



## UNITED STATES COMMISSION ON CIVIL RIGHTS

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### Letter of Transmittal

September 27, 2023

President Joseph R. Biden  
Vice President Kamala Harris  
Speaker of the House Kevin McCarthy  
President Pro Tempore of the Senate Patty Murray

On behalf of the United States Commission on Civil Rights (“the Commission”), I am honored to transmit our briefing report addressing Anti-Asian hate entitled, “The Federal Response to Anti-Asian Racism in the United States.” The full report is available on the Commission's website at [www.usccr.gov](http://www.usccr.gov).

Since the start of the COVID-19 pandemic, there has been a troubling amount of incidents stemming from anti-Asian animus, many rising to the criminal level which has caused substantial concerns surrounding hate crimes and discrimination against persons of Asian descent in the United States. As a result, this report marks the second time the Commission has examined the rise of anti-Asian racism and discrimination in its 65-year history.

In May 2021, the Commission urged the Administration to address anti-Asian racism and xenophobia, emphasizing that scapegoating Asian communities is not a new phenomenon. These harmful stereotypes have persisted since the 19th Century, when Asian immigrants were unjustly labeled the “Yellow Peril.” Media, medical journals, and government officials propagated the false ideas that Asians were “dirty, diseased, sinister, sexually depraved, invasive, and perpetually foreign.” These stereotypes have also fueled violence against Asian communities, such as the 1980s “Dotbusters” attacks on South Asians in New Jersey and the post-9/11 hate crimes in New York City, which marked one of the FBI’s highest reported hate crime numbers since 1992.

In October 2022, as a response to increased reports of anti-Asian hate crime and bias-motivated incidents, the Commission voted to investigate the federal government’s role in combating these incidents. This 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 emphasizes the importance of not only acknowledging the issue but also taking concrete actions to protect the rights and well-being of Asian Americans and Pacific Islanders across the nation. This report is bolstered by this Commission's specific findings and recommendations (agreed upon by a bi-partisan majority), that will accompany the report for the first time since 2019:

## **Findings**

### *Data collection & reporting:*

- A major impediment to understanding the severity and magnitude of hate crimes against persons of Asian descent is the lack of comprehensive data.
- The transition to the NIBRS data collection has been slow for some agencies: for 2021, the number of participating agencies within the FBI hate crime database was 11,834, compared to the 15,138 participating agencies for 2020 data, and many of the agencies that have not submitted 2021 data are the largest jurisdictions.

## **Recommendations**

### *Training & Partnerships:*

- Prosecutors and law enforcement should vigorously investigate and prosecute hate crimes and harassment against Asian Americans.
- First responders should be provided with training aimed at teaching a clear understanding of what constitutes a hate crime in their jurisdiction.

### *Language access:*

- Federal, state, and local law enforcement agencies and victim services need to identify critical deficiencies in Limited English Proficient (LEP) programs for individuals who need language assistance.

The Commission's research highlights the urgent need for enhanced efforts in addressing and preventing anti-Asian hate crimes. The Commission heard written and oral testimony from academic and policy experts, federal and local law enforcement officials, and members of the public. The Commission also sent formal requests for information to relevant federal offices at the U.S. Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI) and conducted extensive qualitative and quantitative research regarding the impact of hate crimes and bias-motivated incidents against Asian Americans in the U.S. during the height of the COVID-19 pandemic. Throughout that process, we heard from experts regarding a series of findings and recommendations. These recommendations, while not adopted by the majority, are essential to address the pressing issues surrounding anti-Asian hate incidents and hate crimes.

## **Findings:**

- The myth of the "perpetual foreigner" continues to play a role in understanding the rise of anti-Asian racism and discrimination during the pandemic.

- To contextualize the increased anti-Asian sentiment during the COVID-19 pandemic, it is important to understand the history of anti-Asian racism and the “Yellow Peril” laws.
- During the pandemic, there were several other names that were used in the media and by government officials to refer to COVID-19, including the “Chinese virus,” the “Kung flu,” and the “Wuhan virus,” potentially perpetuating negative views of Asian individuals and communities and leading to many Asian Americans feeling blamed for bringing COVID-19 to the U.S.

