

The scapegoating of Wen Ho Lee

How a Los Alamos scientist was caught in a web of political intrigue and prosecutorial abuse

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A plea bargain in the case of Wen Ho Lee was finalized Wednesday afternoon allowing the 60-year-old nuclear physicist from the Los Alamos laboratory to be released from federal prison in Santa Fe, New Mexico. He had been held in solitary confinement since December 10, 1999.

In announcing Lee's release, US District Judge James Parker said that the government's actions in the case "embarrassed our entire nation.... I sincerely apologize to you, Dr. Lee, for the unfair manner in which you were held in custody by the executive branch." Parker pointed to the ferocious campaign by the government to incarcerate Lee under the most draconian conditions, based on their allegations that to do otherwise would pose a risk to national security. He denounced those efforts in light of the prosecution's dropping now of all of the most serious charges against the scientist.

Lee was indicted on 59 felony charges last December, alleging that he transferred top-secret nuclear weapons data to unsecured computers and portable tapes at Los Alamos. Although Lee was never charged with espionage, government prosecutors alleged that he acted with intent to harm the United States and to aid a foreign power. If convicted of the original felony counts he could have faced life in prison.

Wen Ho Lee's prosecution was framed against the backdrop of an alleged spy scandal of huge proportions, supported by a semi-hysterical campaign in the media which identified him by name and painted him as a paramount threat to national security and US nuclear secrets.

In the plea deal Lee admitted to only 1 of 59 felony counts against him—downloading restricted material to an unsecured computer. He will be sentenced to time already served—278 days—and will agree to cooperate with federal investigators in questioning over the fate of seven tapes the government claims contain downloaded data from the Los Alamos lab. He will not be additionally fined or penalized.

The collapse of the government's case against Lee marks the end of a shameful episode of government witch-hunting and persecution of the Taiwan-born nuclear scientist. An examination of the background to the case provides a telling exposure of the American political establishment in which no segment emerges unscathed—from the Republican right wing, to the Clinton administration and the Democrats, to the liberal media led by the *New York Times*.

The vilification and scapegoating of Dr. Lee had their origins in the politically motivated campaign by right-wing opponents of the Clinton administration. It grew out of the many-faceted Republican dirty tricks operation aimed at destabilizing Clinton, which culminated in the

investigation headed by Kenneth Starr and the impeachment crisis. This political vendetta against Clinton converged with Republican opposition to Clinton's policy on Chinese-US relations, an issue that generated sharp divisions within US ruling circles.

Secret congressional hearings chaired by Republican Congressman Christopher Cox were convened in the autumn of 1998 into allegations of Chinese espionage at US nuclear facilities. Leading up to this, Republicans in Congress had been calling for the appointment of an independent counsel to investigate allegations that the 1996 Clinton-Gore campaign accepted contributions from China. The Republicans implied that a link existed between alleged Chinese donations to the Democratic campaign and Clinton's moves to normalize relations with China, as well as his administration's supposed reluctance to investigate Chinese theft of US nuclear secrets.

The star witness at these hearings was Notra Trulock III, an Energy Department intelligence officer. Trulock fingered Wen Ho Lee, basing his suspicions of Lee on a document turned over to the US by a suspected US-Chinese double-agent, who claimed that China had stolen the secrets for the W-88, America's most sophisticated nuclear warhead.

Trulock at the time contended that the espionage he attributed to Wen Ho Lee threatened the lives of "tens of millions of people" and was "on a magnitude equal to the Rosenbergs-Fuchs compromise of the Manhattan Project information," referring to the case of Julius and Ethel Rosenberg, who were tried on charges of stealing atomic secrets and executed in 1953 as Soviet spies.

The Clinton administration conducted its own investigation, headed by former Republican Senator Warren Rudman, into the Department of Energy (DOE) Labs. This investigation concluded that Trulock and the FBI had singled out Wen Ho Lee—from among 500 possible suspects—because he was Asian-American and had traveled to China in the 1980s, under the auspices of the DOE. Rudman recommended that Trulock's office be disbanded and its responsibilities were turned over to the CIA. Soon thereafter Trulock resigned his position and went to work for the military contractor TRW.

In recent days the *New York Times* has expressed outrage over the treatment of Wen Ho Lee. On September 12 it published an editorial calling for an investigation into the prosecution of the Los Alamos scientist. A serious investigation is indeed called for, but one of its first items of business would have to be an exposure of the role of the *New York Times* itself.

The *Times* played a critical part in launching the spy scare and in witch-hunting Dr. Lee. This campaign began with a front-page article

on March 6, 1999 headlined “Breach at Los Alamos: A Special Report; China Stole Nuclear Secrets For Bombs, U.S. Aides Say.” Serving to line up public opinion behind the Republicans’ anti-Chinese and anti-Clinton propaganda, the *Times* contended that the White House had stalled in investigating the spying allegations “even though senior intelligence officials regarded it as one of the most damaging spy cases in recent history.”

