

The Race to Recall: An Analysis of Asian American Efforts to Oust San Francisco’s Progressive Prosecutor

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INTRODUCTION

The San Francisco Bay Area has long been home to one of the largest Asian American communities in the country.¹ Asian Americans make up approximately one third of the population of San Francisco and for the last twenty years, Asians have been one of the fastest growing ethnic groups in the region.² With this growth

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1. Edward-Michael Muña, Jamila Henderson, & Michelle Huang, *The Asian and Pacific Islander Population in the Bay Area is Large and Diverse and is Fueling Growth in the Region*, BAY AREA EQUITY ATLAS (Feb. 8, 2022), <https://bayareaequityatlas.org/BayArea-API-diversity>.

2. *Id.*

in population has also come a significant growth in political consciousness and power.³ Since the 2016 election, more Asian Americans have mobilized and turned out to vote than ever before.⁴ In a city like San Francisco, where Asians have substantial political capital, they have the power to make real change. In June 2022, two years into the tenure of San Francisco's newest District Attorney, that's exactly what a majority of Asian American voters did by recalling progressive prosecutor Chesa Boudin.⁵ Frustrated by Boudin's handling of crime, anti-Asian hate, and other public safety concerns, Asian Americans were some of the key drivers of Boudin's recall campaign.⁶

This paper aims to use the recall of San Francisco's progressive prosecutor Chesa Boudin as a case study to explore Asian American identity and politics. This paper is not a defense of progressive prosecution or of Boudin, but rather an examination of how Asian American political consciousness played a role in the recall election. Part I will offer background on Boudin's election and tenure as San Francisco's District Attorney, the relationship between Boudin and Asian American communities, Boudin's handling of anti-Asian hate crimes, and Asian mobilization leading up to the 2022 recall election. Part II will use elements of the recall campaign and election to explore Asian American political identity, specifically the limitations of defining justice through a lens of prosecution and hate crime laws, the ways in which the recall election fits into a broader movement of Asian American neoconservatism, co-optation of Asian American concerns, and anti-Blackness in the Asian American community and the racial triangulation of Asian Americans. Part III argues that the way forward is not through an isolated Asian American movement but rather working in solidarity with other communities of color to address underlying issues of oppression, anti-Blackness, and white supremacy.

I. BACKGROUND

A. District Attorney Election

In November 2019, former deputy public defender Chesa Boudin was elected as San Francisco's next District Attorney.⁷ Boudin, who campaigned as a progressive,

3. See Domenico Montanaro, *The Growing Power of the AAPI Vote, By the Numbers*, NPR (May 22, 2021), <https://www.npr.org/2021/05/22/999345393/the-growing-power-of-the-aapi-vote-by-the-numbers>.

4. *Id.*

5. See Michael Hartney & Renu Mukherjee, *The Asian Recall*, CITY J. (June 17, 2022) <https://www.city-journal.org/asian-voters-and-the-chesa-boudin-recall>; see also Han Li, *Asian American Voters Most Likely to Support Recall of DA Chesa Boudin, The Standard's Voter Poll Finds*, S.F. STANDARD (May 11, 2022), <https://sfstandard.com/community/asian-american-voters-support-recall-da-chesa-boudin/>.

6. See Han Li, *Anger, Frustration Among SF's Asian American Voters May Influence Recall of DA Chesa Boudin*, S.F. STANDARD (Mar. 2, 2022), <https://sfstandard.com/community/anger-frustration-among-sf-asian-american-voters-may-influence-recall-of-da-chesa-boudin/>; Claire Wang, *How San Francisco's D.A. recall election shows a rift in the Asian American community*, NBC NEWS (June 10, 2022), <https://www.nbcnews.com/news/asian-america/san-franciscos-d-recall-election-shows-rift-asian-american-community-rcna33017>.

7. Evan Sernoffsky, *Chesa Boudin, reformer public defender, wins election as San Francisco's new DA*, S.F. CHRON. (Nov. 9, 2019), <https://www.sfchronicle.com/bayarea/article/Chesa-Boudin-reformer-public-defender-wins-14823166.php>.

reform-minded prosecutor, centered his platform on reducing mass incarceration, eliminating cash bail, expanding diversion programs, and holding police accountable for misconduct.⁸ Boudin's campaign also highlighted his story of growing up with two parents incarcerated for serving as getaway drivers in a 1981 armed robbery as part of their involvement with the radical leftist group Weather Underground.⁹

Boudin won the DA's race with 51% of the vote, narrowly beating career prosecutor and interim district attorney Suzy Loftus.¹⁰ Loftus, controversially appointed to the position by San Francisco Mayor London Breed just one month before the election, was considered by many voters to be the establishment candidate.¹¹ Loftus received strong support from the San Francisco Police Department, having previously served as the president of the San Francisco Police Commission.¹² Meanwhile, the San Francisco Police Officers Association (POA) created a political action committee (PAC) with over \$50,000 in funding to oppose Boudin's campaign and spent between \$400,000 and \$600,000 on attack ads against Boudin, calling him "the #1 choice of criminals and gang members."¹³

San Francisco operates on a ranked choice voting system with candidates eliminated each round. Precincts with large Asian American populations initially supported Alameda County Assistant District Attorney and fellow Asian American Nancy Tung, whose politics were more conservative than Loftus'.¹⁴ Once Tung was eliminated in the second round, many Asian American voters switched to Boudin over Loftus, even though their politics were dramatically different.¹⁵ Possible reasons for this shift include Boudin campaigning heavily in Chinese communities, the endorsement of Boudin by Sing Tao Daily (the largest Chinese language newspaper in the Bay Area), and a distrust of Loftus due to the circumstances of her appointment.¹⁶ In the final election between

8. See Deanna Paul, *After decades visiting his parents in prison, this lawyer wants to be San Francisco's next DA*, WASH. POST (Nov. 4, 2019), <https://www.washingtonpost.com/nation/2019/11/02/after-decades-visiting-his-parents-prison-this-lawyer-wants-be-san-franciscos-next-da/>.

9. See Heather Knight, *How Chesa Boudin, a public defender who never prosecuted a case, won SF D.A. race*, S.F. CHRON. (Nov. 11, 2019), <https://www.sfchronicle.com/bayarea/heatherknight/article/How-Chesa-Boudin-a-public-defender-who-never-14826323.php>; Elizabeth Weil-Greenberg, *How Chesa Boudin in Pursuing His Promise to Reduce Incarceration*, THE APPEAL (Mar. 18, 2021), <https://theappeal.org/chesa-boudin-san-francisco-district-attorney-reduce-mass-incarceration-criticism/>.

10. Nami Sumida, *How did Chesa Boudin get elected? These maps show where his support came from in 2019*, S.F. CHRON. (May 25, 2022), <https://www.sfchronicle.com/sf/article/DA-Chesa-Boudin-17196456.php>.

11. See Paul, *supra* note 8.

12. See *id.*

13. See *id.*; Evan Sernoffksy, *New SF D.A. Chesa Boudin wants to transform system: 'A lot of work to be done.'* S.F. CHRON. (Nov. 10, 2019), <https://www.sfchronicle.com/crime/article/New-San-Francisco-district-attorney-plans-14824568.php>.

14. See Sumida, *supra* note 10.

15. Unlike Boudin, Nancy Tung was a longtime prosecutor who wanted to "improve public safety by cracking down on open-air drug dealing, and car break ins. She [did] not want to eliminate money bail or close down juvenile hall." See Holly J. McDede, *DA Candidate Nancy Tung Wants To Take Politics Out Of The Prosecutor's Office*, KALW MORNING EDITION (Oct. 10, 2019), <https://www.kalw.org/show/crosscurrents/2019-10-10/da-candidate-nancy-tung-wants-to-take-politics-out-of-the-prosecutors-office>; see also Knight, *supra* note 9.

16. *Id.*

Boudin and Loftus, Boudin garnered significant Asian support.¹⁷

B. Initial Term

On January 8, 2020, Boudin was sworn into office.¹⁸ Shortly after taking office, Boudin followed through on his promise to end cash bail as a condition of pre-trial release, moving instead towards a “risk-based system” that considered whether a defendant might flee or pose a significant threat to public safety.¹⁹ He also launched new policy directives including not prosecuting cases where contraband was found through pretextual stops, stopping the use of gang sentencing enhancements, and ending the use of California’s three-strikes law.²⁰ Boudin additionally launched diversion programs including a program for primary caregivers of minor children, inspired by his own childhood experiences.²¹ Boudin claimed these initiatives were “important to communities of color who are disproportionately affected by crime.”²²

In late January, the first cases of COVID-19 were confirmed in the United States and cases quickly began to rise in the following few months. As a response to the pandemic, Boudin reduced San Francisco’s jail population by almost 25% in March 2020, prioritizing the release of the elderly, those with serious medical conditions, and those who had already served most of their time.²³ Boudin’s office also declined to prosecute certain charges and delayed the filings of others in an effort to reduce the jail population.²⁴ In April 2020, Boudin’s office reduced the number of people incarcerated in San Francisco jails by 40%.²⁵

As the pandemic continued, many San Franciscans grew concerned about what they perceived to be rapidly increasing rates of crime and blamed Boudin’s lack of

17. *Id.*

18. Evan Sernoffsky, *DA Chesa Boudin sets new policies on SF police stops, gang enhancements, three strikes*, S.F. CHRON. (Feb. 27, 2020), <https://www.sfchronicle.com/crime/article/San-Francisco-DA-Chesa-Boudin-sets-new-policies-15091160.php>.

