

Written Testimony of

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Before the

**Committee on Oversight and Reform
Subcommittee on Civil Rights and Civil Liberties
United States House of Representatives**

**At a Roundtable Entitled
“Researching while Chinese American: Ethnic Profiling, Chinese
American Scientists and a New American Brain Drain”**

**Presented
June 30, 2021**

Chairman Raskin, Chairwoman Chu, Members of the Subcommittee, and Members of CAPAC, thank you for the opportunity to appear before you today.

My name is Xiaoxing Xi. I am Professor of Physics at Temple University. Until six years ago, my life story was like many first-generation immigrants. I was born and educated in China and married a fellow graduate student there. In 1989, we came to the United States for better career opportunities and a better life. Years later and two daughters later, we realized that our home is here, and our careers are here, so we decided to become American citizens. America has given me the opportunity to reach a level in my profession that I could not have imagined when I was a youngster in China.

My American dream was interrupted on May 21, 2015, before 7 a.m. when loud pounding on my door woke me up. I ran to open the door and saw many people outside my house. Some were armed and some had a battering ram ready to take down my door. An FBI agent showed me his badge, asked for my name, and announced my arrest. Another agent turned me around and put handcuffs on me. In the meantime, the armed agents in bullet-proof vests burst into my house, running about and shouting “FBI, FBI.” They pointed their guns at my wife and two daughters and ordered them to walk out of their bedrooms with their hands raised. I was worried how frightening this must be to them – my younger daughter was only 12 years old at that time. When the FBI agents took me away in front of my family, I had no idea when I would see them again.

At FBI's Philadelphia field office, I was subjected to DNA sampling, a mug shot, and finger printing. At the U.S. Marshals Service cellblock, I was strip searched. At the end of a 2-hour interrogation, the FBI agent finally told me that I was charged for having made a device called pocket heater for a Chinese collaborator. I said immediately, "That's absurd!" because there was no way it was true. I was released on bail late in the afternoon. As we pulled into our driveway, the FBI agent was waiting for us with a search warrant. For the next 2 hours, we watched FBI agents searching every corner of our house and carting away our belongings.

Based on four emails I had sent from my Temple University address, the government charged me with four counts of wire fraud for passing sensitive US company technology, the pocket heater, to China. The charges were totally false. I had never shared the pocket heater information with anyone in China. The emails I had sent were about academic collaborations based on my own widely published research. They weren't about the pocket heater at all. After leading experts in my research field provided affidavits to affirm that the emails in question were not about the pocket heater, the government dropped the case.

But our life had been wrecked, professionally, emotionally, physically, and financially. One day, I was a respected researcher and department chair. Overnight, I was painted as a Chinese spy all over the news and internet and faced the possibility of up to 80 years in prison and \$1 million fine. I could not appear on campus, could not talk to my students, and I was no longer the Principle Investigator of my research grants. We were isolated, and worried about my career, reputation, our livelihood, the mounting legal fees, and even my personal safety. Today, we are still living under constant concern that the government is reading my emails and listening to my phone calls, and anything I do could be twisted as a reason to charge me. My research has suffered significantly because of this fear.

People have asked me, "How can the Department of Justice avoid wrongly accusing innocent people like they did in your case?" My answer is that they can't unless they stop considering Chinese professors, scientists, and students as nontraditional collectors, or spies, for China. For example, in all the criminal cases involving university professors under the China Initiative, the DOJ has shown no evidence, zero, that those charged have stolen intellectual property. Yet, they are being prosecuted for felony crimes. I want to emphasize that whether the US and China are in a cold war or hot war, it is wrong for the law enforcement to profile Chinese scientists based on where they come from. I applaud the Biden Administration for its actions against anti-Asian violence, xenophobia, and bias, and I call upon it to declare publicly that "All Chinese professors, scientists, and students are not nontraditional collectors, or spies, for China."

The US should listen to scientists about how to counter influence from China

Xiaoxing Xi

The US government has attempted to counter foreign influence on American research by pursuing criminal investigations into scientists linked to China. Xiaoxing Xi — 2020 recipient of the American Physical Society’s Andrei Sakharov Prize — believes that non-criminal approaches, such as those recommended by the independent group JASON, address the problem better.



Credit: Image courtesy of Greg Fornia - Temple University.

The inauguration of Joe Biden as President of the USA earlier this year led to calls for the new administration to end the US Department of Justice (DOJ)’s China Initiative, a program prioritizing criminal investigations related to economic espionage associated with China. Since its establishment in 2018, the China Initiative has resulted in charges against 12 university professors, ten of whom are ethnically Chinese.

