

**APA Justice Meeting – Monday, 2021/02/01  
11:55 am Eastern Time/8:55 am Pacific Time**

**Final Agenda**

**0. Introduction**

- a. [Yasheng Huang](#). Epoch Foundation Professor of International Management and Faculty Director of Action Learning, MIT Sloan School of Management
- b. Hong Peng, Wife of Kansas University Professor Franklin Tao
- c. 2021/01/26 White House: [Memorandum Condemning and Combating Racism, Xenophobia, and Intolerance Against Asian Americans and Pacific Islanders in the United States](#)

We warmly welcome Professor Huang and Hong as new speakers to the meeting.

The Presidential Memorandum is welcomed change to the AAPI community from previous years. As President Biden said, “we are in a battle for the soul of this nation, and the truth is our soul will be troubled as long as systemic racism is allowed to exist.” “China Initiative” is as unacceptable as “China Virus.” Our work to combat both the COVID-19 virus and the racial profiling virus will continue even if the label is dropped. We will be pressing for more sweeping changes in the months ahead.

**1. CAPAC updates**

- a. Speaker: Krystal Ka'ai, Executive Director, CAPAC  
- Update from the Congressional Asian Pacific American Caucus (CAPAC)

Krystal reported that Rep. Raskin is also a member of CAPAC. CAPAC Chair Rep. Judy Chu and Rep. Jamie Raskin sent a letter to NIH and FBI raising questions about increasing profiling of Asian American researchers and scientists (<https://bit.ly/3qhsS86>) last year. The answers from NIH and FBI so far have not been helpful. With the new administration, CAPAC will renew its inquiries. CAPAC is encouraged by recent executive actions to denounce xenophobia, especially anti-Asian bigotry and hate crimes during the coronavirus. CAPAC members are committed to continue working with the community and the administration to address the anti-China rhetoric and how it feeds into targeting and profiling of the Chinese American and Asian American communities. It is a priority for CAPAC to have a Congressional hearing and bring national attention to the racial profiling issue. Krystal called for help to collect support data and to identify witnesses to speak on record in the hearing.

**2. On-The-Ground Reactions to Charges Against MIT Professor Gang Chen**

- a. Speaker: Yasheng Huang, Professor, MIT  
- **APA Justice: [Gang Chen](#)**  
- GoFundMe: [Support MIT Professor Gang Chen](#)

Professor Gang Chen (陈刚) is a naturalized U.S. citizen born in China. He moved to the US over 30 years ago with a relentless determination to pursue the American dream, becoming a

world-renowned MIT professor of mechanical engineering and a nanotechnologist. On January 20, 2021, the government indicted him for failing to disclose contracts, appointments and awards from various entities in China to the U.S. Department of Energy. His case continues the pattern of profiling and criminalizing Chinese American scientists and researchers by fueling xenophobia and using the pretext of combating economic espionage.

Professor Huang reported that Professor Chen's case has galvanized the entire MIT and possibly also the academia. Chinese American faculty members across the country have gathered not just for Professor Chen's case but also seek next-step actions. There is clear evidence of government overreach. Many parts of the criminal complaint are factually incorrect. For example, MIT is the actual recipient of funding from a Chinese university in a joint project, professor Chen. The activity is fully disclosed; there is nothing secretive.

The faculty letter has now more than 200 signatures. "We are all Gang Chen." There is definitely racial profiling and targeting of Chinese American academics. This is fundamentally an attack on academia as a whole, which has resonated powerfully in the academia. It is an overt criminalization of normal, day-in-and-day-out academic conduct and activity. As a result of this case, we need to seize the opportunity and overturn the tide.

Long before Professor Chen's case, there is recognition that the government's requirement to disclose is not clear and not straight-forward (e.g., [JASON report](#)). It leaves lots of room for law enforcement agencies to potentially criminalize some inconsistencies. There is a clear gap.

It is important for the government to specify what is permitted and what is not in US policy over China. It is simply wrong to use the legal mechanism to realize a political and policy objective. Professor Chen's type of activities were in fact encouraged in previous administrations. There must also be a conversation when there is a policy change.

