

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

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March 13, 2024

The Honorable Merrick B. Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Ave. NW
Washington, D.C. 20530

Dear Attorney General Garland:

The Committee on Oversight and Accountability (the “Committee”) is investigating the Chinese Communist Party’s (CCP) systematic efforts to infiltrate the U.S. and the response of federal agencies. While threats exist from other countries, “it is clear that the government of China stands apart.”¹ Assistant Attorney General (AAG) for National Security, Matthew Olsen, testified to Congress that, “[n]o doubt about it, China presents the greatest strategic threat to the United States of any country in the world, from economic espionage to theft of trade secrets, human rights violations, competition, and technology.”² Counterintelligence experts have explained that the CCP threat has amounted to a “total war for regional and global supremacy, and it incorporates elements of military, economic, informational, and political warfare.”³

The Committee seeks information about what the U.S. Department of Justice (the “Department” or “DOJ”) is doing to protect Americans from the People’s Republic of China’s (PRC) ambitions for global dominance. This includes the Department’s efforts to safeguard targeted communities, including American businesses, Chinese Americans, and our country’s justice system from CCP warfare.

Broader Committee Investigation

The Committee is conducting oversight of the federal government’s work to protect the American people from CCP “political warfare”⁴ and nefarious influence operations. For

¹ Assistant Attorney General Matthew Olsen, *Remarks on Countering Nation-State Threats*, Dep’t of Justice (Feb. 23, 2022).

² Open Hearing: Nominations, Before the U.S. Senate Select Committee on Intelligence, 117th Cong. 83 (2021) (statement of Assistant Attorney General for National Security Matthew Olsen).

³ See Kerry K. Gershaneck, *Political Warfare: Strategies for Combating China’s Plan to “Win without Fighting”* (2020) at 4.

⁴ Political warfare “seeks to influence emotions, motives, objective reasoning, and behavior of foreign governments, organizations, groups, and individuals in a manner favorable to one’s own political-military objectives.” Mark Stokes, Project 2049, *The People’s Liberation Army General Political Department: Political Warfare with Chinese Characteristics* (Oct. 14, 2013).

decades, the CCP has sought to infiltrate and influence every aspect of American society.⁵ The CCP's goal is plain: defeat the "main enemy," which counterintelligence officials have identified as America.⁶ The fronts are multiple; according to the CCP itself: "[t]he battlefield will be everywhere."⁷ And the tools are myriad, with the "united front"⁸ leading as one of the PRC's⁹ "magic weapons,"¹⁰ as described by General Secretary Xi Jinping,¹¹ to advance the Party's aim of global domination.¹² United front work (UFW), which may be executed by the United Front Work Department (UFW) or elsewhere in the Party, is a "unique blend of engagement, influence activities, and intelligence operations" that the CCP uses to "influence other countries' policy toward the PRC and to gain access to advanced foreign technology."¹³ UFW "generally involves covert activity and is a form of interference that aids the CCP's rise."¹⁴ United front "networks" are used "to carry out relationship-focused influence campaigns through a multitude of proxies."¹⁵

Despite years of false promises to the West, the CCP openly seeks to achieve its destructive ambition. In 1999, two People's Liberation Army Air Force colonels authored *Unrestricted Warfare*, which has been described as a strategic military vision for the PRC to defeat America through political warfare.¹⁶ Retired Brig. Gen. Robert Spalding, who has served in senior positions in strategy and diplomacy with the U.S. Departments of Defense and State for decades, characterizes the book as "the main blueprint for China's efforts to unseat America as the world's economy, political, and ideological leader," which "shows exactly how a totalitarian

⁵ See generally Constantine C. Menges, *China The Gathering Threat* (2005); Report of the Select Committee on U.S. National Security and Military/Commercial Concerns With The People's Republic of China ("Cox Report") (Jan. 3, 1999); Robert Spalding, *War Without Rules* (2022); Col. Grant Newsham, *When China Attacks: A Warning to America* (2023); Gershaneck, *supra* note 3; see also Larry Diamond and Orville Schell, *China's Influence & America's Interests: Promoting Constructive Vigilance*, Hoover Institution (2019).

⁶ Menges, *supra* note 5; Gershaneck, *supra* note 3 ("The PRC is engaged in war against the United States. It is not mere competition or malign influence, but war by PRC definition."); Newsham, *supra* note 5 at 60 (The CCP "seeks global domination" and "will fight its main enemy, the United States, to achieve it.").

