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Breaking News: The University of Tennessee Knoxville has reinstated Professor Anming Hu 胡安明, effective February 1, 2022, as the healing process starts. Read about Professor Hu's story at: https://bit.ly/APAJ_AnmingHu

2022/02/07 APA Justice Monthly Meeting

The next APA Justice monthly meeting will be held on Monday, February 7, 2022. Erika Moritsugu, [Deputy Assistant to the President and Asian American and Pacific Islander Senior Liaison](#) at The White House will lead off the meeting. Featured speakers include MIT Professor Gang Chen 陈刚, his defense attorney Robert Fisher, Harvard Professor Zhigang Suo 锁志刚, and former U.S. Attorney Carol Lam 林剑华. Updates on the Congressional Asian Pacific American Caucus and Advancing Justice | AAJC will be provided by Nisha Ramachandran and Gisela Kusakawa respectively.

The monthly meeting is by invitation only. If you wish to join, either one time or for future meetings, please contact one of the co-organizers of APA Justice - Steven Pei 白先慎, Vincent Wang 王文奎, and Jeremy Wu 胡善庆 - or send a message to contact@apajustice.org. Read past monthly meeting summaries here: <https://bit.ly/3kxkqxP>.

If you missed the January 30 webinar "**Reflecting on Prof. Gang Chen's Case & Looking Ahead to the Future of the China Initiative**," you can watch it on YouTube here: <https://bit.ly/3qiTkuC> (1:29:33)

Reflecting on Professor Gang Chen's Case and Looking Ahead to the Future of the China Initiative

Keynote Speaker



Ted Lieu

Member of the
US House of
Representatives

Panelists



Gang Chen

Professor of
Power Engineering
at MIT



Robert Fisher

Partner in
Nixon Peabody



Margaret Lewis

Professor of Law
at Seton Hall
University

Moderator



Michael German

Fellow, Liberty and
National Security Program
Brennan Center at NYU

11am-12:30pm EST, January 30th (Sunday), 2022



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House Introduces The American COMPETES Act of 2022

The House of Representatives introduced [the America COMPETES Act of 2022](#) with a [section-by-section summary](#) on January 25, 2022. The 2,912-page bill is the counterpart to the Senate-passed [U.S. Innovation and Competition Act](#) (USICA). According to the American Association for the Advancement of Science, since the bill's introduction, House members have introduced more than 500 amendments. Several bipartisan STEM-related bills are part of the package, including reauthorizations for the National Science Foundation, Department of Energy, and National Institute of Standards and Technology, as well as legislation focused on minority-serving institutions, rural STEM education, early-career researchers and sexual harassment in STEM.

According to the summary of [American Institute of Physics](#) on Research Security, "[b]oth bills include a suite of provisions aimed at preventing foreign governments from exploiting the U.S. research system. For instance, USICA would bar federal grantees from participating in any talent recruitment program supported by China, Russia, Iran, or North Korea, whereas the COMPETES Act limits the ban to programs with "malign" intent. Both bills would also lower the threshold on the value of foreign gifts and contracts that universities are required to disclose and would create a new reporting requirement for foreign funds received by individual faculty, though the COMPETES Act sets higher thresholds."

According to the [Association of American Medical Colleges](#), the House package does not include certain Senate-passed measures aimed at addressing research security in higher

education, about which the AAMC and other higher education associations [previously raised concerns](#). The House is expected to vote on the new proposal following the members' return from recess on January 31, including consideration of amendments that will be subject to initial review by the House Rules Committee during a February 1 committee meeting. Following House passage, the two chambers are expected to reconcile differences between America COMPETES and USICA before additional votes on final passage of a compromise package.

Are Law Enforcement and National Intelligence Agencies Accountable for Their Words and Actions (or Lack of)?

Multiple media including [AP](#) reported on [a speech made by FBI Director Christopher Wray](#) to the Ronald Reagan Presidential Library on January 31, 2022: "When we tally up what we see in our investigations, over 2,000 of which are focused on the Chinese government trying to steal our information or technology." He also said, "[t]he bureau is opening new cases to counter Chinese intelligence operations every 12 hours or so." However, he did not discuss the much-criticized "China Initiative."