*Data collection & reporting:*

- A major impediment to understanding the severity and magnitude of hate crimes against persons of Asian descent is the lack of comprehensive data. Without mandatory national data collection and training law enforcement on how to accurately identify and report hate crimes, preventing these crimes is substantially challenging.
- Hate crime victims are less likely to report incidents due to fear of retaliation, concerns that justice would not be served, and distrust in the criminal justice system.
- While the transition from the FBI’s UCR to NIBRS database intended to provide a more complete picture of hate violence across the nation, the shift has been challenging for many jurisdictions, and hate crime data remains incomplete.
- The transition to the NIBRS data collection has been slow for some agencies: for 2021, the number of participating agencies within the FBI hate crime database was 11,834, compared to the 15,138 participating agencies for 2020 data, and many of the agencies that have not submitted 2021 data are the largest jurisdictions.
- In March 2023, the FBI released a Supplemental Hate Crimes Statistics report and showed that the number of anti-Asian reported incidents increased 167 percent from 279 in 2020 to 746 in 2021.
- National data show that all race-based hate crimes rose by 30 percent in 2020; and specifically anti-Asian hate crimes increased over 70 percent in 2020. According to the Bureau of Justice Assistance (BJA), anti-Asian hate crimes rose 164 percent in 16 of the largest cities and counties in the first quarter of 2021 compared to the same period in 2020. BJA wrote that the first quarter increases in 2021 followed a “historic surge” in anti-Asian hate crimes that started in 2020, with anti-Asian hate crimes increasing 149 percent in 16 of the largest cities in 2020. Specifically, data show that the first spike of anti-Asian hate crimes “occurred in March and April of 2020 concurrently with a rise in COVID cases and negative stereotyping of Asians related to the pandemic.”
- Hate crime data are underreported by victims and by law enforcement and are less likely to be reported to police compared to other types of crimes, and some research suggests that Asian Americans may be even less likely to report discriminatory behavior when it occurs.
- Data show that in California, hate crimes have increased steadily since 2019, and anti-Asian hate crimes rose from 89 (6.7%) in 2020 to 248 (14.1%) in 2021. In San Francisco,

all hate crime events increased from 2020 to 2021 (from 54 to 114), and the proportion of anti-Asian events increased significantly, representing 16 percent of events in 2020 and more than half of events in 2021.

- In New York, reported hate crimes dipped in 2020 before spiking in 2021. Anti-Asian hate crimes rose from 31 (6.35%) in 2020 to 140 (18.11%) in 2021. In New York City, the number of anti-Asian hate crimes in the city was one (0.2%) in 2019, rose to 27 (10.2%) in 2020, and rose again to 131 (25%) in 2021.
- In the United States, 34% of the Asian American population is limited English proficient. The most frequently spoken languages are Chinese, Korean, Vietnamese, Tagalog, Thai, Khmer, Bengali, Gujarati, Hindi, and Punjabi.

*Barriers:*

- Few police departments have officers fluent in Asian languages, even in metropolitan areas with high numbers of AAPI residents. Therefore, language barriers continue to be a major barrier in reporting hate incidents and hate crimes.
- A major barrier to gaining a comprehensive understanding of the magnitude of hate violence against Asian communities may be due to incidents not rising to the legal benchmark of a hate crime. Many incidents that are reported to community organizations, such as being spit on or called racial slurs are not accounted for in official numbers, yet still invoke fear in community members.
- Under the COVID-19 Hate Crimes Act, funding is provided for state and local incident reporting hotlines, and in May 2022, DOJ expanded their language services to be available in 18 of the most frequently spoken AAPI languages across the nation. However, at the Commission's briefing panelists testified the local reporting hotlines, victim services, and law enforcement were not accessible to victims with limited English proficiency, possibly pointing to a discrepancy between federal and local resource availability.
- The lack of hate crime prosecutions may also be a contributing factor to low reporting of hate crimes. Prosecution of hate crimes is difficult, even in states with comprehensive hate crime legislation, because there is no one legal standard to which courts have agreed, or because the standard to prove bias is too high.
- Most nonprofit and community resources trying to provide the public with ways to combat anti-Asian violence include encouraging reporting hate incidents and hate crimes to local law enforcement as well as to organizations collecting data, learning about the history of Asian American discrimination, and encouraging elected officials to pass anti-hate legislation.
- For struggling communities, the grantmaking process is cumbersome and difficult to maneuver through.
- The true challenge in assessing whether the federal government is doing enough to combat a rise in hate crimes lies in the absence of proper performance measurements.