19. Evan Sernoffsky, *San Francisco DA Chesa Boudin ends cash bail for all criminal cases*, S.F. CHRON. (Jan. 22, 2020), <https://www.sfchronicle.com/crime/article/San-Francisco-DA-Chesa-Boudin-ends-cash-bail-for-14996400.php>.

20. Sernoffsky, *supra* note 18.

21. See Press Release, Chesa Boudin, S.F. Dist. Att’y, San Francisco DA Chesa Boudin Announces Primary Caregiver Diversion Program (Jan. 14, 2020), <https://www.sfdistrictattorney.org/archive-press-release/sf-da-boudin-announces-primary-caregiver-diversion-program/> [<https://perma.cc/VLG9-DWVG>]

22. *San Francisco DA Chesa Boudin rolls out new policies on gang enhancement, police stops*, KVTU (Feb. 28, 2020), <https://www.ktvu.com/news/san-francisco-da-chesa-boudin-rolls-out-new-policies-on-gang-enhancement-police-stops>.

23. Joaquin Palomino, *SF’s jail population drops 25% after inmates are released to thwart virus*, S.F. CHRON. (Mar. 29, 2020), <https://www.sfchronicle.com/bayarea/article/SF-s-jail-population-drops-25-after-inmates-15165428.php>.

24. See DYLAN YEP, TARA ANDERSON, & TODD FAULKENBERRY, JUSTICE DRIVEN DATA: AN EPIDEMIC INSIDE A PANDEMIC (S.F. Dist. Att’y 2020), <https://sfdistrictattorney.org/wp-content/uploads/2020/11/Justice-Driven-Data-An-Epidemic-Inside-a-Pandemic.pdf>.

25. Terry Gross, *How San Francisco’s D.A. Is Decreasing the Jail Population Amid COVID-19*, NPR (Apr. 9, 2020), <https://www.npr.org/2020/04/09/829955754/son-of-60s-radicals-is-the-new-d-a-in-san-francisco-facing-the-covid-19-crisis>.

prosecution.²⁶ In reality, rates of most violent crimes actually plunged during the pandemic and almost all violent crime rates held steady near their lowest levels since 1975.²⁷ While rates of burglaries and motor vehicle theft did significantly increase, this was consistent with trends in metropolitan areas across the country.²⁸ Similarly, while homicide rates in San Francisco increased slightly since 2019, the increase was at a significantly lower rate than most other major cities and still less than San Francisco's homicide rate in 2017.²⁹ According to the San Francisco Chronicle's analysis of crime trends, "Further examination of crime trends across the U.S. suggests that the pandemic has had a much larger impact on crime in San Francisco than the election of Boudin."³⁰ The pandemic also saw dramatic increases in rates of homelessness, which many people conflate with growing crime rates, and continued concerns over fentanyl sales and overdose deaths.³¹

The pandemic, dubbed the "China Virus" by President Donald Trump,³² additionally gave way to increased rates of hate crimes against Asian Americans, with San Francisco breaking records of crimes against Asian Americans.³³ In February 2020, an 84-year-old Asian man, Rong Xin Liao, was kicked in the face by 24-year-old Eric Ramos-Hernandez.³⁴ Liao suffered serious injuries as a result of the

26. See Press Release, S.F. Chamber of Com., New Polling Shows That 8 Out of 10 Residents Believe Crime Has Gotten Worse in San Francisco; Vast Majority Support Increasing Police Officers and Expanding Police Work (June 23, 2021), <https://sfchamber.com/new-polling-shows-that-8-out-of-10-residents-believe-crime-has-gotten-worse-in-san-francisco-vast-majority-support-increasing-police-officers-and-expanding-police-work/>.

27. Susie Neilson, *San Francisco's crime rates shifted dramatically in 2020. Five charts show what's going on*, S.F. CHRON. (Apr. 1, 2021), <https://www.sfchronicle.com/local/article/San-Francisco-s-crime-rates-shifted-16071268.php#photo-20818085>.

28. See *id.*; Press Release, National Insurance Crime Bureau, Nearly Half a Million Vehicles Stolen in First Half of 2022 (Sept. 28, 2022), <https://www.nicb.org/news/news-releases/nearly-half-million-vehicles-stolen-first-half-2022>; SAFETY+JUSTICE CHALLENGE, *THE IMPACT OF COVID-19 ON CRIME, ARRESTS, AND JAIL POPULATIONS I* (June 22, 2021), <https://safetyandjusticechallenge.org/wp-content/uploads/2021/07/The-Impact-of-COVID-19-on-Crime-Arrests-and-Jail-Populations-JFA-Institute.pdf>.

29. Susie Nielson, *Citywide crime in S.F. is looking like it did pre-COVID — with one major exception*, S.F. CHRON. (Oct. 5, 2022), <https://www.sfchronicle.com/sf/article/san-francisco-crime-rates-17487348.php>.

30. See Neilson, *supra* note 27.

31. See Annie Lowrey, *The People vs. Chesa Boudin*, ATL. (May 19, 2022), <https://www.theatlantic.com/ideas/archive/2022/05/chesa-boudin-recall-san-francisco-crime/629907/>; Heather Knight, *Chesa Boudin blamed the recall on the right wing. But S.F. voters who ousted him just want a city that works*, S.F. CHRON. (June 7, 2022), <https://www.sfchronicle.com/sf/bayarea/heatherknight/article/Chesa-Boudin-blamed-the-recall-on-the-right-wing-17226645.php>.

32. Mishal Reja, *Trump's 'Chinese Virus' tweet helped lead to rise in racist anti-Asian Twitter content: Study*, ABC NEWS (Mar. 18, 2021), <https://abcnews.go.com/Health/trumps-chinese-virus-tweet-helped-lead-rise-racist/story?id=76530148>.

33. See Terry Tang, *More than 9,000 anti-Asian incidents since pandemic began*, ASSOC. PRESS (Aug. 12, 2021), <https://apnews.com/article/lifestyle-joe-biden-health-coronavirus-pandemic-race-and-ethnicity-d3a63408021a247ba764d40355ecbe2>; Russell Contreras and Shawna Chen, *Record-breaking hate crime spree in major cities*, AXIOS (Feb. 5, 2022), <https://www.axios.com/2022/02/05/hate-crimes-asian-hate-breaks-records>.

34. Anna Tong, *We Just Want My Grandpa To Feel Safe: Family Of 84-Year-Old Asian Man Attacked In SF Speaks Out Against DA*, S.F. STANDARD (Apr. 20, 2021), <https://sfstandard.com/public-health/san-francisco-asian-attack-one-year-later/>.

attack.³⁵ Ramos-Hernandez was arrested, spent seven months in jail, and then was diverted into mental health treatment.³⁶ According to the Public Defender's office, Ramos-Hernandez had suffered from trauma, mental health, and substance abuse issues since childhood.³⁷ When his treatment was completed, Ramos-Hernandez was released and charges against him were dropped.³⁸ The DA's office claimed that Liao had asked for Ramos-Hernandez not to be prosecuted but Liao's family disputed this claim, alleging that the DA's office misrepresented Liao's wishes due to Liao's age and lack of English language skills.³⁹ Liao's family called for harsher punishment and Liao was later quoted saying, "I want a very strict punishment. . .but I don't want him to be executed."⁴⁰

Ramos-Hernandez was later re-arrested and convicted of a separate misdemeanor.⁴¹ At a rally outside the courthouse on the day of Ramos-Hernandez's re-sentencing hearing, Liao and other members of anti-Asian hate groups gathered to speak out against anti-Asian hate, criticize the District Attorney's office, and call for stricter punishment.⁴² The judge in Ramos-Hernandez's case eventually terminated his Mental Health Diversion and moved him to Behavioral Court where he faced charges and prosecution.⁴³

In January 2021, an 84-year-old Thai man, Vicha Ratanapakdee, was killed by a 19-year-old Black teenager, Antoine Watson.⁴⁴ Watson was charged with murder and elder abuse, carrying a sentence of 25 years to life, but was not charged with a hate crime.⁴⁵ Ratanapakdee's family insisted that the attack was racially motivated, but Boudin declined to add a hate crime charge, saying there was no evidence the attack was motivated by racial animus and that the defendant appeared to be in some sort of "temper tantrum."⁴⁶ Ratanapakdee's family and many members of the Asian American community were angered by this statement and Boudin's response to the crime.⁴⁷ Ratanapakdee's death eventually launched a broader movement, Justice 4

35. Dion Lim, *Man who attacked 84-year-old in SF earlier this year released, community members rally over decision*, ABC7 NEWS (Dec. 2, 2021), <https://abc7news.com/suspect-attacking-man-in-court-84-year-old-attacked-released-repeat-offender-san-francisco-asian-attack/11294931/>.