Wray's talking points are similar to [his speech to the Hudson Institute](#) on July 7, 2020: "We've now reached the point where the FBI is opening a new China-related counterintelligence case about every 10 hours. Of the nearly 5,000 active FBI counterintelligence cases currently underway across the country, almost half are related to China."

There were more than 13,700 hours between the two dates in 2020 and 2022. According to Wray's own rate of increase, FBI should have added at least another 1,100 investigations for a total of over 3,600 by now, but his numbers do not seem to add up or his talking points may be outdated. What has happened to these 2,000 to 3,600 FBI investigations? How much of the taxpayers' dollars are being spent? How effective have these investigations been? Major media headlined only the Wray speech without asking these questions.

Two years ago on February 20, 2020, [Reps. Jamie Raskins and Judy Chu](#) sent letters to NIH and FBI seeking information related to news reports that these institutions are targeting Chinese-American scientists as potential spies. Does the information verify and validate the FBI Director's statements?

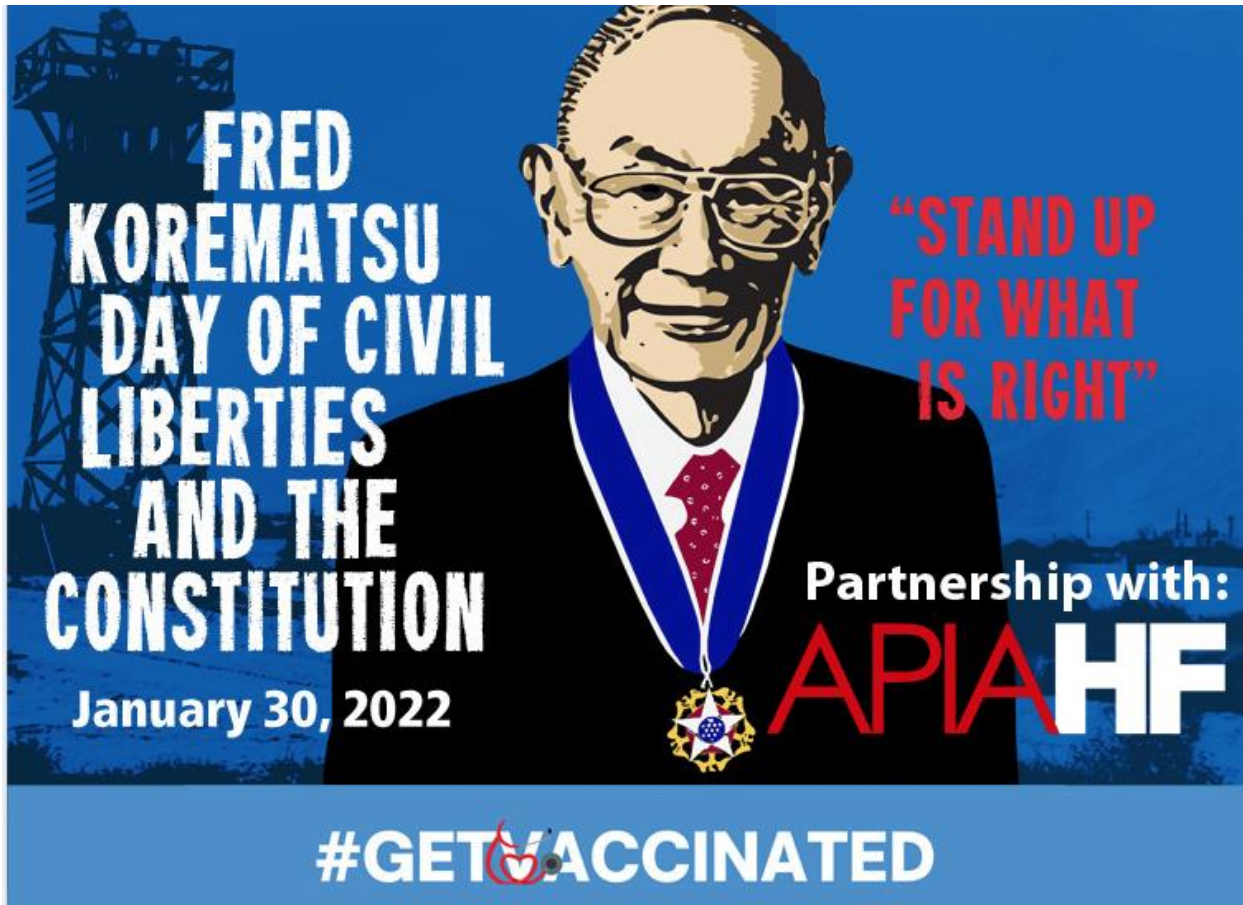
Section 5712 of the FY20 National Defense Authorization Act (NDAA) (pages 989-990 <https://bit.ly/3eVEHgY>) mandated the Director of National Intelligence (ODNI), acting through the Office of Civil Liberties, Privacy, and Transparency, to submit a non-classified report to the congressional intelligence committees containing (1) a review of how the policies, procedures, and practices of the intelligence community that govern the intelligence activities and operations targeting the People's Republic of China affect policies, procedures, and practices relating to the privacy and civil liberties of Americans of Chinese descent who may be targets of espionage and influence operations by China; and (2) recommendations to ensure that the privacy and civil liberties of Americans of Chinese descent are sufficiently protected. Why has this report not been produced by ODNI more than 18 months after it was due?

