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Letter to AG Garland on the Pending Review of the "China Initiative"

On November 24, 2021, APA Justice sent a letter to Attorney General Merrick Garland, making two requests on the pending review of the "China Initiative:"

1. To ensure credibility and integrity for the review process, we request the Department of Justice (DOJ) to release the official scope and boundaries of the "China Initiative" and a complete list and a formal count of the "China Initiative" cases since the program was launched in November 2018. An unannounced and unexplained update of the [DOJ online "China Initiative" report](#) on November 19, 2021 shows the removal of about 20 cases from previous record, including the dismissed or acquitted cases of 7 scientists and researchers - Anming Hu, Qing Wang, Chen Song, Xin Wang, Juan Tang, Kaikai Zhao, and Guan Lei.
2. We request the DOJ to include letters and comments from almost 2,000 faculty members, scholars, and administrators nationwide as part of the thorough review of the "China Initiative." As of November 23, 2021, a total of 1,959 faculty members from 223 institutions nationwide have endorsed [the Stanford letter](#) and joined the call to end the "China Initiative." The nationwide campaign is continuing until the "China Initiative" has ended. The latest counts and comments are posted publicly online at <https://bit.ly/3wwrD8A>.

Breaking news: We just learned that 430 University of Michigan faculty members sent a letter to AG Garland on October 25, 2021, calling for the end of the "China Initiative." The letter was organized by Professor Ken Cadigan. This brings the total number of faculty, scholars, and administrators to 2,397 as of today. Please let us know of other letters that have been sent or are in the works. Read the University of Michigan faculty member letter here: <https://bit.ly/3paR10s>

Read the APA Justice letter here: <https://bit.ly/3DVGyMG>. Qualified endorsers can also join the nationwide campaign here: <https://bit.ly/EndorseStanfordLetter>.

New York Times Reports on Chilling Effects of "China Initiative" and Dr. Anming Hu

On November 28, 2021, the New York Times published [As U.S. Hunts for Chinese Spies, University Scientists Warn of Backlash](#). According to the report, a chilling effect has taken hold on American campuses, contributing to an outflow of academic talent that may hurt the United States while benefiting Beijing. The trial of Dr. Hu, who worked at the University of Tennessee at Knoxville, is being held up as a clear example of government overreach. He was under house arrest for 18 months during the investigation with no job or income, reliant on GoFundMe donations for his legal defense fees. Neighbors and church friends delivered groceries and took out his garbage. While the university has since offered to reinstate his job, Dr. Hu, a naturalized Canadian citizen, said his immigration status remains in limbo.

"It was the darkest time of my life," Dr. Hu said in his first in-depth interview since being acquitted. "My basic human rights were invaded, my reputation was destroyed, my heart was deeply hurt, my family was hurt," he said. "This is not fairness."

The "China Initiative" is supposed to aim at preventing the Chinese government's theft of American trade secrets and other acts of espionage. But scholars, scientists, civil rights groups and lawmakers have asked whether it has gone too far in targeting academics, especially since most research done at universities is unclassified and eventually published.

Behind the recent scrutiny of academics is a problem years in the making.

Over the past two decades, as federal funding for basic scientific research at universities stagnated, scientists sought alternative sources of money. Eager to expand their global footprint, American universities promoted collaborations with international peers, including in China. Beijing, which has set its sights on becoming a science and technology superpower, was happy to oblige. Many scientists have expressed frustration over what they say are shifting and overlapping disclosure guidelines from universities and funding agencies that make it hard to avoid getting caught in the F.B.I.'s web. During Dr. Hu's trial, for example, it emerged that both NASA and the University of Tennessee at Knoxville had provided unclear rules on how he should disclose foreign ties.

Yiguang Ju, a professor of mechanical and aerospace engineering at Princeton and a naturalized U.S. citizen, said it had been the honor of a lifetime in 2010 when NASA asked him to help develop a plan for the future of American rocketry. If he were to receive the same invitation today, he would decline, he said. The spotlight on Chinese scientists at academic

institutions was too great, and the pride of working with the agency not worth the possible risk to him and his family. "It's not because I don't want to serve," he said. "I'm scared to serve."

That fear comes as China has started to experience a reverse brain drain. Over the last decade, a growing number of Chinese scientists have been lured back to the country by the promise of ample funding, impressive titles and national pride. More recently, scientists returning to China have cited a hostile environment in the United States as a factor.

Dr. Hu would rather stay in the United States to contribute not just to science, his first love, but also to his new passion: promoting justice. "I have no interest in politics and know almost nothing about it," he said. "But I know that targeting Chinese and Asian Americans — that will not make the United States strong."

Read more about the New York Times article: <https://nyti.ms/3HYMly3>

Updates on Trials of Professors Charles Lieber, Zhendong Cheng, and Feng "Franklin" Tao

None of the academics under the "China Initiative" are charged for economic espionage or trade secret theft. Updates on the three cases of Professors Charles Lieber, Zhendong Cheng, and Franklin Tao below:

Charles Lieber. The final pretrial conference is scheduled for December 8, with a jury trial beginning December 14, 2021. Professor Lieber faces two counts of making false statement and four counts of tax offenses for allegedly failing to report income he received from Wuhan University of Technology. Lieber has maintained his innocence throughout the proceedings.

Read more about Professor Lieber's case at <https://bit.ly/328FTJP>

Zhendong Cheng. The trial date is set for April 4, 2022. Professor Cheng faces one count of conspiracy, 7 counts of wire fraud, and 9 counts of making false statement. On November 4, 2021, the defense team moved that the Indictment against Professor Cheng be dismissed. On November 24, 2021, the government responded with opposition to the motion to dismiss. On the same day, the defense team moved for disclosure of grand jury transcript to support a potential Motion to Dismiss the Indictment on due process grounds violating Cheng's Fifth Amendment right to indictment by an unbiased grand jury because it is suspected that the Government may have inappropriately instructed the Grand Jury on the law and/or misinformed the Grand Jury on material facts. Learn about how the Grand Jury works here: <https://bit.ly/30YRURg> and the Lawyers' Guide to Grand Jury Abuse here: <https://bit.ly/3HSD67V>.

