

2021/06/07 APA Justice Meeting

APA Justice Meeting – Monday, 2021/06/07
11:55 am Eastern Time/8:55 am Pacific Time

Final Agenda

0. Introduction

- a. Christina Lu, Director, [The Yellow Whistle Project](#)
- b. [Clay Zhu](#), Esq., Co-Founder, [Chinese American Legal Defense Alliance \(CALDA\)](#) 华美维权

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1. White House Initiative on Asian Americans, Native Hawaiians, and Pacific Islanders

- a. Invited speaker: Krystal Ka'ai. Incoming Executive Director, [White House Initiative on Asian Americans, Native Hawaiians, and Pacific Islanders \(WHIAANHPI\)](#)

on May 28, 2021, President Biden re-established the White House Initiative on Asian Americans, Native Hawaiians, and Pacific Islanders (WHIAANHPI). Krystal Ka'ai has been selected to serve as Executive Director of the Initiative. Krystal has served as the Executive Director of the Congressional Asian Pacific American Caucus (CAPAC) since 2013. She has been providing timely updates to the APA Justice Task Force since its creation in 2015. As she transitions to her new position, we congratulate Krysta and wish her the best as she will be an important part of the third pillar at the White House to address Asian Pacific American issues and interests.

2. The Yellow Whistle Campaign

- a. Speaker: Christina Lu, Director, [The Yellow Whistle Project](#)
 - APA Justice: The Yellow Whistle Project: <https://bit.ly/2RDZMmB>
 - 2021/05/31: Solidarity Against Hate Rally in DC: <https://bit.ly/3vNsf8M>
 - 2021/05/30 AAUC Podcast: [Unite and Speak Out Against Hate in defending our collective American Dream](#)

Christina Lu is Director of the Yellow Whistle Project. She joined the campaign exactly a month ago. The Yellow Whistle Project was launched on April 19, National Patriots Day, in response to the increase in anti-Asian hate and violence.

May was the first full month as a campaign. It was a particularly successful launch with 100,000 whistles already distributed. And another 100,000 have been allocated to the regional hubs for distribution.

May was also the Asian American Pacific Islander Heritage Month. Christina and the Yellow Whistle Team (TYW Team) were very busy participating in many anti-Asian hate rallies and events taking place across the entire United States. Christina spoke in both the Unity Against

Hate rally on May 15 and the Solidarity Against Hate rally on May 31 in Washington DC. Both rallies held moments of whistleblowing, which is particularly impactful, and TYW Team has received photos and videos and press coverage of the yellow whistles at those and other rallies.

Since the launch of the campaign, TYW Team has established regional hubs to streamline the overwhelming whistle requests and overall distribution. There are hubs in New York, Washington DC, Texas, Ohio, the West Coast, including LA and San Francisco areas. Christina is open to other regional hub partners in case any organizations would like to get involved, as well as general outreach partners.

There are over 100 general outreach partners that have distributed yellow whistles at local events, senior centers, food grab-and-go programs. Christina and TYW Team are very interested in continuing to spread the word and hopefully receive more outreach partnerships.

Demand has been so strong so the TYW Team have already ordered the second batch of 100,000 whistles and those have all been allocated for they will be delivered this week and next week. Going hand in hand is a handful of local, regional, press coverage.

On May 31, TYW Team received a nice headline, a full page in the Philadelphia Inquirer. And this morning. Agnes Hsu-Tang, co-founder of the Yellow Whistle Project, was speaking at an interview at Fox 29 Philadelphia.

In moving forward, TYW Team will continue to distribute whistles across the country. The mission and the message about the yellow whistle will be highlighted. Christina is working on an event with the Chinese American Policy Council in New York City on June 24. Timeline for the event is also important as Christina noted that the murder of Vincent Chin occurred on June 23 some 39 years ago.

There are other potential events in the pipeline. As soon as they are finalized and firmed up. Christina will share them with its network of partners and APA justice for further dissemination.

3. Chinese American Legal Defense Fund Alliance

a. Speaker: Clay Zhu, Esq., Co-Founder, CALDA

Clay Zhu is a business lawyer based in the San Francisco Bay Area. He has been practicing law for more than 20 years. He is the President of a nonprofit organization called the Chinese American Legal Defense Alliance or CALDA, whose primary mission is to fight against racial discrimination through litigation on behalf of the Chinese American communities.