However, the DOJ is not the only organization looking into China’s influence on American research. In 2019, the National Science Foundation (NSF) commissioned a study on the topic from JASON. JASON is an independent group of preeminent scientists that conducts mostly classified studies on science and technology matters for the US government. In December of the same year, the group submitted to the NSF an unclassified report, [Fundamental Research Security](#), with a classified appendix.

You may wonder: why as a physicist am I writing about the JASON report? The answer goes back to May 21, 2015 when armed FBI agents raided my house in the early morning and took me away in handcuffs in front of my family. Based on emails I had sent from my university address, the DOJ charged me with passing sensitive US company technology to China. The charges were dropped after the case [collapsed](#). I had never shared the US company technology with anyone in China. The emails I had sent were about academic collaborations, based on my own widely-published research. This experience made me aware of the challenges Chinese scientists in the USA face and that openness in fundamental research and international collaborations are under serious threat. Since then, I have been advocating for an authoritative study by the scientific community on the issue, and I was ecstatic when the JASON report came out.

With classified law enforcement information available to them, the JASON group made a detailed assessment of how China has influenced American research, by means including rewards, deception, coercion and theft. JASON concluded that these actions “occur to

some degree,” but “[how] frequently they occur is not clear.” “The picture of foreign influence in fundamental research is far from complete,” but the threat was there. The JASON report recommended that many of the problems of foreign influence “can be addressed within the framework of research integrity,” not by walling off fundamental research. This is a very different picture from what we have heard time and again from the DOJ and FBI officials and some politicians.

The FBI has [labelled](#) Chinese scientists, academics and students as “non-traditional collectors”, meaning spies, for China. I applaud the JASON report for declaring that Chinese scholars are “typically not acting as representatives of the Chinese Communist Party or the Chinese government.” No matter what the China policy of the USA is, it is wrong for law enforcement to profile Chinese students, scientists and professors based on where they come from.

Some politicians [tell us](#) that Chinese students go back to China with stolen American secrets to enable its technological rise. [Legislation](#) prohibiting visas to STEM (science, technology, engineering and mathematics) students from China has been introduced in the US senate. It would be disastrous if the bill becomes law. Under the supervision of their advisors, graduate students are the people who actually create discoveries and inventions in America. According to the JASON report, foreign students (34% of them from China) are “critical to our domestic research enterprise.” After receiving their degrees, 83% of Chinese students choose to stay in the USA, “adding to our expert workforce.”

We [hear](#) that scientific espionage on behalf of China happens routinely on university campuses. A key official in the China Initiative [said](#) that academic collaboration with China is “by definition conveying sensitive information to the Chinese.” Such statements neglect the facts that most university professors do not work on secret or sensitive research — they do fundamental research, which is open according to the [National Security Decision Directive 189](#) (NSDD-189), issued by President Reagan and reaffirmed by the

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<https://doi.org/10.1038/s42254-021-00316-3>

Bush and Obama Administrations. NSDD-189 is still the US national policy on the control of results from federally-funded research. The concept of stealing open fundamental research is a nonsensical contradiction.

Of the 12 China Initiative cases against university professors, none alleges theft of intellectual property, and all but one are about nondisclosure of activities in China. The JASON report addresses the issue of failure to disclose conflicts of interest (COI) and conflict of commitment (COC). It points out that what should be reported as a COI or COC “is not always clear” to faculty. A [US Government Accountability Office report](#) published in December 2020 reviewed five agencies (NIH, NSF, NASA, DOD and DOE) and found that two lacked agency-wide financial COI policies; none had non-financial policies, such as would pertain to researchers with multiple professional appointments. The JASON report states that the requirements for disclosure “must be clearly communicated to all stakeholders.” When the requirement to disclose is violated, the JASON report recommends that the funding agency and universities should investigate and adjudicate it, “with consequences similar to those currently in place for scientific misconduct,” such as demotion, dismissal and disbarment. Only willfully supplying incorrect information as part of a disclosure should be treated as a crime.

Failure to disclose ties to China is wrong, but employing the heavy hammer of criminal law against it [goes against the DOJ’s own rule](#) outlined in its Justice Manual. The [grounds](#) for declining prosecution, the Justice Manual says, include when “there exists an adequate non-criminal alternative to prosecution.” The JASON report concludes that there is a non-criminal alternative for nondisclosure of China ties, namely, treatment as academic misconduct.