### **3. Legal Defense Fund for Franklin Tao**

a. Speaker: Steven Pei, APA Justice

b. Speaker: Hong Peng, Wife of KU Professor Franklin Tao

- APA Justice: [Franklin Tao](#)

- **GoFundMe: [Legal Defense Fund for Franklin Tao](#)**

- 2021/01/28 Bloomberg Law opinion: [Biden's DOJ Needs to End War on Chinese-American Scientists](#) (new)

Kansas University Professor Franklin Tao (陶丰) came to the U.S. from China 20 years ago with his dream of pursuing science, devoting his whole life to chemistry. On August 21, 2019, Professor Tao was indicted for failing to disclose a conflict of interest with a university in China. Professor Tao is resolute in fighting against the charges for himself and for all potential victims in the academic community although it has bankrupted his family through the process.

Professor Pei reported that Dr. Tao's case is the first of many cases under the "China Initiative," where Chinese American scientists were not charged for espionage. The government did not allege these scientists spied for China; gave anything inappropriate to China; stole anything; or misused federal grant money to the detriment of our country and its agencies. According to

Peter Zeidenberg, the defense attorney of many of these scientists, the government charged them with “felonies for simply filling out forms incorrectly.” Many affected scientists could not afford the expensive legal fees to go to trial and were forced to plead guilty to a minor charge.

Dr. Franklin Tao is determined to fight these felony charges and will be the first of such cases going to trial. The outcome of his trial would have profound impact on all other cases, including Dr. Gang Chen of MIT. Therefore, it is important to make sure that Dr. Tao is protected by due process with proper legal support for his defense. The Asian American community raised over \$250,000 legal defense fund for Dr. Tao in a couple weeks. However, that is not sufficient to cover a trial. More are needed.

Hong, Dr. Tao’s wife, spoke next to share what her family has been through this past 18 months. Hong has given permission and share her talk in this video: <https://youtu.be/w8EOql-xR9o>. The following is a rough transcript.

Franklin grew up in rural mountain area in Chongqing, China. They came to the US 20 years ago with his dream of pursuing science in America. He overcame incredible obstacles in his life and has had a dream of building up his life in USA; sadly, suddenly his life was destroyed 18 months ago.

Around 9 o’clock in the morning of August 20, 2019, the first day of high school for their twins, Hong heard someone pounding on the door. She rushed to open the door and more than a dozen FBI agents rushed into their house, searched every corner, and took all the electronics away. When their twins got home, they were shocked by the mess with fear and tears. As a mom, she had to comfort them and told them there must be some misunderstanding. They all knew how hard their father worked and how good their father is.

The following day on August 21, 2019, around 2 o’clock in the afternoon, another pounding of the door, Hong opened the door. A dozen armed FBI arrested Franklin right in front of Hong. It was heartbreaking to watch her loved one taken away while there was nothing she could do. Their neighbor saw what happened. She came and gave Hong a big hug and said, “You know your husband. You know what kind of person he is. You know him better than anyone else.” These simple supportive words lightened her up and inspired her. “Yes, I know Franklin. He is a good husband, a better father. He is truly a good person. He should never be treated like this.”

After significant efforts, Franklin was bailed out 6 days later. He has been fighting to clear his name for the past 18 months until now. It is not easy. For the past 18 months, her family has been living like under the darkness of a tunnel, full of fear and desperation. Franklin was banned from campus and his research team was forced to be dismantled right after his arrest. Franklin is not a thief nor a spy as they expected. However, the government did not want to acknowledge their mistake. Instead, they changed and added more charges twice rather than correct their own mistakes. That is why Franklin has been fighting the prosecution for 18 months.

In the first 12 months, they used up all their money and borrowed as much as they could from their families, relatives, and friends. There was nowhere they could borrow any more. They

were financially bankrupted several months ago and could not pay the legal bills for the last 6 months. They owe Arent Fox law firm a lot of money.

University of Kansas stopped paying Franklin last May. Without his income but with the legal bills building up, Hong has been working three jobs in three different hospitals even during the pandemic. She is an ultrasound technician. She works as many hours as she can, sometimes almost 24 hours straight. Sometimes she felt extremely tired when she was driving. She had to find somewhere to stop and then have cold air or cold water on her face to wake herself up.

Sometimes she felt so desperate and cried in her car after work and asked why this is happening to Franklin, why this is happening to her family. Then she had to wipe off her tears and moved on. She had to tell herself to stay strong for her husband, for her twins, and for her family. They feel very sorry for their twins – all this happened on their first day of their high school.

Her son told her sometimes he cried in his room. He did not want to tell Hong and Franklin because he knows how hard it is already for his father. Her daughter was even afraid to go to school before.

The government is moving Franklin's case to trial this year. The trial process is very expensive, but Hong and Franklin will not give up. There was not even a single moment they thought of giving up. They are in desperate need of help from people who are able and willing to help.

