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Physical  
Society

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September 1, 2021

The Honorable Merrick Garland  
Attorney General  
US Department of Justice  
950 Pennsylvania Avenue NW  
Washington, DC 20530

The Honorable Eric S. Lander, PhD  
Director, Office of Science and Technology Policy  
Executive Office of the President  
Eisenhower Executive Office Building  
1650 Pennsylvania Avenue NW  
Washington, DC 20504

Dear Attorney General Garland and Director Lander:

On behalf of the American Physical Society (APS) – the nation’s largest physics membership organization representing more than 50,000 members across academia, national laboratories, and the private sector – I’m writing to express our strong concerns with the Department of Justice’s (DOJ’s) “China Initiative,” which is sowing fear among members of our community of Asian descent, hurting our ability to attract international students and scientists, and curtailing our participation in fruitful international collaborations. By restricting both legitimate international scientific collaborations and our pipeline of international talent, the current implementation of the China Initiative is weakening, not strengthening, the US scientific enterprise. I offer several recommendations on reformulating the China Initiative to better address legitimate threats to our national and economic security.

APS recognizes that the unauthorized transfer of US-based knowledge or technical expertise to other countries poses real threats to our nation’s security. We agree that policymakers should be concerned with the potential theft of intellectual property (IP), trade secrets and classified research, as well as systematic efforts by foreign entities to develop covert, undisclosed relationships with US-based researchers to illicitly acquire US science and technology. We support the federal government making concerted efforts to prevent these actions from occurring.

We also appreciate the importance of transparency and disclosure by federally funded researchers. For its part, APS has established clear ethical guidelines and

policies for its members. We have called for scientists to intensify their commitment to research integrity – which includes openness, honesty, objectivity, fairness, disclosure, accountability and stewardship – as outlined in the [2020 APS Board Statement on Open Science and a Recommitment to Research Principles](#).

An individual’s failure to disclose ties to institutions other than one’s own, particularly those that involve funding and can be considered “conflicts of commitment,” is a breach of scientific integrity. For university researchers who are engaged in fundamental research meant to be published in the open literature, disclosure failures that are unintentional and administrative in nature are generally not considered a crime prosecutable by DOJ. Such administrative oversights instead result in sanctions by the individual’s institution or the federal science agencies funding the individual. Yet, under the China Initiative, the vast majority of the professors being prosecuted by DOJ have been arrested for charges centered on not properly disclosing research grants from foreign sources.

At the same time, the initiative is resulting in false positives; multiple China Initiative criminal prosecutions of academic scientists that have moved forward have resulted in cases being dismissed or charges being dropped. These results indicate that the current implementation of the initiative is not achieving its desired result. Instead, this DOJ effort has unfairly targeted numerous scientists of Asian descent and thereby damaged the lives of some of our colleagues, their families, and their students. We are witnessing reputations being tarnished and careers in ruins.

Moreover, the federal government’s current response to research security concerns is negatively impacting the US scientific enterprise broadly. Current policies are having a chilling effect on international collaborations that are beneficial to the United States. Some university professors are being advised by administrators to cease participating in collaborations with their counterparts from China simply to avoid the possibility of any scrutiny from federal science agencies.

Additionally, current policies hinder our nation’s ability to attract talented international graduate students and scientists. According to the recent APS report titled “[Building America’s STEM Workforce: Eliminating Barriers and Unlocking Advantages](#),” a survey of international physics graduate students and early career scientists who chose not to come to the United States to study or work revealed that nearly half of the respondents viewed the United States as “unwelcoming to foreigners.” US leadership in science, technology and innovation depends on the open exchange of fundamental research and, in part, on our ability to recruit the world’s best and brightest.

Given the China Initiative’s unfair treatment of some individual scientists, along with its negative impacts on our competitiveness, it is clear that the policy must be reformulated. Below, we offer a series of recommendations for adjusting the China Initiative that could both protect against national security risks and strengthen our research enterprise.

- **Refocus the Initiative:** The initiative’s focus should be where there are evident economic and national security risks. To date, results from China Initiative cases involving university professors that have moved forward show that those accused of not properly disclosing funding ties with foreign institutions are not security risks. Initiative resources instead should be directed at protecting against the evident risks of espionage and theft of US-based intellectual property and trade secrets.
- **Rename the Initiative:** The initiative’s name should change so it does not focus on a particular country, but instead focuses on the crime. Including a specific nation in the initiative’s name has resulted in concerns with ethnic profiling. State-sponsored theft – stemming from any nation – is a legitimate threat to our national and economic security. The initiative should be renamed to reflect that DOJ is focusing on the threat, e.g., “Securing US Intellectual Property Initiative.”

- **Establish Protocol for Breaches of Scientific Integrity:** In cases where DOJ uncovers exclusively administrative issues that are breaches of scientific ethics, the federal government should establish a formal protocol to engage with the researcher's home institution and professional affiliated organizations, and even transfer those cases when appropriate.
- **Provide Researchers Window to Catch Up:** University researchers who previously did not disclose foreign support appropriately should be provided a limited period to correct any administrative oversights.
- **Review Past Cases and Correct for Violations:** Past cases should be reviewed for instances of racial bias and due process violations. For university researchers who ultimately are not convicted on the charges filed, the federal government should provide the compensation necessary to re-establish their career.
- **Mitigate Against Racial Profiling Going Forward:** To help ensure a reformulated research security initiative is implemented fairly and avoids racial profiling, DOJ should apply President Biden's Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.
- **Seek Input from the Research Community:** DOJ officials should engage with university leaders and representatives of the scientific community to ensure that a reformulated research security initiative clearly conveys the initiative's goals. Additionally, DOJ should work with community leaders to develop an outreach plan to publicize the new initiative to the broader scientific community.

Thank you for considering our recommendations. We look forward to working together to thoughtfully protect our nation against evident security risks, welcome international talent and promote beneficial collaborations. If you have questions or would like to further discuss this issue, please do not hesitate to contact APS Director of Government Affairs Mark Elsesser (elsesser@aps.org; 202.662.8710).

Sincerely,

A handwritten signature in black ink that reads "Sylvester J. Gates, Jr." in a cursive script.

Sylvester James Gates, Jr.  
President, American Physical Society