

Summary of February 2020 APA Justice Conference Call

0. Introduction

Mara Hvistendahl took time from her birthday to discuss her new book *The Scientist and The Spy*, which was officially released on February 4. Professor Steven Pei at the University of Houston spoke on several timely topics including the closing of the Seattle Branch of the National Archives and the recent case involving Dr. Lieber of Harvard University.

The Collection and Research Center for the Museum of Chinese in America in New York City suffered a 5-alarm fire involving some 85,000 artifacts. The latest good news is that much may be salvageable. Fears of coronavirus may fuel anti-Chinese racism in the U.S. We should be alert and vigilant as some reports have already surfaced.

- a. [Mara Hvistendahl](#), writer, speaker, and commentator
- b. Steven Pei (白先慎), [Professor at University of Houston](#); Inaugural Chair of Board of United Chinese Americans
- c. **New:** [‘ABSOLUTELY DEVASTATING’: 85,000 Asian-American artifacts likely lost in Chinatown inferno](#)
- d. **New:** [Coronavirus can spread before symptoms show](#)
- e. **New:** [‘Terrible and disgusting’: Decision to close National Archives at Seattle a blow to tribes, historians in 4 states](#)
New: [Officials knew Seattle National Archives facility might close for months without public feedback](#)
- f. **New:** [U.S. Accuses Harvard Scientist of Concealing Chinese Funding](#)
New: [Harvard Arrest Ups the U.S. Ante on China as Security Threat](#)

1. CAPAC updates

Krystal reported on the recent CAPAC briefing where issues were raised and discussed on data collection to inform on current situation, upcoming hearing with FBI director, pursuit of Natural Resources Committee on NOAA and Sherry Chen’s MSPB appeal, security clearance barriers for federal employees and contractors, documentation of more cases with individuals coming forward, legislative oversights, and recommendations to CAPAC on NIH and other matters within jurisdiction that can be done for the upcoming 5-6 months. Need to work with all participants, victims to come forward, and share information and workload.

National Defense Authorization Act for Fiscal Year 2020 was signed into law on 12/20. S.2133 was listed as one of 202 related bills. There were 648 amendments. It is unclear what were included in the final NDAA or not

- a. H.R.4339 and S.2355 End Racial (and Religious) Profiling Act of 2019
- b. S.386/H.R.1044 Fairness for High-Skilled Immigrants Act of 2019 (H1/Family visas)

- c. S.1879 Protect Our Universities Act of 2019 (safeguard academic research from select foreign intelligence services)
- d. S.2133 Secure American Research Act of 2019 (blacklisting)
- e. CAPAC May 2018 call for IG investigation of DOC
- f. Progress and status on GAO study
- g. Inquiries with Natural Resources and other committees
- h. Other

2. Mara Hvistendahl on Her New Book

Mara discussed background research and discoveries from her book, including her experience as a journalist in Shanghai, FBI bias in surveillance and investigation, and discoveries from court documents. The US government initially hoped to prove a direct state connection in the Monsanto case but ultimately was unable to do so. Mara also shared a just-published Intercept article: [The FBI's China Obsession](#), which describes how “the U.S. Government secretly spied on Chinese American scientists, upending lives and paving the way for decades of discrimination.”

New: Science on [A journalist investigates a surprising act of industrial espionage](#)

“If there is a subplot that makes this book essential reading, especially for those working in the sciences today, it is Hvistendahl’s documentation of the disturbing effects that the too-vigorous pursuit of industrial spies has had on Chinese scientists and engineers in the United States...This vision of a “‘human wave’ of students, scientists, and engineers...who gather intelligence ad hoc” wrongly implicates all ethnic Chinese working in the United States as potential spies for the Communist Party.”

3. Racial Profiling/Targeting updates

a. Speaker: Gisela Kusakawa – Advancing Justice | AAJC

- [The NAPABA Law Foundation Community Law Fellowship](#)

-The program seeks to develop the public interest law leaders of the future, whether they continue to work in the nonprofit arena or become pro bono advocates in the private bar.

- The fellowship is available to third-year students, recent graduates, or recent judicial clerks or non-public interest fellows with a demonstrated interest in Asian Pacific American issues.

- Candidate and a Host Organization must create a two-year project that focuses on legal issues affecting Asian Pacific Americans. The applications are not open yet, but generally, they are due in December and applicants learn of results in February.