In my view, the message sent by the criminal investigations and prosecutions of university professors for failure to disclose activities in China is less about fighting scientific espionage than effecting a complete academic decoupling from China. However, cracking down on the free exchange and open environment in academia and turning universities into industrial or government labs serves only to destroy the ecosystem that made the USA competitive in the first place. The JASON report presents a fact-based and balanced solution to a serious problem, and should be the basis for the US national policy on scientific relationship with China.

Competing interests statement

The author declares no competing interests.

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Impact of Research Security Concerns Regarding China on Academic Community Climate

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CAPAC Briefing
June 16, 2021

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Academic Collaboration with China Was Encouraged by the US Government



National Science Foundation
OF THE UNITED STATES
Beijing Office

**Washington,
D.C.**

**Beijing,
China**

PERSPECTIVES FROM THE NSF BEIJING OFFICE



Dr. Nancy Sung, Head of the NSF Beijing Office, shares her thoughts and experiences on international scientific collaboration in China.

NSF's Beijing office opened in 2006, in recognition of China's growing importance in global science and engineering research. Today, the U.S. and China are arguably each other's most significant scientific collaborators. U.S. scientists can access world-class facilities, unique geographic sites, and expertise in a growing number of fields by collaborating with Chinese colleagues. In addition, as ties are built with Chinese funding agencies, NSF funding can be leveraged in coordinated partnerships on topics that are of interest to both countries.

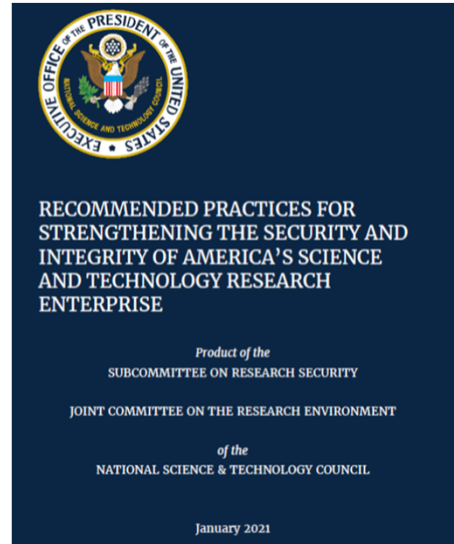
(<http://www.nsf.gov/od/ia/ise/beijing/perspectives/index.jsp>. Retrieved on May 23, 2015.)

2

Academic Collaboration with China Is Now Viewed with Suspicion



(<https://trumpwhitehouse.archives.gov/presidential-actions/presidential-memorandum-united-states-government-supported-research-development-national-security-policy/>)



(<https://trumpwhitehouse.archives.gov/wp-content/uploads/2021/01/NSTC-Research-Security-Best-Practices-Jan2021.pdf>)

3

Academia Is a Major Focus of DOJ's China Initiative



(<https://www.justice.gov/opa/speech/attorney-general-jeff-sessions-announces-new-initiative-combat-chinese-economic-espionage>)



"[The] Chinese government uses some Chinese students—mostly **post-graduate students** and **post-doctorate researchers** studying science, technology, engineering, and mathematics (STEM)—and **professors** to operate as **non-traditional collectors** of intellectual property."

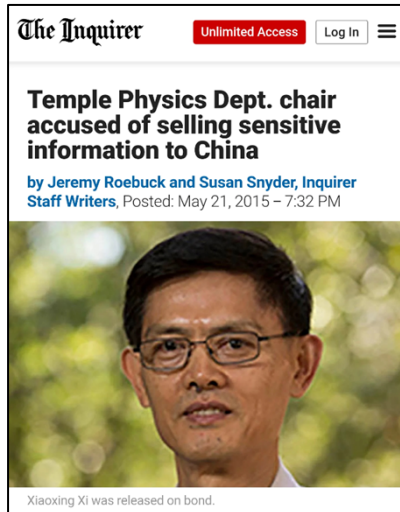
- The FBI, *China: The Risk to Academia*

(<https://www.fbi.gov/file-repository/china-risk-to-academia-2019.pdf/view>)

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False Prosecution by the U.S. Government for Spying for China

May 21, 2015



September 11, 2015



For details, see

- Physics Colloquium at Harvard University, January 25, 2021.

(<https://www.youtube.com/watch?v=OVXbiJifWzE>)

- Physics Colloquium at Stanford University, April 27, 2021.

