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In the U.S. Federal Courts, Asian Pacific Americans are Left off the Bench

By: Christine Munteanu, Ford Program Fellow

In early August, President Obama drew wide praise for nominating three Asian Pacific American (APA) judges to the California District Courts, adding some much needed diversity to the U.S. federal bench. These nominations are significant when considered in the context of the history of APA representation in the federal judiciary. Of the over 850 authorized judgeships in the federal courts (which are comprised of the U.S. District Courts, the U.S. Court of Appeals and the Supreme Court), there are currently only eight active APA federal judges. In fact, there have only been seventeen APAs appointed to the federal bench in U.S. history. The APA population, with over 15 million individuals, accounts for over five percent of the general U.S. population, yet the current proportion of APA federal judges is less than one percent. What accounts for this discrepancy, and why should you care?

By their very nature, federal judgeships represent a significant entrenchment into our nation's official power structure. All federal judges are appointed directly by the President and hold their terms for life. They have the authority to rule on cases involving the U.S. government, its constitution or its

federal laws, as well as on cases involving citizens of two different states or of foreign countries. Thus federal judges are responsible for upholding our Constitution and laws by applying them to resolve disputes.

The underrepresentation of APAs on the federal bench reflects, in part, lingering historical stereotypes of APAs as the "perpetual foreigner" or the "yellow peril" – beliefs that imply that APAs will never be considered "true" Americans. Sixty years ago, these very same beliefs were used as a justification for the internment of Japanese Americans during World War II. A proportional number of APA federal judges would be a powerful symbol to counteract these negative stereotypes. Such symbols create a positive self-perpetuating cycle; a visible APA presence on the federal bench would create mentors and role models, inspiring younger APAs to pursue careers as judges that may have otherwise seemed closed to them.

But this is more than just an issue of representing diversity. There are still legitimate legal concerns affecting the APA community, concerns that often must be disputed and resolved in the courts. Issues like immigration reform, workplace discrimination

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Mount Holyoke College, Aileen Wang
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 Pierce Law, Sarah Cho
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 U.C. Berkeley, Annie Kim Noguchi

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 U.C. Santa Cruz, Laurel Shannon
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 University of Georgie, Kim Huang Ruiz
 University of Illinois at Urbana-Champaign, Stephanie Nitahara
 University of Notre Dame, Matthew Teshima
 University of Wisconsin-Milwaukee, Jaelei Yang & Kathy Vang
 West Point, Eric Holly

Hate Crimes and Hate Incidents

Binghamton, NY – April 2009: A student assembly meeting ended in physical contact and racial slurs at Binghamton University. Three assembly members and two student association executive board members entered into an argument outside the meeting room where anti-Asian and anti-white slurs were exchanged over the election for next year's assembly chair. Student protest activities were initiated when the administration did not respond to this altercation. (SOURCE: apaforprogress.org)



Lancaster, PA – April 2009: Three Asian American students from Franklin & Marshall College were confronted with racial slurs and physically attacked near campus. The alleged perpetrators were a part of a larger group of young people who also appeared to be students at Franklin & Marshall College. While public safety officers were able to end the incident, they have referred the case to the Lancaster Bureau of Police, which began a criminal investigation. Franklin & Marshall College also launched its own investigation through its student judicial process. (SOURCE: WGAL.com)



Santa Barbara, CA – April 2009: Police are investigating a University of California-Santa Barbara fraternity after an Asian American student and his friends were violently attacked. The two victims were walking past the Pi Kappa Alpha house when a group of individuals standing on the patio of the house started directing racial slurs at one of the victims. The verbal assault turned into a physical assault, and it was only when some of the aggressors began laughing that

they stopped the attack. Foot patrol officers arrived on the scene and the victims sought medical treatment. Pi Kappa Alpha public relations chair said that the house is cooperating with authorities to resolve this issue.



Omaha, NE – April 2009: A small business owner whose store was vandalized a week earlier received additional threats from one of the alleged perpetrators who returned to the store to demand a protection fee. In early April, six ethnic businesses were the targets of extortion when four unidentified white teenagers entered their shops and demanded a protection fee of seventy-five dollars. Days after the initial contact, four of the six businesses which refused to pay the protection fee had bricks thrown at their store fronts, shattering their windows. The businesses that were targeted include a nail salon, a Korean market, a Mediterranean shop, a Chinese restaurant, and an Indian store. Police are still investigating this case and have yet to classify this as extortion or a hate crime.



