

2021/04/05 APA Justice Meeting

APA Justice Meeting – Monday, 2021/04/05
11:55 am Eastern Time/8:55 am Pacific Time

Final Agenda

0. Introduction

- a. [Patrick Toomey](#), Senior Staff Attorney, National Security Project, ACLU
- b. [Alex Nowrasteh](#), Director, Immigration Studies, Center for Global Liberty and Prosperity, Cato Institute
- c. [Patrick Eddington](#), Research Fellow, Homeland Security and Civil Liberties, Cato Institute
- d. 2021/03/22 Scientific American opinion: [Prosecuting Asian-American Scientists for Espionage Is a Shortsighted Strategy](#) (new)
- e. 2021/03/24 Inside Higher Ed opinion: [Asian Americans, Recognized at Last](#) (new)
- f. 2021/03/26 Twitter: [Lee Wong - "Is this patriot enough?"](#) (new)
- g. 2021/03/29 AAUC: [Episode 3: Racial Profiling: A threat to our Collective American Dream](#) (new)

We warmly welcomed Patrick Toomey, Alex Nowrasteh, and Patrick Eddington to the meeting. Alex took time off from his new paternal duties to join the meeting.

1. CAPAC updates

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

Krystal was not able to join the meeting.

2. The American Civil Liberties Union (ACLU)

- a. Speaker: Patrick Toomey, Senior Staff Attorney, ACLU
 - 2020/12/04 ACLU: [Brief of Amici Curiae ACLU & ACLU of Northern California in Support of U.S. WeChat Users Alliance, et al](#)
 - 2020/04/27 ACLU: [ACLU Calls on Elected Officials to Denounce Rise of Racist Attacks on Asian Americans Amid Covid-19](#)
 - 2020/03/17 ACLU/AAJC: [FOIA Requests to FBI/NIH/NFS/DOE/DOC](#)
 - 2017/10/31 ACLU: [ACLU Joins Professor's Lawsuit Against FBI for Baseless Arrest and Illegal Spying](#)

[ACLU](#) is a nonprofit organization founded in 1920 "to defend and preserve the individual rights and liberties guaranteed to every person in this country by the Constitution and laws of the United States." It has fought on many fronts including equality and discrimination, free speech, privacy, and other issues spanning the waterfront of civil rights and civil liberties.

ACLU has a national office where Patrick works alongside several hundred other staff. ACLU also has affiliates in every one of the 50 states around the country. The national office works in close coordination with those affiliates. But the affiliates are themselves formally separate, and they direct their own work, priorities, and positions. Within the national office, there are separate departments that work together to advance legal, political, and advocacy strategies in support of the ACLU mission.

Patrick is an attorney in the National Security Project within the ACLU legal department. There is also a Racial Justice Program, an Immigrants Rights Project, a Speech Privacy and Technology project, as well as many others. In addition to those legal department projects, there is a National Political Advocacy Department, which does a lot of the federal lobbying work, interacting with members of Congress and members of the executive branch to steer policies and interface with the state affiliates to address issues at the state and local level.

Most of Patrick's work and discussion are focused on the legal efforts and litigation. He also works with others on issues related to equality and justice for Asian Americans including combating discrimination against Chinese American scientists. Their specific recent activities include, but are not limited to:

Racial Profiling and Discrimination. The government has justified the investigations and prosecutions of Chinese American scientists on national security grounds. But ACLU believes many of these investigations have been predicated on profiling and discrimination that has subjected scientists and researchers of Chinese or Asian descent to wrongful scrutiny, investigation, and even prosecution by the government.

About 20 years ago, ACLU filed an amicus brief in Dr. Wen Ho Lee's case when he sought to have his prosecution dismissed on selective prosecution grounds. Dr. Lee argued that the prosecution was motivated by discrimination and bias, rather than by the government's broader law enforcement or counter espionage efforts. Dr. Lee filed a motion for discovery in his prosecution, which ACLU supported with an amicus brief:

- 2000/08/11 ACLU Press Release: Civil Rights Groups Support Dr. Wen Ho Lee Legal Defense; Seek Information on Anti-Asian Bias in Scientist' Prosecution <https://bit.ly/39NSDXb>.