⁷ Qiao Liang and Wang Xiangsu, *Unrestricted Warfare: China's Master Plan to Destroy America* (Beijing: PLA Literature and Arts Publishing House, Feb. 1999) (military colonels describing twenty-four varieties of warfare).

⁸ "While the CCP's United Front Work Department has functional responsibility for these [warfare] operations and activities, PRC united front work is a task of all CCP agencies and members." Gershaneck, *supra* note 3 at 22.

⁹ It is essential to understand that Xi Jinping has removed any "veneer of separation between the [CCP] and the Chinese state." Gershaneck, *supra* note 3 (quoting Ann-Marie Brady, *Exploit Every Rift: United Front Work Goes Global*, in David Gitter et al., *Party Watch Annual Report*, Center for Advanced China Research (2018)).

¹⁰ Ann-Marie Brady, *Magic Weapons: China's political influence activities under Xi Jinping*, Wilson Center (Sept. 18, 2017); see also The Select Committee on the Chinese Communist Party, *Memorandum: United Front 101* ("United Front 101 Memo"), <https://selectcommitteeontheccp.house.gov/sites/evo-subsites/selectcommitteeontheccp.house.gov/files/evo-media-document/uf-101-memo-final-pdf-version.pdf>.

¹¹ Alex Joske, *The party speaks for you: Foreign interference and the Chinese Communist Party's united front system*, Australian Strategic Policy Institute (2020) (quoting Xi Jinping at 2015 Central United Front Work Meeting).

¹² See, e.g., Newsham, *supra* note 5 at 43 ("The People's Republic of China may settle for dominance rather than occupation, but it does indeed aim to rule us all.").

¹³ United Front 101 Memo, *supra* note 10 at 1.

¹⁴ Joske, *The party speaks for you*, *supra* note 11.

¹⁵ Alex Joske, *Spies and Lies: How China's Greatest Covert Operations Fooled the World* (2022) at 63.

¹⁶ Gershaneck, *supra* note 3.

nation set out to dominate the West through a comprehensive, long-term strategy that includes everything from corporate sabotage to cyberwarfare to dishonest diplomacy; from violations of international trade law and intellectual property law to calculated abuses of the global financial system.”¹⁷ Kerry Gershaneck, former counterintelligence officer who wrote a seminal book on combatting PRC Political Warfare, has explained that *Unrestricted Warfare* details CCP use of “any methods” where “the boundaries between war and non-war and between military and non-military affairs [have] systemically broken down.”¹⁸ To successfully combat these highly organized and pervasive warfares spawned by China, federal agencies must first recognize and understand them.

The CCP “know[s] the strength of the American people, of the American idea, and that’s why China has launched so many warfares to try to weaken us, divide us, and get us to hate ourselves and each other.”¹⁹ Retired Col. Grant Newsham, former U.S. Marine Liaison Officer to the Japan Ground Self-Defense Force and U.S. Foreign Service Officer, has advised that “the way out of this is to rediscover why we are an exceptional country, get to know each other better, and fight side by side.”²⁰

As all Americans are targets of the PRC’s warfare,²¹ federal agencies have responsibilities to (1) conduct outreach to citizens about the dangers they may encounter, and (2) provide appropriate incentives for Americans to proactively protect themselves—their communities, schools, houses of worship, businesses, finances, food, and more—from the threat. Federal agencies must prepare Americans to “take action.”²² To stop the CCP’s “destructive actions,” retired Brig. Gen. Spalding advises that it will “take macrolevel strategic changes by our government, but also microlevel actions by individuals, businesses and other civic institutions.”²³ The Committee is surveying each agency’s role to secure Americans and their communities.

¹⁷ Spalding, *War Without Rules*, *supra* note 5 at xii; *see also* Robert Spalding, *Stealth War* at 12-13 (2019) (*Unrestricted Warfare* “should be required reading for all branches of the US government and for business leaders, because it outlines, in no uncertain terms, the strategy behind China’s policies,” including stating that the “new principles of war” are “no longer ‘using armed force to compel the enemy to submit to one’s will,’ but rather are ‘using all means, including armed force or non-armed force, military and non-military, and lethal and non-lethal means to compel the enemy to accept one’s interests.’”).

¹⁸ Gershaneck, *supra* note 3 (quoting Qiao Liang and Wang Xiangsu, *supra* note 7).

¹⁹ Newsham, *supra* note 5 at 341.

