

# Harvard Symposium and Racial Profiling Panel

On April 11-15, 2021, the Harvard Law School China Law Association (CLA) will host its annual China Law Symposium, "Building Bridges over Troubled Waters." This year's Symposium consists of panels on U.S.-China relations, racial profiling against Chinese-American scientists, intellectual property law in China, opening up of China's financial market, and cross-border dispute resolution. More information and registration about the Symposium at <https://bit.ly/3uBKRrd>

On April 12, 2021, a Symposium panel titled "Racial Profiling Against Chinese-American Scientists" will be held featuring the following speakers:

- Yasheng Huang, Professor, Massachusetts Institute of Technology
- Margaret Lewis, Professor, Seton Hall University School of Law
- Terry Lierman, Founding Partner, Summit Global Ventures LLC
- Xiaoxing Xi, Professor, Temple University

Register for the event here: <https://bit.ly/39Oq0Jx>

## April 5 APA Justice Meeting

On April 5, 2021, representatives from ACLU and Cato Institute spoke on a wide range of their ongoing activities related to the Asian American community. Other speakers provided updates on the Anti-Racial Profiling Project, an upcoming fourth webinar in the series on the "China Initiative," and the requested House hearing on the racial profiling of Asian American and Chinese scientists. This newsletter provides an overview of the meeting and follow-up actions.

A summary of the meeting is being prepared and should be published early next week. Past meeting summaries are available at: <https://bit.ly/3kxkqxP>.

## Xiaoxing Xi Lawsuit Against U.S. Government

During the April 5 APA Justice meeting, ACLU Senior Staff Attorney Patrick Toomey provided an overview of ACLU work on behalf of the Asian American community, including its FOIA requests with AAJC, racist attacks on Asian Americans amid Covid-19, and its amicus brief in the WeChat User Alliance case.

On the lawsuit on behalf of Professor Xiaoxing Xi and his family, ACLU posted the following blog and press statement on April 2, 2021:

- Blog: A Chinese American Scientist and His Family Are Battling the FBI's Profiling in Court <https://bit.ly/3sRaST5>

- Press Statement: Federal Court Dismisses Claims in Chinese American Professor's Lawsuit Challenging Baseless Arrest and Prosecution <https://bit.ly/3rLrzOr>

The district court dismissed nearly all of the claims brought by Professor Xi and his family in their civil case. The decision is a disappointment, especially since it comes after nearly three years of waiting for a ruling without a hearing. The court has not ruled on one remaining claim which is related to the surveillance issues in the case, including surveillance under Section 702 of FISA and Executive Order 12333.

The litigation team and the Xi family are still analyzing the decision. The current plan is to challenge the ruling and to appeal.

## **Cato Institute Reports on Unfounded Fears and FOIA Requests**

During the April 5, 2021 APA Justice meeting, Alex Nowrasteh of the Cato Institute provided comprehensive reports on the need of a rational and efficient public policy based on sound data and credible analyses instead of fears of Chinese espionage growing out of geopolitical conflict between the U.S. and the People's Republic of China, one manifestation of which is an argument from many American policymakers to reduce immigration from China.

Alex is the director of immigration and trade at the Cato Institute's Herbert A. Stiefel Center for Trade Policy Studies. Under his leadership, the Cato Institute recently published a paper after analyzing 30 years of data on Espionage, Espionage-Related Crimes, and Immigration (<http://bit.ly/3teg5nM>)

Through the intense eight-month cost-benefit study, Alex found the threat to be overstated, especially in reference to the "economic blitzkrieg" described by former Attorney General William Barr. Neither the frequency nor the damage of spying supports the claimed threat.

Espionage by China is real. There is certainly a national security concern about it. But it is not big enough of a concern to take drastic actions. As the US government is continuing down this road, it needs to show and justify its work. Alex has done an enormous amount of research. The government needs to show him where he is wrong and the evidence to support what it is doing. If it does not, it needs to stop the profiling.

Alex's report is located here: <http://bit.ly/3teg5nM>

Patrick Eddington is a Senior Fellow in homeland security and civil liberties at the Cato Institute. From 2004 to 2014 he served as communications director and later as senior policy advisor to Rep. Rush Holt. Prior to that, Pat was an analyst with the CIA. He is also Adjunct Professor at Georgetown University's Center for Security Studies.

Pat reported on his observations from a presentation in a “China Initiative” Conference in February 2020 that motivated his interest in the “China Initiative.” The claims made in the presentation confirmed the same kind of espionage threat in the terms described by Alex.

There is no question that there is a dedicated effort on the part of the Chinese Communist Party and the Chinese Intelligence Service to try to do what they can to get what they can. This has been going on for a long time, preceding the “China Initiative” literally by decades. Since then-Attorney General Jeff Sessions announced the “China Initiative” in his last days on the job at DOJ, we have seen a radical intensification of this effort, which in Pat’s view certainly mounts to a racial profiling program with respect to Chinese researchers, scientists, and the like.