Today, ACLU plays a variety of different roles in connection with similar investigations and prosecutions. ACLU will help connect individuals with defense attorneys when possible and, especially in the national security context, it also will advise defense attorneys on specialized legal issues including surveillance issues. The government has used some of its most powerful spying tools, including surveillance under the Foreign Intelligence Surveillance Act (FISA), to pursue Chinese American scientists like Professor Xiaoxing Xi or others in its investigations. (Read more about FISA and its abuse at <https://www.apajustice.org/fisa.html>).

The ACLU also looks for opportunities to file amicus briefs on issues affecting the rights of many people or arising across multiple cases. And in a smaller number of cases, ACLU will get more actively involved, depending on resources, and join the defense team as specialized co-counsel.

Lawsuit on behalf of Professor Xiaoxing Xi and his Family. Today, similar efforts are involved in the ACLU's work on behalf of Professor Xiaoxing Xi and his family in their lawsuit: <https://bit.ly/2NN5GA1>. ACLU is co-counsel along with the civil rights firm Kairys, Rudovsky, Messing, Feinberg & Lin LLP in Philadelphia (<https://bit.ly/3fE4gDR>).

This past Thursday, the district court dismissed nearly all of the claims brought by Professor Xi and his family in their civil case. The decision is an incredible disappointment for the Xi family and us, especially since it comes after nearly three years of awaiting a ruling.

A brief overview of the decision: the court dismissed the claims against the FBI agent under the so-called the Bivens doctrine, which permits individuals in certain circumstances to get damages for constitutional violations from federal government agents. It also dismissed damages claims that the family had brought against the United States government under what is called the Federal Tort Claims Act.

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. These surveillance tools are used to conduct warrantless surveillance of people overseas but regularly sweep up vast amounts of Americans' communications, especially immigrants or others who exchange internet messages, emails, or chats with family, friends, or business contacts overseas. The claim challenging this warrantless surveillance under the Fourth Amendment is still pending, and we are waiting for a decision from the court.

The litigation team and the Xi family are still analyzing the decision. The current plan is to challenge the ruling and to appeal. We plan to fight on. You should expect to hear more. On April 2, 2021, ACLU issued the following public blog post and press statement:

- 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>

FOIA Requests. ACLU and AAJC filed FOIA requests (<https://bit.ly/2XamaE4>) in March 2020 to obtain information about how the Trump administration has approached the "China Initiative" and the ways in which different agencies within the government have been involved in efforts to scrutinize scientists of Asian descent or Chinese descent working here in the United States. The FOIA request sought, among other things, records about the "China Initiative" that the FBI shared with the Senate Subcommittee on Investigations. To date, ACLU and AAJC have not received any significant information from the agencies that are subject to that request. FBI provided an inadequate response and rejected the request. We are still waiting for substantive responses from the National Science Foundation, the National Institute of Health, and other agencies that have been at the heart of efforts to pressure institutions into scrutinizing their researchers and scientists.

Amicus Brief in WeChat Case. The WeChat case has been stayed given the change in administrations. The plaintiffs in that case prevailed in the district court, at least on their preliminary injunction. ACLU filed its brief in the Ninth Circuit in support of the plaintiffs challenging the WeChat ban, arguing that the First Amendment required a high level of scrutiny before the government banned an app that millions of people in the US use to communicate with family and friends, especially members of the Chinese American community.

Know Your Rights. ACLU publishes Know Your Rights materials that are available on its website (<http://bit.ly/2tTA3vf>) for people who are approached by immigration agents or FBI agents. Those materials are available in multiple languages including Chinese. It's great that AAJC and APA Justice have created a new organizational structure to connect people in need with defense attorneys who can advise them about their individual cases. ACLU has done something similar in the past, though on a more informal basis—helping to put people in touch with defense specialists when possible in individual cases.

Advocacy Against Anti-Asian Hate and Violence. ACLU has been doing a great deal of advocacy around the broader issues of Asian American hate and violence. A link was included in the meeting agenda, and there have been more in the interim, calling on public officials to condemn actions of violence, discrimination, and bigotry. ACLU will continue to speak out as part of these efforts.

Patrick welcomes connecting with interested parties and responding to any questions after the meeting.

