

2024/07/01 APA Justice Monthly Meeting

**APA Justice Meeting – Monday, 2024/07/01
1:55 pm Eastern Time / 10:55 am Pacific Time**

1. CAPAC Updates

Speaker: Nisha Ramachandran, Executive Director, Congressional Asian Pacific American Caucus (CAPAC), nisha.ramachandran@mail.house.gov

As Nisha was about to provide an update from CAPAC, she was pulled into another call. Casey Lee, Policy Director for CAPAC, stepped in and reported one issue that is monitored very closely by CAPAC.

The Commerce, Justice and Science Appropriations Bill for fiscal year 2025 had its subcommittee markup last week. As reported in the Appropriations Committee's press release, the China Initiative is included once again in the accompanying report language for its bill.

The legislative process will continue to a full committee markup, which is slated for July 9. CAPAC and many of our champions such as Rep. Grace Meng will make sure that it will be tracked very closely.

We are once again seeing another attempt to revive the China Initiative in Congress. CAPAC will continue to push back again as well. Casey encouraged the community to reach out to CAPAC if there are questions and extended her appreciation for the advocacy and voices at the monthly meeting.

2. Anti-Profiling, Civil Rights & National Security Program - Asian Americans Advancing Justice | AAJC

Speaker: Joanna YangQing Derman, Director, Anti-Profiling, Civil Rights & National Security Program, Advancing Justice | AAJC

Joanna was called away and was not able to speak at the meeting.

3. Update from Asian American Scholar Forum

Speaker: Gisela Perez Kusakawa, Executive Director, Asian American Scholar Forum (AASF), gpkusakawa@asforum.org

Gisela reported on the ongoing engagement of AASF with the White House, Congress (particularly CAPAC), and various Federal agencies, highlighting the contributions of Asian American scholars to American society. This engagement boasts nearly 400 million potential views through its news coverage. AASF's top priority is ensuring that issues facing Asian American scholars are at the forefront for national leaders.

Not all AASF activities are publicly visible; some occur behind closed doors, such as roundtable discussions with the National Science Foundation and university leaders. This includes a briefing to the Department of Homeland Security Subcommittee on Foreign Malign Influence in Higher Education, which contributed to their recent subcommittee report. AASF hopes that another significant effort with Federal agencies will be made public soon.

AASF's recommendations to Federal agencies are consistent: they call for greater transparency, clarity, and continued feedback from the Asian American scholar community. The organization's efforts are not just about changing perspectives within the Federal government, media, and the public but also about building a community. AASF aims to establish a permanent non-profit organization to protect the rights of Asian American scholars and celebrate their excellence and contributions.

AASF will co-host the inaugural Asian American Pioneer Medal Symposium and Ceremony with Stanford University on July 27, 2024. This public event will also feature roundtables and listening sessions with Federal government representatives on July 28. Distinguished speakers, including Nobel Laureates Steven Chu and Randy Shekman, Turing Award Laureate Raj Reddy, former Stanford President John Hennessy, and industry leader Eric Yuan, will participate. CAPAC Chair Judy Chu will open the Symposium and ceremony.

Register for the Symposium and Ceremony here: <https://bit.ly/3XLApPN>

AASF is also co-hosting a Presidential Town Hall with APIAVote and other partners in Philadelphia on July 13, ahead of the upcoming November elections.

The House passed the National Defense Authorization Act on June 14, which includes provisions related to research security, potentially restricting collaboration for researchers and universities receiving Department of Defense (DOD) funding. AASF will focus on the conferencing stage as the Senate considers its version of the bill next.

Regarding the Appropriations Bill, AASF is leading efforts with nearly 50 organizations, including APA Justice, to oppose restrictive language in this must-pass bill. They will monitor the July 9 markup session closely.

Finally, AASF is promoting the Youth Ambassador Science Video Competition, encouraging participation to highlight the involvement of the next generation in their efforts.

