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2023/10/02 APA Justice Monthly Meeting

The next APA Justice monthly meeting will be held via Zoom on Monday, October 2, 2023, starting at 1:55 pm ET.

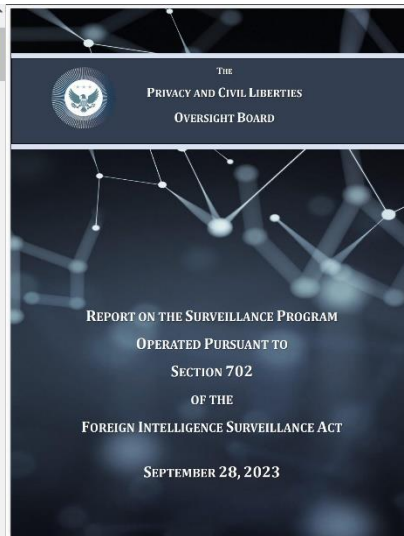
In addition to updates by **Nisha Ramachandran**, Executive Director, Congressional Asian Pacific American Caucus (CAPAC); **Joanna Derman**, Director, Advancing Justice | AAJC; **Gisela Perez Kusakawa**, Executive Director, Asian American Scholar Forum (AASF), and **Clay Zhu 朱可亮**, Partner, DeHeng Law Offices 德恒律师事务所, confirmed speakers will also include:

- **Nancy Chen**, Founding President, Chinese American Women in Action (CAWA) on the history of CAWA and its interests and concerns in Illinois and national issues
- **Andy Wong**, Managing Director of Advocacy, Chinese for Affirmative Action, on the coalition letter on Section 702 reforms, responses, and related CAA activities such as the recently launched "Stop The Blame" campaign
- **Haipei Shue (薛海培)**, President, United Chinese Americans, on the recent hearings of Professor Feng "**Franklin**" **Tao 陶丰**'s appeal in the 10th Circuit Court of Appeals in Denver and the administrative trial of New York Police Department Officer **Baimadajie Angwang 昂旺** in New York City (new addition)

The virtual monthly meeting is by invitation only. If you wish to join, either one time or for future meetings, please contact one of the co-organizers of APA Justice - **Steven Pei 白先慎**, **Vincent Wang 王文奎**, and **Jeremy Wu 胡善庆** - or send a message to contact@apajustice.org

NOTE: A shutdown of the federal government happens when Congress fails to pass some type of funding legislation that is signed into law by the president. Funding expired on September 30, 2023, but a 45-day stop-gap bill was signed into law at the last minute to continue government operation until November 17, 2023.

Report on The Warrantless Surveillance Program and Section 702 Reforms



On September 28, 2023, the Privacy and Civil Liberties Oversight Board (PCLOB) released a 297-page report titled "Report on The Surveillance Program Operated Pursuant to Section 702 of The Foreign Intelligence Surveillance Act."

According to *The Hill* on October 1, 2023, "the PCLOB report reveals deep divisions among its five members on how to reform Section 702 of the Foreign Intelligence Surveillance Act (FISA), which allows for warrantless surveillance of foreigners abroad.

"In a departure from precedent, the report did not reach unanimous conclusions about how to update the law, a confusing prospect as a Congress divided on Section 702 stares down an end-of-the-year deadline to renew it.

"The board's two Republican-appointed members voted against its release, said its findings should not be attributed to them and attached their recommendations in a 56-page annex that read almost like a second report.

"Civil liberties advocates have long viewed Section 702 as a backdoor for gaining access to information on Americans, whose communications get swept up in searches as they speak with those being surveilled abroad. It's a factor they see as a violation of Sixth Amendment rights and a particular risk to Black and other communities of color.

"The report, however, includes a third rail for the intelligence community — a suggestion the intelligence community first get a court order before reviewing any intel gleaned on Americans.

"Doing so, PCLOB's majority writes, would offer the 'most critical safeguard for Americans' privacy rights.'

"The FBI spied on 119,000 Americans last year, a sharp decline that reflects changes in FBI policy for how the agency accesses the information of citizens swept up in other searches. Still, an unsealed opinion from the Foreign Intelligence Surveillance Court, the entity that would oversee the court order process recommended by the report, recently unsealed an opinion

showing a string of abuses, including reviewing information on elected officials.

"The inclusion of a recommendation to get a court order before reviewing information gathered on Americans and permanent residents was celebrated by civil liberties groups that have long pushed for such a requirement.

"**Elizabeth Goitein**, senior director of the Liberty and National Security Program at the Brennan Center for Justice at New York University, called the report an 'ironclad case for requiring a probable-cause order for U.S. person queries.'"

