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Former U.S. Attorney Andrew Lelling Reacts to MIT Technology Review Reports

On December 3, 2021, former U.S. Attorney for Massachusetts Andrew Lelling posted in LinkedIn his reactions to the [MIT Technology Review reports](#). He now believes that "DOJ should revamp, and shut down, parts of the program, to avoid needlessly chilling scientific and business collaborations with Chinese partners." As an original creator of the "China Initiative," Lelling was the lead prosecutor for the indictment of at least two high-profile academics - (a) Harvard University Professor Charles Lieber, whose trial is scheduled to start on December 14, 2021, and (b) MIT Professor Gang Chen. In the case against Professor Chen, Lelling had stated that "the allegations of the complaint imply that this was not just about greed, but about loyalty to China." Read more: <https://bit.ly/3lQ9qif>

[Eileen Guo](#), senior reporter for the MIT Technology Review, gave a talk about her articles in the December 6 APA Justice monthly meeting, including Lelling's reaction.

 **Andrew E. Lelling**
Partner, Investigations & White Collar, Jones Day
3d · Edited

When we created DOJ's China Initiative in 2018, we were responding to long-term concerns about economic espionage involving an emerging geopolitical rival. This was sound policy, but the Initiative has drifted and, in some significant ways, lost its focus. DOJ should revamp, and shut down, parts of the program, to avoid needlessly chilling scientific and business collaborations with Chinese partners. MIT Technology Review did a great job breaking down the Initiative's record, three years in. [#china](#) [#whitecollarcrime](#) [#researchintegrity](#)



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Union of Concerned Scientists Calls for Suspension of Legislation to Expand the FBI Initiative

On December 7, 2021, The Union of Concerned Scientists published ***New MIT Report Foretells Danger of China Competitiveness Legislation***. According to the report, An MIT study of the FBI's "China Initiative" exposed a pattern of civil rights abuses California Congresswoman Judy Chu described as "startling." Speaker of the House Nancy Pelosi and Senate Majority Leader Chuck Schumer are rushing to pass companion legislation that would significantly expand the FBI initiative by compelling every agency and department of the federal government to scrutinize, discourage and interrupt routine US contacts with China. Congress should immediately suspend consideration of the legislation pending further review.

The new legislation, which aims to promote US competition with China, would significantly enlarge the scope of US government scrutiny. The Senate version of the bill creates scores of new undersecretaries dedicated to ferreting out suspected communist influence in all US governmental and non-governmental activities connected to China. These ideological

commissars will investigate the U.S. citizens, businesses, educational institutions, and civic groups engaged in those activities. Chinese Americans will inevitably bear the brunt of these highly disruptive government intrusions into private lives.

MIT reported the comparatively limited FBI initiative created a “climate of fear” that is “endangering America’s ability to attract new talent in science and technology.” Schumer’s bill would spread that fear to everyone who participates in routine economic, social and cultural interactions between Chinese and Americans. The MIT study reveals this type of government harassment is counterproductive; more likely to weaken US competitiveness than to strengthen it.

The House approach to legitimate US concerns about Chinese economic competition is better. It is more focused on investing in US science and technology than in seeking out and destroying US ties to China. This difference between the House and Senate legislation is why it stalled earlier this year. It is unclear why Schumer was pressing Pelosi to get the House to adopt the Senate bill before the December holiday break. The two reportedly reached an agreement to advance the legislation shortly after the beginning of the new year.

Read more: <https://bit.ly/3oApO8D>

Outgoing NIH Director Dr. Francis Collins Speaks on "China Initiative"

On December 3, 2021, Nature published ***Science misinformation alarms Francis Collins as he leaves top NIH job***. At the end of this month, Dr. Francis Collins will step down as director of the US National Institutes of Health (NIH) after more than 12 years leading the agency, the world’s biggest public funder of biomedical research. He will stay on at the NIH to continue research in his lab. He spoke to Nature about some highlights of his time at the helm, and issues facing the agency in the future.

