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Bridging the Gap: The Role of Asian American Public Interest Organizations in the Pursuit of Legal and Social Remedies to Anti-Asian Hate Crimes

Michael Chang†

INTRODUCTION

The April 1997 shooting death of Kuanchung Kao by Rohnert Park police in Sonoma County, California galvanized the Asian American community in the Bay Area. Rohnert Park police argued that Kao's shooting was justified on the grounds that he posed a "martial arts" threat to the officer.1 Michael Lynch, one of the two officers at the scene, described Kao as a "ninja fighter."2 In response to the killing, the Asian Law Caucus became involved in the Kao case to pursue legal and social remedies to hate crimes and hate violence. The Asian Law Caucus played a pivotal role in organizing community involvement to seek a legal remedy to Kao's death through the formation of the Justice for the Kao Family Coalition. A strong community-based response was critical to the Asian Law Caucus in order to "bolster" the potential for a legal remedy in the Kao case.

This Essay argues that Asian American public interest organizations are simultaneously marginal and central to mainstream American legal frameworks. They occupy an "interstice" between formalized legal frameworks and the methods and functions of community-based public advocacy. The term "interstice" describes the proactive political practices and the role of Asian American public interest organizations as intermediaries between their locally based ethnic community interests and official government legal frameworks and institutions. It represents a "political space" where public advocacy in what is normally considered the "margins" of law, is brought to bear on the "center" or mainstream of law.


† Ph.D. candidate (expected Spring 2001), Department of Ethnic Studies, University of California, Berkeley; M.A. 1997 The New School for Social Research; B.A. 1992 Vassar College. This Essay is written for the community-based activists whose dedication remind me that academic work should be relevant. In particular, I would like to thank Victor M. Hwang of the Asian Law Caucus and the members of the Justice for the Kao Family Coalition for the opportunity to work with them. I must also thank the hard working staff of the ALJ for shepherding this Essay through its many editorial phases and to faculty and activist such as Eric Yamamoto and Mike Wong of Break the Silence for their comments on drafts. Finally, this Community Development Essay is dedicated to Kuan Chung Kao, who gave the ultimate sacrifice, his life. My experiences in the summer and fall of 1997 as the hate crimes intern at the Asian Law Caucus provide the majority of the data in this Essay.

This social and political space is both contestatory and mediative. This interstice is contested political space since strictly defined categories of formal legal frameworks can complicate and conflict with public advocacy. It is mediative because community organizing is crucial to protecting civil rights, which are a manifestation of formalized legal frameworks.

This Essay examines the role of Asian American public advocacy organizations in defending and extending civil rights by navigating the contradictions and harnessing the benefits of the interstice. The role of the non-profit, community-based organizations, such as the Asian Law Caucus (ALC) of San Francisco, in the Kao shooting exemplifies the necessity of navigating this interstice. The reader will also get an "insider's" perspective of the Justice for the Kao Family Coalition's strategizing sessions. The description of the issues discussed in these strategy meetings should de-romanticize the work of public advocacy, and give the reader an appreciation for the complexity of the political practices involved.

The first and second sections of this Essay discuss the events that transpired on the day Kao was killed, and the role of racial stereotypes in the crime. The third section describes the limitations of current federal hate crime legislation, and advocates for the more inclusive category of "hate violence" that public advocacy groups support. "Hate violence" takes into account the cultural, structural and situational sources of bias motivated behavior. The fourth section compares the role of public advocacy organizations in the highly publicized Vincent Chin case of 1982 and the Kao case. Chin was killed by former autoworkers in Detroit, who blamed the country's recession on the Japanese. This comparison examines the differences in the criminal prosecution of the two cases, as well as the effect of public advocacy organizations in both cases. The next two sections describe the use of discourse in the Kao case, the process by which community mobilization occurred, and the various alliances that formed to advocate for justice in the Kao case. Finally, the conclusion highlights the importance of Asian American community-based activism to the protection and extension of legal and political rights of American society in general.

### I. THE KUANCHUNG KAO KILLING

In the early morning of April 29, 1997, 33-year old Taiwanese American engineer Kuanchung Kao was shot and killed by Rohnert Park Police in the driveway of his home while his wife watched. Kao lived with his wife and three young children in Rohnert Park, a quiet bedroom community in Sonoma County, California. He was a quality control manager for Genesis Technology in Hayward and also attended Sonoma State University, where he was involved in a Chinese students’

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Kao was well known in the Asian community because of his work with community organizations. The evening before his death, Kao had been at a local bar, the Cotati Yacht Club, celebrating a new job. One bar customer insulted Kao with a racial slur and then later, Kao corrected another bar customer for calling him Japanese. In reply to the correction, this customer said, "Who gives a ——? You all look alike to me," according to Lillian Malley, the bartender. Two hours later, after more drinking by both parties, this same customer provoked Kao again. The bartender quickly defused the situation. But later in the evening, at about 1:35 AM, Kao got into a dispute with the same bar patron. Bartender Malley stated, "he [Kao] got really irate," and exclaimed, "I'm sick and tired of being put down because I'm Chinese. If you want to challenge me, now's the time to do it." At this point, another bar patron who had been playing darts confronted Kao and a fight ensued, resulting in a gash above Kao's eye from a dart. Someone called 911 and the local Cotati police came. By then, the situation had been defused. Malley told the Cotati police that "this is very, very out of character for [Kao]." Kao was angry that the Cotati police did not immediately press charges against his assailants in the bar incident. Cotati police officers, however, promised Kao that they would investigate his assault. Kao apologized to the officers and shook one officer's hand. By this time, it was two o'clock in the morning and the highly intoxicated Kao was sent home by taxicab with a police escort. Because he was still angry about the racially motivated incident at the Cotati bar, Kao stayed out on his driveway after being dropped off at home, yelling phrases such as, "Help me neighbors, help me." Kao had a blood

