

Chronology Wen Ho Lee Case

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Note: the chronology below is compiled to provide a historical context for this case. It may be amended in the future.

December 1978: Wen Ho Lee joins the staff of the Los Alamos National Laboratory (LANL). In 1980, he is transferred to the top-secret X Division at Los Alamos as a hydrodynamicist/engineer and granted Q clearance with access to top-secret data.¹

December 3, 1982: Wen Ho Lee is first identified on a federal wiretap making a phone call to another Taiwanese-American nuclear scientist, Gwo-Min Bao, who was the subject of the espionage investigation called “Tiger Trap” for having passed classified weapons information to the People’s Republic of China (PRC).²

Late 1983 to Early 1984: Wen Ho Lee becomes an informant and undercover agent for the FBI during the Tiger Trap espionage investigation. Dr. Lee is asked to wear a recording device and calls Min’s home pretending to be an agent of China. The operation apparently yields no further results for the Tiger Trap investigation.³

Sometime in 1984: In addition, Wen Ho Lee’s wife, Sylvia, is recruited to be an informant by the FBI and the CIA. Her role as a translator begins as a liaison to visiting Chinese delegations at the lab when FBI Agent Dave Bibb recruits her to become an informant. She also provides information about these visiting delegations to CIA officer Dan Wofford.⁴

Sometime in 1993-1994: Wen Ho Lee begins to assemble 19 collections of files called tape archive (TAR) files, containing classified information relating to atomic weapon research, design, construction, and testing.⁵

June 1995: A walk-in agent for PRC approaches the CIA office in Taiwan and provides an official PRC document classified “Secret” that contains specific design information about the W-88 thermonuclear warhead.

June 6, 1995: Notra Trulock, Director of the Office of Intelligence (OEI) at the Department of Energy, meets counterintelligence officials to discuss “possible espionage related to China and U.S. nuclear weapon information.”⁶

¹ Indictment, United States of America vs. Wen Ho Lee, http://www.fas.org/irp/ops/ci/docs/lee_indict.html

² Affidavit in Support of a Search Warrant for Wen Ho Lee’s Case, April 9, 1999,

http://www.fas.org/irp/ops/ci/lowe_affidavit.html

³ P. 65, A Convenient Spy, Dan Stober and Ian Hoffman.

⁴ Accused Chinese Los Alamos Spy’s Wife Worked at the CIA, San Jose Mercury News, July 24, 2000

⁵ Report on Oversight of the Wen Ho Lee case, December 20, 2001,

http://www.fas.org/irp/congress/2001_rpt/whl.html

July 1995: A working group panel of nuclear weapon experts and designers, known as the Kindred Spirit Analytical Group (KSAG), is formed to examine the “PRC’s nuclear weapons program and determine whether United States classified nuclear information had been compromised.”⁷

September 28, 1995: With FBI assistance, the Department of Energy opens an official inquiry, known as an Administrative Inquiry (AI), into the potential loss of sensitive nuclear information. A list of possible locations and likely suspects is created using a “matrix” analysis. The dozen suspects include Wen Ho Lee and Sylvia Lee, and the location of the breach is assumed to be at Los Alamos National Laboratory.⁸

May 28, 1996: The final draft of the Administrative Inquiry (AI) is completed, which however, “ultimately converted the AI from broad identification of potential suspects to a virtual indictment of the Lees.”⁹

May 30, 1996: The National Security Division of the FBI instructed its Albuquerque Division to open a full investigation on Wen Ho Lee and Sylvia Lee¹⁰.

September 26, 1996: The General Accounting Office releases a report called “Information on Foreign Visitors to the Weapons Laboratories”, reporting the doubling of annual foreign visitors from approximately 3,800 foreign visits to 5,900 foreign visits during the period from January 1993 to June 1996.¹¹ Concerns are raised about the lack of sufficient background checks at the national labs and the possible disclosure of potentially sensitive information to foreign nationals.

