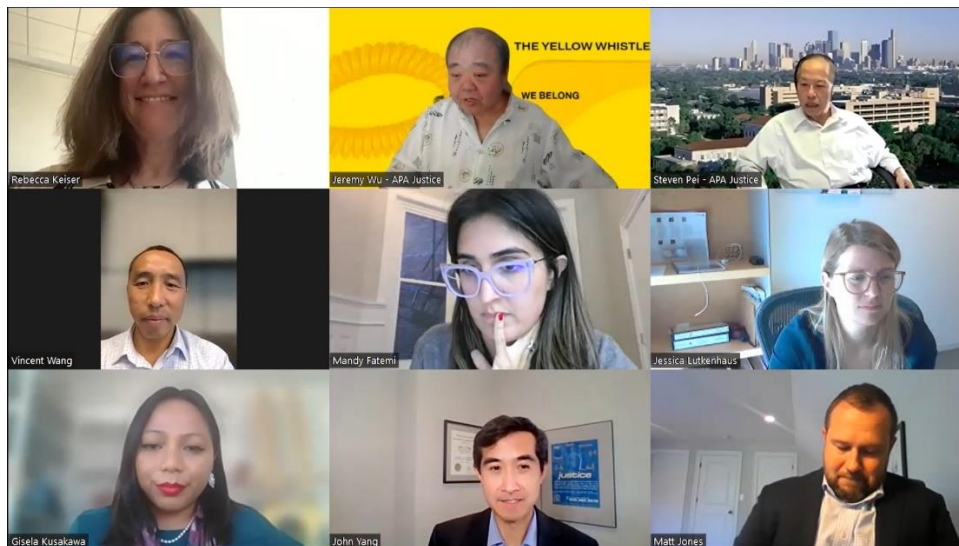


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2022/11/07 APA Justice Monthly Meeting Summary Posted



The November 7, 2022, APA Justice monthly meeting summary has been posted at <http://bit.ly/3U9EYhp>. We thank the following speakers for sharing their updates and thoughts with us:

- **John Yang 杨重远**, President and Executive Director, Advancing Justice | AAJC. John gave us an update on moving from the Anti-Racial Profiling Project to the Anti-Profilng, Civil Rights & National Security Program in the meeting. "We work to combat profiling and protect the rights of Asian Americans and immigrants through policy advocacy, legal referrals, coalition building, and education for policymakers, the media and the general public."
- **Gisela Kusakawa**, Executive Director, Asian American Scholar Forum (AASF). Gisela was appointed to be the inaugural Executive Director for AASF on October 13, 2022. Moving forward, AASF will work to: (1) promote Asian American and immigrant scientists, researchers, and scholars as crucial leaders in our democracy; (2) provide expertise and educate the media, the general public, and federal government; and (3)

protect and advance the rights of all communities, particularly in areas of science and research security policy.

- **Matt Jones**, Partner, WilmerHale, and lead attorney representing Dr. **Yanping Chen 陈燕平** (legal team: **Jessica Lutkenhaus**). Dr. Yanping Chen's Privacy Act case against the FBI, DOD, DHS, and DOJ remains ongoing almost four years after she filed the complaint. The lawsuit seeks accountability from the federal government for selectively leaking to *Fox News* information about Dr. Chen - a naturalized U.S. citizen who co-founded the University of Management and Technology in Arlington, Virginia - gathered during an FBI investigation. The legal team led by Matt Jones from WilmerHale LLP updated us with the latest on Dr. Chen's case, including her background and the abuse of power by the federal government. Most recently, Dr. Chen has asked *Fox News* and the reporter on Dr. Chen's story to turn over information about the leak, and they are fighting in court over this also.
- **Rebecca Keiser**, Chief of Research Security Strategy and Policy at the National Science Foundation (NSF), and Co-Chair of the National Science and Technology Council's Subcommittee on Research Security (Subcommittee). ¶ Rebecca was not able to speak at the White House Office of Science and Technology Policy (OSTP) community briefing on October 14, but she gave us the NSF perspective on the implementation of National Security Presidential Memorandum (NSPM) 33, the CHIPS and Science Act, and related issues in the monthly meeting. ¶ The Safeguarding American Innovation Act as part of the CHIPS and Science and America COMPETES Acts was very concerning to the Subcommittee. One of its concerning aspects was to criminalize nondisclosure in proposals, and they argued strongly against it. However, it has been proposed again as part of the National Defense Authorization Act, and they continue to advocate against it. ¶ There is a clause in the implementation of NSPM-33 that "we shall pursue research security efforts without prejudice and xenophobia". The Subcommittee still does not really understand the scale and scope of issues caused by foreign government interference in research. So they will be using big data to analyze and categorize these issues better. To use these tools, NSF issued a "systems of record" notice under the Privacy Act. Going beyond that, they will publicly issue what the process will be to use these tools. They would also be providing this process to APA Justice, AAJC and AASF for input before public release. ¶ National Security Decision Directive (NSDD) 189 is a presidential directive from the 1980s that says fundamental research should remain open. A public experts meeting will be exploring the potential classification of research and the U.S. needs to attract international talent in more detail, as well as a more precise and less harmful approach to research security. ¶ Lastly, the CHIPS and Science Act has a prohibition on malign foreign talent recruitment programs, and includes a definition for such programs. The Subcommittee is focusing on implementing this carefully and avoiding prejudice and will be sending out additional policy for public comment. ¶ Rebecca stayed on for a Q&A session, which covered the "China Initiative" and the roles of law enforcement, State Department, other federal agencies, and universities going forward. ¶ As time expired for the meeting, Jeremy Wu made a final comment: It is inevitable that big data, data science, and AI will play an increasing if not dominant part of future science and technology, but there are privacy, data quality, algorithm, and implicit bias issues that come along with this approach.