CALDA was formed about two months ago in the wake of the Atlanta shooting. But Clay's involvement in the racial discrimination issues started last August, when the former President issued an executive order to ban WeChat in the US. In Clay's view, WeChat is probably the most important app for messaging and social media for Chinese Americans in the U.S. Clay personally spends 3-4 hours a day on WeChat with his friends, families, and clients. The ban

would definitely affect everybody, including himself, so five Chinese American lawyers, including Clay, started an organization and a lawsuit against the ban.

The five lawyers believed the ban violated Chinese Americans' freedom of speech. It was also racially motivated. In about eight weeks, they raised more than \$1 million and successfully obtained a preliminary injunction against the executive order.

The case is now suspended because the new administration will take time to review the former president's policies. Clay's hope is that President Biden will eventually withdraw the executive order so that it can have complete closure in the coming weeks.

When the lawyers achieved the initial success, Clay started talking to his Chinese American lawyer friends about what to do next. They all agreed that this is a challenging time for the Chinese Americans, and they should build on the momentum to fight against broader discrimination against all Chinese Americans.

When the Atlanta shooting happened, they decided not to wait anymore and started forming this new organization called CALDA. They looked through the landscape of organizations working on discrimination issues on behalf of Asian Americans, but they did not find an organization that would provide direct legal representation on behalf of the victims of hate crime or racial discrimination. So they think CALDA would fill the void here. It will focus on litigation, because they are lawyers and that is what they are good at. CALDA wants to create favorable court precedents to send messages to the entire society.

Clay personally thinks the worst form of discrimination is the one sponsored by the government and the "China initiative" is such a case. The racial profiling is obvious. And the dissemination is becoming systematic against Chinese American professors and academics.

There is a great chilling effect in the Chinese American communities that the Chinese Americans are becoming the scapegoat of the geopolitical war between the US and China. Clay fears that the Chinese Americans including himself, his family, and his friends someday could be facing the possibility of being rounded up and sent into internment camps. In Clay's opinion, we need to work on multiple fronts and litigation should be one of the important avenue to send a message, to speak out and stand up.

CALDA is deliberating on multiple areas on what should be the primary focus. The CALDA Board recently met and resolved to start lawsuits on the "China Initiative." In discussions with APA Justice and others, one of the key strategies is trying to get data and information from the government.

There are about a dozen cases right now against Chinese American professors under the "China Initiative." It would be difficult to defend the individual defendants in individual cases because the charges are basically technical violations, failing to disclose information in grant application forms or tax forms.

In Clay's view, the way to turn the tide and to change the narrative that those Chinese American professors are somehow spies for China's government is to get the full picture on who are being

investigated and how many Chinese American professors have been targeted. There is a strong case to be made, but right now we do not have such data from the government agencies. There are about two dozen agencies involved in this initiative – DOJ, FBI, DOE, DOD, NIH, etc. Clay believes that friendly organizations in the room have already started some freedom of information requests. One approach is to actually sue the government and to force the government to disclose the entire data set. There is a case to be made here because this is definitely a racial profiling and racially motivated program.

Chinese Americans belong to this country just like everybody else, and we should not be targeted. Just because somehow we are involved in some China connected research projects or the professor went to China for a seminar. Clay believes there is very little evidence to prove that the Chinese American professors spy for or engaged in some kind of economic espionage activities against the United States.

This is racial profiling, and we need to get to the bottom of this. And the only way Clay thinks to defend those individual cases and to prove the so-called selective investigation or selective prosecution defense is to have the complete data from the government.

Clay has been talking to several big law firms in the past couple weeks and continue to dialogue with several of his friends in the Bay Area and also in New York. There are already some initial interests. The next step is to organize a legal team, and also to identify what agencies should be the first targets. Clay will continue to reach out to like-minded individuals and organizations.

For more information on CALDA and ways to donate, its website is located at: <https://caldausa.org/>. Contact email: caldainfo@gmail.com. Additional contact information available at <https://caldausa.org/contact-us>.