June 30, 1997: The FBI submits its application to DOJ’s Office of Intelligence Policy and Review (OIPR), requesting approval for electronic surveillance of Wen Ho Lee under the Foreign Intelligence Surveillance Act (FISA).¹²

⁶ Final Report of the Attorney General’s Review Team on the Handling of the Los Alamos National Laboratory (“The Bellows Report”), May 2000, <http://www.usdoj.gov/ag/readingroom/bellows.htm>, Chapter 6, p. 243

⁷ Final Report of the Attorney General’s Review Team on the Handling of the Los Alamos National Laboratory (“The Bellows Report”), May 2000, <http://www.usdoj.gov/ag/readingroom/bellows.htm>, Chapter 6, p. 244

⁸ Joint Statement of US Senators Fred Thompson and Joe Lieberman, Senate Governmental Affairs Committee, in *Handling of the Espionage Investigation into the Compromise of Design Information on the W-88 Warhead*, August 5, 1999

⁹ Final Report of the Attorney General’s Review Team on the Handling of the Los Alamos National Laboratory (“The Bellows Report”), May 2000, <http://www.usdoj.gov/ag/readingroom/bellows.htm>, Chapter 7

¹⁰ Final Report of the Attorney General’s Review Team on the Handling of the Los Alamos National Laboratory (“The Bellows Report”), May 2000, <http://www.usdoj.gov/ag/readingroom/bellows.htm>, Chapter 4, p. 63

¹¹ Information on Foreign Visitors to the Weapons Laboratories, September 26, 1996

¹² Final Report of the Attorney General’s Review Team on the Handling of the Los Alamos National Laboratory (“The Bellows Report”), May 2000, <http://www.usdoj.gov/ag/readingroom/bellows.htm>, Chapter 11, p. 484

August 12, 1997: OIPR does not approve FBI's FISA application to conduct electronic surveillance of Wen Ho Lee. Insufficient evidence to establish probable cause that the Lee's were "agents of a foreign power" is cited as one major reason for denial of the request.¹³

August 1997: The FBI National Security Division spends the next 4 months on a new investigative plan to address the deficiencies in the initial FISA request. The investigation appears to stagnate.¹⁴

March 2, 1998: Wen Ho Lee notifies LANL and receives approval to deliver two papers on shape-charged explosives at Chung Shan Institute of Science and Technology in Taiwan. During his trip, he uses a Chung Shan computer to log on to the unclassified LANL network and download two files from his weapons codes files.¹⁵

April 1, 1998: Edward Curran, a former FBI expert, is installed as head of the Department of Energy's counterintelligence program.¹⁶ He becomes "very concerned" about the Wen Ho Lee investigation and wants to know, "Where's [the] conclusion?"

April 4, 1998: A federal grand jury investigates whether Loral Space and Communications and Hughes Electronics may have improperly transferred rocket technology that could have assisted the People's Republic of China (PRC) to improve its military guidance systems.¹⁷

June 18, 1998: The House Select Committee on U.S. National Security and Military/Commercial Concerns (Cox Committee), consisting of 5 Republicans and 4 Democrats and chaired by Republican Congressman Christopher Cox, is established to investigate how and why the Clinton administration granted a waiver to Loral Space and Communications to launch a commercial satellite aboard a Chinese rocket and assess the damage done to U.S. national security.

August 18, 1998: Bill Richardson is sworn in as the ninth Secretary of Energy, following his unanimous confirmation by the US Senate on July 31, 1998. Counterintelligence Chief Curran gives Richardson a briefing paper on the

¹³ Final Report of the Attorney General's Review Team on the Handling of the Los Alamos National Laboratory ("The Bellows Report"), May 2000, <http://www.usdoj.gov/ag/readingroom/bellows.htm>, Chapter 11, p. 487

¹⁴ Final Report of the Attorney General's Review Team on the Handling of the Los Alamos National Laboratory ("The Bellows Report"), May 2000, <http://www.usdoj.gov/ag/readingroom/bellows.htm>, Chapter 14, p. 572

¹⁵ Final Report of the Attorney General's Review Team on the Handling of the Los Alamos National Laboratory ("The Bellows Report"), May 2000, <http://www.usdoj.gov/ag/readingroom/bellows.htm>, Chapter 14, p. 572

¹⁶ Senate Judiciary Committee, Continuation of Oversight of the Wen Ho Lee Case, p. 66

¹⁷ *Companies are Investigated for Aid to China for Rockets*, Jeff Gerth with Raymond Bonner, April 4, 1998

investigation of Wen Ho Lee. Richardson also obtains Notra Trulock's briefing paper about the same matter.¹⁸

August to December 1998: The Cox Committee begins to go “full blast” in investigating the ongoing espionage investigation.¹⁹ Democratic Congressman Norman Dicks of the Cox Committee tells Richardson that the Secretary of Energy “needed to get a handle of this issue.”