Watch Dr. Keiser's talk in video: <https://www.youtube.com/watch?v=7e0VAEdVdV0> (video 27:28)



Latest on NSPM-33 and More, Dr Rebecca Keiser of NSF at the APA Justice Monthly Meeting, 11/7/2022

Read the November 7 meeting summary: <http://bit.ly/3U9EYhp>. Read past monthly meeting summaries: <https://bit.ly/3kxkqxP>.

We also thank **Rebecca Zavon**, Communication Manager, Asian American Coalition of Ohio, for putting together the monthly summary,

Cooley LLP and More Coverage on Xiafen "Sherry" Chen 陈霞芬 and Her Historic Settlement



Sherry Chen, a Chinese American scientist, poses for a portrait in Palo Alto on Nov. 20, 2022. Chen, who was falsely accused of spying for China in 2014, just won a significant settlement with the U.S. government. | Justin Kalogirak for The Standard



Sherry Chen celebrates her victory in a wrongful-dismissal suit. Photo: George Koo

On November 16, 2022, Cooley LLP announced that "[Cooley, ACLU Secure Settlement for Wrongly Prosecuted Scientist](#)." According to the announcement, Cooley, alongside the American Civil Liberties Union and others, secured a settlement for **Sherry Chen**, a Chinese American scientist with the National Weather Service, for her wrongful prosecution and termination from her job. Partner **John Hemann** led the Cooley team.

"For years, the Commerce Department refused to take responsibility for destroying Ms. Chen's career," said Hemann. "Today's settlement is a win for the rule of law and helps to ensure that rogue units like ITMS [Investigations and Threat Management Service] will not be allowed to take root."

The settlement is one of the largest paid to an individual plaintiff in Commerce Department history and marks the end of a Merit Systems Protection Board litigation appeal that has been pending since 2018, as well as a federal lawsuit against the US government filed in 2019.

Cooley partners with local and national legal services organizations to represent hundreds of pro bono clients annually. Through its pro bono work, Cooley empowers individuals to seek justice and opportunity and provides nonprofit organizations the tools they need to effect change and support underserved communities.

Cooley has 1,500 lawyers across 18 offices in the United States, Asia and Europe, and a total workforce of 3,300.

Read more about the Cooley announcement: <https://bit.ly/3EBNeCq>

A LinkedIn post on Sherry's story has received over 19,000 impressions/views so far: <http://bit.ly/3GZCOxQ>

Additional media coverage of Sherry Chen and her historic settlement:

