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University of Kansas Professor Franklin Tao and Upcoming Trial

Professor Franklin Tao's new jury trial date has been moved to December 6, 2021, because the government said they were not ready and needed more time. Franklin Tao is the first academic indicted under the "China Initiative" on August 21, 2019. He was charged not for economic espionage or trade secret theft, but for wire fraud and making false statements - similar to those levied against Professor [Anming Hu](#), who was acquitted of all charges on September 9, 2021.

According to a [Washington Post report](#) on August 24, 2021, FBI agent Stephen Lampe knowingly used false information from an informant to obtain warrants to search Tao's emails, computers, home and office. It was reported that Lampe deliberately withheld information that would undercut the informant's credibility and the reliability of the evidence. A hearing on the motion took place on October 14-15, 2021.

According to [a report by Mother Jones](#) on October 21, 2021, the hearing provided a glimpse into the "China Initiative." These cases are not James Bond thrillers. Most often, they center on whether professors like Tao correctly filled out conflict-of-interest forms. Of the roughly 80 cases pursued under the initiative, at least 18 of them involve university professors or researchers like Tao, only a handful of whom have been charged with stealing trade secrets or spying for China. Most of these defendants from academia were accused of some form of fraud or making false statements.

On August 20, 2020, Advancing Justice | AAJC and Advancing Justice | ALC filed an [amicus brief](#) in United States v. Tao, providing significant evidence of racial profiling against Asian American and immigrant scientists and researchers. Advancing Justice | AAJC is organizing meetings to raise awareness about Professor Tao's case and the impact of the "China Initiative" to the local community. Please contact Vivin Qiang at vqiang@advancingjustice-aajc.org or Gisela Kusakawa at gkusakawa@advancingjustice-aajc.org on how you can join and help, especially for those in Kansas and Missouri.

Read more at <https://bit.ly/3fZWJvK>. Defense attorney Peter Zeidenberg will give a brief update on the Tao case in the November 1 APA Justice monthly meeting.

It is important for the community to watch out for misleading media reports. Advancing Justice | AAJC and the defense attorney took quick actions to correct an October 15, 2021 report by the

Kansas Public Radio. Note the significant difference of the original report (right) and the more accurate version (left) below.

***CORRECTION: Judge Considers Evidence in Case of KU Professor with Ties to China**

KANSAS CITY, Kan. (KCUR) - A federal judge is deciding whether to suppress evidence in a case involving a University of Kansas professor whom the government accuses of failing to disclose his ties to China. The government charged Feng "Franklin" Tao with fraud two years ago. Tao is a tenured professor at KU who remains on leave. The government says he secretly worked for a university in China while employed at KU. But his lawyers say the FBI provided false information to obtain warrants to search Tao's emails, computers, home and office. They say that information came from another Chinese researcher who sought to frame Tao after she was unhappy with the credit he gave her for her contributions to a scientific paper. U.S. District Court Judge Julie Robinson is holding a hearing to determine whether to suppress the search warrants and to limit other evidence in the case.

***CORRECTION:** An earlier version of this story incorrectly stated "the government says he (Tao) was a spy who stole intellectual property." Prosecutors have charged Tao with fraud, not espionage.

Judge Considering Whether to Allow Certain Evidence in KU Spy Case

KANSAS CITY, Kan. (KCUR) - A federal judge is deciding whether to suppress evidence in a case involving a University of Kansas professor whom the government accuses of failing to disclose his ties to China. The government charged Feng "Franklin" Tao with fraud two years ago. Tao is a tenured professor at KU. The government says he was a spy who stole intellectual property and secretly worked for a university in China while employed at KU. But his lawyers say the FBI provided false information to obtain warrants to search Tao's emails, computers, home and office. They say that information came from another Chinese researcher who sought to frame Tao after she was unhappy with the credit he gave her for her contributions to a scientific paper. U.S. District Court Judge Julie Robinson is holding a hearing to determine whether to suppress the search warrants and to limit other evidence in the case.

Chronicle Report on UTK, MIT, and "When a Scholar Is Accused of Being a Spy" under the "China Initiative"

On October 27, 2021, the Chronicle of Higher Education published a comprehensive report on [When a Scholar Is Accused of Being a Spy](#) and showed how investigations play out at different universities reveals a lot about higher education. It compared the cases of Massachusetts Institute of Technology (MIT) Professor Gang Chen and University of Tennessee Knoxville (UTK) Professor Anming Hu. Both were alleged to conceal their ties to China after failing to find them spying for China under the "China Initiative."

L. Rafael Reif, MIT's president, released a public statement pushing back against a core allegation in the criminal complaint against Chen; referred to Chen as a member of the MIT "family;" committed the university to pay the professor's legal bills; and spoke out about the potential risks of the "China Initiative" to American innovation and the danger of creating what Reif called a "toxic atmosphere of unfounded suspicion and fear" by appearing to single out researchers of Chinese descent for prosecution.