Subsequently, Pat decided to put together a whole-of-government FOIA program. Pat reported on the current state of the requests, including responses and its lack of from the federal agencies and his follow-up appeals.

Pat also made reference to Transportation Security Agency’s (TSA’s) Silent Partner and Quiet Skies Programs, which enable TSA to identify passengers for enhanced screening on international flights bound for the U.S. and use a subset of the rules to identify passengers for enhanced screening on some subsequent domestic and outbound international flights.

They are essentially a “No Fly List” with multiple layers. It is a completely warrantless program; individuals can be subject to this kind of activity without any kind of criminal predicate. Once an individual is placed on such a “No Fly List,” it becomes exceedingly difficult to back out. Arab and Muslim Americans have filed lawsuits to obtain specific data on themselves on the TSA programs and to complain being placed on the “Quiet Skies or Silent Partner” lists without their knowledge and after they refused to become FBI informants.

Pat strongly suspects that any individual who is doing business with China or must fly to China for business purposes, receive Chinese visitors, academic research exchanges, and things of that nature might be placed on the same “Quiet Skies or Silent Partner” lists without their knowledge.

Pat is interested in the Asian American community helping to talk to individuals about these incidents on a completely off the record basis. It would be immensely helpful for his ongoing work.

## **NIH Comments, Petition to President Biden, and Letters to Congressional Members**

During the April 5 APA Justice meeting, Gisela Kusakawa and Vivin Qiang of Advancing Justice | AAJC reported on administrative advocacy, including comments to NIH UNITE Initiative, and a petition to President Biden and a letter to Congressional members to stop the racial profiling of Asian Americans and Asian immigrants and end the Department of Justice’s “China Initiative.” Please note that follow-up actions by community organizations and concerned individuals are due by close of business **Friday, April 9, 2021**.

1. NIH has launched an effort to end structural racism in biomedical research through its new [UNITE initiative](#). Individuals and organizations are invited to submit suggestions through its [Request for Information \(RFI\)](#) platform on ways NIH can stand against structural racism and achieve racial equity in biomedical research. Full text of the Advancing Justice | AAJC comments for you to sign on is here: <https://bit.ly/2QbFuAs>. Organizations and individuals can also send in your own comments. Advancing Justice | AAJC has prepared [a template for individuals](#) and [a template for organizations](#).
2. Co-sign petition to President Biden to end racial profiling and "China Initiative" here: <http://bit.ly/EndChinaInitiative>
3. Co-sign a letter to your Congressional members to end racial profiling and "China Initiative" here: <http://bit.ly/EndChinaInitiative-Letter>

Questions and needs of assistance should be directed to Gisela at [gkusakawa@advancingjustice-aaic.org](mailto:gkusakawa@advancingjustice-aaic.org) or Vivin at [vqiang@advancingjustice-aaic.org](mailto:vqiang@advancingjustice-aaic.org)

## **Mark Your Calendar for April 28, 2021**

During the April 5 APA Justice meeting, Mike German of the Brennan Center for Justice reported on the planning of the fourth webinar in a series on the "China Initiative." It will be focused on legal issues. A panel of lawyers is being finalized. It will share expert knowledge and opinion so that the community will be informed, defense attorneys are aware of what others have been working on, and concerned scientists who are under scrutiny know where they can go.

Please mark your calendar for April 28, 2021 starting at 8:00 pm ET. Notification with all the panelists will be sent in the coming week.

## **Update on U.S. House Hearing**

Maryland State Senator Susan Lee reported that she and Terry Lierman have been working with the House Oversight Committee on their efforts to reach out to some of the scientists and those impacted and other potential witnesses. Congress is now in recess. It is scheduled to return the week of April 11. Senator Lee should be able to give a better update with some of the particulars by the end of April.

## **Subscribe to The APA Justice Newsletter**

A simple subscription form is now available at <https://www.apajustice.org/about-us.html> for those who wish to receive the APA Justice Newsletter. Please share it with your family members, friends, and colleagues to be informed and join the fight. View past newsletters here: [https://bit.ly/APAJ\\_Newsletters](https://bit.ly/APAJ_Newsletters)

*Copyright © 2021 APA Justice, All rights reserved.*

You are receiving this email because you opted in or have expressed interest.

**Our mailing address is:**

APA Justice

P.O. Box 7

McLean, VA 22101-0007

[Add us to your address book](#)

Want to change how you receive these emails?

You can [update your preferences](#) or [unsubscribe from this list](#).

We do not share, sell, rent or trade any of your information with third parties unless you provide explicit consent. [Read our Privacy Policy here](#).