3. Cato Institute

- a. Speaker: Alex Nowrasteh, Director, Immigration Studies, Cato Institute
 - 2021/02/20 The National Interest: [How Much of a Threat is Espionage from Chinese Immigrants?](#)
 - 2021/02/09 Cato Institute: [Espionage, Espionage-Related Crimes, and Immigration: A Risk](#)

[Analysis, 1990–2019](#)

- b. Speaker: Patrick Eddington, Research Fellow, Cato Institute
 - FOIA Requests

[The Cato Institute](#) is a public policy research organization — a think tank — dedicated to the principles of individual liberty, limited government, free markets, and peace. Its scholars and analysts conduct independent, nonpartisan research on a wide range of policy issues. It was founded in 1977.

One of the Cato Institute's major research topics is immigration: "Most Americans are immigrants or descended from immigrants who sought opportunity and freedom on our shores. They and their children worked hard, assimilated, and added to our nation's prosperity. Immigrants today continue to become Americans and, in the process, make the United States a wealthier, freer, and safer country." These are undoubtedly also vision and values shared by Asian Americans although they have faced continuing stereotype and discrimination of being "perpetual foreigners."

Alex Nowrasteh 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 analyzing 30 years of data on Espionage, Espionage-Related Crimes, and Immigration (<http://bit.ly/3teg5nM>) while

the federal government has not provided any data or meaningful analyses to justify its allegations and publicity campaigns.

Alex credited Jeremy Wu's database about economic espionage in the U.S. as a good starting point to his intense research for eight months.

Summary

There is a growing geopolitical conflict between the United States and the People's Republic of China. One manifestation of this is an argument from many American policymakers that there is a need to reduce immigration from China, specifically in response to fears of Chinese espionage.

Oftentimes, they have anecdotes to support their worries, some of them scary sounding anecdotes, but rational and efficient public policy cannot be based on anecdotes. For any large population of people, there will be some crummy individuals and criminals, but that does not infer on the entire population, nor does it tell us how frequently they occur. It does not tell us anything about the damage.

To try to formulate a rational and efficient public policy, we need to look at data, we need to have rational models of human behavior. And we need to apply a cost-benefit framework to see if at least some of the basic claims of people who are worried about Chinese espionage can even make a rational case for going through with the policies that they want.

We need to know how frequently espionage occurs, how damaging it is, when it occurs, and whether extreme policy measures such as restricting immigration from China would pass a cost-benefit test.

As a trained economist, Alex found that the frequency of espionage is small. It is infrequent. It is not very damaging when it occurs. and reducing immigration and response would not even come anywhere close to passing a cost-benefit test. The cost of cutting immigration from China is several magnitudes higher than the small benefits would be in terms of reducing espionage.

Definitions and Background

There are two categories of espionage - state espionage and economic espionage. State espionage is when the government is the victim. When government secrets are stolen, or other government laws are violated, things like arms, export control laws, etc. Economic Espionage is primarily when American firms or individuals are the victims, usually by stealing patents or other economic secrets that would reduce the profits of American firms.

Unlike the Cold War with the Soviet Union, where it was mostly a focus on state espionage and state secrets, a lot of the focus today with China is on economic espionage or economic secrets.

From 1990 to 2019, Alex identified a total of 1,485 people who were caught and convicted of committing espionage or espionage-related crimes. Many of the proponents of the theory that Chinese

espionage is a very serious threat include violations that are not in most cases espionage but are kind of related to it. This is why Alex uses the term espionage-related crimes.

Major Findings

Alex found that the threat is overstated.

Of the total of 1,485 individuals, 184, or 12.4%, were born in China who are in the United States. That is one out of every 404,000 per year who are caught and convicted of espionage or an espionage-related offense. Individuals who are born in China are over-represented as a percent of the population when it comes to violating these espionage and espionage-related offenses. They include tourists, temporary travelers, and others who undoubtedly just came here to spy. However, for those who are born in the U.S. of Chinese ethnicity, they are underrepresented as spies in the United States.

Out of a total of 192 convicted spies of Chinese ethnicity, five of them, or 2.6%, were native-born Americans. Of the 276 people convicted of spying for China during that time, 62% of them are born in China, 24% born in the U.S., and the rest are just from around the world, different countries, countries as varied as Nepal, Pakistan, Iran, South Korea, Canada - individuals who just saw an opportunity and took it no matter where they were from.

That is the frequency of how many spies there are.

