



**Written Statement of Mee Moua
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House Committee on the Judiciary

Hearing on: “The Unconstitutionality of Obama’s Executive Actions on Immigration”

February 25, 2015

Asian Americans Advancing Justice | AAJC (“Advancing Justice | AAJC”) is a national non-profit, non-partisan organization that works to advance the human and civil rights of Asian Americans through advocacy, public policy, public education, and litigation. Founded in 1991, Advancing Justice | AAJC is one of the nation's leading experts on civil rights issues of importance to the Asian American and Pacific Islander (“AAPI”) community including: immigration and immigrants’ rights, affirmative action, anti-Asian violence prevention/race relations, census, language access, television diversity and voting rights. We appreciate this opportunity to submit a statement concerning today’s hearing on executive action on immigration.

Asian Americans are the fastest growing racial group in the U.S., currently making up about six percent of the U.S. population. Over sixty percent of Asian Americans are foreign born.¹ Our community members come to the U.S. in various ways – as students, family members, workers, or refugees and asylees. Dating back to exclusionary immigration laws of the late 1800s, the Asian American community has been and continues to be uniquely shaped by U.S. immigration laws. The Department of Homeland Security estimates that 1.3 million Asian Americans are undocumented. And nearly 1.8 million of the family members waiting in the backlog for family-based visas are in Asian countries.

The AAPI community stands to benefit significantly from President Obama’s executive action on immigration and AAJC applauds his leadership to help immigrants and his family. Nearly 500,000 AAPIs will benefit from relief through Deferred Action for Childhood Arrivals (“DACA”) and Deferred Action for Parental Accountability. These discretionary programs will allow some immigrants to live without fear of deportation and separation from their loved ones. With work authorization, they will be able to more fully contribute and suffer less workplace abuse and exploitation. With an expanded DACA program, many more young immigrants will be able to continue their educations or enter the workforce.

¹ Asian American Center for Advancing Justice, *A Community of Contrasts Asian Americans in the United States: 2011* (citing the 2007-2009 American Community Survey) at 17. Available at: <http://www.advancingjustice.org/publication/community-contrasts-asian-americans-us-2011>.

Legal authority for the administration's actions is ample and it is grounded in the executive branch's power to enforce laws generally. Under the Immigration and Nationality Act, Section 103, 8 U.S.C. § 1103, Congress explicitly delegates authority to the Department of Homeland Security ("DHS") significant authority to determine how it will allocate enforcement resources and who it will prioritize for enforcement purposes. Since 1987, the DHS regulations have also recognized deferred action, describing it as "an act of administrative convenience to the government which gives some cases lower priority." 8 CFR § 274a.12(c)(14), added by 52 Fed. Reg. 16221 (May 1, 1987).

Moreover, courts have long expressly recognized the use of prosecutorial discretion or "non-priority status." See, e.g. *Reno v. American Arab Anti-Discrimination Committee*, 525 U.S. 471, 483-84 (1999); *Mada-Luna v Fitzpatrick*, 813 F.2d 1006 (9th Cir. 1987); *Pasquini v. Morris*, 700 F.2d 658, 661 (11th Cir. 1983); *Nicholas v. INS*, 590 F.2d 802 (9th Cir. 1979); *Soon Bok Yoon v. INS*, 538 F.2d 1211, 1213 (5th Cir. 1976). This was reaffirmed most recently in *Arizona v. United States*, wherein the Supreme Court observed that "[a] principal feature of the removal system is the broad discretion exercised by immigration officials." *Arizona v. United States*, 132 S. Ct. 2492, 2499 (2012). In recent decades, both Republican and Democratic presidents have taken courageous actions to keep families together and to permit certain classes of immigrants to enter and/or remain in the United States. President Obama's recent actions simply follow earlier precedent.

Ultimately, though, the power to permanently improve and strengthen our entire immigration system rests with Congress. Executive action is necessarily limited in scope. Advancing Justice | AAJC strongly urges members of the House Committee on the Judiciary to focus their energy on passing fair and humane immigration legislation, rather than engaging in political theater. We need immigration legislation now that will allow undocumented immigrants to obtain citizenship, reunite families quickly, and protect the civil and human rights of all immigrants. We reject enforcement-focused policies that terrorize border communities, encourage profiling by state and local authorities, and incentivize detention and deportation without due process. Advancing Justice | AAJC pledges to work with all members of Congress who want to make positive changes to our immigration laws.