On September 14, 2023, a coalition of 52 Asian American organizations wrote to Congress to oppose the renewal of Section 702 of FISA unless significant revisions are put into place.

The letter, led by Asian American Scholae Forum (AASF), Advancing Justice | AAJC, and Chinese for Affirmative Action (CAA) and Stop AAPI Hate, wrote "with a sense of urgency and a shared commitment to safeguarding the principles of justice, equality, and privacy in our nation. As Asian Americans and allies, we understand all too well the perils of unchecked national security programs and the historical discrimination our community has endured. Our shared history serves as a poignant reminder of the dangers of racial profiling and prejudice in the name of national security."

Read the coalition letter: <https://bit.ly/3LkEmnt>. Read the PCLOB report: <https://bit.ly/3PEutm3>.



According to the [American Civil Liberties Union \(ACLU\)](#), in May 2017, Professor **Xiaoxing Xi 郗小星** filed a lawsuit against the lead FBI agent in the case, **Andrew Haugen**, and other agents, alleging that they made knowingly or recklessly false statements in support of the investigation and prosecution. Xi's wife and oldest daughter later joined the case. The ACLU joined the case in October 2017. The lawsuit asks the court to award damages and to declare that the defendants violated the plaintiffs' Fourth and Fifth Amendment rights. It also asks the court to order the government to return or delete any of the Xis' communications that it obtained during the investigation.

[The Third Circuit Court of Appeals](#) allowed Xi and his family to pursue their lawsuit against the U.S. government in May 2023.

Report on Anti-Asian Racism in The United States



On September 27, 2023, the U.S. Commission on Civil Rights (USCCR) released its 2023 statutory enforcement report, [The Federal Response to Anti-Asian Racism in the United States](#). The report assesses the rise in anti-Asian hate crimes in the U.S. from 2019 through 2021, and the federal role in preventing and enforcing federal hate crime laws.

According to USCCR, the report examines three main areas: 1) **national trends and data** regarding the rise of hate incidents and hate crimes against members of Asian communities; 2) **local and state law enforcement's** prevention and reporting practices regarding hate crimes; and 3) **federal efforts and policies** that encourage greater participation in reporting hate crime incidents, as well as **prosecution and enforcement efforts** to prevent hate crimes.

The report highlights that language barriers hinder the reporting of incidents, and many incidents, even if they don't meet legal hate crime criteria, still evoke fear and are not accounted for in official statistics.

A major impediment is the lack of comprehensive data and reporting in understanding the severity of hate crimes against individuals of Asian descent. The report notes that the transition to the National Incident-Based Reporting System has been slow for some agencies, leading to incomplete data.

The Commission proposes a "holistic strategy" to combat anti-Asian hate incidents, including improvements in data collection, legal enforcement, community support and education initiatives.

It recommends urging prosecutors and law enforcement to vigorously investigate and prosecute hate crimes against Asian Americans and providing first responders with training on identifying hate crimes. It also highlights the need to address language barriers in federal, state and local law enforcement agencies and victim services.

The U.S. Commission on Civil Rights is an independent, bipartisan agency established by Congress in 1957. Its mission is to inform the development of national civil rights policy and enhance enforcement of federal civil rights laws.