36. Tong, *supra* note 34.

37. *Id.*

38. *Id.*

39. *Id.*

40. Lim, *supra* note 35.

41. Han Li, *Alleged Attacker of 84-Year-Old Rong Xin Liao Faces Harsher Consequences*, S.F. STANDARD (Dec. 16, 2021), <https://sfstandard.com/community/alleged-attacker-of-84-year-old-rong-xin-liao-faces-harsher-consequences/>.

42. *See Asian Senior Attacked at SF Bus Stop Appears in Court*, CBS NEWS BAY AREA (Dec. 2, 2021), <https://www.cbsnews.com/sanfrancisco/news/asian-senior-attacked-sf-bus-stop-appears-court/>.

43. Li, *supra* note 41.

44. Jaeah Lee, *Why Was Vicha Ratanapakdee Killed?*, N.Y. TIMES MAG. (Aug. 17, 2021), <https://www.nytimes.com/2021/08/17/magazine/vicha-ratanapakdee.html>.

45. *Id.*

46. Thomas Fuller, *He Came From Thailand to Care For Family. Then Came a Brutal Attack*, N.Y. TIMES (Feb. 27, 2021), <https://www.nytimes.com/2021/02/27/us/asian-american-hate-crimes.html>.

47. *See* Lee, *supra* note 44.

Vicha, with rallies and protests across the country calling for greater attention to violence against Asian Americans and prosecution of Watson under hate crime laws.⁴⁸

Other instances of anti-Asian hate in San Francisco included a string of vandalism against 20 Chinese businesses in San Francisco,⁴⁹ a series of robberies against Asian women,⁵⁰ and violence against 69-year-old Ahn Lê who was hit with a bat and threatened by a father and son.⁵¹ The Alliance of Asian American Justice later filed a federal civil rights lawsuit against the San Francisco District Attorney's office on behalf of Lê, accusing the office of applying procedures that resulted in discriminatory effects on Asian Americans and creating practices that deny victims adequate due process protections.⁵²

In addition to his handling of crimes against Asian Americans, Boudin was strongly criticized for his handling of the Troy McAlister case after McAlister drove a stolen car in downtown San Francisco and slammed into pedestrians Hanako Abe and Elizabeth Platt, killing them both.⁵³ Critics believed that Boudin could have prevented the incident by sentencing McAlister to life in prison for a prior offense under California's three strikes law.⁵⁴ Boudin's office had instead negotiated a plea deal with McAlister and declined to file charges on other arrests that McAlister had later acquired.⁵⁵ Many considered Boudin's handling of the incident to be a demonstration of his "soft on crime" policies.⁵⁶

C. Recall Election

In April 2021, a group called San Franciscans for Public Safety began efforts to recall Boudin.⁵⁷ Their statement stated that "Boudin is not keeping San Francisco safe. He refuses to adequately prosecute criminals and fails to take the drug dealing crisis seriously. He doesn't hold serial offenders accountable, getting them released from custody, and his response to victims is that "hopefully" home burglaries will go

48. See JUSTICE FOR VICHA, <https://www.justice4vicha.org/> (last visited Dec. 10, 2022).

49. Megan Cassidy, *DA Boudin charges man with hate crime for string of vandalism targeting Chinese-owned businesses*, S.F. CHRON. (Aug. 16, 2021), <https://www.sfchronicle.com/crime/article/DA-Boudin-charges-man-with-hate-crime-for-string-16390885.php>.

50. Press Release, Chesa Boudin, S.F. Dist. Att'y, District Attorney's office files charges, including hate crime allegations, for string of robberies against Asian women (Sept. 28, 2021), <https://sfdistrictattorney.org/archive-press-release/district-attorneys-office-files-charges-including-hate-crime-allegations-for-string-of-robberies-against-asian-women/>.

51. Rob Nesbitt, *Federal lawsuit filed in response to hate crimes against Asian community in San Francisco*, KRON4 (Jan. 25, 2022), <https://www.kron4.com/news/bay-area/federal-lawsuit-filed-in-response-to-hate-crimes-against-asian-community/>.

52. *Id.*

53. Marisa Lagos, *The Troy McAlister Case Is a Flash Point in the Drive to Recall SF DA Chesa Boudin. Should It Be?*, KQED (May 18, 2022), <https://www.kqed.org/news/11914457/how-the-troy-mcalister-case-became-a-flashpoint-in-the-drive-to-recall-sf-da-chesa-boudin>.

54. *Id.*

55. *Id.*

56. *Id.*

57. *Chesa Boudin recall, San Francisco, California (2021-2022)*, BALLOTPEDIA, [https://ballotpedia.org/Chesa_Boudin_recall,_San_Francisco,_California_\(2021-2022\)](https://ballotpedia.org/Chesa_Boudin_recall,_San_Francisco,_California_(2021-2022)) (last visited Dec. 11, 2022).

down.”⁵⁸ San Franciscans for Public Safety was led by Mary Jung, a Chinese American woman, former San Francisco Democratic Party County Central Committee chair, and long-time Democratic activist in San Francisco.⁵⁹ Jung claims Ratanapakdee’s death and Troy McAlister’s story inspired her to start the recall campaign against Boudin, stating that victims’ families “don’t feel that Chesa Boudin is taking their cases seriously.”⁶⁰ Ratanapakdee’s daughter and son-in-law, who both voted for Boudin in his initial run for District Attorney, signed onto the petition to recall Boudin.⁶¹

This was the second attempt to recall Boudin but the first that successfully qualified for the ballot with 83,000 signatures.⁶² San Franciscans for Public Safety and other groups in support of the “Yes on Proposition H” recall movement mobilized Asian voters in large numbers and many members of the Asian American community who had never previously paid attention to politics got involved in the campaign.⁶³ Campaign finance filings also show that the recall campaign spent more than \$130,000 on Chinese-language television, radio, and print ads to turn out Asian voters.⁶⁴ Boudin’s recall was endorsed by the Edwin M. Lee Asian Pacific Democratic Club, the Chinese American Democratic Club, and prominent venture capitalist Garry Tan but many notable Asian American politicians remained united behind Boudin.⁶⁵

In June 2022, a recall election was held and Boudin was recalled with 55% of the vote.⁶⁶ While Boudin blamed the recall solely on conservative efforts,⁶⁷ Asian American voters, many of whom identified as Democrats, were a key force in the election and Asian American voters of all income levels supported the recall significantly more than any other racial group.⁶⁸ A poll of San Francisco voters found 67% of Asian American and Pacific Islander (AAPI) voters were in favor of the recall, 15%

58. Notice of Intention to Circulate Recall Petition from Mary Jung et al. to S.F. Dept. of Elections (Apr. 28, 2021), https://sfelections.sfgov.org/sites/default/files/Documents/candidates/20210428_NoticeOfIntentToCirculateRecallPetition_Redacted.pdf

59. Roland Li, *Chesa Boudin recall caps 50 years of activism for former S.F. Democratic chair*, S.F. CHRON. (June 18, 2022), <https://www.sfchronicle.com/sf/article/Meet-the-S-F-grandma-who-led-the-Boudin-recall-17250159.php>.

60. Roland Li & J.D. Morris, *Will Chesa Boudin recall’s ‘unprecedented’ effort courting S.F.’s Asian voters pay off?*, S.F. CHRON. (May 27, 2022), <https://www.sfchronicle.com/sf/article/Chesa-Boudin-recall-Asian-voters-17202298.php>.

61. Lee, *supra* note 44.

62. *Chesa Boudin recall*, *supra* note 57.

63. See Hartney & Mukherjee, *supra* note 5; Katherine Li, *Asian activism is helping to reshape San Francisco’s political landscape*, S.F. EXAM’R (June 10, 2022), https://www.sfexaminer.com/news/asian-activism-is-helping-to-reshape-san-franciscos-political-landscape/article_11156152-e755-11ec-b56c-e3c47811832f.html.

64. Li & Morris, *supra* note 60.

65. *Chesa Boudin recall*, *supra* note 57; Li, *supra* note 6.

66. *June 7, 2022 Election Results – Summary*, S.F. ELECTIONS, <https://sfelections.sfgov.org/june-7-2022-election-results-summary> (last updated June 22, 2022).