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5. Id.
6. Id.
8. Tobias Young, RP Shooting Victim was Reportedly in Racial Altercation, THE PRESS DEMOCRAT, May 25, 1997, at A1 (bartender Lillian Malley stated that Kao's anger that night was triggered by racial slurs by another customer).
9. Id.
10. Chao, Asian Man's Shooting, supra note 7; Young, supra note 8.
11. Young, supra note 8.
13. Young, supra note 8.
15. Id.
16. Id.
18. Id. at 9.
20. Julie Chao, Cop Won't Face Charges for Killing Drunken Man; Asian Americans Call Probe a Sham; Wrongful Death Claim Expected, S.F. EXAM'R., June 19, 1997, at A16 [hereinafter, Chao, Cop Won't Face Charges]; Silver, supra note 2; Tinney & Kleinberg, supra note 3.
Within minutes of the 911 calls, two squad cars raced at high speed to the home Kao shared with his wife Ayling Wu and their three young children. Officer Mike Lynch arrived first, and screeched to a halt only a few feet from Kao. Officer Lynch used this aggressive braking tactic to scare Kao. Just prior to the arrival of the police officers, Kao retrieved what has been described as a long “stick” from a motor home parked in his driveway. In reaction to the squad cars traveling at high speed directly towards him, Kao jabbed at and hit the hood of the cars with the stick. Kao’s wife, who was in the front yard throughout this incident, later stated to Sonoma County Sheriff’s Office detectives that she believed her husband thought the police cars were going to hit him and therefore, struck the police cars (a total of three times) in reaction. Eyewitness Darlene Shepard stated to the investigating detectives that “The first police car was coming very fast... I thought he [Officer Lynch] was going to hit him, because he stopped directly in front of him.” After realizing that the aggressive braking maneuver had only escalated the situation by further provoking Kao, Officer Lynch backed his car off. At almost the same time, Officer Shields drove his police car up close to Kao in an attempt to pin him down. With a high powered spotlight shone on Kao’s face, Officer Shields got out of his car and pointed his gun at Kao even though Officer Shields had been ordered by Officer Lynch, in the accompanying squad car, to remain in his vehicle and await back up. Off-duty California Highway Patrolman, George Sanders, a neighbor of Kao’s, stated to Sonoma County Sheriff’s Office detectives that neither Officer Shields nor Lynch identified himself as a police officer. Sanders stated, “I didn’t hear anything about

22. Report by Victor M. Hwang, Attorney of the Asian Law Caucus, Analysis of Sheriff’s [Sonoma County Sheriff’s Office] Investigation Into the Killing of Mr. Kuan Chung Kao, Asian Law Caucus (June 1997), at 6 [hereinafter Report by Victor M. Hwang] (on file with Asian Law Caucus and author) (criticizes the Sonoma County District Attorney’s office, among other things, for not taking into consideration in its own review of the Sonoma County Sheriff’s Report Incident Report of the Kao shooting a series of aggressive acts on the part of Officer Shields and Officer Lynch to scare Kao, particularly, Officer Lynch’s tactic of purposely screeching to a halt “within a few feet of striking Mr. Kao”).
23. Id. at 6.
24. Press Release, supra note 17, at 6 (describes dimensions of stick described as being 72 inches long, and 7/8 of an inch in diameter).
26. Id.
27. Press Release, supra note 17, at 5 (Ayling Wu stating in her witness testimony to the Sonoma County Sheriff’s Office that officers Lynch and Shields had driven towards Kao “very fast” and broke to within only 3-4 feet cf him).
29. Id.
30. Id.
31. Id. at 7; Chao, Asian Man’s Shooting, supra note 7.
being identified as Police Officers." Given Kao’s level of intoxication, the early morning darkness, the use of a spotlight, the lack of sirens and lights, and the disorienting braking tactic, it is reasonable to suspect that Kao did not realize Shields and Lynch were police officers.

Within thirty seconds of his arrival on the scene, and after he got out of his car despite Officer Lynch’s orders, Officer Shields fatally shot Kao in the chest. Officer Shields later argued that Kao, with the stick, had posed a life-threatening martial artist danger to him. In interviews with detectives, Officer Lynch said that he had not felt threatened since he had stayed in his squad car. He stated, “I could put [the squad car] in reverse and bail if I had to. I don’t know what was going on in Officer Shield’s mind, but that’s why I didn’t [get out of the car].” Although Officer Lynch stayed in his squad car, he too had the same fear that Kao was a life-threatening martial artist danger to the officers.

After the police officers arrived, Kao’s Wife, Ayling Wu, attempted to intervene and calm her husband. She walked towards him and said, “Don’t hurt him [Kao]” to the police. However, she was commanded to “back up” and “back off.” Immediately after she stepped back as directed, Officer Shields shot her husband. Shocked, Wu, a registered nurse, then tried to go to her husband’s side and aid the still breathing Kao. A neighbor and the two officers restrained Wu from helping her husband, and the officers threatened her with arrest should she attempt CPR on her husband. Incapacitated, Kao was then turned onto his face and handcuffed from

33. Id. at 5.
34. Id. Hwang argues that according to the various eyewitness testimonies to the Sonoma County Sheriff’s office (the report on which the DA based his conclusions), neither Shields nor Lynch ever identified themselves as police officers. In addition, they had their overhead lights and sirens turned off as they approached Kao’s home and shined a high-powered spotlight in Kao’s face. Therefore, Kao, in his highly intoxicated and agitated state, likely did not realize Shields and Lynch were police officers.
35. Chao, Asian Man’s Shooting, supra note 7.
36. Shields stated to investigators that Kao was three feet away from him (with the six foot stick in hand) and had the stick over his head ready to come down on him. The Asian Law Caucus found that no witnesses at the scene corroborated Shields’ claim. Ayling Wu, Kao’s wife stated to Sonoma County Sheriff’s detectives that Kao was 10-12 feet away when shot. Eyewitness Kevin Maloney, who was about 15 feet away at the time stated, that Kao was “jousting” with the stick (rather than holding it over his head). Eyewitness and neighbor Dante Cavasso stated that Kao had the “stick in front his chest kind of parallel [to the ground].” In addition, neighbor and off-duty California Highway Patrol Officer Linda Sanders stated that “the stick seemed long enough that the officer couldn’t have been very close to him, otherwise the guy would have hit him. There was quite a distance. . .it looked longer than a broomstick.” Report by Victor M. Hwang, supra note 22, at 3-4.
38. Id.
40. According to the Sonoma County DA’s press release, a review of the Rohnert Park police department’s dispatch records and tapes show that from the time of Officer Shields and Officer Lynch’s arrival at Kao’s home (2:16 a.m) until the shooting, less than one minute had passed. Press Release, supra note 17, at 8. The timing of the shooting has been described as 30 seconds from the arrival of the police officers. Julie Chao, Asian Man’s Shooting, supra note 7.
41. Press Release, supra note 17, at 5.
42. Chao, Asian Man’s Shooting, supra on 7; Chao, Outrage at Killing by Cop in North Bay, supra note 1; Silver, supra note 2.
behind. 43 Ten minutes passed before an ambulance arrived; at this point Kao was dead. 44 The officers claim they administered CPR. 45 Wu contests this, saying, "All they did was handcuff him behind his back. He was lying face down, and they just stood there." 46

