

APA Justice Conference Call – Monday, 09/14/2020

11:55 am Eastern Time/8:55 am Pacific Time

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Agenda

0. Introduction

- a. [Dr. David Zweig](#), Professor Emeritus, Hong Kong University of Science and Technology
- b. [Peter Zeidenberg](#), Arent Fox, attorney for KU Professor Feng “Franklin” Tao
- c. [S.K. Lo](#), President, Asian American Unity Coalition
- d. [Anthony Ng](#), Executive Director, Civic Leadership USA

The first new speaker was Dr. David Zweig, professor emeritus of the Hong Kong University of Science and Technology. He is also Director of Transnational China Consulting Limited and Vice President of Center on China and Globalization. David is from Canada and has been a China expert for 50 years. He is fluent in Mandarin. David will review the history of China’s talent programs, analyze why they have generated diplomatic discord, and offer policy recommendations for China and the U.S. For its part, the U.S. government has not been transparent about its investigations and provide actual evidence of economic espionage or trade secret theft in its "China Initiative."

The second new speaker was Peter Zeidenberg, defense attorney for Kansas University Franklin Tao. He followed David to discuss the implication and potential impact of the Tao case under the "China Initiative." Peter was also the successful defense attorney for Sherry Chen and Temple University Professor Xiaoxing Xi back in 2015.

The third and fourth new speakers were Dr. S.K. Lo and Anthony Ng. They took a break from the 2020 National Civic Leadership Forum to speak in the meeting about their organizations and the Forum. S.K. is President, Asian American Unity Coalition. Anthony is Executive Director, Civic Leadership USA.

1. CAPAC updates

- a. Speaker: Krystal Ka’ai, Executive Director, CAPAC, invited

Krystal reported continuing interaction with the House Oversight Committee but limited progress with FBI and NIH.

Krystal flagged the reauthorization of the Intelligence Reauthorization Act (IAA), particularly Section 905, which required a one-time report on the best practices to protect privacy, civil liberties, and civil rights of Chinese Americans last year. The report was supposed to be delivered in the summer, but has been delayed to possibly in the Fall partly due to the pandemic. CAPAC is working with HPSCI Chairman Rep. Schiff and SSCI Vice Chair Sen. Warner to make the report annual in the Fiscal Year 2021 IAA.

2. America Challenges China's National Talent Programs

- a. Speaker: Dr. David Zweig, Hong Kong University of Science and Technology

The Thousand Talents Plan (TTP) was created by the Chinese Communist Party (CCP) in 2008 to overcome the brain drain of Chinese talent that has seen many of the best Chinese scholars and researchers take up residency in Canada, the United Kingdom, and particularly the United States. Dr. Zweig reviews the history of China's overseas talent programs, analyzes why they have generated diplomatic discord, and offers policy recommendations for China and the United States. If adopted, such steps will protect collaborative research and publishing.

David raised and expanded on four main points in his presentation:

First, China has experienced a "brain drain" to the extent that 80-90% of its very best talent refuse to return to China full-time, while the benefitting nations including the U.S. and other countries cannot understand China's deep desire to bring home their best.

Second, Li Yuanchao, then head of the organization department of the Chinese Communist Party, set up the Thousand Talent Program (TPP) in 2008 to create an "innovative society" through "reverse migration" of Chinese talent to bring cutting edge technology from the West. It is not to steal U.S. technology. As early as 1996, China began to set up talent recruitment programs, but TPP caught the most attention.

Third, too many Mainland-born Chinese working in the U.S., who are part-time participants in the TTP, are truly abusing access to US research jobs, funding and grants.

Fourth, The U.S. government exaggerates and securitizes this behavior and threatens to decouple U.S. and Chinese scientific collaboration which would hurt the world.

