

APS and AAAS Leaders Protest 'Inhumane' Treatment of Suspected Los Alamos Spy in Jail, Awaiting Trial

Every week or so, another revelation emerges in the alleged espionage case at Los Alamos National Laboratory. Each disclosure seems to affirm that the year-long drama is not only puzzling but perverse.

The central figure, Wen Ho Lee, born in Taiwan 60 years ago, came to the US on a student visa in 1964 and received a PhD in mechanical engineering (not physics, as most news media repeatedly state) from Texas A&M in 1969. He became a naturalized US citizen in 1974 and began working at Los Alamos in 1978 in applied mathematics and fluid dynamics. In 1980, he was given a top-secret Q clearance to work on design codes for nuclear weapons in the lab's X Division. Lee remained in that job until he was fired by the University of California, the lab's contractor, on 8 March 1999, on the order of Energy Secretary Bill Richardson, for transferring information on US nuclear weapons from secure, classified computers to his open, unclassified workstation and for possibly passing the data to the People's Republic of China (PRC). Since then, Lee has been variously portrayed as cunning and perfidious or humble and loyal—either a villain or a victim.

Pat Buchanan, a conservative columnist and broadcaster with presidential ambitions, calls Lee the epicenter of the most dangerous penetration of the nation's nuclear labs "since the Rosenbergs went to the electric chair" in 1953. Senator Don Nickles, an Oklahoma Republican, contends that Lee is responsible for the "most serious case of espionage" in US history, and Senator Frank Murkowski, an Alaska Republican, argues that Lee has perpetrated "the greatest loss of nuclear military secrets in our nation's history."

Yet, the allegations of espionage against Lee sometimes appear to rest on nothing more substantial than a media frenzy and the largely unsubstantiated report by a special House committee chaired by Christopher Cox, a California Republican. Suggestions that Lee had purloined nuclear weapons secrets and turned them over to the PRC first began to appear a year ago in *The New York Times* and were emphasized in the Cox report, issued a few months later (see PHYSICS TODAY, August 1999, page 49).

Questions abound about Lee's

actions: Was he brazen or banal in downloading data and codes on the research, design, manufacturing, and testing of US nuclear weapons? Was he passing information about such weapons to the PRC or possibly to his native Taiwan, or was he simply gathering the data to archive aspects of his own work, perhaps as a backup in the event of a massive computer failure at Los Alamos or to impress another employer in the event that he lost his job at Los Alamos? The answers will have to wait until Lee testifies at his trial in federal court in Albuquerque in November.

Until then, it's unlikely that Lee will say more publicly than he already has on CBS-TV's *60 Minutes* last 1 August, when he told Mike Wallace, "The truth is I'm innocent." Lee said he used three passwords on his unsecured computer so "it's almost impossible for anybody to break in. You know, sometimes I even had a hard time to break in myself." Lee said he was always careful to protect the security of the nuclear data that he moved to his unsecured computer. "Suddenly, they told me I'm a traitor," Lee said softly, "I just don't understand this." Nevertheless, during the interview, Lee did not reveal why he transferred the data.

Meanwhile, questions also have arisen about the government's handling of the investigations of Lee and about his imprisonment since last December in solitary confinement in a penitentiary near Santa Fe, New Mexico.

Widening the search

In January 1999, two months before Lee was dismissed from his job as a hydrodynamicist at the lab and identified by Richardson as the prime suspect in the espionage saga, FBI investigators in New Mexico told officials in the Washington headquarters that they had doubts that Lee was the spy they were looking for. But the agents didn't admit their doubts about Lee as the source who leaked highly classified details on US nuclear warheads to the PRC until FBI Director Louis J. Freeh informed Congress in mid-September that his agency was widening its investigation to include other suspects at Los Alamos and other Department of Energy (DOE) weapons facilities.

New information about the FBI's on-and-off investigations of Lee came

out on 7 March, when Senator Arlen Specter, a Pennsylvania Republican, released a report on the Lee case and began hearings in the Senate Judiciary Committee on legislation designed to rectify the kind of "very serious mistakes" he attributes to DOE, the FBI, and the Department of Justice for their failure to move promptly in investigating the matter. Specter's report accuses the agencies of using the kind of bumbling and confusing tactics worthy of Inspector Clouseau, the fictional detective made famous in the "Pink Panther" series of film comedies in the 1960s to 1980s. The report refers to a "pattern of errors" by both FBI and DOE investigators going back to 1982, when Lee had telephoned a former scientist at Lawrence Livermore National Laboratory, who had been under suspicion of passing classified data on nuclear weapons to the PRC. After the court approved wiretaps, FBI agents gave Lee a polygraph test in February 1984, which he passed, and the investigation was closed two months later.