After the shooting, Wu was not allowed to leave her home, and a female officer was assigned to watch her. 47 Later that morning, Rohnert Park police officers entered the Kao home to search for "martial arts" paraphernalia and drugs. Nothing of this nature was found. 48 Nancy Wang, President of the Redwoods Empire Chinese Association, a Sonoma County organization which is a member of the Justice for the Kao Coalition, said that Ayling Wu was "treated like a criminal," and that the police had attempted to "interrogate" her without the presence of a lawyer. 49

II. THE ROLE OF RACIAL STEREOTYPES IN THE KAO KILLING

The insensitivity on the part of the Rohnert Park Police department, the racially stereotypical categorization of Kao's stick wielding as a "martial arts" threat, and what amounted to the house arrest of his widow immediately following the shooting, incensed Asian Pacific American organizations and community members. Moreover, the martial arts assessment of Kao's shooting, in combination with eight other police-related deaths of civilians cleared by the Sonoma County District Attorney, brought the involvement of community organizers. 50 Disturbed by this history, the Justice for the Kao Family Coalition sought both the prosecution of officer Jack Shields as well as the formation of an independent police review board in Sonoma County. 51 Because of the particularities of the shooting, and the "martial arts" attribution, this case raised serious issues concerning anti-Asian violence and the use of excessive force by the police officers involved. For Asian American activists, this case affirmed their long held beliefs that the Rohnert Park

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43. Chao, Outrage at Killing by Cop in North Bay, supra note 1; see also Press Release, supra note 17, at 5 (Police spokesman Bob Williams defended the handcuffing of the incapacitated Kao and threat of arrest to Ayling Wu, stating, "You don't know what her state of mind is or if he had any other hidden weapon.").
44. Chao, Asian Man's Shooting, supra note 7.
45. In Sonoma County DA Michael Mullin's press report, it states that after handcuffing Kao, the police officers refused to perform CPR on Kao. In addition they did not allow Ms. Wu, a registered nurse to give CPR to Kao. In the same press release, several pages later, it contradicts these statements, relating that Officer Shields claimed he had performed CPR after the shooting. Eyewitness Ayling Wu, Kao's wife, contests Officer Shield's claim that he performed CPR on Kao. Press Release, Sonoma County District Attorney Michael Mullins, Reporting the Conclusions of the District Attorney Investigation Into the Kao Case (June 17, 1997), at 5, 7.
46. Chao, Asian Man's Shooting, supra note 7.
47. One Officer Dayton of the Rohnert Park Department of Public Safety (police department) was sent after the shooting. Press Release, supra note 17, at 3; see also Chao, Asian Man's Shooting, supra note 7.
48. Chao, Asian Man's Shooting, supra note 7.
49. Silver, supra note 2.
50. California Advisory Committee to the USCCR, COMMUNITY CONCERNS ABOUT LAW ENFORCEMENT IN SONOMA COUNTY (Dec. 1999), at iii (hereinafter Cal. Advisory Reports).
51. Clegg, supra note 4.
police possessed racial stereotypes. Race was viewed as a primary factor in both the shooting and the mistreatment of the victim. As Victor Hwang, the hate crimes attorney at the Asian Law Caucus and principal organizer of the Kao Coalition stated:

A lot of Asians are in denial about race. But Mr. Kao could have been anyone. He represented the Asian American success story. People like to believe you come to America, you work hard, you succeed. Race isn't a factor. But there is a strong recognition now [with the Kao case] that race was a factor in this killing.  

Asian American politicians and community activists criticized the police for what they felt was an incident that could have been quickly defused without "excessive force." Additionally, the "martial arts" claim made many in the community feel that had Kao not been an Asian male, he would not have been shot. Community members have said that Kao's intoxication level made him more of a menace to himself than any kind of real threat to Officer Shields. Lisa Lim, director of Chinese for Affirmative Action in San Francisco and a member of the Justice for the Kao Family Coalition said, "There's definitely a racial taint in the way police officers dealt with the situation. There's no other way to conclude he knew anything about martial arts other than that he was Asian." Only a racial stereotype about Asians existing in the minds of the officers could have given rise to the officers' beliefs that Kao threatened their lives.

Regardless of whether the courts or the legislature would recognize this racial element of the crime, the more general issue of law enforcement misconduct still applied to this case. The Kao case, and the eight police related deaths of civilians in the two years prior to his shooting, brought the attention of the U.S. Commission on Civil Rights (U.S.C.C.R.). The U.S.C.C.R., which has subpoena and investigative powers, but no prosecutorial powers, conducted a public hearing on the issue of community concerns about law enforcement in Sonoma County. This fact-finding meeting was convened on February 20, 1998 in Santa Rosa, the county seat of Sonoma County.

Local community police forces have been slow to recruit and hire minority and female police officers even as their communities rapidly diversify. This is a factor of particular importance in Sonoma County where a mostly white and male police force (both officers in the Kao case were white males) serves rapidly diversifying communities. In his

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54. Ingram, supra note 53.
55. Hart, supra note 53.
56. Chao, Asian Man's Shooting, supra note 7.
58. Id.
59. Id. at iii.
60. Id. at 19. In its report on community concerns of law enforcement practices in Sonoma County.
testimony at the U.S.C.C.R. public hearing, sociology professor Larry Shinagawa, of Sonoma State University, stated that in Sonoma County, the police force is 8.7 percent minority and only 6.9 percent female overall.\footnote{Id. at 19.} Demographic change in rural Sonoma County has been dramatic. Situated in Northern California’s “wine country,” Sonoma County’s population in 1990 was 388,222, of which 84.3 percent was white; 10.6 “Hispanic”; 2.6 percent Asian American and Pacific Islander; 1.4 percent black; 0.9 percent American Indian, Aleut, Eskimo; and .01 other.\footnote{Id. at 3.} Rohnert Park, where Kao lived, has the highest concentration of minorities in Sonoma County.\footnote{Id. at 3.} These numbers point to a national trend of proliferation of police practice issues as communities diversify at a higher rate than their police forces.

The problems concerning diversity and the need for more sensitivity to the relevance of racial stereotypes in policing are reflected in disturbing cases, such as this one, that involve excessive and improper force in handling civilians across the country. A police force with racial demographics that are not reflective of the communities that the force serves may lack the sensitivity needed to recognize the wrongful impact of racial stereotypes in their work.

III. THE LIMITATIONS OF HATE CRIMES STATUTES AND THE NEED TO EXPAND CRIMES OF HATE VIOLENCE

As a result of a general lack of understanding of the complexities of racial conflict by representatives of government and social services, many acts of hate violence are not tracked, prosecuted, or condemned.\footnote{Id. at 3.} The reason why many acts of hate violence are not prosecuted is because of limitations existent under current laws at the state and federal level. Moreover, mainstream understandings of diversity tend to ignore its relevance in terms of daily, lived racial experience. Because hate violence is often not condemned or prosecuted, it has fallen on non-governmental public interest organizations to encourage or lobby government entities to pursue such prosecution or provide other remedies. This is the precise role played by the public advocacy organizations in the Kao case.

