

**APA Justice Conference Meeting – Monday, 2020/12/07
11:55 am Eastern Time/8:55 am Pacific Time**

Final Agenda

0. Introduction

a. [Susan Lee](#), Maryland State Senate Majority Whip

b. [Terry Lierman](#), Co-Chair, Board of Advisors, Institute of Human Virology, School of Medicine, University of Maryland

Mr. Terry Lierman is on Venture Capital Boards and the Founder of Summit Global Ventures. He began his career in the health field at the National Institutes of Health. He then moved to the U.S. Senate Committee on Appropriations, where he was the Staff Director of the Labor Health and Human Services (HHS) Appropriations Subcommittee and then the full Committee.

Mr. Lierman founded several biomedical companies and organizations, including the Children's Research Institute at Children's Hospital National Medical Center, National Coalition for Cancer Research. He was the Chair of the Maryland Democratic Party and served as the Chief of Staff to the House of Representatives Majority Leader and Democratic Whip Congressman Steny H. Hoyer.

Senator Susan Lee is the Majority Whip of Maryland State Senate, a Member of the Senate Judicial Proceedings Committee and several other committees. Senator Lee represents District 16 in Montgomery County. Prior to being elected to the Senate in 2015, she served in the Maryland House of Delegates since 2002. Senator Lee is an attorney in private practice, and previously worked as an attorney for the U.S. Commission on Civil Rights and the U.S. Patent and Trademark Office.

She is the first Asian American elected to the Maryland State Senate and was the first Asian American woman and first Chinese American to be elected to the Maryland legislature.

1. CAPAC updates

a. Speaker: Krystal Ka'ai, Executive Director, CAPAC

- Update from the Congressional Asian Pacific American Caucus (CAPAC)

Krystal was not able to attend due to a scheduling conflict. She asked that we relay that CAPAC Members were aware of concerns from the Asian American community regarding Section 9 of the Senate passed version of the Fairness for High-Skilled Immigrants Act on Wednesday. Congresswoman Judy Chu and Congressman Ted Lieu flagged their concerns for Congresswoman Zoe Lofgren, Chair of the House Immigration and Citizenship Subcommittee and author of the House-version of the bill (H.R. 1044). Congressman Lofgren issued a press release on Thursday, "[The Senate provisions most likely make matters worse, not better](#)".

2. Call for U.S. House Oversight Committee Hearing

a. Speaker: Susan Lee, Maryland State Senate Majority Whip

b. Speaker: Terry Lierman, University of Maryland

Terry and Susan provided an overview of their efforts to obtain support for a letter requesting Congressman Jamie Raskin, Chair of the US House Subcommittee on Civil Rights and Civil Liberties to conduct oversight hearings to address the unfair singling out of scientists and scholars of Chinese or Asian descent based on the misguided perception that simply being of Chinese or Asian descent or having ties to China make them prone to espionage. They indicated that while it is important to protect America's interests and prosecute wrongdoers, it is a grave injustice to target or place under suspicion an entire ethnic group. The letter would be signed by not only leading AAPI leaders and organizations, but also prominent scientists, academics, and researchers and scientific organizations, as having a strong and united coalition effort is vital to gaining support for these hearings. Seeing a critical urgency, they noted innocent, dedicated, and patriotic scientists are being caught up in the broad sweep of the counterintelligence efforts by the FBI and other agencies and NIH's related actions leaving them fearful, confused, frustrated and with a sense of betrayal; and having their civil rights violated and their careers, reputations and lives ruined. International scientific collaborations, which for decades have been strongly encouraged by NIH and other research institutions, are now being criminalized. These actions have also severely impeded America's ability to advance scientific and medical breakthroughs that can save lives, especially during this pandemic. The goal is to have signatories by late December, 2020 and for hearings to be held at least by February or March of 2021. The request for a hearing also follows and builds on meetings Susan and a group of Maryland AAPI leaders had with Congressman Raskin and U.S. Senator Chris Van Hollen in late 2019. Terry and Susan offered their heartfelt thanks and gratitude to Dr. Steven Pei, Jeremy Wu, John Yang, APA Justice, AAJC, CAPAC and other leaders and organizations for their outstanding leadership, resolve, and advocacy on this and other important and timely issues impacting our AAPI and all communities.

