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Asian American Scholar Forum on The China Initiative and Professor Anming Hu's Case

On December 18, 2021, the Asian American Scholar Forum (AASF) hosted a webinar titled **The China Initiative and Professor Anming Hu's Case**. Speakers included Professor Anming Hu, the first academic to stand trial under the Department of Justice's "China Initiative." This is Professor Hu's first public event speaking about his personal experience after he was acquitted in September 2021. Reporters Mara Hvistendahl and Jamie Satterfield provided insightful and moving comments on the government's abuse of authority, racial profiling, and Professor Hu being "thrown under the bus" by the university and federal agencies.

In the zeal to hunt for a spy in Knoxville, the FBI agent started an economic espionage investigation against Professor Hu by making a Google search. The defense attorney, a juror, and the president of the University of Tennessee chapter of the American Association of

University Professors also gave brief remarks. The webinar was humanized, impactful, and inspiring. It was moderated by Professor Margaret Lewis, law professor at Seton Hall University, and organized by Professor Steven Pei, an AASF member and a co-organizer of APA Justice. There were more than a few teary eyes among the speakers and the participants.

Read more about the event at <https://bit.ly/30J2P1X> and watch the video at <https://bit.ly/3skUywg> (1:34:56)

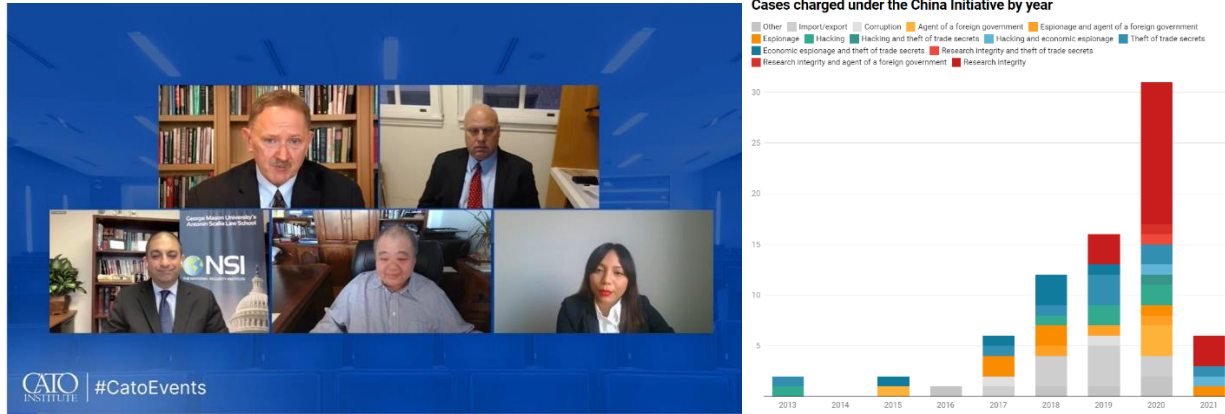


Cato Institute Policy Forum on The China Initiative: Origins and Consequences

On December 16, 2021, the Cato Institute hosted a policy forum on **the China Initiative: Origins and Consequences**. Speakers included Dr. Derek Scissors, Senior Fellow, American Enterprise Institute; Professor Jamil N. Jaffer, Director of the National Security Law and Policy Program, Antonin Scalia Law School, George Mason University; Dr. Jeremy Wu, Founder, APA Justice; and Gisela Kusakawa, Staff Attorney, Anti-Racial Profiling Project and Immigration, Asian Americans Advancing Justice. Patrick G. Eddington, Senior Fellow, Cato Institute served as the moderator. The 2-hour event covered a broad range of issues including: How extensive is Chinese government espionage and IP theft targeting the United States? Is the China Initiative a form of racial or ethnic profiling? How has the China Initiative impacted U.S.-Chinese information and technology exchanges and cooperation? How has the U.S. academic community responded to these events? Drawing on the two recent reports by the MIT Technology Review, Jeremy Wu gave [a short presentation](#) of the consequences of the ineffective "China Initiative" on individuals and American science and technology.

Patrick Eddington concluded the event by citing the Bloomberg report on [Anti-Asian Atmosphere Chills Chinese Scientists Working in the U.S.](#): "Nianshuang Wang arrived in the U.S. from China about seven years ago to help explore an obscure niche in structural biology: manipulating coronavirus spike proteins to be more stable and thus better for use in vaccines. In early 2020 it was Wang who figured out how to make the spike protein on the novel coronavirus bind with human receptors, enabling Moderna Inc. to develop its Covid-19 vaccine in record time." This story shows how scientific collaboration between the U.S. and China can save many lives in this country and the rest of the world.