Currently at the federal level there is no separate hate crimes statute that prosecutes someone for racially motivated acts. The only federal statute that prohibits hate crimes activities is embodied in 18 U.S.C. § 245 that was enacted as part of the Civil Rights Act of 1968. This statute...
prohibits the "intentional interference, by force or threat of force," with the enjoyment of a federal right or benefit (such as voting, going to school, or working) on the basis of race, color, religion or national origin. This civil rights statute restricts the government from prosecuting acts of hate violence because the government must prove both that the crime occurred because of a person's membership in a protected group, such as race or religion, and because (not while) he/she was engaging in a federally-protected activity. The effect of this two-prong test is that it confines the federal judiciary to punishing acts of hate violence only in limited circumstances where the victim is engaged in a federally-protected activity as enumerated in 18 U.S.C. § 245 et seq. The current statute also only reaches hate crimes based on "race, religion and national origin," but does not reach hate crimes based on gender, disability or sexual orientation. Therefore, many crimes motivated by hate go unpunished because the victim was not engaged in a federally protected activity, or was not a member of a category covered by the statute.

The problem at the state level is that many states have adopted and enforced hate crimes statutes that are just as ineffective as their federal counterpart, or have not enacted any laws to punish hate crimes. The federal statute specifically provides that Congress did not intend to prevent any state from exercising jurisdiction over any offense over which it would have jurisdiction in the absence of this section. This provision was included to prevent undue encroachment of states' rights, but it has restricted the reach of the federal statutes on states that have no remedy for racially motivated acts. In 1996, twelve states still did not have criminal laws related to racially motivated crimes. Various other states have adopted their own hate crime laws that are just as restrictive as the federal statutes because they are based on 18 U.S.C. § 245 and follow the federal model requiring interference with a federally protected activity. For instance, in California, the state where Kao was killed, a violent act can only be prosecuted as a "hate crime" if it was "substantially motivated" by race, gender, religion or sexual orientation. The inconsistency in the federal coverage of "hate crimes" and that of state "hate crime" statues which mimic 18 U.S.C. § 245 has recently brought demands for a federal hate crimes law that would amend these inconsistencies.

Senator Edward Kennedy (D-MA) sponsored the Hate Crimes Prevention Act (HCPA) to address some of these gaps. Sponsored
annually since 1996, this Act has been rejected by House Republicans each year. Even in 1998, under the very high profile publicity over the killings of Matthew Shepard, a gay student, in Wyoming, and the gruesome car dragging death of African American James Byrd Jr. in Texas, the bill still did not pass. This Act, which passed the Senate but was rejected by the House, sought to revise 18 U.S.C. § 245 to include bias based on sexual orientation, gender, and disability and to remove the restriction of the victim's participation in a federally protected activity when attacked. 71

Officially, opposition to this Act is predicated on an argument against the expansion of federal powers (as unconstitutional) over state authority. 72 But in fact, the opposition is based more on a general conservative political resistance (lead by Republican politicians) to the expansion of civil rights for minorities and women, and particularly for gays and lesbians. 73 On June 20, 2000, a new version of the HCPA, now supported by Senators Kennedy and Gordon Smith (R-OR) was passed in the Senate, but is expected to be rejected once again in the House by a Republican majority. 74 Hate crimes reform, therefore, is mired in partisan politics.

The efficacy of federal hate crimes provisions remains an area of heated political debate. The failure of the annual Kennedy sponsored Hate Crimes Prevention Act to pass the House is an example of this. These political conflicts reflect the obstacles to actually moving a bias motivated crime to the level of prosecution. It is very difficult to prosecute a case as a "hate crime" because the burden is usually on the victim and his or her supporters to prove the acts as hate motivated. As a result of this difficulty, public advocates play a significant role in galvanizing the community to bring perpetrators of hate violence to justice.

Given the political conflicts and the legal landscape, Asian American public advocacy organizations are forced to constantly monitor hate violence against their communities. Once a situation of hate violence arises, these same organizations are often the only mechanism through which victims can petition government authorities to act. The National Asian Pacific American Legal Center (NAPALC) in Washington, D.C. (of which the Asian Law Caucus is an affiliate) produces an annual audit of anti-Asian hate violence. Rather than restrict themselves to the narrow legal definition of "hate crime," NAPALC and its affiliates categorize these acts as "hate violence." Whereas "hate crimes" are narrowly defined as "criminal acts where the perpetrator is motivated by a bias against a race, religion, ethnicity, or sexual orientation," 75 "hate violence" assumes an

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72. Id.
73. Id. Republican politicians have stated that their concern about co-sponsoring Sen. Kennedy's efforts is that a vote for the act would be read as condoning homosexuality. In addition, Sen. Orrin G. Hatch (R-UT), argued against the bill on the grounds that it "invaded state authority" and was unconstitutional. Id.
74. Id.
75. NAPALC THIRD ANNUAL REPORT, supra note 64.
understanding of the broader social and economic contexts that help to create an environment of anti-Asian sentiment leading to acts of violence. It includes criminal and "non-criminal" acts of bias. NAPALC defines hate violence in this way:

any verbal or physical act that intimidates, threatens, or injures a person or person's property because of membership in a targeted group. That membership can be based on actual or perceived race, ethnicity, national origin, immigration status, religion, gender, sexual orientation, or age. Such acts may include verbal or written threats, harassment, graffiti, property damage, and physical assaults...76

Clearly, this is a more encompassing category than the federal or state definitions of hate crime.77

The necessity of public interest organization leadership in organizing community action in cases of hate violence cannot be overemphasized. With shrinking government funding and a rightward shift in mainstream politics, community-based public interest organizations increasingly fill the legal needs of their communities. These organizations not only lobby the state regarding such issues as bilingual ballots, but they also educate their communities about these changes. It is often assumed that these needs are the responsibility of governmental organizations. Although "hate crimes" laws were created to give the government authority as the "watchdog" of bias motivated crimes, in reality, ethnic communities have often had to step in to push for the enforcement of these laws and incident monitoring. This community response is vocal, organized, grassroots and diverse. In addition, the practice of alliance politics between different Asian ethnic communities and the wider progressive community is critical to the success of such a community response.

The next section will highlight the difficulties that Asian American public advocacy organizations have when responding to anti-Asian incidents, through an illustration of the case of the 1982 killing of Vincent Chin, and a comparison to the Kao case.

