

WEN HO LEE

Mr. SPECTER. Mr. President, I have sought recognition to comment on a number of matters. First, the situation with Dr. Wen Ho Lee has drawn national—really, international—attention, especially in light of President Clinton's statement yesterday that he was deeply troubled by the actions of the Department of Justice and the Department of Energy.

The President put his finger on the critical question; that is, how could it be that on one day Dr. Wen Ho Lee was a major threat to national security, and on the next day the Government agreed to a plea bargain on one count, without jail time or without probation, allowing him to walk out free?

The President was sharply critical, especially of the actions of the Attorney General, who had a rather extraordinary interview with the media yesterday. She was asked about the Wen Ho Lee case and she said that, had Dr. Lee cooperated with the Government, a result could have been achieved a long time before on the disclosure of what had happened with the tapes. But the problem with that answer is that the defense had offered the Government precisely what the Government finally got; that is, Dr. Lee's cooperation on what had happened to those downloaded materials. That offer had been made months ago, but the Government had never replied to that offer. So it is hardly an excuse for Attorney General Reno to say had Dr. Lee cooperated, the matter would have been resolved a long time ago.

Then she was asked a question relating to any mistakes or anything that was done wrong in the handling of Dr. Wen Ho Lee's case. She said she was going to have to review the record to answer that question—which is really extraordinary, since she is the Attorney General and this matter was under her direct, personal supervision. That is a fact we know because in August of 1997, FBI Director Louis Freeh sent one of his top deputies, Assistant Director John Lewis, to Attorney General Reno personally to ask for authorization to submit to the court an application for a warrant under the Foreign Intelligence Surveillance Act. At that time, the FBI had provided a statement of probable cause which was more than sufficient to have the warrant issued.

Attorney General Reno then referred that request to a man named Daniel Seikaly in the Department of Justice, a man who had no prior experience with warrants under the Foreign Intelligence Surveillance Act. The wrong standard was applied.

This has all been documented in a report submitted by the Judiciary subcommittee, which I chair, on oversight of the Department of Justice. And ultimately notwithstanding the request from the Director of the FBI through a top deputy to the Attorney General personally, that request for a FISA warrant was refused. Attorney General Reno doesn't have to study the matter further to acknowledge that mistake.

Then the FBI let the case languish until December of 1998 without any active investigation. It was only when the Cox committee was about to publish its report, as rumored in late December, 1998, and as it came to pass in early January, sharply critical of the way the Wen Ho Lee case was handled, that a polygraph was ordered by the Department of Energy. The polygraph was not taken by the FBI, but taken by an outside contractor, Wackenhut. That was done on December 23, 1997. And the initial report was that Dr. Lee had passed the polygraph, had not been deceptive—grounds for discontinuing the investigation.

It was only several weeks later when the FBI got the tapes and reviewed them and found that the Wackenhut conclusion was not accurate; that there was not exoneration of Dr. Lee.

Then it appears that, finally, when the Department of Justice was thoroughly embarrassed, they really threw the book at Dr. Lee by holding him in detention in really extraordinary circumstances, in leg irons. I have seen prisoners held in leg irons. I witnessed that in Pennsylvania's correctional institution when I was district attorney. Do you know the reason you hold somebody in leg irons? Because they are so violent they threaten risk of bodily injury or worse to the guards who have to deal with them. What possible justification was there for treating Dr. Lee in that manner? And the restrictions which the Government imposed on Dr. Lee? There has been comment, unattributed sources, to law enforcement officials, that what was really in mind here was to coerce a guilty plea from Dr. Lee. The Government apparently thought he was guilty and they were thoroughly embarrassed with the way they had botched the case. What other explanation is there for the way Dr. Lee was treated?

These are fundamental questions which our subcommittee will look into, on oversight of this matter.

There are two aspects of this matter, really. One aspect is what, if anything, did Dr. Lee do to endanger national security? In the application for a search warrant, the Government laid out a long list of reasons stating probable cause for the issuance of that search warrant. Matters that had gone back as early as 1982 involving a great many suspicious activities, so that when the warrant was not issued, notwithstanding the request directly to Attorney General Reno, and when the investigation was, in effect, dropped—really languishing, but in effect dropped for some 15 months—we do not know, on this state of the record, what the quality of the evidence was which led to the indictments.

It is not a sufficient answer, any of them which have been given, because the issue of national security is of the utmost importance.

The subcommittee has in final stages a report on Dr. Peter Lee, who confessed to giving the People's Republic

of China key information on nuclear secrets and also on detecting our submarines. That case was another comedy of errors, except it wasn't so funny—"comedy of errors" I think is the wrong words—horrendous errors, where there was miscommunication between the Justice Department in Washington and the assistant district attorney who was trying the case. Dr. Peter Lee finally walked out with probation, notwithstanding the very serious charges brought against him.

Beyond the issue of national security, there is the question as to the treatment of Dr. Wen Ho Lee, his constitutional rights, and whether he was fairly treated. There have been calls for Attorney General Reno's resignation, and the resignation of Secretary of Energy Richardson. I was asked about that earlier today on television and I declined to call for those resignations. I think it is too often that Members go to the klieg lights and make those demands.

I was then asked what would be effective, what could be done. And I was asked whether the President ought to fire the Attorney General.

Based on what the President has said, and the very troubled record which Attorney General Reno has had with Waco and with her decisions on independent counsels, that is something which would be meaningful, if the President really is concerned.

FIRESTONE TIRES AND FORD VEHICLES

Mr. SPECTER. Mr. President, on another subject, I wish to comment briefly on legislation which will be introduced today in response to the tremendous problems posed by the Firestone tires and the Ford vehicles which turned over, and some 88 deaths. The Appropriations Subcommittee on Transportation, on which I sit, had a hearing on this subject on September 6, 2000. At that time, we heard comments, explanations, excuses which strained credulity. I then introduced legislation which would make it a criminal offense for someone to knowingly put on interstate commerce a deadly product which was likely to result in death. This is based on the experience I had as district attorney of Philadelphia, where reckless disregard for human life, which results in death, constitutes the requisite malice for a charge of murder in the second degree.

I have discussed this provision with the distinguished Senator from Arizona who held a hearing on the matter this week, and the administration has submitted legislation which I am told will be introduced later today. I wanted to make a comment briefly at this time since I know we will be going out early.

I compliment Senator MCCAIN for this legislation which will require motor vehicle manufacturers and equipment manufacturers to obtain information and obtain records about potential safety defects in their foreign