

In This Issue #105

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CAPAC Chair Rep. Judy Chu and Prominent Speakers Start 2022 with a Bang in APA Justice Meeting

On January 3, 2022, Rep. Judy Chu, Chair of the Congressional Asian Pacific American Caucus (CAPAC), led off the APA Justice monthly meeting with inspiring and memorable remarks.

The idea of forming the APA Justice Task Force got started in May 2015 when CAPAC led by Chair Rep. Judy Chu held [a press conference](#) on Capitol Hill after [Sherry Chen's case](#) was dismissed. It was on the same day that [Professor Xiaoxing Xi](#) was arrested. His case was also dismissed in September 2015. Rep. Chu is literally the reason of existence for APA Justice as we responded to her call for a platform to connect and then committed to build and sustain an ecosystem to address racial profiling and related justice and fairness issues.

"When this community began to form in 2015 back when Sherry Chen and Dr. Xiaoxing Xi's cases became public, we never knew how large of a problem targeting our communities would become," Rep. Chu said. One of her priorities as CAPAC Chair is to end the "China Initiative." The initiative spreads mistrust of Chinese Americans and prioritizes convictions not justice, often bringing a case without sufficient grounds and ruining the lives of people like Dr. Anming Hu, the first academic to be brought to trial, and Dr. Franklin Tao, who is awaiting trial. Both cases included clear FBI misconduct and have chilling effects on young Chinese Americans who are deciding to avoid careers in science out of fear.

There is a legitimate need for counter-espionage work in our government, but that work must be based on evidence and not race, and Rep. Chu is optimistic that we can make this change together. She cited CAPAC's efforts leading to the abolishment of the rogue investigative unit in the Department of Commerce, but there is still more we must do. We must stop the Cold War rhetoric, and we cannot let fear become an excuse to rob Chinese Americans of their civil liberties. The policy of making Japanese Americans less trustworthy was wrong during World War II, and the policy of mass suspicion is wrong today.

In the past year, CAPAC leadership issued guidance to every member of Congress on how to speak out against China's policies without stoking xenophobia in the U.S. That means not spreading unfounded suspicions that paint all Chinese people as threats and which puts innocent Chinese Americans at risk. CAPAC also fought back against an amendment in the agriculture appropriations bill that would bar all Chinese nationals from owning U.S. agricultural

land. Because of the CAPAC protest, the bill was finally changed to barring only Chinese companies wholly or partially owned by China. Rep. Chu cited the Congressional Roundtable hosted by Rep. Jamie Raskin, Chair of the House Subcommittee on Civil Rights and Civil Liberties, in which we heard from incredible speakers like former Energy Secretary Dr. Steven Chu. Rep. Chu kindly acknowledged the role APA justice played in the success of the roundtable. Some of the Congressional members told Rep. Chu afterwards that they had no idea all this was happening with Chinese scientists and engineers.

CAPAC has pressed U.S. Attorney General Merrick Garland on ending the "China Initiative" and will have a meeting with Assistant Attorney General Matt Olsen on the review of the "China Initiative" program and other national security cases.

Rep. Chu credited groups for doing the important work of shedding light on these key issues affecting Asian Americans especially Chinese scientists and researchers, because CAPAC would not have gotten as far as it has today. We must continue to speak up. While it is unfortunate that the needs have continued to grow, she is heartened to know that a group like APA justice Task Force is leading the way in bringing our community together to stand up for our civil rights. She encouraged us to stay strong in the road ahead as we work together this year to end the "China initiative," speak out for those who are being racially profiled and targeted, and continue building this diverse coalition of leaders across the country who are focusing on such an important issue.

In conclusion, Rep. Chu looks forward to working with all of us to ensure the U.S. continues to be a country inclusive of all people where no one feels unsafe or un-American because of their faith or ethnicity, and in America, where everybody is treated equally.