Read more about Professor Cheng's case here: https://bit.ly/APAJ_Zhendong_Cheng.

Feng "Franklin" Tao. The trial date was set for October 25, then December 6, and now April 18, 2022. Professor Tao faces 7 counts of wire fraud and 2 counts of making false statement. The defense team for Professor Franklin Tao moved to oppose the Government's motion for Rule 15 depositions and objection to continued trial date, concluding

"If courts allowed the government to try defendants based on deposition or video testimony merely because the witnesses would prefer not to testify at trial for personal reasons, as is the case here, it would happen in every trial, eviscerating a defendant's Sixth Amendment confrontation rights. Witnesses in every trial have significant personal reasons not to testify—including health concerns, childcare responsibilities, work obligations, and family commitments, to name just a few. But Rule 15 and Craig require extraordinary circumstances before a court can dispense with a defendant's confrontation rights—and such extraordinary circumstances are not present here. Therefore, the Court should deny the government's motion. It should also reinstate the December 6, 2021 trial date to vindicate Dr. Tao's Speedy Trial rights."

Read more about Professor Tao's case here: <https://bit.ly/3fZWJvK>

2021/12/06 APA Justice Monthly Meeting

The next APA Justice monthly meeting will be held on Monday, December 6, 2021. The agenda will cover the APA Justice letter to AG Garland on the review of the "China Initiative," secret mass surveillance and what it means for Asian Americans, the Sherry Chen civil lawsuit, Cato Institute Policy Forum on The "China Initiative," SupChina and the Serica Initiative, latest on The Asian American Foundation, and updates from CAPAC and Advancing Justice | AAJC.

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 for the Asian American and Scientific Communities

Columbia University Event. On December 2, 2021, Columbia University will host a webinar titled [Open Science: Sino-US Collaboration in an Age of Surveillance](#). Panelists: include Xiaoxing Xi, Department of Physics, Temple University; Ben Liebman, Law School, Columbia University; and Aruna Viswanatha, Reporter at the Wall Street Journal.

This event is part of "Asia in Action: Knowledge and Inclusion in a Time of Fear and Ignorance," a series focused on discrimination and violence towards Asians and individuals of Asian descent, systemic racism, and topics of race and ethnicity in relation to Global East Asia more broadly. This event will take place in-person to registered Columbia University ID holders only and simultaneously online to all.

This event is sponsored by the Weatherhead East Asian Institute and cosponsored by the Office of the Provost, the Columbia University Asian Faculty Association, the Department of Biomedical Engineering, the Center for Science and Society, the A&S Committee on Equity and Diversity, the Department of East Asian Languages and Cultures, the Hong Yen Chang Center for Chinese Legal Studies, and Columbia Global Centers | Beijing.

Read more and register here: <https://bit.ly/2Zy7oLZ>

CALDA Files FOIA Requests. On November 15, 2021, the Chinese American Legal Defense Alliance (CALDA) filed [four Freedom of Information Act \(FOIA\) requests](#) with the Departments of Defense, Energy, Health and Human Services, and Justice. The requests were made by the Sorenson Law Office on behalf of CALDA.

Pending Supreme Court Decision. In *Thompson v. Clark*, the Supreme Court is considering whether people may sue a police officer for instigating baseless criminal charges against them once those charges are dropped—or whether, instead, victims may sue only if the charges are dismissed in a manner that somehow demonstrates their innocence. The Supreme Court heard oral arguments on October 21, 2021. Read more: <https://bit.ly/3l22esO>

The Atlantic Article on Academic Freedom. On November 23, 2021, The Atlantic published [Cancel Culture Isn't the Real Threat to Academic Freedom](#) by Yangyang Cheng. According to SupChina, [Yangyang Cheng](#) is a postdoctoral fellow at Yale Law School's Paul Tsai China Center. Before joining Yale, she worked on the Large Hadron Collider (LHC) for over a decade, and was a postdoctoral research associate at Cornell University and an LHC Physics Center Distinguished Researcher at Fermi National Accelerator Laboratory. Born and raised in China, Cheng received her Ph.D. in physics from the University of Chicago in 2015, and her Bachelor's in Science from the University of Science and Technology of China's School for the Gifted Young.

Cheng told her personal story in the article and opined that like any other institution, the academy is embedded in the power relations of a society.

"The solution to hateful speech is not outlawing speech; constructing and enforcing a ban yields more power to the already powerful. The path forward lies in leveling the terrains of injustice and empowering the marginalized, and that requires efforts from all of society. The academy is not an activist organization, but it has a professional duty to challenge orthodoxy and a moral obligation to speak truth to power. Academic freedom is not just freedom from pressures of the

state or moneyed interests; more important, it's the freedom to explore, to transcend boundaries, to discover new realms of knowledge and imagine new ways of being.

Every day, I go to work at one of the oldest institutions of higher learning on this continent. I'm reminded of the fact that this campus predates the Declaration of Independence and the U.S. Constitution, that universities outlive kings and popes, empires and dictators. As I walk past the storied halls and gothic spires, I'm also heavy with an awareness that legacies of slavery and colonialism mark this place. For most of the institution's history, a body like mine—foreign, female, and nonwhite—was never accepted. My presence here is a fruit of past struggles. My belonging contends the borders of the academy. My humanity is not up for debate."

Read more: <https://bit.ly/3cGXtXd>

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