Visit the AASF website and subscribe to the AASF newsletter at <https://www.aasforum.org/>

4. OSTP Remarks on Research Security and Coordination with Law Enforcement

Speaker: Kei Koizumi, Principal Deputy Director for Science, Society, and Policy, OSTP, The White House

- 2024/03/21 JASON Report: [Safeguarding the Research Enterprise](#)
- 2021/08/10 White House: [Clear Rules for Research Security and Researcher Responsibility](#)
 - Protect America's Security and Openness; Be Clear; Ensure Policies Do Not Fuel Xenophobia or Prejudice
- 2019/12 JASON Report: [Fundamental Research Security](#)

In August 2021, the White House tasked OSTP with setting clear rules for research security and researcher responsibility. It charged OSTP with protecting America's research security while ensuring policies do not fuel xenophobia or prejudice. As part of the OSTP effort, the NSF commissioned two studies by JASON, an independent group of scientists with unique expertise that advises the U.S. government on national security matters related to science and technology.

Kei was hoping to share the final version of a research security standards document. It was requested by Congress and a presidential memorandum that gives universities and Federal research agencies clear guidelines for how they will run research security programs. Unfortunately, the release has been delayed.

Kei is hopeful that it will be released in the coming days to provide clarity for the Asian American research community and universities and what is expected of all of us to fulfill the vision of maintaining an open international collaborative research enterprise in the U.S. that protects against the efforts of foreign governments to take advantage of that openness.

A key to this document will be the longstanding prohibitions against taking any actions that would further exacerbate anti-Asian bias or prejudice. Implementation of the final guidance will be a collaborative venture for all of us.

Congress is considering legislation that would force the Department of Justice to reinstate the China Initiative.

OSTP is also looking at proposals in draft intelligence and national defense bills that will prohibit any citizens of countries of concern, specifically the People's Republic of China, from visiting or working in Federal and national laboratories, regardless of their visa or visitor status.

The administration will oppose this legislation, as it has opposed reinstating the China Initiative in the Appropriations Bill last year.

This is where we as a community have to play defense against some very bad ideas that are circulating in Congress.

This being an election year makes opposition to bad legislation even more fraught than it usually is.

Kei is glad that Neal and a coalition were able to host the FBI Forum. He is also glad that the National Academies will be wrapping up. It is important work on research security through the Roundtable.

Kei is also interested in hearing from all of us, especially at the state level. He is particularly concerned about some of the bills and laws in various states that restrict the ability of Asian Americans, particularly Chinese Americans, to buy property or to go through extra screening just to be a part of the academic environments at many state universities.

5. Summary of Dialogue Between Academic and Asian American Communities with The FBI

Speaker: Neal Lane, Senior Fellow, Baker Institute; Former Director of OSTP; Former Director, NSF

- 2024/06/10 South China Morning Post: [FBI official admits mistakes, vows to improve relations with Asian-American communities](#)
- 2024/06/07 Nature: [FBI Asks Scientists for Trust in Taking Anti-Asian Bias Seriously](#)
- 2024/06/06 YouTube [A Dialogue Between Academic and Asian American Communities and The FBI](#) (1:55:23)
- 2024/05/31 Commentary: [An Urgent Call for Clear and Fair Law Enforcement Guidelines and Procedures for Research Security](#)

Dr. Neal Lane shared his thoughts about the important dialogue that was held at Rice University on June 6, 2024. He expressed his delight at sharing the virtual stage with Kei Koizumi at the monthly meeting.

Kei's encouraging remarks highlight the challenges and efforts being made at the White House. Kei's dedication is greatly appreciated, especially during these trying times. It is reassuring to have someone as committed as Kei working on these issues.

The June 6 forum was a groundbreaking occasion where representatives from the FBI, Asian American communities, and academic institutions gathered for a vital discussion.

This unique gathering may be one of the most significant hosted by Rice University, and Dr. Lane explained why.