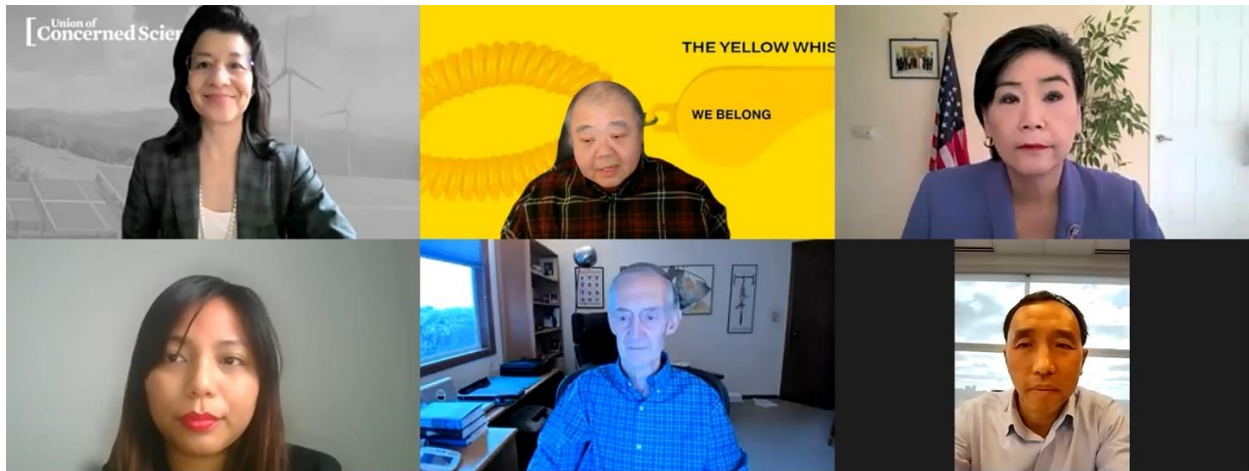
We had three additional prominent speakers in the monthly meeting on January 3, 2022:

- **Jamie Satterfield**, an award-winning investigative reporter with 33 years of experience and specialty in the justice system. Jamie's series of reports during the trial of Dr. Anming Hu revealed tremendous insights into the federal government's abuse of power and the University of Tennessee's unfair treatment to one of its own tenured faculty members. The way the case was presented, Dr. Hu is a spy. The University of Tennessee was shocked that they were employing someone who was a spy and immediately threw him under the bus, without any real knowledge of facts. As soon as Jamie heard the opening statements, Jamie understood why she needed to cover it. The basis for the FBI and the Department of Justice and the Department of Energy to launch a full scale investigation of Dr. Hu as a spy was because they googled and found that he had written a paper or had done something, some connection to a university in Beijing. Jamie went on to tell a compelling story of how a fair-minded judge, superb defense attorney, two steadfast jurors, and an innocent defendant overcame the wrongdoings of the government and the university and changed opinion about the "China Initiative" in conservative Tennessee, although the trial has taken a toll on Dr. Hu and his family.
- **Johanna Chao Kreilick**, President of the Union of Concerned Scientists (UCS), led off with a story about her late grandfather, Dr. Edward Ching-Te Chao, who was a geologist with the U.S. Geological Survey for 45 years and lived through the period of McCarthyism. Despite a lifetime of accomplishments and brilliance, Dr.

Chao experienced constant racism and hostility all of which took a severe toll on him, his family, and his ability to make the fullest scientific contribution to people and the planet. Johanna gave a presentation on UCS's work on the "China Initiative" and called attention to troubling legislation on the horizon in Congress. The new China legislation is still flying under the radar and is far more dangerous than the "China Initiative." Johanna's presentation is available here: <https://bit.ly/31FugdI>

- **Edward Lazowska**, Professor of Computer Science & Engineering and Bill & Melinda Gates Chair Emeritus at the University of Washington retraced the history of the DARPA risk matrix from when it first became official in September 2021 to a revised version on December 1, 2021. In the original version, a person with "nexus" to China would be automatically categorized as "very high" risk in applying for DARPA grants. The National Security Presidential Memorandum 33 (NSPM-33) was cited in the development of the risk matrix, but there was no coordination with other federal funding agencies including the National Science Foundation (NSF), the National Institutes of Health (NIH), and the National Institute of Standards and Technology (NIST), nor was there mention of OSTP. Ed's presentation is also available here: <https://bit.ly/3nal3kV>

A customary written meeting summary is being prepared. The speakers have given their permission to make the video publicly available. Both will be posted on the APA Justice website shortly.