IV. THE ROLE OF PUBLIC ADVOCACY ORGANIZATIONS IN VINCENT CHIN AND THE KAO CASE

The more recent Kao shooting has drawn comparisons to the highly publicized 1982 Vincent Chin killing.78 Both the Kao and Chin cases involved racial stereotyping as a factor that led to death. Both cases reveal the important role that racial minority public advocacy has played in enforcing and extending basic civil rights. Moreover, the Kao case, like the Chin case, came to be seen by some in the Asian American community (particularly the activist community) as a watershed experience.79 As

76. Id.
77. NAPALC FOURTH ANNUAL REPORT, supra note 69.
78. Winokur, supra note 52.
79. Id. Hwang has also stated: "This [the Kao case] is a litmus test. Whoever picks up this case will win my vote. And this reflects the opinion of a lot of Asians. We're getting calls from all over the country." Telephone interview with Victor Hwang, Attorney, Asian Law Caucus, in San Francisco,
Hwang stated, the Kao shooting, just like the Chin killing, has led Asian Americans to conclude that “the system on its own does not work.” However, the differences between these two cases highlights the difficulty of proving that what may seem a “hate crime” in fact may not fulfill the legal definition for federal or state prosecution as such. The resulting legal and political processes that these cases involved were different in several important ways. An examination of the Chin case should reveal critical problems in the construction of hate crimes legislation as experienced in the Kao case. These problems attest to the need for a broader and more contextual understanding of hate acts through an understanding of hate violence in general.

Like the Kao case years later, the Vincent Chin killing galvanized the Asian American community, and garnered a broad collation of Asian with non-Asian organizations to bring wide publicity to the case. Chin, like Kao, had been out celebrating at a local bar before being taunted with a racial slur by other bar patrons. The racially motivated bar altercation between Chin and two unemployed autoworkers, Ebens and Nitz, eventually resulted in his death; Chin was followed by his attackers to a parking lot in front of a McDonald’s restaurant where he was beaten with a baseball bat. He died four days later in a Detroit hospital as a result of his injuries. However, just as in the Kao case, both defendants were eventually acquitted from criminal prosecution, and the acquittal created a lasting distrust in the Asian American community of the ability of the American legal system to serve proper justice in cases of hate violence.

Ebens and Nitz, the two perpetrators who beat and killed Chin, were charged with manslaughter and given three years probation with small fines. Following protests from the Asian American community, the U.S. Department of Justice conducted an investigation. Ebens and Nitz were later indicted on civil rights charges by a federal grand jury. In 1986, Ebens was convicted of violating Chin’s civil rights, while Nitz was acquitted. This case hinged on the provisions in 18 U.S.C. § 245, which specify motivation based on race as a requirement for prosecution. Although Ebens apparently made racist statements, most infamously, “If it weren’t for you little motherfuckers we wouldn’t be out of work,” his prior conviction was still reversed on appeal. This was because in order to prove Ebens was motivated by racial bias towards Chin, the prosecution

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Cal. (Dec. 7, 1998).
80. Winokur, supra note 52.
81. Judith Cummings, Detroit Asian-Americans Protest Lenient Penalties for Murder, N.Y. TIMES, Apr. 26, 1983, at A1. It is said that Nitz held Chin in a “bear hug” while Ebens repeatedly struck Chin with a baseball bat. Id.
83. See U.S. v. Ebens, 800 F.2d 1422 (6th Cir. 1986).
84. As described in 18 U.S.C. § 245(b)(2): “Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with—any person because of his race, color, religion or national origin. . . .”
85. See U.S. v. Ebens, supra note 83.
had to prove intent based on his uttering racial slurs. From a legal perspective, "bias" based on race would be difficult to prove due to the necessity to prove "intent." The reversal of Ebens' civil rights conviction reveals the difficulty of proving "intent" based on bias in a hate crime case.

Comparing the prosecution of Chin's case to the Kao case, although many observers felt that race was a primary factor in Kao's death, it is difficult to characterize the police shooting as a "hate crime." In the Kao case, Officer Shields' argument that he shot Kao because of the "martial artist" threat he posed is double-edged. On the one hand, this can be understood in terms of police malpractice as a result of improper racial stereotypes. On the other hand, it was used as a powerful justification for the use of force. But the Kao case does fall under the broader rubric of "hate violence." "Hate violence" does not translate well in terms of formal legal constructions, particularly for prosecution. This resulted in major differences in the ability of activists to get these cases to the prosecutorial level. In fact, with the Kao case, a criminal case never materialized despite a FBI investigation and a U.S.C.C.R. hearing on the matter. In both cases, though, without the involvement of a coalition of community-based activists and organizations, prosecution or punishment would have been negligible or non-existent. In the Chin case, Ebens and Nitz would have been merely fined and given probation if not for the Chin Coalition.

Asian American public advocacy groups must deal with the gaps between the narrow application of current hate crime laws and the broader understandings of hate violence. The complex role of Asian American public advocacy organizations as petitioner and arbiter within mainstream legal frameworks and as community-based advocate is mirrored by the discrepancy and conflict between "hate crimes" legislation as they stand now and the "hate violence" understandings utilized by these groups. Both cases shared certain similarities in terms of the diverse alliances that were formed among public advocacy organizations on behalf of the victims and their families.

The Asian Law Caucus serves as the lead organization in the Justice for the Kao Family Coalition by utilizing the interstice between formalized legal frameworks and community-based public advocacy. Although the ALC must ultimately seek "justice" through the mechanisms of law, this interstice is not necessarily disadvantageous. Historically, this is a space that has been carved out by community-based public interest organizations to seek "justice" with community-based support by putting pressure on legal institutions to enforce civil rights laws (or to change discriminatory laws). In many important ways, such practices force the issues of the margins to bear on those of the mainstream. In reference to the Asian Law Caucus, Hwang stated, "We're not a 'straight' law firm. We see a lot of other roles that we can play...We're sort of in that niche between a

86. A related case that can be compared to this is the use of racial profiling used by certain police forces to justify pulling over drivers based on statistical readings. Telephone interview with Victor Hwang, Attorney, Asian Law Caucus, in San Francisco, Cal. (Dec. 7, 1998).
community organizing function and a law firm.” He describes this “niche” as advantageous: “It usually works to our benefit, because we’re always the niche player. Like when we’re doing welfare reform, we work with social service providers, so we have actual contact with clients. But then, we also work with law firms. So we bridge that gap between the large law firms and our community.” He cites this position as a reason for the Asian Law Caucus’ lead role in coalitions.

