HAVA mandates that certain new voters provide identification in order to vote.[12] Identification is required of first-time voters who registered by mail.

HAVA also provides federal money to help states improve election administration. These funds may be used to improve accessibility to the vote and poll sites for "individuals with limited proficiency in the English language."[13] States have broad discretion to use the money for language assistance or for other purposes, such as purchasing new voting machines or developing the statewide voter databases required under HAVA.

B. AALDEF Voting Rights Program

AALDEF's voting rights program includes enforcement of the Voting Rights Act, fair redistricting that gives Asian Americans meaningful representation, advocacy for minority language assistance, elimination of voting barriers, and expanded access to the vote.

1. History

The Asian American Legal Defense and Education Fund has monitored elections since the 1980s and over the years has won many victories for Asian American voters.

In 1985, AALDEF negotiated an agreement with the New York City Board of Elections to provide Chinese language assistance at poll sites.

In 1988, AALDEF conducted a nonpartisan bilingual exit poll in New York's Chinatown to assess the use and effectiveness of voluntary language assistance.

In 1992, AALDEF testified before the U.S. House of Representatives Judiciary Committee on expanding the language assistance provisions of the Voting Rights Act.[14] As a result, ten counties in New York, California, and Hawai'i were newly covered for Asian language assistance under Section 203.

In 1996, AALDEF expanded its poll monitoring in New York City to include emerging Asian ethnic groups, such as South Asians.

In 2000, AALDEF's exit poll covered fourteen poll sites surveying 5,000 Asian Americans in New York City.

In 2002, AALDEF's exit poll was expanded to four states: New York, New Jersey, Massachusetts, and Michigan surveying 3,500 voters in the Congressional Midterm

Elections. In Michigan, AALDEF monitored a consent decree between the U.S. Department of Justice and the City of Hamtramck to remedy past voting discrimination.

In 2004, AALDEF monitored the 2004 Presidential Elections in 23 cities in 8 states. Over 1,200 volunteer attorneys, law students, and community volunteers monitored almost 200 poll sites, and surveyed 10,789 Asian American voters, in 23 Asian languages and dialects, at 87 poll sites.[15]

In 2005 and 2006, using findings from past poll monitoring efforts, AALDEF joined or initiated lawsuits against Boston and New York, respectively, for complaince with the Voting Rights Act.

In 2006, AALDEF monitored the Congressional Midterm Elections in 25 cities in 9 states. AALDEF surveyed 4,726 Asian American voters at 82 poll sites. Volunteer attorneys inspected 123 poll sites in New York City and Boston that were specifically targeted for language assistance under the Voting Rights Act.

In 2007, AALDEF testified before the U.S. House of Representatives Judiciary Committee in support of reauthorizing the language assistance provisions of the Voting Rights Act.[16] AALDEF's comprehensive report, which found that Asian American voters continued to face racial discrimination, harassment, and institutional barriers in the electoral process, was included as part of the Congressional Record.

2. Asian American Election Protection 2008

On November 4, 2008, AALDEF covered a total of 229 poll sites[17] in 52 cities in 11 states – New York, New Jersey, Massachusetts, Michigan, Illinois, Pennsylvania, Texas, Louisiana, Nevada, Virginia, Maryland – and the District of Columbia.[18]

AALDEF surveyed 16,665 Asian American voters, in 11 Asian languages and dialects,[19] about their experiences in voting at 113 poll sites. Volunteer attorneys inspected 137 poll sites in New York City and Boston that were specifically targeted for language assistance under the Voting Rights Act and in Northern Virginia, Northern New Jersey, and Eastern Pennsylvania for voting signs required under HAVA.

In total, 1,500 volunteer attorneys, law students, and members of the co-sponsoring organizations observed first-hand a number of problems and received more than 800 complaints from Asian American voters, interpreters, and poll workers. The exit poll and poll site monitoring documented incidents of anti-Asian voting disenfranchisement and the need for voluntary language assistance.

AALDEF also observed 185 polling places during the Presidential Primary Elections in New York, New Jersey, Virginia, Maryland, and Pennsylvania.

AALDEF operated a multilingual telephone hotline to record complaints of voting problems. Operators spoke seven languages and dialects: English, Cantonese, Mandarin, Toisan, Korean, Tagalog, and Gujarati.

Whenever serious problems arose on Election Day, AALDEF attorneys immediately contacted local election officials to remedy the situations and reported incidents on the 1-888-OUR VOTE hotline as part of the national Election Protection Project of the Lawyers Committee for Civil Rights.

Every week throughout the year, AALDEF also registers new voters at the Manhattan federal court in New York City after naturalization swearing-in ceremonies. In 2008, AALDEF registered over 3,000 new voters.

3. New Initiatives in 2008

In 2008, AALDEF launched new initiatives to protect the Asian American vote.

Voter Registration Trainings – In May, AALDEF conducted a series of free legal trainings in 5 cities to assist Asian American community-based organizations in 6 states and Washington, DC to prepare for summer voter registration drives and the fall Presidential Elections. Attorneys provided legal information under local, state, and federal laws about:

(1) legal responsibilities in conducting voter registration;

(2) voters' rights on Election Day regarding interpreters, provisional ballots, identification requirements, and remedies to problems; and

(3) legal rules regarding electoral and voter education activities for tax-exempt nonprofit organizations.

Training sessions took place in Washington, DC; New York, NY; Philadelphia, PA; Boston, MA; and Newark, NJ. AALDEF trained 150 community leaders and voter registration volunteers.

Election Law Assistance – AALDEF worked with pro bono law firms to conduct legal research in preparation for the trainings and to answer specific questions on voting matters from community groups and individual voters.

- Rules and Regulations for Third-Party Voter Registration under federal law and for CA, CT, HI, IL, MI, NY, NJ, MA, RI, PA, VA, MD, and DC
- Election Rules for Nonprofits under Federal IRS and State Corporation Law for NY, NJ, MA, PA, VA, MD, and DC.
- Voter Identification Requirements for NY, NJ, MA, PA, IL, MI, VA, MD, and DC.
- Poll Worker / Interpreter Requirements for NY, NJ, MA, PA, VA, MD, and DC.
- Procedures for Filing HAVA Complaints for NY, NJ, MA, PA, VA, MD, and DC.
- Voters' Rights on Election Day regarding Provisional Ballots and Assistance for NY, NJ, MA, PA, IL, MI, VA, MD, and DC.

Voters' Rights Trainings – Throughout October and early November, AALDEF conducted 73 voter protection workshops and trainings, reaching nearly 2,600 community leaders, lawyers, and students.

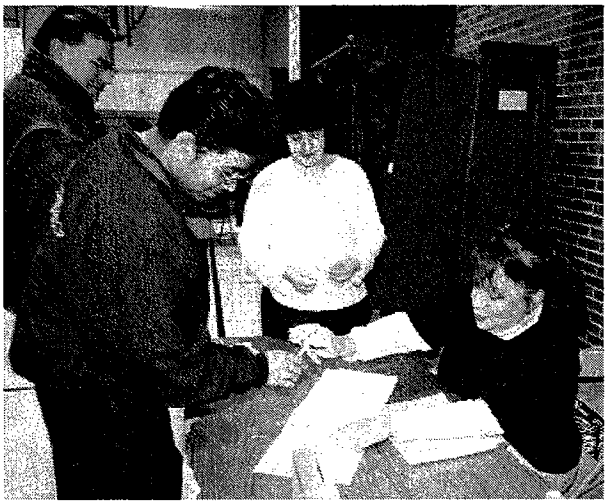
Voter Education – AALDEF educated voters, through ethnic media press conferences and multilingual palm cards, about their rights under HAVA and the Voting Rights Act. AALDEF informed voters about provisional ballots, what to do if their names were missing from voting lists or their records had incorrect information, and the right to bring friends or family members into the voting booth to translate the ballot for them.

