

# Report confirms US government misconduct in Wen Ho Lee spy case

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Federal authorities had the Taiwanese-American nuclear scientist Wen Ho Lee jailed in solitary confinement for “a crime which was never established to have occurred,” according to excerpts of an internal Justice Department report which were released August 13 in Washington.

The 800-page report on the investigation of alleged Chinese nuclear weapons espionage, prepared last year by Assistant US Attorney Randy Bellows, remains classified, but heavily censored excerpts were released in conjunction with a civil suit filed by one of the federal officials implicated in the witch-hunt.

Wen Ho Lee was arrested in December 1999, charged with violation of the Atomic Energy Act and jailed for nine months under the most onerous conditions. The elderly physicist was held in solitary confinement 23 hours a day, with limited visitation rights. Family members were required to converse with him in English rather than Chinese.

On August 24, 2000, Federal District Court Judge James A. Parker ordered Lee released to house arrest after he concluded that federal officials had lied at the initial bail hearing, where they described the scientist as a threat to US national survival. Parker declared that Lee’s jailing “embarrassed our entire nation and each of us who is a citizen of it.” The judge issued a public apology.

A few weeks later, its case in ruins, the government dropped 58 of its 59 charges against Lee and the scientist pleaded guilty to a single count of mishandling nuclear information. He was sentenced to time served.

The Bellows report found that virtually every element of the Department of Energy and FBI investigation into the possibility of Chinese nuclear espionage was defective. These probes “contained very serious deficiencies, including numerous inconsistent and contradictory statements as well as unsubstantiated assertions. Other deficiencies lay just beneath the surface; even a cursory investigation—had it been done by the FBI—would have revealed them.”

Once initial suspicions of espionage were raised, fueled by CIA claims of a sudden advance in China’s nuclear weapons capabilities, the investigation quickly focused on a single individual, Wen Ho Lee. Bellows laid the main blame for this on the Energy Department, whose security probe “caused the

FBI to ignore and exclude numerous other possible subjects and numerous other possible venues.” Among the blunders, investigators:

- \* ignored the possibility that China had developed the new technology on its own;

- \* failed to investigate whether employees of defense contractors were responsible for the alleged leaks;

- \* failed to investigate whether Energy Department employees at facilities other than Los Alamos could have been the source of leaks;

- \* wrongly excluded the Lawrence Livermore laboratory from investigation;

- \* relied on “scientific experts” who lacked the knowledge of nuclear weapons technology required to determine whether any breach of security had actually taken place;

- \* failed to search laboratory vaults containing hundreds of thousands of pages of documents.

While the excerpts of the report thus far published do not go into this aspect of the case, the principal claim that triggered the Wen Ho Lee prosecution—that China had stolen the design of a US warhead known as the W-88—was always dubious. The W-88 is a miniaturized warhead developed for the specific purpose of targeting nuclear missile silos in the Soviet Union. In the near term, it would be virtually useless for China, which has barely a dozen strategic missiles capable of reaching the United States and is therefore restricted to targeting large cities.

Yet on the basis of implausible charges and a skewed investigation, an American citizen was subjected to a media witch-hunt, threatened with execution—his interrogators asked him pointedly if he knew who the Rosenbergs were—and held for nine months in solitary confinement.

The level of hysteria reached its high point at the initial bail hearing, in December 1999, when Judge Parker indicated that he was leaning toward confining Wen Ho Lee to his Los Alamos home while judicial proceedings continued. Federal prosecutors demanded immediate solitary confinement, invoking national security considerations.

Stephen M. Younger, associate director for nuclear weapons at Los Alamos, said the information Lee had downloaded from lab computers could “in the wrong hands, change the global strategic balance.” Paul Robinson, president of the Sandia

National Laboratories, told the judge that in considering the conditions of Lee's confinement, "This court, I believe, faces a you-bet-your-country decision."

Subsequently, nuclear experts debunked these claims, pointing out that most of the information downloaded by Lee to his home computer was publicly available and widely circulated. Lee's attorneys brought out that the information was not even classified as secret or top-secret, but only as "restricted access," the lowest security level, hardly consistent with the government's claim that Lee had stolen the "crown jewels" of the US nuclear weapons program.