America's economy, security, and well-being are deeply intertwined with advancements in science, technology, and private sector innovation. The U.S. heavily relies on researchers and STEM workers from Asia, particularly China. If these talented individuals decide not to come here or those already here choose to leave, it will severely impact our scientific and technological progress.

Not long ago, that sentiment would have been unthinkable.

If some foreign entity decided to find a way to cause America to fall backwards in science, technology, innovation, and economic growth, and simply become a weaker nation, the China initiative would be an ideal strategy. Even with its cancellation, so much damage has already been done.

Existing policies, rules, and enforcement guidelines are not clear, and there appear to be communication gaps between the policy makers and those who must enforce the rules. Dr. Lane is encouraged by Kei's comments that the guidelines will be coming out of the White House soon.

It is hard for those of us who are not there working on this problem in real time to understand the scope of what the challenges are.

It is an understatement that policy makers do not always get it right. We have just heard some of the matters that Congress is dealing with right now, and that the White House is pushing back on.

That was the reason Dr. Lane felt the June 6 Forum was so important. The fact that the FBI, with some risk, was reaching out to the Asian community, meant that there was a real chance to begin a much-needed dialogue.

It brought together leaders from the FBI's Houston Field Office and Washington headquarters, the U.S. Attorney's Office for the Southern District of Texas, and members of the Asian and academic communities. Discussions covered the China Initiative, issues with students at the border, the complex landscape of research security, and the ongoing need to balance research security with attracting and retaining top talent.

Rice University's Office of Innovation, led by Vice President of Innovation Paul Cherukuri, spoke at the Forum. Key participants included representatives from Rice University's Baker Institute for Public Policy, the ACLU of Texas, the Asian American Scholar Forum, the Texas Multicultural Advocacy Coalition, and APA Justice.

Although Customs and Border Protection representatives were invited, they did not attend. The Forum was moderated by Dr. Steven Pei and attended by about 75 in person, with over 400 joining virtually.

One major takeaway was the commitment from FBI leadership, particularly Jill Murphy, Deputy Assistant Director for counterintelligence in Washington, and Alamdar Hamdani, the US Attorney for the Southern district of Texas.

They both said that they are committed to protecting the civil rights of Asian Americans, and they acknowledge the potential link between the rise of hate crimes against Asians and the unfortunate portrayal of Asian Americans as being untrustworthy and here to steal intellectual property.

Jill Murphy emphasized that the initiative was never intended to harm Asians and reassured us that the FBI takes anti-Asian bias seriously.

One objective of the Forum was that it would pave the way for potential collaborations between the FBI and Asian communities and other cities, such as San Francisco. We are very happy to learn that FBI leadership in San Francisco, Robert Tripp, and U.S. Attorney from the Northern District of California, Ismail Ramsey, will be meeting with Asian American community there to hold similar discussions.

Another goal of the Forum was to encourage the Government to maintain open lines of communication with the Asian community and advocate better coordination research security efforts.

As we have heard from Kei, the White House Office of Science and Technology Policy is working hard to clarify research security policies for universities, researchers and funding agencies. One of OSTP's many tasks is to manage the National Science and Technology Council, which is chaired by the President. The OSTP Director, Arati Prabhakar, sits on the President's Cabinet.

OSTP works with federal agencies to coordinate the complex funding and research security landscape and reduce the time consuming paperwork and other administrative tasks, many of which simply waste money and researchers' time.

In her annual State of Science talk a week ago, Marsha McNutt, President of the National Academy of Sciences, reminded us that on average, surveys show that researchers spend 40% of their research time, not teaching time, on administrative tasks. And now, with new research security requirements being imposed by Congress, the burden could be even greater.

OSTP is the place in the White House that keeps a focus on protecting the U.S. research enterprise while dealing sensibly and seriously with research security that can require pushing back on unhelpful, even damaging actions by Congress and some agencies.