4. Racial Profiling at the U.S. Department of Commerce

- a. Speaker: Jeremy Wu, Co-organizer, APA Justice
 - Continuing coverage: <https://www.apajustice.org/>
 - 2021/06/01 APA Justice letter to Commerce Secretary Gina Raimondo: <https://bit.ly/3pz6grl>
 - 2021/05/31: Solidarity Against Hate Rally in DC: <https://bit.ly/3vNsf8M>
 - 2021/05/24 Statement by Senator Roger Wicker <https://bit.ly/3ugvPa1>
 - 2021/05/24 Washington Post article <https://wapo.st/2QM747X>

On June 1, 2021, the APA Justice Task Force sent a letter to Commerce Secretary Gina Raimondo to express our deep concerns and offer our perspective and assistance to her office regarding the recent Washington Post report detailing misconduct by the Investigations and Threat Management Service (ITMS) at the Department of Commerce (DOC), which was later confirmed by a statement issued by Senator Roger Wicker, ranking member of the Senate Committee on Commerce, Science, and Transportation.

A whistleblower letter submitted to the Office of Inspector General at DOC in August 2018 was included in the letter to Secretary Raimondo.

We provided facts and evidence that Sherry Chen and Dr. Chunzai Wang are believed to be among those impacted by the reported abuse of non-existent authority and targeting of DOC Asian American employees. The alleged misconduct extends beyond ITMS. We respectfully request Secretary Raimondo to expand her ongoing review and commit to a comprehensive solution. APA Justice stands ready to provide additional information and assistance as she deems appropriate.

Copies of the letter were sent to Senators Maria Cantwell and Roger Wicker, Chair and Ranking Member of the Senate Commerce, Science, and Transportation Committee respectively; Senator Tammy Duckworth, member of the same committee; Rep. Judy Chu, Chair, Congressional Asian Pacific American Caucus; Rep. Jamie Raskin, Chair, House Subcommittee on Civil Rights and Civil Liberties; Erika Moritsugu, Deputy Assistant to the President and AAPI Senior Liaison, White House; and Jeremy Licht, Deputy General Counsel for Strategic Initiatives at DOC.

If we go back in time to the beginning of 2021, Senator Wicker was the Chair of the Senate Commerce Committee. The 2020 election ended with a 50-50 split in the Senate, and he became the Ranking Member of the Senate Committee. It was during this period that Senator Wicker launched an investigation based on multiple whistleblowers coming forward.

On March 15, Senator Wicker wrote to the DOC Inspector General requesting documents for its investigations. Two months later on May 17, Senator Wicker fired off a scathing letter citing not only the document production is incomplete, but also the process used by the IG office to handle the congressional request.

In particular, the IG office cited a 2017 DOJ Office of Legal Counsel advisory opinion that effectively allows Ranking Member oversight requests to be ignored. The IG office apparently told Senator Wicker to file a FOIA request instead. Senator Wicker implored the IG office to provide its report on the misconduct at the ITMS immediately in his May 17 letter.

Earlier on April 27, Senator Wicker wrote a letter to Secretary Raimondo citing the ongoing investigation about ITMS misconduct raised by more than a dozen whistleblowers. The letter said in these exact words, "In addition, the evidence indicates a troubling trend that individuals of Asian descent may have been disproportionately targeted and investigated by ITMS."

In his April 27 letter, Senator Wicker requested Secretary Raimondo's cooperation in completing the important oversight investigation by providing access to additional documents and witnesses if those needs arise.

Jeremy Licht, Deputy General Counsel at DOC, provided a progress report to Senator Wicker, indicating that DOC staff and Senator Wicker's staff met on April 30 and on May 14, reiterating DOC's commitment to respond to Senator Wicker's inquiries in an "expeditious and responsive manner." The report outlined 5 steps that DOC has taken:

1. On March 10, DOC directed ITMS to suspend all criminal/law enforcement investigations.

2. On April 19, the DOC Chief of Chief ordered a comprehensive review of ITMS operations to identify and propose solutions for substantiated management and operational deficiencies. The review began a week later on April 26.
3. Starting on April 30, DOC is investigating the allegation of inappropriate email searches targeting persons of Chinese or Asian descent.
4. On May 13, DOC suspended all ongoing ITMS investigations.
5. DOC has assured ITMS staff and others that their rights under the Congressional Whistleblower Act and other applicable laws, regulations, and policies will be respected, and that they will not be retaliated against for their participation in in any past or future inquiry into the issues raised.