Read the USCCR report: <https://bit.ly/3ZB9llm>

2020 Census Data for Nearly 1,500 Detailed Race and Ethnicity Groups, Tribes and Villages

Table 1.
Detailed Asian Groups: 2010 and 2020

Detailed group	2010		2020		Percent change, 2010 to 2020	
	Alone	Alone or in any combination	Alone	Alone or in any combination	Alone	Alone or in any combination
Afghan	X	X	129,949	190,389	X	X
Asian Indian ¹	2,843,391	3,183,063	4,397,737	4,768,846	54.7	49.8
Bangladeshi	128,792	147,300	256,519	273,050	99.2	85.4
Bhutanese	15,290	19,439	39,565	46,146	158.8	137.4
Bruneian	X	X	107	227	X	X
Burmese	91,085	100,200	258,595	276,322	183.9	175.8
Buryat	X	X	560	855	X	X
Cambodian	231,616	276,667	280,364	364,006	21.0	31.6
Chinese, except Taiwanese	3,137,061	3,794,673	4,128,718	5,205,461	31.6	37.2
Filipino	2,555,923	3,416,840	3,076,108	4,436,992	20.4	29.9
Hmong	247,595	260,073	315,707	335,919	27.5	29.2
Indonesian	63,383	95,270	85,118	153,115	34.3	60.7
Japanese ²	766,079	1,315,624	741,544	1,586,652	-3.2	20.6
Kalmyk	X	X	553	951	X	X
Kazakh	X	X	12,877	19,080	X	X
Korean	1,423,784	1,706,822	1,508,575	1,989,519	6.0	16.6
Kuki	X	X	62	108	X	X
Kyrgyz	X	X	7,036	8,785	X	X
Lahu	X	X	1,954	2,339	X	X
Laotian	191,200	232,130	188,906	254,151	-1.2	9.5
Malay	X	X	1,639	3,761	X	X
Malaysian	16,138	26,179	25,429	43,580	57.6	66.5
Maldivian	98	127	151	733	54.1	477.2
Mien	X	X	17,915	22,557	X	X
Mizo	X	X	300	914	X	X
Mongolian	14,366	18,344	28,383	40,182	97.6	119.0
Nepalese	51,907	59,490	205,297	219,503	295.5	269.0
Pakistani	363,699	409,163	618,037	687,942	69.9	68.1
Pashtun	X	X	364	1,175	X	X
Sikh	X	X	48,321	70,697	X	X
Sindhi	X	X	185	661	X	X
Singaporean	3,418	5,347	8,131	13,462	137.9	151.8
Sri Lankan	38,596	45,381	69,694	85,785	80.6	89.0
Tai Dam	X	X	1,361	2,834	X	X
Taiwanese	196,691	230,382	259,317	333,289	31.8	44.7
Tajik	X	X	3,507	8,245	X	X
Thai	166,620	237,583	201,377	326,758	20.9	37.5
Timorese	X	X	67	163	X	X
Turkmen	X	X	1,452	3,270	X	X
Uzbek	X	X	30,716	53,374	X	X
Vietnamese	1,548,449	1,737,433	1,951,746	2,293,392	26.0	32.0

X Not applicable. Indicates groups that do not have comparable 2010 data either due to the detailed group historically being tabulated from the ancestry question on the American Community Survey (i.e., Afghan) or due to improvements made to the 2020 code list to ensure more detailed Asian groups were tabulated (e.g., Bruneian, Sikh, Uzbek).

¹ The 2010 Census count for the Asian Indian population includes respondents who provided a response of Sikh. In 2020 a new code was added for Sikh and responses of Sikh were disaggregated from the Asian Indian population count. Caution should be used when comparing the Asian Indian population count in 2010 and 2020.

² The counts for the Japanese population differ from the 2010 Census published counts. This is because the counts in this table include responses of Iwo Jima and Okinawan.

Note: Information on suppression, confidentiality protection, nonsampling error, definitions and guidance on using the data are available at www.census.gov/programs-surveys/decennial-census/technical-documentation/complete-technical-documents.html.

Source: U.S. Census Bureau, 2010 Census special tabulation; 2020 Census Detailed Demographic and Housing Characteristics File A.

On September 21, 2023, the U.S. Census Bureau released 2020 Census population counts and sex-by-age statistics for 300 detailed race and ethnic groups, as well as 1,187 detailed American Indian and Alaska Native (AIAN) tribes and villages.

On the Asian Population

- Among Asian respondents, Asian Indian was the largest alone group (4.4 million) and Chinese, except Taiwanese the largest alone or in any combination group (5.2 million).
- Filipino (4.4 million), Vietnamese (2.3 million), Korean (2.0 million), and Japanese (1.6 million) all had alone or in any combination populations over 1 million in 2020.
- The Nepalese population was the fastest growing Asian group among those with populations of 50,000 or more in 2010. The Nepalese alone population increased 295.5% from 51,907 in 2010 to 205,297 in 2020, and the Nepalese alone or in any combination population grew 269.0% from 59,490 to 219,503 over the decade.

On the Native Hawaiian and Other Pacific Islander Population

- Native Hawaiian was the largest Native Hawaiian and Other Pacific Islander (NHPI) alone group (199,880) and alone or in any combination group (680,442).
- Nearly all NHPI groups grew from 2010 to 2020. The Chuukese alone population was the fastest growing NHPI alone group, increasing 296.2% to 10,500 in 2020.
- The fastest growing NHPI alone or in any combination group was Papua New Guinean, which increased by 249.3% to 1,453 people during the decade.

Read the Census Bureau news release: <https://bit.ly/3rAYGdQ>. Read the breakdown on the Asian population: <https://bit.ly/3PwxDbY>

News and Activities for the Communities

1. Community Calendar

The APA Justice Community Calendar is located on the front page of the APA Justice website at <https://www.apajustice.org/>.