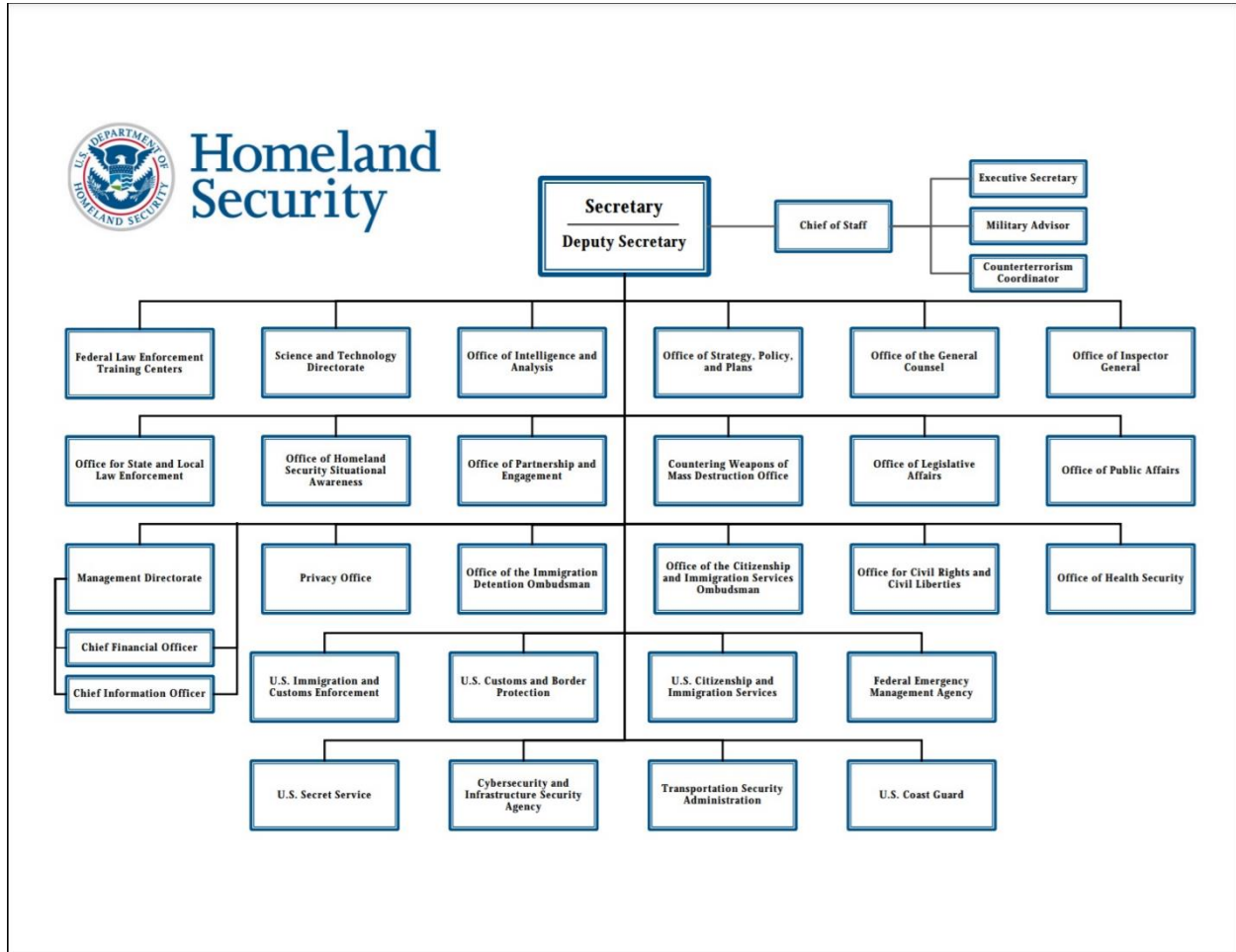
The challenge is formidable and exhausting, and it takes time.

Regarding the border issues, Dr. Lane suggested that perhaps OSTP could convene meetings with officials of Homeland Security, and Customs and Border Protection in particular, to discuss the problems that some Chinese students are having as they try to re-enter the country.