²⁰ *Id.*

²¹ “The Three Warfares, the traditional foundation of PRC political warfare, include public opinion/media warfare, psychological warfare, and legal warfare.” Gershaneck, *supra*, note 3. It “requires efforts to unify military and civilian thinking, divide the enemy into factions, weaken the enemy’s combat power, and organize legal offensives.” Elsa Kania, *China Brief: The PLA’s Latest Strategic Thinking on the Three Warfares*, Jamestown Foundation (Aug. 22, 2016).

²² Spalding, *War Without Rules*, *supra* note 5 at 214.

²³ *Id.*; *see also* Peter Mattis and Matt Schrader, *War On the Rocks, America Can’t Beat Beijing’s Tech Theft With Racial Profiling* (July 23, 2019) (“The U.S. government’s difficulties in telling a convincing story about the Chinese Communist Party point to a[n] important step: addressing a serious lack of ‘China literacy,’ both within the enforcement portions of the federal bureaucracy, and in U.S. society as a whole.”).

Congress has recognized the threat posed by the PRC for some time. Notably, in 1999, the U.S. House Select Committee on U.S. National Security and Military/Commercial Concerns with the People’s Republic of China concluded that in the preceding decade, the PRC used a “variety of techniques including espionage, controlled commercial entities, and a network of individuals that engage in contact with scientists, business people and academics” as part of its warfare operations.²⁴

With varying degrees of effort and success, federal agencies have sought to address the CCP’s attack on what Col. Newsham has aptly described as “[t]he core of America.”²⁵ However, the threat is grave and work must be done across agencies to protect America.²⁶ Peter Mattis, former staff director of the Congressional-Executive Commission of China and counterintelligence analyst at the CIA counsels that

Only by being clear in public about the actions and intentions of the Chinese party-state, and being publicly accountable for the actions the U.S. government takes in response, will the United States be able to address Beijing’s challenges while upholding our democratic commitment to fair, transparent justice for all Americans.²⁷

To this end, the Committee is conducting this investigation and implores each federal agency to uphold its duty to the American communities for whom they are responsible.

Protecting American Business

One of the primary targets of CCP elite capture efforts is the American business community. Elite capture is “a form of political warfare that seeks to control the actions of political, academic, business, and cultural leaders,” to achieve policies and actions within the United States that it views as beneficial.²⁸ Such manipulation is achieved through a variety of techniques, to include “financial incentives, financial dependence or compromise, business entanglement, offers of access to opportunities within China, ideological appeal, and even blackmail.”²⁹ When considered in the context of CCP elite capture tactics, it is notable that in an effort to capitalize on PRC markets and boost business, American corporations “have increasingly supported Beijing’s military modernization, surveillance state, domestic

²⁴ Menges, *supra* note 5; *see generally* Cox Report, *supra* note 5.

²⁵ Newsham, *supra* note 5 at 33.

²⁶ *See* Newsham, *supra* note 5 at 309 (“We need to know, value, protect and build the strengths of the United States of America, and shed the light of truth on the corruption, in every sense of the word,” of the CCP. “That could mean in discussions with family, community, at school or wherever that understanding needs bolstering.” Education courses on PRC political warfare would benefit “[a]ny decision-makers who work with China.”); *see* Gershaneck, *supra* note 3 (outlining such courses to “build[] internal defenses”).

²⁷ Mattis and Schrader, *supra* note 23.

²⁸ *Elite Capture, Why America is Losing in the Political Warfare Arena, and What Can Be Done*, The Oversight Project, Heritage.org (Apr. 5, 2023).

²⁹ *Id.*

securitization, and attendant human rights violations.”³⁰ Businesses who believe that access to the PRC market is crucial might fail to recognize, or at the very least appreciate, that the PRC private sector and the CCP not only work together, but they do not adhere to international law or the assumptions of the organizations they work with.³¹ The Department has acknowledged that “[n]o company with significant business interest in China is immune from the coercive power of the [CCP].”³² Businesses engaged with China face significant risks, including but certainly not limited to economic warfare tactics such as economic espionage, trade secret theft, and illegal technology transfer.