In response to the question "Some say the US government’s efforts to prevent espionage under the ‘China Initiative’ amount to racial profiling. The NIH has cooperated with these efforts and clarified guidelines for scientists reporting foreign funds and appointments. Should anything change in the government’s approach?" Dr. Collins said,

We’re simply trying to identify places where people are doing things that are wrong. And recognizing that we have to act when we see that. I think we have to, when we approach what appears to be a troubling situation, try to start with giving the [research] investigator the benefit of the doubt that there was a careless failure to report something that should have been reported. I think that’s what we are doing, and only when it becomes clear that there is an intentional distortion of the facts and intentional effort to

physically hide information should we then be taking hard actions. We're working with our grantee institutions, because it's really their job to figure out what to do with their employees. We depend on them to decide what the appropriate action is.

Read more: <https://go.nature.com/3IMKhF7>

National Institutes of Health (NIH) Listening Session to Inform Efforts on Achieving Racial Equity

On December 7, 2021, the White House announced that NIH is holding a series of listening sessions to learn from external stakeholders about the full range of issues and challenges in advancing racial and ethnic equity in the biomedical research enterprise through the UNITE initiative launched in March of 2021 to address structural racism. Some of these issues include:

- Changing culture to promote equity, inclusivity, and justice
- Improving policies, transparency, and oversight
- Strengthening career pathways, training, mentoring, and the professoriate
- Ensuring fairness in review and funding deliberations
- Enhancing funding and research support for diverse institutions and historically under-resourced research areas
- Structural racism in the biomedical research enterprise

A series of listening sessions has been scheduled between now and February 1, 2022 according to various intended audiences. These sessions are intended to foster an environment where participants feel safe to contribute their unique perspectives candidly, as opposed to an effort to seek group or consensus advice. Detailed notes will be captured by an independent contractor and will not include identifying information.

Please share this invitation with your community and networks. It is an opportunity to stand up and speak out about your concerns directly to NIH. You can register for a session that best aligns with your affiliation here: <https://bit.ly/3DCE5Wn>

Events and Developments for the Asian American and Scientific Communities

- **Yale University Faculty Open Letter.** On December 9, 2021, Yale Daily News published *“A chilling, hostile environment”: faculty protest China Initiative*

as tensions continue to disrupt research. According to the report, nearly 100 Yale professors are protesting the U.S. government's response to worsening U.S.-China relations, denouncing efforts to root out spies on university campuses as threats to scientific inquiry and academic freedom that discriminate against scientists of Asian descent. Threats of charges and surveillance loom over Yale's lecture halls and laboratories, where some faculty say they work in fear. Meanwhile, graduate student researchers face heightened barriers to obtaining visas and in some cases have been forced to conduct more than a year of their scholarship for Yale remotely. Organizers of the open letter will continue to collect signatures and aim to present the letter at the next Faculty of Arts and Sciences Senate meeting on December 16. Read more: <https://bit.ly/3IMOKaQ>



NEW HAVEN, CONNECTICUT • THURSDAY DECEMBER 9, 2021

UNIVERSITY | "A chilling, hostile environment": faculty protest China Initiative as tensions continue to disrupt research

- **AAUC Letter to AG Garland.** On December 3, 2021, Asian American Unity Coalition sent a letter to Attorney General Garland, expressing deep, fundamental and adamant objection to the existence and continuation of the China Initiative as it currently functions. Read more: <https://bit.ly/3DrWxB6>
- **Cato Institute Online Policy Forum.** On December 16, 2021, the Cato Institute will host an online event titled "The China Initiative: Origins and Consequences." How extensive is Chinese government espionage and IP theft targeting the United States? Is the China Initiative a form of racial or ethnic profiling? How has the China Initiative impacted U.S.-Chinese information and technology exchanges and cooperation? How has the U.S. academic community responded to these events? An expert panel, including Dr. Derek Scissors, Senior Fellow, American Enterprise Institute; Professor Jamil N. Jaffer, Director of the National Security Law and Policy Program, Antonin Scalia Law

School, George Mason University; Dr. Jeremy Wu, Founder, APA Justice; and Gisela Kusakawa, Staff Attorney, Anti-Racial Profiling Project and Immigration, Asian Americans Advancing Justice will explore these issues. Patrick G. Eddington, Senior Fellow, Cato Institute, serves as moderator. Read more: <https://bit.ly/3IM8A6m>.

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