Summer 1998: FBI mounts a “false-flag” operation, in which an FBI agent posing as a Chinese intelligence officer of the Ministry of Foreign Affairs and Ministry of State Security contacts Wen Ho Lee and tries to get him to do or say something incriminating. The FBI agent tries to arrange a meeting but Dr. Lee says later “departmental policy at LANL requires him to report to his superior if he meets with a representative of a foreign government” and declines the invitation.²⁰

September 18, 1998: The FBI National Security Division intends to submit again an electronic surveillance application to the FISA court, but decides that there is not “likely to be sufficient justification.”²¹

December 2, 1998: Wen Ho Lee travels to Taiwan for three weeks to visit relatives, deliver a speech at the Chung Shan Institute, and perform consulting work for AsiaTek Inc.²²

December 16, 1998: Notra Trulock testifies in a closed session with the Cox Committee staff. He becomes the “star witness” and “committee members were riveted by his testimony.”²³ “C.I.A. analysts who testified before the committee agreed there was espionage, people who heard the secret proceedings said, but were more equivocal about its value to China.”

December 1998: Bill Richardson and Counterintelligence Chief Edward Curran decide to conduct a post-travel debriefing and give Wen Ho Lee a polygraph exam upon his return from Taiwan. The intention was “to try and neutralize their employee's access to

¹⁸ Final Report of the Attorney General's Review Team on the Handling of the Los Alamos National Laboratory (“The Bellows Report”), May 2000, <http://www.usdoj.gov/ag/readingroom/bellows.htm>, Chapter 15, p. 572

¹⁹ Final Report of the Attorney General's Review Team on the Handling of the Los Alamos National Laboratory (“The Bellows Report”), May 2000, <http://www.usdoj.gov/ag/readingroom/bellows.htm>, Chapter 15, p. 612

²⁰ Report on the Government's Handling of the Investigation and Prosecution of Wen Ho Lee, December 20, 2001, http://www.fas.org/irp/congress/2001_rpt/whl.html

²¹ Final Report of the Attorney General's Review Team on the Handling of the Los Alamos National Laboratory (“The Bellows Report”), May 2000, <http://www.usdoj.gov/ag/readingroom/bellows.htm>, Chapter 16, p. 628

²² *FBI Reviewing Wen Ho Lee's links to Taiwan*, Walter Pincus, Washington Post, December 24, 2000

²³ *The Making of a Suspect*, New York Times, Matthew Purdy, February 4, 2001, <http://query.nytimes.com/gst/fullpage.html?res=9D05E2DF103EF937A35751C0A9679C8B63&sec=&spn=&pagewanted=print>

classified information prior to the issuance of a final report by the Cox Committee.”²⁴ Richardson felt the need “to discipline this thing” and wanted to “act as quickly as possible.”

December 23, 1998: Wen Ho Lee is given a polygraph test and asked four questions: 1) Have you ever committed espionage against the United States? 2) Have you ever provided any classified weapons data to any authorized person? 3) Have you had any contact with anyone to commit espionage against the United States? 4) Have you ever had personal contact with anyone you know who has committed espionage against the United States? Dr. Lee answered “No” to all four questions and the polygraph testers conclude that he “was not [being] deceptive.”²⁵

December 24, 1998: Surprised that Wen Ho Lee had “passed” the polygraph tests, Curran decides to remove Wen Ho Lee’s clearance anyways and give the FBI thirty days to “resolve” the case. Wen Ho Lee is temporarily assigned to the T Division where he would not have access to classified information “until these issues are resolved.”²⁶

December 31, 1998: The *New York Times* discloses classified findings of the Cox Committee, including assertions that “over the last 20 years China obtained, sometimes through theft, some of the most sensitive of American military technology, including nuclear weapons design.” In addition, the article reports of a “pattern by the Chinese of stealing nuclear-weapons design technology from American nuclear laboratories.”²⁷

January 4, 1999: Cox Committee submits its final report. The declassified version (released in May 1999) includes the following findings: 1) “P.R.C. penetration of our national weapons laboratories spans at least the past several decades and almost certainly continues today. 2) “The People's Republic of China has stolen design information on the United States' most advanced thermonuclear weapons.” 3) “These thefts of nuclear secrets from our national weapons laboratories enabled the P.R.C. to design, develop, and successfully test modern strategic nuclear weapons sooner than would otherwise have been possible.”²⁸

²⁴ Final Report of the Attorney General’s Review Team on the Handling of the Los Alamos National Laboratory (“The Bellows Report”), May 2000, <http://www.usdoj.gov/ag/readingroom/bellows.htm>, Chapter 16, p. 613