Franklin has lawyers to defend his case, but without financial and moral help, the legal defense cannot continue. Franklin cannot clear his name. He would lose his freedom, his reputation, his career, essentially everything. Their twins would be without a father, and she would be without a husband. As a mother and a wife, Hong asks for your help. Your generous support is highly appreciated by Franklin and their family.

"We are all also Franklin Tao." This is the link to make a donation to the Franklin Tao Legal Defense Fund <https://gofund.me/5bf4adbe>

#### **4. Disrupt, Discredit, and Divide: How the New FBI Damages Democracy**

a. Mike German, Fellow, Brennan Center; former FBI agent; author; moderator of Webinar Series

- **[2019/09/10 Mike German: Disrupt, Discredit, and Divide: How the New FBI Damages Democracy](#)**

- APA Justice: [Webinar Series on the "China Initiative"](#)

- 2020/08/27 [Hidden in Plain Sight: Racism, White Supremacy, and Far-Right Militancy in Law Enforcement](#)

"The transformation of the FBI after the 9/11 attacks from a law enforcement agency, made famous by prosecuting organized crime and corruption in business and government, into arguably the most secretive domestic intelligence agency America has ever seen."

The Lawless Law Enforcer by Targeting Innocent Others – The FBI’s “preventive” approach to address national security threats requires identifying the suspect communities from which they believe these threats emerge and employing its disruption strategies against them. The lowered evidentiary thresholds in the FBI’s investigative guidelines allow this targeting of innocents. As bureau officials articulated throughout its post-9/11 transition, the bureau’s efforts are no longer designed to enforce federal law but to disrupt potential threats. Often, the threatening “other” is not a foreign enemy but a fellow American.

Mike reported that he was an FBI agent for 16 years from 1988 to 2004. Mike described his childhood aspiration to become an FBI agent and make use of law enforcement to keep our communities safe. He knew about the history of the FBI and J. Edgar Hoover’s targeting of the civil rights and anti-war movements in the 1960s but felt fortunate he was joining the FBI after the Church Committee exposed the wrongdoings and reforms were put in place to ensure that they would not happen again.

Mike was alarmed after 9/11 that structures that were built to protect American communities from the over-aggressive FBI were being dismantled and a new attitude had taken hold. It was really a resurrection of the old attitude that the FBI took on national security issues.

Mike left the FBI in 2004, went to work for ACLU several years, and joined the Brennan Center for Justice about 8 years ago.

He wrote the book because he wanted people to understand why the FBI acts this way and how damaging it is to democracy. He explained it in terms of architecture and attitude.

When he was an undercover FBI agent going after white supremacist and far-right militant groups, Mike had to have a reasonable indication of criminal activity to target an individual. In other words, there had to be articulable facts that led him to a reasonable conclusion that the people he was investigating were involved in criminal violations. That was an effective standard. It was put into the Attorney General’s Guidelines.

After 9/11, then AG John Ashcroft modified the guidelines, which were modified again by AG Michael Mukasey. They removed the need for a criminal predicate. Today, the FBI can start investigations called assessments based on no factual predicate, that is, no evidence indicating an individual is involved in any wrongdoing, just a simple certification made by the agent doing the investigation that the investigation is properly intended to uncover a national security threat or criminal violation.

What this does is it reverses the protection where it is no longer protecting an individual who may be engaged in the wrongdoing and instead allowing the agent’s biases to drive the investigation.

In addition to the architecture that was changed in the AG Guidelines, there was also a change in attitude.

As the FBI moves away from its function as a law enforcement agency and takes the mantle of being a security agency, it changes the dynamics to where the agents are looking at the horizon

and not looking at the evidence of who is engaged in wrongdoing but instead on who might be engaged in wrongdoing in the future. That is often driven by bias.

The FBI remains a predominantly white male organization. You can read the political attitudes of white males in the country and see the disproportionate support for President Trump and his policies. Mike believes that this is what drives a lot of the problem.

In addition, the FBI resurrected concepts from the Hoover era, including the concept of radicalization - the idea that people become dangerous because they have bad ideas rather than because they are engaged in wrongdoing. They resurrected the concept of disruption.

Mike believes that this is what is driving the abuses of the "China Initiative." Chinese American scientists have been improperly targeted for prosecution by the FBI long before there was a "China Initiative." There was the Wen Ho Lee case back in the 1990s. This is not a new phenomenon. Because the guidelines are reduced, the opportunity for agents to engage in this kind of bias has increased.

