US indicts Taiwanese-American target of nuclear espionage furor

Martin McLaughlin
18 December 1999

The indictment and jailing of Los Alamos physicist Wen Ho Lee marks an escalation of the politically motivated campaign over alleged espionage by China against US nuclear weapons facilities.

Lee, a naturalized US citizen who was born and raised in Taiwan and has never lived in mainland China, was indicted on 59 counts of violating the Atomic Energy Act and the Foreign Espionage Act, charges which would carry a penalty of life imprisonment if he were convicted. He was arrested December 10 and ordered jailed indefinitely at a hearing December 13 before US magistrate Don Svet. Federal prosecutors demanded Lee's incarceration, calling him a "flight risk," although he has lived in the United States for more than two decades and has surrendered his passport.

The indictment was far more severe than had been suggested in previous reports on the case, and is grossly disproportionate, given that Lee is not accused of spying, but only of downloading various computer files from a secure computer at Los Alamos for use in his home computer, which is not secure. This practice is reportedly commonplace among scientists at US government laboratories.

No evidence has been brought forward that links Lee to officials of the Chinese government or China's Peoples Liberation Army, despite a massive investigation. The FBI said more than 60 agents and computer specialists conducted more than 1,000 interviews and searched more than a million computer files. An additional 200 FBI agents have been involved in watching Lee 24 hours a day since April, when he was fired by Secretary of Energy Bill Richardson.

The indictment does not claim that any of the data he is accused of improperly handling actually found its way to Beijing or otherwise assisted the Chinese nuclear development program. However, the section of the Atomic Energy Act under which he is charged—never before used in a criminal proceeding—provides that the offender must have removed classified data "with the intent to injure the United States and with the intent to secure an advantage for a foreign power." There is no indication how the prosecution plans to prove that Lee had such an intent.

Another example of contorted reasoning by the prosecutors is their focus on 10 tapes of data made by Lee for the purpose of moving files from the lab mainframe to his home computer. Seven of these tapes are unaccounted for. After Lee was notified in February 1999 that he was the target of an FBI investigation, he apparently destroyed some or all of the tapes now labeled "missing," as well as erasing some of the files from his home computer. This action, which in one interpretation would appear a perfectly natural effort to correct a mistake, is depicted by the FBI and prosecutors as an attempted cover-up.

Lee's attorneys, from the Los Angeles law firm of O'Melviney and Myers (former Secretary of State Warren Christopher is a senior partner), denounced the indictment as excessive and unwarranted, and repeated a longstanding offer that Lee would submit to an extensive polygraph interrogation on charges of espionage. Attorney Holscher said such a test would "verify our repeated written representations that at no time did he mishandle those tapes in question and to confirm that he did not provide the tapes to any third party."

After the initial media and political uproar over the case last March, when charges of the theft of nuclear secrets were made public by the *New York Times*, the case against Wen Ho Lee slowly collapsed, as it became clear that the basis of the charges was the unsupported suspicion of a single Department of Energy official, deputy security chief Notra Trulock, whose motives are suspect. An article in the *Washington Post* revealed that Trulock has been a regular correspondent and participant in chat room discussions on an extreme right-wing web site called

© World Socialist Web Site

FreeRepublic.com.

By June, the Clinton administration's own investigation into the Department of Energy (DOE) labs, headed by former Republican Senator Warren Rudman, concluded that Trulock and the FBI had selected Wen Ho Lee out of 500 possible suspects because he was an Asian-American and had traveled in the 1980s to China (under official DOE auspices). Rudman's report recommended that Trulock's office be disbanded and its responsibilities be turned over to the CIA, and shortly thereafter Trulock resigned his $125,000-a-year position and took a management job with the military contractor TRW.

Trulock's predecessor as acting head of counterintelligence at DOE, Charles Washington, opposed Trulock's instigation of the espionage investigation at Los Alamos in 1996, telling him that singling out Lee and another Chinese-American scientist as suspects was unfair. Washington, who is black, is now suing the Energy Department for racial discrimination. He is also charging that Trulock took retaliatory action against him.

Washington charged that Trulock was seeking to expand the budget for his counterintelligence operation at DOE and saw the Los Alamos spy scare as a golden opportunity. "Trulock used to say, 'We need one good espionage case to make this program grow,'" Washington told the *Washington Post*.

Given the flimsy nature of the case and the dubious character of Lee's principal accuser, Lee's indictment on such serious charges can only be understood as a political decision taken at the highest levels of the Clinton administration. Attorney General Janet Reno reportedly made the decision to indict Lee after a briefing on the case at the White House for senior administration officials. Until that meeting, it had been widely expected that Lee would either not be indicted at all, or face only relatively minor charges for mishandling computer data.

As it has done consistently in the face of provocations by extreme right-wing forces—which have frequently been allied with the FBI—the White House has once again decided to conciliate its opponents on the right. In this case, Clinton and his aides are seeking to mollify Congressional Republicans by making Wen Ho Lee the scapegoat in a spy scare in which there is no certainty that a breach of security actually took place.

The most widely publicized example of a supposed Chinese espionage success, the leaking to China of plans for an advanced US warhead called the W-88, demonstrates the dubiousness of the whole affair. The W-88 is a miniaturized warhead used only on missiles equipped with so-called MIRV technology, where a single missile releases multiple, independently targeted warheads. China has no such missiles and is not expected to be able to produce them for several decades, and therefore would have no use for the W-88.

The timing of the indictment and arrest of Wen Ho Lee is also suspiciously political. Fortuitously or not, it takes the spotlight off of two other events in the China espionage investigation which could discredit both the Clinton administration and the congressional Republicans who have been seeking to whip up anti-Asian racism and anticommunist hysteria over the issue.

On December 15, two days after Lee's hearing, a five-member panel sponsored by Stanford University's Center for International Security and Cooperation (CISC) issued a devastating, point-by-point rebuttal of the report of a House subcommittee, chaired by Republican Christopher Cox, which first launched the China spy investigation.

Supervised by Michael M. May, codirector of the CISC and former director of the Lawrence Livermore National Laboratory, one of the main US nuclear weapons research facilities, the Stanford report detailed crude errors of fact, interpretation and judgment throughout the 750-page Cox report, which was widely hailed by the US media when it was released last March.

Meanwhile a Senate special subcommittee headed by Arlen Specter, a Republican from Pennsylvania, called off scheduled hearings on the FBI's investigation into Chinese espionage, which would have provided a public forum for Asian-American groups outraged by the racial profiling employed by the agency in the course of its three-year probe. Specter said the hearings were called off at the request of FBI Director Louis Freeh, who claimed that testimony could aid Wen Ho Lee's defense.

To contact the WSWS and the Socialist Equality Party visit:

wsws.org/contact

© World Socialist Web Site