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## **New Research Shows Significant Racial Disparities Against Chinese and Asians in Espionage Prosecutions**

*Analysis from 1996 to 2020 of 276 individual defendants in 190 cases shows those with Chinese and Asian names are punished more severely and arrested at a higher rate than Western defendants*

**New York, NY (September 21, 2021)** -- Individuals with Asian or Chinese names are punished twice as severely as defendants with more Western names in charges under the Economic Espionage Act (EEA), and 1 in 3 Asian Americans accused of espionage may have been falsely accused. Additionally, jail time for Chinese and Asian defendants is double compared to Western defendants and the Department of Justice (DOJ) is much more likely to publicize alleged “spying” by people with Asian names than alleged “spying” by people with Western names.

These are just some of the conclusions drawn from a new detailed study *“Racial Disparities in Economic Espionage Act Prosecutions: A Window into the New Red Scare.”*

The study, co-led by Committee of 100 and Andrew Chongseh Kim, an attorney with Greenberg Traurig, LLP and Visiting Scholar at South Texas College of Law, analyzed court filings for all cases charged under the EEA from 1996 to 2020: 276 individual defendants charged across 190 cases, as coded in the Federal PACER (Public Access to Court Electronic Records) system. The study provides empirical data that individuals, particularly those with Chinese or Asian names, are disproportionately and adversely impacted under the EEA.

“We must recognize the racial stereotyping that the Chinese and Asian American communities have had to deal with for over two centuries, starting with the ‘Yellow Peril’ of the 19th century to the ‘perpetual foreigner’ stereotype that still exists today,” said Zheng Yu Huang, President of Committee of 100. “This research is critical to understanding the racial discrimination and implicit bias that are the byproducts of a rush to ensure national security, which is making

America a less attractive place for immigrants of all backgrounds. America is a place of law and justice, where our diversity is our strength.”

“We spent thousands of hours analyzing federal court filings and Department of Justice press releases. Unfortunately, the data reveals that Asian Americans and others of Asian descent are treated differently by our justice system,” said Andrew Chongseh Kim. “People of Asian descent are more likely to be accused of spying even though they are less likely to actually be convicted of those charges. Perhaps more troubling, the DOJ is much more likely to publicize allegations of spying when they involve people with Asian names. These findings suggest that ordinary Asian American citizens are becoming collateral damage in our efforts to protect America’s economy.”

Highlights from the white paper and research include:

**The percentage of Chinese and Asian defendants charged skyrocketed over the past decade**

Prior to 2009, two-thirds of the defendants charged under the EEA were people with Western names, while 16% were people with Chinese names. However, since 2009, the majority of people charged with EEA offenses have been people of Chinese descent.

**Domestic espionage cases nearly as high as international cases**

Although news stories focus on espionage for China, 42% of the defendants charged under the EEA were alleged to have stolen trade secrets for the benefit of an American business or person. 46% alleged theft for the benefit of China, while the remaining 12% alleged theft for the benefit of other countries, including Australia and Russia.

**Cases against college and university professors are not common**

Although much has been written accusing faculty and staff at universities as agents of economic espionage, the actual charges against these defendants rarely include accusations of espionage. Only 3% of the alleged theft of trade secrets alleged under the EEA occurred in research institutions. These new findings raise concerns that the DOJ is searching for spies in the places they are least likely to find them.

**One in three Asian Americans accused of espionage have been falsely accused**

This study found that 27% of presumed Asian American citizens charged under the EEA were not convicted of any crimes. An additional 6% of Asian Americans were convicted only of process offenses like false statements. In total, 1 in 3 Asian Americans accused of espionage may have been falsely accused.

### **People of Chinese and Asian descent are punished twice as severely**

Half of the defendants with Western names (49%) convicted under the EEA were given sentences of probation only, with no incarceration. In contrast, the vast majority of defendants of Asian descent (75%) were sent to prison, in particular defendants of Chinese descent (80%). Additionally, Chinese and Asian defendants convicted of economic espionage received average sentences of 27 and 23 months respectively, roughly twice as long as the average sentence of 12 months for defendants with Western names.

### **Surprise arrests are higher for those of Chinese and Asian descent**

Although movies and TV dramas inevitably highlight the “perp walk,” only 38% of EEA defendants with Western names were actually arrested and handcuffed. Instead, most defendants with Western names received a formal letter summoning them to court to face the charges against them. In contrast, the first time 69% of defendants of Asian descent and 78% of EEA defendants of Chinese descent, learned they had been charged was when they were arrested, generally with handcuffs.

### **The DOJ publicizes EEA charges against people with Asian names more than EEA against people with Western names**

The DOJ issues a press release announcing EEA charges in over 80% of cases that involve defendants with Asian names. In contrast, the DOJ issues press releases in only half (51%) of EEA cases involving defendants with Western names.

To download the full white paper, visit <https://www.committee100.org/initiatives/racial-disparities-in-economic-espionage-act-prosecutions/>

You can also download and read independent commentaries on the paper from (in alphabetical order):

- Ashley Gorski (Senior Staff Attorney, American Civil Liberties Union)
- Dr. Randy Katz (United Microelectronics Corporation Distinguished Professor in Electrical Engineering and Computer Science, and Vice Chancellor for Research, UC Berkeley)
- Carol Lam (Former U.S. Attorney for the Southern District of California)
- Margaret K. Lewis (Professor of Law at Seton Hall University)
- Patrick Toomey (Senior Staff Attorney, American Civil Liberties Union)
- Dr. Jeremy Wu (Co-organizer of APA Justice and Committee of 100 Member)

### **About Committee of 100**

Committee of 100 is a non-profit U.S. leadership organization of prominent Chinese Americans in business, government, academia, healthcare, and the arts focused on public policy engagement, civic engagement, and philanthropy. For over 30 years, Committee of 100 has served as the preeminent organization committed to the dual missions of promoting the full participation of Chinese Americans in all aspects of American life and constructive relations between the United States and Greater China. Visit <https://www.committee100.org/> or follow Committee of 100 on [LinkedIn](#), [Twitter](#), and [Facebook](#) for more information.

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