West Whiteland Township, PA – May 2009: An act of vandalism is being considered as an act of racial intimidation after the cars of a biracial family were spray painted with racial slurs. The mother of the teenager, who is half Asian Indian, found all three family cars spray painted with slurs including "9-11" and "pig." Police are urging anyone with information to come forward. When apprehended, the person or persons responsible will be charged with criminal mischief and ethnic intimidation. (SOURCE: WPVI-TV/DT)



Boulder, CO – May 2009: Three Boulder middle-school students are suspected of harassment and a bias-motivated crime for calling a 12-year-old girl and threatening to rape and kill her because she is Asian American. The students, two 13-year-olds and one 10-year-old, have been arrested. The boys allegedly called the girl on her cell phone and used explicit and violent language in their threats. The boys called back and left two messages after she hung up. The girl's parents reported the incident to the police the next day. The students are being processed through a juvenile detention center. (SOURCE: the denverchannel.com)

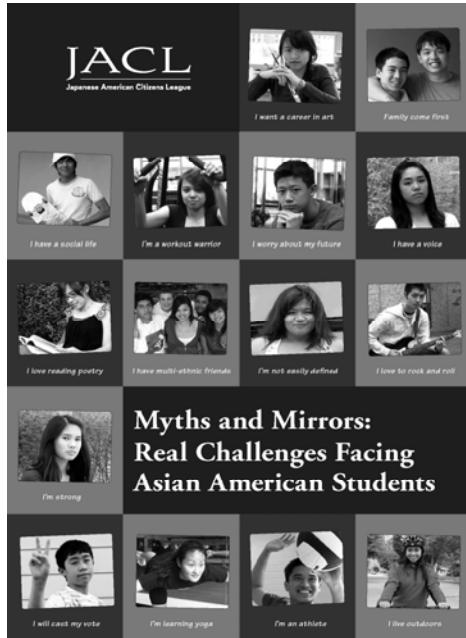


San Francisco, California – June 2009: A Southern California man convicted of murdering three people in 2006 has been sentenced to a term of 200 years to life in prison. 27-year-old Joseph Melcher shot to death a young man when he was leaving his girlfriend's house in August 2006. Melcher was also convicted of shooting to death a waitress working at a bar in Japantown and a young man walking through the Peace Plaza as Melcher left the scene. Prosecutors argued that the crimes were racially motivated, as all three victims were of Asian descent. While these crimes were not ruled as hate crimes, Melcher was convicted of nine felony counts of murder, attempted murder and assault. (SOURCE: sfgate.com)



Flushing, New York – June 2009: Two teenagers were arraigned in the strangling of a sleeping man. Chris Levy, 17, and Cory Azor, 16, were held without bail for strangling 49-year-old David Kao, a marketing ex-

Myths and Mirrors: A New Resource from the JAACL



Leadership requires a strong sense of self, yet when dealing with conflicting stereotypes, cultural values and expectations, a sense of self may be hard to come by. This booklet, developed by 2008-2009 Ford Fellow Jacqueline Mac, explores the challenges and pressures faced by Asian American students in forming their own identity. Issues explored include the “model minority” stereotype, institutional racism, perfectionism and a lack of support from school administrators. The booklet offers action items and resources for dealing with these challenges, ultimately serving as a guide to self-empowerment. □

ecutive for The World Journal, a Chinese-language newspaper. A third suspect, Keron Wiltshire, 17, was charged with possession of stolen property, Kao’s Lexus S.U.V. The suspects ambushed Kao while he was asleep in his car, choking him and stealing his cash and car. The three were also charged in a May 27 robbery in which they robbed a 42-year-old man at gunpoint. (SOURCE: www.nytimes.com)

Yorktown, VA – June 2009: Two more people have been arrested in connection with an assault in May 2009 linked to a Ku Klux Klan affiliated gang. A total of five people have been arrested in a mob beating at the Yorkton waterfront, in which the group made anti-gay and anti-Asian slurs and references to the “311,” which is believed to be a code for the KKK. One of the victims was pinned to the ground, hit and kicked in the head and body. Preliminary hearings for this arrest were scheduled for July 13. (SOURCE: www.dailypress.com)

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Seattle, WA – July 2009: Prosecutors have filed hate crime charges against a man accused of verbally attacking and kicking a man of Vietnamese descent as he slept in a parking lot. According to police, Robert Thomas Wise continued ranting and threatening the Vietnamese, saying he would kill immigrants upon his release, after police arrived on scene. Wise has not entered a plea and is being held on \$100,000 bail on the charge of malicious harassment. (SOURCE: blog.seattlepi.com)

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San Diego, CA – July 2009: A man accused in a series of San Diego home-invasion robberies and sexual assaults committed suicide in his jail cell. Thomas James Parker, 39, was found dead after being arrested during a failed attack. Parker was linked through evidence to a string of home-invasions and sexual assaults, which primarily targeted Asian women. Parker owned It’s a Grind Coffee House in Little Italy. (SOURCE: [## APAs Left Off the Bench](http://signon-</p>
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and hate crimes require work of both activists at the grass-roots level, as well as support and understanding from the federal government, including the judiciary.

