

In This Issue #88

- Rep. Jamie Raskin's Remarks in APA Justice 10/05 Monthly Meeting
- Cooley LLP Represents Sherry Chen with ACLU and Attorneys Peter Toren and Michele Young
- CAPAC on House Hearing on Balancing Open Science and Security and DOC Interactions
- Updated White Paper on Racial Disparities in Economic Espionage Act Prosecutions and New Red Scare
- Reinstatement of Professor Anming Hu and Moving Forward at University of Tennessee Knoxville
- Week of Action to Visit Senate Offices and Training Coming Up

Rep. Jamie Raskin's Remarks in APA Justice 10/05 Monthly Meeting

Maryland State Senator Susan Lee introduced her former colleague in the Maryland State Senate and current U.S. Congressman Jamie Raskin in the October 5, 2021 APA Justice monthly meeting. As Chair of the House Subcommittee on Civil Rights and Civil Liberties, Rep. Raskin and Rep. Judy Chu, Chair of the Congressional Asian Pacific American Caucus, led the [Congressional Roundtable](#) on June 30, 2021. It was [the first congressional proceeding](#) conducted to shine light on the profiling and egregious civil rights violations that have caused enormous damage to the careers, reputations and lives of many innocent scientists of Asian and Chinese descent. The Roundtable would not have happened but for Congressman Raskin.

Congressman Raskin's remarks cover two primary topics:

- **Due Process.** Rep/ Raskin described due process as incorporating basic intuitions and conceptions about fairness and justice into the law enforcement and judicial process. Due process precludes racial and ethnic profiling. It is a very serious problem when the government simply sets out to say, let us look for Chinese American scientists and assume that they are somehow guilty of betraying their contracts, betraying their oaths of office, betraying their country, or other wrongdoings. That assumption is insidious and destructive to the lives of particular people but also helps to reproduce racism and racially loaded mechanisms of law enforcement.
- **Justice and Fairness.** Drawing on George Orwell's book 1984, Rep. Raskin described the problematic attribution of imagined qualities or actions of a country to people who live in other countries because their ethnicity, racial descent, or extraction. It is a dangerous phenomenon that intersects with fundamental violations of due process and liberty for the citizens of a country, particularly the United States - a nation of immigrants with few exceptions.

Rep. Raskin responded to questions about the "China Initiative," oversight and accountability of the government, reaction to the resignation of the Director of the National Institutes of Health and expectations for the next director, and thoughts on decriminalization of research integrity violations.

Summary of the October 5 meeting including remarks by Rep. Raskin and other speakers is posted at <https://bit.ly/3uZUO3k>.

Cooley LLP Represents Sherry Chen with ACLU and Attorneys Peter Toren and Michele Young

During the October 5 meeting, John Hemann, Partner of Cooley LLP, announced that Cooley will be representing [Sherry Chen](#), along with the [ACLU National Security Project](#) and attorneys [Peter Toren and Michele Young](#). John was chief of the special prosecutions and national security unit and deputy chief of the criminal division at the US Attorney's Office for the Northern District of California. When the "China Initiative" began at the Department of Justice (DOJ) in 2018, he was literally in the room.

Sherry is a hydrologist with the National Weather Service, which is part of the Department of Commerce (DOC). When Senator Roger Wicker's report came out on [the rogue investigative unit in DOC](#), it became obvious that the torch that Sherry was carrying illuminated a problem that was far bigger than her case alone revealed. It brought Cooley and ACLU into the case. Sherry Chen's case falls at the intersection of two issues that the Cooley cares a great deal about - due process and racial justice.

During the meeting, John also described

- His vigorous pursuit of information discovery in the case of [Dr. Chen Song](#) which was dismissal in July 2021 as one of the five visa fraud cases under the "China Initiative." [These five cases](#) should never have been brought by the US government as a criminal matter in the first place as they are clearly an imagined problem.
- His work as a former DOJ prosecutor on a case that launched the "China Initiative." It was [a trade secret case](#) identified the old-fashioned way by first seeing evidence of an actual trade secret theft and then figuring out who committed the crime. That case did not need a "China initiative." There are national security cases and trade secret cases long before the "China initiative."

There are valid concerns about national security. But those concerns cannot be manifested into targeting or profiling people of a race or national origin because it does not work in the first place. As a prosecutor who spent a lot of time working on national security matters, John told us that it is not going to solve the national security problems that it is meant or allegedly motivated to solve under the "China Initiative."

CAPAC on House Hearing on Balancing Open Science and Security and DOC Interactions

During the October 5 meeting, Nisha Ramachandran, Executive Director, Congressional Asian Pacific American Caucus (CAPAC) reported on a joint hearing conducted by the House Subcommittee on Investigations and Oversight & the House Subcommittee Research and Technology on [Balancing Open Science and Security in the US Research Enterprise](#). Dr. Xiaoxing Xi was one of four witnesses in the hearing, which covered foreign interest in research and the need for balancing those concerns with open science and the concerns of the "China Initiative."

Nisha also reported on a recent interaction with the staff at the Department of Commerce (DOC) regarding the review of their rogue investigative unit, which has been abolished. On one concern that records are being destroyed in the process, the DOC staff gave assurances that no one is destroying records. CAPAC will maintain continuing dialogue with DOC staff on this and other community concerns.