Read more about the event <https://bit.ly/3HeBILV> and watch the video (1:57:05) at <https://bit.ly/3IM8A6m>



Appointments to the President’s Advisory Commission on Asian Americans, Native Hawaiians, and Pacific Islanders

On December 20, 2021, President Biden announced his intent to appoint commissioners to the President’s Advisory Commission on Asian Americans, Native Hawaiians, and Pacific Islanders. The commissioners will include seasoned community activists, health experts, and a former Congressional Asian Pacific American Caucus chair. Read more <https://bit.ly/3e9c26T>.

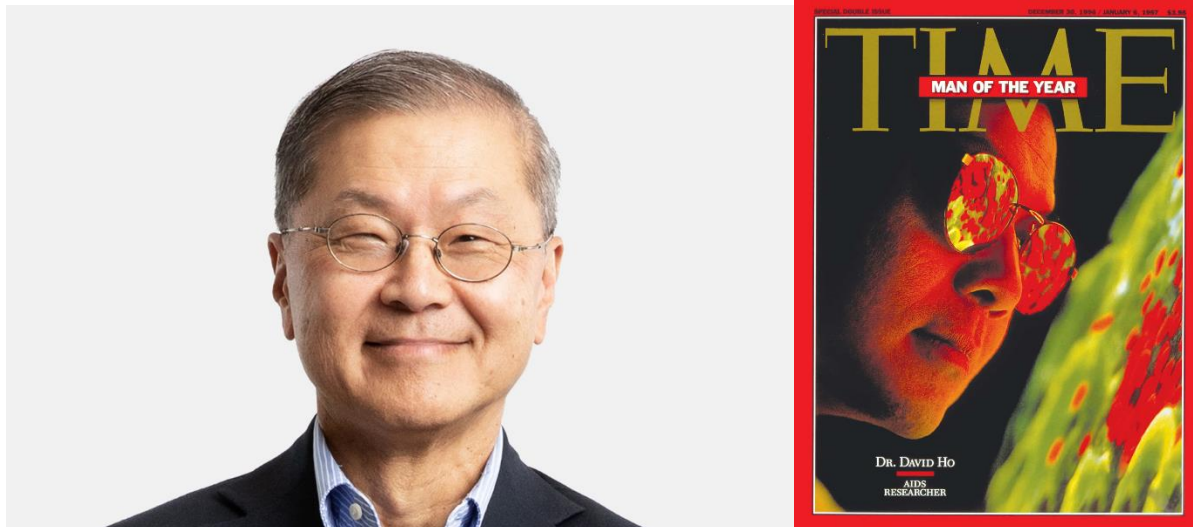
APA Justice Nominated Dr. David D. Ho to Serve as the Next NIH Director

During the December 6, 2021 monthly meeting, APA Justice announced that it has nominated Dr. David Ho 何大一 to the White House as a candidate to become the 17-th Director for the National Institutes of Health. Dr. Francis Collins stepped down from that role on December 20, 2021. The position requires White House nomination and Senate confirmation.

Dr. Ho is the founding scientific director of the Aaron Diamond AIDS Research Center and a Clyde and Helen Wu Professor of Medicine at Columbia University. He earned degrees from California Institute of Technology in 1974 and Harvard Medical School in 1978, and is now a world-renowned medical researcher and educator.

For the past 40 years, Dr. Ho has led the battle against the HIV/AIDS epidemic. He transformed the previously fatal HIV diagnosis into a manageable condition and has helped over 25 million people worldwide. Since the onset of the COVID-19 pandemic, he and his team have also

worked toward understanding this new virus's variants in order to develop treatments and vaccines. Dr. Ho has received dozens of awards, 14 honorary doctorates, and memberships at the US National Academy of Medicine and the Chinese Academy of Engineering. President Bill Clinton awarded him the Presidential Citizens Medal in 2001. Dr. Ho was Time Magazine's 1996 Man of the Year. On December 1, 2020, Dr. Anthony Fauci and Dr. David Ho were honored on World AIDS Day with [National AIDS Memorial's Leadership Recognition Award](#) for their lifelong commitment, work and profound impact they have had over the span of 40 years and two pandemics in advancing science, treatments and education around both diseases.



2021/12/06 APA Justice Monthly Meeting Summary Posted

The December 6, 2021 meeting summary has been posted at <https://bit.ly/3kxkqxP>. We thank all of the excellent speakers in the meeting (in speaking order) - Nisha Ramachandran (CAPAC), Eileen Guo (MIT Technology Review), Ashley Gorski and Patrick Toomey (ACLU), Patrick Eddington (Cato Institute), Josephine Lau (SupChina and Serica Initiative), and Gisela Kusakawa (Advancing Justice | AAJC).