NSTC and OSTP Issue Guidance on Implementing NSPM-33

On January 4, 2022, the National Science and Technology Council (NSTC) released [Guidance for Implementing National Security Presidential Memorandum 33 \(NSPM-33\) on National Security Strategy for United States Government-Supported Research and Development](#), intended to provide clear and effective rules for ensuring research security and researcher responsibilities. On the same day, Dr. Eric Lander, The President's Science Advisor and Director of OSTP, posted a blog. "If our policies to address those actions significantly

diminish our superpower of attracting global scientific talent — or if they fuel xenophobia against Asian Americans — we will have done more damage to ourselves than any competitor or adversary could," Dr. Lander said. According to the blog, Dr. Lander is now "directing federal research agencies to work together within the next 120 days to develop model grant application forms and instructions that can be used (and adapted where required) by any federal research funding agency. The goal is for the government to clearly describe what it needs to know and for researchers to be able to report the same information in the same way to the greatest extent possible, regardless of which funding agency they're applying to. Clearly laying out the required information will ease administrative burdens on the research community, and it will also enable software developers to make tools to enable researchers to populate digital CVs from which they can readily export relevant information." Read more about Dr. Lander's blog: <https://bit.ly/3zsw4D4>

On January 5, 2022, Times Higher Education published **US to unify grant application disclosures after Lieber conviction**. According to the report, the guidance to federal research grant agencies was quickly embraced by the 66-member Association of American Universities (AAU), which has been pleading for years for the government to adopt uniform reporting requirements across agencies such as NIH and NSF. The OSTP Policy has not said how soon it expects the new grant application system to be fully implemented by the funding agencies, or what guidelines will govern the use of information disclosed through them. In a separate administration action to encourage international participation in US higher education, the State Department has ended a Trump-era policy of requiring that overseas student visa application reviews include an assessment of whether the student ultimately intends to remain in the US beyond the planned period of study. The department is also extending through 2022 a general waiver of requirements for in-person visa interviews. It is, however, proposing increases of more than 50 per cent in the cost of student visa application fees. Read more: <https://bit.ly/3f3C37K>

On January 6, 2022, Science | Business published **White House moves to dial down Trump-era controversy over US-China research ties**. According to the report, Barbara Snyder, president of AAU, said the White House statement "strikes an encouraging tone." In an association blog, she said the new Biden policy protects US security while ensuring "that policies do not fuel xenophobia or prejudice." Others noted, however, that the Biden statement doesn't actually withdraw Trump-era policies – but rather clarifies their intent and how they will be implemented. The flurry of action in Washington follows months of growing unease among US academics about what many called a new "red scare" targeting Chinese-American researchers or anyone collaborating with Chinese research organizations. Read more <https://bit.ly/34t4ZEg>

A by-invitation-only briefing on the NSTC Guidance will be held on January 18, 2022.

More Reactions to the Lieber Verdict and "China Initiative"

On January 5, 2021, Newsy published **China Initiative: Effect Of Espionage Mission's Drift From Focus**. According to the report, a recent story involving the curious case of Harvard Professor Charles Lieber has floated under many people's radars. "So you have to understand

the China initiative within the broader context of both the real threat of Chinese economic espionage, of hacking, when the China Initiative launched, there was all of this language about countering economic espionage," said Eileen Guo, senior reporter for MIT's Technology Review. But even if the threat of espionage is real, critics of the China Initiative say it's strayed pretty far from that original mission — and with mixed results. "But when you actually look at the data, what we found is that economic espionage was not really the focus of the initiative and that as time went on, it became less of a focus," Guo said. "So of the 77 cases, 25% include alleged violations of the Economic Espionage Act and a growing number, actually, 30% had to do with what we are calling research integrity." That MIT analysis found another troubling but unsurprising statistic: 88% of all people charged under the Initiative were of Chinese heritage. The DOJ has insisted they're investigating suspicious conduct, and not based on race. Read more: <https://bit.ly/3EZHPiB>