Updated White Paper on Racial Disparities in Economic Espionage Act Prosecutions and New Red Scare

During the October 5 meeting, attorney and scholar Andrew Chongseh Kim reported the findings of his updated white paper titled [Racial Disparities in Economic Espionage Act Prosecutions: A Window Into The New Red Scare](#), which was published by the Committee of 100, including:

- A very large percentage of the Economic Espionage Act (EEA) cases have involved China, but there was almost an equal number involved the US.
- Only 3% of the EEA cases that allege trade secrets theft involved a university. However, the "China Initiative" has focused heavily on federal grant recipients who are mostly at universities.
- Before 2009, only 16% of defendants charged with stealing trade secrets were Chinese. Starting with the Obama administration and continuing to the Trump administration, the majority of people accused of spying have been people with Chinese descent. About half of the people with Chinese descent are Chinese nationals.
- One in four people of Asian or Chinese descent who are accused of spying or trying to steal trade secrets are never proven guilty. They may have been convicted of false statements or some other process crimes, but they were never proven guilty of stealing trade secrets.
- After filtering out the Chinese nationals, one in three Asian American citizens or Chinese American citizens who were accused of being a spy is never proven guilty.
- For the people who are guilty of committing some kind of crime, those with Asian names get punished twice as hard. They go to prison twice as often, and they get sentences twice as long.

- Most people with Western names who are charged under the EEA are not arrested. They received a polite formal letter asking them to show up in court. Most of Chinese or Asians charged under EEA are handcuffed.
- Almost all people with Western names starting with the EEA are granted bail, but people with Asian names are five times as likely to be denied bail.
- DOJ publicizes charges of accusations that a person with a Western name commits espionage half the time, but alleged spying by people with Asian, Chinese, or foreign names is pretty much always newsworthy

Reinstatement of Professor Anming Hu and Moving Forward at University of Tennessee Knoxville

During the October 5 meeting, Professor Louis Gross, President of University of Tennessee Knoxville (UTK) Faculty Senate, made it clear that remarks he made are his as an individual UTK faculty member and not UTK administration. He started his report by expressing his personal chagrin and horror that any of his faculty colleagues would have to go through the horrendous challenges that Dr. Hu and his family faced.

In summary, Lou's talk covered

- The processes of shared governance that operate at UTK and the roles and responsibilities of the UTK Faculty Senate.
- Two components to the Faculty Senate responses regarding the circumstances of Dr. Hu's suspension and subsequent loss of faculty position.
- Whether the protections afforded to faculty as stated in the UTK Faculty Handbook were upheld
- Whether there are suggestions to potentially change University policies that come to light from the situation.
- Contrary to the Faculty Handbook states, then President of the Faculty Senate was informed, but not consulted, about UTK actions on Dr. Hu.
- The UTK policy is clear that there shall be no expectation of privacy for any information transmitted using University information technology resources.
- Dr. Hu's case has led the Faculty Senate to consider issues of data release, notification, and consultation, and has suggested a need for greater clarity on these matters in ways that could lead to modifications of the Faculty Handbook.

Lou maintains a Senate Faculty President web page at <https://bit.ly/3Cr67F1>. His prepared statement for the APA Justice meeting is posted at <https://bit.ly/3lgW3b0>.

On October 11, Knox News published an opinion [UT leaders must right a wrong and reinstate professor wrongly accused in spy case](#). According to the opinion, the University of Tennessee at Knoxville has a real problem on its hands, and it is getting worse by internal delay. "UT legal counsel's office is in the middle of this, which means countless excuses to delay and postpone. [Provost] Zomchick looks weak in this and complicit as he offers excuses but no action... Hu is innocent. The U.S. Attorney's Office has returned his passport. UT should do right by him. Restore his position, give him back pay for being wrongly dismissed and pay damages, which

UT Inflicted on him. UT did that for terminated Chancellor Beverly Davenport, who was never charged with a crime. UT often does it for terminated coaches and settling Title IX violations."

On October 3, 2021, Knox News published [University of Tennessee at Knoxville faculty call on the school to reinstate Anming Hu](#). According to the report, key faculty leaders at UTK are calling on the university to rehire Dr. Anming Hu who was ensnared in a bogus espionage investigation and acquitted in September on fraud-related charges. "You would think that a tenured professor would get the largest amount of protection from the university, but in fact they just cut him loose," said Mary McAlpin, a UT French professor and president of the UT chapter of American Association of University Professors. "That is frightening for everyone who works at UT, and I would say, especially for those who are not U.S. citizens."

On October 11, 2021, APA Justice [formally invited](#) UTK Chancellor Dr. Donde Plowman to speak in the November 1 monthly meeting on the UTK policies and practices.

Week of Action to Visit Senate Offices and Training Coming Up

During the October 5 meeting, Gisela Kusakawa, Staff Attorney at Advancing Justice | AAJC, announced an upcoming Week of Action for the anti-racial profiling movement. The Senate is not as educated on the racial profiling issue as the House is. That is a key problem, including both Republican and Democratic offices. Gisela and AAJC have identified around 40 different key Senate offices, such as the Senate Judiciary Committee and the Senate Commerce, Science and Transportation Committee. Many offices are involved in multiple committees. Gisela and Advancing Justice | AAJC are reaching out to schedule meetings for the first week of November, and will be conducting two trainings in October.

They are looking for people who feel that they are impacted, or local organizations that may not have as much work in this area but are scared or feeling fearful or see that there is an impact on the community. This is a lot for local groups to suddenly become experts. Gisela and Advancing Justice | AAJC are here to provide every resource that you would need in order to have these meetings; they can make the connection and provide all the packets, documents, and case analyses.

If you feel your community is impacted, you can share what your fears are, what your hopes are for your senators. That is all you need to do. You do not have to suddenly become experts. Gisela and Advancing Justice | AAJC will reach out to other organizations who are experts as well on this issue. So you will not be alone in these meetings.

The Capitol Hill meetings and educational efforts are the top priority for Gisela and Advancing Justice | AAJC. The second priority is Professor Feng "Franklin" Tao, another impacted person under the "China Initiative" who is in need of our help.

Gisela can be reached by email at gakusakawa@advancingjustice-ajc.org

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