²⁵ Final Report of the Attorney General’s Review Team on the Handling of the Los Alamos National Laboratory (“The Bellows Report”), May 2000, <http://www.usdoj.gov/ag/readingroom/bellows.htm>, Chapter 16, p. 632

²⁶ Final Report of the Attorney General’s Review Team on the Handling of the Los Alamos National Laboratory (“The Bellows Report”), May 2000, <http://www.usdoj.gov/ag/readingroom/bellows.htm>, Chapter 16, p. 635

²⁷ *House Panel Says Chinese Obtained U.S. Arms Secrets*, New York Times, Jeff Gerth and Eric Schmitt, December 31, 1998

²⁸ U.S. National Security and Military/Commercial Concerns with the People’s Republic of China, PRC Acquisition of Technology, Select Committee United States House of Representatives

January 17, 1999: The FBI is asked to gather evidence about Wen Ho Lee that could be used to fire the scientist.²⁹ FBI Special Agents Carol Covert and John Hudenko interview Wen Ho Lee in his home for another four hours and get him to sign a statement swearing to his innocence.³⁰ The FBI concludes, “It does not appear that Lee is the individual responsible for passing the W-88 information.”³¹

January 21, 1999: Wen Ho Lee calls the help desk and asks to override the safeguard deletion features to remove files from the assembled collection of files.³² Throughout the next month, he deletes over 360 files maintained in the unclassified network originally stored on the secure red partition.³³

February 2, 1999: Ed Curran sends a memorandum to Secretary Richardson advising him that “Wen Ho Lee will be returned to his former duties in X Division.” Plans are made to reinstate Dr. Lee to his “normally assigned duties.”³⁴ However, on the same day, the FBI concludes that the polygraph test result was “inconclusive” when Wen Ho Lee denied he had ever committed espionage against the United States.³⁵ Curran immediately rescinds his earlier decision to lift the ban: “That guy is not going to get back in there until this thing is resolved.”³⁶

February 10, 1999: Wen Ho Lee goes to the polygraph test site, the Los Alamos Inn, where he is interrogated again for seven hours. This time, he is told before the interrogation begins that he is the prime suspect for the alleged W-88 theft. Later he is also informed that he flunked the lie detector test.³⁷

March 5, 1999: Wen Ho Lee consents to a search of his LANL office³⁸ where a “one-page computer-generated document [listing] all the files that [he] had stored.” On this same day, the New York Times plans to publish the story about Chinese espionage at Los

²⁹ Final Report of the Attorney General’s Review Team on the Handling of the Los Alamos National Laboratory (“The Bellows Report”), May 2000, <http://www.usdoj.gov/ag/readingroom/bellows.htm>, Chapter 16, p. 636

³⁰ Senate Judiciary Committee, Continuation of Oversight of the Wen Ho Lee Case, p. 69

³¹ Final Report of the Attorney General’s Review Team on the Handling of the Los Alamos National Laboratory (“The Bellows Report”), May 2000, <http://www.usdoj.gov/ag/readingroom/bellows.htm>, Chapter 16, p. 643

³² Affidavit in Support of a Search Warrant for Wen Ho Lee’s House, Michael Lowe, April 9, 1999 http://www.fas.org/irp/ops/ci/lowe_affidavit.html

³³ Indictment, United States vs. Wen Ho Lee, http://www.fas.org/irp/ops/ci/docs/lee_indict.html

³⁴ Final Report of the Attorney General’s Review Team on the Handling of the Los Alamos National Laboratory (“The Bellows Report”), May 2000, <http://www.usdoj.gov/ag/readingroom/bellows.htm>, Chapter 16, p. 646

³⁵ Affidavit in Support of a Search Warrant for Wen Ho Lee’s House, Michael Lowe, April 9, 1999 http://www.fas.org/irp/ops/ci/lowe_affidavit.html

³⁶ Final Report of the Attorney General’s Review Team on the Handling of the Los Alamos National Laboratory (“The Bellows Report”), May 2000, <http://www.usdoj.gov/ag/readingroom/bellows.htm>, Chapter 16, p. 646

³⁷ *A Convenient Spy*, Ian Hoffman and Dan Stober, p.

