2022/09/12 APA Justice Meeting

APA Justice Meeting – Monday, 2022/09/12
11:55 am Eastern Time / 8:55 am Pacific Time

Final Agenda:

0. Introduction of New Speaker
   a. Christina Ciocca Eller, Assistant Director of Evidence and Policy, Office of Science and Technology Policy, The White House

1. CAPAC updates

Speaker: Nisha Ramachandran, Executive Director, Congressional Asian Pacific American Caucus

Nisha was unable to join this meeting.

2. Updates from APA Justice

Speakers:
   a. Steven Pei, Co-organizer, APA Justice
   b. Vincent Wang, Co-organizer, APA Justice
   c. Jeremy Wu, Co-organizer, APA Justice

• Campaign to oppose the nomination of Casey Arrowood

Vincent Wang: The Casey Arrowood nomination for US Attorney for the Eastern District of Tennessee, which was announced by the White House on July 29 and registered by the Judiciary Committee on August 1, has raised concern among academics, civil rights groups, elected officials, and community organizations. Mr. Arrowood was the lead prosecutor in the China Initiative case against University of Tennessee professor and internationally renowned nanotechnology expert Anming Hu. Professor Hu was the first academic to undergo a trial under the now defunct China Initiative. Mr. Arrowood mounted an unjust wire fraud case against Professor Hu, a case so weak that the jury was unable to reach a verdict, resulting in a mistrial. Following the mistrial, Mr. Arrowood sought to try Professor Hu a second time, before Federal Judge Thomas Verlan acquitted Hu of all charges, finding that the government’s evidence was significantly insufficient to allow a rational jury to convict Hu of the crimes alleged. APA Justice believes that Mr. Arrowood’s nomination will further erode the public’s trust in our judicial system and increase the chilling effect on US science and technology research.
In opposition to the Arrowood nomination, four organizations including APA Justice, carried out a nationwide campaign from August 22 to September 4. They gained support from over 1,700 individuals from all 50 states, District of Columbia and US territories, along with 36 national, state, and local organizations. Two letters including these signatories have been delivered to the White House and the Judiciary Committee. Organization partners and stakeholders have also been notified.

The sign on form is still open and all are encouraged to sign on at this link to oppose Mr. Arrowood’s nomination: https://bit.ly/OpposeArrowoodNomination

Jeremy Wu: There are five possible outcomes of the campaign:

1. White House withdraws nomination
2. Senate Judiciary Committee investigates
3. Senate committee takes no action, which could result in the nomination expiring at the end of the Congressional session
4. Arrowood could withdraw
5. Nomination is successful and Arrowood becomes US Attorney

What can we do in the interim – continue to keep up the pressure, collect co-signers, inform and talk to your congressional delegation, reach out to media, eyes and ears on the Senate Judiciary Committee calendar, created webpage to provide the latest updates online, keep us informed about your letters and activities, and share your ideas.

Kai Li of Asian American Scholar Forum (AASF): It is unclear what role Mr. Arrowood had in the government decisions surrounding the prosecution of Professor Hu. However, this wrongful prosecution was a clear case of racial profiling, and Mr. Arrowood receiving a promotion would shed even more negative light on the judicial system. Mr. Li notes that among Asian American academics, the China Initiative has left a lasting effect of unease.

• 09/09/2022 Presentation and discussion with Senior Research Officers at Association of American Universities

Steven Pei: A 10-minute presentation titled “Concerns, Fears, and Engagement” was given to the Senior Research Officers at the Association of American Universities last Friday (Sept 9). The purpose of the presentation was to convey the perspective of Asian American Faculty at Universities regarding discrimination and bias in the light of recent events involving investigation of faculty by outside agencies. Four faculty wishes were highlighted and discussed in depth, along with scenario examples of best practices:
1. Engage faculty in the development and implementation of NSPM-33 and similar policies on campus to ensure clear instruction, sufficient support, and proper training are provided to faculty, researchers, and administrative staff.

2. Establish a (independent or joint with faculty senate) committee (preferably led by a Chinese American faculty) to evaluate, define, and protect the rights, privileges, and responsibilities of faculty and administration in cases involving the investigation of faculty by outside agencies.

3. Offer and publicize first response followed by independent legal assistance. Consider legal insurance in the long run.

4. Help faculty, staff, and students to resolve visa, border entry, and other related issues.

The meeting was a success with productive conversation and APA Justice is looking forward to continued engagement and discussions on this topic.

3. Anti-Racial Profiling Project and Related Activities - Asian Americans Advancing Justice | AAJC

Speaker: Gisela Kusakawa, Assistant Director, Advancing Justice | AAJC

- Advancing Justice | AAJC: [Anti-Racial Profiling Project](#)
- Legal Referral Service: Contact 202-935-6014 using the Signal app for attorney referrals. AAJC staff can assist you in Mandarin Chinese and English

Updates by Gisela:

- **Amicus Brief for Professor Xiaoxing Xi**: The Amicus Brief in support of Professor Xiaoxing Xi had an unprecedented number of over 100 community organizations join: believe that the FBI violated his and his family's constitutional rights, and Professor Xi is currently going through a burdensome litigation process to hold the government accountable.