Only on one key issue did Bellows uphold the initial Energy Department investigation—he rejected the claim that Lee was targeted because of his Chinese ancestry. This determination was made even though Bellows himself found a 1995 Energy Department plan for investigating possible security breaches which proposed that "an initial consideration will be to identify those US citizens, of Chinese heritage, who worked directly or peripherally with the design development."

Bellows dismissed this as evidence of racial bias, saying it reflected the Chinese government practice of targeting ethnic Chinese as potential espionage recruits. The Lee investigation "had many serious problems," Bellows wrote. "Racism was not among them."

However, Bellows completed his report in May 2000, before two former top-level security officials at the Energy Department came forward with sworn statements that Lee was targeted at least in part because of his race. The two are Robert S. Vrooman, former director of counterintelligence, and Charles E. Washington, former acting director of counterintelligence. Vrooman declared in his affidavit, "I state without reservation that racial profiling was a crucial component in the FBI's identifying Dr. Lee as a suspect."

Bellows' finding that racism was not a factor plays a role in two civil lawsuits which are pending in the federal courts. Wen Ho Lee has filed suit against the FBI, the Department of Energy and the Department of Justice for violation of privacy by leaking his name as a suspect and thus triggering the media witch-hunt against him.

The former head of security at the Department of Energy, Notra Trulock, has filed a defamation suit against Lee, Vrooman and Washington, claiming that the allegations of racism are false. Trulock is a professional anticommunist who worked during the Cold War monitoring Warsaw Pact radio transmissions from his native Czechoslovakia. According to one press account, he became convinced that Los Alamos was a hotbed of Chinese espionage, even citing the city's five Chinese restaurants as evidence of foul play.

Trulock is now a regular on the right-wing conspiracy circuit, serving as a spokesman for the Free Congress Foundation. He is preparing a book to support the claim that the Clinton White House served as a sort of Manchurian Candidate for Beijing. His attorney in the lawsuit against Wen Ho Lee is Larry

Klayman, chairman of the right-wing activist group Judicial Watch, one of the most energetic promoters of the anti-Clinton dirty tricks campaigns, including the Paula Jones lawsuit that led ultimately to Clinton's impeachment.

In many ways the Wen Ho Lee case represented a continuation of the political warfare that produced the Clinton impeachment. An earlier press campaign over alleged Chinese government contributions to the 1996 Clinton reelection campaign failed to get off the ground, despite widespread media publicity heavily laden with anti-Asian racism.

The *New York Times* published the front-page story that touched off the China spy campaign and fingered Wen Ho Lee on March 6, 1999, less than a month after Clinton was acquitted in the Senate impeachment trial. The story, under the headline "China Stole Nuclear Secrets for Bombs, US Aides Say," was the product of collaboration between reporters and federal prosecutors very similar to that which took place the year before in the launching of the Monica Lewinsky affair.

In the Lee case, as in the Kenneth Starr dragnet and Republican impeachment drive, the *Times* played a particularly vile role. During the Lewinsky scandal, the *Times* repeatedly came to the defense of Independent Counsel Starr and used its influence to legitimize the effort by right-wing conspirators to carry out a political coup. Similarly, in the China spy scare, the *Times* continued for months to publish lurid articles retailing unsubstantiated charges of Chinese nuclear espionage and promoting the legal persecution of Lee.

The prosecutors used the media frenzy to bring pressure to bear on Wen Ho Lee and his family, in an attempt to terrorize them and any potential supporters. But many scientists and Asian-American civil rights groups rallied to his defense and the witch-hunt ultimately failed.

One of the most significant facts about the Bellows report is its date: it was delivered to Attorney General Janet Reno in May 2000, while Wen Ho Lee was languishing in solitary confinement. Reno took no action and allowed the scientist to remain in prison for another four months, until Judge Parker came upon independent evidence of government misconduct and ordered Lee's release.

Only a few days before his release—and more than three months after the Bellows report was delivered to Reno—the lead prosecutor in the case, US Attorney Gregory Stamboulis, was telling Judge Parker that the risk of freeing Dr. Lee was "of a caliber where hundreds of millions of people could be killed."



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