Justice Sotomayor was criticized this summer for suggesting the breadth of her experience as a “wise Latina” would lead her to a more just conclusion than a white, male counterpart. Her critics argued that judges are supposed to be impartial, without allowing their own sympathies to hinder their judgment; empathy, while an admirable personal characteristic, has no place on the bench.

Though we cannot rewrite history or undo the wrongs perpetrated in the past, we can move forward with understanding and compassion. Empathy for the struggles of minority populations, stemming from knowledge and experience, is vital to ensuring that these lessons from history are not forgotten. Fighting for a representative APA federal presence is yet another step in the movement for a government that accurately reflects the needs and concerns of all facets of our diverse population. □

sandiego.com)

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Portland, OR – August 2009: A Community Speak-Out against racism was organized after a young Vietnamese American, Bao Vuong, stepped forward as a victim of hate. While stopped at a red light, Vuong was assaulted by a group of men who yelled racial slurs and began throwing food and punching his car. No suspects have yet been arrested. (SOURCE: kgw.com) □

JACL Chapter and Staff Activities

Midwest Office – April 2009: The Midwest Office sent a letter to NBC Television objecting to the use of the term “jap” during an episode of *Heroes*. In the letter, JACL Midwest Director Bill Yoshino writes, “*Heroes* has a large viewership, especially among impressionable young people. The use of the slur is inappropriate because the viewership may come to believe the use of this epithet is acceptable inasmuch as there was nothing in the script to explain or admonish its use.”



Midwest Office – April 2009: The Midwest Office sent a letter to the Lancaster Bureau of Police urging them to conduct a thorough investigation of the individuals responsible for a racial attack on three Asian students at Franklin & Marshall College. One Asian American and two Asian international students were assaulted in the early hours of April 19 when they were confronted by a larger group of young people and subjected to racial insults. This led to a physical assault by the larger group, thought to be Franklin & Marshall students. One of the Asian students required medical treatment.

In a letter to Police Chief Keith Sadler, JACL Midwest Director Bill Yoshino states, “We urge you to cooperate with the officials at Franklin & Marshall College to take active measures to ensure the safety of the Asian and Asian American student population.”



Midwest Office – July 2009: The JACL responded to an appalling use of the racial slur “Jap” in a satirical article in *Men’s Journal Magazine*. The author, Matt Taibbi, used the expression, “nuking the Japs,” in his column



Picketers gather outside the gates of Paramount Pictures Studios in Los Angeles, where the JACL and other APA groups staged a protest over an offensive scene in the studio’s new movie, *The Goods: Live Hard, Sell Hard*.

Waiting for Larry. JACL Midwest Director Bill Yoshino states in a letter to Editor-in-Chief David Zinczenko, “[Taibbi] should know that the J-word is tinged with the same demeaning attributes [as the N-word] that have the power to marginalize and isolate all who may be defined by the term. Do not use this slur, as it is unacceptable and obscene.”



Midwest Office – July 2009: The JACL wrote to Tribune Media Services after a JACL member discovered a crossword puzzle appearing in the July 8, 2009 Bakersfield Californian newspaper that used the term “Jap” as an abbreviation for Japan. In a letter to Assistant Editor Pat Fitzmaurice, JACL Midwest Director Bill Yoshino states, “We are concerned because the term is a racial slur that has been used to vilify and defame Japanese Americans.” Yoshino further requested that this information be passed onto the puzzle editor and all others who

would benefit from the information.



Midwest Office – July 2009: The JACL responded to an incident in Lawrence, Indiana, in which a police officer referred to an unidentified Asian male as “Jackie Chan” rather than “John Doe.” Lawrence Chief of Police Paul Whitehead acknowledged the incident was “racially insensitive” and is taking steps to address the issue. In a letter to Whitehead, JACL Midwest Director Bill Yoshino states that the JACL regards the officer’s actions as “purely racist,” and also comments on the use of the term “Oriental” in the police report. Yoshino writes, “The term [Oriental] took on a meaning that de-personalized Asians and relegated them to a subhuman level.”



Midwest Office – August 2009: The JACL wrote to the Vintage Japanese Motorcycle Club after a JACL member

pointed out that the organization's magazine repeatedly uses the term "Jap" as an abbreviation for "Japanese." In a letter to the club's President, Stuart Covington, JACL Midwest Director Bill Yoshino writes, "We are concerned that by regularly using this slur in lieu of the proper abbreviation, "Jpn," the Vintage Japanese Motorcycle Club suggests to its readers that the use of this slur is acceptable, and it is not."