David described 5 causes of the current problem

- CCP used its strategies of mass mobilization, quotas, propaganda, and money in "search for talent."
- David found that transferring "second tier" technology was enough for returnees to succeed back in China back in 2005. Today, the need is to transfer leading technology to get research positions, promotions, and large profits.
- While Li Yuanchao wanted people to return permanently, only 25% returned full-time and the remaining 75% joined on a part-time basis.
- The U.S. government mistrusts China due to cyber theft, military intelligence, IP infringement, and opaque talent programs.
- The Trump administration believes that economic security equates to national security so fear of China's rise securitizes collateral research.

David's research team analyzed the quality of 1,400 curriculum vitae of participants in China's national programs. He found the part-time participants to be clearly better scholars. The beneficiaries are located in the U.S., United Kingdom, and Canada. Co-publications with China are also good for America.

While the FBI mobilizes universities, Congress, NIH, and NSF to investigate and found some "shadow" laboratories in China and some peer reviewers of NSF or NIH grant applications shared information with colleagues in China, David believed that the major transgression is "double

dipping.” **Public evidence shows few examples of outright theft or illegal transfer of technology through TTP.**

David shared the June 2020 NIH findings and discussed FBI’s “1,000 Grains of Sand” hypothesis that encourages “Racial Profiling” with any data or proof. Meanwhile, Andy Kim’s paper show clear evidence that Chinese Americans are profiled and penalized more severely, especially about “pretextual prosecutions” by cutting a deal over a lesser charge when prosecutors can’t prove serious crime.

In conclusion, David suggested that the China government should:

- Publicly recognize their share of responsibility for problem
- End secret contacts with researchers
- Continue reform of scientific environment and fighting cheating, fraud, IPR theft by local scientists and returnees and enforce tough penalties
- Transparency on the replacement of TTP
- End secret payments to Foreign TTP participants
- Publicize all joint labs
- Encourage ethnic Chinese researchers in the US who get Natural Science Foundation of China grants to put it on NSF and NIH applications

David also suggested that the U.S. government should

- Be more transparent on true extent of abuse
- FBI should stop pretextual prosecutions”
- FBI should run more training programs on racial profiling
- Investigate, but surgical strikes only
- People in DC are thinking that NSF and NIH should restrict Chinese participants in national talent programs from applying for grants until China becomes transparent
- Congress should spend more on R&D – compete with China

Finally, David found it important to re-establish bilateral dialogue between the U.S. and China on academic and scientific exchanges, starting with “Track 2” meetings and moving to the ministerial level as soon as some trust is re-established. There is a need for both sides who are willing to try to slow decoupling.

In response to a question, David estimated that \$164 million – the amount of NIH grant money involved in its investigations of mostly Chinese American scientists – was about 2.4% of the annual NIH grant budget.

3. Racial Profiling/Targeting updates

- a. Update on Case of Kansas University Professor Feng “Franklin” Tao**
Speaker: Peter Zeidenberg, Arent Fox, invited

Peter reported that a motion to dismiss was filed. A hearing was set for October 1. In the Tao case, what amounted to incorrectly filing a conflict of interest form with Kansas University was elevated to 10 felony counts.

The government alleges that Professor Tao took a position with the Fuzhou University under the Changjiang Scholar Program, but it was a discussion that was never finalized. It is not a crime to work in China; it is not a crime to work for another university.

The government is using an unprecedented and convoluted legal theory in the Tao case. Peter described it as an epidemic in the Chinese American scientific community now. He reported getting calls from professors across the country almost on a daily basis. Most of them are affiliated with NIH, while the Tao case is associated with NSF and DOE.

Peter described NIH to be on a mission and cited a professor who spent 5 years upon request by and on behalf of his U.S. university to set up a sister campus in Shanghai. He is now being investigated to explain what he was doing in China, put under the microscope, have his grants held up, and have to let his people go from his laboratory.