4. Voting Rights Litigation Since 2004 and Complaints in Preparation for 2008

After the 2004 elections, AALDEF initiated or participated in the following cases under federal election laws:

Chinatown Voter Education Alliance v. Ravitz – AALDEF filed a lawsuit under Section 203 of the Voting Rights Act against the NYC Board of Elections for failure to provide adequate Chinese and Korean language assistance.[20]

U.S. v. Boston – The U.S. Department of Justice sued the City of Boston under Section 2 for discrimination against Chinese and Vietnamese voters. AALDEF intervened representing Asian American and Latino voters and organizations. The settlement, which expired at the end of 2008, mandated language assistance.[21] In 2007, DOJ and AALDEF returned to court to ensure fully translated ballots and transliterations of candidates' names.



U.S. v. Philadelphia – The U.S. Department of Justice filed an action under Section 203 for Spanish language assistance. AALDEF persuaded the City to provide, voluntarily, interpreters in Chinese, Korean, Vietnamese, and Khmer as part of the settlement.[22]

Crawford v. Marion County Election Board and *Indiana Democratic Party v. Rokita* – AALDEF submitted an *amicus* brief to the U.S. Supreme Court on behalf of 25 Asian American groups opposing a constitutional challenge to an Indiana law requiring voters to show government-issued photo identification. AALDEF detailed the racially discriminatory impact of restrictive voter ID laws on Asian American voters, using data from prior AALDEF exit polls.[23]

AALDEF advocated for state legislative proposals for mandatory language assistance. One bill in Massachusetts would extend the settlement in *U.S. v. Boston* beyond December 31, 2008 and would require bilingual ballots and the transliteration of candidate names. A proposed bill in New Jersey would amend the current state law which already provides for language assistance in Spanish, to include Asian languages as well.

AALDEF also made specific complaints about particular issues in anticipation of the 2008 Elections.

Overcrowded Poll Site –During the Primary Elections in Philadelphia Chinatown's main poll site, voters had to wait over two hours to vote. Some simply could not wait and left without voting. Voters complained about these problems in prior elections. AALDEF, working with the Committee of 70, discovered that the poll site was overpopulated, beyond what state law allowed. AALDEF complained to local elections officials who moved the poll site to a larger location, assigned more poll workers and voting machines, and printed additional poll books to check-in voters.

Harassment of Korean American voters – In 2007, a losing candidate for the Fort Lee, NJ School Board sought to investigate Korean American voters. He claimed that the voters

did not live in Fort Lee and were not U.S. citizens. He issued subpoenas to the voters, at their Fort Lee addresses, by the local sheriff in the early morning hours. Such service of process was unduly aggressive. Voters complained that they felt "punished" for voting and did not want to vote again. AALDEF filed a complaint about the investigation with the U.S. Department of Justice under the Voting Rights Act's anti-intimidation provisions.

5. After Election Day 2008

On Election Day, AALDEF received more than 800 complaints of voting problems. In the weeks after the elections, AALDEF followed up with every voter to confirm the incidents and obtain more details.

AALDEF also looked up voters' records in official databases of registered voters to confirm the complainants' registrations, assigned poll sites, and whether their votes were counted.

AALDEF sent complaint letters to election officials in each of the jurisdictions we monitored. These letters reviewed the most significant problems in detail and offered concrete recommendations for improvements. These letters were sent to elections officials in the following jurisdictions:

NY: New York City
NJ: Bergen, Middlesex, Hudson counties
MA: Boston, Lowell, Quincy, Malden
PA: Philadelphia, Delaware, Bucks, Montgomery counties
MI: Dearborn, Detroit, Hamtramck, Ann Arbor, Novi, Canton, Troy
IL: Cook County, Chicago
TX: Houston
LA: New Orleans
NV: Las Vegas
VA: Fairfax, Arlington, Henrico, and Chesterfield counties; Virginia Beach
MD: Montgomery County
Washington, DC

This report highlights the most widespread and egregious barriers Asian American voters encountered during the 2008 Elections.

AALDEF's Multilingual Exit Poll, Nov. 2008: Respondents

ALL	FIRST-TIME VOTER	FOREIGN BORN	NO FORMAL U.S. EDUCATION	ENGLISH AS NATIVE LANGUAGE	LIMITED ENGLISH PROFICIENT	LARGEST ETHNIC GROUPS
TOTAL: 16,665	31%	79%	21%	20%	35%	32% Chinese 31% South Asian 14% Korean 9% Southeast Asian 5% Filipino
BY ETHNIC GROUP						
Chinese	29%	74%	23%	15%	45%	N/A
Korean	25%	83%	20%	18%	54%	N/A
Filipino	24%	74%	12%	26%	6%	N/A
South Asian	36%	87%	22%	24%	20%	49% Indian 25% Bangladeshi 11% Pakistani
Southeast Asian	35%	83%	20%	9%	49%	70% Vietnamese 18% Cambodian

AALDEF EXIT POLL RESULTS – Nov. 4, 2008

All Voters Surveyed	First-Time Voter	Foreign Born	No Formal U.S. Education	English as Native Language	Limited English Proficient	Largest Asian Groups Surveyed
16,665	**31%**	**79%**	**21%**	**20%**	**35%**	**Chinese 32%** **South Asian[1] 31%** **Korean 14%** **Southeast Asian[2] 9%** **Filipino 5%**
BY STATE						
New York	29%	81%	23%	23%	39%	Chinese 40% Asian Indian 12% Korean 12% Bangladeshi 12% Indo-Caribbean 8%
New Jersey	30%	84%	22%	14%	28%	Korean 36% Asian Indian 33% Filipino 12%
Massachusetts	38%	74%	22%	16%	45%	Chinese 47% Cambodian 18% Vietnamese 15%
Pennsylvania	32%	70%	24%	21%	42%	Chinese 47% Asian Indian 19% Vietnamese 10% Korean 8% Cambodian 5%
Michigan	43%	72%	8%	21%	16%	Asian Indian 25% Arab 24% Chinese 21% Bangladeshi 15%
Illinois	25%	88%	48%	14%	53%	Korean 50% Chinese 15% Asian Indian 14%
Virginia	30%	79%	16%	20%	28%	Korean 22% Vietnamese 20% Asian Indian 15% Chinese 13% Filipino 9%
Maryland	24%	78%	12%	17%	19%	Chinese 31% Asian Indian 23% Korean 15% Vietnamese 9%
Texas	32%	87%	12%	12%	38%	Vietnamese 54% Filipino 15% Chinese 8%
Louisiana	29%	82%	26%	3%	64%	Vietnamese 98%
Nevada	31%	74%	18%	26%	27%	Filipino 48% Chinese 17% Vietnamese 9%
District of Columbia	13%	54%	12%	42%	23%	Chinese 29% Korean 20%

[1] Includes Asian Indian, Bangladeshi, Pakistani, Indo-Caribbean, Sri Lankan, and Nepalese.
[2] Includes Vietnamese, Cambodian, Laotian, Hmong, Thai, Indonesian, Burmese, and Malaysian

III. FINDINGS AND OBSERVATIONS

Asian Americans had to overcome many barriers to exercise their right to vote, including (A) the lack of language assistance; (B) racist and poorly trained poll workers; (C) incomplete voter lists and denials of provisional ballots; (D) improper identification checks; and (E) poll site confusion.

