



UNITED STATES COMMISSION ON CIVIL RIGHTS

1331 Pennsylvania Avenue, NW • Suite 1150 • Washington, DC 20425 www.usccr.gov

November 18, 2015

The Honorable Loretta E. Lynch
Attorney General
U.S. Department of Justice
950 Pennsylvania Ave. NW
Washington, DC 20530-0001

Dear Madame Attorney General:

On behalf of the United States Commission on Civil Rights we write to urge you to examine whether, in the government's efforts to stop espionage by the Chinese government and Chinese institutions, it may be rushing to judgment in investigations involving Asian Americans, primarily of Chinese descent. We are concerned that the government is failing to exercise sufficient due diligence when targeting Asian Americans for investigation, surveillance, and arrest, due to their race or national origin.

Recent news reports have detailed embarrassing attempts by the federal government to prosecute Chinese Americans for spying and economic espionage, only to drop the charges "in the interest of justice" after it became clear that serious errors had been made that were fundamental to the charges.

- A Temple University physics professor, Xi Xiaoxing, was arrested for allegedly sharing confidential schematics of laboratory equipment with scientists in China. FBI agents raided his home with guns drawn and he was taken away in handcuffs in front of his wife and children. The charges against Dr. Xi, a naturalized citizen, were dropped after scientists, including the co-inventor of the equipment in question, informed the government that the blueprints he shared were not for the equipment.¹

¹ Matt Apuzzo, *U.S. Drops Charges That Professor Shared Technology With China*, NY Times, Sept. 11, 2015, <http://www.nytimes.com/2015/09/12/us/politics/us-drops-charges-that-professor-shared-technology-with-china.html>.

- Another American citizen, Sherry Chen, was a hydrologist for the National Weather Service when she was arrested for spying for China. She was arrested at her workplace and led away in handcuffs past her coworkers. The evidence in her case was weak and prosecutors dropped the charges a week before trial. According to a former federal prosecutor who specialized in computer crimes and industrial espionage, “it’s clear there was a little bit of Red Scare and racism involved.”²

We are concerned these and other examples³ may show a pattern of overzealous targeting of Chinese Americans. Members of Congress and national Asian and Chinese American organizations have raised similar concerns with you, but the Department of Justice’s response has been to dismiss these concerns without addressing the underlying policies and practices that led to mistakes which precipitated these wrongful prosecutions of American citizens.

This is not the first time a person of Chinese descent was arrested for spying with flimsy evidence and suspicions based on the suspect’s race. Dr. Wen Ho Lee was a federal nuclear scientist who was arrested for spying and held without bail in solitary confinement for over nine months. Unable to prove its accusations, the government dropped its spying charges and charged him with one count of mishandling sensitive documents, which did not require solitary confinement. Dr. Lee received an apology from a federal district court judge for his denial of bail and solitary confinement and for the government’s misconduct in investigating and prosecuting the case.

While these Chinese Americans were able to eventually have their charges dropped, they—and their families—suffered tremendously because of, at best, lack of diligence on the part of the investigators, and at worst, racial bias. Temple University demoted Dr. Xi as chair of its physics department and the government recently informed Dr. Chen it plans on firing her for many of the same reasons for which she was prosecuted. They watched their professional reputations get tarnished and incurred debt to defend their innocence. They endured months of being labeled traitors to their country, and were ostracized by neighbors, friends, and professional colleagues. Not only is there personal loss, but the nation loses promising and productive scientists when improper investigations foster anxiety in the Asian American scientific community over fears of unfair treatment.

² Nicole Perloth, *Accused of Spying for China, Until She Wasn’t*, NY Times, May 9, 2015,

<http://www.nytimes.com/2015/05/10/business/accused-of-spying-for-china-until-she-wasnt.html>.

³ Ed Silverman, *Wire Fraud Charges Against Former Lilly Scientists are Dismissed*, Wall Street Journal, Dec. 8, 2014, <http://blogs.wsj.com/pharmalot/2014/12/08/wire-fraud-charges-against-former-lilly-scientists-are-dismissed/>

Similar to the recent request of 42 members of Congress⁴ calling for an investigation, we urge you to investigate whether federal investigators and prosecutors improperly over-relied on race in recent prosecutions, and to increase training and oversight over ongoing and future investigations and prosecutions against Chinese Americans for spying and espionage. As the Department of Justice states in its 2014 guidance on the use of race, biased law enforcement practices “have a terrible cost, not only for individuals but also for the Nation as a whole.”

Very truly yours,



Martin R. Castro, Chairman



Patricia Timmons-Goodson, Vice-Chair



Robert Achtenberg, Commissioner



Commissioner David Kladney, Commissioner



Karen K. Narasaki, Commissioner

⁴ Letter from 42 members of Congress to Loretta E. Lynch, Attorney General (Nov. 5, 2015), *available at* <https://lieu.house.gov/sites/lieu.house.gov/files/documents/2015-11-05%20Letter%20to%20AG%20Lynch%20on%20Targeting%20of%20Asian%20Americans%20w-signatures.pdf>.