In terms of damage, it seems to be small. About two thirds of the spies stole economic secrets, or intellectual property that are not in any way related to national security, no matter how far you stretch it. Alex cited several examples including a formula for the coating inside Coke cans, operating Chinese locomotives in the U.S., involvement in China's talent programs, husband and wife team in pediatric cancer research, and a researcher on obesity and metabolism issues for visa fraud - not informing immigration officials that he was a medical technician in the People's Liberation Army.

The geopolitical conflict with China is quite different from that with the Soviet Union. But the fat gap is not the new missile gap.

Of the 30 individuals who have been prosecuted by the end of 2019 via DOJ's "China initiative," 21 of them were born in China, four in Taiwan, one in Hong Kong, and four born in the United States. About 40% of the prosecutions were for theft of trade secrets or other espionage issues. Another 10 were for visa fraud, fraud, theft, bribery, failure to disclose conflicts of interests on federal funds and filing false tax returns.

DOJ's "China initiative" is supposed to be uncovering a vast amount of Chinese espionage that is committing an "economic blitzkrieg," in the words of former Attorney General William Barr. Alex tried to identify these individuals, but the evidence is scant. Alex could go on and on about these examples, but they are small. They have almost nothing to do with national security.

In addition, of the 46 firms that were victims of economic espionage committed by Chinese spies on US soil, 16 of them were the victims more than once, meaning that they decided that their expected espionage-related costs of hiring Chinese workers were lower than the benefits of hiring them.

According to Alex's cost-benefit analysis, if we were to stop all Chinese immigration, which some people want to do to combat espionage, a moratorium on Chinese immigration and a revocation of existing visas would have to prevent 4,875 Chinese spies engaged in state espionage, or 195% engaged in economic espionage every year, to break even with the benefits of stopping it. That would be 80 times as many Chinese spies who engage in state espionage every year, that have been identified over the last 30 years combined, or 3.5. times as many Chinese spies engaged in economic espionage and trade secrets every year, over the last 30 years to break even.

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 followed Alex. Pat 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. His legislative portfolio included the full range of security-related issues, with an emphasis on intelligence policy reform. Prior to that, Pat was also an analyst with the CIA. He is also Adjunct Professor at Georgetown University's Center for Security Studies.

Interest in "China Initiative"

Pat got motivated to look at this issue because of a presentation that then-Director of the National Counterterrorism and Security Center William Evanina gave in the "China Initiative" Conference at the Center for Strategic and International Studies back in February 2020 <https://bit.ly/3cU1EzZ>.

William Evanina put up a slideshow, in which he claimed the same kind of espionage threat in the terms described by Alex. According to the IP commission report, the theft of trade secrets, counterfeit goods and pirated software cost our nation between 225 and 600 billion a year. That is a very broad statement. It does not take into account in terms of what they are saying here exactly or who is responsible for the theft. There is a lot of IP theft taking place, but the Chinese Communist Party itself is not responsible for all of it by any stretch of the imagination. There is no question that there is a dedicated effort on the part of the CCP 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 so called "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, in Pat's view, certainly mount to a racial profiling program with respect to Chinese researchers, scientists and the like.

Whole-of-Government FOIA Requests

As a result, Pat decided to put together a whole-of-government FOIA program. They include his former employer, CIA; the Defense Intelligence Agency; the Office of the Director of National Intelligence; State Department; Department of Justice; the FBI; and within the DOJ, the Executive Office of US Attorneys, the National Security Division, the Criminal Division, and policy-related documents at the Deputy Attorney General level. The other executive branch agencies including the Department of Human and Human Services headquarters office, as well as the Food and Drug Administration and the National Institute of Health, the Department of Education, Department of Energy, Transportation Security Agency, the Department of Commerce, the Treasury Department, the Internal Revenue Service, and the U.S. Trade Representative.

Pat also made inquiries to the National Endowment for the Humanities to try to find out if they are targeting Chinese Americans involved in the arts.

The [FinCEN](#) unit at Treasury claims that they do not have any documents, but Pat does not find it credible & believes that is a what we call it FOIA 552C response--where they actually have some actual investigations underway. They simply do not want to admit it.

The Federal Communications Commission is also claiming they do not have responsive documents. Given everything surrounding Huawei and 5G, Pat does not buy that response either.

CIA gave a “we-refused-to-confirm or deny” response (what is known as a [Glomar](#) response) to Pat. It is fair to say that the CIA probably has an enormous amount of data on this issue. We are not likely to see it unless we can convince the folks in Congress to really lean on the agency to produce documents or at least make some things public.