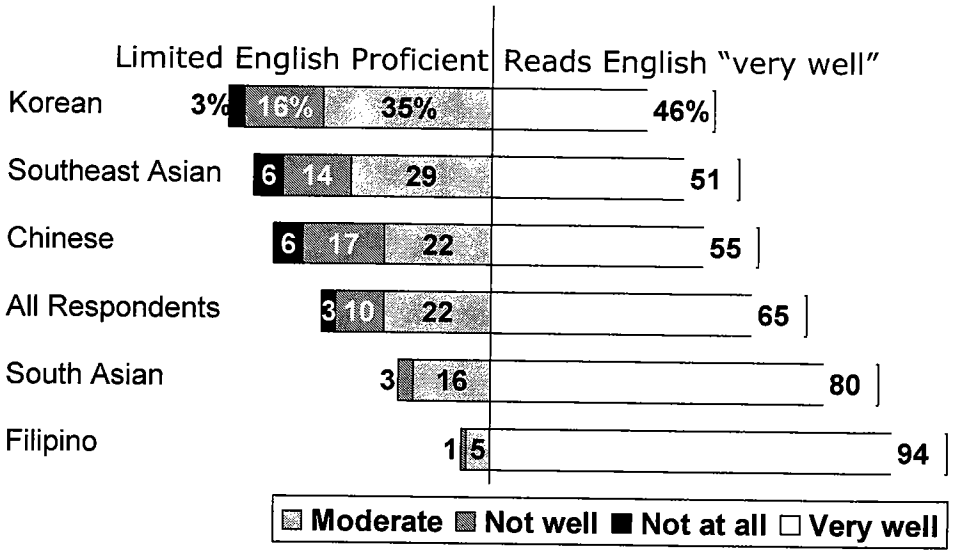
AALDEF Voter Survey, November 4, 2008

Complaint/ Problem	Voters
Name not on list of registered voters	540
Voted by provisional ballot	446
No interpreters / translated materials	254
Poll workers poorly trained	168
Directed to wrong poll site/precinct voting booth	168
Poll workers were rude/hostile	112

A. Language Assistance

Limited English proficient Asian Americans had much difficulty in voting. In AALDEF's survey, 79% of all respondents were foreign-born naturalized citizens. 21% had no formal education in the United States,[24] and only 20% identified English as their native language. 35% were limited English proficient,[25] of which almost one-third (31%) were first-time voters.

Limited English Proficiency



Language assistance, such as interpreters or translated voting materials, if any, was far from adequate. Notwithstanding federal mandates, poll workers were cavalier in providing language assistance to voters. In our survey, 254 Asian American voters complained that there were no interpreters or translated materials available to help them vote.

1. Compliance with the Voting Rights Act (Mandatory Language Assistance)

The Voting Rights Act requires language assistance for voters in several jurisdictions where AALDEF conducted its survey. Section 203 of the Act covers counties in New York and Texas for translated ballots, voting materials, and interpreters at poll sites. In New York, Chinese assistance is required in Queens, Brooklyn (Kings County), and Manhattan (New York County), and Korean assistance in Queens. In Texas, Vietnamese assistance is required in Houston (Harris County).

Similarly, litigation under the non-discrimination protections (Section 2) of the Voting Rights Act also requires language assistance in Boston, MA for Chinese and Vietnamese voters. Notwithstanding positive efforts by elections officials, there have been many shortcomings in compliance.

In New York City, among Chinese American voters, 51% were limited English proficient. 30% needed interpreters, and 25% needed translated materials to vote. Among native Korean speakers in Queens County, 75% were limited English proficient. 35% used interpreters and 26% used translated materials.

In Boston, among native Chinese speakers, 63% were limited English proficient. 35% used interpreters, and 39% used translated materials to vote. Among native Vietnamese speakers in Boston, 54% were limited English proficient. About 20% needed interpreters and 23% used translated materials.

In Houston, among native Vietnamese speakers, 51% were limited English proficient. 18% used interpreters, and 12% used translated materials to vote.

a. Translated Voting Materials and Signs Missing

Section 203 requires the translation and posting of all voting signs and materials. However, many poll sites did not have them.

Poll workers were both uninformed and unwilling to display the translated voting materials properly. In Boston, poll workers at seven poll sites had misplaced or never opened the required translated materials. During the Presidential Primary Elections, in New York, three poll sites in Flushing with large numbers of Chinese and Korean voters posted Chinese and Korean materials behind the voting machines, hidden from voters.

b. Interpreter Shortages

Oral language assistance is also needed to help limited English proficient voters cast their ballots.

In New York City, many poll sites did not have enough interpreters. 25% of all Chinese-speaking interpreters assigned by the Board of Elections and 28% of all Korean-speaking interpreters assigned were missing.

At one poll site in Jackson Heights, Queens, NY, the poll site coordinator did not even know that a Korean interpreter was available at the site.

At another poll site in Manhattan's Lower East Side, NY there was only one interpreter for hundreds of voters. Poll workers tried to get additional interpreters but were told they "didn't need" them. The lone Chinese interpreter was extremely overworked.

The same problems occurred during the Presidential Primary Elections in New York where 20% of Chinese and 29% of Korean interpreters were missing. At a poll site in the East Village, there was only one interpreter and when this person went on break, there was no one to assist limited English proficient voters. In Bayside, Queens, NY, interpreters were not given any materials, tables, or chairs and could not set up for the election. They made several requests for tables and chairs but were repeatedly ignored.

Similarly, in Boston, 21% of Chinese and 17% of Vietnamese interpreters were absent. In our survey, 38% of voters who wished to receive oral language assistance could not find interpreters who spoke their language or dialect.

Indeed, in Boston, interpreters were not always readily available to assist voters. Poll sites failed to post signs indicating that language assistance was available, interpreters did not wear nametags identifying themselves as interpreters, and some interpreters left for extended periods of time or failed to report to their sites on time.

Some interpreters did not effectively assist voters. In Houston, TX, two Vietnamese American voters stated that they were unable to vote for president even after requesting poll worker assistance.

c. Adequacy of Translated Ballots

Section 203 requires the translation of ballots so that limited English proficient voters can fully and independently exercise their right to vote. However, the full translation and readability of translations continued to be an issue in the 2008 elections.

In Dorchester, MA, poll workers could not locate Vietnamese-language provisional ballots. They said these were not provided to them.

In New York, Chinese voters complained that translations on ballots were too small to read. The Board of Elections provided new Ballot Marking Devices under HAVA to magnify the ballots for voters with impaired vision. Unfortunately, poll workers did not direct voters to these machines nor did they know how to use them.

In Boston, ballots did not have transliterations of candidates' names in Chinese. Limited English proficient voters typically know the candidates by their transliterated names, which appear in Asian-language media, advertising, and campaign literature.

In our survey, 95 Chinese voters stated that they had difficulty identifying their candidates of choice because the names were not translated. One voter in Chinatown remarked that "the only translation on the ballots was 'Democrat' and 'Republican'." He said names like "Obama" were not transliterated, so he was relegated to vote simply based on party label, not by the name of his preferred candidate. He said that others at the poll site, especially those who had recently naturalized, had similar problems understanding the ballot and were disappointed to find that the ballots were not fully translated.