The May 14 Jeremy Licht letter to Senator Wicker stated that DOC expects that at the end of the review it can and will implement a comprehensive solution to the issues raised in the senator's letter and look forward to potential statutory changes as determined to be necessary.

The APA Justice letter to Secretary Raimondo and related links are posted on the front page of the apajustice.org website. Additional information will be posted as they become available.

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

- a. Speaker: Gisela Kusakawa, NAPABA Law Foundation Community Law Fellow
- b. Speaker: Vivin Qiang, Program Coordinator
 - Legal Referral Service: Contact **202-935-6014** using the Signal app for attorney referrals. AAJC staff can assist you in Mandarin Chinese and English.
 - APA Justice: https://bit.ly/APAJ_AnmingHu

Asian Americans Advancing Justice | AAJC recently hosted a meeting with Ambassador Susan Rice and Deputy Director Catherine Leamon of the Domestic Policy Council at the White House. They have kindly provided time to experts, impacted persons, and advocacy organizations to share our concerns with racial discrimination and profiling of Asian Americans and Asian immigrants, including our colleagues from APA Justice.

This involves multiple federal agencies and requires a solution from the White House. In this meeting, we pushed for a moratorium of the "China initiative" and a period of time that professors and scientists can go back and correct their forms. We also shared CAPAC's earlier asks of Ambassador Rice last month for a temporary halt on the "China initiative."

In terms of Capitol Hill advocacy, if you are an impacted person and are interested in speaking with your congressional members, please let Gisela and Advancing Justice | AAJC know. Your voice does make an impact. Gisela email is gkusakawa@advancingjustice-aaajc.org.

Senator Mark Warner, who chairs the Senate Intelligence Committee, has kindly worked with us in providing a platform for many Asian American civil rights organizations. They have worked with us in hosting a separate meeting with NIH and NSF. We also plan to have a meeting next with the Department of Justice and the FBI.

In the meeting coordinated with Senator Warner, we cautioned NIH and NSF on excessive entanglements with intelligence agencies and law enforcement, and also raised many concerns that we outlined in AAJC's comment to NIH's UNITE initiative available here: <https://bit.ly/3gKVHaL>.

Gisela highlighted two points from the meeting:

1. Dr. Michael Lauer of NIH shared that they did a survey of 45,000 researchers and the results were staggering with many Asian scientists concerned that the pandemic was going to have a negative effect on their career trajectory. It seems that this is something that NIH does find to be particularly concerning though they are more focused on addressing what they believe to be greed and dishonesty, and would like not to have their efforts be linked to any form of racial profiling or ethnic targeting, which he states goes against what they stand for.
2. NIH and NSF mentioned that they are co-chairing a working group that specifically aims to harmonize requirements regarding disclosures, and how they use the information that is disclosed. Dr. Rebecca Keiser of NSF mentioned that she is personally committed to non-discrimination.

Our comment to NIH expressed a lot of concerns in terms of what the role of NIH and NSF is with the racial discrimination of Asian Americans and Asian immigrants. We encourage everyone to read the comment.

A huge part of many of these meetings is to make sure that Asian American voices are heard and that we are seen in solidarity with this effort. This is not just an Asian American problem; this is a problem for the whole country. It is a problem for all Americans, we want to make sure that there is more accountability and that we always have a seat at the table.

So we will continue to have more of these meetings with federal agencies and on the Hill.

Senator Warner was very happy that he had spoken with organizations such as Advancing Justice | AAJC before the pandemic, and thus had more foresight on this issue. And one of the most compelling points that he found coming from many of the speakers was that only five or six years ago the U.S. was encouraging a lot of these collaborations and now we have done a complete flip.

As we have more of these meetings, we have a better sense of what is resonating with many policymakers and also explore more avenues for discussion with the federal agencies to share many of these concerns.