During the George W. Bush administration after 9/11, Jack Marburger was Director of OSTP. The office played a key role in establishing the Science and Technology Directorate of the newly formed Department of Homeland Security.

Now might be a good time to renew the partnership between OSTP and Homeland Security.

It is not easy. If you look at the organization chart for Homeland Security, you find lots of offices and the directorate and connections between offices of all government organizations can be very difficult.



OSTP can perhaps make some of those connections a little easier for the folks who are working very hard within that department.

On our part, as concerned Asian, Asian American, and academic and larger science communities. It will require patience and strong support of positive efforts that are underway, such as what Kei described in continuing dialogue with the White House and Federal agencies, including law enforcement.

The unprecedented meeting on June 6 was a good start. The job now is to keep the momentum going. Dr. Lane is confident that APA Justice will continue to do its part.

6. Observations and Remarks by an Impacted Scientist

Speaker: Xiaoxing Xi, Laura H. Carnell Professor of Physics, Temple University

- APA Justice: [Xiaoxing Xi](#)
- 2023/05/24 ACLU: [Xi v. United States – Challenge to Warrantless Surveillance](#)
- 2019/10/22 Temple University: [Xiaoxing Xi recognized with APS Andrei Sakharov Prize](#)
- 2017/05/10 CourtListener: [XI v. HAUGEN \(2:17-cv-02132\)](#)

Commentator: Gang Chen, Carl Richard Soderberg Professor of Power Engineering, Massachusetts Institute of Technology

Professor Xi is a naturalized American citizen who has lived and worked in the U.S. for 35 years. On May 21, 2015, the U.S. government charged Professor Xi for scheming to violate a non-disclosure agreement by sharing U.S. company technology with Chinese entities. Professor Xi committed no crime and was supported by affidavits from leading scientific experts, as well as one of the inventors of the U.S. company technology himself. On September 11, 2015, the government dropped all charges against Professor Xi without an apology or explanation. With support of ACLU, Professor Xi and his family filed a civil lawsuit against the U.S. government in 2017. He is the recipient of the 2020 Andrei Sakharov Prize, a distinguished honor within both the human rights advocacy and scientific communities.

Professor Xi joined the meeting from Europe. He gave [a slide presentation](#) on his personal experiences as an impacted scientist. He recounted the traumatic events of May 2015 when armed FBI agents raided his home, held his wife and daughters at gunpoint, and arrested him for a crime he did not commit. This ordeal had a profound and lasting impact on his career and his family's lives, as well as on Professor Gang Chen and others who were also falsely charged by the Department of Justice (DOJ).

Many of these cases were dropped although it has been very rare for DOJ to drop cases.

In his presentation to the OSTP community briefing in January 2022, Professor Xi attributed the problem to policies that diminish the U.S.'s ability to attract talent and fuel xenophobia against Asian Americans. Specifically, the FBI Director referred to Chinese scientists and academics as "non-traditional collectors," suggesting they act as spies without formal training on behalf of the Chinese Government.

It is a term the FBI Director used during Congressional testimonies to portray anyone who has some connection with China as a "whole-of-society" threat to the U.S.

Professor Xi believes this is the root problem of all the cases targeting Chinese scientists.

In the spirit that the June 6 Forum in Houston is indeed a great start to rebuild trust with the FBI, Professor Xi suggests that the FBI Director and leadership should speak in high profile events that “all Chinese scientists are not non-traditional collectors” and do not label them as suspected spies.

That is where trust has been broken.

There have been persistent attempts to reinstate the China Initiative. As long as the assumption that Chinese scientists are suspected of espionage continues to prevail, the China Initiative is still working and there will be more such activities.

In February 2023, the DOJ established the Disruptive Technology Strike Force with the mission of enforcing export control laws and investigating and prosecuting criminal violations of export laws.

As more and more institutions are put on the entity list, there will be increasing situations of people interacting with scientists from these institutions. The Chinese institutions include the Institute of Physics, the Chinese Academy of Sciences, and University of Science and Technology. These are the equivalents of Caltech and MIT in the U.S.