On January 3, 2022, Just Security published **Why Ending the Justice Department's "China Initiative" is Vital to U.S. Security**. According to the report, Chinese and Chinese-American scientists are increasingly fearful about working in the United States, according to a recent survey. The study, conducted by the Committee of 100 and the University of Arizona, revealed that over 50 percent of scientists of Chinese ancestry working in the United States, regardless of citizenship, fear they are under surveillance by the U.S. government. Many are reconsidering their plans to stay in the United States. This trepidation results from a cramped and distorted vision of national security on the part of the U.S. government, and it could not come at a worse time. The reverberating effects within the scientific community threaten to undermine the primacy of U.S. science and technology at a time when the pandemic and climate change have become predominant threats to Americans' health and prosperity. Read more: <https://bit.ly/3F8XZcd>

On January 1, 2022, The Economist published **The Charles Lieber case reveals America's scientific rivalry with China**. According to the report, prosecuting scientists who have broken the law without slipping into McCarthyism is hard. "[Professor Lieber's] downfall is a cautionary tale. America's intensifying geopolitical rivalry with China has made previously innocuous relationships with Chinese academics suspect. As in similar cases the Department of Justice has pursued, proving that Mr. Lieber or his associates engaged in espionage was a tall order. His hubris made their job easier. Yet as the crackdown on Chinese economic espionage continues apace, American science could suffer." Read more: <https://econ.st/3pyNrii>

On December 30, 2021, CovertAction published **FBI is Recklessly Misusing Trump-Era Espionage Policy to Create "Climate of Fear" Among Scientists—Terrorizing Families and Ruthlessly Destroying Careers**. According to the report, The Justice Department's China Initiative was established by the Trump Administration to crackdown on China's economic and scientific espionage. However, its primary targets have been academics prosecuted for failing to properly disclose their connection to universities in China on grant forms and it has led to numerous miscarriages of justice. The Biden administration campaigned on a pledge to help advance a more tolerant society; however, his continuation of Trump's anti-China rhetoric and preservation of the China Initiative is resulting in some of the worst abuses of domestic liberties since the McCarthy era. Read more: <https://bit.ly/33bkXCe>

On December 29, 2021, NBC News published **Asian American groups call on Biden to end controversial China Initiative**. According to the report, over the past 28 months, Feng

“Franklin” Tao and his family have been driven to the cusp of bankruptcy as they try to prove he isn’t a tech spy for the Chinese government. In August 2019, FBI agents arrested Tao, a chemical engineering professor at the University of Kansas, on fraud charges, accusing him of failing to disclose his affiliation with a Chinese university. He has lost his job and, with a trial date scheduled for March, faces a possible prison sentence of 20 years. Through his attorneys, Tao pleaded not guilty to all charges and contended that the FBI knowingly used false information from an informant to obtain search warrants. “We live under constant fear that our family would be separated as a result of this injustice,” said Tao’s wife, Hong Peng. She said the ordeal has taken a toll on the mental health of her teenage children, both of whom were born in the U.S. The legal defense fees, meanwhile, have almost reached \$1 million. Peng, now the primary provider for her family, juggles three jobs and sometimes has to work 24-hour shifts as an ultrasound technician to make ends meet. “The China Initiative impacts Americans, permanent residents, immigrants, international students and visiting scholars,” said Gisela Kusakawa, a staff attorney for the civil rights group Asian Americans Advancing Justice. “It’s based on the premise that all scientists of Chinese descent or [who] have connections to China should be treated with suspicion.” Read more: <https://nbcnews.to/3JF81p4>

On December 28, 2021, Science published **What the Charles Lieber verdict says about U.S. China Initiative**. According to the report, "Harvard University chemist Charles Lieber became the first academic scientist targeted by the U.S. government’s controversial 3-year-old China Initiative to be found guilty by a jury. He may also be one of the last, says Andrew Lelling, the former U.S. attorney who charged Lieber nearly 2 years ago with lying about his research ties to China." The report raised 9 questions, including: Was it a victory for the government? How might it affect the China Initiative? Does it change the political rhetoric? Are there any lessons for researchers? Read more: <https://bit.ly/3q1NkvX>

