

ONE HUNDRED SEVENTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

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September 27, 2021

The Honorable Merrick B. Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Garland:

Earlier this year, the Department of Justice moved to dismiss charges against six suspected Chinese spies, including some who openly admitted to conducting espionage for the Chinese military. It is not clear whether the Department dismissed these charges due to reported misconduct by the Federal Bureau of Investigation (FBI) or because the Department under your leadership is more invested in pursuing the far-left political goals of the Biden-Harris Administration than in protecting American national security interests. These actions by the Department raise serious concerns about its commitment to confronting the national security threats posed by the People's Republic of China (PRC).

Unlike the current Administration, President Trump and his Administration understood the threat posed by China. In November 2018, the Trump Administration launched the China Initiative to address some of the most critical threats to national security posed by the Chinese regime.¹ The Trump Administration's China Initiative sought to identify and prosecute Chinese trade secret theft and economic espionage and to protect American critical infrastructure and supply chains from covert influence.²

The threat from China is real and growing. Then-Attorney General William Barr explained last year that "[a]bout 80 percent of all federal economic espionage prosecutions have alleged conduct that would benefit the Chinese state, and about 60 percent of all U.S. trade secret theft cases have had a nexus to China."³ The FBI similarly warned that "[t]he greatest long-term threat to our nation's information and intellectual property, and to our economic vitality, is the

¹ Press Release, U.S. DEP'T OF JUSTICE, *The China Initiative: Year-in-Review (2019-20)* (Nov. 16, 2020), <https://www.justice.gov/opa/pr/china-initiative-year-review-2019-20>.

² *Information About the Department of Justice's China Initiative and a Compilation of China-Related Prosecutions Since 2018*, U.S. DEP'T OF JUSTICE, <https://www.justice.gov/nsd/information-about-department-justice-s-china-initiative-and-Compilation-china-related> (last updated June 14, 2021).

³ Attorney General William Barr, *Remarks on China Policy*, Address at Gerald R. Ford Presidential Museum (July 16, 2020), <https://www.justice.gov/opa/speech/attorney-general-william-p-barr-delivers-remarks-china-policy-gerald-r-ford-presidential>.

counterintelligence and economic espionage threat from China.”⁴ In particular, the serious threat posed by “non-traditional collectors”—such as academic researchers—is well-documented.⁵ In August 2021, former Director of the U.S. National Counterintelligence and Security Center William Evanina testified that “China utilizes non-traditional collectors to conduct a plurality of their nefarious efforts here in the U.S. due to their successful ability to hide in plain sight,” describing these non-traditional collectors as “shrouded in legitimate work and research.”⁶

In July 2021, the Department filed motions to dismiss charges against six Chinese researchers who allegedly lied about and concealed their affiliations with the Chinese Communist Party (CCP) and the Chinese People’s Liberation Army (PLA).⁷ One of these researchers lied about holding a rank in the PLA and acknowledged to U.S. officials that he “had been instructed by his supervisor, the director of his military university lab in the PRC, to observe the layout of the UCSF [University of California San Francisco] lab and bring back information on how to replicate it in China.”⁸ Another spy reportedly attempted to destroy evidence of her PLA affiliations, including an image of her PLA credentials, a photo of her in military uniform, and her true resume.⁹ In another case, a “researcher” with PLA connections hid out in the Chinese consulate in San Francisco after being interviewed by investigators, prompting officials to accuse the Chinese government of harboring a known fugitive.¹⁰

The Department justified dismissing these Chinese espionage cases, claiming that “[r]ecent developments in a handful of cases involving defendants with alleged, undisclosed ties to the People’s Liberation Army of the People’s Republic of China have prompted the

⁴ FBI Director Christopher Wray, *The Threat Posed by the Chinese Government and the Chinese Communist Party to the Economic and National Security of the United States*, Address at the Hudson Institute, (July 7, 2020), <https://www.fbi.gov/news/speeches/the-threat-posed-by-the-chinese-government-and-the-chinese-communist-party-to-the-economic-and-national-security-of-the-united-states>.

⁵ See FBI Director Christopher Wray, *Responding Effectively to the Chinese Economic Espionage Threat*, Address at Department of Justice China Initiative Conference, Center for Strategic and International Studies (Feb. 6, 2020), <https://www.fbi.gov/news/speeches/responding-effectively-to-the-chinese-economic-espionage-threat> (“[T]he Chinese government doesn’t play by the same rules of academic integrity and freedom that the U.S. does. . . . We know that through their ‘Thousand Talents Plan’ and similar programs, they try to entice scientists at our universities to bring their knowledge to China—even if that means stealing proprietary information or violating export controls or conflict-of-interest policies to do so.”); see also Press Release, U.S. DEP’T OF JUSTICE, *The China Initiative: Year-in-Review (2019-20)* (Nov. 16, 2020), <https://www.justice.gov/opa/pr/china-initiative-year-review-2019-20> (“At the outset, the Department identified academia as one of our most vulnerable sectors, because its traditions of openness, and the importance of international exchanges to the free flow of ideas, leave it vulnerable to PRC exploitation.”).

⁶ *Beijing’s Long Arm: Threats to U.S. National Security: Hearing Before the S. Select Comm. on Intelligence*, 117th Cong. (Aug. 4, 2021) (testimony of William Evanina, former Director of the U.S. National Counterintelligence and Security Center), <https://www.intelligence.senate.gov/sites/default/files/documents/os-bevanina-080421.pdf>.