- **Oral Arguments for Professor Xi**: On Wednesday, September 14, at 10AM E.T., the court will be holding oral arguments for professor Xi. Even though Professor Xi was found not guilty, he and his family suffered tremendously throughout the process. It would send a strong message to have numerous attendees at the courthouse in support of Professor Xi.

- **Portman Amendment**: Now that August recess is over, AAJC is concerned that the Portman Amendment will be added into another new bill, the National Defense Authorization Act. There has been a continuing effort to fight against the inclusion of the Portman Amendment in the CHIPS Act and the Inflation Reduction Act, and AAJC is determined to fight this amendment.
4. Updates from Asian American Scholar Forum

Speaker: Kai Li, Founding Vice President, Asian American Scholar Forum. Professor, Princeton University

Kai is a return speaker who first spoke in the August 2, 2021 APA Justice monthly meeting. Asian American Scholar Forum (AASF) is a leading voice for the Asian American and immigrant scientific and academic community. It represents the individuals, families, and communities most directly impacted by the unjust prosecutions conducted both before and under the now defunct Department of Justice’s “China Initiative.”

Updates by Kai:

- AASF believes that long term change is only possible through education and knowledge. It will be releasing regular reports on data and research that is of importance to our communities. The first report launch is set for this month looking into the most recent data on the chilling and deterrent effects of federal government action. If you are interested in getting this report as soon as it is published, please email info@aasforum.org to join the mailing list, and AASF will make sure to ping you with the published report. To sign up and get updates on AASF’s report on the impact of federal government discriminatory action on Asian Americans and immigrants, please email info@aasforum.org. AASF will post the launch date of the report on our social media platforms which AASF has recently launched
  - Instagram: https://www.instagram.com/aasforum/
  - Facebook: https://www.facebook.com/aasforum
  - LinkedIn: https://www.linkedin.com/company/asian-american-scholar-forum/
  - Twitter: https://twitter.com/AASForumOrg/status/1560453920010428416

- In addition to the coalition letter to support Anming Hu that AASF co-led with APA Justice and United Chinese Americans, AASF is opposing this nomination and educating the White House and Congressional offices by submitting their own letter that outlines their research and concerns on the chilling effect of this nomination.

- AASF has been meeting with multiple federal agencies and Congressional offices to report their findings and educate them in order to provide a voice for Asian American and immigrant scientists, researchers, and scholars in our democracy.


Speaker: Christina Ciocca Eller, Assistant Director of Evidence and Policy, Office of Science and Technology Policy (OSTP), The White House

• 2022/09/08 Department of State Event: "Research Integrity Government-Academia Dialogue"
• 2022/06/13 Science: Arati Prabhakar set to become President Biden’s science adviser and his pick to lead science office. https://bit.ly/3Qv7Ct0

Guidance for implementation of the National Security Presidential Memorandum (NSPM-33) was announced in January 2022. APA Justice and a group of participants gave a presentation to OSTP in the first Engagement Hour on March 28, 2022. A summary and addendum were submitted to memorialize the presentation and discussion on April 6, 2022.

Dr. Ciocca Eller provided updates on progress, new developments, and next steps in the implementation of NSPM-33 and related issues:

• OSTP is pursuing work in research security and integrity by maintaining the core values that drive US scientific leadership: integrity, openness, transparency, honesty, equity, fair competition, objectivity, and democracy.

• Three principles lead each meeting about NSPM-33: to protect America’s security and openness, to be clear so that researchers can easily and properly comply, and to ensure that policies do not fuel xenophobia or prejudice.

• Progress: Engagements with the research community have helped OSTP move toward a draft product for standardized disclosure. Over 40 organizations representing a diverse array of contributors to the US research ecosystem participated in engagement hours. OSTP is open to having more engagement hours as requested by the community after reviewing the draft. One of the major topics during previous engagement was what to prioritize in standardized disclosure format to assess potential conflicts of interest and conflicts of commitment among applicants for federal R&D awards. The draft, which is out for a period for public comment, reflects consensus across science funding agencies of the federal government. OSTP encourages all to read the draft and respond to the notice which is open until October 31, 2022. She notes the caveat being that change and improvement across federal agencies can be a long bureaucratic process and agencies are at different stages of policy development with regards to digital persistent identifiers and other research security deliverables. So standardization methods across all agencies must take this into account.
• **Research Security Programs Standards:** This is another product the OSTP has been working on which itemizes what kind of information should be included in research security training across four different topics including research security modules themselves, travel protocols, cybersecurity, and export controls. OSTP is finalizing a draft to be circulated and once approved by all participating agencies will be available for public comment later this fall.

