

## Summary of January 2020 APA Justice Conference Call

### 0. Introduction

- a. [David Uy](#), Executive Director, [Chinese American Museum](#)
- b. Dr. Wei Su (苏炜博士), retired army engineer featured in [Bloomberg article](#). (bio attached)
- c. **New: 12/31 Bloomberg:** [As China Anxiety Rises in U.S., Fears of New Red Scare Emerge](#)

We welcomed two new speakers. The first was David Uy who is executive director of the newly opened Chinese American Museum here in Washington. The second speaker is Dr. Wei Su, whose bio was attached in the call announcement. Dr. Su is an award-winning retired Army engineer and fellow of IEEE featured in a recent Bloomberg article.

We thank both speakers for sharing their stories.

[Link to another insightful article about the emergence of a New Red Scare published on New Year Eve was provided for your information.](#)

### 1. CAPAC updates

- a. H.R.4339 and S.2355 End Racial (and Religious) Profiling Act of 2019
- b. S.386/H.R.1044 Fairness for High-Skilled Immigrants Act of 2019 (H1/Family visas)
- c. S.2133 Secure American Research Act of 2019 (blacklisting)
  - **National Defense Authorization Act for Fiscal Year 2020 was signed into law on 12/20. S.2133 was listed as one of 202 related bills. There were 648 amendments. It is unclear whether the blacklisting provision is included in the final NDAA or not**
- d. CAPAC May 2018 call for IG investigation of DOC
- e. Progress and status on GAO study
- f. Other

House was in recess. No CAPAC staff was present. Jeremy met with Krystal in a 12/3 event honoring Advancing Justice | AAJC and John Yang, and discussed Frank Wu's proposal and the December call.

### 2. The new Chinese American Museum in Washington – David Uy

1218 16th St NW, Washington, DC 20036,  
<https://www.chineseamericanmuseum.org/>

David Uy, executive director of the Chinese American Museum (CAM) in Washington, presented the history, recent soft opening, developments, and related matters about CAM. Among its exhibits are contributions of Chinese women to America and a history of Jews in Shanghai that links with the present Jewish American and Chinese American communities in the U.S. CAM is only 4 blocks north of the White House. It is open to the public with no admission charges. A Q&A session followed.

2020 is the 20<sup>th</sup> anniversary of the trial of and apology to Dr. Wen Ho Lee, which was an iconic moment in Chinese American history. The concept of an event/exhibit for this occasion was suggested to David and CAM. Agenda item 6b provides additional information.

The day after the conference call, the South China Morning Post published a timely and informative article titled “Chinese-American museums in US grow in number as community gains in prominence – but how to tell those stories?” <http://bit.ly/307ekLW>, in which David and CAM were prominently featured.

### **3. Profiling by Security Clearance – Dr. Wei Su**

12/10 Bloomberg: [Mistrust and the Hunt for Spies Among Chinese Americans:](#)

Dr. Wei Su is an award-winning former Army engineer and a fellow of IEEE. Despite his many accomplishments and holding top-secret security clearance for 24 years, he was subjected to a multiyear investigation that questioned his loyalty and presumed guilt. An excerpt from the Bloomberg article is given below. Dr. Su described his experience reflecting the growing challenges for the tens of thousands of Chinese American federal employees, applicants and contractors, many of whom face false accusations, suspicion, and employment barriers/discrimination.

Dr. Su hopes that sharing his experience will help other Asian Americans. He wants others to understand how vulnerable Asian Americans are, and the need to educate people about these issues. It is not just about avoiding making mistakes. Our community is being targeted. They are being purged from service to our nation and do not have a voice under the guise of national security.

Following his compelling story, Dr. Su responded to questions from call participants. Those who expressed interest were connected with Dr. Su after the call to continue the discussions.

In response to one of the questions raised about existing data related to racial profiling, Jeremy subsequently supplied a link to FedCases, a repository of all known

prosecutions under the Economic Espionage Act since its enactment in 1996: <http://bit.ly/FedCases>. Efforts are being planned to automate the updating and expand the scope and content of FedCases.

Excerpts from the Bloomberg report:

For days after his FBI interrogation, Wei Su wondered: Where had the microphone been?

The agents had played him a scratchy recording of a conversation he'd had with a friend at a restaurant in Eatontown, N.J. Both men found it strange when a pot of hot tea arrived at their table without their having ordered it, but only later did Su, an award-winning scientist for the U.S. Army's Intelligence and Information Warfare Directorate, form a hypothesis. He thinks the teapot was bugged.

On the recording, Su says, he can be heard telling his friend in Chinese to always use English when they spoke on the phone, because the government was monitoring all his calls. He warned that "when you work with us, you need to be careful." Su says the FBI demanded to know if "us" was a reference to Chinese intelligence. No, he answered, "us" simply meant his employer, the U.S. Army.

Nevertheless, questions about Su's loyalty would propel a multiyear investigation that in 2016 prompted the U.S. Department of Defense to revoke the top-secret security clearance he'd held for 24 years. He retired the next year: humiliated, angry, and, the Pentagon later admitted, completely innocent...

Last May he got a short letter from the CAF (Consolidated Adjudications Facility). Based on the corrected record, it said, the Pentagon's previous letters suspending and revoking Su's security clearance "are not accurate and are hereby rescinded."

