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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

February 28, 2022

VIA ELECTRONIC TRANSMISSION

The Honorable Matthew G. Olsen
Assistant Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Assistant Attorney General Olsen:

I write with deep concern over your decision to cancel the China Initiative, a strategic prioritization of investigations of national security threats originating from the Chinese Communist Party. From the Department of Justice's own consistent public representations, China is undoubtedly the top source of all espionage investigations. Further, 80 percent of all economic espionage prosecutions brought by the Department allege conduct that would benefit the Chinese state, and there is at least some nexus to China in around 60 percent of all trade secret theft cases.¹ Director Wray has previously testified that the Federal Bureau of Investigation opens a new Chinese espionage case every 12 hours.² The Director of the National Security Agency under President Obama, Keith Alexander, has called Chinese state theft of American intellectual property the "greatest transfer of wealth in history," likely costing over \$400 billion a year.³

A large part of the basis of my concern with respect to your decision to scuttle the China Initiative is based on years of oversight work. On June 5, 2019, while Chairman of the Finance Committee, I held a hearing titled, "Foreign Threats to Taxpayer Funded Research: Oversight Opportunities and Policy Solutions."⁴ The witnesses included the Department of Health and Human Services (HHS) and its Inspector General (HHS OIG), the National Institutes of Health (NIH) and the Department of Homeland Security (DHS). Noticeably absent was the FBI, who refused to attend. After that hearing and on that same day, I led a classified committee briefing with the same witnesses. With respect to my oversight work relating to foreign threats to taxpayer funded research, I've written letters to DOJ, NIH, HHS OIG, the Government Accountability Office, National Science Foundation and the Department of Defense.⁵

¹ Information About the Department of Justice's China Initiative and a Compilation of China-Related Prosecutions Since 2018, DEP'T OF JUST., <https://www.justice.gov/archives/nsd/information-about-department-justice-s-china-initiative-and-compiled-china-related> (last updated Nov. 19, 2021).

² Dareh Gregorian, *FBI Director Says New Probes into China Launched 'Every 12 Hours'*, NBC (Sept. 21, 2021), <https://www.nbcnews.com/politics/national-security/fbi-director-says-new-probes-china-launched-every-12-hours-n1279724>.

³ Megan Henney, *Chinese Theft of US Intellectual Property 'Greatest Transfer of Wealth' in History*, FOX BUSINESS (Jul. 18, 2018), <https://www.foxbusiness.com/politics/chinese-theft-of-us-intellectual-property-greatest-transfer-of-wealth-in-history>.

⁴ *Foreign Threats to Taxpayer – Funded Research: Oversight Opportunities and Policy Solutions: Hearing Before the S. Comm. on Fin.*, 116th Congress (2019), https://www.finance.senate.gov/hearings/foreign-threats-to-taxpayer_funded-research-oversight-opportunities-and-policy-solutions.

⁵ Press Release, Sen. Charles E. Grassley, Grassley Receives Response from NIH On Foreign Threats to Research Grant Process (Jan. 8, 2019), <https://www.grassley.senate.gov/news/news-releases/grassley-receives-response-nih-foreign-threats-research-grant-process>; see also Press Release, Sen. Charles E. Grassley, Grassley Seeks More Information On Foreign Threats To U.S. Research Institutions (Jan. 18, 2019), <https://www.grassley.senate.gov/news/news-releases/grassley-seeks-more-information-foreign-threats-us-research-institutions>; Press Release, S. Comm. on Fin., HHS OIG Responds to Grassley Inquiry: NIH Referred 12 Allegations of Noncompliance in Research Projects, Primarily Involve Failure to Disclose Foreign Affiliations (Feb. 6, 2019), <https://www.finance.senate.gov/chairmans-news/hhs-oig-responds-to-grassley-inquiry-nih-referred-12-allegations-of-noncompliance-in-research-projects-primarily-involve-failure-to-disclose-foreign-affiliations>; Press Release, Sen. Charles E. Grassley, Grassley Expands Government Grant Integrity Probe To National Science Foundation (Apr. 15, 2019),

Importantly, my oversight work has also focused on Confucius Institutes and what DOJ as well as DHS are doing to combat China's efforts to use our academic environment for their propaganda efforts.⁶ In addition to those efforts, I've requested and received classified briefings on the same issues over a period of years. All of this work and the resulting communication with relevant government agencies, including DOJ, has confirmed to me and my colleagues that the communist Chinese government is clearly the greatest threat to the U.S. research field and the protection of our intellectual property. Your decision to shut down the China Initiative will negatively impact the whole-of-government approach to detecting, deterring and punishing these ever-present threats from the Chinese Government.

