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Arati Prabhakar to Become White House Science Advisor and OSTP Director



According to a report by *Science* on June 13, 2022, President Joe Biden is expected to name **Arati Prabhakar**, an applied physicist, as his science adviser and nominate her as director of the White House Office of Science and Technology Policy (OSTP). The 63-year-old Prabhakar would succeed Eric Lander, who resigned on February 7 after admitting to bullying his staff and creating a hostile work environment during his 9 months in office.

At 34 years old, Prabhakar was picked in 1993 by then-President Bill Clinton to lead the National Institute of Standards and Technology (NIST) at the Department of Commerce. Two decades later, former President Barack Obama chose her to lead the Defense Advanced

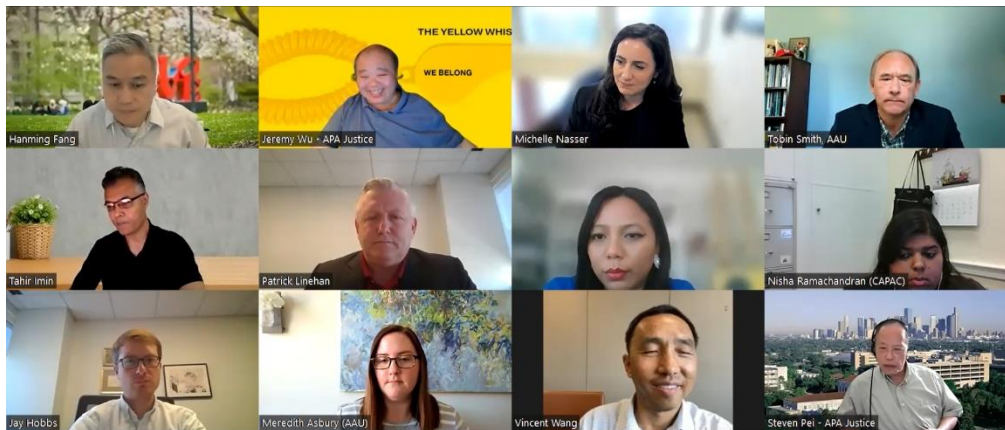
Research Projects Agency (DARPA) at the Department of Defense.

If—or more likely when—Prabhakar is confirmed by the Senate, she would become the first woman and first person of color to lead OSTP and to serve as science adviser. Born in India and raised in Texas, Prabhakar earned her Ph.D. from the California Institute of Technology in 1984 and immediately went to work for the federal government.

“OSTP has influence, not power,” one higher education lobbyist and longtime Washington, D.C., insider says about the \$7-million-a-year office, which draws heavily on staff seconded from other federal agencies. “And it has as much influence as the director and her staff can muster. Arati is tough but personable, and she knows how to exercise that influence.”

Read more: <https://bit.ly/3Qv7Ct0>

2022/06/06 APA Justice Monthly Meeting Summary Posted



The June 6, 2022, APA Justice monthly meeting summary has been posted at <https://bit.ly/3zFnCT3>. We thank the following special speakers:

- **Nisha Ramachandran**, Executive Director, Congressional Asian Pacific American Caucus (CAPAC). Nisha reported on a recent CAPAC joint letter by Reps. Ted Lieu, Judy Chu, Ed Case, and Adam Schiff that led to the release of [an overdue report](#) by the Office of the Director of National Intelligence. She also described the ongoing conference in Congress to reconcile differences between the Senate’s United States Innovation and Competition Act (USICA) and the House’s America COMPETES Act. There are a handful of problematic provisions specifically related to Asian American civil rights in the Senate bill. CAPAC is preparing a letter to Senate and House leadership. It is unlikely that the conference process can be completed before July 4.