"Even now, it's like a nightmare," Su says. "The investigators didn't realize Chinese Americans are Americans, not Chinese."

#### **4. Update on Draft Pilot Project Proposal – Frank Wu**

Professor Frank Wu gave a presentation of a 3-year pilot project proposal addressing racial profiling of Chinese Americans in the December call. Participants were urged to provide feedback and comments to Frank so that he could revise and update the proposal.

During the call, Frank announced the commitment of the first 6-figure funder of his proposal. In addition, an updated version of the pilot project has been drafted, and a work plan is being developed.

## **5. Racial Profiling/Targeting updates**

a. Shifting legal grounds – Economic Espionage Act and False Claims Act

- 12/20 Bloomberg: [Foreign Influence on Science Has DOJ Flexing False Claims Act \(1\)](#)

- 12/19 JDSupra: [In a Blockbuster Economic Espionage Act Prosecution, an Attempt by the Government to Hide the Ball?](#)

- 12/19 Wall Street Journal: [U.S. Reaches Settlement on Undisclosed Chinese Funding of Scientists](#)

b. Shifting grounds – access to personal cell phone and social media now a requirement for federal employment and contractors?

Shifting legal grounds is notably mentioned in several reports by Bloomberg, JDSupra and Wall Street Journal respectively during the past month.

The Bloomberg and Wall Street Journal reports described the highly unusual use of the False Claims Act in a case against a research institution that received NIH funds based on its alleged failure to disclose that two researchers had received outside funding from sources in China.

The JDSupra article described “disquieting attempt by prosecutors to stretch the law [Economic Espionage Act].” On the civil side, there is usually “a hotly contested point of proof on whether the alleged stolen material is really a trade secret.” On the criminal side, the government has no burden to prove that the underlying information was actually a trade secret. In a recent brief, “the government seems to be taking this one step further and arguing that it has no duty even to identify the trade secrets at issue.”

Jeremy received a report that a person applying for a federal position was asked to provide access to her personal cell phone and social media, with the implied consequence that she would not be considered for the position if she does not comply. It is unclear whether such practice is in fact legal or not.

## **6. Catch-up on all developments: [www.apajustice.org](http://www.apajustice.org)**

a. [Current State](#): NSF Releases Fundamental Research Security Report

-12/20 Science: [U.S. takes aim at foreign influence](#)

“A major defense bill that Congress approved this week creates two high-level bodies—one inside and one outside the government—to search for the right balance between scientific openness and security.”

- 12/26 Becker's Hospital Review: [10 people who left academic medicine jobs over ties to China](#)

b. [Racial Profiling](#): Dr. Wen Ho Lee and the 2000 DOE Task Force Against Racial Profiling – Links to Task Force report, CAPAC and Patsy Mink, the Wen Ho Lee Story, Judge Parker’s apology, and review of media bias

c. New: [Watch List: 12/29 CNBC: Trump retweets post naming alleged whistleblower](#)

The APA Justice website was updated in several areas, including

a. A recent JASON report commissioned by the National Science Foundation on Fundamental Research Security has been posted in the Current State webpage. The report contains findings and recommendations to achieve a better balance between scientific openness and security.

Science reported that the National Defense Authorization Act of 2020 created “two high-level bodies—one inside and one outside the government—to search for the right balance between scientific openness and security.”

There is notable absence of Chinese/Asian American organizations in these developments, raising concerns that its experience and perspectives may not be included for consideration.

b. 2020 is the 20<sup>th</sup> anniversary of the trial of Wen Ho Lee. Several important links have been added to the Racial Profiling webpage, including the 2000 Department of Energy Task Force Against Racial Profiling which has been removed from the DOE website and all other government websites. Thanks to the Federation of American Scientists for preserving some of these historical records. The posts include a video clip of CAPAC’s efforts by Congresswoman Patsy Mink on the House floor 20 years ago.

c. Mike German was quoted in the CNBC report about whistleblowing protection, which used to enjoy strong bipartisan support. The article has been added to the Watch List webpage.

## 7. Upcoming Events

a. 03/04/2020 Sakharov Prize presentation to Professor Xiaoxing Xi, “Communicating Science to the Public,” Forum on Physics & Society session, American Physical Society, Denver, CO

b. 04/19/2020 Annual Meeting of Committee of Concerned Scientists, New York, NY

The event to honor Professor Xiaoxing Xi as the recipient of the 2020 Andrei Sakharov Prize is scheduled to be held at Hyatt Regency Denver at Colorado Convention Center, Denver, Colorado, on March 4.

- Session M37: Communicating Science to the Public

Colorado Convention Center, Room 605

11:15AM - 2:15PM Andrei Sakharov Award talk: Scientific espionage, open exchange, and American competitiveness

11:40AM - 12:05PM

Invited Speaker: Xiaoxing Xi, Temple University

Professor Xi will also be the keynote speaker in the annual meeting of the Committee of Concerned Scientists in New York on April 19.

#### **8. Next Call**

a. Next Call: 2020/02/03

b. Reminder: Post your messages and comments to [apajustice@googlegroups.com](mailto:apajustice@googlegroups.com)

Email Jeremy Wu at [Jeremy.S.Wu@gmail.com](mailto:Jeremy.S.Wu@gmail.com) or Vincent Wang at [wang177@gmail.com](mailto:wang177@gmail.com) to submit agenda items. Thank you.