AALDEF Multilingual Exit Poll, Nov. 2008: Language Minority Groups

STATE - LOCALITY	LANGUAGE MINORITY GROUP	LIMITED ENGLISH PROFICIENT	PREFERS VOTING WITH ASSISTANCE	USED INTER-PRETER	USED TRANSLATED MATERIALS
NEW YORK					
- Manhattan	Chinese	61%	36%	27%	23%
- Queens	Chinese	58%	31%	21%	20%
	Korean	75%	29%	35%	26%
	Urdu	22%	9%	*	*
- Brooklyn	Chinese	62%	43%	31%	26%
	Bengali	50%	21%	*	*
	Urdu	39%	20%	*	*
NEW JERSEY					
- Bergen Co.	Korean	62%	22%	22%	*
- Middlesex Co.	Gujarati	29%	12%	*	*
	Chinese	25%	9%	*	*
MASSACHUSETTS					
- Boston	Chinese	63%	45%	31%	39%
	Vietnamese	54%	32%	20%	23%
- Lowell	Khmer	47%	31%	29%	*
- Quincy	Chinese	38%	15%	*	*
ILLINOIS					
- Chicago/Cook Co.	Korean	81%	43%	35%	34%
MICHIGAN					
- Dearborn	Arab	27%	18%	*	*
- Detroit	Bengali	45%	27%	*	*
- Hamtramck	Arab	40%	29%	16%	*
MARYLAND					
- Rockville	Chinese	36%	20%	*	*
- Silver Spring	Korean	45%	10%	*	*
	Vietnamese	43%	13%	*	*
VIRGINIA					
- Centreville	Korean	53%	12%	*	*
- Falls Church	Vietnamese	49%	13%	*	*
- Annandale	Korean	78%	31%	32%	*
PENNSYLVANIA					
- Philadelphia	Chinese	63%	41%	34%	*
- Bensalem	Gujarati	42%	17%	*	*
TEXAS					
- Houston	Vietnamese	51%	27%	18%	23%
LOUISIANA					
- New Orleans	Vietnamese	63%	45%	*	*

* None available

2. Compliance with Section 208 (Assistance by Persons of Choice)

Voters have the right to be assisted by persons of their choice under Section 208 of the Voting Rights Act. Unlike Section 203, this provision applies across the nation. These assistors may accompany voters inside the voting booth to translate the ballot. The only exception under this federal law is that they may not be the voters' union representatives or employers. Poll workers, however, obstructed this right.

At one site in Alexandria, VA, poll workers did not allow limited English proficient voters to bring interpreters with them into the voting booth. Poll workers stated that individuals should have a minimum proficiency in English in order to be American citizens and to vote.

At a poll site in Edison, NJ, one Gujarati-speaking voter complained that an election official made disparaging remarks when the voter asked that his son be allowed to interpret for him from within the voting booth.

3. Voluntary Language Assistance

Many states and localities with large and growing Asian American populations are not required to provide language assistance under federal law. In response, AALDEF has successfully persuaded elections officials in New Jersey, Massachusetts, Illinois, Michigan, Pennsylvania, Virginia, and Maryland to provide language assistance voluntarily to voters. Such commendable efforts were insufficient. In every state where AALDEF conducted poll monitoring, limited English proficient voters complained about the lack of assistance.

a. New York: Bengali, Urdu, and Punjabi

New York City has the largest South Asian population in the nation. According to the 2000 Census, the Bangladeshi population increased 471%, numbering over 28,000. The Pakistani population increased 154%, numbering over 34,000. The Indian population increased 118%, numbering over 206,000. South Asians are becoming citizens, but they faced a number of difficulties in participating in the political process.

In AALDEF's survey, 50% of Bengali speakers in Brooklyn and 37% of Bengali speakers in Queens were limited English proficient. 39% of Urdu speakers in Brooklyn and 22% of Urdu speakers in Queens were limited English proficient. 29% of Punjabi speakers in Queens were also limited English proficient.

The New York City Board of Elections should translate voter registration forms and provide Bengali, Punjabi, and Urdu interpreters at poll sites in Queens and Brooklyn.

b. New Jersey: Korean, Chinese, and Gujarati

The Asian American population in New Jersey has doubled since 1990, numbering over half a million. There are 37,000 Koreans in Bergen County and 57,000 Indian and 23,000 Chinese Americans in Middlesex County. Groups like the Korean American Voters' Council, South Asian Americans Leading Together, and the Organization of Chinese Americans encourage Asian American participation in the political process.

Among native Korean speakers who voted in Bergen County, 62% were limited English proficient. 22% prefer to vote using language assistance. Among native Gujarati speakers in Middlesex County, 29% were limited English proficient. 12% prefer to vote with language assistance.

AALDEF had been advocating for translated voter registration forms since 2003. In early 2008, the State Attorney General finally printed voter registration forms in Korean, Gujarati, and Chinese. New Jersey is the first state in the nation to translate voter materials in a South Asian language.

Moreover, under New Jersey state law, Voter Bill of Rights signs must be available and translated into the language spoken by 10% or more of registered voters in a district.[26]

Unfortunately, none of the 25 poll sites that AALDEF inspected in Bergen County provided a translated Voter Bill of Rights, even though translated signs were required by law.

Middlesex, NJ appointed Chinese and Hindi/Gujarati speaking poll workers. Bergen County translated voting instructions into Korean. During the Presidential Primary Elections, however, one poll worker in Fort Lee, NJ did not even know why she received translated voting instructions.

More effort is needed. Korean American voters in Palisades Park and Fort Lee specifically complained of the absence of Korean interpreters and signs. Likewise, South Asian voters in Edison and Chinese voters in East Brunswick reported similar shortages of interpreters and signs.

c. Massachusetts: Khmer and Chinese

The Asian American population in Massachusetts has grown by 68% since 1990, numbering over a quarter million. Boston has the largest number of Chinese and Vietnamese American voters. Last year, the settlement order expired that required the City to provide translated voter notices, bilingual ballots, and interpreters at poll sites. Lowell, Quincy, and Malden also have growing Asian American populations, and groups like the Chinese Progressive Association, ONE Lowell, and Viet-Vote have long worked to increase Asian American voting participation.

Lowell has almost 10,000 Cambodian Americans, which comprise almost a third of the City's entire population. Among native Khmer speakers in Lowell, 47% were limited English proficient. 29% of voters used interpreters to help them cast their votes.

While the Lowell Elections Commission hired about 20 Khmer and Vietnamese interpreters, they were not always readily accessible to voters due to the failure of poll workers to post signs indicating the availability of interpreters, wear nametags, or actively approach voters.

In Quincy, the Asian population has increased 146% since 1990, with about 9,500 Chinese Americans. One in ten residents of the City of Quincy is Chinese. Among Chinese speakers in Quincy, 38% were limited English proficient, while 15% prefer to use language assistance to cast their vote. Quincy, MA hired 15 Chinese and Vietnamese speaking poll workers.

Asian language assistance should be provided on a statewide level to encompass localities with growing Asian American populations.

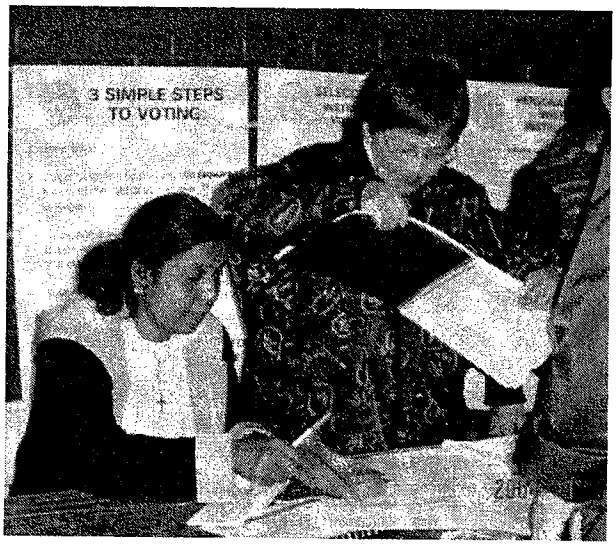
d. Pennsylvania: Chinese, Vietnamese, Korean, and Khmer

The Asian American population in Pennsylvania has nearly doubled since 1990, numbering almost a quarter million. AALDEF collaborated with APIA Vote's Pennsylvania chapter, which worked on voter education and turnout during both the Presidential Primary and General Elections in Philadelphia, Delaware, Montgomery, and Bucks counties.

Among native Chinese speakers, 63% were limited English proficient and 34% used interpreters. Among native Vietnamese speakers, 41% were limited English proficient. 12% used translated materials to cast their vote. Among native Korean speakers, 44% were limited English proficient. 39% used interpreters and 11% used translated materials.