- **Tobin Smith**, Vice President for Science Policy & Global Affairs, Association of American Universities (AAU). Toby gave a comprehensive report on the recent and ongoing AAU activities. Summary of his talk is being finalized and will be reported in the next newsletter. **Meredith Asbury** was also present in the meeting on behalf of AAU.
- **Patrick Linehan** and **Michelle Nasser**, Defense Attorneys for Professor Mingling Xiao. Dr. Xiao was the last academic indicted under the now-defunct “China Initiative.” He is a Mathematics professor at Southern Illinois University (SIU) in Carbondale. His case went to a jury trial on April 25. Patrick Linehan is a partner at Steptoe & Johnson LLP. Michelle Nasser is a partner at Dowd Bennett LLP. Dr. Xiao was originally indicted for three counts in early 2021 - two counts of wire fraud and one count of making a false statement to a government agency. All the counts arose from Dr. Xiao allegedly failing to disclose certain grants and certain relations he had with two different universities, both in his original National Science Foundation (NSF) grant application and a follow-up email exchange with an NSF program director. It was originally scheduled to go to trial in October 2021. About one week before the trial was to begin, the government filed a superseding indictment, adding four counts of tax-related offenses. The case went to trial in late April of this year. It was a 5-day trial. It was an all-women jury. At the end of the government’s case, the legal team filed a motion for acquittal on all counts. The Court granted acquittal to the first two counts of wire fraud because in its view the government failed to show or produce evidence that Dr. Xiao intended to defraud NSF. The jury acquitted Dr. Xiao on the third count of making a false statement but convicted counts 4 through 7 of the tax-related charges. With the acquittal of Count 3, Dr. Xiao was cleared of all charges related to his grant application. The legal team has filed [a motion of acquittal](#) on the tax-related charges. The core argument is that the government failed to present sufficient evidence for a reasonable jury to find that Dr. Xiao’s failure to acknowledge the bank accounts on his tax returns and failure to file a report was not willful. Patrick and Michelle did not take questions because post-trial motions, sentencing, and appeals are pending, but Patrick is available to respond to questions if you send them via his email at plinehan@steptoe.com. **Jay Hobbs**, another member of the legal team, was also present.
- **Hanming Fang**, Joseph M. Cohen Term Professor of Economics, University of Pennsylvania. Hanming is an economist who has done extensive work on discrimination and affirmative action. Hanming acknowledged the presence of attorney and researcher Andy Kim whose Committee of 100 white paper in 2018 inspired Hanming to conduct his research to produce additional results in his paper titled "Red Scare? A Study of Ethnic Prejudice in the Prosecutions under the Economic Espionage Act (EEA)." His research was conducted independently, covering the time period from 1996 to the end of June 2021, including 253 EEA cases, 384 individual defendants, and 35 corporate defendants. Hanming first confirmed that the proportion of Chinese-name defendants charged under the EEA rose dramatically after 2009. Hanming tested whether prejudice or statistical discrimination is underlining the differential fraction of Chinese versus other names being prosecuted by looking at what happened to these cases. The first major findings of Hanming’s study is that Chinese name defendants were 30.2% more likely to have their cases dismissed or acquitted, compared to other defendants. The Chinese name cases were acquitted or dismissed at a 30% rate, versus 18% for non-Chinese name cases. His second finding is that for publicly listed firms, whose trade secrets were allegedly stolen by the charged defendants, the stock market reacted much less

forcefully to the news if the defendants were of Chinese descent, indicating that the stock market perceives that there is a higher dismissal rate against Chinese defendants and therefore reacts less to those cases. You can read his working paper here: <https://bit.ly/3Qr9Rx7>

- **Gisela Kusakawa**, Assistant Director, Advancing Justice | AAJC. Advancing Justice | AAJC, ACLU, and a couple of impacted persons and their attorneys met with OSTP along with multiple Federal agencies. This was closing out the official engagement period. Gisela expects that there will be more engagement sessions in June and July for new organizations, and hopefully reconnection with older organizations that they have already touched base in August. Gisela also understands that there may be a comment period coming up this summer that will give folks an opportunity to provide their input as well if they have not already been engaged in these engagement hours. Advancing Justice | AAJC is focusing on four important areas: 1. Long-term engagement; 2. Oversight and accountability; 3. Transparency; and 4. Cure period. **Tahir Imin** is the Project Coordinator of the [Anti-Racial Profiling Project](#) at Advancing Justice | AAJC where he conducts legal referrals and intakes, as well as coordinates communications and outreach work.

The next scheduled monthly meeting is moved to July 11, 2022, because July 4 is Independence Day. Read past APA Justice monthly meeting summaries: <https://bit.ly/3kxkqxP>

ODNI Report - "Disappointing But Unsurprising"



After a delay of two years and a [Congressional letter](#) from Reps. **Ted Lieu**, **Judy Chu**, **Ed Case**, and **Adam Schiff**, the Office of the Director of National Intelligence (ODNI) finally released [a long overdue report](#) on May 31, 2022, which was mandated by Section 5712 of the FY20 National Defense Authorization Act (NDAA) (pages 989-990 <https://bit.ly/3eVEHqY>).

