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APA Justice Joined Meeting with Senior Research Officers at AAU Meeting



On September 9, 2022, Drs. **Steven Pei** and **Jeremy Wu**, Co-Organizers of APA Justice, joined a virtual meeting with Senior Research Officers at the Association of American Universities (AAU). The meeting was moderated by **Roger Wakimoto**, Vice Chancellor for Research, UCLA. It included a 10-minute presentation by Steven and Jeremy on "[Academic Freedom and Engaging Faculty on Campus - The Asian American Perspective](#)" and a package of [additonasl ackground and references](#), followed by questions and answers, and robust and productive discussions.

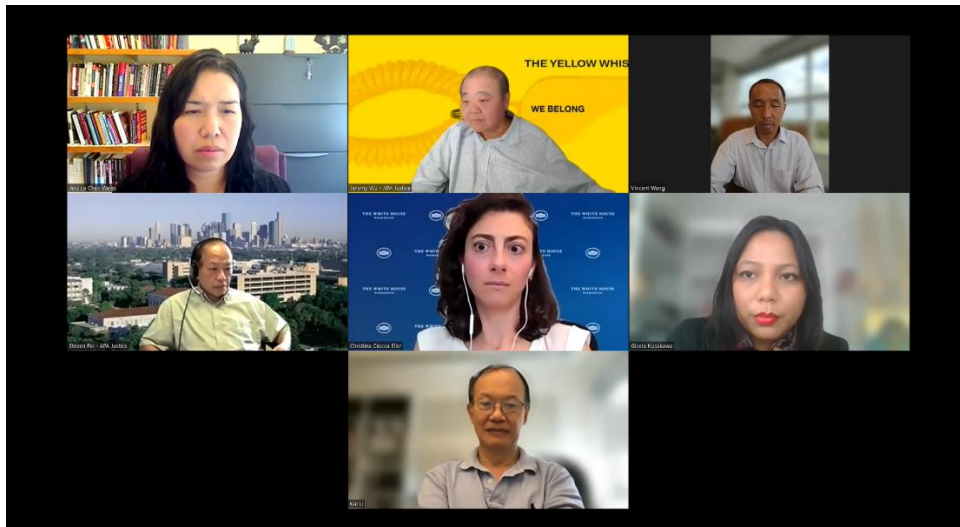
The meeting continues our engagement and collaboration with AAU after **Toby Smith**, Vice President for Science Policy & Global Affairs, spoke at the [APA Justice monthly meeting](#) on June 6, 2022.

Founded in 1900, AAU is composed of America's leading research universities which collectively help shape policy for higher education, science, and innovation; promote best practices in undergraduate and graduate education; and strengthen the contributions of leading research universities to American society.

At the conclusion of our brief presentation, we suggested four wishes from the Asian American faculty perspective:

1. Engage faculty in the development and implementation of NSPM-33 and similar policies on campus to make sure clear instruction, sufficient support, and proper training are provided to faculty, researchers, and administrative staff.
2. "Establish (an independent or joint with faculty senate) committee (preferably led by a Chinese American faculty) to evaluate, define and protect the rights, privileges, and responsibilities of faculty and administration in cases involving the investigation of faculty by outside agencies" - a resolution passed by the faculty senate of a founding member of AAU
3. Offer and publicize **first response** followed by **independent** legal assistance. Consider legal insurance in the long term.
4. Help faculty, staffs, and students to resolve visa, border entry, and related issues.

2022/09/12 APA Justice Monthly Meeting



APA Justice held its monthly meeting on September 12, 2022. The meeting featured these speakers

- **Steven Pei, Vincent Wang, and Jeremy Wu**, Co-organizers of APA Justice, reported on the campaign to oppose the nomination of Mr. Casey Arrowood and their presentation to the Senior Research Officers at the Association of American Universities on September 9, 2022
- **Gisela Kasakawa**, Assistant Director, Advancing Justice | AAJC, reported on the support activities for Professor Xiaoxing Xi's Third Circuit Appeals Court oral arguments in Philadelphia on September 14, 2022. Gisela also alerted the community about continuing attempts to insert the Portman Amendment into legislation despite its

repeated failures. The next effort will likely be the National Defense Reauthorization Act in the Senate.