APA Justice thanks Susan and Terry for their leadership and commits to raise awareness about the letter, promote co-signing of the letter, and support related efforts.

3. Debriefing of 12/02 Webinar

- a. Speaker: Michael German, Fellow, Brennan Center for Justice
- b. Speaker: Steven Pei, APA Justice; Honorary Chair, UCA
 - YouTube Video: <https://bit.ly/3qsfDW>
 - APA Justice: [Policy Needs for U.S. Science and Scientists and Webinar Series](#)

This topic was subsumed in item 2 above.

4. More Anti-Racial Profiling Activities

a. Update on Anti-Racial Profiling Project

- Speaker: Gisela Kusakawa, Advancing Justice | AAJC

Gisela reported that we are living in unprecedented times with rising hate and bias against Asian Americans. Advancing Justice | AAJC, APA Justice, and other partner organizations are preparing a transition letter to the Biden administration to express our deep concern with the racial profiling and unjust investigations and prosecutions of Asian Americans and Asian immigrants, harming the lives of not just individuals, their families and communities, but eroding the health of our democracy. We will be requesting that the administration end the Justice Department's "China Initiative," and take other further necessary steps including in the first 100 days to combat the racial bias and profiling of Asian American and Asian immigrant scientists,

researchers, and scholars. Once this has been finalized, Gisela will circulate. Please feel free to contact her with any questions or concerns at gkusakawa@advancingjustice-aaic.org

Advancing Justice | AAJC and Advancing Justice | Asian Law Caucus previously filed an amicus brief in support of Dr. Franklin Tao and were granted leave of court to enter appearance as amici curiae and file the brief. It is a bittersweet victory as Dr. Tao's motion to dismiss was not granted. However, we were successful in being able to provide a voice to the community and have the court review and consider the brief. Following this grant, the brief has been formally filed. Jeremy provided more information on the ground regarding Dr. Tao and his Legal Defense Fund in the meeting.

b. Preliminary Statistics on "China Initiative"

- Speaker: Jeremy Wu, APA Justice

The Department of Justice started its "China Initiative" in November 2018. Substantial amounts of government-wide resources and taxpayers' dollars have been mobilized and put into this initiative. Last month marks the two-year anniversary of the "China Initiative." DOJ released a report on the "China Initiative" cases over the past year. It was again long on rhetoric but short on data and supporting facts and evidence.

Five groups, including APA Justice, Brennan Center, Advancing Justice | AAJC, APAPA, and UCA, began to produce a series of webinars in September because we are deeply concerned about the ramifications of the "China Initiative" on the civil rights and security of Chinese Americans, Chinese immigrants, and Chinese Nationals working in the U.S., as well as the consequences for the broader American society. Just on the label itself, "China Initiative" is as unacceptable as the "China Virus" with its xenophobic and racist overtones.

APA Justice has been tracking the prosecutions under the Economic Espionage Act (EEA) since its enactment in 1996. It is known as FedCases and has been available since 2015. We have also started tracking the "China Initiative" cases and will share with you some of the preliminary results today.

These limited results are based on what DOJ has made public through its online report and announcements, a public government data source called PACER, a public application known as CourtListener that is created by a non-profit group called the Free Law Project, and media reports. The results are preliminary because they are undergoing additional verification and validation. They may also change over time.

With these cautious notes in mind and based on information available from DOJ as of November 12, 2020, these are the preliminary results about the "China Initiative" cases:

- There are 61 reported cases with a total of 131 defendants
- The number of defendants in a case ranges from 1 to 10, averaging 2.1 defendants per case
- About 10% of the defendants are business or research/academic entities
- Of the remaining defendants, about 91% are apparently of Asian origin based on their names and context of their cases
- Of the 61 cases, only a quarter of them are based on EEA charges. One case was closed before the "China Initiative" started

- The top charges for the remaining cases appear to be making false statements, computer-related fraud, mail/wire fraud, conspiracy to defraud the U.S., program fraud, and visa fraud

In the coming weeks and months, APA Justice plans to make available additional data about the “China Initiative” cases as they are additionally verified and validated.

c. Legal Defense Fund for Kansas University Professor Franklin Tao

- Speaker: Jeremy Wu, APA Justice
- GoFundMe: <https://gf.me/u/zad9z8>
- APA Justice Impacted Person: [Franklin Tao](#)

Kansas University Professor Franklin Tao is one of the 61 “China Initiative” cases identified under the “China Initiative.” His case has been tracked by APA Justice since his indictment in August 2019.