³⁸ Final Report of the Attorney General’s Review Team on the Handling of the Los Alamos National Laboratory (“The Bellows Report”), May 2000, <http://www.usdoj.gov/ag/readingroom/bellows.htm>, Chapter 16, p. 648

Alamos for the March 5 edition but the FBI contacts the New York Times Executive Editor Joseph Lelyveld who agrees to a one-day delay.³⁹

March 6, 1999: The *New York Times* publishes the front-page article, “Breach at Los Alamos: A Special Report.; China Stole Nuclear Secrets for Bombs, U.S. Aides Say.” The article identifies the suspect as a Chinese American scientist working in the national laboratory without mentioning Wen Ho Lee by name.

March 7, 1999: The day after the New York Times article, Wen Ho Lee agrees to another FBI interview. Advised by his neighbors and long-time friends to seek legal counsel, he responds, “I haven’t done anything wrong. Why do I need a lawyer?”⁴⁰ The hastily arranged FBI interrogation includes the following excerpt: “Do you know who the Rosenbergs are? The Rosenbergs are the only people who have never cooperated with the Federal Government in an espionage case. You know what happened to them? They electrocuted them, Wen Ho. They didn’t care whether they professed their innocence all day long....Do you want to go down in history? Whether you’re professing your innocence like the Rosenbergs to the day that they take you to the electric chair?”

March 8, 1999: Wen Ho Lee receives a memo firing him from LANL.⁴¹ Bill Richardson announces the firing in a March 8 interview, “We dismissed an employee who was not following proper security procedures at the lab...who is under suspicion for security breaches.”⁴²

March 9, 1999: The *New York Times* reports that a Taiwan-born scientist at Los Alamos National Laboratory was questioned for three days but “stonewalled” during the questioning. Richardson says that Wen Ho Lee failed to cooperate. Wen Ho Lee is cited as the “prime suspect” in a nearly three-year investigation of reports of Beijing’s theft of nuclear technology.⁴³

April 8, 1999: The *New York Times* reports about a second major nuclear leak and information stolen used to “improve Beijing’s neutron bomb.”⁴⁴ The article also tries to establish a link to Dr. Wen Ho Lee as the possible spy suspect: “As they investigated further, Energy Department officials discovered that Mr. Lee had attended a classified meeting in 1992 in which solutions to the neutron bomb's design flaw were discussed.”

May 25, 1999: The Cox Committee publishes a 3-volume, declassified version of its report about Chinese espionage.

³⁹ Rush to Judgment, American Journalism Review, <http://www.ajr.org/Article.asp?id=32>

⁴⁰ ⁴⁰ *A Convenient Spy*, Ian Hoffman and Dan Stober, p. 197-198

⁴¹ *My Country Versus Me*, Wen Ho Lee and Helen Zia, p. 84

⁴² The exact TV station is not known, but the clip was shown during the 60 Minutes segment aired on August 1, 1999

⁴³ *U.S. Fires Scientist Suspected of Giving Bomb Data*, New York Times, James Risen, March 9, 1999,

⁴⁴ *A Visit from China: A New Spy Case; Intelligence Report Points to 2nd China Nuclear Leak*, Jeff Gerth and James Risen, April 8, 1999

May 28, 1999: Bill Richardson honors Trulock with the Energy Department's Special Act Award after the Cox Committee "endorsed Mr. Trulock's findings on the scope of Beijing's nuclear espionage against the United States."⁴⁵

June 8, 1999: Secretary of Energy Bill Richardson sends a letter to the Department of Energy's Office of Inspector General to address the "facts and circumstances surrounding the security clearance, access, and work assignments" of Wen Ho Lee.⁴⁶ The Inspector General is asked to ascertain the "individuals responsible for decision" related to [Dr. Lee's] clearance, the "basis for changes to [Wen Ho Lee's] security clearance, access, and work assignments", and "why Dr. Lee's access was not curtailed."⁴⁷

August 13, 1999: Acting in response to the DOE Inspector General's report and promising action, Bill Richardson announces disciplinary actions against "other Energy Department and laboratory officials for being too lax in their handling of the Los Alamos espionage case."⁴⁸

August 18, 1999: Robert Vrooman, the former counterintelligence chief at Los Alamos, asserts that Dr. Lee's ethnic background was a "major factor" in making him the top suspect in the Chinese spy case.⁴⁹ He points out that the information regarding the W-88 nuclear warhead had a distribution list that included "most Defense Department, the military services, the National Guard, Federal agencies and contractors like the Lockheed Missile and Space Corporation." Furthermore, he said, "The investigation lacked intellectual rigor....They missed a lot of people. It was a mess."