The U.S. Department of Justice sued the City of Philadelphia for violations of the Voting Rights Act for Spanish language assistance in 2006. With the settlement in *U.S. v. Philadelphia*,[27] the City agreed to provide Asian language interpreters at poll sites. In 2008, the City provided 30 Chinese, Khmer, Korean, and Vietnamese interpreters.

Nonetheless, there were interpreter shortages. In Chinatown, the lack of assistance nearly caused one voter to leave when poll workers could not find her name on the rolls. A partisan campaigner had to help the voter cast a provisional ballot.



During the Presidential Primary Elections, Philadelphia provided a language line that poll workers could call and get on-the-spot assistance for voters. However, poll workers did not know it existed, did not know how to access the line, or the line was overwhelmed and was constantly busy. Voters in Olney left because they could not understand the ballots and were not able to get help.

The Pennsylvania Secretary of State translated voter registration forms into five languages, including three Asian languages (Chinese, Korean, and Vietnamese), and also hired an advertising agency to develop multilingual voter turnout materials. AALDEF reviewed these items and asked for community input. We commend such outreach efforts. Now, more must be done at the local level.

e. Illinois: Korean

The Greater Chicago Area has the nation's third largest Korean American population, after Southern California and New York. With the help of the Korean American Resource and Cultural Center (KRCC), the county voluntarily provided interpreters at poll sites and hired bilingual judges of elections. The City also hired election judges who spoke Gujarati, Hindi, Tagalog, Urdu, and Vietnamese as well. KRCC also conducted voter education workshops in Korean prior to the elections. Such efforts still did not adequately address the great need for language assistance.

Among Korean speakers, 81% were limited English proficient. 35% of voters used interpreters and 34% used translated materials to vote. Thirty voters, most of whom spoke Korean, complained that it was difficult to vote because of the lack of language assistance.

f. Michigan: Bengali and Arabic

AALDEF has been assisting the APIA Vote Michigan Coalition in developing strategies to advocate for language assistance in particular municipalities.

Among native Bengali speakers in Detroit, 45% were limited English proficient. 27% prefer voting with language assistance. In Hamtramck, 40% of native Arabic speakers were limited English proficient. 29% prefer voting with language assistance.

In Dearborn, 27% of Arabic speakers were limited English proficient. 21% of Arabic speaking voters used interpreters and 18% prefer voting with some form of language assistance.

In the past, the City of Hamtramck was required to provide Bengali and Arabic language assistance pursuant to a consent decree by the U.S. Department of Justice for voting discrimination and racial profiling at the polls in violation of the Voting Rights Act.[28] The settlement has since expired, but the City continued to voluntarily provide interpreters at poll sites. However, one Bangladeshi American voter commented that he was unaware of the Bengali interpreter when he voted because he did not see any signs indicating that there was an interpreter.

In Detroit, MI, a Bangladeshi American voter stated that he had observed several people having difficulty with reading the ballot and needed further clarification, but there were no interpreters or translated materials for them.

g. Virginia: Vietnamese and Korean

The Asian American population in Virginia has grown by 62% since 1990, numbering more than a quarter million. In Fairfax County, the Vietnamese population has doubled, numbering about 20,000; likewise the Korean population has grown tremendously, numbering about 45,000 in 2000.

The Asian Pacific American Legal Resource Center's (APALRC) Language Rights Project expands language assistance to government services in the District of Columbia, Virginia, and Maryland, and AALDEF worked with APALRC to monitor language access at the polls.

Among Vietnamese speakers surveyed in Falls Church, Virginia, 49% were limited English proficient. 13% prefer voting with language assistance. In Annandale, 78% of Korean speakers were limited English proficient. 32% of voters used an interpreter. In Centreville, 53% of native Korean speakers were limited English proficient. 12% prefer voting with language assistance.

The lack of assistance created opportunities for certain campaign workers to take advantage of limited English proficient voters for partisan gain. In Annandale, VA, limited English proficient Korean American senior citizens had to turn to a Republican campaigner for assistance. This person led groups of voters into the poll site and refused to give them privacy while they cast their votes. AALDEF received and reported similar complaints of improper voter influence during the 2006 elections by the same individual involved.

To avoid improper electioneering, election officials should provide both translated ballots and non-partisan appointed interpreters at poll sites.

h. Maryland: Chinese, Vietnamese and Korean

The Asian American population in Montgomery County has grown by 60% since 1990. More than one in ten residents is Asian American, the second largest Asian population in the region and the largest in the state. Almost a third (31%) of the 100,000 Asian Americans are Chinese.

In Silver Spring, 45% of Korean speaking voters was limited English proficient with 10% preferring to vote with language assistance. 43% of Vietnamese speaking voters were also limited English proficient and 13% preferred to vote with language assistance.

In our survey, 36% of native Chinese speakers in Rockville, Maryland were limited English proficient. 20% prefer using language assistance to cast their vote. Although local election officials agreed to appoint bilingual election judges, voters complained about the lack of interpreters. One limited English proficient Chinese voter said that she was only able to vote for candidates whose names she recognized in English.

i. Texas: Chinese

Houston is covered under the Voting Rights Act for Vietnamese language assistance. Chinese Americans are the next largest Asian American group and they are growing at a fast rate. OCA Greater Houston has been pressing for Chinese-speaking interpreters and translated voting materials at poll sites.

The County Clerk is seeking to translate certain voting materials in Chinese, which is greatly needed. In our survey, 57% of Chinese voters were limited English proficient. 29% of voters needed interpreters.

j. Louisiana: Vietnamese

The Asian American population in New Orleans has grown by 26% between 1990 and 2000. Currently, 3% of residents are Asian American. The largest Asian American population in the region is Vietnamese. Vietnamese American Young Leaders Association of New Orleans worked on voter education and registration.

In our survey, 65% of Vietnamese voters were limited English proficient. 86% of voters needed interpreters. Although about a dozen bilingual elections commissioners were available at some poll sites, voters still complained about the lack of assistance at poll sites.

In conclusion, local elections officials are to be commended for voluntarily providing language assistance to Asian American voters. However, such efforts must be expanded to ensure full access to the vote. Local elections officials should translate voter registration forms, voter guides, ballots and other voting materials, as well as hire bilingual poll workers.

B. Racist and Poorly Trained Poll Workers

Poll workers were hostile towards Asian American and limited English proficient voters. In our survey, 112 Asian American voters complained that poll workers were "rude or hostile." Several more poll workers were unhelpful or unknowledgeable about proper election procedures, prompting 168 Asian American voters to complain to AALDEF.

1. Racist Poll Workers

A number of poll workers made derogatory remarks and gestures.

> At one poll site in Brooklyn, NY, a poll worker remarked that Middle Eastern voters "looked like terrorists to [him]." At another poll site, a poll site supervisor challenged an Arab American voter saying, "We don't trust you; you're not voting. If you want to complain, go to the judge." The voter was not able to vote.
>
> A voter complained that a poll worker in Long Island City, Queens, NY made her feel uncomfortable when the poll worker asked, "Why do you have an American name? Are you Japanese?"
>
> A Sikh voter was made to vote by provisional ballot because his last name (Singh) was very common and the poll workers in Ozone Park, Queens, NY "couldn't figure out which one he was."

Sometimes Asian American voters were simply treated with less courtesy than white voters were, or they were simply ignored.

> In Chinatown, Manhattan, NY, a poll worker made comments complaining about Chinese American voters and was inattentive when they arrived. The poll worker made an entire line of voters wait while he sent text messages on his cell phone.
>
> In Ann Arbor, MI, a Chinese American voter felt insulted when a poll worker greeted all the white voters in front of her but turned silent when she approached.
>
> In Lowell, MA, several Asian American voters reported being ignored by poll workers. One particular voter complained that when she came to the front of the line, the poll worker instead turned to the white voter standing behind her. The voter had to go to a different poll worker to vote.
>
> In Hamtramck, MI, several Asian American voters complained about one poll worker yelling at voters.