[The Information Quality Act](#) is a federal law passed in 2000 requiring the U.S. Office of Management and Budget to "provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies." The bipartisan Foundations for Evidence-Based Policymaking Act of 2018 became [Public Law No: 115-435](#) on January 14, 2019. It requires federal agency data to be accessible and agencies to plan to develop statistical evidence to support policymaking. Are FBI and ODNI exempt from these laws?

The Office of Science and Technology Review at the White House has made significant progress to provide clear and effective rules for ensuring research security and researcher responsibilities in [the implementation of NSPM-33](#). However, can the implementation be effective if law enforcement and national intelligence agencies continue to consider all scientists, professors and students of Chinese heritage to be potential spies for China?

On February 1, 2022, Geoff Raby, former Australian ambassador to China, coined the term "**The China threat industry**" in an opinion published by the [Australian Financial Review](#). Citing the dismissal of MIT Professor Gang Chen's case, Ambassador Raby opined that "[t]he China threat industry is forever restless (and largely unsuccessful to date) in its search for bodies" in the U.S. and Australia. "No one should sensibly deny that China is seeking, by sharp and soft power, to influence politics in the West. But so are many other major states. The top three for funded junkets provided to Australian politicians are Israel, China and US. ***The problem with the China threat industry is that it is based on a 'revealed truth'. Having seen the truth, it is not permissible to question the fundamental premise that not only is China an evil state determined to undermine liberal democracy at every turn, but that it has the capacity to do so and succeed,***" wrote Raby.

January 30 is [Fred Korematsu Day of Civil Liberties and the Constitution](#), initially started in California but now recognized in 12 states and city. It is the first day in U.S. history named after an Asian American to honor the legacy of civil rights hero Fred T. Korematsu and his fight for racial equity, social justice, and human rights for all. He stood up to the U.S. government's wrongful incarceration of over 120,000 people of Japanese ancestry living on the West Coast during WWII and spent over two years in various prisons and wartime incarceration camps. It took nearly forty years to overturn Korematsu's conviction. Several years later, the government issued apologies and reparations to remaining camp survivors. In 1998, President Bill Clinton awarded Korematsu the Presidential Medal of Freedom, the highest civilian award of the United States. According to [The Korematsu Legacy: "Stand up for what is right."](#), Korematsu once said, "***Fear and prejudices against minority communities are too easy to evoke and exaggerate, often to serve the political agendas of those who promote those fears.***"