August 24, 1999: Notra Trulock, the acting deputy chief of intelligence for the Department of Energy, resigns in protest after being "moved out from any participation in the Kindred Spirit case, and from any other aspect of the management of intelligence activities within the department."⁵⁰

September 23, 1999: Attorney-General Janet Reno and FBI Director Louis Freeh announce plans to broaden its investigation into evidence of Chinese espionage, conducting a more thorough inquiry for "alternative explanations..[as well as] investigate facilities belonging to the military and to defense contractors [in] trying to find another possible source of the information besides Los Alamos."⁵¹

⁴⁵ *Energy Aide in Spying Case to Be Honored*, New York Times, May 28, 1999

⁴⁶ Department of Energy, Office of Inspector General, Report of Inquiry, July 27, 1999, http://www.fas.org/irp/ops/ci/whl_doeig.pdf, p. 1

⁴⁷ Department of Energy, Office of Inspector General, Report of Inquiry, July 27, 1999, http://www.fas.org/irp/ops/ci/whl_doeig.pdf, p. 1

⁴⁸ *Energy Aide in Spying Case to Be Honored*, New York Times, May 28, 1999

⁴⁹ *Official Asserts Spy Case Suspect Was a Bias Victim*, New York Times, William Broad, August 18, 1999

⁵⁰ *Official Who Led Inquiry Into China's Reputed Theft of Nuclear Secrets Quits in Protest*, James Risen, August 24, 1999

⁵¹ *U.S. Will Broaden Investigation of China Nuclear Secrets*, James Risen and David Johnston, September 23, 1999

December 4, 1999: Attorney General Janet Reno convenes a meeting in the White House Situation Room to decide whether to prosecute Wen Ho Lee. Attendees of the meeting include National Security Adviser Samuel Berger, Energy Secretary Bill Richardson, CIA Director George Tenet, US Attorney General Janet Reno, FBI Director Louis Freeh, and John Kelly, the top federal prosecutor in Albuquerque.⁵²

December 10, 1999: A federal grand jury returns an indictment of Wen Ho Lee on 59 counts of mishandling classified information, 39 of which violate provisions of the Atomic Energy Act, for acting “with the intent to injure the United States” and “with the intent to secure an advantage to a foreign nation” and each of which carry a penalty of a life sentence.⁵³ The remaining 20 counts charge Wen Ho Lee with the unlawful retention of restricted data from the Foreign Espionage Act.

December 10, 1999: Wen Ho Lee is handcuffed and taken to the court of U.S. Magistrate Judge Don Svet. Prosecutors seek detention until the trial, arguing that he is a flight risk. Lee is taken by the U.S. Marshals Service to the Santa Fe County Detention Center pending a detention hearing the following Monday.

December 13, 1999: First bail hearings at the U.S. District Court in Albuquerque are set before Judge Svet. Prosecutors present their case to deny bail. Stephen M. Younger, the director of the nuclear weapons program at LANL, testifies that the data in Wen Ho Lee’s possession, “combined with someone that knew how to use them...could in my opinion...change the global strategic balance” and “enable the possessor to design the only objects that could result in the military defeat of American’s conventional forces.”⁵⁴ Judge Svet rules in favor of the prosecution.

The Special Administration Measures (SAM) under which Dr. Lee is to be detained, mandates solitary confinement all but one hour a week with handcuffs, waist chains, and leg irons whenever such designated prisoners are outside their cells within the detention facility⁵⁵. The Attorney General is given the authority under Title 28 of the Code of Federal Regulations, section 501.2, which requires “written certification... by the head of a member agency of the United States intelligence community... that the unauthorized disclosure of classified information would pose a threat to the national security and that there is a danger that the inmate will disclose such information.”⁵⁶ Secretary Richardson must provide this written certification.