Among the comments that APA Justice received was "[i]t seemed like something ODNI wrote in a day or two rather than a data-driven analysis. It's disappointing but not surprising."

On June 15, 2022, AP published "[Spy agencies' focus on China could snare Chinese Americans](#)." According to the report, as U.S. intelligence agencies ramp up their efforts against China, top officials acknowledge they may also end up collecting more phone calls and emails from Chinese Americans, raising new concerns about spying affecting civil liberties. U.S. intelligence agencies are under constant pressure to better understand China's decision-making on issues and have responded with new centers and programs focusing on Beijing. While there's bipartisan support for a tougher U.S. approach to China, civil rights groups and advocates are concerned about the disparate effect of enhanced surveillance on people of Chinese descent.

As one example, people who speak to relatives or contacts in China could be more likely to have their communications swept up. These "incidental pick-ups" and related concerns were identified by APA Justice when The Foreign Intelligence Surveillance Act (FISA) was up for reauthorization in 2016. APA Justice and community organizations opposed the renewal of FISA. Read more about FISA: <https://bit.ly/3HrkeNA>. President Trump signed [the FISA Amendments Reauthorization Act of 2017](#) into law. The current authorization will expire in December 2023.

The National Security Agency has vast powers to surveil domestic and foreign communications, as revealed in part by [documents leaked by Edward Snowden](#). The FBI can access some of the NSA's collection without a warrant. Civil rights advocates have long argued that searches under what's known as Section 702 (of FISA) disproportionately target minority communities.

The ODNI report notes that there "may be an increased risk of such incidental collection" for Chinese Americans as well as people not of Chinese ancestry who have business or personal ties to China. The report recommends a review of artificial intelligence programs to ensure they "avoid perpetuating historical biases and discrimination." It also suggests agencies across the intelligence community expand unconscious bias training for people who handle information from incidental collection.

ODNI is reportedly studying delays in granting security clearances and whether people of Chinese or Asian descent face longer or more invasive background investigations. Contrary to the AP report that there is no publicly available data on clearances, Bloomberg Businessweek published "Mistrust and the Hunt for Spies Among Chinese Americans" on December 10, 2019. Bloomberg analyzed more than 26,000 security clearance decisions for federal contractors since 1996, more than three-fifths of applicants who have family or other ties to China are rejected for security clearances to work for government contractors, while two-thirds of applicants with ties to other countries are approved. The disparate treatment and impact of racial profiling on Chinese American federal employees and contractors by use of security clearance creates discriminatory barriers to their entry of employment and career path, denies Chinese Americans from serving our nation, and continues the insidious stereotyping of "Perpetual Foreigners" in our homeland.

The Bloomberg article featured Dr. [Wei Su](#), a Chinese American Army engineer who was forced to retire due to unjustified removal of his security clearance.

According to the AP report, **Aryani Ong**, co-founder of the advocacy group Asian American

Federal Employees for Non-Discrimination, noted that people of Asian descent are sometimes “not fully trusted as loyal Americans.”

Department-of-State-led "China House"

On May 26, 2022, Secretary of State Blinken made a major speech on the Biden administration’s approach to the People’s Republic of China: <https://bit.ly/3t06lQs>. Near the end of his speech, he said, "I’m determined to give the State Department and our diplomats the tools that they need to meet this challenge head on as part of my modernization agenda. This includes building a China House – a department-wide integrated team that will coordinate and implement our policy across issues and regions, working with Congress as needed."

On June 15, 2022, Voice of America published "Amid Rising Tension with Beijing, US Creates ‘China House’." According to the report, in Washington, local lore has long stated that nothing better indicates an issue’s importance than the creation of a new agency for it. Some former U.S. government officials and experts on Sino-U.S. relations say they believe that with the creation of the China House, the Biden administration is taking a stand on the future relationship with China. Read more: <https://bit.ly/3zHeNbe>.

On June 6, 2022, South China Morning Post published "US plan to build ‘China house’ at State Department urgently needed but raises questions, analysts say." According to the report, Secretary of State Antony Blinken’s vision of an expanded and dedicated cadre of China experts meant to implement policy across government departments. While many former officials agree with the initiative, some see hurdles to effectiveness in the latest White House effort to focus resources on the nation’s "most serious competitor."

At present, the China desk within the State Department’s Bureau of East Asian and Pacific Affairs is understood to spearhead China policy implementation.