Some of the FOIA requests are on appeal such as the FBI and the Department of Education.

Pat has received some responses such as the US trade Representative, which gave him about 750 pages of material, most of which essentially from documents that were sent over by the National Association of Manufacturers or related lobbyists and the Congressional Research Service reports and some other items designed to highlight the IP and trade related implications of the “China Initiative” and what is happening there in terms of alleged Chinese espionage and IP theft.

One component that did get back to Pat was FDA. There are only four documents so far from the FDA. They are fairly redacted with respect to privacy and some law enforcement related items. What Pat can disclose is that FDA has basically been going after folks with a China connection since at least 2012. Prior to the “China Initiative,” the US Attorney's Office in Baltimore declined to prosecute, which Pat believes is because a lot of these cases were extremely questionable. They probably would not have survived scrutiny, particularly if they had to go through a discovery process during the actual prosecution itself.

Pat is still working his way through those documents. He is waiting for additional materials from other agencies.

TSA's "No Fly List" and How The Community Can Help

There is one way the Chinese American community can help Pat in particular reference to Transportation Security Agency's (TSA's) Silent Partner and Quiet Skies Programs. The Silent Partner program enables TSA to identify passengers for enhanced screening on international flights bound for the United States. The Quiet Skies program allows TSA to use a subset of the Silent Partner 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.

On April 7, 2021, two days after the APA Justice meeting, a Michigan man filed a lawsuit alleging government officials erroneously placed him on the "No Fly List" after he refused to become an FBI informant (<https://cnn.it/3sZL4nZ>). Earlier on December 10, 2021, the Supreme Court ruled that three Muslim men may seek monetary damages from the government agents they say placed them on a no-fly list because they refused to become FBI informants (<https://wapo.st/31Wpsg9>). These lawsuits started as early as 2014 when at least 700,000 people were reportedly put on the watch list.

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 "Quiet Skies or Silent Partner" lists without their knowledge. This is a real-world impact on people's ability to conduct business, academic, and other activities.

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

4. Anti-Racial Profiling Project - Asian Americans Advancing Justice | AAJC

- a. Speaker: Gisela Kusakawa, NAPABA Law Foundation Community Law Fellow
 - Administrative advocacy presentation
- b. Speaker: Vivin Qiang, Program Coordinator
 - Petition & letter writing campaign to stop the racial profiling of Asian Americans and Asian immigrants and end the Department of Justice's "China Initiative"
 - * See the Petition [here](#)
 - * Send a letter to your member of Congress [here](#)
 - Watch the latest webinar Federal Grant Applications in the Era of the "China Initiative:" How to Avoid trouble [here](#)
 - Legal Referral Service: Contact **202-935-6014** using the Signal app for attorney referrals. AAJC staff can assist you in Mandarin Chinese and English.

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

Gisela Kusakawa commented that the profiling of Asian Americans and immigrant communities is not an isolated problem. We have seen a rise in hate and violence against Asian American communities. There have been over 4,000 anti-Asian hate crimes and hate incidents recorded since February 2020 from web-based self-reporting tools hosted by Asian Pacific Policy & Planning Council, Chinese for Affirmative Action, Asian Americans Advancing Justice, OCA, SALT, and other organizations. Just at the beginning of this year, we have seen violent and deadly attacks on vulnerable elderly Asian Americans, including the murder of an 84-year-old Thai man who was attacked while walking in San Francisco and later died from his injuries. There have also been several attacks targeting Asian American seniors in Oakland's Chinatown, as well as a knife attack on a 61-year-old Filipino man in New York City, who was slashed across the face on the subway. The pervasive racial bias and targeting of Asian Americans is not new, but a continuing reality that has been fueled in recent years by a growing xenophobic and racist backlash against immigrants. This racism has manifested itself at many points throughout U.S. history, including the scapegoating and violence directed against the Arab, Middle Eastern, Muslim, and South Asian communities after 9/11, and the current attacks on our communities and the racial profiling of Asian American and Asian immigrant scientists, researchers, and scholars. Xenophobic, anti-immigrant, and racist rhetoric used by former President Trump and other elected officials fueled this resurgent xenophobia. Former President Trump and other elected officials blamed China for COVID-19, and called it the "Chinese virus," "Wuhan virus," "kung flu," and "China plague." Public health experts have advised that language that stigmatizes communities must not be used. We see our communities attacked on multiple sides and must be vigilant and active in our policy and advocacy efforts including support letters to universities, amicus briefs, Hill advocacy, and administrative advocacy efforts.