The CCP’s economic warfare against the American business community often involves the use of American proxies, which are used to do the CCP’s bidding for it. The manipulation of proxies is “one of the most important vectors for the party’s influence abroad.”³³ Proxies act on behalf of the CCP and therefore provide it with the ability to spend money legitimately, without raising regulatory flags that may come from direct state activity.³⁴ There is serious concern that the CCP uses proxies to “weaponize the ‘revolving door’ between the public and private sector” and elevate U.S. actors who are willing to prioritize cooperation with the CCP.³⁵ CCP warfare works best when U.S. citizens, particularly agents of influence, do the work for them.³⁶ When American businesses are used as proxies for the CCP, they expose themselves to potential economic harm, and they may, themselves, become implicated in potentially illegal activity in violation of the Foreign Agents Registration Act³⁷, and the Foreign Corrupt Practices Act³⁸, among other national security laws.

Despite these serious risks, many top American companies have signed Memorandums of Understanding (MOU) with the PRC or PRC companies, sometimes subjecting themselves to unintended binding contracts and to an increased risk of CCP infiltration.³⁹ The CCP steals assets companies cannot afford to lose, like “source code from software companies, testing data

³⁰ Victims of Communism Memorial Foundation, *Corporate Complicity Scorecard: An Assessment of U.S. Companies’ Exposure to Military Modernization, Surveillance, and Human Rights Violations in the People’s Republic of China*, Horizon Advisory Report (“Corporate Complicity Scorecard”) (Feb. 3, 2022); *See also* Rio Zhong, *The Trials and Tribulations of Big Tech in the US-China Relationship*, Georgetown Journal of International Affairs, Business & Economics (May 20, 2021) (“...companies are subject to broader political trends and will prioritize operations and profit over ideology wherever good business opportunities arise.”)

³¹ *See* Spalding, *supra* note 5 at 9.

³² Press Release, Office of Public Affairs, *China-Based Executive at U.S. Telecommunications Company Charged with Disrupting Video Meetings Commemorating Tiananmen Square Massacre*, U.S. Dep’t of Justice (Dec. 18, 2020) (quoting Assistant Attorney General for National Security John C. Demers).

³³ Peter Mattis, written testimony for the U.S.-China Economic and Security Review Commission, Hearing on China’s Global Influence and Interference Activities (Mar. 23, 2023), at 6.

³⁴ *Id.*

³⁵ Letter from Rep. Mike Gallagher to the Honorable Betsy DeVos, Sec’y., Dep’t of Educ. (Nov. 30, 2020).

³⁶ Newsham, *supra* note 5 at 50.

³⁷ 22 U.S.C. § 611 et seq.

³⁸ 15 U.S.C. §§ 78dd-1, et seq.

³⁹ *See* Dan Harris, *In China, Treat A Memorandum Of Understanding Like A Binding Contract*, Forbes (Aug. 30, 2016) (advising U.S. and Western companies that MOUs with China “likely constitute[] binding contract[s] under Chinese law and [are] almost certainly viewed that way by their Chinese counterparts.”); *see also* Dan Harris, *China MOUs and LOIs: Use Them at YOUR Peril*, Harris Sliwoski (Dec. 28, 2012) (explaining that a misunderstanding of MOUs signed by U.S. companies often causes “discord between Chinese and American companies.”).

and chemical designs from pharma firms, engineering designs from manufacturers, [and] personal data from hospitals, credit bureaus, and banks.”⁴⁰ Although many American companies have fostered such relationships before the CCP “revealed itself as an aggressive international player,” such companies may now play unintentional roles as supporters of the CCP, which includes “not just the benefit they receive, but the degree to which they could be said to facilitate China’s abusive domestic and international policies.”⁴¹ Joint business ventures with the PRC inherently expose American businesses to CCP influence and covert control because CCP cells are “required to exist in virtually any Chinese company of any real size.”⁴² Without proper knowledge or recognition of CCP warfare efforts, these companies risk remaining what Mary Kissel, former Senior Advisor to U.S. Secretary of State Mike Pompeo, characterized as “corporate hostages” to the CCP.⁴³

Silicon Valley is a prime target for CCP economic warfare against the business community. Since the 1970s, Silicon Valley has morphed into a business-rich area and a “global hub for technological innovation.”⁴⁴ But adverse CCP involvement may be overlooked. Silicon Valley hosted General Secretary Xi Jinping in November 2023, where guests from leading American companies paid tens of thousands of dollars to attend.⁴⁵ Representative Mike Gallagher, Chairman of the House Select Committee on the CCP, described this as “unconscionable.”⁴⁶ At the elite event, Xi spoke about the PRC’s alleged desire to “be a partner and friend to the United States,”⁴⁷ while influential American business executives honored Xi’s speech with a standing ovation.⁴⁸ Chairman Gallagher appropriately warned that executives should recognize the risks of doing business in the PRC, which is “particularly true for U.S. companies that work on critical and emerging technologies.”⁴⁹ Providing top CCP officials, especially General Secretary Xi, access to prominent American companies fuels the CCP’s ability to shape American discourse and decision making.