67. Knight, *supra* note 31.

68. Anna Tong, *Boudin Ousted by Coalition of Asian Voters From All Income Levels and Wealthy Whites*, S.F. STANDARD (June 8, 2022), <https://sfstandard.com/politics/elections/chesa-boudin-ousted-by-coalition-asians-wealthy-whites/>.

greater than Hispanic voters, 16% greater than white voters, and 33% greater than Black voters.⁶⁹ An evaluation of ballots found that “in the three supervisor districts with the highest share of Chinese language ballot registrants (10 percent or more), 65 percent of voters voted to recall Boudin.”⁷⁰ Asian American voters also donated heavily to the pro-recall campaign with one in five individual contributors to the campaign having an Asian last name.⁷¹ Many consider Asian Americans to be the key driving force behind the recall.⁷²

II. “YES ON PROPOSITION H”: AN EXPLORATION OF ASIAN AMERICAN POLITICAL IDENTITY

Pulling from the “Yes on Proposition H” recall campaign, interviews with voters and advocates, and elections polling, this part identifies and explores four key themes of Asian American political identity that rose to prominence during the recall election. Section A analyzes how Asian Americans involved in the recall campaign defined justice through a lens of prosecution and hate crime charges and explains the limitations of such an approach. Section B situates the recall campaign within a broader context of growing Asian American neoconservatism across the country, while Section C examines the interest convergence between more conservative white interests and Asian interests that made the recall campaign successful. Finally, Section D, drawing on theories of racial triangulation and anti-Blackness, uses elements of the recall election to unpack the ways in which Asian Americans think about their racial positioning and sociopolitical interests in relation to other communities of color.

A. *Defining Justice*

The recall campaign specifically noted that victims of crime were not getting justice.⁷³ But what does justice mean? For many Asians Americans angered by Boudin’s response to crime, justice for victims meant first, prosecution, second, a legal recognition that the crime was motivated by hate, and third, punishment for the perpetrator, specifically criminal sanctions that were proportional to the severity of the crime.

Signs at anti-Asian hate protests such as, “Hate crime! Do time!”⁷⁴ and calls for “strict punishment”⁷⁵ reveal this equation of justice with prosecution and criminal sanctions. In a GoFundMe petition created by Ratanapakdee’s son-in-law, he demanded that Boudin and Mayor Breed take responsibility for the murder of Ratanapakdee, writing “that prosecution for this murderous hate crime be sought as the only path to secure justice and ensure community safety.”⁷⁶ Similarly, anti-Asian

69. Li, *supra* note 5.

70. Hartney & Muherjee, *supra* note 5.

71. *Id.*

72. See Hartney & Muherjee, *supra* note 5; Li, *supra* note 5.

73. See Li & Morris, *supra* note 60.

74. Rachel Swan, *Amid attacks on Asians, legal charges and public perception are out of step*, S.F. CHRON. (Mar. 22, 2021), <https://www.sfchronicle.com/local/article/Amid-attacks-on-Asians-hate-crime-laws-out-of-16045251.php>.

75. Lim, *supra* note 35.

76. Lee, *supra* note 44.

hate activists have criticized Boudin for his “soft on crime” policies, specifically calling out his “catch and release policy” as one that “allows the criminals to come out and commit more and more crimes.”⁷⁷

There was also an insistence amongst Asian American activists that individuals who commit crimes of violence against Asian Americans be charged with hate crimes and that only through a legal recognition that the crime was motivated by hate could there be justice. In Ratanapakdee’s case, his family was adamant that his murderer Watson be charged with a hate crime and Boudin’s refusal to do so was one of the reasons the family turned against him.⁷⁸ As journalist Jaeah Lee contended, it is understandable that the “designation [as a hate crime] has always symbolized more to victims and their families: the difference between calling out prejudice and denying it.”⁷⁹ However, focusing on legal recognition of a hate crime to achieve justice is both impracticable and disingenuous.

Legally, proving bias in a courtroom is extremely difficult because, as one prosecutor argued, “it’s impossible to know what’s in someone’s heart.”⁸⁰ According to Bureau of Justice statistics, federal prosecutors declined to pursue hate-crimes charges in about four out of every five cases in the last fifteen years, citing “insufficient evidence.”⁸¹ District attorney’s offices across the county also try to avoid adding hate-crime charges when the crime is particularly serious due to the length of the sentence that the defendant already faces.⁸² Pursuing justice through a hate crime conviction is therefore not a very effective legal endeavor.

Defining justice through a lens of punishment and proportional criminal sanctions also means “supporting practice[s] associated with bolstering law enforcement’s jurisdiction to surveil and prosecute,” which reproduces violence against other communities of color who are disproportionately impacted by over-policing and mass incarceration.⁸³ Most hate crime laws, including the COVID-19 Hate Crimes Act signed into law by President Biden in 2021, seek to address hate crimes through greater prosecution, policing, and surveillance.⁸⁴ The effect of this, as argued by researcher Doug Meyer, is that “by expanding the scope of police and prosecutorial power—funding bias crime units, encouraging police officers to apprehend offenders, and allowing prosecutors to charge defendants with extraordinarily harsh sentences—hate crime statutes frequently reinforce rather than undermine social

77. Christien Kafton, *Protesters in Chinatown say SF D.A. Chesa Boudin’s policies make city more dangerous*, KTVU (May 20, 2021), <https://www.ktvu.com/news/protesters-in-chinatown-say-sf-d-a-chesa-boudins-policies-make-city-more-dangerous>.

78. Lee, *supra* note 44.

79. *Id.*

80. Avlana Eisenberg, *Hate-Crime Laws Don’t Work as Their Supporters Intended*, ATL (June 22, 2021), <https://www.theatlantic.com/ideas/archive/2021/06/hate-crimes-not-used-prosecutors/619179/>.

81. Lee, *supra* note 44.

82. Eisenberg, *supra* note 80.

83. Richard Lim, *Complicating Coalitions: The Fraught Relationship Between Asian Violence, Policing, and Solidarity Politics in 1990s Southern California* (May 2022) (M.A. thesis, San Francisco State U.), <https://scholarworks.calstate.edu/downloads/cr56n6941>.

84. See Iyko Day, *Exclusion Acts*, ARTFORUM (May 31, 2021), <https://www.artforum.com/slant/iyko-day-on-asian-hatethrough-the-prism-of-anti-blackness-85725>.

inequality.”⁸⁵ Iyko Day posits that instead of protecting people, anti-discrimination and hate crime laws serve as “punitive solutions that expand the power of prisons, borders, and bases that disproportionately target the very gendered, racialized bodies they purport to protect.”⁸⁶

Hate crimes charges typically extend the sentence of an individual who engages in a crime based on bias, but this focus on more prosecution and incarceration will not address the underlying causes of anti-Asian hate or crime. Hate crime laws do not deter individuals from committing crimes as research has consistently shown that perpetrators do not take into consideration hate crime sentence enhancements when engaging in violence.⁸⁷ While some proponents of hate crime laws claim that “even if the laws do not deter future crime, they have expressive, symbolic value in communicating the importance of tolerance and equality,” this symbolic value comes at the cost of real harm to other communities who are impacted by greater policing and prosecution.⁸⁸ As advocate Tinisch Hollins argues, “One of the biggest flaws of hate-crime laws. . . is their focus on punishment. . . Regardless of the law’s intent, how it’s received is, *This is disingenuous, because we’re using the same tools to fix the problem. It’s like continuing to use a screwdriver when you need to use a saw.*”⁸⁹

As Iyko Day argues, hate crime laws function by cataloguing anti-Asian hate crimes as “individualized, dehistoricized instances of bias rather than as part of a domestic and global structure of imperial violence.”⁹⁰ Hate crime laws and enhanced sentences do not actually address issues of systemic racism or anti-Asian violence that underlie anti-Asian hate nor do they repair the trauma and harm caused to communities through acts of anti-Asian hate. By defining justice through an individual hate crime charge and sentence, Asian activists in San Francisco fail to consider the real roots of anti-Asian hate based in histories of immigration and colonization, a view of Asians as the “perpetual foreigner,”⁹¹ and white supremacist violence, and instead simply expand the reach of the criminal legal system.⁹²

B. Asian American Neoconservatism

Boudin’s recall was part of a larger conservative turn for many Asian American voters, both in San Francisco and across the nation.⁹³ Glenn Omatsu describes this

85. Doug Meyer, *Resisting hate crime discourse: Queer and intersectional challenges to neoliberal hate crime laws*, 22, CRITICAL CRIMINOLOGY, 113, 114 (2014).

86. Day, *supra* note 84.

87. See Meyer, *supra* note 85 at 119.

88. *Id.* at 120.

89. Lee, *supra* note 44.

90. Day, *supra* note 84.

91. The perpetual foreigner stereotype portrays Asian Americans, regardless of nationality, as inherently foreign and less “American” than other Americans. This results in the othering and marginalization of members of the Asian American community in social, academic, and political realms. See Que-Lam Huynh, Thierry Devos and Laura Smalarz, *Perpetual Foreigner in One’s Own Land: Potential Implications for Identity and Psychological Adjustment*, 30 J. SOCIAL & CLINICAL PSYCHOLOGY 133, 134-135 (2011).