Amicus Briefs 101: An amicus brief is a "friend of the court" document that provides additional context to the case. We are able to provide a civil rights and Asian American perspective to the courts outlining the impact this court decision could have on the Asian American community. We want folks who may be interested in this to keep your attorneys in the loop of your interest, so that you are aware of the deadlines for your respective case as that has been an issue that we have seen. Please feel free to reach out to Gisela Kusakawa at gkusakawa@advancingjustice-aaajc.org if this is of interest, and she would be happy to meet with you and your attorney.

Other advocacy opportunities include meeting with Congressional offices and federal agencies to educate policymakers and government officials. This is something that we know policymakers and government officials are very much interested in.

Youth Leadership Summit (YLS): Advancing Justice | AAJC is holding a Youth Leadership Summit which is a multi-day leadership development program for high-achieving college students from a variety of disciplines who are dedicated to addressing. They will be meeting as constituents with Congressional and Senate members and staff to advocate on issues impacting Asian American and Pacific Islander communities including racial profiling.

NIH Unite Initiative: NIH UNITE Initiative was established to identify and address structural racism within the NIH-supported and the greater scientific community. They issued a notice for a Request for Information (RFI) inviting feedback on the approaches NIH can take to advance racial equity, diversity, and inclusion within all facets of the biomedical research workforce. AAJC will be providing comment

templates this week and encourage organizations to use this template to submit their own comments by the end of this week or to sign onto our comment in support.

Gisela presented on administrative advocacy which encompasses a variety of positions on how we influence the formation and an application of rules, regulations, agency policies and executive orders.

If you have any questions on these advocacy opportunities, please feel free to reach out to Gisela Kusakawa at gakusakawa@advancingjustice-aaajc.org.

Vivin Qiang reported that AAJC worked directly with impacted persons on a petition to President Biden (<http://bit.ly/EndChinaInitiative>) and a letter to your members of Congress (<http://bit.ly/EndChinaInitiative-Letter>) to call for an end to the racial profiling of Asian American and Asian immigrants and the “China Initiative.” The campaign was launched about three weeks ago, AAJC has received nearly 30,000 individual sign-ons to the petition to President Biden and over 580 letters to members of Congress.

The petition was finalized on April 9 and sent to President Biden. Please spread the word and send a letter to Congressional members if you have not already done so.

5. Fourth Webinar in a Series

- a. Speaker: Mike German, Fellow, Brennan Center for Justice
 - APA Justice: [Webinar Series](#)
 - 2021/02/24 Third Webinar: [Building Coalition Against “China Initiative” Discrimination](#) (1:16:13)
 - 2020/12/02 Second Webinar: [Policy Needs for U.S. Science and Scientists](#) (1:13:35)
 - 2020/09/30 First Webinar: [The Human and Scientific Costs of The "China Initiative"](#) (1:00:15)

Since September last year, the Brennan Center for Justice at NYU Law School has been working with Asian Americans Advancing Justice | AAJC, APA Justice, Asian Pacific Islander American Public Affairs Association (APAPA), and United Chinese Americans (UCA) to produce a series of webinars to raise awareness of a growing number of federal investigations and prosecutions targeting Chinese Americans, Chinese immigrants, and Chinese nationals in the U.S. particularly scientists and researchers under the umbrella of the “China Initiative.”

Mike reported that three webinars have completed. They have received quite a bit of attention and positive attention. The fourth webinar 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.

The date/time for the fourth webinar is set for April 28, starting at 8:00 pm ET. Notification with all the panelists will be sent in the coming week.