(<https://www.youtube.com/watch?v=2ISOP4Jd9f0>)

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Reported Criminal Prosecutions Involving University Professors

1. Yudong Zhu, NYU (arrested on 5/19/13)
2. Yujie Ding, Lehigh Univ. (arr. 11/3/14)
3. Xiaoxing Xi, Temple Univ. (arr. 5/21/15)
4. Haifang Wen, WSU (2/24/16)
5. Yiheng Zhang, Virginia Tech (arr. 9/20/17)
6. Ning Xi, Michigan State Univ. (arr. 2/15/18)
- China Initiative established (11/1/18)**
7. Ehab Meselhe and Kelin Hu, Tulane Univ. (arr. 6/4/19)
8. Feng Tao, Univ. of Kansas (arr. 8/21/19)
9. Xiaojiang Li, Emory Univ. (arr. 11/22/19)
10. Charles Lieber, Harvard Univ. (arr. 1/28/20)
11. Anming Hu, Univ. of Tennessee (arr. 2/27/20)
12. James Patrick Lewis, West Virginia Univ. (3/10/20)
13. Simon Saw-Teong Ang, Univ. of Arkansas (arr. 5/8/20)
14. Shaorong Liu, Univ. of Oklahoma (arr. 5/29/20)
15. Qing Wang, Case Western Reserve Univ. (arr. 5/13/20)
16. Song Guo Zheng, Ohio State Univ. (arr. 5/22/20)
17. Zhengdong Cheng, Texas A&M (arr. 8/23/20)
18. Lin Yang, Univ. of Florida (indicted 12/15/20)
19. Gang Chen, MIT (arr. 1/14/21)
20. Gee-Kung Chang, Georgia Tech (arr. 3/24/21)
21. Mingqing Xiao, Southern Illinois Univ. – Carbondale (indicted 4/21/21)

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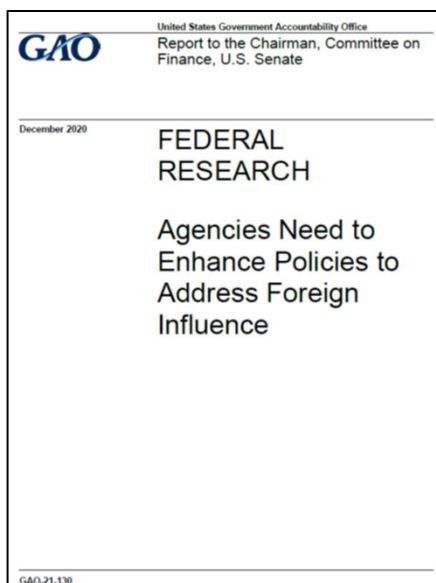
Reported Criminal Prosecutions Involving University Professors

1. Yudong Zhu, **Failure to disclose**
2. Yujie Ding, **small business related**
3. Xiaoxing Xi, **sharing technology with China**
4. Haifang Wen, **small business relate**
5. Yiheng Zhang, **small business related**
6. Ning Xi, **travel reimbursement**
7. Ehab Meselhe and Kelin Hu, **stealing computer code**
8. Feng Tao, **Failure to disclose**
9. Xiaojiang Li, **Failure to disclose**
10. Charles Lieber, **Failure to disclose**
11. Anming Hu, **Failure to disclose**
12. James Patrick Lewis, **lied to WVU to participate in TTP**
13. Simon Saw-Teong Ang, **Failure to disclose**
14. Shaorong Liu, **small business related**
15. Qing Wang, **Failure to disclose**
16. Song Guo Zheng, **Failure to disclose**
17. Zhengdong Cheng, **Failure to disclose**
18. Lin Yang, **Failure to disclose**
19. Gang Chen, **Failure to disclose**
20. Gee-Kung Chang, **J-1 visa related**
21. Mingqing Xiao, **Failure to disclose**

China Initiative established (11/1/18)

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GAO Report: Funding Agencies Do Not Have Adequate Disclosure Policies



- NIH, NSF, and NASA have agency-wide Conflict Of Interest policies, while DOD and DOE do not.
- **Existing agency-wide policies do not define non-financial conflicts**, and most **do not discuss** such conflicts, which may include **foreign academic appointments** and in-kind support—for example, **lab space or materials**—which can be provided by foreign entities. **Government-wide guidance governing the grants process does not specifically mention or define non-financial conflicts, nor does it mention disclosing foreign affiliations, associations or activities.**
- **“In the absence of agency-wide COI policies and definitions on non-financial interests, researchers may not fully understand what they need to report on their grant proposals.”**

(<https://www.gao.gov/assets/720/711371.pdf>)

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Professors Are Being Terminated, Forced to Resign, or Forced to Retire

U.S. SENATE COMMITTEE ON
Health, Education
Labor & Pensions

Date: Thursday, April 22, 2021
Time: 10:00 AM
Location: 430 Dirksen Senate Office
Building



(<https://www.help.senate.gov/hearings/protecting-us-biomedical-research-efforts-to-prevent-undue-foreign-influence>)

“One way that we measure success . . . there've been **over 100 scientists who have been removed from the NIH ecosystem** through . . . resignations, terminations, premature retirements or internal debarments.”