92. *Id.*

93. See Han Li, Asian Voters Drove SF’s Recalls. Will That Momentum Continue to November?, S.F. STANDARD (Oct. 12, 2022), <https://sfstandard.com/community/asian-voters-momentum/>.

growing political viewpoint as Asian American “neoconservatism.”⁹⁴ Neoconservatives emphasize elitism and individual advancement, acknowledge discrimination against other people of color but think what is blocking them from advancement is “cultural” rather than systemic inequality, and argue that the liberal establishment ignores Asian American community needs.⁹⁵ In recent years, this line of thinking has spurred more conservative Asian American advocacy, especially as it relates to education and public safety issues.

In February 2022, Asian American voters were crucial in the recall of three progressive members of the San Francisco School Board: Gabriela López, Faauga Moliga, and Alison Collins.⁹⁶ The recall vote was caused by numerous factors including frustration that the School Board’s efforts to rename “injustice-linked” schools in San Francisco were taking precedence over reopening schools during the pandemic⁹⁷ and the controversial change in the admissions policy of Lowell High School from merit-based admissions to lottery-based admissions in order to increase the number of Black and Latinx students.⁹⁸ The effect of this admissions policy change was an increase in Black and Latinx ninth graders by more than 40 percent and a reduction the number of Asian and white students at Lowell by approximately 25 percent.⁹⁹ The shift towards a lottery-based system was highly criticized by Asian American parents who claimed that “destroying Lowell special admissions [would] deprive families of what they seek”¹⁰⁰ and that the lottery-based system was “taking away a lot of that opportunity for maximizing potential.”¹⁰¹

Voters were also galvanized by school board member Alison Collins’s past tweets that criticized the Asian American community for using “white supremacist thinking to assimilate and ‘get ahead’” and used a slur against Asian Americans.¹⁰² When Collins’s tweets were discovered in early 2021, many Asian American demanded Collins resign from her position on the school board.¹⁰³ Collins apologized and said

94. See Glenn Omatsu, *The “Four Prisons” and the Movements of Liberation: Asian American Activism from the 1960s to the 1990s* in CONTEMPORARY ASIAN AMERICA 60-93 (Min Zhou and Anthony Christian Ocampo eds., 3rd ed. 2016).

95. See *id.*

96. See Thomas Fuller, ‘You Have to Give Us Respect’: How Asian Americans Fueled the San Francisco Recall, N.Y. TIMES (Feb. 17, 2022), <https://www.nytimes.com/2022/02/17/us/san-francisco-school-board-parents.html>.

97. See *San Francisco school board drops plan to rename ‘injustice-linked’ schools*, GUARDIAN (Apr. 7, 2021), <https://www.theguardian.com/us-news/2021/apr/07/san-francisco-school-board-schools-rename>; Aaron Mak, *Why San Francisco’s Asians Voted to Recall “Progressive” Members of the School Board*, SLATE (Feb 17, 2022), <https://slate.com/business/2022/02/san-francisco-school-board-recall-asian-americans.html>.

98. Ida Mojadad, *Selective Admissions Are Back at Lowell High After a Split Vote Reinstates the Controversial Policy*, S.F. STANDARD (June 22, 2022), <https://sfstandard.com/education/selective-admissions-are-back-at-lowell-high-after-a-split-vote-reinstates-the-controversial-policy/>.

99. Fuller, *supra* note 96.

100. Mojadad, *supra* note 98.

101. Mak, *supra* note 97.

102. Eric Ting, *San Francisco school board member Alison Collins used slur to describe Asian Americans in tweets*, S.F. GATE (Mar. 21, 2021), <https://www.sfgate.com/politics/article/Alison-Collins-San-Francisco-school-Asians-tweets-16038855.php>.

103. See *id.*

her tweets were taken out of context, but refused to resign.¹⁰⁴ A few Asian American students and parents came out in support of Collins, including Ina Dang, a Lowell alum and mother of four SFUSD grads, who shared that “there were several times where I was so frustrated because race relations were not addressed that I could understand and I actually identified- her tweets actually resonated with me.”¹⁰⁵ A few days before the school board recall election, Collins doubled down on her earlier statements tweeting, “So when I have said in the past that SOME members of the AAPI community have aligned themselves with whiteness, it’s a historical fact, not an opinion. It’s surprising to me that some folks still find this idea so controversial. And let me add, this is true of ALL GROUPS including Black folks.”¹⁰⁶

Asian American parents campaigned heavily in favor of the school board recall with approximately one-third of the 80,000 recall signatures from Asian Americans.¹⁰⁷ The recall campaign canvassed in heavily Asian American neighborhoods with native language speakers, used Chinese language media including Sing Tao Daily and World Journal to reach Asian voters, and posted frequently on social media sites commonly used by Asian Americans including WeChat and WhatsApp.¹⁰⁸ The campaign also mobilized many new voters, registering 560 monolingual Chinese voters for the election, including 418 first-time citizen voters and 142 noncitizen voters eligible to vote in school board elections, and turned out many eligible voters who had never previously engaged with the political process.¹⁰⁹ All three school board members were ultimately recalled by two-thirds of voters in a landslide election, with Chinese American voters turning out in “unusually large numbers.”¹¹⁰ Some believe that Asian American mobilization efforts during the school board election set the stage for the later recall of Boudin.¹¹¹

This turn towards Asian American conservatism can also be seen in New York’s 2021 Mayoral Election where Asian American voters turned out in large numbers for

104. Lyanne Melendez, *SFUSD Board Vice President Alison Collins apologizes for offensive tweets aimed at Asian Americans*, ABC7 NEWS (Mar. 24, 2021), <https://abc7news.com/sfusd-board-vp-alison-collins-asian-tweets-anti/10444050/>; Lyanne Melendez, *Demands increase for SF School Board’s Alison Collins to resign after offensive tweets*, ABC7 NEWS (Mar. 22, 2021), <https://abc7news.com/sfusd-board-vp-alison-collins-asian-tweets-anti/10441914/>.

105. Jobina Fortson, *Asian supporters come to defense of SF school board member; woman who found offensive tweets talks to ABC7*, ABC7 NEWS (Apr. 19, 2021), <https://abc7news.com/alison-collins-lawsuit-sf-school-board-twitter-lowell-high/10529019/>.

106. Roland Li & Gwendolyn Wu, *S.F.’s Asian American voters were crucial in the school board recall. Here’s why*, S.F. CHRON. (Feb. 17, 2022), <https://www.sfchronicle.com/sf/article/S-F-s-Asian-American-voters-were-crucial-in-16928806.php>.

107. *Id.*

108. *Id.*

109. Fuller, *supra* note 96; Hartney & Mukherjee, *supra* note 5.

110. Thomas Fuller, *In Landslide, San Francisco Forces Out 3 Board of Education Members*, N.Y. TIMES (Feb. 16, 2022), <https://www.nytimes.com/2022/02/16/us/san-francisco-school-board-recall.html>.

111. See Thomas Fuller, *Voters in San Francisco topple the city’s progressive district attorney, Chesa Boudin*, N.Y. TIMES (June 8, 2022), <https://www.nytimes.com/2022/06/07/us/politics/chesa-boudin-recall-san-francisco.html>.

Republican Mayoral Candidate Curtis Sliwa.¹¹² Similar to San Francisco, Asian voters, including many first-time voters, were mobilized due to concerns over public safety and former mayor Bill de Blasio's decision to scrap the entrance exam for elite New York high schools to increase student body diversity.¹¹³ Many Asian parents were angered by this decision to abandon the exams which serve as the only basis of entry to top high schools such as Stuyvesant, Bronx Science and Brooklyn Tech.¹¹⁴ While Asians make up only 18% of the public school population in New York City, they make up over 60% of the student body at elite New York high schools.¹¹⁵

Omatsu's conception of neoconservatism provides a framework for understanding this mode of contemporary Asian American activism. A focus on individual advancement and "cultural" inequality can clearly be seen through statements made by advocates such as Diane Yap, the Vice President of the Friends of Lowell Foundation, who claimed that "all minorities have faced systemic racism in this country. Yet, some minorities are outperforming white students academically while some are not. This indicates that systemic racism does not have a consistent or causal effect on academic performance."¹¹⁶ Similarly in the context of policing and discrimination, a survey of suburban Chinese American voters in California in 2020 showed that while respondents believed that Black people were among the racial groups facing the most discrimination, only about half believed that violence against Black people by police were signs of a broader problem and less than half supported reallocating funding from police departments to provide more funding for programs to help get people out of poverty and improve local schools.¹¹⁷ This acknowledgment of ongoing discrimination but ultimate failure to reckon with structural issues that have systemically undermined the success of other communities of color is a central tenant of Asian American neoconservatism that had significant implications for Boudin's recall.

