

Slide 0: Your introduction Name

- Thank you, Vivin, for your kind introduction. It is an honor for me to participate in today's first Anti-Racial Profiling Project webinar.
- It has taken a year from the time Queens College President Frank Wu introduced the concept; former Committee of 100 Chair Clarence Kwan and others provided seed funding; to the point where a talented staff is ready to start up the project.
- I thank John Yang and Advancing Justice | AAJC for leading this important project and continuing the fight for civil rights and empowering Asian Americans to create a more just America for all.

Slide 1: The Picture You Provided

- The APA Justice Task Force, including myself, Steven Pei, and Vincent Wang, is proud to have played a facilitating role in the process.
- APA Justice was created in response to a call by Rep. Judy Chu, Chair of the Congressional Asian Pacific American Caucus or CAPAC, in 2015.
- To be more precise, it was May 21, 2015 when CAPAC hosted a press conference and called for the Department of Justice to investigate the case of Sherry Chen, a hydrologist at the National Weather Service, who was accused of spying for China and then had her case dismissed without explanation.

Slide 2: The Timeline Your Provided

- It was deeply troubling that in the wee hours of the same day, a dozen armed FBI agents busted into the home of Professor Xiaoxing Xi of Temple University to arrest him. Professor Xi was accused of spying for China, but his case was also dismissed later in September.

- In two short years, four innocent naturalized American citizens of Chinese origin in academia, federal government, and private industry were unjustly accused of betraying their country, the United States. Although their charges were dropped that confirmed their innocence, severe damage had already been inflicted to their finances, reputation, and career. They and their families were traumatized and scarred for the rest of their lives.
- APA Justice was loosely patterned after a similar group created under the Department of Energy's Task Force Against Racial Profiling in 1999 when Dr. Wen Ho Lee, a nuclear physicist at the Los Alamos National Laboratory, was accused of passing nuclear secrets to China.
- Dr. Lee was incarcerated in solitary confinement for 9 months, shackled with chains most of the day. The case against him eventually collapsed. On September 13 twenty years ago, Judge James Parker apologized to Dr. Lee. Dr. Lee walked out of the courtroom a free man the same day.
- According to the End Racial and Religious Profiling Act in Congress, the term "racial profiling" means the practice of a law enforcement agent or agency relying, to any degree, on actual or perceived race, ethnicity, national origin, religion, gender, gender identity, or sexual orientation in selecting which individual to subject to routine or spontaneous investigatory activities or in deciding upon the scope and substance of law enforcement activity following the initial investigatory procedure.
- The standard response from the FBI and DOJ is that they do not investigate or prosecute based on any form of profiling.
- However, FBI Director Christopher Wray testified in a 2018 Senate hearing that China conducts spying in the U.S. "with non-traditional collectors." Those who follow Asian American history recall the term "thousand grains of sand" during the Wen Ho Lee investigation. It was the "Fifth Column" when 120,000 Japanese Americans were interned during World War II.

- The number of FBI investigations increased from several hundred in 2017 to over 1,000 in 2019 and then 2,500 in 2020.
- Legal scholar and now-litigator Andrew Kim conducted an empirical analysis of all known prosecutions under the Economic Espionage Act from its enactment in 1996 to 2015. His disturbing findings include (1) as many as 1 in 5 Asian people prosecuted as spies may be innocent, a rate twice as large as for other races, (2) defendants of Asian heritage convicted of espionage received sentences over twice as severe as those of other ethnicities, and (3) there was an alarming trend of what is called “pretextual prosecutions.”
- DOJ started the “China Initiative” in November 2018 for the purported purpose of combating economic espionage and trade secret thefts.
- In her paper titled “Criminalizing China,” Seton Hall law professor Maggie Lewis suggests that a country neutral framework should be adopted for non-discrimination reasons. In this regard, “China Initiative” is as unacceptable as “China virus.”
- Available evidence shows that only one third of the “China Initiative” cases are actually based on economic espionage and trade secret charges. More than half are based on various minor or unrelated offenses such as fraud, making false statements, and administrative violations.
- As Americans, we certainly want to protect economic security and intellectual properties of our nation, but hope that intelligence officials can do so without relying on stereotypes and generalizations against a whole group of people. We need the government to be transparent and accountable, not to misuse or abuse its authorities.
- As the FBI and DOJ dragnet expands with massive federal resources, publicity, and organization, confusion and a climate of fear have also grown within the Asian American community, especially for scientists, researchers,

and students who are targeted. More and more innocent individuals fell victim to be unjustly investigated and prosecuted or served as collateral damage or convenient scapegoats.

- The American legal system is complex by itself. The ground is shifting as US-China tension increases. Fundamental scientific exchange that was encouraged only a few years ago may now viewed as suspicious and even criminal. There are double standards. The checks-and-balance system is not working well. It is important for us to be informed and educated, as well as to seek legal assistance when appropriate.
- In the aftermath of the closure of China's consulate in Houston, FBI agents swept the local community and sought to interview individuals in an apparent search for "spies." Community leaders including AAJC organized a webinar on Understanding Your Rights in three days. More than 850 individuals attended the webinar to understand what to do if the FBI knocked on their doors.
- When the government filed yet another superseding indictment against Kansas University professor Franklin Tao, John Yang spoke up, "failure to disclose information on a university form is not economic espionage. Xenophobia from leadership and agents within the U.S. government has translated to real consequences for the Chinese and Asian American community. Chinese scientists and researchers, like Dr. Tao, are caught in DOJ's broad net for prosecutions and sudden criminalization of minor infractions and we are deeply concerned with the pattern of misguided suspicion and racial discrimination we are seeing in these cases." John and Advancing Justice | AAJC led a couple dozen organizations in filing an amicus brief to support the dismissal of the Tao case.
- We need to advocate not only in court, but also in the media and Congress. We need to tell journalists and policymakers our side of the story. We need to stand up and speak out against racial profiling and for justice and fairness.

- A week after his case was dismissed in 2015, Professor Xi, who is the recipient of the 2020 Andrei Sakharov Prize, jogged past the FBI headquarters in Washington DC and wrote later, “We need to get involved in the democratic process. If we see a bad policy, a bad practice, that hurt our country, we need to speak out and let our voice be heard. That we have the right to do so is what this country is so great about. As a proud citizen, I pledge to do my part.”
- Racial profiling is wrong. Time and again, racial profiling has shown to harm the long-term interests of America by forcing talented and renowned scientists, many of them naturalized U.S. citizens, out of the country.
- Dr. Xifeng Wu, a naturalized U.S. citizen, is another victim of racial profiling. She was forced to leave M.D. Anderson Cancer Center in early 2019 and became dean of public health in a university in China. Today, she offers valuable lessons to the global community including the U.S. to learn how to prevent and rebound from a pandemic like COVID-19.
- Education, advocacy, and legal referral are the three main pillars of the Anti-Racial Profiling Project. It is timely. It is substantive. It is actionable.
- You are not alone in the fight for justice and fairness.
- I urge all of you to participate and contribute actively and give the Anti-Racial Profiling Project your full support.
- Thank you.