- NIH deputy director Michael Lauer

Bloomberg Businessweek

■ April 26, 2021, 4:00 AM EDT
■ Corrected April 26, 2021, 7:22 PM EDT

Anti-Asian Atmosphere Chills Chinese Scientists Working in the U.S.

➤ NYU's Grossman School of Medicine has **suspended** two professors it accused of failing to disclose research and funding in China **before any official finding of guilt**.

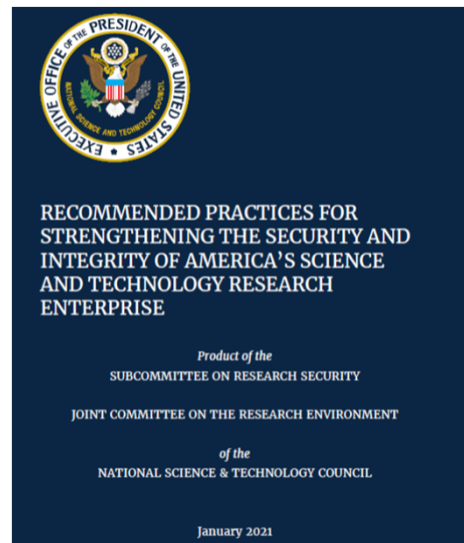
➤ Harvard, citing disclosure lapses, **began termination procedures** against a tenured science professors **without interviewing the person** about its allegations.

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JCORE Report Guidelines: Running Universities Like Weapon Labs

Select recommendations in the White House guideline:

- Develop a “risk profile” including cyber, foreign travel, **insider threat**, and export control.
- **Comprehensive disclosures** by **researchers, staff, postdocs, graduate students** and **visiting scholars**.
- Disclosures **upon hiring**, with annual updates.
- **Vetting, securely hosting** and **escorting foreign visitors and visiting scholars**.
- Consider **digital persistent identifier** (DPI).
- **Identify, document, report to authority** failure to disclose COI and COC. **Partner with the FBI**.
- **Red flag** a wide range of **circumstances and behaviors** perceived as potential risk.
- **Security process for foreign travel: loaner computer, pre-travel briefing**, etc.



(<https://trumpwhitehouse.archives.gov/wp-content/uploads/2021/01/NSTC-Research-Security-Best-Practices-Jan2021.pdf>)

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Congressional Actions Relating to Research Security

- **Senate Permanent Subcommittee on Investigations report (November 18, 2019)**
 - recommends updating NSDD-189 to implement **additional, limited restrictions on fundamental research**
- **Safeguarding American Innovation Act, Sen. Rob Portman [R-OH] (04/22/2021)**
 - **makes it a crime failing to disclose** foreign ties on federal grant applications
 - **denies visas** to foreign researchers seeking to steal research and IP
 - requires research institutions and universities to provide information about **sensitive technologies that a foreign researcher will have access to**
- **Endless Frontier Act, Sen. Chuck Schumer [D-NY] (04/20/2021)**
 - **prohibits funding** for participant in government talent recruitment program of China, North Korea, Russia, or Iran
 - **prohibits funding from being used** by such individuals
- **SECURE CAMPUS Act, Sen. Tom Cotton [R-AR] (04/22/2021)**
 - **prohibits visas** for Chinese students in STEM fields
 - **bans funding** for Chinese nationals and participants in China's talent recruitment programs
- **Higher Education Research Protection Act, Rep. Andy Barr [R-KY-6] (05/07/2021)**
 - **hires FBI agents singularly focused** on Chinese espionage at universities and the National Academies of Science, Engineering, and Medicine.

11

Harmful Climate Facing Academic Community

Climate trending toward

- substantial reduction or elimination of Chinese students in STEM fields
- severe punishment for researchers who collaborate with Chinese colleagues
- difficulties for ethnically Chinese scientists to have a career in the US
- substantial or complete academic decoupling with China
- significant restrictions on open fundamental research on university campuses

Racial profiling is unjust to Chinese scientists, academics, and students, who are important contributors to America's economic security and national security

Rejecting talents and shutting down open exchanges on fundamental research hurt America more than anyone else.

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