C. Co-optation of Asian American Concerns

The first attempt to recall Boudin was led by Republican mayoral candidate Richie Greenberg, but was unsuccessful in gathering the required number of signatures to place the issue on the ballot. The founders of San Franciscans for Public Safety, who led the successful second attempt to recall Boudin, specifically noted that they did not want to be affiliated with conservative movements and sought to "prevent the recall effort against District Attorney Chesa Boudin from being framed as a

112. Rong Xiaoping, Clifford Michel, Suhail Bhat, & Will Welch, *Chinese Voters Came Out in Force for the GOP in NYC, Shaking Up Politics*, CITY (Nov. 11, 2021), <https://www.thecity.nyc/politics/2021/11/11/22777346/chinese-new-yorkers-voted-for-sliwa-gop-republicans>.

113. *Id.*

114. *Id.*

115. Michael Powell, *How It Feels to Be an Asian Student in an Elite Public School*, N.Y. TIMES (Jan. 25, 2022), <https://www.nytimes.com/2022/01/25/us/selective-high-schools-brooklyn-tech.html>.

116. Fortson, *supra* note 105.

117. AAPIS FOR CIVIC EMPOWERMENT EDUCATION FUND, 2020 SURVEY OF SUBURBAN CHINESE AMERICAN VOTERS (SSCAV) REPORT, (Mar. 10, 2022), <https://drive.google.com/file/d/1vBoIHRlhFei0MyM0wxoQCyOcku5-z0a7/view>.

conservative power grab.”¹¹⁸ However, the largest donor to Neighbors for a Better San Francisco, the PAC primarily funding the San Franciscans for Public Safety campaign and the February school board recall, was William Oberndorf, a Republican party mega-donor who donated over \$900,000 to the recall campaign.¹¹⁹ Oberndorf, a San Francisco-based hedge fund manager, had previously given millions of dollars to Republican candidates across the country and to a few Democratic proponents of charter schools, one of his major policy priorities.¹²⁰ Other Silicon Valley tech venture capitalists concerned about Boudin’s “soft on crime” policies also donated heavily to the recall effort.¹²¹

Some believe that Asian American voters were simply pawns in the recall whose real concerns over public safety and anti-Asian hate were exploited by corporate interests and conservative big money: “Pro-recall organizers knew there was very real anger and fear within the Asian American community, due to the rise in anti-Asian violence, and leveraged that discontent in their messaging to support the recall.”¹²² These advocates argue that conservative organizers used social media platforms that are popular amongst the Chinese American community, such as WeChat, to spread misinformation about Boudin and blame Boudin for long-standing challenges in San Francisco.¹²³ Boudin’s team also repeatedly blamed the right wing for the recall election.¹²⁴

In the end, what made the San Franciscans for Public Safety campaign successful, as opposed to the first failed attempt, was the convergence of interests between Asians and more conservative white voters, which included both traditional conservatives and moderate Democrats who capitalized on the momentum from the recall movement to move their own tough on crime agenda forward.¹²⁵ According to election day results, a coalition of Asians from all income levels and wealthy white voters

118. Michael Barba, *New Boudin recall effort seeks to reframe narrative*, S.F. EXAM’R (Apr. 19, 2021), https://www.sfoxaminer.com/archives/new-boudin-recall-effort-seeks-to-reframe-narrative/article_06429340-7a2b-5d2c-9b25-ec72072bcb8c.html.

119. Eric Ting, *Who is William Oberndorf, the Republican billionaire backing the Chesa Boudin recall campaign in San Francisco?*, S.F. GATE (Apr. 8, 2020), <https://www.sfgate.com/politics/article/William-Oberndorf-in-Boudin-recall-17059555.php>.

120. *Id.*; Benjamin Schneider, *The Republican billionaire behind S.F.’s recalls*, S.F. EXAM’R (Feb. 4, 2022), https://www.sfoxaminer.com/archives/the-republican-billionaire-behind-s-f-s-recalls/article_0e483040-544b-5503-b435-7d468d5229bb.html.

121. Samantha Michaels & Liz Kalish, “VC Lives Matter”: *Silicon Valley Investors Want to Oust San Francisco’s Reformist DA*, MOTHER JONES (Mar. 31, 2021), <https://www.motherjones.com/politics/2021/03/vc-lives-matter-silicon-valley-investors-want-to-oust-san-franciscos-reformist-da/>.

122. Timmy Lu & Jane Kim, *Don’t be fooled — Asian American voters are more progressive than you might think*, S.F. CHRON. (June 17, 2022), <https://www.sfchronicle.com/opinion/openforum/article/Don-t-be-fooled-Asian-American-voters-are-17249808.php>.

123. *Id.*

124. Heather Knight, *Chesa Boudin blamed the recall on the right wing. But S.F. voters who ousted him just want a city that works.*, S.F. CHRON. (June 7, 2022), <https://www.sfchronicle.com/sf/bayarea/heatherknight/article/Chesa-Boudin-blamed-the-recall-on-the-right-wing-17226645.php>.

125. See Tim Arango and Thomas Fuller, *In San Francisco, Democrats Are at War With Themselves Over Crime*, N.Y. TIMES (June 5, 2022), <https://www.nytimes.com/2022/06/05/us/chesa-boudin-recall-san-francisco.html>.

drove support for Boudin's recall.¹²⁶ These wealthy white San Franciscans were given the political capital to push through their conservative agenda solely because of Asian American support for the recall.

While there was enough interest convergence to push through the recall, the interests of white conservatives and Asian voters clearly diverged when it comes to genuine concern over issues that affect the Asian American community. For example, the first attempt to recall Boudin, led by conservative Richie Greenberg, was criticized for using anti-Asian posters reminiscent of Cultural Revolution propaganda.¹²⁷ The posters featured a drawing of Boudin wearing a Mao suit in the style of Chinese communist portraits with tents and drug users pictured underneath.¹²⁸ Many Asian Americans were outraged by the posters which they felt "invite[d] anti-Chinese sentiment and encourage[d] vigilante racism against our community."¹²⁹ In response to the posters, over eighteen leaders in San Francisco's Asian Americans and Pacific Islander community signed a letter condemning the posters and asking Greenberg's campaign to apologize to the Asian American community.¹³⁰ Greenberg dismissed the letter, calling the Asian signatories, "far left progressive extremists. The scourge of our city," but then called on them to "condemn Chesa for virtually ignoring the plight of our Asian American community."¹³¹ This contradiction was called out by retired San Francisco Superior Court Judge Julie Tang who asked, "Why is the recall campaign using racist tactics, when they are trying to recall Chesa Boudin because they think he is not faithful to Chinese Americans? It's really very convoluted."¹³² The answer is that Greenberg's campaign and white conservatives didn't actually care about the Asian American community but were simply using Asian concerns to push their own movement forward.

D. *Anti-Blackness and Racial Triangulation*

The recall election also speaks to broader racial dynamics and tensions between Black and Asian communities. While Asian American voters were the most likely to vote in favor of the recall, Black voters were the least likely to do so¹³³ and research suggests that "a core source of support for reform prosecutors comes from poorer, Blacker communities that bear the brunt of both violence and punitiveness."¹³⁴ In

126. Tong, *supra* note 68.

127. Yujie Zhou, *SF Asians slam Boudin recall funders for anti-Asian posters*, MISSION LOC. (Mar. 10, 2022), <https://missionlocal.org/2022/03/sfs-asian-community-denounce-boudin-recall-funders-for-anti-asian-posters/>.

128. *Id.*

129. *Id.*

130. *Id.*

131. *Id.*

132. *Id.*

133. See Li, *supra* note 5.

134. "Preliminary results I have been working on—inspired by. . . maps comparing where Krasner won to shootings in Philadelphia—suggest that in elections across a wide number of cities, reform prosecutors consistently win the voting precincts where violence is most concentrated." John Pfaff, *What the San Francisco DA Recall Really Tells Us*, SLATE (June 10, 2022), <https://slate.com/news-and-politics/2022/06/chesa-boudin-recall-what-it-means-and-what-it-doesnt.html>.

San Francisco, where Black people make up only 6% of the population, while Asians make up over 37% percent,¹³⁵ this demographic disparity had a clear effect on the outcome of the election. In unpacking these statistics, this section will explore first, tensions between the Asian-led recall campaign and Black activists, second, the racial dynamics of anti-Asian hate crimes in San Francisco, and third, the complicated history between Black and Asian communities rooted in theories of racial triangulation and anti-Blackness.