National Office – August 2009: The JACL contacted executives at Paramount Pictures criticizing their judgment for including a scene in the movie, *The Goods*, where the main character uses the word "jap" to launch a physical assault on an Asian American character. In a letter to Paramount executives, JACL National Director Floyd Mori writes, "There is nothing funny about the use of racial slurs and there is little that is insightful or thought-provoking in a scene that displays a shocking lack of judgment." The JACL called for an apology and a meeting with the executives to resolve concerns about the movie, and joined a coalition of Asian American organizations staging a protest outside Paramount Pictures headquarters in Los Angeles.

In response, the president of Paramount Films, Adam Goodman, issued an apology to the JACL, and the studio has pulled all promotional materials of the movie which included the offending scene. Mori welcomed the apology, stating, "We are encouraged that Paramount recognized its error in using a racial slur and violence against Asian Americans as comedy."



Midwest Office – August 2009: Midwest Director Bill Yoshino wrote to an Alabama newspaper, the *Decatur Daily*, in response to a headline which

"Confronting the New Faces of Hate: Hate Crimes in America" – A Summary

A June 2009 report on hate crimes released by the Leadership Conference on Civil Rights Education Fund (LCCREF)* identifies changing trends in hate crimes committed in the United States. The report focuses in particular on two findings: an increase in violence directed towards the Hispanic/Latino community and perceived immigrants, and the continued growth of white supremacist organizations since the year 2000.

Though the annual number of hate crimes has averaged around 7,500 since 1990, when the FBI first began reporting statistics, crimes directed at the Hispanic/Latino population have increased 40% from 2003 to 2007, with 595 incidents reported in 2007. The LCCREF highlights the role of the hateful rhetoric used by opponents of immigration reform in fueling anti-Latino sentiment, and urges political and civic leaders to "speak out against efforts to demonize immigrants" and return the debate over immigration reform to a civil tone.

Far from claims that America has entered a post-racial era with the election of President Barack Obama, right-wing white supremacist groups have grown continuously since 2000, with a 54% increase over the last 7 years. Current social issues – the

controversy over immigration reform and the economic crisis – have fueled these groups' ability to attract new sympathizers by capitalizing on the population's fears and instability.

Of all reported hate crimes, 2.5% were directed against Asian Pacific Americans, though cultural and language barriers make under-reporting a real concern. Most disturbing was the finding that hate crimes against Asian Americans occur between youth - "Asian teens, stereotyped as high-achieving students who rarely fight back, have for years borne the brunt of ethnic tension as Asian communities expand and neighborhoods become more racially diverse."

The report recommends an increase in funding for anti-bias education and hate crime prevention initiatives by the federal government, in order to create an institutionalized system of response for hate crimes and education. It also advocates for further hate crime legislation to strengthen local law enforcement officials' ability to appropriately respond to and document hate crime incidents.

The full report, "Confronting the New Faces of Hate: Hate Crimes in America," can be accessed online at: http://www.civilrights.org/publications/hatecrimes/lccref_hate_crimes_report.pdf

**The JACL is a founding member of the LCCR, and a member of its Executive Committee. □*

used the racial slur "Jap". The "Today in History" feature highlighted the sinking of a US battle cruiser by the Japanese during World War II with the title, "Japs sink USS Indianapolis." In a letter to the newspaper's executive and managing editors, Yoshino acknowledged the historical context of the slur but objected to its current usage and perpetuation, stating

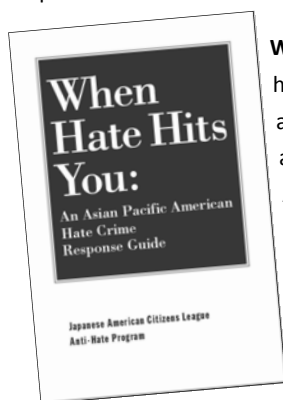
"Neither [the] deeds nor the legacy of [...] the Japanese Americans who fought bravely during World War II as members of the 442nd Regimental Combat Team are ennobled by racially tinged headlines from a by-gone era." □

JACL Anti-Hate Materials Available to Chapters

Words Can Kill the Spirit - a brochure to combat the use of racial slurs directed against Asian Americans. This brochure is intended to inform the public that the use of slurs and other forms of defamation must not be tolerated.



Anti-Asian Sentiment on Campus - a brochure that highlights the increase in anti-Asian sentiment on our college and university campuses. The brochure provides examples of actual incidents and steps to take if similar incidents occur.



When Hate Hits You - a comprehensive handbook that provides a historical look at anti-Asian sentiment in our country, along with recent examples of anti-Asian violence and a section on how you and your community can respond to hate incidents.

These materials can be ordered free of charge to JACL chapters. Contact the nearest JACL office and please give at least two weeks notice. □

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JACL Network Update

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