In contrast, UTK officials cooperated in a nearly two-year probe of Professor Anming Hu, handing over documents from his personnel file to federal investigators without a warrant or evidence of wrongdoing. They did not tell Hu he was under investigation. And at the behest of the FBI, the university approved a grant application from Hu to NASA, even though authorities had told administrators that he might have ties to the Chinese military. That led to his arrest. Following his indictment, UTK placed Hu on unpaid leave. The university later fired Hu, who is a naturalized Canadian citizen, when his work visa expired because of the charges against him.

How could the two universities' responses have been so divergent, with MIT supporting Chen and UTK essentially helping the FBI entrap Hu?

The answer is that universities, and the choices they make, do not exist in a vacuum. How events played out at these two universities — a private, internationalized institution in the liberal Northeast and a public institution in a state with lawmakers who have been vocal about what

they see as a threat from China — may say as much about where higher education sits along this country’s pervasive cultural divide as about the U.S.-Sino dynamic.

Although MIT takes in about four times the federal research and development funds as does University of Tennessee, it attracts nearly as much research money from other outside sources, domestic and foreign. That makes it less dependent on the U.S. government for support. Finances are only part of the picture. Private institutions must be responsive to their trustees, students, and alumni, while public universities like UTK answer to a far broader constituency, one that also includes elected officials, politically appointed governing boards, and taxpayers.

Mary McAlpin, professor of French at UTK and president of the local chapter of the American Association of University Professors, said “... it seems like everything now is politicized.” College administrators may be reluctant to cross elected officials — in both political parties — who are sounding red alerts about Communist China, said Brendan Cantwell, a professor at Michigan State University who studies both American higher-ed policy and international education. “For a place like the University of Tennessee, it’s a land mine.”

Perhaps the most controversial aspect of UTK’s participation in the investigation centers on its actions when Hu applied for a new NASA grant partway through the FBI probe. Despite reservation by Jean Mercer, UTK associate vice chancellor for research, about signing off on the contract, UTK general counsel advised her to go ahead. The grant, which Hu won, was part of the indictment against him, in which he was charged with three counts of wire fraud and three counts of making false statements.

When asked by the Chronicle on why administrators had approved the grant, UTK Provost John Zomchick said that “because there was no evidence one way or another, we decided it was not appropriate for us to interfere with [Hu’s] research or work.” UTK faculty members see the university’s role in the Hu case differently — that in order to minimize reputational risk, administrators aided investigators in an ultimately flimsy case against one of their own professors. “The university is run by lawyers to some extent, and not just in this case,” said Louis Gross, president of the UTK Faculty Senate.

The short-term calculus that led officials to cooperate could have lasting repercussions, Gross fears. “This does not look good for the university when it looks like we are complicit in racial profiling by cooperating with the FBI.” University of Arizona Professor Jenny J. Lee commented that UTK is not alone in fearing reputational damage from faculty members who appear to have hidden ties to China. In fact, colleges want to avoid the kind of headlines the Hu case generated. “They don’t want things to get to press,” Lee said. “They want to handle things quietly.” As a result, universities cooperate with authorities and may even proactively seek to impose institutional sanctions.

Colleges can ill afford to jeopardize federal funding. The U.S. government is the single largest source of support for university research, accounting for 53 percent of all spending. Yasheng Huang, president of the Asian American Scholar Forum, worries that colleges’ reliance on federal funds could shape their behavior. He fears that universities might discourage work with China because “they do not want to be cut off by NIH or NSF.” In Tennessee, the second

largest outside source of research support is the state; the Knoxville campus got about \$14 million in state- and local-government research funds in 2019.

The article provides in-depth reports on the increasing politicization of the academia based on popular anti-China views in states such as Tennessee and Florida.

The "China Initiative" could make it more difficult for American universities to recruit and retain Chinese and Chinese American professors and graduate students. Or, given the differences in institutional responses, it could make it more difficult for some colleges: Could universities that are perceived to have stood up more forcefully on behalf of their researchers be more attractive to Asian and Asian American applicants?

An exodus of Chinese researchers and grad students, whether from certain institutions or the United States as a whole, could crush certain disciplines, like physics, where more than a quarter of all doctorates awarded annually by American universities go to Chinese nationals.

"Try to run a Ph.D. program if you don't have students from China — you cannot fill your classes, you cannot run your lab," Brad Farnsworth, a higher-education consultant and former vice president for global engagement at the American Council on Education, said. "This is your bread and butter. This is the future of your discipline."

Beauvais Lyons, chair of the Faculty Affairs Committee at UTK, worries that what he sees as in-the-moment administrative damage control in the Hu case could have long-term fallout for his institution. "Reputations," said Lyons, a professor of art, "are a lot easier to tear down than to build up."

With much still unresolved about colleges' responses and responsibilities in the "China Initiative," some faculty members are stepping forward. In September, 177 professors at Stanford University sent [a letter to Attorney General Merrick B. Garland](#), calling on him to shut down the federal investigation. Since then, faculty members at Princeton, Temple, and the University of California at Berkeley have sent their own letters, and the APA Justice Task Force, which advocates for Asian American scientists, is seeking professors from other institutions to [sign on](#).