According to Peter, these are frightening times for Chinese American scientists and persons of Chinese ethnicity.

b. Update on Anti-Racial Profiling Project

Speaker: Gisela Kusakawa, Advancing Justice | Asian American Justice Center (AAJC)

Gisela reported on the imminent launch of the Anti-Racial Profiling Project. The highlighted concern as a civil rights organization is the human impact as Chinese and Asian Americans are become collateral damage to harmful policies and practices. Gisela also highlighted the fear and apprehension created in the community. Over 860 individuals attended the recent Know Your Rights webinar coordinate with Professor Steven Pei and Jeremy at APA Justice and other partners. It is important from the AAJC perspective that people have appropriate resources and access to legal counsel. As part of the project, there will be Know Your Rights fact sheets and resources available specifically for the racial targeting of Chinese American scientists and researchers. AAJC has already been making legal referrals. For those who wish to contribute to the efforts, there is a donation page at <https://secure.donationpay.org/aajc/profiling.php>.

In regard to the Tao case mentioned by Peter, AAJC and the Asian Law Caucus submitted an amicus brief in support of the motion to dismiss and oppose the government increased effort to target Asian American scientists and researchers. While there are security threats, FBI and other agencies should not rely on racial profiling.

Gisela can be contacted at gkusakawa@advancingjustice-aaic.org

c. Mike German on the launch of webinar series about the “China Initiative”

Mike German was invited to speak on this topic. Mike is Fellow at the Brennan Center for Justice at the New York University Law School. Unfortunately, Mike had a schedule conflict and regretted

that he was not able to join the meeting. Jeremy read the following announcement in the meeting:

Advancing Justice | Asian American Justice Center, APA Justice, United Chinese Americans, and the Brennan Center for Justice at NYU Law School are partnering to produce a series of webinars to raise awareness of a growing number of federal investigations and prosecutions targeting Chinese American scientists and Chinese nationals in the U.S. under the umbrella of the “China Initiative.”

The webinars will include speakers from Chinese American and Asian American advocacy organizations, civil rights groups, academia, as well as experts from scientific and legal communities to highlight the burden this pattern of investigations inflicts on targeted individuals and communities. The first webinar is being scheduled for the second half of September. It is designed to provide policy-makers, journalists, attorneys, and community advocates with an overview of the “China Initiative” investigations and the efforts civil rights advocates and the scientific community are making to protect the rights of those harassed and falsely charged under this discriminatory framework. The Franklin Tao case and the “China Initiative” are the catalyst for the first webinar.

NOTE: Asian Pacific Islander American Public Affairs (APAPA) also joined the coalition to produce the webinar series. The inaugural webinar on [The Human and Scientific Costs of the “China Initiative”](#) was held with a capacity audience on September 30.

d. 2020 National Civic Leadership Forum

**Speakers: S.K. Lo, President, Asian American Unity Coalition
Anthony Ng, Executive Director, Civic Leadership USA**

Anthony reported on the 9-day National Civic Leadership Forum under the theme of The Power of We. It brought a coalition of AAPI across the country together with a focus on civic engagement. Half of the track for this year’s forum involved young civic leaders. The forum covered many topics and events, including a day of healing and a fun event featuring four ethnic chefs on Chinese, Indian, and Indonesian foods.

S.K. was called away at the last minute. Anthony proceeded to introduce Civic Leadership USA as an organization formed in Washington D.C. in 2013. Its purpose is to connect and train civic leaders across the country. It serves as a catalyst like a small private foundation to bring our local leaders and politicians into dialogues and build relationships. In addition, there is public service internship program.

According to Anthony, AAUC grew out of a conference in Alaska about 3 years ago. The founding group includes 15 different ethnic organizations. It uses a grass-roots approach to strengthen and support the national agenda.

4. Catch-up on all developments

- [Website: https://www.apajustice.org/](https://www.apajustice.org/)
- [LinkedIn: https://www.linkedin.com/groups/12395028/](https://www.linkedin.com/groups/12395028/)
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5. Next Call

a. Next Call: 2020/10/05

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