It was a decade later that DOE began its investigation of Lee. By then, Lee had downloaded nearly 1000 megabytes of weapons data on design and manufacturing as well as "legacy codes" on nuclear tests. Lee's activity was flagged by the lab's network anomaly detection and intrusion system. Upon a closer look at Lee's workstation, the investigators concluded that 19 secret and restricted batches of files, called tape archives, had been accessed and that 17 of the files had then been entered on nine portable computer tapes. In 1997, Lee supposedly created another tape directly from the classified system. That tape is said by investigators to contain design data on current nuclear weapons and utility codes necessary for comparing computer-generated calculations with actual results of weapons tests. Lee has turned over three tapes to government authorities, and claimed he destroyed the others, but the government argues that the other seven remain unaccounted for.

Specter's report criticizes DOE as "incredibly lax" in its investigation and in failing to search Lee's computer, even though Lee had signed a waiver allowing the lab's security officials to examine computer entries. The report contends that FBI agents



WALLACE AND LEE: Mincing no words about the alleged episode at Los Alamos.

were "thrown off course" after they were informed by DOE security officials that Lee had passed a polygraph examination in December 1998. Subsequent FBI reviews, the report says, revealed that Lee failed the test administered by DOE and then flunked a subsequent polygraph test. A senior DOE security official came to the same opinion, insisting that the FBI's memo on Lee's veracity, written on 22 January 1999, cannot be accepted on its own, without additional evidence. FBI agents in Albuquerque changed their minds about Lee within a month, said the official.

Two of Specter's colleagues on the Senate's Government Affairs Committee, Joseph Lieberman, a Connecticut Democrat, and Fred Thompson, a Tennessee Republican, have publicly criticized DOE's computer security practices and declared the investigation's slow pace to be "infuriating." Thompson's statement asserted that the government's investigation was not "a comedy of errors, but a tragedy of errors." The tragedy, Thompson claimed, is that if Lee has been wrongly accused, the real culprit or culprits may still be working at a nuclear weapons lab, and if Lee is found guilty, DOE and the FBI should have found out years earlier about Lee's actions and not allowed him access to highly classified nuclear weapons information.

Since Lee's arrest on 23 December, the same day he was indicted on 59 felony counts, he has been in solitary confinement 23 hours each day, and allowed family visits for only one hour each week, with the conversation being monitored by an FBI agent fluent in Mandarin Chinese. Lee is

charged with violating the Atomic Energy and Espionage Acts. If he is found guilty, he faces life imprisonment. He has not been charged with passing nuclear weapons data to a foreign country, but the government argues that it views his "mishandling of classified information" as seriously damaging to national interests. The counts in Lee's indictment grew out of—but are unrelated to—the espionage allegation, though investigators now concede they have no evidence that Lee passed warhead data to the PRC.

Three days after Lee's arrest, Justice Department attorneys asked the US magistrate judge to deny bail on the grounds that he was a danger to the community and that he might flee the country. Immediately after the judge denied bail, Lee's lawyers challenged the ruling, and on 30 December, US District Court Judge James Parker upheld the magistrate judge's order. On 29 February a three-judge panel of the 10th US District Court of Appeals in Denver turned down the plea of Lee's lawyer to release him on bail.

One day before the appeals court ruling, two prestigious scientific organizations, the American Physical Society and the American Association for the Advancement of Science, wrote to Attorney General Janet Reno, protesting the conditions in which Lee is being held while awaiting trial. APS President James S. Langer stated that while members "make no judgment about Lee's guilt or innocence . . . 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. . . .

"I would like to bring another important matter to your attention. One of the principal missions of the American Physical Society is to maintain the strength and vitality of the scientific enterprise in this country. The perception in the physics community that Dr. Lee is not being treated justly has caused great consternation, especially among the large number of scientists in the United States who have come here from abroad. As a result, it is becoming difficult to attract and retain the very best scientists at our weapons laboratories and other facilities. We are deeply concerned, therefore, that our scientific capabilities and national security are being compromised by our government's actions in the case of Wen Ho Lee."

The second letter, signed by Irving Lerch, chair of the AAAS Committee on Scientific Freedom and Responsibility, addresses "the extraordinarily restrictive conditions to which Dr. Lee has been subjected. Our disquiet with the government's treatment of Dr. Lee does not extend to the issue of his guilt or innocence, which will be decided by our courts on the basis of the evidence. 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.

"This case has had an adverse impact on many of our colleagues and could damage our national labs as a result of the hemorrhaging of skilled scientists through resignation or attrition, falling recruitment and a decline in the international collaborations that are so vital to the success of DOE programs. There is some evidence that such losses are already occurring."

The AAAS letter stated, and Lee's lawyer confirmed, that Lee is held in a windowless cell for 23 hours of each day. His ankles and wrists are shackled when he is moved from the cell for his hour-long exercise period outdoors, where he is kept separate from other prisoners, and for his weekly meeting with his family. "From our perspective, Dr. Lee's pretrial treatment appears to be exceedingly cruel," Lerch wrote. His letter suggested that the restrictions would not only serve to intimidate Lee to plea bargain but "place an enormous emotional and physical burden on him, his family, and his attorneys."

The conditions under which Lee is imprisoned, says Lerch, resemble those imposed on dissident Chinese and on Russian scientists, particularly during the cold war. **IRWIN GOODWIN ■**