Steven Kivelson, a professor of physics, co-authored the Stanford letter. He's been disappointed that more university leaders haven't spoken out against the China Initiative, and with many students and colleagues from China, he said he could no longer be silent. "I kept telling friends that they really had nothing to worry about, that the United States is still a welcoming country and a country of laws," Kivelson said, "but it became harder for me to do that with complete assurance."

Read more about the Chronicle article here: <https://bit.ly/2ZtCljO>

Related Developments

- **Anming Hu urges university and lawmakers to speed up his rehiring.** On October 27, 2021, [Knox News reported](#) that Professor Anming Hu asked UTK to call on

Tennessee's senators and congressmen to help speed up the process of his employment authorization immigration application, refiling his visa approval without the request to return to Canada temporarily, and provide him with the same research facilities and office space that he spent six years building at the university.

- **UTK Listening and Learning session on November 4, 2021.** According to [an October 26 letter](#), Dr. John Zomchick, UTK Provost, will host a Listening and Learning session for AAPI faculty on November 4, 2021. It also referenced a Commission for UTK AAPI faculty members which was announced in the local webinar of the 2021 China Town Hall on October 19, 2021.
- **UTK administrators will not speak in APA Justice monthly meetings.** APA Justice invited [UTK Provost John Zomchick](#), [UTK Chancellor Donde Plowman](#), and [University of Tennessee President Randy Boyd](#) respectively to speak about their perspective and lessons learned from Professor Hu's case, but they have not accepted.
- **AAUP officer to speak in November 1 APA Justice monthly meeting.** Dr. Anita Levy, Senior Program Officer, American Association of University Professors, will talk about AAUP Policy on Termination of Appointments and Severe Sanctions.
- **Campaign to endorse Stanford faculty letter to AG Garland.** Peter Michelson, Senior Associate Dean at Stanford University, will speak in the November 1 APA Justice monthly meeting, along with Princeton University Professor Kai Li, American Physical Society Director of Government Affairs Mark Elsesser, and University at Albany Professor Ron Yang.
- **Professor Jenny Lee's survey will be released today.** On October 28, 2021, the Committee of 100 and the University of Arizona will unveil the findings from a new joint research project focused on race and ethnicity in science and research. Titled Racial Profiling Among Scientists of Chinese Descent, the event will begin at 8 pm ET/5 pm PT. Register for the event here: <https://bit.ly/3jGF3tt>
- **Bloomberg reports on DOJ curbing "China Initiative."** On October 27, 2021, Bloomberg published [DOJ Curbs Trump-Era Zeal for China Spy Probes as Cases Fail](#), citing (a) "China Initiative" under Trump produced cases that fell short and (b) Attorney General Garland pledges allegations won't be "based on discrimination."
- **Chemistry World on the crumbling "China Initiative."** On October 14, 2021, Chemistry World published [US programme targeting researchers with China links crumbling under intense scrutiny](#). Chemistry World is a monthly chemistry news magazine published by the Royal Society of Chemistry in the United Kingdom.

2021/11/01 APA Justice Monthly Meeting

The next APA Justice monthly meeting will be held on Monday, November 1, 2021.

The final agenda will cover

- Update by the Congressional Asian Pacific American Caucus - Nisha Ramachandra
- Update on Professor Anming Hu's Situation - Phil Lomonaco
- AAUP Policy on Termination of Appointments and Severe Sanctions - Anita Levy
- Campaign to Endorse the Stanford Letter and End The "China Initiative" - Peter Michelson, Kai Li, Mark Elsesser, Ron Yang

- Status Report on the Case of Kansas University Professor Franklin Tao - Peter Zeidenberg
- Anti-Racial Profiling Project - Asian Americans Advancing Justice | AAJC - Gisela Kusakawa

The monthly meeting is by invitation only. If you wish to join, either one time or for future meetings, please contact one of the co-organizers of APA Justice - Steven Pei, Vincent Wang, and Jeremy Wu - or send a message to contact@apajustice.org. Read past APA Justice monthly meeting summaries here: <https://bit.ly/3kxkqxP>.

Events and Developments from the Communities

- **UCA Talk on “Return of McCarthyism?”** On November 3, 2021, United Chinese Americans (UCA) will host a webinar titled "Return of McCarthyism?" Read more and register for the event here: <https://bit.ly/3GxiJfK>
- **Secure Liberties Newsletter.** The newsletter is a project of the Demand Progress Education Fund. It distills news on national security, covering surveillance, war, and everything in between. In its October 6 edition under "Did Baylor College of Medicine fire two medical school scientists because their spouses worked in China?" [Keith Gartenlaub](#) was cited as an impacted person because his wife is Chinese. You can subscribe to the Secure Liberties Newsletter here: <https://bit.ly/3bgS1tu>
- **Coalition Peace Initiative.** Three educational webinars will be held in the month of November on U.S.-China Relationship. Read more and register at <https://bit.ly/3vTAoJM>
- **Opening of Chinese American Museum in DC.** [The Chinese American Museum in Washington D.C.](#), located about six blocks from the White House, officially opened on Friday, October 22, 2021.

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