December 27, 1999: Bill Richardson sends a certification letter authorizing the Attorney General to extend the harsh conditions of Wen Ho Lee’s confinement: “In my judgment, such a certification is warranted to enable the Department of Justice to take whatever

⁵² Decision Nears on the Fate of the Los Alamos Scientist, New York Times, December 8, 1999

⁵³ Indictment, United States of America vs. Wen Ho Lee, December 10, 1999,
http://www.fas.org/irp/ops/ci/docs/lee_indict.html

⁵⁴ *A Convenient Spy*, Dan Stober and Ian Hoffman, p. 256

⁵⁵ Report on Oversight of the Wen Ho Lee Case, December 20, 2001,
http://www.fas.org/irp/congress/2001_rpt/whl.html

⁵⁶ Report on Oversight of the Wen Ho Lee Case, December 20, 2001,
http://www.fas.org/irp/congress/2001_rpt/whl.html

steps are reasonably available to it to preclude Mr. Lee” from divulging the extremely sensitive nuclear weapons data.⁵⁷

December 27, 1999: Judge James Parker conducts a three-day evidentiary hearing based on the defendant’s motion to appeal Judge Svet’s order to deny bail.⁵⁸ Prosecution witness Richard Krajcik, director of Division X, characterizes the downloaded data of Wen Ho Lee as “the crown jewels” of the nuclear-weapons program which could “significantly increase the risk to 270 million Americans.” Paul Robinson, director of the Sandia National Laboratories, said the “tapes could truly change the world’s strategic balance” and the court “faces a you-bet-your-country decision.”⁵⁹

December 30, 1999: The judge concludes “there is no condition or combination of conditions of pretrial release that will reasonably assure the appearance of Dr. Lee as required and the safety of any other person, the community, and the nation.”⁶⁰ He cites as one of his major factor in his decision was Dr. Lee’s allegedly deceptive behavior, drawing on FBI Agent Robert Messemer’s characterization of Dr. Lee’s activities as “appalling, nefarious, and deliberate.” Messemer’s testimony also supports prosecutor John Kelly’s contention that a foreign intelligence service could snatch and take Wen Ho Lee of the country in spite of 24-hour surveillance of his house. The judge denies the defendant’s appeal to revoke the detention order.

February 2000: American Physical Society President James Langer submits a letter to Janet Reno on behalf of the scientific organization: “[W]e make no judgment about Lee’s guilt or innocence...However, we are deeply disturbed by the inhumane treatment that he has received in his pretrial incarceration. The extraordinarily harsh conditions under which he is detained suggest to the outside world that he is presumed guilty, and is being punished, before his trial has even begun.”⁶¹

February 29, 2000: The chair of the American Association for the Advancement of Science, Irving Lerch, also sends a letter to Janet Reno and Bill Richardson about Wen Ho Lee’s treatment. “Our purpose is to inquire into the reasons for the extraordinarily restrictive conditions to which Dr. Lee has been subjected...Our concern stems from the possibility that Dr. Lee is being maltreated and may have been the target of special scrutiny because of his ethnic background.”⁶² The letter adds: “Dr. Lee's pretrial treatment appears to be exceedingly cruel. Court records and prosecution documents give

⁵⁷ Report on Oversight of the Wen Ho Lee Case, December 20, 2001, http://www.fas.org/irp/congress/2001_rpt/whl.html

⁵⁸ Memorandum Opinion and Order, Judge James Parker, December 30, 1999, http://news.findlaw.com/hdocs/docs/lee/1299opinion_order.pdf

⁵⁹ *A Convenient Spy*, Dan Stober and Ian Hoffman, p. 279

⁶⁰ Memorandum Opinion and Order, Judge James Parker, December 30, 1999, http://news.findlaw.com/hdocs/docs/lee/1299opinion_order.pdf

⁶¹ Langer Petitions Reno on Behalf of Wen Ho Lee, <http://www.aps.org/publications/apsnews/200004/petition.cfm>

⁶² American Association for the Advancement of Science, February 29, 2000, <http://www.fas.org/sgp/news/2000/03/aaaslet.html>,

the distinct impression that many measures were imposed simply because he has Chinese associates and speaks Chinese.”

May 4, 2000: Bill Richardson sends another re-certification letter to Attorney General writing, “I understand that this certification will assist you in continuing special administrative measures during the period of Dr. Lee’s pretrial confinement.” In addition, he compares the conditions of the confinement as no more restrictive than those of others in the detention facility and “was satisfied that his civil rights are being adequately protected.”

May 17, 2000: Walter Goad, Fellow Emeritus of the Los Alamos National Laboratory, files a written declaration on behalf of Wen Ho Lee’s defense. He writes that the previous assertions of Dr. Younger and Dr. Robinson represented “unbridled exaggeration.” Furthermore, their assessments are “not a measured judgment of risk, but incitement of apprehension, even paranoia, that can override fairness and justice.”⁶³ He adds, “Unhappily, our history has seen other examples in which exaggerations of danger have overridden the traditional American values of fairness and justice--most memorably to people of my generation, in the era of Senator Joseph McCarthy.”