Ahead of Blinken’s speech, Washington had already been reallocating internal resources to concentrate on China, which Biden identified as America’s “most serious competitor” in an assessment reflecting one of the few policy continuities with the US leader’s predecessor. While Biden may have disbanded the US Justice Department’s “China Initiative” – a Trump administration plan meant to fight Chinese espionage and intellectual property theft – other, more secretive China-focused government units have been established by the current administration.

Barely two weeks into Biden’s term, the US Defense Department launched a task force to evaluate its China-related military strategies and operations. Just four months later, the Pentagon issued recommendations “intended to streamline and strengthen cooperation with US allies and partners, particularly in the Indo-Pacific”. The recommendations remain classified.

And last October, the Central Intelligence Agency (CIA) announced the creation of a China Mission Center to gather intelligence about China and facilitate a whole-of-agency response. Since the CIA’s announcement, few details have been disclosed as to the center’s function or staffing.

For other long-time China watchers, an effective China strategy entails going beyond making structural changes within the US government. Deborah Seligsohn, a former US diplomat who is now an assistant professor of political science at Villanova University, agreed there was a “need

to support the development of China expertise” but saw another issue as more pressing.

“The bigger issue ... is that there is a real need to ensure the building of a China expert cadre and the shepherding of China experts to have successful long-term careers,” said Seligsohn, who served at the US embassy in Beijing from 2003 to 2007. Seligsohn cited challenging working conditions for US diplomats in China as making it more difficult to nurture long-term experts. These included recent coronavirus lockdowns in the country and worse bilateral ties. She advocated a re-evaluation of the security clearance process for those who have first-hand China experience, saying it appeared to have become more protracted since the Trump administration. Read more: <https://bit.ly/3MZztP2>

Events and News

- **Norm Mineta.** On Jun 16, 2022, the Mineta Family, the City of San José, and the Norman Mineta Transportation Institute welcome the Honorable Norman Y. Mineta home to San José, for the final time, in a public memorial honoring his life, career, and legacy. Speakers paying their respects included former President William J. Clinton, Mayor Liccardo, former San Francisco Mayor Willie Brown, Former U.S. Secretary of Defense, White House Chief of Staff, Leon Panetta, and former Congressman Mike Honda. Watch the video: <https://bit.ly/3bbdEhW> (2:27:43)
- **Title IX 50th Anniversary and Celebration of Patsy Mink.** The White House Office of Public Engagement and The White House Initiative WHIAANHPI invite you to a special virtual event commemorating the 50th anniversary of Title IX and celebrating the legacy of Representative Patsy Mink, the first woman of color and first Asian American woman to serve in the U.S. House of Representatives. The event will highlight the progress made to advance gender equity over the last 50 years and honor Rep. Mink’s contributions. Register for the event: <https://bit.ly/3tLSLAm>
- **Fortieth Anniversary of the Death of Vincent Chin.** Forty years ago on June 19, a Chinese American named Vincent Chin was beaten to death with a baseball bat in Detroit by two white men who never served jail time. Decades later, Chinese immigrant [Yao Pan Ma](#) was attacked while collecting cans in New York, Thai American [Vicha Ratanapakdee](#) was fatally assaulted in San Francisco, and Asian American woman [Michelle Alyssa Go](#) was pushed to her death in a New York subway station. On June 16, 2022, AP reported that Detroit partnered with The Vincent Chin 40th Remembrance & Rededication Coalition on a four-day commemoration to honor civil rights efforts that began with Chin’s death and declare the city’s commitment against such violence. Read more about the AP report: <https://bit.ly/39Ahm4l>
- **Asian American History is American History.** According to ABC-6 News, the General Assembly of Rhode Island passed a bill on June 17, 2022, that would require classrooms to teach kids about Asian American history and culture. Rhode Island has become the fourth state to do this after Illinois, New Jersey, and Connecticut. Once signed by the governor, the bill would require all public and secondary schools in Rhode Island to have at least one class of instruction on Asian

American, Native Hawaiian and Pacific Islander history and culture. Classes would begin in the 2023-2024 school year. Read more: <https://bit.ly/3xGEpmb>

- **Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity.** On June 15, 2022, the White House announced the beginning of a formal review to revise OMB's [Statistical Policy Directive No. 15](#) (Directive No. 15): Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity. Directive No. 15 provides minimum standards that ensure our ability to compare information and data across Federal agencies, and also to understand how well Federal programs serve a diverse America. In addition, the current Standards encourage further disaggregation in the collection, tabulation, and reporting of data when useful. Read more: <https://bit.ly/3HBR7aa>

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