- **CAPAC Updates.** Nisha reported on the latest activities and developments from the Congressional Asian Pacific American Caucus.
- **MIT Technology Review Articles.** Eileen reported that she and her colleagues started to put together a database of all of the known cases of the China initiative several months ago, believing that the best way to understand, scrutinize, and hold the Department of Justice (DOJ) accountable for the China Initiative was to review what the DOJ was saying about the initiative and examine the priorities outlined at the initiative's launch on November 1, 2018. The current database contains 77 known cases, including 162 defendants (148 individuals and the rest entities). It does not contain all China Initiative cases. DOJ does not have a definition of what makes a China Initiative case or what "nexus to China" is. Trends in the database show that the initiative has moved away from economic espionage and hacking cases to focus on research integrity, most of them have little to no obvious connection to national

security. There was one case on a turtle smuggling ring between New York and Hong Kong. Eileen also found that defendants in 19 of the 77 cases were alleged to participate in talent programs in China. Nearly 90% of the defendants are of Chinese heritage. DOJ changed their website on November 19, two days after Eileen sent them a long list of questions about the China Initiative. The China Initiative has broad impacts that we are only beginning to understand. Eileen plans to build more detailed databases, including the number of labs shut down as a result of China Initiative cases. Eileen invites anyone who would like to contribute information to join the conversation to bring transparency to the China Initiative. She can be contacted at Eileen.guo@technologyreview.com

- **ACLU Activities.** Ashley provided background on the Patriot Act that passed Congress in a rush after 9/11. It quickly became a global symbol of excessive executive power, giving the government authority to spy on Americans' communications, track their associations, and monitor their financial transactions. In 2013, Edward Snowden's revelations about the breadth of U.S. government surveillance under Executive Order (EO) 12333 and Section 702 of the Foreign Intelligence Surveillance Act (FISA) shocked the world. Section 702 of FISA authorized the warrantless surveillance of Americans' international communications — phone calls, emails, chats and web browsing. Targets do not need to be connected to criminal activity. Today there are over 200,000 government targets under Section 702. Through "backdoor searches," it is easy for people in the US who are communicating with friends, family, research colleagues and business associates overseas to be swept up under EO 12333 and Section 702 surveillance. People who are often most impacted by this surveillance are vulnerable communities including people of Asian descent. In the case of Professor Xiaoxing Xi and his family, whom the ACLU helps represent, there is a set of claims about how these types of surveillance fed into the government's flawed investigation of Xi, contributing to the intrusion on their privacy and their lives. On November 9, 2021, the ACLU joined the legal team representing Sherry Chen, an award-winning Chinese American hydrologist at the National Weather Service, in her federal lawsuit seeking accountability. The legal team has filed an administrative complaint with the Departments of Commerce and Justice stemming from the new revelations in the [Senate Commerce Committee's report](#) and the [Commerce Department's own internal report](#) about the abuses of ITMS. The government has six months to address the issues raised in the complaint. If it does not address these issues to Sherry Chen's satisfaction, the team will incorporate these claims into the pending federal lawsuit in the Southern District of Ohio.
- **Cato Institute Forum and Comments.** Pat announced the public policy forum on the Origin and Consequences of the China Initiative on December 16, 2021. He also referenced [his article](#) about the FBI's use of "assessments," a tool brought online in the closing days of the Bush 43 administration by then Attorney General Michael Mukasey. Up to that point in time, most FBI investigations fell into one of two categories: a preliminary investigation to determine whether or not a prosecutable offense existed, or a full field investigation targeting particular individuals for alleged or actual criminal activity. The new category of "assessments" does not require a criminal predicate to open an investigation. Opening assessments is one way the FBI may be conducting de facto investigations of Chinese Americans.
- **SupChina and Serica Initiative.** Josephine introduced Serica as a sister nonprofit of SupChina. Serica convenes a community of global changemakers in order to make a positive social impact between the US and China. They do this through storytelling, dialogue, and effective philanthropy between the two countries. SupChina is based in

New York City and is an independent multimedia platform, providing around-the-clock English language news on China. Josephine gave a PowerPoint presentation and provided an overview of Serica's AAPI work on four broad areas of focus:

(1) Sinophobia, (2) new Chinese diaspora, (3) next generation, and (4) storytelling. Serica's film series will visit regions across the US and profile personal stories within the Asian American community. Serica is currently finalizing its partner organizations and interview subjects for the PBS film series. If an organization is interested in participating in the film series, Josephine can be reached at josephine@supchina.com.

- **Advancing Justice | AAJC Updates.** Gisela provided an update on AAJC recent activities, including upcoming meetings with federal agencies as well as closing the loop for their commitments with impacted persons who have needed assistance. She also highlighted an upcoming amicus brief on behalf of Professor Xiaoxing Xi to support his appeal to the U.S. Court of Appeals for the Third Circuit, challenging the dismissal of most of his civil rights claims by a federal district court in Philadelphia. AAJC will circulate a final brief between January 8 and January 11, 2022, and has sent out an unofficial sign on form in the interim. Those interested in supporting the amicus brief are encouraged to contact Gisela at gkusakawa@advancingjustice-ajc.org

Read the 2021/12/06 monthly meeting summary here: <https://bit.ly/32eHNsm>. The APA Justice monthly meetings are by invitation only. If you wish to join future meetings, please send your interest to contact@apajustice.org. The next monthly meeting is scheduled for Monday, January 3, 2022.