Some poll workers made disparaging remarks about minority language assistance. During the Presidential Primary Elections, in Fort Lee, NJ, when asked if there were any interpreters, the poll worker responded, "Are you kidding? No." In Flushing, Queens, NY, a poll worker said, "There are just too many Asians here" and "They [Asians] should have to learn English."

2. Poorly Trained Poll Workers

HAVA requires that voters be informed of their rights at poll sites. Poll workers, however, failed to post the Voter Bill of Rights signs in Virginia, New Jersey, Pennsylvania, and New York. In Alexandria, VA, one poll worker did not even know what the sign was. In Bergen County, NJ, only seven poll sites, out of 26 poll sites observed, displayed the

sign. In New York City, 40% of 47 poll sites observed were missing the sign. In Fairfax, VA, poll workers posted the sign, only after our observer inquired about its absence.

Poorly trained and inefficient poll workers deterred voters from casting their ballots. In Dearborn, MI, an Arab American was turned away and sent home when the poll worker did not find her name on the list. She was not offered a provisional ballot. Having voted at the poll site for the last twenty years, she went home to retrieve her voter registration card. She returned only to find that she was simply on the wrong line.

Some poll workers did not even know how to properly look up voters' names. One voter in Jersey City complained that the poll worker tried to turn him away saying he was not registered to vote. The voter protested, and the poll worker found that there was more than one book with voters' names.

Sometimes poll workers unfairly rushed Asian American voters or denied them privacy. In Chinatown, Manhattan, NY, one poll worker opened the curtain of the voting booth while the voter was still voting, to see if she was finished. Another voter reported that she was only able to vote for president as a result of being rushed.

3. Improper Electioneering

Poll workers engaged in improper electioneering. In Midwood, Brooklyn, NY, one poll worker told voters to "press all the buttons on the left," effectively having them vote entirely for one party's candidates. In Annandale, VA, a bilingual poll worker was explicitly reminding Korean-speaking voters that John McCain was on the ballot, but not similarly communicating that Barack Obama was also on the ballot. In Chinatown, Manhattan, NY, a poll worker was telling people with accents to vote for Obama and that they could pick "whoever they wanted for the other positions."

C. Incomplete Voter Lists and Denials of Provisional Ballots

Many Asian Americans complained that their names were missing from lists of registered voters located at poll sites. In the past, poll workers used to turn away voters, but HAVA now requires that provisional ballots be given to all voters to preserve their right to vote. However, such ballots were not always offered or were expressly denied. At times, voters were even turned away.

1. Asian Voters' Names Missing

Voters reported to their assigned poll sites, or to poll sites where they had previously voted, only to find their names missing from voter lists. In our survey, 540 voters complained that their names were not listed or listed incorrectly.

Voters' names were misspelled or their first and last names were inverted. In some instances, wives' names were missing but their husbands' names were found. When voters complained about these errors, poll workers became hostile.

In Washington, D.C., a poll worker said that voters whose first and last names were inverted should not be able to vote. In Boston, one poll worker's hostility toward voters whose names were missing or misspelled caused the voters to leave without voting by provisional ballot.

During the Presidential Primary Elections, in Fort Lee, NJ, one voter had registered as a Democrat prior to Election Day but when he arrived at the poll site, he was incorrectly listed as a Republican and was not allowed to vote.

There were several deficiencies in agency registration. The National Voter Registration Act requires voter registration to be done by state agencies, such as the Department of Motor Vehicles. Several voters complained of deficiencies in this process in Lowell, MA, Upper Darby, PA, and Ann Arbor, MI.

In Detroit, MI, a Bangladeshi American citizen tried to register at the Department of Human Services with his cousin, who resided at the same address. His name was missing but his cousin's name was found. On Election Day, the voter was not offered a provisional ballot and instead was told to stand with a group of people whose names were not found. Poll workers made phone calls regarding this group. After waiting close to an hour, the voter left because he had to go to work and was unable to vote.

2. Denials of Provisional Ballots

Although HAVA requires that voters whose names are missing be offered provisional ballots, poll workers denied voters this right and simply turned them away. Indeed, voters had to demand, explicitly, provisional ballots. In our survey, 446 voters complained that they had to vote by provisional ballots.

Poll workers were too quick to turn away Asian American voters and assumed they were not registered, as we observed in Quincy, MA and Philadelphia, PA. During the Presidential Primary Elections, in Fairfax County, VA, one first-time voter complained that her name was not in the voter roll so she was turned away.

In Ozone Park, Queens, NY, an elderly couple who had trouble walking was instructed to go to another poll site because the poll worker did not find their names. The couple came back with a friend who found their names on the list.

Poll workers improperly denied Asian American voters the right to vote by provisional ballots. Voters were simply turned away in Philadelphia and Upper Darby, PA, Falls Church, VA.

> In Fairfax County, VA, poll workers did not know what to do when voters' names were missing. One voter was certain that he was at the correct poll site but was not allowed to vote by provisional ballot.
>
> In Novi, MI, a couple came to the poll site and the husband voted without incident but the wife's name was missing. The wife asked for a provisional ballot, but poll workers refused to give her one.
>
> During the Presidential Primary Elections, in Flushing, Queens, NY, a poll worker refused to assist a voter with a provisional ballot when her name was not found. The poll worker grew belligerent when she could not understand the voter and, inexplicably, refused to ask an interpreter to assist.

Some cities had more systemic problems that undermined HAVA's goal of allowing voters to vote by provisional ballots.

> In Lowell, MA, voters were not permitted to vote by provisional ballot at poll sites. Instead, if names were missing, poll workers either called City Hall or directed the voter to City Hall to confirm their registration and cast a provisional ballot. Voters

were unable to vote on Election Day. AALDEF observed the same problem in the 2004 elections.

In Philadelphia, PA, the main poll site in Chinatown had a limited number of provisional ballots, and poll workers would not distribute the ballots unless voters specifically demanded them. When voters did ask, poll workers requested documentation of their addresses. But many voters did not know they could ask for a provisional ballot and simply left without voting. Similar problems occurred during the Presidential Primary Election, but in that election, poll workers turned away voters and told them to register for the next election.

Even when voters cast provisional ballots, poll workers also did not know what to do thereafter. In Ozone Park, Queens, NY, one poll worker was rude, dismissive, and said, "I don't know what to do with this," when a South Asian American voter opted to vote by provisional ballot.

Jurisdictions must comply with HAVA's mandate to provide provisional ballots to voters at poll sites if their names are missing from voting lists. Poll workers also need better training on the rules regarding provisional ballots and how to handle such ballots.

3. Improvements to Provisional Balloting and Updating Voter Lists

Names will not appear on lists of registered voters at poll sites for a variety of reasons. Oftentimes their information was entered incorrectly or their registration forms were lost or mishandled. These voters were never registered through no fault of their own. Other times, voters were misinformed of their proper poll sites and ended up going to the wrong location. Voters may also have been at the correct sites, but their names were improperly removed from lists.

The accuracy of voter lists needs to be improved. For voters who voted by provisional ballot, those provisional ballot affirmations can be used to correct voter registration errors and omissions in the database of registered voters. Most of the information on the affirmations, typically written on provisional ballot envelopes, is already used for voter registration. The Carter/Ford National Commission on Federal Election Reform, which laid the groundwork for many of HAVA's provisions, also recommended this solution. This should be implemented accordingly.

Poll workers also inconsistently decided whether voters may cast provisional ballots. Poll workers should always offer provisional ballots if voters believe they are at the correct poll sites. Even if provisional ballots are cast at the wrong poll sites, the ballots should be counted for all the races in which the voters are eligible to vote.