- **Kai Li**, Vice President of Asian American Scholar Forum, provided updates on the most recent data on the chilling and deterrent effects of federal government action. AASF co- led with APA Justice, United Chinese Americans, and others in opposing the nomination of Arrowood and educating the White House and Congressional offices by submitting its own letter that outlines the research and concerns on the chilling effect of this nomination.
- **Christina Ciocca Eller**, Assistant Director of Evidence and Policy at the White House Office of Science and Technology Policy (OSTP) provided updates on progress, new developments, and next steps in the implementation of NSPM-33 and related issues, and was actively engaged in the Q&A discussions.
- **Jessica Chen Weiss**, Michael J. Zak Professor of China and Asia-Pacific Studies at Cornell University, opened the Q&A session. Jessica served as a Council on Foreign Relations International Affairs Fellow on the Policy Planning Staff at the U.S. Department of State from August 2021 to July 2022. She recently wrote an essay in *Foreign Policy* titled "The China Trap: U.S. Foreign Policy and the Perilous Logic of Zero-Sum Competition."

A meeting summary is being prepared at this time and will be posted after the speakers have a chance to review them. Past meeting summaries are located here: <https://bit.ly/3kxkqxP>

NSF: Request for Comment on Common Disclosure Forms for the Biographical Sketch and Current and Pending (Other) Support



On August 30, 2022, the National Science Foundation (NSF) announcement in the Federal Register [Agency Information Collection Activities: Request for Comment Regarding Common Disclosure Forms for the Biographical Sketch and Current and Pending \(Other\) Support](#).

As part of the efforts to implement NSPM-33, the National Science and Technology Council's (NSTC) Research Security Subcommittee, is soliciting public comment on common disclosure forms for the Biographical Sketch and Current and Pending (Other) Support sections of a research application. An excel spreadsheet that summarizes all of the data elements that will be collected in both the Biographical Sketch and Current and Pending (Other) Support, as well as their associated attributes, also is included for public comment. NSF serves as a steward for the collection and resolution of public comments, as well as for posting and maintaining the latest versions of the above-mentioned documents of the common forms and other associated

documents. After obtaining and considering public comment, NSF will prepare the submission requesting Office of Management and Budget (OMB) clearance of this collection for no longer than 3 years. NSF will be submitting this information collection request as Common Forms to permit Federal research funding agencies beyond NSF to streamline the information collection process in coordination with OMB.

The comment period ends on October 31, 2022.

NSF has also posted the NSPM-33 Implementation Guidance Disclosure Requirements & Standardization at <https://bit.ly/3x9eZhs>.

Professor Xiaoxing Xi Suing FBI for Wrongful Prosecution in Court



On September 14, 2022, WHYY reported that Temple University Professor **Xiaoxing Xi** is suing the FBI for violating his constitutional rights.

Back in 2015, the FBI arrested professor Xiaoxing Xi at gunpoint and took him away from [his home in handcuffs](#). They accused him of selling trade secrets to China. The FBI made basic errors, and the case collapsed. But Xi and his legal team, which includes lawyers from the American Civil Liberties Union, say they want to hold the government accountable for the wrongful prosecution. They bring the case before the U.S. Court of Appeals for the Third Circuit in Philadelphia on Wednesday, after a lower court [dismissed the case last year](#).

This case comes after U.S. law enforcement officials made several wrongful arrests of Chinese or Chinese American scientists in the past few years. Scientists say this not only stymies the work of those researchers but also sends a message that the U.S. does not welcome scientists from other countries. The FBI declined to comment. There have been arrests that ended in convictions as well, but when Xi [testified to Congress last year](#), he questioned why federal officials would spend taxpayer money going after innocent scientists instead of real spies.

Xi's legal team expects the court to take at least a few months before making a

decision. **Patrick Toomey**, deputy director of the American Civil Liberties Union's National Security Project and part of Xi's team, said that at this stage, all they ask is to be able to gather more information like testimony from the FBI agents involved and take the case to trial.

Xi said he had a big research program before he was arrested, but he was suspended as interim chair of the physics department because of the arrest and indictment, and his work continues to suffer. He said now there are just two people in his research group, working on one federal grant.

Even though his case has taken years to get to this point, he said he is still driven to pursue it.

"It's not because the agent made a mistake or misunderstood something. He knew he was wrong. He knew I was innocent, and he went ahead."

"We're determined to fight to the end, because we have to hold the government accountable when they violate the rights of innocent people. And next time, when they are trying to do something like that, they better think twice about the consequences."

"I'm no longer the same as I was before," he said. "I (am) still living in fear. So basically for me, I'm trying to find my new equilibrium."

