ALERT: More on Baylor College of Medicine Firings - Guilt by Association with Spouse?

On September 30, 2021, ScienceInsider reported Did Baylor fire two medical school scientists because their spouses worked in China? According to the report, "Chinese American scientists at the Baylor College of Medicine (BCM) are concerned that BCM recently fired two faculty members because their spouses work as researchers in China. They and other scientists believe the widespread adoption of such practices to avoid possible conflicts of interest would be a dangerous expansion of the U.S. government’s controversial China Initiative and would further jeopardize the status of Chinese-born scientists working in the United States."

The August 30, 2021 firings of the two women, both naturalized U.S. citizens and one with tenure, was first reported by The Intercept. ScienceInsider has confirmed they are each married to a scientist who gave up a tenured position at BCM in the past few years and is now working at a top-tier Chinese university. Although colleagues say the two women receive no support from Chinese entities, ScienceInsider has learned that in their termination letters BCM cited their “inaccurate” and “non-timely” disclosure of foreign ties as reasons for dismissal. The National Institutes of Health (NIH) has been in the forefront of federal efforts to track down scientists who may have violated rules that require grant applicants to disclose all sources of support.

In the wake of the firing, several BCM faculty members have asked university officials to clarify the school’s disclosure rules. In particular, they want to know whether the rules are more likely to be applied when a Chinese entity is the source of outside support. They note that in this case, the affiliations of the two spouses were previously “publicized on BCM websites and, therefore, were not unknown to BCM.” The faculty members also want to know whether the school followed its own policies before dismissing the two faculty members.

Read more: https://bit.ly/3uwjhNf

Law360 Report on the Unraveling "China Initiative"
On September 28, 2021, Law360 published "Overheated: How a Chinese-Spy Hunt at DOJ Went Too Far." According to the comprehensive report, disputes over Chinese trade regulations occupied grey areas of international law, but economic espionage appeared to be black-and-white. While the diplomats negotiated, the Justice Department would prosecute.

"The Chinese scientist aspect of it was, in my view, a shortcut to coming up with a solution to a tricky policy problem," John Hemann, a Cooley LLP partner and former federal prosecutor who tried early China Initiative cases. "The relations between the two governments had gotten so bad, and we were making no headway with the problem through diplomacy or regulation. The political rhetoric started to get overheated."

The "China Initiative" has increasingly targeted academics, but the overwhelming majority of them are accused of failing to disclose ties to Chinese institutions, not economic espionage. The prosecutions have fared poorly, with more dismissals than convictions, and many defendants accuse investigators of engaging in misconduct to bolster what they say are weak cases.

![Weak Links](image-url)
According to the report, only two of the 23 academics indicted under the China Initiative were accused of economic espionage. But prosecutors often ratcheted up the pressure by also charging the cases as multimillion-dollar frauds against the NIH, premised on the notion that science blemished by an omission on an underlying grant application is useless. This legal theory is hotly contested by academics, but prosecutors have the support of the NIH. The consequences for defendants can be dire.

Dr. Song Guo Zheng was one of the first academics to plead guilty in a China Initiative case, admitting in 2019 to one count of making a false statement on a grant application. The case is frequently cited by DOJ and NIH, whose Deputy Director for Extramural Research Dr. Michael Lauer submitted a sworn statement declaring that all of Zheng's research was irrevocably tainted, which is being vehemently challenged by Zheng's colleagues. It is unclear whether a NIH official has ever submitted a similar statement in similar situations. Zheng is appealing his sentence.

The report referenced former Attorney General Loretta Lynch's promise in 2016 to add extra layers of scrutiny after a series of prosecutions against Chinese American scientists including Sherry Chen, Xiaoxing Xi, Guoqing Cao, and Shuyu Li collapsed. The rule changes were reported by the New York Times on April 26, 2016, but do not appear to be applied in the "China Initiative." Congressman Ted Lieu also cited the DOJ-wide implicit bias training that was halted under the Trump administration.

DOJ has yet to provide a definition of what a "China Initiative" case is and an official count of how many "China Initiative" cases there are to date. In addition, there has not been any known report or Congressional oversight on the amount of staffing and resources spent on the initiative and its effectiveness after three years of operation.

Read the Law360 article here: https://bit.ly/3igSqzR

Upcoming Congressional Hearing and UTK Webinar

On October 5, 2021, the House Subcommittee on Investigations and Oversight and the House Subcommittee Research and Technology will hold an online hearing on Balancing Open Science and Security in The U.S. Research Enterprise. On May 6, 2021, a Congressional Staffer Roundtable on Research Integrity was held with remarks by Mr. Frank Wu, Dr. Sudip Parikh, Mr. Tobin Smith, Dr. Maria Zuber, and Mr. Alexander Bustamante. Announced witnesses for the October 5 hearing are:

- Dr. Maria Zuber, Co-Chair, National Science, Technology, and Security Roundtable, National Academies of Sciences, Engineering, and Medicine; Vice President for Research and E. A. Griswold Professor of Geophysics, Massachusetts Institute of Technology
- Ms. Candice N. Wright, Director, Science, Technology Assessment, and Analytics, U.S. Government Accountability Office
- Ms. Allison Lerner, Inspector General, National Science Foundation
- Dr. Xiaoxing Xi, Laura H. Carnell Professor of Physics, Temple University
On October 19, 2021, the University of Tennessee Knoxville’s (UTK) Center for Global Engagement, in partnership with National Committee on U.S. China Relations and other UTK departments, will host a China Town Hall event for a national conversation on the implications of China’s rise on U.S.-China relations and its impact on our towns, states, and nation. The national webcast will be led by Fareed Zakaria, CNN Worldwide host, columnist, and author. A webinar will follow with Shellen Wu, Director of Asian Studies at UTK, as moderator. Panelists include Margaret Lewis, professor of law at Seton Hall University; Virginia Harper Ho, Earl B. Shurtz Research Professor of Law at the University of Kansas; and Alan Enstein, Partner in the Washington, DC office of Womble Bond Dickinson LLP. Read more at https://bit.ly/3AUXcut

San José Apologizes for a Century of Discriminatory Actions Against The Chinese Community

The city of San Jose was once home to one of the largest Chinatowns in California. In the heart of downtown, it was the center of life for Chinese immigrants who worked on nearby farms and orchards. More than a century after arsonists burned it to the ground in 1887, the San Jose City Council unanimously approved a resolution to apologize to Chinese immigrants and their descendants for the role the city played in "systemic and institutional racism, xenophobia, and discrimination." The Market Street Chinatown was destroyed by arson after being declared a public nuisance and a health hazard by the City Council. The ceremony took place on September 29, 2021 at the burned-down site in Downtown San José. It was marked by a formal reading of the City Council resolution, remarks from local Chinese American elected officials, a sharing of historical context, and a response from the Chinese American community. In May, the city of Antioch apologized for its mistreatment of Chinese immigrants, who built tunnels to get home from work because they were banned from walking the streets after sundown.

- Press Release: City of San José and Chinese American Community Leaders Host Historic Ceremony Apologizing for a Century of Discriminatory Actions Against the Chinese Community
- AP: San Jose apologizes for 1887 Chinatown destruction (YouTube 1:14)
- ABC-7: San Jose approves resolution, apologizes for 1887 Chinatown destruction
- NBC Bay Area: San Jose Apologizes for Racist Past to Chinese Community, Promises Better Future
- New York Times: San Jose Apologizes for Decades of Discrimination Against Chinese
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