New Jersey uses the information provided on provisional ballot envelopes to update the voter registration file. This procedure reduces the number of voters who need to vote provisionally in subsequent elections. New York and New Jersey also count all the votes on provisional ballots cast at the wrong election districts, provided that the ballots are cast at the correct New York poll site or same New Jersey county in which the voter resides.

Provisional ballots preserve an individual's vote, at least in theory. Poll workers need better training on the proper administration of provisional ballots. When voters have taken all the necessary steps to register, corrective measures must be put into place to correct errors and omissions.

D. Improper Identification Checks

HAVA requires identification from a very narrow category of first-time voters. Notwithstanding positive efforts by election officials and community groups to educate the public, as well as poll worker trainings that stressed the specific ID rules, identification was still required of a very large number of minority voters on Election Day.

AALDEF conducted a series of voter rights trainings to review current voter identification laws in light of the U.S. Supreme Court's *Crawford* decision upholding photo identification requirements. AALDEF sought to dispel myths and ensure that ID requirements would not disenfranchise Asian Americans on Election Day.

Nonetheless, many long-time Asian American voters complained that they were racially profiled and required to provide identification. These voters were not required to show ID under HAVA because they were not voting for the first time.

Asian American Voter Complaints About Identification Checks
In states where ID is not generally required to vote

	DC	NV	MD	IL	NJ	NY	PA	MA
Required to provide ID to vote	28	43	51	124	262	1903	199	185
% of total voters surveyed	22%	25%	7%	40%	18%	24%	42%	18%
% ID not required under HAVA	82%	77%	76%	70%	69%	68%	68%	60%

In states where ID is not generally required, 2,795 voters were required to present identification. The vast majority of them, 68%, were not required to do so under HAVA. AALDEF received complaints and personally observed these improper and sometimes excessive demands for identification from Asian American voters in almost every state.

AALDEF received specific complaints of racial profiling from Indian American voters in Bensalem, PA and Bangladeshi American voters in Woodside, Queens, NY. We received other complaints as well:

> In Jamaica, Queens, NY, poll workers assumed Asian American voters did not speak English fluently and automatically asked them for identification.
>
> In Elmhurst, Queens, NY, when a Korean American voter knew his rights and said identification was unnecessary, the poll worker scoffed at him. One voter was even asked to show identification twice.
>
> In Washington, D.C., one voter complained that after her name was found in the voter rolls, a second poll worker refused to let her vote until she presented her identification again. The voter had already confirmed her identity, while a white voter in line behind her was not asked to provide any identification.

Some states require all voters to provide identification before they can vote. However, we found that while identification checks were applied to Asian American voters, white voters were not required to show ID. Sometimes Asian American voters had to provide additional forms of ID.

> In Centreville, VA, a Korean American voter complained that he felt embarrassed that poll workers only asked him and his family, *but no one else*, to prove their identity.

In Houston, TX, an election officer insisted that a Pakistani American voter present *both* his voter registration certificate and another form of identification. Under Texas law, a voter who does not have a certificate may vote after providing another form of ID and signing an affidavit.

In Canton, MI, a Chinese American voter, who had been voting since 1997, did not have ID with him and was asked to return with ID. He was not informed that Michigan law still allows him to vote by signing an affidavit.

These identification checks often were required only of Asian American or language minority voters. Such demands for identification could discourage voters. Poll workers must be better trained on the legal requirements of voting, and when such demands for identification are discriminatory, these poll workers must be removed from their posts.

E. Poll Site Confusion

Inadequate notice of poll sites and misdirection to voting booth lines inside poll sites created much confusion. Voters were often redirected, sometimes incorrectly, to other lines or poll sites, only to be sent back later to their original locations.

In our survey, 168 Asian Americans who voted complained of poll site confusion in trying to vote. (This number does not capture voters who did not vote and appeared at poll sites but were told to go elsewhere to vote.)

Voters were misdirected to the wrong voting lines, which exacerbated already long waiting times.

In Woodside, Queens, NY, one voter waited at the wrong district table for 35 minutes before he was redirected to the correct table, where he had to wait on line again. Many other voters left without voting because of long lines.

In Lowell, MA, one busy poll site had three lines that fed into six different precincts. Many individuals waited on the wrong lines. One voter was redirected onto different lines three times. He eventually left without voting because he could not wait so long.

In Detroit, MI, a Bangladeshi American voter was sent to the wrong precinct and waited over an hour on that line before discovering that it was the wrong line.

In Chicago, IL, one poll worker reprimanded voters and kept redirecting them to different places. One voter was redirected to three different poll sites, even though she had been voting for the past five years.

In some places, more concerted effort is needed to remedy problems.

In Chinatown, Philadelphia, PA, during both the Presidential Primary and General Elections, Asian American voters complained about slow poll workers and extremely long lines. During the Primary Election, some voters waited in line for up to four hours. Voters left due to the frustration and long waits.

In New Orleans, LA, one poll site had three lines. Near the entrance, a map directed voters to the proper line. However, when the lines extended past the front entrance, voters did not know where to stand and when they got to the front, they had to start on another line all over again. We attempted to call this incident

into the Louisiana Secretary of State's office on Election Day, but we were unable to get through because the line was constantly busy.

Voters need better notice of their assigned poll sites and precincts within poll sites. Sometimes better poll site management is needed to more efficiently manage peak turnout times. If voters are at the wrong locations, they should be allowed to cast provisional ballots and have their votes counted for the races in which they are eligible to vote.

IV. RECOMMENDATIONS

Several steps must be taken to address the barriers faced by Asian American voters. AALDEF makes the following recommendations.

A. National Recommendations

- The United States Supreme Court should uphold Section 5 of the Voting Rights Act. Congress reauthorized the provision for 25 years in 2007, finding that racial, ethnic, and language minority voters continued to face voting discrimination and that the enforcement provision was necessary to protect the right to vote. The provision is being challenged in *Northwest Austin Municipal Utility District One v. Holder.*

- Congress should consider legislation to allow for universal voter registration, which will alleviate many of the registration problems that Asian American voters encountered.

- Congress should amend HAVA to clarify that voting by provisional ballot should also be used to correct errors and omissions in voters' registrations, as was recommended by the Carter/Ford National Commission on Federal Election Reform.

- The U.S. Department of Justice should continue its vigorous enforcement of Section 203 of the Voting Rights Act for Asian language assistance and increase enforcement of Section 208 to ensure that voters can be assisted by persons of their choice.

- The U.S. Department of Justice should more forcefully investigate and enforce full compliance with HAVA, including the proper and nondiscriminatory application of identification requirements, the availability of provisional ballots, and the posting of Voter Bill of Rights signs at poll sites.

- The U.S. Election Assistance Commission should translate the national voter registration form into the federally required Asian languages.

B. Local Recommendations

- Language assistance should be provided to limited English proficient voters. There should be translated voter registration forms, voting instructions, and ballots, as well as interpreters and bilingual poll workers at poll sites.

- Poll workers should be reprimanded or removed from their posts if they are hostile or discriminate against Asian American voters, or deny language assistance to voters.

- Voters whose names cannot be found in lists of registered voters located at poll sites must be given provisional ballots. Local election officials should count the ballots of all these registered voters when their ballots are cast in their neighborhoods and local districts, even if they were at the wrong poll sites.

- Errors in the registrations of new voters must be corrected so that ballots are not disqualified. Voting by provisional ballot should be used as opportunities to correct such errors.

- Poll workers need better training in election procedures and voters' rights, especially on...
  - the requirements for language assistance and the proper use and posting of translated voting materials and signs under Section 203, where applicable;
  - voters' rights to be assisted by persons of their choice, who may also accompany voters inside voting booths under Section 208;
  - how to properly direct voters to their assigned poll sites and precinct voting booths;
  - proper demands for voter identification checks under HAVA; and
  - proper administration of provisional ballots under HAVA.