The CCP is becoming more brazen by the day. In late 2021, it blatantly sought to influence American business and the policy positions leaders take. The PRC Embassy in Washington sent letters to U.S. executives, companies, and business groups urging them to serve

⁴⁰ FBI Director Christopher Wray, *Countering Threats Posed by the Chinese Government Inside the U.S.*, Remarks delivered at the Ronald Reagan Presidential Library and Museum (Jan. 31, 2022).

⁴¹ Corporate Complicity Scorecard, *supra* note 30 at 2.

⁴² Wray, *supra* note 40.

⁴³ Fox Business, *Tim Cook tied Apple’s fortunes to China: Mary Kissel*, (00:50) (Mar. 27, 2023) (quoting Mary Kissel).

⁴⁴ Troy Segal, *Silicon Valley: Definition, Where It Is, and What It’s Famous For*, Investopedia (Aug. 17, 2023).

⁴⁵ Kenneth Rapoza, *In the U.S.’s Fights Against China, We’re at a Distinct Disadvantage*, Discourse (Jan. 3, 2024); Lauren Silva Laughlin, *American CEOs serve China’s Xi a too-rich dessert*, Reuters (Nov. 17, 2023).

⁴⁶ Letter from Rep. Mike Gallagher, Chairman, H. Select Subcomm. on the CCP, to Mr. Stephen Orlins, President, National Comm. on U.S. China Relations (Nov. 13, 2023); Letter from Rep. Mike Gallagher, Chairman, H. Select Subcomm. on the CCP, to Mr. Craig Allen, President, U.S. China Business Council (Nov. 13, 2023) (collectively, “Gallagher Letters”).

⁴⁷ Rapoza, *supra* note 45.

⁴⁸ *Id.*; Laughlin, *supra* note 45.

⁴⁹ Gallagher Letters, *supra* note 46.

as CCP mouthpieces.⁵⁰ The letters reportedly “sincerely” encouraged recipients to “play a positive role in urging members of Congress to abandon the zero-sum mindset and ideological prejudice, [to] stop touting negative China-related bills, delete negative provisions, so as to create favorable conditions for bilateral economic and trade cooperation before it is too late.”⁵¹ The PRC has recently expanded its law on CCP access to state secrets to encompass a broader range of sensitive information, adding to the concerns of doing business with the CCP and “expand[ing] the scope of state control of information.” The new law cites General Secretary Xi’s “comprehensive national-security” concept, which “guard[s] against internal and external threats while ensuring the primacy of Xi and the [CCP].” While the CCP guards itself against threats from foreign nations, American companies doing business with the CCP become vulnerable to threats against national security and the CCP’s “clampdown on information.” These examples offer only a glimpse into the CCP’s massive influence operation targeting American business.

Col. Newsham has explained that America is “being psychologically and economically eroded from inside through [CCP] entropic warfare.”⁵² This warfare directly influences American businesses by seeking to change how they behave “in a way that is favorable to PRC interests and objectives.”⁵³ This includes the idea that “we simply have to be invested in the China market,” or the thought that “[y]ou can’t say *that* about China! You will offend Chinese people.”⁵⁴ The ongoing psychological tactics downplay the CCP threat and “justify inaction, lethargy, or compliance in the face of outrageous, inhumane CCP behavior.”⁵⁵ The Department can mitigate these extensive influence campaigns by proactively engaging with the business community about the associated risks, thus, preventing violations of national security laws and bolstering prosecutions when violations occur.

Protecting Chinese Americans

CCP political warfare also specifically targets the Chinese diaspora, which includes Chinese Americans. This is often done through united front work (UFW), which is a “unique blend of engagement, influence activities, and intelligence operations” that the CCP uses to “influence other countries’ policy toward the PRC and to gain access to advanced foreign technology.”⁵⁶ Through “an extensive and well-documented network of organizations operating in parallel to the [PRC’s] foreign ministry and intelligence services,” UFW activity fulfills the CCP’s goals through many different means.⁵⁷ This includes the “surveillance of Chinese diaspora communities”⁵⁸ because the CCP fears that “increased exposure to foreign ideas poses a

⁵⁰ Michael Martina, *EXCLUSIVE Chinese embassy lobbies U.S. business to oppose China bills – sources*, Reuters (Nov. 15, 2021).

