

Congress of the United States
Washington, DC 20515

October 1, 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,

As you resolve differences between the House and Senate’s appropriations bills, we urge you to strike language directing the Department of Justice (DOJ) to reinstate the National Security Division (NSD)’s “China Initiative” in the House Report accompanying H.R. 9026, Commerce, Justice, Science, and Related Agencies (CJS) Appropriations Act, 2025:

*“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

This nearly identical language was included in last fiscal year’s report for the House version of the CJS Appropriations Act—but was negated in the JES for the final bill that became law in FY 2024. We ask you again to use the conference process to set straight the priorities of the majorities of both chambers and strike this language from the House Report accompanying H.R. 9026.

¹ U.S. House. Committee on Appropriations Commerce, Justice, Science, and Related Agencies Subcommittee. (2024). *FY 2025 Bill Report*. <https://www.congress.gov/118/crpt/hrpt582/CRPT-118hrpt582.pdf>

Following the launch of the China Initiative in November 2018, federal authorities wielded this prosecutorial initiative as a blunt instrument rather than a narrow or tailored tool to combat threats to national security. 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.”² In the more than three years of this program’s existence, 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.³ 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.⁴ Based on data collected by researchers, an unacceptably high number of the aforementioned cases ended in dropped charges, dismissals, and acquittals because prosecutors could not prove allegations.⁵ 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.⁶

The China Initiative also enabled the racial profiling and targeting of individuals who had “some nexus to China.”⁷ 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 because of their racial and ethnic backgrounds and fearful of conducting research.⁸ 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.⁹

We are concerned that current efforts to reinstate the China Initiative dismiss the DOJ’s rationale for dismantling it in 2022. The “Highlights of the Bill” section in the House Report for H.R.

² 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>

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 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/>

⁵ 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

⁶ Nakashima, E. & Nakamura, D.

⁷ 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*.

⁸ Nakashima, E. & Nakamura, D.

⁹ 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). <https://www.pnas.org/doi/10.1073/pnas.2216248120>

9026 characterizes the DOJ’s decision to end the China Initiative as “more concerned with being politically correct than protecting Americans.”¹⁰ The use of the term “politically correct” attempts to trivialize the dangers of racial profiling—and purports that our government cannot protect national security at the same time that it protects Americans’ civil rights.

The federal government is equipped to respond to threats posed by 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 Olsen 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. In fact, Attorney General Merrick Garland testified in front of the House Appropriations CJS Subcommittee in April of this year that the DOJ remains specifically focused on national security and the disruption of threats from the People’s Republic of China and other adversarial governments.¹²

Many of us wrote to you mere months ago about a nearly identical—and failed—attempt to reinstate the China Initiative in the House CJS Appropriations Act in FY 2024. Rather than entertaining short-sighted policy and fearmongering language, we ask that you work with us to find forward-looking solutions rooted in our shared commitment to American values of freedom and fairness. We urge you to strike the House CJS report language entitled *Countering Espionage by the People’s Republic of China* in the final joint explanatory statement to accompany the FY25 CJS Appropriations Bill.

Sincerely,



Grace Meng
Member of Congress



Mazie K. Hirono
United States Senator

¹⁰ U.S. House. Committee on Appropriations Commerce, Justice, Science, and Related Agencies Subcommittee. (2024). *FY 2025 Bill Report*. <https://docs.house.gov/meetings/AP/AP00/20240709/117502/HMKP-118-AP00-20240709-SD002.pdf>

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

¹² *Budget Hearing – Fiscal Year 2025 Request for the Department of Justice*, 118th Cong. (2024). (Testimony of Attorney General of the United States Merrick Garland). <https://www.youtube.com/watch?v=TAISrBQ6P4g>



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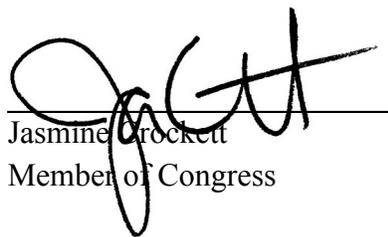
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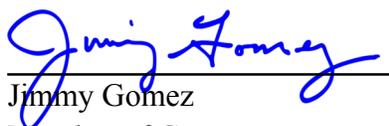
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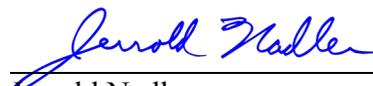
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