In March 2023, Science Magazine asked the OSTP Director: Do you think that Chinese-born scientists working in the United States have been unfairly persecuted as agents of the Chinese Communist Party and are owed some kind of apology from the government?

Dr. Arati Prabhakar responded, "I'm not in a position to comment on that. I don't know enough about it." This response raised concerns about whether there are policymakers who still care about the plight of scientists. Dr. Prabhakar has afterwards given some extra clarifications, and Science Magazine has modified and updated its story.

However, there is one point that Dr. Prabhakar has repeated many times; that is, the world has changed. This statement gives Professor Xi a clear perspective on how the U.S. Government's science policy is going to be driven despite reports and recommendations from the scientific community on how to protect US technology from China.

For example, in September 2022, the National Academies released a report on Protecting U.S. Technological Advantage. It stated clearly that in today's interdependent, global innovation system, the greatest threat is that the U.S. will inadvertently weaken its innovation ecosystem. Protecting and strengthening this ability is vitally more important than protecting specific technologies, which is not effective and ends up hurting ourselves.

The innovative ecosystem requires openness as well as the ability of the U.S. to attract scientists from around the world.

The 2024 JASON report also emphasizes openness and transparency. The National Science Foundation (NSF) should adopt a dynamic approach for identifying potentially sensitive research topics as they arise, instead of attempting to maintain a comprehensive list of sensitive

research areas. NSF should proceed with caution before adding access or dissemination controls to grants or contracts.

But that is not what the policy makers, including the White House, are doing.

The CHIPS and Science Act has provisions that prohibit Federal funding for participants of a malign foreign talent recruitment program sponsored by countries of concern, with a definition of the malign foreign talent recruitment program codified as 42 USC 19237 (4).

If you read all this, people including Professor Xi would say, do not do anything with scientists from China because you run the risk of being considered part of a malign foreign talent recruitment program. You are forbidden to get Federal funding.

In two February 2024 documents, OSTP provided guidelines on a long list of situations of international collaborations that are not considered a foreign talent recruitment program, including membership in the Royal Society, taking a sabbatical leave at University of Oxford or McGill University, and receiving the Nobel Prize.

What it did not mention is whether taking a sabbatical leave in China or membership of the Chinese Academy of Sciences would be considered part of a malign foreign talent recruitment program. Professor Xi is looking for clarification in the new OSTP guidelines expected to be released in the coming days.

Can a scientist collaborate with China? NSF Director Sethuraman Panchanathan said in a post in X, "By working together with our international like-minded partners to strengthen and scale collaborations ... we will supercharge powerful global innovation ecosystems."

So, openness has conditions. We want openness and collaboration with like-minded partners, but not with people from countries of concern.

The Deputy Secretary of State said last week, "I would like to see more Chinese students coming to the United States to study humanities and social sciences, not particle physics." He wants to have students from India to make up that deficit to study science in the U.S.

The message from the policy makers is very clear - no collaboration with any scientists in China and no Chinese students in STEM. What they are saying and doing is opposite to what the scientists have said in the National Academies report and the JASON report.

A possible explanation is OSTP Director's response to Science Magazine: The world has changed.

The U.S. and China were at peace, and now the U.S. and China are at war.

These are wars like the trade war and the geopolitical war in technology. They have been going on for some time and could very well lead to a military war.

Last time when the United States was at war with an Asian country, the government sent 120,000 Japanese persons to internal camps.

We are now at war with China.

The late Supreme Court Justice Scalia said that in times of war he would not be surprised to see internment happen again.

We are at risk of being sent to internment camps if the U.S. and China start to fight a war literally or figuratively. Saying all Chinese scientists are suspected of spying for China is the same as saying Japanese persons in the U.S. could be signaling to incoming warplanes from Japan to attack the mainland U.S.

This makes the ongoing efforts by allies in OSTP, the scientific scholar community, and interactions with the FBI, CAPAC, and Congress so important. We need to push back and make sure that we will not be sent to the internment camps.