⁵¹ *Id.*

⁵² Newsham, *supra* note 5 at 338.

⁵³ *Id.* at 64.

⁵⁴ *Id.* at 65. (emphasis in original).

⁵⁵ *Id.*

⁵⁶ United Front 101 Memo, *supra* note 10 at 1.

⁵⁷ *Id.*

⁵⁸ *Id.* at 2.

threat to the CCP's domestic rule."⁵⁹ This ultimately poses serious risks to Chinese Americans. In an effort to enhance the potency and reach of CCP's overseas influence—while often showing flagrant disregard for sovereignty and the laws of foreign nations—the CCP employs “intimidation of the Chinese diaspora on foreign soil through the use of informants and threats against family in China.”⁶⁰

CCP authorities “treat people of Chinese ethnic origin” around the world, including in the U.S., as a “special priority” in the CCP's “global influence-seeking activities.”⁶¹ One study found that CCP propaganda uses “wedge narratives—such as framing racism and violence as targeted at the diaspora—to divide diaspora communities from the host countries.”⁶² Using the UFW, the CCP seeks to take advantage of open democratic societies, like the U.S., which “tend to be more vulnerable to coercive or authoritarian uses of diaspora populations.”⁶³

Diaspora engagement is increasingly exploited by the CCP as a tool to reign in geopolitical competition and further the CCP's own interests. A former U.S. counterintelligence official has recounted that “during the 1950s and 1960s there was a significant effort by the Chinese intelligence service to coerce Chinese Americans who had family members living in China to be cooperative” with the PRC.⁶⁴ Since then, Beijing has created a bureaucratic ecosystem, used to “facilitate the transfer of foreign technology and expertise to China, through both legal and illegal means, and that particularly targets members of the Chinese diaspora.”⁶⁵

CCP warfare against the Chinese diaspora escalated when the Party launched an extralegal repatriation effort, known as “Operation Fox Hunt,” in 2014. This “campaign” seeks to harass and stalk U.S. residents to coerce them to return to the PRC.⁶⁶ Recently, a top coordinator of Operation Fox Hunt, Liu Jianchao, was extended an invite to speak at a Council on Foreign Relations event, claiming to help “soften the country's global image,”⁶⁷ even though he has been “a vocal supporter of Xi's international economic policies.”⁶⁸ Liu also met with Principal Deputy National Security Advisor Jon Finer and Secretary of State Antony Blinken.⁶⁹ The hostile efforts of Operation Fox Hunt even overtook a former sergeant in the New York City Police Department, who was convicted for acting as an illegal agent of the PRC when engaging

⁵⁹ Audrye Wong, *The Diaspora and China's Foreign Influence Activities*, Wilson China Fellowship 608 (May 2022).

⁶⁰ U.S. China Economic and Security Review Commission Annual Report (2023), at 11.

⁶¹ Diamond and Schell, *supra* note 5 at xiii.

⁶² Wong, *supra* note 59.

⁶³ *Id.* at 627.

⁶⁴ Menges, *supra* note 5 at 314.

⁶⁵ Mattis and Schrader, *supra* note 23.

⁶⁶ The program has prompted the DOJ and FBI to protect victims of Chinese harassment through criminal charges, and to publicly condemn CCP “tactics,” which they described as “appalling.” FBI Director Christopher Wray, *Remarks Regarding China's Operation Fox Hunt*, FBI News (Oct. 28, 2020)

⁶⁷ Jimmy Quinn, *Chinese Communist Leader Who Coordinated Illicit 'Fox Hunt' Program Visits New York*, National Review (Jan. 8, 2024).

⁶⁸ Scott Kennedy, et. al, *Liu Jianchao: China's Shadow Foreign Minister*, CSIS (Jan. 12, 2024).

⁶⁹ *Id.*

in “surveillance, harassment, and stalking on behalf of [the CCP] for money.”⁷⁰ Notably, after the former sergeant of the New York City Police Department was convicted, a co-defendant’s lawyer reportedly claimed that the defendants were unknowingly used and that “the U.S. should have educated them on how to be alert, rather than prosecuting them.”⁷¹ The operation poses serious risks to American citizens while, disturbingly, the CCP is offered open access to America’s top officials and outreach to targeted communities appears limited.