Media Reports on the Ineffectiveness of the "China Initiative" and Racial Profiling

- **The Wall Street Journal.** On December 20, 2021, the Wall Street Journal published *The U.S. Pursued Professors Working With China. Cases Are Faltering*. According to the report, MIT professor Gang Chen's academic collaboration in Shenzhen led to criminal charges, but the university says such ties are ordinary practice. On January 13, 2021, Professor Chen, a naturalized U.S. citizen, was arrested on charges of concealing extensive ties to China in grant applications he had made to the U.S. government. His arrest prompted the "[We Are All Gang Chen](#)" movement in MIT, as well as campuses in the U.S. and overseas. "The allegations of the complaint imply that this was not just about greed, but about loyalty to China," said Andrew Lelling, then the U.S. Attorney in Massachusetts, in announcing the case. In a recent public posting, Lelling, who now works for a law firm, said he thought the Justice Department should rethink its efforts to avoid "needlessly chilling scientific and business collaborations with Chinese partners." Professor Chen's case is now listed as one of the "China Initiative" cases. From the moment the charges were filed, MIT has offered vigorous defenses of Professor Chen and the collaboration with a university in China. Professor Chen has pleaded not guilty. A lawyer for Professor Chen says his client "looks forward to his day in court." Read more about the Wall Street Journal report at <https://on.wsj.com/3J6WC11> and the Professor Chen's case at https://bit.ly/APAJ_GangChen

- **SpyTalk Podcast.** Jeanne Meserve talks with Michael German, Fellow at the Brennan Center for Justice, about the unfair and unproductive targeting by the FBI of scholars in the United States with ties to China. Questions that were posed to Mike German, a former FBI agent and an author, include: Has the China Initiative been effective in stopping Chinese espionage at colleges and universities? Would you agree that this amounts to racial profiling on college campuses? Isn't it valid for law enforcement to be taking a look at what's happening at U.S. universities and seeing if information is being siphoned from there? Is it possible that the FBI is just doing a bad job with these investigations? Doesn't academic wrongdoing happen? China can bring great pressure to bear on individuals and extract from them what it might need from them, so isn't it better to take a more careful view of the individuals who may be working at the behest of the government? Do you see the FBI repeating history with this China Initiative program? Are you saying that this program may make it easier for Chinese spies to operate? Can you talk more broadly about the the FBI's history with the Chinese populations and individuals? Listen to Mike German's answers at <https://apple.co/3sncPsU> between the time mark of 10:20 and 26:20.
- **The Atlantic Report.** On December 18, 2021, The Atlantic published ***China Hawks Don't Understand How Science Advances***. According to the report, The U.S. government's attempt to keep China from stealing technology has degenerated into a squeeze on its own scientists. The U.S. is protecting its tools and blueprints while harming a far more valuable asset: its scientists and scientific communities. This approach is creating a climate of fear that chills legitimate scientific collaboration and may drive away foreign-born scientists who would otherwise make their discoveries in America. The U.S. Justice Department's China Initiative—which continues under the Biden administration—has expanded beyond the scope of the reasonable. As a result, America stands to drive its most valuable assets in the tech race into China's arms. The U.S. needs to learn from past mistakes. American hawks risk harming a far more valuable resource: the scientists who can develop new forms of intellectual property for America. Read more <https://bit.ly/3e78kui>.
- **Times Higher Education.** On December 20, 2021, Times Higher Education published ***Faces of 2021: who shaped the higher education headlines this year***. The citation for Professor Anming Hu reads: "In one of the more damaging intersections of its crusades against higher education and foreigners, the Trump administration brought criminal charges against 150 people in academia, mostly of Chinese heritage, on vague suspicions of espionage. But the career-destroying prosecutions consisted largely of selectively criminalizing paperwork violations possibly hiding overlapping government-funded projects across international borders. As the first such researcher to face trial, Anming Hu of the University of Tennessee-Knoxville cut a figure of dignified and stoic resistance. The nanotechnology expert patiently and politely asserted his innocence, up to and beyond the point where a federal judge threw out his case as baseless. Unlike many who simply left their careers and the country – weakening US science and security rather than strengthening it – Dr Hu neared the end of the year respectfully waiting for Tennessee to give him back his job. Along the way, he helped higher education and wider US society see a human face behind a counterproductive exercise of authoritarian abuse." Read more <https://bit.ly/3GTCXQ8>

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