On December 28, 2021, Foreign Policy published **Fibs About Funding Aren’t Espionage, Even When China Is Involved**. According to the report, the China Initiative has become dangerously broad. "Despite falling under the umbrella of the U.S. Justice Department’s China Initiative, ... these charges against [Harvard Professor Lieber] represent misconduct and broader research security issues. They are not China-specific, nor should they be classified as such. The China Initiative has been casting an overly wide net, and this case illustrates the discrepancy between the initiative’s stated goals and its actions... in its trial brief from December 7 the prosecution explicitly stated that the U.S. government did not, and could not, claim that Lieber’s relationship with WUT [Wuhan University of Technology] and the Thousand Talents Program was itself unlawful. Instead, it asserted that the crimes in the case were Lieber’s false statements and material omissions to three U.S. federal agencies." Read more: <https://bit.ly/3zvlvOs>

On December 27, 2021, The Chronicle of Higher Education published **What the Lieber Verdict Says, and Doesn’t Say, About Future Probes of Scholars’ Ties to China**. Steven Pei, co-organizer of APA Justice, said in the report that the rush to prosecute under the Trump administration may have actually undermined efforts to root out legitimate research-security risks from China. Referring to government officials’ statements about the frequency of new China Initiative cases, Pei, a professor at the University of Houston, said, "Opening a new case every 10 hours is actually a distraction. It defeats the goal of finding real spies and pushes agents and prosecutors to meet or exceed the performance matrix by prosecuting academics

who have not committed any espionage or IP theft crimes.” According to the report, this is what experts say is important about the December 21 verdict against Lieber: this case isn’t the final nail in the coffin of the China Initiative some opponents hoped for; the government’s evidence against Lieber set his case apart; but Lieber’s case, like others, focused on research integrity, not spying; Lieber is white, but the case still smacks of racial profiling; that was then, this is now [regarding the shift on research transparency and disclosure since the China Initiative began]. Read more: <https://bit.ly/3esLTQz>

Events and Developments for the Asian American and Scientific Communities

- **Open Petition to Suspend Penn Law Professor Amy Wax.** According to [The Daily Pennsylvanian](#), University of Pennsylvania (Penn) law professor Amy Wax said the country is “better off with fewer Asians and less Asian immigration” during a recent radio interview. After the radio host posted an email from a listener who took issue with Wax’s characterization of Asian immigrants, she doubled down. In 2019, Wax argued for an immigration policy favoring those from Western countries over non-Western countries, saying that America would be “better off with more whites and fewer nonwhites.” At that time, Frank Wu, now President of Queens College, [wrote](#), “It is important to take seriously the arguments advanced by Wax. The claims are wrong factually. They are reprehensible morally. But she is not alone. Her policy proposals once were the law of the land and could influence decision-makers yet again. She is symbolic. She is being cheered on.” Over 2,200 persons have signed on to the open petition to have Wax suspended, among other tangible actions. Read more about the background and petition: <https://bit.ly/3zAaqN9>
- **Next President for New Jersey Institute of Technology.** The Board of Trustees of New Jersey Institute of Technology (NJIT) announced the appointment of Dr. Teik C. Lim as NJIT’s ninth president following a national search and a unanimous vote of the Board on January 5, 2022. President-elect Lim, who also will be appointed as a Distinguished Professor of Mechanical Engineering, will begin his NJIT tenure on July 1, 2022. Read more: <https://bit.ly/3JJJLIL>
- **American Academy of Arts and Sciences (AAAS) Virtual Event.** On January 20, 2022, AAAS will host an online event to discuss the forthcoming report from the Academy’s [Challenges for International Scientific Partnerships](#) (CISP) initiative. Titled “Emerging Science Partners and the Future of Global Research,” the report calls on the United States – the world’s largest funder of scientific research – to take bold and meaningful steps that will strengthen connections in an increasingly global network of science and technology. Countries around the world are boosting their national scientific funding and research capacity is increasing worldwide. The United States’ ability to fully participate in and lead this new international scientific landscape will depend largely on its ability to support new talent pipelines and foster sustainable, equitable partnerships. Read more and register for the event here: <https://bit.ly/33aG08g>

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APA Justice
P.O. Box 257
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