It is not just the prosecutions. The FBI credits itself and has actually created a statistical accomplishment for agents to award themselves for what is called disruptions. They imagine the person they are investigating, even with no evidence, is already guilty. Anything they can do to disrupt that person's life becomes a credited statistical accomplishment for the agents.

Mike cited a Washington Post article last month where unnamed DOJ officials were crowing about 1,000 scientists, academics and engineers who had some nexus to China have left the country since the "China Initiative" began. These are people who have suspicions laid on them unfairly and decided that they don't want to work in the U.S. anymore. The FBI and DOJ are taking credit for that, rather than recognizing the damage that does to our scientific and academic accomplishments we can have in this country.

This is the Washington Post link: <http://wapo.st/2LnBzOK>

It is a matter of making sure the Congress understands how these mechanisms work to create this damaging outcome. Many of the cases against Chinese American scientists actually fail in the prosecutions, which would normally cause prosecutors and investigators to re-examine their methods and recognize that perhaps they are not targeting the right people. However, because of the disruption strategy and getting credit for disrupting the lives of the people – bankrupting them and ruining their careers – as considered successful accomplishments even if their prosecutions fail.

That attitude needs to be changed in the FBI. That's what we need to focus on. The Wen Ho Lee case was before the guidelines were changed. So it is not going to cure every problem, but it will allow the more conscientious agents to ensure that the others who are driven by bias recognize that there is a rule that prevents them from targeting people against whom they have no evidence.

After Mike's book was published, the Brennan Center and four organizations including APA Justice discussed how to work together, which led to the very successful webinar series.

Mike concluded by saying that our goal is to make sure that journalists who cover this topic do not just take FBI's words as gospel and instead challenge these cases immediately so that people unfairly targeted can feel public support because being accused of being a spy in your own country is one of the worst labels the government can put on you.

## 5. Anti-Racial Profiling

a. Speaker: John Yang, President and Executive Director, Asian Americans Advancing Justice | AAJC

- [Advancing Justice | AAJC: Anti-Racial Profiling Project \(Donate\)](#)

- 2021/01/05 [Letter to President-Elect Joe Biden](#)

On October 6, 2020, Advancing Justice | AAJC launched the Anti-Racial Profiling Project (ARPP), including free legal referral service via Signal with the phone number 202-935-6014. "Know Your Rights" literature is posted online; an amicus brief was filed to support Kansas University Professor Franklin Tao; FOIA requests have been made to multiple federal agencies.

On January 5, 2021, Advancing Justice | AAJC, Brennan Center, and APA Justice led a coalition of community organizations, advocacy groups, science associations, and individuals and sent a letter to then-President-elect Joe Biden urging the incoming administration to end the Justice Department's "China Initiative" and take further steps to combat the pervasive racial bias and targeting of Asian American and Asian immigrant scientists, researchers, and students by the federal government.

Having heard the earlier stories, John reminded us the importance of the anti-racial profiling work that we all do. John focused on several updates about the Anti-Racial Profiling Project.

The phone number 202-935-6014, preferably used under Signal for secured communications, is in full operation for questions and legal referral service. The issues can cover anything from FBI knocking on your door to something further down the line. Advancing Justice | AAJC provides a base level of support and also helps to find a competent lawyer. Having a lawyer with expertise in the field is important. It is a partner in the ongoing webinar series to keep the communities informed. Advancing Justice | AAJC is also working on a data project to collect more data on the type of cases we are seeing and plans to present analytical results.

John also reported on his work with the incoming administration. While the recent executive actions do not specifically address the "China Initiative," the administration appears to be sending important signals with respect to how they are viewing and dealing with these issues.

The previous administration blamed China and blamed Chinese for COVID-19. The fact that the new administration recognizes the harm this kind of language can do is something to celebrate, but hopefully this narrative change can also lead into how they look at policy. There have been conversations during the transition and now with the new administration about what the "China Initiative" is and we want it stopped with a moratorium.

There are other pieces such as education of the agencies, scientists, and universities. The standards are evolving with respect to how scientists should interact with universities in China. Collaboration was encouraged and seen favorably by universities only a few years ago. Now there is a different take. So everyone needs to be up to speed.

According to John, it is too early to say where this DOJ is going to land, but based on who he knows are in its upper leadership, he is hopeful because they do have a civil rights framework. Associate Attorney General Anita Gupta is a good friend of the community. She understands the civil rights issues.