As “advocates” for the interests of their “community,” Coalition members were responsible for lobbying politicians through letter writing; educating the Asian American and wider community about the case; preparing and filing legal analyses and documents; and networking with various community organizers and leaders to mobilize their constituents for public demonstrations. Working in the political space of this “interstice” or intersection between formal legal frameworks and the practices of public advocacy meant that the Coalition functioned as a representative of its community’s interests, while serving as messenger to the official legal institutions of the state. It is by publicly advocating the remuneration of a case and by bringing the outrage of community members over an incident of hate crime and hate violence to the attention of legal institutions, that public advocacy organizations are able to promote the interests of the Asian American community.

V. THE USE OF DISCOURSE IN RACIAL POLITICS

Prosecution and public awareness of civil rights violations often cannot be obtained without a strong community response. Therefore, community-based public interest organizations play an important role in promoting social change. First, they are able to increase prosecution and public awareness by navigating the interstice between formal legal frameworks and public advocacy practices. Second, because the political and activist work furthered by marginalized communities help maintain and protect the basic civil rights enjoyed by mainstream society, community-based public advocacy organizations play a critical role in extending and protecting these rights. In this regard, it is possible to view Asian Americans as occupying a position that is simultaneously central and marginal to American legal frameworks.

In this section, I posit that discursive analysis, otherwise known as the analysis of discourse, provides a conceptual framework for deconstructing the unique dual position occupied by Asian Americans. “Discourses” are described here as the competitive systems of language and representation that are propagated by both mainstream and marginal institutions.
individuals and groups in society in order to reproduce or challenge certain privileges and values. Discourses are composed of ideologies with catchwords and phrases, and can be understood as a vocabulary set specific to the social and political objectives supported by those practicing the discourse. This vocabulary set is imbued with symbolic meaning, resulting in a “coding” of language. Thus, an ideological position disseminated in print media by a political organization is necessarily coded with the value systems of those who believe in that position.90

The importance of applying discursive analysis to the political practices of public advocacy and mainstream institutions cannot be overemphasized. This is because discourses inform us of how we are to behave or to think. Thus, discourse is the primary function through which the often-conflicted relationship between institutionalized legal frameworks and community-based public advocacy is played out. It is an integral part of the reinforcement of power relations. Dominant institutions utilize coded discourse to legitimated control and, in the Kao case, the use of coercive force and violence. On the other hand, discourse is also a mechanism for resistance in social activism and coalition politics. In this regard, discursive analysis provides a lens into examining the actual ideologies put forth by those practicing the discourse as well as the material consequences of those ideologies when they are deployed through discourse.

Discourse played a significant role in the outcome of the Kao case. The national and local anti-immigrant environment in which Kao’s death occurred set the stage for certain political ideologies, which provided the police in Sonoma County as well as public advocacy groups with disparate discourses that became crucial to identifying the nature of Kao’s death. For example, in 1996, the year immediately prior to the Kao shooting, the National Asian Pacific American Legal Consortium’s (NAPALC) annual Audit of Violence Against Asian Pacific Americans reported an increase of 17% in the number of anti-Asian incidents reported.91 This is in contrast to the Federal Bureau of Investigations findings of a 7% decrease of violent crime in 1996.92 This difference has been attributed in part to the rightward

90. Id. As an academic field, “discourse analysis” is interdisciplinary and therefore has different perspectives and approaches. Fairclough stipulates two broad approaches to discourse analysis, “critical” and “non-critical.” The methodology of this Essay falls within the first group. Quoting Fairclough, “Critical approaches differ from non-critical approaches in not just describing discursive practices, but also showing how discourse is shaped by relations of power and ideologies, and the constructive effects discourse has upon social identities, social relations and systems of knowledge and belief, neither of which is normally apparent to discourse participants.” NORMAN FAIRCLOUGH, DISCOURSE AND SOCIAL CHANGE 12 (1992).

91. NAPALC FOURTH ANNUAL REPORT, supra note 69, at 1. In addition, the 1997 NAPALC audit found a 10% decrease in reported anti-Asian incidents although with significant increased reports in California and New Jersey. To put this in context, in 1993 there were 155 reported incidents, in 1994, 452 incidents, 1995, 458 incidents, and in 1996, 534 incidents versus the decrease to 481 of 1997. Between 1997 and 1994 there was a 210% increase in reported incidents. National Asian Pacific American Legal Consortium, AUDIT OF VIOLENCE AGAINST ASIAN PACIFIC AMERICANS: CONTINUING THE CAMPAIGN AGAINST HATE CRIMES, FIFTH ANNUAL REPORT 1 (1997).

92. NAPALC FOURTH ANNUAL REPORT, supra note 69, at 1.
shift occurring in mainstream American political ideology. The Kao case and the role that Asian American public interest organizations play in the aftermath of such incidents must be viewed within these wider social and political contexts.

The discourse of police practices became a central point of the Kao case and served to sanction the use of police violence against Kao. Specifically, Sonoma County police utilized foreignizing representations of Asians in its legitimization of the use of force in shooting Kao. Asian American media (both in English and Asian languages) made connections between the recent increases in national incidents of anti-Asian violence and the stereotypical representations made by the Sonoma County police.93 The representation of computer engineer Kao as a "martial arts threat" brought a flurry of reaction from Asian American organizations.94 This particular stereotype of Asian males as potentially dangerous because of an assumed martial arts capability is linked to very real incidents involving the death of Asian males. Professor Cynthia Lee, of the University of San Diego School of Law, writes:

Many people assume that young Asian men know martial arts. In State v. Simon, the Asian-as-martial artist stereotype helped secure an acquittal for a man who shot his Chinese neighbor and then claimed self-defense. Anthony Simon, an elderly homeowner, shot his neighbor, Steffen Wong, a Chinese man, as Wong was entering his own duplex. At trial, Simon argued that he assumed, by virtue of Wong's racial heritage, that Wong was an expert in the martial arts. Simon claimed he was afraid of Wong and that heated words had been exchanged between the two neighbors. Simon also said he was fearful because more Orientals were moving into the neighborhood. Defense counsel argued to the jury that the evidence showed Simon reasonably believed Wong was an imminent threat to him. The jury acquitted Simon on all counts.95

Nevertheless, the Kao case was viewed by many within the context of police practices. From April 1, 1995 through September 27, 1997 law enforcement officers in Sonoma County killed eight civilians, all of which were ruled justifiable homicide by the Sonoma County District Attorney.96 This record, as well as the County DA's conclusions, centered the Kao case within a larger context of police practices and review. The disproportionate number of shootings also brought the involvement of non-Asian American organizations seeking the creation of independent police review. The issue of Kao's race as a factor in his death was tied into a broader and pre-existing discourse and political activism around police practices in Sonoma County.