In the coming months, especially in the summer, we are planning to have more meetings with various federal agencies. Advancing Justice | AAJC will keep us updated.

Communication is key. If you feel that you are impacted and would like to speak to members of Congress, please let Gisela and Advancing Justice | AAJC know because it provides them with more clarity and you can become a part of the movement.

Vivin gave an update on community outreach regarding the trial that has begun in Knoxville, Tennessee with former University of Tennessee Professor Anming Hu. He is the first case for a professor or academic researcher to go to trial under the “China initiative.” Like many scientists and researchers who were investigated and unjustly prosecuted under the “China initiative,” professor Hu’s charges do not involve economic espionage or “spying.”

Professor Hu’s case is one of the unjust cases under the “China Initiative” as many are being charged with federal crimes and facing potential decades in prison for administrative errors such as making a mistake on a university form, which were normally not treated as crimes until under the “China initiative.”

Over the past few weeks, Vivin and AAJC have been working very closely with local community organizations such as the Tennessee Chinese American Alliance (TCAA), the Greater Memphis United Chinese Association, and the East Tennessee Chinese/Chinese American Care to mobilize members of the Chinese American and the Asian American community in Tennessee to attend the trial today to show support for Professor Hu who and to raise awareness on the racial profiling of Asian Americans and immigrants more generally.

In addition to attending the trial today, there will be a small rally held outside of the courthouse and TCAA will be holding a press conference this afternoon at 4:30 pm Eastern time where community leaders and the wife of Professor Hu will be speaking. If you are in Tennessee and if you have the time to do so, we encourage you to attend the trial today or attend the press conference. Vivin and AAJC will definitely keep us all posted for updates on this trial. They will continue to work with different community organizations across the country more closely on the issue of combating racial profiling.

AAJC offers a legal referral service if you believe you are being targeted and profiled by the government based on your ethnicity, and you do not have a lawyer. Use the Signal app and call **202-935-6014**. One of the staff members from AAJC will reach out to you directly in both Mandarin Chinese as well as English.

6. Status of Call for Congressional Hearing

- a. Speaker: Senator Susan Lee, Maryland Senate Majority Whip
- [The Human and Scientific Costs of Racial Profiling Must be Heard](#)

Senator Lee expressed her thanks and gratitude to the outstanding leadership and work of Dr. Jeremy Wu, Dr. Steven Pei, Vincent Wang, the APA Justice team and the panelists for their outstanding leadership and work on behalf of the AAPI community, particularly on the issue of the racial profiling of scientists of Chinese and Asian descent. She had led a delegation of Maryland state legislators and spoke at the Unity Against Hate National Rally at the Freedom Plaza in Washington DC on May 15th. Christina Lua and Jeremy Wu also spoke at the rally.



Senator Lee and her former colleague and current Chair of the Subcommittee on Civil Rights and Civil Liberties Congressman Jamie Raskin worked closely together on legislation relating to civil rights, hate crimes, and laws to empower women, children, families and people of all backgrounds in the Maryland State Senate before he was elected to the US House of Representatives.

Senator Lee reported that Congressman Raskin has agreed to have a Congressional House Proceeding on the profiling of scientists of Chinese or Asian descent. She and Terry Liernan are grateful to APA Justice and other AAPI leaders for their efforts in help moving this proceeding forward. It will help shine light on those injustices and produce recommendations to end this racial profiling and other discriminatory actions and legislative and policy measures to ensure greater transparency and accountability, including important data requests and collection.

Senator Lee is now working closely with the House Oversight Committee staff on the date, time, and witnesses. It is important we have the most compelling witnesses, including those who have been subjected to the most egregious actions. Senator Lee is grateful for the courage and conviction of those witnesses who are willing to come forward. She believes that the proceeding will be sometime in July, but will continue to update APA Justice on the specific

details. Senator Lee thanked our team and everyone who has supported these efforts and said it has been a great coalition effort from all communities as this is one of the most important issues not only for our AAPI community, but for all communities and America.

7. Next Call

a. Next Call: 2021/07/12

The next regularly scheduled meeting is July 5, but it is a holiday as July 4 falls on a Sunday this year. Therefore, the next APA Justice meeting will be held on Monday, July 12, 2021.

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