May 27, 2000: Harold Agnew, former director of Los Alamos National Laboratory, files a written declaration stating that he “disagree[d] with the statement that if the People’s Republic of China (“PRC”) or some other nuclear power obtained the codes at issue here, it “would change the global strategic balance” and would jeopardize the security of American citizens.”⁶⁴

August 11, 2000: Former Acting Director of Counterintelligence at the U.S. Department of Energy, Charles Washington, files a written declaration for Wen Ho Lee. “My reaction upon reading the Administrative Inquiry was that the inquiry was wholly lacking in any support to identify Dr. Lee as a suspect. Upon reading the [Administrative Inquiry], I concluded that the investigation was a fishing expedition.” Furthermore, “if Dr. Lee had not been initially targeted based on his race (Taiwanese-Chinese), with the resulting wide press disclosures that he had purportedly [words deleted] and the politicizing of the situation, he may very well have been treated administratively like others who had allegedly mishandled classified information.”⁶⁵

August 17, 2000: Judge Parker conducts another three-day evidentiary hearing after the defense files another motion to release Wen Ho Lee before trial. At the testimony, weapons designer John Richter says: “Never attribute to malice what can be adequately

⁶³ Declaration of Walter Goad in U.S. v. Wen Ho Lee, May 17, 2000, <http://www.fas.org/irp/ops/ci/goad.html>

⁶⁴ Declaration of Harold Agnew in U.S. v. Wen Ho Lee, May 27, 2000, <http://www.fas.org/irp/ops/ci/agnew.html>

⁶⁵ Declaration of Charles Washington in U.S. v. Wen Ho Lee, August 11, 2000, <http://www.fas.org/irp/ops/ci/washington.html>

explained by stupidity....There has been a great effort to find a connection, an espionage connection, and that hasn't been found."⁶⁶

August 24, 2000: With the new testimony provided by Agnew, Goad, Richter, and Vrooman, Parker concludes that "the government has failed, at this time, to meet its burden of proving by clear and convincing evidence that no combination of conditions will reasonably assure the safety of the community and the nation." He orders that Dr. Lee must be released from custody with 24-hour surveillance. He also adds a footnote to his court order: "I feel compelled to observe that the government, for reasons I believe not yet adequately explained, seems to have procrastinated in removing unduly onerous conditions of confinement."⁶⁷

August 30, 2000: Two federal court judges block the release on bail of Wen Ho Lee. The order from the United States Court of Appeals for the 10th Circuit appears in one-line: "Release of appellee Wen Ho Lee is stayed pending further order from this court."⁶⁸

September 13, 2000: Plea bargain agreement is reached. All counts carrying a sentence of life imprisonment are dropped. Wen Ho Lee pleads guilty to Count 57 of the indictment, admitting "on a date certain in 1994, I used an unsecured computer in T-Division to download a document or writing related to the national defense."⁶⁹ The sentence is 277 days, the time already served in pre-trial confinement.

September 14, 2000: Sentencing hearing is held for Wen Ho Lee. Judge Parker delivers a rebuke at the "top decision makers in the Executive Branch, especially the Department of Justice and the Department of Energy, who have caused embarrassment by the way this case began and was handled....they did not embarrass me alone. They have embarrassed our entire nation and each of us who is a citizen of it." He also issues an apology to Dr. Lee for the "unfair manner" in which the scientist was held in custody.

September 26, 2000: The New York Times publishes a review of its coverage on the case with the title, "The Times and Wen Ho Lee". The editors admit they "fell short of [their] standards" in the coverage of the stories and wish they had opened a "second line of reporting", as well as assign more stories that took a more "thorough look" about the political context and other aspects of the case.⁷⁰

⁶⁶ Memorandum Opinion, *United States of America v. Wen Ho Lee*, Judge James Parker, http://news.findlaw.com/hdocs/docs/lee/0824order_release.pdf

⁶⁷ Memorandum Opinion, *United States of America v. Wen Ho Lee*, Judge James Parker, http://news.findlaw.com/hdocs/docs/lee/0824order_release.pdf

⁶⁸ *Accused Scientist Has Bail Blocked at Last Moment*, New York Times, James Sterngold, September 2, 2000

⁶⁹ *A Convenient Spy*, Dan Stober and Ian Hoffman, p. 328

⁷⁰ *The Times and Wen Ho Lee*, New York Times, September 26, 2000