The persistent mistrust and xenophobia against Chinese and Asian American scientists are fueled by policies and rhetoric that unfairly label them as spies. Professor Xi calls for a change in these policies, advocating for a more inclusive and supportive environment that values the contributions of all scientists, regardless of their ethnic background, as the scientific community has already recommended.

In conclusion, Professor Xi underscored the importance of openness and international collaboration in maintaining the United States' leadership in science and technology. He criticized restrictive policies that hinder collaboration with scientists from China and warned against the long-term damage such policies could cause to the nation's innovation ecosystem.

Professor Xi's presentation is posted at <https://bit.ly/3W3SN5f>

Professor Gang Chen joined the meeting from Taiwan, expressing his gratitude to Professor Xi for his bravery in speaking out and to Kei Koizumi and Neal Lane for their insightful comments.

Professor Chen himself is a victim of the misguided China Initiative. He finds it disheartening to witness persistent efforts to reinstate the initiative, whether under its original name or disguised under a different one.

He emphasized the findings of the National Academies report, which highlighted that the greatest threat to the U.S. is the weakening of its innovation ecosystem. The China Initiative and similar U.S. policies have driven away many talented individuals, diminishing the country's appeal not only to researchers of Chinese origin but to scientists in general.

The CHIPS and Science Act's definition of a malign foreign talent program is so broad that it could potentially label many CEOs of major U.S. companies as participants in such programs.

There is widespread uncertainty about how these rules will be applied, but those in academia feel particularly targeted. Many are afraid to attend conferences or give seminars in China. Universities share this fear as well.

A faculty member recounted to Professor Chen that, during a visit to his family in China, he asked a University Security Officer if he could meet his colleagues and friends at a local university. The officer suggested holding the meeting off-campus, highlighting the tense atmosphere.

Such policies are detrimental to scientific exchange and ultimately harm the U.S. innovation ecosystem.

The Organization for Economic Co-operation and Development (OECD), an intergovernmental organization with 38 member countries, has been tracking new researchers by country every year. Before 2018, the U.S. consistently gained new researchers each year, with over 2,000 new researchers in 2018 alone. However, since then, the trend has reversed, and by 2021, the U.S. experienced a net loss of new researchers. This trend is strong evidence of the damaging effect of the China Initiative.

7. National Academies Roundtable Capstone Workshop

Speaker: Karla Hagan, Senior Program Officer, Staff Director for National Science, Technology, and Security Roundtable, National Academies of Sciences, Engineering, and Medicine

- 2024/07/16-17 [National Science, Technology, and Security Roundtable - Capstone Workshop](#)

Although she was still recovering from COVID, Dr. Karla Hagan gave an update on the Roundtable and the upcoming capstone workshop.

The Roundtable was created four years ago under the 2020 National Defense Authorization Act. It brought together the law enforcement and intelligence communities with the research community in academia and industry.

The Roundtable held 14 meetings in total, including five regional meetings outside of Washington DC in Maryland, Boston, Chicago, Stanford, and Texas.

After four years of work, there will be a capstone workshop to held on July 16 and 17, 2024. It is a public event open to attendance in person or virtually. A public proceeding will also be published following the event.

The Roundtable included members from across academia, government, and industry. It is focused on research security. It was pulled together at a time when law enforcement and academia were farther apart than they are now although there is still a long way to go.

The capstone workshop will not only summarize the four years of Roundtable work, including impacts that Federal policies are having and concerns heard from the communities, but also to examine some of the potential next steps.

Not too surprisingly, the discussions of the monthly meeting are also some of the themes coming out of the Roundtable. All of us are invited to join the capstone workshop.

Registration to attend and additional information about the capstone workshop are posted here: <https://bit.ly/3z0PnY7>

8. Q&A and Discussions

9. Next Meeting

- Monday, August 5, 2024, starting 1:55 pm ET/10:55 am PT