Importantly, we must avoid furthering ethnic divisions between the Chinese diaspora and America, which fuels CCP warfare and “aims to blur the lines between Chinese nationals and [Chinese Americans].”⁷² Chinese Americans should be viewed, even utilized, as assets to reach out to diaspora communities and address issues of concern.⁷³ It is incumbent upon the U.S. government to recognize that the CCP is responsible for “cynically attempting to use Chinese Americans to further its own interests” while simultaneously making Chinese American communities vulnerable to distrust.⁷⁴ We must therefore be alert and conduct outreach to targeted communities about the CCP’s warfare efforts to “intentionally homogenize and instrumentalize” the Chinese diaspora in America.⁷⁵

Protecting the American Justice System

Finally, the Department must protect itself from CCP warfare if it is to successfully safeguard Americans—the business community, Chinese diaspora, and many more targeted groups—from the CCP’s unrestricted warfare. Yet, DOJ has been vulnerable to CCP psychological warfare, warping its response to criticism of the enforcement of our country’s national security laws. One of the central purposes of DOJ’s “China Initiative,” launched in 2018, was to “sensitize the public that there is this massive effort by the Chinese government to steal technology from the United States and bring it to China.”⁷⁶ The initiative sought to address evolving national security priorities, including, non-exhaustively, identifying trade secret theft, applying FARA to agents advancing the CCP’s agenda, and evaluating whether additional authorities are required to protect national assets.⁷⁷

The Department received apparent criticisms of the China Initiative claiming that the cases brought under it were biased and racially motivated. However, as a Heritage Foundation

⁷⁰ U.S. Attorney’s Office, Eastern District of N.Y., *Federal Jury Convicts Three Defendants of Interstate Stalking of Chinese Nationals in the U.S. and Two of Those Defendants Acting or Conspiring to Act on Behalf of the People’s Republic of China* (June 20, 2023).

⁷¹ Jennifer Peltz, *3 men convicted in US trial that scrutinized China’s ‘Operation Fox Hunt’ repatriation campaign*, AP (June 20, 2023).

⁷² Wong, *supra* note 59 at 608, 615.

⁷³ *Id.* at 609.

⁷⁴ Diamond and Schell, *supra* note 5 at 48.

⁷⁵ Wong, *supra* note 59 at 615.

⁷⁶ Andy Z. Wang, *U.S. Attorney in Leiber Case Says He Encourages Lawful Academic Collaboration with China: ‘No One is Saying Don’t Do It’*, The Harvard Crimson (Jan. 29, 2021) (quoting Andrew E. Lelling, U.S. Attorney for the Dist. of Mass.).

⁷⁷ Nat’l Sec. Div., *Information About the Department of Justice’s China Initiative and a Compilation of China-Related Prosecutions Since 2018*, Dep’t of Justice (Nov. 19, 2021).

report appropriately noted, “[b]ecause China’s military and intelligence services target individuals of Chinese citizenship and heritage for recruitment, it is of little surprise that the DOJ’s China Initiative cases tended to involve defendants of Chinese citizenship or heritage.”⁷⁸ As such, the “trend reveals systemic bias by *China’s* security services, not bias on the part of the DOJ prosecutors or Federal Bureau of Investigation.”⁷⁹

This kind of criticism of the China Initiative is not surprising given one of the CCP’s tactics described by General Spalding: “[r]acism is . . . frequently invoked to deflect criticism of the CCP.”⁸⁰ This kind of social issue is “precisely the type of American vulnerability that [the CCP] is eager to exploit.”⁸¹ Notably, AAG Olsen said, after a months-long review of the program, “the [D]epartment’s actions [were] driven by genuine national security concerns,”⁸² and that he “never saw any indication, none, that any decision that the Justice Department made was based on bias or prejudice of any kind.”⁸³ Additionally, there is no public reporting by the DOJ-Office of the Inspector General that there was any merit to these accusations in the first place. In any event, the Department has acknowledged that the initiative “effectively focused attention on the multi-faceted threat from the PRC.”⁸⁴ The false accusation that the American justice system was racially motivated in enforcing America’s national security laws weakened Department investigations and sober efforts to protect America from CCP warfare.