• **Closing notes:** OSTP is pleased that the draft disclosure formats are out and widely supported by participating agencies. One challenge going forward will be that a research training requirement will apply to anyone who applies for federal R&D grants, which will require all research institutions to enable the training either through their own services or a third party. However, federal science agencies are in the process of establishing cooperative agreements to help develop content for training modules that will be made available to the research community. This should help to reduce burden to research organizations.

• **Transparency with Information Use:** Many federal agencies already have policies on use of sensitive information received from research disclosures, however OSTP is working on consolidating and standardizing these policies and making them clear and publicly available. This is vital for tracing pathways that information takes through various agencies, and also for public trust among researchers and institutions.

Q&A Regarding OSTP and NSPM-33: Professor Jessica Chen Weiss is the Michael J. Zak Professor of China and Asia-Pacific Studies at Cornell University. She served as a Council on Foreign Relations International Affairs Fellow on the Policy Planning Staff at the U.S. Department of State from August 2021 to July 2022. She recently wrote a must-read essay on The China Trap and U.S. Foreign Policy and the Perilous Logic of Zero-Sum Competition. She led with the first question.

• **Q (Professor Jessica Chen Weiss):** The value set for OSTP is great, but those values are not always evident in messaging that the FBI leads with for instance. For example, in the speech that the FBI director gave in July, his remarks did not strike a balance among the values OSTP puts forward. Beyond OSTP’s individual products, what is the state of coordination of messaging across federal agencies, particularly the FBI and DOJ, and how can they all get to be on the same page with the OSTP values?

  **A:** OSTP very regularly circulates talking point documents and discusses how to convene the goals of security and openness with their FBI colleagues. The FBI has begun inviting OSTP representatives, who are very familiar with the value set, to their public speaking events, which is a step in the right direction. There is still work to do in engaging the FBI and DOJ communities, which is why OSPT also involves the FBI and DOJ representatives in their discussions and subcommittees.
• **Q (Professor Xiaoxing Xi):** All university researchers in China are considered affiliated with the government. Are US researchers permitted to collaborate with researchers who are not from “like-minded” countries such as China, Russia, North Korea, and Iran?

  **A:** Short answer, yes. Federal research funding agencies expect researchers to disclose affiliations regardless of what they are. However, OSTP works hard to forefront the vital importance of international collaboration across the country.

• **Q (Professor Xiaoxing Xi):** Is this consistent with the OSTP policy published in June regarding winding down collaboration with scientists from Russia?

  **A:** I believe that this policy is mainly about the government of Russia rather than Russian scientists, however I defer to my other colleagues who are more informed on this matter.

• **Q (Professor Kai Li):** During the engagement hours forum, we discussed three main issues: research security, research integrity, and academic openness. My impression is that no best practice can navigate these three issues because there is no clear definition between research and innovation. Simply put, research is the transformation from money into knowledge, and innovation is the transformation from knowledge into money with new technology and development. Non-classified research is published in the public domain, so the real issue is innovation security. My question is, has any country thought of such a framework to differentiate research from innovation?

  **A:** There have been a number of conversations about the continuum of research and innovation and where the concerns are, particularly in the gray space where research becomes innovation. Definitional clarity is a critical first step to making the right policies, but it is the nature of knowledge and innovation to have some ambiguity, so there will always be a gray area. There are current processes ongoing to determine how to make distinctions in an evidence-based way. While acknowledging that we are most concerned about the innovation part of the continuum, the research itself is also federally funded so is also part of the concern.

• **Q (Gisela Kusakawa):** Will there be an opportunity after the implementation of NSPM-33 for organizations to provide substantive feedback? In terms of long term collaboration with the AAPI community, what sort of processing with OSTP could allow them to collaborate with the AAPI community as a resource to notify of red flags in policies before they are cemented?

  **A:** It is part of the tasking of NSPM-33 to ensure that feedback is heard after implementation whether it be via town halls or engagement hours. For the second question, there are rules about multiple parties in consultative roles. So, OSTP encourages those concerned to use the contact email on their website, as this goes straight to my inbox and is checked daily. I support having regular community briefings with organizations surrounding various topics, for example the disclosures format. We are always open to hearing concerns and questions from the community.
Q (Steven Pei): The person who can make the best judgment regarding protection of research is the researcher themselves, who has the most invested self-interest in the project.

A: Yes, this is why OSTP is giving researchers the opportunity to express their judgments and review the parameters of research disclosures before they become official policy. Regardless of the intention of the research, they are all subject to the Privacy Act. Where it gets trickier is understanding and making clear when and how federal science funding agencies share information with their Inspector General. We are continuing to work to clarify this issue and to be transparent about the process.

6. Next Meeting
- Monday, October 3, 2022