- 2022/11/24 *Asia Times*: Chinese-American completes 'long journey' to justice. <http://bit.ly/3GGrl6f>
- 2022/11/23 Ding Ding TV: Chinese-American completes 'long journey' to justice – Sherry Chen's Victory. <http://bit.ly/3OzXcHX> including video (4:00)
- 2022/11/22 *NewsClick*. China Origin US Scientist Wins Lawsuits, Raises Hopes of Others Facing Similar Charges. <http://bit.ly/3AGXB5F>
- 2022/11/21 *The San Francisco Standard*. Sherry Chen Calls Her Landmark Settlement Over Spy Accusations a Win for Chinese Americans. <http://bit.ly/3Vjfnnc>
- 2022/11/19 *Econlib*. Justice for Sherry Chen. <http://bit.ly/3tVdscK>
- 2022/11/18. *Science*. Wrongful dismissal case is settled. <http://bit.ly/3Ox0BHe>
- 2022/11/17 *Nature*. Legal win for US scientist bolsters others caught in China crackdown. <https://go.nature.com/3tTJ9Dw>
- 2022/11/16 *MIT Technology Review*. A big settlement for one Chinese-American scientist won't end wrongful prosecutions. <http://bit.ly/3V2G4wB>
- 2022/11/15 *NBC News*: After being falsely accused of spying for China, Sherry Chen wins significant settlement. <https://nbcnews.to/3AmVyTW>
- 2022/11/14 *Yahoo News*: Chinese American scientist accused of spying for China wins \$1.8 million settlement. <http://bit.ly/3OwqDKE>

The Disturbing Case of Haoyang Yu 于浩洋



In June 2019, **Haoyang Yu**, a former Analog Devices, Inc. (ADI) engineer residing in Lexington, Massachusetts, was indicted by federal prosecutors led by then-U.S. Attorney **Andrew Lelling** on allegations relating to possessing stolen trade secrets, wire fraud, illegal exports, and immigration fraud, for a total of 21 charges.

Through three superseding indictments, his wife **Yanzhi Chen** was also charged. Haoyang Yu is a naturalized U.S. citizen.

On May 26, 2022, after a month-long trial, a federal jury in Boston acquitted Haoyang Yu on 18 of the 19 charges pending against him, with a sole conviction in illegal possession of trade secrets. The judge had previously dismissed one wire fraud charge before trial and acquitted him on a naturalization fraud charge at the close of evidence.

On June 29, 2022, [Law360](#) reported that federal prosecutors dismissed charges against Yu's wife after the husband largely beat a case alleging he stole company trade secrets to jump-start his own computer chip business. Citing the lopsided ratio of not-guilty verdicts returned against Haoyang Yu in May, U.S. Attorney **Rachael Rollins** dropped wire fraud charges against Yanzhi Chen related to what prosecutors claimed was Yu's plot to boost hundreds of sensitive files from ADI and deposit them into his personal Google account.

On November 14, 2022, Haoyang Yu's attorneys [filed a motion](#) asking the Court to reconsider their pre-trial motion to dismiss Haoyang Yu's case due to unconstitutional selective enforcement and prosecution based on his Chinese ethnicity. Haoyang Yu's sentencing hearing is scheduled for December 2022.

Also on November 14, 2022, the [Asian Americans for Equal Rights \(AAER\) 亚裔平权联盟](#), a non-profit organization headquartered in Massachusetts, submitted [a letter](#) to U.S. Attorney Rachael Rollins and her top deputy **Joshua S. Levy**. The letter was joined by eight other regional and national organizations including United Chinese Americans. It asks for the withdrawal of the only remaining criminal charge against Haoyang Yu.

Rachael Rollins' predecessor Andrew Lelling brought the original charges against Yu. Lelling also indicted MIT Professor [Gang Chen 陈刚](#) in January 2020 and openly questioned Professor Chen's loyalty to the U.S. in a wire fraud case. A year later, Rollins motioned for the dismissal of all charges against Professor Chen which was approved by the Court.

On November 18, 2022, *The Lexington Observer* published a comprehensive report on "[With Haoyang Yu's sentencing approaching in December, lawyers renew effort to have single remaining criminal charge dismissed on grounds of 'selective enforcement and prosecution' based on Yu's ethnicity](#)"

Yanzhi Chen is represented by Thomas J. Butters and Matthew D. Thompson of [Butters Brazilian LLP](#).

Haoyang Yu is represented by William W. Fick and Daniel N. Marx of [Fick & Marx LLP](#).