Boudin's recall came at the wake of a broader movement for racial justice, challenging systemic racism in policing and the criminal legal system, that erupted after the murder of George Floyd by Minneapolis police officer Derek Chauvin in the summer of 2020.¹³⁶ Prior to Boudin taking office, San Francisco had never charged a police officer in the severe injury or death of a civilian.¹³⁷ Shortly after taking office, Boudin prosecuted multiple officers for law enforcement misconduct, representing, as University of Central Florida Assistant Professor Jacinta Gau argued, "the shift away from the traditional white male-dominated conservative-leaning law enforcement community that bands together and influences these positions."¹³⁸ For many Black Lives Matter activists who saw the election of progressive prosecutors like Boudin as a step towards progress, his recall felt like a repudiation of everything they had worked towards and a step back to the status quo.¹³⁹

Many racial justice activists argued that Boudin should not be recalled. For instance, anti-police brutality activist Cat Brooks noted that "[i]f you care about Black lives, you cannot support the effort to remove Chesa Boudin."¹⁴⁰ Prosecutors are key actors in the criminal legal system who have "the most power to limit or eliminate these types of threats to Black lives. Prosecutors choose not only who will be charged and what sentences will be sought, but also whose potential will be recognized, whose life will be valued, and whose contributions to their families and communities will be respected."¹⁴¹ Other Black organizers have echoed Brooks's sentiments claiming, "The crux of their [recall campaign's] argument seems to be that 'Black and brown folks are a blight on society, and so we've got to neutralize that, reclaim our authority, and put folks where we think they should be to keep society quote-unquote safer."¹⁴²

The dynamics of the recall were further complicated by the claim that many of the attacks against Asian Americans were committed by Black perpetrators. While the

135. *QuickFacts: San Francisco County, California*, U.S. CENSUS BUREAU (July 1, 2021), <https://www.census.gov/quickfacts/fact/table/sanfranciscocountycalifornia,US/PST045222>

136. See Ronald Brownstein, *Is This the End of the George Floyd Moment?*, ATL. (June 8, 2022), <https://www.theatlantic.com/politics/archive/2022/06/california-sf-la-primary-election-democrats-crime/661216/>.

137. *Id.*; Greenberg, *supra* note 9.

138. Trone Dowd, *Why Cops Are Finally Getting Indicted in San Francisco*, VICE (Dec. 9, 2020), <https://www.vice.com/en/article/wx8xvb/chesa-boudin-district-attorney-san-francisco-charging-police>.

139. See Cat Brooks, *If you care about Black lives, you cannot support the effort to remove Chesa Boudin*, S.F. EXAM'R (May 17, 2021), https://www.sfexaminer.com/archives/if-you-care-about-black-lives-you-cannot-support-the-effort-to-remove-chesa-boudin/article_a110576e-5cf1-52f9-89dc-6ac0bfc9a5f5.html.

140. *Id.*

141. *Id.*

142. Michaels & Kalish, *supra* note 121.

majority (75%) of perpetrators of anti-Asian hate crimes are white, statistical data shows that hate crimes against Asian Americans are generally more likely to be committed by nonwhite offenders than those against Latinos or African Americans.¹⁴³ In prime time interviews, Ratanapakdee's son-in-law alleged that Ratanapakdee's death was not an isolated incident but rather suggested it was part of a "pattern of Black perpetrators and Asian victims, that the pattern was a symptom of a tension dating back decades."¹⁴⁴ In San Francisco, there have been several incidents of Black violence against Asian Americans including in 2010 when multiple middle-aged and elderly Asian Americans were brutally injured and killed by Black perpetrators.¹⁴⁵ Some San Franciscans believe that this tension between Black and Asian communities is due to the demographic shifts in San Francisco where Black residents, who now make up significantly less of the city's population than Asian residents do, feel pushed out of the city due to rising inequality and the feeling that they no longer have a voice in the community.¹⁴⁶

Another theory that has emerged is messier and speaks to the complicated dynamics between Black and Asian communities. Claire Jean Kim's theory of racial triangulation breaks down the Black-white racial binary and speaks to the ways in which Asians are racialized in relation to other groups.¹⁴⁷ Asian Americans are racially triangulated by being "relatively valorized compared to Black Americans and civically ostracized compared to white Americans."¹⁴⁸ Some social scientists have also conceptualized this framework through a lens of anti-Blackness and a Black/non-Black divide, arguing that "it's not just about people's relationship to whiteness that makes a definitive factor in kind of their life chances, but it's also their relationship to Blackness and how far they can actually be distanced from Blackness."¹⁴⁹ The popularization of the "model minority myth," which posits that Asians are more successful due to their work ethic and cultural values and contrasts this success to experience of Black Americans, is an example of how Asian Americans are racially positioned.¹⁵⁰ Developed during the height of Black power movements, the "model minority myth" functioned as a tool of white supremacy that aimed to quash Black power movements and divided communities of color by distinguishing "good" minorities from "bad" minorities and

143. See Lee, *supra* note 44; Kimmy Yam, *Viral images show people of color as anti-Asian perpetrators. That misses the big picture*, NBC NEWS (June 15, 2021), <https://www.nbcnews.com/news/asian-america/viral-images-show-people-color-anti-asian-perpetrators-misses-big-n1270821>.

144. Lee, *supra* note 44.

145. See Gerry Shih, *Attacks on Asians Highlight New Racial Tensions*, N.Y. TIMES (May 2, 2021), <https://www.nytimes.com/2010/05/02/us/02sfcrime.html>.

146. See Lee, *supra* note 44.

147. See Claire Jean Kim, *The Racial Triangulation of Asian Americans*, 27 POL. & SOC'Y 105, 105-138 (1999).

148. Sonya G. Chen & Christian Hosam, *Claire Jean Kim's racial triangulation at 20: rethinking Black-Asian solidarity and political science*, 10 POL., GRP., & IDENTITIES 455, 455 (2022).

149. Stephanie Sy & Murrey Jacobson, *Can Black, Asian Americans move past historical animosity in the interest of solidarity?*, PBS (May 26, 2021), <https://www.pbs.org/newshour/show/can-black-asian-americans-move-past-historical-animosity-in-the-interest-of-solidarity>.

150. See Cady Lang, *The Asian American Response to Black Lives Matter Is Part of a Long, Complicated History*, TIME (June 26, 2020), <https://time.com/5851792/asian-americans-black-solidarity-history/>.

“reinforc[ing] a structure in which assimilation into white society is the primary goal for other ethnic groups.”¹⁵¹ Asians are thus considered both “‘the model minority’ for their extraordinary socioeconomic achievements while being simultaneously viewed as ‘the perpetual foreigner’ for their physical characteristics and ancestral roots in Asia.”¹⁵²

While this triangulation has created both notable incidents of solidarity between Black and Asian communities during the civil rights era and later student movements, it has also resulted in moments of serious tension.¹⁵³ During the 1992 L.A. Riots, an uprising following the acquittal of four police officers who brutally attacked Black motorist Rodney King, over 2,200 Korean businesses were the target of looting, violence, and destruction with damages costing up to \$400 million.¹⁵⁴ Many consider Korean businesses to have been targeted during the riots due to the 1991 murder of 15-year-old Black teenager Latasha Harlins by a Korean American convenience store clerk, Soon Ja Du, who assumed Harlins was stealing a bottle of juice from the store.¹⁵⁵ To the frustration of many in the Black community, Du was only fined \$500 and sentenced to probation and 400 hours of community service for the incident.¹⁵⁶ Ethnic Studies Professor Edward T. Chang argues that the real cause of the violence against Korean Americans was long-standing underlying economic, social, and cultural tensions between Black and Asian communities in Los Angeles,¹⁵⁷ rooted in anti-Blackness and racial triangulation.

The riots were considered by many to be a turning point in the evolution of a distinct Korean American cultural identity and like Boudin’s recall election, significantly increased Asian American political consciousness.¹⁵⁸ According to sociologist Edward J.W. Park, new Korean American political activism soon split off into two separate camps.¹⁵⁹ While more liberal groups worked in coalition with other communities of color to think about the ways in which both Korean Americans and Black Americans experienced overlapping oppressions and focused on solidarity and peace as the path forward, the riots also created a new Korean conservative identity

151. *Id.*

152. See Dr. Min Zhou, University of California, Los Angeles, Asians in America: The Paradox of ‘The Model Minority’ and ‘The Perpetual Foreigner’ (Feb. 9, 2012) (43rd Annual Sorokin Lecture at the University of Saskatchewan, Saskatoon) (transcript available at <https://artsandscience.usask.ca/sociology/documents/43rd%20Annual%20Sorokin%20Lecture.pdf>).

153. See Lang, *supra* note 149.

154. Agnes Constante, *25 Years After LA Riots, Koreatown Finds Strength in ‘Saigu’ Legacy*, NBC NEWS (Apr. 25, 2017), <https://www.nbcnews.com/news/asian-america/25-years-after-la-riots-koreatown-finds-strength-saigu-legacy-n749081>.

155. Jesse Singal, *The L.A. Riots: 15 Years After Rodney King*, TIME (2007), http://content.time.com/time/specials/2007/la_riot/article/0,28804,1614117_1614084_1614514,00.html.

156. Meg Sullivan, *Civil Unrest of 1992 Sparked New Generation of Korean American Leaders in Los Angeles*, USC NEWS (June 2, 1997), <https://news.usc.edu/11694/civil-unrest-of-1992-sparked-new-generation-of-korean-american-leaders-in-los-angeles/>.