AALDEF will continue to work with national, state, and local legislators, policy makers, and election officials to ensure full compliance with the Voting Rights Act and Help America Vote Act and to guarantee that all Americans can exercise their right to vote.

Poll Sites Monitored by the Asian American Legal Defense and Education Fund
November 4, 2008

STATE (total sites) - City/County (total sites)	Neighborhood/City	Number of Sites
DISTRICT OF COLUMBIA (2)		
- Washington, DC	Chinatown	1
	Columbia Heights	1
ILLINOIS (7)		
- City of Chicago	Albany Park	2
	Argyle	1
	Chinatown	1
	Devon	1
- Cook County	Glenview	2
LOUISIANA (3)		
- New Orleans	East Bank	3
MASSACHUSETTS (33)		
- Boston	Chinatown	3
	Dorchester	6
	Mission Hill	2
	South End	3
	Other	10
- Lowell	Highlands	7
- Malden	Malden Center	1
- Quincy	North Quincy	1
MARYLAND (5)		
- Montgomery County	Gaithersburg	1
	Rockville	2
	Silver Spring	2
MICHIGAN (12)		
- Oakland County	Novi	1
	Troy	2
- Washtenaw County	City of Ann Arbor	2
- Wayne County	Canton	2
	Dearborn	2
	Detroit	1
	Hamtramck	2
NEW JERSEY (10)		
- Bergen County	Fort Lee	2
	Palisades Park	2
	Tenafly	1
- Hudson County	Jersey City	2
- Middlesex County	East Brunswick	1
	Edison	2
NEVADA (3)		
	Las Vegas	3
NEW YORK (40)		
- Bronx		1
- Brooklyn	Bay Ridge	2
	Kensington	2
	Midwood	1
	Sunset Park	4
	Williamsburg	1
- Manhattan	Chinatown	9
	Other neighborhoods	19

- Queens	Astoria	1
	Bayside	3
	Elmhurst	4
	Floral Park	2
	Flushing	11
	Fresh Meadows	2
	Jackson Heights	3
	Jamaica	4
	Ozone Park	3
	South Ozone Park	1
	Sunnyside	1
	Woodside	4
PENNSYLVANIA (7)		
- Bucks County	Bensalem	1
- Montgomery County	Montgomery	1
- Philadelphia County	Chinatown	2
	Olney	1
	South Philadelphia	1
- Delaware County	Upper Darby	1
TEXAS (3)		
- Harris County	Houston	3
Virginia (65)		
- Arlington County	Arlington	2
	Alexandria	2
- Chesterfield County	Midlothian	1
- Fairfax County	Annandale	3
	Burke	3
	Centreville	1
	Chantilly	1
	Clifton	1
	Fairfax	12
	Falls Church	11
	Great Falls	1
	Herndon	2
	Kingstowne	1
	Lorton	1
	Mc Lean	4
	Oakton	1
	Reston	2
	Springfield	6
	Vienna	3
- Henrico County	Glen Allen	1
- Virginia Beach	Virginia Beach	6

[1] Reynolds v. Sims, 377 U.S. 533, 561-62 (1964).

[2] Senate Comm. on the Judiciary Report, July 2, 1992, Voting Rights Act Lang. Assist. Amends. of 1992, Report 102-315, Calendar No. 537, 102nd Congress, 2d Session, at 4.

[3] Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006, Pub. L. No. 109-246, 120 Stat. 577 (2006).

[4] Voting Rights Act of 1965, Section 203, 42 U.S.C. Sec. 1973aa-1a (amended 2006).

[5] Hearing of the House Subcomm. on the Constitution, House Judiciary Committee, on the Voting Rights Act: Section 203--Bilingual Election Requirements (Part I), 109th Cong. 35-38 (Nov. 8, 2005) (statement of Margaret Fung, Exec. Dir., AALDEF).

[6] 42 U.S.C. Sec. 1973aa-1a (b) (2) (A), as amended by Section 8 of Pub. L. No. 109-246, 120 Stat. 577 (2006).

[7] The counties are AK- Kodiak Island Borough (Filipino); CA- Alameda (Chinese), Los Angeles (Chinese, Filipino, Japanese, Korean, Vietnamese), Orange (Chinese, Korean, Vietnamese), San Diego (Filipino), San Francisco (Chinese), San Mateo (Chinese), Santa Clara (Chinese, Filipino, Vietnamese); HI- Honolulu (Chinese, Filipino, Japanese), Maui (Filipino); IL- Cook (Chinese); NY- Kings (Chinese), New York (Chinese), Queens (Chinese, Korean); TX- Harris (Texas); and WA- King (Chinese). 67 Fed. Reg. No. 144, 48871-77 (July 26, 2002) (Notices).

[8] Voting Rights Act of 1965, Section 208, 42 U.S.C. Sec. 1973aa-6.

[9] Voting Rights Act of 1965, Section 2, 42 U.S.C. Sec. 1973.

[10] United States v. City of Hamtramck, Civ. Action No. 00-73541 (E.D. Mich. 2000); United States v. City of Boston, Civ. Action No. 05-11598 (D. Mass. 2005).

[11] HAVA Section 302 (a), (b); (a), (b) (2); (b) (2) (2).

[12] HAVA Section 301 (a) (5).

[13] HAVA Section 101 (b) (1) (G).

[14] Hearing of the House Subcomm. on Civil and Constitutional Rights, House Judiciary Committee, on the Lang. Assist. Provis. of the Voting Rights Act, S. 2236, 102 Cong. Rec. at 12 (Apr. 1, 1992) (statement of Margaret Fung, Exec. Dir., AALDEF); Senate Report 102-315, Calendar No. 537 July 2, 1992, at 12.

[15] For more detailed information about exit poll findings, see AALDEF, The Asian American Vote 2004: A Report on the Multilingual Exit Poll in the 2004 Presidential Election.

[16] Hearing of the House Subcomm. on the Constitution, House Judiciary Committee, on the Voting Rights Act: Section 203--Bilingual Election Requirements (Part I), 109th Cong. 35-38 (Nov. 8, 2005) (statement of Margaret Fung, Exec. Dir., AALDEF).

[17] Cities and poll sites with large concentrations of Asian American voters were selected based on voter files, census data and interviews with local election officials and community leaders. Sites with a history of voting problems were also selected.

[18] The determination of states was based on the size of the Asian American populations, the interest of local groups to co-sponsor the project, and capacity to mobilize the requisite number of volunteers.

[19] The survey questionnaire was written in 11 Asian languages: Chinese, Korean, Japanese, Vietnamese, Khmer, Tagalog, Urdu, Bengali, Punjabi, Gujarati, and Arabic, in addition to English. Volunteers were conversant in 41 Asian languages and dialects.

[20] Civ. No. 06-CV-913 (S.D.N.Y. 2006).

[21] Civ. Action No. 05-11598 (D. Mass. 2005).

[22] Civ. Action No. 06-4592 (E.D. Pa. 2007).

[23] The U.S. Supreme Court upheld the Indiana law in a 6-3 decision. 553 U.S. __ (April 28, 2008).

[24] Other surveys, including the census, phrase questions on educational attainment without making distinctions between the education completed abroad and the education acquired in the U.S. The percentages presented in this report reflect educational attainment only in the U.S.

[25] Limited English proficiency is determined by one's ability to read English less than "very well." U.S. Census Bureau, Census 2000 Summary File 3, Table PCT62D: "Age by Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over" (2001); H.R. Rep. No. 102-655, at 7 (1992), as reprinted in 1992 U.S.C.C.A.N. 766, 771.

[26] N.J. Stat. § 19:12-7.1(b) (2007).

[27] Civ. Action No. 06-4592 (E.D. Pa. 2007).

[28] U.S. v. City of Hamtramck, (E.D. Mich. 2000).