- [Project Scope: The Criminalization of Immigrants and the Impact on the AAPI Community – 2 year project](#)

- As part of her two-year project, Gisela is working on the profiling and adverse policies against Chinese students and professionals based on nationality. She is tackling FBI biased policing, immigration policies, and the fearmongering and rhetoric against Asian students, scientists, and researchers that encourage bias and fosters discrimination and hate against Asian nationals and Asian Americans.
- The experiences of Chinese students and professionals are not in isolation, and Gisela views it in a larger scope that includes other people and color and the need for solidarity. This problem is an extension of the pervasive stereotyping of Asian Americans and immigrants as “perpetual foreigners” and the long history of exclusion, profiling, and bias that they have faced in the U.S. Recently this has translated to the profiling of Asian Americans as spies disloyal to the United States.
- Her fellowship focuses on FOIA requests, legal work, and Hill education advocacy.
- She has been working on the Hill regarding this important issue, and have been submitting comments and testimonies. For example, she submitted comments in response to the request for information on the American research environment by the Office of Science and Technology Policy (OSTP), and met with the Republican and Democrat staffers for the Permanent Subcommittee on Investigations regarding the hearing, “Securing the U.S. Research Enterprise from China’s Talent Recruitment Plans”, which she also submitted testimony on behalf of Advancing Justice | AAJC.
- She has been drafting and will be submitting FOIA requests surrounding Chinese students.
- Additionally, she has been monitoring university responses such as Harvard forming oversight bodies following NIH/FBI investigations into 70+ institutions on IP theft, etc.
- Student Issues: Regarding Chinese students, immigration policies have resulted in decreasing enrollment, border admissibility issues such as ASU students’ denial of entry, and a chilling effect on students overall resulting in them seeking alternatives to Australia and other nations. Some of these immigration policies include shortened visas from five years to one year for Chinese graduate students in certain STEM fields.
 - 01/02 The Economist: The new red scare on American campuses
 - 01/02 The Week: Trump has created a foreign student crisis
 - 11/06 The Harvard Crimson: Harvard Forms New Oversight Bodies After Federal Agency Inquires Into ‘Academic Espionage’
- Future Collaborations
 - Please feel free to reach out to Gisela to discuss and connect on her project for any areas of collaboration.

b. Speaker: Steven Pei – Professor at University of Houston; UCA

i. Closing of Seattle Branch of National Archives:

- 1/13, an advisory panel recommends putting 12 high-value federal properties up for sale including Seattle NARA.
- 1/24, all eight U.S. Senators from AL, WA, OR, ID and eight Representatives from Washington State including Congresswoman Jayapal, wrote to and urged the Office of Management and Budget (OMB) to reject the recommendation of closing the Seattle NARA.
- 1/27, Secretary of State Kim Wyman, who oversees the Washington State Achieves expressed willingness to discuss alternative solutions.
- Attorney General, Bob Ferguson, is considering legal action against the closing of Seattle NARA.

SUGGESTION: Work with Congresswoman Jayapal, partner with native American community to support the request of regional congressional members.

- 01/29 [Solutions emerging to Seattle National Archives debacle](#)
- 01/25 [‘Terrible and disgusting’: Decision to close National Archives at Seattle a blow to tribes, historians in 4 states](#)
- 01/24 [Senator Murray Decries Proposed Closure of Seattle Federal Archive Building](#)
- 01/17 [Officials knew Seattle National Archives facility might close for months without public feedback](#)

ii. Harvard Professor and Related Issues

- Dr. Lieber was arrested for making false representation to DoD of his participation in a WTU-Harvard Joint Nano Key Laboratory and the Thousand Talents program.
- Judge Sets \$1 Million Bail for Lying About China Ties
- Fears created: A year after the Hoover-Asia Society report and the NIH investigation, seventy-one biomedical institutions are now investigating 180 individual cases.
- NIH has found “a substantial compliance issue” in 75% of them.
- The Texas A&M University System has more than 100 were involved with a Chinese talent-recruitment program, even though only five had disclosed their participation.

OBSERVATION: The state of Texas also has a program to provide funding to recruit top talents from outside of Texas. Just a capitalist free market practice. The difference is

Chinese terms and conditions are looser. Therefore, it is up to the applicants to meet their legal and regulation requirements. With funding from Department of Defense and potential direct applications, Lieber's case may be very different from the MD Anderson and some other NIH investigated cases.