In January 2022, FBI Director Wray announced “there is just no country that presents a broader threat to our ideas, our innovation, and our economic security than China.”⁸⁵ Nonetheless, the Department terminated the China Initiative, a mere three weeks later, and replaced it with a “Strategy for Countering Nation-State Threats.”⁸⁶ Members of Congress have opposed the Department’s decision, highlighting the repercussions and arguing that the “wholesale abandonment of a national security initiative because of unproven allegations of racial profiling should not happen.”⁸⁷ The termination of the China Initiative had enormous and immeasurable consequences for the Department—most distinctly, a chilling effect on prosecutors and investigators seeking to protect Americans from CCP national security threats.

Perhaps the most critical component of the China Initiative was the important messaging it conveyed to the public. At its outset, the Department stated, “outreach to businesses and

⁷⁸ Michael J. Ellis, *DOJ Emboldens China by Ending Initiative Against Our Greatest Counterintelligence and Economic Espionage Threat*, The Heritage Foundation (Mar. 24, 2022) (emphasis in original).

⁷⁹ *Id.*

⁸⁰ Spalding, *supra* note 5 at 208-09.

⁸¹ *Id.*

⁸² Olsen, *supra* note 1.

⁸³ Hadley Baker, *Lawfare No Bull: The DOJ’s Role in Combatting Nation State Threats*, Lawfare (Feb. 25, 2022) (audio replay of question and answer portion of Olsen’s February 23, 2022 remarks).

⁸⁴ Olsen, *supra* note 1.

⁸⁵ Wray, *supra* note 40.

⁸⁶ Olsen, *supra* note 1.

⁸⁷ Letter from Senator Marco Rubio, et. al, to The Honorable Merrick Garland, Dep’t of Justice (March 24, 2022); see also House Appropriations Comm., *Committee Releases FY24 Commerce, Justice, Science, and Related Agencies Appropriations Bill*, (July 13, 2023) (mandating the re-establishment of DOJ’s China Initiative).

academia is critical to helping America's national assets better protect themselves.”⁸⁸ Proactive outreach remains critical. It is also imperative that the department solely responsible for enforcing our nation's national security laws give its prosecutors the agency necessary to lawfully uphold their constitutional duties and do so without fear of repercussion from within DOJ or elsewhere. To help ensure that the Department demonstrates to the American people that accusations and prosecutions are “driven by evidence of genuine wrongdoing, rather than unfair racial profiling,”⁸⁹ the Committee urges the DOJ to vigilantly prosecute lawful cases and remain committed to upholding the Constitution for all Americans throughout the process.

Conclusion And Requests

The Department bears great responsibility in proactively protecting Americans from CCP warfare efforts to subvert American businesses, attack Chinese diaspora, and interfere with our justice system. To assist the Committee's oversight in this matter, the Committee asks for a staff briefing before March 20, 2024. Please be prepared to address the following in the briefing:

1. How the DOJ strives to inspire and equip Americans to strengthen their communities, innovate, and create the technologies and phenomena that will secure a strong and prosperous future for our nation;
2. How the DOJ leadership ensures from the top down that all DOJ employees are aware of CCP warfare and influence operations against America, and are equipped to address them wherever they arise;
3. DOJ outreach to the American business community, Chinese diaspora, and other American communities targeted by the CCP about CCP threats to each community;
4. DOJ training of employees handling China matters regarding the threat of CCP warfare, in its many forms, and how to combat it under federal law;
5. Any DOJ tip or reporting lines specifically provided for Americans to report concerns about unlawful CCP activity in the U.S., as well as protections for anonymous disclosures; and
6. DOJ guidance that provides companies, practitioners, and the public with detailed information about protections available for those who voluntarily report about potentially unlawful CCP activity in the U.S.

⁸⁸ Press Release No. 20-1238, *The China Initiative: Year-in-Review (2019-20)*, Dep't of Justice (Nov. 16, 2020).

⁸⁹ Mattis and Schrader, *supra* note 23.

The Honorable Merrick B. Garland

March 13, 2024

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To schedule the briefing, or if you have questions regarding this request, please contact the Committee on Oversight and Accountability staff at (202) 225-5074. The Committee on Oversight and Accountability is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. Thank you for your attention to this important matter.

Sincerely,

A handwritten signature in black ink that reads "James Comer". The signature is written in a cursive style with a horizontal line underneath the name.

James Comer

Chairman

Committee on Oversight and Accountability

cc: The Honorable Jamie B. Raskin, Ranking Member
Committee on Oversight and Accountability