Read more about the case of Haoyang Yu and Yanzhi Chen at https://bit.ly/APAJ_HaoyangYu

Asian American and Academic Community News and Activities



- **CAPAC Welcomes New Policy Advisor.** On November 21, 2022, the Congressional Asian Pacific American Caucus (CAPAC) announced the appointment of **Casey Lee** as its new Policy Advisor. Most recently, Casey was Staff Assistant for the House Judiciary Committee’s Democratic staff and an APAICS legislative fellow for Congressman **Ted Lieu 刘云平**. Prior to the Hill, Casey worked on the We Are Home national immigration reform campaign as a project manager. Originally from the San Francisco Bay Area and born to immigrant parents from Taiwan and Singapore, she received her B.A. in political science specializing in international relations from UCLA.
- **Apply to be a White House Fellow.** On November 30, 2020, Asian American, Native Hawaiian, and Pacific Islander White House Fellows alumni will host an online event to introduce one of America’s most prestigious leadership and public service programs. Learn how to apply to the White House Fellows program, explore selection criteria, and ask for advice from alumni panelists. The Class of 2023-2024 application is now open through 5:00 p.m. ET on Friday, January 6, 2023. Apply for the White House Fellowship here: <http://bit.ly/3OGlwb1>. Register for the White House Fellows Webinar here: <http://bit.ly/3gyI8yI>
- **MIT Releases Report on "University Engagement with China: An MIT Approach."** The subject of this 54-page report is MIT’s future relationship with China. According to the report, “The challenge for MIT and other U.S. universities is how to manage these pressures while preserving open scientific research, open intellectual exchange, and the free flow of ideas and people — all of them essential for American universities to remain at the global forefront of research, education, and innovation...This report charts a path for MIT’s future relations with China. It recommends an approach that combines selective engagement with targeted risk assessment and management... The absence of clear, coherent, consistent federal policy guidance regarding research and education interactions with China is disrupting academic decision-making and has harmed the U.S. scientific enterprise... There are important areas of research and education in which MIT, the academic community, the nation, and the world would be better off with more, rather than less, scientific

collaboration with China... MIT should expand the opportunities available to our students to become knowledgeable about China's history, society, culture, language, politics, economic development, and science, and to develop practical, hands-on knowledge of Chinese business practices and innovation capabilities." Read the full MIT report: <https://bit.ly/3Xhg16w>

- **The State of Science according to AAAS.** On November 14, 2022, Drs. **Gilda Barabino, Sudip Parikh** and **Holden Thorp**, leaders of the American Association for the Advancement of Science (AAAS) hosted a conversation with AAAS Members and donors to reflect on 2022 and offer a look ahead on what recent events mean for the future of science and how they believe the newly unveiled strategic vision for AAAS will help us deepen our impact in 2023 and beyond, including the topics of China and international exchange. Watch the video at <http://bit.ly/3gyD0to> (1:01:21)
- **OSTP Updates on Research Security Policies and Practices in the U.S. Government in Slides.** These slides were used in the community briefing to the Asian American community on October 14, 2022. They cover the National Security Presidential Memorandum (NSPM)-33 and touch on the CHIPS and Science Act. Read the OSTP slides: <http://bit.ly/3EyKLHO>
- **APA Justice Presentation in 30th anniversary Conference of ISSCO.** On November 12, 2022, **Sherry Chen 陈霞芬** made an in-person announcement of her historic settlement during the panel presentation on "Racial Profiling and Discrimination against Chinese American Scientists and Engineers" in San Francisco, which was part of the 30th Anniversary Conference of the International Society for the Study of Chinese Overseas (ISSCO). The session was moderated by Judge (retired) **Lillian Sing** and the panelists were Sherry Chen and Drs. **Gang Chen 陈刚**, **Xiaoxing Xi 郝小星**, and **Jeremy Wu 胡善庆**. Read the APA Justice presentation in the session: <http://bit.ly/3Akb4jt>
- **White House Advisory Commission Invites Comments.** The President's Advisory Commission on Asian Americans, Native Hawaiians, and Pacific Islanders has issued a solicitation for written comment ahead of its [fourth public meeting](#). The solicitation which outlines 16 guiding questions provides an opportunity for the public to inform the Commission's work as its six subcommittees develop recommendations for submission to President Biden. The Commission will accept responses via email through AANHPICommission@hhs.gov until December 1, 2022. More details and directions are contained within this [Federal Register Notice](#). Commissioners will hold a virtual, two-day meeting on December 5-6, 2022, where members will discuss and vote on additional draft and full recommendations to submit to the President on a rolling basis. RSVP here to receive the livestream link: <https://bit.ly/3OxPiyu>

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