157. Edward T. Chang, *Los Angeles Riots and Korean-African American Conflict*, 4 KOREAN AND KOREAN-AM. STUD. BULL. 305, 307-314 (1993).

158. See Jananya Williams, *LA Riots unified once-invisible Korean community*, KCRW (Apr. 27, 2022), <https://www.kcrw.com/news/shows/kcrw-features/david-ryu-la-riots-korean>.

159. Sullivan, *supra* note 155.

that emphasized law and order and the differences between minority groups,¹⁶⁰ reminiscent of many of the pro-recall groups in the San Francisco election.

Another notable incident that highlighted tensions between Black and Asian communities was the indictment and sentencing of New York Police Department officer Peter Liang for the killing of Akai Gurley, a 28-year-old Black man, in 2014.¹⁶¹ Liang, the son of Chinese immigrants and a rookie officer, was patrolling a stairwell of a housing development in Brooklyn when he discharged his gun, hitting Gurley.¹⁶² Although he served no jail time, Liang was one of the few officers indicted and found guilty in a case of law enforcement misconduct in New York, which some Asian Americans felt to be a reflection of racial dynamics.¹⁶³ One Asian-American activist outside the courthouse on the date of Liang's sentencing claimed that "we've seen bureaucracy, corruption and lots of shirking of responsibility that have led to Peter Liang becoming a scapegoat."¹⁶⁴ Many in the Asian American community were mobilized by the incident and what they felt to be the scapegoating of Liang.¹⁶⁵ Several thousand protesters, largely of Asian American descent, turned up in support of Liang in Brooklyn, with similar protests occurring across the country.¹⁶⁶

In contrast, some younger members of the Asian American community stood in solidarity with Black activists. Xuan Wang, a high school student from Queens, New York stated, "I think we, as East Asian-Americans, we have to acknowledge the anti-blackness within our own communities that does, in my belief, play a part in their support for Peter Liang."¹⁶⁷ Claire Jean Kim contended that the trial of Liang, like the recall of Boudin, brings up a "deeper political division within Asian American communities about whether to pursue an 'Asian-first' strategy or a broader racial justice agenda" which speaks to the crucial issue of "the beneficial positioning of Asian Americans in the country's racial order."¹⁶⁸ While Asian Americans have historically faced oppression, they have never been subject to the deep-rooted anti-Blackness in American society and enjoy significant privileges over other minority groups. For Kim, the only way forward is a "political ethos that calls for confronting racial hierarchy and anti-Black racism, even when the self-interest of Asian Americans dictates otherwise."¹⁶⁹

160. *Id.*

161. Hansi Lo Wang, 'Awoken' By N.Y. Cop Shooting, Asian-American Activists Chart Way Forward, NPR (Apr. 23, 2016), <https://www.npr.org/sections/codeswitch/2016/04/23/475369524/awoken-by-n-y-cop-shooting-asian-american-activists-chart-way-forward>.

162. *Id.*

163. *Id.*

164. *Id.*

165. See Chris Fuchs, *Thousands Rally After Conviction of Ex-Cop Peter Liang in Death of Akai Gurley*, NBC NEWS (Feb. 20, 2016), <https://www.nbcnews.com/news/asian-america/thousands-rally-after-conviction-ex-cop-peter-liang-death-akai-n522546>.

166. *Id.*

167. Wang, *supra* note 161.

168. Claire Jean Kim, *Opinion: The trial of Peter Liang and confronting the reality of Asian American privilege*, L.A. TIMES (Apr. 21, 2016), <https://www.latimes.com/opinion/opinion-la/la-ol-peter-liang-asian-american-privilege-20160421-snap-story.html>.

169. *Id.*

III. AN ALTERNATIVE VISION FOR ASIAN AMERICAN ACTIVISM

It is clear that the recall of Boudin, while it may have provided some initial sense of relief to Asian American voters in San Francisco, will not fundamentally address the larger concerns of the Asian American community about public safety, anti-Asian hate, and achieving justice. So where should Asian Americans who hope to actually address these issues focus their efforts?

First, it is important to think beyond the carceral state in addressing anti-Asian hate, given the violence it imposes on other communities of color and its inability to address the actual roots of anti-Asian hate. With hate crimes which are motivated by bias and prejudice, attorney Janet Vo suggests that “justice for victims and communities cannot solely be achieved through prosecution, as the residual impact, trauma and fear of hate crimes remain.”¹⁷⁰ Some non-carceral solutions to anti-Asian hate proposed by the Massachusetts Advisory Committee to the U.S. Commission on Civil Rights include recommendations to:

- Invest in community-based restorative justice programs;
- Improve data collection through mechanisms for victims to report violence anonymously;
- Increase access to culturally competent and linguistically appropriate mental health services;
- Secure additional funding for social services, community-based legal assistance, and bystander training;
- Integrate ethnic studies into the education curriculum to understand the history of racism; and
- Promote data equity to dispel harmful stereotypes and ensure equitable allocation of resources based on community needs.¹⁷¹

On a broader scale, Iyko Day argues that ending anti-Asian hate would require ending the underlying causes of anti-Asian hate which include “militarism and policing, criminal punishment, state regulation of women’s bodies, and an economy based on violent relations of scarcity over plenty, individualism over interdependence.”¹⁷²

Next, Asian Americans must commit to a broader racial justice agenda in solidarity with other communities of color. This requires, as Kim argues, Asians to confront their place in the racial hierarchy, address anti-Blackness in their community, and understand that if that if they are truly committed to racial justice and tackling white supremacy, they must pursue a broader strategy that may sometimes prioritizes the needs of other more marginalized communities of color over their own.¹⁷³ Professor Nitasha Sharma’s advocacy for an Asian American studies within a collective Racial

170. Janet H. Vo, *Fighting Anti-Asian Hate: Community-Based Solutions Beyond Prosecutions and the Cycle of Violence*, BOSTON BAR (June 14, 2022), <https://bostonbar.org/journal/fighting-anti-asian-hate-community-based-solutions-beyond-prosecutions-and-the-cycle-of-violence/>.

171. *Id.*

172. Day, *supra* note 84.

173. See Kim, *supra* note 168.

Studies project articulates the need for Asian Americans to move beyond a “focus on policy (immigration, education) and people (convicted officer Peter Liang)” to “articulations of Asian Americans’ political stances vis-à-vis other people of color and as people of color.”¹⁷⁴ In the contexts of education and public safety, this calls for Asian Americans to think beyond “merit-based” admissions and hate crime laws and to instead use their relative privilege to uplift the voices of more marginalized communities of color in pursuit of a broader racial justice agenda.

Student movements have provided a successful model for activism and solidarity that values “linking political consciousness and interpersonal empathy with knowledge of the specificity and incommensurability of different group experiences.”¹⁷⁵ In the 1960s, the Third World Liberation Front (TWLF), a coalition of students from all racial backgrounds including Asian Americans, mobilized and protested in schools across the Bay Area with a set of demands for racial justice.¹⁷⁶ The TWLF’s strikes at San Francisco State University and University of California, Berkeley led to the creation of the first ethnic studies programs in the country.¹⁷⁷ The TWLF’s legacy reached far beyond the academic environment into communities across the nation pushing for “democratic rights, equality, and justice” in solidarity with other communities of color and revolutionaries across the world.¹⁷⁸ More recent Black Lives Matter activism across college campuses that pushed for expansive student demands across intersections of race, gender, and sexuality build on this history.¹⁷⁹ These movements demonstrate the power of solidarity and cross-community organizing and provide guidance for the future of Asian American activism.

CONCLUSION

For many Asian American voters in San Francisco, Chesa Boudin’s recall was a moment that raised significant political consciousness. The growing Asian American political identity that arose from this moment speaks to challenges the Asian American community has and continues to face around a misguided focus on prosecution and hate crime laws, neoconservative thinking, conservative co-optation of Asian American concerns, and anti-Blackness in the Asian American community and the racial triangulation of Asian Americans. This paper instead offers an alternative vision for the future of Asian American advocacy, centered not around an isolated Asian American movement but rather a focus on solidarity building, cross-community organizing, and broader racial justice demands.

174. FLASHPOINTS FOR ASIAN AMERICAN STUDIES 62 (Cathy Schlund-Vials ed. 2018).

175. Samuel D. Museus et. al, “*We Really Have to Come Together*”: *Understanding the Role of Solidarity in Asian American College Students’ Social Justice Activism and Advocacy*, 11 *EDU. SCI.* 683, 683-90 (2021).

176. *Third World Liberation Front Research Initiative (twLF)*, BERKELEY CENTER FOR RACE AND GENDER, <https://crg.berkeley.edu/third-world-liberation-front-research-initiative-twlf> (last visited Dec. 11, 2022).

177. *Id.*

178. Omatsu, *supra* note 94.

179. Schlund-Vials, *supra* note 173.