Indeed, your review and termination of the China Initiative is particularly troubling because you concede all that I have detailed above in your statement to cancel the Initiative. You concede that China remains the top threat and is deserving of focus. You concede that all criticisms of the China Initiative, including accusations of racism, are ill-founded. You state that at no time was a Chinese espionage case ever inappropriately undertaken, and that all cases done under the China Initiative reflect the seriousness of the threat from the Chinese state rather than the ancestry of any defendant charged. Notwithstanding that defense, the Initiative is being cancelled in order to accommodate unfounded perceptions. Further, you also indicate that there will be fewer prosecutions brought against nontraditional collectors in the future, in part to accommodate these mistakes.

To allow the United States to be less safe, and more under threat from espionage from the Chinese Communist Party than before, in order to accommodate a criticism that you know to be wrong, is not leadership. This is not the first instance in which you have given Congress reason to doubt your leadership decisions. At a January 11, 2022 hearing before our committee on domestic terrorism, you also made an enforcement change to feed a perception rather than a national security need. Despite the fact that career attorneys at the Department have consistently recommended against creating a domestic terrorism unit, warning that the change would be "harmful" and "counterproductive" as it will split up various forms of expertise,⁷ you either proceeded against this advice to do exactly that, or made no effort to become aware of career advice before making this decision.

These actions suggest that at least some of your decisions as Assistant Attorney General are governed more by partisan pressure, however unfounded, than by expert advice to promote national security. While you made certain to hold listening sessions with those who were critical of the Initiative, it does not appear you made a corresponding effort to hear from its proponents. The *New York Times* reports that you met with Congressional staff.⁸ That did not include my staff, as the Ranking Member of the Department's committee of jurisdiction. As of now, I have yet to find a Republican with whom you provided the opportunity for substantial feedback. I am aware that about an hour before you publicly

<https://www.grassley.senate.gov/news/news-releases/grassley-expands-government-grant-integrity-probe-national-science-foundation>; Press Release, Sen. Charles E. Grassley, Grassley Probes Foreign Threats To Taxpayer-Funded Research At Defense Department (Apr. 2, 2019), <https://www.grassley.senate.gov/news/news-releases/grassley-probes-foreign-threats-taxpayer-funded-research-defense-department>; Press Release, Sen. Charles E. Grassley, Grassley Receives Response From DoD On Foreign Threats To Taxpayer-Funded Research (Jul. 2, 2019), <https://www.grassley.senate.gov/news/news-releases/grassley-receives-response-dod-foreign-threats-taxpayer-funded-research>; Press Release, Sen. Charles E. Grassley, Grassley Presses DOJ On FARA And China's Activity In The U.S. Education System (Oct. 1, 2018), <https://www.grassley.senate.gov/news/news-releases/grassley-presses-doj-fara-and-china-s-activity-us-education-system>.

⁶ Press Release, Sen. Charles E. Grassley, Chinese Propaganda Outfits At U.S. Schools Get Boost From Biden Admin (Feb. 11, 2021), <https://www.grassley.senate.gov/news/news-releases/chinese-propaganda-outfits-at-us-schools-get-boost-from-biden-admin>.

⁷ Betsy Woodruff Swan, *Memo Reveals DOJ Pushback on Domestic Terrorism Bill*, POLITICO (Apr. 7, 2021), <https://www.politico.com/news/2021/04/07/doj-memo-durbin-domestic-terrorism-479711>.

⁸ Katie Benner, *Justice Dept. Is Set to Modify Trump-Era Program Aimed at Fighting Chinese Threats*, NEW YORK TIMES (Feb. 20, 2022), <https://www.nytimes.com/2022/02/20/us/politics/justice-department-china-trump.html>.

announced your decision, your staff offered to brief mine. By design, this was of course too late for my team to warn you of my concerns.

In your confirmation, your hyperpartisan writings caused many Senators like myself serious pause. As a person who would be responsible for protecting law enforcement from attacks by extremists, you instead criticized and undermined the very officers you should protect when they were the targets of political violence at the Portland courthouse.⁹ While we might have hoped that, upon assuming office, you would change tact, it does not appear that you have done so. By demonizing officers, disregarding the advice of career attorney experts, and throwing away an Initiative on which so many career investigators and prosecutors have invested good work, you have delivered an extremely clear message: the Department values certain political appearances over national security and public service.

The American people, including those who serve under you in the National Security Division, deserve much better. I urge you to reconsider your decision to cancel the China Initiative.

You may contact Erin Creegan on my staff at (202) 224-5225 with any questions you may have about this letter and its request.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Judiciary

cc: The Honorable Merrick B. Garland
Attorney General

⁹ Michael Leiter, Matthew Olsen, et al., *21 Former Security Leaders: We Oppose Militarized DHS Deployment in Portland*, USA TODAY (Jul. 28, 2020), <https://www.usatoday.com/story/opinion/2020/07/28/dhs-officers-portland-harm-public-safety-top-security-leaders-column/5524990002/>.