93. The Chinese language daily, The Chinese World Journal, consistently covered the Kao case through the summer of 1997, in the months following the shooting.
94. Hart, supra note 53.
96. Cal. Advisory Reports, supra note 50, at iii.
The primary discussion at the November 25, 1997 Justice for the Kao Family Coalition meeting, revolved around the “message” that the Kao Coalition needed to rally around.\(^\text{97}\) Shortly after this meeting, Victor Hwang discussed the Vincent Chin case in comparison to the Kao shooting.\(^\text{98}\) He commented that the Kao case was actually a much stronger one than the Chin case. This would seem a surprising comment since the Chin case involved a very proactive situation with a father and son hunting for Chin after the initial barroom altercation. Hwang referred to his recent discussions with Helen Zia, a contributing editor to *Ms. Magazine*, and a central figure in the community response to the Vincent Chin killing. She had recently joined the Kao Coalition. She had emphasized that even in the Chin case it was not pushed to a “hate crimes” status until much later in the investigation and after much community involvement.\(^\text{99}\) It was not until later in the Chin case that a witness came forward and stated that she had heard one of Chin’s killers say to Chin, at the bar, the now infamous “if it weren’t for you little motherfuckers, we wouldn’t be out of work.” Once this came to light, the context of the severe auto industry recession and the daily Japan bashing that was occurring both in Detroit and at the national level amongst politicians and mainstream media, served as a larger context and motivation for the Chin killing. This resonated powerfully and symbolically with the Asian American community. It also helped to push the case to a “hate crime” status.

Hwang noted that Zia had commented that public identification with the Kao case, and the proper presentation of the events leading up to his death, was critical.\(^\text{100}\) Hwang stated that this didn’t mean that the Kao Coalition didn’t have “truth” on its side, it just meant that the coalition had to be just as media savvy as the pro-police public relations machine up north in Sonoma County. The lesson from this discussion with Hwang was that discourse, or “spin” to put it crudely, were going to be important for the Kao case. Given the differences between the Chin and Kao cases, the ability of the Kao Coalition to articulate this successfully was another factor.

Attempts to educate the public about cases involving negative representations of Asian Americans are often stymied by mainstream race relations discourse which emphasizes a bipolar black/white construction. This results in a “pared-down” perspective of racism.\(^\text{101}\) A primary characteristic of mainstream views on race relations is that “pared-down” perspectives of racism emphasize a narrow black-white bipolar view of race to the exclusion of other groups. This context of a “pared-down” view of racism directly affected the efficacy of the Coalition for Justice for the

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97. This meeting was held at the Chinese for Affirmative Action’s office in San Francisco’s Chinatown.
98. Interview with Victor M. Hwang, in San Francisco, Cal. (Nov. 25, 1997).
99. Id.
100. Id.
Kao Family's attempts at gaining media support and coverage, and at seeking redress based on racial discrimination. In particular, a "pared-down" perspective of racism does not recognize hate crimes and hate violence as an issue that Asian Americans experience. Therefore, it is very difficult to get government and public attention in a case of anti-Asian hate crime or violence. Beyond the simplistic black/white dichotomization of race relations in the United States, powerful discourses of Asian Americans as the "model minority" stifle proper recognition of the diversity in the Asian American community. For these reasons, it is imperative for Asian Americans to articulate a discourse on race relations that is inclusive of their specific, unique experiences.

June 23, 1997, marked the fifteenth anniversary of the Vincent Chin killing, and the Kao case, for those involved, served as a barometer of progress since then. This case, therefore, has larger implications beyond the specificities of the death of Kuanchung Kao. The Kao case demands that violence against Asian Americans be recognized as a real problem and that such incidents do not get lost in the generic discourse of police practices. Under pressure from outraged Asian American citizens and Asian American organizations working with Commissioner Yvonne Lee of the U.S.C.C.R., Assistant U.S. Attorney Albert Glenn requested an FBI investigation of the Kao shooting. The FBI has yet to release a report. After an initial investigation, the Department of Justice declined to conduct a criminal investigation citing lack of evidence. The case has now shifted to a civil suit against the Rohnert Park police brought on by Kao's widow.

As described in section VII below, it was the through an establishment of a coalition among diverse public advocacy organizations that a united front was finally established to navigate through the interstice of racial discourse and the formal legal frameworks.

VI. ALLIANCE POLITICS AND COALITION BUILDING IN THE KAO CASE

The resources of Asian American public advocacy organizations such as the Asian Law Caucus (ALC) have been taxed by the effects of recent anti-immigration legislation and an increase in anti-Asian violence. The ALC typically receives a high volume of telephone calls regarding hate crime and hate violence claims. These claims are examined and many are referred to other organizations once ALC's finite resources are exceeded. ALC maintains frequent contact with these primarily non-profit and governmental organizations. Cooperation and networking among advocacy organizations sharing similar interests have led to the development of coalitions. Coalition politics were essential to both the Chin and Kao cases. Such alliance coalitions allowed overburdened organizations to share their expertise and workload, and also to increase their political effectiveness by presenting a united front.

The Kao Coalition came into being after Kao's widow, Wu, was referred to the Asian Law Caucus by Portia Lee, a reporter at the *World*
The Coalition was an alliance of over twenty community-based organizations that joined together after the shooting to share in the workload, and combine their resources and expertise. The Coalition was made of non-profit groups across a diverse political and social spectrum. Most of the Coalition organizations represented specific Asian American community interests. For instance, they include the more traditional San Francisco Chinatown stalwarts such as the Chinese Six Companies (Chinese Benevolent Association) as well as newer San Francisco based community advocacy and policy oriented organizations such as the Bay Area Police Watch, Chinese for Affirmative Action, the Chinese Progressive Association, and the Northern Coalition for Immigrant Rights. Besides local organizations, nationally established “mainstream” civil rights organizations were also involved. They include the American Civil Liberties Union, the Japanese American Citizens League, and the Organization of Chinese Americans. Membership in the Kao Coalition spanned a truly diverse spectrum, including organizations representing business interests, socialist political causes, and police reform.

The diversity of membership in the Coalition led to the development of strategic conflicts. Groups representing different interests found themselves promoting agendas at odds with each other within the coalition. However, these groups were able to come together and focus on shared interests in addressing the problems of anti-Asian violence and excessive police force. These issues provided a foundation for the Coalition’s primary objective of attaining “justice” in the Kao case.

The maintenance of this diverse coalition was dependent upon the organizational and leadership role of a small core of members, including Hwang of the Asian Law Caucus, Isabel Huie of Chinese for Affirmative Action, Debbie Ng and David Mar of Chinese Progressive Association and Julie Soo of Supervisor Leland Yee’s offices. Many of these people participated in weekly planning meetings to create and manage subcommittees, especially during the summer of 1997, when much of the Coalition’s activities occurred.