John emphasizes the need for witnesses in a congressional hearing for which Maryland Senator Susan Lee and Terry Lierman have called. Advancing Justice | AAJC can work with potential witnesses to make the testifying process more comfortable and identify where the potential areas of sensitivity may be. In addition, written testimonies can also work. The key is we need key evidence and the community to speak up.

## **6. Status of Call for Congressional Hearing**

- a. Speaker: Senator Susan Lee, Maryland Senate Majority Whip
- b. Speaker: Terry Lierman, Co-Chair, Advisory Committee, Institute of Human Virology, University of Maryland

There have been many congressional hearings on economic espionage, but not a single hearing addressing any of the civil rights violations of Asian and especially Chinese American scientists, whose lives, careers, reputations have been destroyed (even after being proven innocent) and the adverse impact on science. Maryland Senator Susan Lee and Terry Lierman organized an alliance of scientific and civil rights organizations and leaders who have signed a letter requesting US Representative Jamie Raskin, Chair of the House Subcommittee on Civil Rights and Civil Liberties and the Lead Impeachment Manager, conduct a hearing on the racial profiling of scientists and scholars of Chinese or Asian descent. The letter was delivered to Representative Raskin and his chief of staff and a press release was also issued with the input from a broad range of prominent organizations and leaders who joined the alliance.

Senator Lee stated that while we all strongly support efforts to safeguard America's interests and prosecute wrongdoers, it would be a grave injustice to target, stereotype, or place under suspicion an entire ethnic group. These scientists have devoted a lifetime dedicated to advancing medical breakthroughs which have helped America be the global leader in science and technology. They are a part of the solution to the United States' global challenges, not a threat.

The overzealous, broad sweep of the FBI's counter-intelligence efforts and NIH's and other entities' related actions have resulted in major civil rights violations, but also hurt America's ability to be the leader in medical discoveries to save lives, especially during this pandemic. It is also an attack on academic research and development and is unpatriotic.

Senator Lee recounted leading a group of Maryland leaders and scientists in 2019 to meet with Congressional members who in turn made requests to DOJ, FBI, and NIH for information about



those actions, transparency and accountability. Other scientific and civil rights organizations also made their concerns known and requests for transparency and accountability, including 77 Nobel Laureates. Because of a lack of timely and satisfactory responses, the need for a Congressional hearing is even more essential as it will provide an opportunity to shine light on any possible discriminatory policies or practices employed by those agencies and institutions to ensure there is fairness, transparency, an accountability.

Organizations and leaders signing the letter represent tens of thousands of individuals in science, civil rights, and the community, include former US Energy Secretary and Nobel Laureate Dr. Steven Chu; former US Commerce Secretary, Washington State Governor and US Ambassador to China Gary Locke; Jonathan Greenblatt of the Anti-Defamation League, Dr. Robert Gallo, the Society of Chinese Bioscientists in America, American Society for Biochemistry and Molecular Biology, and the US Conference on Civil Rights and Human Rights.

Although the cut-off date for the letter was January 17, 2021, there have been additional signatory requests, which can be added to the letter later. For those who are interested in joining, please sign on at <https://bit.ly/38j0hqY>.

Terry Lierman started his career at NIH where he was Chief Administrator for Drug research and development in the National Cancer Institute. Since then, he has been the staff director of the US Senate Committee on Appropriations. He was also the Chief of Staff to US Representative Steny Hoyer, the US House Majority Leader, among other achievements.

Terry reported that he became concerned after Dr. Robert Gallo, the founder and director of the Institute of Human Virology, spoke to him about the impact of racial profiling on the Institute at the Medical School of University of Maryland. About 35% of the researchers at the Institute are of Asian or Chinese descent. The concerns were substantiated when he consulted with Senator Lee. From that point on, he has been fully engaged with the effort.

Terry is hopeful that the hearing will take place. However, in Congress, the impeachment process appears to be taking center stage at this time before any attention can be focused on this important hearing.

## **7. Catch-up on all developments**

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

## **8. Next Call**

- a. Next Call: 2021/03/01

Email Jeremy Wu at [Jeremy.S.Wu@gmail.com](mailto:Jeremy.S.Wu@gmail.com) or Vincent Wang at [wang177@gmail.com](mailto:wang177@gmail.com) to submit agenda items. Thank you.

## **9. Next Meeting**

a. Next Meeting: 2021/03/01

Email Jeremy Wu at [Jeremy.S.Wu@gmail.com](mailto:Jeremy.S.Wu@gmail.com) or Vincent Wang at [wang177@gmail.com](mailto:wang177@gmail.com) to submit agenda items. Thank you.