## **Recommendations:**

### *Data & Reporting:*

- FBI should require local law enforcement to submit crime data, or in lieu of that, Congress should make submission mandatory, or consider a range of options to expand implementation.
- Congress could also consider authorizing a new grant program that would provide funding to state and local governments to cover expenses related to transitioning to NIBRS, such as purchasing new software and computers, or training officers on how to use NIBRS.
- Federal civil rights agencies should be required to collect and report key data related to civil rights enforcement and the Attorney General to annually publish this data.
- DOJ should fund state and local government efforts in partnership with community groups to address discrimination and other hate incidents.
- Law enforcement agencies should improve data collection, requiring the tracking and reporting of both hate incidents and hate crimes, and ensuring reporting forms are easy to mark an incident or crime as a suspected hate incident or crime.

### *Training & Partnerships:*

- The Justice Department should also provide safety training and workshops in the respective languages of targeted communities and expand federal funding for community advocacy groups fighting hate crimes.
- The Justice Department should codify the role of the language access coordinator into federal law to ensure that all individuals have equal access to justice and access to federal programs and benefits regardless of language access.
- A written policy within a law enforcement organization can serve as a bridge between hate crime legislation and implementation of that law by providing officers with information and a standard that the agency expects them to follow.
- Prosecutors and law enforcement should engage in joint training on hate crimes and community engagements and law enforcement agencies may even consider recommending that the prosecutor's office have a designated attorney to prosecute hate crimes in the community.
- Prosecutors and law enforcement should vigorously investigate and prosecute hate crimes and harassment against Asian Americans.
- First responders should be provided with training aimed at teaching a clear understanding of what constitutes a hate crime in their jurisdiction.
- The FBI suggests state and local officials utilize the FBI's resources, publicity tools, forensic expertise, and experience in identifying and investigating hate-based motivations even if federal hate crime charges are not pursued.

- A public health and gender-based approach to prevent hate in public spaces needs to be created, including the street harassment of AAPI women and other vulnerable communities.
- More investment should be given to strengthen and expand local networks so victims have ready access to community-based places where they can report attacks, receive support services, and take safety training and workshops in their own languages.

*Language access:*

- Regarding language access, federal agencies need to review their compliance with Title VI in Executive Order 13166 and take proactive steps to address any potential violations to ensure that they provide language access services to individuals who need them.
- As recipients of federal funding, local law enforcement and victim services should also comply with Title VI in Executive Order 13166 and provide language access such as interpreters and bilingual officers who speak Asian languages.
- Federal, state, and local law enforcement agencies and victim services need to identify critical deficiencies in Limited English Proficient (LEP) programs for individuals who need language assistance.
- Expand reporting hotlines or in-person contact for those with limited English proficiency.
- Develop a language access policy statement prohibiting discrimination based on national origin that grants equal access to all individuals, including those with limited English proficiency and promotes effective communication through interpreter services, document translation, and staff training.

*Civil Rights Protections:*

- Title II of the Civil Rights Act should be expanded to include retail stores and other businesses where discrimination occurs to protect employees and customers from bias-based discrimination and harassment.
- Businesses frequented by the public should be required to train employees on their responsibilities to customers, so that they know and understand their responsibility to maintain a space free from bias-based harassment and discrimination, even if perpetrated by other customers.

This report provides essential insights and guidance for policymakers, law enforcement agencies, and community organizations working towards a more inclusive and equitable society. The Report is divided into three chapters:

- **Chapter 1** of the report discusses relevant federal hate crime laws, provides a brief historical context of Asian discrimination, and presents national statistics regarding hate crimes and hate incidents against persons of Asian descent from 2019-2022.

- **Chapter 2** describes local law enforcement's efforts to respond to rising hate crimes, evaluates reporting and prevention practices, and summarizes ongoing reporting and prevention challenges.
- **Chapter 3** evaluates the federal government's role in investigating, reporting, and prosecuting hate crimes.

We at the Commission are pleased to share our views, informed by careful research and investigation as well as civil rights expertise, to help ensure that all Americans enjoy civil rights protections to which we are entitled.

For the Commission,

A handwritten signature in blue ink, appearing to read "Rochelle M. Garza", with a large, stylized flourish extending to the right.

Rochelle M. Garza  
Chair