Professor Tao was first charged for 1 count of wire fraud and 3 counts of program fraud, which was superseded by 2 counts of wire fraud and 1 count of program fraud in January 2020. They were superseded again in June 2020 by 7 counts of wire fraud and 3 counts of false statement. Each superseding indictment was followed by a motion to dismiss by the defense.

The defense attorney has argued that the Government is testing a new, aggressive theory on Professor Tao to criminalize filling forms incorrectly that can set precedent for many other Chinese American scientists. Professor Tao is not a thief nor a spy. The Government itself does not allege Professor Tao to have stolen anything from Kansas University.

The repeated superseding charges are unusual. According to the Legal Defense Fund for Franklin Tao, the government appears intent to drag out the case and wear Professor Tao down by exhausting his family’s savings and borrowing from relatives and friends. Professor Tao is determined to fight the DOJ and clear his name.

Although the presiding judge denied the motion to dismiss the latest superseding charges in November 2020, she accepted Advancing Justice | AAJC and Advancing Justice| ALC’s Motion for Leave of Court to Enter Their Appearance as Amicus Curiae and File Brief in Support of Defendant Professor Tao’s Motion.

Professor Tao will need support to continue his fight. A link to a recently started GoFundMe campaign for his legal defense is provided in the meeting agenda. We urge you to look at the Tao case, donate generously in this holiday season, and tell the story to your families, colleagues, friends and neighbors. His case is scheduled to start in Kansas in 2021.

d. Update on the case of Professor Ning Xi and IEEE Response

- Speaker: Jeremy Wu, APA Justice
- APA Justice Impacted Person: [Ning Xi](#)

Following a relay of Professor Ning Xi and his lawyer’s statement last month, APA Justice invited the 2021 IEEE President-Elect to an APA Justice monthly meeting to speak about the IEEE mission and perspectives about Professor Xi’s case.

On November 15, we received a reply from the IEEE General Counsel on behalf of the President-Elect to decline the invitation while citing an IEEE counterclaim against Professor Xi dated October 5, 2017.

We followed with an invitation to the IEEE current and past presidents, as well as other IEEE representatives to speak on the implementation and practice of [a joint statement of diversity](#) posted by the IEEE President, Past President, and President-Elect on the front page of the IEEE website. In addition, for the sake of fairness to hear both sides, we appreciate an update of the IEEE position on Dr. Ning Xi since the 2017 counterclaim.

On November 24, 2020, the IEEE General Counsel replied that “no one at IEEE can discuss Dr. Ning Xi’s case while litigation remains pending. Further, it is IEEE’s policy that the organization will only comment on matters in litigation in a judicial forum.”

According to publicly available court information, Professor Xi and his attorneys filed a motion for Contempt Sanctions for Violation of Preliminary Injunction Order and to Dissolve Preliminary Injunction Order on November 2. They filed a reply in further support of the motion for contempt sanctions on November 30.

In view of the ongoing litigation, we did not have a speaker from either Professor Xi’s attorney or IEEE in the meeting. APA Justice is updating its webpage about Professor Xi on the latest developments and will continue to monitor the situation closely. We welcome additional information on the ongoing situation of IEEE members of Chinese or Asian origin.

5. Catch-up on all developments

- Website: <https://www.apajustice.org/>
- LinkedIn: <https://www.linkedin.com/groups/12395028/>
- Facebook: <https://www.facebook.com/groups/386238778398753/>

6. Next Call

- a. Next Call: 2021/01/04

Happy New Year!

Email Jeremy Wu at Jeremy.S.Wu@gmail.com or Vincent Wang at wang177@gmail.com to submit agenda items. Thank you.