APA Justice Public Events

Today | October 2023 | Print Week Month Agenda

Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun
	1:45pm APA Just						
9pm Rep. Gene				10:30am Expert, 2pm C100 Web, 9:30pm The FBI			
4pm State Legi, 9pm Rep. Gene							
9pm Rep. Gene							
9pm Rep. Gene							

APA Justice Public Events

Today | Monday, October 2 | Print Week Month Agenda

- Monday, October 2**
 - 1:45pm APA Justice October 2023 Monthly Meeting
- Sunday, October 8**
 - 9:00pm Rep. Gene Wu's Weekly Town Hall meeting
- Thursday, October 12**
 - 10:30am Expert Panel on Open Data for Racial Equity
 - 2:00pm C100 Webinar - Race-Based Admissions and the Supreme Court
 - 9:30pm The FBI and Chinese Americans - From the Investigation to the Courtroom
- Sunday, October 15**
 - 4:00pm State Legislatures 101 Training
 - 9:00pm Rep. Gene Wu's Weekly Town Hall meeting
- Sunday, October 22**
 - 9:00pm Rep. Gene Wu's Weekly Town Hall meeting

Upcoming Events:

2023/10/02 APA Justice October Monthly Meeting

2023/10/08 Rep. Gene Wu's Weekly Town Hall Meeting

2023/10/12 Expert Panel on Open Data for Racial Equity

2023/10/12 C100 Webinar - Race-Based Admissions and the Supreme Court Court: An Asian American Perspective

2023/10/12 The FBI and Chinese Americans - From the Investigation and Defense Frontline

2023/10/15 State Legislature 101 Training

2023/10/15 Rep. Gene Wu's Weekly Town Hall Meeting

2023/10/22 Rep. Gene Wu's Weekly Town Hall Meeting

Visit <https://bit.ly/45KGyga> for event details.

2. 2023/10/12 Webinar: The FBI and Chinese Americans

The poster features logos for CALOBA (Chinese American Lawyers of the Bay Area) and CASPA (華美半導體協會) at the top. The title is 'The FBI & Chinese American Community: Stories and Tips from the Investigation and Defense Frontline'. The date and time are '12TH OCTOBER 2023 6:30 - 8:30 pm' at 'Santa Clara University School of Law'. A QR code is present. The speakers listed are: Mr. Jeffrey Fields, Assistant Special Agent in Charge, FBI; Ms. Letitia Wu, Supervisory Special Agent, FBI; Mr. Mark Krotoski, Partner, Morgan Lewis; Ms. Zheng (Jen) Liu, Partner, Rimón Law. The moderator is Ms. Jialing Dailey, Senior IP Counsel, Atlassian. A small text block at the bottom reads: 'Economic espionage may not be far away from you. Do you want to gain insights on how to protect your company from criminal trade secrets theft and what rights you have if you are the accused? Please join our distinguished panelists, including special guests from the FBI, and have an informative discussion on criminal trade secrets law. Our panelists will share knowledge and practical tips distilled from decades of experiences.'

WHAT: On-site event - The FBI and Chinese American Community: Stories and Tips from the Investigation and Defense Frontline

WHEN: Thursday, October 12, 6:30 - 8:30 pm PT

WHERE: Santa Clara University School of Law, 500 El Camino Real, Santa Clara, CA 95050

HOSTS: The Chinese American Lawyers of the Bay Area (CALOBA) and the Chinese American Semiconductor Professional Association (CASPA)

DESCRIPTION: "A conversation with the FBI on criminal trade secret theft at the Santa Clara University School of Law. As members of the Chinese American community, we are committed to protecting our shared interests and promoting a safe and prosperous environment for all. Please join us and learn some frontline stories and practical tips offered by our distinguished panelists based on their decades of experience in the field!"

REGISTRATION: <https://bit.ly/46cHiei>

3. Foreign Affairs Essay: The Dysfunctional Superpower

FOREIGN AFFAIRS



The Dysfunctional Superpower

Can a Divided America Deter China and Russia?

By Robert M. Gates

According to a *Foreign Affairs* essay on September 29, 2023, a looming government shutdown, a partisan impeachment inquiry, and the former president facing multiple felony charges across four criminal cases. Add to this chaos a presidential election and it's fair to say that the U.S. political system will be preoccupied with its own drama and division for some time.

Such paralysis could not come at a worse time. The United States should be in a strong position to deter Russian President **Vladimir Putin** and Chinese President **Xi Jinping**—but “dysfunction has made American power erratic and unreliable, practically inviting risk-prone autocrats to place dangerous bets,” the essay said. “The United States finds itself in a uniquely treacherous position: facing aggressive adversaries with a propensity to miscalculate yet incapable of mustering the unity and strength necessary to dissuade them.” Only by working together can U.S. leaders contend with such grave threats. And “therein lies the rub.”

Robert M. Gates, author of the essay, is former U.S. Secretary of Defense.

Read the *Foreign Policy* essay: <https://fam.ag/3LNONjN>

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