Letters to Attorney General Garland: From UC Irvine and UPenn Faculty Members; Updates from Yale

[92 University of California Irvine \(UCI\) faculty members](#) and [102 University of Pennsylvania \(UPenn\) faculty members](#) sent separate letters to Attorney General Merrick Garland recently. Both letters expressed deep concerns about the U.S. Department of Justice's "China Initiative" and called for its termination. "There is no question that the United States must protect both intellectual property and information that is essential to our national and economic security. However, the China Initiative has deviated from its claimed mission. It has damaged and continues to harm the United States' research and technology competitiveness," the letter said. In conclusion, the faculty members strongly urge AG Garland "to terminate the China Initiative and develop an alternative response to the challenges posed by our relations with the People's Republic of China, one that avoids racial profiling and discouraging beneficial and important collaborations and influx of talented people."

UPenn faculty members also submitted a request to the Faculty Senate to present [a letter to the university administration](#), along with seven requests for action. According to the letter, "Research institutions play an essential role in protecting legitimate open science and their

researchers. The response of the institution makes an enormous difference not only to researchers under investigation, but also to other members of that institution. Our university can only flourish scientifically if its employees are confident that they are trusted and supported by their leadership. While each individual case may be different, we strongly believe it is essential to begin a dialog between faculty and the administration at Penn on this issue, with the goal that any future such cases are handled justly. The University of Pennsylvania should defend its researchers when the allegations against them are weak or uncertain. Process infractions, such as failure to appropriately complete a form, should be addressed appropriately at an institutional level or by funding agencies, but attempts by investigators to leverage these into threats of legal prosecution must be opposed. In the current climate, accusations are often not well-founded, and it is critical for Penn's response to be based on a respect for the rights of accused faculty and the recognition that when honest mistakes or scientific misconduct have been committed, the punishment should be proportionate. It is also essential for Penn to provide support and guidance to researchers in handling the complex and changing rules of funding agencies."

The UCI and UPenn letters bring the total of co-signing faculty, scholars, and administrators to over 2,820 from 230 institutions across all 50 states, the District of Columbia, and Puerto Rico. The nationwide campaign will continue until the "China Initiative" has ended. It has been 1,190 days since the "China Initiative" was launched on November 1, 2018. Read the status of the campaign online here: <https://bit.ly/3wwrD8A>. Qualified individuals may also sign on here: <https://bit.ly/EndorseStanfordLetter>

On February 1, 2022, Yale Daily News published "**DOJ weighs China Initiative as Yale faculty sign onto open letter calling for its dissolution.**" An open letter co-signed by 192 Yale University faculty members was sent to AG Garland on January 10, 2022. Signatories also included three Sterling professors and six heads of colleges, as well as several prominent scholars of Asian American studies and U.S.-China relations. According to the report, Professor of Applied Physics Yu He, one of the letter's co-organizers, said that the letter, along with the two cases of Professors Charles Lieber and Gang Chen, has raised awareness on campus of both the initiative's discrimination against scientists of Chinese descent as well as its chilling effect on academic research. Professor He added that numerous "deeply impacted" Chinese students reached out after the letter was published asking for help. He and other faculty often feel "helpless" in addressing the administrative barriers those students face, which he says demonstrates a need to further support international researchers, both at Yale and elsewhere. "At the end of the day, everybody is worried that nothing of substance changes," He said. "We want to take this opportunity and look forward to a time when these policies are based on facts and sufficient communication with experts instead of typecasting or tying a problem to a group of people based on nationality." Alex Liang '22 and Mirilla Zhu '23, two students whose November [op-ed on Lies and Spies](#) kicked off the recent round of advocacy, said that they are encouraged by the show of support and look forward to both the China Initiative's end and to further advocacy at the intersection of research and equity. "We're mobilizing and coming together from a Yale community standpoint," Liang said. Read more: <https://bit.ly/3s2SQhm>

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