- 02/03 Science: [U.S. prosecutor leading China probe explains effort that led to charges against Harvard chemist](#)
- 01/31 Crimson: [Judge Sets \\$1 Million Bail for Chemistry Chair Charged With Lying About China Ties](#)
- 01/30 WSJ: [China's Funding of U.S. Researchers Raises Red Flags](#)
- 01/28 Bloomberg: [Harvard Arrest Ups the U.S. Ante on China as Security Threat](#)
- 01/28 NY Times: [U.S. Accuses Harvard Scientist of Concealing Chinese Funding](#)

iii. NIH related developments

- Moffitt Cancer Center in Florida did not receive any NIH letter, but dismissed six researchers including former president and director of research program. Only one out of the six was of Chinese descent.
- A year after the Hoover-Asia Society report and the NIH investigation, seventy-one biomedical institutions are now investigating 180 individual cases.
- NIH has found "a substantial compliance issue" in 75% of them.

CONCERN: While it's good that the investigation was not limited to researchers of Chinese descent, there are concerns of the escalation of Red Scare.

- 01/24 Science: [Florida center details fired scientists' links to China](#)
- 01/19 Science: [Moffitt Cancer Center details links of fired scientists to Chinese talent programs](#)
- 12/31 Bloomberg: [As China Anxiety Rises in U.S., Fears of New Red Scare Emerge](#)

iv. JASON report and related issues

- The defense bill has authorized the creation of a panel led by White House and a roundtable convened by the academies to address the foreign influence issue.
- In a report to NSF, JASON advisory group concluded "Controlled Unclassified Information (CUI) is ill-suited to the protection of fundamental research areas."
- "The benefits of openness in research and of the inclusion of talented foreign researchers dictate against measures that would wall off particular areas of fundamental research."

SUGGESTION: If the recommendations of the JASON report are adopted, how to

ensure the participation of Asian Americans in the implementation process? Work with AAAS, Committee of Concern Scientists and other similar organizations.

- 12/20 Science: [U.S. takes aim at foreign influence](#)
- 12/11 Nature: [Keep US research open amid threat from China, says elite JASON group](#)
- 12/11/2019: [NSF Releases Fundamental Research Security \(JASON\) Report](#) and related links

Due to time constraints, discussions on items c, d, and e will defer to offline and/or future conference calls.

c. Developments in Florida

- 01/17 South Florida Sun-Sentinel: [The spies among us: More Chinese agents digging up secrets in Florida](#)
- 01/09 Science: [Florida joins U.S. government in probing foreign ties of researchers](#)

d. Developments in Silicon Valley

- 01/21 Financial Times: [US-China tech dispute: suspicion in Silicon Valley](#)
- 10/21/2019 VICE: ['Do Not Discuss the Incident,' Facebook Told Employee Fired After Speaking About Worker Suicide](#)
- 09/24/2019 Digg: [Ex-Facebook Employee Reveals Disturbing Work Culture After Recent Facebook Employee Suicide](#) Video (9:52)

e. Security clearance in Federal Government

- 01/20 Federal News Network: [FBI whistleblower still seeking appeal rights after 2016 law falls short](#)
- 01/17 Federal News Network: [Industry urges ramp-up of insider threat info sharing with security clearance changes on the way](#)

4. Update on Draft Pilot Project Proposal – Frank Wu

Frank commented on (a) Department of Energy prohibits participants from China, Iran and North Korea in National Laboratories at least a year ago, (b) many nations have talent recruitment programs. It is more a policy than a legal issue, (c) working with CAPAC on recommendations, data collection, documentation of cases, victims coming forward and the challenges. On proposal project, there is understanding that AAJC will start as fiscal partner with \$200K start-up funds in first year of 3-year pilot project.

5. Catch-up on all developments: www.apajustice.org

a. [2020 Census Lawsuits](#): Two lawsuits have been filed since the Supreme Court ruled to block the citizenship question last year. A House Oversight Committee hearing was held on January 9, 2020.

b. [Continuing Developments](#): CAPAC convened a briefing session to update the current work on the profiling of Chinese Americans.

6. Upcoming Events

Rita reported that OCA will also hold its convention in Las Vegas in June. A holistic set of policy recommendations balancing concerns and addressing false positives should be ready by late February or early March. She plans to share and discuss in the next conference call.

- a. 03/04 Sakharov Prize presentation to Professor Xiaoxing Xi, "Communicating Science to the Public," Forum on Physics & Society session, American Physical Society, Denver, CO
- b. 04/19 Annual Meeting of Committee of Concerned Scientists, New York, NY
- c. 06/24-27 United Chinese Americans convention, Las Vegas, NV
- d. 06/27-28 National Civic Leadership Forum, Las Vegas, NV

7. Next Call

- a. Next Call: 2020/03/02
- b. Reminder: Post your messages and comments to apajustice@googlegroups.com

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