The article claimed, “China has made a leap in the development of nuclear weapons: the miniaturization of its bombs, according to Administration officials,” and that in 1996 “Government investigators had identified a suspect, an American scientist at Los Alamos laboratory, where the atomic bomb was developed.” *Times* articles over subsequent days identified Dr. Lee as the chief suspect.

The *Times*’ March 6 story served to legitimize the campaign against Dr. Lee and lend credibility to Notra Trulock, an ultra-conservative opponent of the Clinton administration who has written and participated in chat room discussions on the extreme right-wing web site “FreeRepublic.com.” “Freepers”, as they call themselves, were responsible for organizing a number of rallies in Washington in 1998 calling for the impeachment of Bill Clinton. It is worth noting that the initial *Times* spy scare article was published within a month of Clinton’s acquittal by the Senate on charges laid the previous December by the House of Representatives in its impeachment vote.

This story was only the first in a series of pieces spanning 18 months wholesaling government charges against Wen Ho Lee and allegations of massive Chinese espionage.

The initial *Times* article was co-authored by Jeff Gerth, the reporter who during the 1992 election campaign wrote the first story on the Clintons’ involvement in the failed Whitewater real estate development scheme. The 1992 piece marked the beginning of the media frenzy which led ultimately to the Clinton impeachment proceedings. Gerth’s reporting on Whitewater was exposed as gossip and rumor-mongering in a 1996 book by Little Rock journalist Gene Lyons, *Fools for Scandal: How the Media Invented Whitewater*. Lyons revealed that much of Gerth’s information was obtained from sources who had been paid by right-wing enemies of the Clintons in Arkansas.

The *Times* March 6, 1999 article led to Lee’s dismissal from his Los Alamos job. He was fired three days after the article appeared. A September 13, 2000 *Los Angeles Times* article described how the FBI moved against the nuclear scientist in what can only be described as a campaign of terror and intimidation.

According to this report, on March 7, 1999 two FBI agents—who had been ordered to take a crash course in “hostile interviews”—came to interview Wen Ho Lee at Los Alamos. Despite the fact that Lee had denied in 19 previous sessions with the FBI that he ever gave US nuclear secrets to the Chinese, the agents “warned him that, unless he cooperated, he might never see his children again and could be ‘electrocuted.’” They demanded that he sign a full confession of espionage—a crime that carries the death penalty—without a lawyer present.

The government’s brutal treatment of Dr. Lee continued over the next 18 months. He was indicted and jailed on December 10 and held for nine months in solitary confinement, denied bail because he would pose a “clear and present danger to the national security of the United States,” according to government prosecutors. He was confined to his cell for 23 hours a day. When he was released once or twice a week for exercise, he was shackled at the wrists, waist and ankles.

The FBI had initially investigated Lee as a potential Chinese spy

who might have given Beijing design details of the W-88 warhead, but they never had any evidence to back up such a charge. The W-88 is a miniaturized warhead that can only be utilized on missiles equipped with so-called MIRV technology, where a single missile releases multiple, independently targeted warheads. China has no immediate use for the W-88 as it presently has no such missiles.

The first sign that the Justice Department’s case was faltering was the decision not to indict Lee for espionage. The case began to unravel in earnest when several top scientists disputed the government’s claim that Lee had compromised the “crown jewels” of the nuclear program.

Top officials at Los Alamos sprang to Lee’s defense, saying the downloading of data was common practice among the scientists at the lab. They said that the vast majority of the information Lee had downloaded was already in the public domain and that it would be of little use to a foreign country. In fact, much of the data was available to numerous government agencies as well as to some military contractors.

Several months ago, in an attempt to salvage their case against Lee, the government altered its original charges against him, saying that he had downloaded the files to boost his prospects for obtaining employment at scientific institutes in Australia, Switzerland, France or another country. Government prosecutors have now admitted they had no letters written by Lee to any such institutions to back up their claims.

In what would prove to be a final blow to the prosecution’s case, the FBI’s lead agent in the case, Robert Messemer, acknowledged at a bail hearing in mid-August that he had falsely testified last December that Lee lied to another scientist about the purpose of his computer downloads.

Last week, Judge Parker ordered the government to turn over thousands of pages of classified documents to the court, including material that might have detailed the government’s practice of targeting individuals in cases of national security on the basis of their national origin. With the plea bargain in place, the government will avoid these disclosures.

Given the lack of evidence against Wen Ho Lee, the actions of the government at all levels—from the Energy Department, to the Justice Department to the Clinton White House—to target and persecute him are all the more despicable. True to form, as in other instances when Clinton and the Democrats have come under attack by the extreme right, they moved to conciliate these forces. Wen Ho Lee became a sacrificial lamb in the efforts of the Clinton administration to appease its right-wing critics.



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