Each Coalition organization was responsible for focusing on a particular aspect of informing the community, bringing Kao’s killers to justice, helping the Kao family, and lobbying for legislative reform. Some specific goals of these subcommittees included: advocating for a federal investigation of civil rights violations committed by Officer Shields; fundraising for the Kao family; police reform in Sonoma County; educating the public about the Kao case; and the creation of a long-term coalition to address anti-Asian hate crimes. Specific events such as a rally at Union Square, San Francisco on August 16, 1997, as well as a one-hundred day vigil held in Portsmouth Square, Chinatown, San Francisco on August 17, 1997, were coordinated by the coalition to raise popular awareness and demonstrate community support for the Coalition’s goals.

Addressing the repercussions of the Kao case forced many of the organizations forming the Coalition to overcome divergent agendas in order to focus upon a specific goal. The increased political efficacy of the Coalition demonstrated the strength of numbers. In general, the formation of alliances like the Kao Coalition tended to improve relations within the community.

CONCLUSION

The public advocacy role of the Asian Law Caucus involves strategizing within a highly contested, political environment where different groups compete for resources and control of legal institutions. Asian American organizations are therefore involved in the short and long-term viability of “Asian Americans” as a political entity. These interests represent those of the particular cross section of the Asian American community described by the Coalition. The vigilant anti-racist and anti-discriminatory political practices of members of the Asian American activist community serve as a constant challenge to the American legal system to live up to its civil rights laws and high ideals.

In *Margins and Mainstreams*, Gary Okihiro describes the role of Asian-American activism on the margins as protecting and extending basic civil rights and the privileges of mainstream society to Asians. Judicial, social, and political pressure, organized by Asians dating back to the mid-nineteenth century challenged discriminatory laws and behavior. This practice continues today, as Asian Americans, working on the “margins” through public advocacy and community involvement, push for enforcement and revision of hate crime laws and the broader understandings of hate violence.

In the three and a half years since Kao’s death, the case has moved through various stages. Since the time this Essay was first started, the Kao case has shifted to a civil trial. The prosecution of Jack Shields became a more remote possibility as the government organizations involved declined to investigate further, citing lack of evidence. As stated earlier, much of the resistance to further investigation was due to the fact that the Department of Justice and other federal investigative bureaus were unlikely

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103. For an analysis of the social and political construction of “race” and its strategic role in competition for resources, see generally MICHAEL OMI & HOWARD WINANT, RACIAL FORMATION IN THE UNITED STATES: FROM THE 1960’S TO THE 1990’S (1994).

104. It is worthwhile to point out again here, that the Asian American community is not homogenous and does not operate in sync. But there are some common legal and civil rights interests which organizations such as the ALC help to protect. This organization of pan-ethnic identity around common political causes has been described as “strategic essentialism.” See Lisa Lowe, *Heterogeneity, Hybridity, Multiplicity; Marking Asian American Differences*, 1 DIASPORA 27-28 (1991).


to pursue the case once the local District Attorney, Michael Mullins, concluded that no criminal behavior occurred.\textsuperscript{107}

Despite this early report from the District Attorney, the Kao Coalition continued to advocate for Jack Shields' prosecution, in the hopes that public outrage would overcome this obstacle. In 1998, during the week of April 29, events were held in San Francisco, in Sonoma County, further south in the Silicon Valley area, and across the Bay from San Francisco at the University of California, Berkeley, to commemorate the one year anniversary of Kuanchung Kao's death. The U.C. Berkeley event involved student-led teach-ins, vigils, and speakers from the Asian-American community.

Beginning in the fall of 1997 until May of 1998, the Kao Coalition met on several occasions to plan the creation of a new organization against anti-Asian violence. The proposed organization was to be based on a core group of Coalition members and was to serve as a more permanent structure to address increasing incidents of anti-Asian violence. Furthermore, the organization would learn from the experiences of past organizations against anti-Asian violence, and in particular it was to learn from Break the Silence, a group formed in the aftermath of the Vincent Chin killing. Mike Wong, who had been a lead organizer with Break the Silence moderated the Kao Coalition meetings, and Coalition discussions were organized in a seminar format with different objectives and issues to be covered in an agenda. The level of sophistication in these strategy meetings was a direct result of the extensive experiences that various participants had brought into the Coalition.

Although criminal prosecution is no longer a possibility in this case, the efforts of the Coalition should not be considered a failure. Community involvement in such a cause builds and cements relationships among different organizations and members involved. It reminds government institutions and politicians that organized Asian American responses can affect policy and electoral outcomes. This case brought together varying Asian and non-Asian specific interests, creating coalitions necessary to create change.

One significant event was that the Coalition brought this case to the attention of a governmental agency through the U.S.C.C.R. hearing on police practices and misconduct. In doing so it also highlighted the conditions that have increased incidents of hate violence and hate crimes across the country. In early May 2000, the U.S.C.C.R. released its report based on its public hearing in 1997 of law enforcement in Sonoma County. The U.S.C.C.R. Report is scathing in its critique of Sonoma County's

\textsuperscript{107} The Asian Law Caucus argued in a legal analysis that the Sonoma County DA, Michael Mullins, had in effect rubberstamped the Sonoma County Sheriff Office's required Critical Incident Protocol (CIP) in concluding no criminal misconduct on the part of Officer Shields. The CIP involved no independent review of the Sheriff's Office actions as is standard, according to Victor Hwang of the Asian Law Caucus. Report by Victor M. Hwang, \textit{supra} note 22, at 1, 2, 16-17. See also Sonoma County Grand Jury Interim Report, 1996-1997, at 1; Peter Blumberg, \textit{Civil Rights Group Faults Slaying Probe}, THE PRESS DEMOCRAT, Aug. 1, 1997, at A4.
police misconduct record as well as its poor community relations. For instance, the report states that the U.S.C.C.R. is "appalled" at the number of fatal shootings in Sonoma County by police. It states that Sonoma County should establish civilian review boards with independent budgets and offices not tied to law enforcement to investigate future cases of police misconduct and excessive force. It criticizes the current system where cases of excessive force by police are investigated by police agencies before being sent to the District Attorney's office.

If not for the work of the Justice for the Kao Family Coalition, this hearing may never have come to pass. The police community in Sonoma County was forced to defend and assess its practices in a public forum to a governmental agency. The organizations and people involved with the Justice for the Kao Family Coalition are not normally considered part of the mainstream of legal institutions. However, their work will impact basic civil rights by putting pressure on Sonoma County's police bureaucracy to listen to its community.