

Congress of the United States
Washington, DC 20515

January 22, 2024

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Mike Johnson
Speaker of the House
United States House of Representatives
Washington, D.C. 20515

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, D.C. 20510

The Honorable Hakeem Jeffries
Democratic Leader
United States House of Representatives
Washington, D.C. 20515

Dear Majority Leader Schumer, Minority Leader McConnell, Speaker Johnson, and Democratic Leader Jeffries,

We write to you to express our strong concern about language directing the Department of Justice (DOJ) to reinstate the National Security Division (NSD)'s "China Initiative" that was included in the explanatory materials for H.R. 5893, Commerce, Justice, Science, and Related Agencies (CJS) Appropriations Act, 2024.

As you begin the conference process to reconcile the Senate and House versions of the bill, we strongly urge you to strike the following language from the explanatory materials to H.R. 5893 in the Joint Explanatory Statement (JES):

*“Countering espionage by the People’s Republic of China.—The Committee believes it was deeply irresponsible for the Department to end its China Initiative. The Committee understands that the Department established the China Initiative in 2018 in response to troubling trends indicating 80 percent of all economic espionage prosecutions brought by the Department allege conduct that would benefit the Chinese state, and that there was at least some nexus to China in around 60 percent of all trade secret theft cases. The initiative’s goal was to identify and prosecute those engaged in trade secret theft, hacking, and economic espionage as well as protecting our critical infrastructure against external threats through foreign direct investment and supply chain compromises. Additionally, the initiative aimed to combat covert Chinese efforts to influence the American public and policymakers. Within funds provided, the Committee directs the National Security Division to reestablish an office dedicated to countering espionage and influence efforts against American businesses, research institutions, and academia emanating from the PRC.”*¹

¹ U.S. House. Committee on Appropriations Commerce, Justice, Science, and Related Agencies Subcommittee. (2024). *Explanatory Materials for the Commerce, Justice, Science, and Related Agencies Appropriations Bill—H.R. 5893*. <https://appropriations.house.gov/sites/republicans.appropriations.house.gov/files/FY24-CJS-Explanatory-Materials.pdf>

Subsequently, we urge you to strike all other references to reinstating the China Initiative in the “Highlights of the Bill” section of the explanatory materials for H.R.5893 from the JES. This section describes the decision to dismantle the China Initiative as “unwise.”² We object to this characterization.

The DOJ first launched the China Initiative in November 2018. The stated goal of the China Initiative “was to identify and prosecute those engaged in trade secret theft, hacking, and economic espionage as well as protecting our critical infrastructure against external threats through foreign direct investment and supply chain compromises.”³ In the more than three years that this program existed, federal prosecutors charged dozens of individuals with various types of fraud and conspiracy, acting as an agent of a foreign government, unlawful export, money laundering, and other charges.⁴

Prosecutors pursued criminal charges in all of these cases rather than utilizing civil penalties or administrative remedies. Meanwhile, the DOJ never provided a formal explanation of why or how it labeled cases as part of the China Initiative. It also never made publicly available data on these cases.⁵

This prosecutorial initiative was a blunt instrument wielded against anyone who had “some nexus to China.”⁶ An unacceptably high number of the aforementioned cases ended in dropped charges, dismissals, and acquittals because prosecutors could not prove allegations.⁷ Moreover, over the course of this program, an increasing number of cases had to do with false statements and the failure to make disclosures—not espionage, theft, or spying—specifically by academics and researchers of Chinese descent.⁸ Chinese American and Chinese researchers and scholars—who have made valuable contributions to science, technology, and academia in this country for decades—reported that they felt targeted by a racial profiling campaign and fearful of conducting research.⁹ Several of the most high-profile cases not only had dramatic consequences for individuals personally and professionally, they also cast a chilling effect on scientific inquiry and academic freedom in the United States.¹⁰

² Ibid.

³ U.S. Department of Justice. National Security Division. (2021, November 19). *Information about the Department of Justice’s China Initiative and a Compilation of China-Related Prosecutions Since 2018*. <https://www.justice.gov/archives/nsd/information-about-department-justice-s-china-initiative-and-compilation-china-related>

⁴ Ibid.

⁵ Guo, E., Aloe, J., & Hao, K. (2021, December 2). *The US crackdown on Chinese economic espionage is a mess. We have the data to show it*. MIT Technology Review. <https://www.technologyreview.com/2021/12/02/1040656/china-initiative-us-justice-department/>

⁶ U.S. Department of Justice. National Security Division. (2021, November 19). *Information about the Department of Justice’s China Initiative and a Compilation of China-Related Prosecutions Since 2018*.

⁷ Nakashima, E. & Nakamura, D. (2021, September 15). *China Initiative aims to stop economic espionage. Is targeting academics over grant fraud ‘overkill’?*. The Washington Post. https://www.washingtonpost.com/national-security/china-initiative-questions-dismissals/2021/09/15/530ef936-f482-11eb-9738-8395ec2a44e7_story.html

⁸ Ibid.

⁹ Ibid.

¹⁰ Xie, Y., Lin, X., & Li, J. (2023, June 27). Caught in the crossfire: Fears of Chinese-American scientists. *Proceedings of the National Academy of Sciences of the United States of America*, 120(27).

To be clear, we recognize the utmost importance of national security and the threats to it. The ending of the China Initiative was not the end of federal law enforcement efforts to counter such threats from the Chinese Communist Party and other regimes. Following the Department's strategic review of the China Initiative, United States Assistant Attorney General for National Security Matthew Olson announced in February 2022 the NSD's new Strategy for Countering Nation-State Threats. This strategy takes "a comprehensive approach" and allows the NSD greater flexibility as it "work[s] with the FBI and other investigative agencies to assess the evidence of intent and materiality, as well as the nexus to our national or economic security" of specific threats.¹¹ In spite of suggestions otherwise, federal agencies have not stopped working to counter espionage and other threats by adversarial governments.

A budget is a representation of our priorities and values. It would be both a misallocation of resources and a backsliding for civil rights to restart the China Initiative. We appreciate your support for forward-looking solutions to the problems our nation faces, as well as our shared commitment to American values of freedom and fairness. We urge you to strike this language from the final text in the JES accompanying the FY24 CJS Appropriations Bill.

Sincerely,



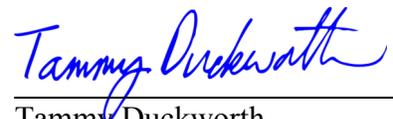
Grace Meng
Member of Congress



Mazie K. Hirono
United States Senator



Judy Chu
Member of Congress
Chairwoman, Congressional
Asian Pacific American
Caucus



Tammy Duckworth
United States Senator

<https://www.pnas.org/doi/10.1073/pnas.2216248120>

¹¹ U.S. Department of Justice. Office of Public Affairs. (2022, February 23). *Assistant Attorney General Matthew Olson Delivers Remarks on Countering Nation-State Threats*. <https://www.justice.gov/opa/speech/assistant-attorney-general-matthew-olson-delivers-remarks-countering-nation-state-threats>



Raphael Warnock
United States Senator



Peter Welch
United States Senator



Jake Auchincloss
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Suzanne Bonamici
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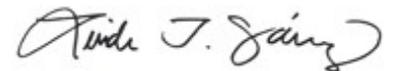
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Member of Congress



Barbara Lee
Member of Congress



Katie Porter
Member of Congress



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