6. Status of Call for Congressional Hearing

- a. Speaker: Senator Susan Lee, Maryland Senate Majority Whip
 - 2021/02/01 [Scientific and civil rights leaders and organizations request House hearings to address racial profiling and investigations of scientists and scholars of Chinese and Asian descent](#)

- 2021/03/18 [Maryland Senate President Bill Ferguson and Senator Susan Lee Speak on Standing Up Against the Surge of Hate Crimes and Violence Against Asian Americans and Pacific Islanders \(video 6:39\)](#)

On February 1, 2021, Maryland State Senator Susan Lee and Terry Lierman provided to US Representative Jamie Raskin, Chair of the House Subcommittee on Civil Rights and Civil Liberties, a letter signed by an alliance of prominent scientific, civil rights, and political leaders and organizations, requesting a House Congressional Hearing to address the racial profiling of scientists and scholars of Chinese and Asian descent. Representative Raskin is a former Maryland State Senator and served alongside Maryland State Senator Lee. As the Maryland legislative session is coming to a conclusion by the week of April 12th, the Maryland General Assembly is busy getting bills passed by both chambers. We thank Senator Lee for taking time to give an update.

Senator Lee reported that between the time when Congressman Raskin lost his son Tommy, the January 6th Insurrection of the US Capitol, the People's House, by extremists and white supremacists, impeachment trial, the debate on the Covid-19 Relief bill, Congressman Raskin and his Congressional colleagues have had a lot on their plate during one of the most challenging and trying times in the history of our nation. Senator Lee and Terry Lierman are now working with the House Oversight Committee in their efforts to reach out to some of the scientists and those impacted. The Congress is now in recess and likely to return the week of April 12th. They are hopeful and should be able to provide an update by the end of the month. They believe a hearing will provide an opportunity to shine light on possible unfair and discriminatory policies or practices and civil rights violations being employed by those agencies and institutions and take immediate action to ensure there is fairness, transparency, and accountability.

7. Responses to A Question Raised During Meeting

A question was raised in the meeting on whether attention has been paid to institutions and universities that have suspended or fired their faculty members as soon as NIH or other federal agencies started their investigations, but frequently without due process.

Responses in the meeting include:

- Many of the speakers have heard similar concerns. It is a case-by-case situation and depends on the universities.
- It is first and foremost for those individuals to have immediate and appropriate support, along with their attorneys.
- Groups in the meeting offer impacted individuals to contact them directly, connect individuals with congressional members to share their termination or similar stories, and help to evaluate and provide perspectives on impact on communities and Asian professors across the country.
- In addition to firings, institutions such as the MD Anderson Cancer Center put researchers on administrative leave, take grants and responsibilities away from the researchers, and essentially force them to resign or retire while they can still have employment opportunities elsewhere.

- The more these cases can be catalogued and put together, even with a level of privacy and confidentiality, the more powerful it would be to go to Chairman Raskin, for example, so that he can be in a position to begin knocking on the doors of various federal agencies and departments who may have been involved.
- The firings of Chinese American scientists have not been based on facts and evidence of real espionage. The fact that they are not told everything show how ludicrous and overblown this threat is. The institutions need to show their work.
- Use the discovery process to get as much data and information as possibly can.
- We need to have a set of best practices for private institutions to ensure that they are conducting these investigations in a way that is fair and is not replicating the discrimination or profiling that may be inherent in the FBI or NIH processes.
- The information would serve as a way of pushing back, ensuring that anyone who is going to be subject to administrative or employment action is receiving a fair process.
- A group effort is needed to get the word out and have institutions that are applying a fair practice and sharing their processes with other institutions that may be submitting to whatever the government agencies are demanding of them rather than scrutinizing those requests.
- Specialty societies that represent academics need to come together, weigh in, and help compile these stories.
- There is a cold war mentality. Going back in history, Qian Xuesen was cited as an example. He was a brilliant rocket scientist but was accused of being a communist without evidence. He lost his security clearance, was under scrutiny for five years, and had no employment opportunity in the U.S. He returned to China where he built their missile program from scratch. This entire episode is so self-defeating from the American national security perspective.
- A letter was signed by a set of university presidents several years ago to publicly push back. MIT's actions in the recent Gang Chen case have been helpful to provide a strong counterexample for some other institutions.
- Organizing the entities which depend on government funding streams to see it from the perspective of their researchers and scientists is very important.

8. Catch-up on all developments

- YouTube: <https://www.youtube.com/channel/UCQtaQ9Zq8mNI26omx9lwO-A>
- Twitter: @apa_justice https://twitter.com/apa_justice
- Website: <https://www.apajustice.org/>
- LinkedIn: <https://www.linkedin.com/groups/12395028/>
- Facebook: <https://www.facebook.com/groups/386238778398753/>

9. Next Call

- a. Next Call: 2021/05/03

May is Asian American and Pacific Islander Heritage Month!

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