⁷ George P. Varghese, Benjamin Conery, Hyun-Soo Lim, Christina Luo, *DOJ’s “China Initiative” Falters*, WILMERHALE (Aug. 5, 2021), <https://www.wilmerhale.com/en/insights/client-alerts/20210805-doj-china-initiative-falters>.

⁸ Press Release, U.S. DEP’T OF JUSTICE, *Researchers Charged with Visa Fraud After Lying About Their Work for China’s People’s Liberation Army* (July 23, 2020), <https://www.justice.gov/opa/pr/researchers-charged-visa-fraud-after-lying-about-their-work-china-s-people-s-liberation-army>.

⁹ *Id.*

¹⁰ *Id.*

department to re-evaluate these prosecutions.”¹¹ The Department said that dismissing the cases was “in the interest of justice.”¹² However, other reports suggest the Department dismissed the cases for other reasons, including the FBI supposedly failing to Mirandize and FBI questions about the value of bringing these cases.¹³ Others suggest that the timing of the dismissals—mere days before the Deputy Secretary of the State Wendy Sherman’s first trip to China—is dubious.¹⁴

Especially at a time when President Biden’s disastrous foreign policy in Afghanistan has alienated allies and alarmed Americans, our country cannot afford the threat to the United States posed by Chinese espionage. We have sought information about the dismissals, but the Department’s Office of Legislative Affairs has stonewalled our requests, citing a reluctance to discuss “prosecutorial decisions.”¹⁵ These dismissals—including the allegations of misconduct that may have contributed to the decisions—go well beyond mere “prosecutorial decisions.” They include potential misconduct and broader Administration policy matters that demand robust congressional oversight. The Department cannot avoid these serious questions.

In light of the Department’s sudden reversal on these cases, a lack of details behind those reversals, and to better understand the Department’s overall efforts to address the pervasive threats posed by the CCP to U.S. national and economic security, we respectfully request the following information:

1. Please explain why it is “in the interest of justice” to drop the charges against the six alleged Chinese spies.
2. Please explain the “recent developments” that led to the charges being dropped and whether the Deputy Secretary of State’s July 2021 trip to China was a factor in the decision.
3. Please explain whether the Justice Department supports the Trump Administration’s China Initiative and whether it has any plans to reform, prioritize, or reinforce its duties and responsibilities.
4. Please explain whether the Justice Department believes the DS-160 or any other immigration benefit application or petition filed by these individuals needs clarification with regards to an individual’s connections to a foreign military like the PLA. If so, what individual changes need to be made to each application or petition?

¹¹ Katie Benner, *U.S. Moves to Drop Cases Against Chinese Researchers Accused of Hiding Military Ties*, N.Y. TIMES (July 26, 2021), <https://www.nytimes.com/2021/07/24/us/politics/chinese-researchers-justice-dept.html>.

¹² *Id.*

¹³ Aruna Viswanatha, *U.S. Drops Visa Fraud Cases Against Five Chinese Researchers*, WALL STREET JOURNAL (July 23, 2021), <https://www.wsj.com/articles/u-s-drops-visa-fraud-cases-against-5-chinese-researchers-11627074870>.

¹⁴ See K. Lloyd Billingsley, *DOJ Dropping Case Against Chinese Researcher Will Encourage Spying*, THE INDEPENDENT INSTITUTE (July 29, 2021), <https://www.independent.org/news/article.asp?id=13692>.

¹⁵ Emails between U.S. House Comm. on the Judiciary staff and U.S. Dep’t of Justice Office of Legislative Affairs staff (Aug. 2021) (on file with Committee staff).

5. Please explain whether the Justice Department agrees with the Director of the Federal Bureau of Investigation that “[t]he greatest long-term threat to our nation’s information and intellectual property, and to our economic vitality, is the counterintelligence and economic espionage threat from China.”¹⁶
6. Please provide the number of active China-related counterintelligence cases the FBI is investigating.
7. Please provide the number of attorneys, support staff, and other resources assigned to the China Initiative.

Please provide this information as soon as possible, but no later than 5:00 p.m. on October 11, 2021. If a full response requires the disclosure of classified information, please provide such information under separate cover. After you have provided this information in writing, we ask that you arrange for the Department to provide a staff-level briefing.


The House Committee on the Judiciary has jurisdiction pursuant to Rule X of the Rules of the House of Representatives to conduct oversight of matters concerning “subversive activities affecting the internal security of the United States” as well as “criminal law enforcement and criminalization.”¹⁷

To schedule the briefing or if you have any questions about this request, please ask your staff to contact Judiciary Committee staff at (202) 225-6906. Thank you for your prompt attention to this matter.



Jim Jordan
Ranking Member

Sincerely,



Andy Biggs
Ranking Member
Subcommittee on Crime, Terrorism,
and Homeland Security

cc: The Honorable Jerrold L. Nadler, Chairman, Committee on the Judiciary

The Honorable Sheila Jackson Lee, Chair, Subcommittee on Crime, Terrorism, and Homeland Security

The Honorable Michael E. Horowitz, Inspector General, U.S. Department of Justice

¹⁶ FBI Director Christopher Wray, The Threat Posed by the Chinese Government and the Chinese Communist Party to the Economic and National Security of the United States, Address at the Hudson Institute (July 7, 2020), <https://www.fbi.gov/news/speeches/the-threat-posed-by-the-chinese-government-and-the-chinese-communist-party-to-the-economic-and-national-security-of-the-united-states>.

¹⁷ Rules of the House of Representatives, R. X, 117th Cong. (2021).