[Andrea Liu](#), a professor of physics at the University of Pennsylvania, recalled a 2019 meeting the FBI held for leaders of the American Physical Society, a nonprofit group that represents physicists.

"The FBI representative compared the dangers of working with Chinese graduate students, he said, 'it's like a cancer ... you might only see the malignant effects years later.' And that really made me angry," she said.

Scientists just want to see the FBI held accountable for their actions in this and the other wrongful prosecutions, said Andrea Liu at Penn.

"If that happened in this case, that would send a really strong message all over the world to say that: yes ... people can be wrongfully prosecuted, but the government can be held accountable, which is not true in many parts of the world."

Read more about the WHY report: <https://bit.ly/3Bfayml>.

In [a separate report](#) by the *Philadelphia Inquirer*, Xi's attorneys asserted that the decision to dismiss Professor Xi's case was wrong before a three-judge panel of the U.S. Court of Appeals for the Third Circuit, "The violations here had devastating consequences for Professor Xi and his family," said lawyer **David Rudovsky**, whose civil rights law firm is representing Xi along with the American Civil Liberty Union. "This is a case about accountability."

Much of the proceedings centered on highly nuanced discussion of legal precedents that determine the limited circumstances under which the wrongly accused are allowed to collect damages from the U.S. government, the FBI, and individual agents. But that debate took place against the backdrop of Xi's assertion that the bureau's drive to indict him arose out of what critics have described as a panic over economic competition with China [reminiscent of the Cold War Red scares](#).

Since at least the Obama administration, the U.S. Justice Department has accused Chinese spy agencies of encouraging their nation's businesses to steal trade secrets from American corporations. Under the Trump administration, the DOJ launched what was known as the China Initiative — an initiative that led to indictments against a series of Chinese American scientists.

“What happened to Professor Xi and his family is proof that biased FBI profiling didn't start with the China Initiative, and it hasn't stopped since the Justice Department disavowed that initiative earlier this year,” said Patrick Toomey, one of Xi's lawyers and deputy director of the ACLU's national security project.

Xi contends that in his case the lead investigator, FBI Special Agent **Andrew Haugen**, had been informed by experts that he had misinterpreted the technology at issue and willfully ignored that fact before presenting false evidence to a grand jury. Despite evidence to the contrary, Haugen maintained that Xi had sent schematics for a sophisticated piece of equipment known as a “pocket heater” to a colleague in China.

Rudovsky told the Third Circuit's judges Wednesday that the inventor of the “pocket heater” had reviewed the blueprints Xi shared with colleagues in China and warned the agent that they were for an entirely different device — one that Xi had himself invented. Despite that, Haugen proceeded with the case, working with the prosecutors who eventually secured an indictment. “Our allegation is his motive — at least in part because he was part of a unit investigating scientists sharing information with China — was based in ethnic bias,” Rudovsky said.

“We knew it would be hard to sue the federal government,” Xi said. “But we are determined to fight until the end.”

Read the Philadelphia Inquirer report here: <https://bit.ly/3DyPf1U>

Listen to the oral arguments in the Appeals Court: <https://bit.ly/3dbBD29> (audio 57:09)

Read the story of Professor Xiaoxing Xi here: http://bit.ly/APAJ_Xiaoxing_Xi, including a press release by Advancing Justice | AAJC here: <https://bit.ly/3Rj18Xq>

Virtual FOIA Automation Conference



FOIA Automation

virtual conference | Thursday, Oct 6 | 9:00am (ET)

Digital Government Institute will host a FOIA Automation virtual conference on October 6, 2022. Since 1967, the Freedom of Information Act (FOIA) has provided the public the right to request access to records from any federal agency. Federal agencies are required to disclose any information requested under the FOIA, unless it falls under one of nine exemptions which protect interests such as personal privacy, national security, and law enforcement. In recent years, federal agencies have been inundated with FOIA requests creating challenges for agency FOIA professionals to process the requests. Automating the FOIA process can provide timely records and responses to agency FOIA requestors by reducing redundant work to include repetitive and burdensome tasks. This virtual conference will review available digital solutions to enable agencies to speed responses and enhance constituent engagements while maintaining compliance with all regulations.

[FOIAOnline](#) was launched in 2012, but not all federal agencies participate.

Register for the conference here: <https://bit.ly/3DruKV1>. Please send your questions, comments and feedback to: info@digitalgovernment.com

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